

**MINUTES**  
**MISSOURI AIR CONSERVATION COMMISSION**  
**Elm Street Conference Center**  
**1730 East Elm Street – Lower Level**  
**Bennett Springs Conference Room**  
**Jefferson City, MO 65101**  
**October 29, 2015**  
**9:00 a.m.**

**Commissioners Present**

Jack Baker, Member  
Mark Garnett, Member  
Gary Pendergrass, Vice Chairman  
David Zimmermann, Chairman

**Staff Members Present**

Larry Archer, Division of Environmental Quality  
Darcy Bybee, Compliance/Enforcement Section Chief, Air Pollution Control Program (APCP)  
David Gilmore, Program Secretary, APCP  
Wayne Graf, Air Quality Planning Section, APCP  
Kendall Hale, Permits Section Chief, APCP  
Steve Hall, Air Quality Analysis Section Chief, APCP  
Amanda Horstmann, Compliance/Enforcement Section, APCP  
Heather Lucas, Compliance/Enforcement Section, APCP  
Kyra Moore, Director, APCP  
Julia Katich Mudd, Department of Natural Resources  
Lisa Nahach, Public Information Specialist, APCP  
Shelly Reimer, Air Quality Planning Section, APCP  
Seanmichael Stanley, Air Quality Planning Section, APCP  
Russell Sullivan, Compliance/Enforcement Section, APCP  
Will Wetherell, Environmental Services Program  
Emily Wilbur, Air Quality Planning Section, APCP

**Others Present by Attendance Record**

Tim Blackwell, Attorney General's Office  
Jeff Burkett, Empire District Electric  
Maggie Crocker, Doe Run Company  
Kathrina Donegan, St. Louis County Department of Health  
Tim Duggan, Attorney General's Office  
Dave Fraley, Diamond Sky Ventures  
Denise Hasty, Associated General Contractors of Missouri  
Alan Reinkemeyer, Associated General Contractors of Missouri  
Steve Rudloff, Missouri Limestone Producers Association  
Greg Smith  
Wendy Vit, GeoEngineers Incorporated

**A. Call to Order**

Chairman David Zimmermann called the October 29, 2015, meeting of the Missouri Air Conservation Commission to order. The following commissioners were present: Jack Baker, Gary Pendergrass, Mark Garnett and David Zimmermann.

**B. Minutes from September 24, 2015, Meeting**

Vice Chairman Gary Pendergrass moved to approve the September 24, 2015, minutes as written. Commissioner Mark Garnett seconded the motion, and all commissioners voted to approve the September 24, 2015 minutes as written.

**C. Public Hearing**

Chairman David Zimmermann called the public hearing to order.

Ms. Shelly Reimer presented 10 CSR 10-6.060, *Construction Permits Required* and 10 CSR 10-6.065, *Operating Permits*. Information on the proposed amendments begin on pages 83 and 133, respectively, of the briefing document.

Chairman Zimmermann closed the public hearing.

To obtain a copy of the public hearing transcript, please contact Ms. Kathy Porter by writing to Midwest Litigation Services, 711 North 11th Street, St. Louis, MO 63101, or by phone at 1-800-280-3376.

**D. Recommended for Adoption and Actions to be Voted on**

Mr. Seanmichael Stanley presented the following rule amendments for adoption: 10 CSR 10-6.241, *Asbestos Projects—Registration, Notification and Performance Requirements* and 10 CSR 10-6.250, *Asbestos Projects—Certification, Accreditation and Business Exemption Requirements*. Information on the proposed rule amendments begins on page 207 and 209, respectively, of the briefing document.

Vice Chairman Pendergrass moved to adopt the following: 10 CSR 10-6.241, *Asbestos Projects—Registration, Notification and Performance Requirements* and 10 CSR 10-6.250, *Asbestos Projects—Certification, Accreditation and Business Exemption Requirements*. Commissioner Baker seconded the motion. All of the commissioners voted to adopt the following: 10 CSR 10-6.241, *Asbestos Projects—Registration, Notification and Performance Requirements* and 10 CSR 10-6.250, *Asbestos Projects—Certification, Accreditation and Business Exemption Requirements*.

**E. New Business**

None.

**F. Unfinished Business**

None.

**G. Appeals and Variance Requests**

Mr. Tim Blackwell addressed the commission regarding the Greg Smith appeal and gave them brief history of the appeal. He recommended the Missouri Air Conservation Commission (commission) vote to uphold the Administrative Penalty Order and adopt the recommendation of the Administrative Hearing Commission.

Mr. Greg Smith addressed the commission.

Chairman Zimmermann asked the commissioners what they wanted to do regarding this appeal.

Commissioner Garnett inquired as to what options are available to the commission.

Mr. Tim Duggan gave the commission their available options.

The commission decided to go into Closed Session near the end of the meeting to further discuss the appeal.

**H. Reports - The following referenced reports are in the October 29, 2015, Missouri Air Conservation Commission Briefing Document and available online at [dnr.mo.gov/env/apcp/macc.htm](http://dnr.mo.gov/env/apcp/macc.htm).**

**1) COMPLIANCE/ENFORCEMENT REPORT**

Ms. Darcy Bybee stated that the Compliance/Enforcement Report begins on page 23 with the Concern Report. There were a total of 64 concerns received from August 16, 2015 through September 15, 2015. During this time period there were 52 investigations completed.

The Ongoing Negotiations Report can be found on pages 41 and 42. There are 57 enforcement actions in the negotiation process at this time.

The Finalized Agreement Report is on page 43. For the time period of August 16, 2015 through September 15, 2015, the department finalized nine agreements with a total penalty of \$36,000. Of that amount, \$7,000 was paid to the school fund of the County in which the violation occurred, and the remaining \$29,000 was suspended.

The Pending Referrals Report can be found on page 45. At this time, there are 15 Active Referrals.

Ms. Bybee said there are two referrals that were not on the report; these were directly referred by the department due to the fact that they are both ongoing multimedia actions. Those two cases are detailed on pages 47 through 50 of the

briefing document. Ms. Bybee gave the commission a brief summary of those two cases.

The third quarter update for the Gateway Vehicle Inspection Program can be found on page 51 of the briefing document. Over 226,000 vehicles were tested and over 500 audits were conducted by department and Missouri State Highway Patrol staff from July 1, 2015 through September 31, 2015. The fourth quarter report for 2015 will be presented in February 2016.

Ms. Bybee also gave an update on the Decommissioning of the Stage II program in St. Louis. As of this week, 93 percent of the facilities subject to the St. Louis vapor recovery rule have gone through the entire Stage II decommissioning, testing and permitting process. The program continues to work with approximately 55 facilities that have not started the process to assist them to meet the December 31, 2015, compliance date.

## **2) PERMITS REPORT**

Mr. Kendall Hale stated the Permits Report begins on page 53 of the briefing document with the Permit Applications Received Report. A total of 49 construction and 19 operating permit applications were received in September. So far, a total of 671 permit applications have been received in 2015.

The Permit Applications Completed report begins on page 61 of the briefing document. A total of 43 construction and 24 operating permits were completed in September. So far, a total of 580 permits have been completed in 2015.

The Open Permits Report is on page 69 of the briefing document. This report details the types of projects currently open in the Permit Section.

There are is one Part 70 operating permit currently on public notice for General Motors in Wentzville. The Permit Section is also working on one Prevention of Significant Deterioration Part 70 operating permit for Owens Corning in Joplin.

There will be one permit writer leaving the program, which means there will be three vacancies in the Permit Section.

## **3) AIR QUALITY PLANNING REPORT**

### **a) Rule and State Implementation Plan Agenda**

Ms. Emily Wilbur said the Rule and State Implementation Plan Agenda starts on page 71 of the briefing document. No public hearing is scheduled for the November 17, 2015, meeting. And it is anticipated that the two orders of rulemaking heard at public hearing today will be presented to the commission for adoption at the November 17, 2015 meeting.

The Rules In Progress Schedule starts on page 75 of the briefing document. The last three rows at the bottom of page 75 should be shaded across the bottom to the date of “09-28-15” to indicate rules 10-6.372, 10-6.374, and 10-6.376 were filed with the Secretary of State.

The State Air Quality Plans Status Report begins on page 77 of the briefing document. A new row has been added for the 2015 8-Hour Ozone Standard. EPA released the new standard on October 1, 2015 and published it in the Federal Register on October 26, 2015 and it will take effect on December 28, 2015. Ms. Wilbur then gave a brief overview of the new standard. Ms. Wilbur showed the commission two slides; the slides are on Attachment A of these minutes. A color copy of the slides may be viewed on the commission’s website:  
<http://dnr.mo.gov/env/apcp/macc.htm>.

**b) Ozone Updates**

The current ozone season ends on October 31st. There have only been two exceedances of the 2008 standard: Perry County and St. Louis. All of the state’s ozone monitors continue to remain in compliance using the 2013 through 2015 data. If the St. Louis monitors continue to remain in compliance through this ozone season, the program plans to move forward with the redesignation process.

**4) DIRECTOR’S REPORT**

**a) Vacancies**

Ms. Moore said there are approximately 15 – 20 vacancies in the program. Many of those leaving the program are moving to other areas within the department. This is due in part to promotions and also partly to a reclassification of the Environmental Specialist position which created good advancement opportunities for staff.

**b) Fees**

The December 3, 2015 commission meeting has been moved to November 17, 2015 to accommodate the requirement to file the fee rules by December 1, 2015. Once finalized, the asbestos and permit fees would take effect in January 2017.

**c) Clean Power Plan**

The Air Pollution Control Program is working with the Division of Energy and the Public Service Commission on the Clean Power Plan. A dedicated website has been created for the Clean Power Plan:  
<http://dnr.mo.gov/env/apcp/cpp/index.html>. To sign up for announcements on the Clean Power Plan, including future meetings, click

on the “Get Updates On This Issue” icon (looks like an envelope) located at the top right-hand corner of the page and follow the prompts.

**d) Future Meetings**

The list of nine 2016 commission meeting dates is published in the briefing document. The program is working on scheduling conference rooms and locations for the meetings in 2016.

The next commission meeting is Tuesday, November 17, 2015 at 10:00 a.m. in the Harry S Truman State Office Building located at 301 West High Street in Jefferson City.

**I. Open Session**

No one spoke during the Open Session.

**J. Future Meeting Dates**

**Tuesday, November 17, 2015 – Jefferson City  
Starts at 10:00 AM**

Harry S Truman Building  
301 West High Street  
Fourth Floor - Room 400  
Jefferson City, MO 65101

**February 2, 2016 – Tuesday**  
Location to be Determined

**March 31, 2016 – Thursday**  
Location to be Determined

**April 28, 2016 – Thursday**  
Location to be Determined

**May 26, 2016 – Thursday**  
Location to be Determined

**July 28, 2016 – Thursday**  
Location to be Determined

**August 25, 2016 – Thursday**  
Location to be Determined

**September 29, 2016 – Thursday**  
Location to be Determined

**October 27, 2016 – Thursday**  
Location to be Determined

**December 1, 2016 – Thursday**  
Location to be Determined

**K. Discussion of Pending Litigation and Legal Matters**

Vice Chairman Pendergrass moved to go into closed session to discuss the appeal. Commissioner Baker seconded the motion, and all commissioners voted to go into closed session.

Vice Chairman Pendergrass moved to return to the open session. Commissioner Baker seconded the motion, and all commissioners voted to return to open session.

**L. Missouri Air Conservation Commission**

Commissioner Baker moved to adjourn the October 29, 2015, Missouri Air Conservation Commission meeting. Commissioner Garnett seconded the motion, and all commissioners voted to adjourn the meeting.

Chairman Zimmermann adjourned the October 29, 2015, Missouri Air Conservation Commission meeting.

Respectfully submitted,

*Signature On File*

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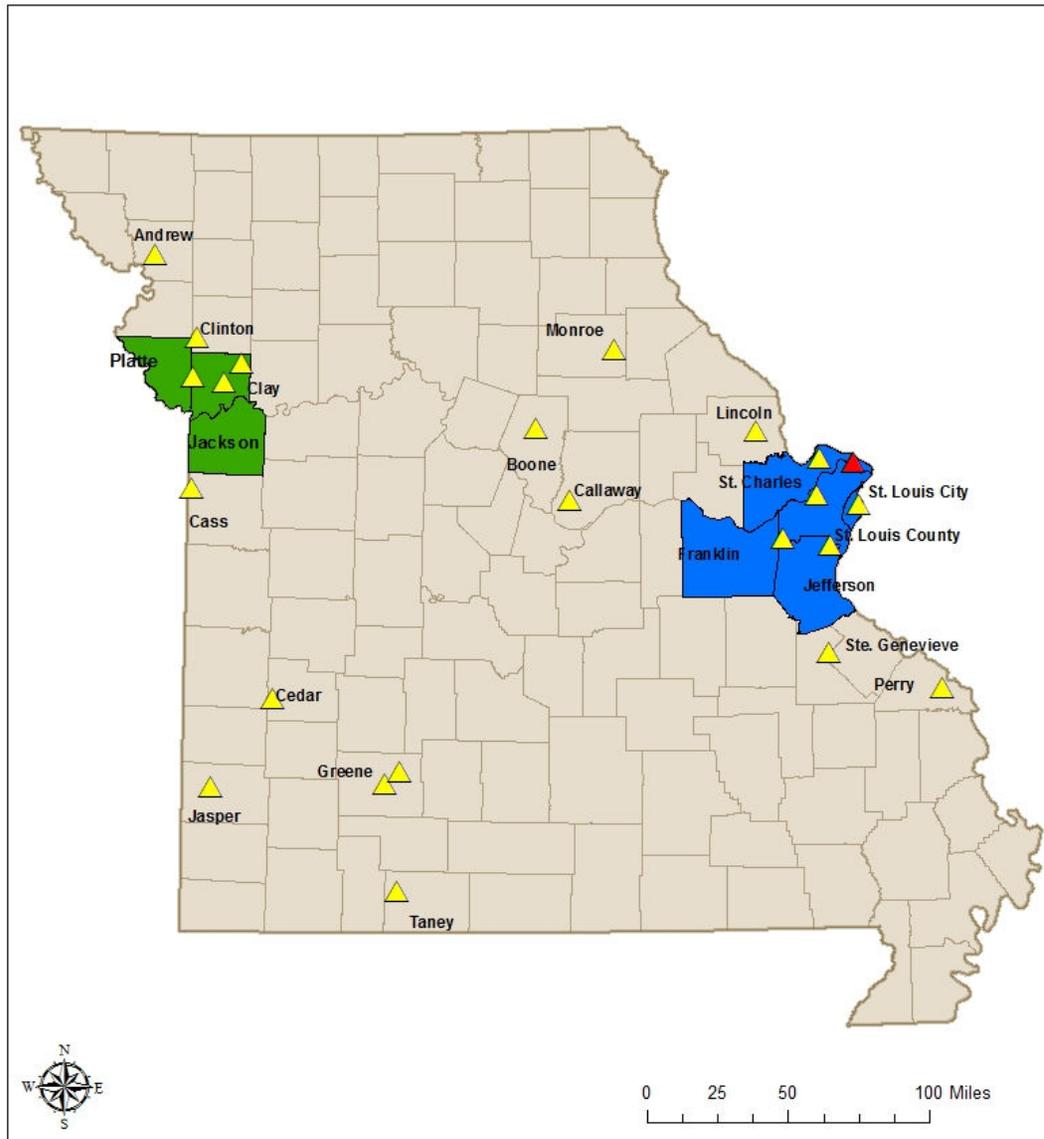
Kyra L. Moore, Director  
Air Pollution Control Program

Approved:

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David Zimmermann, Chairman  
Missouri Air Conservation Commission





Map based on preliminary 2013-2015 ozone monitor values

These values are subject to quality assurance and quality control procedures, and the ozone season ends Oct 31.

**Legend**

-  Monitor with Predicted 13-15 DV > 70 ppb
-  Monitors with Predicted 13-15 DV ≤ 70 ppb
-  St. Louis Ozone Nonattainment Area (2008)
-  Kansas City Ozone Maintenance Area

# Tentative Timelines

## **Attainment/Nonattainment Designation Process:**

- |                |  |
|----------------|--|
| Jul-Sept 2016: | Public review and comment on Missouri's boundary recommendation                                  |
| Oct 1, 2016:   | Missouri submits recommendation to EPA   |
| June 2017:     | Missouri receives EPA 120-day letter with proposed changes to recommendation (time for feedback) |
| Oct 1, 2017:   | EPA finalizes designation  |