



MEETING TWO MINUTES
VAPOR RECOVERY STAKEHOLDER WORKGROUP
SEPTEMBER 18, 2008
10:00 a.m. to 3:00 p.m.
Harry S. Truman Building, Room 400
301 West High Street
Jefferson City

1. Opening comments/Introductions

Attendees at the meeting include the following:

Nicole Eby, Air Pollution Control Program
Tami Spears, Air Pollution Control Program
Bud Pratt, Air Pollution Control Program
Paul McConnell, Air Pollution Control Program
Brian Adams, Springfield – Greene County Department of Health
Jamie Gay, Springfield-Greene County Department of Health
Richard Vani, Kansas City Regional Office
Ari Yarovinski, St. Louis County Department of Health
Mark Jordan, Wallis Companies
Todd Burkhardt, Neumayer Equipment
Bill Ruppel, St. Louis Regional Office
Markus Lambert, City of St. Louis Division of Air Pollution Control
Milo Daub, Kansas City Health Department's Air Quality Section
Curtis Wall, MDOA Weights and Measures
Tracy Barth, MFA-Oil
Ron Leone, MPCA
Darrell Eversole, J.D. Street

Nicole opened the meeting by reminding the group of her position as the workgroup coordinator/facilitator. She also stated she will not be providing answers, as this is the responsibility of the workgroup.

2. Summary of last meeting

Nicole mentioned the workgroup's focus outcome is to make the rule more readable and understandable.

Nicole opened a roundtable discussion to determine the group's idea of what consistency means.

Brian Adams decided to pass up the opportunity to give his opinion.

Bud Pratt stated the group needed to create a rule that is EPA approvable, leave room for upcoming issues and make it environmentally friendly.

Ari Yarovinski decided to pass up the opportunity to give his opinion.

Richard Vani stated consistency does not mean Chapters Two and Five have to be the same. Bud asked why the two chapters couldn't be the same. Richard responded that the group would have to change the requirements in order to make

them the same. Nicole added that changing the requirements may be something the group will need to do.

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2. Summary of last meeting (Continued)

Markus Lambert stated he would like to be able to open the rule and make a quick determination. He would like for the regulation to be better defined. Markus asked what the group's sub-goals are. He feels it would be easier to get group participation if it were broken down into smaller groups.

Curtis Wall asked the group to take into consideration the below ground and above ground issues.

Bill Ruppel believes consistency means wherever the owner is located throughout the state, the rules will apply, including facilities having more than one location throughout the state. Bill also believes the process needs to be taken one step at a time.

Darrel Eversole stated he missed the last meeting, therefore, he decided to pass up the opportunity to give his opinion. Darrel did state he would like to know what is required for all locations. Nicole stated St. Louis has equipment requirements that other locations throughout the state do not. This has been the biggest issue for the workgroup.

Todd Burkhardt would like to be able to provide his customers with all of the facts and he needs a rule to define these facts. Todd also stated his clientele in Kabool should be exempt from the requirements. Bud replied to Todd stating the rule will affect small facilities in smaller localities. The small station owners do not know what Stage II Vapor Recovery is and will ask a local citizen to build it rather than someone more qualified. Todd stated he is concerned with the enforcement issues and whether the regulation will make station owners comply and whether it doesn't make station owners comply. Nicole commented this situation applies to Subpart CCCCCC, which is already a federal requirement but is not yet a state requirement. Ari feels the group needs to include Subpart CCCCCC in the rule. Nicole informed the group that the requirements of Subpart CCCCCC should be kept in mind so the group doesn't write a rule that contradicts it, but she had been given direction to proceed with discussions presuming that Subpart CCCCCC would not be incorporated into this rule making. Tracy Barth asked what would happen if it is not adopted and Bud replied that his experience previously has been to adopt it. Nicole added if it is not adopted by the state that it is a federal rule and compliance would still be required by the U.S.

Environmental Protection Agency (EPA). The biggest difference is that the state would not be responsible for enforcing the regulations. Discussion continued among the group concerning clarification of Subpart CCCCCC. Nicole stated Ms. Gwen Yoshimura, of the EPA, Region VII, is the contact for this rule. Ms. Yoshimura may be reached by telephone at (913) 551-7073, or by email at yoshimura.gwen@epa.gov.

A member of the group asked how many stations will be affected by Subpart CCCCCC. Ron Leone reported 4200 stations and Ari stated there are 900 stations in St. Louis alone and approximately 3000 stations all together. Nicole asked the

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2. Summary of last meeting (Continued)

group to remember the regulation is based on throughput. Ari mentioned throughput will kill small stations. Nicole stated this is not the concern of the group at this time. Areas that will have to make significant changes will be given time to make those changes. Ron asked how much flexibility there will be in the time frame, such as two, five or ten years. Richard believes the compliance date for Subpart CCCCCC is January of 2011 for all stations and was April 2008 for any new stations. Nicole noted although the group would have to establish a timeline and specific dates for compliance, she would like to give the regulated community plenty of time to make the changes required. Richard pointed out the department has dealt with overlapping rules before with the asbestos regulations and the NESHAP overlapping.

Ron asked if there will be any time when industry can stop doing Stage I or Stage II. Nicole stated she thought Stage I would only become required more but Stage II may eventually be phased out with "widespread use." Bud believes in the year 2020 the mass of changes will take place. Nicole explained although the EPA has allowed states to phase out Stage II when "widespread use of Onboard Refueling Vapor Recovery (ORVR) occurs," they also state if Stage II is phased out it can not cause any "back-sliding"(increase in emissions) in our State Implementation Plan (SIP). Nicole also stated because we use balance systems and they actually increase the overall efficiency of the ORVR system, Missouri will continue to have this "back-slide" for longer than some other states.

Ron then asked what industries, other than gas stations, are affected by the new ozone standards and tighter restrictions. Nicole believes it is affecting other industries but she is not sure what the exact effects are. Bud believes industrial coating operations are being affected among others. Mark Jordan asked about larger industries such as cement plants. Paul McConnell stated the EPA has promulgated Maximum Achievable Control Technologies (MACTs) that affect specific types of larger sources such as the cement plants. They are now promulgating area MACTs that target smaller sources like gas stations and paint stripping. Mark Jordan asked if anyone in the group had an idea which areas would be considered in non-attainment for the new ozone standards. The group discussed some possibilities including the Springfield-Green County area but no one knew for sure. Someone asked what the group will have to do as a result of the new designations. Bud explained the environmental agencies have realized Volatile Organic Compounds (VOCs) travel hundreds of miles and the wind will continue to pick up the VOCs and move them on. This is referred to as transport. Bud also explained that the new plans will likely take transport into consideration. Brian stated the EPA will designate areas whether we like it or not and everyone

will be affected the same way. Bill noted most of the problems in St. Louis occur when the wind is out of the northeast (referring to the refineries along the river).

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Bill would like the group to try finding a strategy or opportunity to keep costs to station owners as low as possible.

Mark Jordan would prefer a rule that does not require an existing station that has Stage I to modify it, but if a station owner is building a new station or doing construction that involves the tanks Stage I Enhanced Vapor Recovery (EVR) will be required at that time. He would also like to see real numbers showing that we are getting our money's worth when requiring these changes. Todd mentioned the cost of making changes to a basic station is approximately \$20,000 per site over a three and a half year period. Mark believes the cost to modify existing stations in addition to other costs being incurred by the industry, will cause small businesses to close. Nicole stated she has asked for a calculation of the cost/benefit of requiring EVR. The calculation would be for the difference in the amount of VOC's captured by increasing the required efficiency from 95% to 98%. She agreed to have this number by the next meeting. The group discussed EVR and Richard requested an explanation of EVR. Mark Jordan stated it swivels and helps prevent gaskets from leaking.

Bud predicted EVR and MOPETP approved equipment will be required.

Todd asked if the equipment is compatible with above-ground storage tanks (ASTs). Nicole stated she did not know and she suggested at the next meeting a smaller group work to address the ASTs issues.

Nicole returned the group to the issue of consistency and asked Mark Jordan if he wanted to comment on this issue. Mark stated one of his concerns is having penalties proportionate to the size of facility. In his opinion 100,000 gallons of throughput in a month is not a lot. He indicated that a gas station is barely viable at 100,000 gallons. He pointed out that there is a big difference between failure to use Stage I on a 350 gallon tank versus a 3,500 gallon tank and feels like penalties should also be proportionate.

- Discussion of minutes
- Review and discussion of example rule format

Nicole asked Paul to discuss his example of the rule format with the group.

Paul passed out to the group two examples of rule formats (please see Attachment 1 and Attachment 2). One is an example of a blank rule with formatting and one was a sample with both rules laid out side by side. Nicole also passed out an example that Bud created so we could look at the format of it as well. Paul stated a lot of the information overlaps and can be combined. Paul suggested making the parts of the rule that are applicable to everyone (i.e. see section three) stand alone. For example, Stage I could have its own applicability section. Bud suggested that when a section is sited in another section, instead of just having the

title “Section 3A” it could site “Section 3A”, and the title of the section. Richard suggested putting the sections in bold print. Both of these were suggested to make the rule easier to read. Bud asked if it possible to bold a section if it isn’t a

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- Review and discussion of example rule format (Continued)

title of a rule. Paul stated that this was just not the typical format used in the past but he will find out.

Brian suggested having a pamphlet for specific sections. Nicole stated the group may later consider constructing pamphlets.

Richard suggested a separate rule for large tanks, etc. Paul stated the problem with having separate rules is the problems it will create in order to make changes to them. He explained that to make a change that applied across the board, we would have to go through the lengthy rule making process for each one. He thought it would be easier to make changes if we try to make one rule more transparent. Nicole asked Richard if he was referring to separate rules for Kansas City and St. Louis or three separate rules for Stage I, Stage II and bulk plants.

Richard stated he was referring to three separate rules.

Nicole asked Paul and Bud how often they project it to be necessary to change all three rules at the same time. Bud guessed it wouldn’t be very often.

Richard asked the group if there is any difference in Stage I between Kansas City and St. Louis. Mark Jordan stated there is a difference because Kansas City is not under MOPETP. Tracy Barth asked why Kansas City isn’t under MOPETP. Bud responded that Stage I was implemented in Kansas City before vapor recovery was implemented in St. Louis. He explained that by the time the Vapor Recovery program for St. Louis was created, technology had advanced and along with it came a more advanced rule in which the MOPETP was included. Richard stated the Kansas City Ozone State Implementation Plan (SIP) references the Chapter Two regulations. If the group changes the Chapter Two requirements how will the department deal with the SIP references? Nicole stated she spoke with David Lamb concerning the SIP references and David felt it would not be too difficult to do a SIP update as long as the group doesn’t do anything that will cause more stringent rules or less stringent rules. As long as it is evened out, changing the SIP won’t be a big deal.

Richard asked if the cost of VOC emissions is relevant. Nicole responded that she felt it was and that this is the calculation she had requested. Bud stated that California’s calculations included cost per pound of VOC’s rather that cost per ton.

Ron asked at what stage the group will make sure the rule is SIP approvable. Paul responded the rule presenter will do this at the public hearing. It can also be done during the 60-day and public comment period. Nicole stated that if we thought there may be a problem with SIP approval for any changes made we would get clarification early on. She explained that no one wanted to go through a lot of work to find out later that it would have to be redone. If the department thinks this will happen the necessary changes can be made before the SIP goes to the EPA.

Nicole asked the group if anyone strongly opposes one rule. Richard stated he does.

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Break for Lunch

3. New topics for discussion

- Incorporation of Enhanced Vapor Recovery requirements
 - Certification of new equipment

Nicole stated she doesn't expect to get far with this subject but would like to get some ideas. She also stated having no testing requirements or oversight is not a viable solution, so a way to certify and test equipment will need to be included in the rule.

Ron Leone asked about tag out procedures and wanted to know how the public knew a pump had been tagged out of service. Bill explained that the nozzle is zip tied down and there was some discussion about ways the procedure could be improved. Ari believes the problem is not with the station employees alone, but the station owners and equipment contractors as well need to do more to ensure that equipment does not get used. Ari suggested having licensed technicians.

Nicole suggested that certifying the contractors could be as simple as having them sign a form stating they understand the regulations and will follow them and then making a list of those that have signed it available to the public. This would hold the contractors accountable.

Darrell replied that Illinois has a certification process and it does not work well. Nicole will review the Illinois process before the next meeting.

Mark Jordan recommended requiring the contractors to have certification that they have been trained to install and repair approved equipment instead of certifying the contractors themselves.

Todd recommended holding free seminars for the owner/operators. Ari stated this is already being done twice a year and suggested the new rule state the equipment manufacturers are responsible for holding the seminars, etc.

Todd suggested when the construction permits are submitted, the facilities be required to also provide proof of certification for the equipment installation.

Ron and Mark Jordan believe these issues are already being dealt with and they will work themselves out during the construction process. Nicole stated the group needs to come up with something that ensures liability of all parties. Nicole asked Bud to briefly explain the MOPETP. Bud explained MOPETP was first envisioned when the APCP realized the vapor assist systems were not up to the standards they should be. The APCP wanted their own testing program to be able to choose equipment that met the required standard here in Missouri. The APCP reviewed

California's program and started with it as an example. In 1995, the APCP requested a copy of California's 1995 proposed protocols. The

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- Certification of new equipment (continued)

APCP reviewed the protocols and made changes that were more Vapor Recovery appropriate for Missouri (such as taking into account the need to test during the winter months). Bud also explained that MOPETP is considered a procedure and a library of tests. The procedures seldom change but the library of tests is a science and changes as technology changes. When someone wants to bring their equipment to Missouri, the Technical Review Committee reviews the proposals then the company sets up a test station and collects data. Once the equipment is shown to meet our standards, it is approved for use in Missouri. Mark Jordan asked why MOPETP can't be dropped and we could just use CARB-EVR approved equipment. Bud stated that the MOPETP also allows us to pick and choose the equipment best suited to our needs without costing the industry needlessly. Bud also stated by having MOPETP, it gives us a shield from having to make expensive changes that we consider unnecessary.

Ari stated he is not always a fan of MOPETP but it is a good process for industry. It helps industry from having break away violations every month by ensuring the quality of the equipment.

He also mentioned that MOPETP is a useful tool to follow when dealing with regulatory agencies and facilities.

Ron stated his members are concerned with monopolies being created.

Mark Jordan said that he thought there were at least 2 options for each piece of equipment.

Nicole stated she had two questions. The first being if we are only able to certify equipment that is CARB-EVR approved and we don't want to do exactly the same thing California does, where will that leave Missouri in terms of equipment availability and cost for the future. Bud stated he did not think Missouri would be in a bad position, because the MOPETP allows us to phase in changes over time.

Mark asked if CARB-EVR equipment is MOPETP approved does it mean it is required. Nicole stated she did not necessarily think this was the case. Bud explained that he would like to take away the EVR argument away from the EPA or at least revise it by being able to say all of our facilities meet EVR requirements.

Nicole's second question was, if Missouri goes through our own approval process why we would need CARB at all. Bud stated that California is the biggest market in the country for vapor recovery equipment. The state has a large, well funded program for equipment certification. In addition to the performance testing that is similar to MOPETP, California requires a battery of other safety tests to make sure the equipment meets fire safety

an UL standards, for example. If we started from scratch Missouri would not have enough money or personnel to administer the full program.

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- Certification of new equipment (continued)

Nicole asked everyone if, knowing the background for MOPETP and what is required by the EPA, the group feels MOPETP is the best process to use. The group agreed that although some issues with the MOPETP needed to be addressed it is still our best option. California bases their vapor recovery requirements on control of Hazardous Air Pollutants for benzene (benzene is listed as a health issue). Missouri's basis for vapor recovery is as a control for ozone.

Mark Jordan asked how these compare. Paul stated the benzene in Missouri is down to less than one percent. Bud stated the benzene is a known carcinogen; however, there are nine other carcinogens to think about. Nicole explained that because California uses a health based standard they don't have to justify the cost of implementation or continued use of the equipment.
- Decertification of old

Nicole stated she thought it was very important to have a documented process for decertification of equipment that has previously been certified and will no longer be allowed for use. This would make the transition to new, better equipment more clear.
- Incorporation of the MOPETP by reference into the rule

Ari asked if it is necessary to keep MOPETP separate in the new rule. Nicole stated the legal guidance is that MOPETP should be listed in the rule by reference. Mark Jordan stated it needs to be included if it is going to be required. Paul stated the group will need to look in depth how to include MOPETP in the rule without changing the rule or going through the 18-month rule action every time there is a change in test procedure. Bud recommended keeping MOPETP very loosely defined. Nicole stated as long as the procedures are clearly quantified in the rule, we should be able to find a way to keep the test procedures flexible. Ron asked if the new rules will deal with the smaller fines/violations such as the tag out violations, etc. Ari suggested the best solution to prevent these types of violations would be if the station owner knows the pump is tagged out, they need to inform all employees if they see customers dispensing gas from a tagged out pump, they need to pull the switch and not allow gas to be pumped from that hose. Don't let the customers dispense gas from these pumps. If 20 gallons of gasoline is being dispensed it's pretty likely that a customer untagged the nozzle without the station's knowledge, but if 300 gallons is dispensed from a tagged out pump someone should have noticed and stopped the pump's use again. This will be taken into consideration when determining the appropriate enforcement action. Ron asked if there is a more effective way to tag out a pump. Mark Jordan mentioned that the industry and government compromised on the tag

out situation some time ago. Ron recommended using a red bag to stand out more. Bill stated the inspectors ask the station owners/worker if they have a bag to put over the pump. Nicole noted it is important to list what is expected of

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- Incorporation of the MOPETP by reference into the rule (continued)
drivers and station owners at some point during this process. Bill stated the station owners need to be sure to inform the employees of what is expected.

4. Wrap Up/To do's/Next Meeting

Nicole asked the group if anyone is interested in having subgroups. Most expressed that they liked the meeting the way it was and were afraid we would lose some of the dynamic of our discussion if we broke into smaller groups. Todd stated the group did not discuss EVR very much. Nicole asked Todd what some of his concerns were.

Darrell asked for clarification on what is considered construction. Nicole stated that construction is something that we need to more clearly define. She suggested that if facilities are working on the top of the tanks they should be installing EVR. There will be a completion date to have EVR installed; however, that date can be far enough in the future that the changes will be done by most facilities anyway. Mark Jordan recognizes the value in establishing what is considered construction. Bud asked Mark what he considers a fair deadline for the entire state to have EVR installed at all existing stations.

Richard asked what the cost is to install EVR at existing stations. The group came up with approximately \$7000 per tank. The group discussed that in the federal regulations this currently pertains to only new stations. APCP staff believes this will soon apply to existing stations as well.

Paul asked Bud to describe the difference between Stage I and Stage I EVR. Bud stated EVR has different spill bucket requirements, swivel adapters, lower leak rates, and p/v valve standards that are 80 percent more restrictive. The entire system has much higher standards.

The group discussed whether the new standard will require the systems to be 95 percent or 98 percent efficient. Nicole stated she will find out before the next meeting what the current percentage is.

4. Wrap Up/To do's/Next Meeting (Continued)

Ari suggested tabling the discussion until the next meeting when Nicole provides the current percentage. Nicole added that everyone believes EVR is better, but she will find out whether or not 98 percent efficiency will be required, in effect making EVR required.

Nicole stated the next meeting discussion will include the CCCCCC requirements. She will also have the cost benefit information and whether or not 98 percent is a federal requirement, and the actual dates of the requirements.

Meeting adjourned.