



MINUTES
MISSOURI AIR CONSERVATION COMMISSION
Harry S. Truman Building
Room 400
301 West High Street
Jefferson City, MO 65101
December 6, 2007
9:00 a.m.

Commissioners Present

Jack Baker, Member
Mark Fohey, Vice Chairman
Michael Foresman, Chairman
Mark Garnett, Member
Gary Pendergrass, Member
Richard Rocha, Member
Kevin Rosenbohm, Member

Staff Members Present

Rebecca Birke, Public Information Specialist, Air Pollution Control Program (APCP)
Rayma Broadway, Environmental Services Program
Joe Engeln, Office of the Director, Department of Natural Resources
Steve Feeler, Compliance and Enforcement Section Chief, APCP
David Gilmore, Commission Secretary, APCP
Wayne Graf, Operations Section, APCP
Haskins Hobson, Inspection and Maintenance Program, APCP
Katy Holmer, Operations Section, APCP
Cliff Johnson, Compliance and Enforcement Section, APCP
Jim Kavanaugh, Director, APCP
David Lamb, Operations Section Chief, APCP
Paul McConnell, Operations Section, APCP
Kyra Moore, Permits Section Chief, APCP
Paul Myers, Operations Section, APCP
Brian Newby, Compliance and Enforcement Section, APCP
Gus Ralston, Kansas City Regional Office, FSD
Terry Rowles, Air Quality Analysis Section, APCP
Missy Seeligman, Program Secretary, APCP
Lucy Thompson, Operations Section, APCP
Leanne Tippet Mosby, Division of Environmental Quality, Deputy Director
Wendy Vit, Air Quality Analysis Section, APCP
Morris Westfall, Governor's Ombudsman
Will Wetherell, Environmental Services Program, Field Services Division

Others Present by Attendance Record

Joe Bindbeutel, Attorney General's Office
Steve Brooks, Aquila
Brian Brookshire, Missouri Forest Products Association
Robert Brundage, Newman, Comley and Ruth P.C.
Pam Cain, Small Business Compliance Advisory Committee (SBCAC)
Robin Cole, SBCAC
Milo Baub, Kansas City Health Department
Donald Dennis, Bates City Baptist Church
Kathrina Donegan, St. Louis County Department of Health
Dave Drennan, Missouri Dairy Association
Tim Duggan, Attorney General's Office
Dan Engemann, Missouri Department of Agriculture
Robert Fenemore, U.S. Environmental Protection Agency, Region VII
Garrett Hawkins, Missouri Farm Bureau
Andrew Hilliker, City of St. Louis, Air Pollution Control Program
Ogle Hopkins, Missouri Egg Council
Martin Kasper, University of Missouri
Matt Larsen, Shook, Hardy and Bacon, LLP
Jack Lonsinger, Liberty Carbon Service, Incorporated
Michael McGhee, Missouri House of Representatives
Yogesh Naik, Sistech Systems
Douglas Neidigh, Springfield Air Quality Control
Don Nikodim, Missouri Pork Association
Jewel Patek, Patek and Associates
Kevin Perry, The Forrester Group
Norb Plassmeyer, Osage Solutions, LLC
Doug Rickey, First Baptist Church of Bates City, Missouri
Brent Ross, Associated Electric Cooperative, Incorporated (AECI)
Steve Rudloff, Missouri Limestone Producers Association
Kurt Schaefer, Lathrop and Gage
Drew Schauffler, Hendren Andrae LLC
David Shanks, Boeing
John Swanson, Omnium
George Thullesen, The Empire District Electric Company
Roger Walker, Regulated Environmental Group for Missouri
Seryl Webb
Steve Whitworth, Ameren
James Woestman, Mayor of Carthage

A. Call to Order

Chairman Michael Foresman called the Dec. 6, 2007, meeting of the Missouri Air Conservation Commission to order. The following commissioners were present: Michael Foresman, Jack Baker, Richard Rocha, Kevin Rosenbohm, Gary Pendergrass, Mark Fohey and Mark Garnett.

B. Minutes from Oct. 25, 2007, Meeting

Commissioner Jack Baker moved to approve the Oct. 25, 2007, minutes as written. Commissioner Gary Pendergrass seconded the motion and all commissioners voted to approve the minutes.

C. Reports - The following referenced reports are in the Dec. 6, 2007, Missouri Air Conservation Commission Briefing Document.

1) COMPLIANCE/ENFORCEMENT

Mr. Steve Feeler stated the first Complaint Report begins on page 35 of the briefing document. There were 73 complaints that were received for the second half of September and 82 complaints were received for the first half of October 2007, which is kind of a high number for a 30-day period. Normally it is around 100, but it was a warm time so there were more people outdoors who noticed more and made more complaints.

Mr. Feeler noted that the Settlement Report begins on page 69. The report lists those cases where an agreement has been reached in principle. Pages 71 and 72 list the cases that are currently under negotiation and page 73 lists the cases that have been approved by the commission and referred to the Attorney General's Office (AGO). For calendar year 2007 there have been 181 cases resolved with paid penalties in the amount of \$450,000 and approximately \$475,000 in suspended penalties.

2) PERMITS

Ms. Kyra Moore stated that the Permits Report begins on page 75. For the month of October, the program received 46 construction permit projects and 37 operating permit projects.

Ms. Moore continued and noted the Permit Applications Completed Report begins on page 85. In October, the program completed 39 construction permit projects and 134 operating permit projects. The high number of completed operating permit project is indicative of the Permits Section resolving issues and cleaning up old files. Some of the older projects were closed out due to newer

applications taking their place and others were closed due to inappropriate requests.

The Permit Section Status Report begins on page 105. When the report was first started the number of open projects was close to 1,200. The Permit Section is getting closer to 1,000 open projects.

Ms. Moore stated that the Ethanol Map is on page 107. There have been no changes to the map.

The Ethanol and Biodiesel Report begins on page 109. Ms. Moore did confirm that neither Renewable Energy or Ethanex, both located in Cape Girardeau, Missouri, have started construction yet. There has not been a lot of changes with regard to pending construction permit applications. However, Emerald Renewable Fuels in Phelps City, Missouri and Ozark Ethanol in Nevada, Missouri are at the draft permit stage, which means the Permit Section has approved their air dispersion modeling and sent a draft permit to the company for their review. Unless the company has any major changes, the Permit Section anticipates sending those two permits for final approval within the next two weeks.

Chairman Foresman asked how long they have to start construction.

Ms. Moore replied that they have two years to start construction. The rule does allow them to ask for an extension of that two year timeframe, which is what Renewable Energy in Marshall did, which allowed them an extension until June 2008 to commence construction. For all construction permits, if an extension request is not received and approved, the permit is invalid if construction is not started within two years of permit issuance.

The Biodiesel Report is listed on page 111. Ms. Moore mentioned at the last commission meeting that one of the biodiesel plants in Hayti, Missouri was allegedly dumping glycerin in a nearby creek. Due to this issue, the department gathered complete information on operational status of biodiesel plants. There are now approximately 10 biodiesel plants in operation in Missouri.

Chairman Foresman said that most of the plants are small.

Ms. Moore said he was correct. Based on the information collected, a couple of the smaller plants are currently not in operation because of the market conditions.

Ms. Moore updated the commission on two major permits. As mentioned at the last commission meeting, the draft permit for Associated Electric Cooperative, Incorporated's coal-fired power plant proposed for Norborne was on public notice. A public hearing was held on Nov. 13, 2007, in Norborne, Missouri. There were approximately 250 people in attendance and approximately 38 people

gave testimony. In addition to the oral comments received, a large amount of written comments were received. Staff are currently responding to all comments received, even if they are not relevant to the draft permit. The timeframe to respond to all of the comments is not known at this time.

Commissioner Richard Rocha inquired if there were any substantive comments received which the Permit Section had not already perceived.

Ms. Moore replied that most of the comments received were in regard to carbon dioxide (CO₂) and global warming. Several comments were received on the air dispersion modeling and emissions rate calculations which need to be verified.

Ms. Moore noted that a permit was issued in May 2007 to Ag Processing in St. Joseph, Missouri. The permit was for an expansion of their soybean extraction plant. Ag Processing appealed that permit based on the Best Available Control Technology limit in the permit for their volatile organic compound limit. The permit appeal hearing was conducted Tuesday and Wednesday of this week. AG Processing asked for an expedited hearing judgment, which is up to the hearing officer. However, both sides have to file post-hearing briefs. Once the hearing officer has the briefs he will make a ruling and present that to the commission.

Ms. Moore next updated the commission on the status of vacancies within the Permit Section. There are currently six vacancies: Five engineering positions and one environmental specialist. Interviews have been completed and the Permit Section hopes to have those positions filled within the next two weeks.

3) OPERATIONS

Mr. David Lamb began by introducing three members of the Small Business Compliance Advisory Committee: Robin Cole, Jack Lonsinger and Pam Cain.

Mr. Lamb then directed the commission to the Operations Report which began with the Rule and State Implementation Plan (SIP) Agenda on page 113 of the briefing document.

Mr. Lamb identified one item to be presented at public hearing at the December commission meeting, which was the Missouri Regional Haze Plan. He also stated that three items would be presented at the December meeting for adoption. Those three items were the Gateway Vehicle Inspection Program (GVIP) for the St. Louis 8-Hour Ozone Nonattainment Area, the Boundary Recommendation for the Revised 24-hour PM_{2.5} Standard and the Missouri Smoke Management Plan. Mr. Lamb noted that there were no items scheduled for public hearing for the February meeting and the Missouri Regional Haze Plan is scheduled for adoption. Considering the light agenda for the February meeting, Mr. Lamb proposed that staff could give presentations on any topics the commission may be interested in.

Chairman Foresman said it would be helpful if staff could give a short update on the status of GVIP.

Commissioner Richard Rocha suggested a presentation on the EPA ozone standard, specifically how the new standard may impact Kansas City. Commissioner Richard Rocha also suggested a budget update for the program, including funding.

Mr. Lamb then continued with the Rules In Progress Schedule, which began on page 117 of the briefing document. Mr. Lamb noted that there have been several rule filings since the last commission meeting. On Nov. 1, 2007, the department filed the Orders of Rulemaking for the amendments to the asbestos regulations: 10 CSR 10-6.241 and 10 CSR 10-6.250. In addition, the department also filed the Orders of Rulemaking for the consolidated open burning rule 10 CSR 10-6.045 and the four rule rescissions of the current open burning rules. With those Orders of Rulemaking having been filed, those rules will all be on schedule to become effective on Jan. 30, 2008.

Mr. Lamb then mentioned that in addition to the open burning rules becoming effective, the program has been working with the Missouri Department of Agriculture and with the Missouri Farm Bureau to develop informational brochures that will talk about agricultural open burning and their effects on air quality. The brochures will also discuss best management practices for agricultural burning. Mr. Lamb then noted that the University of Missouri Extension is also being consulted in this effort, and that the goal of the group is to try and get the brochure developed by February so it can be distributed in early spring before most of the agricultural burning occurs.

Mr. Lamb then stated that in addition to the asbestos and open burning filings, there were two other rule filings to report since the last commission meeting. On Dec. 3, 2007, the department filed the Orders of Rulemaking for 10 CSR 10-2.210, *Control of Emissions from Solvent Metal Cleaning* and 10 CSR 10-6.260, *Restrictions of Emissions of Sulfur Compounds*. With those filings having been made, those two rules are set to become effective on Feb. 29, 2008.

Mr. Lamb then discussed the State Air Quality Plans Status Report, which began on page 121 of the briefing document. He began by briefing the commission on St. Louis PM_{2.5} activities. He stated that the program continues to develop the photochemical modeling part of the project. The program is working on a number of sensitivity runs trying to determine what species of contaminants would be the best to control to help Missouri attain that standard. The current photochemical model has been used to evaluate area-wide controls, but additional modeling tools are needed to look at the local scale impacts from direct fine particles. The Illinois EPA has contracted with Environ to assist in the development of a fine-

grid study which will help in that effort. The study will help to quantify the contributions of certain local-scale sources, such as the Granite City Steel facility. The study will also help to determine the level of controls that are needed for those sources to help bring the area into attainment. The program will also be able to use that same modeling study to determine the impact of local sources on the Missouri side of the nonattainment area and what controls are needed.

The modeling results currently indicate that the on-the-books controls will not bring the area into attainment by the attainment deadline of 2010. However, under the federal PM_{2.5} rule the program does have the option of requesting an extension, provided we can provide all of the technical justification needed to show that we have done everything that is reasonable to try to bring the area into attainment by the deadline and that we can justify that additional time is needed. Currently, the program is looking at a 2012 attainment date for the St. Louis area. That date was chosen based on several controls that are expected to be in place by that time. The most important of which include the Clean Air Interstate Rule (CAIR), the beyond CAIR controls being implemented by the state of Illinois, and additional vehicle turnover.

The program is also continuing its efforts to meet with the larger sulfur dioxide and nitrogen oxides sources in the St. Louis area. The last meeting with those sources was on Nov. 16, 2007, and the program is planning on wrapping up that process within the next few weeks and initiate rulemakings.

Mr. Lamb then updated the commission on Doe Run Herculaneum. He indicated that Doe Run is progressing with their installation of emission controls at the facility. Under the Consent Judgment, they have until April 2008 to implement all of those controls. Mr. Lamb then stated that Doe Run will also be constructing a new fire station for the City of Herculaneum with plans to complete that project by April 7, 2008, as well. The old fire station was near the Broad Street Monitor, which is the monitor that has had a lot of the higher readings for the facility. With this move, Doe Run will now have ownership of the old fire station and also a significant part of the town as they have bought the right-of-way to a lot of the streets. The program has received notice from Doe Run that they intend to install a new fence around the facility, which will preclude access. That will make the Broad Street monitor no longer representative of ambient air conditions. That monitor will still be used for data recording purposes, but it will no longer be used for regulatory purposes. They expect to have the new fence installed by April 7, 2008.

Commissioner Gary Pendergrass verified that Doe Run was acquiring more property around their facility.

Mr. Lamb replied that he was correct. Doe Run is increasing the buffer zone around their facility, and with the new fence it will move out the boundary where ambient air begins, giving Doe Run a better opportunity to attain the standard.

Commissioner Gary Pendergrass inquired if there are monitors that will move as a result of that.

Mr. Lamb responded that both the department and Doe Run have monitors at the current broad street location. He said the department's monitors will likely be relocated to be reflective of the new ambient air conditions at the facility. Doe Run will be leaving their monitor at the current Broad Street site, as required by the consent judgment, to be used for historical purposes.

Mr. Lamb next updated the commission on the Lead National Ambient Air Quality Standards (NAAQS) revision. He indicated that a staff paper was released by EPA on Nov. 1, 2007, that reflects the findings from the Clean Air Science Advisory Committee. The staff paper recommended that the Lead Standard not be dropped as a criteria pollutant and calls for a significant tightening of the standard. The current standard is 1.5 micrograms per cubic meter averaged over a calendar quarter. The staff recommended a range from 0.02 to 0.05 micrograms per cubic meter to a level of 0.1 to 0.2 micrograms per cubic meter. The staff paper also asked the administrator to consider reducing the average time from quarterly to monthly. The next step will be for EPA to formally propose a new standard, which they expect to do in April 2008, which will allow them to meet the court ordered deadline in place by September 2008.

Mr. Lamb then gave a brief update on the General Conformity Rule. He indicated that in the Dec. 4, 2007, federal register, EPA proposed to approve the revision to the Missouri State Implementation Plan (SIP) to amend the General Conformity rule to include de minimis emission levels of PM_{2.5}. The General Conformity rule was adopted by the commission at the May 31, 2007, meeting. EPA will be accepting comments on their proposed approval of that revision until Jan. 3, 2008.

Mr. Lamb then discussed a pilot project that the program has been participating in along with EPA and other Kansas City area stakeholders, called Sustainable Skylines. He indicated that Kansas City was selected as one of two model communities chosen by EPA to be a national role model to participate in this initiative. The initiative seeks to promote sustainable projects in areas like energy use, land use, transportation and air quality planning to improve community livability to positively impact public health and the environment. To date, the program has participated in several meetings with EPA and the local stakeholders to try define some projects that should be included in this effort. One of the projects we have been discussing includes an idle reduction awareness campaign, which will tie in with the anti-idling rulemakings that both Missouri and Kansas are trying to implement in the Kansas City Maintenance Area. Some other

examples of projects include a diesel retrofit project, some heat island mitigation projects and a solar panel demonstration. To date, EPA has approximately \$200,000 that they have set aside for this project. The hope is that this seed money will be able to leverage additional funds from the Kansas City community to use to help implement a lot of these projects.

4) DIRECTOR'S REPORT

a) Air Compliance Seminar

Mr. Jim Kavanaugh reported over the last few months the program worked closely with REGFORM's Executive Director, Mr. Roger Walker to provide a one-day air compliance seminar. The seminar was held on Nov. 15, 2007. The seminar provided an overview of air permitting and enforcement activities. There were approximately 120 attendees with three commissioners also in attendance. A lot of positive feedback was received from those who attended. Because of the positive response, this may become an annual event. Mr. Kavanaugh thanked Mr. Walker for his efforts in coordinating and facilitating the seminar and for working with the program.

b) Gateway Vehicle Inspection Program

Mr. Kavanaugh updated the commission on the Gateway Vehicle Inspection Program (GVIP). As of Nov. 30, 2007, SysTech International has received 770 orders for equipment and installed 683 units. There are currently 616 licensed inspection stations currently operating and that number continues to increase. To date, approximately 3,800 inspector mechanics have been trained. As of the end of November 86,914 on-board diagnostic tests have been completed with a failure rate of around 11 percent.

Chairman Foresman inquired if that was a high failure rate.

Mr. Kavanaugh replied that number may initially be a little high. Early during the program start up there may have been some false failures, but those problems were identified and resolved so we would expect that number to go down. He added that the 10 busiest inspection stations currently included six of the ESP Missouri's test-only stations. Even though the program was designed to allow people to test their cars and get them repaired at the same time/place a lot of people are still going to the test-only shops to get their tests done.

Chairman Foresman said it is more convenient if you can drive in and get it done and drive off rather than having to leave your car.

Mr. Kavanaugh said he has heard similar responses from other citizens as well.

c) Air Program Advisory Forum

Mr. Kavanaugh mentioned that the Air Program Advisory Forum meeting scheduled to follow today's commission meeting has been postponed. The meeting has been rescheduled for Feb. 7, 2007, at 1:00 p.m. following the Missouri Air Conservation Commission meeting.

d) World Resource Institute Report

Mr. Kavanaugh mentioned that a copy of the World Resource Institute (WRI) report was provided to the commission. The report is titled "Charting the Midwest: An Inventory and Analysis of Greenhouse Gas Emissions in America's Heartland." Missouri, along with seven other Midwest states, provided data and reviewed the accuracy of the inventory used in the report. The report shows the Midwest as a major emitter of greenhouse gas emissions. The eight states include Missouri, Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio and Wisconsin, which account for about 25 percent of the United States emissions of greenhouse gases. According to the report, CO₂ makes up about 90 percent of the total greenhouse gases in the Midwest and the United States (U.S.). The two largest sources of greenhouse gas are coal combustion at power plants and petroleum combustion of motor vehicles. Missouri's above average greenhouse gas intensity is partly a result of its relatively high dependence on coal for electricity. The demand for electricity has grown at a rate of about 1.5 to 2 percent a year in the Midwest. Utilities are meeting this growing demand by a combination of building new generation and by finding ways to reduce energy consumption through energy efficiencies. The Supreme Court ruled in April this year that CO₂ is a compound that the U.S. EPA has the authority to regulate. The EPA is considering the appropriate strategy for addressing this finding and has not yet started the formal rulemaking process. The WRI report can also be viewed on the Web at the following Web address: <http://www.wri.org/publications>.

e) Doug Neidigh – Springfield Outreach Efforts

Mr. Kavanaugh recognized Mr. Doug Neidigh, the Air Quality Control Coordinator for the Springfield-Greene County Health Department. In anticipation of the U.S. EPA proposing a more stringent ozone standard, Mr. Neidigh has begun coordinating outreach efforts in his area, looking at ways to reduce ozone and ozone precursors before the new standards are promulgated. He has had at least one meeting with stakeholders and

representatives from counties, cities, and other interested parties such as the City Utilities of Springfield, Empire Electric, the Sierra Club and the American Lung Association to discuss developing an area Clean Air Action Plan. The Springfield area has monitored air quality just under the current ozone standard and with a more stringent standard, it is very likely that Springfield will have an ozone problem to address. Mr. Neidigh has done an excellent job coordinating outreach efforts in his area. He also has been involved with the development of a new Web site for the Ozark Clean Air Alliance. The department has a link to that Web site from our Web page. Mr. Kavanaugh said he appreciated Mr. Neidigh's work and the program will continue to support his efforts.

f) Personnel Update

Mr. Kavanaugh updated the commission on program staff vacancies. The program currently has eight engineering vacancies, interviews are completed and the justification to hire paperwork is in the process. We expect to receive approval to make offers to fill those vacancies any day. The program also just completed interviews for one environmental specialist position. The paperwork is being prepared to send to request to hire for that position also. In addition, there is also one other vacant environmental specialist position that the program just received approval to fill and interviews for that position will be starting soon. As I have stated in the past, it has often been a challenge to find enough candidates on the register to interview for vacancies, especially engineers. This time we had a much better response in addition to recommendations from other people. Ms. Moore, her staff and some department staff have been going to a lot of the college open house recruitment seminars and it appears their efforts are paying off.

g) Legislation Update

Mr. Kavanaugh noted that Dec. 1, 2007, was the date for pre-filing legislative bills. A few bills have been filed. One bill of interest was filed by Senator Griesheimer regarding GVIP. Senator Griesheimer would like to see if there is a better way to handle annual versus biannual vehicle registration requirements.

D. Public Hearing

Chairman Foresman called the public hearing to order.

Mr. Wayne Graf presented information on the Missouri State Implementation Plan-Missouri Regional Haze Plan. The SIP begins on page 129 of the briefing document.

Mr. Robert Fenemore with the U.S. Environmental Protection Agency, Region VII, spoke in favor of the Missouri State Implementation Plan-Missouri Regional Haze Plan.

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

E. Recommended for Adoption or Actions to be Voted on

Mr. Paul McConnell presented comments and responses on proposed revisions to the Missouri State Implementation Plan-Inspection Maintenance Program for the St. Louis 8-Hour Ozone Nonattainment Area 2007 Revision and recommendation for adoption. Information on the SIP begins on page 143 of the briefing document.

Commissioner Gary Pendergrass moved to approve to the Gateway Vehicle Inspection Program as proposed. Commissioner Mark Garnett seconded. All commissioners voted to approve the SIP as proposed.

Mr. Terry Rowles presented comments and responses to the Missouri PM_{2.5} Standard - Boundary Recommendation. The recommendation begins on page 153 of the briefing document.

Commissioner Pendergrass moved to approve the Missouri PM_{2.5} Standard - Boundary Recommendation. Commissioner Kevin Rosenbohm seconded. All commissioners voted to approve the recommendation as proposed.

Mr. Paul Myers presented comments and responses to the Missouri Smoke Management Plan. Information on the plan begins on page 155 of the briefing document.

Vice Chairman Mark Fohey moved to approve the Missouri Smoke Management Plan as proposed. Commissioner Jack Baker seconded. All commissioners voted to approve the plan as proposed.

F. New Business

a) Election of Officers for 2008

Chairman Foresman asked for nomination of officers. Commissioner Jack Baker nominated Vice Chairman Mark Fohey as Chairman for 2008. Commissioner Mark Garnett seconded. All commissioners voted in favor of Mark Fohey as Chairman for 2008.

Commissioner Mark Garnett nominated Commissioner Gary Pendergrass as Vice Chairman for 2008. Commissioner Kevin Rosenbohm seconded. All commissioners voted in favor of Gary Pendergrass as Vice Chairman for 2008.

b) Attorney General's Office Referrals

Mr. Feeler presented a referral request for Mr. Steve Stumpe. Information on the proposed referral for Mr. Steve Stumpe begins on page 175 of the briefing document.

Chairman Foresman inquired if Mr. Steve Stumpe or anyone representing him was present.

No one responded.

Vice Chairman Mark Fohey moved to refer Mr. Steve Stumpe to the AGO. Commissioner Richard Rocha seconded the motion. All commissioners voted for referral to the AGO.

Mr. Feeler presented a referral request for Mr. Dennis Wright. Information on the proposed referral for Mr. Dennis Wright begins on page 177 of the briefing document.

Chairman Foresman inquired if Mr. Dennis Wright or anyone representing him was present.

No one responded.

Commissioner Gary Pendergrass moved to refer Mr. Dennis Wright to the AGO. Commissioner Kevin Rosenbohm seconded the motion. All commissioners voted for referral to the AGO.

Mr. Feeler presented a referral request for Bates City Baptist Church. Information on the proposed referral for Bates City Baptist Church begins on page 179 of the briefing document.

Chairman Foresman said two people were present that represented the Bates City Baptist Church and wished to speak to the commission. Chairman Foresman recognized Mr. Doug Rickey.

Mr. Doug Rickey, representing Bates City Baptist Church, addressed the commission. Mr. Rickey said they did request a burn permit and noted that the Fire Chief did not verbally deny it. The burn pile was leftover from a sewer project three years prior and was within the city limits. Some people did dump construction waste on the pile and an attempt was made to remove some of it. Mr. Rickey said he guessed there was a breakdown of communication between the church and the Fire Chief about the permit. He thought they had received approval to burn on the morning of March 3, 2007. The burn pile was not on church property, but on a neighboring property. He said they were trying to be a good neighbor by helping with the cleanup since the burn pile was an eyesore in the city. Along with being a member of the church he was also an alderman in Bates City. They were trying to clean up a city nuisance and wished to resolve the matter.

Chairman Foresman asked if they had a written approved permit to burn.

Mr. Rickey said they never received a written approved permit. Nothing was received from the Fire Chief. A phone call was received from the Fire Chief and he said to remove some of the rubbish and he would re-inspect. Mr. Rickey said he misunderstood and thought if he removed the rubbish it was okay to burn.

Chairman Foresman said there had not been any discussion with the staff. He said the commission would allow him, if Mr. Rickey was willing, to work with the staff to try and resolve the matter. Most of the items that are referred to the commission to go to the AGO are because people ignore the staff and hope they go away. The commission's referral allows staff to go to the next step and ask the AGO to file whatever legal action is necessary to resolve the issue. Chairman Foresman said it would be appropriate if Mr. Rickey would agree to work with the staff to try and resolve the issue.

Mr. Rickey said that would be acceptable.

Chairman Foresman deferred the case until the February commission meeting to allow time for staff to work with Bates City Baptist Church.

Representative Mike McGhee, representing the 122nd District, addressed the commission. Representative McGhee said he was familiar with the case. The fire chief visited the burn site and instructed Mr. Rickey which items to remove from the burn pile to make it a legal burn. When they removed the items then it was their understanding, once those items were removed and kept out of the burn pile, that it would be okay. It was a breakdown in communication. The mayor,

aldermen, and church officials were there and the ground was covered with snow. They also had water hoses available and they moved the debris and had the fire department involved. They were going on good faith and thought they were doing the right thing by cleaning up their community. He said he hoped the commission looked favorably on that when they reviewed the issue. He thanked the commission for letting him speak.

Chairman Foresman thanked Representative McGhee for coming to the meeting.

Mr. Feeler presented a referral request for Ms. Joyce McCreary. Information on the proposed referral for Ms. Joyce McCreary begins on page 181 of the briefing document.

Chairman Foresman inquired if Ms. Joyce McCreary or anyone representing her was present.

No one responded.

Commissioner Jack Baker moved to refer Ms. Joyce McCreary to the AGO. Commissioner Kevin Rosenbohm seconded the motion. All commissioners voted for referral to the AGO.

Mr. Feeler presented a referral request for Mr. Jamie Turner. Information on the proposed referral for Ms. Joyce McCreary begins on page 183 of the briefing document.

Chairman Foresman inquired if Mr. Jamie Turner or anyone representing him was present.

No one responded.

Commissioner Gary Pendergrass moved to refer Mr. Jamie Turner to the AGO. Commissioner Kevin Rosenbohm seconded the motion. All commissioners voted for referral to the AGO.

Mr. Feeler presented a referral request for Calhoun Colt Show. Information on the proposed referral for Calhoun Colt Show begins on page 185 of the briefing document.

Chairman Foresman inquired if anyone representing Calhoun Colt Show was present.

No one responded.

Vice Chairman Mark Fohey moved to refer Calhoun Colt Show to the AGO. Commissioner Kevin Rosenbohm seconded the motion. All commissioners voted for referral to the AGO.

c) Necessity Findings

None.

G. Appeals and Variance Requests

None.

H. Open Session

Mr. Roger Walker, representing REGFORM, addressed the commission. He complimented the department and Ms. Moore for their diligent work on Nov. 15, 2007, at the air compliance seminar. He thought it would be a valuable seminar to hold annually. Mr. Walker said there have been long discussions within the last year about funding for the program and fees. He let the commission know that they have been working diligently with the other state business groups and have put together some draft language and expect it to be pre-filed. He said the program has demonstrated a need for funding and they have done a great job working with members of REGFORM.

Chairman Foresman said he appreciated Mr. Walker's support on funding for the program. He was in attendance at the seminar and it was quite well done. He also said that people felt good about learning more about the process. There were good presentations on difficult issues on permitting at the seminar. He also thanked Ms. Moore for the work she did at the seminar.

Mayor Woestman, representing the city of Carthage, addressed the commission. He thanked the state of Missouri for trying to help the city of Carthage eliminate their odor problem. What the state has done so far has helped. Renewable Environmental Solutions (RES) had two customers in Carthage. One customer was turning out diesel fuel for diesel engines that produce electricity and they could not operate on the fuel. RES was also selling the liquid that they made to the nursery in town for heating. After the nursery replaced all of their corroded pipes with stainless steel they noticed their storage tank was falling in so they decided they would quit using the product. RES is taking the waste from Butterball and processing it. The biggest problem that Carthage has is that RES claims that they don't have a problem, which means that they are not doing anything to solve the problem. The citizens of Carthage do not believe that this problem will go away without stronger regulations.

Mr. Brian Brookshire, representing the Missouri Forest Products Association, addressed the commission. He said they would like to see the current exemption for the charcoal industry stay in place, regardless of any other changes that might be made on odor

regulations in the state of Missouri. Years ago the industry negotiated with the department, EPA and the commission to comply with emission standards that were extremely costly to the charcoal industry. And they complied with that. In compliance with the emission regulations they also dealt with the odor coming out of the kilns. They complied with all of the regulations, effectively eliminating the potential for expanding the charcoal industry in the state of Missouri.

Chairman Foresman asked if they have odor issues at the charcoal facilities.

Mr. Brookshire replied that they do not. Department staff has relayed to him that there is not an odor issue. He said that since there is not an odor issue there may be an idea to wrap it into some other kind of regulation. That would not be a correct approach. It needs to stay as an exemption. They have worked hard with government entities to get the exemption and feel that it needs to stay in place.

Mr. Dan Engemann, representing the Missouri Department of Agriculture (MDA), addressed the commission. He informed the commission about some of their efforts towards odor reduction. Mr. Engemann said the MDA realized the need for its producers to be good stewards of the land and good neighbors. Most producers want to do the right thing when it comes to odor reduction and the adoption of new technology, but many times lack the financial means to do so. MDA has been proactive in seeking solutions to livestock odor reduction. In 2005, MDA established their own livestock odor taskforce, where members identified a strategy to reduce livestock odor through methods such as mechanical engineering, dietary manipulation and use of Best Management Practices. One available tool that the MDA has been actively promoting is the use of natural windbreaks or vegetative buffers. With the help of the Natural Resources Conservation Service in Missouri, MDA encouraged producers to sign up for a cost-share program to plant trees and shrubs to reduce particulate matter, dust and odors. At MDA's urging, over 125 producers have or are establishing windbreaks throughout the state. Secondly, with the help of Governor Blunt and the General Assembly, the department received over half a million dollars in the form of competitive grants that it has administered for biofilter research odor measuring equipment and a swine waste energy project, all of which are progressing. Missouri is fortunate to have in-state researchers that can assist in developing solutions to livestock odor issues. The University of Missouri – Rolla is engaged in making methane digesters more available and establishing the economics behind those and reaching out to producers. The University of Missouri – Columbia is working in dietary solutions that reduce odor and the university extension specialists are helping producers find proper locations for new facilities. Mr. Engemann said science and technology should be the guides in this debate. Yesterday's discussions centered around the actions of other states. Iowa for example, just announced a plan to spend almost 23 million dollars in the use of new technology and develop a voluntary incentive based approach to reduce livestock odor. Many of the components of their draft plan are things that are already being done in Missouri. In terms of compliance assistance, the department recommended that in the Odor Workgroup. The MDA is ready to assist in

these efforts. Mr. Engemann asked the commission to take those items into consideration.

Mr. Garrett Hawkins, representing the Missouri Farm Bureau, addressed the commission. Based upon the discussion the commission had yesterday, he offered some perspectives from the Missouri Farm Bureau (MFB). MFB members gathered at Tan-Tar-A recently for their annual meeting and over 500 farmer and rancher voting delegates from across the state debated, amended and adopted policies that will guide their organization in the coming year. The voting delegate body represents a cross section of Missouri agriculture. One of the issues discussed was in regard to odor. MFB members stand solid in the belief that they do not believe the odor rule should be extended to operations below the Class IA designation, as the rule currently stands.

Mr. Hawkins said the purpose of the workgroup was to look at odor regulations across all sectors. But there were participants of the Odor Workgroup that wanted to focus solely on animal agriculture. As the workgroup report states, a consensus was not reached on many of the major items that the commission discussed yesterday. And of course, that may be subject to change. He recognized that the staff proposal didn't go as far as some of the items that the commission discussed yesterday. The commission has looked at the comments and the complaint record at every meeting. The vast majority of those complaints are attributed to a relatively few number of entities. The Renewable Environmental Solutions plant in Carthage and the Premium Standard Farms facilities are two primary sources of those complaints. Mr. Hawkins said that based upon the commission's discussions yesterday, it seems as though the commission may consider a more broad approach that may impact a lot of Missouri's farm and ranch families. As the commission moves forward with proposed regulations, he asked that they look at sound science and consider that over emotion and politics. MFB will continue to be engaged in this process and hopefully the commission will take into account the concerns of its members.

Mr. Dave Drennan, Executive Director of the Missouri Dairy Association, addressed the commission. He appreciated being able to participate on the commission's odor discussion via conference call yesterday. He said that he too participated in the Odor Workgroup and noted that a professional facilitator from the department was present. A lot of time and effort was spent discussing the issue with no consensus being reached. Mr. Drennan said he heard a comment yesterday that the agriculture groups were representing their members and afraid of repercussions from their members if they didn't comment and visit with the commission about this issue. He said some of that may be true. But on the other side, those people that oppose livestock growth and expansion in this state, were there to represent their members. He participated in the Odor Workgroup to represent his members. He asked the commission to find out who those individuals that oppose the agriculture industry really represent. The dairy industry is very concerned and has visited with the Department of Natural Resources, the Department of Agriculture, and other agriculture groups about their competitiveness with other states. He asked if Iowa is spending money to help their farmers comply with environmental

regulations, then why wasn't Missouri, in addition to current Department of Natural Resources and Department of Agriculture efforts. If Missouri launches tighter regulations it will be putting a lid on growth. If tighter regulations are adopted, then the next generation of dairy farmers will move to other states that want them. Kentucky is trying to rebuild their dairy industry and they are using state money through their tobacco settlement. Those farmers are transitioning from tobacco into other occupations. Those in the dairy industry are looking at what other states are doing around us and the commission should do the same. If those other states are comfortable with a 7:1 dilution rate, he asked why Missouri should do something different. He asked the commission to not put them into a position where they could not compete.

Mr. Drennan informed the commission about the economic activity generated by livestock operations. One dairy cow, according to a University of Wisconsin study, generates \$13,737 of economic activity. Almost \$14,000 from one cow. Within the past year Missouri has lost 6,000 cows. The perception by some MDA members is that there are enough state and federal regulations. Keeping dairy in Missouri is very important. That is another reason why he agreed to participate on the Odor Workgroup. He said he appreciated the invitation to participate. He too was distressed that a consensus was not reached.

Mr. Joe Bindbeutel, Chief Council of the Agriculture and Environment Division of the Office of the Attorney General, addressed the commission. He briefly commented on the Odor Workgroup. He served on the Odor Workgroup and noted it was begun by the administration in response to a petition that was addressed to the commission. The workgroup was an effort to review the rule and potentially modernize the various technical parameters of the odor control rule. There are odor control problems outside of agriculture, within agriculture and within industry across the state. The AGO thought it was time to review the rule. The workgroup was a good, open and healthy discussion about various positions to the odor issue in Missouri. There was disappointment that more of a consensus was not reached. There could have been room for some real improvement and real consensus to what is working in odor control, both in and outside of agriculture. There was great input from professors from North Carolina, with respect to livestock odor, but a consensus could not be reached on the issue.

Mr. Bindbeutel made additional comments in regards to the process that the commission is going through. He said it is a good, open and valid process. One of the recommendations that the department made through out that was not thoroughly discussed was that research should continue of the 7:1 odor standard. There is an opportunity to research both in-house and within the department and to compile a lot of information through the Internet. Some of the members of the commission have gone out of their way to look to see what a 7:1 dilution smells like in the field. He suggested, as a private citizen, that when the commission goes to a facility, whether agricultural or industrial, and they suffer an odor that is substantial and the odor sample does not hit a 7:1 dilution, that they ask if the current odor standard is appropriate. There has been a lot of discussion about the process of how a 7:1 dilution is reached and how the department

responds to violations. That is up to the commission. The commission is working very hard and moving in the right direction. The commission needs to ask if the current odor standard is appropriate if a 7:1 dilution is not reached and the odor is still devaluing property and compromising the quality of life in rural Missouri.

Mr. Bindbeutel said if the commission needs more research and more data then it should direct staff to get it. The AGO has pledged its cooperation throughout this process. If the AGO can draft language, do research or anything for the staff or for the commission he asked that they let him know.

The AGO has extensive experience with odor control nuisance cases and they are not anyone's first choice to control odor in Missouri. They're expensive, do not fix problems and can tear communities apart. More if these cases will be seen if the commission can not give the appropriate tools to proactively go out there and address the odor issues. Those problems need to be addressed in the beginning and the AGO will do whatever it can to help. He thanked the commission for closely following the issue and for its obvious preparation. The commission's deliberations suggested that they consumed a great deal of material. He thanked the commission for their personal interest in this issue. The commission is at the forefront of this issue and he asked them to act aggressively to address this problem.

I. Unfinished Business

Odor Regulation Revision

Chairman Foresman started by filling in the audience on the commission's meeting on Dec. 5, 2007. The commission met in an open session to discuss existing odor regulations, recommendations from the Odor Workgroup, individuals that had provided comments over the last several months, recommendations from the department, from Agribusiness and other affected individuals that testified prior to July 2007. The commission spent time getting that information and reviewing it. Chairman Foresman said he looked back at the odor regulations, which he was involved in drafting in 1997. It has been 10 years since those regulations have been in effect. The purpose of the meeting was to make sure that all of the commissioners had a chance to discuss their individual issues and to bring forth their diverse and experienced backgrounds to address the odor issues. The discussion focused around the fact that odor complaints have increased over the last several years. There are a small number of facilities that have problems with odors yet there are also odor issues with new facilities. How do you locate facilities, what is regulated and what is not. With that in mind we went through everything.

Chairman Foresman said the commission has discussed the issues and at this point in time the commission is not ready for the department to draft a specific regulation. The commission however, does have issues that it would like the department to address.

He said the commission is currently reviewing several options and would like for staff to be prepared to help them move forward.

The commission is considering controlling odors from all CAFOs. Currently, all industry is regulated at the 7:1 dilution standard, with the exception of charcoal kilns and Class IB, Class IC and Class II CAFOs. The commission is looking at including Class IB and Class IC CAFOs and Class IIs along with charcoal kilns on the odor regulations.

The commission is also considering consolidating the four odor rules and changing the St. Louis rule to make it consistent with the rest of the state.

Staff are currently reviewing the basis of the 7:1 dilution and also what other states are doing to control odors.

The commission is also looking at, rather than changing the 7:1 dilution, because again, we do not have enough information, looking at the basis for 7:1 and what the other states are doing. Staff are in the process of doing that anyway, so the commission encouraged them to continue because it would be helpful to get more information.

Furthermore, there have been very few violations of the 7:1 dilution, other than some of the bigger industries and some of the ones the commission has had significant problems with, but yet the odors are below 7:1. Depending on the location of the facility or potential location of a new facility, the odor can be significant and impact people.

The commission also looked at an additional requirement for new sources. So that if a new source wants to locate in the state, whether it is an industry or a CAFO, it would be required to develop an odor source identification and compliance plan for controlling odors. This would be part of a new permitting process and would allow a new source to know what is required before they locate into an area. So everybody knows upfront what is involved with it so they can make a good business decision based on what is required for the control of odors along with other air emissions, water regulations, hazardous waste, etc.

Existing odor sources were also discussed. They would also need to do an odor source identification and compliance plan that would be triggered by significant odors emanating from the source at less than 7:1 dilution. The commission discussed a 5:1 dilution and other dilution rates. They are looking to staff to give them help as to what type of dilution is appropriate. Essentially, facilities would have to start doing a plan based on an odor emanating from the source that is causing a problem. This would be documented by staff collecting samples, and there would have to be enough violations over a period of time. The commission is looking for staff to give some guidance on that. This would be an attempt to bring facilities into compliance by identifying odors and correcting those that are problem facilities. This would not result in NOVs, etc. At this point the commission has not discussed changing the 7:1 dilution rate for NOVs and the whole legal process that would be involved.

The commission also discussed reviewing the classifications under CAFOs, specifically Class I B and C and using the same definitions that are used in the water regulations to categorize them. They talked about the definition of modification, so that an existing facility, if it is modified it would need to change its class. Whether it is a CAFO that goes from a IC to a IB, etc. or it's an industry that makes a significant modification that would change that facility. Either would trigger an evaluation of odors that could come from that facility and what need to be addressed. Many definitions of modification are found in the federal rules and the commission needs staff to find a definition that is appropriate, rather than trying to create one on its own that would apply uniformly across the state.

The commission also discussed using the nasal ranger, a device for measuring odors, versus using a scentometer.

Next the commission talked about proposing buffers for new facilities. They looked at guidance to give new facilities as they seek to locate into the state, so they would know that there are certain buffer zones that the state would recommend as a minimum, and do it as a minimum, to lessen the impact of that facility on off-site receptors.

These are the areas where the commission is looking at changing the regulation. The commission asked the staff to be prepared to come and talk with them about these issues and to help them as they digest the information. There has to be a consensus on how to address odor issues in the state of Missouri.

The commission will begin discussion with the staff and the public is welcome to come and sit in on the meeting on Feb. 6, 2008. There will not be interchange between the public and the commission. It will be a workgroup of commissioners. As in the Dec. 5, 2007, meeting there will be a conference call to allow the public to hear the discussion.

Chairman Foresman opened the discussion for other commissioners to comment.

Commissioner Kevin Rosenbohm encouraged individuals and representatives from the different groups to provide input, at the appropriate times, throughout the commission's decision-making process. He said he understood it is an emotional issue and asked that all input be kept on a professional level.

Commissioner Richard Rocha said the commission has discussed having an existing facility grandfathered-in to where they don't have to have an odor compliance plan unless they receive numerous complaints over a certain period of time. If this does occur and it is determined by department staff that there is a violation of the standard and the facility triggers an odor compliance plan, he asked the department to consider if a facility would always be committed to the odor compliance plan. He asked if the odor compliance plan would be similar to Title V, once in always in. Or if the compliance plan is successful if the facility has an option of not having such an intensive compliance plan. He wanted to

make sure that was covered because one has to be very careful of any unintended consequences of putting people in a certain program and what kind of burden they might have going forward.

Commissioner Gary Pendergrass commented that every time the odor issue is on the agenda a lot of people attend and present their views. There are agriculture groups that say there are no problems out there and there are citizens that say there is a problem. There is a problem if there is that disagreement.

Commissioner Gary Pendergrass said he has a background in engineering and believed that there are technical solutions to these problems. He has toured hog operations that are clean and observed no odors at all. These operations can be operated properly and can make money without an odor problem. He challenged the agricultural groups to make sure that all of their members are operating all of their facilities properly. He thought that was a lot of the problem and wanted some assurance from them. Commissioner Pendergrass said he was pleased to see Mr. Engemann at the meeting and wanted to hear more about what the MDA is doing with the research on biofilters and other technology. He wanted to hear more about how MDA was actively working with all of the groups to install technology at their facilities. These issues can be resolved if people work together.

Commissioner Jack Baker commented that he sells cattle and travels all across the state. From what he has observed, most agriculture operations do a good job controlling odor. They don't have as much to fear as they think they do. They do a good clean job and they want to get along with their neighbors. Everyone is worried about the complaints that are coming in and some of them are legitimate and some of them are not. That needs to be sorted out. It is important, that as an agricultural group, that they need to accept the fact that they need to do a good, clean job. Basically, that is what the commission is trying to get everyone to do. However, it is not necessary to put a burden on those that are doing a good job.

J. Future Meeting Dates

February 7, 2008 – Jefferson City

Harry S Truman Building
Room 490
301 W. High Street
Jefferson City, MO 65101

March 27, 2008 – Maryville

J.W. Jones Student Union, 3rd Floor
The Board Room
800 University Drive
Maryville, MO 64468

April 24, 2008 – Jefferson City

Harry S Truman Building
Room 490
301 W. High Street
Jefferson City, MO 65101

May 29, 2008 – St. Louis

Meeting Room Pending

June 26, 2008 – Jefferson City

Governor's Office Building
Room 450
200 Madison St.
Jefferson City, MO 65101

July 31, 2008 – Lake Ozarks

Meeting Room Pending

August 28, 2008 – Jefferson City

Governor's Office Building
Room 450
200 Madison St.
Jefferson City, MO 65101

September 25, 2008 – Kansas City

Meeting Room Pending

October 29, 2008 - Tour

City Utilities of Springfield

October 30, 2008 – Springfield

Meeting Room Pending

December 4, 2008 – Jefferson City

Governor's Office Building
Room 450
200 Madison Street
Jefferson City, MO 65101

K. Discussion of Pending Litigation and Legal Matters

None.

L. Missouri Air Conservation Commission

Commissioner Jack Baker moved to adjourn the Dec. 6, 2007, Missouri Air Conservation Commission meeting. Vice Chairman Mark Fohey seconded; all commissioners voted to adjourn the meeting.

Chairman Foresman adjourned the Dec. 6, 2007, Missouri Air Conservation Commission meeting.

Respectfully submitted,

James L. Kavanaugh, Director
Air Pollution Control Program

Approved:

Michael Foresman, Chairman
Missouri Air Conservation Commission