

Small Business Compliance Advisory Committee (SBCAC)
Meeting Minutes July 21, 2009

Meeting was held at: 1659 East Elm St.

Jefferson City, MO 65101

Members present: Pam Cain, Gale Holsman, Robin Cole III, Randy Potterfield and Amber Boykins

DNR present: Lucy Thompson, Carlton Flowers, Tiffany Campbell, Wayne Graf, Wendy Vit, Jeff Bennett, Kyra Moore and Kelly Bowers

Others present Shirley Wolverson and Debbie Wurst

I. Call to Order

Meeting was called to order at 10:05 a.m.

II. Update of Legislation, Regulations, and Activities

Wayne Graf

Rules in Effect

Several regulations that have been mentioned in previous meetings have been approved and are now in effect. Those rules include:

10 CSR 10-2.385 and 10 CSR 10-5.385 Control of Heavy Duty Diesel Vehicle Idling Emissions (*Idle Reduction Rules*);

10 CSR 10-6.400 Restriction of Emission of Particulate Matter From Industrial Processes (*Process Weight Rule*);

10 CSR 10-6.061 Construction Permit Exemptions (*Temporary Grain Storage Exemption*); and

10 CSR 10-5.381 On-Board Diagnostics Motor Vehicle Emissions Inspection (*I/M Rule*)

RULES ADOPTED

The two regulations listed below were adopted by the Missouri Air Conservation Commission (MACC) on March 26, 2009, and are expected to be effective on September 30th.

10 CSR 10-6.045 Open Burning Restrictions

This revision will allow open burning in a nonattainment area so long as the burning would not be detrimental to air quality standards. Another proposed change to the rule would allow open burning of certain trade waste when it is in the best interest of the general public or is the safest and most feasible method of disposal.

10 CSR 10-6.320 Sales Tax Exemption (Rule Rescission)

This change will eliminate a regulation that is no longer required. Companies can still get the exemption, but they won't need to go through the Department for approval.

RULES UNDER DEVELOPMENT

The Air Pollution Control Program is presently working on the following changes to their regulations.

10 CSR 10-6.390 Control of Nitrogen Oxide (NOx) Emissions From Large Stationary Internal Combustion Engines

This proposed rulemaking amends the regulation by limiting the amount of allowed emissions for large stationary diesel and dual fuel internal combustion engines. The amendment is being developed to be consistent with the federal Phase II NOx State Implementation Plan (SIP) Call and add a NOx 15 ton exemption. This regulation will require that once companies are regulated by the rule, they can never get out of being regulated by this rule. A total of six facilities will be affected and are located in an area defined by the federal Phase II NOx SIP Call as the eastern one-third of the state of Missouri. If these companies can remain below a NOx limit they will not be required to add expensive pollution controls to their equipment. This provision was added because EPA and the Department realize that the cost of the controls are not justified if a company's emissions remains below the defined limit.

Affected facilities have had the opportunity to be involved in the development of this rulemaking through stakeholder conference calls. The NOx emissions at these facilities are below the proposed exemption limit.

(Affected facilities are Cities of: Campbell, Farmington, Jackson, Kahoka, Owensville, and Poplar Bluff)

The amendment is expected to be filed by September 1st this year and go to public hearing in December this year. It would be effective early next summer.

The Committee was very interested in the idea that EPA does a cost/benefit analysis in some cases. They expressed an interest in the cost/benefit analysis that was done on this regulation. The cost effective information was provided as a handout supplement to the presentation and also included federal register references for accessing background and calculation details.

New Rule 10 CSR 10-6.165 Restriction of Emission of Odors (Replaces Area Specific Rules 2.070, 3.090, 4.070 & 5.160)

There has been an ongoing discussion of the odor rules at MACC meetings since 2007. At the June 25, 2009 MACC meeting, The APCP were directed to begin

the formal rulemaking process for a new odor rule consolidating the four existing odor rules into a single state-wide rule. In addition to the consolidation, the new rule will drop the St. Louis survey portion found in 10 CSR 10-5.160 subsection (1)(B), drop the olfactometry standard found in the existing rules that applies to Class 1A CAFO operations, retain the 7:1 odor concentration for odor regulatory level, and replace the Scentometer with the Nasal Ranger as preferred method of measurement. When required, odor control plans will also be required to be updated every five (5) years.

The existing rules will be rescinded. The new draft rule is expected to be posted on the APCP website in early August.

More information can be found at: <http://www.dnr.mo.gov/env/apcp/rulesdev.htm>

Rule 10 CSR 10-5.330 Control of Emissions From Industrial Surface Coating Operations

In April 2009, we received a petition to amend 10 CSR 10-5.330 Control of Emissions From Industrial Surface Coating Operations. The petition involved two requests. The first is to add an explicit exemption for aerospace facilities. The second request is to update our surface coating rule to incorporate the latest EPA Control Technique Guidelines (CTGs). The exemption of aerospace facilities is a logical step and will have minimal impact on small business. The incorporation of the latest CTGs complicates the rulemaking due to the expansion of the number of coating categories and the adoption of more stringent VOC limits. Some limits are higher and some are lower.

This change may require some businesses, both small and large, to reformulate their coatings. Additionally, specific high-transfer efficiency application methods are now being suggested by EPA. Small businesses that apply surface coating in an industrial environment would be less likely than large businesses to have the high-transfer efficiency equipment. This could mean the expenditure of capital money to purchase the specified equipment. This regulation is for all business in the St. Louis non-attainment area that emit more than 2.5 tons of VOCs per year.

We are still in the process of evaluating the impacts and determining what course of action is appropriate as a result of this petition.

III. Minutes

Minutes from the February 2009 meeting were approved.

IV. New Business

A. DERA Update

Wayne Graf

It was mentioned at the last meeting that there may be significant funding becoming available under the Economic Stimulus bill for MO public entities and businesses.

The American Recovery and Reinvestment Act provided \$300 million in funding for the Diesel Emission Reduction Act. The Department was awarded two grants.

The Transform Missouri State Clean Diesel Program was awarded \$1.73 million and the Program is implementing an RFP (Request for Proposal) project that would allow both public and private diesel fleet owners and operators to apply for clean diesel project funding. The projects will target the St. Louis, Kansas City, Springfield/Southwest Missouri and Southeast Missouri area. The RFP is expected to be solicited by the following four sub grantees on July 31st: St. Louis Regional Clean cities (St. Louis area), Mid-America Regional Council (Kansas City area), Ozark Center for Sustainable Solutions at Drury University (Springfield and Southwest Missouri), and the Southeast Missouri Regional Planning and Economic Development Commission (Southeast Missouri). All eligible projects will be defined in the RFP and will be given an equal chance to be selected for funding through a lottery process, which is scheduled to be held in October.

http://www.dese.mo.gov/divadm/govern/documents/DNR_Clean_Diesel_Program.pdf

The other grant awarded to the Department was for \$975,709, and will be used to retrofit and replace school buses in the Springfield and Southwest Missouri area. It also includes funding for school bus, trash truck and concrete mixer retrofits in the St. Louis area.

Aside from the Stimulus Funding, it is expected that the EPA will solicit RFPs in September for the FY09 regularly allocated DERA funding. The total funds available nationwide is expected to be approximately \$60 million. The department expects to submit multiple proposals for clean diesel projects in the state when that funding solicitation opens.

B. No Permit required determinations

New Source Review Permit Determinations – Consideration of Control Equipment

Kyra Moore

The APCP has issued a Policy letter (see attached) concerning the use of control equipment when calculating potential emissions when determining whether a Construction Permit is required. Previously control equipment was allowed in the calculation now it is not. This change is due to direction from EPA Region VII. All Construction Permit determinations made prior to July 1, 2009 will remain in effect. This new policy will only effect new determinations. See attached policy letter.

During the permit presentation, the Committee noted that many times small businesses do not realize they needed to get a permit. One member stated that he went to the county government and asked if he needed to get any more permit, and was told that he did not. Because he is on this Committee he knew to check further.

The Committee would like to explore possibilities of getting information out about this issue. Lucy Thompson will prepare a draft memo and brochure to send out. This issue will be place on the next meeting's agenda.

C. Emission Inventory

Wendy Vit

The emissions reporting rule requires facilities that have an air permit to report their emissions and pay an emission fee, \$40 per ton of emissions, on an annual basis. The emissions data and fee are currently due June 1 each year.

The APCP is proposing to change the date for reporting emissions data to April 1. Upon receipt of the emissions data an invoice will be sent out for fee payment by June 1.

The Department is required to submit emissions data to the EPA via the National Emissions Inventory (NEI). Presently the data is submitted to EPA on June 1 for the data submitted to the state the previous year. For example, 2008 data submitted by June 1, 2009 to the state will be submitted to EPA by June 2010. EPA is changing the time frame the data will be due to December 31 of the same year it is obtained by the state. For example, 2012 data submitted to the state by April/June 2013 will be due to EPA by December 31, 2013. As the regulation exists now, the Department will just have six months to quality assure and submit the data. The regulation change will give the Department two more months. The new federal rule changing the submittal date also increases the number of sources the Department is required to submit data for on an annual basis.

The EPA uses the NEI to assess trends in air emissions and develop federal rulemakings to reduce emissions. It's important that good, quality emissions data is submitted so that EPA can make good decisions. With more data to

submit in less time, there's a need to move up the reporting deadline for our sources. It is hoped the new rule will be effective by December 31, 2010. This means submittal date for the 2010 data would be April 1, 2011.

While the Department is proposing moving up the reporting deadline, there is also a continued effort to reduce the reporting burden on small businesses. For instance, the last several years our smallest sources have been offered a simple, one-page reporting form instead of requiring them to do a full EIQ. Also, the MoEIS system, a web-based system for submitting data electronically, has been simplified. The Department continues to look for ways to simplify and reduce the burden on small businesses.

D. Rural Ozone Non Attainment

Tiffany Campbell

The Air Pollution Control Program gave a presentation on Ozone and Small Business. The presentation discussed ozone formation, sources of emissions that cause ozone, impact to small businesses, measures to reduce ozone, and small business resources.

Ozone is a summertime pollutant. When oxides of nitrogen (NO_x) and volatile organic compounds (VOCs) combine during warm temperatures, ozone is formed. Ozone can be found almost everywhere, with higher concentrations in cities.

NO_x primarily comes from combustion sources such as power plants, boilers, and vehicles. VOCs come from a variety of sources such as industrial processes, gasoline vapors, dry cleaning, painting, solvents, and consumer products.

In order to minimize mandatory requirements some organizations are instituting voluntary measures to reduce ozone. Small businesses who want to reduce their ozone impact need to identify sources of controllable emissions. This can vary according to the industry. Some of the more common sources are paints, chemical cleaners, solvents, and fuels. The small business needs to identify ways to minimize use or control emissions. The attached list of voluntary measures for reducing emissions that contribute to ozone formation was provided to the committee.

The committee is aware of the ozone issue throughout the state. They mentioned a Public Service Announcement (PSA) being run in the Kansas City area. Lucy Thompson will look into the possibility of obtaining a copy of the PSA.

V. Old Business

A. Public Service Announcements (PSA)

Carlton Flowers

The asbestos PSAs and PSA videos are on the Department's website. (<http://www.dnr.mo.gov/psa/index.html> and <http://www.dnr.mo.gov/videos/>) The videos need to be put into a different format for a DVD/ VHS. The Department wants to disseminate all of their videos to various stations. They are reviewing which stations they should go to.

Carlton has compiled a list of local Charter and Mediacom stations that can be used to send out the Asbestos video if that option becomes available. Please see attached list.

B. Area Sources – Outreach

Carlton Flowers

The Air Program is developing workshops on the new area source rules and some presentations have been given on them.

During the discussion on the area source rules, one of the Committee members brought up a discussion he had with a gas station owner. The owner stated that it was unfair that some stations are not required to meet the new area standards. The area source standard on gas stations has a lower limit. The committee asked for a presentation on the new gas station area source regulation.

C. Small Business Regulatory Fairness Board (SBRFB)

Lucy Thompson

The main item that was discussed recently at the SBRFB meeting was the recently passed "Get Off My Back Act". There is a provision in this bill that would limit fees for all businesses and rules for small businesses for a period of four years. There are exemptions for federally mandated rules and fees and rules to implement federal programs administered by the state or the result of an act of the General Assembly. Most, if not all, of the Department's programs would fit into one of these exemptions so that the effect of these provisions on the Department are believed to be minimal.

VI. Public Comment and correspondence

None

VII. Future Meeting Dates

- A. September 17, 2009 - St. Louis
- B. December 8, 2009 – Jefferson City
- C. February 11, 2009 - Lee's Summit

VIII. Adjourn

Meeting adjourned at 1:40 p.m.