



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7

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NOV 07 2012

Ms. Sara Parker-Pauley, Director
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, Missouri 65102

Dear Ms. Parker-Pauley:

Enclosed is the final report for the program review of the Air Pollution Control Program (APCP) that took place over the course of the Federal Fiscal Year 2012. This report has been a work in progress. Drafts of the report were reviewed by the Missouri Department of Natural Resources (MDNR) and the U.S. Environmental Protection Agency (EPA) personnel. Comments from the MDNR are included in the final report, as well as revisions that we mutually agreed upon.

It is apparent that the APCP continues to strive for excellence in all facets of the air program. The EPA was impressed with the professionalism of the MDNR staff, and we appreciate the preparations and hospitality during the review as well as the staff's endurance as we worked on the report.

The report includes numerous commendations, as well as recommendations that should be considered as areas of improvement. Overall, the APCP operates a highly successful program. The APCP ensures that both state and federal requirements are met and does so in collaboration with the EPA Region 7. Of the operations reviewed, the APCP showed improvement from previous program reviews. The APCP should be commended for their thoroughness in the work products and actions submitted to the EPA, their engagement with their stakeholders, and their collaborative approach to problem solving.

The compliance and enforcement review under the State Review Framework (SRF) has been delayed until Federal Fiscal Year 2013. The decision to delay the review was due to Federal Fiscal Year 2012 being a transition year to complete all Round 2 reviews and implement final Round 3 guidance. A SRF review and report will be issued to the MDNR following the compliance and enforcement review in 2013 separate from this report. Mark Smith and Leslye Werner, of my staff, will work to arrange and complete this portion of the review.



If you have any questions or concerns, you may contact Joshua Tapp of my staff at (913) 551-7606, or email him at tapp.joshua@epa.gov.

Sincerely,



Becky Weber, Director
Air and Waste Management Division

Enclosure

cc: Mike Brincks
Wendy Lubbe

Missouri Program Review FY2012

September 2012

Conducted by:

U.S. Environmental Protection Agency Region 7

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Background and Overview

EPA Region 7 conducted a review of the Missouri Department of Natural Resources (MDNR), Air Pollution Control Program (APCP) for the Federal Fiscal Year (FFY) 2012 in accordance with EPA Region 7's Program Review Guidance last updated in September 2010. During the on-site evaluation, EPA Region 7 conducted informal interviews of MDNR staff and analyzed a variety of files and documentation pertaining to the following program areas:

Air pollution control program overview

Regulatory development

Grants and work plan management

Emissions inventory

Inspection and maintenance program

Modeling

Permitting

Small business compliance assistance (Clean Air Act Section 507)

Compliance and enforcement (postponed until FY2013)

Asbestos

Air monitoring

EPA Region 7 has delegated a large portion of its authority to manage environmental programs to the states. After delegation, EPA has several responsibilities. These responsibilities include: (1) remaining accountable for oversight of state programs; (2) accomplishment of national environmental goals; (3) ensuring compliance with federal statutes and regulations; (4) ensuring that enforcement of environmental laws, regulations and standards is fair and equitable; and (5) providing advice and expertise to its delegated partners to solve complex environmental problems.

In delegated programs, the goal of oversight is to ensure that the national environmental goals expressed in the EPA Strategic Plan are accomplished and to strengthen the relationship between EPA and its partners. Effective oversight helps to ensure adequate environmental protection through continued development of national air pollution control standards and the use of enforcement action against polluters as necessary to reinforce the action and authority of EPA and its partners. Oversight also helps to enhance a partner's capabilities to administer sound environmental protection programs through increased communication and a combination of support and evaluation activities. Finally, federal oversight seeks to describe and analyze the status of national and regional environmental

quality, through continued collection and distribution of information from governmental agencies and other major sources. EPA Region 7 is fully committed to the success of its partners' environmental programs. A clear expectation for program performance is a crucial factor in achieving an effective partnership.

On September 27, 2011, a letter announcing the Region 7 air program review was sent to MDNR along with the EPA Region 7 Program Review Protocol. The on-site evaluation began with an entrance conference attended by the EPA Region 7 review team and members of the MDNR staff on November 8th, 2011. During this meeting, the logistics for the review were discussed; the purpose and scope of the review; history of program reviews with Missouri; the schedule for review; and finally the reporting and commenting process. During this time, EPA Region 7 also presented to MDNR staff on EPA roles and responsibilities, and on EPA's approval process of State Implementation Plans (SIPs).

Following the entrance conference, the air permitting program conducted their review the same week (November 7-10). Due to scheduling conflicts, the air planning and grants section of the review was conducted on March 20-21, 2012. Separately, the small business compliance assistance and asbestos portion was conducted the week of April 30th. Finally, the compliance and enforcement section was postponed until FY2013. A review and report for this section will be issued to MDNR separate from this document. The air monitoring portion of the review was accomplished through the regularly scheduled Technical Systems Audit (TSA) for MDNR and the TSA report will be issued separately.

At the conclusion of the March 20-21st meeting, EPA Region 7 provided a verbal summary of the results of the planning/grant portion of the review. The recommendations, commendations and summaries are listed at the end of each section of the review within this report.

EPA staff received the full cooperation and assistance of the APCP staff throughout all on-site visits. Supervisors and individual staff members were available, as needed, to answer questions or provide clarification regarding any issues which arose during the evaluation.

Current Findings & Recommendations

Air Pollution Control Program Overview

Introduction/Background

The APCP is organized under the Division of Environmental Quality within MDNR. The program consists of six sections: Air Quality Planning; Fiscal and Budget; Compliance and Enforcement; Permits; Air Quality Analysis; and St. Louis Vehicle Inspection Maintenance. In addition to the APCP, the Environmental Services Program (ESP) supports the other programs in the department that need accurate scientific data. MDNR also works through regional offices which provide field inspections; complaint investigations; front-line troubleshooting; and problem solving and technical assistance on environmental issues and emergencies. The MDNR historically funded local agencies in St. Louis City, St. Louis County, Kansas City and Springfield to address air quality issues in their jurisdiction, but in October of 2011 funding to local agencies was eliminated. A more detailed discussion of the local agency transition is included in this report.

The Missouri Air Conservation Commission (MACC) is the authority which adopts air pollution rules. The commission consists of seven members who are appointed by the Governor with the advice and consent of the Missouri Senate. Each member's term is for four years and they may be reappointed for additional terms. There are currently two seats vacant. The MACC has the authority to adopt, promulgate, amend and repeal air quality rules and regulations for the state. The MACC conducts public hearings and takes testimony on proposed rule makings. Final rule making is completed when the rule is adopted or rejected by the MACC during their planned public meetings.

Scope of Review

The purpose of the APCP program overview section was to gain insight into the APCP organizational structure; staffing and training needs; planning and priorities for current and future years; fiscal status; local agency funding; and other priority issues.

Attendees for this portion of the review from MDNR included: Kyra Moore, Stacy Allen, Darcy Bybee, Tiffany Drake, Nicole Eby, Wayne Graf, Kendall Hale, Richard Hall, Steve Hall, Susie Heckenkamp, Carolyn Kliethermes, Calvin Ku, Sara Pringer, Mike Stansfield, and Wendy Vit. Chuck Dachroeden participated by phone for the Inspection Maintenance portion.

Attendees for this portion of the review from EPA included: Josh Tapp, Mark Smith, Mike Jay, Amy Algoe-Eakin, Amy Bhesania, and Elizabeth Kramer.

On-site evaluation/discussions

Staffing

The state's legislature approves the department level full-time-equivalents (FTE) each year. There are 106 positions allocated to the APCP. There were nine positions eliminated in 2009 through vacancies and layoffs. Currently the APCP has filled 108 positions (includes part-time staff), with seven vacant positions. Overall, staffing levels remained steady compared to last year, and the program is able to

accomplish their work. The APCP noted however, that while staffing remains steady, the workload has increased and the issues have, in recent years, grown in complexity.

In addition to the APCP staffing levels, the ESP, which is responsible for providing technical support for ambient air monitoring, has 20 positions, and there are 29 positions in regional offices assigned to air work with several vacancies currently. The local agencies continue to have eight positions working on air quality, but with no funding from MDNR. A more detailed discussion of the local agency transition is included in this report.

Training

The APCP has an annual training budget for its employees. Allocation of this budget to individuals is based on need (i.e., a new employee may need more training than a more experienced one, etc.). Training for all staff and managers has been limited due to out of state travel restrictions, but the APCP continues to emphasize the importance of continued training. To accomplish the program's training goals, the APCP participates in the regional planning organization's (RPO), CenSARA, training opportunities at least one time per year if not more. Training is also obtained through the EPA Air Pollution Training Institute (APTI) and National Enforcement Training Institute (NETI) training programs available online. The APCP staff fully participates in training offered by the EPA Region 7 air program, at the state/local director's semi-annual meetings, and the semi-annual permits workshops. Staff also attends training/conferences on monitoring, modeling, and emission inventory activities as time and budget allow. Managers are required to attend 16 hours of training per year. The MDNR is to be commended on continuing to support training needs at a time when state budgets have been reduced.

Planning and Priorities

In order to coordinate and accomplish the broad range of work assigned to the APCP, there are several processes in place to ensure that information is shared between managers within various sections and units, and with the staff. The management team of the APCP, consisting of section chiefs and the program director, meet weekly, adding the unit chiefs to the meeting as needed. Program directors within MDNR and division management staff meet bi-weekly. The APCP holds monthly staff meetings, which includes the St. Louis Inspection Maintenance staff by phone. Each section and/or unit holds regular meetings as appropriate. Regional office coordination is conducted as needed.

Each section within the APCP has its own set of goals and priorities which are communicated to staff through various meeting as described above. With limited resources, the APCP is focused on meeting their statutory requirements. In addition, governor or legislative priorities may impact the APCP's workload. For example, the APCP continues to receive citizen and legislative inquires regarding the inspection and maintenance program, asbestos, open burning and other key issues. The APCP reports to MDNR at the end of each fiscal year on a subset of targets set for the year. One specific priority the APCP is focused on is increasing communication with the regional offices as they continue to absorb much of the inspection work done by local agencies in the previous year.

Fiscal Status

Revenue sources and expenditures are listed in the tables below. The APCP noted that general revenue will not be allocated to the program in future years. Overall revenue to the program did decrease from last year, but expenditures were adjusted to meet this revenue stream.

For expenditures, it was noted that the federal portion of the APCP's grant revenue has decreased over the past years. Because the federal grant contribution to Missouri has declined, the EPA and the APCP collaborate on work plans, priorities and activities more closely in order to ensure the most effective and efficient approaches are utilized.

Sources of Revenue for SFY-2011		
Category	Amount	Percent of Budget
General Revenue	\$1,191,808	8
Federal Grant	\$3,787,519	25
Asbestos Fees	\$275,675	2
Emission Fees*	\$8,675,477	57
Permit Fees	\$286,037	2
I/M Fees	\$968,647	6
Earned Interest	\$53,865	<1
	\$15,239,028	100

*Of the emission fees, Title V fees make up 96% and non-Title V fees make up 4% associated with administrative processing of Title V permits.

Categories of Expenditures SFY-2011		
Category	Amount	Percent of Budget
Salaries	\$5,975,705	40
Fringe Benefits	\$2,694,107	18
Operating Expenses	\$872,912	6
Grants to Local Air Agencies	\$1,775,154	12
Refunds	\$31,126	<1
Dept. Overhead	\$3,656,744	24
	\$15,005,747	100

Although not a new trend, the APCP also noted that a number of new federal rules aimed at reducing emissions will have an impact on the fee revenues from this program. The program strives to balance their budget every year and maintain the management of the program through finding efficiencies in reducing redundancies and strategically thinking about the vacancies in the program.

EPA Region 7 and the APCP discussed concerns that fees charged do not cover the cost of operating the programs. As background, Title V of the Clean Air Act and Missouri law requires the state to set an emission fee to fund the cost of administering portions of the air program. The state law also includes fees for asbestos, permitting and inspection and maintenance. The law authorizes the emission fee to be set every three years by the commission, by rule, and allows for annual updates to the fee if needed. However, under Missouri law, the emission fee cannot be set greater than \$40 per ton of regulated pollutant. The APCP's current emission fee is \$40 per ton of regulated pollutant. The APCP provides a financial update to the commission outlining sources of revenue, expenditures, and highlighting potential gaps in funding (see Appendix C). They also compare the APCP's fee with other states and the federal fee rates to provide a full financial picture to the commission. Of note, each year EPA updates a presumptive minimum fee for Part 70 operating permits. It is noteworthy to mention that if EPA were implementing the Title V program, under Part 71, the emissions fee would be \$47.11/ton.

Local Agency Funding

As part of the state's FY2012 budget, all state and federal funding passed from APCP to the four local air pollution programs (City of St. Louis Health Department, Springfield Department of Environmental Services, Kansas City Health Department and St. Louis County Health Department) was eliminated, effective October 1, 2011. During the intervening months, the APCP worked with each of the agencies to plan for the transition of all or some of these functions to the department. The APCP has

Memorandums of Agreements (MOA) signed with Kansas City Health Department and the Springfield Department of Environmental Services (see Appendix A and B). An agreement is drafted with the St. Louis County Health Department and APCP continues to work with St. Louis County to finalize the details of this agreement. Many of the local agencies are retaining some air quality related functions, but without funding from the state. In Kansas City, the Health Department maintains some construction permit activities, some inspections, and all asbestos related work in their jurisdiction. The APCP will conduct all other air activities in the area. In Springfield, the county intends to continue with source inspections in their jurisdiction and the APCP will conduct all other air activities in the area. In St. Louis County, while both agencies are working on finalizing the agreement, the county is conducting some air activities, including: some minor construction permitting, all source inspections, and some asbestos and vapor recovery work. Communication between both agencies is still ongoing to ensure all applicable air quality work is completed. The City of St. Louis informed the APCP that they do not intend to conduct any air activity that is applicable to state and federal law. Therefore, the APCP assumed all of the functions, allowable under state and federal law, formerly carried out by the City of St. Louis Health Department.

EPA discussed the transition with the APCP. The program provided information regarding its plan for transition of workload. The MDNR initiated the following actions to handle the local agency workload. The MDNR has:

- activated three positions in the department's Environmental Services Program. These positions will handle the air monitoring work previously done by the local agencies;
- activated one new position in the department's St. Louis Regional Office to assist with source inspections; and
- filled four positions in the APCP—two in compliance enforcement and two in permitting. The department had originally held these vacancies to determine if they were needed to complete required workload.

All of the following activities are now conducted by MDNR staff as of October 1, 2011:

- Air Quality Monitoring - The MDNR, APCP staff and staff from the lab, now maintains and collects air quality data from all of the 53 monitoring stations statewide. MDNR staff provides timely review of ambient air concentrations for six criteria pollutants and 187 Hazardous Air Pollutants, meteorological parameters, Quality Assurance Project Plans, Air Quality Index forecasting and network plans.
- Air Quality Emission Inventory - The APCP is now responsible for collecting all of the Emission Inventory Questionnaires from about 2,300 industrial sources for the purposes of emission fees assessment, permit review, modeling, inspection, compliance determination and State Implementation Plan control strategy development.
- Air Quality Permits – The APCP is now reviewing and issuing all of the operating permits in the state. In addition, the APCP will review and issue most of the construction permits in the state. The Kansas City Health Department and the St. Louis County Health Department plan to issue some minor construction permits. The APCP will still review these permits in order to maintain its delegation with EPA.

- Air Enforcement and Inspections – The MDNR is now performing most inspections and complaint investigations. Some of the local agencies will maintain some inspection activities. The MDNR will inspect the rest of the facilities, as required by EPA.
- Other compliance related activities – The MDNR is taking over the bulk of gasoline vapor recovery inspections, asbestos notifications and issuance of open burning permits.

Other provisions in place:

- The APCP sent out emails to all of the local agency sources, notifying them of the change and providing contact information for department staff, by topic.
- The APCP updated web pages and letters with contact information for local agency sources.
- The St. Louis City Health Department is the only local agency that will not have an active role in assisting and enforcing state and federal air regulations. In order to provide outreach and assistance to these sources, and to provide more current contact names and information, the APCP planned outreach visits/inspections to all St. Louis City sources in fiscal year 2012, ending June 30, 2012.
- Based on federal rules to eliminate Stage II vapor recovery requirements at gas stations, the requirements for the inspection of gas stations will change in 2013. Currently, the MDNR conducts Stage II inspections at gas stations in the St. Louis area (St. Louis City and the counties of St. Louis, St. Charles, Franklin and Jefferson) twice a year. The MDNR inspected all gas stations at a maximum of once per year in fiscal year 2012. This allowed the MDNR to redirect inspection resources toward work from the local agencies.
- The APCP is continuing to stay engaged with its stakeholders, including the local agency sources, through the Air Advisory Forum.

It was noted that the regional offices picked up a significant amount of inspection work from the local agencies. From EPA Region 7's review of the number of inspections conducted by local agencies compared to the number of inspections conducted or planned to be conducted by the regional office, EPA Region 7 found that the state provides a comparable level of effort within the local agencies' jurisdiction that allows for a similar level of public health protection. There was an overall increase in the number of inspections conducted in FY12 (1818 inspections) compared to FY11 (1600 inspections). The APCP noted that they intend to increase coordination and communication with these regional offices to continue a smooth transition. Review of the monitoring status indicates a smooth transition from local agency monitoring to the MDNR. The APCP monitoring staff identified any specific site issues early related to the monitoring transition and addressed these with EPA.

EPA Region 7's review of the local air agency transition also disclosed that there may be some concern regarding oversight for activities that were retained by the local air agencies but are no longer funded by the APCP. Through the MOA's and continued communication with the local agencies, oversight is still conducted. EPA Region 7 raised another concern related to local agency ordinances that are currently federally approved in the SIP. EPA Region 7 outlined the pros/cons of these ordinances remaining in the SIP and indicated that the APCP should consider their approach to this issue in the near future.

Priority Issues

EPA and the APCP discussed other priority concerns and issues.

- PSD Increments. In 2004, Region 7's Program Review identified increment as an area in which Missouri had not been implementing consistent with the Clean Air Act. (see page 36 of the

program review posted at

http://www.epa.gov/region7/air/st_local/2004_mo_air_pgm_review.pdf

- In March 2012, Region 7 and the APCP discussed the status of the Prevention of Significant Deterioration (PSD) Increment issue (for additional background on this issue, see the Missouri 2004 Program Review, Modeling Section). Both agencies acknowledged that this issue has been an ongoing topic of discussion since 2004. EPA Region 7 and the APCP have come to an agreement on how to proceed, but at the time of the program review, the project was on hold due to the SO₂ work load. The APCP did submit a document describing the process/path forward, and recently the APCP and EPA Region 7 came to an understanding that the request from the APCP would be made on larger areas (not at the section level as originally proposed). In addition, the APCP would submit the redesignation (CAA 107) request as one large request versus submitting individual areas. For now, the APCP indicated that they are continuing to permit sources consistent with their past practice based on county-level areas and baseline dates. Since the program review date, and due to a change in SO₂ work load, it is EPA Region 7's understanding that the APCP has started conducting modeling in support of this analysis. EPA Region 7 requests that the APCP provide periodic updates to Region 7 on the progress of this project. We are requesting the APCP provide an updated timetable by the end of October 2012.
- Construction Permit Exemptions. The APCP plans to add de minimis insignificance levels for permitting of PM_{2.5} to their construction permit exemptions rule, 10 CSR 10-6.061. EPA Region 7 and the APCP discussed the type of justification that should be submitted to demonstrate anti-backsliding. The APCP indicated that there is no specific timeline or issue that is driving this change, but that the APCP would like to make their rule reflective of actual practice. EPA Region 7 and the APCP will engage in follow up discussions to discuss a path forward. Potential issues raised with this exemption include how it affects agricultural sources, the livestock exemptions and temporary storage facilities.

Findings

Commendations

- The APCP manages a significant work load and given current staffing and financial resource constraints, the program is to be acknowledged for its ability to balance competing deadlines and attain air quality improvements throughout the state.
- The APCP has designed an efficient and appropriate structure to ensure communication across sections. The commitment to communications has assisted the program during a time of increased workload and workload complexity.
- In light of decreasing funds, the APCP has continued to balance their budget, ensure fiscal integrity and continued to support training needs for staff given tight budgets.
- The APCP has demonstrated their ability to manage change. The disinvestment in local air agencies was a significant transition for the MDNR. The APCP took the lead to ensure that the transition was smooth and that most importantly, that their stakeholders knew who to contact and interact with. EPA remains confident in the MDNR's ability to implement the program and ensure air quality is maintained throughout the state.

Recommendations

- Region 7 recommends and supports the APCP plan to increase coordination and communication with regional offices to ensure success of work load transition from local agencies to regional offices is smooth and efficient.
- Region 7 recommends and supports the APCP plan to ensure appropriate procedures and oversight for air quality inspections that were retained at the local agency but not funded by the MDNR.
- Region 7 recommends that the APCP conduct an evaluation of the Missouri SIP to assess the role of local agency ordinances.
- Region 7 recommends that the APCP consider how to formally incorporate strategic planning into their program in order to outline specific goals and priorities for the year in order to better track success.
- The APCP should consider developing training plans for individuals to ensure success in their role. EPA notes that MDNR does have training plans, but due to lack of funding, the requirement for employees to complete the training plan is suspended.
- The APCP should consider the implications of emission fees that do not currently cover the cost of running the fee program especially in light of new federal rules which could potentially decrease emissions from sources in the state.
- Region 7 requests that the APCP provide period updates to EPA regarding progress on the PSD increments project. Region 7 is requesting an updated timeline by the end of October 2012 outlining when the revisions to the PSD increment areas will be provided to EPA.

Summary

The APCP demonstrated appropriate oversight of the work being conducted within the program by setting up the appropriate organizational structure to accomplish the work, through appropriate training and staffing based on work load, adjusting priorities and plans, communicating the priorities to their staff, and maintaining a fiscally responsible program. The APCP has demonstrated improvement since the previous formal program review in 2004, and more informal review in 2008. There are no required follow ups or response from the APCP for this section.

Regulatory Development

Introduction/Background

This portion of the review covered the Air Quality Planning (AQP) Section which is comprised of the Rules Unit and the State Implementation Plan (SIP) Unit. These two units are responsible for the state's initial development, draft proposals and finalization, submittals to EPA, and all follow-up on rule making and SIP actions. Federal regulation 40 CFR Part 51 contains the requirements which must be met prior to submittal of SIPs to the EPA.

The AQP Section incorporates the federal technical and administrative requirements which apply to the program in the development of the following: State Implementation Plan revisions, updates for New Source Performance Standards (NSPS) and 111(d) plans, National Emission Standards for Hazardous Air Pollutants (NESHAP) and Maximum Achievable Compliance Technology (MACT) delegations, and Title V program revisions.

Scope of Review

The purpose of the regulatory development portion of the review was to evaluate the AQP Sections organizational structure; staffing and training; workload prioritization; the rules and SIP units; relationship with the MACC and industry stakeholders; and working relationship with EPA Region 7.

Attending this portion of the review from MDNR: Kyra Moore, Wendy Vit, Tiffany Drake, and Wayne Graf.

Attending this portion of the review from EPA: Josh Tapp, Mike Jay, Amy Algoe-Eakin, Elizabeth Kramer and Amy Bhesania.

On-site evaluation/discussions

Organizational Structure

The AQP Section recently created a separate SIP unit. This reorganization combined modeling staff and SIP developers in to one unit so that the modeling and planning staff were more closely involved in all aspects of the SIP development process. The AQP section chief commented that the level of technical review within SIPs has improved primarily because the efforts are coordinated within a single unit and responsibilities are better defined and streamlined. With the split of the SIP and rules unit, each unit handles fewer projects and allows unit chiefs more time to focus on review of work products. The SIP unit chief explained further that the reorganization allows both modelers and planners to better understand the challenges and timing requirements of the various other staff members and provides a stronger sense of ownership over the entire SIP process.

The section chief did acknowledge that communication and coordination between the two units can be challenging, but that they are working on putting practices in place to address this challenge. The staff also commented to the section chief that coordinating between the units does take additional resources and can sometimes be confusing in terms of responsibilities. A staff member did raise the question to the section chief about when a rule is changed, whether that unit checks with the SIP unit to determine if the change may be in conflict with the SIP or vice versa. This coordination issue was acknowledged and

the section is working to enhance communication by holding meetings with staff from both units and other sections to ensure consistency.

Staffing and Training

EPA Region 7 discussed with the AQP Section whether staffing levels were sufficient to accomplish the work. The AQP Section has 15 total FTE. The section chief acknowledged that it is a challenge to get the work done well and on time with the current staffing levels, especially in light of ever changing requirements, but the section is able to meet deadlines and requirements. They again acknowledged that there is little room to go above and beyond the required workload. A new research analyst position was created to assist the section. Responsibilities include updating and maintaining data required for tracking the Air Program's rule making and SIP development activities, conducting statistical analyses of rule making data and preparing summaries and reports, researching and analyzing data related to air regulations and plans in other states, and coordinating public notification procedures for rule making and SIP public hearings. EPA Region 7 agreed that this position will be of great value to the section. The Rules Unit also indicated that it could benefit from an additional technical position in light of anticipated significant rule makings in the near future and has since hired an additional technical position.

The AQP Section has a number of staff new to the program. EPA discussed how staff were assigned and trained on various projects and subject matter. Staff are assigned projects through a combination of prior work experience and knowledge, and available time and work load. Expertise is gained by review of EPA regulations and guidance combined with other staff experience and mentoring. Staff are generally encouraged to attend trainings to build their expertise.

Workload Prioritization

EPA Region 7 inquired as to how the section prioritizes their work. It was discussed that the biggest factor is based on mandatory deadlines first. The section also considers the severity of consequences if the action is not taken as well as available staff resources. The section acknowledged that they may adjust their priorities based on discussions with EPA.

The section chief indicated that the section was good at keeping up with significant EPA actions that trigger revisions to state air rules or Missouri's SIP, but that she wanted to make improvements on determining when lesser EPA actions require rule/SIP revisions. The section is developing procedures to address this by assigning someone to do an initial review of all EPA rulemakings to identify the impact on state air rules and the SIP.

The MDNR Air Issues book was shared with EPA as an example of the wide variety of issues that are covered in the program and the section, and how by updating this document, it minimizes the additional burden on staff to produce "hot issues" reports on a regular basis. Updates to the book are timed around legislative sessions. EPA discussed consideration of using it as an example for the EPA air program.

In response to upcoming workload and priorities, the section indicated that the anticipated bulk of work surrounds SO₂, for the next one and half to two years. If new standards are released for Ozone and PM in the near future, then this would also increase the workload for the SIP Unit. NO₂ and CO are not

currently issues, but could become so depending on data collected at near roadway monitors. Work on the lead standard continues to be resource intensive. It is anticipated that the DERA program and work load may slow down in the next few years. From the Rules Unit, CSAPR was identified as a priority workload.

Rules Unit

The rule making process is well documented and systems are in place to ensure that staff understand the critical timelines that need to be met in order to enact a rule. The Rule Making Manual is relied upon extensively in order to assist staff. It provides an overview of the process, templates, policy guidance, checklists, and roles/responsibilities. The rule making manual continues to be updated to reflect current practice.

At the last formal program review, MDNR was just beginning to implement the Regulatory Impact Report (RIR) process. It was noted in the 2004 report that this process would significantly slow down the rule making process. While the APCP staff have learned to accommodate this additional step in the process, they are also now taking additional steps to make this process more efficient by combining documents that would normally have been sent around separately for concurrence all in one package, and even proposing the option of electronic signatures.

EPA has placed a major emphasis on SIP reform beginning in 2010 starting with the R7 SIP Kaizen event. Following this event, a number of improvements, best practices, and guidance have been shared with the states. The Rules Unit has made a number of updates to their process based on these efforts. The APCP has streamlined the public notice and hearing process. They now provide separate SIP submittals for unrelated rules making it easier for EPA to process and approve, and while one paper copy is still submitted an exact duplicate is provided electronically. In addition to efficiencies, the Rule Unit now consistently includes an anti-backsliding demonstration for those rules which may require a justification for changes. These demonstrations are also now available for public review and comment.

During the review, the APCP described their interactions with MDNR lawyers and how their review impacts the rule making process and timeline. There are currently six attorneys assigned to the full department, so they may not have specific experience related to the APCP work. EPA suggested that MDNR attorneys might benefit from any SIP training offered by EPA legal counsel.

SIP Unit

The SIP Unit is a relatively new unit. In addition to the efforts described above in terms bringing together the modeling and planning staff to understand the bigger picture of SIP development, the unit is also working on developing consistency among plans and building historical knowledge of past plans. One example described was through the infrastructure SIP. Staff completed a thorough review of the current structure and organization, and then using the most recent guidance for the lead infrastructure SIPs, developed an outline that could be used for future infrastructure SIP submittals. The Unit intends to continue developing templates and guidance for future plan submittals. In addition, the unit looks at other state plans and how the unit might establish other best practices.

The timeline for SIP submittal varies more so than for the Rules Unit. Timelines for the unit are often driven by new air pollution standards. The SIP Unit makes every effort to ensure that they meet these submittal deadlines. EPA acknowledges that the deadlines can often be very challenging in light of the level of technical analysis required, timeliness of EPA guidance, and any new additional requirements revealed late in the timeline. It is EPA's observation that ACP submits SIPs on time to their best of their ability and also keeps EPA updated on any delays in the process.

The SIP Unit is also addressing EPA's SIP reform efforts similar to the efforts listed under the Rules Unit review. In addition, because this is a fairly new unit, they developed new public hearing procedures, submittals letter templates, and are working on a major effort to have all major SIPs available electronically. EPA has found that the format and structure of the SIP submittals have improved by becoming more standardized and easier to read, and are now consistent across SIPs, making EPA's review more consistent as well.

MACC and Industry Stakeholders

The ACP staff is responsible for supporting the MACC. Among the commissions duties are adoption, amendment and rescission of rules; making decisions on appeals from enforcement orders and permit conditions; beginning legal actions to compel compliance with rules; assigning duties to local air pollution control agencies; listing regions as attainment or nonattainment areas based on the national standards; and approving overall plans for meeting the national standards in listed nonattainment areas.

This support includes providing briefings at the MACC meetings in order to keep the MACC commissioners informed of high priority projects. MDNR staff also respond to individual commission member's requests for information, are responsible for providing planning reports, meeting agendas, meeting minute information and other special requests for information which are to be included in the monthly MACC briefing document. The briefing document contains the minutes from the previous MACC meeting, monthly reports prepared by the Permits, Enforcement, Air Quality Analysis, and Operations Sections, documents for any rule making actions which may be on before the commission that month (either a public hearing on a draft rule or a vote for rule adoption), and other new business. This document generally is fairly lengthy and is provided to the MACC and the public approximately ten days prior to each MACC meeting.

The commission has a total of seven members who are appointed by the Governor and confirmed by the Missouri Senate. Currently there are two vacancies. At least three of the members represent agricultural, industrial and labor interests; the others represent the general public. Members serve for four years or until their successors are selected and qualified. There is no statutory limitation on the number of terms any appointed member may serve. Members do not receive compensation, although state statute provides for compensation for travel expenses to meetings.

In addition to interaction with the MACC, the ACP organizes the Air Program Advisory Forum, a stakeholder group made up of primarily larger industry and utility companies in the state, as well as some participation from environmental groups. The forum meets quarterly, and the ACP updates the forum on rulemaking, SIP activities, and other significant issues through the meetings and an email list

service. The forum also serves as a sounding board for program activities. EPA acknowledges that affected stakeholders have commended the APCP for their outreach, communication and cooperation through their stakeholder process.

Working Relationship with EPA

The AQP Section acknowledged that they appreciate having an EPA contact for certain topics so that questions can be sent directly to that person. They also indicated that EPA provided guidance (whether informal or more preferable formal) and timely review and comment on draft documents is always appreciated. In addition, the SIP unit chief did discuss the need for additional more structured modeling training on CAMX and other air modeling programs. EPA did offer assistance by working on real-time projects with EPA's modelers. Also, guidance, while helpful, is not often available early enough to be utilized in the SIP or rule process. They acknowledge that EPA Region 7's federally approved rules web page, fact sheets, webinar updates and weekly update calls are very helpful to the APCP. The AQP Section would like to explore more direct ways to determine when an agency rulemaking requires state action. Having this more clearly stated within the rule itself would be helpful.

Findings

Commendations

- The reorganization creating a separate SIP and Rules Unit seems to be working well in setting a clear set of priorities and streamlining review of work products. EPA notes that level of technical analysis and plan development have improved.
- EPA has also observed that the section submits SIPs efficiently and communicates proactively regarding barriers which may delay a SIP submittal.
- EPA commends both the Rules and SIP Unit for improving the consistency of rules and SIP submittals in terms of format and structure. These changes have made EPA's review and comment more consistent. EPA specifically points out the more consistent inclusion of anti-backsliding demonstrations with various rule makings and SIP submittals as an improvement.
- Although it was not specifically discussed at the program review, EPA would like to commend the AQP Section for its efforts related to early communications with EPA. Following their engagement in the SIP Kaizen efforts in 2010, the APCP has made several improvements to their internal processes to ensure that EPA and the state are engaging in meaningful discussion early and often on projects. EPA acknowledges that this increased coordination has improved the overall relationship between EPA and the state, has led to fewer surprises and less rework of work products.
- EPA supports the creation of the Research Analyst position and also the request for an additional staff person in the Rules Unit in order to support the work load in this section.
- EPA commends the section for continuing to work with affected stakeholders through the Air Advisory Forum and for their outreach and communication efforts.
- EPA commends the AQP Section's efforts in continuing to streamline the burdensome rule making process, including the continued use of the Rule Making Manual as a source of information and training for staff.

- EPA commends the AQP Section on keeping up the Air Issues book and appreciates sharing this with EPA.
- EPA appreciates that AQP Section continues to seek out ways to improve including increased communications among staff, and developing procedures to ensure that they aren't missing any federal regulations and/or implications that affect their work.
- EPA appreciates the AQP Section's willingness to communicate on a weekly basis with the EPA State Manager to ensure constant communication and discussion on upcoming issues.

Recommendations

- The AQP Section acknowledged that communicating across units can be a challenge but that processes were being put in place to address this. EPA encourages the section to continue to improve in this area especially ensuring that staff communicate regarding any rule or SIP changes that might affect the other units.
- EPA Region 7 noted that MDNR attorneys might benefit from attending any EPA air trainings given their broad scope of responsibilities. EPA will make an effort to ensure that they are included in training opportunities.
- The AQP Section recommended that EPA could do a better job indicating when a final agency rule making subsequently requires state action. In addition, the section indicated that EPA guidance is often not available early to be utilized in the SIP or rules that the section develops. In response to this comment, EPA Region 7 notes that as the current sublead for SIP reform, this concern and similar concerns are being shared with EPA HQ to help improve the SIP process.
- The AQP Section indicated the need for additional modeling training, and EPA offered assistance in this area and is currently planned for the fall of 2012.
- While outside the scope of this program review, EPA recommends that MDNR review current procedures in place to address communications processes for potential high pollution days (based on the Air Quality Index), and consider a holistic approach to working with various sections within APCP to ensure seamless, complete and timely information is provided to the public.

Summary

The AQP Section has shown significant improvement from the previous program review through increased communication and coordination among MDNR staff and with EPA staff; improved training opportunities for staff to grow their knowledge and expertise; and protocols for streamlining and developing SIPs and rules. EPA appreciates the emphasis that the AQP Section has placed on SIP reform efforts and believes that this will make an impact. There are no required immediate follow-ups or responses from the AQP Section.

Grants and Work Plan Management

Introduction/Background

The APCP receives Clean Air Act, Section 103 and 105 funds through a Performance Partnership grant (PPG) with the EPA Region 7. These funds are used to supplement the APCP program funding directly aimed at implementing the Clean Air Act requirements outside of Title V activities. The PPG is a single grant which combines funding from more than one environmental program and is authorized in the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Public Law 104-134. Work plans provide EPA and the state a plan for the upcoming grant year/cycle of expectations, roles and responsibilities related to the funding from EPA that directly supports the program. The EPA negotiates a two year work plan with the MDNR for the PPG. This negotiated work plan reflects shared environmental goals and objectives for the programs contained in the grant agreement.

Scope of Review

The Section 103 grant performance was evaluated separately as part of an on-site advanced performance review. A final report of this review was provided to MDNR on May 9, 2012.

The purpose of this portion of the review was to understand how the PPG work plan is used by the program, how the fiscal and program sections work together, how work plans are developed and amended, and finally, how the negotiation process works with EPA. The scope of this program review did not include a financial review of the federal funds received through the PPG. However, EPA and the APCP did discuss how the financial aspects of the grant functioned in order to gain a better understanding of the process that is used to account for expenditures from the Section 105 grant.

Attendees for this portion of the review from MDNR included: Carolyn Kliethermes, Jeff Thomas, JoAnn Saunders, Sara Pringer, and Stephen Hall.

Attendees for this portion of the review from EPA included: Josh Tapp, Mike Jay, Amy Algoe-Eakin, and Amy Bhesania.

On-site evaluation/discussions

As the portion of revenue from federal grants decreases, it is evident that the use of the grant work plans to identify the APCP goals and priorities have decreased over the past few years. While all work which the APCP conducts using EPA funding is tracked in detail, it was discussed how a significant portion of the APCP work is not included in the work plan as in years past. EPA identified the Office of Air and Radiation (OAR) National Program Manager's (NPM) Guidance as a document which EPA Region 7 relies upon when reviewing state work plans. The APCP expressed that while they were aware of the guidance, they did not use it when developing work plan drafts. It was suggested that EPA ensure that the APCP received a copy of the guidance and the APCP agreed to review this guidance in advance of the work plan development.

The APCP described their process for developing the two-year grant work plan and the process for making any changes or updates to the work plan. Once in receipt of EPA's kick-off letter to begin negotiations for the work plan, the APCP reviews the previous year's work plan and adds or removes

information. The work plan is circulated among managers to ensure all activities that fall under the funding of EPA are included and that the fiscal operations section also reviews the information. A draft is sent to EPA for review. Comments are provided and a final work plan is negotiated. Throughout the grant project period, amendments may need to be made due to new activities or removed activities, but typically only for major work or funding changes. The fiscal section plays an integral role in ensuring that the work plan and the expenditures charged to this grant are in line. The MDNR provides a semi-annual and annual report on its work plan accomplishments.

EPA Region 7 inquired how the APCP separates Title V fees from non-Title V fee activities. A portion of program funds come from Title V fees, which cannot be used to support Section 105 grant funded activities. Title V fees are used to fund the operating permit program activities. The financial unit tracks the total revenue and expenses of the Title V fee account and reports annually to the MACC on the status of these funds. The fiscal section chief described how the program ensures the appropriate use of fees for various Title V and non-Title V activities. EPA expressed that there has been tighter scrutiny on the use of Title V fees to ensure that comingling of funds did not occur. EPA agreed to provide the fiscal section chief with updated Title V fee guidance documents.

Finally, other general fiscal matters were discussed. Ensuring that the APCP meets its required matching funds and/or Maintenance of Effort (MOE) is an important step with the PPG process. EPA found no issues with match or MOE.

The APCP did express to EPA Region 7 that it would be helpful to have actual funding amounts to submit applications as soon as possible instead of working off anticipated numbers. This could cause the APCP to spend more aggressively than they should, which happened in FY11. EPA Region 7 agreed to follow up with APCP to be clearer on application and funding information. They also agreed to ensure that the communication between PPG project officer, program project officer at EPA Region 7 and the various parties involved from MDNR are all coordinated.

While EPA Region 7 did conduct a separate advanced programmatic grant review for the Section 103 funds, it is important to note in-kind costs in this program review. In-kind costs were highlighted as a potential vulnerability to MDNR in the previous 2004 program review. Over the past year, EPA and the APCP fiscal section worked together to resolve this issue and to ensure that in-kind costs were allocated within the Section 103 grant application and reports. The Section 103 grants are one of the few programs in which EPA awards in-kind costs in lieu of actual cash for certain activities under the grant. These funds are reserved by the EPA to pay for filter acquisition, filter acceptance testing, the PM2.5 performance evaluation program, and chemical speciation (laboratory analysis) costs incurred by the program. Costs for these services for the MDNR are charged against the in-kind reserve. In-kind costs are a substantial part of the federal funds awarded for the PM2.5 monitoring network. EPA Region 7 commends the APCP for resolving this issue.

Findings

Commendations

- EPA Region 7 commends the APCP for timely negotiations of the Section 105 work plan and for working together with EPA Region 7 on making any updates or changes. EPA Region 7 acknowledges that negotiations go smoothly and that MDNR and EPA Region 7 jointly work to improve the work plan each year.
- EPA Region 7 commends the APCP for quickly addressing EPA's request to include the EPA in-kind support in the Section 103 grant. The fiscal unit, while constrained by their own accounting needs, was able to amend their application to include the in-kind support and thus address an outstanding finding from the previous program review.
- EPA Region 7 commends the APCP for having the fiscal processes in place to ensure that their grants, subawards and procurement are meeting all state and EPA requirements.
- EPA also commends the monitoring staff for ensuring that EPA Region 7 is aware of any network plan changes, monitoring issues, or updates to the work plan.

Recommendations

- EPA Region 7 recommends that the APCP review the NPM guidance that has been provided to them when updating their work plans.
- EPA Region 7 recommends that the APCP review the Title V fee guidance documents that have been provided to ensure compliance with the requirements given tighter scrutiny on this issue.

Summary

In summary, the MDNR has an effective fiscal and grant process for ensuring that work plans are carried out appropriately, and that their work plans reflect EPA and state priorities. There are no required immediate follow-ups or responses from this section.

Emissions Inventory Development

Introduction/Background

An emissions inventory is a compilation, by source, of the amount of air pollutants discharged into the atmosphere over a geographic area during a specified time period. Each data element listed in EPA's Air Emissions Reporting Rule (AERR), must be collected, quality assured, and then reported to EPA.

The APCP collects emissions information in Missouri through the Missouri Emissions Inventory Questionnaire, or EIQ. This is a paper-based system that allows facilities to submit emissions data on a form to fulfill state reporting requirements. Missouri has also made available an online electronic EIQ system called, MoEIS. It is an acronym for Missouri Emissions Inventory System. This electronic based EIQ format is for those facilities that choose to fill in the inventory data electronically. This is accomplished by logging on to the MDNR website, uploading the data, and then sending a signature page via US postal service to authenticate and insure the electronic data being sent is legally dependable.

Scope of Review

The objective of this review was to review how the APCP receives, stores, quality assures, and submits emissions inventory data to EPA, and to provide recommendations on areas for improvement.

The emissions reporting procedures and techniques for collecting inventory data was reviewed for completeness along with the quality assurance protocols. The APCP performed a systematic walk through from start to finish of their inventory procedures including data analyses for point sources, nonpoint sources, and mobile source inventory development. A thorough demonstration of their electronic online MoEIS system was also included. The majority of the review was spent evaluating the quality assurance protocol.

On-site evaluation/discussions

On March 20th 2011, EPA Region 7's Steven Brown met with APCP inventory staff Stacy Allen and Nathan O'Neil. During this time, MDNR provided a demonstration of the EIQ process, displayed detailed examples of EIQ paper and electronic formats, and explained the methodology for quality assuring the data.

File reviews of randomly chosen sources pulled from EIQ's were compared to data in the 2008 NEI. The goal was to ensure the data reported by the sources was accurately reported to the NEI. All the data for point sources and area sources matched up. However, the mobile inventory did not (see Findings section below). Area and mobile source inventory development was discussed in detail concerning the amount of EPA surrogates used, and what portions utilized the Motor Vehicle Emissions Simulator model and/or EPA's nonroad model in developing the mobile emissions inventory.

Observations

The technical support provided by the APCP to facilities is impressive. A facility typically pays a consultant to help with calculations on the EIQ's and this can be costly. The APCP is now providing that support free of charge. By giving technical support to facilities, it allows another way to quality assure

the data and help ensure a facility is applying the correct calculations. It also enhances their relationship with their sources.

The MoEIS system was implemented since EPA's last program review. This system benefits both the facilities and the department. The data entry is easier, better organized, and makes a quicker return to retrieve data for the APCP. It also saves data entry time. For paper EIQ's, the APCP must enter the data into the computer. With MoEIS, the data shows up immediately following a facility's entry process. MoEIS on the web has many data quality checks built in that ensures quality emissions data. The web application also performs many of the calculations automatically further minimizing typos and errors. Facilities appreciate the system in that it saves them time and money. An impressive ninety percent (90%) of Missouri's point sources are now utilizing the MoEIS system.

The APCP appears to go beyond what the Quality Assurance Project Plan requires when it comes to quality assuring the data. They perform several audit analysis and continue this process until the next inventory is due. For example, their audits consist of state total and state history emissions comparisons, industry emissions comparisons, facility history emissions comparisons, and throughput comparisons. State total and state history comparisons consist of comparing total state emissions with different years. This is a good way to see if there are significant changes in emissions year to year. It may trigger a need to look at the inventory closer for mistakes in submittals. An industry comparison compares facility process information with same type of industry. In most cases, other industry should be reporting similar processes and similar emissions. If not, then a closer look at the data is needed to verify reasons for the differences. The same principal is applied to a facility history or throughput analysis. If there are significant differences, it can help indicate mistakes in data entry or simply identify changes to a facility's process. Quality assurance is a constant task for the APCP. Moreover, because of that, their inventory data is of high quality.

Findings

Commendations

In the past three years, emissions inventory requirements have been revised by a new rule and altered the way emissions data is reported to EPA. A new rule, a new reporting system (EIS), and a shorter length of time to prepare and report the data to EPA are considerable changes. These changes have all taken place in very short period. With the new AERR and a new Emissions Inventory System (EIS), it has been strenuous on the state. Due to these changes and timing, they were also required to report two inventory years in 2010. Despite these changes, the MDNR was the first agency in the entire country to submit emissions inventory through the new EIS system and received an award from headquarters for that inventory submittal. This is an outstanding accomplishment.

Hazardous Air Pollutants or HAPs are not a reporting requirement of the states to EPA. However, under state regulations, Missouri facilities are required to report this emission information to the APCP. The APCP voluntarily includes HAPs in their EPA NEI submittals even though it is not a requirement of the AERR. EPA appreciates this extra effort to report HAPS year after year and with same quality as the

other emission reports. These HAPs emissions are a necessary input to achieve an appropriate understanding of air quality risk characterization.

As stated above, the QA procedures in place are exemplary. As a result, the APCP has done a good job of maintaining a robust and quality assured emissions inventory.

Recommendations

There are two findings that need attention. EPA Region 7 is looking into the first which may be an EPA mistake or a data substitution by OAQPS. The second finding is one that the APCP has also identified as a problem to correct. They have known about the issue and could not address it due to time constraints and the lack of resources. The APCP is working on updating the MoEIS system to accept specific release point data such as latitude and longitude coordinates. EPA recommends gathering the process level stack coordinates and updating the inventory as soon as possible.

1. Mobile inventory data for 2008 submitted by the APCP to EPA does not match up with the data in the 2008 NEI database.
2. The MoEIS system is currently not set up to allow each process point of a type-A facility to have different stack coordinates. The latitude/longitude for each process point is recorded as the same as the main stack for that facility.

Summary

After reviewing the APCP's inventory process and procedures, the program appears to have a close and strong relationship with their facilities. This is partly due to their MoEIS system and the customer service provided by inventory staff. Their QA procedures are excellent and their staff appears to have a good working knowledge of their inventory and seem to know the best direction for the inventory program. It is impressive to see the efficiency of such a small staff perform a large ongoing project such as a state inventory development as large as Missouri's. EPA believes the APCP does an outstanding job with limited resources.

EPA Region 7's Steven Brown will correspond with OAQPS and investigate the first finding listed above. After the investigation concludes, there will be a response communicated back to MDNR explaining the results. MDNR has indicated that they are working with their contractor to correct the second finding listed above. They have also agreed to respond back to EPA Region 7 upon the completion of these corrections.

Inspection and Maintenance

Introduction/Background

The APCP performs an annual review of the St. Louis Inspection and Maintenance (I/M) program and generates a report that is submitted to EPA Region 7. This annual report serves as a tool used to review the I/M program reporting procedures, operating procedures and achievements that are subject to the I/M Rule. EPA Region 7 reviews this audit /report and responds back to the APCP to provide recommendations on areas for improvement. Therefore, this review is the results from this last report (GVIP Annual Report 2010) submitted July 2011.

The I/M program helps improve air quality by identifying high-emitting vehicles in need of repair, through visual inspection, emissions testing, and/or the downloading of fault codes from a vehicle's onboard computer, and requiring them to be fixed as a prerequisite to vehicle registration within a given non-attainment area. The 1990 Amendments to the Clean Air Act made I/M mandatory for several areas across the country, based upon various criteria, such as air quality classification, population, and/or geographic location.

On-Board Diagnostics (OBD) is a computer-based system built into all 1996 and later light-duty vehicles and trucks and, as required by the Clean Air Act Amendments of 1990. OBD systems are designed to monitor the performance of some of an engine's major components including those responsible for controlling emissions. OBD tests means that the inspectors utilize the OBD plug-inlet to run emissions tests without requiring a simultaneous tailpipe test using a dynamometer. This testing method accesses this advanced computer system installed in all 1996 and newer gas-powered, 1997, and newer diesel-powered light duty trucks, and runs a system check to insure the vehicle's emission controls are properly working.

The Gateway Vehicle Inspection Program (GVIP) is a combined emissions testing and safety inspection program for vehicles registered in the St. Louis ozone nonattainment area and is run and operated jointly by the APCP and the Missouri State Highway Patrol. The nonattainment area is comprised of five counties that include St. Louis City, Franklin, Jefferson, St. Charles, and St. Louis counties. The GVIP program is a decentralized OBD program. Decentralized means that there is not just one centralized location for motorists to receive an inspection but multiple independent inspectors authorized to perform the test at various locations throughout the St. Louis area.

Scope of Review

Due to fact that the APCP performs an I/M annual audit followed by a detailed report, an in-depth review was not necessary. Therefore, the majority of this evaluation focused on the annual report results. The I/M program data analysis and reporting requirements (40 CFR Part 51, 51.366) are what the states use to ensure the program is reporting and performing adequately. The program analysis results are included in the annual report submitted to EPA. Those results comprise a list of items to track such as "Failing Vehicles", "Passing Vehicles", and any vehicles receiving a waiver. By tracking such items as failure rates and passing rates, a statistical analysis can evaluate the program on its success. It can also track a vehicle's outcome. Vehicles often disappear from the fleet due to residents moving away or as a result of vehicles getting recycled at a salvage yard. This can skew the statistical analysis results and make the program appear better or worse than it actually is. Regardless of the reason, tracking vehicles with no known outcome is a requirement. These are just a few examples of the items that are included in the annual report and analysis completed every year.

On-site evaluation/discussions

On March 20th, 2012, EPA's Steven Brown met with the APCP Compliance Enforcement staff Nicole Eby and Darcy Bybee for a lengthy discussion on the results of the 2010 Annual Report and any new issues that might have surfaced since. Chuck Dachroeden of the St. Louis Inspection Maintenance Section participated by phone.

Findings

Commendations

A penalty schedule, which is required by the I/M rule, was identified in the annual report as an item recommended for improvements to their program. With limited staff, MDNR worked vigorously, completed, and implemented a penalty schedule for the program. This is a significant accomplishment.

Enforcement is just one of the ways that MDNR is ensuring that the I/M program is successful. In fact, the APCP completed an investigation that built cases against three licensed emissions inspectors who unlawfully performed vehicle emissions testing. More than 90 vehicles were fraudulently tested through a process called clean scanning. The emissions inspectors entered the correct vehicle information into the computer, but connected the scanning equipment to another vehicle that they knew would pass. The actual Vehicle Identification Number or VIN number from the scanned vehicle downloads to the Vehicle Inspection Database alerting the Department of Natural Resources of the fraudulent inspections. Owners of some of the vehicles identified confirmed that they had paid inflated charges of \$100 to \$125 to fraudulently obtain the passing emissions tests. One of the offenders was sentenced to 10 months in prison on charges of violating the Clean Air Act by falsifying auto emission tests from October 2007 through May 2008. Two other offenders were charged with violations of the Clean Air Act for falsifying auto emission tests. The indictment alleges that in May 2008, the Department of Natural Resources and the Missouri State Highway Patrol reviewed the Vehicle Inspection Database and identified 31 vehicles fraudulently tested or clean scanned.

Over the last few months, the APCP appears to have improved coordination and communication between the GVIP program and the Highway Patrol. This observation is supported by the increased email correspondence between MDNR and the highway patrol as well as through discussions with highway patrol staff. The communication has definitely grown between the programs. Communication and coordination between the two entities is critical since the Highway Patrol and the APCP jointly conduct oversight of the GVIP. While the APCP is primarily responsible for emissions test oversight and the Highway Patrol is primarily responsible for safety test oversight, both agencies investigate and conduct enforcement of emission related violations.

Recommendations

During this review and as identified in EPA's response letter to MDNR's 2011 report, EPA found that MDNR should:

- Increase the number of covert performance audits to meet the requirements in the I/M Rule; 40 C.F.R. 51.363 Quality assurance (4)(ii)(iii)
- Initiate ongoing registration file audits that compare the testing and registration database to determine compliance; 40 C.F.R. 51.362 Motorist compliance enforcement program oversight (b)(1,- 6)

Summary

The above recommendations are already noted in EPA's response letter to Missouri regarding the I/M Annual Report. We recognize the improvements that the APCP has made to the I/M program in response to input received from the St. Louis stakeholders. In addition, the completion and implementation of a penalty schedule to the program was a significant success. Moreover, providing the appropriate level of enforcement helps ensure that the integrity of the program is maintained. EPA's review had determined that the GVIP program is meeting all the requirements of the I/M rule. MDNR is operating a successful I/M program.

Modeling

Introduction/Background

EPA Region 7 has performed a review of the air dispersion and photochemical modeling activities of the APCP. The APCP modeling activities include review of PSD permit applications, SIPs, regional modeling, and construction/operating permits when requested by the permit section. The review of the APCP modeling activities confirmed that the modelers are very knowledgeable in air dispersion modeling and follow EPA modeling guidelines (40 CFR, Part 51, Appendix W, *Guideline on Air Quality Models*.)

Scope of Review

The onsite modeling review consisted of a general question and answer session where various issues important for modeling were discussed with APCP staff. EPA intended to use this discussion to focus on those areas that had been identified in the past as potential problems and to identify any potential new problem areas related to modeling reviews that Missouri performs. EPA also intended to discuss photochemical modeling as part of the review.

On-site findings/discussions

Onsite discussions were held with Kendall Hale, (Permitting Section Chief), Tiffany Drake (State Implementation Plans Unit Chief), Dawn Froning, Kelly Robson, Bern Johnson, Josh Martin, Assem Abdul, Adel Alsharafi, and Ashley Jurgensmeyer. EPA Region 7 staff included Mick Daye and Andy Hawkins. These discussions were held at the APCP offices in Jefferson City MO.

Dispersion modeling issues discussed included the treatment of haul roads in dispersion modeling including treatment of volume versus area sources, pre-application meetings, minor source permitting, screening modeling, local agency modeling, APCP site visits, APCP policy and procedures manual for modeling, meteorological data, background monitoring, use of Aerminute data, and nearby source modeling, data quality issues in MOEIS – mainly stack locations and stack parameters, and increment modeling.

A limited review of the modeling associated with Missouri's construction/operating permits was done at the EPA Region 7 office. PSD permit applications and draft PSD permits are routinely submitted to EPA Region 7. The EPA APDB is notified of these applications by the Air Permitting and Compliance Branch (APCO) when they arrive. However, usually any potential modeling issues have already been discussed between APCP and APDB before draft permits are submitted.

Treatment of haul roads in dispersion modeling activities continues to be a concern for the APCP and was a major topic of discussion in the onsite meeting. The staff does a good job of requiring applicants to perform an analysis in permitting applications and EPA Region 7 believes that the APCP is doing a good job in this area. The main concerns with haul roads concern consistency with other states and Regions and with current guidance on the issue. EPA Region 7 intends to follow-up on this issue with the APCP providing further direction on how the APCP might best proceed. The majority of the states in EPA depict haul roads as volume sources although haul roads can also be depicted as area sources. Both types of source characterization are acceptable and EPA Region 7 will support the state on the type of source characterization it decides on. EPA Region 7 also encourages the APCP to include this topic as a component of Missouri's procedures manual for modeling.

Pre-application meetings, working with the consultant/company before and during development of an application, and final evaluation of the modeling are done by the APCP staff in a modeling evaluation.

Pre-application meetings are not always done because most of the companies/consultants are familiar with what the APCP requires. Frequently a company/consultant will contact the modelers to confirm what model and/or what meteorological data are appropriate for their permit application. Missouri undertakes site visits to assist in the evaluations generally for those applications containing equipment the APCP staff has not seen or for Hazardous Air Pollutant (HAP) permits. When necessary, the staff does additional modeling to enhance the modeling submitted in an application.

Modeling to determine which counties can be designated as "clean" and the size of the "clean" areas, for increment analysis is continuing. The areas that have been "triggered" by PSD are also being modeled to determine if the size of the area can be modified. One of the problems Missouri has encountered is obtaining representative source data.

Screening modeling for construction/operating permits is usually done by permit engineers. This is not unique to the APCP. APCP modeling staff did not have concerns with the screening modeling being performed by the permit engineers and had recently performed training on the use of Aerscreen for the permitting staff. The screening involves the use of a nomogram that was prepared by the modeling staff, or the use of the AERSCREEN model.

During the discussion on dispersion modeling inputs APCP modeling staff mentioned potential data quality issues in the MOEIS database, in terms of modeling inventories. These related mainly to stack parameters such as stack location information. Stack parameters are a key input to dispersion modeling and EPA Region 7 encourages improvements to known data quality issues when possible. The MOEIS system handles emission data well for emission inventory requirements to EPA, however the system and data are not completely accurate for utilizing the data for modeling inventories. This is something APCP staff is striving to improve in the future. Overall APCP staff has procedures in place to recognize and correct data input problems when found, but this can make preparing the modeling inventories time consuming

Staff also participated in a discussion of SIP modeling that included photochemical modeling. Review included discussions of current priorities, resources available and training needs.

Currently the priorities of the staff are focused on the SO₂ SIP with all modeling staff, including photochemical modeling staff, working on this project, thus no current photochemical modeling is being performed. In the recent past staff were engaged in the AQMP study in the St. Louis area. This work included photochemical modeling for Ozone, PM and also included a toxics component. The APCP should be commended for taking on this multi-pollutant approach for St. Louis. Unfortunately, this work was stopped with the EPA decision on leaving the ozone standard unchanged and with the new focus on the 1-hour SO₂ SIP. While EPA Region 7 understands the need to prioritize staff time given the current workload we encourage the APCP to continue to also keep a focus on photochemical modeling activities as it is difficult to put these activities on hold and then come back to them at a later date. At some point results from photochemical modeling will be needed and the continued focus would allow for continued model improvements and staff capabilities.

Training needs were also discussed and the APCP staff indicated that meteorological modeling was their priority followed by photochemical modeling training. Currently WRF is the preferred meteorological model used to drive the photochemical models. EPA Region 7 intends to work with the APCP to provide training and technology transfer where possible.

Resource needs were also discussed. The APCP provided an overview of their current modeling setup. It was noted that the last hardware purchase was made around five years ago. In general it was

determined that adequate hardware and software resources are available to perform photochemical modeling. Overall the APCP staff is capable of performing photochemical modeling and has the computing resources available to undertake modeling. The current SO₂ SIP priorities do not allow for continued photochemical modeling.

Commendations

- EPA Region 7 commends the APCP modeling program for following EPA modeling guidelines and regularly corresponding with EPA staff on potential modeling issues.
- The APCP managers adequately staff the modeling group with professional and knowledgeable staff.
- EPA Region 7 commends the APCP managers and modeling staff for their early initiative in performing 1-hour SO₂ modeling reviews and for their continued effort on performing increment modeling analysis in support of a future 107 redesignation request.

Recommendations

- For dispersion modeling EPA Region 7 recommends the APCP include procedures for modeling haul roads as a component of Missouri's procedures manual for modeling. Data quality issues for stack parameters in MOEIS was also briefly discussed and EPA Region 7 encourages improvements in this area where possible.
- For photochemical modeling EPA Region 7 recommends that the APCP continue to make investments in hardware in support of photochemical modeling especially considering the fact that the models continue to require more computational resources. EPA Region 7 also recommends that the APCP maintain a focus on performing photochemical modeling in order to maintain the skill set and in order to continue to improve modeling inputs and model performance.

Summary

The APCP modeling program follows EPA modeling guidelines (40 CFR, Part 51, Appendix W, *Guideline on Air Quality Models*) and has the resources (staff and equipment) to perform modeling reviews. No significant issues requiring state action or follow up were identified during the review. The APCP modeling staff is professional, knowledgeable, follows recommended modeling guidelines, and participates in national workgroups. The staff should be commended.

Permitting

Introduction/Background

The week of November 7, 2011, EPA Region 7 performed a focused evaluation of the APCP air permitting files for gas pipeline interstate transmission compressor stations. EPA conducted the review to: 1) fulfill a regional office commitment with EPA headquarters to perform an annual comprehensive review of at least one state or local agency permitting program, 2) satisfy EPA R7's policy on periodic review of state and local programs, and 3) review permitting activities being conducted at natural gas pipeline compressor stations with the goal of gaining a better understanding of the pipeline industry and providing information for the energy extraction enforcement initiative. The focused evaluation was not conducted in order to assess the compliance status of sources within the natural gas pipeline interstate transmission industry.

Scope of Review

The overall scope of the review focused on the following as they apply to the natural gas pipeline interstate transmission industry: 1) major source prevention of significant deterioration (PSD) permitting, 2) synthetic minor permitting, 3) application of federal technology standards under the new source performance standards (NSPS), national emission standards for hazardous air pollutants (NESHAP), and maximum achievable control technology (MACT), 4) establishment of enforceable permit conditions, and 5) the interaction between the Title V and new source review (NSR) permit programs.

The EPA review team included Eric Sturm, Robert Cheever and Ward Burns. Mark Smith, R7 Air Permitting Branch Chief, participated in the exit interview via video conference. EPA review team and APCP program managers held the exit interview on November 10, 2011 after the permit review was complete. EPA explained the direction and purpose of the program review. That interview gave EPA and APCP an opportunity to discuss general findings. Overall, EPA found the department runs a comprehensive construction and operating permit program with respect to the natural gas pipeline interstate transmission industry. Nevertheless, the APCP could benefit from the recommendations as explained in during the exit interview. EPA appreciates the cooperation and hospitality from the department during the program review process.

On-site evaluation/discussions

The team evaluated 18 source files. From its major findings, EPA is providing areas for improvement with APCP's permitting programming along with commendations of the current permitting practices. Areas of improvement and commendations are described below. Also included in the initiation of the review was a list of the 18 source files reviewed and summary spreadsheets detailing specific permitting information and activities found in each file and an abbreviated Title V and NSR questionnaire completed through interviews conducted during the site. The source files were selected based upon Standard Industry Classification (SIC) codes 4922 and 1311, establishments engaged in the transmission and/or storage of natural gas for sale, and crude petroleum and natural gas, respectively.

The EPA Region 7 review team evaluated all related permitting documents in the available files, including Title V, PSD, synthetic minor, netting analyses, minor source permits, no permit required

determinations, and Class II operating permits. Some archived files were not reviewed during our site visit; however, the majority of those documents were emission inventory questionnaires on microfilm. The construction documents were compared with the Title V permits to assure that NSR permit terms were being properly incorporated into Title V permits. Because EPA Region 7's permitting review looked at a wide range of permitting actions at all pipeline stations in Missouri, EPA Region 7 believes this report should fairly represent how MDNR carries out permitting of natural gas pipeline and interstate transmission projects as a whole.

Based on our review of gas processing industry files, interactions with the ACP, and regular real time review of Title V and PSD permitting, Missouri runs a sound permitting program. In general, EPA Region 7 found that the ACP completed proper level of permitting with no major systemic gaps. As described in more detail below, however, EPA Region 7 has a number of recommendations which should help to improve the completeness and correctness of each permit and the robustness of the permitting record, with modest impact on permitting resources. More importantly, EPA Region 7 also has several commendations for the Missouri's permitting program.

Source Permit Files Evaluated During Program Review¹

ID	AFS	Facility Name	EPA Review
147	00024	ANR Pipeline Company - Maitland	Burns
023	00042	Centerpoint Energy ² - Poplar Bluff	Burns
099	00102	Centerpoint Energy ² - Arnold	Cheever
123	00017	Centerpoint Energy ² - Frederick Town Hwy 72	Sturm
123	00018	Centerpoint Energy ² - Twelve Mile/Frederick Town	Sturm
119	00031	Centerpoint Energy ² - Jane	Sturm
186	00024	Centerpoint Energy ² - Ste Genevieve	Burns
121	00091	MO Gas - Curryville	Cheever
-	-	Natural Gas Pipeline Co. - Mable Hill/Jackson	Burns
019	00077	Panhandle Eastern Pipeline Co. - Centralia	Cheever
159	00047	Panhandle Eastern Pipeline Co. - Houstonia	Cheever

¹ EPA is not making a compliance determination with respect to the sources listed.

² Formerly Mississippi River Transmission

-	-	Rockies Express Pipeline - Mexico	Cheever
-	-	Rockies Express Pipeline - Turney	Cheever
019	00095	Southern Star Central - Columbia	Burns
145	00049	Southern Star Central - Saginaw/Joplin	Sturm
013	00074	Southern Star Central - Lone Jack	Burns
037	00048	Southern Star Central - Peculiar	Sturm
201	00099	Texas Eastern Transmission - Oran	Cheever

Findings

Commendations

- **Timeliness.** In recent years the APCP has been making a strong push to ensure NSR and operating permits are being issued in a timely manner. In 2010, the APCP received 402 construction and 336 operation permitting actions. Simultaneously in 2010, they completed 415 construction and 466 operation permitting actions. EPA Region 7 commends the APCP for their efforts to relieve permit backlogs and issue permits in a timely manner.
- **Permit Action Tracking Management System (PAMS).** In order to ensure that permitting actions are handled in a timely matter, the APCP utilizes PAMS. The system tracks permitting from received to issuance in an electronic database format. PAMS provided useful information on APCP permitting actions at pipelines.
- **Response to Comments.** It's a statutory obligation under the Clean Air Act to address public comment on permitting actions. APCP's practice and policy has been to respond to every comment from the public and EPA Region 7 and make those responses available on the web. Based on our review, the APCP provides detailed responses to these inquiries and provides good justification for their findings.
- **Website Availability.** Beginning approximately four years ago, APCP began posting permitting actions on-line. In many ways, this has made EPA Region 7 and public review of air permitting much smoother and more transparent.
- **Electronic Permit Database.** We noted that a few of the pipeline files reviewed were missing previously issued permits. The APCP was able to reproduce the permits from their NSR and Title V permit database, which includes scanned copies of permits issued since 1977. The permit database was very useful for review.
- **Communication with R7.** The files show very good communication with EPA Region 7 in the last few years. EPA Region 7 staff can attest to the increased level of shared communication between the state and EPA. For example, EPA's 45 day review for operating permits is becoming more expedited

as APCP submits all applicable information needed for review. We continue to appreciate the APCP's willingness to discuss permitting matters in a frank and professional manner.

Recommendations

- *Like Kind Replacements.* Missouri's Code of State Regulations (CSR) 10 -6.061 (1)(E)3 allows minor sources to replace equipment without going through a permitting process, if the equipment is functionally equivalent. It is important to note that this kind of exemption from permitting is only allowed in minor source construction permitting. The review team found, and EPA has seen in the past, that Missouri permit decisions rely on this exemption without a full review or understanding of the replacement and its effect on emissions. "Functionally equivalent" is not defined in the CSR. EPA Region 7 recommends that these projects be evaluated for emission increases for two reasons: 1) CSR rule language does not allow significant increases to go unchecked nor was that the intent, and 2) the emission increases can be quickly evaluated to show the like-kind replacement exemption is not needed to relieve the source from permitting action. Basically, just because two pieces of equipment perform the same operation that does not mean they can be replaced without considering emissions.
- *NSR Permit Conditions Incorporated in Part 70 Permits.* EPA Region 7 found in this review, and has seen in the past, that some construction permit conditions are being excluded when it comes to incorporation into the Title V permitting process. When R7 followed up, some limits were: 1) left out in error, 2) thought to not be needed because of superseding limits in new permits or by the State Implementation Plan (SIP), or 3) thought to have been met through initial testing under a construction permit. To ensure that construction permit conditions and emission limits are being met, the APCP should ensure that they are included in the Title V permit with proper monitoring and recordkeeping.
- *Best Data Available.* Permit limits are only as good as the data that defines them. In many of the files and past permitting actions reviewed, EPA Air Pollution (AP)-42 emission factor data was utilized in lieu of source specific test data and manufacturer data. The AP-42 emission factor data is useful for inventory purposes, but manufacturer and source specific test data is generally more accurate than AP-42 and should be used when determining permit applicability and compliance with the permits.
- *Reasonable Possibility.* The 2002 NSR Reform rule at 40 C.F.R. § 52.21(r)(6) states in relevant part, "(6) The provisions of this paragraph (r)(6) apply to projects at an existing emissions unit at a major stationary source *in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase* and the owner or operator elects to use the method specified in paragraphs (b)(41)(ii)(a) through (c) of this section for calculating projected actual emissions" (emphasis added). NSR Reform, along with reasonable possibility, became effective in the state rules December 30, 2004 when promulgated in MO CSR. Later on June 27, 2006, the same provisions were adopted in the MO SIP. We did not identify any reasonable possibility letters as part of our pipeline review, but the department should continue to provide such information to EPA Region 7 when relied on by a company to avoid PSD review.

Summary

Based on our review of gas processing industry files, interactions with APCP, and regular real time review of Title V and PSD permitting, Missouri runs a sound permitting program. In general, EPA Region 7 found that the APCP completed proper level of permitting with no major systemic gaps. As described

in more detail above, however, EPA Region 7 has a number of recommendations which should help to improve the completeness and correctness of each permit and the robustness of the permitting record, with modest impact on permitting resources. More importantly, EPA Region 7 also has several commendations for the Missouri's permitting program.

Overall, EPA Region 7 found the department runs a comprehensive construction and operating permit program with respect to the natural gas pipeline interstate transmission industry. Nevertheless, ACP could benefit from the recommendations as explained during the exit interview.

Small business compliance assistance (Clean Air Act (CAA) Section 507)

Introduction/Background

The purpose of this review is to evaluate the current status of the Missouri small business stationary source technical and environmental compliance assistance program. Review of the state program is conducted every four years. The program review was conducted May 1, 2012, at the APCP office in Jefferson City, MO.

Scope of Review

The review was conducted as an interview with program staff to evaluate program funding, organization, activities and accomplishments.

On-site evaluation/discussions

Participants

Gary Bertram, Environmental Engineer U.S. EPA Region 7 Air Permitting and Compliance Branch	Lucy Thompson, Environmental Engineer II Missouri Department of Natural Resources Air Pollution Control Program
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Program Funding and Organization

The Missouri 507 program is staffed by four employees. Two full time employees are located in the Jefferson City office. Two additional employees, located in Kansas City and St. Louis, dedicate approximately one half of their time to small business compliance assistance activities. When needed, additional APCP staff provides assistance to the Missouri 507 staff.

The State small business ombudsman position is currently vacant. An effort is underway to fill the ombudsman position.

The Missouri 507 program is funded with CAA Part 70 permit fees and Emission Inventory Questionnaire (EIQ) fees.

Activities and Accomplishments

Missouri provides free compliance assistance to small businesses. Activities include “one-on-one” assistance (via phone and site visits), workshop presentations and the development of technical documents.

Missouri has established a business listserv through which it distributes a multimedia “Business Newsletter”. The newsletter is a collection of recent news articles addressing environmental topics of interest to businesses.

The Missouri 507 program has developed a spreadsheet to assist small business with recordkeeping requirements. The spreadsheet, which is modified to address specific recordkeeping and compliance requirements, allows a small business to easily input and track air pollutant information. The spreadsheet is not sector specific and may be tailored to the specific business or industry sector needs. Missouri recently developed a spreadsheet for the aerospace industry.

Compliance Advisory Panel

Section 507 of the Clean Air Act requires the state to establish a Compliance Advisory Panel (CAP) to oversee and report on the effectiveness of the state small business assistance program. Missouri fulfills the CAP requirement with the Small Business Compliance Advisory Committee (SBCAC). The SBCAC meets four times a year and consists of seven members: four small business representatives; two public representatives and one representative from the MDNR. Selection of the SBCAC members is made by the Governor (two selections), the Senate Majority Leader, the Senate Minority Leader, the House Majority Leader, the House Minority Leader and the MDNR. The SBCAC currently has three vacancies. The process to fill the vacant positions is moving slowly. One previous member has expressed interest in returning to the SBCAC to fill one of the vacant positions.

SBCAC responsibilities are as follows:

- Evaluate the impact of the Air Conservation Law and related rules on small business;
- Review and assess the impact of enforcement policies on small business operations;
- Recommend to the Department of Natural Resources, the Air Conservation Commission and the General Assembly changes in procedure, rule, or law which would help small business compliance with the Air Conservation Law;
- Recommend to the Air Conservation Commission rules for expedited review of modifications for small business; and,
- Conduct hearings, determine facts and make investigations consistent with the purposes of the small business technical assistance activity.

The SBCAC is currently experiencing a transition to become more active in assisting small businesses. The SBCAC is expressing interest in conducting outreach to small businesses. The SBCAC is reaching out to trade associations in an attempt to better understand the issues affecting small businesses. In addition, the SBCAC seeks to expand the focus of their efforts beyond the Clean Air Act to include other environmental regulations which also impact the small businesses.

Findings

Commendations

- Missouri has dedicated the equivalent of three staff members to the Section 507 activities.
- The SBCAC is active and seeking opportunities to improve the delivery of information to small businesses.

Recommendations

- The SBCAC is currently operating with only four of the seven positions filled. Efforts should be conducted to encourage selection of the members to fill the vacant positions.

Summary

Missouri appears to be implementing a successful small business assistance program. The program appears to have sufficient funding and resources to accomplish the necessary tasks.

The SBCAC meets quarterly and is transitioning to a more active role in providing information to small businesses. The transition also involves a multimedia approach to small business issues and concerns, instead of a single media (air) approach.

Compliance & Enforcement

This section of the program review has been postponed until FY2013. This decision was communicated to the APCP's Darcy Bybee on April 3, 2012. The decision to delay the State Review Framework (SRF) review was due to FY2012 being a transition year to complete all Round 2 reviews and implement Final Round 3 guidance. An SRF review and report will be issued to MDNR following the compliance and enforcement review in 2013 separate from this report.

Asbestos

The Asbestos program review was conducted May 1 -3, 2011. The report and commenting process was initiated separately from the Air Program Review. The Asbestos final report was sent to MDNR under separate cover on October 5, 2012 and is attached as appendix D in this document.

Air monitoring

This section of the program review is accomplished through a Technical Systems Audit (TSA) by EPA's air monitoring team. The TSA report will be issued separately from this document.

While outside the scope of the air monitoring TSA review, EPA Region 7 recommends that the ACP continue implementing appropriate internal communication procedures ensuring that when monitoring network changes are made, in particular the removal of monitors, that the impacts related to approved SIPs and monitoring network designs within those SIPs are considered. For example, a removal of a monitor could impact EPA's ability to redesignate areas to attainment. Following review of this draft report, MDNR indicated that they believe staffing changes in the SIP and monitoring group have led to improvements in this type of communication over the last couple of years. The enhanced coordination within MDNR ACP will further ensure that Missouri's air program does not remove or recommend removing a monitor which is required to be operated as a SIP requirement.

Summary

Overall, the MDNR Air Pollution Control Program operates a highly successful program. The APCP ensures that both state and federal requirements are met and does so in collaboration with EPA Region 7. Of the operations reviewed, the APCP showed improvement since the previous program reviews. The APCP should be commended for their thoroughness in the work products and actions submitted to EPA, their engagement with their stakeholders, and their collaborative approach to problem solving.

Appendix A: Kansas City Health Department Memorandum of Agreement

MEMORANDUM OF AGREEMENT

Between

The Missouri Department of Natural Resources

And

The Kansas City Health Department

October 1, 2011 through April 30, 2012

1.0 Purpose

The purpose of this agreement is to outline the responsibilities of the Kansas City Health Department for air quality activities in the Kansas City Health Department's jurisdiction, by means of the Certificate of Authority issued by the Missouri Air Conservation Commission.

The Health Department has proposed to continue the following activities: Asbestos permits and inspections, open burning permits, all current enforcement activities (with referrals to APCP on cases the Health Department does not settle), construction permitting of minor sources, Stage I at retail service stations, and source inspections as time allows during the period of **October 1, 2011 through April 30, 2012**.

No state or federal EPA funding is available to the Health Department for these activities. However, coordination with the Department of Natural Resources is required for certain air activities as the Department of Natural Resources remains the delegated authority in implementing the Clean Air Act in the state. Therefore, this document details the communication and coordination necessary, with the Missouri Department of Natural Resources' Air Pollution Control Program, for the Health Department to maintain its certificate of authority.

2.0 Definitions

- 2.1 The Kansas City Health Department: Referred to as "Health Department" herein.
- 2.2 The Missouri Department of Natural Resources' Air Pollution Control Program: Referred to as "Department's APCP" herein.
- 2.3 The Missouri Department of Natural Resources' Regional Office: Referred to as "Department's Regional Office" herein.
- 2.4 U.S. Environmental Protection Agency: Referred to as "EPA" herein.

3.0 Compliance Enforcement Activities

For each full compliance evaluation performed at an emission source in the Health Department's jurisdiction during this time period, October 1, 2011 – April 30, 2012:

- 3.1 The Health Department will notify the Department's APCP of anticipated inspections of basic sources in advance of the inspection, in order to avoid duplication of inspections.
 - 3.1.1 The Department's APCP or Regional Office staff may accompany the Health Department on emission source inspections for oversight purposes and will notify the Health Department of which they plan to attend.
 - 3.1.2 The Department's APCP or Regional Office staff will also conduct emission source inspections independent of the Health Department, to maintain the level of inspections required by EPA and to maintain consistency of inspections throughout the state.
- 3.2 The Health Department will notify the Department's APCP of the anticipated Stage I sources to be inspected in advance of the inspection, in order to avoid duplication of inspections.
 - 3.2.1 The Department's APCP or Regional Office staff will also conduct Stage I inspections independent of the Health Department, as necessary, to maintain the level of inspections required by EPA and to maintain consistency of inspections throughout the state.
- 3.3 The Health Department will investigate all complaints received or forward immediately to the Department's Regional Office for appropriate response.
- 3.4 The Health Department will provide the Department's APCP with a copy of all inspection and complaint reports with the following information in county/plant order for all sources which are inspected from October 1, 2011 through April 30, 2012. This information shall be provided by the 15th day of the following month: Federal facility, zip code, city code/city name, street address, operating permit classification, pollutant air quality status, point description, and date inspection scheduled/date inspected. For any sources indicate if it is a National Emission Standard for Hazardous Air Pollutants (NESHAP)/MACT source.
- 3.5 The Health Department will conduct enforcement activity on violations or infractions, found during inspections or complaint investigations, in accordance with the procedures specified in the Department's Compliance Manual for Letter of Warning (LOW) and Notices of Violation (NOV).

Links to referenced procedures can be found at:
<http://dnr.mo.gov/compliancemanual/chapters/4low> and
<http://dnr.mo.gov/compliancemanual/chapters/5nov>.

The Health Department will forward any cases that cannot be settled by the Health Department to the Department's APCP.

- 3.6 The Health Department will summarize in a monthly report all enforcement actions taken, including copies of abatement orders, Notices of Violation (NOVs), penalties, finalized settlement agreements, permit suspensions and revocations, and warning letters. This information shall be provided to the Department's APCP by the 15th day of the following month.
- 3.7 The Health Department will follow the EPA "Timely and Appropriate" (T&A) guidance when notices of violation to high priority violators are issued (as defined by the US EPA).
- 3.8 The Health Department will participate in meetings with the Department's APCP and EPA, as necessary, to discuss pending enforcement and compliance issues of mutual interest. If the Health Department is unable to travel due to funding, conference calls or other accommodations will be made to limit expenses.
- 3.9 The Health Department will transmit all annual compliance certifications, semi-annual monitoring reports, and exceedance reports submitted to the Health Department to the Department's APCP for appropriate follow-up enforcement action.
- 3.10 The Health Department will issue open burning permits, as appropriate, and report the number issued each month by the 15th day of the following month after issuance.

4.0 Permitting

Minor Construction Permits: The Health Department shall draft and issue minor permits in accordance with the Local code or ordinance equivalent to 10 CSR 10- 6.060, "Construction Permits Required", Sections (4), (5) and (6), 10 CSR 10- 6.061 "Construction Permit Exemptions", and 10 CSR 10-6.062 "Construction Permits By Rule.

Submit copy of draft permit to the Department's ACP for review at least 30 days prior to issuance. Revise permit as needed. Coordinate with the Department's ACP on all Section (6) permits to verify if increment air quality modeling is required. If air modeling is required, forward permit application to MDNR for review and completion. Submit issued permit to the Department's ACP, either electronically or by mail within 15 days of permit issuance.

5.0 Asbestos

For all asbestos regulatory activity, the Health Department shall implement the asbestos requirements of the National Emission Standard of Hazardous Air Pollutants (NESHAP) and all applicable State asbestos requirements.

- 5.1 The Health Department shall require notification for all asbestos abatement projects involving 160 square feet, 260 linear feet, 35 cubic feet, or more of regulated asbestos containing material; also, for all demolitions not involving residentially exempt structures, regardless of asbestos content, in accordance with the NESHAP. The Health Department may require notification for additional projects according to their Local ordinances.
- 5.2 The Health Department shall inspect notified asbestos abatement and demolition/renovation projects or asbestos abatement and demolition/renovation projects discovered through complaint or field surveillance for compliance with all applicable federal and State asbestos requirements.
 - 5.2.1 For the period of this agreement, the Health Department shall report to the Department's ACP the number of NESHAP level asbestos abatement notifications received and observed/inspected.
 - 5.2.2 Inspections shall be completed on the NESHAP inspection form, or another form approved by the Department's ACP. Violations noted during inspections or complaint investigations shall be documented by photographs and, if appropriate, sample collection and analysis. Upon completion of inspection form, copies should be submitted to the Department's ACP within 15 days after the end of the month.
 - 5.2.3 During NESHAP-level asbestos abatement project notification reviews and inspections, the Health Department shall check to verify that only State registered asbestos abatement contractors and State certified workers and supervisors are utilized.

- 5.3 The Health Department shall issue Notices of Violation to those found in violation of the asbestos NESHAP or of State asbestos requirements in their jurisdiction. At the discretion of the Health Department, Letters of Warning will be issued to entities with minor deviations from compliance. Letters of Warning will not be issued to repeat offenders or for significant non-compliance. The Health Department will conduct enforcement activity on violations or infractions, found during inspections or complaint investigations, in accordance with the procedures specified in the Department's Compliance Manual for Letter of Warning (LOW) and Notices of Violation (NOV). Links to referenced procedures can be found at: <http://dnr.mo.gov/compliancemanual/chapters/4low> and <http://dnr.mo.gov/compliancemanual/chapters/5nov>.
- 5.4 Any Health Department inspector involved with the inspection of regulated asbestos projects must be trained to the level of an Asbestos Supervisor. Any inspector involved with the taking of asbestos samples for analysis must be trained to the level of an Asbestos Inspector. Upon receipt of a training certificate in either of these disciplines, the inspector shall send an application for certification to the Department's APCP. The Department's APCP will waive fees for Health Department inspectors applying for certification. The inspector will be required to take the yearly refresher training in these disciplines and apply for renewal of their certificates.
- 5.5 The Health Department shall require post-notification to be submitted for all asbestos abatement projects of 160 square feet, 260 linear feet, 35 cubic feet, or more of regulated asbestos containing material. Post-notification shall be required to be received within 60 days of completion of the asbestos abatement project.
- 5.6 The Health Department shall report to the Department's APCP monthly (in a format provided by the APCP) information about NESHAP notifications and inspections, non-NESHAP notifications and inspections, and all enforcement actions taken. Notification information shall include the date received, name of abatement contractor, name of owner, name and address of project site, type of project (renovation or demolition), the project start date and the amount of ACM to be removed. Inspection information submitted shall include the inspection date, type of inspection performed, and the facilities compliance status. Copies of inspection reports will be provided to the Department's APCP, with the monthly report, within 15 days after the end of the month

- 5.7 Nothing in this MOA shall be construed as restricting the authority of the Health Department to enforce its local asbestos regulation. Both parties to this agreement stipulate that any enforcement actions based in total on the local Health Department's asbestos regulation may only be enforced by the City Health Department.

6.0 Other Activities

The Health Department shall forward all of the following items to the Department's APCP: Emissions Inventory, Operating Permit Applications, Stack Testing requests/reports, Annual and Semi-annual Monitoring reports, exceedence reports, MACT/NSPS reports, and all other reports required under State and Federal regulations. This information shall be provided by the 15th day of the following month.

The Department's APCP agrees that nothing in this section 6.0 "Other Activities" restricts the Health Department from exercising its discretion under Section 8-3 of the KCMO AQ Code to request emission rate data from sources within its jurisdiction or from the Department's APCP. This data shall be used by the Health Department to collect the appropriate emission fees from sources. The Health Department shall notify APCP of all fees collected if requested by APCP.

The Department's APCP will be the lead Agency with respect to air pollution control policy issues and interpretations of State and Federal rules/guidance, and for issuing enforcement applicability determinations. The Health Department is the lead Agency with respect to policy issues and interpretation of Local ordinances, rules, and guidance.

7.0 Health Department Local Air Fees

The Health Department will notify the Department's APCP of any proposed increase in air fees at least 30 days prior to these fee increases appearing on the city's ballot.

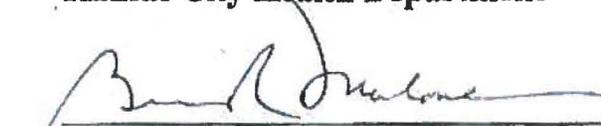
8.0 Termination

This agreement shall become effective upon the signature of all parties and shall remain in effect until otherwise agreed upon by the parties or the MOA ends. All parties may modify the terms of this agreement upon the consent and signature of all. The APCP is the lead Agency with respect to air pollution control policy issues and interpretation of State and Federal rules/guidance, and for issuing enforcement applicability determinations. **Failure to comply could result in the Department's APCP assuming the responsibility for all emission source facility inspections within the jurisdiction of the Kansas City Health Department.**

9.0 Capacity to Enter Into Agreement

The persons executing this Memorandum of Agreement on behalf of the Missouri Department of Natural Resources and the Kansas City Health Department hereby represent and warrant that they have the right, power, legal capacity, and appropriate authority to enter into this agreement on behalf of the entity for which they sign.

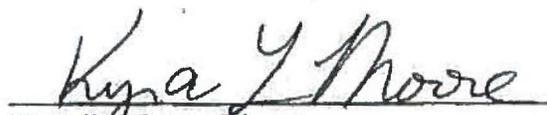
Kansas City Health Department



Bert Malone, M.P.A, Manager of Environmental Services
Kansas City Health Department

Date: 18 November 2011

Missouri Department of Natural Resources



Kyra L. Moore, Director
Air Pollution Control Program

Date: 11/16/11

**Appendix B: Springfield Department of Environmental Services
Memorandum of Agreement**

MEMORANDUM OF AGREEMENT

Between
The Missouri Department of Natural Resources
 And
The Springfield Department of Environmental Services

October 1, 2011 through September 30, 2012

1.0 Purpose

The purpose of this agreement is to outline the responsibilities of the Springfield Department of Environmental Services for air quality activities within the city limits of Springfield, Missouri by means of the Certificate of Authority issued, to the City of Springfield, Missouri, by the Missouri Air Conservation Commission.

The Springfield Department of Environmental Services has proposed continuing compliance inspections of all emission sources during the period of October 1, 2011 to September 30, 2012, pending available funding. No state or federal EPA funding is available to the Springfield Department of Environmental Services for these activities. However, coordination with the Department of Natural Resources is required for certain air activities, including inspections, as the Department of Natural Resources remains the delegated authority in implementing the Clean Air Act in the state. Therefore, this document details the communication and coordination necessary with the Missouri Department of Natural Resources' Air Pollution Control Program for the Springfield Department of Environmental Services to maintain its certificate of authority.

2.0 Definitions

- 2.1 The Springfield Department of Environmental Services: Referred to as "Department of Environmental Services" herein.
- 2.2 The Missouri Department of Natural Resources' Air Pollution Control Program: Referred to as "Department's APCP" herein.
- 2.3 The Missouri Department of Natural Resources' Regional Office: Referred to as "Department's Regional Office" herein.
- 2.4 U.S. Environmental Protection Agency: Referred to as "EPA" herein.

3.0 Compliance and Enforcement Activities

For each full compliance evaluation performed at an emission source in the Department of Environmental Services' jurisdiction during Federal Fiscal Year 2012 (FFY12-October 1, 2011 to September 30, 2012):

- 3.1 The Department of Environmental Services will provide the Department's APCP a list each quarter (by October 15th, January 15th, April 15th and July 15th) of the anticipated sources to be inspected during the upcoming quarter. The list will include: Type of facility (Part 70, Intermediate, Basic, No Operating Permit, Dry Cleaner, MACT etc.), scheduled inspection date, and source number identified as NESHAP/MACT, if applicable. This information shall be in county/plant order or in electronic (database)

form. If the list should change for any reason, the Department of Environmental Services shall notify the APCP within 30 days.

- 3.1.1 The Department's APCP or Regional Office staff may accompany the Department of Environmental Services on emission source inspections for oversight purposes and will notify the Department of Environmental Services of which they plan to attend.
 - 3.1.2 The Department's APCP or Regional Office staff will also conduct emission source inspections independent of the Department of Environmental Services, to maintain the level of inspections required by EPA and to maintain consistency of inspections throughout the state. The Department's APCP or the Regional Office Staff will notify the Department of Environmental Services of when the Department's APCP or Regional Office Staff will perform inspections so the Department of Environmental Services can accompany in the inspection.
- 3.2 The Department of Environmental Services will provide the Department's APCP with a copy of the inspection report with the following information in county/plant order for all Part 70, Intermediate, Basic, and no operating permit required sources, which are inspected in FFY12. This information shall be provided by the 15th day of the following month: Federal facility, zip code, city code/city name, street address, operating permit classification, pollutant air quality status, point description, and date inspection scheduled/date inspected. For any sources indicate if it is a National Emission Standard for Hazardous Air Pollutants (NESHAP)/MACT source.
- 3.3 The Department of Environmental Services will forward all violations and/or infractions found during inspections to the Department's APCP by the 15th day of the following month. The Department's APCP will pursue necessary enforcement activities, related to violations or infractions found, in accordance with the procedures specified in the Department's Compliance Manual for Letter of Warning (LOW) and Notices of Violation (NOV). Links to referenced procedures can be found at:
<http://dnr.mo.gov/compliancemanual/chapters/4low> and
<http://dnr.mo.gov/compliancemanual/chapters/5nov>.

4.0 Other Air Activities

The Department of Environmental Services shall refer all of the following items to the Department's APCP: Emissions Inventory, Air Quality Monitoring and Permitting questions/needs, Asbestos Notifications, Stack Testing requests/reports, Annual and Semi-annual Monitoring reports, exceedence reports, MACT/NSPS reports, and all other reports required under State and Federal regulations.

The Department of Environmental Services will continue to conduct investigations of all air quality Complaints, perform daily Air Quality Index forecast on AirNow.gov and the issuance of Open Burning Permits. The Department of Environmental Services will provide number of compliant investigations and open burning permits issued to the Department's APCP by the 15th of the following month, along with the inspection report.

The Department's APCP will be the lead Agency with respect to air pollution control policy issues and interpretations of State and Federal rules/guidance, and for issuing enforcement applicability determinations. The Department of Environmental Services is the lead Agency with respect to policy issues and interpretation of local ordinances, rules, and guidance.

5.0 Department of Environmental Services Local Air Fees

The Department of Environmental Services will notify the Department's APCP of any proposed increase in air fees at least 30 days prior to these fee increases appearing on the city's ballot.

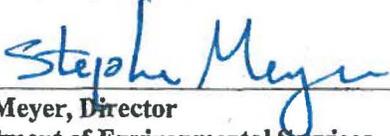
6.0 Termination

This agreement shall become effective upon the signature of all parties and shall remain in effect until otherwise agreed upon by the parties, until appropriated funding expires, or until the MOA ends. All parties may modify the terms of this agreement upon the consent and signature of all. The APCP is the lead Agency with respect to air pollution control policy issues and interpretation of State and Federal rules/guidance, and for issuing enforcement applicability determinations. Failure to comply could result in the Department's APCP assuming the responsibility for all emission source facility inspections within the jurisdiction of the Springfield Department of Environmental Services.

7.0 Capacity to Enter Into Agreement

The persons executing this Memorandum of Agreement on behalf of the Missouri Department of Natural Resources and the Springfield Department of Environmental Services hereby represent and warrant that they have the right, power, legal capacity, and appropriate authority to enter into this agreement on behalf of the entity for which they sign.

City of Springfield
Springfield Department of Environmental Services



Steve Meyer, Director
Department of Environmental Services

Approved as to Form:

Date: _____

Assist. City Attorney

Missouri Department of Natural Resources



Kyra L. Moore, Director
Air Pollution Control Program

Date: 11/4/11

Appendix C: MDNR Financial Update to the MACC (August 2010)



Missouri
Department of
Natural Resources

Air Media Financial Update

**Carolyn Kliethermes
Fiscal & Budget Section Chief**

**Department of Natural Resources
Air Pollution Control Program
August 26, 2010**

Missouri Air Conservation Law

RSMo 643.079:

**Requires The Emission Fee To Be Set To Fund
The Cost Of Administering Sections 10 to 190.**

Subsection 1, Amendment:

**Authorizes The Fee Shall Be Set Every Three
Years, By The Commission, By Rule And If
Necessary, The Commission May Make Annual
Adjustments To The Fee Rule.**

Air Media

◆ Air Pollution Control Program

- ◆ Permits, Air Quality Analysis**
- ◆ Inspections & Enforcement**
- ◆ Air Quality Planning & Fiscal and Budget**
- ◆ Small Business Assistance**
- ◆ Gateway Vehicle Inspection Program (GVIP)**

◆ Department & Division Operations

- ◆ Legal & Investigation**
- ◆ Administration**
- ◆ OA ITSD Support**

Air Media

◆ Environmental Services Program

- ◆ Air Quality Monitoring Analysis And Audits**

◆ Regional Offices

- ◆ Technical Assistance,**
- ◆ Complaint Investigations and**
- ◆ Inspections**

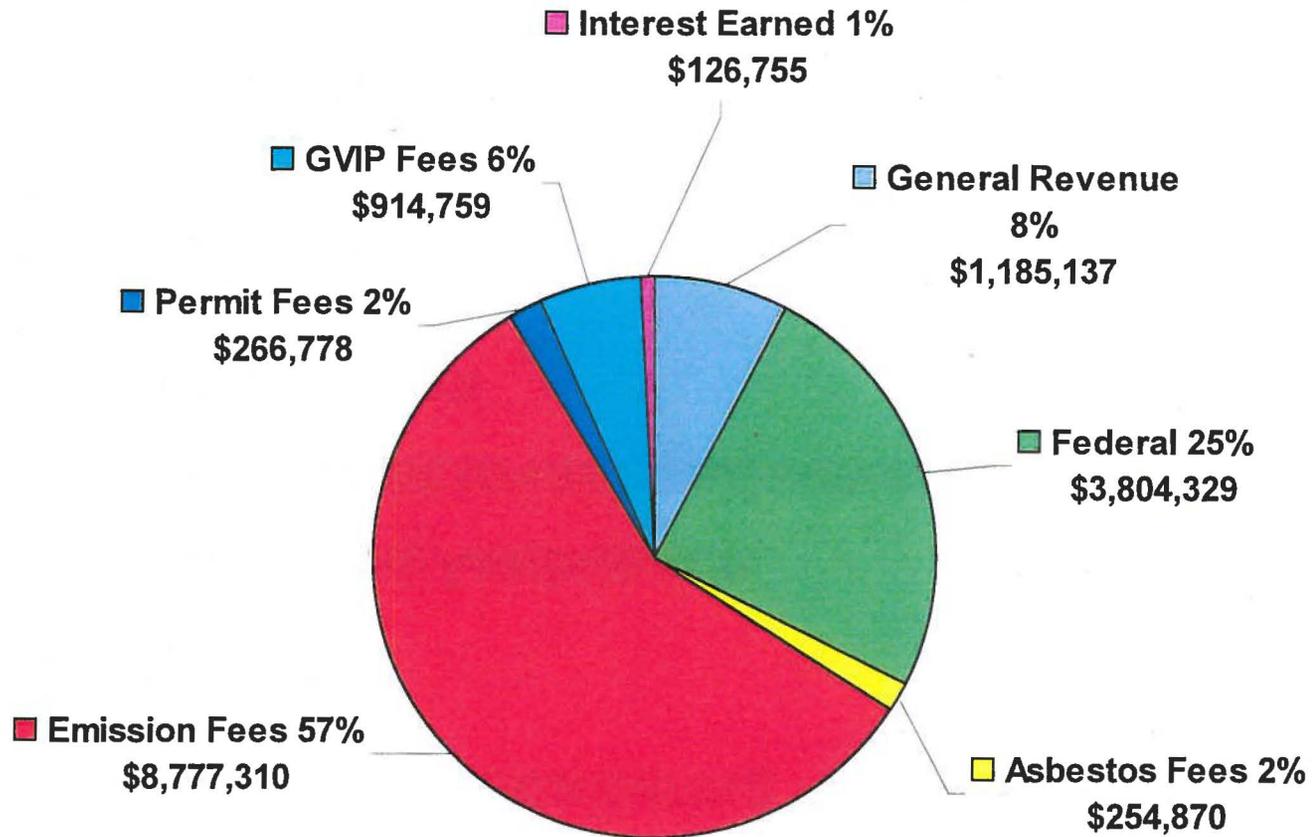
◆ Local Air Agencies

- ◆ Springfield, Kansas City,**
- ◆ St. Louis City & St. Louis County**

◆ Non-Profit & Metropolitan Planning Organizations

- ◆ OCSS, SLRCC, MARC,**
- ◆ EWGCG, & SEMRPC**

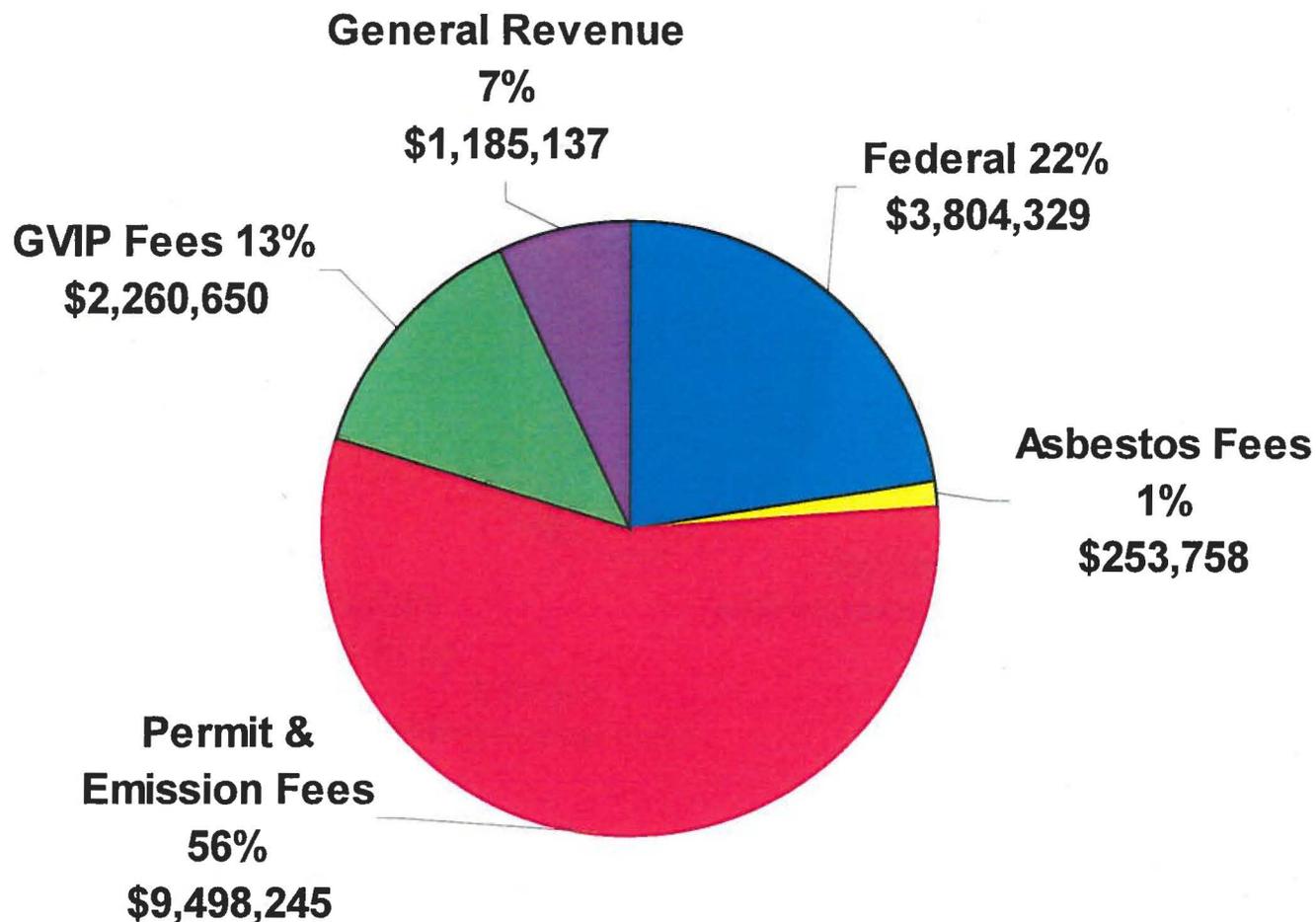
FY 2010 "Air Media" Seven Sources Of Revenue



Note: American Recovery and Reinvestment Act of 2009, Homeland Security and DERA Funding is not included.

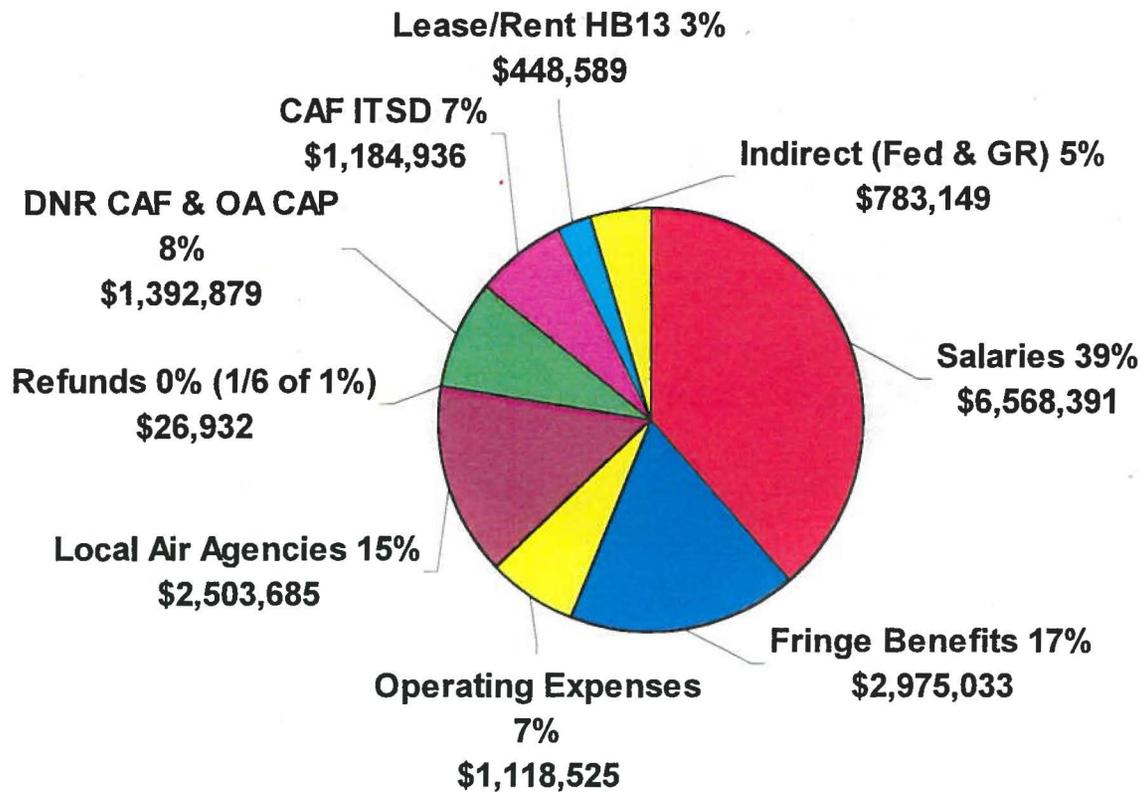
\$15,329,938 Total Revenue

FY 2010 "Air Media" Expenditures By Revenue Source



\$17,002,119 Total Expenditures

FY 2010 "Air Media" Expenditures By Budget Categories



Note: American Recovery and Reinvestment Act of 2009, Homeland Security and DERA Funding is not included.

\$17,002,119 Total Expenditures

EPA Federal Grants

Missouri Federal Funding Allocations

Core Funding Allocations Remained Flat Since 1998

New-Revised-Proposed Regulations

- **Proposed Lower Ozone Standard of 60-70 ppb**
- **Lead Standard Lowered to 0.15 ug/m³**
- **New Area Source MACT Standards**
- **New SO₂ Standard of 75 ppb**
- **New NO₂ Standard of 100 ppb**
- **GHG Permitting – Tailoring Rule**
- **Proposed Transport Rule**

General Revenue

- **Missouri State Revenue Comparison**
 - **\$8.00 Billion In FY 2008**
 - **\$7.45 Billion In FY 2009**
 - **\$6.77 Billion In FY 2010**
- **Missouri's GR Receipts**
 - **Declined 15.375% 2008 - 2010**
- **Allocated For Air Activities (one-time)**
 - **\$1.1 Million In FY 2010**

Asbestos Fees

- **EPA No Longer Provides Federal Funding**
- **Program Does Not Generate Sufficient Revenue To Support All Of The Asbestos Activities**
 - **Low Fee Amounts**
 - **High Volume**
 - **Labor Intensive**

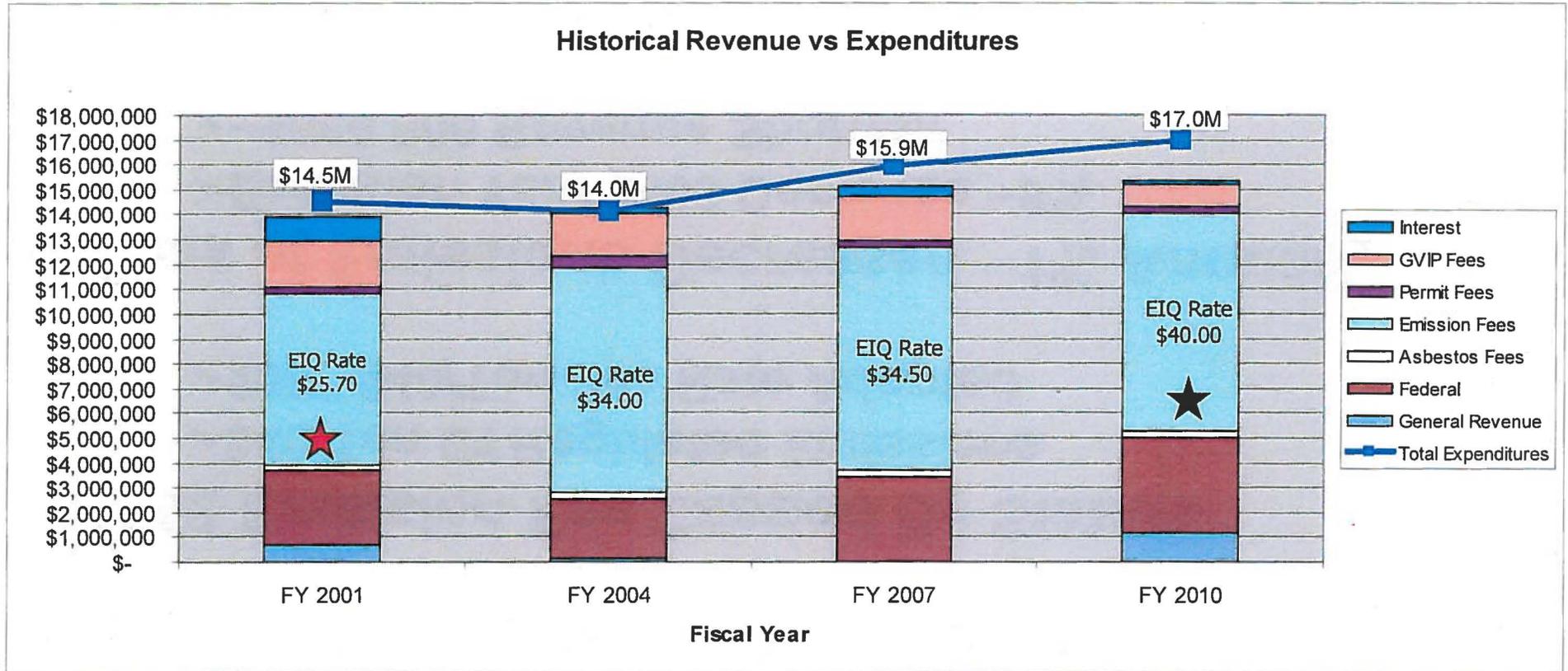
Gateway Vehicle Inspection Fees

- **RSMo 643.300 – 643.355 - Non-Attainment Area Required To Have A Vehicle Emissions Inspection/Maintenance Program - April 2000**
- **SB 583 (2006) Established the GVIP - October 2007**
- **Fees Generate Sufficient Revenue**
- **Due To Less Than 2% GR Growth**
 - **January 2010 – June 2010 \$886,409 GR Transfer**

Permit And Emission Fees

- **Statute Requires Emission Fee Set to Fund The Cost Of Administering The Program**
- **1992 Emission Fee Capped By Statute**
 - **\$40/Ton Of Regulated Emissions**
 - **2007 \$40/Ton Fee Rate Adopted**
- **Tons of Emissions Decreased ~1% Annually**
 - **Emission Year 2009 Decrease ~9%**
 - **~\$860,000 Revenue Shortfall**
- **Total Air Funding Contribution**
 - **1% Interest, 2% Permit, 57% Emission Fees**

Historical “Air Media” Revenue versus Expenditures



★ Fund Balance July 1, 2000 = \$13.6M

★ Fund Balance July 1, 2010 = \$6.9M

State To Federal Fee Rate Comparison Emission Year 2009

**Missouri's Air Media Fee Rate Capped
\$40.00/Ton**

**EPA's State Fee Rate Calculation
\$43.83/Ton**

(Original 1992 \$25 Fee Rate + Annual CPI)

**EPA's Federal Fee Rate
\$45.33/Ton**

EPA Region VII State Emission Fee Rates

- **KANSAS \$37/Ton**
- **IOWA \$56/Ton – Proposed \$62/Ton**
- **NEBRASKA \$70/Ton**
- **MISSOURI \$40/Ton Cap**

**Missouri's \$40/Ton Cap Calculated with CPI =
\$59.62/Ton**

(Original 1992 \$40 Ton Cap + Annual CPI)

SFY 2010 Summary

SFY 2010	Total Revenue	\$15,329,938
SFY 2010	Total Expenditures	<u>(\$17,002,119)</u>
	Difference	(\$ 1,672,181)

Factors:

- **Emission Fees Declined ~9% for EY 2009 – SFY 2010** ~(\$ 860,000)
- **GVIP Revenue Transfer to GR Fund**
(Less Than 2% GR Growth In 2009) (\$ 886,409)
- **SFY 2010 \$1.1 Million GR Allocation** \$1,112,423
- **FFY 2010 Grant Allocation Increase** \$ 155,880

Note: American Recovery and Reinvestment Act of 2009, Homeland Security and DERA Funding is not included.

Budget Actions And Efficiency Efforts

- **Staff Reductions**
- **Vacancy Fill On Hold**
- **Travel & Training Restriction**
- **Delayed Equipment Replacement**
- **Supply Orders On Hold**
- **Efficiencies i.e.**
 - **Monitoring Network Analysis**
 - **EIQ On Line Reporting & Reduced Frequency**
 - **Electronic Public Notices**
- **Local Air Agency Funding/Service Reductions**

EPA Federal Grants

PRESIDENT OBAMA'S PROPOSED EPA BUDGET 2011 EPA Budget Increase ~ \$45M

- Region VII Proposed CAA S105 Allocation
 - MO 2011 Core Funding ~\$1.1M Increase

Includes: PM 2.5 Funding and NATTS Section 103 Funding
Does Not Include: Department of Homeland Security or
American Recovery and Reinvestment Act of 2009 Funding

If Approved ~\$1.1 Million Increase In Core Funding

- **Would Provide Federal Resources For:**
 - **State Revenue Aid**
 - **Fill Vacancies & Recruit Experienced Staff**
 - **Travel & Training To Retain Skilled Staff**
 - **New & Revised Federal Mandates**

**Includes: PM 2.5 Funding and NATTS Section 103 Funding
Does Not Include: Department of Homeland Security or
American Recovery and Reinvestment Act of 2009 Funding**

• Questions?



• The End

Appendix D: Final Asbestos Report

**MISSOURI DEPARTMENT OF NATURAL RESOURCES
ASBESTOS NESHAP PROGRAM REVIEW
MAY 2012**

FINAL Report

**U.S. Environmental Protection Agency Region 7
Water, Wetlands, and Pesticides Division**

I. Introduction

The U.S. Environmental Protection Agency periodically evaluates the state's implementation of programs delegated under the federal Clean Air Act. The Missouri Department of Natural Resources Division of Environmental Quality has fully-delegated authority to administer the National Emission Standards for Hazardous Air Pollutants – National Emission Standard for Asbestos, pursuant to Title 40 of the Code of Federal Regulations, Part 61, Subpart M. The asbestos delegated program is implemented by the MDNR's Air Pollution Control Program. The program is responsible for notifications, inspections, enforcement case development, outreach, and data management.

On May 1 and May 2, 2012, Mr. Randall Whipple, EPA Region 7 Inspector, conducted an on-site visit, and met with the following MDNR/APCP representatives: Ms. Darcy Bybee, Compliance and Enforcement Section Chief; and Mr. Richard Hall, Asbestos Unit Chief. The visit included management and staff interviews, a review of program operations, policy determinations, file review, data management review, case tracking, and inspection oversight. A closeout session of the on-site visit was conducted by Mr. Whipple presenting an initial review of the program's performance toward implementing and enforcing the federal asbestos NESHAP control regulations.

On May 3, 2012, Mr. Whipple met with Mr. Michael Cunningham, Inspector MDNR/APCP Kansas City, MO, Regional Office, and accompanied him to two targeted asbestos abatement inspection sites. The EPA's oversight inspections were conducted through coordination with the KC-RO prior to the on-site visit with MDNR/APCP's central office and pursuant to this program review.

II. Executive Summary

The APCP staff demonstrates a proficient and thorough knowledge of the federal NESHAP asbestos regulation, exercised good judgment in prioritizing essential inspections and addressing asbestos related issues through appropriate enforcement actions. The program's enforcement files were generally well organized, but were, in a few instances, missing some elements of important supporting documentation. The APCP's inspectors exhibit professionalism during asbestos compliance inspections and adhere to appropriate safety practices.

The state's financial constraints and a reduction in available funding beginning in FY-10 have presented a number of challenges. The APCP has attempted to mitigate these challenges by leveraging resources with other APCP programs and partnering with local agencies, as appropriate. The APCP enforcement of the asbestos NESHAP regulations is accomplished through the APCP's five regional offices and the sub-delegated local city and county agencies. The Kansas City Health Department continues to administer and enforce the Asbestos NESHAP under a formal FY-11 and FY-12 Memorandum of Agreement. The St. Louis County Health Department continues to administer the asbestos NESHAP; however, the APCP does not yet have a formal MOA with the agency. The City of St. Louis Department of Health currently implements a local ordinance for non-NESHAP asbestos activities. The agency retains their Certificate of Authority; however, all NESHAP regulated activities are administered and enforced by the APCP and the St. Louis Regional Office. The Springfield-Greene County Health Department does not currently administer the asbestos NESHAP. Though MDNR does have a current MOA with the Springfield Department of Environmental Services, all asbestos NESHAP regulated activities for this agency are administered and enforced by the department's APCP and Southwest

Regional Office. The APCP does intend to continue the activities regarding notification processing, compliance inspections, investigations, and enforcement activities and a responsive implementation of the asbestos program pursuant to the CAA.

III. Program Level Activity

1. Non-notifiers and Tips/Complaints:

The MDNR identifies non-notifiers in several ways. The most frequent method occurs when someone lodges a complaint with the APCP. Field investigators from the appropriate MDNR Regional Office or local program are dispatched to the site and conduct a field interview and investigation. The APCP receives about twenty complaints per month, and endeavors to ensure that all complaints are investigated. Non-notifiers are also identified through field observations conducted during other inspection activity, and from the review of newspaper articles, bid announcements, and newscasts related to demolition and renovation projects.

The APCP encourages "courtesy" notifications for projects below the asbestos NESHAP thresholds. The APCP staff believes that "courtesy" notices do serve a useful purpose by allowing APCP staff the opportunity to review the activity in order to confirm its non-regulated status, while enabling the staff to respond quickly to citizen concerns regarding non-regulated projects. Through this process, the APCP further ensures that facility owners and contractors are acutely aware of, and consider, state and federal asbestos requirements when planning and implementing their projects. The APCP requires these notices as part of their NESHAP O&M notification process and currently files them in the O&M project file.

2. Enforcement Response Policy:

The APCP's enforcement penalty assessment process is not formally documented in a written policy. However, the APCP does have an extensive database of enforcement actions (dating back to 1998) to assist with determining a consistency in enforcement responses. In general, the APCP's penalty assessment process begins with a penalty of \$2000 for each citation documented in the NOV, and then adjusts that amount based on additional information obtained such as history, cooperation, and extent of deviation from the requirements of NESHAP, etc. Further adjustments may also be accomplished as a result of negotiations. The APCP does have a written policy governing the issuance of timely and appropriate enforcement actions contained in Chapter 2 of the Department's Compliance Manual. The APCP management, as well as the Missouri Air Conservation Commission, does track staff progress in case review and enforcement.

3. Civil Penalty Authority:

The authority to assess civil penalties is contained in the Revised Statutes of Missouri, Section 643.151, for "Violations, Penalties, Notice-Civil Action-Offer of Settlement, Method- Disclosure of Confidential Information, and Penalty." The maximum penalty assessment "... cannot exceed \$10,000 for each violation per day for each day, or part thereof, the violation continues to occur."

4. Additional Enforcement Remedies:

In accordance with 10 CSR 10-6.230, the APCP's staff utilizes conferences, conciliation and persuasion as a process (either written, verbal, or a combination of both) toward alleged violators to resolve the alleged violation and develop a compliance plan. Other enforcement remedies utilized during this process include (1) suspension of all (or part of) a proposed penalty amount, (2) site remediation by the

alleged violator, (3) requiring the alleged violator to attend specific training in order to obtain state asbestos certification and, (4) in the case of improper burial of ACWM, obtaining a deed restriction that becomes an attachment to the property deed. The APCP does register asbestos abatement contractors and certify individuals who participate in asbestos projects. The APCP has the authority to revoke, suspend, or deny these licenses to individuals or companies that violate the department's asbestos requirements.

IV. Data Base Management

1. Case report and file tracking:

NESHAP inspection reports are sent to the APCP central office from the regional office that performed the inspection. Once an inspection report arrives at the central office, the information from the report is entered into the appropriate databases. The inspection report is then filed in the project notification file. In the event there were violations noted during the inspection, an NOV would have also been issued by the inspector. When an NOV is issued, a separate enforcement file is created. Copies of any inspection reports for the site relevant to the violations are placed in the enforcement file as documentation to support the enforcement action.

2. Data system:

Currently, the APCP utilizes several database systems for tracking various aspects of the program, and include: the Assistance Compliance Enforcement database, a division-wide database system used by the Central Office and Regional Office personnel to track citizen concern investigations, and Division of Environmental Quality regulatory inspections, and enforcement for all media regulated by DEQ. The Asbestos Assign Database is an in-house APCP database system used to track enforcement assignments and some information not included in the ACE system. The Asbestos Project Database is an in-house APCP database system used to track asbestos NESHAP project notifications and is available to regional office personnel on a read only basis. The Demolition Notification Database is an in-house APCP database system used to track asbestos NESHAP demolition notifications and is available to regional office personnel on a read only basis. The Courtesy Notification Database is an in-house APCP database system used to track courtesy notifications and is available to regional office personnel on a read only basis.

In addition, the Asbestos Certification Database is an in-house APCP database system used to track asbestos professional certification (worker, supervisor, inspector, air sampling professional, management planner, project designer). It also tracks asbestos training providers, and registered asbestos abatement contractors. The database is available to regional office personnel on a read only basis.

The State of Missouri's records retention schedule for the aforementioned data files are kept in archives in paper format almost indefinitely, i.e. 100 years. Currently, the APCP retains NESHAP notifications and inspections for three years prior to archiving. Enforcement cases are archived five years after the case is closed. Inactive certifications are archived five year after they become inactive.

V. Case File Review

The APCP's asbestos NESHAP information is arranged in several type of files: e.g., asbestos project notifications, demolition notifications, courtesy notifications, and enforcement files. Additional file categories may include certifications, training providers, and asbestos abatement contractors. Also, the asbestos enforcement files contain cross-references to other related enforcement cases. Mr. Whipple reviewed twelve APCP case files comprising six enforcement, three demolitions, and three abatement files. Generally, the files were well maintained and conveniently organized.

Although not an asbestos NESHAP provision, the APCP requires an asbestos project owner/operator to submit a post-notification form at the conclusion of an abatement project. This post-notification process helps to ensure that the project is properly completed before the APCP closes the project file. The post-notification files also contain air monitoring results (if performed at the project), and asbestos-containing waste shipment records. Data provided to the EPA on April 14, 2012, from MDNR/APCP reported the state had received and processed approximately 984 notifications, 167 inspections, and 109 enforcement actions for FY-10, and 964 notifications, 121 inspections, and 74 enforcement actions for FY-11. The APCP referred approximately 14 cases for civil complaint enforcement to Missouri's State Attorney General's Office from FY-10 to FY-11.

Generally, the asbestos enforcement files contained sufficient documentation to support the enforcement action taken, e.g., inspection reports, telephone conversation records, sample analysis results, chain of custody forms, event chronologies, notices of violation, newspaper articles, and administrative penalty actions. However, in a few of the case files reviewed, some documentation was missing which could have strengthened the case. For example, some files lacked the inspector's dated signatures, provided undocumented asbestos NESHAP thresholds, did not identify the method used for testing for friability (hand pressure method), etc. A few were missing analysis reports or chain of custody forms from sampling, and some files could have been strengthened by additional photographs to demonstrate a failure to adequately wet. While generally sufficient to support any resulting enforcement action, some additional training of staff to assure consistency and completeness in the inspection and documentation process would be beneficial.

The reviewer noticed that considerable staff effort is expended in enforcing the APCP's asbestos certification program, which pertains to workers, inspectors, supervisors, air sampling professionals, management planners, and project designers. While this activity is beyond the scope of our asbestos NESHAP review, the EPA nonetheless commends the MDNR for its effort. The state's certification program helps to ensure a properly trained and qualified work force and goes a long way toward minimizing the potential for asbestos exposure.

The EPA would like to recognize the efforts of Mr. Richard Hall, the APCP's Asbestos Compliance Unit Chief at the MDNR Jefferson City Central Office. In conducting the file review, Mr. Hall's efforts to document violations, recommend appropriate enforcement actions, and provide essential oversight in records maintenance were apparent in numerous instances and examples and found by this reviewer to be an invaluable resource for the APCP.

VI. Inspection Procedures Oversight Review

In conjunction with this program review, the EPA conducted an asbestos NESHAP inspection oversight review at two separate abatement address sites: B2 maintenance area at Lake City Army Ammunition

Plant at Independence, Missouri, and the Ford Motor Plant in Claycomo, Missouri. The MDNR/APCP's Kansas City Regional Office Inspector, Michael Cunningham, was the lead inspector and conducted the inspections both thoroughly and with confidence. He exercised a notable degree of professionalism while communicating with contractors and obtaining essential information. The inspector demonstrated expertise in asbestos regulatory knowledge, donned the appropriate personal protective equipment, and adhered to safe work practices.

The Missouri Air Conservation Law, Chapter 643 RSMO, provides the state its statutory authority for inspecting asbestos activities. In accordance with DEQ's Environmental Quality Operations Manual, Section 3.6.2, a written asbestos inspection guideline and SOP for Training and equipment, inspection and observation procedures, documentation, and report writing is available to APCP's inspectors. Therefore, the MDNR inspects abatement activities pursuant to the asbestos NESHAP regulations under the federal authority of 40 CFR §61.145(a)(b) and (c), which requires a thorough inspection for the presence of asbestos prior to the commencement of demolition or renovation operations, a timely notification and the implementation of required procedures for asbestos emission control.

VII. Commendations

Although the state has faced funding challenges, the APCP has continued to work to address these resource challenges through continued partnerships with other MDNR programs, such as the solid waste management program and the Regional Office Program. Through these working relationships the MDNR can, and does, receive critical information as it relates to unreported asbestos activities or potential asbestos fiber releases. The MDNR/APCP should be commended for their initiative in utilizing this critical information for targeting data or immediate responses or investigations conducted by asbestos inspectors within the Regional Office or APCP program

The MDNR/APCP continues to demonstrate a responsive support and coordination with the EPA, assuring a consistent and appropriate implementation of the asbestos NESHAP during major catastrophic events, e.g., flooding and tornadoes.

The Missouri Air Conservation Law, Chapter 643 RSMO, provides the statutory authority for the state to inspect asbestos activities. The state was effectively utilizing the DEQ Operations Manual prescribed inspection protocols at the time of this program review. As to common asbestos issues, the removal of Category 1 non-friable floor covering, if the material is in good condition and proper care is taken during the removal process, the removal is not considered a regulated project. However, the APCP encourages the removal of asbestos-containing flooring materials prior to demolition as an informal means of further mitigating the risk of asbestos being rendered friable.

The APCP has demonstrated a considerable effort in addressing the asbestos issues within the state and the implementation of the asbestos program pursuant to the asbestos NESHAP under the Clean Air Act. The APCP is commended for its efforts of improving communication and consistency with the division's management, regional offices, and field staff, through monthly conference calls and additional classroom training. The APCP is adequately implementing the asbestos NESHAP program in those areas evaluated.

VIII. Recommendations

The EPA encourages the APCP to continue its communication and coordination with its sub-delegated agencies through continued implementation of the MDNR's Memorandums of Agreements or Certificates of Authority with these entities. As previously stated, the APCP utilizes past precedence to determine consistent enforcement actions for like violations. The APCP Compliance and Enforcement Section is beginning a process to document the ratio for the assessment of penalties. The EPA encourages The APCP to continue this effort and to develop a written asbestos demolition/renovation penalty process.

The APCP is working on various measures with Divisional management and field staff to foster communication and consistency. As a component of this effort, the EPA would suggest development of written inspector's guidance and training to help assure consistency in documentation procedures for critical information in case files e.g., regulated asbestos-containing material RACM, friability test by the hand pressure method, and inspectors signed and dated inspection reports.

IX. MDNR's Comments on Draft Report

The EPA Region 7 was provided various comments by MDNR/APCP on an initial draft of this document. These comments were helpful in providing additional clarity and accuracy to the report and have been adopted, as appropriate. A copy of the original MDNR/APCP comments is attached.

