



Rules of
Department of Natural Resources
Division 10—Air Conservation Commission
Chapter 1—Organization

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**Title 10—DEPARTMENT OF
NATURAL RESOURCES
Division 10—Air Conservation
Commission
Chapter 1—Organization**

10 CSR 10-1.010 General Organization

PURPOSE: This rule provides a description of the organization and general methods and scope of operation of the Missouri Air Conservation Commission and the Air Pollution Control Program of the Missouri Department of Natural Resources and provides for public information and participation.

(1) Applicability. (Not Applicable)

(2) Definitions. (Not Applicable)

(3) General Provisions.

(A) Authorization. Chapter 643, RSMo.

(B) Organization and Operation.

1. Air Conservation Commission. The seven (7) member commission is the state's governing body for the control, abatement, and prevention of air pollution (643.030 and 643.040, RSMo) having authority (643.050, 643.055, 643.225, and 643.305, RSMo) to—

A. Adopt, promulgate, amend, and rescind rules;

B. Establish air quality control regions;

C. Require submission of relevant information;

D. Conduct and hold hearings upon appeals from orders, permit denials, and other actions of the director, settle compliance disputes at public hearings before the commission, or refer alleged violations to the county prosecutor or attorney general;

E. Develop facts, make investigations, and make orders and determinations;

F. Prepare and develop a comprehensive plan for the prevention, abatement, and control of air pollution, including emergency alert procedures;

G. Grant authority to political subdivisions to control air pollution;

H. Grant, modify, and revoke exceptions and variances to rules; and

I. Suspend the order of rulemaking when necessary for public health, safety, and welfare prior to filing the final order of rulemaking.

2. Director. The director of the Department of Natural Resources, serving at the pleasure of the governor, or the director's authorized representative, has the responsibility and the authority (643.060, RSMo) to—

A. Employ staff and consultants as necessary to carry out the Missouri Air Con-

servation Law;

B. Accept, receive, and administer grants, gifts, or other funds from public and private agencies;

C. Receive, budget, and expend appropriated monies;

D. Arrange, notify, attend, and record all meetings of the Missouri Air Conservation Commission (MACC);

E. Investigate complaints, issue abatement orders, recommend that the MACC request legal action be taken by the attorney general under 643.090.2, RSMo, recommend legal action be taken by the attorney general under 643.090.2, RSMo, and enforce provisions of the Missouri Air Conservation Law;

F. Receive and act upon reports, plans, specifications, and permit applications submitted under rules promulgated by MACC;

G. Receive and investigate petitions for variances and submit recommendations to MACC;

H. Carry out the directions of MACC between meetings including conducting inspections and investigations, obtaining and assembling data, and preparing reports;

I. Submit revisions of the State Implementation Plan (SIP) to the United States Environmental Protection Agency (EPA) for approval; and

J. Enact air pollution emergency alert procedures.

3. Staff director. The staff director of the Air Pollution Control Program of the Department of Natural Resources serves at the pleasure of the commission and handles the day-to-day matters, including all responsibilities delegated to the director's authorized representative.

4. Air Pollution Control Program. The program is divided into five (5) sections with the main task descriptions listed below—

A. The Fiscal and Budget Section—

(I) Serves as human resource liaison and training coordinator;

(II) Oversees sunshine request responses and record management;

(III) Prepares annual program budget;

(IV) Coordinates proposed legislation and fiscal note responses at the department's request;

(V) Processes all financial transactions for procurement, deposits, collections, and payroll;

(VI) Manages the cash accounts;

(VII) Administers grants; and

(VIII) Maintains physical inventory and fixed assets;

B. The Compliance and Enforcement Section—

(I) Provides compliance assistance to regulated entities;

(II) Coordinates with and provides oversight of the regional offices and the local air pollution control agencies in matters of compliance and enforcement;

(III) Administers an asbestos program;

(IV) Administers a gasoline vapor recovery program;

(V) Administers a motor vehicle inspection/maintenance program;

(VI) Oversees source compliance testing;

(VII) Resolves violations through out-of-court settlements or orders with the assistance of the attorney general's office or the department's legal counsel;

(VIII) Requests approval from MACC for referral to the attorney general's office for those violations in which a settlement was not achieved; and

(IX) Provides technical reviews and recommendations for variance requests to MACC;

C. The Air Quality Analysis Section—

(I) Develops and quality-assures the point, area, and mobile source emission inventory for EPA National Emissions Inventory (NEI) submittal and program use;

(II) Coordinates with the Environmental Services Program and local air pollution control agencies when applicable on establishing and maintaining ambient air monitoring sites and collecting ambient air data;

(III) Develops and implements the annual Monitoring Network Plan and coordinates Ambient Air Monitoring Network Reviews;

(IV) Reviews and approves permit applicant ambient air quality monitoring Quality Assurance Project Plans (QAPPs);

(V) Conducts and provides emissions and ambient air quality analysis for other sections in the program;

(VI) Updates and maintains the program's air quality monitoring, emissions, and other databases; and

(VII) Develops risk assessment levels in support of the Title V program for review and approval by the Department of Health and Senior Services;

D. The Air Quality Planning Section—

(I) Maintains state air rules and Missouri SIP for consistency with the latest federal and state requirements;

(II) Develops, tracks, and implements rulemakings for new rules, amendments to rules, and rescissions of rules;

(III) Develops, tracks, and implements SIP revisions;



(IV) Conducts air quality modeling to support rule and SIP actions;

(V) Implements public participation requirements of state and federal laws for rulemakings and SIP revisions;

(VI) Coordinates rulemakings and SIP actions with the secretary of state, EPA, other regulatory bodies, private industries, environmental interests, and other stakeholders; and

(VII) Establishes mobile source emissions budgets and participates in inter-agency consultation processes in accordance with federal transportation conformity requirements to ensure transportation activities are consistent with air quality goals; and

E. The Permits Section—

(I) Receives, evaluates, and makes recommendations to the director to approve, approve with conditions, or deny applications for construction permits;

(II) Provides technical support to legal counsel for permits issued and appealed by an applicant or citizen;

(III) Reviews construction permits prepared by local air pollution control agencies;

(IV) Processes operating permit applications, amendments, and modifications in a timely manner according to the rules and requirements;

(V) Processes relocation notification for portable equipment; and

(VI) Maintains the Missouri Clean Air Act Title V Program to ensure continued authorization of the program in Missouri.

(C) Public Information. The Air Pollution Control Program provides information to the public as follows:

1. Publish a notice in the Jefferson City, Missouri newspaper to provide information on how the public may review and provide comment on draft rule text and Regulatory Impact Reports for a period of at least sixty (60) days;

2. Post public hearing notices for rule and SIP actions at least thirty (30) days prior to public hearing on the Air Pollution Control Program's website and send via email to established program distribution list that includes parties and other interested stakeholders. These notices provide information on timing of proposed MACC actions and how the public may participate in all rule-making and SIP actions. Contact the Air Pollution Control Program Air Quality Planning Section Chief to be added to the email distribution list;

3. Publish in the *Missouri Register*—

A. Proposed rule actions at least thirty (30) days prior to a public hearing; and

B. Final rule actions adopted by

MACC with recognition of public hearing comments;

4. Provide construction and operating permit notices as described in 10 CSR 10-6.060 Construction Permits Required and 10 CSR 10-6.065 Operating Permits;

5. Present revisions to department-supplied forms to the regulated community for a thirty (30)-day comment period. Shorter duration comment periods are used in instances where form changes are non-mandatory such as typographical errors, spelling corrections, or adding non-mandatory reference information; and

6. Make all records retained for or by the Air Pollution Control Program available for public inspection and copying by any person, except for records which are designated as confidential under Missouri law.

(D) Reorganization of 1974. The Omnibus Reorganization Act of 1974 transferred the Air Conservation Commission and its functions (Chapter 643, RSMo) by Type II transfer. Under this act, the position of executive secretary was abolished and the director of the Department of Natural Resources assumed the responsibilities delegated to the executive secretary by 643.060, RSMo. The position of staff director was created to provide the day-to-day operation of the Air Pollution Control Program and the Air Pollution Control Program staff was transferred to the Department of Natural Resources (DNR). The director of DNR, the staff director of the Air Pollution Control Program, and the program staff enforce the rules and implement the policy of the Air Conservation Commission.

(4) Reporting and Record Keeping. (*Not Applicable*)

(5) Test Methods. (*Not Applicable*)

AUTHORITY: sections 643.050, 643.055, and 643.225, RSMo 2016. Original rule filed May 12, 1976, effective Oct. 11, 1976. Rescinded and readopted: Filed May 13, 1982, effective Oct. 11, 1982. Amended: Filed April 2, 1987, effective Aug. 27, 1987. Amended: Filed May 12, 1998, effective Dec. 30, 1998. Amended: Filed Oct. 2, 2012, effective July 30, 2013. Amended: Filed March 27, 2018, effective Nov. 30, 2018.

**Original authority: 643.050, RSMo 1965, amended 1972, 1992, 1993, 1995, 2011; 643.055, RSMo 1979, amended 1992, 1994, 2014; and 643.225, RSMo 1989, amended 2011, 2012.*

10 CSR 10-1.020 Commission Voting and Meeting Procedures

PURPOSE: This rule establishes voting and

meeting procedures that must be followed by commission members when considering air pollution control rules, variances, appeals or orders, determinations and placing items before the commission by the public.

(1) Prior to discussion and/or vote on any rule, variance, appeal or order, all members of the Missouri Air Conservation Commission shall disclose when they—

(A) May have a conflict of interest as defined under sections 105.450-105.482, RSMo;

(B) Hold an official or contractual relationship with the person seeking a variance or appeal or the person subject to an order at issue under the Missouri Air Conservation Law, Chapter 643, RSMo; or

(C) Under license or permit, render directly or through business or supervisory relationship, service similar to the person seeking a variance or appeal or the person who is subject to an order at issue under the Missouri Air Conservation Law.

(2) The member shall be excluded from voting on the matter at issue unless such member fully advises the commission of the interest and receives a determination from the commission that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the state expects from commission members. Fully advises means explains in detail in a signed, written statement available for public inspection.

(3) When one (1) or more exclusions from voting or other abstentions by vote or by absence results in the lack of a quorum, the commission will delay its final decision until a simple majority of commissioners who are eligible to vote are present.

(4) If a quorum is not present at public hearings for rulemaking and it is necessary to delay the public hearing due to the lack of a quorum, the department shall—

(A) Issue a news release announcing the new time, date and location of the public hearing; and

(B) Include in that news release the new submittal date for written public comments.

(5) Voting procedures governing hearings and other administrative actions are in section 643.070, Chapter 536 and sections 610.010-610.028, RSMo.

(6) The following shall apply in regard to commission meetings:

(A) The commission holds at least nine (9)



regular meetings each year and additional meetings as the chairperson deems necessary or desirable at a place and time which is fixed by the chairperson.

(B) Special meetings may be called by three (3) members of the commission upon delivery of written notice to each member of the commission.

(C) The public may request that an item be brought before the commission by submitting a written request to the attention of the Staff Director of the Air Pollution Control Program at the following address: Missouri Department of Natural Resources, P.O. Box 176, Jefferson City, MO 65102-0176. Such requests should be received no less than fourteen (14) days before the commission meeting and may be considered as “other business,” or placed on the agenda as a separate item. At the discretion of the commission chairperson items may be added to the agenda less than fourteen (14) days prior to the commission meeting but in no case less than twenty-four (24) hours prior to the commission meeting.

AUTHORITY: section 643.050, RSMo Supp. 1997. Original rule filed Nov. 7, 1997, effective July 30, 1998.

**Original authority 1965, amended 1972, 1992, 1993, 1995.*

10 CSR 10-1.030 Air Conservation Commission Appeals and Requests for Hearings

PURPOSE: This rule contains all procedural regulations for all contested cases heard by the commission or assigned to a hearing officer by the commission.

(1) Subject. This rule contains procedural regulations for all contested cases before the commission.

(2) Definitions. As used in this rule, the following terms mean:

(A) Commission—The Missouri Air Conservation Commission;

(B) Department—The Department of Natural Resources, which includes the director thereof, or the person or division or program within the department delegated the authority to render the decision, order, determination, finding, or other action that is subject to review by the commission;

(C) Hearing—Any presentation to, or consideration by the hearing officer of evidence or argument on a petition seeking the commission’s review of an action by the department;

(D) Hearing officer—Administrative Hear-

ing Commission; and

(E) Person—An individual, partnership, copartnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision or any agency, board, department or bureau of the state or federal government or any other legal entity whatever, which is recognized by law as the subject of rights and duties.

(3) Filing an Appeal or Requesting a Hearing.

(A) Any person adversely affected by a decision of the department or otherwise entitled to ask for a hearing may appeal to have the matter heard by filing a petition with the Administrative Hearing Commission within thirty (30) days after the date the decision was mailed or the date it was delivered, whichever date was earlier.

(B) A petition sent by registered mail or certified mail will be deemed filed on the date it is mailed. If it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the Administrative Hearing Commission.

(4) Procedures.

(A) The hearing shall be conducted in accordance with the provisions of Chapter 536, RSMo, and the regulations of the Administrative Hearing Commission promulgated thereunder.

(B) Upon receipt of the hearing officer’s recommendation and the record in the case, the commission shall—

1. Distribute the hearing officer’s recommendation to the parties or their counsel;

2. Allow the parties or their counsel an opportunity to submit written arguments regarding the recommendation;

3. Allow the parties or their counsel an opportunity to present oral arguments before the commission makes the final determination;

4. Complete its review of the record and deliberations as soon as practicable;

5. Deliberate and vote upon a final, written determination during an open meeting, except that the commission may confer with its counsel in closed session with respect to legal questions;

6. Issue its final, written determination as soon as practicable, including findings of fact and conclusions of law. The decision of the commission shall be based only on the facts and evidence in the record; and

7. The commission may adopt the recommended decision of the hearing officer as its final decision. The commission may change a finding of fact or conclusion of law made by the hearing officer, or may vacate or

modify the recommended decision, only if the commission states in writing the specific reason for a change.

AUTHORITY: section 643.050, RSMo 2000. Original rule filed May 12, 2005, effective Jan. 30, 2006.*

**Original authority: 643.050, RSMo 1965, amended 1972, 1992, 1993, 1995.*