



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) Authorization. Chapter 643, RSMo.

(2) Organization and Operation.

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

1. Adopt, promulgate, amend and rescind rules;

2. Establish air quality control regions;

3. Require submission of relevant information;

4. 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;

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

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

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

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

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

(B) 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 (section 643.060) to—

1. Employ staff and consultants as necessary to carry out the Missouri Air Conservation Law;

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

3. Receive, budget, and expend appropriated moneys;

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

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

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

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

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

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

10. Enact air pollution emergency alert procedures.

(C) 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.

(D) Air Pollution Control Program. The program is divided into five (5) sections with the following descriptions of each:

1. The administration section assists the Air Pollution Control Program sections by providing personnel services, budgeting, procurement, data processing, record keeping, computer services and public information;

2. The enforcement section—

A. Performs or oversees source compliance testing;

B. Technically reviews variance applications and recommend action to be taken;

C. Prepares abatement orders and consent orders;

D. Determines and tracks compliance of air pollution sources;

E. Coordinates with the regional office program and the local air pollution control agencies in matters of compliance determination, permitting and litigation;

F. Resolves violations through out-of-court settlements with the assistance of the attorney general's office;

G. Provides continuing technical support to legal counsel for those cases after litigation has been authorized by MACC;

H. Issues sales tax exemptions on air pollution control equipment;

I. Assists in the audits of the local agencies; and

J. Presents routine activity and complaint reports to MACC;

3. The technical support section—

A. Collects the emission inventory and maintains the emission database;

B. Maintains facility or site information;

C. Obtains air quality data, updates EPA AIRS (Air Information Retrieval System) database and disseminates data;

D. Coordinates with the laboratory services program for the establishment and maintenance of air monitoring sites;

E. Maintains meteorological data;

F. Reviews permit applicant's air quality modeling and air quality analysis;

G. Provides modeling and air quality analysis for other sections in the program;

H. Conducts and coordinates Ambient Air Monitoring Network Reviews;

I. Coordinates Maximum Achievable Control Technology (MACT) workgroup activities and provides information in order to implement MACT;

J. Maintains the air monitoring SIP;

K. Coordinates air quality data input from local air pollution control agencies and the laboratory services program;

L. Receives, evaluates and makes recommendations to the director whether to certify as exempt sales tax exemption requests for pollution control or monitoring equipment; and

M. Provides technical support to legal counsel for those permits issued and appealed by an applicant or citizen;

4. The planning section—

A. Develops proposals for new rules and for amending or rescinding in-place rules of MACC for presentation to MACC;

B. Meets all public participation requirements of state and federal laws involving rulemaking and SIP revisions;

C. Provides SIP coordination and maintenance and prepares SIP revisions for the director's action;

D. Provides highway project assessment of mobile source emissions as requested by other governmental agencies;

E. Provides a motor vehicle inspection/maintenance program as may be required;

F. Provides liaison with the secretary of state, EPA, other regulatory bodies and private industry regarding MACC rules governing air pollution control;

G. Prepares the air quality annual report;



H. Prepares all reports as required in the SIP;

I. Revises permitting regulations consistent with Title V CFR 40 Part 70 revisions;

J. Receives, evaluates, and makes recommendation to the director whether to certify as exempt sales tax exemption requests for pollution control or monitoring equipment; and

K. Provides technical support to legal counsel for those permits issued and appealed by an applicant or citizen; and

5. The permit section—

A. Prepares, submits, and presents the monthly construction and operating permit report to the MACC;

B. Receives, evaluates, and makes recommendations to the director to approve, approve with conditions, or deny applications for construction permits;

C. Receives, evaluates, and makes recommendations to the director whether to certify as exempt, sales tax exemption requests for pollution control or monitoring equipment;

D. Provides technical support to legal counsel for those permits issued and appealed by an applicant or citizen;

E. Assists in auditing the permitting function within the local political subdivision;

F. Processes operating permit applications, amendments, and modifications in a timely manner according to the rules and requirements;

G. Processes relocation notification for portable equipment; and

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

(3) Public Information. The Air Pollution Control Program provides the following methods with related procedures where the public may obtain information and make submissions or requests:

(A) Newspaper publication of public hearing notices provides information on timing of proposed MACC actions and how the public may participate in all rulemaking procedures;

(B) Proposed rule actions are published in the Missouri Register at least thirty (30) days prior to a public hearing. Final rule actions adopted by MACC are also published in the Missouri Register with recognition of public hearing comments;

(C) All records retained for or by the Air Pollution Control Program are considered to be open for public inspection and copying by any person, except for records which either are required to be or which may be kept confidential under Missouri Law; and

(D) Applications for permits and variances and sales tax exemption forms may be obtained by writing to the Department of Natural Resources, Division of Environmental Quality, Air Pollution Control Program, P.O. Box 176, Jefferson City, MO 65102. General information concerning the Air Pollution Control Program may also be obtained by telephone, in person or by writing to the previously mentioned address.

(4) 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 section 643.060. 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.

AUTHORITY: section 643.050, RSMo Supp. 1997 and 643.055 and 643.225, RSMo 1994. 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.

**Original authority: 643.050, RSMo 1965, amended 1972, 1972, 1993, 1995; 643.055, RSMo 1977, amended 1992, 1994; and 643.225, RSMo 1989.*

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 Hearing 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.*