

# MISSOURI DEPARTMENT OF NATURAL RESOURCES / ACEC/MISSOURI LIAISON COMMITTEE



## MINUTES

September 21, 2022  
via Zoom



On Wednesday, September 21, 2022, ACEC Missouri held their regular Liaison Committee Meeting virtually with representatives of the Missouri Department of Natural Resources. In attendance were the committee members listed below.

### ATTENDEES:

#### MDNR:

Chris Nagel  
Sara Pringer  
Chris Wieberg

#### ACEC/MO:

Elke Boyd  
Mark Bross  
Chris Burns  
Rob Morrison, Cmte. Chair  
Laura Mwirigi Rightler

Tony O'Malley  
Laura Riegel  
Anna Saindon  
Morgan Mundell, President  
Dawn Hill, Staff

### DISCUSSION ITEMS:

- 1. Introductions.**
- 2. Status of ARPA Funding Through DNR to Communities.**

DNR received 1001 grant applications by their July 14, 2022, deadline for a total need of \$2.4 billion in ARPA funding. They have a team of 11 staff reviewing the applications. They've been through the initial scoring phase and points have been assigned, next step is a more technical review where they take a deeper dive into the application to look at the project to make sure they are eligible for the funding. They are about 85% complete with the technical reviews their goal is to have them completed by the end of this month. In October they will receive any last-minute facility plans they are due by October 12. Only about 25 missing as far as facility plans. Planning to announce awards early November. All ARPA funding has been appropriated no extra for second rounds. Anyone who is not successful should look at the SRF program for additional funding. They have to have a voter approved bonding authority to go through the SRF program.
- 3. Missouri State Energy Planning (MoSEP) Process.**

In 2015 the Division of Energy released a comprehensive state energy plan the old plan was a static type plan that is relatively outdated and in 2020 embarked on a new dynamic approach which is what they are determining the MoSEP planning process. They have conducted several regional stakeholder meetings across the state in order to identify and address topics that were critical to MO's current and future energy needs. Currently they have 6 formal workgroups and 6 exploratory workgroups these workgroups are open to the public, if anyone is interested contact [Jordan.Elliott@dnr.mo.gov](mailto:Jordan.Elliott@dnr.mo.gov). Division of Energy is going to develop a summary and action report for the Governor on the outcomes of those workgroups. The formal workgroups cover streamlining of solar permitting, electric vehicles, residential energy efficiency real estate valuation, energy train, metals and battery storage, and knowledge exchange. The exploratory workgroups cover, Biofuels, renewable natural gas and hydrogen, commercial building energy efficiency, combined heat and power, industrial assessment center outreach, and pay as you save financing. Weblink to take you to the workgroups to get additional information at [www.dnr.mo.gov/about-us/forums-stakeholder-groups/Missouri-state-energy-planning](http://www.dnr.mo.gov/about-us/forums-stakeholder-groups/Missouri-state-energy-planning).
- 4. MDNR Regulatory Update (Drinking and Wastewater).**

#### **Drinking Water**

A lot of regulatory work going on in the water program as usual. Start with drinking water because it's the shorter conversation. The Lead and copper rule that EPA put out there required drinking

water systems to do lead service line inventories and had a step wise approach to doing remediation work, they then came out with some information basically saying they were going to reform that rule, inventories will still be required but their goal is to do 100% removal of lead service lines, therefore the whole sampling and step wise remediation approach is likely going to change. So, all the states have put a pause on obtaining primacy over the lead and copper revision rule until we see what the lead and copper improvements rule looks like. Once that improvement rule comes out, we will have likely 2-3 years of process of writing rules and getting those incorporated into our state rules. In the meantime, we have interim primacy on the rule through agreements with EPA. It's important for them to continue to watch and understand how the process works for the lead and copper rule. Their advice is to get the inventories done ASAP because that is definitely a piece that's going to be applicable. Go out to their website they have a running banner across the top that has a lot of information. There's a lot of good resources out there for the lead and copper rule and inventory spreadsheets, guidance information for homeowners and water systems, engineering consultants to use to help get this under control. Working on educational videos on how homeowners can determine whether or not they have a lead service line by doing scratch tests or looking at their service line coming into their homes.

### **Clean water**

They have 2 rules in chapter 6 that are going to the clean water commission in November for final approval 6.200 rulemaking for establishing a qualified local program for MS4's to do land disturbance permitting on behalf of the department. That's where a MS4 would apply to do the states land disturbance permitting in conjunction with their MS4 program through a local qualified program. Also have a rulemaking to put into rule requirement that construction permit applications be submitted electronically with an optional paper copy submittal as well.

### **Chapter 7 Phosphorus rule**

They intend to put a rulemaking out there that proposes a 1.0 milligram per liter and or mass base equivalent limitation for facilities that are greater than 1 mtd as it relates to domestic facilities and then any industry that is designated as a major industry that has phosphorus in their discharge. This rulemaking has a regulatory impact report that is going out next week with the regulatory impact report goes the rule language with the rulemaking report everyone will get a chance to look at that and see what the implications are as it relates to the physical and environmental impact to this rulemaking. We've been talking about this for 3 years we have a broad understanding of what we are trying to accomplish on this. A final rule should be on the books by Spring of next year.

### **7.031 Water Quality Standards Rule**

Have a petition they are responding to on for alga toxins for lakes they received a petition from the Missouri Coalition for the Environment to incorporate into the rule the 2019 recreational criteria recommendation that EPA put out for cyanotoxins. They responded to that petition according to their statutes that require them to respond and work through JCAR. They have updated the clean water commission on their progress and the next step is to put out a regulatory impact report on that rulemaking. Our response was we agree that the sciences are appropriate for MO that when people have dermal exposure to avar toxins they get sick and no real need to create a MO specific value for avar toxins beyond what the federal government has put out there. The regulatory impact report is going out at the same time as the phosphorus rule next week they will be on 60-day notice. It applies to lakes that are 10 acres or greater.

### **8.200 Earth and Basin Requirements**

This rulemaking has gotten complicated by the mining industry. They are working through some of those comments, it's been on regulatory impact report, public notice. They are going to be putting out a rule in the next couple of months that tries to address all of the issues that are going on definitely before legislative session because the Limestone sector are talking about legislating some things and they want to get their proposal out before legislation starts.

### **8.130 Lift stations in sewer systems**

They want to do a rulemaking here to address emergency capacity there are some sites that are challenging at times and creating that emergency capacity can be of issue, so they want to allow for some alternatives to the capacity in the way of emergency generators and repetitiveness in terms of pumps. This has not been on regulatory impact report. They always have a lot of reg work going on.

5. **PFAS - Proposed Rulemaking on Classifying PFOA and PFOS as Hazardous Substances.**  
EPA put out a preproposal designating PFOS as CIRCLA hazardous substance and they created a reportable quantity value of 1lb per 24 hours there's a lot of questions that folks have. Chris attended a prepublication meeting with EPA headquarters folks and CIRCLA folks had a couple of things to share: There will be no exemptions as part of the CIRCLA designation, people have been asking for EPA to establish exemptions, but they have no authority and Congress is the only one that has that authority. EPA did say that they have traditionally utilized enforcement discretion when addressing CIRCLA requirements in certain challenging situations related to entities with nontraditional CIRCLA impacted entities. Biosolids was brought up and CIRCLA folks were really lost. People need to understand if their biosolids have PFAS in them. Are the amounts concerning? The CIRCLA impacts for biosolids and treatment technologies will all be the same it's all about whether it's a reportable quantity that you're producing and releasing into the environment.
6. **PFAS Monitoring in NPDES Permits.**  
DNR took a look at the guidance that EPA put out for how the states that don't have permitting programs should be addressing PFAS in permits and guidance on doing monitoring and addressing pretreatment a little more aggressively. They talked to some POTW's off to the side and asked what they thought about this and came to the conclusion that it would be best if they could put out a voluntary program that would incorporate conditions into permits if someone wanted to volunteer to be a part of that and monitor for PFAS and also implement some pretreatment recommendations as it relates to PFAS/PFOS they are working on that and have shared some drafts informally and they have been asked to establish a working group. In the next couple of weeks, you will see a survey go out where they are looking for experts in the fields of wastewater, drinking water, chemistry engineering that want to be a part of a workgroup to help form tools and policies for PFAS/PFOS there will be bleed over into CIRCLA and air. They are just going to do their best to create this workgroup. They will put out some language that they would propose to be put in the permit, they aren't going to put it on public notice, but they are taking feedback and will talk with the work group and see how they want to proceed. It will all be voluntary and recommended type stuff for the foreseeable future until there's some regulatory obligations that need to be met.
7. **Nutrient Reduction Implementation in NPDES Permits.**  
The phosphorus will put us on a 10-year track to reduce phosphorus by a lot in terms of point sources down around 60% reduction total through the Mississippi river as it relates to point source load which is significant. Our goal is to achieve 40% total load from the state in terms of reduction strategy. As we get done with phosphorus we need to talk about nitrogen. The conversation needs to include what we are going to do about ammonia nitrogen as it relates to molest ammonia because if we don't address them both at the same time, we will have folks reduced to meet ammonia requirements but basically convert that organic nitrogen to inorganic nitrogen and we will just have more nitrogen going out the pipes. Chris will start talking about this next year.
8. **Latest About Allocation of BIL Funds under SRF.**  
Hopefully everyone saw the draft intended use plans that were out for public comment the drinking water SRF comes off public notice today, we are done taking comments on those and they will go before the commission for adoption. We do have the additional grant funding for the drinking water program we received \$52.8 million in additional grant funding on top of what they would traditionally receive through the bill and they have incorporated that as a source of funding in their intended use plan so for drinking water what they did since they have so much and they have more in grant funding than they needed prior to the funding our drinking water was we would get 50% of an eligible project grant funding and the other 50% had to be a loan and they increased that to 75% of the project funding could be grant funded if they qualified for the affordability grant up to \$3 million. They were able to get 25% more in grant funding out to those that were eligible with a max of \$3 million. The split and max will have to be adjusted each year based on how much they have and how many applicants they have. Emergent containment funding it will be 100% grant. They had 1 project that had an emergent containment component to it. Lead Surface Line Replacement is going to be a 49% grant and 51% loan. Clean water has an additional \$26.7 million in grant funding. Not as much as drinking water but a large increase. The percentages were 50% last year up to \$2 million for affordability grant this year will be 60% grant up to \$2 million max. In the past, you had a couple years to spend the money now it's very clear it has to be spent in one year. Proposing to establish to commit to new grant opportunities to fund engineering and archeological services through the technical assistance grant. This will focus on paying for the preliminary design and planning of archaeological reports. The second will be an offering to stand up an onsite

wastewater system grant.

9. **Small Communities Are Eligible for a Variety of Funding Support but Subdivisions and Mobile Home Parks are Not Eligible.**

They are just not eligible under the SRF program. It's not designed to fund mobile home parks/subdivisions. It's a great need out there, but they don't have the capability of going out and obtaining bonds as debt security which is required under the SRF program.

10. **Drinking Water Engineering Services are Only Eligible for \$30,000 in Grant Funding.**

If we've seen a need for it, they would definitely consider it, but it hasn't been brought to their attention that there is a need to increase it. It's only for small systems with a population of 3300 or less and if they meet the disadvantage criteria, then it would be 100% grant for \$37,500 based on past projects they have had quite a few under the \$30,000 they just aren't seeing the need.

11. **Status of Considering SRF Eligibility for Water Tank Inspection / Flushing / Coating.**

This policy comes from EPA's drinking water SRF eligibility handbook and it states that water system operation and maintenance expenses are not eligible for SRF which all of those activities would fall under that category there is a caveat if a tank project includes more than just coding and involves structural repairs to the tower the flushing and coding could be covered as part of those repairs.

12. **Update on Solid Waste.**

Still working on Chapter 3 Landfill Regulations they got a lot of different comments on it. They compiled everything into a single document where all changes can be tracked and seen. They are going through the final checks to make sure everything is correct and are looking at getting it posted on base camp towards the end of the year. Their intention is to get the unified document out to the stakeholders for a final look and if there are no major changes, they will move into the formal rulemaking process a little bit after the first of the year. There are 2 rules that they are working on Chapter 3 the overall landfill regulations and the other one is Chapter 2.010 which is the definitions piece. They were looking to adopt a landfill provision of the Federal CCR rules but with all the lawsuits and EPA changes they got a little gun shy and pushed the pause button on the CCR stuff and will see how it shakes out. Recent discussions with some of the utilities and it looks like things are settling down EPA has the permitting rule out now thinking it will come into play next July it will be in full force. EPA is going to start with non-participating states which are states that have clearly indicated they have no intentions of adopting any kind of program. Missouri has left the door open on that. They think they will move forward with at least the landfill portion of it but whether or not they will adopt the CCR impoundments and try to get into that is still a question mark. They are looking to proceed on Chapters 2 and 3 after that they will be looking at Chapters 5 and 7. As far as fees they are doing fairly well. Funding is stable. A lot of construction activity going on with facilities. Permitted air space over the next 5 years is something that everyone needs to look at and see what we are going to do because if we don't, we are going to be transferring a lot to St. Louis and Kansas City areas. Those areas still have capacity. Transfer station applications are still coming in. Not seeing a whole lot of new landfills.

13. **Update on Energy Issues.**

Underneath the bipartisan infrastructure law and infrastructure investment jobs act the Division of Energy is receiving funds from the following things: Low-income weatherization program, state energy programing, focus is going to be working on energy and education and state fleet electrification, energy efficiency and conservation block grants. They are also getting some energy efficiency revolving loan funds. The final piece is preventing outages and enhancing resilience of the electric grid state grants. They don't have any information to share on the inflation reduction act.

14. **Update on WOTUS.**

EPA is moving forward with redefining waters of the U.S. not sure on the timing of everything there's pretty active conversations with OMB at the moment and we will likely see something come out of the administration, there were interesting conversations at MECC last week on how the federal administration sets agendas based upon whether they can get it done in 4 years or is this an 8-year effort. This administration is geared towards getting their things done in a 4-year period. Missouri permits everybody based upon whether they discharge to water of the state. The WOTUS conversation isn't as impactful from a permitting perspective as it may be in other states.