



Missoula City-County Air Pollution Control Board
Hearing on Proposed Changes to the Air Pollution Control Program Regulations
June 18, 2009: 7:10 – 8:38 p.m.

Board Members Present: Dr. Garon Smith (Chair), Dr. Sandy Kuntz (Vice Chair), Jean Curtiss, Dr. Alan Gabster, Ross Miller, Renee Mitchell, and Eileen Sansom

Health Department Staff Present: Health Administration: Ellen Leahy and Julie Mohr; and Environmental Health: Jim Carlson, Mamie Colburn, Ben Schmidt, and Shannon Therriault

Legal Counsel Present: Marnie McClain, Chief Civil Deputy County Attorney

Others Present: Matt Arno, Dave Atkins, John Garberson, Guy Hanson, Kyle Hanson, E. G. Heilman, Christine Johnson, Mark Kindred, Elizabeth Oleson, John Ployhar, Denny Ployhar, Justin Quist, Walter Redfield, Ron Scholl, Amanda Sontag, Diana Sontag, Hudson Therriault, Sophia Therriault, and Daniel Westberg

HEARING CALLED TO ORDER

Dr. Garon Smith called the hearing to order at 7:10 p.m. and introduced members of the board, the director of the health department, and the board's legal counsel and secretary.

ITEM 1 SET HEARING GROUND RULES

Dr. Smith thanked members of the public for attending the hearing regarding proposed changes to the Air Pollution Control Program regulations. He noted Missoula's history as a non-attainment area and explained there is a resulting statutory requirement that a board must be in place to implement regulations in order for Missoula to be in compliance with the Clean Air Act and enter into compliance in those areas where there were problems in the past. He added that public participation will help shape the policy and announced the board would not take final action that evening. The purpose of the hearing was to gather information from the public before the board takes final action. A number of meetings have been held and there will be more in the future. He provided guidelines as to how staff and members of the public were to present information and comments during the hearing.

ITEM 2 STAFF PRESENTATION ON PROPOSED CHANGES

- **Attachment A**, "June 12, 2009 Staff Memorandum: Supporting Materials Pertaining to the Proposed Changes to Air Pollution Control Program Regulations"
- **Attachment B**, "Missoula City-County Air Pollution Control Program: April 1, 2009 Draft – Chapter 4"
- **Attachment C**, "Missoula City-County Air Pollution Control Program: April 14, 2009 Draft – Chapter 6"
- **Attachment D**, "Missoula City-County Air Pollution Control Program: April 27, 2009 Draft – Chapter 9, Option B"
- **Attachment E**, "Missoula City-County Air Pollution Control Program: April 1, 2009 Draft – Chapter 14"

- **Attachment F**, “Air Pollution Control Program: Proposed Regulation Changes” (PowerPoint presentation)

Mamie Colburn, an air quality specialist at the Missoula City-County Health Department, used PowerPoint (**Attachment F**) to give the staff presentation on the proposed changes. The board’s packet of information for consideration also included **Attachments A** through **E**. Topics covered by Ms. Colburn included the following: the importance of using wood products—including for heating purposes; the ability of PM_{2.5} to disperse regionally during inversions; the EPA’s reduction by half of their health-based PM_{2.5} standard; the groups at risk in Missoula County due to PM_{2.5}; and the risk of non-attainment and possible adverse impacts in Missoula County if measures are not taken to ensure attainment since daily values have been found that exceed the standard wherever sampling has been performed in the county.

Ms. Colburn also reported that combustion from residential wood burning accounts for 55% of PM_{2.5} during winter months and values measured in Seeley Lake and Frenchtown exceed the standard—not just the values recorded in the Missoula area. She explained the need for regulations to address emissions in rural areas and described the objectives and specific details of the proposed changes to the Air Pollution Control Program regulations. (See **Attachments B** through **F**.) A chronology was provided regarding the public process to date, with an overview of activities by health department personnel to bring forward the initial changes and subsequent additional proposed changes to the board and public through meetings, open houses, use of the Internet, distribution of flyers, and so forth.

Staff Request: On behalf of the health department, Ms. Colburn made the following clarifications and request:

- The department was not asking for board action on proposed changes that evening.
- The department was asking the board to allow the hearing to continue at a future date in order to allow for receipt and review of additional public comments.
- After action is taken by the Air Pollution Control Board to conclude its hearing process, the proposed changes to the regulations must then go before the City Council, the Board of County Commissioners, and the state’s Board of Environmental Review.

ITEM 3 ADDITIONAL STAFF PROPOSALS

- **Attachment G**, “June 18, 2009 Staff Memorandum: Additional Changes Requested to Air Pollution Control Program Rules”

Ben Schmidt, an air quality specialist, presented the department’s request to allow inclusion of proposed changes to the regulations in addition to those described to the board during previous meetings in 2009. The additional changes provide clarification, clean up adjustments to language that were previously missed, or were offered in response to input from comments received from the public. They include adding and deleting various definitions, changing “Air Stagnation Zone” in Rule 9.102(3) and 9.102(4) to “County” since the proposal expands wood stove regulations to apply beyond the Air Stagnation Zone, exempting the Swan River watershed in northern Missoula County from the wood stove permitting and installation requirements, and establishing a requirement for sole source permits in the proposed Impact Zone M area but with criteria that differ from those for sole source permits in the Air Stagnation Zone. The details of these proposals are available in **Attachments B** through **G**.

Board Questions for Staff Members: Jean Curtiss asked if the proposed change to Rule 9.102(3) and 9.102(4) to replace the wording “Air Stagnation Zone” with “County” will cause persons living in the Swan River watershed to be required to obtain wood stove permits despite another new proposal to exempt this watershed area from the wood stove permitting and installation requirements. Mr. Schmidt indicated the proposal rewords Rule 9.102(2), (3), and (4), which are definitions. Persons in the Swan River watershed may inquire whether they are in a zone requiring a permit but they do not have to obtain a permit. There were no other questions.

ITEM 4 AIR QUALITY ADVISORY COUNCIL COMMENTS

- **Attachment H**, “June 2, 2009 Position Statement of the Missoula Air Quality Advisory Council: Draft Rewrite of Missoula City-County Air Pollution Control Regulations”

John Garberson, chair of the Air Quality Advisory Council, presented the council’s detailed position statement (**Attachment H**), which is based on changes proposed through April and is not final. The council’s position is that proposed changes meet the intent and purpose of EPA regulations and the specific air quality needs of Missoula County, fairly apply regulations required to comply with EPA’s PM_{2.5} standard, and are ready to be presented to the public for comment. The council also recommended further review and consideration of specific portions of the Air Pollution Control Program as described in **Attachment H**.

ITEM 5 PUBLIC COMMENTS

- **Attachment I**, “June 17, 2009 Letter: Official Public Comments from Montana Department of Natural Resources and Conservation – Forestry Division and Lolo National Forest”
- **Attachment J**, “Compilation of Public Comments Received 2008 Through 5:00 p.m. June 18, 2009”
- **Attachment K**, “April 2009 Citizen Postcard: Your Rights are Going Up in Flames”
- **Attachment L**, “April 2009 Staff Handout: Proposed Change of Rules on Burning Wood in Missoula County”
- **Attachment M**, “June 2009 Axmen Postcard: Be Fair About Clean Air”

Comments of Dave Atkins on Behalf of MT DNRC and LNF: Mr. Atkins submitted and read a joint letter (**Attachment I**) signed by Bob Harrington, Montana State Forester, Montana Department of Natural Resources and Conservation (DNRC) and Debbie Austin, Forest Supervisor, Lolo National Forest (hereafter referred to as LNF), which offered the official public comments of those agencies. The letter complimented the health department for progress made to improve air quality in Missoula County, described efforts by DNRC and LNF as significant land managers to influence air quality through all four seasons, and described the need for activities to increase thinning of trees and prescribed burning to counter predicted climate changes that will likely increase the length and severity of wildfire seasons. The purpose and benefits of the Fuels for Schools and Beyond program were identified, as were the benefits of using wood for energy.

The following recommendations were submitted, and are described in detail in **Attachment I**.

- The Air Pollution Control Program regulations should encourage the use and deployment of Advanced Wood Combustion (AWC) systems in place of old high polluting devices.
- The board should consider adding language to Chapter 4 of the regulations to express the County’s support for management activities on forest lands that will reduce the risk of

large wildfires in the vicinity of the Missoula airshed, reduce the public's exposure to unhealthy conditions, and reduce the likelihood of triggering a Wildfire Emergency Episode Avoidance Plan.

- The exclusion of wood fired boilers of under 1 million BTUs per hours within the Air Stagnation Zone—with the exception of pellet stoves meeting a 1 gram per hour weighted average—is counter the stated purpose of the rules to provide a healthy air environment and the promotion of economic and social development across the county.
- The proposed establishment of the emission threshold of 0.10 pounds per million BTUs in Rule 6.502(2) for systems larger than 1 million BTUs per hour leaves a gap between systems above the size of a pellet stove and up to the 1 million BTUs per hour threshold. An emission standard of 1 gram per 10,000 BTUs for all devices up to 1 million BTUs should be set, which is consistent with the pellet stove standard.

Board Questions for Mr. Atkins: In response to a question from Ms. Curtiss, Mr. Atkins indicated that the University of Montana's branch in Dillon uses a central boiler, such as described in page 3 of the letter. It produces heat for the entire campus. There were no other questions.

Comments of Matt Arno: A letter he provided to the board at an earlier date expressed concerns similar to those stated in the DNRC and LNF letter. Persons with properties that have the 1,300 wood stoves documented in the Air Stagnation Zone should be allowed to change to devices that emit 1 gram or less [per hour]—without being forced to choose pellet systems, which require expensive pellets. Not allowing them to do so is counter to allowing efficient use of biomass—the only local sustainable heat source. Missoula County's regulations will be very unprogressive if this is not addressed—as well as the gap that exists for district or commercial heating systems up to 1 million BTUs that use biomass. The people of Missoula expect progressive regulations that allow use of local sustainable resources and also reduce the need to import fossil fuel.

Comments of Guy Hanson: Mr. Hanson asked the board to adopt the health department's proposed "Option B" changes for Chapter 9 and to consider an additional change not requested by staff—to change the wording in Rule 9.202 from "pellet stove" to "solid fuel burning device" but keep restriction for emissions at the ultra-clean level of 1 gram or less.

- Within the Air Stagnation Zone, a pellet stove can be installed to replace a wood stove if it emits 1 gram or less [per hour] of pollution. This regulation was drafted at a time when wood stoves did not exist that met that standard but there are wood stoves readily available today with emissions in the 0.6 to 0.72 gram range.
- For whatever reason, the owners of the stated 1,300 wood stoves in the Air Stagnation Zone do not want to change out their 30- to 80-gram emitting stoves and replace them with pellet stoves or by burning gas. Many of the stoves could be changed out with devices that dramatically reduced emissions by allowing persons who prefer to burn the fuel of their choice to choose wood stoves that meet the standard.
- EPA's website encourages wood stove change-outs, either done voluntarily, through government mandate, or through federal assistance and indicates that if 25 older wood stoves are changed out to wood stoves that emit 7 grams or less (the EPA's standard), approximately 2,000 pounds of particulates per stove would be removed from the airshed annually. In the Air Stagnation Zone, changing the 1,300 stoves to wood stoves that meet EPA standards would eliminate approximately 52 tons of emissions annually. However,

Missoula County's regulations should retain the ultra-clean standard of 1 gram or less per hour since the goal is to clean up the air. The public should be allowed an opportunity to embrace modern technology and make the choice of investing in clean air, which is a choice they currently do not have.

Board Questions for Guy Hanson: Ms. Curtiss asked if the new stoves to which he referred meet the one-gram-or-less emissions limit in settings other than laboratories burning specific material in ideal conditions. Mr. Hanson indicated they are tested using the same EPA method for testing wood stoves that operate within the 4.5 and 7.5 gram limits set by the county. He has not seen scientific evidence showing that today's new wood stoves do not perform as well in the field as under laboratory conditions, although one would presume as with any device that there is some degradation if proper burning practices are not used. A person currently using an older stove that emits 30 to 80 grams of pollution could spend \$2,000 for a new clean burning wood stove and receive back approximately half the cost in federal and state tax credits. Both the federal and state government recognize that burning wood properly reduces our carbon footprint and is beneficial to the environment in general. A person using a new stove improperly probably could not emit as much pollution as with an older stove using good practices.

Dr. Smith asked how important the loading of a stove is in terms of resulting emissions. Does EPA testing approximate the practice of stoking a fire to burn through the night? Mr. Hanson said the lab tests are done at 4 different burn rates, which are then averaged on a formula devised by the EPA. Since the EPA has more experience in establishing standards, he trusts their judgment. The public can be educated on proper fuels and burning techniques through videos and other means that are now available. People living in the Air Stagnation Zone should be allowed the opportunity to change to ultra-clean wood burning stoves.

Comments of Dave Atkins as a Private Citizen: Mr. Atkins made the following recommendations:

- He backed Mr. Hanson's recommendation to allow persons in the Air Stagnation Zone to swap out old wood burning stoves for new wood stoves that meet the county's restrictions on emissions in order to back away from the non-attainment threshold very quickly. The regulations could establish a window of 12 months in which to make the change. He described how the design of some new wood stoves helps eliminate or reduce operator errors that affect emissions levels.
- He encouraged the county to recommend to the Bureau of Land Management (BLM), DNRC, and LNF—who sell fire wood permits—that they attach to every permit a short handout explaining how to properly harvest, split, and stack wood in order to burn dry wood that produces more heat with less emissions.
- He encouraged the board to consider requiring persons with the 3,500 to 3,800 fireplaces grandfathered in the Air Stagnation Zone to install inserts that meet the standard set for emissions. If citizens balk at this proposal, consider setting a requirement that an insert that meets the standard must be installed when the property is sold.
- He asked the board to address the gap that is reduced but will still exist under the current proposal between systems the size of a pellet stove and those at the 1 million BTUs per hour threshold. He said he could reduce his home's carbon footprint if allowed to purchase a larger wood burning furnace rather than place a pellet stove in his basement and another upstairs. The furnace would cost less, provide more efficient heat and heat

distribution since it would go through the ductwork, and it would produce fewer emissions than if he were to use two pellet stoves.

- He asked the board to write rules that tie the emissions standard to the emissions per rate of heat output rather than the emissions rate per hour. The latter approach allows the use of devices that are less efficient; they meet the limit because they are small yet have a poor ratio of heat generated per amount of particulates emitted.

Comments of E.G. Heilman: He is a resident of Missoula living in the midst of the problem. He endorsed the DNRC and LNF comments and commended them for their rationale and practicality. He concurred with Mr. Hanson regarding the need to allow solid fuel wood burning devices that meet the one-gram-per-hour-or-less limit within the Air Stagnation Zone. He supports the use of renewable resources and reduction of our carbon footprint along with the notion of swapping out old stoves and is willing to change out his older wood stove for a wood stove that meets the new county regulations.

Board Questions for Mr. Heilman: In response to a question from Dr. Smith, Mr. Heilman said his wood burning stove is not his sole source of heat; he has a natural gas furnace but would prefer to use wood and reduce his carbon footprint.

Comments of John Ployhar: His home in the Potomac area has a diesel burning device in the basement but it has not been used in 10 years because of the smell. His wood stove burns all the time on low and heats the entire house. The proposed changes to the regulations are not needed for the entire county; the city of Missoula is where the problem lies. Replacing the 1,300 stoves sounds like the answer since even dropping emissions to 4 grams would provide a thousandfold reduction. Present and proposed regulations are ignorant. Government officials say they are concerned about dependence on foreign oil and this area is in the midst of a dying forest, but burning wood is being haggled over despite the availability of new, improved wood burning technology. He questioned the seriousness of the intent to protect air quality since there are more Stage 1 air alerts in the summer than there are in the winter but the Forest Services is not being “jumped on” for not taking care of the forest. Mr. Ployhar said he was embarrassed by poor public attendance at the hearing, which leads to undesirable regulations being passed. The proposed regulations should be thrown in the trash; action should be taken to address wildfires.

Comments of Kyle Hanson: He lives in Potomac but lived in Missoula when air quality was extremely poor. Due to changes in the EPA standard something must be done; however, the issue originates in Missoula but affects everyone. There is also an issue in Seeley Lake. He agreed with other comments given and asked if the board has considered taking certain mitigation efforts, such as proposed inside Zone M, to those who burn wood in the Air Stagnation Zone in order to work with them to change out stoves. Changes to the rules will likely result in arbitrary enforcement and other issues. Who will provide enforcement? How will they learn of violations in remote areas? By whose opinion will determinations be made that the 40% opacity restriction has been violated. Will fines and permit fees cover the cost of enforcement?

Comments of Daniel Westberg: He lives in the Potomac area. He voiced support for the health department’s practice of posting public comments on the Internet. There is an air quality problem but, based on his review of maps, he said the Air Stagnation Zone and Zone M should be

regulated but not the entire county. The Potomac area seldom has an air quality problem except during wildfires or in the fall when slash piles are burning. Something should be done about burning slash piles. He has been told air from Potomac can move into the Missoula area during inversions, but Potomac's air is of a better quality. As a person working in the building industry, he has observed that people who install wood stoves in new homes want good quality, clean-burning devices. Only a small percentage will resist using devices that meet standards.

Mr. Westberg asked if there is a standard method of measuring opacity so that the opacity rule can be enforced consistently on a wide basis. Dr. Smith said county employees who enforce opacity requirements go to a school to learn to read opacity levels. Mr. Westberg responded that use of this type of testing would be the best way to enforce and make an active change in air quality via a standard that targets where the problems exist. The proposed permitting system will impose an unnecessary regulation and cost burden on 98% of rural county residents. The Air Stagnation Zone, Zone M, and probably Seeley Lake should have regulations. Education is an important factor: regardless of the type of device used, if clean fuel and proper burning techniques are used, particulate emissions will be less. He supported Mr. Atkins' idea to attach an educational pamphlet to firewood permits.

At the request of Dr. Smith, Jim Carlson, director of the Environmental Health division at the health department explained throughout the United States various parties—including employees of EPA and state and local air agencies—are certified twice yearly by passing rigorous tests to read both black and white smoke for enforcement situations, including in courts of law. No other comments were offered. Dr. Smith closed the public comment portion of the hearing and opened it to board discussion.

ITEM 6 BOARD DISCUSSION

Dr. Smith noted members of the public asked for some considerations that were not part of the noticed rule changes. In order for the board to consider their adoption, the proposed rule changes would have to be rewritten and once again go through public hearings. This could be done should the board decide to do so. The board is allowed only to make a final decision within the confines of changes to the rule that have been noticed. Although proposed changes may be written to try to cover the potential range in which a decision may be made, there are times when the process must include rewrites and additional public hearings. He asked if there were items members of the board would like to discuss or other comments from staff. There were none.

ADJOURNMENT: Dr. Smith adjourned the hearing at 8:38 p.m.

Respectfully submitted,

Ellen Leahy
Health Officer

Garon Smith
Chair