

MINUTES
MISSOURI AIR CONSERVATION COMMISSION
Elm Street Conference Center
1730 East Elm Street
Bennett Springs Conference Room
Jefferson City, MO 65101
May 30, 2019
9:00 a.m.

Commissioners Present

Ron Boyer, Member
Mark Garnett, Member*
Gary Pendergrass, Chairman
Kevin Rosenbohm, Member*

Staff Members Present

Aaron Basham, Air Quality Planning Section, Air Pollution Control Program (APCP)
Van Beydler, Public Information Coordinator, Soil and Water Conservation Program
Darcy Bybee, Director, APCP
David Gilmore, Director's Office, APCP
Wayne Graf, Air Quality Planning Section, APCP
Kendall Hale, Permits Section Chief, APCP
Connie Kinney, Compliance and Enforcement Section, APCP
Mark Leath, Air Quality Planning Section, APCP
Cliff Li, Air Quality Planning Section, APCP
Patricia Maliro, Air Quality Planning Section, APCP
Kathy Meyer, Director's Office, APCP
Richard Swartz, Compliance and Enforcement Section Chief, APCP
Richard Waters, Assistant General Counsel, Department of Natural Resources
Emily Wilbur, Air Quality Planning Section Chief, APCP

Others Present by Attendance Record

Robert Brundage, Newman, Comley & Ruth PC
Jennifer Hernandez, Attorney General's Office
Casey Lawrence, Attorney General's Office
David Little, City Utilities of Springfield
Wendy Vit, GeoEngineers
Roger Walker, Regulatory Environmental Group for Missouri (REGFORM)

A. Call to Order

Chairman Gary Pendergrass called the May 30, 2019, meeting of the Missouri Air Conservation Commission to order. The following commissioners were present: Gary Pendergrass, Ron Boyer, Mark Garnett, and Kevin Rosenbohm. *Commissioners Mark Garnett and Kevin Rosenbohm participated by phone.

B. Minutes from March 28, 2019

Commissioner Boyer moved to approve the April 22, 2019, minutes as written. Vice Chairman Rosenbohm seconded the motion. All commissioners voted to approve the April 22, 2019, minutes as written.

C. Welcome and Introductions

Ms. Darcy Bybee welcomed the commission to Jefferson City.

Ms. Bybee noted there was one item for public hearing and one for adoption on the agenda. In addition to the regular reports there will be a presentation from the Attorney General's Office. There will be no commission meeting in June and the July meeting will take place at the St. Louis Regional Office.

D. Reports – The following referenced reports are in the May 30, 2019, Missouri Air Conservation Commission Briefing Document and available online at dnr.mo.gov/env/apcp/macc.htm.

1) COMPLIANCE/ENFORCEMENT REPORT

The video for this meeting and these reports can be viewed at <https://dnr.mo.gov/videos/archive-meetings.htm>. Please note that the video will be removed 90 days after the date of the commission meeting.

a) Concern Report

Mr. Richard Swartz said the Compliance/Enforcement Report begins on page 39 with the Concern Report. A total of 114 concerns were received between March 16, 2018, through April 15, 2019. During this time period 98 investigations were completed by regional office staff. In addition, two Letters of Warning were issued.

b) Ongoing Negotiations Report

The Ongoing Negotiations Report can be found on page 107. There are currently eight enforcement actions in the negotiation process at this time. Mr. Swartz mentioned that Toro Enterprises is new to this report and the Joyce McCreary case has dropped off. The Joyce McCreary case was finalized on April 2, 2019, with an Administrative Order on Consent. A total paid penalty \$4,525.00 was

assessed. See Attachment A at the end of these minutes for the slides to this presentation.

c) Finalized Agreement Report

The Finalized Agreements Report is on page 109. Three agreements were finalized from March 15, 2019 through April 15, 2019.

d) Pending Referrals Report

The Pending Referrals Report can be found on page 111. There are currently four active referrals, which is unchanged from last month.

Commissioner Boyer asked if there has been any loosening of the open burning rule due to all of the storm damage.

Mr. Swartz replied that some aspects of the open burning rule have been suspended; it is only for clean wood waste. Mr. Swartz went into further detail.

2) PERMIT REPORT

Mr. Kendall Hale stated the Permit Report begins on page 113 of the briefing document with the Permit Applications Received Report. For the months of January through April the Permit Section received 170 Construction and 60 Operating Permit projects. The Permit Section has received a total of 230 permit projects, so far, for 2019.

The Permit Applications Completed Report begins on page 121 of the briefing document. For the months of January through April the Permit Section completed 147 Construction and 63 Operating Permit projects. The Permit Section has completed a total of 210 permit projects, so far, for 2019. This information is searchable on the Air Pollution Control Program's website and is updated weekly.

The Open Permits Report is on page 133 of the briefing document. This report details the types of projects currently open in the Permit Section. There are currently 131 Construction and 140 Operating permit projects open in the Permit Section.

There are two intermediate operating permit projects on public notice. The draft permits are located on the program's website. Comments can be submitted electronically and in writing. For details on how to submit comments visit the Air Pollution Control Program's website at <https://dnr.mo.gov/env/apcp/permit-public-notices.htm>

The public hearing for Bridgeton Landfill was held on April 4, 2019, and the public comment period closed on April 11, 2019. Public comments were received and responded back to. The draft permit was sent to EPA for their 45-day review and it has been received back in the Permits Section. The permit should be issued by tomorrow or the first part of next week.

Mr. Hale said one new construction permit engineer will start on Tuesday, June 4, 2019; two more will start on Monday, June 3, 2019. That leaves the Permit Section with four permit-writer vacancies and one support staff vacancy.

Chairman Pendergrass asked if the recent hires are from other departments.

Mr. Hale replied they are recent graduates.

3) AIR QUALITY PLANNING REPORT

a) Rule and State Implementation Plan Agenda

Ms. Emily Wilbur said the Rule and SIP Agenda begins on page 135 and continues on page 136 of the briefing document. There is one public hearing item, 10 CSR 10-6.030, *Sampling Methods for Air Pollution Sources*, and one adoption item, *Missouri SIP Revision Interstate Transport Provisions for the 2015 Ozone Standard*, scheduled for today.

As Ms. Bybee mentioned, the next commission meeting will take place on July 25, 2019, at the St. Louis Regional Office. Rules 10 CSR 10-5.442, *Control of Emissions From Lithographic and Letterpress Printing Operations* and 10 CSR 10-5.550, *Control of Volatile Organic Compound Emissions From Reactor Processes and Distillation Operations Processes in the Synthetic Organic Chemical Manufacturing Industry* are on schedule to be presented at the July public hearing. Rule 10 CSR 10-6.030, *Sampling Methods for Air Pollution Sources* will also be presented for adoption.

The August 29, 2019, commission meeting will be in Jefferson City. The program is in the process of adding items to the August meeting agenda, and those items will appear in the July briefing document.

b) Rules in Progress Schedule

The Rules in Progress Schedule begins on page 137 of the briefing document. Some of the items that will be added to the August meeting agenda can be found on page 141. Four rulemakings on that page have July 25, 2019, listed as the public hearing date. Two of those are 10 CSR 10-5.442, *Control of Emissions From Lithographic and Letterpress Printing Operations* and 10 CSR 10-5.550, *Control of Volatile Organic Compound Emissions From Reactor Processes and Distillation Operations Processes in the Synthetic Organic Chemical Manufacturing Industry*. There are two additional agenda items which did not make it into the briefing document and those are 10 CSR 10-6.050, *Start-Up, Shutdown, and Malfunction Conditions* and 10 CSR 10-6.140, *Restriction of Emissions Credit for Reduced Pollutant Concentrations From the Use of Dispersion Techniques*. Because there is no meeting in June there are items that are being added to the agenda, and they will appear in the July briefing document. In addition to these rules in progress, three rulemakings are in the process of

development and they are 10 CSR 10-5.570, *Control of Sulfur Emissions from Stationary Boilers*, 10 CSR 10-6.161, *Commercial and Industrial Solid Waste Incinerators* and 10 CSR 10-6.390, *Control of NO_x Emissions From Large Stationary Internal Combustion Engines*. These rulemakings have not made it onto the Rules in Progress Schedule yet. The program is still in the process of developing these rulemakings and they are related to the 10 CSR 10-6.030 rulemaking that is currently out for public notice. Because of revisions that are being made to 10 CSR 10-6.030 the program has to update these rules to update those references as well.

c) State Plans Report

The State Plans Report starts on page 143 of the briefing document. Ms. Wilbur focused on the Sulfur Dioxide (SO₂) entries page 145. The program is closely following the air quality monitoring data as it relates to the 2010 SO₂ Standard. The program is also working on the boundary recommendations for the fourth and final round of designations that EPA will be making at the end of 2020. The areas that are left to be designated are Iron and New Madrid counties. The program continues to work on evaluating the potential nonattainment area in New Madrid County near the Magnitude 7 Metals facility. The program plans to submit its recommendations to EPA early next year.

One item that is not in the State Plan Report, because it is not a SIP revision, is the annual data requirements reporting rule that is currently out on public notice. This report is a requirement that the program must fulfill based on the Data Requirements Rule for SO₂. In this report the program evaluated those areas designated as attainment using modeling data based on previous modeling and current emissions data. The program determined and concluded that no additional modeling is necessary. The report is on public notice and can be found on the program's website. Public comments will be taken through June 19, 2019. Once finalized, the program will be submit the report to EPA.

EPA has published the proposed approval of the redesignation request for the St. Louis area for the 2012 Annual PM_{2.5} Standard. If finalized, EPA will redesignate the St. Louis area from unclassifiable to unclassifiable/attainment for the 2012 Annual PM_{2.5} Standard. This is based on quality assured, certified, valid data and includes the City of St. Louis, St. Louis County, St. Charles County, Franklin County, and Jefferson County. This is currently a proposed action and EPA is taking comments on this action until June 17, 2019.

4) DIRECTOR'S REPORT

a) Staffing

The program currently has approximately 14 vacancies. The program continues to review vacancies to determine which vacancies to fill immediately and which positions to hold, balancing expenditures with workload.

b) Ozone

Fortunately there has been only one exceedance of the 2015 ozone standard this season. That happened on Tuesday, April 9, 2019, at the Alba monitor outside of the Joplin area. No additional exceedances have occurred. The forecast for air quality in the St. Louis and Kansas City areas for today is green. The air quality box for Springfield, which is located on the program's website, is blank. This is due to the gentleman that did the air quality forecast for ozone in Springfield retired.

c) Volkswagen

There will be a Volkswagen meeting in the Bennett Springs conference room this afternoon at 1:30 p.m. and it will be Livestreamed.

The program has awarded approximately \$7.25 million this year in projects and has plans to award over two times that amount next year.

There are ten different types of projects that can be funded under the Volkswagen Trust and that means there are a lot of different entities that can be reached out to. If the commission or the public has ideas for outreach, the program would be very interested.

The program will present an update to the commission at their July meeting on Volkswagen.

The program is also taking comments on implementation guidelines for four different categories. Those four categories include non-government trucks, locomotives, marine, airport/cargo trucks, and electric vehicle charging stations. Comments will be accepted until June 28, 2019.

d) Monitoring Network Plan

The program's monitoring network plan was posted in June and will be accepting comments until July 19, 2019.

e) Assistance Compliance Enforcement Rule

EPA is expected to finalize the ACE rule on or around the first part of June.

f) Gateway Vehicle Inspection Program

The program has been reviewing the GVIP under the Periodic Rule Review and Red Tape Reduction. This legislative session did have proposed legislation to remove the GVIP as of January 1, 2020. The legislation did not move forward.

g) Commission Operating Policy

The program is still updating the commission's operating policy and hopes to present those changes to the commission in July.

h) Environmental Services Program

Ms. Bybee informed the commission that the program is working on scheduling a tour of ESP. She asked the commission to consider touring ESP after the August commission meeting. The program is also considering touring an air monitoring site in St. Louis sometime next year. The program will accommodate the commission's schedule.

Chairman Pendergrass commented that tours are great. He would like to get back into a routine of going to industry and touring their facilities.

E. Public Hearing

The video for this meeting and these reports can be viewed at <https://dnr.mo.gov/videos/archive-meetings.htm>. Please note that the video will be removed 90 days after the date of the commission meeting.

Chairman Pendergrass called the public hearing to order.

Mr. Aaron Basham presented 10 CSR 10-6.030, *Sampling Methods for Air Pollution Sources*. More information on the proposed amendment can be found on page 147 of the briefing document.

Chairman Pendergrass closed the public hearing.

To obtain a copy of the public hearing transcript, please contact Kathy Porter by writing to Alaris Litigation Services, 711 North 11th Street, St. Louis, MO 63101, or by phone at 1-800-280-3376.

F. Recommended for Adoption and Actions to be Voted on

Mr. Cliff Li presented Missouri SIP Revision – Interstate Transport Provisions for the 2015 Ozone Standard for adoption. More information on this SIP revision can be found on page 153 of the briefing document.

Commissioner Boyer asked how many downwind receptors outside of Missouri were analyzed in this process.

Mr. Li replied approximately five or six.

Commissioner Boyer moved to accept the recommendation to revise the Missouri SIP – Interstate Transport Provisions for the 2015 Ozone Standard as presented. Commissioner Garnett seconded the motion. All commissioners voted to accept the recommendation to

revise the Missouri SIP – Interstate Transport Provisions for the 2015 Ozone Standard as presented.

G. New Business

None.

H. Open Comment Session

No one addressed the commission.

I. Future Meeting Dates

July 25, 2019 – Thursday

St. Louis Regional Office
7545 South Lindbergh, Suite 220
DESE Conference Room
St. Louis, MO 63125

August 29, 2019 – Thursday

Elm Street Conference Center
1730 East Elm Street
Lower Level
Bennett Springs Conference Room
Jefferson City, MO 65101

September 26, 2019 – Thursday

Southwest Regional Office
2040 West Woodland
East and West Conference Rooms
Springfield, MO 65807

October 31, 2019 – Thursday

Elm Street Conference Center
1730 East Elm Street
Lower Level
Bennett Springs Conference Room
Jefferson City, MO 65101

December 3, 2019 – Tuesday

Elm Street Conference Center
1730 East Elm Street
Lower Level
Bennett Springs Conference Room
Jefferson City, MO 65101

J. Discussion of Pending Litigation and Legal Matters

Chairman Pendergrass announced this is the last commission meeting that Ms. Jennifer Hernandez will act as the commission's attorney. On behalf of the commission, Chairman Pendergrass thanked Ms. Hernandez for her service.

Ms. Hernandez thanked Chairman Pendergrass and said she enjoyed working with the commission. She also introduced Ms. Casey Lawrence from the Missouri Attorney General's Office and said she would be giving a presentation regarding the Missouri Sunshine Law.

Ms. Casey Lawrence, Director of Sunshine Law Compliance and Records Management, gave a presentation to the commission. The slides to her presentation may be seen in Attachment B to these minutes. The video to her presentation can be viewed at <https://dnr.mo.gov/videos/archive-meetings.htm>. Please note that the video will be removed 90 days after the date of the commission meeting. The pdf document that was passed out to the commission can also be located at <http://ago.mo.gov/docs/default-source/publications/missourisunshinelaw.pdf?sfvrsn=20>

Chairman Pendergrass inquired how many Sunshine Law requests the state receives in a year.

Ms. Lawrence replied it is in the high thousands, if not a hundred thousand at least.

K. Meeting Adjournment

Commissioner Boyer moved to adjourn the May 30, 2019, Missouri Air Conservation Commission meeting. Commissioner Garnett seconded the motion. All commissioners voted to adjourn the May 30, 2019, Missouri Air Conservation Commission meeting.

Chairman Pendergrass adjourned the May 30, 2019, Missouri Air Conservation Commission meeting.

Respectfully submitted,

Signature on File

Darcy A. Bybee, Director
Air Pollution Control Program

Approved:

Gary Pendergrass, Chairman
Missouri Air Conservation Commission



Compliance & Enforcement Report

Richard Swartz
Air Pollution Control Program



Concern Report (March 16-April 15)

- Concerns Received – 114
 - Burning – 30
 - Odor – 42
 - Asbestos – 11
 - Fugitive Particulate Matter – 10
 - Hazardous Air Pollutants – 3
 - Other – 18
- Investigations – 98
- Issued two LOWs



MISSOURI
DEPARTMENT OF
NATURAL RESOURCES

Air Pollution Control Program
Ongoing Negotiations

Responsible Party	Facility	Negotiations	
		Initiated	Region
Excess Emissions			
Aveen Noori	Blue River Treatment Plant	8/1/2018	KCRO
Matt Langston	SOLVENT RECOVERY LLC	6/18/2018	KCRO
Maximum Achievable Control Technology (MACT)			
Ethan Shackelford	Black Oak Recycling	3/5/2019	SWRO
Ethan Shackelford	Central Missouri Sanitary Landfill	3/5/2019	KCRO
Genevieve Bodnar	DOE RUN COMPANY Buick	6/25/2015	SERO
Open Burning			
David Chesnut	David Chesnut	1/8/2019	KCRO
Scott Fuller	Toro Enterprises	4/16/2019	SWRO
Part 70 Operating Permit			
Robin Bennett-Edmiston	Owens Corning Insulation LLC	11/18/2018	SWRO



Air Pollution Control Program
Finalized Agreements between March 15, 2019 and April 15, 2019

Responsible Party	Facility	Negotiation		Total		Region
		Initiated	Settled	Amount	Suspended Amount	
Asbestos						
Doccs Welding and Fabrication, LLI	3800 Hampton Reovation	11/1/2017	4/2/2019	8000	6000	SLRO
Excess Emissions						
Robert Budnik	Continental Cement Company LLC Gr	7/31/2018	3/28/2019	25000		NERO
Open Burning						
John Brewner	John Brewner	7/24/2017	3/15/2019	2000	2000	SWRO

Air Pollution Control Program
Pending Cases Referred to Attorney General's

Responsible Party	Facility	Referred to	
		AGO	Region
Asbestos			
Troy Murdock	Troy Murdock and Craig Blevins	2/1/2018	KCRO
Construction Permit			
Douglas Rose	Cameron Concrete	8/13/2018	KCRO
Maximum Achievable Control Technology (M)			
EBV - General Dynamics	ICI/EBV General Dynamics	4/1/2016	SWRO
Open Burning			
Greg Casey	Pallet Connection	7/13/2018	SERO

QUESTIONS??



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Missouri Sunshine Law

Casey Lawrence
Director of Sunshine Law Compliance



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Disclaimer:

- This presentation is meant as a summary of relevant provisions of the Sunshine Law; not an official opinion of the AGO. In providing this presentation, we do not suggest that we are providing you legal advice or otherwise treating you as a client of the Attorney General's Office.



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Sunshine Law Definitions



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Public Governmental Body

- Missouri's open records and meetings law, commonly referred to as the Sunshine Law, § 610, RSMo. is applicable to public governmental bodies and quasi-public governmental bodies

- § 610.010.(4), [Page 30]



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Public Record Definition

- Any record, whether written or electronically stored, retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared for the public governmental body by a consultant or other professional service paid for in whole or in part by public funds, including records created or maintained by private contractors under an agreement with a public governmental body or on behalf of a public governmental body;

•§ 610.010.(6), [Page 32]



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Electronic Transmission of Messages

- Any member of a public governmental body who transmits any message relating to public business by electronic means shall also concurrently transmit that message to either the member's public office computer or the custodian of records in the same format.

•§ 610.025 [Page 41]



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Electronic Transmission of Messages – When Applicable

- A quorum must be included as recipients
 - This includes the sender
- Messages will be considered public records

•§ 610.025 [Page 41]



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Public v. Open

- Public Records - Records of a public governmental body
- Open Records – Public records that can be provided to a requester
- Closed Records – Public records that cannot be provided to a requester



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Responding to Open Records Requests



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Custodian of Records

- Body must appoint a custodian of records
 - The identity and location of a public governmental body's custodian is to be made available upon request
- § 610.023.(1), [Page 40]



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Statutory Requirement

- Body must act on the request as soon as possible
 - No later than three days after the request was received by the Custodian of Records
- § 610.023.(3), [Page 40]



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Practical Tips

- Contact the requester in writing so both parties have a copy of the response,
 - Include the date the response was sent
 - Confirm the records that were requested
 - Request clarification, if necessary



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Practical Tips

- If the requester did not state a preference in their request you can provide the record in its original format
 - Ex. Requester asks for an email, the body provides the records electronically
 - Ex. Requester asks for a copy of a mailed invoice, the body provides a physical copy of the original invoice
- § 610.023.(3), [Page 40]



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Statutory Requirement

- A public governmental body keeping its records in an electronic format is strongly encouraged to provide access to its public records to members of the public in that format.
- § 610.029.(1), [Page 45]



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Statutory Requirement

- If you cannot produce the records within three days, you will still need to contact the requester within this time frame

- § 610.023.(3), [Page 40]



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Practical Tips & Statutory Requirements

- Provide a letter to the requester to let them know the records cannot be produced within three days
 - Requirements for the response letter
 - Estimated time of when the request can be fulfilled
 - Reasonable cause for the delay

- § 610.023.(3), [Page 40]



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Practical Tips & Statutory Requirements

- No Records Responsive to the Request
 - If there are no records responsive to a request, the body will still need to send a response to the requester to let them know that there are no records responsive to their request

- § 610.023.(3), [Page 40]



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Case Law

- Jones v. Jackson County Circuit Court
 - 162 S.W.3d 53 (Mo.App. W.D. 2005)
 - The Sunshine Law does not require a government body to create a new record upon request, but only to provide access to existing records held or maintained by the public governmental body

- Paragraph(3), [Page 22]



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Closed Records

- If a record is closed, provide the requester with the reason for closure
 - Cite to the specific provision of law

•§ 610.023.(4), [Page 41]



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Closed Record Authorizations

- Except to the extent disclosure is otherwise required by law, a public governmental body is authorized to close meetings, records and votes, to the extent they relate to the following...
 - There are 23 separate reasons to close records within 610.021
 - Multiple other reasons to close records in other statutes-can be used with 610.021(14)

•§610.021, [Pages35-39]



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Statutory Requirement

- If the records responsive to the request are closed:
 - Provide a response that generally describes the material exempted, unless that description would reveal the contents of the exempt information

•§610.024.(2), [Page 41]



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Statutory Requirement

- If the records responsive to the request contain closed information the body will be required to separate the exempt and non-exempt material
 - Redaction

•§610.024.(1), [Page 41]



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Transparency Policy



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Statutory Requirement

- Any data collected in the course of a body's duties shall be made available to the public in a timely fashion
- Data, reports and other information resulting from any activities conducted by the department in the course of its duties shall be easily accessible by any member of the public.

- §37.070.(1), [Page 72]



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Statutory Requirement

- Each department shall broadly interpret any request for information under section 610.023
 - Requests do not have to contain any of the following words or phrases
 - Open records request
 - Public records request
 - Sunshine Law
 - The request can also be an inquiry into the existence of information
- §37.070.(2), [Page 72]



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Statutory Requirement

- Each department shall broadly interpret any request for information under section 610.023
 - Requests do not have to be made in any specific format,
 - Email
 - Facsimile
 - Postal mail
 - Telephone
 - In-person
 - These are all acceptable for open records requests
- §37.070.2(3), [Page 72]



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Fees for Open Records Requests



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Statutory Requirements

- A public governmental body is allowed to charge fees for fulfilling open records requests
- Fees must be the lowest amount for search, research and duplication time
- A body may charge 10 cents a page for paper that is legal size or smaller

•§ 610.026.1(1), [Pages 41]



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JOSH HAWLEY

Practical Tips

- Alert the requester, before fulfilling the request, of what the expected cost to obtain the records will be
- Explain in a letter, or invoice, how the body arrived at the fee
 - Ex: 3 hours of research time at \$10 per hour is \$30
 - Ex: 200 sheets of paper at 10 cents a page is \$20

• § 610.026.1(1), [Pages 41-42]



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Statutory Requirement

- Except as otherwise provided by law, each public governmental body of the state shall remit all moneys received by or for it from fees charged pursuant to this section to the director of revenue for deposit to the general revenue fund of the state.

§ 610.026.(3), [Page 42]



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Public Meetings



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Public Meeting Definition

- Any meeting of a public governmental body subject to section 610.010. to 610.030 at which public business is discussed, decided, or public policy formulated

•§ 610.010.(5), [Page 32]



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Statutory Requirements

- A notice must be posted twenty-four hours in advance of a public meeting
 - Exclusive of weekends and holidays

•§ 610.020.(2), [Page 34]



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Statutory Requirements

- Meeting Notice Requirements
 - Time
 - Date
 - Place
 - Tentative Agenda
 - Must be reasonably calculated to inform the public of the matters to be considered
 - If the meeting will be conducted by telephone or electronic means

• § 610.020.(1), [Pages 33-34]



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Tips for Posting Meeting Notices

- Post meeting notices and agendas in an area that is accessible to the public even after business hours
- Consider posting more than one physical notice, or creating an electronic notice that could be posted online
- Include the date and time the notice was posted on the document
- Include the name and contact information of the Records Custodian on meeting notices and agendas in case someone would like to request a copy



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Statutory Requirements for Recording a Meeting

- The body shall allow members of the public to record all public meetings
 - Both audio & video recording are allowed
- The body may establish guidelines regarding the matter in which recordings are conducted
- Closed meetings may not be recorded without permission of the public body
 - Class C Misdemeanor

§ 610.020.(3), [Page 34]



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Closed Meetings



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Closed Meeting Requirement

- Any meeting or vote closed pursuant to section 610.021 shall be closed only to the extent necessary for the specific reason announced to justify the closed meeting or vote.
- § 610.022.3, [Page 39]



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Closed Meeting Authorizations

- Except to the extent disclosure is otherwise required by law, a public governmental body is authorized to close meetings, records and votes, to the extent they relate to the following...
 - There are 23 separate reasons to close meetings within 610.021
 - Multiple other reasons to close meetings in other statutes-can be used with 610.021(14)
- §610.021, [Pages35-39]



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Statutory Requirements for Closing a Meeting

Closed Meetings

- .1 Requires an affirmative public vote of the majority of a quorum of a public governmental body with reference to a specific section of 610.021
- .2 Requires a meeting notice with reference to a specific section of 610.021
 - § 610.022.(1) & (2), [Page 39]



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Practical Tips

- While the two subsections appear to operate independently, it may be useful for an agency to apply both processes when closing a meeting
- We are aware that many agencies already use both of these processes when closing a meeting
- By announcing a closed meeting with a public notice, including the citation of the specific provision allowing the closure; along with having a vote during open session to close a portion of the meeting, there can be little doubt as to the propriety of the closure

Notice of Public Meeting for Everytown City Council

6:00 pm on October 21, 2019

Large Government Building

123 Main Street

Everytown, USA 11111

Meeting Agenda

Call to order

Roll Call

Approve May meeting minutes

Unfinished Business

City Budget

New Business

Approve New Sunshine Law Policy

Public Comment Period

Vote to Close Meeting: pursuant to § 610.021(8) RSMo, for discussion of welfare cases of identifiable individuals

Vote to Adjourn Meeting

This notice was posted at Large Government Building on October 18, 2018, 9:30 am.

A copy of this notice is also available online at www.everytown.usa. If you require a copy of this notice please contact the Custodian of Records at 123-456-7890 or by email at recordscustodian@everytown.usa.



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Objection

- A member of the public governmental body can object to closing a portion of the meeting.
 - If a member objects their objection is required to be recorded in the body's meeting minutes
 - "any member making such an objection shall be allowed to full participate in any meeting, record or vote that issue."
- § 610.022.6, [Page 40]



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Location

- "Public governmental bodies holding a closed meeting shall close only an existing portion of the meeting facility necessary to house the members of the public governmental body in closed session, allowing members of the public to remain to attend any subsequent open session held by the public governmental body following the closed session."
- § 610.022.3, [Page 39]



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Statutory Requirements for Meeting Minutes

- Date
 - Time
 - Place
 - Members Present/Absent
 - Record of all votes taken
 - Including a record of each member's individual vote cast during a roll-call
- § 610.020.(7), [Page 35]



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Sunshine Law Policy



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Statutory Requirements

- “Each public governmental body shall provide a reasonable written policy in compliance with sections 610.010 to 610.030, open to public inspection, regarding the release of information on any meeting, record or vote”
- § 610.028.(2), [Page 44-45]



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Practical Tips

- A sample resolution is available online at www.ago.mo.gov
- **Policy may be simple**
 - name and address of custodian, schedule of fees and deadlines for filling requests...
- **... or more detailed**
 - including policy for routing records requests, specific cost for frequently requested records, circumstances under which fees will be waived...



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AGO Complaint Process

Educate

Provide information to public governmental bodies and constituents about the Missouri Sunshine Law

Mediate

Work with a complainant and the public governmental body to navigate a records request or meeting issue

Litigate

In exceptional circumstances our office has filed petitions against a public governmental body concerning a possible Sunshine Law Violation



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Questions?