

## SENATE SUBSTITUTE

FOR

HOUSE BILL NO. 92

AN ACT

To repeal sections 259.010, 259.020, 259.030, 259.050, 259.070, 259.080, 259.100, 259.190, 259.210, 260.235, 260.395, 260.500, 444.600, 444.773, 621.250, 640.115, 643.075, 643.078, 644.011, 644.016, 644.051, and 644.056, RSMo, and to enact in lieu thereof twenty-five new sections relating to the department of natural resources.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
AS FOLLOWS:

1           Section A. Sections 259.010, 259.020, 259.030, 259.050,  
2 259.070, 259.080, 259.100, 259.190, 259.210, 260.235, 260.395,  
3 260.500, 444.600, 444.773, 621.250, 640.115, 643.075, 643.078,  
4 644.011, 644.016, 644.051, and 644.056, RSMo, are repealed and  
5 twenty-five new sections enacted in lieu thereof, to be known as  
6 sections 259.010, 259.020, 259.030, 259.050, 259.052, 259.070,  
7 259.080, 259.100, 259.190, 259.210, 260.235, 260.395, 260.500,  
8 444.600, 444.773, 444.980, 621.250, 640.115, 643.075, 643.078,  
9 643.650, 644.011, 644.016, 644.051, and 644.056, to read as  
10 follows:

11           259.010. There shall be a "State Oil and Gas Council"  
12 composed of the following members in accordance with the  
13 provisions of section 259.020:

- 14           (1) [One member from the division of geology and land  
15 survey] The state geologist;  
16           (2) One member from the department of economic development;  
17           (3) One member from the Missouri public service commission;

1 (4) One member from the clean water commission;

2 (5) One member from the Missouri University of Science and  
3 Technology petroleum engineering program;

4 (6) One member from the Missouri Independent Oil and Gas  
5 Association; and

6 (7) Two members from the public.

7 259.020. The member entities in section 259.010 shall be  
8 represented on the council by the executive head of each  
9 respective entity, except that:

10 (1) The Missouri University of Science and Technology shall  
11 be represented by a professor of petroleum engineering employed  
12 at the university;

13 (2) The Missouri Independent Oil and Gas Association shall  
14 be represented by a designated member of the association; and

15 (3) The public members shall be appointed to the council by  
16 the governor, with the advice and consent of the senate. Both  
17 public members shall have an interest in and knowledge of the oil  
18 and gas industry, and both shall be residents of Missouri[, and  
19 at least one shall also be a resident of a county of the third or  
20 fourth classification]. The executive head of any member state  
21 agency, the professor of petroleum engineering at the Missouri  
22 University of Science and Technology and the member from the  
23 Missouri Independent Oil and Gas Association may from time to  
24 time authorize any member of the state agency's staff, another  
25 professor of petroleum engineering at the Missouri University of  
26 Science and Technology or another member of the Missouri  
27 Independent Oil and Gas Association, respectively, to represent  
28 it on the council and to fully exercise any of the powers and

1 duties of the member representative.

2 259.030. 1. The council shall elect a chairman and vice  
3 chairman from the members of the council [other than the  
4 representative of the division of geology and land survey]. A  
5 chairman and vice chairman may serve more than a one-year term,  
6 if so elected by the members of the council.

7 2. The state geologist shall act as administrator for the  
8 council and shall be responsible for enforcing the provisions of  
9 this chapter.

10 259.050. Unless the context otherwise requires, the  
11 following words mean:

12 (1) "Certificate of clearance" means a permit prescribed by  
13 the council for the transportation or the delivery of oil or gas  
14 or product and issued or registered in accordance with the rule,  
15 regulation, or order requiring such permit;

16 (2) "Council", the state oil and gas council established by  
17 section 259.010;

18 (3) "Department", the department of natural resources;

19 (4) "Field", the general area underlaid by one or more  
20 pools;

21 ~~[(4)]~~ (5) "Gas", all natural gas and all other fluid  
22 hydrocarbons which are produced at the wellhead and not  
23 hereinbelow defined as oil;

24 ~~[(5)]~~ (6) "Illegal gas" means gas which has been produced  
25 from any well within this state in excess of the quantity  
26 permitted by any rule, regulation, or order of the council;

27 ~~[(6)]~~ (7) "Illegal oil" means oil which has been produced  
28 from any well within the state in excess of the quantity

1 permitted by any rule, regulation, or order of the council;

2 [(7)] (8) "Illegal product" means any product derived in  
3 whole or in part from illegal oil or illegal gas;

4 [(8)] (9) "Noncommercial gas well", a gas well drilled for  
5 the sole purpose of furnishing gas for private domestic  
6 consumption by the owner and not for resale or trade;

7 [(9)] (10) "Oil", crude petroleum oil and other  
8 hydrocarbons regardless of gravity which are produced at the  
9 wellhead in liquid form and the liquid hydrocarbons known as  
10 distillate or condensate recovered or extracted from gas, other  
11 than gas produced in association with oil and commonly known as  
12 casinghead gas. The term shall also include hydrocarbons that do  
13 not flow to a wellhead but are produced by other means, including  
14 those contained in oil-shale and oil-sand;

15 [(10)] (11) "Owner", the person who has the right to drill  
16 into and produce from a pool and to appropriate the oil or gas he  
17 produced therefrom either for himself or others or for himself  
18 and others;

19 [(11)] (12) "Pool", an underground reservoir containing a  
20 common accumulation of oil or gas or both; each zone of a  
21 structure which is completely separated from any other zone in  
22 the same structure is a "pool", as that term is used in this  
23 chapter;

24 [(12)] "Producer", the owner of a well or wells capable of  
25 producing oil or gas or both;]

26 (13) "Product", any commodity made from oil or gas and  
27 includes refined crude oil, crude tops, topped crude, processed  
28 crude, processed crude petroleum, residue from crude petroleum,

1 cracking stock, uncracked fuel oil, fuel oil, treated crude oil,  
2 residuum, gas oil, casinghead gasoline, natural-gas gasoline,  
3 kerosene, [benzine] benzene, wash oil, waste oil, blended  
4 gasoline, lubricating oil, blends or mixtures of oil with one or  
5 more liquid products or by-products derived from oil or gas, and  
6 blends or mixtures of two or more liquid products or by-products  
7 derived from oil or gas whether [hereinabove] herein enumerated  
8 or not;

9 (14) "Reasonable market demand" means the demand for oil or  
10 gas for reasonable current requirements for consumption and use  
11 within and without the state, together with such quantities as  
12 are reasonably necessary for building up or maintaining  
13 reasonable working stocks and reasonable reserves of oil or gas  
14 or product;

15 (15) "Waste" means and includes:

16 (a) Physical waste, as that term is generally understood in  
17 the oil and gas industry, but not including unavoidable or  
18 accidental waste;

19 (b) The inefficient, excessive, or improper use of, or the  
20 unnecessary dissipation of, reservoir energy;

21 (c) The location, spacing, drilling, equipping, operating,  
22 or producing of any oil or gas well or wells in a manner which  
23 causes, or tends to cause, reduction in the quantity of oil or  
24 gas ultimately recoverable from a pool under prudent and proper  
25 operations, or which causes or tends to cause unnecessary or  
26 excessive surface loss or destruction of oil or gas;

27 (d) The inefficient storing of oil;

28 (e) The production of oil or gas in excess of

1 transportation or marketing facilities or in excess of reasonable  
2 market demand; and

3 (f) Through negligence, the unnecessary or excessive  
4 surface loss or destruction of oil or gas resulting from  
5 evaporation, seepage, leakage or deliberate combustion;

6 (16) "Well", any hole drilled in the earth for or in  
7 connection with the exploration, discovery, or recovery of oil or  
8 gas, or for or in connection with the underground storage of gas  
9 in natural formation, or for or in connection with the disposal  
10 of salt water, nonusable gas or other waste accompanying the  
11 production of oil or gas.

12 259.052. 1. There is hereby created in the state treasury  
13 the "Oil and Gas Resources Fund" which shall consist of all  
14 gifts, donations, transfers, moneys appropriated by the general  
15 assembly, permit application fees collected under section  
16 259.080, operating fees, closure fees, late fees, severance fees,  
17 and bequests to the fund. The fund shall be administered by the  
18 department of natural resources.

19 2. The state treasurer shall be custodian of the fund and  
20 may approve disbursements from the fund in accordance with  
21 sections 30.170 and 30.180. Notwithstanding the provisions of  
22 section 33.080 to the contrary, any moneys remaining in the fund  
23 at the end of the biennium shall not revert to the credit of the  
24 general revenue fund. The state treasurer shall invest moneys in  
25 the fund in the same manner as other funds are invested. Any  
26 interest and moneys on such investments shall be credited to the  
27 fund.

28 3. After appropriation by the general assembly, the money

1 in such fund shall be expended by the department to administer  
2 the provisions of chapter 259, and to collect, process, manage,  
3 interpret, and distribute geologic and hydrologic resource  
4 information pertaining to oil and gas potential, and not for any  
5 other purpose.

6 259.070. 1. The council has the duty of administering the  
7 provisions of this chapter. The council shall meet at least once  
8 each calendar quarter of the year and upon the call of the  
9 chairperson.

10 2. The council shall conduct a review of the statutes and  
11 rules and regulations under this chapter on a biennial basis.  
12 Based on such review, the council, if necessary, shall recommend  
13 changes to the statutes under this chapter and shall amend rules  
14 and regulations accordingly.

15 3. (1) The council shall have the power and duty to form  
16 an advisory committee to the council for the purpose of reviewing  
17 the statutes and rules and regulations under subsection 2 of this  
18 section. The advisory committee shall make recommendations to  
19 the council when necessary to amend current statutes and rules  
20 and regulations under this chapter and shall review any proposed  
21 new or amended statute or regulation before such proposed statute  
22 or regulation is considered by the council.

23 (2) The advisory committee shall be made up of  
24 representatives from the [division of geology and land survey]  
25 department, the oil and gas industry and any council member  
26 desiring to be on such advisory committee. The advisory  
27 committee shall meet prior to each calendar quarter meeting of  
28 the council, if necessary for the purposes set forth under this

1 subsection, and present any recommendations to the council at  
2 such calendar quarter meeting. The council shall designate one  
3 of its members to serve as the chairperson of the advisory  
4 committee.

5 (3) The advisory committee may make recommendations to the  
6 council on appropriate fees or other funding mechanisms to  
7 support the oil and gas program efforts of the [division of  
8 geology and land survey] department.

9 4. The council, acting through the department, has the duty  
10 and authority to make such investigations as it deems proper to  
11 determine whether waste exists or is imminent or whether other  
12 facts exist which justify action.

13 5. The council, acting through the [office of the state  
14 geologist] department, has the authority:

15 (1) To require through the issuance of appropriate orders:

16 (a) Identification of ownership of oil or gas wells,  
17 producing leases, tanks, plants, structures, and facilities for  
18 the refining or intrastate transportation of oil and gas;

19 (b) The making and filing of all mechanical well logs and  
20 the filing of directional surveys if taken, and the filing of  
21 reports on well location, drilling and production, and the filing  
22 free of charge of samples and core chips and of complete cores  
23 less tested sections, when requested in the office of the state  
24 geologist within six months after the completion or abandonment  
25 of the well;

26 (c) The drilling, casing, operation, and plugging of wells  
27 in such manner as to prevent the escape of oil or gas out of one  
28 stratum into another; the intrusion of water into oil or gas

1 stratum; the pollution of fresh water supplies by oil, gas, or  
2 highly mineralized water; to prevent blowouts, cavings, seepages,  
3 and fires; and to prevent the escape of oil, gas, or water into  
4 workable coal or other mineral deposits;

5 (d) The furnishing of a reasonable bond with good and  
6 sufficient surety, conditioned upon the full compliance with the  
7 provisions of this chapter, and the rules and regulations of the  
8 council prescribed to govern the production of oil and gas on  
9 state and private lands within the state of Missouri; provided  
10 that, in lieu of a bond with a surety, an applicant may furnish  
11 to the council his own personal bond, on conditions as described  
12 in this paragraph, secured by a certificate of deposit or an  
13 irrevocable letter of credit in an amount equal to that of the  
14 required surety bond or secured by some other financial  
15 instrument on conditions as above described or as provided by  
16 council regulations;

17 (e) That the production from wells be separated into  
18 gaseous and liquid hydrocarbons, and that each be accurately  
19 measured by such means and upon such standards as may be  
20 prescribed by the council;

21 (f) The operation of wells with efficient gas-oil and  
22 water-oil ratios, and to fix these ratios;

23 (g) Certificates of clearance in connection with the  
24 transportation or delivery of any native and indigenous Missouri  
25 produced crude oil, gas, or any product;

26 (h) Metering or other measuring of any native and  
27 indigenous Missouri-produced crude oil, gas, or product in  
28 pipelines, gathering systems, barge terminals, loading racks,

1 refineries, or other places; and

2 (i) That every person who produces, sells, purchases,  
3 acquires, stores, transports, refines, or processes native and  
4 indigenous Missouri-produced crude oil or gas in this state shall  
5 keep and maintain within this state complete and accurate records  
6 of the quantities thereof, which records shall be available for  
7 examination by the council or its agents at all reasonable times  
8 and that every such person file with the council such reports as  
9 it may prescribe with respect to such oil or gas or the products  
10 thereof;

11 (2) To regulate pursuant to rules adopted by the council:

12 (a) The release and forfeiture of bonds required under  
13 paragraph (d) of subdivision (1) of subsection 5 of this section;

14 (b) The drilling, producing, and plugging of wells, and all  
15 other operations for the production of oil or gas;

16 [(b)] (c) The [shooting and chemical] treatment of wells;

17 [(c)] (d) The spacing of wells;

18 [(d)] (e) Operations to increase ultimate recovery such as  
19 cycling of gas, the maintenance of pressure, and the introduction  
20 of gas, water, or other substances into producing formations; and

21 [(e)] (f) Disposal of highly mineralized water and oil  
22 field wastes;

23 (3) To limit and to allocate the production of oil and gas  
24 from any field, pool, or area;

25 (4) To classify wells as oil or gas wells for purposes  
26 material to the interpretation or enforcement of this chapter;

27 (5) To promulgate and to enforce rules, regulations, and  
28 orders to effectuate the purposes and the intent of this chapter;

1           (6) To make rules, regulations, or orders for the  
2 classification of wells as oil wells or dry natural gas wells; or  
3 wells drilled, or to be drilled, for geological information; or  
4 as wells for secondary recovery projects; or wells for the  
5 disposal of highly mineralized water, brine, or other oil field  
6 wastes; or wells for the storage of dry natural gas, or  
7 casinghead gas; or wells for the development of reservoirs for  
8 the storage of liquid petroleum gas;

9           (7) To detail such personnel and equipment or enter into  
10 such contracts as it may deem necessary for carrying out the  
11 plugging of or other remedial measures on wells which have been  
12 abandoned and not plugged according to the standards for plugging  
13 set out in the rules and regulations promulgated by the council  
14 pursuant to this chapter. Members of the council, the  
15 department, or authorized representatives may, with the consent  
16 of the owner or person in possession, enter any property for the  
17 purpose of investigating, plugging, or performing remedial  
18 measures on any well, or to supervise the investigation,  
19 plugging, or performance of remedial measures on any well. A  
20 reasonable effort to contact the owner or the person in  
21 possession of the property to seek his permission shall be made  
22 before members of the council, the department, or authorized  
23 representatives enter the property for the purposes described in  
24 this paragraph. If the owner or person in possession of the  
25 property cannot be found or refuses entry or access to any member  
26 of the council, the department, or to any authorized  
27 representative presenting appropriate credentials, the council or  
28 the department may request the attorney general to initiate in

1 any court of competent jurisdiction an action for injunctive  
2 relief to restrain any interference with the exercise of powers  
3 and duties described in this subdivision. Any entry authorized  
4 under this subdivision shall be construed as an exercise of the  
5 police power for the protection of public health, safety and  
6 general welfare and shall not be construed as an act of  
7 condemnation of property nor of trespass thereon. Members of the  
8 council [and], the department, or authorized representatives  
9 shall not be liable for any damages necessarily resulting from  
10 the entry upon land for purposes of investigating, plugging, or  
11 performing remedial measures or the supervision of such activity.  
12 However, if growing crops are present, arrangements for timing of  
13 such remedial work may be agreed upon between the state and  
14 landowner in order to minimize damages;

15 (8) To develop such facts and make such investigations or  
16 inspections as are consistent with the purposes of this chapter.  
17 [Members of the council] The department or its authorized  
18 representatives may, with the consent of the owner or person in  
19 possession, enter upon any property for the purposes of  
20 inspecting or investigating any condition which the [council]  
21 department shall have probable cause to believe is subject to  
22 regulation under this chapter, the rules and regulations  
23 promulgated pursuant thereto or any permit issued by the  
24 [council] department. If the owner or person in possession of  
25 the property refuses entry or access for purposes of the  
26 inspections or investigations described, the [council] department  
27 or authorized representatives shall make application for a search  
28 warrant. Upon a showing of probable cause in writing and under

1 oath, a suitable restricted search warrant shall be issued by any  
2 judge having jurisdiction for purposes of enabling inspections  
3 authorized under this subdivision. The results of any inspection  
4 or investigation pursuant to this subdivision shall be reduced to  
5 writing with a copy furnished to the owner, person in possession,  
6 or operator;

7 (9) To cooperate with landowners with respect to the  
8 conversion of wells drilled for oil and gas to alternative use as  
9 water wells as follows: the state geologist shall determine the  
10 feasibility of the conversion of a well drilled under a permit  
11 for oil and gas for use as a water well and shall advise the  
12 landowner of modifications required for conversion of the well in  
13 a manner that is consistent with the requirements of this  
14 chapter. If such conversion is carried out, release of the  
15 operator from legal liability or other responsibility shall be  
16 required and the expense of the conversion shall be borne by the  
17 landowner.

18 6. No rule or portion of a rule promulgated under the  
19 authority of this chapter shall become effective unless it has  
20 been promulgated pursuant to the provisions of section 536.024.

21 259.080. 1. It shall be unlawful to commence operations  
22 for the drilling of a well for oil or gas, or to commence  
23 operations to deepen any well to a different geological  
24 formation, or to commence injection activities for enhanced  
25 recovery of oil or gas or for disposal of fluids, without first  
26 giving the state geologist notice of intention to drill or  
27 intention to inject and first obtaining a permit from the state  
28 geologist under such rules and regulations as may be prescribed

1 by the council.

2 2. The department of natural resources may conduct a  
3 comprehensive review, and propose a new fee structure, or propose  
4 changes to the oil and gas fee structure, which may include but  
5 need not be limited to permit application fees, operating fees,  
6 closure fees, and late fees, and an extraction or severance fee.  
7 The comprehensive review shall include stakeholder meetings in  
8 order to solicit stakeholder input from each of the following  
9 groups: oil and gas industry representatives, the advisory  
10 committee, and any other interested parties. Upon completion of  
11 the comprehensive review, the department shall submit a proposed  
12 fee structure or changes to the oil and gas fee structure with  
13 stakeholder agreement to the oil and gas council. The council  
14 shall review such recommendations at the forthcoming regular or  
15 special meeting, but shall not vote on the fee structure until a  
16 subsequent meeting. If the council approves, by vote of two-  
17 thirds majority, the fee structure recommendations, the council  
18 shall authorize the department to file a notice of proposed  
19 rulemaking containing the recommended fee structure, and after  
20 considering public comments may authorize the department to file  
21 the final order of rulemaking for such rule with the joint  
22 committee on administrative rules under sections 536.021 and  
23 536.024 no later than December first of the same year. If such  
24 rules are not disapproved by the general assembly in the manner  
25 set out in this section, they shall take effect on January first  
26 of the following year, at which point the existing fee structure  
27 shall expire. Any regulation promulgated under this subsection  
28 shall be deemed beyond the scope and authority provided in this

1 subsection, or detrimental to permit applicants, if the general  
2 assembly, within the first sixty calendar days of the regular  
3 session immediately following the filing of such regulation,  
4 disapproves the regulation by concurrent resolution. If the  
5 general assembly so disapproved any regulation filed under this  
6 subsection, the department and the council shall not implement  
7 the proposed fee structure and shall continue to use the previous  
8 fee structure. The authority of the council to further revise  
9 the fee structure as provided in this subsection shall expire on  
10 August 28, 2025.

11 3. Failure to pay the fees, or any portion thereof,  
12 established under this section or to submit required reports,  
13 forms or information by the due date shall result in the  
14 imposition of a late fee established by the council. The  
15 department may issue an administrative order requiring payment of  
16 unpaid fees or may request that the attorney general bring an  
17 action in the appropriate circuit court to collect any unpaid  
18 fee, late fee, interest, or attorney's fees and costs incurred  
19 directly in fee collection. Such action may be brought in the  
20 circuit court of Cole County, or, in the case of well fees, in  
21 the circuit court of the county in which the well is located.

22 259.100. 1. The council shall set spacing units as  
23 follows:

24 (1) When necessary to prevent waste, to avoid the drilling  
25 of unnecessary wells, or to protect correlative rights, the  
26 council shall establish spacing units for a pool. Spacing units  
27 when established shall be of uniform size and shape for the  
28 entire pool, except that when found to be necessary for any of

1 the purposes above mentioned, the council is authorized to divide  
2 any pool into zones and establish spacing units for each zone,  
3 which units may differ in size and shape from those established  
4 in any other zone;

5 (2) The size and shape of spacing units are to be such as  
6 will result in the efficient and economical development of the  
7 pool as a whole;

8 (3) An order establishing spacing units for a pool shall  
9 specify the size and shape of each unit and the location of the  
10 permitted well thereon in accordance with a reasonably uniform  
11 spacing plan. Upon application, if the state geologist finds  
12 that a well drilled at the prescribed location would not produce  
13 in paying quantities, or that surface conditions would  
14 substantially add to the burden or hazard of drilling such well,  
15 the [state geologist] department is authorized to enter an order  
16 permitting the well to be drilled at a location other than that  
17 prescribed by such spacing order; however, the state geologist  
18 shall include in the order suitable provisions to prevent the  
19 production from the spacing unit of more than its just and  
20 equitable share of the oil and gas in the pool;

21 (4) An order establishing spacing units for a pool shall  
22 cover all lands determined or believed to be underlaid by such  
23 pool, and may be modified by the [state geologist] department  
24 from time to time to include additional areas determined to be  
25 underlaid by such pool. When found necessary for the prevention  
26 of waste, or to avoid the drilling of unnecessary wells or to  
27 protect correlative rights, an order establishing spacing units  
28 in a pool may be modified by the state geologist to increase the

1 size of spacing units in the pool or any zone thereof, or to  
2 permit the drilling of additional wells on a reasonable uniform  
3 plan in the pool, or any zone thereof. Orders of the [state  
4 geologist] department may be appealed to the council within  
5 thirty days.

6 2. [The provisions of subsection 1 of this section shall  
7 not apply to noncommercial gas wells.

8 3.] Applicants seeking a permit for a noncommercial gas  
9 well shall file a bond [or other instrument of credit acceptable  
10 to the council equal to the greater of three hundred dollars or  
11 one dollar and fifty cents per well foot] under paragraph (d) of  
12 subdivision (1) of subsection 5 of section 259.070 and meet the  
13 following conditions and procedures: an owner of a noncommercial  
14 gas well with drilling rights may apply for the establishment of  
15 a drilling unit [containing no less than three acres,] with a  
16 well set back of one hundred sixty-five feet on which a well no  
17 deeper than eight hundred feet in depth may be drilled. An owner  
18 of a noncommercial gas well may apply to the [council] department  
19 for a variance to establish a [drilling] spacing unit [of less  
20 than three acres and/or less than one hundred sixty-five feet],  
21 to set back distances, or both.

22 259.190. 1. Illegal oil, illegal gas, and illegal product  
23 are declared to be contraband and are subject to seizure and sale  
24 as herein provided; seizure and sale to be in addition to any and  
25 all other remedies and penalties provided in this chapter for  
26 violations relating to illegal oil, illegal gas, or illegal  
27 product. Whenever the council believes that any oil, gas or  
28 product is illegal, the council, acting by the attorney general,

1 shall bring a civil action in rem in the circuit court of the  
2 county where such oil, gas, or product is found, to seize and  
3 sell the same, or the council may include such an action in rem  
4 for the seizure and sale of illegal oil, illegal gas, or illegal  
5 product in any suit brought for an injunction or penalty  
6 involving illegal oil, illegal gas, or illegal product. Any  
7 person claiming an interest in oil, gas, or product affected by  
8 any such action shall have the right to intervene as an  
9 interested party in such action.

10 2. Actions for the seizure and sale of illegal oil, illegal  
11 gas, or illegal product shall be strictly in rem, and shall  
12 proceed in the name of the state as plaintiff against the illegal  
13 oil, illegal gas, or illegal products as defendant. No bond or  
14 similar undertaking shall be required of the plaintiff. Upon the  
15 filing of the petition for seizure and sale, the attorney general  
16 shall issue a notice, with a copy of the complaint attached  
17 thereto, which shall be served in the manner provided for service  
18 of original notices in civil actions, upon any and all persons  
19 having or claiming any interest in the illegal oil, illegal gas,  
20 or illegal products described in the petition. Service shall be  
21 completed by the filing of an affidavit by the person making the  
22 service, stating the time and manner of making such service. Any  
23 person who fails to appear and answer within the period of thirty  
24 days shall be forever barred by the judgment based on such  
25 service. If the court, on a properly verified petition, or  
26 affidavits, or oral testimony, finds that grounds for seizure and  
27 for sale exist, the court shall issue an immediate order of  
28 seizure, describing the oil, gas, or product to be seized and

1 directing the sheriff of the county to take such oil, gas, or  
2 product into his custody, actual or constructive, and to hold the  
3 same subject to the further order of the court. The court, in  
4 such order of seizure, may direct the sheriff to deliver the oil,  
5 gas, or product seized by him under the order to an agent  
6 appointed by the court as the agent of the court; such agent to  
7 give bond in an amount and with such surety as the court may  
8 direct, conditioned upon his compliance with the orders of the  
9 court concerning the custody and disposition of such oil, gas, or  
10 product.

11 3. Any person having an interest in oil, gas, or product  
12 described in an order of seizure and contesting the right of the  
13 state to the seizure and sale thereof may, prior to the sale  
14 thereof as herein provided, obtain the release thereof, upon  
15 furnishing bond to the sheriff, approved by the court, in an  
16 amount equal to one hundred fifty percent of the market value of  
17 the oil, gas, or product to be released, and conditioned as the  
18 court may direct upon redelivery to the sheriff of such product  
19 released or upon payment to the sheriff of the market value  
20 thereof as the court may direct, if and when ordered by the  
21 court, and upon full compliance with the further orders of the  
22 court.

23 4. If the court, after a hearing upon a petition for the  
24 seizure and sale of oil, gas, or product, finds that such oil,  
25 gas, or product is contraband, the court shall order the sale  
26 thereof by the sheriff in the same manner and upon the same  
27 notice of sale as provided by law for the sale of personal  
28 property on execution of judgment entered in a civil action

1 except that the court may order that the illegal oil, illegal  
2 gas, or illegal product be sold in specified lots or portions and  
3 at specified intervals. Upon such sale, title to the oil, gas,  
4 or product sold shall vest in the purchaser free of the claims of  
5 any and all persons having any title thereto or interest therein  
6 at or prior to the seizure thereof, and the same shall be legal  
7 oil, legal gas, or legal product, as the case may be, in the  
8 hands of the purchaser.

9 5. All proceeds derived from the sale of illegal oil,  
10 illegal gas, or illegal product, as above provided, after payment  
11 of costs of suit and expenses incident to the sale, and all  
12 amounts obtained by the council from the forfeiture of [surety or  
13 personal] bonds required under paragraph (d) of subdivision (1)  
14 of subsection 5 of section 259.070, [and any money recovered  
15 under subsection 1 of section 259.200] shall be paid to the state  
16 treasurer and credited to the "Oil and Gas Remedial Fund", which  
17 is hereby created. The money in the oil and gas remedial fund  
18 may be used by the [council] department to pay for the plugging  
19 of, or other remedial measures on, wells [and to pay the expenses  
20 incurred by the council in performing the duties imposed on it by  
21 this chapter. Any unexpended balance in the fund at the end of  
22 the fiscal year not exceeding fifty thousand dollars is exempt  
23 from the provisions of section 33.080 relating to transfer of  
24 unexpended balances to the ordinary revenue funds]. The state  
25 treasurer shall be custodian of the fund and may approve  
26 disbursements from the fund in accordance with sections 30.170  
27 and 30.180. Notwithstanding the provisions of section 33.080, to  
28 the contrary, any moneys remaining in the fund at the end of the

1 biennium shall not revert to the credit of the general revenue  
2 fund. The state treasurer shall invest moneys in the fund in the  
3 same manner as other funds are invested. Any interest and moneys  
4 earned on such investments shall be credited to the fund.

5 259.210. 1. Whenever it appears that any person is  
6 violating or threatening to violate any provision of this  
7 chapter, or any rule, regulation, or order of the council, the  
8 council [shall] or the department may request that the attorney  
9 general bring suit against such person in the circuit court of  
10 any county where the violation occurs or is threatened, to  
11 restrain such person from continuing the violation or from  
12 carrying out the threat of violation. In any such suit, the  
13 court shall have jurisdiction to grant to the council, without  
14 bond or other undertaking, such prohibitory and mandatory  
15 injunctions as the facts may warrant, including temporary  
16 restraining orders, preliminary injunctions, temporary,  
17 preliminary, or final orders restraining the movement or  
18 disposition of any illegal oil, illegal gas, or illegal product,  
19 any of which the court may order to be impounded or placed in the  
20 custody of an agent appointed by the court.

21 2. If the council shall fail to bring suit to enjoin a  
22 violation or a threatened violation of any provision of this  
23 chapter, or any rule, regulation, or order of the council, within  
24 ten days after receipt of written request to do so by any person  
25 who is or will be adversely affected by such violation, the  
26 person making such request may bring suit in his own behalf to  
27 restrain such violation or threatened violation in any court in  
28 which the council might have brought suit. The council shall be

1 made a party defendant in such suit in addition to the person  
2 violating or threatening to violate a provision of this chapter,  
3 or a rule, regulation, or order of the council, and the action  
4 shall proceed and injunctive relief may be granted to the council  
5 or the petitioner without bond in the same manner as if suit had  
6 been brought by the council.

7 260.235. Any person aggrieved by a forfeiture of any financial  
8 assurance instrument, civil or administrative penalty or denial,  
9 suspension or revocation of a permit required by section 260.205  
10 or a modification to a permit issued under section 260.205 or any  
11 disapproval of the plan required by section 260.220, may appeal  
12 such decision as provided in [section] sections 621.250 [, subject  
13 to judicial review as provided by law] and 640.013 by filing a  
14 petition with the administrative hearing commission within thirty  
15 days of the decision. The notice of the department shall be  
16 effected by certified mail and shall set forth the reasons for  
17 such forfeiture, disapproval, denial, suspension, civil penalty  
18 or revocation. The department may seek an injunction in the  
19 circuit court in which the facility is located requiring the  
20 facility for which the transfer of ownership has been denied, or  
21 the permit or modification of the permit has been denied,  
22 suspended or revoked, to cease operations from the date ordered  
23 by the court until such time as the appeal is resolved or obtain  
24 a performance bond in the amount and manner as prescribed by  
25 rule. The department's action seeking an injunction shall be  
26 based on the seriousness of the threat to the environment which  
27 continued operation of the facility poses. A bond may be  
28 required in order to stay the effect of the department's action

1 until the appeal is resolved, in which case such bond shall  
2 remain in place until the appeal is resolved. If the  
3 department's decision is upheld, the bond shall be forfeited and  
4 placed in a separate subaccount of the solid waste management  
5 fund. Once the administrative hearing commission has reviewed  
6 the appeal, the administrative hearing commission shall make a  
7 final decision on the forfeiture of any financial assurance  
8 instrument, civil or administrative penalty, denial, suspension,  
9 revocation, or modification of a permit or disapproval of the  
10 plan required by section 260.220. The administrative hearing  
11 commission shall mail copies of its final decision to the parties  
12 to the appeal or their counsel of record. The commission's  
13 decision shall be subject to judicial review pursuant to chapter  
14 536, except that the court of appeals district with territorial  
15 jurisdiction coextensive with the county where the solid waste  
16 processing facility or disposal area is located or is to be  
17 located shall have original jurisdiction. No judicial review  
18 shall be available until and unless all administrative remedies  
19 are exhausted.

20 260.395. 1. After six months from the effective date of  
21 the standards, rules and regulations adopted by the commission  
22 pursuant to section 260.370, it shall be unlawful for any person  
23 to transport any hazardous waste in this state without first  
24 obtaining a hazardous waste transporter license. Any person  
25 transporting hazardous waste in this state shall file an  
26 application for a license pursuant to this subsection which  
27 shall:

28 (1) Be submitted on a form provided for this purpose by the

1 department and shall furnish the department with such equipment  
2 identification and data as may be necessary to demonstrate to the  
3 satisfaction of the department that equipment engaged in such  
4 transportation of hazardous waste, and other equipment as  
5 designated in rules and regulations pursuant to sections 260.350  
6 to 260.430, is adequate to provide protection of the health of  
7 humans and the environment and to comply with the provisions of  
8 any federal hazardous waste management act and sections 260.350  
9 to 260.430 and the standards, rules and regulations adopted  
10 pursuant to sections 260.350 to 260.430. If approved by the  
11 department, this demonstration of protection may be satisfied by  
12 providing certification that the equipment so identified meets  
13 and will be operated in accordance with the rules and regulations  
14 of the Missouri public service commission and the federal  
15 Department of Transportation for the transportation of the types  
16 of hazardous materials for which it will be used;

17 (2) Include, as specified by rules and regulations,  
18 demonstration of financial responsibility, including, but not  
19 limited to, guarantees, liability insurance, posting of bond or  
20 any combination thereof which shall be related to the number of  
21 units, types and sizes of equipment to be used in the transport  
22 of hazardous waste by the applicant;

23 (3) Include, as specified in rules and regulations, a fee  
24 payable to the state of Missouri which shall consist of an annual  
25 application fee, plus an annual use fee based upon tonnage,  
26 mileage or a combination of tonnage and mileage. The fees  
27 established pursuant to this subdivision shall be set to  
28 generate, as nearly as is practicable, six hundred thousand

1 dollars annually. No fee shall be collected pursuant to this  
2 subdivision from railroads that pay a fee pursuant to subsection  
3 18 of this section. Fees collected pursuant to this subdivision  
4 shall be deposited in the hazardous waste fund created pursuant  
5 to section 260.391.

6 2. If the department determines the application conforms to  
7 the provisions of any federal hazardous waste management act and  
8 sections 260.350 to 260.430 and the standards, rules and  
9 regulations adopted pursuant to sections 260.350 to 260.430, it  
10 shall issue the hazardous waste transporter license with such  
11 terms and conditions as it deems necessary to protect the health  
12 of humans and the environment. The department shall act within  
13 ninety days after receipt of the application. If the department  
14 denies the license, it shall issue a report to the applicant  
15 stating the reason for denial of the license.

16 3. A license may be suspended or revoked whenever the  
17 department determines that the equipment is or has been operated  
18 in violation of any provision of sections 260.350 to 260.430 or  
19 any standard, rule or regulation, order, or license term or  
20 condition adopted or issued pursuant to sections 260.350 to  
21 260.430, poses a threat to the health of humans or the  
22 environment, or is creating a public nuisance.

23 4. Whenever a license is issued, renewed, denied, suspended  
24 or revoked by the department, any aggrieved person, by petition  
25 filed with the [department] administrative hearing commission  
26 within thirty days of the decision, may appeal such decision [and  
27 shall be entitled to a hearing as provided in section 260.400] as  
28 provided by sections 621.250 and 640.013. Once the

1 administrative hearing commission has reviewed the appeal, the  
2 administrative hearing commission shall issue a recommended  
3 decision to the commission on license issuance, renewal, denial,  
4 suspension, or revocation. The commission shall issue its own  
5 decision, based on the appeal, for license issuance, renewal,  
6 denial, suspension, or revocation. If the commission changes a  
7 finding of fact or conclusion of law made by the administrative  
8 hearing commission, or modifies or vacates the decision  
9 recommended by the administrative hearing commission, it shall  
10 issue its own decision, which shall include findings of fact and  
11 conclusions of law. The commission shall mail copies of its  
12 final decision to the parties to the appeal or their counsel of  
13 record. The commission's decision shall be subject to judicial  
14 review pursuant to chapter 536. No judicial review shall be  
15 available until and unless all administrative remedies are  
16 exhausted.

17 5. A license shall be issued for a period of one year and  
18 shall be renewed upon proper application by the holder and a  
19 determination by the department that the applicant is in  
20 compliance with all provisions of sections 260.350 to 260.430 and  
21 all standards, rules and regulations, orders and license terms  
22 and conditions adopted or issued pursuant to sections 260.350 to  
23 260.430.

24 6. A license is not required for the transport of any  
25 hazardous waste on the premises where it is generated or onto  
26 contiguous property owned by the generator thereof, or for those  
27 persons exempted in section 260.380. Nothing in this subsection  
28 shall be interpreted to preclude the department from inspecting

1 unlicensed hazardous waste transporting equipment and to require  
2 that it be adequate to provide protection for the health of  
3 humans and the environment.

4 7. After six months from the effective date of the  
5 standards, rules and regulations adopted by the commission  
6 pursuant to section 260.370, it shall be unlawful for any person  
7 to construct, substantially alter or operate, including  
8 operations specified in the rules and regulations, a hazardous  
9 waste facility without first obtaining a hazardous waste facility  
10 permit for such construction, alteration or operation from the  
11 department. Such person must submit to the department at least  
12 ninety days prior to submitting a permit application a letter of  
13 intent to construct, substantially alter or operate any hazardous  
14 waste disposal facility. The person must file an application  
15 within one hundred eighty days of the filing of a letter of  
16 intent unless granted an extension by the commission. The  
17 department shall publish such letter of intent as specified in  
18 section 493.050 within ten days of receipt of such letter. The  
19 letter shall be published once each week for four weeks in the  
20 county where the hazardous waste disposal facility is proposed.  
21 Once such letter is submitted, all conditions for the permit  
22 application evaluation purposes in existence as of the date of  
23 submission shall be deemed frozen, in that no subsequent action  
24 by any person to change such conditions in an attempt to thwart a  
25 fair and impartial decision on the application for a permit shall  
26 be allowed as grounds for denial of the permit. Any person  
27 before constructing, substantially altering or operating a  
28 hazardous waste facility in this state shall file an application

1 for a permit which shall:

2 (1) Be submitted on a form provided for this purpose by the  
3 department and shall furnish the department with plans,  
4 specifications and such other data as may be necessary to  
5 demonstrate to the satisfaction of the department that such  
6 facility does or will provide adequate protection of the health  
7 of humans and the environment and does or will comply with the  
8 provisions of any federal hazardous waste management act and  
9 sections 260.350 to 260.430 and the standards, rules and  
10 regulations adopted pursuant to sections 260.350 to 260.430;

11 (2) Include plans, designs, engineering reports and  
12 relevant data for construction, alteration or operation of a  
13 hazardous waste facility, to be submitted to the department by a  
14 registered professional engineer licensed by this state;

15 (3) Include, as specified by rules and regulations,  
16 demonstration of financial responsibility, including, but not  
17 limited to, guarantees, liability insurance, posting of bond or  
18 any combination thereof, which shall be related to type and size  
19 of facility;

20 (4) Include such environmental and geologic information,  
21 assessments and studies as required by the rules and regulations  
22 of the commission;

23 (5) Include a fee payable to the state of Missouri which  
24 shall not exceed one thousand dollars, which shall cover the  
25 first year of the permit, if issued, but which is not refundable.  
26 If the permit is issued for more than one year, a fee equal in  
27 amount to the first year's fee shall be paid to the state of  
28 Missouri prior to issuance of the permit for each year the permit

1 is to be in effect beyond the first year;

2 (6) The department shall supervise any field work  
3 undertaken to collect geologic and engineering data for  
4 submission with the application. The state geologist and  
5 departmental engineers shall review the geologic and engineering  
6 plans, respectively, and attest to their accuracy and adequacy.  
7 The applicant shall pay all reasonable costs, as determined by  
8 the commission, incurred by the department pursuant to this  
9 subsection.

10 8. (1) Prior to issuing or renewing a hazardous waste  
11 facility permit, the department shall issue public notice by  
12 press release or advertisement and shall notify all record owners  
13 of adjoining property by mail directed to the last known address,  
14 and the village, town or city, if any, and the county in which  
15 the hazardous waste facility is located; and, upon request, shall  
16 hold a public hearing after public notice as required in this  
17 subsection at a location convenient to the area affected by the  
18 issuance of the permit.

19 (2) Prior to issuing or renewing a hazardous waste disposal  
20 facility permit the department shall issue public notice by press  
21 release and advertisement and shall notify all record owners of  
22 property, within one mile of the outer boundaries of the site, by  
23 mail directed to the last known address; and shall hold a public  
24 hearing after public notice as required in this subsection at a  
25 location convenient to the area affected by the issuance of the  
26 permit.

27 9. If the department determines that the application  
28 conforms to the provisions of any federal hazardous waste

1 management act and sections 260.350 to 260.430 and the standards,  
2 rules and regulations adopted pursuant to sections 260.350 to  
3 260.430, it shall issue the hazardous waste facility permit, with  
4 such terms and conditions and require such testing and  
5 construction supervision as it deems necessary to protect the  
6 health of humans or the environment. The department shall act  
7 within one hundred and eighty days after receipt of the  
8 application. If the department denies the permit, it shall issue  
9 a report to the applicant stating the reason for denial of a  
10 permit.

11 10. A permit may be suspended or revoked whenever the  
12 department determines that the hazardous waste facility is, or  
13 has been, operated in violation of any provision of sections  
14 260.350 to 260.430 or any standard, rule or regulation, order or  
15 permit term or condition adopted or issued pursuant to sections  
16 260.350 to 260.430, poses a threat to the health of humans or the  
17 environment or is creating a public nuisance.

18 11. Whenever a permit is issued, renewed, denied, suspended  
19 or revoked by the department, any aggrieved person, by petition  
20 filed with the [department] administrative hearing commission  
21 within thirty days of the decision, may appeal such decision [and  
22 shall be entitled to a hearing as provided in section 260.400] as  
23 provided by sections 621.250 and 640.013. Once the  
24 administrative hearing commission has reviewed the appeal, the  
25 administrative hearing commission shall issue a recommended  
26 decision to the commission on permit issuance, renewal, denial,  
27 suspension, or revocation. The commission shall issue its own  
28 decision, based on the appeal, for permit issuance, renewal,

1 denial, suspension, or revocation. If the commission changes a  
2 finding of fact or conclusion of law made by the administrative  
3 hearing commission, or modifies or vacates the decision  
4 recommended by the administrative hearing commission, it shall  
5 issue its own decision, which shall include findings of fact and  
6 conclusions of law. The commission shall mail copies of its  
7 final decision to the parties to the appeal or their counsel of  
8 record. The commission's decision shall be subject to judicial  
9 review pursuant to chapter 536, except that the court of appeals  
10 district with territorial jurisdiction coextensive with the  
11 county where the hazardous waste facility is to be located or is  
12 located, shall have original jurisdiction. No judicial review  
13 shall be available until and unless all administrative remedies  
14 are exhausted.

15       12. A permit shall be issued for a fixed term, which shall  
16 not exceed ten years in the case of any land disposal facility,  
17 storage facility, incinerator, or other treatment facility.  
18 Nothing in this subsection shall preclude the department from  
19 reviewing and modifying a permit at any time during its term.  
20 Review of any application for a permit renewal shall consider  
21 improvements in the state of control and measurement technology  
22 as well as changes in applicable regulations. Each permit issued  
23 pursuant to this section shall contain such terms and conditions  
24 as the department determines necessary to protect human health  
25 and the environment, and upon proper application by the holder  
26 and a determination by the department that the applicant is in  
27 compliance with all provisions of sections 260.350 to 260.430 and  
28 all standards, rules and regulations, orders and permit terms and

1 conditions adopted or issued pursuant to sections 260.350 to  
2 260.430.

3 13. A hazardous waste facility permit is not required for:

4 (1) On-site storage of hazardous wastes where such storage  
5 is exempted by the commission by rule or regulation; however,  
6 such storage must conform to the provisions of any federal  
7 hazardous waste management act and sections 260.350 to 260.430  
8 and the applicable standards, rules and regulations adopted  
9 pursuant to sections 260.350 to 260.430 and any other applicable  
10 hazardous materials storage and spill-prevention requirements  
11 provided by law;

12 (2) A publicly owned treatment works which has an operating  
13 permit pursuant to section 644.051 and is in compliance with that  
14 permit;

15 (3) A resource recovery facility which the department  
16 certifies uses hazardous waste as a supplement to, or substitute  
17 for, nonwaste material, and that the sole purpose of the facility  
18 is manufacture of a product rather than treatment or disposal of  
19 hazardous wastes;

20 (4) That portion of a facility engaged in hazardous waste  
21 resource recovery, when the facility is engaged in both resource  
22 recovery and hazardous waste treatment or disposal, provided the  
23 owner or operator can demonstrate to the department's  
24 satisfaction and the department finds that such portion is not  
25 intended and is not used for hazardous waste treatment or  
26 disposal.

27 14. Facilities exempted pursuant to subsection 13 of this  
28 section must comply with the provisions of subdivisions (3) to

1 (7) of section 260.390 and such other requirements, to be  
2 specified by rules and regulations, as are necessary to comply  
3 with any federal hazardous waste management act or regulations  
4 hereunder. Generators who use such an exempted facility shall  
5 keep records of hazardous wastes transported, except by legal  
6 flow through sewer lines, to the facility and submit such records  
7 to the department in accordance with the provisions of section  
8 260.380 and the standards, rules and regulations adopted pursuant  
9 to sections 260.350 to 260.430. Any person, before constructing,  
10 altering or operating a resource recovery facility in this state  
11 shall file an application for a certification. Such application  
12 shall include:

13 (1) Plans, designs, engineering reports and other relevant  
14 information as specified by rule that demonstrate that the  
15 facility is designed and will operate in a manner protective of  
16 human health and the environment; and

17 (2) An application fee of not more than five hundred  
18 dollars for a facility that recovers waste generated at the same  
19 facility or an application fee of not more than one thousand  
20 dollars for a facility that recovers waste generated at off-site  
21 sources. Such fees shall be deposited in the hazardous waste  
22 fund created in section 260.391. The department shall review  
23 such application for conformance with applicable laws, rules and  
24 standard engineering principles and practices. The applicant  
25 shall pay to the department all reasonable costs, as determined  
26 by the commission, incurred by the department pursuant to this  
27 subsection. All such funds shall be deposited in the hazardous  
28 waste fund created in section 260.391.

1           15. The owner or operator of any hazardous waste facility  
2 in existence on September 28, 1977, who has achieved federal  
3 interim status pursuant to 42 U.S.C. 6925(e), and who has  
4 submitted to the department Part A of the federal facility permit  
5 application, may continue to receive and manage hazardous wastes  
6 in the manner as specified in the Part A application, and in  
7 accordance with federal interim status requirements, until  
8 completion of the administrative disposition of a permit  
9 application submitted pursuant to sections 260.350 to 260.430.  
10 The department may at any time require submission of, or the  
11 owner or operator may at any time voluntarily submit, a complete  
12 application for a permit pursuant to sections 260.350 to 260.430  
13 and commission regulations. The authority to operate pursuant to  
14 this subsection shall cease one hundred eighty days after the  
15 department has notified an owner or operator that an application  
16 for permit pursuant to sections 260.350 to 260.430 must be  
17 submitted, unless within such time the owner or operator submits  
18 a completed application therefor. Upon submission of a complete  
19 application, the authority to operate pursuant to this subsection  
20 shall continue for such reasonable time as is required to  
21 complete the administrative disposition of the permit  
22 application. If a facility loses its federal interim status, or  
23 the Environmental Protection Agency requires the owner or  
24 operator to submit Part B of the federal application, the  
25 department shall notify the owner or operator that an application  
26 for a permit must be submitted pursuant to this subsection. In  
27 addition to compliance with the federal interim status  
28 requirements, the commission shall have the authority to adopt

1 regulations requiring persons operating pursuant to this  
2 subsection to meet additional state interim status requirements.

3 16. No person, otherwise qualified pursuant to sections  
4 260.350 to 260.430 for a license to transport hazardous wastes or  
5 for a permit to construct, substantially alter or operate a  
6 hazardous waste facility, shall be denied such license or permit  
7 on the basis of a lack of need for such transport service or such  
8 facility because of the existence of other services or facilities  
9 capable of meeting that need; except that permits for hazardous  
10 waste facilities may be denied on determination made by the  
11 department that the financial resources of the persons applying  
12 are such that the continued operation of the sites in accordance  
13 with sections 260.350 to 260.430 cannot be reasonably assured or  
14 on determination made by the department that the probable volume  
15 of business is insufficient to ensure and maintain the solvency  
16 of then existing permitted hazardous waste facilities.

17 17. All hazardous waste landfills constructed after October  
18 31, 1980, shall have a leachate collection system. The rules and  
19 regulations of the commission shall treat and protect all  
20 aquifers to the same level of protection. The provisions of this  
21 subsection shall not apply to the disposal of tailings and slag  
22 resulting from mining, milling and primary smelting operations.

23 18. Any railroad corporation as defined in section 388.010  
24 that transports any hazardous waste as defined in section 260.360  
25 or any hazardous substance as defined in section 260.500 shall  
26 pay an annual fee of three hundred fifty dollars. Fees collected  
27 pursuant to this subsection shall be deposited in the hazardous  
28 waste fund created in section 260.391.

1           260.500. As used in sections 260.500 to 260.550, unless the  
2 context clearly indicates otherwise, the following terms mean:

3           (1) "Cleanup", all actions necessary to contain, collect,  
4 control, identify, analyze, clean up, treat, disperse, remove, or  
5 dispose of a hazardous substance;

6           (2) "Cleanup costs", all costs incurred by the state or any  
7 of its political subdivisions, or their agents, or by any other  
8 person participating with the approval of the department of  
9 natural resources in the prevention or mitigation of damages from  
10 a hazardous substance emergency or the cleanup of a hazardous  
11 substance involved in a hazardous substance emergency, including  
12 a proportionate share of those costs necessary to maintain the  
13 services authorized in sections 260.500 to 260.550;

14           (3) "Department", the department of natural resources;

15           (4) "Director", the director of the department of natural  
16 resources;

17           (5) "Hazardous substance", any substance or mixture of  
18 substances that presents a danger to the public health or safety  
19 or the environment and includes:

20           (a) Any hazardous waste identified or listed by the  
21 department pursuant to sections 260.350 to 260.430;

22           (b) Any element, compound, mixture, solution, or substance  
23 designated pursuant to Sections 101(14) and 102 of the  
24 Comprehensive Environmental Response, Compensation and Liability  
25 Act of 1980, as amended, and Section 302 of the Superfund  
26 Amendments and Reauthorization Act of 1986, as amended; and

27           (c) Any hazardous material designated by the Secretary of  
28 the United States Department of Transportation pursuant to the

1 Hazardous Materials Transportation Act;

2 (d) "Hazardous substances" does not include radioactive  
3 materials, wastes, emissions or discharges that are licensed or  
4 regulated by laws of the federal government or of this state.  
5 However, such material released due to a transportation accident  
6 shall be considered a hazardous substance;

7 (6) "Hazardous substance emergency":

8 (a) Any release of hazardous substances in quantities equal  
9 to or in excess of those determined pursuant to Section 101(14)  
10 or 102 of the Comprehensive Environmental Response, Compensation  
11 and Liability Act of 1980, as amended, and Section 304 of the  
12 Superfund Amendments and Reauthorization Act of 1986, as amended;

13 (b) Any release of petroleum including crude oil or any  
14 fraction thereof, natural gas, natural gas liquids, liquefied  
15 natural gas, or synthetic gas usable for fuel (or mixtures of  
16 natural gas and such synthetic gas) in excess of fifty gallons  
17 for liquids or three hundred cubic feet for gases, except that  
18 the notification and reporting of any release of natural gas or  
19 natural gas mixtures by or from intrastate facilities, regardless  
20 of the quantity of such release, shall be as specified by the  
21 public service commission rather than pursuant to the  
22 notification and reporting requirements contained in, or  
23 authorized by, sections 260.500 to 260.550. Interstate natural  
24 gas pipeline facilities shall report natural gas releases to the  
25 state and the National Response Center in accordance with federal  
26 Department of Transportation regulatory requirements;

27 (c) Any release of a hazardous waste which is reportable  
28 pursuant to sections 260.350 to 260.430;

1 (d) Any release of a hazardous substance which requires  
2 immediate notice pursuant to Part 171 of Title 49 of the Code of  
3 Federal Regulations;

4 (e) The department may promulgate rules and regulations  
5 identifying the substances and the quantities thereof which, if  
6 released, constitute a hazardous substance emergency;

7 (7) "Person", any individual, partnership, copartnership,  
8 firm, company, public or private corporation, association, joint  
9 stock company, trust, estate, political subdivision, or any  
10 agency, board, department, or bureau of the state or federal  
11 government, or any other legal entity whatever which is  
12 recognized by law as the subject of rights and duties;

13 (8) "Person having control over a hazardous substance", any  
14 person producing, handling, storing, transporting, refining, or  
15 disposing of a hazardous substance when a hazardous substance  
16 emergency occurs, including bailees, carriers, and any other  
17 person in control of a hazardous substance when a hazardous  
18 substance emergency occurs, whether they own the hazardous  
19 substance or are operating under a lease, contract, or other  
20 agreement with the legal owner thereof;

21 (9) "Release", any threatened or real emission, discharge,  
22 spillage, leakage, pumping, pouring, emptying or dumping of a  
23 substance into or onto the land, air or waters of the state  
24 unless done in compliance with the conditions of a federal or  
25 state permit, unless the substance is confined and is expected to  
26 stay confined to property owned, leased or otherwise controlled  
27 by the person having control over the substance, or unless, in  
28 the case of pesticides, if application is done in accordance with

1 the product label;

2 (10) "State of Missouri basic emergency operations plan",  
3 the state plan, its annexes, and appendices as developed or  
4 maintained by the state emergency management agency for response  
5 to natural and man-made disasters in this state;

6 (11) "Waters of the state", all waters within the  
7 jurisdiction of this state, including all rivers, streams, lakes  
8 and other bodies of surface and subsurface water lying within or  
9 forming a part of the boundaries of the state which are not  
10 entirely confined and located completely upon lands owned, leased  
11 or otherwise controlled by a single person or by two or more  
12 persons jointly or as tenants in common [and includes waters of  
13 the United States lying within the state].

14 444.600. 1. All applications for a permit shall be filed  
15 with the director who shall promptly investigate the application  
16 and make a [recommendation to the commission] decision within  
17 thirty days after the application is received as to whether the  
18 permit should be issued or denied. If the director is not  
19 satisfied with the information supplied by the applicant, he or  
20 she shall recommend denial of the permit. The director shall  
21 promptly notify the applicant of this action and at the same time  
22 publish a notice of the [recommendation] decision in any  
23 newspaper with general circulation in the counties where the land  
24 is located, and shall send notice to those persons registered  
25 with the director pursuant to section 444.720. The director's  
26 decision shall be deemed to be the decision of the director of  
27 the department of natural resources and shall be subject to  
28 appeal to the administrative hearing commission as provided by

1 sections 621.250 and 640.013.

2 2. [If the recommendation of the director is to deny the  
3 permit, a hearing as provided in sections 444.500 to 444.755  
4 shall be held by the commission if requested by the applicant  
5 within thirty days of the date of notice of the recommendation of  
6 the director.

7 3. If the recommendation of the director is for issuance of  
8 the permit, the commission may issue or deny the permit without a  
9 hearing provided the matter is passed upon at a public meeting no  
10 sooner than thirty days from the date of notice of the  
11 recommendation of the director, except that upon petition of any  
12 person aggrieved by the granting of the permit, a hearing shall  
13 be held as provided in section 444.680.

14 4. If the commission denies a permit, the applicant may  
15 petition the commission, within thirty days of notice of its  
16 action, for a hearing. If no petition is filed within the thirty  
17 day period, the decision of the commission is final and the  
18 applicant shall have no right of court review.

19 5. In any hearing held pursuant to this section the burden  
20 of proof shall be on the applicant for a permit. Any decision of  
21 the commission made pursuant to a hearing held under this section  
22 is subject to judicial review as provided in section 444.700.]

23 Whenever a strip mine operator permit provided under section  
24 444.540 is issued, denied, suspended, or revoked by the  
25 department of natural resources, any aggrieved person, by  
26 petition filed with the administrative hearing commission within  
27 thirty days of the decision, may appeal such decision as provided  
28 by sections 621.250 and 640.013. For purposes of an appeal, the

1 administrative hearing commission may consider, based on  
2 competent and substantial scientific evidence on the record,  
3 whether an interested party's health, safety, or livelihood will  
4 be unduly impaired by the issuance, denial, suspension, or  
5 revocation of the permit. The administrative hearing commission  
6 may also consider, based on competent and substantial scientific  
7 evidence on the record, whether the operator has demonstrated,  
8 during the five-year period immediately preceding the date of the  
9 permit application, a pattern of noncompliance at other locations  
10 in Missouri that suggests a reasonable likelihood of future acts  
11 of noncompliance. In determining whether a reasonable likelihood  
12 of noncompliance will exist in the future, the administrative  
13 hearing commission may look to past acts of noncompliance in  
14 Missouri, but only to the extent they suggest a reasonable  
15 likelihood of future acts of noncompliance. Such past acts of  
16 noncompliance in Missouri, in and of themselves, are an  
17 insufficient basis to suggest a reasonable likelihood of future  
18 acts of noncompliance. In addition, such past acts shall not be  
19 used as a basis to suggest a reasonable likelihood of future acts  
20 of noncompliance unless the noncompliance has caused or has the  
21 potential to cause, a risk to human health or to the environment,  
22 or has caused or has potential to cause pollution, or was  
23 knowingly committed, or is defined by the United States  
24 Environmental Protection Agency as other than minor. If a  
25 hearing petitioner demonstrates or the administrative hearing  
26 commission finds either present acts of noncompliance or a  
27 reasonable likelihood that the permit seeker or the operations of  
28 associated persons or corporations in Missouri will be in

1 noncompliance in the future, such a showing will satisfy the  
2 noncompliance requirement in this subsection. In addition, such  
3 basis must be developed by multiple noncompliances of any  
4 environmental law administered by the Missouri department of  
5 natural resources at any single facility in Missouri that  
6 resulted in harm to the environment or impaired the health,  
7 safety, or livelihood of persons outside the facility. For any  
8 permit seeker that has not been in business in Missouri for the  
9 past five years, the administrative hearing commission may review  
10 the record of noncompliance in any state where the applicant has  
11 conducted business during the past five years. Once the  
12 administrative hearing commission has reviewed the appeal, the  
13 administrative hearing commission shall issue a recommended  
14 decision to the commission on permit issuance, denial,  
15 suspension, or revocation. The commission shall issue its own  
16 decision, based on the appeal, for permit issuance, denial,  
17 suspension, or revocation. If the commission changes a finding  
18 of fact or conclusion of law made by the administrative hearing  
19 commission, or modifies or vacates the decision recommended by  
20 the administrative hearing commission, it shall issue its own  
21 decision, which shall include findings of fact and conclusions of  
22 law. The commission shall mail copies of its final decision to  
23 the parties to the appeal or their counsel of record. The  
24 commission's decision shall be subject to judicial review  
25 pursuant to chapter 536, except that the court of appeals  
26 district with territorial jurisdiction coextensive with the  
27 county where the mine is located or is to be located shall have  
28 original jurisdiction. No judicial review shall be available

1 until and unless all administrative remedies are exhausted.

2 444.773. 1. All applications for a permit shall be filed  
3 with the director, who shall promptly investigate the application  
4 and make a decision within six weeks after completion of the  
5 process provided in subsection 10 of section 444.772 to issue or  
6 deny the permit. If the director determines that the application  
7 has not fully complied with the provisions of section 444.772 or  
8 any rule or regulation promulgated pursuant to that section, the  
9 director may seek additional information from the applicant  
10 before making a decision to issue or deny the permit. The  
11 director shall consider any public comments when making the  
12 decision to issue or deny the permit. In issuing a permit, the  
13 director may impose reasonable conditions consistent with the  
14 provisions of sections 444.760 to 444.790.

15 [2.] The director's decision shall be deemed to be the  
16 decision of the director of the department of natural resources  
17 and shall be subject to appeal to the administrative hearing  
18 commission as provided by sections 640.013 and 621.250.

19 [3.] 2. Whenever a surface mining operation permit provided  
20 under section 444.772 is issued, denied, suspended, or revoked by  
21 the department of natural resources, any aggrieved person, by  
22 petition filed with the administrative hearing commission within  
23 thirty days of the decision, may appeal such decision as provided  
24 by sections 621.250 and 640.013. For purposes of an appeal, the  
25 administrative hearing commission may consider, based on  
26 competent and substantial scientific evidence on the record,  
27 whether an interested party's health, safety or livelihood will  
28 be unduly impaired by the issuance, denial, suspension, or

1 revocation of the permit. The administrative hearing commission  
2 may also consider, based on competent and substantial scientific  
3 evidence on the record, whether the operator has demonstrated,  
4 during the five-year period immediately preceding the date of the  
5 permit application, a pattern of noncompliance at other locations  
6 in Missouri that suggests a reasonable likelihood of future acts  
7 of noncompliance. In determining whether a reasonable likelihood  
8 of noncompliance will exist in the future, the administrative  
9 hearing commission may look to past acts of noncompliance in  
10 Missouri, but only to the extent they suggest a reasonable  
11 likelihood of future acts of noncompliance. Such past acts of  
12 noncompliance in Missouri, in and of themselves, are an  
13 insufficient basis to suggest a reasonable likelihood of future  
14 acts of noncompliance. In addition, such past acts shall not be  
15 used as a basis to suggest a reasonable likelihood of future acts  
16 of noncompliance unless the noncompliance has caused or has the  
17 potential to cause, a risk to human health or to the environment,  
18 or has caused or has potential to cause pollution, or was  
19 knowingly committed, or is defined by the United States  
20 Environmental Protection Agency as other than minor. If a  
21 hearing petitioner demonstrates or the administrative hearing  
22 commission [demonstrates] finds either present acts of  
23 noncompliance or a reasonable likelihood that the permit seeker  
24 or the operations of associated persons or corporations in  
25 Missouri will be in noncompliance in the future, such a showing  
26 will satisfy the noncompliance requirement in this subsection.  
27 In addition, such basis must be developed by multiple  
28 noncompliances of any environmental law administered by the

1 Missouri department of natural resources at any single facility  
2 in Missouri that resulted in harm to the environment or impaired  
3 the health, safety or livelihood of persons outside the facility.  
4 For any permit seeker that has not been in business in Missouri  
5 for the past five years, the administrative hearing commission  
6 may review the record of noncompliance in any state where the  
7 applicant has conducted business during the past five years.

8 [Once] The administrative hearing commission [has reviewed the  
9 appeal, the administrative hearing commission] shall [make a  
10 recommendation] issue a recommended decision to the commission on  
11 permit issuance [or], denial, suspension, or revocation.

12 [4.] The commission shall issue its own decision, based on  
13 the appeal, for permit issuance [or] denial, suspension, or  
14 revocation. If the commission changes a finding of fact or  
15 conclusion of law made by the administrative hearing commission,  
16 or modifies or vacates the decision recommended by the  
17 administrative hearing commission, it shall issue its own  
18 decision, which shall include findings of fact and conclusions of  
19 law. The commission shall mail copies of its final decision to  
20 the parties to the appeal or their counsel of record. The  
21 commission's decision shall be subject to judicial review  
22 pursuant to chapter 536, except that the court of appeals  
23 district with territorial jurisdiction coextensive with the  
24 county where the mine is located or is to be located shall have  
25 original jurisdiction. No judicial review shall be available  
26 until and unless all administrative remedies are exhausted.

27 444.980. Whenever a surface coal mining operation permit  
28 provided under section 444.815 or a coal exploration operation

1 permit provided under section 444.845 is issued, denied,  
2 suspended, or revoked by the department of natural resources, any  
3 aggrieved person, by petition filed with the administrative  
4 hearing commission within thirty days of the decision, may appeal  
5 such decision as provided by sections 621.250 and 640.013. For  
6 purposes of an appeal, the administrative hearing commission may  
7 consider, based on competent and substantial scientific evidence  
8 on the record, whether an interested party's health, safety, or  
9 livelihood will be unduly impaired by the issuance, denial,  
10 suspension, or revocation of the permit. The administrative  
11 hearing commission may also consider, based on competent and  
12 substantial scientific evidence on the record, whether the  
13 operator has demonstrated, during the five-year period  
14 immediately preceding the date of the permit application, a  
15 pattern of noncompliance at other locations in Missouri that  
16 suggests a reasonable likelihood of future acts of noncompliance.  
17 In determining whether a reasonable likelihood of noncompliance  
18 will exist in the future, the administrative hearing commission  
19 may look to past acts of noncompliance in Missouri, but only to  
20 the extent they suggest a reasonable likelihood of future acts of  
21 noncompliance. Such past acts of noncompliance in Missouri, in  
22 and of themselves, are an insufficient basis to suggest a  
23 reasonable likelihood of future acts of noncompliance. In  
24 addition, such past acts shall not be used as a basis to suggest  
25 a reasonable likelihood of future acts of noncompliance unless  
26 the noncompliance has caused or has the potential to cause, a  
27 risk to human health or to the environment, or has caused or has  
28 potential to cause pollution, or was knowingly committed, or is

1 defined by the United States Environmental Protection Agency as  
2 other than minor. If a hearing petitioner demonstrates or the  
3 administrative hearing commission finds either present acts of  
4 noncompliance or a reasonable likelihood that the permit seeker  
5 or the operations of associated persons or corporations in  
6 Missouri will be in noncompliance in the future, such a showing  
7 will satisfy the noncompliance requirement in this subsection.  
8 In addition, such basis must be developed by multiple  
9 noncompliances of any environmental law administered by the  
10 Missouri department of natural resources at any single facility  
11 in Missouri that resulted in harm to the environment or impaired  
12 the health, safety, or livelihood of persons outside the  
13 facility. For any permit seeker that has not been in business in  
14 Missouri for the past five years, the administrative hearing  
15 commission may review the record of noncompliance in any state  
16 where the applicant has conducted business during the past five  
17 years. Once the administrative hearing commission has reviewed  
18 the appeal, the administrative hearing commission shall issue a  
19 recommended decision to the commission on permit issuance,  
20 denial, suspension, or revocation. The commission shall issue  
21 its own decision, based on the appeal, for permit issuance,  
22 denial, suspension, or revocation. If the commission changes a  
23 finding of fact or conclusion of law made by the administrative  
24 hearing commission, or modifies or vacates the decision  
25 recommended by the administrative hearing commission, it shall  
26 issue its own decision, which shall include findings of fact and  
27 conclusions of law. The commission shall mail copies of its  
28 final decision to the parties to the appeal or their counsel of

1 record. The commission's decision shall be subject to judicial  
2 review pursuant to chapter 536, except that the court of appeals  
3 district with territorial jurisdiction coextensive with the  
4 county where the mine is located or is to be located shall have  
5 original jurisdiction. No judicial review shall be available  
6 until and unless all administrative remedies are exhausted.

7       621.250. 1. All authority to hear contested case  
8 administrative appeals granted in chapters 236, 256, 260, 444,  
9 640, 643, and 644, and to the hazardous waste management  
10 commission in chapter 260, the [land reclamation] Missouri mining  
11 commission in chapter 444, the safe drinking water commission in  
12 chapter 640, the air conservation commission in chapter 643, and  
13 the clean water commission in chapter 644 shall be transferred to  
14 the administrative hearing commission under this chapter. The  
15 authority to render final decisions after hearing on appeals  
16 heard by the administrative hearing commission shall remain with  
17 the commissions listed in this subsection. For appeals pursuant  
18 to chapter 236, chapter 256, section 260.235, or section 260.249,  
19 the administrative hearing commission shall render a final  
20 decision rather than a recommended decision. The administrative  
21 hearing commission may render its recommended or final decision  
22 after hearing or through stipulation, consent order, agreed  
23 settlement or by disposition in the nature of default judgment,  
24 judgment on the pleadings, or summary determination, consistent  
25 with the requirements of this subsection and the rules and  
26 procedures of the administrative hearing commission.

27       2. Except as otherwise provided by law, any person or  
28 entity who is a party to, or who is aggrieved or adversely

1 affected by, any finding, order, decision, or assessment for  
2 which the authority to hear appeals was transferred to the  
3 administrative hearing commission in subsection 1 of this section  
4 may file a notice of appeal with the administrative hearing  
5 commission within thirty days after any such finding, order,  
6 decision, or assessment is placed in the United States mail or  
7 within thirty days of any such finding, order, decision, or  
8 assessment being delivered, whichever is earlier. Within ninety  
9 days after the date on which the notice of appeal is filed the  
10 administrative hearing commission may hold hearings, and within  
11 one hundred twenty days after the date on which the notice of  
12 appeal is filed shall make a recommended decision, or a final  
13 decision where applicable, in accordance with the requirements of  
14 this section and the rules and procedures of the administrative  
15 hearing commission; provided, however, that the dates by which  
16 the administrative hearing commission is required to hold  
17 hearings and make a recommended decision may be extended at the  
18 sole discretion of the permittee as either petitioner or  
19 intervenor in the appeal.

20 3. Any decision by the director of the department of  
21 natural resources that may be appealed as provided in subsection  
22 1 of this section shall contain a notice of the right of appeal  
23 in substantially the following language: "If you were adversely  
24 affected by this decision, you may be entitled to pursue an  
25 appeal before the administrative hearing commission. To appeal,  
26 you must file a petition with the administrative hearing  
27 commission within thirty days after the date this decision was  
28 mailed or the date it was delivered, whichever date was earlier.

1 If any such petition is sent by registered mail or certified  
2 mail, it will be deemed filed on the date it is mailed; if it is  
3 sent by any method other than registered mail or certified mail,  
4 it will be deemed filed on the date it is received by the  
5 administrative hearing commission.". Within fifteen days after  
6 the administrative hearing commission renders a recommended  
7 decision, it shall transmit the record and a transcript of the  
8 proceedings, together with the administrative hearing  
9 commission's recommended decision to the commission having  
10 authority to issue a final decision. The final decision of the  
11 commission shall be issued within one hundred eighty days of the  
12 date the notice of appeal in subsection 2 of this section is  
13 filed and shall be based only on the facts and evidence in the  
14 hearing record; provided, however, that the date by which the  
15 commission is required to issue a final decision may be extended  
16 at the sole discretion of the permittee as either petitioner or  
17 intervenor in the appeal. The commission may adopt the  
18 recommended decision as its final decision. The commission may  
19 change a finding of fact or conclusion of law made by the  
20 administrative hearing commission, or may vacate or modify the  
21 recommended decision issued by the administrative hearing  
22 commission, only if the commission states in writing the specific  
23 reason for a change made under this subsection.

24 4. In the event the person filing the appeal prevails in  
25 any dispute under this section, interest shall be allowed upon  
26 any amount found to have been wrongfully collected or erroneously  
27 paid at the rate established by the director of the department of  
28 revenue under section 32.065.

1           5. Appropriations shall be made from the respective funds  
2 of the department of natural resources to cover the  
3 administrative hearing commission's costs associated with these  
4 appeals.

5           6. In all matters heard by the administrative hearing  
6 commission under this section, the burden of proof shall comply  
7 with section 640.012. The hearings shall be conducted by the  
8 administrative hearing commission in accordance with the  
9 provisions of chapter 536 and its regulations promulgated  
10 thereunder.

11           7. No cause of action or appeal arising out of any finding,  
12 order, decision, or assessment of any of the commissions listed  
13 in subsection 1 of this section shall accrue in any court unless  
14 the party seeking to file such cause of action or appeal shall  
15 have filed a notice of appeal and received a final decision in  
16 accordance with the provisions of this section.

17           640.115. 1. Every municipal corporation, private  
18 corporation, company, partnership, federal establishment, state  
19 establishment or individual supplying or authorized to supply  
20 drinking water to the public within the state shall file with the  
21 department of natural resources a certified copy of the plans and  
22 surveys of the waterworks with a description of the methods of  
23 purification, treatment technology and source from which the  
24 supply of water is derived, and no source of supply shall be used  
25 without a written permit of approval issued to the continuing  
26 operating authority by the department of natural resources, or  
27 water dispensed to the public without first obtaining such  
28 written permit of approval. Prior to a change of permittee, the

1 current permittee shall notify the department of the proposed  
2 change and the department shall perform a permit review.

3 2. Construction, extension or alteration of a public water  
4 system shall be in accordance with the rules and regulations of  
5 the safe drinking water commission.

6 3. Permit applicants shall show, as part of their  
7 application, that a permanent organization exists which will  
8 serve as the continuing operating authority for the management,  
9 operation, replacement, maintenance and modernization of the  
10 facility. Such continuing operating authority for all community  
11 water systems and nontransient, noncommunity water systems  
12 commencing operation after October 1, 1999, shall be required to  
13 have and maintain the managerial, technical and financial  
14 capacity, as determined by the department, to comply with  
15 sections 640.100 to 640.140.

16 4. Any community water system or nontransient, noncommunity  
17 water system against which an administrative order has been  
18 issued for significant noncompliance with the federal Safe  
19 Drinking Water Act, as amended, sections 640.100 to 640.140 or  
20 any rule or regulation promulgated thereunder shall be required  
21 to show that a permanent organization exists that serves as the  
22 continuing operating authority for the facility and that such  
23 continuing operating authority has the managerial, technical and  
24 financial capacity to comply with sections 640.100 to 640.140 and  
25 regulations promulgated thereunder. If the water system cannot  
26 show to the department's satisfaction that such continuing  
27 operating authority exists, or if the water system is not making  
28 substantial progress toward compliance, the water system's permit

1 may be revoked. The continuing operating authority may [reapply  
2 for a permit in accordance with rules promulgated by the  
3 commission] appeal such decision to the administrative hearing  
4 commission as provided by sections 621.250 and 640.013.

5 5. Whenever a permit is issued, denied, suspended, or  
6 revoked by the department, any aggrieved person, by petition  
7 filed with the administrative hearing commission within thirty  
8 days of the decision, may appeal such decision as provided by  
9 sections 621.250 and 640.013. Once the administrative hearing  
10 commission has reviewed the appeal, the administrative hearing  
11 commission shall issue a recommended decision to the commission  
12 on permit issuance, denial, suspension, or revocation. The  
13 commission shall issue its own decision, based on the appeal, for  
14 permit issuance, denial, suspension, or revocation. If the  
15 commission changes a finding of fact or conclusion of law made by  
16 the administrative hearing commission, or modifies or vacates the  
17 decision recommended by the administrative hearing commission, it  
18 shall issue its own decision, which shall include findings of  
19 fact and conclusions of law. The commission shall mail copies of  
20 its final decision to the parties to the appeal or their counsel  
21 of record. The commission's decision shall be subject to  
22 judicial review pursuant to chapter 536, except that the court of  
23 appeals district with territorial jurisdiction coextensive with  
24 the county where the waterworks is located, or is to be located,  
25 shall have original jurisdiction. No judicial review shall be  
26 available until and unless all administrative remedies are  
27 exhausted.

28 643.075. 1. It shall be unlawful for any person to

1 commence construction of any air contaminant source in this  
2 state, without a permit [therefor], if such source is of a class  
3 fixed by regulation of the commission which requires a permit  
4 [therefor].

5 2. Every source required to obtain a construction permit  
6 shall make application [therefor] to the department [and shall  
7 submit therewith] that includes such plans and specifications as  
8 prescribed by rule. The director shall promptly investigate each  
9 application, and if he or she determines that the source meets  
10 and will meet the requirements of sections 643.010 to 643.190 and  
11 the rules promulgated pursuant thereto, he or she shall issue a  
12 construction permit with such conditions as he deems necessary to  
13 ensure that the source will meet the requirements of sections  
14 643.010 to 643.190 and the rules. An application submitted for  
15 the construction or modification and operation of any regulated  
16 air contaminant source shall receive a unified construction and  
17 operating permit review process under section 643.078, unless the  
18 applicant requests in writing that the construction and operating  
19 permits be reviewed separately. If the director determines that  
20 the source does not meet or will not meet the requirements of  
21 sections 643.010 to 643.190 and the rules promulgated pursuant  
22 thereto, he or she shall deny the construction permit.

23 3. Before issuing a construction permit to build or modify  
24 an air contaminant source the director shall determine if the  
25 ambient air quality standards in the vicinity of the source are  
26 being exceeded and shall determine the impact on the ambient air  
27 quality standards from the source. The director, in order to  
28 effectuate the purposes of sections 643.010 to 643.190, may deny

1 a construction permit if the source will appreciably affect the  
2 air quality or the air quality standards are being substantially  
3 exceeded.

4 4. The director may require the applicant as a condition to  
5 the issuance of the construction permit to provide and maintain  
6 such facilities or to conduct such tests as are necessary to  
7 determine the nature, extent, quantity or degree of air  
8 contaminants discharged into the ambient air from the proposed  
9 source.

10 5. The director shall act within thirty days after a  
11 request for approval of an application for a construction permit.  
12 The director shall render a decision to approve or deny a  
13 construction permit within ninety days of receipt of a complete  
14 application for a class B source and within one hundred  
15 eighty-four days of receipt of a complete application for a class  
16 A source. The director shall promptly notify the applicant in  
17 writing of his action and if the construction permit is denied  
18 state the reasons [therefor] for such denial.

19 6. As provided by sections 621.250 and 640.013, any  
20 aggrieved person may appeal any permit decision made under this  
21 section, including failure to render a decision within the time  
22 period established in this section. A notice of appeal shall be  
23 filed with the administrative hearing commission within thirty  
24 days of the director's action or within thirty days from the date  
25 by which the decision should have been rendered if the director  
26 has failed to act. Once the administrative hearing commission  
27 has reviewed the appeal, the administrative hearing commission  
28 shall issue a recommended decision to the commission on permit

1 issuance, renewal, denial, suspension, or revocation, or any  
2 condition of the permit. The commission shall issue its own  
3 decision, based on the appeal, for permit issuance, renewal,  
4 denial, suspension, or revocation, or any condition of the  
5 permit. If the commission changes a finding of fact or  
6 conclusion of law made by the administrative hearing commission,  
7 or modifies or vacates the decision recommended by the  
8 administrative hearing commission, it shall issue its own  
9 decision, which shall include findings of fact and conclusions of  
10 law. The commission shall mail copies of its final decision to  
11 the parties to the appeal or their counsel of record. The  
12 commission's decision shall be subject to judicial review  
13 pursuant to chapter 536, except that the court of appeals  
14 district with territorial jurisdiction coextensive with the  
15 county where the air contaminant source is located or is to be  
16 located, shall have original jurisdiction. No judicial review  
17 shall be available until and unless all administrative remedies  
18 are exhausted.

19       7. (1) There shall be a one hundred-dollar filing fee  
20 payable to the state of Missouri with each application before a  
21 construction permit shall be issued. No manufacturing or  
22 processing plant or operating location or other air contaminant  
23 source shall be required to pay more than one filing fee with a  
24 construction permit application. The provisions of this section  
25 shall not apply nor require the issuance of a permit wherein the  
26 proposed construction is that of a private residence.

27       (2) Upon completion of the department's evaluation of the  
28 application, but before receiving a construction permit, the

1 applicant shall reimburse the department for all reasonable costs  
2 incurred by the department whether or not a construction permit  
3 is issued by the department or withdrawn by the applicant. If  
4 the department fails to approve or deny a construction permit  
5 within the time period specified in this section, the applicant  
6 shall not be required to reimburse the department for the review  
7 of the construction permit application. The commission shall, by  
8 rule, set the hourly charge, not to exceed the actual cost  
9 thereof and not to exceed fifty dollars per hour, for review of  
10 each construction permit application. The commission may exempt  
11 any person from payment of the hourly fees under this  
12 subdivision, or may reduce such fees, upon an appeal filed with  
13 the commission by such person stating that the fee will create an  
14 unreasonable economic hardship upon such person. The commission  
15 may conduct a closed meeting and have closed records, as defined  
16 in section 610.010, for the purpose of gathering information from  
17 the person filing an appeal for the exemption. Information  
18 obtained in this meeting may be held confidential by the  
19 commission upon the request of the person filing the appeal for  
20 exemption. If the fees or any portion of the fees imposed by  
21 this section are not paid within ninety days from the date of  
22 billing there shall be imposed interest upon the unpaid amount at  
23 the rate of ten percent per annum from the date of billing until  
24 payment is actually made. A construction permit application for  
25 a portable facility may include any site at which the portable  
26 facility is expected to be used; however, a separate site permit  
27 application shall be required when the portable facility is used  
28 or expected to be used at any site which is not included in a

1 previously approved construction permit application. Upon  
2 receipt of the application, the applicant shall be notified by  
3 the department of hourly fees and requirements put forth in this  
4 subdivision.

5 (3) Applicants who withdraw their application before the  
6 department completes its evaluation shall reimburse the  
7 department for costs incurred in the evaluation.

8 (4) All moneys received pursuant to this section and  
9 section 643.073 and any other moneys so designated shall be  
10 placed in the state treasury and credited to the natural  
11 resources protection fund air pollution permit fee subaccount,  
12 created in section 640.220, and shall be expended for the  
13 administration of this section and sections 643.073 and 643.078  
14 and for no other purpose, and shall be used to supplement state  
15 general revenue and federal funds appropriated to the department.  
16 After appropriation, the moneys received pursuant to this section  
17 and in such fund subaccount shall be expended for the  
18 administration of this section and for no other purpose. Any  
19 unexpended balance in such fund subaccount at the end of any  
20 appropriation period shall not be transferred to the general  
21 revenue fund of the state treasury and shall be exempt from the  
22 provisions of section 33.080. Any interest received on such  
23 deposits shall be credited to the fund subaccount.

24 8. Any person who obtains a valid permit from a city or  
25 county pursuant to the authority granted in section 643.140 shall  
26 be deemed to have met the requirements of this section and shall  
27 not be liable to the department for construction permit fees  
28 imposed pursuant to subsection 7 of this section.

1           643.078. 1. It shall be unlawful for any person to operate  
2 any regulated air contaminant source after August 28, 1992,  
3 without an operating permit except as otherwise provided in  
4 sections 643.010 to 643.190.

5           2. At the option of the permit applicant, a single  
6 operating permit shall be issued for a facility having multiple  
7 air contaminant sources located on one or more contiguous tracts  
8 of land, excluding public roads, highways and railroads, under  
9 the control of or owned by the permit holder and operated as a  
10 single enterprise.

11          3. Any person who wishes to construct or modify and operate  
12 any regulated air contaminant source shall submit an application  
13 to the department for the unified review of a construction permit  
14 application under section 643.075 and an operating permit  
15 application under this section, unless the applicant requests in  
16 writing that the construction and operating permit applications  
17 be reviewed separately. The director shall complete any unified  
18 review within one hundred and eighty days of receipt of the  
19 request for a class B source. For a class A source, the unified  
20 review shall be completed within the time period established in  
21 section 502 of the federal Clean Air Act, as amended, 42 U.S.C.  
22 7661.

23          4. As soon as the review process is completed for the  
24 construction and operating permits and, if the applicant complies  
25 with all applicable requirements of sections 643.010 to 643.190  
26 and all rules adopted thereunder, the construction permit shall  
27 be issued to the applicant. The operating permit shall be  
28 retained by the department until validated.

1           5. Within one hundred and eighty days of commencing  
2 operations, the holder of a construction permit shall submit to  
3 the director such information as is necessary to demonstrate  
4 compliance with the provisions of sections 643.010 to 643.190 and  
5 the terms and conditions of the construction permit. The  
6 operating permit retained by the department shall be validated  
7 and forwarded to the applicant if the applicant is in compliance  
8 with the terms and conditions of the construction permit and the  
9 terms and conditions of the operating permit. The holder of a  
10 construction permit may request a waiver of the one hundred and  
11 eighty day time period and the director may grant such request by  
12 mutual agreement.

13           6. If the director determines that an air contaminant  
14 source does not meet the terms and conditions of the construction  
15 permit and that the operation of the source will result in  
16 emissions which exceed the limits established in the construction  
17 permit, he shall not validate the operating permit. If the  
18 source corrects the deficiency, the director shall then validate  
19 the operating permit. If the source is unable to correct the  
20 deficiency, then the director and the applicant may, by mutual  
21 agreement, add such terms and conditions to the operating permit  
22 which are deemed appropriate, so long as the emissions from the  
23 air contaminant source do not exceed the limits established in  
24 the construction permit, and the director shall validate the  
25 operating permit. The director may add terms and conditions to  
26 the operating permit which allow the source to exceed the  
27 emission limits established in the construction permit. In such  
28 a case, the director shall notify the affected public and the

1 commission shall, upon request by any affected person, hold a  
2 public hearing upon the revised operating permit application.

3 7. Except as provided in subsection 8 of this section, an  
4 operating permit shall be valid for five years from the date of  
5 issuance or validation, whichever is later, unless otherwise  
6 revoked or terminated pursuant to sections 643.010 to 643.190.

7 8. An applicant for a construction permit for an air  
8 contaminant source with valid operating permit may request that  
9 the air contaminant source be issued a new five-year operating  
10 permit. The operating permit would be issued in the manner and  
11 under the conditions provided in sections 643.010 to 643.190 and  
12 would supersede any existing operating permit for the source.

13 9. The director shall take action within thirty days after  
14 a request for validation of the operating permit and shall render  
15 a decision within one hundred twenty days of receipt of a request  
16 for issuance of an operating permit for a class B source. The  
17 director shall render a decision within the time period  
18 established in section 502 of the federal Clean Air Act, as  
19 amended, 42 U.S.C. 7661, for a class A source. Any affected  
20 person may appeal any permit decision, including failure to  
21 render a decision within the time period established in this  
22 section, to the administrative hearing commission as provided by  
23 subsection 16 of this section, section 621.250, and section  
24 640.013.

25 10. The director may suspend, revoke or modify an operating  
26 permit for cause.

27 11. The director shall not approve an operating permit if  
28 he receives an objection to approval of the permit from the

1 United States Environmental Protection Agency within the time  
2 period specified under Title V of the Clean Air Act, as amended,  
3 42 U.S.C. 7661, et seq.

4 12. The director shall enforce all applicable federal  
5 rules, standards and requirements issued under the federal Clean  
6 Air Act, as amended, 42 U.S.C. 7661, et seq., and shall  
7 incorporate such applicable standards and any limitations  
8 established pursuant to Title III into operating permits as  
9 required under Title V of the federal Clean Air Act, as amended,  
10 42 U.S.C. 7661, et seq.

11 13. Applicable standards promulgated by the commission by  
12 rule shall be incorporated by the director into the operating  
13 permit of any air contaminant source which has, on the effective  
14 date of the rule, at least three years remaining before renewal  
15 of its operating permit. If less than three years remain before  
16 renewal of the source's operating permit, such applicable  
17 standards shall be incorporated into the permit unless the permit  
18 contains a shield from such new requirements consistent with  
19 Title V of the federal Clean Air Act, as amended, 42 U.S.C. 7661,  
20 et seq.

21 14. The holder of a valid operating permit shall have  
22 operational flexibility to make changes to any air contaminant  
23 source, if the changes will not result in air contaminant  
24 emissions in excess of those established in the operating permit  
25 or result in the emissions of any air contaminant not previously  
26 emitted without obtaining a modification of the operating permit  
27 provided such changes are consistent with Section 502(b)(10) of  
28 the federal Clean Air Act, as amended, 42 U.S.C. 7661.

1           15. An air contaminant source with a valid operating permit  
2 which submits a complete application for a permit renewal at  
3 least six months prior to the expiration of the permit shall be  
4 deemed to have a valid operating permit until the director acts  
5 upon its permit application. The director shall promptly notify  
6 the applicant in writing of his action on the application and if  
7 the operating permit is not issued state the reasons therefor.

8           16. The applicant may appeal to the administrative hearing  
9 commission if [an] a construction, modification, or operating  
10 permit is [not] issued, renewed, denied, suspended, modified, or  
11 revoked by the department, or may appeal any condition[,  
12 suspension, modification or revocation] of any permit by filing  
13 [notice of appeal] a petition with the administrative hearing  
14 commission within thirty days of the notice of the director's  
15 response to the request for issuance of the construction,  
16 modification, or operating permit as provided by sections 621.250  
17 and 640.013. Once the administrative hearing commission has  
18 reviewed the appeal, the administrative hearing commission shall  
19 issue a recommended decision to the commission on the issuance,  
20 renewal, denial, suspension, modification, revocation, or any  
21 condition of the permit. The commission shall issue its own  
22 decision, based on the appeal, for the issuance, renewal, denial,  
23 suspension, modification, revocation, or any condition of the  
24 permit. If the commission changes a finding of fact or  
25 conclusion of law made by the administrative hearing commission,  
26 or modifies or vacates the decision recommended by the  
27 administrative hearing commission, it shall issue its own  
28 decision, which shall include findings of fact and conclusions of

1 law. The commission shall mail copies of its final decision to  
2 the parties to the appeal or their counsel of record. The  
3 commission's decision shall be subject to judicial review  
4 pursuant to chapter 536, except that the court of appeals  
5 district with territorial jurisdiction coextensive with the  
6 county where the air contaminant source is located or is to be  
7 located shall have original jurisdiction. No judicial review  
8 shall be available until and unless all administrative remedies  
9 are exhausted.

10 17. Any person who obtains a valid operating permit from a  
11 city or county pursuant to the authority granted in section  
12 643.140 shall be deemed to have met the requirements of this  
13 section.

14 643.650. 1. Any owner of a coal-fired electric generating  
15 source in a National Ambient Air Quality Standards nonattainment  
16 area currently designated as of April 1, 2015, shall develop an  
17 ambient air quality monitoring or modeling network to  
18 characterize the sulfur dioxide air quality surrounding the  
19 electric generating source. The network shall adequately monitor  
20 the ambient air quality for sulfur dioxide surrounding the entire  
21 electric generating source and shall operate for not less than  
22 twelve consecutive quarters. The owner of such electric  
23 generating source shall notify the department of the manner in  
24 which it intends to characterize by either modeling or monitoring  
25 the air quality around such source. The location of any  
26 monitoring network installed by the owner of such electric  
27 generating source within a one-hour sulfur dioxide National  
28 Ambient Air Quality Standards nonattainment area shall be

1 approved by the department.

2 2. Affected sources located in undesignated areas that  
3 elect to use monitoring to evaluate ambient air quality shall be  
4 consulted by the department on the use of existing monitors as  
5 well as the location of any new monitors intended to comprise the  
6 sulfur dioxide monitoring network. The department shall not  
7 submit its recommendation to the Environmental Protection Agency  
8 on the manner in which data will be gathered for the designation  
9 process that is inconsistent with the elections made by affected  
10 sources under this section. Where affected sources have elected  
11 to monitor under this section, the department shall submit  
12 recommendations for the designation process by the date set by a  
13 final, effective, and applicable Environmental Protection Agency  
14 requirement relating to state attainment designations and not  
15 prior.

16 3. The department shall consider all ambient air quality  
17 monitoring network data collected under subsection 1 of this  
18 section and under any agreement authorized under this subsection  
19 prior to proposing to the commission any sulfur dioxide  
20 limitation, emission reduction requirement, or other requirement  
21 for purposes of the one-hour sulfur dioxide National Ambient Air  
22 Quality Standard for any electric generating source that has  
23 elected to install a monitoring network under this section,  
24 except:

25 (1) The department may propose to the commission any sulfur  
26 dioxide limitations or emission reduction requirements  
27 specifically agreed to in any voluntary agreement entered into  
28 between the department and any owner of an electric generating

1 source that has elected to install a monitoring network under  
2 this section; and

3 (2) The department may propose to the commission any  
4 adjustments to the sulfur dioxide limitations or emission  
5 reduction requirements applicable to any electric generating  
6 source located in a sulfur dioxide nonattainment area and subject  
7 to an agreement under subdivision (1) of this subsection, as  
8 justified by an ambient air quality analysis relying on no fewer  
9 than two quarters of monitored data collected through the  
10 monitoring network allowable under subsection 1 of this section  
11 and consistent with such agreement.

12 4. Nothing in this section shall prohibit the department  
13 from entering into an agreement with an owner of an electric  
14 generating source to limit or reduce sulfur dioxide emissions at  
15 such affected source that is below the source's permitted sulfur  
16 dioxide emission rate.

17 644.011. Whereas the pollution of the waters of this state  
18 constitutes a menace to public health and welfare, creates a  
19 public nuisance, is harmful to wildlife, fish and aquatic life  
20 and impairs domestic, agricultural, industrial, recreational and  
21 other legitimate uses of water, and whereas the problem of water  
22 pollution in this state is closely related to the problem of  
23 water pollution in adjoining states, and whereas this state must  
24 possess the authority required of states in the Federal Water  
25 Pollution Control Act as amended if it is to retain control of  
26 its water pollution control programs, it is hereby declared to be  
27 the public policy of this state to conserve the waters of the  
28 state and to protect, maintain, and improve the quality thereof

1 for public water supplies and for domestic, agricultural,  
2 industrial, recreational and other legitimate beneficial uses and  
3 for the propagation of wildlife, fish and aquatic life; to  
4 provide that no waste be discharged into any waters of the state  
5 without first receiving the necessary treatment or other  
6 corrective action to protect the legitimate beneficial uses of  
7 such waters and meet the requirements of the Federal Water  
8 Pollution Control Act as amended; to provide for the prevention,  
9 abatement and control of new or existing water pollution; and to  
10 cooperate with other agencies of the state, agencies of other  
11 states, the federal government and any other persons in carrying  
12 out these objectives. It is also the policy of this state to  
13 strive to meet these objectives while maintaining maximum  
14 employment and full industrial development of the state. The  
15 commission shall seek the accomplishment of these objectives  
16 through the prevention, abatement, and control of water pollution  
17 by all practical and economically feasible methods.

18 644.016. When used in sections 644.006 to 644.141 and in  
19 standards, rules and regulations promulgated pursuant to sections  
20 644.006 to 644.141, the following words and phrases mean:

21 (1) "Aquaculture facility", a hatchery, fish farm, or other  
22 facility used for the production of aquatic animals that is  
23 required to have a permit pursuant to the federal Clean Water  
24 Act, as amended, 33 U.S.C. 1251, et seq.;

25 (2) "Commission", the clean water commission of the state  
26 of Missouri created in section 644.021;

27 (3) "Conference, conciliation and persuasion", a process of  
28 verbal or written communications consisting of meetings, reports,

1 correspondence or telephone conferences between authorized  
2 representatives of the department and the alleged violator. The  
3 process shall, at a minimum, consist of one offer to meet with  
4 the alleged violator tendered by the department. During any such  
5 meeting, the department and the alleged violator shall negotiate  
6 in good faith to eliminate the alleged violation and shall  
7 attempt to agree upon a plan to achieve compliance;

8 (4) "Department", the department of natural resources;

9 (5) "Director", the director of the department of natural  
10 resources;

11 (6) "Discharge", the causing or permitting of one or more  
12 water contaminants to enter the waters of the state;

13 (7) "Effluent control regulations", limitations on the  
14 discharge of water contaminants;

15 (8) "General permit", a permit written with a standard  
16 group of conditions and with applicability intended for a  
17 designated category of water contaminant sources that have the  
18 same or similar operations, discharges and geographical  
19 locations, and that require the same or similar monitoring, and  
20 that would be more appropriately controlled pursuant to a general  
21 permit rather than pursuant to a site-specific permit;

22 (9) "General permit template", a draft general permit that  
23 is being developed through a public participation process;

24 (10) "Human sewage", human excreta and wastewater,  
25 including bath and toilet waste, residential laundry waste,  
26 residential kitchen waste, and other similar waste from household  
27 or establishment appurtenances;

28 (11) "Income" includes retirement benefits, consultant

1 fees, and stock dividends;

2 (12) "Minor violation", a violation which possesses a small  
3 potential to harm the environment or human health or cause  
4 pollution, was not knowingly committed, and is not defined by the  
5 United States Environmental Protection Agency as other than  
6 minor;

7 (13) "Permit by rule", a permit granted by rule, not by a  
8 paper certificate, and conditioned by the permit holder's  
9 compliance with commission rules;

10 (14) "Permit holders or applicants for a permit" shall not  
11 include officials or employees who work full time for any  
12 department or agency of the state of Missouri;

13 (15) "Person", any individual, partnership, copartnership,  
14 firm, company, public or private corporation, association, joint  
15 stock company, trust, estate, political subdivision, or any  
16 agency, board, department, or bureau of the state or federal  
17 government, or any other legal entity whatever which is  
18 recognized by law as the subject of rights and duties;

19 (16) "Point source", any discernible, confined and discrete  
20 conveyance, including but not limited to any pipe, ditch,  
21 channel, tunnel, conduit, well, discrete fissure, container,  
22 rolling stock, concentrated animal feeding operation, or vessel  
23 or other floating craft, from which pollutants are or may be  
24 discharged. Point source does not include agricultural storm  
25 water discharges and return flows from irrigated agriculture;

26 (17) "Pollution", such contamination or other alteration of  
27 the physical, chemical or biological properties of any waters of  
28 the state, including change in temperature, taste, color,

1 turbidity, or odor of the waters, or such discharge of any  
2 liquid, gaseous, solid, radioactive, or other substance into any  
3 waters of the state as will or is reasonably certain to create a  
4 nuisance or render such waters harmful, detrimental or injurious  
5 to public health, safety or welfare, or to domestic, industrial,  
6 agricultural, recreational, or other legitimate beneficial uses,  
7 or to wild animals, birds, fish or other aquatic life;

8 (18) "Pretreatment regulations", limitations on the  
9 introduction of pollutants or water contaminants into publicly  
10 owned treatment works or facilities which the commission  
11 determines are not susceptible to treatment by such works or  
12 facilities or which would interfere with their operation, except  
13 that wastes as determined compatible for treatment pursuant to  
14 any federal water pollution control act or guidelines shall be  
15 limited or treated pursuant to this chapter only as required by  
16 such act or guidelines;

17 (19) "Residential housing development", any land which is  
18 divided or proposed to be divided into three or more lots,  
19 whether contiguous or not, for the purpose of sale or lease as  
20 part of a common promotional plan for residential housing;

21 (20) "Sewer system", pipelines or conduits, pumping  
22 stations, and force mains, and all other structures, devices,  
23 appurtenances and facilities used for collecting or conducting  
24 wastes to an ultimate point for treatment or handling;

25 (21) "Significant portion of his or her income" shall mean  
26 ten percent of gross personal income for a calendar year, except  
27 that it shall mean fifty percent of gross personal income for a  
28 calendar year if the recipient is over sixty years of age, and is

1 receiving such portion pursuant to retirement, pension, or  
2 similar arrangement;

3 (22) "Site-specific permit", a permit written for  
4 discharges emitted from a single water contaminant source and  
5 containing specific conditions, monitoring requirements and  
6 effluent limits to control such discharges;

7 (23) "Treatment facilities", any method, process, or  
8 equipment which removes, reduces, or renders less obnoxious water  
9 contaminants released from any source;

10 (24) "Water contaminant", any particulate matter or solid  
11 matter or liquid or any gas or vapor or any combination thereof,  
12 or any temperature change which is in or enters any waters of the  
13 state either directly or indirectly by surface runoff, by sewer,  
14 by subsurface seepage or otherwise, which causes or would cause  
15 pollution upon entering waters of the state, or which violates or  
16 exceeds any of the standards, regulations or limitations set  
17 forth in sections 644.006 to 644.141 or any federal water  
18 pollution control act, or is included in the definition of  
19 pollutant in such federal act;

20 (25) "Water contaminant source", the point or points of  
21 discharge from a single tract of property on which is located any  
22 installation, operation or condition which includes any point  
23 source defined in sections 644.006 to 644.141 and nonpoint source  
24 pursuant to any federal water pollution control act, which causes  
25 or permits a water contaminant therefrom to enter waters of the  
26 state either directly or indirectly;

27 (26) "Water quality standards", specified concentrations  
28 and durations of water contaminants which reflect the

1 relationship of the intensity and composition of water  
2 contaminants to potential undesirable effects;

3 (27) "Waters of the state", all waters within the  
4 jurisdiction of this state, including all rivers, streams, lakes  
5 and other bodies of surface and subsurface water lying within or  
6 forming a part of the boundaries of the state which are not  
7 entirely confined and located completely upon lands owned, leased  
8 or otherwise controlled by a single person or by two or more  
9 persons jointly or as tenants in common [and includes waters of  
10 the United States lying within the state].

11 644.051. 1. It is unlawful for any person:

12 (1) To cause pollution of any waters of the state or to  
13 place or cause or permit to be placed any water contaminant in a  
14 location where it is reasonably certain to cause pollution of any  
15 waters of the state;

16 (2) To discharge any water contaminants into any waters of  
17 the state which reduce the quality of such waters below the water  
18 quality standards established by the commission;

19 (3) To violate any pretreatment and toxic material control  
20 regulations, or to discharge any water contaminants into any  
21 waters of the state which exceed effluent regulations or permit  
22 provisions as established by the commission or required by any  
23 federal water pollution control act;

24 (4) To discharge any radiological, chemical, or biological  
25 warfare agent or high-level radioactive waste into the waters of  
26 the state.

27 2. It shall be unlawful for any person to operate, use or  
28 maintain any water contaminant or point source in this state that

1 is subject to standards, rules or regulations promulgated  
2 pursuant to the provisions of sections 644.006 to 644.141 unless  
3 such person holds an operating permit from the commission,  
4 subject to such exceptions as the commission may prescribe by  
5 rule or regulation. However, no operating permit shall be  
6 required of any person for any emission into publicly owned  
7 treatment facilities or into publicly owned sewer systems  
8 tributary to publicly owned treatment works.

9 3. It shall be unlawful for any person to construct, build,  
10 replace or make major modification to any point source or  
11 collection system that is principally designed to convey or  
12 discharge human sewage to waters of the state, unless such person  
13 obtains a construction permit from the commission, except as  
14 provided in this section. The following activities shall be  
15 excluded from construction permit requirements:

16 (1) Facilities greater than one million gallons per day  
17 that are authorized through a local supervised program, and are  
18 not receiving any department financial assistance;

19 (2) All sewer extensions or collection projects that are  
20 one thousand feet in length or less with fewer than two lift  
21 stations;

22 (3) All sewer collection projects that are authorized  
23 through a local supervised program; and

24 (4) Any other exclusions the commission may promulgate by  
25 rule.

26 A construction permit may be required by the department in the  
27 following circumstances:

28 (a) Substantial deviation from the commission's design

1 standards;

2 (b) To address noncompliance;

3 (c) When an unauthorized discharge has occurred or has the  
4 potential to occur; or

5 (d) To correct a violation of water quality standards.

6 In addition, any point source that proposes to construct an  
7 earthen storage structure to hold, convey, contain, store or  
8 treat domestic, agricultural, or industrial process wastewater  
9 also shall be subject to the construction permit provisions of  
10 this subsection. All other construction-related activities at  
11 point sources shall be exempt from the construction permit  
12 requirements. All activities that are exempted from the  
13 construction permit requirement are subject to the following  
14 conditions:

15 a. Any point source system designed to hold, convey,  
16 contain, store or treat domestic, agricultural or industrial  
17 process wastewater shall be designed by a professional engineer  
18 registered in Missouri in accordance with the commission's design  
19 rules;

20 b. Such point source system shall be constructed in  
21 accordance with the registered professional engineer's design and  
22 plans; and

23 c. Such point source system may receive a post-construction  
24 site inspection by the department prior to receiving operating  
25 permit approval. A site inspection may be performed by the  
26 department, upon receipt of a complete operating permit  
27 application or submission of an engineer's statement of work  
28 complete.

1 A governmental unit may apply to the department for authorization  
2 to operate a local supervised program, and the department may  
3 authorize such a program. A local supervised program would  
4 recognize the governmental unit's engineering capacity and  
5 ability to conduct engineering work, supervise construction and  
6 maintain compliance with relevant operating permit requirements.

7 4. Before issuing any permit required by this section, the  
8 director shall issue such notices, conduct such hearings, and  
9 consider such factors, comments and recommendations as required  
10 by sections 644.006 to 644.141 or any federal water pollution  
11 control act. The director shall determine if any state or any  
12 provisions of any federal water pollution control act the state  
13 is required to enforce, any state or federal effluent limitations  
14 or regulations, water quality-related effluent limitations,  
15 national standards of performance, toxic and pretreatment  
16 standards, or water quality standards which apply to the source,  
17 or any such standards in the vicinity of the source, are being  
18 exceeded, and shall determine the impact on such water quality  
19 standards from the source. The director, in order to effectuate  
20 the purposes of sections 644.006 to 644.141, shall deny a permit  
21 if the source will violate any such acts, regulations,  
22 limitations or standards or will appreciably affect the water  
23 quality standards or the water quality standards are being  
24 substantially exceeded, unless the permit is issued with such  
25 conditions as to make the source comply with such requirements  
26 within an acceptable time schedule.

27 5. The director shall grant or deny the permit within sixty  
28 days after all requirements of the Federal Water Pollution

1 Control Act concerning issuance of permits have been satisfied  
2 unless the application does not require any permit pursuant to  
3 any federal water pollution control act. The director or the  
4 commission may require the applicant to provide and maintain such  
5 facilities or to conduct such tests and monitor effluents as  
6 necessary to determine the nature, extent, quantity or degree of  
7 water contaminant discharged or released from the source,  
8 establish and maintain records and make reports regarding such  
9 determination.

10 6. The director shall promptly notify the applicant in  
11 writing of his or her action and if the permit is denied state  
12 the reasons [therefor] for such denial. As provided by sections  
13 621.250 and 640.013, the applicant may appeal to the  
14 administrative hearing commission from the denial of a permit or  
15 from any condition in any permit by filing [notice of appeal] a  
16 petition with the administrative hearing commission within thirty  
17 days of the notice of denial or issuance of the permit. After a  
18 final action is taken on a new or reissued general permit, a  
19 potential applicant for the general permit who can demonstrate  
20 that he or she is or may be adversely affected by any permit term  
21 or condition may appeal the terms and conditions of the general  
22 permit within thirty days of the department's issuance of the  
23 general permit. In no event shall a permit constitute permission  
24 to violate the law or any standard, rule or regulation  
25 promulgated pursuant thereto. Once the administrative hearing  
26 commission has reviewed the appeal, the administrative hearing  
27 commission shall issue a recommended decision to the commission  
28 on permit issuance, denial, or any condition of the permit. The

1 commission shall issue its own decision, based on the appeal, for  
2 permit issuance, denial, or any condition of the permit. If the  
3 commission changes a finding of fact or conclusion of law made by  
4 the administrative hearing commission, or modifies or vacates the  
5 decision recommended by the administrative hearing commission, it  
6 shall issue its own decision, which shall include findings of  
7 fact and conclusions of law. The commission shall mail copies of  
8 its final decision to the parties to the appeal or their counsel  
9 of record. The commission's decision shall be subject to  
10 judicial review pursuant to chapter 536, except that the court of  
11 appeals district with territorial jurisdiction coextensive with  
12 the county where the point source is to be located, shall have  
13 original jurisdiction. No judicial review shall be available  
14 until and unless all administrative remedies are exhausted.

15         7. In any hearing held pursuant to this section that  
16 involves a permit, license, or registration, the burden of proof  
17 is on the party specified in section 640.012. Any decision of  
18 the commission made pursuant to a hearing held pursuant to this  
19 section is subject to judicial review as provided in section  
20 644.071.

21         8. In any event, no permit issued pursuant to this section  
22 shall be issued if properly objected to by the federal government  
23 or any agency authorized to object pursuant to any federal water  
24 pollution control act unless the application does not require any  
25 permit pursuant to any federal water pollution control act.

26         9. Permits may be modified, reissued, or terminated at the  
27 request of the permittee. All requests shall be in writing and  
28 shall contain facts or reasons supporting the request.

1           10. No manufacturing or processing plant or operating  
2 location shall be required to pay more than one operating fee.  
3 Operating permits shall be issued for a period not to exceed five  
4 years after date of issuance, except that general permits shall  
5 be issued for a five-year period, and also except that neither a  
6 construction nor an annual permit shall be required for a single  
7 residence's waste treatment facilities. Applications for renewal  
8 of a site-specific operating permit shall be filed at least one  
9 hundred eighty days prior to the expiration of the existing  
10 permit. Applications seeking to renew coverage under a general  
11 permit shall be submitted at least thirty days prior to the  
12 expiration of the general permit, unless the permittee has been  
13 notified by the director that an earlier application must be  
14 made. General permits may be applied for and issued  
15 electronically once made available by the director.

16           11. Every permit issued to municipal or any publicly owned  
17 treatment works or facility shall require the permittee to  
18 provide the clean water commission with adequate notice of any  
19 substantial new introductions of water contaminants or pollutants  
20 into such works or facility from any source for which such notice  
21 is required by sections 644.006 to 644.141 or any federal water  
22 pollution control act. Such permit shall also require the  
23 permittee to notify the clean water commission of any substantial  
24 change in volume or character of water contaminants or pollutants  
25 being introduced into its treatment works or facility by a source  
26 which was introducing water contaminants or pollutants into its  
27 works at the time of issuance of the permit. Notice must  
28 describe the quality and quantity of effluent being introduced or

1 to be introduced into such works or facility by a source which  
2 was introducing water contaminants or pollutants into its works  
3 at the time of issuance of the permit. Notice must describe the  
4 quality and quantity of effluent being introduced or to be  
5 introduced into such works or facility and the anticipated impact  
6 of such introduction on the quality or quantity of effluent to be  
7 released from such works or facility into waters of the state.

8 12. The director or the commission may require the filing  
9 or posting of a bond as a condition for the issuance of permits  
10 for construction of temporary or future water treatment  
11 facilities or facilities that utilize innovative technology for  
12 wastewater treatment in an amount determined by the commission to  
13 be sufficient to ensure compliance with all provisions of  
14 sections 644.006 to 644.141, and any rules or regulations of the  
15 commission and any condition as to such construction in the  
16 permit. For the purposes of this section, "innovative technology  
17 for wastewater treatment" shall mean a completely new and  
18 generally unproven technology in the type or method of its  
19 application that bench testing or theory suggest has  
20 environmental, efficiency, and cost benefits beyond the standard  
21 technologies. No bond shall be required for designs approved by  
22 any federal agency or environmental regulatory agency of another  
23 state. The bond shall be signed by the applicant as principal,  
24 and by a corporate surety licensed to do business in the state of  
25 Missouri and approved by the commission. The bond shall remain  
26 in effect until the terms and conditions of the permit are met  
27 and the provisions of sections 644.006 to 644.141 and rules and  
28 regulations promulgated pursuant thereto are complied with.

1           13. (1) The department shall issue or deny applications  
2 for construction and site-specific operating permits received  
3 after January 1, 2001, within one hundred eighty days of the  
4 department's receipt of an application. For general construction  
5 and operating permit applications received after January 1, 2001,  
6 that do not require a public participation process, the  
7 department shall issue or deny the permits within sixty days of  
8 the department's receipt of an application. For an application  
9 seeking coverage under a renewed general permit that does not  
10 require an individual public participation process, the director  
11 shall issue or deny the permit within sixty days of the  
12 director's receipt of the application, or upon issuance of the  
13 general permit, whichever is later. In regard to an application  
14 seeking coverage under an initial general permit that does not  
15 require an individual public participation process, the director  
16 shall issue or deny the permit within sixty days of the  
17 department's receipt of the application. For an application  
18 seeking coverage under a renewed general permit that requires an  
19 individual public participation process, the director shall issue  
20 or deny the permit within ninety days of the director's receipt  
21 of the application, or upon issuance of the general permit,  
22 whichever is later. In regard to an application for an initial  
23 general permit that requires an individual public participation  
24 process, the director shall issue or deny the permit within  
25 ninety days of the director's receipt of the application.

26           (2) If the department fails to issue or deny with good  
27 cause a construction or operating permit application within the  
28 time frames established in subdivision (1) of this subsection,

1 the department shall refund the full amount of the initial  
2 application fee within forty-five days of failure to meet the  
3 established time frame. If the department fails to refund the  
4 application fee within forty-five days, the refund amount shall  
5 accrue interest at a rate established pursuant to section 32.065.

6 (3) Permit fee disputes may be appealed to the commission  
7 within thirty days of the date established in subdivision (2) of  
8 this subsection. If the applicant prevails in a permit fee  
9 dispute appealed to the commission, the commission may order the  
10 director to refund the applicant's permit fee plus interest and  
11 reasonable attorney's fees as provided in sections 536.085 and  
12 536.087. A refund of the initial application or annual fee does  
13 not waive the applicant's responsibility to pay any annual fees  
14 due each year following issuance of a permit.

15 (4) No later than December 31, 2001, the commission shall  
16 promulgate regulations defining shorter review time periods than  
17 the time frames established in subdivision (1) of this  
18 subsection, when appropriate, for different classes of  
19 construction and operating permits. In no case shall commission  
20 regulations adopt permit review times that exceed the time frames  
21 established in subdivision (1) of this subsection. The  
22 department's failure to comply with the commission's permit  
23 review time periods shall result in a refund of said permit fees  
24 as set forth in subdivision (2) of this subsection. On a  
25 semiannual basis, the department shall submit to the commission a  
26 report which describes the different classes of permits and  
27 reports on the number of days it took the department to issue  
28 each permit from the date of receipt of the application and show

1 averages for each different class of permits.

2 (5) During the department's technical review of the  
3 application, the department may request the applicant submit  
4 supplemental or additional information necessary for adequate  
5 permit review. The department's technical review letter shall  
6 contain a sufficient description of the type of additional  
7 information needed to comply with the application requirements.

8 (6) Nothing in this subsection shall be interpreted to mean  
9 that inaction on a permit application shall be grounds to violate  
10 any provisions of sections 644.006 to 644.141 or any rules  
11 promulgated pursuant to sections 644.006 to 644.141.

12 14. The department shall respond to all requests for  
13 individual certification under Section 401 of the Federal Clean  
14 Water Act within the lesser of sixty days or the allowed response  
15 period established pursuant to applicable federal regulations  
16 without request for an extension period unless such extension is  
17 determined by the commission to be necessary to evaluate  
18 significant impacts on water quality standards and the commission  
19 establishes a timetable for completion of such evaluation in a  
20 period of no more than one hundred eighty days.

21 15. All permit fees generated pursuant to this chapter  
22 shall not be used for the development or expansion of total  
23 maximum daily loads studies on either the Missouri or Mississippi  
24 rivers.

25 16. The department shall implement permit shield provisions  
26 equivalent to the permit shield provisions implemented by the  
27 U.S. Environmental Protection Agency pursuant to the Clean Water  
28 Act, Section 402(k), 33 U.S.C. Section 1342(k), and its

1 implementing regulations, for permits issued pursuant to chapter  
2 644.

3 17. Prior to the development of a new general permit or  
4 reissuance of a general permit for aquaculture, land disturbance  
5 requiring a storm water permit, or reissuance of a general permit  
6 under which fifty or more permits were issued under a general  
7 permit during the immediately preceding five-year period for a  
8 designated category of water contaminant sources, the director  
9 shall implement a public participation process complying with the  
10 following minimum requirements:

11 (1) For a new general permit or reissuance of a general  
12 permit, a general permit template shall be developed for which  
13 comments shall be sought from permittees and other interested  
14 persons prior to issuance of the general permit;

15 (2) The director shall publish notice of his intent to  
16 issue a new general permit or reissue a general permit by posting  
17 notice on the department's website at least one hundred eighty  
18 days before the proposed effective date of the general permit;

19 (3) The director shall hold a public informational meeting  
20 to provide information on anticipated permit conditions and  
21 requirements and to receive informal comments from permittees and  
22 other interested persons. The director shall include notice of  
23 the public informational meeting with the notice of intent to  
24 issue a new general permit or reissue a general permit under  
25 subdivision (2) of this subsection. The notice of the public  
26 informational meeting, including the date, time and location,  
27 shall be posted on the department's website at least thirty days  
28 in advance of the public meeting. If the meeting is being held

1 for reissuance of a general permit, notice shall also be made by  
2 electronic mail to all permittees holding the current general  
3 permit which is expiring. Notice to current permittees shall be  
4 made at least twenty days prior to the public meeting;

5 (4) The director shall hold a thirty-day public comment  
6 period to receive comments on the general permit template with  
7 the thirty-day comment period expiring at least sixty days prior  
8 to the effective date of the general permit. Scanned copies of  
9 the comments received during the public comment period shall be  
10 posted on the department's website within five business days  
11 after close of the public comment period;

12 (5) A revised draft of a general permit template and the  
13 director's response to comments submitted during the public  
14 comment period shall be posted on the department's website at  
15 least forty-five days prior to issuance of the general permit.  
16 At least forty-five days prior to issuance of the general permit  
17 the department shall notify all persons who submitted comments to  
18 the department that these documents have been posted to the  
19 department's website;

20 (6) Upon issuance of a new or renewed general permit, the  
21 general permit shall be posted to the department's website.

22 18. Notices required to be made by the department pursuant  
23 to subsection 17 of this section may be made by electronic mail.  
24 The department shall not be required to make notice to any  
25 permittee or other person who has not provided a current  
26 electronic mail address to the department. In the event the  
27 department chooses to make material modifications to the general  
28 permit before its expiration, the department shall follow the

1 public participation process described in subsection 17 of this  
2 section.

3 19. The provisions of subsection 17 of this section shall  
4 become effective beginning January 1, 2013.

5 644.056. 1. The director shall cause investigations to be  
6 made upon the request of the commission or upon receipt of  
7 information concerning alleged violations of sections 644.006 to  
8 644.141 or any standard, limitation, order, rule or regulation  
9 promulgated pursuant thereto, or any term or condition of any  
10 permit and may cause to be made any other investigations he or  
11 she deems advisable. Violations shall include obtaining a permit  
12 by misrepresentation or failure to fully disclose all relevant  
13 facts.

14 2. If, in the opinion of the director, the investigation  
15 discloses that a violation does exist, the director may, by  
16 conference, conciliation or persuasion, endeavor to eliminate the  
17 violation.

18 3. In case of the failure by conference, conciliation or  
19 persuasion to correct or remedy any claimed violation, or as  
20 required to immediately and effectively halt or eliminate any  
21 imminent or substantial endangerments to the health or welfare of  
22 persons resulting from the discharge of pollutants, the director  
23 [~~shall~~] may order abatement [~~or file an abatement complaint with~~  
24 the commission if no permit has been issued, or in addition may  
25 file a complaint to revoke a permit if such permit has been  
26 issued] or request legal action by the attorney general. When  
27 the director files a complaint, the commission shall order a  
28 hearing. The director shall cause to have issued and served upon

1 the person complained against a written notice of the order or  
2 complaint, together with a copy of the order or complaint, which  
3 shall specify the provision of sections 644.006 to 644.141 or the  
4 standard, rule, limitation, or regulation adopted pursuant  
5 thereto, or the condition of the permit of which the person is  
6 alleged to be in violation, and a statement of the manner in  
7 which and the extent to which the person is alleged to violate  
8 sections 644.006 to 644.141 or the standard, rule, limitation, or  
9 regulation, or condition of the permit. In any case involving a  
10 complaint, the commission shall require the person complained  
11 against to answer the charges of the formal complaint at a  
12 hearing before the commission at a time not less than thirty days  
13 after the date of notice. Service may be made upon any person  
14 within or without the state by registered mail, return receipt  
15 requested. Any person against whom the director issues an order  
16 may appeal the order to the commission within thirty days and the  
17 appeal shall stay the enforcement of the order until final  
18 determination by the commission. The commission shall set  
19 appeals for a hearing at a time not less than thirty days after  
20 the date of the request. The commission may sustain, reverse, or  
21 modify the director's order or may make such other orders as the  
22 commission deems appropriate under the circumstances. If any  
23 order issued by the director is not appealed within the time  
24 provided in this section, the order becomes final and may be  
25 enforced as provided in section 644.076. When the commission  
26 schedules a matter for hearing, the petitioner on appeal or the  
27 respondent to a formal complaint may appear at the hearing in  
28 person or by counsel, and may make oral argument, offer testimony

1 and evidence, and cross-examine witnesses. After due  
2 consideration of the record, or upon default in appearance of the  
3 respondent on the return day specified in the notice given as  
4 provided in this subsection, the commission shall issue and enter  
5 such final order, or make such final determination as it deems  
6 appropriate under the circumstances, and it shall immediately  
7 notify the petitioner or respondent thereof in writing by  
8 certified or registered mail.

9 4. Permits may be revoked, terminated, or modified if  
10 obtained in violation of sections 644.006 to 644.141 or by  
11 misrepresentation or failing to fully disclose all relevant  
12 facts, or when required to prevent violations of any provision of  
13 sections 644.006 to 644.141, or to protect the waters of this  
14 state, when such action is required by a change in conditions or  
15 the existence of a condition which requires either a temporary or  
16 permanent reduction or elimination of the authorized discharge,  
17 subject to the right of appeal contained in [this section]  
18 sections 621.250 and 640.013.

19 5. [When the commission schedules a matter for hearing, the  
20 petitioner on appeal or the respondent to a formal complaint may  
21 appear at the hearing in person or by counsel, and may make oral  
22 argument, offer testimony and evidence, and cross-examine  
23 witnesses.

24 6. After due consideration of the record, or upon default  
25 in appearance of the respondent on the return day specified in  
26 the notice given as provided in subsection 3, the commission  
27 shall issue and enter such final order, or make such final  
28 determination as it deems appropriate under the circumstances,

1 and it shall immediately notify the petitioner or respondent  
2 thereof in writing by certified or registered mail.] Whenever a  
3 permit under this chapter is revoked, terminated, or modified by  
4 the department of natural resources, the applicant, by petition  
5 filed with the administrative hearing commission within thirty  
6 days of the decision, may appeal such decision as provided by  
7 sections 621.250 and 640.013. Once the administrative hearing  
8 commission has reviewed the appeal, the administrative hearing  
9 commission shall issue a recommended decision to the commission  
10 on permit revocation, termination, or modification. The  
11 commission shall issue its own decision, based on the appeal, for  
12 permit revocation, termination, or modification. If the  
13 commission changes a finding of fact or conclusion of law made by  
14 the administrative hearing commission, or modifies or vacates the  
15 decision recommended by the administrative hearing commission, it  
16 shall issue its own decision, which shall include findings of  
17 fact and conclusions of law. The commission shall mail copies of  
18 its final decision to the parties to the appeal or their counsel  
19 of record. The commission's decision shall be subject to  
20 judicial review pursuant to chapter 536, except that the court of  
21 appeals district with territorial jurisdiction coextensive with  
22 the county where the point source is located or is to be located  
23 shall have original jurisdiction. No judicial review shall be  
24 available until and unless all administrative remedies are  
25 exhausted.