

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE NO. 2 FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1149
93RD GENERAL ASSEMBLY

Reported from the Committee on Commerce, Energy and the Environment, April 27, 2006, with recommendation that the Senate Committee Substitute No. 2 do pass.

3774S.07C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 640.100, 644.016, 644.036, 644.051, and 644.054, RSMo, and to enact in lieu thereof eight new sections relating to the regulation of water.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 640.100, 644.016, 644.036, 644.051, and 644.054, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 640.100, 644.016, 644.036, 644.051, 644.054, 644.587, 644.588, and 644.589, to read as follows:

640.100. 1. The safe drinking water commission created in section 640.105 shall promulgate rules necessary for the implementation, administration and enforcement of sections 640.100 to 640.140 and the federal Safe Drinking Water Act as amended.

2. No standard, rule or regulation or any amendment or repeal thereof shall be adopted except after a public hearing to be held by the commission after at least thirty days' prior notice in the manner prescribed by the rulemaking provisions of chapter 536, RSMo, and an opportunity given to the public to be heard; the commission may solicit the views, in writing, of persons who may be affected by, knowledgeable about, or interested in proposed rules and regulations, or standards. Any person heard or registered at the hearing, or making written request for notice, shall be given written notice of the action of the commission with respect to the subject thereof. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated to administer and enforce sections 640.100 to 640.140 shall become effective only if the agency has fully

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 complied with all of the requirements of chapter 536, RSMo, including but not
17 limited to, section 536.028, RSMo, if applicable, after June 9, 1998. All
18 rulemaking authority delegated prior to June 9, 1998, is of no force and effect and
19 repealed as of June 9, 1998, however, nothing in this section shall be interpreted
20 to repeal or affect the validity of any rule adopted or promulgated prior to June
21 9, 1998. If the provisions of section 536.028, RSMo, apply, the provisions of this
22 section are nonseverable and if any of the powers vested with the general
23 assembly pursuant to section 536.028, RSMo, to review, to delay the effective
24 date, or to disapprove and annul a rule or portion of a rule are held
25 unconstitutional or invalid, the purported grant of rulemaking authority and any
26 rule so proposed and contained in the order of rulemaking shall be invalid and
27 void, except that nothing in this chapter or chapter 644, RSMo, shall affect the
28 validity of any rule adopted and promulgated prior to June 9, 1998.

29 3. The commission shall promulgate rules and regulations for the
30 certification of public water system operators, backflow prevention assembly
31 testers and laboratories conducting tests pursuant to sections 640.100 to
32 640.140. Any person seeking to be a certified backflow prevention assembly
33 tester shall satisfactorily complete standard, nationally recognized written and
34 performance examinations designed to ensure that the person is competent to
35 determine if the assembly is functioning within its design specifications. Any
36 such state certification shall satisfy any need for local certification as a backflow
37 prevention assembly tester. However, political subdivisions may set additional
38 testing standards for individuals who are seeking to be certified as backflow
39 prevention assembly testers. Notwithstanding any other provision of law to the
40 contrary, agencies of the state or its political subdivisions shall only require
41 carbonated beverage dispensers to conform to the backflow protection
42 requirements established in the National Sanitation Foundation standard
43 eighteen, and the dispensers shall be so listed by an independent testing
44 laboratory. The commission shall promulgate rules and regulations for collection
45 of samples and analysis of water furnished by municipalities, corporations,
46 companies, state establishments, federal establishments or individuals to the
47 public. The department of natural resources or the department of health and
48 senior services shall, at the request of any supplier, make any analyses or tests
49 required pursuant to the terms of section 192.320, RSMo, and sections 640.100
50 to 640.140. The department shall collect fees to cover the reasonable cost of
51 laboratory services, both within the department of natural resources and the

52 department of health and senior services, laboratory certification and program
53 administration as required by sections 640.100 to 640.140. The laboratory
54 services and program administration fees pursuant to this subsection shall not
55 exceed two hundred dollars for a supplier supplying less than four thousand one
56 hundred service connections, three hundred dollars for supplying less than seven
57 thousand six hundred service connections, five hundred dollars for supplying
58 seven thousand six hundred or more service connections, and five hundred dollars
59 for testing surface water. Such fees shall be deposited in the safe drinking water
60 fund as specified in section 640.110. The analysis of all drinking water required
61 by section 192.320, RSMo, and sections 640.100 to 640.140 shall be made by the
62 department of natural resources laboratories, department of health and senior
63 services laboratories or laboratories certified by the department of natural
64 resources.

65 4. The department of natural resources shall establish and maintain an
66 inventory of public water supplies and conduct sanitary surveys of public water
67 systems. Such records shall be available for public inspection during regular
68 business hours.

69 5. (1) For the purpose of complying with federal requirements for
70 maintaining the primacy of state enforcement of the federal Safe Drinking Water
71 Act, the department is hereby directed to request appropriations from the general
72 revenue fund and all other appropriate sources to fund the activities of the public
73 drinking water program and in addition to the fees authorized pursuant to
74 subsection 3 of this section, an annual fee for each customer service connection
75 with a public water system is hereby authorized to be imposed upon all customers
76 of public water systems in this state. The fees collected shall not exceed the
77 amounts specified in this subsection and the commission may set the fees, by
78 rule, in a lower amount by proportionally reducing all fees charged pursuant to
79 this subsection from the specified maximum amounts. **Reductions shall be**
80 **roughly proportional but in each case shall be divisible by twelve.** Each
81 customer of a public water system shall pay an annual fee for each customer
82 service connection.

83 (2) The annual fee per customer service connection for unmetered
84 customers and customers with meters not greater than one inch in size shall be
85 based upon the number of service connections in the water system serving that
86 customer, and shall not exceed:

87 1 to 1,000 connections \$ [2.00] **3.24**

88	1,001 to 4,000 connections	[1.84] 3.00
89	4,001 to 7,000 connections	[1.67] 2.76
90	7,001 to 10,000 connections	[1.50] 2.40
91	10,001 to 20,000 connections	[1.34] 2.16
92	20,001 to 35,000 connections	[1.17] 1.92
93	35,001 to 50,000 connections	[1.00] 1.56
94	50,001 to 100,000 connections	[.84] 1.32
95	More than 100,000 connections	[.66] 1.08.

96 (3) The annual user fee for customers having meters greater than one inch
97 but less than or equal to two inches in size shall not exceed [five dollars] **seven**
98 **dollars and forty-four cents**; for customers with meters greater than two
99 inches but less than or equal to four inches in size shall not exceed [twenty-five
100 dollars] **forty-one dollars and sixteen cents**; and for customers with meters
101 greater than four inches in size shall not exceed [fifty dollars] **eighty-two**
102 **dollars and forty-four cents.**

103 (4) Customers served by multiple connections shall pay an annual user
104 fee based on the above rates for each connection, except that no single facility
105 served by multiple connections shall pay a total of more than five hundred dollars
106 per year.

107 6. Fees imposed pursuant to subsection 5 of this section shall become
108 effective on [August 28, 1992] **August 28, 2006**, and shall be collected by the
109 public water system serving the customer **beginning September 1, 2006, and**
110 **continuing until such time that the safe drinking water commission, at**
111 **its discretion, specifies a lower amount under subdivision (1) of**
112 **subsection 5 of this section.** The commission shall promulgate rules and
113 regulations on the procedures for billing, collection and delinquent
114 payment. Fees collected by a public water system pursuant to subsection 5 of this
115 section are state fees. The annual fee shall be enumerated separately from all
116 other charges, and shall be collected in monthly, quarterly or annual
117 increments. Such fees shall be transferred to the director of the department of
118 revenue at frequencies not less than quarterly. Two percent of the revenue
119 arising from the fees shall be retained by the public water system for the purpose
120 of reimbursing its expenses for billing and collection of such fees.

121 7. Imposition and collection of the fees authorized in subsection 5 of this
122 section shall be suspended on the first day of a calendar quarter if, during the
123 preceding calendar quarter, the federally delegated authority granted to the safe

124 drinking water program within the department of natural resources to administer
125 the Safe Drinking Water Act, 42 U.S.C. 300g-2, is withdrawn. The fee shall not
126 be reinstated until the first day of the calendar quarter following the quarter
127 during which such delegated authority is reinstated.

128 8. Fees imposed pursuant to subsection 5 of this section shall expire on
129 September 1, [2007] **2012**.

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

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

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

9 (3) "Conference, conciliation and persuasion", a process of verbal or
10 written communications consisting of meetings, reports, correspondence or
11 telephone conferences between authorized representatives of the department and
12 the alleged violator. The process shall, at a minimum, consist of one offer to meet
13 with the alleged violator tendered by the department. During any such meeting,
14 the department and the alleged violator shall negotiate in good faith to eliminate
15 the alleged violation and shall attempt to agree upon a plan to achieve
16 compliance;

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

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

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

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

23 (8) "General permit", a permit written with a standard group of conditions
24 and with applicability intended for a designated category of water contaminant
25 sources that have the same or similar operations, discharges and geographical
26 locations, and that require the same or similar monitoring, and that would be
27 more appropriately controlled pursuant to a general permit rather than pursuant
28 to a site-specific permit;

29 (9) "Human sewage", human excreta and wastewater, including bath and
30 toilet waste, residential laundry waste, residential kitchen waste, and other

31 similar waste from household or establishment appurtenances;

32 (10) "Income" includes retirement benefits, consultant fees, and stock
33 dividends;

34 (11) "Minor violation", a violation which possesses a small potential to
35 harm the environment or human health or cause pollution, was not knowingly
36 committed, and is not defined by the United States Environmental Protection
37 Agency as other than minor;

38 (12) "Permit by rule", a permit granted by rule, not by a paper certificate,
39 and conditioned by the permit holder's compliance with commission rules;

40 (13) "Permit holders or applicants for a permit" shall not include officials
41 or employees who work full time for any department or agency of the state of
42 Missouri;

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

48 (15) "Point source", any discernible, confined and discrete conveyance,
49 including but not limited to any pipe, ditch, channel, tunnel, conduit, well,
50 discrete fissure, container, rolling stock, concentrated animal feeding operation,
51 or vessel or other floating craft, from which pollutants are or may be
52 discharged. **Point source does not include agricultural storm water**
53 **discharges and return flows from irrigated agriculture;**

54 (16) "Pollution", such contamination or other alteration of the physical,
55 chemical or biological properties of any waters of the state, including change in
56 temperature, taste, color, turbidity, or odor of the waters, or such discharge of any
57 liquid, gaseous, solid, radioactive, or other substance into any waters of the state
58 as will or is reasonably certain to create a nuisance or render such waters
59 harmful, detrimental or injurious to public health, safety or welfare, or to
60 domestic, industrial, agricultural, recreational, or other legitimate beneficial uses,
61 or to wild animals, birds, fish or other aquatic life;

62 (17) "Pretreatment regulations", limitations on the introduction of
63 pollutants or water contaminants into publicly owned treatment works or
64 facilities which the commission determines are not susceptible to treatment by
65 such works or facilities or which would interfere with their operation, except that
66 wastes as determined compatible for treatment pursuant to any federal water

67 pollution control act or guidelines shall be limited or treated pursuant to this
68 chapter only as required by such act or guidelines;

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

73 (19) "Sewer system", pipelines or conduits, pumping stations, and force
74 mains, and all other structures, devices, appurtenances and facilities used for
75 collecting or conducting wastes to an ultimate point for treatment or handling;

76 (20) "Significant portion of his or her income" shall mean ten percent of
77 gross personal income for a calendar year, except that it shall mean fifty percent
78 of gross personal income for a calendar year if the recipient is over sixty years of
79 age, and is receiving such portion pursuant to retirement, pension, or similar
80 arrangement;

81 (21) "Site-specific permit", a permit written for discharges emitted from
82 a single water contaminant source and containing specific conditions, monitoring
83 requirements and effluent limits to control such discharges;

84 (22) "Treatment facilities", any method, process, or equipment which
85 removes, reduces, or renders less obnoxious water contaminants released from
86 any source;

87 (23) "Water contaminant", any particulate matter or solid matter or liquid
88 or any gas or vapor or any combination thereof, or any temperature change which
89 is in or enters any waters of the state either directly or indirectly by surface
90 runoff, by sewer, by subsurface seepage or otherwise, which causes or would cause
91 pollution upon entering waters of the state, or which violates or exceeds any of
92 the standards, regulations or limitations set forth in sections 644.006 to 644.141
93 or any federal water pollution control act, or is included in the definition of
94 pollutant in such federal act;

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

101 (25) "Water quality standards", specified concentrations and durations of
102 water contaminants which reflect the relationship of the intensity and

103 composition of water contaminants to potential undesirable effects;
104 (26) "Waters of the state", all rivers, streams, lakes and other bodies of
105 surface and subsurface water lying within or forming a part of the boundaries of
106 the state which are not entirely confined and located completely upon lands
107 owned, leased or otherwise controlled by a single person or by two or more
108 persons jointly or as tenants in common and includes waters of the United States
109 lying within the state.

644.036. 1. No standard, rule or regulation or any amendment or repeal
2 thereof shall be adopted except after a public hearing to be held after thirty days'
3 prior notice by advertisement of the date, time and place of the hearing and
4 opportunity given to the public to be heard. Notice of the hearings and copies of
5 the proposed standard, rule or regulation or any amendment or repeal thereof
6 shall also be given by regular mail, at least thirty days prior to the scheduled
7 date of the hearing, to any person who has registered with the director for the
8 purpose of receiving notice of such public hearings in accordance with the
9 procedures prescribed by the commission at least forty-five days prior to the
10 scheduled date of the hearing. However, this provision shall not preclude
11 necessary changes during this thirty-day period.

12 2. At the hearing, opportunity to be heard by the commission with respect
13 to the subject thereof shall be afforded any interested person upon written
14 request to the commission, addressed to the director, not later than seven days
15 prior to the hearing, and may be afforded to other persons if convenient. In
16 addition, any interested persons, whether or not heard, may submit, within seven
17 days subsequent to the hearings, a written statement of their views. The
18 commission may solicit the views, in writing, of persons who may be affected by,
19 or interested in, proposed rules and regulations, or standards. Any person heard
20 or represented at the hearing or making written request for notice shall be given
21 written notice of the action of the commission with respect to the subject thereof.

22 3. Any standard, rule or regulation or amendment or repeal thereof shall
23 not be deemed adopted or in force and effect until it has been approved in writing
24 by at least four members of the commission. A standard, rule or regulation or an
25 amendment or repeal thereof shall not become effective until a certified copy
26 thereof has been filed with the secretary of state as provided in chapter 536,
27 RSMo.

28 4. Unless prohibited by any federal water pollution control act, any
29 standard, rule or regulation or any amendment or repeal thereof which is adopted

30 by the commission may differ in its terms and provisions as between particular
31 types and conditions of water quality standards or of water contaminants, as
32 between particular classes of water contaminant sources, and as between
33 particular waters of the state.

34 5. Any listing required by Section 303(d) of the federal Clean Water Act,
35 as amended, 33 U.S.C. 1251 et seq., to be sent to the U.S. Environmental
36 Protection Agency for [their] its approval that will result in any waters of [this]
37 **the state being classified as impaired shall be adopted by [rule pursuant to**
38 **chapter 536, RSMo. Total maximum daily loads shall not be required for any**
39 **listed waters that subsequently are determined to meet water quality standards]**
40 **the commission after a public hearing, or series of hearings, held in**
41 **accordance with the following procedures. The department of natural**
42 **resources shall publish in at least six regional newspapers, in advance,**
43 **a notice by advertisement the availability of a proposed list of impaired**
44 **waters of the state and such notice shall include at least ninety days'**
45 **advance notice of the date, time, and place of the public hearing and**
46 **opportunity given to the public to be heard. Notice of the hearings and**
47 **copies of the proposed list of impaired waters also shall be posted on**
48 **the department of natural resources' website and given by regular mail,**
49 **at least ninety days prior to the scheduled date of the hearing, to any**
50 **person who has registered with the director for the purpose of**
51 **receiving notice of such public hearings. The proposed list of impaired**
52 **waters shall identify the water segment, the uses to be made of such**
53 **waters, the uses impaired, identify the pollutants causing or expected**
54 **to cause violations of the applicable water quality standards, and**
55 **provide a summary of the data relied upon to make the preliminary**
56 **determination. Contemporaneous with the publication of the notice of**
57 **public hearing, the department shall make available on its website all**
58 **data and information it relied upon to prepare the proposed list of**
59 **impaired waters, including a narrative explanation of how the**
60 **department determined the water segment was impaired. At any time**
61 **after the public notice and until seven days after the public hearing,**
62 **the department shall accept written comments on the proposed list of**
63 **impaired waters. After the public hearing and after all written**
64 **comments have been submitted, the department shall prepare a written**
65 **response to all comments and a revised list of impaired waters. The**
66 **commission shall adopt a list of impaired waters in a public meeting**

67 during which the public shall be afforded an opportunity to respond to
68 the department's written response to comments and revised list of
69 impaired waters. Notice of the meeting shall include the date, time,
70 and place of the public meeting and shall provide notice that the
71 commission will give interested persons the opportunity to respond to
72 the department's revised list of impaired waters and written responses
73 to comments. At its discretion, the commission may extend public
74 comment periods or hold additional public hearings on the proposed
75 and revised lists of impaired waters. The commission shall not vote to
76 add to the list of impaired waters any waters not recommended by the
77 department in the proposed or revised lists of impaired waters without
78 granting the public at least thirty additional days to comment on the
79 proposed addition. The list of impaired waters adopted by the
80 commission shall not be deemed to be a rule as defined by section
81 536.010, RSMo. The listing of any water segment on the list of impaired
82 waters adopted by the commission shall be subject to judicial review by
83 any adversely affected party under section 536.150, RSMo. The
84 provisions in this subsection shall expire on August 28, 2009.

644.051. 1. It is unlawful for any person:

- 2 (1) To cause pollution of any waters of the state or to place or cause or
3 permit to be placed any water contaminant in a location where it is reasonably
4 certain to cause pollution of any waters of the state;
- 5 (2) To discharge any water contaminants into any waters of the state
6 which reduce the quality of such waters below the water quality standards
7 established by the commission;
- 8 (3) To violate any pretreatment and toxic material control regulations, or
9 to discharge any water contaminants into any waters of the state which exceed
10 effluent regulations or permit provisions as established by the commission or
11 required by any federal water pollution control act;
- 12 (4) To discharge any radiological, chemical, or biological warfare agent or
13 high-level radioactive waste into the waters of the state.

14 2. It shall be unlawful for any person to build, erect, alter, replace,
15 operate, use or maintain any water contaminant or point source in this state that
16 is subject to standards, rules or regulations promulgated pursuant to the
17 provisions of sections 644.006 to 644.141 unless such person holds a permit from
18 the commission, subject to such exceptions as the commission may prescribe by

19 rule or regulation. However, no permit shall be required of any person for any
20 emission into publicly owned treatment facilities or into publicly owned sewer
21 systems tributary to publicly owned treatment works.

22 3. Every proposed water contaminant or point source which, when
23 constructed or installed or established, will be subject to any federal water
24 pollution control act or sections 644.006 to 644.141 or regulations promulgated
25 pursuant to the provisions of such act shall make application to the director for
26 a permit at least thirty days prior to the initiation of construction or installation
27 or establishment. Every water contaminant or point source in existence when
28 regulations or sections 644.006 to 644.141 become effective shall make application
29 to the director for a permit within sixty days after the regulations or sections
30 644.006 to 644.141 become effective, whichever shall be earlier. The director
31 shall promptly investigate each application, which investigation shall include
32 such hearings and notice, and consideration of such comments and
33 recommendations as required by sections 644.006 to 644.141 and any federal
34 water pollution control act. If the director determines that the source meets or
35 will meet the requirements of sections 644.006 to 644.141 and the regulations
36 promulgated pursuant thereto, the director shall issue a permit with such
37 conditions as he or she deems necessary to ensure that the source will meet the
38 requirements of sections 644.006 to 644.141 and any federal water pollution
39 control act as it applies to sources in this state. If the director determines that
40 the source does not meet or will not meet the requirements of either act and the
41 regulations pursuant thereto, the director shall deny the permit pursuant to the
42 applicable act and issue any notices required by sections 644.006 to 644.141 and
43 any federal water pollution control act.

44 4. Before issuing a permit to build or enlarge a water contaminant or
45 point source or reissuing any permit, the director shall issue such notices, conduct
46 such hearings, and consider such factors, comments and recommendations as
47 required by sections 644.006 to 644.141 or any federal water pollution control
48 act. The director shall determine if any state or any provisions of any federal
49 water pollution control act the state is required to enforce, any state or federal
50 effluent limitations or regulations, water quality-related effluent limitations,
51 national standards of performance, toxic and pretreatment standards, or water
52 quality standards which apply to the source, or any such standards in the vicinity
53 of the source, are being exceeded, and shall determine the impact on such water
54 quality standards from the source. The director, in order to effectuate the

55 purposes of sections 644.006 to 644.141, shall deny a permit if the source will
56 violate any such acts, regulations, limitations or standards or will appreciably
57 affect the water quality standards or the water quality standards are being
58 substantially exceeded, unless the permit is issued with such conditions as to
59 make the source comply with such requirements within an acceptable time
60 schedule. Prior to the development or renewal of a general permit or permit by
61 rule, for aquaculture, the director shall convene a meeting or meetings of permit
62 holders and applicants to evaluate the impacts of permits and to discuss any
63 terms and conditions that may be necessary to protect waters of the
64 state. Following the discussions, the director shall finalize a draft permit that
65 considers the comments of the meeting participants and post the draft permit on
66 notice for public comment. The director shall concurrently post with the draft
67 permit an explanation of the draft permit and shall identify types of facilities
68 which are subject to the permit conditions. Affected public or applicants for new
69 general permits, renewed general permits or permits by rule may request a
70 hearing with respect to the new requirements in accordance with this section. If
71 a request for a hearing is received, the commission shall hold a hearing to receive
72 comments on issues of significant technical merit and concerns related to the
73 responsibilities of the Missouri clean water law. The commission shall conduct
74 such hearings in accordance with this section. After consideration of such
75 comments, a final action on the permit shall be rendered. The time between the
76 date of the hearing request and the hearing itself shall not be counted as time
77 elapsed pursuant to subdivision (1) of subsection 13 of this section.

78 5. The director shall grant or deny the permit within sixty days after all
79 requirements of the Federal Water Pollution Control Act concerning issuance of
80 permits have been satisfied unless the application does not require any permit
81 pursuant to any federal water pollution control act. The director or the
82 commission may require the applicant to provide and maintain such facilities or
83 to conduct such tests and monitor effluents as necessary to determine the nature,
84 extent, quantity or degree of water contaminant discharged or released from the
85 source, establish and maintain records and make reports regarding such
86 determination.

87 6. The director shall promptly notify the applicant in writing of his or her
88 action and if the permit is denied state the reasons therefor. The applicant may
89 appeal to the commission from the denial of a permit or from any condition in any
90 permit by filing notice of appeal with the commission within thirty days of the

91 notice of denial or issuance of the permit. The commission shall set the matter
92 for hearing not less than thirty days after the notice of appeal is filed. In no
93 event shall a permit constitute permission to violate the law or any standard, rule
94 or regulation promulgated pursuant thereto.

95 7. In any hearing held pursuant to this section the burden of proof is on
96 the applicant for a permit. Any decision of the commission made pursuant to a
97 hearing held pursuant to this section is subject to judicial review as provided in
98 section 644.071.

99 8. In any event, no permit issued pursuant to this section shall be issued
100 if properly objected to by the federal government or any agency authorized to
101 object pursuant to any federal water pollution control act unless the application
102 does not require any permit pursuant to any federal water pollution control act.

103 9. Unless a site-specific permit is requested by the applicant, aquaculture
104 facilities shall be governed by a general permit issued pursuant to this section
105 with a fee not to exceed two hundred fifty dollars pursuant to subdivision (5) of
106 subsection 6 of section 644.052. However, any aquaculture facility which
107 materially violates the conditions and requirements of such permit may be
108 required to obtain a site-specific permit.

109 10. No manufacturing or processing plant or operating location shall be
110 required to pay more than one operating fee. Operating permits shall be issued
111 for a period not to exceed five years after date of issuance, except that general
112 permits shall be issued for a five-year period, and also except that neither a
113 construction nor an annual permit shall be required for a single residence's waste
114 treatment facilities. Applications for renewal of an operating permit shall be filed
115 at least one hundred eighty days prior to the expiration of the existing permit.

116 11. Every permit issued to municipal or any publicly owned treatment
117 works or facility shall require the permittee to provide the clean water
118 commission with adequate notice of any substantial new introductions of water
119 contaminants or pollutants into such works or facility from any source for which
120 such notice is required by sections 644.006 to 644.141 or any federal water
121 pollution control act. Such permit shall also require the permittee to notify the
122 clean water commission of any substantial change in volume or character of water
123 contaminants or pollutants being introduced into its treatment works or facility
124 by a source which was introducing water contaminants or pollutants into its
125 works at the time of issuance of the permit. Notice must describe the quality and
126 quantity of effluent being introduced or to be introduced into such works or

127 facility by a source which was introducing water contaminants or pollutants into
128 its works at the time of issuance of the permit. Notice must describe the quality
129 and quantity of effluent being introduced or to be introduced into such works or
130 facility and the anticipated impact of such introduction on the quality or quantity
131 of effluent to be released from such works or facility into waters of the state.

132 12. The director or the commission may require the filing or posting of a
133 bond as a condition for the issuance of permits for construction of temporary or
134 future water treatment facilities **or facilities that utilize innovative**
135 **technology for wastewater treatment** in an amount determined by the
136 commission to be sufficient to ensure compliance with all provisions of sections
137 644.006 to 644.141, and any rules or regulations of the commission and any
138 condition as to such construction in the permit. **For the purposes of this**
139 **section, "innovative technology for wastewater treatment" shall mean**
140 **a completely new and generally unproven technology in the type or**
141 **method of its application that bench testing or theory suggest has**
142 **environmental, efficiency, and cost benefits beyond the standard**
143 **technologies. No bond shall be required for designs approved by any**
144 **federal agency or environmental regulatory agency of another**
145 **state.** The bond shall be signed by the applicant as principal, and by a corporate
146 surety licensed to do business in the state of Missouri and approved by the
147 commission. The bond shall remain in effect until the terms and conditions of the
148 permit are met and the provisions of sections 644.006 to 644.141 and rules and
149 regulations promulgated pursuant thereto are complied with.

150 13. (1) The department shall issue or deny applications for construction
151 and site-specific operating permits received after January 1, 2001, within one
152 hundred eighty days of the department's receipt of an application. For general
153 construction and operating permit applications received after January 1, 2001,
154 that do not require a public participation process, the department shall issue or
155 deny the requested permits within sixty days of the department's receipt of an
156 application.

157 (2) If the department fails to issue or deny with good cause a construction
158 or operating permit application within the time frames established in subdivision
159 (1) of this subsection, the department shall refund the full amount of the initial
160 application fee within forty-five days of failure to meet the established time
161 frame. If the department fails to refund the application fee within forty-five days,
162 the refund amount shall accrue interest at a rate established pursuant to section

163 32.065, RSMo.

164 (3) Permit fee disputes may be appealed to the commission within thirty
165 days of the date established in subdivision (2) of this subsection. If the applicant
166 prevails in a permit fee dispute appealed to the commission, the commission may
167 order the director to refund the applicant's permit fee plus interest and
168 reasonable attorney's fees as provided in sections 536.085 and 536.087, RSMo. A
169 refund of the initial application or annual fee does not waive the applicant's
170 responsibility to pay any annual fees due each year following issuance of a
171 permit.

172 (4) No later than December 31, 2001, the commission shall promulgate
173 regulations defining shorter review time periods than the time frames established
174 in subdivision (1) of this subsection, when appropriate, for different classes of
175 construction and operating permits. In no case shall commission regulations
176 adopt permit review times that exceed the time frames established in subdivision
177 (1) of this subsection. The department's failure to comply with the commission's
178 permit review time periods shall result in a refund of said permit fees as set forth
179 in subdivision (2) of this subsection. On a semiannual basis, the department
180 shall submit to the commission a report which describes the different classes of
181 permits and reports on the number of days it took the department to issue each
182 permit from the date of receipt of the application and show averages for each
183 different class of permits.

184 (5) During the department's technical review of the application, the
185 department may request the applicant submit supplemental or additional
186 information necessary for adequate permit review. The department's technical
187 review letter shall contain a sufficient description of the type of additional
188 information needed to comply with the application requirements.

189 (6) Nothing in this subsection shall be interpreted to mean that inaction
190 on a permit application shall be grounds to violate any provisions of sections
191 644.006 to 644.141 or any rules promulgated pursuant to sections 644.006 to
192 644.141.

193 14. The department shall respond to all requests for individual
194 certification under Section 401 of the Federal Clean Water Act within the lesser
195 of sixty days or the allowed response period established pursuant to applicable
196 federal regulations without request for an extension period unless such extension
197 is determined by the commission to be necessary to evaluate significant impacts
198 on water quality standards and the commission establishes a timetable for

199 completion of such evaluation in a period of no more than one hundred eighty
200 days.

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

 644.054. 1. Fees imposed in sections 644.052 and 644.053 shall, except
2 for those fees imposed pursuant to subsection 4 and subsections 6 to 13 of section
3 644.052, become effective October 1, 1990, and shall expire December 31, [2007]
4 **2009**. Fees imposed pursuant to subsection 4 and subsections 6 to 13 of section
5 644.052 shall become effective August 28, 2000, and shall expire on December 31,
6 [2007] **2009**. The clean water commission shall promulgate rules and regulations
7 on the procedures for billing and collection. All sums received through the
8 payment of fees shall be placed in the state treasury and credited to an
9 appropriate subaccount of the natural resources protection fund created in section
10 640.220, RSMo. Moneys in the subaccount shall be expended, upon appropriation,
11 solely for the administration of sections 644.006 to 644.141. Fees collected
12 pursuant to subsection 10 of section 644.052 by a city, a public sewer district, a
13 public water district or other publicly owned treatment works are state fees. Five
14 percent of the fee revenue collected shall be retained by the city, public sewer
15 district, public water district or other publicly owned treatment works as
16 reimbursement of billing and collection expenses.

17 2. The commission may grant a variance pursuant to section 644.061 to
18 reduce fees collected pursuant to section 644.052 for facilities that adopt systems
19 or technologies that reduce the discharge of water contaminants substantially
20 below the levels required by commission rules.

21 3. Fees imposed in subsections 2 to 6 of section 644.052 shall be due [in
22 accordance with the following schedule after August 27, 2000:

23 (1) For new or renewed permits, fees shall be due] on the date of
24 application and on each anniversary date of permit issuance thereafter until the
25 permit is terminated[;

26 (2) For permits in effect on August 27, 2000, fees shall be due on each
27 anniversary date of permit issuance until the permit is terminated;

28 (3) For general permits issued pursuant to subdivisions (2) and (4) of
29 subsection 6 of section 644.052 and in effect on August 27, 2000, the permittee
30 will be credited thirty dollars on each anniversary date of permit issuance that
31 falls between August 27, 2000, and the date the permit expires].

32 4. There shall be convened a joint committee appointed by the
33 president pro tem of the senate and the speaker of the house of
34 representatives to consider proposals for restructuring the fees
35 imposed in sections 644.052 and 644.053. The committee shall review
36 stormwater programs, the state's implementation of the federal clean
37 water program and related state clean water responsibilities and
38 evaluate the costs to the state for maintaining the programs. The
39 committee shall prepare and submit a report including
40 recommendations on funding the state clean water program and
41 stormwater programs to the governor, the house of representatives, and
42 the senate no later than December 31, 2008.

644.587. In addition to those sums authorized prior to August 28,
2 2007, the board of fund commissioners of the state of Missouri, as
3 authorized by section 37(e) of article III of the Constitution of the state
4 of Missouri, may borrow on the credit of this state the sum of ten
5 million dollars in the manner described, and for purposes set out, in
6 chapter 640, RSMo, and this chapter.

644.588. In addition to those sums authorized prior to August 28,
2 2007, the board of fund commissioners of the state of Missouri, as
3 authorized by section 37(g) of article III of the Constitution of the state
4 of Missouri, may borrow on the credit of this state the sum of ten
5 million dollars in the manner described, and the purposes set out, in
6 chapter 640, RSMo, and in this chapter.

644.589. In addition to those sums authorized prior to August 28,
2 2007, the board of fund commissioners of the state of Missouri, as
3 authorized by section 37(h) of article III of the Constitution of the state
4 of Missouri, may borrow on the credit of this state the sum of twenty
5 million dollars in the manner described, and for the purposes set out,
6 in chapter 640, RSMo, and in this chapter.

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