

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 159
94TH GENERAL ASSEMBLY

Reported from the Committee on Commerce, Energy and the Environment, May 3, 2007, with recommendation that the Senate Committee Substitute do pass.

0717S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 236.400, 236.410, 236.415, 236.420, 236.425, 236.435, 236.440, 236.445, 236.460, 236.465, and 236.500, RSMo, and to enact in lieu thereof eleven new sections relating to dam and reservoir safety, with penalty provisions.

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

Section A. Sections 236.400, 236.410, 236.415, 236.420, 236.425, 236.435, 236.440, 236.445, 236.460, 236.465, and 236.500, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 236.400, 236.410, 236.415, 236.420, 236.425, 236.435, 236.440, 236.445, 236.460, 236.465, and 236.500, to read as follows:

236.400. As used in sections 236.400 to 236.500, standards, rules and regulations promulgated hereunder, unless the context otherwise requires the following words and terms mean:

- (1) "Agricultural dam", any dam constructed to impound water for use in irrigation, livestock watering, or commercial fish rearing and sale;
- (2) "Alterations", "repairs", or either of them, such alterations or repairs as affect the safety of a dam or reservoir, or public safety, life or property;
- (3) "Chief engineer", the head of the dam and reservoir safety program of the department of natural resources or his representative;
- (4) "Construction permit", a written authorization issued by the council giving the owner **of a high hazard dam** the right to construct, alter, enlarge, reduce, repair or remove a dam or reservoir or appurtenances thereto, with such

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

13 conditions as are necessary to adequately protect the public safety, life, property,
14 the dam or reservoir;

15 (5) "Dam", any artificial or manmade barrier, **including appurtenant**
16 **works**, which does or may impound water, and [which impoundment has or may
17 have a surface area of fifteen or more acres of water at the water storage
18 elevation, or which is thirty-five feet or more in height from the natural bed of
19 the stream or watercourse measured at the downstream toe of the barrier or dam,
20 if it is not across a streambed or watercourse, together with appurtenant
21 works. Sections 236.400 to 236.500 shall not apply to any dam which is not or
22 will not be in excess of thirty-five feet in height or to any dam or reservoir
23 licensed and operated under the Federal Power Act] **is twenty-five feet or**
24 **more in height with a storage volume of at least fifty acre-feet of**
25 **water. For purposes of this definition, the height of the dam is**
26 **measured either from the natural bed of the stream or watercourse at**
27 **the downstream toe of the barrier or dam or the lowest point on the**
28 **downstream toe of the dam, whichever is lower, up to the dam crest**
29 **elevation. The storage volume is the amount of water stored in the**
30 **reservoir below the dam crest elevation;**

31 (6) "Dam and reservoir safety council", as designated by sections 236.400
32 to 236.500 and referred to as the "council" shall consist of seven members
33 appointed by the governor according to the provisions of sections 236.400 to
34 236.500;

35 (7) **"Dam crest elevation", the lowest elevation of the top surface**
36 **of the dam exclusive of the spillway;**

37 (8) "Director", the director of the department of natural resources of the
38 state of Missouri;

39 (9) **"Downstream environment zone", the area downstream of a**
40 **dam that would be affected by inundation in the event the dam failed**
41 **with the water level in the lake being at the dam crest**
42 **level. Inundation is water two feet or more deep around the impacted**
43 **structure;**

44 [(8)] (10) "Enlargement", any change in or addition to an existing dam
45 or reservoir which raises the height of a dam, increases the watershed for a
46 reservoir, or raises the water storage elevation of the water impounded by a dam
47 or reservoir;

48 [(9)] (11) "Experienced professional engineer", an engineer registered in

49 the state of Missouri and experienced in hydraulics, hydrology and civil
50 engineering as applied to dam design and construction;

51 **[(10)] (12) "High hazard", loss of human life is probable or**
52 **expected if the dam were to fail. Loss of life is assumed to occur if the**
53 **dam fails and permanent dwellings or any public building, campground**
54 **with permanent water and electrical services, or industrial buildings**
55 **exist within the downstream environment zone;**

56 **(13) "Industrial building", a permanent, enclosed structure used**
57 **by groups of workers usually involved in some type of manufacturing,**
58 **processing, or industrial related process;**

59 **(14) "Low hazard", any dam that is not high hazard;**

60 **(15) "Maintenance", the proper keeping of all aspects of a dam or**
61 **reservoir and appurtenances thereto, that pertain to safety, in a state of repair**
62 **and working order as necessary to comply with sections 236.400 to 236.500, any**
63 **permit hereunder, and protect public safety, life and property;**

64 **[(11)] (16) "Natural physical changes", those changes not directly or**
65 **indirectly caused by man which affect the safety of the dam or reservoir;**

66 **[(12)] (17) "Operation", the physical changes, natural or manmade that**
67 **occur or are made to a dam or reservoir, or operation of the mechanisms or**
68 **appurtenances of the dam or reservoir, which affect or may affect public safety,**
69 **life or property;**

70 **[(13)] (18) "Operation or operating permit", a written**
71 **authorization issued by the council giving the owner the right to**
72 **operate and maintain a high hazard dam for a period of up to five years**
73 **and indicating that the dam meets the requirements of sections 236.400**
74 **to 236.500 and the guidelines, standards, rules, and regulations issued**
75 **under sections 236.400 to 236.500. The permit shall contain such**
76 **conditions as to operations, maintenance, and repair as are necessary**
77 **to protect public safety, life, and the dam or reservoir adequately;**

78 **(19) "Owner", a person who owns, controls, operates, maintains, manages,**
79 **or proposes to construct a dam or reservoir including:**

80 **(a) The state and its departments, institutions, agencies, and political**
81 **subdivisions, but not the United States government;**

82 **(b) A municipal or quasi-municipal corporation;**

83 **(c) A district;**

84 **(d) A public utility;**

85 (e) A natural person, firm, partnership, association, corporation, political
86 subdivision, or legal entity;

87 (f) The duly authorized agents, lessees, or trustees of any of the foregoing;

88 (g) Receivers or trustees appointed by any court for any of the foregoing;

89 **(20) "Permanent dwelling", a dwelling occupied at least ninety**
90 **days a year;**

91 **[(14)] (21) "Permit", a construction[, safety or registration] or operating**
92 **permit;**

93 **[(15)] (22) "Permit applicant", an owner who applies for a construction[,**
94 **safety or registration] or operating permit;**

95 **(23) "Public building", a permanent, enclosed structure used by**
96 **the general public but not necessarily owned by the public;**

97 **(24) "Public utility", a drinking water reservoir, drinking water**
98 **and wastewater treatment facilities, and electrical power plants;**

99 **[(16)] (25) "Reduction", any decrease in the height of a dam, watershed**
100 **size, or water storage elevation of the water impounded by a dam or reservoir;**

101 **[(17) "Registration permit", a permit issued for a period not to exceed five**
102 **years by the council to the owner of a dam or reservoir in existence on September**
103 **28, 1979, or which becomes subject to the provisions of sections 236.400 to**
104 **236.500 for such dams and reservoirs which are in a properly maintained**
105 **condition or which have made and complied with recommendations for corrections**
106 **of observed defects of the dam or reservoir and have been examined and approved**
107 **in accordance with sections 236.400 to 236.500 and standards, rules and**
108 **regulations and guidelines issued pursuant to sections 236.400 to 236.500;**

109 **(18)] (26) "Registration", a written statement submitted to the**
110 **chief engineer on forms provided by the department, by the owner of**
111 **a dam or reservoir, including the name of the legal owner, a contact**
112 **person, the address of the legal owner and contact person, the**
113 **telephone number of the legal owner and contact person, the height of**
114 **the dam, the estimated reservoir storage volume at the dam crest**
115 **elevation, and the general location of the dam;**

116 **(27) "Reservoir", any impoundment which results from a dam as defined**
117 **in sections 236.400 to 236.500;**

118 **[(19) "Safety permit", a permit issued to the owner for a period of five**
119 **years, or less if safety considerations so require, by the council indicating that the**
120 **dam meets the requirements of sections 236.400 to 236.500 and the guidelines,**

121 standards, rules and regulations issued pursuant to sections 236.400 to 236.500,
122 and containing such conditions as to operations, maintenance and repair as are
123 necessary to adequately protect public safety, life and the dam or reservoir;

124 (20)] (28) "Water", water, other liquid or tailings;

125 [(21)] (29) "Water storage elevation", that elevation [of] **or** water surface
126 at the principal spillway which could be obtained by the dam or reservoir were
127 there no outflow and were the reservoir full of water;

128 [(22)] (30) "Watershed", the area, usually expressed in acres of square
129 miles, that contributes or may contribute surface water to a reservoir.

236.410. 1. There is hereby created a "Dam and Reservoir Safety
2 Council", whose domicile for the purposes of sections 236.400 to 236.500 shall be
3 the department of natural resources of the state of Missouri, for the regulation
4 of dam and reservoir safety. The council shall consist of seven members, no more
5 than four of whom shall be members of the same political party, appointed by the
6 governor with the advice and consent of the senate.

7 2. The members of the council shall have a background of academic
8 training or professional experience directly related to the design of dams and
9 reservoirs. At least two members of the council shall be professional engineers
10 registered in the state of Missouri, one of whom shall represent the general
11 public; at least one member shall be [an engineering] **a geologist registered in**
12 **the state of Missouri whom also has professional geological practice**
13 **experience relating to dam safety**; at least one member, in addition to the
14 professional engineer, shall be a representative of the general public; two
15 members shall be from industry, one of whom shall be earthmoving contractors;
16 and one member shall be the owner of a **regulated high hazard** dam or
17 reservoir. The members shall serve for a term of two years; except, of the first
18 appointments three shall be appointed for one year. The governor shall fill any
19 vacancy on the council and may remove any appointed member for cause. The
20 council shall annually elect a chairman and vice chairman from among its
21 members. The council shall meet regularly but not less than quarterly. Special
22 meetings and hearings may be called upon delivery of written notice to each
23 member of the council signed by the director, the chief engineer, the council
24 chairman or four of the council members. Four members of the council shall
25 constitute a quorum to transact the business of the council. The council shall
26 decide all questions by a majority vote of those present and constituting a
27 quorum. The members of this council shall not receive any compensations other

28 than for actual travel and subsistence when acting officially as members of the
29 council.

236.415. 1. The council considering recommendations of the chief
2 engineer shall, subsequent to a public meeting, adopt, subject to the approval of
3 the director, the general technological guidelines and the standards, guidelines,
4 rules and regulations applicable to permits, **hazard classification**, the design,
5 construction, maintenance, operation, alteration, repair, enlargement, reduction,
6 removal or natural physical changes that may occur to a dam or
7 reservoir. Violations of guidelines, standards, rules and regulations are violations
8 of sections 236.400 to 236.500 permitting the revocation, suspension, or refusal
9 to issue any permit required by sections 236.400 to 236.500. No standards,
10 guidelines, rules, or regulations shall be adopted, or any amendment or repeal
11 thereof shall be effective, except after a public hearing to be held after thirty
12 days' prior notice by advertisement or press release, and publication as required
13 in chapter 536, RSMo, of the date, time and place of the hearing and opportunity
14 given to the public to be heard.

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

25 3. The council upon hearing recommendations of the chief engineer
26 and reviewing the application for a construction or **[registration] operating**
27 permit shall approve or deny the permit application. The council may delegate
28 authority to approve or deny permit applications to the chief engineer, whose
29 actions shall be subject to appeal to the council as provided in subsection 2 of
30 section 236.425.

31 4. No standard, rule or regulation or guideline, or amendment or repeal
32 thereof, adopted by the council shall be in force and effect until it has been
33 approved in writing by the director and the requirements of chapter 536, RSMo,
34 are satisfied. The affirmative vote of at least four members of the council shall

35 be required for adoption.

36 **5. The inspection fee for dams not licensed and operated under**
37 **the Federal Power Act shall be four hundred fifty dollars per dam per**
38 **year for high hazard dams. An application fee for new high hazard**
39 **dams constructed after August 28, 2007, and not licensed or operated**
40 **under the Federal Power Act shall be assessed a permit application**
41 **review fee of three thousand dollars or one percent of the actual total**
42 **cost for construction of the dam, whichever is lower. Inspection fees**
43 **and construction permit application review fees for dams licensed and**
44 **operated under the Federal Power Act shall be established by the**
45 **council. All of the above fees shall be adjusted on July first of every**
46 **year according to the Engineering News Record inflation factor index**
47 **for professional engineering services. Inspection fees and construction**
48 **permit application renewal fees will be due to the department within**
49 **ninety days of receipt of an invoice, but no later than the thirtieth of**
50 **June of each year. The state treasurer shall deposit all fees related to**
51 **dam inspection and construction permits in the state treasury and**
52 **moneys received by gifts, bequests, or contributions, to the credit of the**
53 **Dam & Reservoir Fee subaccount in the Natural Resources Protection**
54 **Fund established by section 640.220, RSMo. Moneys in the subaccount**
55 **shall, subject to appropriation, be expended for the administration and**
56 **enforcement of sections 236.400 to 236.500 by the department of natural**
57 **resources. Any balance in the subaccount at the end of the biennium**
58 **shall remain in the fund and shall not be subject to the provisions of**
59 **section 33.080, RSMo. Notwithstanding any other provision of law, the**
60 **Taum Sauk dam shall be continuously monitored twenty four hours a**
61 **day by an operator who shall take all appropriate measures to monitor**
62 **the dam and its pumps. All agricultural dams shall be exempt from the**
63 **inspection fee. If the council with the advice of the chief engineer**
64 **determines that the dam or reservoir is no longer used for agricultural**
65 **services, it shall become subject to the inspection fee.**

236.420. The council, with the advice and assistance of the chief engineer,
2 shall carry out a state program of inspection of dams and reservoirs in accordance
3 with regulations adopted by the council. All **high hazard** dams and reservoirs
4 in this state shall be inspected [on a periodic basis] **at least every three years**
5 to determine if they constitute a threat to public safety, life or property. **Dams**
6 **licensed and operated under the Federal Power Act shall be inspected**

7 **yearly.** The chief engineer shall submit reports to the director and the council
8 concerning the condition of each dam or reservoir inspected, and
9 recommendations as to any alterations or repairs needed.

236.425. 1. The chief engineer shall administer the provisions of sections
2 236.400 to 236.500 by:

3 (1) Recommending [general] technological guidelines that pertain to the
4 design, construction, maintenance, operation, use, alteration, repair, enlargement,
5 reduction, or natural physical changes of, or that may occur to, a dam or reservoir
6 including their removal[]; except that, detailed technical specifications shall not
7 be promulgated to regulate the design, construction, operation, maintenance, use,
8 alteration, repair or removal of a dam or reservoir]. Such guidelines shall not be
9 effective until adopted by the council and approved by the director at a public
10 meeting, after notice requirements set forth in subsection 1 of section 236.415
11 herein have been satisfied;

12 (2) Making recommendations concerning the issuing, continuing in effect,
13 revoking, modifying, suspending, or denying, under such conditions as prescribed
14 by sections 236.400 to 236.500 and such rules as may be adopted to protect public
15 safety, life, property, dams and reservoirs, construction permits for the
16 construction, alteration, enlargement, reduction, repair or removal of **high**
17 **hazard** dams or appurtenances thereto, and [safety and registration] **operating**
18 permits to [insure] **ensure** continuing protection of public safety, life, property,
19 dams and reservoirs, for all **high hazard** dams subject to the provisions of
20 sections 236.400 to 236.500;

21 (3) Making such investigations, including hearings, as are proper to
22 protect public safety, life and property from an unsafe dam or reservoir, and to
23 determine whether any permits should be issued, continued, revoked, modified,
24 suspended, or denied or whether any violations of sections 236.400 to 236.500,
25 standards, or rules or regulations have occurred or are occurring;

26 (4) Entering, at any reasonable time, any private or public premises as
27 necessary to make an investigation or inspection of a dam or reservoir, or records
28 kept, pertaining thereto, and such inspection shall follow reasonable notice to the
29 owner given prior to such investigation or inspection except in the case of an
30 emergency threatening public safety, life or property, in which case such
31 inspection or investigation may be made without prior notice. A suitably
32 restricted search warrant, upon a showing of probable cause in writing and upon
33 oath, shall be issued by any judge having jurisdiction, to the chief engineer or his

34 representative for the purpose of enabling him to make the inspection.

35 2. The council shall meet with or hear the appeal of a permit applicant
36 and his representative upon request of the permit applicant if the chief engineer
37 has rejected the application for a construction[, safety or registration] **or**
38 **operating** permit.

 236.435. 1. Prior to the commencement of the construction, alteration,
2 enlargement, reduction or removal of a **high hazard** dam or reservoir, the owner
3 shall apply to the council and upon satisfying the requirements of sections
4 236.400 to 236.500 and the rules, regulations and standards promulgated
5 pursuant hereto, obtain a construction permit.

6 2. The application for a construction permit shall bear the seal and
7 signature of an experienced professional engineer registered in Missouri [or
8 employed by a qualified engineering division of a state or federal agency regularly
9 engaged in dam construction for soil and water conservation, or irrigation or
10 relating to wildlife conservation] and shall be accompanied by the design report
11 and plans and [specification] **specifications** of the proposed design, alteration,
12 enlargement, reduction, repair or removal of the dam or reservoir. **A geologic**
13 **report shall accompany an application for a construction permit.**

14 3. Any person constructing or owning a dam or reservoir, or living or
15 owning property in an area affected, or whose safety may be affected by such dam
16 or reservoir may consult with the chief engineer concerning such dam or
17 reservoir.

18 4. The council upon hearing the recommendation of the chief engineer
19 shall approve or deny an application for a construction permit within forty-five
20 days after its receipt or the completion of any hearings in connection with such
21 application, whichever is later. The permit shall be issued upon the receipt of the
22 application if, in the judgment of the council, requirements of sections 236.400 to
23 236.500 and all standards, rules and regulations hereunder are satisfied and the
24 design will be adequate to protect the public safety, life and property.

25 5. The council upon hearing the recommendation of the chief engineer
26 may reject the application if it decides that there is insufficient information to
27 determine the safety of the proposed construction, alteration, enlargement,
28 reduction or removal of the dam or reservoir or that the construction, alteration,
29 enlargement, reduction or removal of the dam or reservoir would endanger public
30 safety, life or property, or otherwise not comply with sections 236.400 to 236.500
31 and any rules, standards, guidelines and regulations adopted hereunder.

32 6. A landowner who now owns or proposes to construct an agricultural
33 dam or reservoir which will be used primarily for agricultural purposes will be
34 exempt from all provisions of sections 236.400 to 236.500. If the council with the
35 advice of the chief engineer, determines that the dam or reservoir is no longer
36 used primarily for agricultural services **or is a high hazard dam or reservoir**,
37 it shall become subject to the provisions of sections 236.400 to 236.500.

38 7. [Dams or their construction, alterations, enlargements, reductions or
39 removals designed by, and their construction, alteration, enlargement, reduction
40 or repair or removal monitored by, a qualified engineer regularly engaged in dam
41 construction for soil and water conservation or irrigation or relating to wildlife
42 conservation are for the purposes of such construction or other listed actions
43 exempt from the provisions of this section except that the plans for the dam shall
44 be filed with the chief engineer prior to construction, or other listed
45 action. Amended plans shall be filed at the completion of construction or other
46 listed action if there have been significant deviations from the previously filed
47 plans.] **Any dam or reservoir with a surface area of five acres or less at**
48 **the water storage elevation that will be used primarily for fireclay**
49 **quarry reclamation under the provisions of the land reclamation**
50 **commission shall be exempt from all provisions of sections 236.400 to**
51 **236.500;**

52 8. **Any dam or reservoir providing thirty or less megawatts that,**
53 **in the event of catastrophic failure, would emit water that is fully**
54 **contained on federal property where no permanent structures are**
55 **located shall be exempt from all provisions of sections 236.400 to**
56 **236.500.**

 236.440. 1. The owner shall notify the council upon completion of
2 construction, alteration, enlargement, or reduction of the **high hazard** dam or
3 reservoir. This notification shall bear the seal and signature of an experienced
4 professional engineer and shall be accompanied by an application for [a safety]
5 **an operating** permit. The owner of any **high hazard** dam or reservoir subject
6 to the provisions of sections 236.400 to 236.500 shall obtain [a safety] **an**
7 **operating** permit following completion of construction.

8 2. Upon receipt of complete and proper application for [a safety] **an**
9 **operating** permit, including notification of completion by the owner and
10 certification by an experienced professional engineer that the new construction,
11 alteration, enlargement or reduction has been completed in accordance with the

12 provisions of the construction permit and sections 236.400 to 236.500, the council
13 shall upon receipt of the application issue [a safety] **an operating** permit. The
14 council upon advice of the chief engineer may deny the application if it
15 determines that violations of the construction permit or sections 236.400 to
16 236.500 exist. If revisions have been made which vary substantially from the
17 provisions of the construction permit, it must be shown that the revisions do not
18 endanger public safety, life or property. The [safety] **operating** permit for dams
19 constructed pursuant to a construction permit issued under sections 236.400 to
20 236.500, may contain conditions the council upon advice of the chief engineer
21 determines are necessary for the protection of public safety, life and property and
22 a schedule and timetable for the dam and reservoir to achieve compliance with
23 the construction permit and provisions of sections 236.400 to 236.500, standards,
24 rules and regulations promulgated hereunder, but such conditions shall not be
25 more stringent or restrictive than those contained in the construction permit.

26 3. [Owners of dams and reservoirs in existence on September 28, 1979,
27 shall obtain registration permits for dams of fifty to seventy feet in height within
28 four years, and for dams up to fifty feet in height within six years of September
29 28, 1979, or as otherwise required by the provisions of sections 236.400 to 236.500
30 and rules and regulations adopted hereunder. A registration] **An operating**
31 permit shall be issued by the council upon the advice of the chief engineer for
32 dams and reservoirs only after it is determined that the **high hazard** dam meets
33 the standards of sections 236.400 to 236.500 and rules and regulations hereunder,
34 and any recommendations made by the inspecting engineer pursuant thereto.

35 4. **Owners of all dams in existence on or constructed after August**
36 **28, 2007, who do not have a current registration or safety permit issued**
37 **prior to August 28, 2007, shall register the existence of their dam with**
38 **the chief engineer no later than six months after August 28, 2007, and**
39 **the owners of high hazard dams shall apply for an operating permit no**
40 **later than one year after August 28, 2007, or at such other future time**
41 **as the council shall adopt by rule.**

42 5. **Owners of a dam or reservoir licensed and operating under**
43 **the Federal Power Act, 16 U.S.C. Section 791a, et seq., as amended, shall**
44 **apply for an operating permit no later than three months after August**
45 **28, 2007.**

46 6. Upon complete and proper application for [a registration] **an**
47 **operating** permit, on forms provided by the department of natural resources, by

48 the owner of a **high hazard** dam [in existence upon September 28, 1979,
49 including a certification by an experienced professional engineer or an
50 engineering division of a state or federal agency regularly engaged in dam
51 construction for soil or water conservation, irrigation, or relating to wildlife
52 conservation,] that the dam has been inspected in accordance with sections
53 236.400 to 236.500, standards, rules and regulations and guidelines promulgated
54 hereunder, and that the owner has complied with the inspecting engineer's [or
55 agency's] recommendations necessary to correct observed defects of the dam or
56 reservoir, the council shall, upon receipt of the application, issue [a registration]
57 **an operating** permit. The council upon hearing the recommendations of the
58 chief engineer may deny the application if it determines that the owner has not
59 complied with the inspecting engineer's [or agency's] recommendations.

60 [5.] 7. For **high hazard** dams for which construction was completed
61 prior to the effective date of the construction permit requirements hereunder, the
62 [registration] **operating** permit may contain conditions the council upon hearing
63 recommendations of the chief engineer determines to be necessary to bring the
64 dam and reservoir into compliance with sections 236.400 to 236.500 and
65 standards, rules and regulations promulgated hereunder.

66 [6.] 8. If a **high hazard** dam or reservoir has been removed by the
67 owner, the council shall issue a final approval upon notification by the owner and
68 receipt of certification by an experienced professional engineer that the removal
69 has been carried out in accordance with the provisions of the construction permit
70 issued for such removal. Failure to obtain final approval shall be a violation of
71 sections 236.400 to 236.500.

72 [7. The council shall issue safety permits for dams or their construction,
73 alterations, enlargements, reductions or removals designed by, and their
74 construction or other listed actions monitored by, a state or federal agency
75 engaged in dam construction for soil and water conservation, irrigation or relating
76 to wildlife conservation provided the owners obtain from such agency and file
77 with the chief engineer a statement upon completion of the construction or other
78 listed actions and at not greater than five year intervals, and with every
79 application for renewal of a safety permit, that the dam conforms to the plans on
80 file with the chief engineer and is in a safe, properly maintained condition.

81 8.] 9. The owner shall apply for renewal of [a safety or registration] **an**
82 **operating** permit not less than sixty days prior to expiration of the previously
83 issued permit. The chief engineer shall determine if the dam and reservoir are

84 essentially as described in the latest permit issued for that dam and reservoir,
85 whether they satisfy the requirements of sections 236.400 to 236.500 and any
86 rules, regulations, standards and guidelines adopted pursuant to sections 236.400
87 to 236.500 and whether any inspection conducted in connection with the permit
88 renewal reveals any defect in the dam or reservoir which would threaten public
89 safety, life or property. Unless the chief engineer determines that the dam and
90 reservoir are not properly maintained, do not satisfy the requirements of the
91 permit, act or rules, regulations, standards and guidelines promulgated
92 hereunder, or that defects revealed by the inspection are not corrected, the
93 council upon hearing the recommendations of the chief engineer shall issue or
94 renew the [safety or registration] **operating** permit upon forty-five days of the
95 receipt of a complete and proper application. The council may require the owner
96 to furnish a certification, as a part of an application to renew a permit hereunder,
97 by an experienced professional engineer [or a qualified engineering division of a
98 state or federal agency regularly engaged in dam construction for water
99 conservation, irrigation or relating to wildlife conservation] that the dam is in a
100 properly maintained condition and that any recommendation for correction of
101 defects which violate sections 236.400 to 236.500, guidelines, rules, regulations
102 and standards hereunder or which threaten public safety, life or property have
103 been complied with and that the engineer detected no other such defects which
104 have not been corrected.

105 [9.] **10.** If a barrier or water impoundment becomes a dam or reservoir
106 through alteration or enlargement as defined herein, it shall be subject to the
107 provisions of sections 236.400 to 236.500, **and the owner shall register the**
108 **dam with the council immediately.**

109 **11. If downstream conditions change the hazard classification of**
110 **any dam or reservoir, it shall be immediately subject to the provisions**
111 **of sections 236.400 to 236.500 for that new class.**

112 [10.] **12.** Failure to obtain and comply with a permit as required in this
113 section is a violation of sections 236.400 to 236.500.

236.445. 1. If it is found that a **high hazard** dam or reservoir presents
2 a threat to public safety, life or property, or that the safety of the dam or
3 reservoir is threatened, the permit for the dam or reservoir shall be suspended
4 and shall be reinstated only when the owner at his expense has completed the
5 necessary alteration or has established such operational procedures as the council
6 upon hearing the recommendations of the chief engineer deems necessary for

7 protection of the public safety, life, property, the dam or reservoir. If necessary
8 for such protection, the council may require the owner at his expense to remove
9 the dam or reservoir, or if the owner refuses or neglects to act, the state may alter
10 or remove the dam or reservoir, and the chief engineer may recover the costs of
11 such action as provided in section 236.450.

12 2. If the owner refuses to alter or remove a dam or reservoir as directed
13 when found to be a threat as set forth in sections 236.400 to 236.500, he shall be
14 in violation of sections 236.400 to 236.500 and the permit requirements
15 hereunder, and such action shall subject the owner to the enforcement provisions
16 contained herein and revocation of the permit.

236.460. 1. The owner shall notify the chief engineer upon the sale or
2 other transfer of interest in a dam or reservoir, either existing or under
3 construction, alteration or removal. The construction[, safety or registration] **or**
4 **operating** permit shall be transferred to the successive owner, **along with**
5 **notification of the current hazard classification of the dam**, upon receipt
6 of this notification and upon determination that such transfer will not endanger
7 public safety, life, property, the dam or reservoir.

8 2. **Failure to notify the chief engineer of the transfer shall result**
9 **in the prior owner retaining the obligations imposed by sections**
10 **236.400 to 236.500 until such time as the chief engineer is notified. In**
11 **the event that the prior owner is a corporation and the corporation**
12 **fails to transfer ownership or interest because of the dissolution or**
13 **bankruptcy of the corporation, then the officers, directors, and**
14 **stockholders, if any, individually shall have all obligations imposed by**
15 **sections 236.400 to 236.500.**

236.465. Irrespective of any other provisions of sections 236.400 to
2 236.500, the following provisions shall apply to the construction, alteration or
3 enlargement of tailing, slime and settling ponds and to other similar industrial
4 water retention structures included within the definitions of dam or reservoir in
5 section 236.400:

6 (1) Applications for construction[, safety or registration] **and operating**
7 permits shall be submitted as provided in section 236.435 and section 236.440
8 except that design plans and specifications which outline any anticipated
9 enlargement of the industrial water retention structure shall be included;

10 (2) It shall not be necessary to reapply for a permit each time the
11 structure is enlarged if the enlargement plans have been submitted in and

12 approved with the original application, and the provisions of subdivision (3) of
13 this section have been satisfied;

14 (3) Upon notification of the chief engineer, bearing the seal and signature
15 of an experienced professional engineer, that the initial phase of construction has
16 been completed in accordance with the provisions of the construction permit and
17 sections 236.400 to 236.500, or if [a registration] **an operating** permit has been
18 issued as provided in subdivision (1) of this section, and before any enlargement
19 is begun, and if no violation of sections 236.400 to 236.500 can be shown, [a
20 safety permit or a registration] **an operating** permit with special provisions that
21 authorize the planned enlargement to the initially constructed structure shall be
22 issued, on application, if enlargement plans were included and approved in the
23 original application;

24 (4) It is not necessary to retain continuously a professional engineer after
25 the initial stage of construction;

26 (5) The dam shall be inspected by an experienced professional engineer
27 registered in the state of Missouri as required to renew the [safety permit or
28 registration] **operating** permit at five-year intervals unless safety of the public,
29 life and property require a shorter period of time;

30 (6) The chief engineer shall make inspections of these structures as
31 necessary to insure adequate protection for public safety, life and property[;

32 (7) Where it is shown that a tailings, slime and settling pond, or other
33 similar water retention structure is subject to inspection for safety, using
34 standards at least as stringent as those required under sections 236.400 to
35 236.500, by a federal or state agency and the owner notifies the council that the
36 structure is subject to such inspection, such structures shall be exempt from the
37 provisions of sections 236.400 to 236.500].

236.500. 1. Any person who willfully violates any of the provisions of
2 sections 236.400 to 236.500 is guilty of a misdemeanor and, upon conviction, shall
3 be punished by a fine of not less than five hundred dollars nor more than ten
4 thousand dollars, or by confinement in the county jail for a term of not less than
5 thirty days nor more than one year, or by both such fine and confinement.

6 2. In the event of a continuing violation, each day that the violation
7 continues shall constitute a separate and distinct offense.

8 3. Any person who willfully obstructs, hinders or prevents the council, the
9 chief engineer or his agents or employees from performing the duties imposed by
10 sections 236.400 to 236.500 and rules and regulations promulgated hereunder or

11 who willfully resists the council, the chief engineer or his agents in the
12 performance of the duties imposed on them by sections 236.400 to 236.500 and
13 rules and regulations promulgated hereunder is guilty of a misdemeanor and,
14 upon conviction, shall be punished as provided in subsection 1 of this section.

15 4. Any owner who willfully engages in the construction, repair, alteration
16 or removal of any **high hazard** dam or reservoir without a construction permit
17 or in violation of a construction permit or willfully violates the requirements of
18 or for [a safety or registration] **an operating** permit is guilty of a misdemeanor
19 and, upon conviction, shall be punished as provided in subsection 1 of this
20 section.

Unofficial

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Bill

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