

SECOND REGULAR SESSION  
[PERFECTED]  
SENATE SUBSTITUTE NO. 2 FOR  
SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILLS NOS. 984 & 985

## 91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR STEELMAN.

Offered April 15, 2002.

Senate Substitute No. 2 adopted, April 15, 2002.

Taken up for Perfection, April 15, 2002. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

4130S.05P

### AN ACT

To repeal sections 250.140, 640.100, 643.220, 644.016, 644.036, 644.051, 644.052 and 644.076, RSMo, relating to the department of natural resources, and to enact in lieu thereof twelve new sections relating to the same subject.

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

Section A. Sections 250.140, 640.100, 643.220, 644.016, 644.036, 644.051, 644.052 and 644.076, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 250.140, 640.100, 640.825, 643.220, 644.016, 644.036, 644.051, 644.052, 644.076, 644.578, 644.579 and 644.580, to read as follows:

250.140. **1.** Sewerage services or water and sewerage services combined shall be deemed to be furnished to both the occupant and owner of the premises receiving such service and the city, town or village or sewer district rendering such services shall have power to sue the occupant or owner, or both, of such real estate in a civil action to recover any sums due for such services, plus a reasonable attorney's fee to be fixed by the court.

**2. Any notice of delinquency regarding services provided shall be sent to both the occupant and owner of the premises receiving such service, if such owner has provided the entity rendering such service with the owner's rental property addresses.**

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

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 All rulemaking authority delegated prior to June 9, 1998, is of no force and effect and repealed as of June 9, 1998, however, nothing in this section shall be interpreted to repeal or affect the validity of any rule adopted or promulgated prior to June 9,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

3. The commission shall promulgate rules and regulations for the certification of public water system operators, backflow prevention assembly testers and laboratories conducting tests pursuant to sections 640.100 to 640.140. Any person seeking to be a certified backflow prevention assembly tester shall satisfactorily complete standard, nationally recognized written and performance examinations designed to ensure that the person is competent to determine if the assembly is functioning within its design specifications. Any such state certification shall satisfy any need for local certification as a backflow prevention assembly tester. However, political subdivisions may set additional testing standards for individuals who are seeking to be certified as backflow prevention assembly testers. Notwithstanding any other provision of law to the contrary, agencies of the state or its political subdivisions shall only require carbonated beverage dispensers to conform to the backflow protection requirements established in the National Sanitation Foundation standard eighteen, and the dispensers shall be so listed by an independent testing laboratory. The commission shall promulgate rules and regulations for

collection of samples and analysis of water furnished by municipalities, corporations, companies, state establishments, federal establishments or individuals to the public. The department of natural resources or the department of health and senior services shall, at the request of any supplier, make any analyses or tests required pursuant to the terms of section 192.320, RSMo, and sections 640.100 to 640.140. The department shall collect fees to cover the reasonable cost of laboratory services, both within the department of natural resources and the department of health and senior services, laboratory certification and program administration as required by sections 640.100 to 640.140. The laboratory services and program administration fees pursuant to this subsection shall not exceed two hundred dollars for a supplier supplying less than four thousand one hundred service connections, three hundred dollars for supplying less than seven thousand six hundred service connections, five hundred dollars for supplying seven thousand six hundred or more service connections, and five hundred dollars for testing surface water. Such fees shall be deposited in the safe drinking water fund as specified in section 640.110. The analysis of all drinking water required by section 192.320, RSMo, and sections 640.100 to 640.140 shall be made by the department of natural resources laboratories, department of health and senior services laboratories or laboratories certified by the department of natural resources.

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

5. (1) For the purpose of complying with federal requirements for maintaining the primacy of state enforcement of the federal Safe Drinking Water Act, the department is hereby directed to request appropriations from the general revenue fund and all other appropriate sources to fund the activities of the public drinking water program and in addition to the fees authorized pursuant to subsection 3 of this section, an annual fee for each customer service connection with a public water system is hereby authorized to be imposed upon all customers of public water systems in this state. The fees collected shall not exceed the amounts specified in this subsection and the commission may set the fees, by rule, in a lower amount by proportionally reducing all fees charged pursuant to this subsection from the specified maximum amounts. Each customer of a public water system shall pay an annual fee for each customer service connection.

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

1 to 1,000 connections . . . . .	\$2.00
1,001 to 4,000 connections . . . . .	1.84
4,001 to 7,000 connections . . . . .	1.67
7,001 to 10,000 connections . . . . .	1.50

10,001 to 20,000 connections .....	1.34
20,001 to 35,000 connections .....	1.17
35,001 to 50,000 connections .....	1.00
50,001 to 100,000 connections .....	.84
More than 100,000 connections .....	.66.

(3) The annual user fee for customers having meters greater than one inch but less than or equal to two inches in size shall not exceed five dollars; for customers with meters greater than two inches but less than or equal to four inches in size shall not exceed twenty-five dollars; and for customers with meters greater than four inches in size shall not exceed fifty dollars.

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

6. Fees imposed pursuant to subsection 5 of this section shall become effective on August 28, 1992, and shall be collected by the public water system serving the customer. The commission shall promulgate rules and regulations on the procedures for billing, collection and delinquent payment. Fees collected by a public water system pursuant to subsection 5 of this section are state fees. The annual fee shall be enumerated separately from all other charges, and shall be collected in monthly, quarterly or annual increments. Such fees shall be transferred to the director of the department of revenue at frequencies not less than quarterly. Two percent of the revenue arising from the fees shall be retained by the public water system for the purpose of reimbursing its expenses for billing and collection of such fees.

7. Imposition and collection of the fees authorized in subsection 5 of this section shall be suspended on the first day of a calendar quarter if, during the preceding calendar quarter, the federally delegated authority granted to the safe drinking water program within the department of natural resources to administer the Safe Drinking Water Act, 42 U.S.C. 300g-2, is withdrawn. The fee shall not be reinstated until the first day of the calendar quarter following the quarter during which such delegated authority is reinstated.

8. Fees imposed pursuant to subsection 5 of this section shall expire on September 1, [2002] 2007.

**640.825. In all matters heard by the department of natural resources in chapters 260, 278, 444, 640, 643, and 644, RSMo, the hazardous waste management commission in chapter 260, RSMo, the state soil and water districts commission in chapter 278, RSMo, the land reclamation commission in chapter 444, RSMo, the safe drinking water commission in this chapter, the air conservation commission in chapter 643, RSMo, and the clean water commission in chapter 644, RSMo, the burden of proof shall be upon the department of natural resources or the commission that issued the finding, order, decision or assessment being appealed, except that in matters**

**involving the denial of a permit, license or registration, the burden of proof shall be on the applicant for such permit, license or registration.**

643.220. 1. The commission shall promulgate rules establishing a "Missouri Air Emissions Banking and Trading Program" to achieve and maintain the National Ambient Air Quality Standards established by the United States Environmental Protection Agency pursuant to the federal Clean Air Act, 42 U.S.C. 7401, et seq., as amended. In promulgating such rules, the commission may consider, but not be limited to, inclusion of provisions concerning the definition and transfer of air emissions reduction credits or allowances between mobile sources, area sources and stationary sources, the role of offsets in emissions trading, interstate and regional emissions trading and the mechanisms necessary to facilitate emissions trading and banking, including consideration of the authority of other contiguous states.

2. The program shall:

- (1) Not include any provisions prohibited by federal law;
- (2) Be applicable to criteria pollutants and their precursors as defined by the federal Clean Air Act, as amended;
- (3) Not allow banked or traded emissions credits to be used to meet federal Clean Air Act requirements for hazardous air pollutant standards pursuant to Section 112 of the federal Clean Air Act;

(4) Allow the banking and trading of criteria pollutants that are also hazardous air pollutants, as defined in Section 112 of the federal Clean Air Act, to the extent that verifiable emissions reductions achieved are in excess of those required to meet hazardous air pollutant emissions standards promulgated pursuant to Section 112 of the federal Clean Air Act;

(5) Authorize the direct trading of air emission reduction credits or allowances between nongovernmental parties, subject to the approval of the department;

(6) Allow net air emission reductions from federally approved permit conditions to be transferred to other sources for use as offsets required by the federal Clean Air Act in nonattainment areas to allow construction of new emission sources; and

(7) Not allow banking of air emission reductions unless they are in excess of reductions required by state or federal regulations or implementation plans.

3. The department shall verify, certify or otherwise approve the amount of an air emissions reduction credit before such credit is banked. Banked credits may be used, traded, sold or otherwise expended within the same nonattainment area, maintenance area or air quality modeling domain in which the air emissions reduction occurred, provided that there will be no resulting adverse impact of air quality.

4. To be creditable for deposit in the Missouri air emissions bank, a reduction in air emissions shall be permanent, quantifiable and federally approved.

5. To be tradeable between air emission sources, air emission reduction credits shall be

based on air emission reductions that occur after August 28, 2001, **or shall be credits that exist in the current air emissions bank.**

6. In nonattainment areas, the bank of criteria pollutants and their precursors shall be reduced by three percent annually for as long as the area is classified as a nonattainment area.

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

**(1) "Aquaculture", a facility which uses water for the controlled propagation, growth and harvest of aquatic organisms;**

[(1)] **(2)** "Commission", the clean water commission of the state of Missouri created in section 644.021;

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

[(3)] **(4)** "Department", the department of natural resources;

[(4)] **(5)** "Director", the director of the department of natural resources;

[(5)] **(6)** "Discharge", the causing or permitting of one or more water contaminants to enter the waters of the state;

[(6)] **(7)** "Effluent control regulations", limitations on the discharge of water contaminants;

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

[(8)] **(9)** "Human sewage", human excreta and wastewater, including bath and toilet waste, residential laundry waste, residential kitchen waste, and other similar waste from household or establishment appurtenances;

[(9)] **(10)** "Income" includes retirement benefits, consultant fees, and stock dividends;

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

[(11)] **(12)** "Permit by rule", a permit granted by rule, not by a paper certificate, and

conditioned by the permit holder's compliance with commission rules;

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

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

[(14)] **(15)** "Point source", any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged;

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

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

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

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

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

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

**[(21)] (22)** "Treatment facilities", any method, process, or equipment which removes, reduces, or renders less obnoxious water contaminants released from any source;

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

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

**[(24)] (25)** "Water quality standards", specified concentrations and durations of water contaminants which reflect the relationship of the intensity and composition of water contaminants to potential undesirable effects;

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

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

2. At the hearing, opportunity to be heard by the commission with respect to the subject thereof shall be afforded any interested person upon written request to the commission, addressed to the director, not later than seven days prior to the hearing, and may be afforded to other persons if convenient. In addition, any interested persons, whether or not heard, may submit, within seven days subsequent to the hearings, a written statement of their views. The commission may solicit the views, in writing, of persons who may be affected by, or interested in,

proposed rules and regulations, or standards. Any person heard or represented 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.

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

4. Unless prohibited by any federal water pollution control act, any standard, rule or regulation or any amendment or repeal thereof which is adopted by the commission may differ in its terms and provisions as between particular types and conditions of water quality standards or of water contaminants, as between particular classes of water contaminant sources, and as between particular waters of the state.

**5. Any listing, designation, standard, rule or regulation that will result in the waters of this state to be classified, designated, qualified or allocated as impaired, contaminated, impacted or deteriorated shall be adopted by rule pursuant to chapter 536, RSMo.**

644.051. 1. It is unlawful for any person:

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

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

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

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

2. It shall be unlawful for any person to build, erect, alter, replace, operate, use or maintain any water contaminant or point source in this state that is subject to standards, rules or regulations promulgated pursuant to the provisions of sections 644.006 to 644.141 unless such person holds a permit from the commission, subject to such exceptions as the commission may prescribe by rule or regulation. However, no permit shall be required of any person for any emission into publicly owned treatment facilities or into publicly owned sewer systems tributary to publicly owned treatment works.

3. Every proposed water contaminant or point source which, when constructed or

installed or established, will be subject to any federal water pollution control act or sections 644.006 to 644.141 or regulations promulgated pursuant to the provisions of such act shall make application to the director for a permit at least thirty days prior to the initiation of construction or installation or establishment. Every water contaminant or point source in existence when regulations or sections 644.006 to 644.141 become effective shall make application to the director for a permit within sixty days after the regulations or sections 644.006 to 644.141 become effective, whichever shall be earlier. The director shall promptly investigate each application, which investigation shall include such hearings and notice, and consideration of such comments and recommendations as required by sections 644.006 to 644.141 and any federal water pollution control act. If the director determines that the source meets or will meet the requirements of sections 644.006 to 644.141 and the regulations promulgated pursuant thereto, the director shall issue a permit with such conditions as he or she deems necessary to ensure that the source will meet the requirements of sections 644.006 to 644.141 and any federal water pollution control act as it applies to sources in this state. If the director determines that the source does not meet or will not meet the requirements of either act and the regulations pursuant thereto, the director shall deny the permit pursuant to the applicable act and issue any notices required by sections 644.006 to 644.141 and any federal water pollution control act.

4. Before issuing a permit to build or enlarge a water contaminant or point source or reissuing any permit, the director shall issue such notices, conduct such hearings, and consider such factors, comments and recommendations as required by sections 644.006 to 644.141 or any federal water pollution control act. The director shall determine if any state or any provisions of any federal water pollution control act the state is required to enforce, any state or federal effluent limitations or regulations, water quality-related effluent limitations, national standards of performance, toxic and pretreatment standards, or water quality standards which apply to the source, or any such standards in the vicinity of the source, are being exceeded, and shall determine the impact on such water quality standards from the source. The director, in order to effectuate the purposes of sections 644.006 to 644.141, shall deny a permit if the source will violate any such acts, regulations, limitations or standards or will appreciably affect the water quality standards or the water quality standards are being substantially exceeded, unless the permit is issued with such conditions as to make the source comply with such requirements within an acceptable time schedule. **Prior to the development or renewal of a general permit or permit by rule, for aquaculture, the director shall convene a meeting or meetings of permit holders, applicants and public to evaluate the pollution impacts of permits and to discuss any terms and conditions that may be necessary to protect waters of the state. Following the discussions, the director shall finalize a draft permit that considers the comments of the meeting participants and post the draft permit on notice for public comment. The director shall concurrently post with the draft permit**

**an explanation of the draft permit and shall identify types of facilities which are subject to the permit conditions. Concerned, affected public or applicants for new general permits, renewed general permits or permits by rule may request a hearing with respect to the new requirements in accordance with this section. If a request for a hearing is received, the commission shall hold a hearing to receive comments on issues of significant technical merit and concerns related to the responsibilities of the Missouri clean water law. The commission shall conduct such hearings in accordance with this section. After consideration of such comments, a final action on the permit shall be rendered. The time between the date of the hearing request and the hearing itself shall not be counted as time elapsed pursuant to subdivision (1) of subsection 13 of this section.**

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

6. The director shall promptly notify the applicant in writing of his or her action and if the permit is denied state the reasons therefor. The applicant may appeal to the commission from the denial of a permit or from any condition in any permit by filing notice of appeal with the commission within thirty days of the notice of denial or issuance of the permit. The commission shall set the matter for hearing not less than thirty days after the notice of appeal is filed. In no event shall a permit constitute permission to violate the law or any standard, rule or regulation promulgated pursuant thereto.

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

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

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

**permit.**

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

[10.] **11.** Every permit issued to municipal or any publicly owned treatment works or facility shall require the permittee to provide the clean water commission with adequate notice of any substantial new introductions of water contaminants or pollutants into such works or facility from any source for which such notice is required by sections 644.006 to 644.141 or any federal water pollution control act. Such permit shall also require the permittee to notify the clean water commission of any substantial change in volume or character of water contaminants or pollutants being introduced into its treatment works or facility by a source which was introducing water contaminants or pollutants into its works at the time of issuance of the permit. Notice must describe the quality and quantity of effluent being introduced or to be introduced into such works or facility by a source which was introducing water contaminants or pollutants into its works at the time of issuance of the permit. Notice must describe the quality and quantity of effluent being introduced or to be introduced into such works or facility and the anticipated impact of such introduction on the quality or quantity of effluent to be released from such works or facility into waters of the state.

[11.] **12.** The director or the commission may require the filing or posting of a bond as a condition for the issuance of permits for construction of temporary or future water treatment facilities in an amount determined by the commission to be sufficient to ensure compliance with all provisions of sections 644.006 to 644.141, and any rules or regulations of the commission and any condition as to such construction in the permit. The bond shall be signed by the applicant as principal, and by a corporate surety licensed to do business in the state of Missouri and approved by the commission. The bond shall remain in effect until the terms and conditions of the permit are met and the provisions of sections 644.006 to 644.141 and rules and regulations promulgated pursuant thereto are complied with.

[12.] **13.** (1) The department shall issue or deny applications for construction and site-specific operating permits received after January 1, 2001, within one hundred eighty days of the department's receipt of an application. For general construction and operating permit applications received after January 1, 2001, that do not require a public participation process, the department shall issue or deny the requested permits within sixty days of the department's receipt of an application.

(2) If the department fails to issue or deny with good cause a construction or operating

permit application within the time frames established in subdivision (1) of this subsection, the department shall refund the full amount of the initial application fee within forty-five days of failure to meet the established time frame. If the department fails to refund the application fee within forty-five days, the refund amount shall accrue interest at a rate established pursuant to section 32.065, RSMo.

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

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

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

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

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

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

644.052. 1. Persons with operating permits or permits by rule issued pursuant to this chapter shall pay fees pursuant to subsections 2 to 8 and 12 to 13 of this section. Persons with a sewer service connection to public sewer systems owned or operated by a city, public sewer district, public water district or other publicly owned treatment works shall pay a permit fee pursuant to subsections 10 and 11 of this section.

2. A privately owned treatment works or an industry which treats only human sewage shall annually pay a fee based upon the design flow of the facility as follows:

- (1) One hundred dollars if the design flow is less than five thousand gallons per day;
- (2) One hundred fifty dollars if the design flow is equal to or greater than five thousand gallons per day but less than six thousand gallons per day;
- (3) One hundred seventy-five dollars if the design flow is equal to or greater than six thousand gallons per day but less than seven thousand gallons per day;
- (4) Two hundred dollars if the design flow is equal to or greater than seven thousand gallons per day but less than eight thousand gallons per day;
- (5) Two hundred twenty-five dollars if the design flow is equal to or greater than eight thousand gallons per day but less than nine thousand gallons per day;
- (6) Two hundred fifty dollars if the design flow is equal to or greater than nine thousand gallons per day but less than ten thousand gallons per day;
- (7) Three hundred seventy-five dollars if the design flow is equal to or greater than ten thousand gallons per day but less than eleven thousand gallons per day;
- (8) Four hundred dollars if the design flow is equal to or greater than eleven thousand gallons per day but less than twelve thousand gallons per day;
- (9) Four hundred fifty dollars if the design flow is equal to or greater than twelve thousand gallons per day but less than thirteen thousand gallons per day;
- (10) Five hundred dollars if the design flow is equal to or greater than thirteen thousand gallons per day but less than fourteen thousand gallons per day;
- (11) Five hundred fifty dollars if the design flow is equal to or greater than fourteen thousand gallons per day but less than fifteen thousand gallons per day;
- (12) Six hundred dollars if the design flow is equal to or greater than fifteen thousand gallons per day but less than sixteen thousand gallons per day;
- (13) Six hundred fifty dollars if the design flow is equal to or greater than sixteen thousand gallons per day but less than seventeen thousand gallons per day;
- (14) Eight hundred dollars if the design flow is equal to or greater than seventeen thousand gallons per day but less than twenty thousand gallons per day;
- (15) One thousand dollars if the design flow is equal to or greater than twenty thousand gallons per day but less than twenty-three thousand gallons per day;
- (16) Two thousand dollars if the design flow is equal to or greater than twenty-three

thousand gallons per day but less than twenty-five thousand gallons per day;

(17) Two thousand five hundred dollars if the design flow is equal to or greater than twenty-five thousand gallons per day but less than thirty thousand gallons per day;

(18) Three thousand dollars if the design flow is equal to or greater than thirty thousand gallons per day but less than one million gallons per day; or

(19) Three thousand five hundred dollars if the design flow is equal to or greater than one million gallons per day.

3. Persons who produce industrial process wastewater which requires treatment and who apply for or possess a site-specific permit shall annually pay:

(1) Five thousand dollars if the industry is a class IA animal feeding operation as defined by the commission; or

(2) For facilities issued operating permits based upon categorical standards pursuant to the Federal Clean Water Act and regulations implementing such act:

(a) Three thousand five hundred dollars if the design flow is less than one million gallons per day; or

(b) Five thousand dollars if the design flow is equal to or greater than one million gallons per day.

4. Persons who apply for or possess a site-specific permit solely for industrial storm water shall pay an annual fee of:

(1) One thousand three hundred fifty dollars if the design flow is less than one million gallons per day; or

(2) Two thousand three hundred fifty dollars if the design flow is equal to or greater than one million gallons per day.

5. Persons who produce industrial process wastewater who are not included in subsection 2 or 3 of this section shall annually pay:

(1) One thousand five hundred dollars if the design flow is less than one million gallons per day; or

(2) Two thousand five hundred dollars if the design flow is equal to or greater than one million gallons per day.

6. Persons who apply for or possess a general permit shall pay:

(1) Three hundred dollars for the discharge of storm water from a land disturbance site;

(2) Fifty dollars annually for the operation of a chemical fertilizer or pesticide facility;

(3) One hundred fifty dollars for the operation of an animal feeding operation or a concentrated animal feeding operation;

(4) One hundred fifty dollars annually for new permits for the discharge of process water or storm water potentially contaminated by activities not included in subdivisions (1) to (3) of this subsection. Persons paying fees pursuant to this subdivision with existing general permits on

August 27, 2000, and persons paying fees pursuant to this subdivision who receive renewed general permits on the same facility after August 27, 2000, shall pay sixty dollars annually;

**(5) Up to two hundred fifty dollars annually for the operation of an aquaculture facility.**

7. Requests for modifications to state operating permits on entities that charge a service connection fee pursuant to subsection 10 of this section shall be accompanied by a two hundred-dollar fee. The department may waive the fee if it is determined that the necessary modification was either initiated by the department or caused by an error made by the department.

8. Requests for state operating permit modifications other than those described in subsection 7 of this section shall be accompanied by a fee equal to twenty-five percent of the annual operating fee assessed for the facility pursuant to this section. The department may waive the fee if it is determined that the necessary modification was either initiated by the department or caused by an error made by the department.

9. Persons requesting water quality certifications in accordance with Section 401 of the Federal Clean Water Act shall pay a fee of seventy-five dollars and shall submit the standard application form for a Section 404 permit as administered by the U.S. Army Corps of Engineers or similar information required for other federal licenses and permits, except that the fee is waived for water quality certifications issued and accepted for activities authorized pursuant to a general permit or nationwide permit by the U.S. Army Corps of Engineers.

10. Persons with a direct or indirect sewer service connection to a public sewer system owned or operated by a city, public sewer district, public water district, or other publicly owned treatment works shall pay an annual fee per water service connection as provided in this subsection. Customers served by multiple water service connections shall pay such fee for each water service connection, except that no single facility served by multiple connections shall pay more than a total of seven hundred dollars per year. The fees provided for in this subsection shall be collected by the agency billing such customer for sewer service and remitted to the department. The fees may be collected in monthly, quarterly or annual increments, and shall be remitted to the department no less frequently than annually. The fees collected shall not exceed the amounts specified in this subsection and, except as provided in subsection 11 of this section, shall be collected at the specified amounts unless adjusted by the commission in rules. The annual fees shall not exceed:

(1) For sewer systems that serve more than thirty-five thousand customers, forty cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(2) For sewer systems that serve equal to or less than thirty-five thousand but more than twenty thousand customers, fifty cents per residential customer as defined by the provider of said

sewer service until such time as the commission promulgates rules defining the billing procedure;

(3) For sewer systems that serve equal to or less than twenty thousand but more than seven thousand customers, sixty cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(4) For sewer systems that serve equal to or less than seven thousand but more than one thousand customers, seventy cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(5) For sewer systems that serve equal to or less than one thousand customers, eighty cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(6) Three dollars for commercial or industrial customers not served by a public water system as defined in chapter 640, RSMo;

(7) Three dollars per water service connection for all other customers with water service connections of less than or equal to one inch excluding taps for fire suppression and irrigation systems;

(8) Ten dollars per water service connection for all other customers with water service connections of more than one inch but less than or equal to four inches, excluding taps for fire suppression and irrigation systems;

(9) Twenty-five dollars per water service connection for all other customers with water service connections of more than four inches, excluding taps for fire suppression and irrigation systems.

11. Customers served by any district formed pursuant to the provisions of section 30(a) of article VI of the Missouri Constitution shall pay the fees set forth in subsection 10 of this section according to the following schedule:

(1) From August 28, 2000, through September 30, 2001, customers of any such district shall pay fifty percent of such fees; and

(2) Beginning October 1, 2001, customers of any such districts shall pay one hundred percent of such fees.

12. Persons submitting a notice of intent to operate pursuant to a permit by rule shall pay a filing fee of twenty-five dollars.

13. For any general permit issued to a state agency for highway construction pursuant to subdivision (1) of subsection 6 of this section, a single fee may cover all sites subject to the permit.

644.076. 1. It is unlawful for any person to cause or permit any discharge of water contaminants from any water contaminant or point source located in Missouri in violation of sections 644.006 to 644.141, or any standard, rule or regulation promulgated by the commission in the event the commission or the director determines that any provision of sections 644.006 to

644.141 or standard, rules, limitations or regulations promulgated pursuant thereto, or permits issued by, or any final abatement order, other order, or determination made by the commission or the director, or any filing requirement pursuant to sections 644.006 to 644.141 or any other provision which this state is required to enforce pursuant to any federal water pollution control act, is being, was, or is in imminent danger of being violated, the commission or director may cause to have instituted a civil action in any court of competent jurisdiction for the injunctive relief to prevent any such violation or further violation or for the assessment of a penalty not to exceed ten thousand dollars per day for each day, or part thereof, the violation occurred and continues to occur, or both, as the court deems proper. A civil monetary penalty pursuant to this section shall not be assessed for a violation where an administrative penalty was assessed pursuant to section 644.079. The commission or the director may request either the attorney general or a prosecuting attorney to bring any action authorized in this section in the name of the people of the state of Missouri. Suit may be brought in any county where the defendant's principal place of business is located or where the water contaminant or point source is located or was located at the time the violation occurred. Any offer of settlement to resolve a civil penalty pursuant to this section shall be in writing, shall state that an action for imposition of a civil penalty may be initiated by the attorney general or a prosecuting attorney representing the department pursuant to this section, and shall identify any dollar amount as an offer of settlement which shall be negotiated in good faith through conference, conciliation and persuasion. **Any penalty assessed to a political subdivision pursuant to this section shall not exceed the actual cost of remediating the violation.**

2. Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to sections 644.006 to 644.141 or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained pursuant to sections 644.006 to 644.141 shall, upon conviction, be punished by a fine of not more than ten thousand dollars, or by imprisonment for not more than six months, or by both.

3. Any person who willfully or negligently commits any violation set forth pursuant to subsection 1 of this section shall, upon conviction, be punished by a fine of not less than two thousand five hundred dollars nor more than twenty-five thousand dollars per day of violation, or by imprisonment for not more than one year, or both. Second and successive convictions for violation of the same provision of this section by any person shall be punished by a fine of not more than fifty thousand dollars per day of violation, or by imprisonment for not more than two years, or both.

4. The liabilities which shall be imposed pursuant to any provision of sections 644.006 to 644.141 upon persons violating the provisions of sections 644.006 to 644.141 or any standard, rule, limitation, or regulation adopted pursuant thereto shall not be imposed due to any violation

caused by an act of God, war, strike, riot, or other catastrophe.

**644.578. In addition to those sums authorized prior to August 28, 2003, the board of fund commissioners of the state of Missouri, as authorized by section 37(e) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of ten million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and this chapter.**

**644.579. In addition to those sums authorized prior to August 28, 2003, the board of fund commissioners of the state of Missouri, as authorized by section 37(g) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of ten million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and in this chapter.**

**644.580. In addition to those sums authorized prior to August 28, 2003, the board of fund commissioners of the state of Missouri, as authorized by section 37(h) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of twenty million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and in this chapter.**

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