

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE SUBSTITUTE FOR
SENATE SUBSTITUTE NO. 2
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILLS NOS. 984 & 985

91ST GENERAL ASSEMBLY

2002

4130S.10T

AN ACT

To repeal sections 142.028, 247.030, 247.031, 247.040, 247.217, 247.220, 260.200, 323.060, 393.847, 414.032, 640.100, 643.220, 644.016, 644.036, 644.051 and 644.052, RSMo, and to enact in lieu thereof twenty-five new sections relating to environmental regulation.

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

Section A. Sections 142.028, 247.030, 247.031, 247.040, 247.217, 247.220, 260.200, 323.060, 393.847, 414.032, 640.100, 643.220, 644.016, 644.036, 644.051 and 644.052, RSMo, are repealed and twenty-five new sections enacted in lieu thereof, to be known as sections 142.028, 204.472, 247.030, 247.031, 247.040, 247.217, 247.220, 260.200, 278.258, 323.060, 393.847, 414.032, 414.043, 414.365, 640.100, 640.825, 643.220, 644.016, 644.036, 644.051, 644.052, 644.578, 644.579, 644.580 and 1, to read as follows:

142.028. 1. As used in this section, the following terms mean:

(1) "Fuel ethanol", one hundred ninety-eight proof ethanol denatured in conformity with the United States Bureau of Alcohol, Tobacco and Firearms' regulations and fermented and distilled in a facility whose principal (over fifty percent) feed stock is cereal grain or cereal grain by-products;

(2) "Fuel ethanol blends", a mixture of ninety percent gasoline and ten percent fuel ethanol in which the gasoline portion of the blend or the finished blend meets the American

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

Society for Testing and Materials - specification number D-439;

(3) "Missouri qualified fuel ethanol producer", any producer of fuel ethanol whose principal place of business and facility for the fermentation and distillation of fuel ethanol is located within the state of Missouri **and is at least fifty-one percent owned by agricultural producers actively engaged in agricultural production for commercial purposes**, and which has made formal application, posted a bond, and conformed to the requirements of this section.

2. The "Missouri Qualified Fuel Ethanol Producer Incentive Fund" is hereby created and subject to appropriations shall be used to provide economic subsidies to Missouri qualified fuel ethanol producers pursuant to this section. The director of the department of agriculture shall administer the fund pursuant to this section.

3. A Missouri qualified fuel ethanol producer shall be eligible for a monthly grant from the fund, except that a Missouri qualified fuel ethanol producer shall only be eligible for the grant for a total of sixty months **unless such producer during those sixty months failed, due to a lack of appropriations, to receive the full amount from the fund for which they were eligible, in which case such producers shall continue to be eligible for up to twenty-four additional months or until they have received the maximum amount of funding for which they were eligible during the original sixty month time period**. The amount of the grant is determined by calculating the estimated gallons of qualified fuel ethanol production to be produced from Missouri agricultural products for the succeeding calendar month, as certified by the department of agriculture, and applying such figure to the per-gallon incentive credit established in this subsection. Each Missouri qualified fuel ethanol producer shall be eligible for a total grant in any [calendar] **fiscal** year equal to twenty cents per gallon for the first twelve and one-half million gallons of qualified fuel ethanol produced from Missouri agricultural products in the [calendar] **fiscal** year plus five cents per gallon for the next twelve and one-half million gallons of qualified fuel ethanol produced from Missouri agricultural products in the [calendar] **fiscal** year. All such qualified fuel ethanol produced by a Missouri qualified fuel ethanol producer in excess of twenty-five million gallons shall not be applied to the computation of a grant pursuant to this subsection. The department of agriculture shall pay all grants for a particular month by the fifteenth day after receipt and approval of the application described in subsection 4 of this section. If actual production of qualified fuel ethanol during a particular month either exceeds or is less than that estimated by a Missouri qualified fuel ethanol producer, the department of agriculture shall adjust the subsequent monthly grant by paying additional amount or subtracting the amount in deficiency by using the calculation described in this subsection.

4. In order for a Missouri qualified fuel ethanol producer to obtain a grant from the fund for a particular month, an application for such funds shall be received no later than fifteen days

prior to the first day of the month for which the grant is sought. The application shall include:

- (1) The location of the Missouri qualified fuel ethanol producer;
- (2) The average number of citizens of Missouri employed by the Missouri qualified fuel ethanol producer in the preceding quarter, if applicable;
- (3) The number of bushels of Missouri agricultural commodities used by the Missouri qualified fuel ethanol producer in the production of fuel ethanol in the preceding quarter;
- (4) The number of gallons of qualified fuel ethanol the producer expects to manufacture during the month for which the grant is applied;
- (5) A copy of the qualified fuel ethanol producer license required pursuant to subsection 5 of this section, name and address of surety company, and amount of bond to be posted pursuant to subsection 5 of this section; and
- (6) Any other information deemed necessary by the department of agriculture to adequately ensure that such grants shall be made only to Missouri qualified fuel ethanol producers.

5. The director of the department of agriculture, in consultation with the department of revenue, shall promulgate rules and regulations necessary for the administration of the provisions of this section. The director shall also establish procedures for bonding Missouri qualified fuel ethanol producers. Each Missouri qualified fuel ethanol producer who attempts to obtain moneys pursuant to this section shall be bonded in an amount not to exceed the estimated maximum monthly grant to be issued to such Missouri qualified fuel ethanol producer.

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

204.472. 1. Whenever all or any part of a territory located within a sewer district that is located in any county of the third classification without a township form of government and with more than forty thousand eight hundred but less than forty thousand nine hundred inhabitants is included by annexation within the corporate limits of any city of the third classification with more than sixteen thousand six hundred but less than sixteen thousand seven hundred inhabitants, but is not receiving sewer service from such district or city at the time of such annexation, the city and the board of trustees of the district may, within six months after such annexation becomes effective, develop an agreement to provide sewer service to the annexed territory. Such an agreement may also be developed for territory that was annexed between January 1, 1996, and August 28, 2002, but was not receiving sewer service from such district or such city on August 28, 2002. For the purposes of this section, "not receiving sewer service" shall mean that no sewer services are being sold within the annexed territory by such district or city. If the

city and the board reach an agreement that detaches any territory from such district, the agreement shall be submitted to the circuit court having jurisdiction over the major portion, and the circuit court shall make an order and judgment detaching the territory described in the agreement from the remainder of the district and stating the boundary lines of the district after such detachment. At such time that the circuit court's order and judgment becomes final, the clerk of the circuit court shall file certified copies of such order and judgment with the secretary of state and with the recorder of deeds and the county clerk of the county or counties in which the district is located. If an agreement is developed between a city and a sewer district pursuant to this subsection, subsections 2 to 8 of this section shall not apply to such agreement.

2. In the event that the board of trustees of such district and the city cannot reach such an agreement, an application may be made by the board or the city to the circuit court requesting that three commissioners develop such an agreement. Such application shall include the name of one commissioner appointed by the applying party. The second party shall appoint one commissioner within thirty days of the service of the application upon the second party. If the second party fails to appoint a commissioner within such time period, the circuit court shall appoint a commissioner on behalf of the second party. Such two named commissioners may agree to appoint a third disinterested commissioner within thirty days after the appointment of the second commissioner. In the event that the two named commissioners cannot agree on or fail to appoint the third disinterested commissioner within thirty days after the appointment of the second commissioner, the circuit court shall appoint the third disinterested commissioner.

3. Upon the filing of such application and the appointment of three such commissioners, the circuit court shall set a time for one or more hearings and shall order a public notice including the nature of the application, the annexed area affected, the names of the commissioners, and the time and place of such hearings, to be published for three weeks consecutively in a newspaper published in the county in which the application is pending, the last publication to be not more than seven days before the date set for the first hearing.

4. The commissioners shall develop an agreement between the district and the city to provide sewer service to the annexed territory. In developing the agreement, the commissioners shall consider information presented to them at hearings and any other information at their disposal including, but not limited to:

(1) The estimated future loss of revenue and costs for the sewer district related to the agreement;

(2) The amount of indebtedness of the sewer district within the annexed territory;

(3) Any contractual obligations of the sewer district within the annexed area; and

(4) The effect of the agreement on the sewer rates of the district.

The agreement shall also include a recommendation for the apportionment of costs incurred pursuant to subsections 2 to 8 of this section, including reasonable compensation for the commissioners, between the city and the district.

5. If the circuit court finds that the agreement provides for necessary sewer service in the annexed territory, then such agreement shall be fully effective upon approval by the circuit court. The circuit court shall also review the recommended apportionment of court costs incurred and the reasonable compensation for the commissioners and affirm or modify such recommendations.

6. The order and judgment of the circuit court shall be subject to appeal as provided by law.

7. If the circuit court approves a detachment as part of the territorial agreement, it shall make its order and judgment detaching the territory described in the application from the remainder of the district and stating the boundary lines of the district after such detachment.

8. At such time that the circuit court's order and judgment becomes final, the clerk of the circuit court shall file certified copies of such order and judgment with the secretary of state and with the recorder of deeds and the county clerk of the county or counties in which the district is located.

9. The proportion of the sum of all outstanding bonds and debt, with interest thereon, that is required to be paid to the sewer district pursuant to this section, shall be the same as the proportion of the assessed valuation of the real and tangible personal property within the area sought to be detached bears to the assessed valuation of all of the real and tangible personal property within the entire area of the sewer district.

247.030. 1. Territory that may be included in a district sought to be incorporated or enlarged may be wholly within one or in more than one county, may take in school districts or parts thereof, and cities that do not have a waterworks system or cities whose governing body has by a majority vote requested that the city or part thereof be included within the boundaries of a public water supply district. For the purpose of this section, "city" means any city, town or village. The territory, however, shall be contiguous, and proceedings to incorporate shall be in the circuit court of the county in which the largest acreage is located. No two districts shall overlap.

2. Any two or more contiguous districts or any city and a contiguous district may, if there are no outstanding general obligation bonds relating to drinking water supply projects in either entity, by a majority vote of the governing body of each entity, provide for territory located in one entity to be annexed and served by the entity contiguous to the annexed territory. Notice of the proposed annexation shall be filed with the circuit court that originally issued the decree of incorporation for a district which is detaching territory through the proposed annexation or with the circuit court that originally issued the decree of incorporation for a district which is including a city or part thereof through the proposed annexation. The court shall set a date for a hearing on the proposed annexation and shall cause notice to be published in the same manner as for the filing of the original petition for incorporation; except that publication of notice shall not be required if a majority of the landowners in the territory proposed to be annexed consent in writing, and if notice of the hearing is posted in three public places within the territory proposed to be annexed at least seven days before the date of the hearing. If publication of the notice is not required pursuant to this section, the court shall only approve the proposed annexation if there is sworn testimony by at least five landowners in the area of the proposed annexation, or a majority of the landowners, if there are fewer than ten landowners in the area. If the court, after the hearing, finds that the proposed annexation would not be in the public interest, it shall order that the annexation not be allowed. If the court finds the proposed annexation to be in the public interest, it shall approve the annexation and the territory shall be detached from the one entity and annexed to the other. After the annexation is approved, the circuit court in which each district involved in the proceedings was incorporated shall amend the decree of incorporation for each district to reflect the change in the boundaries as a result of the annexation and [to] redivide each district into five subdistricts, fixing their boundary lines so that each of the five subdistricts have approximately the same area. A certified copy of the amended decree showing the boundary change and the new subdistricts shall be filed in the office of the recorder of deeds and in the office of the county clerk in each county having territory in the district and in the office of the secretary of state of the state of Missouri.

3. The boundaries of any district may be extended or enlarged from time to time upon the filing, with the clerk of the circuit court having jurisdiction, of a petition by either:

(1) The board of directors of the district and five or more voters **or landowners** within the territory proposed to be annexed by the district; or

(2) **The board of directors of the district and** a majority of the landowners within the territory proposed to be annexed to the district.

If the petition is filed by the board of directors of the district and five or more voters or landowners within the territory proposed to be annexed by the district, the same proceedings shall be followed as are provided in section 247.040 for the filing of a petition for the organization of the district, except that no election shall be

held. Upon entry of a final order declaring the court's decree of annexation to be final and conclusive, the court shall modify or rearrange the boundary lines of the subdistricts as may be necessary or advisable. If the petition is filed by **the board of directors of the district and** a majority of the landowners within the territory proposed to be annexed, the publication of notice shall not be required, provided notice is posted in three public places within the territory proposed to be annexed at least seven days before the date of the hearing and provided that there is sworn testimony by at least five landowners in the territory proposed to be annexed, or a majority of the landowners if the total landowners in the area are fewer than ten. **If the court finds that the annexation of such territory would be in the public interest, the court shall enter its order granting such annexation.** Upon the entry of [a final] **such** order [declaring the court's decree of annexation to be final and conclusive], the court shall modify or rearrange the boundary lines of the subdistricts as may be necessary or advisable. The costs incurred in the enlargement or extension of the district shall be taxed to the district, if the district be enlarged or extended, otherwise against the petitioners; provided, however, that no costs shall be taxed to the directors of the district.

4. Should any [voter] **landowner** who owns real estate that abuts upon a district once formed desire to have such real estate incorporated in the district, the [voter] **landowner** shall first petition the board of directors thereof for its approval. If such approval be granted, the clerk of the board shall endorse a certificate of the fact of approval by the board upon the petition. The petition so endorsed shall be filed with the clerk of the circuit court in which the district is incorporated. It shall then be the duty of the court to amend the boundaries of such district by a decree incorporating the real estate in the same. A certified copy of this decree including the real estate in the district shall then be filed in the office of the recorder and in the office of the county clerk of the county in which the real estate is located, and in the office of the secretary of state. The costs of this proceeding shall be borne by the petitioning property owner.

247.031. 1. Territory included in a district that is not being served by such district may be detached from such district provided that there are no outstanding general obligation or special obligation bonds and no contractual obligations of greater than twenty-five thousand dollars for debt that pertains to infrastructure, fixed assets or obligations for the purchase of water. If any such bonds or debt is outstanding, and the written consent of the holders of such bonds or the creditors to such debt is obtained, then such territory may be detached in spite of the existence of such bonds or debt, except such consent shall not be required for special obligation bonds if the district has no water lines or other facilities located within any of the territory detached. Detachment may be made by the filing of a petition with the circuit court in which the district was incorporated. The petition shall contain a description of the tract to be detached and a statement that the detachment is in the best interest of the district or the inhabitants and property owners of the territory to be detached, together with the facts

supporting such allegation. The petition may be submitted by the district acting through its board of directors, in which case the petition shall be signed by a majority of the board of directors of the district. The petition may also be submitted by voters residing in **or by landowners owning land in** the territory sought to be detached. If there are more than ten voters **and landowners** in such territory, the petition shall be signed by five or more voters [residing in] **or landowners within** the territory; if there are less than ten voters [residing in] **and landowners within** such territory, the petition shall be signed by fifty percent or more of the voters [residing in] **and landowners within** the territory. In the event there are no voters living within such territory proposed to be detached, then the petition may be submitted by owners of more than fifty percent of the land in the territory proposed to be detached, in which case said petition shall be signed by the owners so submitting the petition.

2. Such petition shall be filed in the circuit court having jurisdiction and the court shall set a date for hearing on the proposed detachment and the clerk shall give notice thereof in three consecutive issues of a weekly newspaper in each county in which any portion of the territory proposed to be detached lies, or in lieu thereof, in twenty consecutive issues of a daily newspaper in each county in which any portion of the tract proposed to be detached lies; the last insertion of the notice to be made not less than seven nor more than twenty-one days before the hearing. Such notice shall be substantially as follows: IN THE CIRCUIT COURT OF COUNTY, MISSOURI NOTICE OF THE FILING OF A PETITION FOR TERRITORIAL DETACHMENT FROM PUBLIC WATER SUPPLY DISTRICT NO. OF COUNTY, MISSOURI.

To all voters and landowners of land within the boundaries of the above-described district:

You are hereby notified:

1. That a petition has been filed in this court for the detachment of the following tracts of land from the above-named public water supply district, as provided by law: (Describe tracts of land).

2. That a hearing on said petition will be held before this court on the day of, 20 ..., at,m.

3. Exceptions or objections to the detachment of said tracts from said public water supply district may be made by any voter or landowner of land within the district from which territory is sought to be detached, provided such exceptions or objections are in writing not less than five days prior to the date set for hearing on the petition.

4. The names and addresses of the attorneys for the petitioner are:

.....
Clerk of the Circuit Court of
..... County, Missouri

3. The court, for good cause shown, may continue the case or the hearing thereon from

time to time until final disposition thereof.

4. Exceptions or objections to the detachment of such territory may be made by any voter or landowner within the boundaries of the district, including the territory to be detached. The exceptions or objections shall be in writing and shall specify the grounds upon which they are made and shall be filed not later than five days before the date set for hearing the petition. If any such exceptions or objections are filed, the court shall take them into consideration when considering the petition for detachment and the evidence in support of detachment. If the court finds that the detachment will be in the best interest of the district and the inhabitants and landowners of the area to be detached will not be adversely affected or if the court finds that the detachment will be in the best interest of the inhabitants and landowners of the territory to be detached and will not adversely affect the remainder of the district, it shall approve the detachment and grant the petition.

5. If the court approves the detachment, it shall make its order detaching the territory described in the petition from the remainder of the district, or in the event it shall find that only a portion of said territory should be detached, the court shall order such portion detached from the district. The court shall also make any changes in subdistrict boundary lines it deems necessary to meet the requirements of sections 247.010 to 247.220. Any subdistrict line changes shall not become effective until the next annual election of a member of the board of directors.

6. A certified copy of the court's order shall be filed in the office of the recorder and in the office of the county clerk in each county in which any of the territory of the district prior to detachment is located, and in the office of the secretary of state. Costs of the proceeding shall be borne by the petitioner or petitioners.

247.040. 1. Proceedings for the formation of a public water supply district shall be substantially as follows: a petition in duplicate describing the proposed boundaries of the district sought to be formed, accompanied by a plat of the proposed district, shall be filed with the clerk of the circuit court of the county wherein the proposed district is situate, or with the clerk of the circuit court of the county having the largest acreage proposed to be included in the proposed district, in the event that the proposed district embraces lands in more than one county. Such petition, in addition to such boundary description, shall set forth an estimate of the number of customers of the proposed district, the necessity for the formation of the district, the probable cost of the improvement, an approximation of the assessed valuation of taxable property within the district and such other information as may be useful to the court in determining whether or not the petition should be granted and a decree of incorporation entered. Such petition shall be accompanied by a cash deposit of fifty dollars as an advancement of the costs of the proceeding, and the petition shall be signed by not less than fifty voters **or owners of real property** within the proposed district and shall pray for the incorporation of the territory therein described into a public water supply district. The petition shall be verified by at least one of the signers thereof.

2. Upon the filing of the petition, the same shall be presented to the circuit court, and such court shall fix a date for a hearing on such petition, as herein provided for. Thereupon the clerk of the court shall give notice of the filing of the petition in some newspaper of general circulation in the county in which the proceedings are pending, and if the district extends into any other county or counties, such notice shall also be published in some newspaper of general circulation in such other county or counties. The notice shall contain a description of the proposed boundary lines of the district and the general purposes of the petition, and shall set forth the date fixed for the hearing on the petition, which shall not be less than ~~[fifteen]~~ **seven** nor more than twenty-one days after the date of the last publication of the notice and shall be on some regular judicial day of the court wherein the petition is pending. Such notice shall be signed by the clerk of the circuit court and shall be published in three successive issues of a weekly newspaper or in ~~[twenty successive issues]~~ of a daily newspaper **once a week for three consecutive weeks**.

3. The court, for good cause shown, may continue the case or the hearing thereon from time to time until final disposition thereof.

4. Exceptions to the formation of a district, or to the boundaries outlined in the petition for the incorporation thereof, may be made by any voter **or owner of real property in** the proposed district; provided, such exceptions are filed not less than five days prior to the date set for the hearing on the petition. Such exceptions shall specify the grounds upon which the exceptions are being made.

If any such exceptions be filed, the court shall take them into consideration in passing upon the petition and shall also consider the evidence in support of the petition and in support of the exceptions made. Should the court find that the petition should be granted but that changes should be made in the boundary lines, it shall make such changes in the boundary lines as set forth in the petition as to the court may seem meet and proper, and thereupon enter its decree of incorporation, with such boundaries as changed.

5. Should the court find that it would not be to the public interest to form such a district, the petition shall be dismissed at the costs of the petitioners. If, however, the court should find in favor of the formation of such district, the court shall enter its decree of incorporation, setting forth the boundaries of the proposed district as determined by the court pursuant to the aforesaid hearing. The decree of incorporation shall also divide the district into five subdistricts and shall fix their boundary lines, all of which subdistricts shall have approximately the same area and shall be numbered. The decree shall further contain an appointment of one voter from each of such subdistricts, to constitute the first board of directors of the district. No two members of such board so appointed or hereafter elected or appointed shall reside in the same subdistrict, except as provided in section 247.060. If no qualified person who lives in the subdistrict is willing to serve on the board, the court may appoint, or the voters may elect, an otherwise qualified person

who lives in the district but not in the subdistrict. The court shall designate two of such directors so appointed to serve for a term of two years and one to serve for a term of one year. And the directors thus appointed by the court shall serve for the terms thus designated and until their successors shall have been appointed or elected as herein provided. The decree shall further designate the name and number of the district by which it shall hereafter be officially known.

6. The decree of incorporation shall not become final and conclusive until it shall have been submitted to the voters residing within the boundaries described in such decree and until it shall have been assented to by a majority of the voters as provided in subsection 9 of this section or by two-thirds of the voters of the district voting on the proposition. The decree shall provide for the submission of the question and shall fix the date thereof. The returns shall be certified by the judges and clerks of election to the circuit court having jurisdiction in the case and the court shall thereupon enter its order canvassing the returns and declaring the result of such election.

7. If, upon canvass and declaration, it is found and determined that the question shall have been assented to by a majority of two-thirds of the voters of the district voting on such proposition, then the court shall, in such order declaring the result of the election, enter a further order declaring the decree of incorporation to be final and conclusive. In the event, however, that the court should find that the question had not been assented to by the majority above required, the court shall enter a further order declaring such decree of incorporation to be void and of no effect. No appeal shall lie from any such decree of incorporation nor from any of the aforesaid orders. In the event that the court declares the decree of incorporation to be final, as herein provided for, the clerk of the circuit court shall file certified copies of such decree of incorporation and of such final order with the secretary of state of the state of Missouri, and with the recorder of deeds of the county or counties in which the district is situate and with the clerk of the county commission of the county or counties in which the district is situate.

8. The costs incurred in the formation of the district shall be taxed to the district, if the district be incorporated otherwise against the petitioners.

9. If petitioners seeking formation of a public water supply district specify in their petition that the district to be organized shall be organized without authority to issue general obligation bonds, then the decrees relating to the formation of the district shall recite that the district shall not have authority to issue general obligation bonds and the vote required for such a decree of incorporation to become final and conclusive shall be a simple majority of the voters of the district voting on such proposition.

247.217. 1. Any two or more contiguous public water supply districts organized under the provisions of sections 247.010 to 247.220 may be consolidated into a single district by a decree of the circuit court in which the district with the largest acreage was originally incorporated and organized.

2. Proceedings for consolidation of such districts shall be substantially as follows: The board of directors of each of the districts to be consolidated shall authorize, by resolution passed at a regular meeting or a special meeting called for such purpose, its president, on behalf of the district, to petition the circuit court having jurisdiction for consolidation with any one or more other contiguous public water supply districts.

3. Such petition shall be filed in the circuit court having jurisdiction and the court shall set a date for a hearing thereon and the clerk shall give notice thereof in some newspaper of general circulation in each county in which each of the districts proposed to be consolidated is located.

4. Such notice shall be substantially as follows:

IN THE CIRCUIT COURT OF
COUNTY, MISSOURI
NOTICE OF THE FILING OF A PETITION FOR
CONSOLIDATION OF PUBLIC WATER SUPPLY
DISTRICT NO., OF COUNTY,
MISSOURI, AND PUBLIC WATER SUPPLY DISTRICT
NO., OF COUNTY, MISSOURI
(Additional districts may be named as required.)

To all voters, **landowners, and interested persons** within the boundaries of the above-described public water supply districts:

You are hereby notified:

1. That a petition has been filed in this court for the consolidation of the above-named public water supply districts into one public water supply district, as provided by law.

2. That a hearing on said petition will be held before this court on the..... day of....., [19]20...., at.....,m.

3. Exceptions or objections to the consolidation of said districts may be made by any voters **or landowners** of any of such districts proposed to be consolidated, provided such exceptions or objections are filed in writing not less than five days prior to the date set for the hearing on the petition.

4. The names and addresses of the attorneys for the petitioner are:

.....
Clerk of the Circuit Court of
..... County, Missouri

5. The notice shall be published in three consecutive issues of a weekly newspaper in each county in which any portion of any district proposed to be consolidated lies, or in lieu thereof, in twenty consecutive issues of a daily newspaper in each county in which any portion of any district proposed to be consolidated lies; the last insertion of such notice to be made not

less than seven nor more than twenty-one days before the hearing.

6. The court, for good cause shown, may continue the case or the hearing thereon from time to time until final disposition thereof.

7. Exceptions or objections to the consolidation of such districts may be made by any voter **or landowner** within the boundaries of the proposed district. The exceptions or objections shall be in writing and shall specify the grounds upon which the same are made and shall be filed not later than five days before the date set for hearing the petition. If any such exceptions or objections are filed, the court shall take them into consideration in passing upon the petition for consolidation and shall also consider the evidence in support of the petition. If the court finds that the consolidation will provide for the rendering of necessary water service in the districts, and is in the best interest of the voters **and the landowners** of the district, it shall, by its decree, approve such consolidation. The decree of consolidation shall set an effective date for the consolidation of the districts and shall provide that the proposed consolidated district shall be divided into five subdistricts and shall fix boundary lines of each subdistrict, all of which subdistricts shall have approximately the same area and shall be numbered.

8. The decree of consolidation shall not become final and conclusive until it has been submitted to voters in each of the districts proposed to be included in the consolidated district.

9. If, upon canvass and declaration of the results, it is found and determined that the question has been assented to by a majority of the voters of each district voting on the question, the court shall issue its order declaring the results of the elections, declaring its previous decree of consolidation to be final and conclusive, and in addition, the decree shall provide for an election of a director from each of the subdistricts set forth in the decree of the court as specified in subsection 7 of this section. The terms of office for the directors elected at such election shall be as follows: The director elected from the subdistrict designated by the circuit court as number one shall serve until the next regular election, or until his successor has been elected and qualified; those directors elected from the subdistricts designated by the circuit court as numbers two and three shall serve until the regular election following the next regular election or until their successors have been elected and qualified; those directors elected from the subdistricts designated by the circuit court as numbers four and five shall serve until the annual regular election following the next two regular elections, or until their successors have been elected and qualified. Thereafter all directors shall be elected as provided by sections 247.010 to 247.220. The election shall be held at least thirty days before the effective date of the consolidation. The returns shall be certified by the judges and clerks of election to the circuit court having jurisdiction and the court shall thereupon enter its order naming the directors from each subdistrict.

10. The eligibility and requirements for a director for a consolidated district shall be identical with those set forth in section 247.060 and no two members of the board shall reside

in the same subdistrict. Any candidate shall have his name imprinted upon the ballot, provided he shall file a declaration of intention to become such a candidate with the clerk of the circuit court.

11. In its final decree, the court shall designate a name for the consolidated district which shall be as follows: Consolidated Public Water Supply District No., of..... County, Missouri.

12. On the effective date of the consolidation of the districts, the newly elected directors shall organize in the same manner as is provided in sections 247.010 to 247.220, and all of such provisions shall apply to consolidated public water supply districts in the same manner as to other public water supply districts.

13. At the time of the effective date of the consolidation, all the property of the original districts shall be combined and administered as one unit, which shall be subject to the liens, liabilities and obligations of the original districts, provided that if any district included in the consolidated district has issued general obligation bonds which are outstanding at the time of the consolidation, any taxes to be levied to pay the bonds and interest thereon shall be levied only upon the property within the original district issuing the bonds as it existed on the date of such issuance. All special obligation or revenue bonds issued by any district included in the consolidated district shall be paid in accordance with the terms thereof, without preference, from the revenue received by the consolidated district.

14. A certified copy of the decrees of the court shall be filed in the office of the recorder and in the office of the county clerk in each county in which any part of the consolidated district is located, and in the office of the secretary of state. Such copies shall be filed by the clerk of the circuit court and the filing fees shall be taxed as costs.

247.220. 1. Proceedings for the dissolution of a public water supply district shall be substantially the same as proceedings for the formation of such a district, as follows: A petition describing the boundaries of the district sought to be dissolved shall be filed with the clerk of the circuit court of the county wherein the subject district is situate, or with the clerk of the circuit court of the county having the largest acreage within the boundaries of the subject district, in the event that the subject district embraces lands in more than one county. Such petition, in addition to such boundary description, shall allege that further operation of the subject district is inimicable to the best interests of the inhabitants of the district, that the district should, in the interest of the public welfare and safety, be dissolved, that an alternative water supplier is available and better able to supply water to the inhabitants of the district, and such other information as may be useful to the court in determining whether [or not] the petition should be granted and a decree of dissolution entered. Such petition shall **also include a detailed plan for payment of all debt and obligations of the district at the time of dissolution. Such petition shall** be accompanied by a cash deposit of fifty dollars as an advancement of the costs of the proceeding and the petition shall be signed by not less than

one-fifth of the registered voters from each subdistrict, or fifty registered voters from each subdistrict, whichever is less, within the subject district. The petition shall be verified by at least one of the signers thereof **and shall be served upon the board of directors of the district as provided by law. The district shall be a party, and if the board of directors in its discretion determines that such dissolution is not in the public interest, the district shall oppose such petition and pay all cost and expense thereof**

2. Upon the filing of the petition, the same shall be presented to the circuit court, and such court shall fix a date for a hearing on such petition, as provided in this section. Thereupon, the clerk of the court shall give notice of the filing of the petition in some newspaper of general circulation in the county in which the proceedings are pending, and if the district extends into any other county or counties, such notice shall also be published in some newspaper of general circulation in such other county or counties. The notice shall contain a description of the subject boundary lines of the district and the general purposes of the petition, and shall set forth the date fixed for the hearing on the petition, which shall not be less than ~~[fifteen]~~ **seven** nor more than twenty-one days after the date of the last publication of the notice and shall be on some regular judicial day of the court wherein the petition is pending. Such notice shall be signed by the clerk of the circuit court and shall be published in three successive issues of a weekly newspaper or in twenty successive issues of a daily newspaper.

3. The court, for good cause shown, may continue the case or the hearing thereon from time to time until final disposition thereof.

4. Exceptions to the dissolution of a district may be made by any voter **or landowner** of the ~~[subject] district[;], and by the district as herein provided[.];~~ such exceptions ~~[are]~~ **shall be** filed not less than five days prior to the date set for the hearing on the petition. Such exceptions shall specify the grounds upon which the exceptions are filed and the court shall take them into consideration in passing upon the petition and shall also consider the evidence in support of the petition and in support of the exceptions made. **Unless petitioners prove that all debts and financial obligations of the district can be paid in full upon dissolution, the petition shall be dismissed at the cost of the petitioners.**

5. Should the court find that it would not be to the public interest to dissolve a district, the petition shall be dismissed at the costs of the petitioners. If, however, the court should find in favor of the petitioners, the court shall enter its interlocutory decree of dissolution which decree shall provide for the submission of the question to the voters of the district in substantially the following form:

Shall Public Water Supply District be dissolved?

6. The decree of dissolution shall not become final and conclusive until it shall have been submitted to the voters residing within the boundaries described in such decree and until it shall have been assented to by a majority of ~~[four-sevenths]~~ **two-thirds** of the voters of the district

voting on the proposition. The decree shall provide for the submission of the question and shall fix the date thereof. The returns shall be certified by the election authority to the circuit court having jurisdiction in the case and the court shall thereupon enter its order canvassing the returns and declaring the result of such election.

7. If, upon canvass and declaration, it is found and determined that the question shall have been assented to by a majority of [four-sevenths] **two-thirds** of the voters of the district voting on such proposition then the court shall, in such order declaring the result of the election, enter a further order declaring the decree of dissolution to be final and conclusive. In the event, however, that the court should find that the question had not been assented to by the majority required, the court shall enter a further order declaring such decree of dissolution to be void and of no effect. No appeal shall lie from any of the aforesaid orders. In the event that the court declares the decree of dissolution to be final, as provided in this section, the clerk of the circuit court shall file certified copies of such decree of dissolution and of such final order with the secretary of state of the state of Missouri, and with the recorder of deeds of the county or counties in which the district is situate and with the clerk of the county commission of the county or counties in which the district is situate.

8. Notwithstanding anything in this section to the contrary, no district shall be dissolved until after all of its debts shall have been paid, and the court, in its decree of dissolution, shall provide for the disposition of the property of the district.

260.200. The following words and phrases when used in sections 260.200 to 260.345 shall mean:

(1) "Alkaline-manganese battery" or "alkaline battery", a battery having a manganese dioxide positive electrode, a zinc negative electrode, an alkaline electrolyte, including alkaline-manganese button cell batteries intended for use in watches, calculators, and other electronic products, and larger-sized alkaline-manganese batteries in general household use;

(2) "Button cell battery" or "button cell", any small alkaline-manganese or mercuric-oxide battery having the size and shape of a button;

(3) "City", any incorporated city, town, or village;

(4) "Clean fill", uncontaminated soil, rock, sand, gravel, concrete, asphaltic concrete, cinderblocks, brick, minimal amounts of wood and metal, and inert solids as approved by rule or policy of the department for fill, reclamation or other beneficial use;

(5) "Closure", the permanent cessation of active disposal operations, abandonment of the disposal area, revocation of the permit or filling with waste of all areas and volumes specified in the permit and preparing the area for long-term care;

(6) "Closure plan", plans, designs and relevant data which specify the methods and schedule by which the operator will complete or cease disposal operations, prepare the area for long-term care, and make the area suitable for other uses, to achieve the purposes of sections

260.200 to 260.345 and the regulations promulgated thereunder;

(7) "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;

(8) "Demolition landfill", a solid waste disposal area used for the controlled disposal of demolition wastes, construction materials, brush, wood wastes, soil, rock, concrete and inert solids insoluble in water;

(9) "Department", the department of natural resources;

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

(11) "District", a solid waste management district established under section 260.305;

(12) "Financial assurance instrument", an instrument or instruments, including, but not limited to, cash or surety bond, letters of credit, corporate guarantee or secured trust fund, submitted by the applicant to ensure proper closure and postclosure care and corrective action of a solid waste disposal area in the event that the operator fails to correctly perform closure and postclosure care and corrective action requirements, except that the financial test for the corporate guarantee shall not exceed one and one-half times the estimated cost of closure and postclosure. The form and content of the financial assurance instrument shall meet or exceed the requirements of the department. The instrument shall be reviewed and approved or disapproved by the attorney general;

(13) "Flood area", any area inundated by the one hundred year flood event, or the flood event with a one percent chance of occurring in any given year;

(14) "Household consumer", an individual who generates used motor oil through the maintenance of the individual's personal motor vehicle, vessel, airplane, or other machinery powered by an internal combustion engine;

(15) "Household consumer used motor oil collection center", any site or facility that accepts or aggregates and stores used motor oil collected only from household consumers or farmers who generate an average of twenty-five gallons per month or less of used motor oil in a calendar year. This section shall not preclude a commercial generator from operating a household consumer used motor oil collection center;

(16) "Household consumer used motor oil collection system", any used motor oil collection center at publicly owned facilities or private locations, any curbside collection of household consumer used motor oil, or any other household consumer used motor oil collection program determined by the department to further the purposes of sections 260.200 to 260.345;

(17) "Infectious waste", waste in quantities and characteristics as determined by the department by rule, including isolation wastes, cultures and stocks of etiologic agents, blood and blood products, pathological wastes, other wastes from surgery and autopsy, contaminated laboratory wastes, sharps, dialysis unit wastes, discarded biologicals known or suspected to be infectious; provided, however, that infectious waste does not mean waste treated to department specifications;

(18) "Lead-acid battery", a battery designed to contain lead and sulfuric acid with a nominal voltage of at least six volts and of the type intended for use in motor vehicles and watercraft;

(19) "Major appliance", clothes washers and dryers, water heaters, trash compactors, dishwashers, [microwave ovens,] conventional ovens, ranges, stoves, woodstoves, air conditioners, refrigerators and freezers;

(20) "Mercuric-oxide battery" or "mercury battery", a battery having a mercuric-oxide positive electrode, a zinc negative electrode, and an alkaline electrolyte, including mercuric-oxide button cell batteries generally intended for use in hearing aids and larger size mercuric-oxide batteries used primarily in medical equipment;

(21) "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;

(22) "Motor oil", any oil intended for use in a motor vehicle, as defined in section 301.010, RSMo, train, vessel, airplane, heavy equipment, or other machinery powered by an internal combustion engine;

(23) "Motor vehicle", as defined in section 301.010, RSMo;

(24) "Operator" and "permittee", anyone so designated, and shall include cities, counties, other political subdivisions, authority, state agency or institution, or federal agency or institution;

(25) "Permit modification", any permit issued by the department which alters or modifies the provisions of an existing permit previously issued by the department;

(26) "Person", any individual, partnership, corporation, association, institution, city, county, other political subdivision, authority, state agency or institution, or federal agency or institution;

(27) "Postclosure plan", plans, designs and relevant data which specify the methods and schedule by which the operator shall perform necessary monitoring and care for the area after closure to achieve the purposes of sections 260.200 to 260.345 and the regulations promulgated thereunder;

(28) "Recovered materials", those materials which have been diverted or removed from the solid waste stream for sale, use, reuse or recycling, whether or not they require subsequent separation and processing;

(29) "Recycled content", the proportion of fiber in a newspaper which is derived from postconsumer waste;

(30) "Recycling", the separation and reuse of materials which might otherwise be disposed of as solid waste;

(31) "Resource recovery", a process by which recyclable and recoverable material is removed from the waste stream to the greatest extent possible, as determined by the department and pursuant to department standards, for reuse or remanufacture;

(32) "Resource recovery facility", a facility in which recyclable and recoverable material is removed from the waste stream to the greatest extent possible, as determined by the department and pursuant to department standards, for reuse or remanufacture;

(33) "Sanitary landfill", a solid waste disposal area which accepts commercial and residential solid waste;

(34) "Solid waste", garbage, refuse and other discarded materials including, but not limited to, solid and semisolid waste materials resulting from industrial, commercial, agricultural, governmental and domestic activities, but does not include hazardous waste as defined in sections 260.360 to 260.432, recovered materials, overburden, rock, tailings, matte, slag or other waste material resulting from mining, milling or smelting;

(35) "Solid waste disposal area", any area used for the disposal of solid waste from more than one residential premises, or one or more commercial, industrial, manufacturing, recreational, or governmental operations;

(36) "Solid waste fee", a fee imposed pursuant to sections 260.200 to 260.345 and may be:

(a) A solid waste collection fee imposed at the point of waste collection; or

(b) A solid waste disposal fee imposed at the disposal site;

(37) "Solid waste management area", a solid waste disposal area which also includes one or more of the functions contained in the definitions of recycling, resource recovery facility, waste tire collection center, waste tire processing facility, waste tire site or solid waste processing facility, excluding incineration;

(38) "Solid waste management system", the entire process of managing solid waste in a manner which minimizes the generation and subsequent disposal of solid waste, including waste reduction, source separation, collection, storage, transportation, recycling, resource recovery, volume minimization, processing, market development, and disposal of solid wastes;

(39) "Solid waste processing facility", any facility where solid wastes are salvaged and processed, including:

(a) A transfer station; or

(b) An incinerator which operates with or without energy recovery but excluding waste tire end-user facilities; or

(c) A material recovery facility which operates with or without composting;

(40) "Solid waste technician", an individual who has successfully completed training in the practical aspects of the design, operation and maintenance of a permitted solid waste processing facility or solid waste disposal area in accordance with sections 260.200 to 260.345;

(41) "Tire", a continuous solid or pneumatic rubber covering encircling the wheel of any self-propelled vehicle not operated exclusively upon tracks, or a trailer as defined in chapter 301, RSMo, except farm tractors and farm implements owned and operated by a family farm or family farm corporation as defined in section 350.010, RSMo;

(42) "Used motor oil", any motor oil which as a result of use, becomes unsuitable for its original purpose due to loss of original properties or the presence of impurities, but used motor oil shall not include ethylene glycol, oils used for solvent purposes, oil filters that have been drained of free flowing used oil, oily waste, oil recovered from oil tank cleaning operations, oil spilled to land or water, or industrial nonlube oils such as hydraulic oils, transmission oils, quenching oils, and transformer oils;

(43) "Utility waste landfill", a solid waste disposal area used for fly ash waste, bottom ash waste, slag waste and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(44) "Waste tire", a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect;

(45) "Waste tire collection center", a site where waste tires are collected prior to being offered for recycling or processing and where fewer than five hundred tires are kept on site on any given day;

(46) "Waste tire end-user facility", a site where waste tires are used as a fuel or fuel supplement or converted into a useable product. Baled or compressed tires used in structures, or used at recreational facilities, or used for flood or erosion control shall be considered an end use;

(47) "Waste tire generator", a person who sells tires at retail or any other person, firm, corporation, or government entity that generates waste tires;

(48) "Waste tire processing facility", a site where tires are reduced in volume by shredding, cutting, chipping or otherwise altered to facilitate recycling, resource recovery or disposal;

(49) "Waste tire site", a site at which five hundred or more waste tires are accumulated, but not including a site owned or operated by a waste tire end-user that burns waste tires for the generation of energy or converts waste tires to a useful product;

(50) "Yard waste", leaves, grass clippings, yard and garden vegetation and Christmas trees. The term does not include stumps, roots or shrubs with intact root balls.

278.258. 1. After a watershed subdistrict has been organized and the

organization tax pursuant to section 278.250 has been levied, any county in the subdistrict which has not adopted the annual tax pursuant to section 278.250 may detach from the subdistrict upon approval of such detachment of a majority of the qualified voters residing within such subdistrict in such county; however, before such detachment the watershed district trustees shall make arrangements for the county to pay any outstanding indebtedness for services or works of improvement rendered by the subdistrict in such county.

2. Following the entry in the official minutes of the trustees of the watershed district of the detachment of the county, the watershed district trustees shall certify this fact on a separate form, authentic copies of which shall be recorded with the recorder of deeds in each county in which any portion of the watershed subdistrict lies and with the state soil and water districts commission.

323.060. 1. No person shall engage in this state in the business of selling at retail of liquefied petroleum gas, or in the business of handling or transportation of liquefied petroleum gas over the highways of this state or in the business of installing, **modifying, repairing,** or servicing equipment and appliances for use with liquefied petroleum gas without having first registered with the director of the department of agriculture. No person shall engage in this state in the business of selling at retail of liquefied petroleum gas unless such person maintains and operates one or more storage tanks located in the state of Missouri with a combined capacity of at least eighteen thousand gallons, except that such storage capacity requirements shall apply only to businesses engaged in bulk sales of liquefied petroleum.

2. Nonresidents of the state of Missouri desiring to engage in the business of distribution of liquefied petroleum gases at retail, or the business of installing, repairing or servicing equipment and appliances for use of liquefied petroleum gases shall comply with sections 323.010 to 323.110 and rules and regulations promulgated thereunder.

3. No person registered pursuant to this section and engaged in this state in the business of selling at retail of liquefied petroleum gas, or in the business of handling or transportation of liquefied petroleum gas over the highways of this state shall be liable for actual or punitive civil damages for injury to persons or property that result from any occurrence caused by the installation, modification, repair, or servicing of equipment and appliances for use with liquefied petroleum gas by any other person unless such registered person had received written notification or had other actual knowledge of such installation, modification, repair, or servicing of equipment and appliances and failed to inspect such installation, modification, repair, or servicing of equipment and appliances within thirty days after receipt of such notice or actual knowledge.

4. Nothing in this section is intended to limit the liability of any person for any

damages that arise directly from the gross negligence or willful or wanton acts of such person.

5. All utility operations of public utility companies subject to the safety jurisdiction of the public service commission are exempt from the provisions of this section.

393.847. 1. Every nonprofit sewer company constructing, maintaining and operating its wastewater lines and treatment facilities shall construct, maintain and operate such lines and facilities in conformity with the rules and regulations relating to the manner and methods of construction, maintenance and operation and as to safety of the public with other lines and facilities now or hereafter from time to time prescribed by the department of natural resources for the construction, maintenance and operation of such lines or systems. The jurisdiction, supervision, powers and duties of the department of natural resources shall extend to every such nonprofit sewer company [so far as it concerns the construction, maintenance and operation of the physical equipment of such company to the extent of providing for the safety of employees and the general public] **and every nonprofit sewer company shall be supervised and regulated by the department of natural resources to the same extent and in the same manner as any other nonprofit corporation engaged in whole or in part in the collection or treatment of wastewater.**

2. The public service commission shall not have jurisdiction over the construction, maintenance or operation of the wastewater facilities, service, rates, financing, accounting or management of any nonprofit sewer company.

414.032. 1. All kerosene, diesel fuel, heating oil, aviation turbine fuel, gasoline, gasoline-alcohol blends and other motor fuels shall meet the requirements in the annual book of ASTM standards and supplements thereto. The director may promulgate rules and regulations on the labeling, standards for, and identity of motor fuels and heating oils.

2. [All sellers of motor fuel which has been blended with an alcohol additive shall notify the buyer of same.

3. All sellers of motor fuel which has been blended with at least one percent oxygenate by weight shall notify the buyer at the pump of the type of oxygenate. The provisions of this subsection may be satisfied with a sticker or label on the pump stating that the motor fuel may or may not contain the oxygenate. The department of agriculture shall provide the sticker or label, which shall be reasonable in size and content, at no cost to the sellers.

4.] The director may inspect gasoline, gasoline-alcohol blends or other motor fuels to insure that these fuels conform to advertised grade and octane. In no event shall the penalty for a first violation of this section exceed a written reprimand.

414.043. After July 31, 2005, no gasoline sold, offered for sale, or stored within this state shall contain more than one-half of one percent by volume of methyl tertiary butyl ether (MTBE).

414.365. 1. As used in this section, the following terms mean:

(1) "B-20", a blend of twenty percent by volume biodiesel fuel and eighty percent by volume petroleum-based diesel fuel;

(2) "Biodiesel", fuel as defined in ASTM standard PS121;

(3) "Incremental cost", the difference in cost between blended biodiesel fuel and conventional petroleum-based diesel fuel at the time the blended biodiesel fuel is purchased.

2. On or before October 1, 2003, the Missouri department of transportation shall develop a program that provides for the opportunity to use fuel with at least the biodiesel content of B-20 in its vehicle fleet and heavy equipment that use diesel fuel. Such program shall have the following goals, provided that such program and goals do not prohibit the department from generating and selling EPA credits pursuant to section 414.407:

(1) On or before July 1, 2004, at least fifty percent of the department's vehicle fleet and heavy equipment that use diesel fuel shall use fuel with at least the biodiesel content of B-20, if such fuel is commercially available;

(2) On or before July 1, 2005, at least seventy-five percent of the department's vehicle fleet and heavy equipment that use diesel fuel shall use fuel with at least the biodiesel content of B-20, if such fuel is commercially available.

3. The blended biodiesel fuel shall be presumed to be commercially available if the incremental cost of such fuel is not more than twenty-five cents.

4. Nothing in this section is intended to create a state requirement for biodiesel fuel use in excess of the requirements of the federal National Energy Policy Act of 1992, Pub. L. 102-486; 42 U.S.C. 13251, 13257(o).

5. To the maximum extent practicable, the department shall obtain funding for the incremental cost of the blended biodiesel fuel from the biodiesel fuel revolving fund established in section 414.407.

6. The director of the Missouri department of transportation may promulgate any rules necessary to carry out the provisions of this section. No rule or portion of a rule promulgated pursuant to this section shall take effect unless it has been promulgated pursuant to chapter 536, RSMo.

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

[(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 required by Section 303(d) of the federal Clean Water Act, as amended, 33 U.S.C. 1251 et seq., to be sent to the U.S. Environmental Protection Agency for their approval that will result in any waters of this state being classified as impaired shall be adopted by rule pursuant to chapter 536, RSMo. Total maximum daily loads shall not be required for any listed waters that subsequently are determined to meet water quality standards.

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 and applicants to evaluate the 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. 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.

644.578. 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.

Section 1. Notwithstanding any provisions of law to the contrary, any utility unit, as defined in Title IV of the federal Clean Air Act, 42. U.S.C. Section 7851a, that uses coal-fired cyclone boilers which also burn tire derived fuel shall limit emissions of oxides of nitrogen to a rate no greater than eighty percent of the emission limit for cyclone-fired boilers in Title IV of the federal Clean Air Act and implementing regulations in 40 CFR Part 76, as amended. The provisions of this section shall expire on April 30, 2004, or upon the effective date of a revision to 10 CSR 10-6.350, whichever later occurs. The director of the department of natural resources shall notify the revisor of statutes of the effective date of a revision to 10 CSR 10-6.350.

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