

FIRST REGULAR SESSION

SENATE BILL NO. 630

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCOTT.

Read 1st time February 26, 2003, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

1965S.011

AN ACT

To repeal section 643.078, RSMo, and to enact in lieu thereof one new section relating to air operating permits.

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

Section A. Section 643.078, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 643.078, to read as follows:

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

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

3. Any person who wishes to construct or modify and operate any regulated air contaminant source shall submit an application to the department for the unified review of a construction permit application [under] **pursuant to** section 643.075 and an operating permit application [under] **pursuant to** this section, unless the applicant requests in writing that the construction and operating permit applications be reviewed separately. [The director shall complete any unified review within one hundred and eighty days of receipt of the request for a class B source.] For a class

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

A source, the unified review shall be completed within the time period established in section 502 of the federal Clean Air Act, as amended, 42 U.S.C. 7661.

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

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

6. If the director determines that an air contaminant source does not meet the terms and conditions of the construction permit and that the operation of the source will result in emissions which exceed the limits established in the construction permit, he shall not validate the operating permit. If the source corrects the deficiency, the director shall then validate the operating permit. If the source is unable to correct the deficiency, then the director and the applicant may, by mutual agreement, add such terms and conditions to the operating permit which are deemed appropriate, so long as the emissions from the air contaminant source do not exceed the limits established in the construction permit, and the director shall validate the operating permit. The director may add terms and conditions to the operating permit which allow the source to exceed the emission limits established in the construction permit. In such a case, the director shall notify the affected public and the commission shall, upon request by any affected person, hold a public hearing upon the revised operating permit application.

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

8. An applicant for a construction permit for an air contaminant source with valid operating permit may request that the air contaminant source be issued a new

five-year operating permit. The operating permit would be issued in the manner and **[under] pursuant to** the conditions provided in sections 643.010 to 643.190 and would supersede any existing operating permit for the source.

9. [The director shall take action within thirty days after a request for validation of the operating permit and shall render a decision within one hundred twenty days of receipt of a request for issuance of an operating permit for a class B source.] The director shall render a decision within the time period established in section 502 of the federal Clean Air Act, as amended, 42 U.S.C. 7661, for a class A source. Any affected person may appeal any permit decision, including failure to render a decision within the time period established in this section, to the commission.

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

11. The director shall not approve an operating permit if he receives an objection to approval of the permit from the United States Environmental Protection Agency within the time period specified **[under] pursuant to** Title V of the Clean Air Act, as amended, 42 U.S.C. 7661, et seq.

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

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

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

15. An air contaminant source with a valid operating permit which submits

a complete application for a permit renewal at least six months prior to the expiration of the permit shall be deemed to have a valid operating permit until the director acts upon its permit application. The director shall promptly notify the applicant in writing of his action on the application and if the operating permit is not issued state the reasons therefor.

16. The applicant may appeal to the commission if an operating permit is not issued or may appeal any condition, suspension, modification or revocation of any permit by filing notice of appeal with the commission within thirty days of the notice of the director's response to the request for issuance of the operating permit.

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

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