

FIRST REGULAR SESSION

SENATE BILL NO. 423

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LAGER.

Read 1st time March 1, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

1748S.02I

AN ACT

To repeal sections 621.250, 640.013, 640.100, 644.051, 644.054, and 701.033, RSMo, and to enact in lieu thereof fourteen new sections relating to natural resources.

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

Section A. Sections 621.250, 640.013, 640.100, 644.051, 644.054, and
2 701.033, RSMo, are repealed and fourteen new sections enacted in lieu thereof,
3 to be known as sections 37.970, 192.1250, 621.250, 640.013, 640.018, 640.085,
4 640.100, 640.116, 640.128, 640.850, 644.051, 644.054, 644.200, and 701.033, to
5 read as follows:

**37.970. 1. It shall be the policy of each state department to carry
2 out its mission with full transparency to the public. Any data collected
3 in the course of its duties shall be made available to the public in a
4 timely fashion. Data, reports, and other information resulting from any
5 activities conducted by the department in the course of its duties shall
6 be easily accessible by any member of the public.**

**2. Each department shall broadly interpret any request for
8 information under section 610.023:**

**(1) Even if such request for information does not use the words
10 "sunshine request", "open records request", "public records request", or
11 any such similar wording;**

**(2) Even if the communication is simply an inquiry as to the
13 availability or existence of data or information; and**

**(3) Regardless of the format in which the communication is
15 made, including electronic mail, facsimile, internet, postal mail, in
16 person, telephone, or any other format.**

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

17 **3. Any failure by a department to release information shall, in**
18 **addition to any other applicable violation of law, be considered a**
19 **violation of the department's policy under this section and shall**
20 **constitute a breach of the public's trust.**

21 **4. This section shall not be construed to limit or exceed the**
22 **requirements of the provisions in chapter 610.**

192.1250. The department of health and senior services shall
2 **examine the feasibility of implementing a real-time water quality**
3 **testing system in the state and shall issue a report of its findings to the**
4 **general assembly by December 31, 2011.**

 621.250. 1. All authority to hear appeals granted in chapters 260, 444,
2 640, 643, and 644, and to the hazardous waste management commission in
3 chapter 260, the land reclamation commission in chapter 444, the safe drinking
4 water commission in chapter 640, the air conservation commission in chapter 643,
5 and the clean water commission in chapter 644 shall be transferred to the
6 administrative hearing commission under this chapter. The authority to render
7 final decisions after hearing on appeals heard by the administrative hearing
8 commission shall remain with the commissions listed in this subsection. The
9 commissions listed in this subsection may render final decisions after hearing or
10 through stipulation, consent order, agreed settlement or by disposition in the
11 nature of default judgment, judgment on the pleadings, or summary
12 determination, consistent with the rules and procedures of the administrative
13 hearing commission.

14 2. Except as otherwise provided by law, any person or entity who is a
15 party to, or who is affected by, any finding, order, decision, or assessment for
16 which the authority to hear appeals was transferred to the administrative
17 hearing commission in subsection 1 of this section may file a notice of appeal with
18 the administrative hearing commission within thirty days after any such finding,
19 order, decision, or assessment is placed in the United States mail or within thirty
20 days of any such finding, order, decision, or assessment being delivered,
21 whichever is earlier. The administrative hearing commission may hold hearings
22 or may make recommended decisions based on stipulation of the parties, consent
23 order, agreed settlement or by disposition in the nature of default judgment,
24 judgment on the pleadings, or summary determination, in accordance with the
25 rules and procedures of the administrative hearing commission.

26 3. Any decision by the director of the department of natural resources that

27 may be appealed to the commissions listed in subsection 1 of this section and
28 shall contain a notice of the right of appeal in substantially the following
29 language: "If you were adversely affected by this decision, you may appeal to have
30 the matter heard by the administrative hearing commission. To appeal, you must
31 file a petition with the administrative hearing commission within thirty days
32 after the date this decision was mailed or the date it was delivered, whichever
33 date was earlier. If any such petition is sent by registered mail or certified mail,
34 it will be deemed filed on the date it is mailed; if it is sent by any method other
35 than registered mail or certified mail, it will be deemed filed on the date it is
36 received by the administrative hearing commission.". Within fifteen days after
37 the administrative hearing commission renders its recommended decision, it shall
38 transmit the record and a transcript of the proceedings, together with the
39 administrative hearing commission's recommended decision to the commission
40 having authority to issue a final decision. The decision of the commission shall
41 be based only on the facts and evidence in the hearing record. The commission
42 may adopt the recommended decision as its final decision. The commission may
43 change a finding of fact or conclusion of law made by the administrative hearing
44 commission, or may vacate or modify the recommended decision issued by the
45 administrative hearing commission, only if the commission states in writing the
46 specific reason for a change made under this subsection.

47 4. In the event the person filing the appeal prevails in any dispute under
48 this section, interest shall be allowed upon any amount found to have been
49 wrongfully collected or erroneously paid at the rate established by the director of
50 the department of revenue under section 32.065.

51 5. Appropriations shall be made from the respective funds of the various
52 commissions to cover the administrative hearing commission's costs associated
53 with these appeals.

54 6. In all matters heard by the administrative hearing commission under
55 this section, the burden of proof shall comply with section 640.012. The hearings
56 shall be conducted by the administrative hearing commission in accordance with
57 the provisions of chapter 536 and its regulations promulgated thereunder.

58 **7. When a notice of appeal regarding a permit decision is filed**
59 **under this section by anyone other than the permit applicant, the**
60 **notice of appeal shall be accompanied by a surety bond payable to the**
61 **permit applicant in an amount specified by the commission that**
62 **rendered the permit decision, in accordance with rules promulgated**

63 under section 640.013.

640.013. 1. The administrative hearing commission shall have the
2 authority to hear certain environmental appeals in accordance with section
3 621.250. Each commission for which the administrative hearing
4 commission has authority to hear appeals under section 621.250 shall
5 promulgate rules to establish surety bond requirements as required
6 under subsection 7 of section 621.250. The rules shall include factors
7 and methods that are consistent with Missouri supreme court rules that
8 allow a circuit court to set the amount of a bond in an appeal.

9 2. Any rule or portion of a rule, as that term is defined in section
10 536.010 that is created under the authority delegated in this section
11 shall become effective only if it complies with and is subject to all of
12 the provisions of chapter 536, and, if applicable, section 536.028. This
13 section and chapter 536 are nonseverable and if any of the powers
14 vested with the general assembly pursuant to chapter 536, to review, to
15 delay the effective date, or to disapprove and annul a rule are
16 subsequently held unconstitutional, then the grant of rulemaking
17 authority and any rule proposed or adopted after August 28, 2011, shall
18 be invalid and void.

640.018. 1. In any case where the department has not issued a
2 permit or rendered a permit decision by the expiration of a statutorily-
3 required time frame for any application for a permit under this chapter
4 or chapters 260, 278, 319, 444, 643, or 644, the application for the permit
5 shall be considered approved as of the first day following the
6 expiration of the required time frame, provided all necessary
7 information has been submitted for the application and the department
8 has been in possession of all such information for the duration of the
9 required time frame. This subsection shall be considered in addition
10 to, and not in lieu thereof, any other provision of law regarding
11 consequences of failure by the department to issue a permit or permit
12 decision by the expiration of a required time frame.

13 2. If, in any application for a permit under this chapter or
14 chapters 260, 278, 319, 444, 643, or 644, a licensed professional engineer
15 has affixed his or her stamp or seal to any plans submitted in
16 conjunction with the permit application, such plans shall be considered
17 approved by the department.

640.085. The functions and duties of the department of natural

2 resources' division of energy are hereby transferred by type I transfer
3 to the department of economic development. All necessary budget,
4 administrative, and staff changes associated with this transfer shall be
5 completed by June 30, 2012. Any federal funding available to the state
6 for the administration of any of the duties transferred under this
7 section shall be made available to the department of economic
8 development.

640.100. 1. The safe drinking water commission created in section
2 640.105 shall promulgate rules necessary for the implementation, administration
3 and enforcement of sections 640.100 to 640.140 and the federal Safe Drinking
4 Water Act as amended.

5 2. No standard, rule or regulation or any amendment or repeal thereof
6 shall be adopted except after a public hearing to be held by the commission after
7 at least thirty days' prior notice in the manner prescribed by the rulemaking
8 provisions of chapter 536 and an opportunity given to the public to be heard; the
9 commission may solicit the views, in writing, of persons who may be affected by,
10 knowledgeable about, or interested in proposed rules and regulations, or
11 standards. Any person heard or registered at the hearing, or making written
12 request for notice, shall be given written notice of the action of the commission
13 with respect to the subject thereof. Any rule or portion of a rule, as that term is
14 defined in section 536.010, that is promulgated to administer and enforce sections
15 640.100 to 640.140 shall become effective only if the agency has fully complied
16 with all of the requirements of chapter 536, including but not limited to section
17 536.028, if applicable, after June 9, 1998. All rulemaking authority delegated
18 prior to June 9, 1998, is of no force and effect and repealed as of June 9, 1998,
19 however, nothing in this section shall be interpreted to repeal or affect the
20 validity of any rule adopted or promulgated prior to June 9, 1998. If the
21 provisions of section 536.028 apply, the provisions of this section are nonseverable
22 and if any of the powers vested with the general assembly pursuant to section
23 536.028 to review, to delay the effective date, or to disapprove and annul a rule
24 or portion of a rule are held unconstitutional or invalid, the purported grant of
25 rulemaking authority and any rule so proposed and contained in the order of
26 rulemaking shall be invalid and void, except that nothing in this chapter or
27 chapter 644 shall affect the validity of any rule adopted and promulgated prior
28 to June 9, 1998.

29 3. The commission shall promulgate rules and regulations for the

30 certification of public water system operators, backflow prevention assembly
31 testers and laboratories conducting tests pursuant to sections 640.100 to
32 640.140. Any person seeking to be a certified backflow prevention assembly
33 tester shall satisfactorily complete standard, nationally recognized written and
34 performance examinations designed to ensure that the person is competent to
35 determine if the assembly is functioning within its design specifications.

36 Any such state certification shall satisfy any need for local certification as a
37 backflow prevention assembly tester. However, political subdivisions may set
38 additional testing standards for individuals who are seeking to be certified as
39 backflow prevention assembly testers. Notwithstanding any other provision of
40 law to the contrary, agencies of the state or its political subdivisions shall only
41 require carbonated beverage dispensers to conform to the backflow protection
42 requirements established in the National Sanitation Foundation standard
43 eighteen, and the dispensers shall be so listed by an independent testing
44 laboratory. The commission shall promulgate rules and regulations for collection
45 of samples and analysis of water furnished by municipalities, corporations,
46 companies, state establishments, federal establishments or individuals to the
47 public. The [department of natural resources or the] department of health and
48 senior services shall, at the request of any supplier, make any analyses or tests
49 required pursuant to the terms of section 192.320 and sections 640.100 to
50 640.140. The department shall collect fees to cover the reasonable cost of
51 laboratory services[, both within] **provided by** the [department of natural
52 resources and the] department of health and senior services, laboratory
53 certification and program administration as required by sections 640.100 to
54 640.140. The laboratory services and program administration fees pursuant to
55 this subsection shall not exceed two hundred dollars for a supplier supplying less
56 than four thousand one hundred service connections, three hundred dollars for
57 supplying less than seven thousand six hundred service connections, five hundred
58 dollars for supplying seven thousand six hundred or more service connections,
59 and five hundred dollars for testing surface water. Such fees shall be deposited
60 in the safe drinking water fund as specified in section 640.110. The analysis of
61 all drinking water required by section 192.320 and sections 640.100 to 640.140
62 shall be made by the [department of natural resources laboratories,] department
63 of health and senior services laboratories or laboratories certified by the
64 department of **health and senior services, which may include laboratories**
65 **operated by the department of** natural resources.

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

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

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

88	1 to 1,000 connections	\$ 3.24
89	1,001 to 4,000 connections	3.00
90	4,001 to 7,000 connections	2.76
91	7,001 to 10,000 connections	2.40
92	10,001 to 20,000 connections	2.16
93	20,001 to 35,000 connections	1.92
94	35,001 to 50,000 connections	1.56
95	50,001 to 100,000 connections	1.32
96	More than 100,000 connections.	1.08

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

102 eighty-two dollars and forty-four cents.

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

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

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

127 8. Fees imposed pursuant to subsection 5 of this section shall expire on
128 September 1, 2012.

**640.116. 1. Any water system that serves a charitable or
2 benevolent organization, if the system does not regularly serve an
3 average of one hundred persons or more at least sixty days out of the
4 year and the system does not serve a school or day-care facility, shall
5 be exempt from all rules relating to well construction except any rules
6 established under sections 256.600 to 256.640 applying to multifamily
7 wells, unless such wells or pump installations for such wells are
8 determined to present a threat to groundwater or public health.**

9 **2. If the system incurs three or more total coliform maximum**

10 **contaminant level violations in a twelve-month period or one acute**
11 **maximum contaminant level violation, the system owner shall either**
12 **provide an alternate source of water, eliminate the source of**
13 **contamination, or provide treatment that reliably achieves at least**
14 **4-log (ninety-nine and ninety-nine one-hundredths percent) treatment**
15 **of viruses.**

640.128. If an entity that holds a permit issued under chapter 644
2 **or under sections 640.100 to 640.140 voluntarily reports to the**
3 **department of natural resources the results of any water quality testing**
4 **conducted by the entity, and such results indicate a potential risk to**
5 **public health, the department shall immediately notify the local public**
6 **health authority and the department of health and senior services.**

640.850. The governor shall convene a committee of
2 **representatives of the departments of health and senior services,**
3 **natural resources, economic development, agriculture, and**
4 **conservation. The committee shall evaluate opportunities for**
5 **consolidating services with the goal of improving efficiency and**
6 **reducing cost while optimizing the benefits to the citizens of**
7 **Missouri. The committee shall provide recommendations to the**
8 **governor and general assembly no later than December 31, 2011.**

644.051. 1. It is unlawful for any person:

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

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

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

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

14 2. **It shall be unlawful for any person to build, erect, alter, replace,**
15 **operate, use or maintain any water contaminant or point source in this state that**
16 **is subject to standards, rules or regulations promulgated pursuant to the**

17 provisions of sections 644.006 to 644.141 unless such person holds a permit from
18 the commission, subject to such exceptions as the commission may prescribe by
19 rule or regulation. However, no permit shall be required of any person for any
20 emission into publicly owned treatment facilities or into publicly owned sewer
21 systems tributary to publicly owned treatment works.

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

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

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

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

87 6. The director shall promptly notify the applicant in writing of his or her
88 action and if the permit is denied state the reasons therefor. The applicant may

89 appeal to the commission from the denial of a permit or from any condition in any
90 permit by filing notice of appeal with the commission within thirty days of the
91 notice of denial or issuance of the permit. **After a final action is taken on a**
92 **new or re-issued general permit template, a potential applicant for the**
93 **general permit who can demonstrate that he or she is or may be**
94 **adversely affected by any permit term or condition, may appeal the**
95 **terms and conditions of the general permit template to the clean water**
96 **commission within thirty days of the department's issuance of the**
97 **general permit template or within thirty days of issuance of the general**
98 **permit to any applicant.** The commission shall set the matter for hearing not
99 less than thirty days after the notice of appeal is filed. In no event shall a permit
100 constitute permission to violate the law or any standard, rule or regulation
101 promulgated pursuant thereto.

102 7. In any hearing held pursuant to this section **that involves a permit,**
103 **license, or registration,** the burden of proof is on the [applicant for a permit]
104 **party specified in section 640.012.** Any decision of the commission made
105 pursuant to a hearing held pursuant to this section is subject to judicial review
106 as provided in section 644.071.

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

111 9. **Permits may be modified, reissued, or terminated at the**
112 **request of the permittee. All requests shall be in writing and shall**
113 **contain facts or reasons supporting the request.**

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

120 [10.] 11. No manufacturing or processing plant or operating location shall
121 be required to pay more than one operating fee. Operating permits shall be
122 issued for a period not to exceed five years after date of issuance, except that
123 general permits shall be issued for a five-year period, and also except that neither
124 a construction nor an annual permit shall be required for a single residence's

125 waste treatment facilities. Applications for renewal of an operating permit shall
126 be filed at least one hundred eighty days prior to the expiration of the existing
127 permit.

128 [11.] 12. Every permit issued to municipal or any publicly owned
129 treatment works or facility shall require the permittee to provide the clean water
130 commission with adequate notice of any substantial new introductions of water
131 contaminants or pollutants into such works or facility from any source for which
132 such notice is required by sections 644.006 to 644.141 or any federal water
133 pollution control act. Such permit shall also require the permittee to notify the
134 clean water commission of any substantial change in volume or character of water
135 contaminants or pollutants being introduced into its treatment works or facility
136 by a source which was introducing water contaminants or pollutants into its
137 works at the time of issuance of the permit. Notice must describe the quality and
138 quantity of effluent being introduced or to be introduced into such works or
139 facility by a source which was introducing water contaminants or pollutants into
140 its works at the time of issuance of the permit. Notice must describe the quality
141 and quantity of effluent being introduced or to be introduced into such works or
142 facility and the anticipated impact of such introduction on the quality or quantity
143 of effluent to be released from such works or facility into waters of the state.

144 [12.] 13. The director or the commission may require the filing or posting
145 of a bond as a condition for the issuance of permits for construction of temporary
146 or future water treatment facilities or facilities that utilize innovative technology
147 for wastewater treatment in an amount determined by the commission to be
148 sufficient to ensure compliance with all provisions of sections 644.006 to 644.141,
149 and any rules or regulations of the commission and any condition as to such
150 construction in the permit. For the purposes of this section, "innovative
151 technology for wastewater treatment" shall mean a completely new and generally
152 unproven technology in the type or method of its application that bench testing
153 or theory suggest has environmental, efficiency, and cost benefits beyond the
154 standard technologies. No bond shall be required for designs approved by any
155 federal agency or environmental regulatory agency of another state. The bond
156 shall be signed by the applicant as principal, and by a corporate surety licensed
157 to do business in the state of Missouri and approved by the commission. The
158 bond shall remain in effect until the terms and conditions of the permit are met
159 and the provisions of sections 644.006 to 644.141 and rules and regulations
160 promulgated pursuant thereto are complied with.

161 [13.] 14. (1) The department shall issue or deny applications for
162 construction and site-specific operating permits received after January 1, 2001,
163 within one hundred eighty days of the department's receipt of an application. For
164 general construction and operating permit applications received after January 1,
165 2001, that do not require a public participation process, the department shall
166 issue or deny the requested permits within sixty days of the department's receipt
167 of an application.

168 (2) If the department fails to issue or deny with good cause a construction
169 or operating permit application within the time frames established in subdivision
170 (1) of this subsection, the department shall refund the full amount of the initial
171 application fee within forty-five days of failure to meet the established time
172 frame. If the department fails to refund the application fee within forty-five days,
173 the refund amount shall accrue interest at a rate established pursuant to section
174 32.065.

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

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

195 (5) During the department's technical review of the application, the
196 department may request the applicant submit supplemental or additional

197 information necessary for adequate permit review. The department's technical
198 review letter shall contain a sufficient description of the type of additional
199 information needed to comply with the application requirements.

200 (6) Nothing in this subsection shall be interpreted to mean that inaction
201 on a permit application shall be grounds to violate any provisions of sections
202 644.006 to 644.141 or any rules promulgated pursuant to sections 644.006 to
203 644.141.

204 [14.] 15. The department shall respond to all requests for individual
205 certification under Section 401 of the Federal Clean Water Act within the lesser
206 of sixty days or the allowed response period established pursuant to applicable
207 federal regulations without request for an extension period unless such extension
208 is determined by the commission to be necessary to evaluate significant impacts
209 on water quality standards and the commission establishes a timetable for
210 completion of such evaluation in a period of no more than one hundred eighty
211 days.

212 [15.] 16. All permit fees generated pursuant to this chapter shall not be
213 used for the development or expansion of total maximum daily loads studies on
214 either the Missouri or Mississippi rivers.

215 **17. Compliance with a permit or permit revision issued pursuant**
216 **to this chapter shall be deemed compliance with the applicable**
217 **requirements of this chapter and the Federal Water Pollution Control**
218 **Act, as prescribed therein, except any standard imposed under Section**
219 **307 of the Federal Water Pollution Control Act for a toxic pollutant**
220 **injurious to human health, or Section 405(d) of the Federal Water**
221 **Pollution Control Act.**

644.054. 1. Fees imposed in sections 644.052 and 644.053 shall, except
2 for those fees imposed pursuant to subsection 4 and subsections 6 to 13 of section
3 644.052, become effective October 1, 1990, and shall expire December 31, [2010]
4 **2012**. Fees imposed pursuant to subsection 4 and subsections 6 to 13 of section
5 644.052 shall become effective August 28, 2000, and shall expire on December 31,
6 [2010] **2012**. The clean water commission shall promulgate rules and regulations
7 on the procedures for billing and collection. All sums received through the
8 payment of fees shall be placed in the state treasury and credited to an
9 appropriate subaccount of the natural resources protection fund created in section
10 640.220. Moneys in the subaccount shall be expended, upon appropriation, solely
11 for the administration of sections 644.006 to 644.141. Fees collected pursuant to

12 subsection 10 of section 644.052 by a city, a public sewer district, a public water
13 district or other publicly owned treatment works are state fees. Five percent of
14 the fee revenue collected shall be retained by the city, public sewer district, public
15 water district or other publicly owned treatment works as reimbursement of
16 billing and collection expenses.

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

21 3. Fees imposed in subsections 2 to 6 of section 644.052 shall be due on
22 the date of application and on each anniversary date of permit issuance thereafter
23 until the permit is terminated.

24 4. **The director of the department of natural resources shall**
25 **conduct a comprehensive review of the fee structure in sections 644.052**
26 **and 644.053. The review shall include stakeholder meetings in order to**
27 **solicit stakeholder input. The director shall submit a report to the**
28 **general assembly by December 31, 2011, which shall include its findings**
29 **and a recommended plan for the fee structure. The plan shall also**
30 **include timelines for permit issuance, provisions for expedited permits,**
31 **and recommendations for any other improved services provided by the**
32 **fee funding.**

644.200. 1. **On and after July 1, 2013, any laboratory testing**
2 **conducted by or on behalf of the state of Missouri for any purpose**
3 **authorized under this chapter or under sections 640.100 to 640.140 shall**
4 **be conducted either by a laboratory operated by the department of**
5 **health and senior services or by a laboratory certified by the**
6 **department of health and senior services, which may include a**
7 **laboratory operated by the department of natural resources.**

8 2. **Notwithstanding any provision of chapter 610 to the contrary,**
9 **and regardless of the implications or circumstances of the testing**
10 **results, the department of health and senior services shall make the**
11 **results of any laboratory testing under subsection 1 of this section**
12 **available to the public within forty-eight hours of its receipt of the**
13 **results. It shall not be considered a violation of this section for the**
14 **results to be posted the following Monday if such results are received**
15 **anytime after 5:00 p.m. on Wednesday through Friday of any given**
16 **week.**

17 **3. If the samples being tested under this section were collected**
18 **by any entity other than the department of health and senior services,**
19 **then the results under subsection 2 of this section shall also be directly**
20 **transmitted by the department of health and senior services to the**
21 **entity that collected the samples within forty-eight hours of the**
22 **department's receipt of the results. It shall not be considered a**
23 **violation of this section for the results to be transmitted the following**
24 **Monday if such results are received anytime after 5:00 p.m. on**
25 **Wednesday through Friday of any given week.**

26 **4. The requirements of subsections 2 and 3 of this section shall**
27 **apply even if the laboratory test results indicate a potential risk to**
28 **public health or to the environment. In the event of any indication of**
29 **such potential risk, the department of health and senior services may**
30 **work in cooperation with the department of natural resources to assess**
31 **the risk and develop a plan to address the problem.**

32 **5. If the department of natural resources conducts any**
33 **laboratory testing under subsection 1 of this section, it shall also**
34 **comply with the requirements of subsections 2, 3, and 4 of this section**
35 **as are applicable to the department of health and senior services.**

701.033. 1. The department shall have the power and duty to:

2 (1) Promulgate such rules and regulations as are necessary to carry out
3 the provisions of sections 701.025 to 701.059;

4 (2) Cause investigations to be made when a violation of any provision of
5 sections 701.025 to 701.059 or the on-site sewage disposal rules promulgated
6 under sections 701.025 to 701.059 is reported to the department;

7 (3) Enter at reasonable times and determining probable cause that a
8 violation exists, upon private or public property for the purpose of inspecting and
9 investigating conditions relating to the administration and enforcement of
10 sections 701.025 to 701.059 and the on-site sewage disposal rules promulgated
11 under sections 701.025 to 701.059;

12 (4) Authorize the trial or experimental use of innovative systems for
13 on-site sewage disposal, after consultation with the staff of the Missouri clean
14 water commission, upon such conditions as the department may set;

15 **(5) Provide technical assistance, guidance, and oversight to any**
16 **other administrative authority in the state on the regulation and**
17 **enforcement of standards for individual on-site sewage disposal**

18 **systems, at the request of such other administrative authority, or when**
19 **the department determines that such assistance, guidance, or oversight**
20 **is necessary to prevent a violation of sections 701.025 to 701.059.**

21 2. No rule or portion of a rule promulgated under the authority of sections
22 701.025 to 701.059 shall become effective unless it has been promulgated
23 pursuant to the provisions of section 536.024.

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