

SECOND REGULAR SESSION

SENATE BILL NO. 968

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LAGER.

Read 1st time February 27, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

6224S.011

AN ACT

To repeal sections 259.010, 259.030, 259.040, 259.050, 259.070, 259.080, 259.100, 259.190, 260.273, 260.279, 260.380, 260.392, 260.475, 444.510, 444.520, 444.762, 444.765, 444.805, 640.100, 643.079, 644.051, 644.057, and 644.145, RSMo, and to enact in lieu thereof twenty-six new sections relating to the department of natural resources, with penalty provisions.

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

Section A. Sections 259.010, 259.030, 259.040, 259.050, 259.070, 259.080, 259.100, 259.190, 260.273, 260.279, 260.380, 260.392, 260.475, 444.510, 444.520, 444.762, 444.765, 444.805, 640.100, 643.079, 644.051, 644.057, and 644.145, RSMo, are repealed and twenty-six new sections enacted in lieu thereof, to be known as sections 259.010, 259.030, 259.040, 259.050, 259.052, 259.070, 259.080, 259.100, 259.190, 260.273, 260.279, 260.380, 260.392, 260.475, 444.510, 444.520, 444.762, 444.765, 444.768, 444.805, 640.100, 643.079, 644.051, 644.057, 644.058, and 644.145, to read as follows:

259.010. There shall be a "State Oil and Gas Council" composed of the following members in accordance with the provisions of section 259.020:

(1) [One member from the division of geology and land survey] **The state geologist or his or her designee;**

(2) One member from the department of economic development;

(3) One member from the Missouri public service commission;

(4) One member from the clean water commission;

(5) One member from the Missouri University of Science and Technology petroleum engineering program;

(6) One member from the Missouri Independent Oil and Gas Association;

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

11 and

12 (7) Two members from the public.

259.030. 1. The council shall elect a chairman and vice chairman from the
2 members of the council other than the [representative of the division of geology
3 and land survey] **state geologist or his or her designee**. A chairman and
4 vice chairman may serve more than a one-year term, if so elected by the members
5 of the council.

6 2. The state geologist shall act as administrator for the council and shall
7 be responsible for enforcing the provisions of this chapter.

259.040. [Representatives of the member state agencies shall not receive
2 any additional compensation for their services as representatives on the council
3 and all expenses of the state agency representatives shall be paid by their
4 respective agency. The professor of petroleum engineering, the member from the
5 Missouri Independent Oil and Gas Association and the public members shall not
6 receive any compensation for their services as representatives on the council and
7 all expenses of such representatives shall be paid by their respective entities.] **All
8 members shall be reimbursed for reasonable expenses incurred in the
9 performance of their official duties in accordance with the
10 reimbursement policy of the department of natural resources. All
11 reimbursements paid under this section shall be paid from the oil and
12 gas resources fund established in section 259.052.**

259.050. Unless the context otherwise requires, the following words mean:

2 (1) **"Abandoned well", a well that has not been used for a period
3 of twelve consecutive months for the purpose for which it was drilled,
4 except that the term does not mean wells that have been converted to
5 water wells that are used for that purpose at least once per month;**

6 (2) **"Certificate of clearance" [means], a permit prescribed by the council
7 for the transportation or the delivery of oil or gas or product and issued or
8 registered in accordance with the rule, regulation, or order requiring such permit;**

9 [(2)] (3) **"Council", the state oil and gas council established by section
10 259.010;**

11 (4) **"Department", the department of natural resources;**

12 [(3)] (5) **"Field", the general area [underlaid] underlain by one or more
13 pools;**

14 [(4)] (6) **"Gas", all natural gas and all other fluid hydrocarbons which are
15 typically produced at the wellhead and not [hereinbelow] defined as oil;**

16 [(5)] (7) "Illegal gas" [means], gas which has been produced from any
17 well within this state in excess of the quantity permitted by any rule, regulation,
18 or order of the council;

19 [(6)] (8) "Illegal oil" [means], oil which has been produced from any well
20 within the state in excess of the quantity permitted by any rule, regulation, or
21 order of the council;

22 [(7)] (9) "Illegal product" [means], any product derived in whole or in
23 part from illegal oil or illegal gas;

24 [(8)] (10) "Noncommercial gas well", a gas well drilled for the sole
25 purpose of furnishing gas for private domestic consumption by the owner and not
26 for resale or trade;

27 [(9)] (11) "Oil", crude petroleum oil and other hydrocarbons regardless
28 of gravity which are produced at the wellhead in liquid form and the liquid
29 hydrocarbons known as distillate or condensate recovered or extracted from gas,
30 other than gas produced in association with oil and commonly known as
31 casinghead gas;

32 [(10)] (12) "Owner", the person who has the right to drill into and
33 produce from a pool and to appropriate the oil or gas he produced therefrom
34 either for himself or others or for himself and others;

35 [(11)] (13) "Pool", an underground reservoir containing a common
36 accumulation of oil or gas or both; each zone of a structure which is completely
37 separated from any other zone in the same structure is a "pool", as that term is
38 used in this chapter;

39 [(12)] (14) "Producer", the owner of a well or wells capable of producing
40 oil or gas or both;

41 [(13)] (15) "Product", any commodity made from oil or gas and includes
42 refined crude oil, crude tops, topped crude, processed crude, processed crude
43 petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel
44 oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural-gas gasoline,
45 kerosene, [benzine] **benzene**, wash oil, waste oil, blended gasoline, lubricating
46 oil, blends or mixtures of oil with one or more liquid products or by-products
47 derived from oil or gas, and blends or mixtures of two or more liquid products or
48 by-products derived from oil or gas whether [hereinabove] enumerated **in this**
49 **section** or not;

50 [(14)] (16) "Reasonable market demand" [means], the demand for oil or
51 gas for reasonable current requirements for consumption and use within and

52 without the state, together with such quantities as are reasonably necessary for
53 building up or maintaining reasonable working stocks and reasonable reserves
54 of oil or gas or product;

55 **(17) "Spacing unit", a land area with defined boundaries of a**
56 **specific size and shape that is allotted by the council, subject to any**
57 **modifications approved in writing by the department, to a well**
58 **producing from, or proposed to produce from, a specific pool to assure**
59 **that each owner of mineral interests has a just and proportionate**
60 **share, and to minimize waste;**

61 ~~[(15)]~~ **(18)** "Waste" [means and], includes:

62 (a) Physical waste, as that term is generally understood in the oil and gas
63 industry, but not including unavoidable or accidental waste;

64 (b) The inefficient, excessive, or improper use of, or the unnecessary
65 dissipation of, reservoir energy;

66 (c) The location, spacing, drilling, equipping, operating, or producing of
67 any oil or gas well or wells in a manner which causes, or tends to cause, reduction
68 in the quantity of oil or gas ultimately recoverable from a pool under prudent and
69 proper operations, or which causes or tends to cause unnecessary or excessive
70 surface loss or destruction of oil or gas;

71 (d) The inefficient storing of oil;

72 (e) The production of oil or gas in excess of transportation or marketing
73 facilities or in excess of reasonable market demand; and

74 (f) Through negligence, the unnecessary or excessive surface loss or
75 destruction of oil or gas resulting from evaporation, seepage, leakage or deliberate
76 combustion;

77 ~~[(16)]~~ **(19)** "Well", any hole drilled in the earth for or in connection with
78 the exploration, discovery, or recovery of oil or gas, or for or in connection with
79 the underground storage of gas in natural formation, or for or in connection with
80 the disposal of salt water, ~~[nonusable]~~ **unusable** gas or other waste
81 accompanying the production of oil or gas.

259.052. 1. There is hereby created in the state treasury the "Oil
2 **and Gas Resources Fund" which shall consist of all gifts, donations,**
3 **transfers, moneys appropriated by the general assembly, permit**
4 **application fees collected under section 259.080, and bequests to the**
5 **fund. The fund shall be administered by the department of natural**
6 **resources.**

7 **2. The state treasurer shall be custodian of the fund and may**
8 **approve disbursements from the fund in accordance with sections**
9 **30.170 and 30.180. Notwithstanding the provisions of section 33.080 to**
10 **the contrary, any moneys remaining in the fund at the end of the**
11 **biennium shall not revert to the credit of the general revenue**
12 **fund. The state treasurer shall invest moneys in the fund in the same**
13 **manner as other funds are invested. Any interest and moneys earned**
14 **on such investments shall be credited to the fund.**

15 **3. After appropriation by the general assembly, the money in**
16 **such fund shall be expended by the department to administer the**
17 **provisions of chapter 259, and to collect, process, manage, interpret,**
18 **and distribute geologic and hydrologic resource information pertaining**
19 **to oil and gas potential, and for no other purpose.**

 259.070. 1. The council has the duty of administering the provisions of
2 this chapter. The council shall meet at least once each calendar quarter of the
3 year and upon the call of the chairperson.

4 2. The council shall conduct a review of the statutes and rules and
5 regulations under this chapter on a biennial basis. Based on such review, the
6 council, if necessary, shall recommend changes to the statutes under this chapter
7 and shall amend rules and regulations accordingly.

8 3. (1) The council shall have the power and duty to form an advisory
9 committee to the council for the purpose of reviewing the statutes and rules and
10 regulations under subsection 2 of this section. The advisory committee shall
11 make recommendations to the council when necessary to amend current statutes
12 and rules and regulations under this chapter and shall review any proposed new
13 or amended statute or regulation before such proposed statute or regulation is
14 considered by the council.

15 (2) The advisory committee shall be made up of representatives from the
16 **[division of geology and land survey] department**, the oil and gas industry and
17 any council member desiring to be on such advisory committee. The advisory
18 committee shall meet prior to each calendar quarter meeting of the council, if
19 necessary for the purposes set forth under this subsection, and present any
20 recommendations to the council at such calendar quarter meeting. The council
21 shall designate one of its members to serve as the chairperson of the advisory
22 committee.

23 (3) The advisory committee may make recommendations to the council on

24 appropriate fees or other funding mechanisms to support the oil and gas program
25 efforts of the [division of geology and land survey] **department**.

26 4. The council, **acting through the department**, has the duty and
27 authority to make such investigations as it deems proper to determine whether
28 waste exists or is imminent or whether other facts exist which justify action.

29 5. The council, acting through the [office of the state geologist]
30 **department**, has the authority:

31 (1) To require:

32 (a) Identification of ownership of oil or gas wells, producing leases, tanks,
33 plants, structures, and facilities for the refining or intrastate transportation of
34 oil and gas;

35 (b) The making and filing of all mechanical well logs and the filing of
36 directional surveys if taken, and the filing of reports on well location, drilling and
37 production, and the filing free of charge of samples and core chips and of complete
38 cores less tested sections, when requested in the office of the state geologist
39 within six months after the completion or abandonment of the well;

40 (c) The drilling, casing, operation, and plugging of wells in such manner
41 as to prevent the escape of oil or gas out of one stratum into another; the
42 intrusion of water into oil or gas stratum; the pollution of fresh water supplies
43 by oil, gas, or highly mineralized water; to prevent blowouts, cavings, seepages,
44 and fires; and to prevent the escape of oil, gas, or water into workable coal or
45 other mineral deposits;

46 (d) The furnishing of a reasonable bond with good and sufficient surety,
47 conditioned upon the full compliance with the provisions of this chapter, and the
48 rules and regulations of the council prescribed to govern the production of oil and
49 gas on state and private lands within the state of Missouri; [provided that, in lieu
50 of a bond with a surety, an applicant may furnish to the council his own personal
51 bond, on conditions as described in this paragraph, secured by a certificate of
52 deposit or an irrevocable letter of credit in an amount equal to that of the
53 required surety bond or secured by some other financial instrument on conditions
54 as above described or as provided by council regulations;]

55 (e) That the production from wells be separated into gaseous and liquid
56 hydrocarbons, and that each be accurately measured by such means and upon
57 such standards as may be prescribed by the council;

58 (f) The operation of wells with efficient gas-oil and water-oil ratios, and
59 to fix these ratios;

60 (g) Certificates of clearance in connection with the transportation or
61 delivery of any native and indigenous Missouri produced crude oil, gas, or any
62 product;

63 (h) Metering or other measuring of any native and indigenous
64 Missouri-produced crude oil, gas, or product in pipelines, gathering systems,
65 barge terminals, loading racks, refineries, or other places; and

66 (i) That every person who produces, sells, purchases, acquires, stores,
67 transports, refines, or processes native and indigenous Missouri-produced crude
68 oil or gas in this state shall keep and maintain within this state complete and
69 accurate records of the quantities thereof, which records shall be available for
70 examination by the council or its agents at all reasonable times and that every
71 such person file with the council such reports as it may prescribe with respect to
72 such oil or gas or the products thereof;

73 (2) To regulate pursuant to rules adopted by the council:

74 (a) The drilling, producing, and plugging of wells, and all other operations
75 for the production of oil or gas;

76 (b) The [shooting] **physical** and chemical treatment of wells;

77 (c) The spacing of wells;

78 (d) Operations to increase ultimate recovery such as cycling of gas, the
79 maintenance of pressure, and the introduction of gas, water, or other substances
80 into producing formations; and

81 (e) Disposal of highly mineralized water and oil field wastes;

82 (3) To limit and to allocate the production of oil and gas from any field,
83 pool, or area;

84 (4) To classify wells as oil or gas wells for purposes material to the
85 interpretation or enforcement of this chapter;

86 (5) To promulgate and to enforce rules, regulations, and orders to
87 effectuate the purposes and the intent of this chapter;

88 (6) To make rules, regulations, or orders for the classification of wells as
89 oil wells or dry natural gas wells; or wells drilled, or to be drilled, for geological
90 information; or as wells for secondary recovery projects; or wells for the disposal
91 of highly mineralized water, brine, or other oil field wastes; or wells for the
92 storage of dry natural gas, or casinghead gas; or wells for the development of
93 reservoirs for the storage of liquid petroleum gas;

94 (7) To detail such personnel and equipment or enter into such contracts
95 as it may deem necessary for carrying out the plugging of or other remedial

96 measures on [wells which have been] abandoned [and] **wells that have** not
97 **been** plugged according to the standards for plugging set out in the rules and
98 regulations promulgated by the council pursuant to this chapter. Members of the
99 council or authorized representatives may, with the consent of the owner or
100 person in possession, enter any property for the purpose of investigating,
101 plugging, or performing remedial measures on any well, or to supervise the
102 investigation, plugging, or performance of remedial measures on any well. A
103 reasonable effort to contact the owner or the person in possession of the property
104 to seek his permission shall be made before members of the council or authorized
105 representatives enter the property for the purposes described in this paragraph.
106 If the owner or person in possession of the property cannot be found or refuses
107 entry or access to any member of the council or to any authorized representative
108 presenting appropriate credentials, the council may request the attorney general
109 to initiate in any court of competent jurisdiction an action for injunctive relief to
110 restrain any interference with the exercise of powers and duties described in this
111 subdivision. Any entry authorized under this subdivision shall be construed as
112 an exercise of the police power for the protection of public health, safety and
113 general welfare and shall not be construed as an act of condemnation of property
114 nor of trespass thereon. Members of the council and authorized representatives
115 shall not be liable for any damages necessarily resulting from the entry upon land
116 for purposes of investigating, plugging, or performing remedial measures or the
117 supervision of such activity. However, if growing crops are present, arrangements
118 for timing of such remedial work may be agreed upon between the state and
119 landowner in order to minimize damages;

120 (8) To develop such facts and make such investigations or inspections as
121 are consistent with the purposes of this chapter. Members of the council or
122 authorized representatives may, with the consent of the owner or person in
123 possession, enter upon any property for the purposes of inspecting or
124 investigating any condition which the council shall have probable cause to believe
125 is subject to regulation under this chapter, the rules and regulations promulgated
126 pursuant thereto or any permit issued by the council. If the owner or person in
127 possession of the property refuses entry or access for purposes of the inspections
128 or investigations described, the council or authorized representatives shall make
129 application for a search warrant. Upon a showing of probable cause in writing
130 and under oath, a suitable restricted search warrant shall be issued by any judge
131 having jurisdiction for purposes of enabling inspections authorized under this

132 subdivision. The results of any inspection or investigation pursuant to this
133 subdivision shall be reduced to writing with a copy furnished to the owner, person
134 in possession, or operator;

135 (9) To cooperate with landowners with respect to the conversion of wells
136 drilled for oil and gas to alternative use as water wells as follows: the state
137 geologist shall determine the feasibility of the conversion of a well drilled under
138 a permit for oil and gas for use as a water well and shall advise the landowner
139 of modifications required for conversion of the well in a manner that is consistent
140 with the requirements of this chapter. If such conversion is carried out, release
141 of the operator from legal liability or other responsibility shall be required and
142 the expense of the conversion shall be borne by the landowner.

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

259.080. 1. It shall be unlawful to commence operations for the drilling
2 of a well for oil or gas, or to commence operations to deepen any well to a
3 different geological formation, without first giving the state geologist notice of
4 intention to drill and first obtaining a permit from the state geologist under such
5 rules and regulations as may be prescribed by the council, **and submitting the**
6 **appropriate fees to the department. Such fees shall be deposited in the**
7 **oil and gas resources fund established under section 259.052.**

8 2. **The department of natural resources may propose a fee**
9 **structure, which may include but need not be limited to permit fees and**
10 **an extraction or severance fee, as authorized by this section, after**
11 **holding stakeholder meetings in order to solicit stakeholder input from**
12 **oil and gas industry representatives, the advisory committee, and any**
13 **other interested parties. The department shall submit a proposed fee**
14 **structure with stakeholder agreement to the oil and gas council. The**
15 **council shall review such recommendations but shall not vote on the**
16 **fee structure until a subsequent meeting. If the council approves, by**
17 **vote of two-thirds majority, the fee structure recommendations, the**
18 **council shall authorize the department to file a notice of proposed**
19 **rulemaking containing the recommended fee structure, and after**
20 **considering public comments may authorize the department to file the**
21 **final order of rulemaking for such rule with the joint committee on**
22 **administrative rules pursuant to sections 536.021 and 536.024 no later**

23 than December first of the same year. If the general assembly, within
24 the first sixty calendar days of the regular session immediately
25 following such filing, disapproves such rule in accordance with section
26 536.028, then the department and the council shall not implement the
27 proposed fee structure and shall continue to use the previous fee
28 structure. If such rules are not disapproved by the general assembly
29 in the manner set out above, they shall take effect no sooner than
30 January first after such regular session, and any conflicting fee
31 structure set forth in this section shall expire upon the effective date
32 of the new fee structure adopted by the council. The authority for the
33 council to further revise the fee structure as provided in this
34 subsection shall expire on August 28, 2024.

35 **3. Failure to pay the fees, or any portion thereof, established**
36 **under this section by the due date shall result in the imposition of a**
37 **late fee equal to fifteen percent of the unpaid amount, plus ten percent**
38 **interest per annum. The department may bring an action in the**
39 **appropriate circuit court to collect any unpaid fee, late fee, interest, or**
40 **attorney's fees and costs incurred directly in fee collection. Such**
41 **action may be brought in the circuit court of the county in which the**
42 **facility is located, or in the circuit court of Cole County.**

259.100. 1. The council shall set spacing units as follows:

2 (1) When necessary to prevent waste, to avoid the drilling of unnecessary
3 wells, or to protect correlative rights, the council shall establish spacing units for
4 a pool. Spacing units when established shall be of uniform size and shape for the
5 entire pool, except that when found to be necessary for any of the purposes above
6 mentioned, the council is authorized to divide any pool into zones and establish
7 spacing units for each zone, which units may differ in size and shape from those
8 established in any other zone;

9 (2) The size and shape of spacing units are to be such as will result in the
10 efficient and economical development of the pool as a whole;

11 (3) An order establishing spacing units for a pool shall specify the size
12 and shape of each unit and the location of the permitted well thereon in
13 accordance with a reasonably uniform spacing plan. Upon application, if the
14 state geologist finds that a well drilled at the prescribed location would not
15 produce in paying quantities, or that surface conditions would substantially add
16 to the burden or hazard of drilling such well, the state geologist is authorized to

17 enter an order permitting the well to be drilled at a location other than that
18 prescribed by such spacing order; however, the state geologist shall include in the
19 order suitable provisions to prevent the production from the spacing unit of more
20 than its just and equitable share of the oil and gas in the pool;

21 (4) An order establishing **spacing** units for a pool shall cover all lands
22 determined or believed to be [underlaid] **underlain** by such pool, and may be
23 modified by the [state geologist] **department** from time to time to include
24 additional areas determined to be [underlaid] **underlain** by such pool. When
25 found necessary for the prevention of waste, or to avoid the drilling of
26 unnecessary wells or to protect correlative rights, an order establishing spacing
27 units in a pool may be modified by the state geologist to increase the size of
28 spacing units in the pool or any zone thereof, or to permit the drilling of
29 additional wells on a reasonable uniform plan in the pool, or any zone
30 thereof. Orders of the [state geologist may] **department shall** be appealed to
31 the council within thirty days **of notification that spacing units have been**
32 **changed.**

33 2. [The provisions of subsection 1 of this section shall not apply to
34 noncommercial gas wells.

35 3.] Applicants seeking a permit for a noncommercial gas well shall file a
36 bond [or other instrument of credit acceptable to the council equal to the greater
37 of three hundred dollars or one dollar and fifty cents per well foot] **pursuant to**
38 **paragraph (d) of subdivision (1) of subsection 5 of section 259.070** and
39 meet the following conditions and procedures: an owner of a noncommercial gas
40 well with drilling rights may apply for the establishment of a drilling unit
41 [containing no less than three acres,] with a well set back of one hundred
42 sixty-five feet on which a well no deeper than eight hundred feet in depth may be
43 drilled. An owner **of a noncommercial gas well** may apply to the council for
44 a variance to establish a drilling unit [of less than three acres and/or less than
45 one hundred sixty-five feet], **to set back distances, or both.**

259.190. 1. Illegal oil, illegal gas, and illegal product are declared to be
2 contraband and are subject to seizure and sale as herein provided; seizure and
3 sale to be in addition to any and all other remedies and penalties provided in this
4 chapter for violations relating to illegal oil, illegal gas, or illegal
5 product. Whenever the council believes that any oil, gas or product is illegal, the
6 council, acting by the attorney general, shall bring a civil action in rem in the
7 circuit court of the county where such oil, gas, or product is found, to seize and

8 sell the same, or the council may include such an action in rem for the seizure
9 and sale of illegal oil, illegal gas, or illegal product in any suit brought for an
10 injunction or penalty involving illegal oil, illegal gas, or illegal product. Any
11 person claiming an interest in oil, gas, or product affected by any such action
12 shall have the right to intervene as an interested party in such action.

13 2. Actions for the seizure and sale of illegal oil, illegal gas, or illegal
14 product shall be strictly in rem, and shall proceed in the name of the state as
15 plaintiff against the illegal oil, illegal gas, or illegal products as defendant. No
16 bond or similar undertaking shall be required of the plaintiff. Upon the filing of
17 the petition for seizure and sale, the attorney general shall issue a notice, with
18 a copy of the complaint attached thereto, which shall be served in the manner
19 provided for service of original notices in civil actions, upon any and all persons
20 having or claiming any interest in the illegal oil, illegal gas, or illegal products
21 described in the petition. Service shall be completed by the filing of an affidavit
22 by the person making the service, stating the time and manner of making such
23 service. Any person who fails to appear and answer within the period of thirty
24 days shall be forever barred by the judgment based on such service. If the court,
25 on a properly verified petition, or affidavits, or oral testimony, finds that grounds
26 for seizure and for sale exist, the court shall issue an immediate order of seizure,
27 describing the oil, gas, or product to be seized and directing the sheriff of the
28 county to take such oil, gas, or product into his custody, actual or constructive,
29 and to hold the same subject to the further order of the court. The court, in such
30 order of seizure, may direct the sheriff to deliver the oil, gas, or product seized by
31 him under the order to an agent appointed by the court as the agent of the court;
32 such agent to give bond in an amount and with such surety as the court may
33 direct, conditioned upon his compliance with the orders of the court concerning
34 the custody and disposition of such oil, gas, or product.

35 3. Any person having an interest in oil, gas, or product described in an
36 order of seizure and contesting the right of the state to the seizure and sale
37 thereof may, prior to the sale thereof as herein provided, obtain the release
38 thereof, upon furnishing bond to the sheriff, approved by the court, in an amount
39 equal to one hundred fifty percent of the market value of the oil, gas, or product
40 to be released, and conditioned as the court may direct upon redelivery to the
41 sheriff of such product released or upon payment to the sheriff of the market
42 value thereof as the court may direct, if and when ordered by the court, and upon
43 full compliance with the further orders of the court.

44 4. If the court, after a hearing upon a petition for the seizure and sale of
45 oil, gas, or product, finds that such oil, gas, or product is contraband, the court
46 shall order the sale thereof by the sheriff in the same manner and upon the same
47 notice of sale as provided by law for the sale of personal property on execution of
48 judgment entered in a civil action except that the court may order that the illegal
49 oil, illegal gas, or illegal product be sold in specified lots or portions and at
50 specified intervals. Upon such sale, title to the oil, gas, or product sold shall vest
51 in the purchaser free of the claims of any and all persons having any title thereto
52 or interest therein at or prior to the seizure thereof, and the same shall be legal
53 oil, legal gas, or legal product, as the case may be, in the hands of the purchaser.

54 5. All proceeds derived from the sale of illegal oil, illegal gas, or illegal
55 product, as above provided, after payment of costs of suit and expenses incident
56 to the sale, all amounts obtained by the council from the forfeiture of surety or
57 personal bonds required under paragraph (d) of subdivision (1) **of subsection 5**
58 **of section 259.070, and any money recovered under subsection 1 of section 259.200**
59 **shall be paid to the state treasurer and credited to the "Oil and Gas Remedial**
60 **Fund", which is hereby created. The money in the oil and gas remedial fund may**
61 **be used by the council to pay for the plugging of, or other remedial measures on,**
62 **wells [and to pay the expenses incurred by the council in performing the duties**
63 **imposed on it by this chapter. Any unexpended balance in the fund at the end**
64 **of the fiscal year not exceeding fifty thousand dollars is exempt from the**
65 **provisions of section 33.080 relating to transfer of unexpended balances to the**
66 **ordinary revenue funds]. The state treasurer shall be custodian of the**
67 **fund and may approve disbursements from the fund in accordance with**
68 **sections 30.170 and 30.180. Notwithstanding the provisions of section**
69 **33.080, to the contrary, any moneys remaining in the fund at the end of**
70 **the biennium shall not revert to the credit of the general revenue**
71 **fund. The state treasurer shall invest moneys in the fund in the same**
72 **manner as other funds are invested. Any interest and moneys earned**
73 **on such investments shall be credited to the fund.**

260.273. 1. Any person purchasing a new tire may present to the seller
2 the used tire or remains of such used tire for which the new tire purchased is to
3 replace.

4 2. A fee for each new tire sold at retail shall be imposed on any person
5 engaging in the business of making retail sales of new tires within this
6 state. The fee shall be charged by the retailer to the person who purchases a tire

7 for use and not for resale. Such fee shall be imposed at the rate of fifty cents for
8 each new tire sold. Such fee shall be added to the total cost to the purchaser at
9 retail after all applicable sales taxes on the tires have been computed. The fee
10 imposed, less six percent of fees collected, which shall be retained by the tire
11 retailer as collection costs, shall be paid to the department of revenue in the form
12 and manner required by the department of revenue and shall include the total
13 number of new tires sold during the preceding month. The department of revenue
14 shall promulgate rules and regulations necessary to administer the fee collection
15 and enforcement. The terms "sold at retail" and "retail sales" do not include the
16 sale of new tires to a person solely for the purpose of resale, if the subsequent
17 retail sale in this state is to the ultimate consumer and is subject to the fee.

18 3. The department of revenue shall administer, collect and enforce the fee
19 authorized pursuant to this section pursuant to the same procedures used in the
20 administration, collection and enforcement of the general state sales and use tax
21 imposed pursuant to chapter 144 except as provided in this section. The proceeds
22 of the new tire fee, less four percent of the proceeds, which shall be retained by
23 the department of revenue as collection costs, shall be transferred by the
24 department of revenue into an appropriate subaccount of the solid waste
25 management fund, created pursuant to section 260.330.

26 4. Up to five percent of the revenue available may be allocated, upon
27 appropriation, to the department of natural resources to be used cooperatively
28 with the department of elementary and secondary education for the purposes of
29 developing environmental educational materials, programs, and curriculum that
30 assist in the department's implementation of sections 260.200 to 260.345.

31 5. Up to fifty percent of the moneys received pursuant to this section may,
32 upon appropriation, be used to administer the programs imposed by this section.
33 Up to forty-five percent of the moneys received under this section may, upon
34 appropriation, be used for the grants authorized in subdivision (2) of subsection
35 6 of this section. All remaining moneys shall be allocated, upon appropriation,
36 for the projects authorized in section 260.276, except that any unencumbered
37 moneys may be used for public health, environmental, and safety projects in
38 response to environmental or public health emergencies and threats as
39 determined by the director.

40 6. The department shall promulgate, by rule, a statewide plan for the use
41 of moneys received pursuant to this section to accomplish the following:

42 (1) Removal of [waste] **scrap** tires from illegal tire dumps;

43 (2) Providing grants to persons that will use products derived from
44 [waste] **scrap** tires, or [used waste] **used scrap** tires as a fuel or fuel
45 supplement; and

46 (3) Resource recovery activities conducted by the department pursuant to
47 section 260.276.

48 7. The fee imposed in subsection 2 of this section shall begin the first day
49 of the month which falls at least thirty days but no more than sixty days
50 immediately following August 28, 2005, and shall terminate January 1, [2015]
51 **2020**.

260.279. In letting contracts for the performance of any job or service for
2 the removal or clean up of waste tires under this chapter, the department of
3 natural resources shall, in addition to the requirements of sections 34.073 and
4 34.076 and any other points awarded during the evaluation process, give to any
5 vendor that meets one or more of the following factors a five percent preference
6 and ten bonus points for each factor met:

7 (1) The bid is submitted by a vendor that has resided or maintained its
8 headquarters or principal place of business in Missouri continuously for the two
9 years immediately preceding the date on which the bid is submitted;

10 (2) The bid is submitted by a nonresident corporation vendor that has an
11 affiliate or subsidiary that employs at least twenty state residents and has
12 maintained its headquarters or principal place of business in Missouri
13 continuously for the two years immediately preceding the date on which the bid
14 is submitted;

15 (3) The bid is submitted by a vendor that resides or maintains its
16 headquarters or principal place of business in Missouri and, for the purposes of
17 completing the bid project and continuously over the entire term of the project,
18 an average of at least seventy-five percent of such vendor's employees are
19 Missouri residents who have resided in the state continuously for at least two
20 years immediately preceding the date on which the bid is submitted. Such vendor
21 must certify the residency requirements of this subdivision and submit a written
22 claim for preference at the time the bid is submitted;

23 (4) The bid is submitted by a nonresident vendor that has an affiliate or
24 subsidiary that employs at least twenty state residents and has maintained its
25 headquarters or principal place of business in Missouri and, for the purposes of
26 completing the bid project and continuously over the entire term of the project,
27 an average of at least seventy-five percent of such vendor's employees are

28 Missouri residents who have resided in the state continuously for at least two
29 years immediately preceding the date on which the bid is submitted. Such vendor
30 must certify the residency requirements of this section and submit a written
31 claim for preference at the time the bid is submitted;

32 (5) The bid is submitted by any vendor that provides written certification
33 that the end use of the tires collected during the project will be for fuel purposes
34 or for the manufacture of a useable good or product. For the purposes of this
35 section, the landfilling of [waste] **scrap** tires, [waste] **scrap** tire chips, or [waste]
36 **scrap** tire shreds in any manner, including landfill cover, shall not permit the
37 vendor a preference.

260.380. 1. After six months from the effective date of the standards,
2 rules and regulations adopted by the commission pursuant to section 260.370,
3 hazardous waste generators located in Missouri shall:

4 (1) Promptly file and maintain with the department, on registration forms
5 it provides for this purpose, information on hazardous waste generation and
6 management as specified by rules and regulations. Hazardous waste generators
7 shall pay a one hundred dollar registration fee upon initial registration, and a
8 one hundred dollar registration renewal fee annually thereafter to maintain an
9 active registration. Such fees shall be deposited in the hazardous waste fund
10 created in section 260.391;

11 (2) Containerize and label all hazardous wastes as specified by standards,
12 rules and regulations;

13 (3) Segregate all hazardous wastes from all nonhazardous wastes and
14 from noncompatible wastes, materials and other potential hazards as specified by
15 standards, rules and regulations;

16 (4) Provide safe storage and handling, including spill protection, as
17 specified by standards, rules and regulations, for all hazardous wastes from the
18 time of their generation to the time of their removal from the site of generation;

19 (5) Unless provided otherwise in the rules and regulations, utilize only a
20 hazardous waste transporter holding a license pursuant to sections 260.350 to
21 260.430 for the removal of all hazardous wastes from the premises where they
22 were generated;

23 (6) Unless provided otherwise in the rules and regulations, provide a
24 separate manifest to the transporter for each load of hazardous waste transported
25 from the premises where it was generated. The generator shall specify the
26 destination of such load on the manifest. The manner in which the manifest shall

27 be completed, signed and filed with the department shall be in accordance with
28 rules and regulations;

29 (7) Utilize for treatment, resource recovery, disposal or storage of all
30 hazardous wastes, only a hazardous waste facility authorized to operate pursuant
31 to sections 260.350 to 260.430 or the federal Resource Conservation and Recovery
32 Act, or a state hazardous waste management program authorized pursuant to the
33 federal Resource Conservation and Recovery Act, or any facility exempted from
34 the permit required pursuant to section 260.395;

35 (8) Collect and maintain such records, perform such monitoring or
36 analyses, and submit such reports on any hazardous waste generated, its
37 transportation and final disposition, as specified in sections 260.350 to 260.430
38 and rules and regulations adopted pursuant to sections 260.350 to 260.430;

39 (9) Make available to the department upon request samples of waste and
40 all records relating to hazardous waste generation and management for inspection
41 and copying and allow the department to make unhampered inspections at any
42 reasonable time of hazardous waste generation and management facilities located
43 on the generator's property and hazardous waste generation and management
44 practices carried out on the generator's property;

45 (10) (a) Pay annually, on or before January first of each year, effective
46 January 1, 1982, a fee to the state of Missouri to be placed in the hazardous
47 waste fund. The fee shall be five dollars per ton or portion thereof of hazardous
48 waste registered with the department as specified in subdivision (1) of this
49 subsection for the twelve-month period ending June thirtieth of the previous
50 year. However, the fee shall not exceed fifty-two thousand dollars per generator
51 site per year nor be less than one hundred fifty dollars per generator site per
52 year.

53 (b) All moneys payable pursuant to the provisions of this subdivision shall
54 be promptly transmitted to the department of revenue, which shall deposit the
55 same in the state treasury to the credit of the hazardous waste fund created in
56 section 260.391.

57 (c) The hazardous waste management commission shall establish and
58 submit to the department of revenue procedures relating to the collection of the
59 fees authorized by this subdivision. Such procedures shall include, but not be
60 limited to, necessary records identifying the quantities of hazardous waste
61 registered, the form and submission of reports to accompany the payment of fees,
62 the time and manner of payment of fees, which shall not be more often than

63 quarterly.

64 (d) **Notwithstanding any statutory fee amounts or maximums to**
65 **the contrary**, the director of the department of natural resources may conduct
66 a comprehensive review [of] **and propose changes to** the fee structure set forth
67 in this section[. The comprehensive review shall include] **after holding**
68 stakeholder meetings in order to solicit stakeholder input from each of the
69 following groups: cement kiln representatives, chemical companies, large and
70 small hazardous waste generators, and any other interested parties. [Upon
71 completion of the comprehensive review,] The department shall submit a
72 proposed [changes to the] fee structure with stakeholder agreement to the
73 hazardous waste management commission. The commission shall[, upon
74 receiving the department's recommendations,] review such recommendations at
75 the forthcoming regular or special meeting, **but shall not vote on the fee**
76 **structure until a subsequent meeting**. [The commission shall not take a vote
77 on the fee structure until the following regular meeting.] If the commission
78 approves, by vote of two-thirds majority, the [hazardous waste] fee structure
79 recommendations, the commission shall [promulgate by regulation and publish
80 the recommended fee structure no later than October first of the same year. The
81 commission shall] **authorize the department to file a notice of proposed**
82 **rulemaking containing the recommended fee structure, and after**
83 **considering public comments may authorize the department to** file the
84 order of rulemaking for such rule with the joint committee on administrative
85 rules pursuant to sections 536.021 and 536.024 no later than December first of
86 the same year. [If such rules are not disapproved by the general assembly in the
87 manner set out below, they shall take effect on January first of the next
88 odd-numbered year and the fee structure set out in this section shall expire upon
89 the effective date of the commission-adopted fee structure, contrary to subsection
90 4 of this section. Any regulation promulgated under this subsection shall be
91 deemed to be beyond the scope and authority provided in this subsection, or
92 detrimental to permit applicants,] If the general assembly, within the first sixty
93 calendar days of the regular session immediately following [the promulgation of
94 such regulation, by concurrent resolution, shall disapprove the fee structure
95 contained in such regulation. If the general assembly so disapproves any
96 regulation promulgated under this subsection, the hazardous waste management
97 commission shall continue to use the fee structure set forth in the most recent
98 preceding regulation promulgated under this subsection.] **such filing,**

99 **disapproves such rule in accordance with section 536.028, then the**
100 **department and the commission shall not implement the proposed fee**
101 **structure and shall continue to use the previous fee structure. If such**
102 **rules are not disapproved by the general assembly in the manner set**
103 **out above, they shall take effect no sooner than January first after such**
104 **regular session, and any conflicting fee structure set forth in this**
105 **section shall expire upon the effective date of the new fee structure**
106 **adopted by the commission. The authority of the commission to further**
107 **revise the fee structure as provided by this subsection shall expire on**
108 **August 28, [2023] 2024.**

109 2. Missouri treatment, storage, or disposal facilities shall pay annually,
110 on or before January first of each year, a fee to the department equal to two
111 dollars per ton or portion thereof for all hazardous waste received from outside
112 the state. This fee shall be based on the hazardous waste received for the
113 twelve-month period ending June thirtieth of the previous year.

114 3. Exempted from the requirements of this section are individual
115 householders and farmers who generate only small quantities of hazardous waste
116 and any person the commission determines generates only small quantities of
117 hazardous waste on an infrequent basis, except that:

118 (1) Householders, farmers and exempted persons shall manage all
119 hazardous wastes they may generate in a manner so as not to adversely affect the
120 health of humans, or pose a threat to the environment, or create a public
121 nuisance; and

122 (2) The department may determine that a specific quantity of a specific
123 hazardous waste requires special management. Upon such determination and
124 after public notice by press release or advertisement thereof, including
125 instructions for handling and delivery, generators exempted pursuant to this
126 subsection shall deliver, but without a manifest or the requirement to use a
127 licensed hazardous waste transporter, such waste to:

128 (a) Any storage, treatment or disposal site authorized to operate pursuant
129 to sections 260.350 to 260.430 or the federal Resource Conservation and Recovery
130 Act, or a state hazardous waste management program authorized pursuant to the
131 federal Resource Conservation and Recovery Act which the department designates
132 for this purpose; or

133 (b) A collection station or vehicle which the department may arrange for
134 and designate for this purpose.

135 4. Failure to pay the fee, or any portion thereof, prescribed in this section
136 by the due date shall result in the imposition of a penalty equal to fifteen percent
137 of the original fee. The fee prescribed in this section shall expire December 31,
138 2018, except that the department shall levy and collect this fee for any hazardous
139 waste generated prior to such date and reported to the department.

260.392. 1. As used in sections 260.392 to 260.399, the following terms
2 mean:

3 (1) "Cask", all the components and systems associated with the container
4 in which spent fuel, high-level radioactive waste, highway route controlled
5 quantity, or transuranic radioactive waste are stored;

6 (2) "High-level radioactive waste", the highly radioactive material
7 resulting from the reprocessing of spent nuclear fuel including liquid waste
8 produced directly in reprocessing and any solid material derived from such liquid
9 waste that contains fission products in sufficient concentrations, and other highly
10 radioactive material that the United States Nuclear Regulatory Commission has
11 determined to be high-level radioactive waste requiring permanent isolation;

12 (3) "Highway route controlled quantity", as defined in 49 CFR Part
13 173.403, as amended, a quantity of radioactive material within a single
14 package. Highway route controlled quantity shipments of thirty miles or less
15 within the state are exempt from the provisions of this section;

16 (4) "Low-level radioactive waste", any radioactive waste not classified as
17 high-level radioactive waste, transuranic radioactive waste, or spent nuclear fuel
18 by the United States Nuclear Regulatory Commission, consistent with existing
19 law. Shipment of all sealed sources meeting the definition of low-level radioactive
20 waste, shipments of low-level radioactive waste that are within a radius of no
21 more than fifty miles from the point of origin, and all naturally occurring
22 radioactive material given written approval for landfill disposal by the Missouri
23 department of natural resources under 10 CSR 80-3.010 are exempt from the
24 provisions of this section. Any low-level radioactive waste that has a radioactive
25 half-life equal to or less than one hundred twenty days is exempt from the
26 provisions of this section;

27 (5) "Shipper", the generator, owner, or company contracting for
28 transportation by truck or rail of the spent fuel, high-level radioactive waste,
29 highway route controlled quantity shipments, transuranic radioactive waste, or
30 low-level radioactive waste;

31 (6) "Spent nuclear fuel", fuel that has been withdrawn from a nuclear

32 reactor following irradiation, the constituent elements of which have not been
33 separated by reprocessing;

34 (7) "State-funded institutions of higher education", any campus of any
35 university within the state of Missouri that receives state funding and has a
36 nuclear research reactor;

37 (8) "Transuranic radioactive waste", defined in 40 CFR Part 191.02, as
38 amended, as waste containing more than one hundred nanocuries of
39 alpha-emitting transuranic isotopes with half-lives greater than twenty years, per
40 gram of waste. For the purposes of this section, transuranic waste shall not
41 include:

42 (a) High-level radioactive wastes;

43 (b) Any waste determined by the Environmental Protection Agency with
44 the concurrence of the Environmental Protection Agency administrator that does
45 not need the degree of isolation required by this section; or

46 (c) Any waste that the United States Nuclear Regulatory Commission has
47 approved for disposal on a case-by-case basis in accordance with 10 CFR Part 61,
48 as amended.

49 2. Any shipper that ships high-level radioactive waste, transuranic
50 radioactive waste, highway route controlled quantity shipments, spent nuclear
51 fuel, or low-level radioactive waste through or within the state shall be subject
52 to the fees established in this subsection, provided that no state-funded
53 institution of higher education that ships nuclear waste shall pay any such
54 fee. These higher education institutions shall reimburse the Missouri state
55 highway patrol directly for all costs related to shipment escorts. The fees for all
56 other shipments shall be:

57 (1) One thousand eight hundred dollars for each truck transporting
58 through or within the state high-level radioactive waste, transuranic radioactive
59 waste, spent nuclear fuel or highway route controlled quantity shipments. All
60 truck shipments of high-level radioactive waste, transuranic radioactive waste,
61 spent nuclear fuel, or highway route controlled quantity shipments are subject to
62 a surcharge of twenty-five dollars per mile for every mile over two hundred miles
63 traveled within the state;

64 (2) One thousand three hundred dollars for the first cask and one hundred
65 twenty-five dollars for each additional cask for each rail shipment through or
66 within the state of high-level radioactive waste, transuranic radioactive waste,
67 or spent nuclear fuel;

68 (3) One hundred twenty-five dollars for each truck or train transporting
69 low-level radioactive waste through or within the state.

70 The department of natural resources may accept an annual shipment fee as
71 negotiated with a shipper or accept payment per shipment.

72 3. All revenue generated from the fees established in subsection 2 of this
73 section shall be deposited into the environmental radiation monitoring fund
74 established in section 260.750 and shall be used by the department of natural
75 resources to achieve the following objectives and for purposes related to the
76 shipment of high-level radioactive waste, transuranic radioactive waste, highway
77 route controlled quantity shipments, spent nuclear fuel, or low-level radioactive
78 waste, including, but not limited to:

- 79 (1) Inspections, escorts, and security for waste shipment and planning;
- 80 (2) Coordination of emergency response capability;
- 81 (3) Education and training of state, county, and local emergency
82 responders;
- 83 (4) Purchase and maintenance of necessary equipment and supplies for
84 state, county, and local emergency responders through grants or other funding
85 mechanisms;
- 86 (5) Emergency responses to any transportation incident involving the
87 high-level radioactive waste, transuranic radioactive waste, highway route
88 controlled quantity shipments, spent nuclear fuel, or low-level radioactive waste;
- 89 (6) Oversight of any environmental remediation necessary resulting from
90 an incident involving a shipment of high-level radioactive waste, transuranic
91 radioactive waste, highway route controlled quantity shipments, spent nuclear
92 fuel, or low-level radioactive waste. Reimbursement for oversight of any such
93 incident shall not reduce or eliminate the liability of any party responsible for the
94 incident; such party may be liable for full reimbursement to the state or payment
95 of any other costs associated with the cleanup of contamination related to a
96 transportation incident;
- 97 (7) Administrative costs attributable to the state agencies which are
98 incurred through their involvement as it relates to the shipment of high-level
99 radioactive waste, transuranic radioactive waste, highway route controlled
100 quantity shipments, spent nuclear fuel, or low-level radioactive waste through or
101 within the state.

102 4. Nothing in this section shall preclude any other state agency from
103 receiving reimbursement from the department of natural resources and the

104 environmental radiation monitoring fund for services rendered that achieve the
105 objectives and comply with the provisions of this section.

106 5. Any unencumbered balance in the environmental radiation monitoring
107 fund that exceeds three hundred thousand dollars in any given fiscal year shall
108 be returned to shippers on a pro rata basis, based on the shipper's contribution
109 into the environmental radiation monitoring fund for that fiscal year.

110 6. The department of natural resources, in coordination with the
111 department of health and senior services and the department of public safety,
112 may promulgate rules necessary to carry out the provisions of this section. Any
113 rule or portion of a rule, as that term is defined in section 536.010, that is created
114 under the authority delegated in this section shall become effective only if it
115 complies with and is subject to all of the provisions of chapter 536 and, if
116 applicable, section 536.028. This section and chapter 536 are nonseverable and
117 if any of the powers vested with the general assembly pursuant to chapter 536 to
118 review, to delay the effective date, or to disapprove and annul a rule are
119 subsequently held unconstitutional, then the grant of rulemaking authority and
120 any rule proposed or adopted after August 28, 2009, shall be invalid and void.

121 7. All funds deposited in the environmental radiation monitoring fund
122 through fees established in subsection 2 of this section shall be utilized, subject
123 to appropriation by the general assembly, for the administration and enforcement
124 of this section by the department of natural resources. All interest earned by the
125 moneys in the fund shall accrue to the fund.

126 8. All fees shall be paid to the department of natural resources prior to
127 shipment.

128 9. Notice of any shipment of high-level radioactive waste, transuranic
129 radioactive waste, highway route controlled quantity shipments, or spent nuclear
130 fuel through or within the state shall be provided by the shipper to the governor's
131 designee for advanced notification, as described in 10 CFR Parts 71 and 73, as
132 amended, prior to such shipment entering the state. Notice of any shipment of
133 low-level radioactive waste through or within the state shall be provided by the
134 shipper to the Missouri department of natural resources before such shipment
135 enters the state.

136 10. Any shipper who fails to pay a fee assessed under this section, or fails
137 to provide notice of a shipment, shall be liable in a civil action for an amount not
138 to exceed ten times the amount assessed and not paid. The action shall be
139 brought by the attorney general at the request of the department of natural

140 resources. If the action involves a facility domiciled in the state, the action shall
141 be brought in the circuit court of the county in which the facility is located. If the
142 action does not involve a facility domiciled in the state, the action shall be
143 brought in the circuit court of Cole County.

144 11. Beginning on December 31, 2009, and every two years thereafter, the
145 department of natural resources shall prepare and submit a report on activities
146 of the environmental radiation monitoring fund to the general assembly. This
147 report shall include information on fee income received and expenditures made
148 by the state to enforce and administer the provisions of this section.

149 12. The provisions of this section shall not apply to high-level radioactive
150 waste, transuranic radioactive waste, highway route controlled quantity
151 shipments, spent nuclear fuel, or low-level radioactive waste shipped by or for the
152 federal government for military or national defense purposes.

153 13. [Under section 23.253 of the Missouri sunset act:

154 (1) The provisions of the new program authorized under this section shall
155 automatically sunset six years after August 28, 2009, unless reauthorized by an
156 act of the general assembly; and

157 (2) If such program is reauthorized,] The program authorized under this
158 section shall automatically sunset [twelve years after the effective date of the
159 reauthorization of this section; and

160 (3) This section shall terminate on September first of the calendar year
161 immediately following the calendar year in which the program authorized under
162 this section is sunset] **on August 28, 2024.**

260.475. 1. Every hazardous waste generator located in Missouri shall
2 pay, in addition to the fees imposed in section 260.380, a fee of twenty-five dollars
3 per ton annually on all hazardous waste which is discharged, deposited, dumped
4 or placed into or on the soil as a final action, and two dollars per ton on all other
5 hazardous waste transported off site. No fee shall be imposed upon any
6 hazardous waste generator who registers less than ten tons of hazardous waste
7 annually pursuant to section 260.380, or upon:

8 (1) Hazardous waste which must be disposed of as provided by a remedial
9 plan for an abandoned or uncontrolled hazardous waste site;

10 (2) Fly ash waste, bottom ash waste, slag waste and flue gas emission
11 control waste generated primarily from the combustion of coal or other fossil
12 fuels;

13 (3) Solid waste from the extraction, beneficiation and processing of ores

14 and minerals, including phosphate rock and overburden from the mining of
15 uranium ore and smelter slag waste from the processing of materials into
16 reclaimed metals;

17 (4) Cement kiln dust waste;

18 (5) Waste oil; or

19 (6) Hazardous waste that is:

20 (a) Reclaimed or reused for energy and materials;

21 (b) Transformed into new products which are not wastes;

22 (c) Destroyed or treated to render the hazardous waste nonhazardous; or

23 (d) Waste discharged to a publicly owned treatment works.

24 2. The fees imposed in this section shall be reported and paid to the
25 department on an annual basis not later than the first of January. The payment
26 shall be accompanied by a return in such form as the department may prescribe.

27 3. All moneys collected or received by the department pursuant to this
28 section shall be transmitted to the department of revenue for deposit in the state
29 treasury to the credit of the hazardous waste fund created pursuant to section
30 260.391. Following each annual reporting date, the state treasurer shall certify
31 the amount deposited in the fund to the commission.

32 4. If any generator or transporter fails or refuses to pay the fees imposed
33 by this section, or fails or refuses to furnish any information reasonably requested
34 by the department relating to such fees, there shall be imposed, in addition to the
35 fee determined to be owed, a penalty of fifteen percent of the fee shall be
36 deposited in the hazardous waste fund.

37 5. If the fees or any portion of the fees imposed by this section are not
38 paid by the date prescribed for such payment, there shall be imposed interest
39 upon the unpaid amount at the rate of ten percent per annum from the date
40 prescribed for its payment until payment is actually made, all of which shall be
41 deposited in the hazardous waste fund.

42 6. The state treasurer is authorized to deposit all of the moneys in the
43 hazardous waste fund in any of the qualified depositories of the state. All such
44 deposits shall be secured in such a manner and shall be made upon such terms
45 and conditions as are now or may hereafter be provided for by law relative to
46 state deposits. Interest received on such deposits shall be credited to the
47 hazardous waste fund.

48 7. This fee shall expire December 31, 2018, except that the department
49 shall levy and collect this fee for any hazardous waste generated prior to such

50 date and reported to the department.

51 8. **Notwithstanding any statutory fee amounts or maximums to**
52 **the contrary**, the director of the department of natural resources may conduct
53 a comprehensive review [of] **and propose changes to** the fee structure set forth
54 in this section[. The comprehensive review shall include] **after holding**
55 stakeholder meetings in order to solicit stakeholder input from each of the
56 following groups: cement kiln representatives, chemical companies, large and
57 small hazardous waste generators, and any other interested parties. [Upon
58 completion of the comprehensive review,] The department shall submit a
59 proposed [changes to the] fee structure with stakeholder agreement to the
60 hazardous waste management commission. The commission shall[, upon
61 receiving the department's recommendations,] review such recommendations at
62 the forthcoming regular or special meeting, **but shall not vote on the fee**
63 **structure until a subsequent meeting**. [The commission shall not take a vote
64 on the fee structure until the following regular meeting.] If the commission
65 approves, by vote of two-thirds majority, the [hazardous waste] fee structure
66 recommendations, the commission shall [promulgate by regulation and publish
67 the recommended fee structure no later than October first of the same year. The
68 commission shall] **authorize the department to file a notice of proposed**
69 **rulemaking containing the recommended fee structure, and after**
70 **considering public comments may authorize the department to** file the
71 order of rulemaking for such rule with the joint committee on administrative
72 rules pursuant to sections 536.021 and 536.024 no later than December first of
73 the same year. [If such rules are not disapproved by the general assembly in the
74 manner set out below, they shall take effect on January first of the next
75 odd-numbered year and the fee structure set out in this section shall expire upon
76 the effective date of the commission-adopted fee structure, contrary to subsection
77 7 of this section. Any regulation promulgated under this subsection shall be
78 deemed to be beyond the scope and authority provided in this subsection, or
79 detrimental to permit applicants,] If the general assembly, within the first sixty
80 calendar days of the regular session immediately following [the promulgation of
81 such regulation, by concurrent resolution, shall disapprove the fee structure
82 contained in such regulation. If the general assembly so disapproves any
83 regulation promulgated under this subsection, the hazardous waste management
84 commission shall continue to use the fee structure set forth in the most recent
85 preceding regulation promulgated under this subsection.] **such filing,**

86 **disapprove such rule in accordance with section 536.028, then the**
87 **department and the commission shall not implement the proposed fee**
88 **structure and shall continue to use the previous fee structure. If such**
89 **rules are not disapproved by the general assembly in the manner set**
90 **out in this section, they shall take effect no sooner than January first**
91 **after such regular session, and any conflicting fee structure set forth**
92 **in this section shall expire upon the effective date of the new fee**
93 **structure adopted by the commission. The authority of the commission**
94 **to further revise the fee structure as provided by this subsection shall**
95 **expire on August 28, [2023] 2024.**

444.510. As used in sections 444.500 to 444.755, unless the context clearly
2 indicates otherwise, the following words and terms mean:

3 (1) "Affected land", the pit area or area from which overburden has been
4 removed, or upon which overburden has been deposited;

5 (2) "Box cut", the first open cut in the mining of coal which results in the
6 placing of overburden on the surface of the land adjacent to the initial pit and
7 outside of the area of land to be mined;

8 (3) "Commission", the [land reclamation] **Missouri mining** commission
9 **within the department of natural resources** created by section 444.520;

10 (4) "Company owned land", land owned by the operator in fee simple;

11 (5) "Director", the **staff** director of the [land reclamation] **Missouri**
12 **mining** commission;

13 (6) "Gob", that portion of refuse consisting of waste coal or bony coal of
14 relatively large size which is separated from the marketable coal in the cleaning
15 process or solid refuse material, not readily waterborne or pumpable, without
16 crushing;

17 (7) "Highwall", that side of the pit adjacent to unmined land;

18 (8) "Leased land", all affected land where the operator does not own the
19 land in fee simple;

20 (9) "Operator", any person, firm or corporation engaged in or controlling
21 a strip mining operation;

22 (10) "Overburden", as applied to the strip mining of coal, means all of the
23 earth and other materials which lie above natural deposits of coal, and includes
24 such earth and other materials disturbed from their natural state in the process
25 of strip mining;

26 (11) "Owner", the owner of any right in the land other than the operator;

27 (12) "Peak", a projecting point of overburden created in the strip mining
28 process or that portion of unmined land remaining within the pit;

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

34 (14) "Pit", the place where coal is being or has been mined by strip
35 mining;

36 (15) "Refuse", all waste material directly connected with the cleaning and
37 preparation of substances mined by strip mining;

38 (16) "Ridge", a lengthened elevation of overburden created in the strip
39 mining process;

40 (17) "Strip mining", mining by removing the overburden lying above
41 natural deposits of coal, and mining directly from the natural deposits thereby
42 exposed, and includes mining of exposed natural deposits of coal over which no
43 overburden lies; except that "strip mining" of coal shall only mean those activities
44 exempted from the "Surface Coal Mining Law", pursuant to subsection 6 of
45 section 444.815.

444.520. 1. There is a [land reclamation] **Missouri mining** commission
2 whose domicile for administrative purposes is the department of natural
3 resources. The commission shall consist of the following [seven] **eight** persons:
4 The state geologist, the director of the department of conservation, the director
5 of staff of the clean water commission, and four other persons selected from the
6 general public who are residents of Missouri and who shall have an interest in
7 and knowledge of conservation and land reclamation, and one of whom shall in
8 addition have training and experience in surface mining, **one of whom shall in**
9 **addition have training and experience in subsurface mining**, but not
10 more than [one] **two** can have a direct connection with the mining industry. The
11 [four] **five** members from the general public shall be appointed by the governor,
12 by and with the advice and consent of the senate. No more than [two] **three** of
13 the appointed members shall belong to the same political party. The three
14 members who serve on the commission by virtue of their office may designate a
15 representative to attend any meetings in their place and exercise all their powers
16 and duties. All necessary personnel required by the commission shall be selected,
17 employed and discharged by the commission. The director of the department

18 shall not have the authority to abolish positions.

19 2. The initial term of the appointed members shall be as follows: Two
20 members, each from a different political party, shall be appointed for a term of
21 two years, and two members, each from a different political party, shall be
22 appointed for a term of four years. The governor shall designate the term of office
23 for each person appointed when making the initial appointment. The terms of
24 their successors shall be for four years. There is no limitation on the number of
25 terms any appointed member may serve. The terms of all members shall continue
26 until their successors have been duly appointed and qualified. If a vacancy occurs
27 in the appointed membership, the governor shall appoint a member for the
28 remaining portion of the unexpired term created by the vacancy. The governor
29 may remove any appointed member for cause.

30 3. All members of the commission shall serve without compensation for
31 their duties, but shall be reimbursed for necessary travel and other expenses
32 incurred in the performance of their official duties.

33 4. At the first meeting of the commission, which shall be called by the
34 state geologist, and at yearly intervals thereafter, the members shall select from
35 among themselves a chairman and a vice chairman. The members of the
36 commission shall appoint a qualified director who shall be a full-time employee
37 of the commission and who shall act as its administrative agent. The commission
38 shall determine the compensation of the director to be payable from
39 appropriations made for that purpose.

444.762. It is hereby declared to be the policy of this state to strike a
2 balance between [surface] mining of minerals and reclamation of land subjected
3 to surface disturbance by [surface] mining, as contemporaneously as possible, and
4 for the conservation of land, and thereby to preserve natural resources, to
5 encourage the planting of forests, to advance the seeding of grasses and legumes
6 for grazing purposes and crops for harvest, to aid in the protection of wildlife and
7 aquatic resources, to establish recreational, home and industrial sites, to protect
8 and perpetuate the taxable value of property, and to protect and promote the
9 health, safety and general welfare of the people of this state.

444.765. Wherever used or referred to in sections 444.760 to 444.790,
2 unless a different meaning clearly appears from the context, the following terms
3 mean:

4 (1) "Affected land", the pit area or area from which overburden shall have
5 been removed, or upon which overburden has been deposited after September 28,

6 1971. When mining is conducted underground, affected land means any
7 excavation or removal of overburden required to create access to mine openings,
8 except that areas of disturbance encompassed by the actual underground
9 openings for air shafts, portals, adits and haul roads in addition to disturbances
10 within fifty feet of any openings for haul roads, portals or adits shall not be
11 considered affected land. Sites which exceed the excluded areas by more than one
12 acre for underground mining operations shall obtain a permit for the total extent
13 of affected lands with no exclusions as required under sections 444.760 to
14 444.790;

15 (2) "Beneficiation", the dressing or processing of minerals for the purpose
16 of regulating the size of the desired product, removing unwanted constituents,
17 and improving the quality or purity of a desired product;

18 (3) "Commercial purpose", the purpose of extracting minerals for their
19 value in sales to other persons or for incorporation into a product;

20 (4) "Commission", the [land reclamation] **Missouri mining** commission
21 in the department of natural resources **created by section 444.520**;

22 (5) "Construction", construction, erection, alteration, maintenance, or
23 repair of any facility including but not limited to any building, structure,
24 highway, road, bridge, viaduct, water or sewer line, pipeline or utility line, and
25 demolition, excavation, land clearance, and moving of minerals or fill dirt in
26 connection therewith;

27 (6) "Department", the department of natural resources;

28 (7) "Director", the staff director of the [land reclamation] **Missouri**
29 **mining commission or an authorized representative of the department of**
30 **natural resources**;

31 (8) "Excavation", any operation in which earth, minerals, or other material
32 in or on the ground is moved, removed, or otherwise displaced for purposes of
33 construction at the site of excavation, by means of any tools, equipment, or
34 explosives and includes, but is not limited to, backfilling, grading, trenching,
35 digging, ditching, drilling, well-drilling, auguring, boring, tunneling, scraping,
36 cable or pipe plowing, plowing-in, pulling-in, ripping, driving, demolition of
37 structures, and the use of high-velocity air to disintegrate and suction to remove
38 earth and other materials. For purposes of this section, excavation or removal of
39 overburden for purposes of mining for a commercial purpose or for purposes of
40 reclamation of land subjected to surface mining is not included in this
41 definition. Neither shall excavations of sand and gravel by political subdivisions

42 using their own personnel and equipment or private individuals for personal use
43 be included in this definition;

44 (9) "Fill dirt", material removed from its natural location through mining
45 or construction activity, which is a mixture of unconsolidated earthy material,
46 which may include some minerals, and which is used to fill, raise, or level the
47 surface of the ground at the site of disposition, which may be at the site it was
48 removed or on other property, and which is not processed to extract mineral
49 components of the mixture. Backfill material for use in completing reclamation
50 is not included in this definition;

51 (10) "Land improvement", work performed by or for a public or private
52 owner or lessor of real property for purposes of improving the suitability of the
53 property for construction at an undetermined future date, where specific plans for
54 construction do not currently exist;

55 (11) "Mineral", a constituent of the earth in a solid state which, when
56 extracted from the earth, is usable in its natural form or is capable of conversion
57 into a usable form as a chemical, an energy source, or raw material for
58 manufacturing or construction material. For the purposes of this section, this
59 definition includes barite, tar sands, [and] oil shales, **cadmium, barium,**
60 **aluminum, nickel, cobalt, molybdenum, germanium, gallium, tellurium,**
61 **selenium, vanadium, indium, mercury, uranium, rare earth elements,**
62 **platinum group elements, manganese, phosphorus, sodium, titanium,**
63 **zirconium, lithium, thorium, or tungsten;** but does not include iron, lead,
64 zinc, gold, silver, coal, surface or subsurface water, fill dirt, natural oil or gas
65 together with other chemicals recovered therewith;

66 (12) "Mining", the removal of overburden and extraction of underlying
67 minerals or the extraction of minerals from exposed natural deposits for a
68 commercial purpose, as defined by this section;

69 (13) "Operator", any person, firm or corporation engaged in and
70 controlling a surface mining operation;

71 (14) "Overburden", all of the earth and other materials which lie above
72 natural deposits of minerals; and also means such earth and other materials
73 disturbed from their natural state in the process of surface mining other than
74 what is defined in subdivision (10) of this section;

75 (15) "Peak", a projecting point of overburden created in the surface mining
76 process;

77 (16) "Pit", the place where minerals are being or have been mined by

78 surface mining;

79 (17) "Public entity", the state or any officer, official, authority, board, or
80 commission of the state and any county, city, or other political subdivision of the
81 state, or any institution supported in whole or in part by public funds;

82 (18) "Refuse", all waste material directly connected with the cleaning and
83 preparation of substance mined by surface mining;

84 (19) "Ridge", a lengthened elevation of overburden created in the surface
85 mining process;

86 (20) "Site" or "mining site", any location or group of associated locations
87 separated by a natural barrier where minerals are being surface mined by the
88 same operator;

89 (21) "Surface mining", the mining of minerals for commercial purposes by
90 removing the overburden lying above natural deposits thereof, and mining
91 directly from the natural deposits thereby exposed, and shall include mining of
92 exposed natural deposits of such minerals over which no overburden lies and,
93 after August 28, 1990, the surface effects of underground mining operations for
94 such minerals. For purposes of the provisions of sections 444.760 to 444.790,
95 surface mining shall not include excavations to move minerals or fill dirt within
96 the confines of the real property where excavation occurs or to remove minerals
97 or fill dirt from the real property in preparation for construction at the site of
98 excavation. No excavation of fill dirt shall be deemed surface mining regardless
99 of the site of disposition or whether construction occurs at the site of excavation.

**444.768. 1. Notwithstanding any statutory fee amounts or
2 maximums to the contrary, the department of natural resources may
3 conduct a comprehensive review and propose changes to any fee, bond,
4 or assessment structure described in chapter 444, after holding
5 stakeholder meetings in order to solicit stakeholder input from
6 regulated entities and any other interested parties. The department
7 shall submit a proposed fee, bond, or assessment structure with
8 stakeholder agreement to the commission. The commission shall review
9 such recommendations at a forthcoming regular or special meeting, but
10 shall not vote on the proposed structure until a subsequent meeting. If
11 the commission approves, by vote of two-thirds majority, the
12 department's recommendations, the commission shall authorize the
13 department to file a notice of proposed rulemaking containing the
14 recommended structure, and after considering public comments may**

15 authorize the department to file the final order of rulemaking for such
16 rule with the joint committee on administrative rules pursuant to
17 sections 536.021 and 536.024 no later than December first of the same
18 year. If the general assembly, within the first sixty calendar days of
19 the regular session immediately following such filing, disapproves such
20 rule in accordance with section 536.028, then the department and the
21 commission shall not implement the proposed structure and shall
22 continue to use the previous fee structure. If such rules are not
23 disapproved by the general assembly in the manner set out above, they
24 shall take effect no sooner than January first after such regular
25 session, and any conflicting fee structure set forth in this chapter shall
26 expire upon the effective date of the new fee structure adopted by the
27 commission. The authority for the commission to further revise the fee,
28 bond, or assessment structure as provided in this subsection shall
29 expire on Aug. 28, 2024.

30 2. Failure to pay any fee, bond, or assessment, or any portion
31 thereof, referenced in this section by the due date may result in the
32 imposition of a late fee equal to fifteen percent of the unpaid amount,
33 plus ten percent interest per annum. Any order issued by the
34 department under chapter 444 may require payment of such
35 amounts. The department may bring an action in the appropriate
36 circuit court to collect any unpaid fee, late fee, interest, or attorney's
37 fees and costs incurred directly in fee collection. Such action may be
38 brought in the circuit court of the county in which the facility is
39 located, or in the circuit court of Cole County.

444.805. As used in this law, unless the context clearly indicates
2 otherwise, the following words and terms mean:

3 (1) "Approximate original contour", that surface configuration achieved by
4 backfilling and grading of the mined area so that the reclaimed area, including
5 any terracing or access roads, closely resembles the general surface configuration
6 of the land prior to mining and blends into and complements the drainage pattern
7 of the surrounding terrain, with all highwalls and spoil piles eliminated; water
8 impoundments may be permitted where the commission determines that they are
9 in compliance with subdivision (8) of subsection 2 of section 444.855;

10 (2) "Coal preparation area", that portion of the permitted area used for the
11 beneficiation of raw coal and structures related to the beneficiation process such
12 as the washer, tipple, crusher, slurry pond or ponds, gob pile and all waste

13 material directly connected with the cleaning, preparation and shipping of coal,
14 but does not include subsurface coal waste disposal areas;

15 (3) "Coal preparation area reclamation", the reclamation of the coal
16 preparation area by disposal or burial or both of coal waste according to the
17 approved reclamation plan, the replacement of topsoil, and initial seeding;

18 (4) "Commission", the [land reclamation] **Missouri mining** commission
19 created by section 444.520;

20 (5) "Director", the **staff** director of the [land reclamation] **Missouri**
21 **mining** commission;

22 (6) "Federal lands", any land, including mineral interests, owned by the
23 United States without regard to how the United States acquired ownership of the
24 land and without regard to the agency having responsibility for management
25 thereof, except Indian lands;

26 (7) "Federal lands program", a program established by the United States
27 Secretary of the Interior to regulate surface coal mining and reclamation
28 operations on federal lands;

29 (8) "Imminent danger to the health and safety of the public", the existence
30 of any condition or practice, or any violation of a permit or other requirement of
31 this law in a surface coal mining and reclamation operation, which condition,
32 practice, or violation could reasonably be expected to cause substantial physical
33 harm to persons outside the permit area before such condition, practice, or
34 violation can be abated. A reasonable expectation of death or serious injury
35 before abatement exists if a rational person, subjected to the same conditions or
36 practices giving rise to the peril, would not expose himself or herself to the
37 danger during the time necessary for abatement;

38 (9) "Operator", any person engaged in coal mining;

39 (10) "Permit", a permit to conduct surface coal mining and reclamation
40 operations issued by the commission;

41 (11) "Permit area", the area of land indicated on the approved map
42 submitted by the operator with his application, which area of land shall be
43 covered by the operator's bond and shall be readily identifiable by appropriate
44 markers on the site;

45 (12) "Permittee", a person holding a permit;

46 (13) "Person", any individual, partnership, copartnership, firm, company,
47 public or private corporation, association, joint stock company, trust, estate,
48 political subdivision, or any agency, board, department, or bureau of the state or

49 federal government, or any other legal entity whatever which is recognized by law
50 as the subject of rights and duties;

51 (14) "Phase I reclamation", the filling and grading of all areas disturbed
52 in the conduct of surface coal mining operations, including the replacement of top
53 soil and initial seeding;

54 (15) "Phase I reclamation bond", a bond for performance filed by a
55 permittee pursuant to section 444.950 that may have no less than eighty percent
56 released upon the successful completion of phase I reclamation of a permit area
57 in accordance with the approved reclamation plan, with the rest of the bond
58 remaining in effect until phase III liability is released;

59 (16) "Prime farmland", land which historically has been used for intensive
60 agricultural purposes, and which meets the technical criteria established by the
61 commission on the basis of such factors as moisture availability, temperature
62 regime, chemical balance, permeability, surface layer composition, susceptibility
63 to flooding, and erosion characteristics;

64 (17) "Reclamation plan", a plan submitted by an applicant for a permit
65 which sets forth a plan for reclamation of the proposed surface coal mining
66 operations;

67 (18) "Surface coal mining and reclamation operations", surface coal mining
68 operations and all activities necessary and incident to the reclamation of such
69 operations;

70 (19) "Surface coal mining operations", or "affected land", or "disturbed
71 land":

72 (a) Activities conducted on the surface of lands in connection with a
73 surface coal mine or surface operations and surface impacts incident to an
74 underground coal mine. Such activities include excavation for the purpose of
75 obtaining coal including such common methods as contour, strip, auger,
76 mountaintop removal, box cut, open pit, and area mining, the uses of explosives
77 and blasting, and in situ distillation or retorting, leaching or other chemical or
78 physical processing, and the cleaning, concentrating, or other processing or
79 preparation, loading of coal at or near the mine site; provided, however, that such
80 activities do not include the extraction of coal incidental to the extraction of other
81 minerals where coal does not exceed sixteen and two-thirds percentum of the
82 tonnage of minerals removed for purposes of commercial use or sale, or coal
83 explorations subject to section 444.845; and

84 (b) The areas upon which such activities occur or where such activities

85 disturb the natural land surface. Such areas shall also include any adjacent land
86 the use of which is incidental to any such activities, all lands affected by the
87 construction of new roads or the improvement or use of existing roads to gain
88 access to the site of such activities and for haulage, and excavations, workings,
89 impoundments, dams, ventilation shafts, entryways, refuse banks, dumps,
90 stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or
91 depressions, repair areas, storage areas, processing areas, shipping areas and
92 other areas upon which are sited structures, facilities, or other property or
93 materials on the surface, resulting from or incident to such activities;

94 (20) "This law" or "law", sections 444.800 to 444.970;

95 (21) "Unwarranted failure to comply", the failure of a permittee to prevent
96 the occurrence of any violation of the permit, reclamation plan, law or rule and
97 regulation, due to indifference, lack of diligence, or lack of reasonable care, or the
98 failure to abate any such violation due to indifference, lack of diligence, or lack
99 of reasonable care.

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. Any
36 such state certification shall satisfy any need for local certification as a backflow
37 prevention assembly tester. However, political subdivisions may set additional
38 testing standards for individuals who are seeking to be certified as backflow
39 prevention assembly testers. Notwithstanding any other provision of law to the
40 contrary, agencies of the state or its political subdivisions shall only require
41 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 the department of natural resources and the
52 department of health and senior services, laboratory certification and program
53 administration as required by sections 640.100 to 640.140. The laboratory
54 services and program administration fees pursuant to this subsection shall not
55 exceed two hundred dollars for a supplier supplying less than four thousand one
56 hundred service connections, three hundred dollars for supplying less than seven
57 thousand six hundred service connections, five hundred dollars for supplying

58 seven thousand six hundred or more service connections, and five hundred dollars
 59 for testing surface water. Such fees shall be deposited in the safe drinking water
 60 fund as specified in section 640.110. The analysis of all drinking water required
 61 by section 192.320 and sections 640.100 to 640.140 shall be made by the
 62 department of natural resources laboratories, department of health and senior
 63 services laboratories or laboratories certified by the department of natural
 64 resources.

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

69 5. (1) For the purpose of complying with federal requirements for
 70 maintaining the primacy of state enforcement of the federal Safe Drinking Water
 71 Act, the department is hereby directed to request appropriations from the general
 72 revenue fund and all other appropriate sources to fund the activities of the public
 73 drinking water program and in addition to the fees authorized pursuant to
 74 subsection 3 of this section, an annual fee for each customer service connection
 75 with a public water system is hereby authorized to be imposed upon all customers
 76 of public water systems in this state. [The fees collected shall not exceed the
 77 amounts specified in this subsection and the commission may set the fees, by
 78 rule, in a lower amount by proportionally reducing all fees charged pursuant to
 79 this subsection from the specified maximum amounts. Reductions shall be
 80 roughly proportional but in each case shall be divisible by twelve.] Each customer
 81 of a public water system shall pay an annual fee for each customer service
 82 connection.

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

87	1 to 1,000 connections.....	\$ 3.24
88	1,001 to 4,000 connections.....	3.00
89	4,001 to 7,000 connections.....	2.76
90	7,001 to 10,000 connections.....	2.40
91	10,001 to 20,000 connections.....	2.16
92	20,001 to 35,000 connections.....	1.92
93	35,001 to 50,000 connections.....	1.56

94 50,001 to 100,000 connections..... 1.32

95 More than 100,000 connections..... 1.08.

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

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

106 6. Fees imposed pursuant to subsection 5 of this section shall become
107 effective on August 28, 2006, and shall be collected by the public water system
108 serving the customer beginning September 1, 2006, and continuing until such
109 time that the safe drinking water commission, at its discretion, specifies a [lower]
110 **different** amount under [subdivision (1) of] subsection [5] **8** of this section. The
111 commission shall promulgate rules and regulations on the procedures for billing,
112 collection and delinquent payment. Fees collected by a public water system
113 pursuant to subsection 5 of this section **and fees established by the**
114 **commission pursuant to subsection 8 of this section** are state fees. The
115 annual fee shall be enumerated separately from all other charges, and shall be
116 collected in monthly, quarterly or annual increments. Such fees shall be
117 transferred to the director of the department of revenue at frequencies not less
118 than quarterly. Two percent of the revenue arising from the fees shall be
119 retained by the public water system for the purpose of reimbursing its expenses
120 for billing and collection of such fees.

121 7. Imposition and collection of the fees authorized in subsection 5 **and**
122 **fees established by the commission pursuant to subsection 8** of this
123 section shall be suspended on the first day of a calendar quarter if, during the
124 preceding calendar quarter, the federally delegated authority granted to the safe
125 drinking water program within the department of natural resources to administer
126 the Safe Drinking Water Act, 42 U.S.C. 300g-2, is withdrawn. The fee shall not
127 be reinstated until the first day of the calendar quarter following the quarter
128 during which such delegated authority is reinstated.

129 8. [Fees imposed pursuant to subsection 5 of this section shall expire on

130 September 1, 2017.] **Notwithstanding any statutory fee amounts or**
131 **maximums to the contrary, the department of natural resources may**
132 **conduct a comprehensive review and propose changes to the fee**
133 **structure authorized by this section after holding stakeholder meetings**
134 **in order to solicit stakeholder input from public and private water**
135 **suppliers, and any other interested parties. The department shall**
136 **submit a proposed fee structure with stakeholder agreement to the safe**
137 **drinking water commission. The commission shall review such**
138 **recommendations at a forthcoming regular or special meeting but shall**
139 **not vote on the fee structure until a subsequent meeting. If the**
140 **commission approves, by vote of two-thirds majority, the fee structure**
141 **recommendations, the commission shall authorize the department to**
142 **file a notice of proposed rulemaking containing the recommended fee**
143 **structure, and after considering public comments may authorize the**
144 **department to file the final order of rulemaking for such rule with the**
145 **joint committee on administrative rules pursuant to sections 536.021**
146 **and 536.024 no later than December first of the same year. If the**
147 **general assembly, within the first sixty calendar days of the regular**
148 **session immediately following such filing, disapproves such rule in**
149 **accordance with section 536.028, then the department and the**
150 **commission shall not implement the proposed fee structure and shall**
151 **continue to use the previous fee structure. If such rules are not**
152 **disapproved by the general assembly in the manner set out above, they**
153 **shall take effect no sooner than January first after such regular**
154 **session, and any conflicting fee structure set forth in this section shall**
155 **expire upon the effective date of the new fee structure adopted by the**
156 **commission. The authority of the commission to further revise the fee**
157 **structure as provided by this subsection shall expire on August 28,**
158 **2024.**

643.079. 1. Any air contaminant source required to obtain a permit
2 issued under sections 643.010 to 643.355 shall pay annually beginning April 1,
3 1993, a fee as provided herein. For the first year the fee shall be twenty-five
4 dollars per ton of each regulated air contaminant emitted. Thereafter, the fee
5 shall be set every three years by the commission by rule and shall be at least
6 twenty-five dollars per ton of regulated air contaminant emitted but not more
7 than forty dollars per ton of regulated air contaminant emitted in the previous
8 calendar year. If necessary, the commission may make annual adjustments to the

9 fee by rule. The fee shall be set at an amount consistent with the need to fund
10 the reasonable cost of administering sections 643.010 to 643.355, taking into
11 account other moneys received pursuant to sections 643.010 to 643.355. For the
12 purpose of determining the amount of air contaminant emissions on which the
13 fees authorized under this section are assessed, a facility shall be considered one
14 source under the definition of subsection 2 of section 643.078, except that a
15 facility with multiple operating permits shall pay the emission fees authorized
16 under this section separately for air contaminants emitted under each individual
17 permit.

18 2. A source which produces charcoal from wood shall pay an annual
19 emission fee under this subsection in lieu of the fee established in subsection 1
20 of this section. The fee shall be based upon a maximum fee of twenty-five dollars
21 per ton and applied upon each ton of regulated air contaminant emitted for the
22 first four thousand tons of each contaminant emitted in the amount established
23 by the commission pursuant to subsection 1 of this section, reduced according to
24 the following schedule:

25 (1) For fees payable under this subsection in the years 1993 and 1994, the
26 fee shall be reduced by one hundred percent;

27 (2) For fees payable under this subsection in the years 1995, 1996 and
28 1997, the fee shall be reduced by eighty percent;

29 (3) For fees payable under this subsection in the years 1998, 1999 and
30 2000, the fee shall be reduced by sixty percent.

31 3. The fees imposed in subsection 2 of this section shall not be imposed
32 or collected after the year 2000 unless the general assembly reimposes the fee.

33 4. Each air contaminant source with a permit issued under sections
34 643.010 to 643.355 shall pay the fee for the first four thousand tons of each
35 regulated air contaminant emitted each year but no air contaminant source shall
36 pay fees on total emissions of regulated air contaminants in excess of twelve
37 thousand tons in any calendar year. A permitted air contaminant source which
38 emitted less than one ton of all regulated pollutants shall pay a fee equal to the
39 amount per ton set by the commission. An air contaminant source which pays
40 emission fees to a holder of a certificate of authority issued pursuant to section
41 643.140 may deduct such fees from any amount due under this section. The fees
42 imposed in this section shall not be applied to carbon oxide emissions. The fees
43 imposed in subsection 1 and this subsection shall not be applied to sulfur dioxide
44 emissions from any Phase I affected unit subject to the requirements of Title IV,

45 Section 404, of the federal Clean Air Act, as amended, 42 U.S.C. 7651, et seq., any
46 sooner than January 1, 2000. The fees imposed on emissions from Phase I
47 affected units shall be consistent with and shall not exceed the provisions of the
48 federal Clean Air Act, as amended, and the regulations promulgated
49 thereunder. Any such fee on emissions from any Phase I affected unit shall be
50 reduced by the amount of the service fee paid by that Phase I affected unit
51 pursuant to subsection 8 of this section in that year. Any fees that may be
52 imposed on Phase I sources shall follow the procedures set forth in subsection 1
53 and this subsection and shall not be applied retroactively.

54 5. Moneys collected under this section shall be transmitted to the director
55 of revenue for deposit in appropriate subaccounts of the natural resources
56 protection fund created in section 640.220. A subaccount shall be maintained for
57 fees paid by air contaminant sources which are required to be permitted under
58 Title V of the federal Clean Air Act, as amended, 42 U.S.C. Section 7661, et seq.,
59 and used, upon appropriation, to fund activities by the department to implement
60 the operating permits program authorized by Title V of the federal Clean Air Act,
61 as amended. Another subaccount shall be maintained for fees paid by air
62 contaminant sources which are not required to be permitted under Title V of the
63 federal Clean Air Act as amended, and used, upon appropriation, to fund other
64 air pollution control program activities. Another subaccount shall be maintained
65 for service fees paid under subsection 8 of this section by Phase I affected units
66 which are subject to the requirements of Title IV, Section 404, of the federal
67 Clean Air Act Amendments of 1990, as amended, 42 U.S.C. 7651, and used, upon
68 appropriation, to fund air pollution control program activities. The provisions of
69 section 33.080 to the contrary notwithstanding, moneys in the fund shall not
70 revert to general revenue at the end of each biennium. Interest earned by
71 moneys in the subaccounts shall be retained in the subaccounts. The per-ton fees
72 established under subsection 1 of this section may be adjusted annually,
73 consistent with the need to fund the reasonable costs of the program, but shall
74 not be less than twenty-five dollars per ton of regulated air contaminant nor more
75 than forty dollars per ton of regulated air contaminant. The first adjustment
76 shall apply to moneys payable on April 1, 1994, and shall be based upon the
77 general price level for the twelve-month period ending on August thirty-first of
78 the previous calendar year.

79 6. The department may initiate a civil action in circuit court against any
80 air contaminant source which has not remitted the appropriate fees within thirty

81 days. In any judgment against the source, the department shall be awarded
82 interest at a rate determined pursuant to section 408.030 and reasonable
83 attorney's fees. In any judgment against the department, the source shall be
84 awarded reasonable attorney's fees.

85 7. The department shall not suspend or revoke a permit for an air
86 contaminant source solely because the source has not submitted the fees pursuant
87 to this section.

88 8. Any Phase I affected unit which is subject to the requirements of Title
89 IV, Section 404, of the federal Clean Air Act, as amended, 42 U.S.C. 7651, shall
90 pay annually beginning April 1, 1993, and terminating December 31, 1999, a
91 service fee for the previous calendar year as provided herein. For the first year,
92 the service fee shall be twenty-five thousand dollars for each Phase I affected
93 generating unit to help fund the administration of sections 643.010 to
94 643.355. Thereafter, the service fee shall be annually set by the commission by
95 rule, following public hearing, based on an annual allocation prepared by the
96 department showing the details of all costs and expenses upon which such fees
97 are based consistent with the department's reasonable needs to administer and
98 implement sections 643.010 to 643.355 and to fulfill its responsibilities with
99 respect to Phase I affected units, but such service fee shall not exceed twenty-five
100 thousand dollars per generating unit. Any such Phase I affected unit which is
101 located on one or more contiguous tracts of land with any Phase II generating
102 unit that pays fees under subsection 1 or subsection 2 of this section shall be
103 exempt from paying service fees under this subsection. A "contiguous tract of
104 land" shall be defined to mean adjacent land, excluding public roads, highways
105 and railroads, which is under the control of or owned by the permit holder and
106 operated as a single enterprise.

107 9. The department of natural resources shall determine the fees due
108 pursuant to this section by the state of Missouri and its departments, agencies
109 and institutions, including two- and four-year institutions of higher
110 education. The director of the department of natural resources shall forward the
111 various totals due to the joint committee on capital improvements and the
112 directors of the individual departments, agencies and institutions. The
113 departments, as part of the budget process, shall annually request by specific line
114 item appropriation funds to pay said fees and capital funding for projects
115 determined to significantly improve air quality. If the general assembly fails to
116 appropriate funds for emissions fees as specifically requested, the departments,

117 agencies and institutions shall pay said fees from other sources of revenue or
118 funds available. The state of Missouri and its departments, agencies and
119 institutions may receive assistance from the small business technical assistance
120 program established pursuant to section 643.173.

121 10. **Notwithstanding any statutory fee amounts or maximums to**
122 **the contrary**, the [director of the] department of natural resources may conduct
123 a comprehensive review [of] **and propose changes to** the fee structure [set
124 forth in this section. The comprehensive review shall include] **authorized by**
125 **sections 643.073, 643.075, 643.079, 643.225, 643.228, 643.232, 643.237, and**
126 **643.242 after holding** stakeholder meetings in order to solicit stakeholder input
127 from each of the following groups: electric utilities, mineral and metallic mining
128 and processing facilities, cement kiln representatives, and any other interested
129 industrial or business entities or interested parties. [Upon completion of the
130 comprehensive review,] The department shall submit a proposed [changes to the]
131 fee structure with stakeholder agreement to the air conservation
132 commission. The commission shall[, upon receiving the department's
133 recommendations,] review such recommendations at the forthcoming regular or
134 special meeting **but shall not vote on the fee structure until a subsequent**
135 **meeting**. [The commission shall review fee structure recommendations from the
136 department. The commission shall not take a vote on the fee structure
137 recommendations until the following regular or special meeting.] If the
138 commission approves, by vote of two-thirds majority [or five of seven
139 commissioners], the fee structure recommendations, the commission shall
140 [promulgate by regulation and publish the recommended fee structure no later
141 than October first of the same year. The commission shall] **authorize the**
142 **department to file a notice of proposed rulemaking containing the**
143 **recommended fee structure, and after considering public comments,**
144 **may authorize the department to** file the order of rulemaking for such rule
145 with the joint committee on administrative rules pursuant to sections 536.021
146 and 536.024 no later than December first of the same year. [If such rules are not
147 disapproved by the general assembly in the manner set out below, they shall take
148 effect on January first of the next odd-numbered year and the fee structure set
149 out in this section shall expire upon the effective date of the commission-adopted
150 fee structure. Any regulation promulgated under this subsection shall be deemed
151 to be beyond the scope and authority provided in this subsection, or detrimental
152 to permit applicants,] If the general assembly, within the first sixty calendar days

153 of the regular session immediately following [the promulgation of such regulation,
154 by concurrent resolution, shall disapprove the fee structure contained in such
155 regulation. If the general assembly so disapproves any regulation promulgated
156 under this subsection, the air conservation] **such filing, disapproves such**
157 **rule in accordance with section 536.028, then the department and the**
158 commission shall continue to use the **previous** fee structure [set forth in the
159 most recent preceding regulation promulgated under this subsection]. **If such**
160 **rules are not disapproved by the general assembly in the manner set**
161 **out in this section, they shall take effect no sooner than January first**
162 **after such regular session, and any conflicting fee structure set forth**
163 **in this section shall expire upon the effective date of the new fee**
164 **structure adopted by the commission. The authority of the commission**
165 **to further revise the fee structure as provided by this subsection shall**
166 expire on August 28, [2023] **2024**.

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 operate, use or maintain any
15 water contaminant or point source in this state that is subject to standards, rules
16 or regulations promulgated pursuant to the provisions of sections 644.006 to
17 644.141 unless such person holds an operating permit from the commission,
18 subject to such exceptions as the commission may prescribe by rule or
19 regulation. However, no operating 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. It shall be unlawful for any person to construct, build, replace or make

23 major modification to any point source or collection system that is principally
24 designed to convey or discharge human sewage to waters of the state, unless such
25 person obtains a construction permit from the commission, except as provided in
26 this section. The following activities shall be excluded from construction permit
27 requirements:

28 (1) Facilities greater than one million gallons per day that are authorized
29 through a local supervised program, and are not receiving any department
30 financial assistance;

31 (2) All sewer extensions or collection projects that are one thousand feet
32 in length or less with fewer than two lift stations;

33 (3) All sewer collection projects that are authorized through a local
34 supervised program; and

35 (4) Any other exclusions the commission may promulgate by rule.

36 [However, nothing shall prevent the department from taking action to assure
37 protection of the environment and human health.] A construction permit may be
38 required [where necessary as determined by the department, including] **by the**
39 **department in the following circumstances:**

40 (a) Substantial deviation from the commission's design standards;

41 (b) To [correct] **address** noncompliance;

42 (c) When an unauthorized discharge has occurred or has the potential to
43 occur; or

44 (d) To correct a violation of water quality standards.

45 In addition, any point source that proposes to construct an earthen storage
46 structure to hold, convey, contain, store or treat domestic, agricultural, or
47 industrial process wastewater also shall be subject to the construction permit
48 provisions of this subsection. All other construction-related activities at point
49 sources shall be exempt from the construction permit requirements. All activities
50 that are exempted from the construction permit requirement are subject to the
51 following conditions:

52 a. Any point source system designed to hold, convey, contain, store or
53 treat domestic, agricultural or industrial process wastewater shall be designed
54 by a professional engineer registered in Missouri in accordance with the
55 commission's design rules;

56 b. Such point source system shall be constructed in accordance with the
57 registered professional engineer's design and plans; and

58 c. Such point source system may receive a post-construction site

59 inspection by the department prior to receiving operating permit approval. A site
60 inspection may be performed by the department, upon receipt of a complete
61 operating permit application or submission of an engineer's statement of work
62 complete.

63 A governmental unit may apply to the department for authorization to operate
64 a local supervised program, and the department may authorize such a program.
65 A local supervised program would recognize the governmental unit's engineering
66 capacity and ability to conduct engineering work, supervise construction and
67 maintain compliance with relevant operating permit requirements.

68 4. Before issuing any permit required by this section, the director shall
69 issue such notices, conduct such hearings, and consider such factors, comments
70 and recommendations as required by sections 644.006 to 644.141 or any federal
71 water pollution control act. The director shall determine if any state or any
72 provisions of any federal water pollution control act the state is required to
73 enforce, any state or federal effluent limitations or regulations, water
74 quality-related effluent limitations, national standards of performance, toxic and
75 pretreatment standards, or water quality standards which apply to the source, or
76 any such standards in the vicinity of the source, are being exceeded, and shall
77 determine the impact on such water quality standards from the source. The
78 director, in order to effectuate the purposes of sections 644.006 to 644.141, shall
79 deny a permit if the source will violate any such acts, regulations, limitations or
80 standards or will appreciably affect the water quality standards or the water
81 quality standards are being substantially exceeded, unless the permit is issued
82 with such conditions as to make the source comply with such requirements within
83 an acceptable time schedule.

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

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

95 appeal to the commission from the denial of a permit or from any condition in any
96 permit by filing notice of appeal with the commission within thirty days of the
97 notice of denial or issuance of the permit. After a final action is taken on a new
98 or reissued general permit, a potential applicant for the general permit who can
99 demonstrate that he or she is or may be adversely affected by any permit term
100 or condition may appeal the terms and conditions of the general permit within
101 thirty days of the department's issuance of the general permit. In no event shall
102 a permit constitute permission to violate the law or any standard, rule or
103 regulation promulgated pursuant thereto.

104 7. In any hearing held pursuant to this section that involves a permit,
105 license, or registration, the burden of proof is on the party specified in section
106 640.012. Any decision of the commission made pursuant to a hearing held
107 pursuant to this section is subject to judicial review as provided in section
108 644.071.

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

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

116 10. No manufacturing or processing plant or operating location shall be
117 required to pay more than one operating fee. Operating permits shall be issued
118 for a period not to exceed five years after date of issuance, except that general
119 permits shall be issued for a five-year period, and also except that neither a
120 construction nor an annual permit shall be required for a single residence's waste
121 treatment facilities. Applications for renewal of a site-specific operating permit
122 shall be filed at least one hundred eighty days prior to the expiration of the
123 existing permit. Applications seeking to renew coverage under a general permit
124 shall be submitted at least thirty days prior to the expiration of the general
125 permit, unless the permittee has been notified by the director that an earlier
126 application must be made. General permits may be applied for and issued
127 electronically once made available by the director.

128 11. Every permit issued to municipal or any publicly owned treatment
129 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. The director or the commission may require the filing or posting of a
145 bond as a condition for the issuance of permits for construction of temporary or
146 future water treatment facilities or facilities that utilize innovative technology for
147 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. (1) The department shall issue or deny applications for construction
162 and site-specific operating permits received after January 1, 2001, within one
163 hundred eighty days of the department's receipt of an application. For general
164 construction and operating permit applications received after January 1, 2001,
165 that do not require a public participation process, the department shall issue or
166 deny the permits within sixty days of the department's receipt of an

167 application. For an application seeking coverage under a renewed general permit
168 that does not require an individual public participation process, the director shall
169 issue or deny the permit within sixty days of the director's receipt of the
170 application, or upon issuance of the general permit, whichever is later. In regard
171 to an application seeking coverage under an initial general permit that does not
172 require an individual public participation process, the director shall issue or deny
173 the permit within sixty days of the department's receipt of the application. For
174 an application seeking coverage under a renewed general permit that requires an
175 individual public participation process, the director shall issue or deny the permit
176 within ninety days of the director's receipt of the application, or upon issuance
177 of the general permit, whichever is later. In regard to an application for an
178 initial general permit that requires an individual public participation process, the
179 director shall issue or deny the permit within ninety days of the director's receipt
180 of the application.

181 (2) If the department fails to issue or deny with good cause a construction
182 or operating permit application within the time frames established in subdivision
183 (1) of this subsection, the department shall refund the full amount of the initial
184 application fee within forty-five days of failure to meet the established time
185 frame. If the department fails to refund the application fee within forty-five days,
186 the refund amount shall accrue interest at a rate established pursuant to section
187 32.065.

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

196 (4) No later than December 31, 2001, the commission shall promulgate
197 regulations defining shorter review time periods than the time frames established
198 in subdivision (1) of this subsection, when appropriate, for different classes of
199 construction and operating permits. In no case shall commission regulations
200 adopt permit review times that exceed the time frames established in subdivision
201 (1) of this subsection. The department's failure to comply with the commission's
202 permit review time periods shall result in a refund of said permit fees as set forth

203 in subdivision (2) of this subsection. On a semiannual basis, the department
204 shall submit to the commission a report which describes the different classes of
205 permits and reports on the number of days it took the department to issue each
206 permit from the date of receipt of the application and show averages for each
207 different class of permits.

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

213 (6) Nothing in this subsection shall be interpreted to mean that inaction
214 on a permit application shall be grounds to violate any provisions of sections
215 644.006 to 644.141 or any rules promulgated pursuant to sections 644.006 to
216 644.141.

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

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

228 16. The department shall implement permit shield provisions equivalent
229 to the permit shield provisions implemented by the U.S. Environmental
230 Protection Agency pursuant to the Clean Water Act, Section 402(k), 33 U.S.C.
231 1342(k), and its implementing regulations, for permits issued pursuant to chapter
232 644.

233 17. Prior to the development of a new general permit or reissuance of a
234 general permit for aquaculture, land disturbance requiring a storm water permit,
235 or reissuance of a general permit under which fifty or more permits were issued
236 under a general permit during the immediately preceding five-year period for a
237 designated category of water contaminant sources, the director shall implement
238 a public participation process complying with the following minimum

239 requirements:

240 (1) For a new general permit or reissuance of a general permit, a general
241 permit template shall be developed for which comments shall be sought from
242 permittees and other interested persons prior to issuance of the general permit;

243 (2) The director shall publish notice of his intent to issue a new general
244 permit or reissue a general permit by posting notice on the department's website
245 at least one hundred eighty days before the proposed effective date of the general
246 permit;

247 (3) The director shall hold a public informational meeting to provide
248 information on anticipated permit conditions and requirements and to receive
249 informal comments from permittees and other interested persons. The director
250 shall include notice of the public informational meeting with the notice of intent
251 to issue a new general permit or reissue a general permit under subdivision (2)
252 of this subsection. The notice of the public informational meeting, including the
253 date, time and location, shall be posted on the department's website at least
254 thirty days in advance of the public meeting. If the meeting is being held for
255 reissuance of a general permit, notice shall also be made by electronic mail to all
256 permittees holding the current general permit which is expiring. Notice to current
257 permittees shall be made at least twenty days prior to the public meeting;

258 (4) The director shall hold a thirty-day public comment period to receive
259 comments on the general permit template with the thirty-day comment period
260 expiring at least sixty days prior to the effective date of the general permit.
261 Scanned copies of the comments received during the public comment period shall
262 be posted on the department's website within five business days after close of the
263 public comment period;

264 (5) A revised draft of a general permit template and the director's
265 response to comments submitted during the public comment period shall be
266 posted on the department's website at least forty-five days prior to issuance of the
267 general permit. At least forty-five days prior to issuance of the general permit the
268 department shall notify all persons who submitted comments to the department
269 that these documents have been posted to the department's website;

270 (6) Upon issuance of a new or renewed general permit, the general permit
271 shall be posted to the department's website.

272 18. Notices required to be made by the department pursuant to subsection
273 17 of this section may be made by electronic mail. The department shall not be
274 required to make notice to any permittee or other person who has not provided

275 a current electronic mail address to the department. In the event the department
276 chooses to make material modifications to the general permit before its
277 expiration, the department shall follow the public participation process described
278 in subsection 17 of this section.

279 19. The provisions of subsection 17 of this section shall become effective
280 beginning January 1, 2013.

644.057. **Notwithstanding any statutory fee amounts or maximums**
2 **to the contrary**, the director of the department of natural resources may
3 conduct a comprehensive review [of] **and propose changes to** the clean water
4 fee structure set forth in sections 644.052 [and], 644.053[. The comprehensive
5 review shall include], **and 644.061 after holding** stakeholder meetings in order
6 to solicit stakeholder input from each of the following groups: agriculture,
7 industry, municipalities, public and private wastewater facilities, and the
8 development community. [Upon completion of the comprehensive review,] The
9 department shall submit a proposed [changes to the] fee structure with
10 stakeholder agreement to the clean water commission. The commission shall[,
11 upon receiving the department's recommendations,] review such recommendations
12 at the forthcoming regular or special meeting [under subsection 3 of section
13 644.021] **but shall not vote on the fee structure until a subsequent**
14 **meeting.** [The commission shall not take a vote on the clean water fee structure
15 recommendations until the following regular or special meeting.] In no case shall
16 the clean water commission adopt or recommend any clean water fee in excess of
17 five thousand dollars. If the commission approves, by vote of two-thirds majority
18 [or five of seven commissioners, the clean water], **the** fee structure
19 recommendations, the commission shall [promulgate by regulation and publish
20 the recommended clean water fee structure no later than October first of the
21 same year. The commission shall] **authorize the department to file a notice**
22 **of proposed rulemaking containing the recommended fee structure, and**
23 **after considering public comments may authorize the department to file**
24 the order of rulemaking for such rule with the joint committee on administrative
25 rules pursuant to sections 536.021 and 536.024 no later than December first of
26 the same year. [If such rules are not disapproved by the general assembly in the
27 manner set out below, they shall take effect on January first of the next
28 odd-numbered year and the fee structures set forth in sections 644.052 and
29 644.053 shall expire upon the effective date of the commission-adopted fee
30 structure, contrary to section 644.054. Any regulation promulgated under this

31 subsection shall be deemed to be beyond the scope and authority provided in this
32 subsection, or detrimental to permit applicants,] If the general assembly, within
33 the first sixty calendar days of the regular session immediately following [the
34 promulgation of such regulation] **such filing**, by concurrent resolution, [shall
35 disapprove the fee structure contained in such regulation. If the general assembly
36 so disapproves any regulation promulgated under this subsection, the clean water
37 commission shall continue to use the fee structure set forth in the most recent
38 preceding regulation promulgated under this subsection.] **disapproves such**
39 **rule in accordance with section 536.028, then the department and the**
40 **commission shall not implement the proposed fee structure and shall**
41 **continue to use the previous fee structure. If such rules are not**
42 **disapproved by the general assembly in the manner set out in this**
43 **section, they shall take effect no sooner than January first after such**
44 **regular session and any conflicting fee structure set forth in sections**
45 **644.052, 644.053, and 644.061 shall expire upon the effective date of the**
46 **new fee structure adopted by the commission. The authority of the**
47 **commission to further revise the fee structure provided by this section**
48 **shall expire on August 28, [2023] 2024.**

644.058. Notwithstanding the provisions of section 644.026 to the
2 **contrary, in promulgating water quality standards, the commission**
3 **shall only revise water quality standards upon the completion of an**
4 **assessment by the department finding that there is an environmental**
5 **need for such revision. As part of the implementation of any revised**
6 **water quality standards modifications of twenty-five percent or more,**
7 **the department shall conduct an evaluation which shall include the**
8 **environmental and economic impacts of the revised water quality**
9 **standards on a subbasin basis. This evaluation shall be conducted at**
10 **the eight-digit hydrologic unit code level. The department shall**
11 **document these evaluations and use them in making individual site-**
12 **specific permit decisions.**

644.145. 1. When issuing permits under this chapter that incorporate a
2 new requirement for discharges from publicly owned combined or separate
3 sanitary or storm sewer systems or treatment works, or when enforcing provisions
4 of this chapter or the Federal Water Pollution Control Act, 33 U.S.C. 1251, et
5 seq., pertaining to any portion of a publicly owned combined or separate sanitary
6 or storm sewer system or treatment works, the department of natural resources

7 shall make a finding of affordability **on the costs to be incurred and the**
8 **impact of any rate changes on ratepayers** upon which to base such permits
9 and decisions, to the extent allowable under this chapter and the Federal Water
10 Pollution Control Act.

11 2. (1) The department of natural resources shall not be required under
12 this section to make a finding of affordability when:

13 (a) Issuing collection system extension permits;

14 (b) Issuing National Pollution Discharge Elimination System operating
15 permit renewals which include no new environmental requirements; or

16 (c) The permit applicant certifies that the applicable requirements are
17 affordable to implement or otherwise waives the requirement for an affordability
18 finding; however, at no time shall the department require that any applicant
19 certify, as a condition to approving any permit, administrative or civil action, that
20 a requirement, condition, or penalty is affordable.

21 (2) The exceptions provided under paragraph (c) of subdivision (1) of this
22 subsection do not apply when the community being served has less than three
23 thousand three hundred residents.

24 3. When used in this chapter and in standards, rules and regulations
25 promulgated pursuant to this chapter, the following words and phrases mean:

26 (1) "Affordability", with respect to payment of a utility bill, a measure of
27 whether an individual customer or household **with an income equal to the**
28 **lower of the median household income for their community or the state**
29 **of Missouri** can pay the bill without undue hardship or unreasonable sacrifice
30 in the essential lifestyle or spending patterns of the individual or household,
31 taking into consideration the criteria described in subsection 4 of this section;

32 (2) "Financial capability", the financial capability of a community to make
33 investments necessary to make water quality-related improvements;

34 (3) "**Finding of affordability**", a department statement as to
35 **whether an individual or a household receiving as income an amount**
36 **equal to the lower of the median household income for the applicant**
37 **community or the state of Missouri would be required to make**
38 **unreasonable sacrifices in their essential lifestyle or spending patterns**
39 **or undergo hardships in order to make the projected monthly payments**
40 **for sewer services. The department shall make a statement that the**
41 **proposed changes meet the definition of affordable, or fail to meet the**
42 **definition of affordable, or are implemented as a federal mandate**

43 **regardless of affordability.**

44 4. The department of natural resources shall adopt procedures by which
45 it will make affordability findings that evaluate the affordability of permit
46 requirements and enforcement actions described in subsection 1 of this section,
47 and may begin implementing such procedures prior to promulgating
48 implementing regulations. The commission shall have the authority to promulgate
49 rules to implement this section pursuant to chapters 536 and 644, and shall
50 promulgate such rules as soon as practicable. Affordability findings shall be based
51 upon reasonably verifiable data and shall include an assessment of affordability
52 with respect to persons or entities affected. The department shall offer the
53 permittee an opportunity to review a draft affordability finding, and the permittee
54 may suggest changes and provide additional supporting information, subject to
55 subsection 6 of this section. The finding shall be based upon the following criteria:

56 (1) A community's financial capability and ability to raise or secure
57 necessary funding;

58 (2) Affordability of pollution control options for the individuals or
59 households **at the median household income level** of the community;

60 (3) An evaluation of the overall costs and environmental benefits of the
61 control technologies;

62 (4) **Inclusion of ongoing costs of operating and maintaining the**
63 **existing wastewater collection and treatment system, including**
64 **payments on outstanding debts for wastewater collection and treatment**
65 **systems when calculating projected rates;**

66 (5) An inclusion of ways to reduce economic impacts on distressed
67 populations in the community, including but not limited to low- and fixed-income
68 populations. This requirement includes but is not limited to:

69 (a) Allowing adequate time in implementation schedules to mitigate
70 potential adverse impacts on distressed populations resulting from the costs of
71 the improvements and taking into consideration local community economic
72 considerations; and

73 (b) Allowing for reasonable accommodations for regulated entities when
74 inflexible standards and fines would impose a disproportionate financial hardship
75 in light of the environmental benefits to be gained;

76 [(5)] (6) An assessment of other community investments relating to
77 environmental improvements;

78 [(6)] (7) An assessment of factors set forth in the United States

79 Environmental Protection Agency's guidance, including but not limited to the
80 "Combined Sewer Overflow Guidance for Financial Capability Assessment and
81 Schedule Development" that may ease the cost burdens of implementing wet
82 weather control plans, including but not limited to small system considerations,
83 the attainability of water quality standards, and the development of wet weather
84 standards; and

85 ~~[(7)]~~ **(8)** An assessment of any other relevant local community economic
86 condition.

87 5. Prescriptive formulas and measures used in determining financial
88 capability, affordability, and thresholds for expenditure, such as median
89 household income, should not be considered to be the only indicator of a
90 community's ability to implement control technology and shall be viewed in the
91 context of other economic conditions rather than as a threshold to be achieved.

92 6. Reasonable time spent preparing draft affordability findings, allowing
93 permittees to review draft affordability findings or draft permits, or revising draft
94 affordability findings, shall be allowed in addition to the department's deadlines
95 for making permitting decisions pursuant to section 644.051.

96 7. If the department of natural resources fails to make a finding of
97 affordability where required by this section, then the resulting permit or decision
98 shall be null, void and unenforceable.

99 8. The department of natural resources' findings under this section may
100 be appealed to the commission pursuant to subsection 6 of section 644.051.

101 **9. The department shall file an annual report by the beginning**
102 **of the fiscal year with the governor, the speaker of the house of**
103 **representatives, the president pro tempore of the senate, and the chairs**
104 **of the committees in both houses having primary jurisdiction over**
105 **natural resource issues showing at least the following information on**
106 **the findings of affordability completed in the previous calendar year:**

107 **(1) The total number of findings of affordability issued by the**
108 **department, those categorized as affordable, those categorized as not**
109 **meeting the definition of affordable, and those implemented as a**
110 **federal mandate regardless of affordability;**

111 **(2) The average increase in sewer rates both in dollars and**
112 **percentage for all findings found to be affordable;**

113 **(3) The average increase in sewer rates as a percentage of**
114 **median house income in the communities for those findings determined**

115 to be affordable and a separate calculation of average increases in
116 sewer rates for those found not to meet the definition of affordable;

117 (4) A list of the all the permit holders receiving findings, and for
118 each permittee the following data taken from the finding of
119 affordability shall be listed:

120 (a) Current and projected monthly residential sewer rates in
121 dollars;

122 (b) Projected monthly residential sewer rates as a percentage of
123 median house income;

124 (c) Percentage of households at or below the state poverty rate.

✓

Bill

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