

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 1302**  
97TH GENERAL ASSEMBLY

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Reported from the Committee on Commerce, Consumer Protection, Energy and the Environment, May 6, 2014, with recommendation that the Senate Committee Substitute do pass.

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TERRY L. SPIELER, Secretary.

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**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, 260.355, 260.380, 260.392, 260.475, 444.510, 444.520, 444.762, 444.765, 444.770, 444.773, 444.805, 640.015, 640.016, 640.100, 643.055, 643.079, 644.026, 644.051, 644.057, and 644.145, RSMo, and to enact in lieu thereof thirty-four new sections relating to the department of natural resources, with penalty provisions.

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*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, 260.355, 260.380, 260.392, 260.475, 444.510, 444.520, 444.762, 444.765, 444.770, 444.773, 444.805, 640.015, 640.016, 640.100, 643.055, 643.079, 644.026, 644.051, 644.057, and 644.145, RSMo, are repealed and thirty-four new sections enacted in lieu thereof, to be known as sections 259.010, 259.030, 259.040, 259.050, 259.052, 259.070, 259.080, 259.100, 259.190,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, 260.355, 260.380, 260.392, 260.475, 444.510, 444.520, 444.762, 444.765, 444.768, 444.770, 444.773, 444.805, 640.015, 640.016, 640.100, 643.055, 643.079, 644.026, 644.051, 644.057, 644.058, 644.145, and 644.146, 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;**
- (2) One member from the department of economic development;
- (3) One member from the Missouri public service commission;

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

- 7 (4) One member from the clean water commission;
- 8 (5) One member from the Missouri University of Science and Technology  
9 petroleum engineering program;
- 10 (6) One member from the Missouri Independent Oil and Gas Association;
- 11 and
- 12 (7) Two members from the public.

259.030. 1. The **chairperson of the** council shall [elect a chairman and  
2 vice chairman from the members of the council other than the representative of  
3 the division of geology and land survey. A chairman and vice chairman may  
4 serve more than a one-year term, if so elected by the members of the council] **be**  
5 **the member from the Missouri University of Science and Technology**  
6 **petroleum engineering program. The vice chairperson of the council**  
7 **shall be the state geologist.**

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

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

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

5 (2) "Council", the state oil and gas council established by section 259.010;

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

7 (4) "Field", the general area [underlaid] **underlain** by one or more pools;

8            [(4)] (5) "Gas", all natural gas and all other fluid hydrocarbons which are  
9 produced at the wellhead and not [hereinbelow] defined as oil;

10           [(5)] (6) "Illegal gas" [means], gas which has been produced from any  
11 well within this state in excess of the quantity permitted by any rule, regulation,  
12 or order of the council;

13           [(6)] (7) "Illegal oil" [means], oil which has been produced from any well  
14 within the state in excess of the quantity permitted by any rule, regulation, or  
15 order of the council;

16           [(7)] (8) "Illegal product" [means], any product derived in whole or in  
17 part from illegal oil or illegal gas;

18           [(8)] (9) "Noncommercial gas well", a gas well drilled for the sole purpose  
19 of furnishing gas for private domestic consumption by the owner and not for  
20 resale or trade;

21           [(9)] (10) "Oil", crude petroleum oil and other hydrocarbons regardless  
22 of gravity which are produced at the wellhead in liquid form and the liquid  
23 hydrocarbons known as distillate or condensate recovered or extracted from gas,  
24 other than gas produced in association with oil and commonly known as  
25 casinghead gas. **The term shall also include hydrocarbons that do not**  
26 **flow to a wellhead but are produced by other means including those**  
27 **contained in oil-shale and oil-sand;**

28           [(10)] (11) "Owner", the person who has the right to drill into and  
29 produce from a pool and to appropriate the oil or gas he produced therefrom  
30 either for himself or others or for himself and others;

31           [(11)] (12) "Pool", an underground reservoir containing a common  
32 accumulation of oil or gas or both; each zone of a structure which is completely  
33 separated from any other zone in the same structure is a "pool", as that term is  
34 used in this chapter;

35           [(12)] (13) "Producer", the owner of a well or wells capable of producing  
36 oil or gas or both;

37           [(13)] (14) "Product", any commodity made from oil or gas and includes  
38 refined crude oil, crude tops, topped crude, processed crude, processed crude  
39 petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel  
40 oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural-gas gasoline,  
41 kerosene, [benzine] **benzene**, wash oil, waste oil, blended gasoline, lubricating  
42 oil, blends or mixtures of oil with one or more liquid products or by-products  
43 derived from oil or gas, and blends or mixtures of two or more liquid products or

44 by-products derived from oil or gas whether [hereinabove] enumerated **in this**  
45 **section** or not;

46 [(14)] **(15)** "Reasonable market demand" [means], the demand for oil or  
47 gas for reasonable current requirements for consumption and use within and  
48 without the state, together with such quantities as are reasonably necessary for  
49 building up or maintaining reasonable working stocks and reasonable reserves  
50 of oil or gas or product;

51 [(15)] **(16)** "Waste" [means and], includes:

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

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

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

61 (d) The inefficient storing of oil;

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

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

67 [(16)] **(17)** "Well", any hole drilled in the earth for or in connection with  
68 the exploration, discovery, or recovery of oil or gas, or for or in connection with  
69 the underground storage of gas in natural formation, or for or in connection with  
70 the disposal of salt water, [nonusable] **unusable** gas or other waste  
71 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, operating fees, closure**  
**5 fees, late fees, and bequests to the fund. The fund shall be**  
**6 administered by the department of natural 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 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] department** or authorized representatives may, with the consent of the  
100 owner or person in possession, enter any property for the purpose of  
101 investigating, plugging, or performing remedial measures on any well, or to  
102 supervise the investigation, plugging, or performance of remedial measures on  
103 any well. A reasonable effort to contact the owner or the person in possession of  
104 the property to seek **[his] their** permission shall be made before members of the  
105 **[council] department** or authorized representatives enter the property for the  
106 purposes described in this paragraph. If the owner or person in possession of the  
107 property cannot be found or refuses entry or access to any member of the  
108 **[council] department** or to any authorized representative presenting appropriate  
109 credentials, the council may request the attorney general to initiate in any court  
110 of competent jurisdiction an action for injunctive relief to restrain any  
111 interference with the exercise of powers and duties described in this  
112 subdivision. Any entry authorized under this subdivision shall be construed as  
113 an exercise of the police power for the protection of public health, safety and  
114 general welfare and shall not be construed as an act of condemnation of property  
115 nor of trespass thereon. Members of the **[council and] department or**  
116 authorized representatives shall not be liable for any damages necessarily  
117 resulting from the entry upon land for purposes of investigating, plugging, or  
118 performing remedial measures or the supervision of such activity. However, if  
119 growing crops are present, arrangements for timing of such remedial work may  
120 be agreed upon between the state and landowner in order to minimize damages;

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



134 subdivision shall be reduced to writing with a copy furnished to the owner, person  
135 in possession, or operator;

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

144 6. No rule or portion of a rule promulgated under the authority of this  
145 chapter shall become effective unless it has been promulgated pursuant to the  
146 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.

6 **2. The department of natural resources may conduct a**  
7 **comprehensive review, and propose a new fee structure, or propose**  
8 **changes to the oil and gas fee structure, which may include but need**  
9 **not be limited to permit application fees, operating fees, closure fees,**  
10 **and late fees. The comprehensive review shall include stakeholder**  
11 **meetings in order to solicit stakeholder input from each of the**  
12 **following groups: oil and gas industry representatives, the advisory**  
13 **committee, and any other interested parties. Upon completion of the**  
14 **comprehensive review, the department shall submit a proposed fee**  
15 **structure or changes to the oil and gas fee structure with stakeholder**  
16 **agreement to the oil and gas council. The council shall review such**  
17 **recommendations at the forthcoming regular or special meeting, but**  
18 **shall not vote on the fee structure until a subsequent meeting. If the**  
19 **council approves, by vote of two-thirds majority or five of eight**  
20 **commissioners, the fee structure recommendations, the council shall**  
21 **authorize the department to file a notice of proposed rulemaking**  
22 **containing the recommended fee structure, and after considering public**  
23 **comments may authorize the department to file the final order of**

24 rulemaking for such rule with the joint committee on administrative  
25 rules pursuant to sections 536.021 and 536.024 no later than December  
26 first of the same year. If such rules are not disapproved by the general  
27 assembly in the manner set out below, they shall take effect on January  
28 first of the following calendar year, at which point the existing fee  
29 structure shall expire. Any regulation promulgated under this  
30 subsection shall be deemed beyond the scope and authority provided  
31 in this subsection, or detrimental to permit applicants, if the general  
32 assembly, within the first sixty calendar days of the regular session  
33 immediately following the filing of such regulation, disapproves the  
34 regulation by concurrent resolution. If the general assembly so  
35 disapproves any regulation filed under this subsection, the department  
36 and the council shall not implement the proposed fee structure and  
37 shall continue to use the previous fee structure. The authority of the  
38 council to further revise the fee structure as provided in this  
39 subsection shall expire on August 28, 2024.

40 3. Failure to pay the fees, or any portion thereof, established  
41 under this section by the due date shall result in the imposition of a  
42 late fee established by the council. The department may bring an  
43 action in the appropriate circuit court to collect any unpaid fee, late  
44 fee, interest, or attorney's fees and costs incurred directly in fee  
45 collection. Such action may be brought in the circuit court of the  
46 county in which the facility is located, or in the circuit court of Cole  
47 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] **use scrap** tires as a fuel or fuel supplement;  
45 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] **scrap** tires under this chapter, the  
3 department of natural resources shall, in addition to the requirements of sections  
4 34.073 and 34.076 and any other points awarded during the evaluation process,  
5 give to any vendor that meets one or more of the following factors a five percent  
6 preference 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.

260.355. Exempted from the provisions of sections 260.350 to 260.480 are:

2 (1) Radioactive wastes regulated under section 2011, et seq., of title 42 of  
3 United States Code;

4 (2) Emissions to the air subject to regulation of and which are regulated  
5 by the Missouri air conservation Commission pursuant to chapter 643;

6 (3) Discharges to the waters of this state pursuant to a permit issued by  
7 the Missouri clean water commission pursuant to chapter 204;

8 (4) Fluids injected or returned into subsurface formations in connection  
9 with oil or gas operations regulated by the Missouri oil and gas council pursuant  
10 to chapter 259;

11 (5) Mining wastes used in reclamation of mined lands pursuant to a  
12 permit issued by the Missouri [land reclamation] **mining** commission pursuant  
13 to chapter 444.

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 stakeholder meetings in  
68 order to solicit stakeholder input from each of the following groups: cement kiln  
69 representatives, chemical companies, large and small hazardous waste  
70 generators, and any other interested parties. Upon completion of the  
71 comprehensive review, the department shall submit a proposed [changes to the]  
72 fee structure with stakeholder agreement to the hazardous waste management  
73 commission. The commission shall[, upon receiving the department's  
74 recommendations,] review such recommendations at the forthcoming regular or  
75 special meeting, **but shall not vote on the fee structure until a subsequent**  
76 **meeting.** [The commission shall not take a vote on the fee structure until the  
77 following regular meeting.] If the commission approves, by vote of two-thirds  
78 majority **or five of seven commissioners**, 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] **following calendar** year and the fee structure set out in this  
89 section shall expire upon the effective date of the commission-adopted fee  
90 structure, contrary to subsection 4 of this section. Any regulation promulgated  
91 under this subsection shall be deemed to be beyond the scope and authority  
92 provided in this subsection, or detrimental to permit applicants, if the general  
93 assembly, within the first sixty calendar days of the regular session immediately  
94 following the [promulgation] **filing** of such regulation[, by concurrent resolution,  
95 shall disapprove the fee structure contained in such regulation] **disapproves**  
96 **the regulation by concurrent resolution.** If the general assembly so  
97 disapproves any regulation [promulgated] **filed** under this subsection, [the  
98 hazardous waste management commission shall continue to use the fee structure  
99 set forth in the most recent preceding regulation promulgated under this  
100 subsection.] **the department and the commission shall not implement the**  
101 **proposed fee structure and shall continue to use the previous fee**  
102 **structure. The authority of the commission to further revise the fee**  
103 **structure as provided by this subsection shall expire on August 28, [2023]**  
104 **2024.**

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

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

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

118           (2) The department may determine that a specific quantity of a specific

119 hazardous waste requires special management. Upon such determination and  
120 after public notice by press release or advertisement thereof, including  
121 instructions for handling and delivery, generators exempted pursuant to this  
122 subsection shall deliver, but without a manifest or the requirement to use a  
123 licensed hazardous waste transporter, such waste to:

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

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

131 4. Failure to pay the fee, or any portion thereof, prescribed in this section  
132 by the due date shall result in the imposition of a penalty equal to fifteen percent  
133 of the original fee. The fee prescribed in this section shall expire December 31,  
134 2018, except that the department shall levy and collect this fee for any hazardous  
135 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 stakeholder meetings in  
55 order to solicit stakeholder input from each of the following groups: cement kiln  
56 representatives, chemical companies, large and small hazardous waste  
57 generators, and any other interested parties. Upon completion of the  
58 comprehensive review, the department shall submit a proposed [changes to the]  
59 fee structure with stakeholder agreement to the hazardous waste management  
60 commission. The commission shall[, upon receiving the department's  
61 recommendations,] review such recommendations at the forthcoming regular or  
62 special meeting, **but shall not vote on the fee structure until a subsequent**  
63 **meeting.** [The commission shall not take a vote on the fee structure until the  
64 following regular meeting.] If the commission approves, by vote of two-thirds  
65 majority **or five of seven commissioners**, 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] **following calendar** year and the fee structure set out in this  
76 section shall expire upon the effective date of the commission-adopted fee  
77 structure, contrary to subsection 7 of this section. Any regulation promulgated  
78 under this subsection shall be deemed to be beyond the scope and authority  
79 provided in this subsection, or detrimental to permit applicants, if the general  
80 assembly, within the first sixty calendar days of the regular session immediately  
81 following the [promulgation] **filing** of such regulation[, by concurrent resolution,  
82 shall disapprove the fee structure contained in such regulation] **disapproves**  
83 **the regulation by concurrent resolution.** If the general assembly so  
84 disapproves any regulation [promulgated] **filed** under this subsection, [the  
85 hazardous waste management commission shall continue to use the fee structure  
86 set forth in the most recent preceding regulation promulgated under this  
87 subsection.] **the department and the commission shall not implement the**  
88 **proposed fee structure and shall continue to use the previous fee**  
89 **structure. The authority of the commission to further revise the fee**  
90 **structure as provided by** this subsection shall expire on August 28, [2023]  
91 **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] **five** other persons selected from  
6 the general public who are residents of Missouri and who shall have an interest  
7 in and knowledge of conservation and land reclamation, and one of whom shall  
8 in addition have training and experience in surface mining, **one of whom shall**  
9 **in 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 his or her designee**;

30 (8) "Excavation", any operation in which earth, minerals, or other material  
31 in or on the ground is moved, removed, or otherwise displaced for purposes of  
32 construction at the site of excavation, by means of any tools, equipment, or  
33 explosives and includes, but is not limited to, backfilling, grading, trenching,

34 digging, ditching, drilling, well-drilling, auguring, boring, tunneling, scraping,  
35 cable or pipe plowing, plowing-in, pulling-in, ripping, driving, demolition of  
36 structures, and the use of high-velocity air to disintegrate and suction to remove  
37 earth and other materials. For purposes of this section, excavation or removal of  
38 overburden for purposes of mining for a commercial purpose or for purposes of  
39 reclamation of land subjected to surface mining is not included in this  
40 definition. Neither shall excavations of sand and gravel by political subdivisions  
41 using their own personnel and equipment or private individuals for personal use  
42 be included in this definition;

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

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

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

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

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

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

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

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

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

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

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

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

88 (21) "Surface mining", the mining of minerals for commercial purposes by  
89 removing the overburden lying above natural deposits thereof, and mining  
90 directly from the natural deposits thereby exposed, and shall include mining of  
91 exposed natural deposits of such minerals over which no overburden lies and,  
92 after August 28, 1990, the surface effects of underground mining operations for  
93 such minerals. For purposes of the provisions of sections 444.760 to 444.790,  
94 surface mining shall not include excavations to move minerals or fill dirt within  
95 the confines of the real property where excavation occurs or to remove minerals  
96 or fill dirt from the real property in preparation for construction at the site of  
97 excavation. No excavation of fill dirt shall be deemed surface mining regardless  
98 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 director of the department of natural  
3 resources may conduct a comprehensive review and propose changes  
4 to the fee, bond, or assessment structure as set forth in chapter 444.  
5 The comprehensive review shall include stakeholder meetings in order  
6 to solicit stakeholder input from regulated entities and any other  
7 interested parties. Upon completion of the comprehensive review, the**



8 department shall submit a proposed fee, bond, or assessment structure  
9 with stakeholder agreement to the Missouri mining commission. The  
10 commission shall review such recommendations at a forthcoming  
11 regular or special meeting, but shall not vote on the proposed structure  
12 until a subsequent meeting. If the commission approves, by vote of two-  
13 thirds majority, the fee, bond, or assessment structure  
14 recommendations, the commission shall authorize the department to  
15 file a notice of proposed rulemaking containing the recommended  
16 structure, and after considering public comments may authorize the  
17 department to file the final order of rulemaking for such rule with the  
18 joint committee on administrative rules pursuant to sections 536.021  
19 and 536.024 no later than December first of the same year. If such rules  
20 are not disapproved by the general assembly in the manner set out  
21 below, they shall take effect on January first of the following calendar  
22 year, at which point the existing fee, bond, or assessment structure  
23 shall expire. Any regulation promulgated under this subsection shall  
24 be deemed to be beyond the scope and authority provided in this  
25 subsection, or detrimental to permit applicants, if the general assembly,  
26 within the first sixty days of the regular session immediately following  
27 the filing of such regulation disapproves the regulation by concurrent  
28 resolution. If the general assembly so disapproves any regulation filed  
29 under this subsection, the department and the commission shall not  
30 implement the proposed fee, bond, or assessment structure and shall  
31 continue to use the previous fee, bond, or assessment structure. The  
32 authority for the commission to further revise the fee, bond, or  
33 assessment structure as provided in this subsection shall expire on  
34 August 28, 2024.

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

444.770. 1. It shall be unlawful for any operator to engage in surface  
2 mining without first obtaining from the commission a permit to do so, in such  
3 form as is hereinafter provided, including any operator involved in any gravel  
4 mining operation where the annual tonnage of gravel mined by such operator is  
5 less than five thousand tons, except as provided in subsection 2 of this section.

6         2. (1) A property owner or operator conducting gravel removal at the  
7 request of a property owner for the primary purpose of managing seasonal gravel  
8 accretion on property not used primarily for gravel mining, or a political  
9 subdivision who contracts with an operator for excavation to obtain sand and  
10 gravel material solely for the use of such political subdivision shall be exempt  
11 from obtaining a permit as required in subsection 1 of this section. Such gravel  
12 removal shall be conducted solely on the property owner's or political  
13 subdivision's property and shall be in accordance with department guidelines,  
14 rules, and regulations. The property owner shall notify the department before  
15 any person or operator conducts gravel removal from the property owner's  
16 property if the gravel is sold. Notification shall include the nature of the activity,  
17 name of the county and stream in which the site is located and the property  
18 owner's name. The property owner shall not be required to notify the department  
19 regarding any gravel removal at each site location for up to one year from the  
20 original notification regarding that site. The property owner shall renotify the  
21 department before any person or operator conducts gravel removal at any site  
22 after the expiration of one year from the previous notification regarding that site.  
23 At the time of each notification to the department, the department shall provide  
24 the property owner with a copy of the department's guidelines, rules, and  
25 regulations relevant to the activity reported. Said guidelines, rules and  
26 regulations may be transmitted either by mail or via the internet.

27         (2) The annual tonnage of gravel mined by such property owner or  
28 operator conducting gravel removal at the request of a property owner shall be  
29 less than two thousand tons, with a site limitation of one thousand tons  
30 annually. Any operator conducting gravel removal at the request of a property  
31 owner that has removed two thousand tons of sand and gravel material within  
32 one calendar year shall have a watershed management practice plan approved by  
33 the commission in order to remove any future sand or gravel material the  
34 remainder of the calendar year. The application for approval shall be  
35 accompanied by an application fee equivalent to the fee paid under section  
36 444.772 and shall contain the name of the watershed from which the operator will

37 be conducting sand and gravel removal, the location within the watershed district  
38 that the sand and gravel will be removed, and the description of the vehicles and  
39 equipment used for removal. Upon approval of the watershed management  
40 practice plan, the department shall provide a copy of the relevant commission  
41 regulations to the operator.

42 (3) No property owner or operator conducting gravel removal at the  
43 request of a property owner for the primary purpose of managing seasonal gravel  
44 accretion on property not used primarily for gravel mining shall conduct gravel  
45 removal from any site located within a distance, to be determined by the  
46 commission and included in the guidelines, rules, and regulations given to the  
47 property owner at the time of notification, of any building, structure, highway,  
48 road, bridge, viaduct, water or sewer line, and pipeline or utility line.

49 3. Sections 444.760 to 444.790 shall apply only to those areas which are  
50 opened on or after January 1, 1972, or to the extended portion of affected areas  
51 extended after that date. The effective date of this section for minerals not  
52 previously covered under the provisions of sections 444.760 to 444.790 shall be  
53 August 28, 1990.

54 4. All surface mining operations where land is affected after September  
55 28, 1971, which are under the control of any government agency whose  
56 regulations are equal to or greater than those imposed by section 444.774, are not  
57 subject to the further provisions of sections 444.760 to 444.790, except that such  
58 operations shall be registered with the [land reclamation] **Missouri mining**  
59 commission.

60 5. Any portion of a surface mining operation which is subject to the  
61 provisions of sections 260.200 to 260.245 and the regulations promulgated  
62 thereunder, shall not be subject to the provisions of sections 444.760 to 444.790,  
63 and any bonds or portions thereof applicable to such operations shall be promptly  
64 released by the commission, and the associated permits cancelled by the  
65 commission upon presentation to it of satisfactory evidence that the operator has  
66 received a permit pursuant to section 260.205 and the regulations promulgated  
67 thereunder. Any land reclamation bond associated with such released permits  
68 shall be retained by the commission until presentation to the commission of  
69 satisfactory evidence that:

70 (1) The operator has complied with sections 260.226 and 260.227, and the  
71 regulations promulgated thereunder, pertaining to closure and postclosure plans  
72 and financial assurance instruments; and

73           (2) The operator has commenced operation of the solid waste disposal area  
74 or sanitary landfill as those terms are defined in chapter 260.

75           6. Notwithstanding the provisions of subsection 1 of this section, any  
76 political subdivision which uses its own personnel and equipment or any private  
77 individual for personal use may conduct in-stream gravel operations without  
78 obtaining from the commission a permit to conduct such an activity.

79           7. Any person filing a complaint of an alleged violation of this section with  
80 the department shall identify themselves by name and telephone number, provide  
81 the date and location of the violation, and provide adequate information, as  
82 determined by the department, that there has been a violation.

83 Any records, statements, or communications submitted by any person to the  
84 department relevant to the complaint shall remain confidential and used solely  
85 by the department to investigate such alleged violation.

          444.773. 1. All applications for a permit shall be filed with the director,  
2 who shall promptly investigate the application and make a recommendation to  
3 the commission within four weeks after the public notice period provided in  
4 section 444.772 expires as to whether the permit should be issued or denied. If  
5 the director determines that the application has not fully complied with the  
6 provisions of section 444.772 or any rule or regulation promulgated pursuant to  
7 that section, the director shall recommend denial of the permit. The director  
8 shall consider any written comments when making his or her recommendation to  
9 the commission on the issuance or denial of the permit.

10           2. If the recommendation of the director is to deny the permit, a hearing  
11 as provided in sections 444.760 to 444.790, if requested by the applicant within  
12 fifteen days of the date of notice of recommendation of the director, shall be held  
13 by the commission.

14           3. If the recommendation of the director is for issuance of the permit, the  
15 director shall issue the permit without a public meeting or a hearing except that  
16 upon petition, received prior to the date of the notice of recommendation, from  
17 any person whose health, safety or livelihood will be unduly impaired by the  
18 issuance of this permit, a public meeting or a hearing may be held. If a public  
19 meeting is requested pursuant to this chapter and the applicant agrees, the  
20 director shall, within thirty days after the time for such request has passed, order  
21 that a public meeting be held. The meeting shall be held in a reasonably  
22 convenient location for all interested parties. The applicant shall cooperate with  
23 the director in making all necessary arrangements for the public meeting. Within

24 thirty days after the close of the public meeting, the director shall recommend to  
25 the commission approval or denial of the permit. If the public meeting does not  
26 resolve the concerns expressed by the public, any person whose health, safety or  
27 livelihood will be unduly impaired by the issuance of such permit may make a  
28 written request to the [land reclamation] **Missouri mining** commission for a  
29 formal public hearing. The [land reclamation] **Missouri mining** commission  
30 may grant a public hearing to formally resolve concerns of the public. Any public  
31 hearing before the commission shall address one or more of the factors set forth  
32 in this section.

33 4. In any public hearing, if the commission finds, based on competent and  
34 substantial scientific evidence on the record, that an interested party's health,  
35 safety or livelihood will be unduly impaired by the issuance of the permit, the  
36 commission may deny such permit. If the commission finds, based on competent  
37 and substantial scientific evidence on the record, that the operator has  
38 demonstrated, during the five-year period immediately preceding the date of the  
39 permit application, a pattern of noncompliance at other locations in Missouri that  
40 suggests a reasonable likelihood of future acts of noncompliance, the commission  
41 may deny such permit. In determining whether a reasonable likelihood of  
42 noncompliance will exist in the future, the commission may look to past acts of  
43 noncompliance in Missouri, but only to the extent they suggest a reasonable  
44 likelihood of future acts of noncompliance. Such past acts of noncompliance in  
45 Missouri, in and of themselves, are an insufficient basis to suggest a reasonable  
46 likelihood of future acts of noncompliance. In addition, such past acts shall not  
47 be used as a basis to suggest a reasonable likelihood of future acts of  
48 noncompliance unless the noncompliance has caused or has the potential to cause,  
49 a risk to human health or to the environment, or has caused or has potential to  
50 cause pollution, or was knowingly committed, or is defined by the United States  
51 Environmental Protection Agency as other than minor. If a hearing petitioner or  
52 the commission demonstrates either present acts of noncompliance or a  
53 reasonable likelihood that the permit seeker or the operations of associated  
54 persons or corporations in Missouri will be in noncompliance in the future, such  
55 a showing will satisfy the noncompliance requirement in this subsection. In  
56 addition, such basis must be developed by multiple noncompliances of any  
57 environmental law administered by the Missouri department of natural resources  
58 at any single facility in Missouri that resulted in harm to the environment or  
59 impaired the health, safety or livelihood of persons outside the facility. For any

60 permit seeker that has not been in business in Missouri for the past five years,  
61 the commission may review the record of noncompliance in any state where the  
62 applicant has conducted business during the past five years. Any decision of the  
63 commission made pursuant to a hearing held pursuant to this section is subject  
64 to judicial review as provided in chapter 536. No judicial review shall be  
65 available, however, until and unless all administrative remedies are exhausted.

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.

640.015. 1. All provisions of the law to the contrary notwithstanding, all  
2 rules that prescribe environmental conditions or standards promulgated by the  
3 department of natural resources, a board or a commission, pursuant to authorities



4 granted in this chapter and chapters 260, 278, 319, 444, 643, and 644, the  
5 hazardous waste management commission in chapter 260, the state soil and  
6 water districts commission in chapter 278, the [land reclamation] **Missouri**  
7 **mining** commission in chapter 444, the safe drinking water commission in this  
8 chapter, the air conservation commission in chapter 643, and the clean water  
9 commission in chapter 644 shall cite the specific section of law or legal  
10 authority. The rule shall also be based on the regulatory impact report provided  
11 in this section.

12 2. The regulatory impact report required by this section shall include:

13 (1) A report on the peer-reviewed scientific data used to commence the  
14 rulemaking process;

15 (2) A description of persons who will most likely be affected by the  
16 proposed rule, including persons that will bear the costs of the proposed rule and  
17 persons that will benefit from the proposed rule;

18 (3) A description of the environmental and economic costs and benefits of  
19 the proposed rule;

20 (4) The probable costs to the agency and to any other agency of the  
21 implementation and enforcement of the proposed rule and any anticipated effect  
22 on state revenue;

23 (5) A comparison of the probable costs and benefits of the proposed rule  
24 to the probable costs and benefits of inaction, which includes both economic and  
25 environmental costs and benefits;

26 (6) A determination of whether there are less costly or less intrusive  
27 methods for achieving the proposed rule;

28 (7) A description of any alternative method for achieving the purpose of  
29 the proposed rule that were seriously considered by the department and the  
30 reasons why they were rejected in favor of the proposed rule;

31 (8) An analysis of both short-term and long-term consequences of the  
32 proposed rule;

33 (9) An explanation of the risks to human health, public welfare, or the  
34 environment addressed by the proposed rule;

35 (10) The identification of the sources of scientific information used in  
36 evaluating the risk and a summary of such information;

37 (11) A description and impact statement of any uncertainties and  
38 assumptions made in conducting the analysis on the resulting risk estimate;

39 (12) A description of any significant countervailing risks that may be

40 caused by the proposed rule; and

41 (13) The identification of at least one, if any, alternative regulatory  
42 approaches that will produce comparable human health, public welfare, or  
43 environmental outcomes.

44 3. The department, board, or commission shall develop the regulatory  
45 impact report required by this section using peer-reviewed and published data or  
46 when the peer-reviewed data is not reasonably available, a written explanation  
47 shall be filed at the time of the rule promulgation notice explaining why the  
48 peer-reviewed data was not available to support the regulation. If the  
49 peer-reviewed data is not available, the department must provide all scientific  
50 references and the types, amount, and sources of scientific information that was  
51 used to develop the rule at the time of the rule promulgation notice.

52 4. The department, board, or commission shall publish in at least one  
53 newspaper of general circulation, qualified pursuant to chapter 493, with an  
54 average circulation of twenty thousand or more and on the department, board, or  
55 commission website a notice of availability of any regulatory impact report  
56 conducted pursuant to this section and shall make such assessments and analyses  
57 available to the public by posting them on the department, board, or commission  
58 website. The department, board, or commission shall allow at least sixty days for  
59 the public to submit comments and shall post all comments and respond to all  
60 significant comments prior to promulgating the rule.

61 5. The department, board, or commission shall file a copy of the regulatory  
62 impact report with the joint committee on administrative rules concurrently with  
63 the filing of the proposed rule pursuant to section 536.024.

64 6. If the department, board, or commission fails to conduct the regulatory  
65 impact report as required for each proposed rule pursuant to this section, such  
66 rule shall be void unless the written explanation delineating why the  
67 peer-reviewed data was not available has been filed at the time of the rule  
68 promulgation notice.

69 7. Any other provision of this section to the contrary notwithstanding, the  
70 department, board, or commission referenced in subsection 1 of this section may  
71 adopt a rule without conducting a regulatory impact report if the director of the  
72 department determines that immediate action is necessary to protect human  
73 health, public welfare, or the environment; provided, however, in doing so, the  
74 department, board, or commission shall be required to provide written  
75 justification as to why it deviated from conducting a regulatory impact report and

76 shall complete the regulatory impact report within one hundred eighty days of the  
77 adoption of the rule.

78 8. The provisions of this section shall not apply if the department adopts  
79 environmental protection agency rules and rules from other applicable federal  
80 agencies without variance.

640.016. 1. The department of natural resources shall not place in any  
2 permit any requirement, provision, stipulation, or any other restriction which is  
3 not prescribed or authorized by regulation or statute, unless the requirement,  
4 provision, stipulation, or other restriction is pursuant to the authority addressed  
5 in statute.

6 2. Prior to submitting a permit to public comment the department of  
7 natural resources shall deliver such permit to the permit applicant at the contact  
8 address on the permit application for final review. In the interest of expediting  
9 permit issuance, permit applicants may waive the opportunity to review draft  
10 permits prior to public notice. The permit applicant shall have ten days to review  
11 the permit for errors. Upon receipt of the applicant's review of the permit, the  
12 department of natural resources shall correct the permit where nonsubstantive  
13 drafting errors exist. The department of natural resources shall make such  
14 changes within ten days and submit the permit for public comment. If the permit  
15 applicant is not provided the opportunity to review permits prior to submission  
16 for public comment, the permit applicant shall have the authority to correct  
17 drafting errors in their permits after they are issued without paying any fee for  
18 such changes or modifications.

19 3. In any matter where a permit is denied by the department of natural  
20 resources pursuant to authorities granted in this chapter and chapters 260, 278,  
21 319, 444, 643, and 644, the hazardous waste management commission in chapter  
22 260, the state soil and water districts commission in chapter 278, the [land  
23 reclamation] **Missouri mining** commission in chapter 444, the safe drinking  
24 water commission in this chapter, the air conservation commission in chapter  
25 643, and the clean water commission in chapter 644, such denial shall clearly  
26 state the basis for such denial.

27 4. Once a permit or action has been approved by the department, the  
28 department shall not revoke or change, without written permission from the  
29 permittee, the decision for a period of one year or unless the department  
30 determines that immediate action is necessary to protect human health, public  
31 welfare, or the environment.

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 set forth in this section. The comprehensive review shall**  
134 **include stakeholder meetings in order to solicit stakeholder input from**  
135 **public and private water suppliers, and any other interested**  
136 **parties. Upon completion of the comprehensive review, the department**  
137 **shall submit a proposed fee structure with stakeholder agreement to**  
138 **the safe drinking water commission. The commission shall review such**  
139 **recommendations at a forthcoming regular or special meeting, but shall**  
140 **not vote on the fee structure until a subsequent meeting. If the**  
141 **commission approves, by vote of two-thirds majority or six of nine**  
142 **commissioners, the fee structure recommendations, the commission**  
143 **shall authorize the department to file a notice of proposed rulemaking**  
144 **containing the recommended fee structure, and after considering public**

145 **comments may authorize the department to file the final order of**  
146 **rulemaking for such rule with the joint committee on administrative**  
147 **rules pursuant to sections 536.021 and 536.024 no later than December**  
148 **first of the same year. If such rules are not disapproved by the general**  
149 **assembly in the manner set out below, they shall take effect on January**  
150 **first of the following calendar year, at which point the existing fee**  
151 **structure shall expire. Any regulation promulgated under this**  
152 **subsection shall be deemed to be beyond the scope and authority**  
153 **provided in this subsection, or detrimental to permit applicants, if the**  
154 **general assembly within the first sixty calendar days of the regular**  
155 **session immediately following the filing of such regulation, disapproves**  
156 **the regulation by concurrent resolution. If the general assembly so**  
157 **disapproves any regulation filed under this subsection, the department**  
158 **and the commission shall not implement the proposed fee structure and**  
159 **shall continue to use the previous fee structure. The authority of the**  
160 **commission to further revise the fee structure as provided by this**  
161 **subsection shall expire on August 28, 2024.**

643.055. 1. Other provisions of law notwithstanding, the Missouri air  
2 conservation commission shall have the authority to promulgate rules and  
3 regulations, pursuant to chapter 536, to establish standards and guidelines to  
4 ensure that the state of Missouri is in compliance with the provisions of the  
5 federal Clean Air Act, as amended (42 U.S.C. Section 7401, et seq.). The  
6 standards and guidelines so established shall not be any stricter than those  
7 required under the provisions of the federal Clean Air Act, as amended; nor shall  
8 those standards and guidelines be enforced in any area of the state prior to the  
9 time required by the federal Clean Air Act, as amended. The restrictions of this  
10 section shall not apply to the parts of a state implementation plan developed by  
11 the commission to bring a nonattainment area into compliance and to maintain  
12 compliance when needed to have a United States Environmental Protection  
13 Agency approved state implementation plan. The determination of which parts  
14 of a state implementation plan are not subject to the restrictions of this section  
15 shall be based upon specific findings of fact by the air conservation commission  
16 as to the rules, regulations and criteria that are needed to have a United States  
17 Environmental Protection Agency approved plan.

18 2. The Missouri air conservation commission shall also have the authority  
19 to grant exceptions and variances from the rules set under subsection 1 of this



20 section when the person applying for the exception or variance can show that  
21 compliance with such rules:

22 (1) Would cause economic hardship; or

23 (2) Is physically impossible; or

24 (3) Is more detrimental to the environment than the variance would be;

25 or

26 (4) Is impractical or of insignificant value under the existing conditions.

27 **3. The department shall not regulate the manufacture,**  
28 **performance, or use of residential wood burning heaters or appliances**  
29 **through a state implementation plan or otherwise, unless first**  
30 **specifically authorized to do so by the general assembly. No rule or**  
31 **regulation respecting the establishment or the enforcement of**  
32 **performance standards for residential wood burning heaters or**  
33 **appliances shall become effective unless and until first approved by the**  
34 **joint committee on administrative rules.**

35 **4. New rules or regulations shall not be applied to existing wood**  
36 **burning furnaces, stoves, fireplaces, or heaters that individuals are**  
37 **currently using as their source of heat for their homes or**  
38 **businesses. All wood burning furnaces, stoves, fireplaces, and heaters**  
39 **existing on August 28, 2014 shall be not subject to any rules or**  
40 **regulations enacted after such date. No employee of the state or state**  
41 **agency shall enforce any new rules or regulations against such existing**  
42 **wood burning furnaces, stoves, fireplaces, and heaters.**

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: **the asbestos industry**, electric utilities,  
128 mineral and metallic mining and processing facilities, cement kiln  
129 representatives, and any other interested industrial or business entities or  
130 interested parties. [Upon completion of the comprehensive review,] The  
131 department shall submit a proposed [changes to the] fee structure with  
132 stakeholder agreement to the air conservation commission. The commission  
133 shall[, upon receiving the department's recommendations,] review such  
134 recommendations at the forthcoming regular or special meeting, **but shall not**  
135 **vote on the fee structure until a subsequent meeting.** [The commission  
136 shall review fee structure recommendations from the department. The  
137 commission shall not take a vote on the fee structure recommendations until the  
138 following regular or special meeting.] If the commission approves, by vote of  
139 two-thirds majority or five of seven commissioners, the fee structure  
140 recommendations, the commission shall [promulgate by regulation and publish  
141 the recommended fee structure no later than October first of the same year. The  
142 commission shall] **authorize the department to file a notice of proposed**  
143 **rulemaking containing the recommended fee structure, and after**  
144 **considering public comments, may authorize the department to file the**  
145 order of rulemaking for such rule with the joint committee on administrative  
146 rules pursuant to sections 536.021 and 536.024 no later than December first of  
147 the same year. If such rules are not disapproved by the general assembly in the  
148 manner set out below, they shall take effect on January first of the [next  
149 odd-numbered] **following calendar** year and the **previous** fee structure [set  
150 out in this section] shall expire upon the effective date of the  
151 commission-adopted fee structure. Any regulation promulgated under this  
152 subsection shall be deemed to be beyond the scope and authority provided in this  
153 subsection, or detrimental to permit applicants, if the general assembly, within  
154 the first sixty calendar days of the regular session immediately following the  
155 [promulgation] **filing** of such regulation, by concurrent resolution[, shall  
156 disapprove the fee structure contained in such regulation] **disapproves the**  
157 **regulation by concurrent resolution.** If the general assembly so disapproves

158 any regulation [promulgated] **filed** under this subsection, the [air conservation]  
159 commission shall continue to use the **previous** fee structure [set forth in the  
160 most recent preceding regulation promulgated under this subsection]. **The**  
161 **authority of the commission to further revise the fee structure as**  
162 **provided by** this subsection shall expire on August 28, [2023] **2024**.

644.026. 1. The commission shall:

2 (1) Exercise general supervision of the administration and enforcement  
3 of sections 644.006 to 644.141 and all rules and regulations and orders  
4 promulgated thereunder;

5 (2) Develop comprehensive plans and programs for the prevention, control  
6 and abatement of new or existing pollution of the waters of the state;

7 (3) Advise, consult, and cooperate with other agencies of the state, the  
8 federal government, other states and interstate agencies, and with affected  
9 groups, political subdivisions and industries in furtherance of the purposes of  
10 sections 644.006 to 644.141;

11 (4) Accept gifts, contributions, donations, loans and grants from the  
12 federal government and from other sources, public or private, for carrying out any  
13 of its functions, which funds shall not be expended for other than the purposes  
14 for which provided;

15 (5) Encourage, participate in, or conduct studies, investigations, and  
16 research and demonstrations relating to water pollution and causes, prevention,  
17 control and abatement thereof as it may deem advisable and necessary for the  
18 discharge of its duties pursuant to sections 644.006 to 644.141;

19 (6) Collect and disseminate information relating to water pollution and  
20 the prevention, control and abatement thereof;

21 (7) After holding public hearings, identify waters of the state and  
22 prescribe water quality standards for them, giving due recognition to variations,  
23 if any, and the characteristics of different waters of the state which may be  
24 deemed by the commission to be relevant insofar as possible pursuant to any  
25 federal water pollution control act. These shall be reevaluated and modified as  
26 required by any federal water pollution control act;

27 (8) Adopt, amend, promulgate, or repeal after due notice and hearing rules  
28 and regulations to enforce, implement, and effectuate the powers and duties of  
29 sections 644.006 to 644.141 and any required of this state by any federal water  
30 pollution control act, and as the commission may deem necessary to prevent,  
31 control and abate existing or potential pollution. In addition to opportunities to

32 submit written statements or provide testimony at public hearings in support of  
33 or in opposition to proposed rulemakings as required by section 536.021, any  
34 person who submits written comments or oral testimony on a proposed rule shall,  
35 at any public meeting to vote on an order of rulemaking or other commission  
36 policy, have the opportunity to respond to the proposed order of rulemaking or  
37 department of natural resources' response to comments to the extent that such  
38 response is limited to issues raised in oral or written comments made during the  
39 public notice comment period or public hearing on the proposed rule;

40 (9) Issue, modify or revoke orders prohibiting or abating discharges of  
41 water contaminants into the waters of the state or adopting other remedial  
42 measures to prevent, control or abate pollution;

43 (10) Administer state and federal grants and loans to municipalities and  
44 political subdivisions for the planning and construction of sewage treatment  
45 works;

46 (11) Hold such hearings, issue such notices of hearings and subpoenas  
47 requiring the attendance of such witnesses and the production of such evidence,  
48 administer such oaths, and take such testimony as the commission deems  
49 necessary or as required by any federal water pollution control act. Any of these  
50 powers may be exercised on behalf of the commission by any members thereof or  
51 a hearing officer designated by it;

52 (12) Require the prior submission of plans and specifications, or other  
53 data including the quantity and types of water contaminants, and inspect the  
54 construction of treatment facilities and sewer systems or any part thereof in  
55 connection with the issuance of such permits or approval as are required by  
56 sections 644.006 to 644.141, except that manholes and polyvinyl chloride (PVC)  
57 pipe used for gravity sewers and with a diameter no greater than twenty-seven  
58 inches shall not be required to be tested for leakage;

59 (13) Issue, continue in effect, revoke, modify or deny, under such  
60 conditions as it may prescribe, to prevent, control or abate pollution or any  
61 violations of sections 644.006 to 644.141 or any federal water pollution control  
62 act, permits for the discharge of water contaminants into the waters of this state,  
63 and for the installation, modification or operation of treatment facilities, sewer  
64 systems or any parts thereof. Such permit conditions, in addition to all other  
65 requirements of this subdivision, shall ensure compliance with all effluent  
66 regulations or limitations, water quality related effluent limitations, national  
67 standards of performance and toxic and pretreatment effluent standards, and all

68 requirements and time schedules thereunder as established by sections 644.006  
69 to 644.141 and any federal water pollution control act; however, no permit shall  
70 be required of any person for any emission into publicly owned treatment  
71 facilities or into publicly owned sewer systems tributary to publicly owned  
72 treatment works;

73 (14) Establish permits by rule. Such permits shall only be available for  
74 those facilities or classes of facilities that control potential water contaminants  
75 that pose a reduced threat to public health or the environment and that are in  
76 compliance with commission water quality standards rules, effluent rules or rules  
77 establishing permits by rule. Such permits by rule shall have the same legal  
78 standing as other permits issued pursuant to this chapter. Nothing in this  
79 section shall prohibit the commission from requiring a site-specific permit or a  
80 general permit for individual facilities;

81 (15) Require proper maintenance and operation of treatment facilities and  
82 sewer systems and proper disposal of residual waste from all such facilities and  
83 systems;

84 (16) Exercise all incidental powers necessary to carry out the purposes of  
85 sections 644.006 to 644.141, assure that the state of Missouri complies with any  
86 federal water pollution control act, retains maximum control thereunder and  
87 receives all desired federal grants, aid and benefits;

88 (17) Establish effluent and pretreatment and toxic material control  
89 regulations to further the purposes of sections 644.006 to 644.141 and as required  
90 to ensure compliance with all effluent limitations, water quality-related effluent  
91 limitations, national standards of performance and toxic and pretreatment  
92 effluent standards, and all requirements and any time schedules thereunder, as  
93 established by any federal water pollution control act for point sources in this  
94 state, and where necessary to prevent violation of water quality standards of this  
95 state;

96 (18) Prohibit all discharges of radiological, chemical, or biological warfare  
97 agent or high-level radioactive waste into waters of this state;

98 (19) Require that all publicly owned treatment works or facilities which  
99 receive or have received grants or loans from the state or the federal government  
100 for construction or improvement make all charges required by sections 644.006  
101 to 644.141 or any federal water pollution control act for use and recovery of  
102 capital costs, and the operating authority for such works or facility is hereby  
103 authorized to make any such charges;



104 (20) Represent the state of Missouri in all matters pertaining to interstate  
105 water pollution including the negotiation of interstate compacts or agreements;

106 (21) Develop such facts and make such investigations as are consistent  
107 with the purposes of sections 644.006 to 644.141, and, in connection therewith,  
108 to enter or authorize any representative of the commission to enter at all  
109 reasonable times and upon reasonable notice in or upon any private or public  
110 property for any purpose required by any federal water pollution control act or  
111 sections 644.006 to 644.141 for the purpose of developing rules, regulations,  
112 limitations, standards, or permit conditions, or inspecting or investigating any  
113 records required to be kept by sections 644.006 to 644.141 or any permit issued  
114 pursuant to sections 644.006 to 644.141, any condition which the commission or  
115 director has probable cause to believe to be a water contaminant source or the  
116 site of any suspected violation of sections 644.006 to 644.141, regulations,  
117 standards, or limitations, or permits issued pursuant to sections 644.006 to  
118 644.141. The results of any such investigation shall be reduced to writing, and  
119 shall be furnished to the owner or operator of the property. No person shall  
120 refuse entry or access, requested for the purposes of inspection pursuant to this  
121 subdivision, to an authorized representative in carrying out the inspection. A  
122 suitably restricted search warrant, upon a showing of probable cause in writing  
123 and upon oath, shall be issued by any judge or associate circuit judge having  
124 jurisdiction to any representative for the purpose of enabling him or her to make  
125 such inspection. Information obtained pursuant to this section shall be available  
126 to the public unless it constitutes trade secrets or confidential information, other  
127 than effluent data, of the person from whom it is obtained, except when disclosure  
128 is required pursuant to any federal water pollution control act;

129 (22) Retain, employ, provide for, and compensate, within appropriations  
130 available therefor, such consultants, assistants, deputies, clerks and other  
131 employees on a full- or part-time basis as may be necessary to carry out the  
132 provisions of sections 644.006 to 644.141 and prescribe the times at which they  
133 shall be appointed and their powers and duties;

134 (23) Secure necessary scientific, technical, administrative and operation  
135 services, including laboratory facilities, by contract or otherwise, with any  
136 educational institution, experiment station, or any board, department, or other  
137 agency of any political subdivision of the state or the federal government;

138 (24) Require persons owning or engaged in operations which do or could  
139 discharge water contaminants, or introduce water contaminants or pollutants of

140 a quality and quantity to be established by the commission, into any publicly  
141 owned treatment works or facility, to provide and maintain any facilities and  
142 conduct any tests and monitoring necessary to establish and maintain records  
143 and to file reports containing information relating to measures to prevent, lessen  
144 or render any discharge less harmful or relating to rate, period, composition,  
145 temperature, and quality and quantity of the effluent, and any other information  
146 required by any federal water pollution control act or the director, and to make  
147 them public, except as provided in subdivision (21) of this section. The  
148 commission shall develop and adopt such procedures for inspection, investigation,  
149 testing, sampling, monitoring and entry respecting water contaminant and point  
150 sources as may be required for approval of such a program pursuant to any  
151 federal water pollution control act;

152 (25) Take any action necessary to implement continuing planning  
153 processes and areawide waste treatment management as established pursuant to  
154 any federal water pollution control act or sections 644.006 to 644.141;

155 **(26) Have the sole designated authority to enforce the federal**  
156 **Clean Water Act.**

157 2. No rule or portion of a rule promulgated pursuant to this chapter shall  
158 become effective unless it has been promulgated pursuant to chapter 536.

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  
257 current 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  
261 permit. Scanned copies of the comments received during the public comment  
262 period shall be posted on the department's website within five business days after  
263 close of the 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  
268 the department shall notify all persons who submitted comments to the  
269 department 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, **and 644.061**. The  
5 comprehensive review shall include stakeholder meetings in order to solicit  
6 stakeholder input from each of the following groups: agriculture, industry,  
7 municipalities, public and private wastewater facilities, and the development  
8 community. Upon completion of the comprehensive review, the department shall  
9 submit a proposed [changes to the] fee structure with stakeholder agreement to  
10 the clean water commission. The commission shall[, upon receiving the  
11 department's recommendations,] review such recommendations at the forthcoming  
12 regular or special meeting [under subsection 3 of section 644.021], **but shall not**  
13 **vote on the fee structure until a subsequent meeting**. [The commission  
14 shall not take a vote on the clean water fee structure recommendations until the  
15 following regular or special meeting.] In no case shall the clean water commission  
16 adopt or recommend any clean water fee in excess of five thousand dollars. If the  
17 commission approves, by vote of two-thirds majority or five of seven  
18 commissioners, the [clean water] fee structure recommendations, the commission  
19 shall [promulgate by regulation and publish the recommended clean water fee  
20 structure no later than October first of the same year. The commission shall]  
21 **authorize the department to file a notice of proposed rulemaking**  
22 **containing the recommended fee structure, and after considering public**  
23 **comments, may authorize the department to file the order of rulemaking**  
24 for such rule with the joint committee on administrative rules pursuant to  
25 sections 536.021 and 536.024 no later than December first of the same year. If

26 such rules are not disapproved by the general assembly in the manner set out  
27 below, they shall take effect on January first of the [next odd-numbered]  
28 **following calendar** year and the fee structures set forth in sections 644.052  
29 [and], 644.053, **and 644.061** shall expire upon the effective date of the  
30 commission-adopted fee structure, contrary to section 644.054. Any regulation  
31 promulgated under this subsection shall be deemed to be beyond the scope and  
32 authority provided in this subsection, or detrimental to permit applicants, if the  
33 general assembly, within the first sixty calendar days of the regular session  
34 immediately following the [promulgation] **filing** of such regulation[, by  
35 concurrent resolution, shall disapprove the fee structure contained in such  
36 regulation] **disapproves the regulation by concurrent resolution**. If the  
37 general assembly so disapproves any regulation [promulgated] **filed** under this  
38 subsection, the [clean water commission shall continue to use the fee structure  
39 set forth in the most recent preceding regulation promulgated under this  
40 subsection.] **department and the commission shall not implement the**  
41 **proposed fee structure and shall continue to use the previous fee**  
42 **structure. The authority of the commission to further revise the fee**  
43 **structure provided by this section 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  
49 promulgate rules to implement this section pursuant to chapters 536 and 644,  
50 and shall promulgate such rules as soon as practicable. Affordability findings  
51 shall be based upon reasonably verifiable data and shall include an assessment  
52 of affordability with respect to persons or entities affected. The department shall  
53 offer the permittee an opportunity to review a draft affordability finding, and the  
54 permittee may suggest changes and provide additional supporting information,  
55 subject to subsection 6 of this section. The finding shall be based upon the  
56 following criteria:

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

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

62 (3) An evaluation of the overall costs and environmental benefits of the  
63 control technologies;

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

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

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

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

78 **[(5)] (6) An assessment of other community investments and operating**

79 **costs** relating to environmental improvements **and public health protection;**

80       [(6)] **(7)** An assessment of factors set forth in the United States  
81 Environmental Protection Agency's guidance, including but not limited to the  
82 "Combined Sewer Overflow Guidance for Financial Capability Assessment and  
83 Schedule Development" that may ease the cost burdens of implementing wet  
84 weather control plans, including but not limited to small system considerations,  
85 the attainability of water quality standards, and the development of wet weather  
86 standards; and

87       [(7)] **(8)** An assessment of any other relevant local community economic  
88 condition.

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

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

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

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

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

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

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

115           **(3) The average increase in sewer rates as a percentage of**  
116 **median house income in the communities for those findings determined**  
117 **to be affordable and a separate calculation of average increases in**  
118 **sewer rates for those found not to meet the definition of affordable;**

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

122           **(a) Current and projected monthly residential sewer rates in**  
123 **dollars;**

124           **(b) Projected monthly residential sewer rates as a percentage of**  
125 **median house income;**

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

**644.146. The provisions of sections 67.2800 to 67.2835 may be**  
2 **utilized for the purpose of sewer and drinking water installations,**  
3 **repairs, and modifications.**

✓

Bill

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