

SENATE SUBSTITUTE

FOR

HOUSE BILL NO. 92

AN ACT

To repeal sections 259.010, 259.020, 259.030, 259.050, 259.070, 259.080, 259.100, 259.190, 259.210, 260.235, 260.395, 260.500, 444.600, 444.773, 621.250, 640.115, 643.075, 643.078, 644.011, 644.016, 644.051, and 644.056, RSMo, and to enact in lieu thereof twenty-five new sections relating to the department of natural resources.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1 Section A. Sections 259.010, 259.020, 259.030, 259.050,
2 259.070, 259.080, 259.100, 259.190, 259.210, 260.235, 260.395,
3 260.500, 444.600, 444.773, 621.250, 640.115, 643.075, 643.078,
4 644.011, 644.016, 644.051, and 644.056, RSMo, are repealed and
5 twenty-five new sections enacted in lieu thereof, to be known as
6 sections 259.010, 259.020, 259.030, 259.050, 259.052, 259.070,
7 259.080, 259.100, 259.190, 259.210, 260.235, 260.395, 260.500,
8 444.600, 444.773, 444.980, 621.250, 640.115, 643.075, 643.078,
9 643.650, 644.011, 644.016, 644.051, and 644.056, to read as
10 follows:

11 259.010. There shall be a "State Oil and Gas Council"
12 composed of the following members in accordance with the
13 provisions of section 259.020:

14 (1) [One member from the division of geology and land
15 survey] The state geologist;

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

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

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

7 259.020. The member entities in section 259.010 shall be

8 represented on the council by the executive head of each

9 respective entity, except that:

10 (1) The Missouri University of Science and Technology shall

11 be represented by a professor of petroleum engineering employed

12 at the university;

13 (2) The Missouri Independent Oil and Gas Association shall

14 be represented by a designated member of the association; and

15 (3) The public members shall be appointed to the council by

16 the governor, with the advice and consent of the senate. Both

17 public members shall have an interest in and knowledge of the oil

18 and gas industry, and both shall be residents of Missouri[, and

19 at least one shall also be a resident of a county of the third or

20 fourth classification]. The executive head of any member state

21 agency, the professor of petroleum engineering at the Missouri

22 University of Science and Technology and the member from the

23 Missouri Independent Oil and Gas Association may from time to

24 time authorize any member of the state agency's staff, another

25 professor of petroleum engineering at the Missouri University of

26 Science and Technology or another member of the Missouri

27 Independent Oil and Gas Association, respectively, to represent

28 it on the council and to fully exercise any of the powers and

1 duties of the member representative.

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

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

10 259.050. Unless the context otherwise requires, the
11 following words mean:

12 (1) "Certificate of clearance" means a permit prescribed by
13 the council for the transportation or the delivery of oil or gas
14 or product and issued or registered in accordance with the rule,
15 regulation, or order requiring such permit;

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

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

19 (4) "Field", the general area underlaid by one or more
20 pools;

21 ~~[(4)]~~ (5) "Gas", all natural gas and all other fluid
22 hydrocarbons which are produced at the wellhead and not
23 hereinbelow defined as oil;

24 ~~[(5)]~~ (6) "Illegal gas" means gas which has been produced
25 from any well within this state in excess of the quantity
26 permitted by any rule, regulation, or order of the council;

27 ~~[(6)]~~ (7) "Illegal oil" means oil which has been produced
28 from any well within the state in excess of the quantity

permitted by any rule, regulation, or order of the council;

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

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

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

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

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

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

(13) "Product", any commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude, processed crude petroleum, residue from crude petroleum,

1 cracking stock, uncracked fuel oil, fuel oil, treated crude oil,
2 residuum, gas oil, casinghead gasoline, natural-gas gasoline,
3 kerosene, [benzine] benzene, wash oil, waste oil, blended
4 gasoline, lubricating oil, blends or mixtures of oil with one or
5 more liquid products or by-products derived from oil or gas, and
6 blends or mixtures of two or more liquid products or by-products
7 derived from oil or gas whether [hereinabove] herein enumerated
8 or not;

9 (14) "Reasonable market demand" means the demand for oil or
10 gas for reasonable current requirements for consumption and use
11 within and without the state, together with such quantities as
12 are reasonably necessary for building up or maintaining
13 reasonable working stocks and reasonable reserves of oil or gas
14 or product;

15 (15) "Waste" means and includes:

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

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

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

27 (d) The inefficient storing of oil;

28 (e) The production of oil or gas in excess of

1 transportation or marketing facilities or in excess of reasonable
2 market demand; and

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

6 (16) "Well", any hole drilled in the earth for or in
7 connection with the exploration, discovery, or recovery of oil or
8 gas, or for or in connection with the underground storage of gas
9 in natural formation, or for or in connection with the disposal
10 of salt water, nonusable gas or other waste accompanying the
11 production of oil or gas.

12 259.052. 1. There is hereby created in the state treasury
13 the "Oil and Gas Resources Fund" which shall consist of all
14 gifts, donations, transfers, moneys appropriated by the general
15 assembly, permit application fees collected under section
16 259.080, operating fees, closure fees, late fees, severance fees,
17 and bequests to the fund. The fund shall be administered by the
18 department of natural resources.

19 2. The state treasurer shall be custodian of the fund and
20 may approve disbursements from the fund in accordance with
21 sections 30.170 and 30.180. Notwithstanding the provisions of
22 section 33.080 to the contrary, any moneys remaining in the fund
23 at the end of the biennium shall not revert to the credit of the
24 general revenue fund. The state treasurer shall invest moneys in
25 the fund in the same manner as other funds are invested. Any
26 interest and moneys on such investments shall be credited to the
27 fund.

28 3. After appropriation by the general assembly, the money

1 in such fund shall be expended by the department to administer
2 the provisions of chapter 259, and to collect, process, manage,
3 interpret, and distribute geologic and hydrologic resource
4 information pertaining to oil and gas potential, and not for any
5 other purpose.

6 259.070. 1. The council has the duty of administering the
7 provisions of this chapter. The council shall meet at least once
8 each calendar quarter of the year and upon the call of the
9 chairperson.

10 2. The council shall conduct a review of the statutes and
11 rules and regulations under this chapter on a biennial basis.
12 Based on such review, the council, if necessary, shall recommend
13 changes to the statutes under this chapter and shall amend rules
14 and regulations accordingly.

15 3. (1) The council shall have the power and duty to form
16 an advisory committee to the council for the purpose of reviewing
17 the statutes and rules and regulations under subsection 2 of this
18 section. The advisory committee shall make recommendations to
19 the council when necessary to amend current statutes and rules
20 and regulations under this chapter and shall review any proposed
21 new or amended statute or regulation before such proposed statute
22 or regulation is considered by the council.

23 (2) The advisory committee shall be made up of
24 representatives from the [division of geology and land survey]
25 department, the oil and gas industry and any council member
26 desiring to be on such advisory committee. The advisory
27 committee shall meet prior to each calendar quarter meeting of
28 the council, if necessary for the purposes set forth under this

1 subsection, and present any recommendations to the council at
2 such calendar quarter meeting. The council shall designate one
3 of its members to serve as the chairperson of the advisory
4 committee.

5 (3) The advisory committee may make recommendations to the
6 council on appropriate fees or other funding mechanisms to
7 support the oil and gas program efforts of the [division of
8 geology and land survey] department.

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

13 5. The council, acting through the [office of the state
14 geologist] department, has the authority:

15 (1) To require through the issuance of appropriate orders:

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

19 (b) The making and filing of all mechanical well logs and
20 the filing of directional surveys if taken, and the filing of
21 reports on well location, drilling and production, and the filing
22 free of charge of samples and core chips and of complete cores
23 less tested sections, when requested in the office of the state
24 geologist within six months after the completion or abandonment
25 of the well;

26 (c) The drilling, casing, operation, and plugging of wells
27 in such manner as to prevent the escape of oil or gas out of one
28 stratum into another; the intrusion of water into oil or gas

1 stratum; the pollution of fresh water supplies by oil, gas, or
2 highly mineralized water; to prevent blowouts, cavings, seepages,
3 and fires; and to prevent the escape of oil, gas, or water into
4 workable coal or other mineral deposits;

5 (d) The furnishing of a reasonable bond with good and
6 sufficient surety, conditioned upon the full compliance with the
7 provisions of this chapter, and the rules and regulations of the
8 council prescribed to govern the production of oil and gas on
9 state and private lands within the state of Missouri; provided
10 that, in lieu of a bond with a surety, an applicant may furnish
11 to the council his own personal bond, on conditions as described
12 in this paragraph, secured by a certificate of deposit or an
13 irrevocable letter of credit in an amount equal to that of the
14 required surety bond or secured by some other financial
15 instrument on conditions as above described or as provided by
16 council regulations;

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

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

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

26 (h) Metering or other measuring of any native and
27 indigenous Missouri-produced crude oil, gas, or product in
28 pipelines, gathering systems, barge terminals, loading racks,

1 refineries, or other places; and

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

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

12 (a) The release and forfeiture of bonds required under
13 paragraph (d) of subdivision (1) of subsection 5 of this section;

14 (b) The drilling, producing, and plugging of wells, and all
15 other operations for the production of oil or gas;

16 [(b)] (c) The [shooting and chemical] treatment of wells;

17 [(c)] (d) The spacing of wells;

18 [(d)] (e) Operations to increase ultimate recovery such as
19 cycling of gas, the maintenance of pressure, and the introduction
20 of gas, water, or other substances into producing formations; and

21 [(e)] (f) Disposal of highly mineralized water and oil
22 field wastes;

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

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

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

1 (6) To make rules, regulations, or orders for the
2 classification of wells as oil wells or dry natural gas wells; or
3 wells drilled, or to be drilled, for geological information; or
4 as wells for secondary recovery projects; or wells for the
5 disposal of highly mineralized water, brine, or other oil field
6 wastes; or wells for the storage of dry natural gas, or
7 casinghead gas; or wells for the development of reservoirs for
8 the storage of liquid petroleum gas;

9 (7) To detail such personnel and equipment or enter into
10 such contracts as it may deem necessary for carrying out the
11 plugging of or other remedial measures on wells which have been
12 abandoned and not plugged according to the standards for plugging
13 set out in the rules and regulations promulgated by the council
14 pursuant to this chapter. Members of the council, the
15 department, or authorized representatives may, with the consent
16 of the owner or person in possession, enter any property for the
17 purpose of investigating, plugging, or performing remedial
18 measures on any well, or to supervise the investigation,
19 plugging, or performance of remedial measures on any well. A
20 reasonable effort to contact the owner or the person in
21 possession of the property to seek his permission shall be made
22 before members of the council, the department, or authorized
23 representatives enter the property for the purposes described in
24 this paragraph. If the owner or person in possession of the
25 property cannot be found or refuses entry or access to any member
26 of the council, the department, or to any authorized
27 representative presenting appropriate credentials, the council or
28 the department may request the attorney general to initiate in

1 any court of competent jurisdiction an action for injunctive
2 relief to restrain any interference with the exercise of powers
3 and duties described in this subdivision. Any entry authorized
4 under this subdivision shall be construed as an exercise of the
5 police power for the protection of public health, safety and
6 general welfare and shall not be construed as an act of
7 condemnation of property nor of trespass thereon. Members of the
8 council [and], the department, or authorized representatives
9 shall not be liable for any damages necessarily resulting from
10 the entry upon land for purposes of investigating, plugging, or
11 performing remedial measures or the supervision of such activity.
12 However, if growing crops are present, arrangements for timing of
13 such remedial work may be agreed upon between the state and
14 landowner in order to minimize damages;

15 (8) To develop such facts and make such investigations or
16 inspections as are consistent with the purposes of this chapter.
17 [Members of the council] The department or its authorized
18 representatives may, with the consent of the owner or person in
19 possession, enter upon any property for the purposes of
20 inspecting or investigating any condition which the [council]
21 department shall have probable cause to believe is subject to
22 regulation under this chapter, the rules and regulations
23 promulgated pursuant thereto or any permit issued by the
24 [council] department. If the owner or person in possession of
25 the property refuses entry or access for purposes of the
26 inspections or investigations described, the [council] department
27 or authorized representatives shall make application for a search
28 warrant. Upon a showing of probable cause in writing and under

1 oath, a suitable restricted search warrant shall be issued by any
2 judge having jurisdiction for purposes of enabling inspections
3 authorized under this subdivision. The results of any inspection
4 or investigation pursuant to this subdivision shall be reduced to
5 writing with a copy furnished to the owner, person in possession,
6 or operator;

7 (9) To cooperate with landowners with respect to the
8 conversion of wells drilled for oil and gas to alternative use as
9 water wells as follows: the state geologist shall determine the
10 feasibility of the conversion of a well drilled under a permit
11 for oil and gas for use as a water well and shall advise the
12 landowner of modifications required for conversion of the well in
13 a manner that is consistent with the requirements of this
14 chapter. If such conversion is carried out, release of the
15 operator from legal liability or other responsibility shall be
16 required and the expense of the conversion shall be borne by the
17 landowner.

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

21 259.080. 1. It shall be unlawful to commence operations
22 for the drilling of a well for oil or gas, or to commence
23 operations to deepen any well to a different geological
24 formation, or to commence injection activities for enhanced
25 recovery of oil or gas or for disposal of fluids, without first
26 giving the state geologist notice of intention to drill or
27 intention to inject and first obtaining a permit from the state
28 geologist under such rules and regulations as may be prescribed

1 by the council.

2 2. The department of natural resources may conduct a
3 comprehensive review, and propose a new fee structure, or propose
4 changes to the oil and gas fee structure, which may include but
5 need not be limited to permit application fees, operating fees,
6 closure fees, and late fees, and an extraction or severance fee.
7 The comprehensive review shall include stakeholder meetings in
8 order to solicit stakeholder input from each of the following
9 groups: oil and gas industry representatives, the advisory
10 committee, and any other interested parties. Upon completion of
11 the comprehensive review, the department shall submit a proposed
12 fee structure or changes to the oil and gas fee structure with
13 stakeholder agreement to the oil and gas council. The council
14 shall review such recommendations at the forthcoming regular or
15 special meeting, but shall not vote on the fee structure until a
16 subsequent meeting. If the council approves, by vote of two-
17 thirds majority, the fee structure recommendations, the council
18 shall authorize the department to file a notice of proposed
19 rulemaking containing the recommended fee structure, and after
20 considering public comments may authorize the department to file
21 the final order of rulemaking for such rule with the joint
22 committee on administrative rules under sections 536.021 and
23 536.024 no later than December first of the same year. If such
24 rules are not disapproved by the general assembly in the manner
25 set out in this section, they shall take effect on January first
26 of the following year, at which point the existing fee structure
27 shall expire. Any regulation promulgated under this subsection
28 shall be deemed beyond the scope and authority provided in this

1 subsection, or detrimental to permit applicants, if the general
2 assembly, within the first sixty calendar days of the regular
3 session immediately following the filing of such regulation,
4 disapproves the regulation by concurrent resolution. If the
5 general assembly so disapproved any regulation filed under this
6 subsection, the department and the council shall not implement
7 the proposed fee structure and shall continue to use the previous
8 fee structure. The authority of the council to further revise
9 the fee structure as provided in this subsection shall expire on
10 August 28, 2025.

11 3. Failure to pay the fees, or any portion thereof,
12 established under this section or to submit required reports,
13 forms or information by the due date shall result in the
14 imposition of a late fee established by the council. The
15 department may issue an administrative order requiring payment of
16 unpaid fees or may request that the attorney general bring an
17 action in the appropriate circuit court to collect any unpaid
18 fee, late fee, interest, or attorney's fees and costs incurred
19 directly in fee collection. Such action may be brought in the
20 circuit court of Cole County, or, in the case of well fees, in
21 the circuit court of the county in which the well is located.

22 259.100. 1. The council shall set spacing units as
23 follows:

24 (1) When necessary to prevent waste, to avoid the drilling
25 of unnecessary wells, or to protect correlative rights, the
26 council shall establish spacing units for a pool. Spacing units
27 when established shall be of uniform size and shape for the
28 entire pool, except that when found to be necessary for any of

1 the purposes above mentioned, the council is authorized to divide
2 any pool into zones and establish spacing units for each zone,
3 which units may differ in size and shape from those established
4 in any other zone;

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

8 (3) An order establishing spacing units for a pool shall
9 specify the size and shape of each unit and the location of the
10 permitted well thereon in accordance with a reasonably uniform
11 spacing plan. Upon application, if the state geologist finds
12 that a well drilled at the prescribed location would not produce
13 in paying quantities, or that surface conditions would
14 substantially add to the burden or hazard of drilling such well,
15 the [state geologist] department is authorized to enter an order
16 permitting the well to be drilled at a location other than that
17 prescribed by such spacing order; however, the state geologist
18 shall include in the order suitable provisions to prevent the
19 production from the spacing unit of more than its just and
20 equitable share of the oil and gas in the pool;

21 (4) An order establishing spacing units for a pool shall
22 cover all lands determined or believed to be underlaid by such
23 pool, and may be modified by the [state geologist] department
24 from time to time to include additional areas determined to be
25 underlaid by such pool. When found necessary for the prevention
26 of waste, or to avoid the drilling of unnecessary wells or to
27 protect correlative rights, an order establishing spacing units
28 in a pool may be modified by the state geologist to increase the

1 size of spacing units in the pool or any zone thereof, or to
2 permit the drilling of additional wells on a reasonable uniform
3 plan in the pool, or any zone thereof. Orders of the [state
4 geologist] department may be appealed to the council within
5 thirty days.

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

8 3.] Applicants seeking a permit for a noncommercial gas
9 well shall file a bond [or other instrument of credit acceptable
10 to the council equal to the greater of three hundred dollars or
11 one dollar and fifty cents per well foot] under paragraph (d) of
12 subdivision (1) of subsection 5 of section 259.070 and meet the
13 following conditions and procedures: an owner of a noncommercial
14 gas well with drilling rights may apply for the establishment of
15 a drilling unit [containing no less than three acres,] with a
16 well set back of one hundred sixty-five feet on which a well no
17 deeper than eight hundred feet in depth may be drilled. An owner
18 of a noncommercial gas well may apply to the [council] department
19 for a variance to establish a [drilling] spacing unit [of less
20 than three acres and/or less than one hundred sixty-five feet],
21 to set back distances, or both.

22 259.190. 1. Illegal oil, illegal gas, and illegal product
23 are declared to be contraband and are subject to seizure and sale
24 as herein provided; seizure and sale to be in addition to any and
25 all other remedies and penalties provided in this chapter for
26 violations relating to illegal oil, illegal gas, or illegal
27 product. Whenever the council believes that any oil, gas or
28 product is illegal, the council, acting by the attorney general,

1 shall bring a civil action in rem in the circuit court of the
2 county where such oil, gas, or product is found, to seize and
3 sell the same, or the council may include such an action in rem
4 for the seizure and sale of illegal oil, illegal gas, or illegal
5 product in any suit brought for an injunction or penalty
6 involving illegal oil, illegal gas, or illegal product. Any
7 person claiming an interest in oil, gas, or product affected by
8 any such action shall have the right to intervene as an
9 interested party in such action.

10 2. Actions for the seizure and sale of illegal oil, illegal
11 gas, or illegal product shall be strictly in rem, and shall
12 proceed in the name of the state as plaintiff against the illegal
13 oil, illegal gas, or illegal products as defendant. No bond or
14 similar undertaking shall be required of the plaintiff. Upon the
15 filing of the petition for seizure and sale, the attorney general
16 shall issue a notice, with a copy of the complaint attached
17 thereto, which shall be served in the manner provided for service
18 of original notices in civil actions, upon any and all persons
19 having or claiming any interest in the illegal oil, illegal gas,
20 or illegal products described in the petition. Service shall be
21 completed by the filing of an affidavit by the person making the
22 service, stating the time and manner of making such service. Any
23 person who fails to appear and answer within the period of thirty
24 days shall be forever barred by the judgment based on such
25 service. If the court, on a properly verified petition, or
26 affidavits, or oral testimony, finds that grounds for seizure and
27 for sale exist, the court shall issue an immediate order of
28 seizure, describing the oil, gas, or product to be seized and

1 directing the sheriff of the county to take such oil, gas, or
2 product into his custody, actual or constructive, and to hold the
3 same subject to the further order of the court. The court, in
4 such order of seizure, may direct the sheriff to deliver the oil,
5 gas, or product seized by him under the order to an agent
6 appointed by the court as the agent of the court; such agent to
7 give bond in an amount and with such surety as the court may
8 direct, conditioned upon his compliance with the orders of the
9 court concerning the custody and disposition of such oil, gas, or
10 product.

11 3. Any person having an interest in oil, gas, or product
12 described in an order of seizure and contesting the right of the
13 state to the seizure and sale thereof may, prior to the sale
14 thereof as herein provided, obtain the release thereof, upon
15 furnishing bond to the sheriff, approved by the court, in an
16 amount equal to one hundred fifty percent of the market value of
17 the oil, gas, or product to be released, and conditioned as the
18 court may direct upon redelivery to the sheriff of such product
19 released or upon payment to the sheriff of the market value
20 thereof as the court may direct, if and when ordered by the
21 court, and upon full compliance with the further orders of the
22 court.

23 4. If the court, after a hearing upon a petition for the
24 seizure and sale of oil, gas, or product, finds that such oil,
25 gas, or product is contraband, the court shall order the sale
26 thereof by the sheriff in the same manner and upon the same
27 notice of sale as provided by law for the sale of personal
28 property on execution of judgment entered in a civil action

1 except that the court may order that the illegal oil, illegal
2 gas, or illegal product be sold in specified lots or portions and
3 at specified intervals. Upon such sale, title to the oil, gas,
4 or product sold shall vest in the purchaser free of the claims of
5 any and all persons having any title thereto or interest therein
6 at or prior to the seizure thereof, and the same shall be legal
7 oil, legal gas, or legal product, as the case may be, in the
8 hands of the purchaser.

9 5. All proceeds derived from the sale of illegal oil,
10 illegal gas, or illegal product, as above provided, after payment
11 of costs of suit and expenses incident to the sale, and all
12 amounts obtained by the council from the forfeiture of [surety or
13 personal] bonds required under paragraph (d) of subdivision (1)
14 of subsection 5 of section 259.070, [and any money recovered
15 under subsection 1 of section 259.200] shall be paid to the state
16 treasurer and credited to the "Oil and Gas Remedial Fund", which
17 is hereby created. The money in the oil and gas remedial fund
18 may be used by the [council] department to pay for the plugging
19 of, or other remedial measures on, wells [and to pay the expenses
20 incurred by the council in performing the duties imposed on it by
21 this chapter. Any unexpended balance in the fund at the end of
22 the fiscal year not exceeding fifty thousand dollars is exempt
23 from the provisions of section 33.080 relating to transfer of
24 unexpended balances to the ordinary revenue funds]. The state
25 treasurer shall be custodian of the fund and may approve
26 disbursements from the fund in accordance with sections 30.170
27 and 30.180. Notwithstanding the provisions of section 33.080, to
28 the contrary, any moneys remaining in the fund at the end of the

1 biennium shall not revert to the credit of the general revenue
2 fund. The state treasurer shall invest moneys in the fund in the
3 same manner as other funds are invested. Any interest and moneys
4 earned on such investments shall be credited to the fund.

5 259.210. 1. Whenever it appears that any person is
6 violating or threatening to violate any provision of this
7 chapter, or any rule, regulation, or order of the council, the
8 council [shall] or the department may request that the attorney
9 general bring suit against such person in the circuit court of
10 any county where the violation occurs or is threatened, to
11 restrain such person from continuing the violation or from
12 carrying out the threat of violation. In any such suit, the
13 court shall have jurisdiction to grant to the council, without
14 bond or other undertaking, such prohibitory and mandatory
15 injunctions as the facts may warrant, including temporary
16 restraining orders, preliminary injunctions, temporary,
17 preliminary, or final orders restraining the movement or
18 disposition of any illegal oil, illegal gas, or illegal product,
19 any of which the court may order to be impounded or placed in the
20 custody of an agent appointed by the court.

21 2. If the council shall fail to bring suit to enjoin a
22 violation or a threatened violation of any provision of this
23 chapter, or any rule, regulation, or order of the council, within
24 ten days after receipt of written request to do so by any person
25 who is or will be adversely affected by such violation, the
26 person making such request may bring suit in his own behalf to
27 restrain such violation or threatened violation in any court in
28 which the council might have brought suit. The council shall be

1 made a party defendant in such suit in addition to the person
2 violating or threatening to violate a provision of this chapter,
3 or a rule, regulation, or order of the council, and the action
4 shall proceed and injunctive relief may be granted to the council
5 or the petitioner without bond in the same manner as if suit had
6 been brought by the council.

7 260.235. Any person aggrieved by a forfeiture of any financial
8 assurance instrument, civil or administrative penalty or denial,
9 suspension or revocation of a permit required by section 260.205
10 or a modification to a permit issued under section 260.205 or any
11 disapproval of the plan required by section 260.220, may appeal
12 such decision as provided in [section] sections 621.250[, subject
13 to judicial review as provided by law] and 640.013 by filing a
14 petition with the administrative hearing commission within thirty
15 days of the decision. The notice of the department shall be
16 effected by certified mail and shall set forth the reasons for
17 such forfeiture, disapproval, denial, suspension, civil penalty
18 or revocation. The department may seek an injunction in the
19 circuit court in which the facility is located requiring the
20 facility for which the transfer of ownership has been denied, or
21 the permit or modification of the permit has been denied,
22 suspended or revoked, to cease operations from the date ordered
23 by the court until such time as the appeal is resolved or obtain
24 a performance bond in the amount and manner as prescribed by
25 rule. The department's action seeking an injunction shall be
26 based on the seriousness of the threat to the environment which
27 continued operation of the facility poses. A bond may be
28 required in order to stay the effect of the department's action

1 until the appeal is resolved, in which case such bond shall
2 remain in place until the appeal is resolved. If the
3 department's decision is upheld, the bond shall be forfeited and
4 placed in a separate subaccount of the solid waste management
5 fund. Once the administrative hearing commission has reviewed
6 the appeal, the administrative hearing commission shall make a
7 final decision on the forfeiture of any financial assurance
8 instrument, civil or administrative penalty, denial, suspension,
9 revocation, or modification of a permit or disapproval of the
10 plan required by section 260.220. The administrative hearing
11 commission shall mail copies of its final decision to the parties
12 to the appeal or their counsel of record. The commission's
13 decision shall be subject to judicial review pursuant to chapter
14 536, except that the court of appeals district with territorial
15 jurisdiction coextensive with the county where the solid waste
16 processing facility or disposal area is located or is to be
17 located shall have original jurisdiction. No judicial review
18 shall be available until and unless all administrative remedies
19 are exhausted.

20 260.395. 1. After six months from the effective date of
21 the standards, rules and regulations adopted by the commission
22 pursuant to section 260.370, it shall be unlawful for any person
23 to transport any hazardous waste in this state without first
24 obtaining a hazardous waste transporter license. Any person
25 transporting hazardous waste in this state shall file an
26 application for a license pursuant to this subsection which
27 shall:

28 (1) Be submitted on a form provided for this purpose by the

1 department and shall furnish the department with such equipment
2 identification and data as may be necessary to demonstrate to the
3 satisfaction of the department that equipment engaged in such
4 transportation of hazardous waste, and other equipment as
5 designated in rules and regulations pursuant to sections 260.350
6 to 260.430, is adequate to provide protection of the health of
7 humans and the environment and to comply with the provisions of
8 any federal hazardous waste management act and sections 260.350
9 to 260.430 and the standards, rules and regulations adopted
10 pursuant to sections 260.350 to 260.430. If approved by the
11 department, this demonstration of protection may be satisfied by
12 providing certification that the equipment so identified meets
13 and will be operated in accordance with the rules and regulations
14 of the Missouri public service commission and the federal
15 Department of Transportation for the transportation of the types
16 of hazardous materials for which it will be used;

17 (2) Include, as specified by rules and regulations,
18 demonstration of financial responsibility, including, but not
19 limited to, guarantees, liability insurance, posting of bond or
20 any combination thereof which shall be related to the number of
21 units, types and sizes of equipment to be used in the transport
22 of hazardous waste by the applicant;

23 (3) Include, as specified in rules and regulations, a fee
24 payable to the state of Missouri which shall consist of an annual
25 application fee, plus an annual use fee based upon tonnage,
26 mileage or a combination of tonnage and mileage. The fees
27 established pursuant to this subdivision shall be set to
28 generate, as nearly as is practicable, six hundred thousand

1 dollars annually. No fee shall be collected pursuant to this
2 subdivision from railroads that pay a fee pursuant to subsection
3 18 of this section. Fees collected pursuant to this subdivision
4 shall be deposited in the hazardous waste fund created pursuant
5 to section 260.391.

6 2. If the department determines the application conforms to
7 the provisions of any federal hazardous waste management act and
8 sections 260.350 to 260.430 and the standards, rules and
9 regulations adopted pursuant to sections 260.350 to 260.430, it
10 shall issue the hazardous waste transporter license with such
11 terms and conditions as it deems necessary to protect the health
12 of humans and the environment. The department shall act within
13 ninety days after receipt of the application. If the department
14 denies the license, it shall issue a report to the applicant
15 stating the reason for denial of the license.

16 3. A license may be suspended or revoked whenever the
17 department determines that the equipment is or has been operated
18 in violation of any provision of sections 260.350 to 260.430 or
19 any standard, rule or regulation, order, or license term or
20 condition adopted or issued pursuant to sections 260.350 to
21 260.430, poses a threat to the health of humans or the
22 environment, or is creating a public nuisance.

23 4. Whenever a license is issued, renewed, denied, suspended
24 or revoked by the department, any aggrieved person, by petition
25 filed with the [department] administrative hearing commission
26 within thirty days of the decision, may appeal such decision [and
27 shall be entitled to a hearing as provided in section 260.400] as
28 provided by sections 621.250 and 640.013. Once the

1 administrative hearing commission has reviewed the appeal, the
2 administrative hearing commission shall issue a recommended
3 decision to the commission on license issuance, renewal, denial,
4 suspension, or revocation. The commission shall issue its own
5 decision, based on the appeal, for license issuance, renewal,
6 denial, suspension, or revocation. If the commission changes a
7 finding of fact or conclusion of law made by the administrative
8 hearing commission, or modifies or vacates the decision
9 recommended by the administrative hearing commission, it shall
10 issue its own decision, which shall include findings of fact and
11 conclusions of law. The commission shall mail copies of its
12 final decision to the parties to the appeal or their counsel of
13 record. The commission's decision shall be subject to judicial
14 review pursuant to chapter 536. No judicial review shall be
15 available until and unless all administrative remedies are
16 exhausted.

17 5. A license shall be issued for a period of one year and
18 shall be renewed upon proper application by the holder and a
19 determination by the department that the applicant is in
20 compliance with all provisions of sections 260.350 to 260.430 and
21 all standards, rules and regulations, orders and license terms
22 and conditions adopted or issued pursuant to sections 260.350 to
23 260.430.

24 6. A license is not required for the transport of any
25 hazardous waste on the premises where it is generated or onto
26 contiguous property owned by the generator thereof, or for those
27 persons exempted in section 260.380. Nothing in this subsection
28 shall be interpreted to preclude the department from inspecting

1 unlicensed hazardous waste transporting equipment and to require
2 that it be adequate to provide protection for the health of
3 humans and the environment.

4 7. After six months from the effective date of the
5 standards, rules and regulations adopted by the commission
6 pursuant to section 260.370, it shall be unlawful for any person
7 to construct, substantially alter or operate, including
8 operations specified in the rules and regulations, a hazardous
9 waste facility without first obtaining a hazardous waste facility
10 permit for such construction, alteration or operation from the
11 department. Such person must submit to the department at least
12 ninety days prior to submitting a permit application a letter of
13 intent to construct, substantially alter or operate any hazardous
14 waste disposal facility. The person must file an application
15 within one hundred eighty days of the filing of a letter of
16 intent unless granted an extension by the commission. The
17 department shall publish such letter of intent as specified in
18 section 493.050 within ten days of receipt of such letter. The
19 letter shall be published once each week for four weeks in the
20 county where the hazardous waste disposal facility is proposed.
21 Once such letter is submitted, all conditions for the permit
22 application evaluation purposes in existence as of the date of
23 submission shall be deemed frozen, in that no subsequent action
24 by any person to change such conditions in an attempt to thwart a
25 fair and impartial decision on the application for a permit shall
26 be allowed as grounds for denial of the permit. Any person
27 before constructing, substantially altering or operating a
28 hazardous waste facility in this state shall file an application

1 for a permit which shall:

2 (1) Be submitted on a form provided for this purpose by the
3 department and shall furnish the department with plans,
4 specifications and such other data as may be necessary to
5 demonstrate to the satisfaction of the department that such
6 facility does or will provide adequate protection of the health
7 of humans and the environment and does or will comply with the
8 provisions of any federal hazardous waste management act and
9 sections 260.350 to 260.430 and the standards, rules and
10 regulations adopted pursuant to sections 260.350 to 260.430;

11 (2) Include plans, designs, engineering reports and
12 relevant data for construction, alteration or operation of a
13 hazardous waste facility, to be submitted to the department by a
14 registered professional engineer licensed by this state;

15 (3) Include, as specified by rules and regulations,
16 demonstration of financial responsibility, including, but not
17 limited to, guarantees, liability insurance, posting of bond or
18 any combination thereof, which shall be related to type and size
19 of facility;

20 (4) Include such environmental and geologic information,
21 assessments and studies as required by the rules and regulations
22 of the commission;

23 (5) Include a fee payable to the state of Missouri which
24 shall not exceed one thousand dollars, which shall cover the
25 first year of the permit, if issued, but which is not refundable.
26 If the permit is issued for more than one year, a fee equal in
27 amount to the first year's fee shall be paid to the state of
28 Missouri prior to issuance of the permit for each year the permit

1 is to be in effect beyond the first year;

2 (6) The department shall supervise any field work
3 undertaken to collect geologic and engineering data for
4 submission with the application. The state geologist and
5 departmental engineers shall review the geologic and engineering
6 plans, respectively, and attest to their accuracy and adequacy.
7 The applicant shall pay all reasonable costs, as determined by
8 the commission, incurred by the department pursuant to this
9 subsection.

10 8. (1) Prior to issuing or renewing a hazardous waste
11 facility permit, the department shall issue public notice by
12 press release or advertisement and shall notify all record owners
13 of adjoining property by mail directed to the last known address,
14 and the village, town or city, if any, and the county in which
15 the hazardous waste facility is located; and, upon request, shall
16 hold a public hearing after public notice as required in this
17 subsection at a location convenient to the area affected by the
18 issuance of the permit.

19 (2) Prior to issuing or renewing a hazardous waste disposal
20 facility permit the department shall issue public notice by press
21 release and advertisement and shall notify all record owners of
22 property, within one mile of the outer boundaries of the site, by
23 mail directed to the last known address; and shall hold a public
24 hearing after public notice as required in this subsection at a
25 location convenient to the area affected by the issuance of the
26 permit.

27 9. If the department determines that the application
28 conforms to the provisions of any federal hazardous waste

1 management act and sections 260.350 to 260.430 and the standards,
2 rules and regulations adopted pursuant to sections 260.350 to
3 260.430, it shall issue the hazardous waste facility permit, with
4 such terms and conditions and require such testing and
5 construction supervision as it deems necessary to protect the
6 health of humans or the environment. The department shall act
7 within one hundred and eighty days after receipt of the
8 application. If the department denies the permit, it shall issue
9 a report to the applicant stating the reason for denial of a
10 permit.

11 10. A permit may be suspended or revoked whenever the
12 department determines that the hazardous waste facility is, or
13 has been, operated in violation of any provision of sections
14 260.350 to 260.430 or any standard, rule or regulation, order or
15 permit term or condition adopted or issued pursuant to sections
16 260.350 to 260.430, poses a threat to the health of humans or the
17 environment or is creating a public nuisance.

18 11. Whenever a permit is issued, renewed, denied, suspended
19 or revoked by the department, any aggrieved person, by petition
20 filed with the [department] administrative hearing commission
21 within thirty days of the decision, may appeal such decision [and
22 shall be entitled to a hearing as provided in section 260.400] as
23 provided by sections 621.250 and 640.013. Once the
24 administrative hearing commission has reviewed the appeal, the
25 administrative hearing commission shall issue a recommended
26 decision to the commission on permit issuance, renewal, denial,
27 suspension, or revocation. The commission shall issue its own
28 decision, based on the appeal, for permit issuance, renewal,

1 denial, suspension, or revocation. If the commission changes a
2 finding of fact or conclusion of law made by the administrative
3 hearing commission, or modifies or vacates the decision
4 recommended by the administrative hearing commission, it shall
5 issue its own decision, which shall include findings of fact and
6 conclusions of law. The commission shall mail copies of its
7 final decision to the parties to the appeal or their counsel of
8 record. The commission's decision shall be subject to judicial
9 review pursuant to chapter 536, except that the court of appeals
10 district with territorial jurisdiction coextensive with the
11 county where the hazardous waste facility is to be located or is
12 located, shall have original jurisdiction. No judicial review
13 shall be available until and unless all administrative remedies
14 are exhausted.

15 12. A permit shall be issued for a fixed term, which shall
16 not exceed ten years in the case of any land disposal facility,
17 storage facility, incinerator, or other treatment facility.
18 Nothing in this subsection shall preclude the department from
19 reviewing and modifying a permit at any time during its term.
20 Review of any application for a permit renewal shall consider
21 improvements in the state of control and measurement technology
22 as well as changes in applicable regulations. Each permit issued
23 pursuant to this section shall contain such terms and conditions
24 as the department determines necessary to protect human health
25 and the environment, and upon proper application by the holder
26 and a determination by the department that the applicant is in
27 compliance with all provisions of sections 260.350 to 260.430 and
28 all standards, rules and regulations, orders and permit terms and

1 conditions adopted or issued pursuant to sections 260.350 to
2 260.430.

3 13. A hazardous waste facility permit is not required for:

4 (1) On-site storage of hazardous wastes where such storage
5 is exempted by the commission by rule or regulation; however,
6 such storage must conform to the provisions of any federal
7 hazardous waste management act and sections 260.350 to 260.430
8 and the applicable standards, rules and regulations adopted
9 pursuant to sections 260.350 to 260.430 and any other applicable
10 hazardous materials storage and spill-prevention requirements
11 provided by law;

12 (2) A publicly owned treatment works which has an operating
13 permit pursuant to section 644.051 and is in compliance with that
14 permit;

15 (3) A resource recovery facility which the department
16 certifies uses hazardous waste as a supplement to, or substitute
17 for, nonwaste material, and that the sole purpose of the facility
18 is manufacture of a product rather than treatment or disposal of
19 hazardous wastes;

20 (4) That portion of a facility engaged in hazardous waste
21 resource recovery, when the facility is engaged in both resource
22 recovery and hazardous waste treatment or disposal, provided the
23 owner or operator can demonstrate to the department's
24 satisfaction and the department finds that such portion is not
25 intended and is not used for hazardous waste treatment or
26 disposal.

27 14. Facilities exempted pursuant to subsection 13 of this
28 section must comply with the provisions of subdivisions (3) to

1 (7) of section 260.390 and such other requirements, to be
2 specified by rules and regulations, as are necessary to comply
3 with any federal hazardous waste management act or regulations
4 hereunder. Generators who use such an exempted facility shall
5 keep records of hazardous wastes transported, except by legal
6 flow through sewer lines, to the facility and submit such records
7 to the department in accordance with the provisions of section
8 260.380 and the standards, rules and regulations adopted pursuant
9 to sections 260.350 to 260.430. Any person, before constructing,
10 altering or operating a resource recovery facility in this state
11 shall file an application for a certification. Such application
12 shall include:

13 (1) Plans, designs, engineering reports and other relevant
14 information as specified by rule that demonstrate that the
15 facility is designed and will operate in a manner protective of
16 human health and the environment; and

17 (2) An application fee of not more than five hundred
18 dollars for a facility that recovers waste generated at the same
19 facility or an application fee of not more than one thousand
20 dollars for a facility that recovers waste generated at off-site
21 sources. Such fees shall be deposited in the hazardous waste
22 fund created in section 260.391. The department shall review
23 such application for conformance with applicable laws, rules and
24 standard engineering principles and practices. The applicant
25 shall pay to the department all reasonable costs, as determined
26 by the commission, incurred by the department pursuant to this
27 subsection. All such funds shall be deposited in the hazardous
28 waste fund created in section 260.391.

1 15. The owner or operator of any hazardous waste facility
2 in existence on September 28, 1977, who has achieved federal
3 interim status pursuant to 42 U.S.C. 6925(e), and who has
4 submitted to the department Part A of the federal facility permit
5 application, may continue to receive and manage hazardous wastes
6 in the manner as specified in the Part A application, and in
7 accordance with federal interim status requirements, until
8 completion of the administrative disposition of a permit
9 application submitted pursuant to sections 260.350 to 260.430.
10 The department may at any time require submission of, or the
11 owner or operator may at any time voluntarily submit, a complete
12 application for a permit pursuant to sections 260.350 to 260.430
13 and commission regulations. The authority to operate pursuant to
14 this subsection shall cease one hundred eighty days after the
15 department has notified an owner or operator that an application
16 for permit pursuant to sections 260.350 to 260.430 must be
17 submitted, unless within such time the owner or operator submits
18 a completed application therefor. Upon submission of a complete
19 application, the authority to operate pursuant to this subsection
20 shall continue for such reasonable time as is required to
21 complete the administrative disposition of the permit
22 application. If a facility loses its federal interim status, or
23 the Environmental Protection Agency requires the owner or
24 operator to submit Part B of the federal application, the
25 department shall notify the owner or operator that an application
26 for a permit must be submitted pursuant to this subsection. In
27 addition to compliance with the federal interim status
28 requirements, the commission shall have the authority to adopt

1 regulations requiring persons operating pursuant to this
2 subsection to meet additional state interim status requirements.

3 16. No person, otherwise qualified pursuant to sections
4 260.350 to 260.430 for a license to transport hazardous wastes or
5 for a permit to construct, substantially alter or operate a
6 hazardous waste facility, shall be denied such license or permit
7 on the basis of a lack of need for such transport service or such
8 facility because of the existence of other services or facilities
9 capable of meeting that need; except that permits for hazardous
10 waste facilities may be denied on determination made by the
11 department that the financial resources of the persons applying
12 are such that the continued operation of the sites in accordance
13 with sections 260.350 to 260.430 cannot be reasonably assured or
14 on determination made by the department that the probable volume
15 of business is insufficient to ensure and maintain the solvency
16 of then existing permitted hazardous waste facilities.

17 17. All hazardous waste landfills constructed after October
18 31, 1980, shall have a leachate collection system. The rules and
19 regulations of the commission shall treat and protect all
20 aquifers to the same level of protection. The provisions of this
21 subsection shall not apply to the disposal of tailings and slag
22 resulting from mining, milling and primary smelting operations.

23 18. Any railroad corporation as defined in section 388.010
24 that transports any hazardous waste as defined in section 260.360
25 or any hazardous substance as defined in section 260.500 shall
26 pay an annual fee of three hundred fifty dollars. Fees collected
27 pursuant to this subsection shall be deposited in the hazardous
28 waste fund created in section 260.391.

1 260.500. As used in sections 260.500 to 260.550, unless the
2 context clearly indicates otherwise, the following terms mean:

3 (1) "Cleanup", all actions necessary to contain, collect,
4 control, identify, analyze, clean up, treat, disperse, remove, or
5 dispose of a hazardous substance;

6 (2) "Cleanup costs", all costs incurred by the state or any
7 of its political subdivisions, or their agents, or by any other
8 person participating with the approval of the department of
9 natural resources in the prevention or mitigation of damages from
10 a hazardous substance emergency or the cleanup of a hazardous
11 substance involved in a hazardous substance emergency, including
12 a proportionate share of those costs necessary to maintain the
13 services authorized in sections 260.500 to 260.550;

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

15 (4) "Director", the director of the department of natural
16 resources;

17 (5) "Hazardous substance", any substance or mixture of
18 substances that presents a danger to the public health or safety
19 or the environment and includes:

20 (a) Any hazardous waste identified or listed by the
21 department pursuant to sections 260.350 to 260.430;

22 (b) Any element, compound, mixture, solution, or substance
23 designated pursuant to Sections 101(14) and 102 of the
24 Comprehensive Environmental Response, Compensation and Liability
25 Act of 1980, as amended, and Section 302 of the Superfund
26 Amendments and Reauthorization Act of 1986, as amended; and

27 (c) Any hazardous material designated by the Secretary of
28 the United States Department of Transportation pursuant to the

1 Hazardous Materials Transportation Act;

2 (d) "Hazardous substances" does not include radioactive
3 materials, wastes, emissions or discharges that are licensed or
4 regulated by laws of the federal government or of this state.
5 However, such material released due to a transportation accident
6 shall be considered a hazardous substance;

7 (6) "Hazardous substance emergency":

8 (a) Any release of hazardous substances in quantities equal
9 to or in excess of those determined pursuant to Section 101(14)
10 or 102 of the Comprehensive Environmental Response, Compensation
11 and Liability Act of 1980, as amended, and Section 304 of the
12 Superfund Amendments and Reauthorization Act of 1986, as amended;

13 (b) Any release of petroleum including crude oil or any
14 fraction thereof, natural gas, natural gas liquids, liquefied
15 natural gas, or synthetic gas usable for fuel (or mixtures of
16 natural gas and such synthetic gas) in excess of fifty gallons
17 for liquids or three hundred cubic feet for gases, except that
18 the notification and reporting of any release of natural gas or
19 natural gas mixtures by or from intrastate facilities, regardless
20 of the quantity of such release, shall be as specified by the
21 public service commission rather than pursuant to the
22 notification and reporting requirements contained in, or
23 authorized by, sections 260.500 to 260.550. Interstate natural
24 gas pipeline facilities shall report natural gas releases to the
25 state and the National Response Center in accordance with federal
26 Department of Transportation regulatory requirements;

27 (c) Any release of a hazardous waste which is reportable
28 pursuant to sections 260.350 to 260.430;

1 (d) Any release of a hazardous substance which requires
2 immediate notice pursuant to Part 171 of Title 49 of the Code of
3 Federal Regulations;

4 (e) The department may promulgate rules and regulations
5 identifying the substances and the quantities thereof which, if
6 released, constitute a hazardous substance emergency;

7 (7) "Person", any individual, partnership, copartnership,
8 firm, company, public or private corporation, association, joint
9 stock company, trust, estate, political subdivision, or any
10 agency, board, department, or bureau of the state or federal
11 government, or any other legal entity whatever which is
12 recognized by law as the subject of rights and duties;

13 (8) "Person having control over a hazardous substance", any
14 person producing, handling, storing, transporting, refining, or
15 disposing of a hazardous substance when a hazardous substance
16 emergency occurs, including bailees, carriers, and any other
17 person in control of a hazardous substance when a hazardous
18 substance emergency occurs, whether they own the hazardous
19 substance or are operating under a lease, contract, or other
20 agreement with the legal owner thereof;

21 (9) "Release", any threatened or real emission, discharge,
22 spillage, leakage, pumping, pouring, emptying or dumping of a
23 substance into or onto the land, air or waters of the state
24 unless done in compliance with the conditions of a federal or
25 state permit, unless the substance is confined and is expected to
26 stay confined to property owned, leased or otherwise controlled
27 by the person having control over the substance, or unless, in
28 the case of pesticides, if application is done in accordance with

1 the product label;

2 (10) "State of Missouri basic emergency operations plan",
3 the state plan, its annexes, and appendices as developed or
4 maintained by the state emergency management agency for response
5 to natural and man-made disasters in this state;

6 (11) "Waters of the state", all waters within the
7 jurisdiction of this state, including all rivers, streams, lakes
8 and other bodies of surface and subsurface water lying within or
9 forming a part of the boundaries of the state which are not
10 entirely confined and located completely upon lands owned, leased
11 or otherwise controlled by a single person or by two or more
12 persons jointly or as tenants in common [and includes waters of
13 the United States lying within the state].

14 444.600. 1. All applications for a permit shall be filed
15 with the director who shall promptly investigate the application
16 and make a [recommendation to the commission] decision within
17 thirty days after the application is received as to whether the
18 permit should be issued or denied. If the director is not
19 satisfied with the information supplied by the applicant, he or
20 she shall recommend denial of the permit. The director shall
21 promptly notify the applicant of this action and at the same time
22 publish a notice of the [recommendation] decision in any
23 newspaper with general circulation in the counties where the land
24 is located, and shall send notice to those persons registered
25 with the director pursuant to section 444.720. The director's
26 decision shall be deemed to be the decision of the director of
27 the department of natural resources and shall be subject to
28 appeal to the administrative hearing commission as provided by

1 sections 621.250 and 640.013.

2 2. [If the recommendation of the director is to deny the
3 permit, a hearing as provided in sections 444.500 to 444.755
4 shall be held by the commission if requested by the applicant
5 within thirty days of the date of notice of the recommendation of
6 the director.

7 3. If the recommendation of the director is for issuance of
8 the permit, the commission may issue or deny the permit without a
9 hearing provided the matter is passed upon at a public meeting no
10 sooner than thirty days from the date of notice of the
11 recommendation of the director, except that upon petition of any
12 person aggrieved by the granting of the permit, a hearing shall
13 be held as provided in section 444.680.

14 4. If the commission denies a permit, the applicant may
15 petition the commission, within thirty days of notice of its
16 action, for a hearing. If no petition is filed within the thirty
17 day period, the decision of the commission is final and the
18 applicant shall have no right of court review.

19 5. In any hearing held pursuant to this section the burden
20 of proof shall be on the applicant for a permit. Any decision of
21 the commission made pursuant to a hearing held under this section
22 is subject to judicial review as provided in section 444.700.]

23 Whenever a strip mine operator permit provided under section
24 444.540 is issued, denied, suspended, or revoked by the
25 department of natural resources, any aggrieved person, by
26 petition filed with the administrative hearing commission within
27 thirty days of the decision, may appeal such decision as provided
28 by sections 621.250 and 640.013. For purposes of an appeal, the

1 administrative hearing commission may consider, based on
2 competent and substantial scientific evidence on the record,
3 whether an interested party's health, safety, or livelihood will
4 be unduly impaired by the issuance, denial, suspension, or
5 revocation of the permit. The administrative hearing commission
6 may also consider, based on competent and substantial scientific
7 evidence on the record, whether the operator has demonstrated,
8 during the five-year period immediately preceding the date of the
9 permit application, a pattern of noncompliance at other locations
10 in Missouri that suggests a reasonable likelihood of future acts
11 of noncompliance. In determining whether a reasonable likelihood
12 of noncompliance will exist in the future, the administrative
13 hearing commission may look to past acts of noncompliance in
14 Missouri, but only to the extent they suggest a reasonable
15 likelihood of future acts of noncompliance. Such past acts of
16 noncompliance in Missouri, in and of themselves, are an
17 insufficient basis to suggest a reasonable likelihood of future
18 acts of noncompliance. In addition, such past acts shall not be
19 used as a basis to suggest a reasonable likelihood of future acts
20 of noncompliance unless the noncompliance has caused or has the
21 potential to cause, a risk to human health or to the environment,
22 or has caused or has potential to cause pollution, or was
23 knowingly committed, or is defined by the United States
24 Environmental Protection Agency as other than minor. If a
25 hearing petitioner demonstrates or the administrative hearing
26 commission finds either present acts of noncompliance or a
27 reasonable likelihood that the permit seeker or the operations of
28 associated persons or corporations in Missouri will be in

1 noncompliance in the future, such a showing will satisfy the
2 noncompliance requirement in this subsection. In addition, such
3 basis must be developed by multiple noncompliances of any
4 environmental law administered by the Missouri department of
5 natural resources at any single facility in Missouri that
6 resulted in harm to the environment or impaired the health,
7 safety, or livelihood of persons outside the facility. For any
8 permit seeker that has not been in business in Missouri for the
9 past five years, the administrative hearing commission may review
10 the record of noncompliance in any state where the applicant has
11 conducted business during the past five years. Once the
12 administrative hearing commission has reviewed the appeal, the
13 administrative hearing commission shall issue a recommended
14 decision to the commission on permit issuance, denial,
15 suspension, or revocation. The commission shall issue its own
16 decision, based on the appeal, for permit issuance, denial,
17 suspension, or revocation. If the commission changes a finding
18 of fact or conclusion of law made by the administrative hearing
19 commission, or modifies or vacates the decision recommended by
20 the administrative hearing commission, it shall issue its own
21 decision, which shall include findings of fact and conclusions of
22 law. The commission shall mail copies of its final decision to
23 the parties to the appeal or their counsel of record. The
24 commission's decision shall be subject to judicial review
25 pursuant to chapter 536, except that the court of appeals
26 district with territorial jurisdiction coextensive with the
27 county where the mine is located or is to be located shall have
28 original jurisdiction. No judicial review shall be available

1 until and unless all administrative remedies are exhausted.

2 444.773. 1. All applications for a permit shall be filed
3 with the director, who shall promptly investigate the application
4 and make a decision within six weeks after completion of the
5 process provided in subsection 10 of section 444.772 to issue or
6 deny the permit. If the director determines that the application
7 has not fully complied with the provisions of section 444.772 or
8 any rule or regulation promulgated pursuant to that section, the
9 director may seek additional information from the applicant
10 before making a decision to issue or deny the permit. The
11 director shall consider any public comments when making the
12 decision to issue or deny the permit. In issuing a permit, the
13 director may impose reasonable conditions consistent with the
14 provisions of sections 444.760 to 444.790.

15 [2.] The director's decision shall be deemed to be the
16 decision of the director of the department of natural resources
17 and shall be subject to appeal to the administrative hearing
18 commission as provided by sections 640.013 and 621.250.

19 [3.] 2. Whenever a surface mining operation permit provided
20 under section 444.772 is issued, denied, suspended, or revoked by
21 the department of natural resources, any aggrieved person, by
22 petition filed with the administrative hearing commission within
23 thirty days of the decision, may appeal such decision as provided
24 by sections 621.250 and 640.013. For purposes of an appeal, the
25 administrative hearing commission may consider, based on
26 competent and substantial scientific evidence on the record,
27 whether an interested party's health, safety or livelihood will
28 be unduly impaired by the issuance, denial, suspension, or

1 revocation of the permit. The administrative hearing commission
2 may also consider, based on competent and substantial scientific
3 evidence on the record, whether the operator has demonstrated,
4 during the five-year period immediately preceding the date of the
5 permit application, a pattern of noncompliance at other locations
6 in Missouri that suggests a reasonable likelihood of future acts
7 of noncompliance. In determining whether a reasonable likelihood
8 of noncompliance will exist in the future, the administrative
9 hearing commission may look to past acts of noncompliance in
10 Missouri, but only to the extent they suggest a reasonable
11 likelihood of future acts of noncompliance. Such past acts of
12 noncompliance in Missouri, in and of themselves, are an
13 insufficient basis to suggest a reasonable likelihood of future
14 acts of noncompliance. In addition, such past acts shall not be
15 used as a basis to suggest a reasonable likelihood of future acts
16 of noncompliance unless the noncompliance has caused or has the
17 potential to cause, a risk to human health or to the environment,
18 or has caused or has potential to cause pollution, or was
19 knowingly committed, or is defined by the United States
20 Environmental Protection Agency as other than minor. If a
21 hearing petitioner demonstrates or the administrative hearing
22 commission [demonstrates] finds either present acts of
23 noncompliance or a reasonable likelihood that the permit seeker
24 or the operations of associated persons or corporations in
25 Missouri will be in noncompliance in the future, such a showing
26 will satisfy the noncompliance requirement in this subsection.
27 In addition, such basis must be developed by multiple
28 noncompliances of any environmental law administered by the

1 Missouri department of natural resources at any single facility
2 in Missouri that resulted in harm to the environment or impaired
3 the health, safety or livelihood of persons outside the facility.
4 For any permit seeker that has not been in business in Missouri
5 for the past five years, the administrative hearing commission
6 may review the record of noncompliance in any state where the
7 applicant has conducted business during the past five years.

8 [Once] The administrative hearing commission [has reviewed the
9 appeal, the administrative hearing commission] shall [make a
10 recommendation] issue a recommended decision to the commission on
11 permit issuance [or], denial, suspension, or revocation.

12 [4.] The commission shall issue its own decision, based on
13 the appeal, for permit issuance [or] denial, suspension, or
14 revocation. If the commission changes a finding of fact or
15 conclusion of law made by the administrative hearing commission,
16 or modifies or vacates the decision recommended by the
17 administrative hearing commission, it shall issue its own
18 decision, which shall include findings of fact and conclusions of
19 law. The commission shall mail copies of its final decision to
20 the parties to the appeal or their counsel of record. The
21 commission's decision shall be subject to judicial review
22 pursuant to chapter 536, except that the court of appeals
23 district with territorial jurisdiction coextensive with the
24 county where the mine is located or is to be located shall have
25 original jurisdiction. No judicial review shall be available
26 until and unless all administrative remedies are exhausted.

27 444.980. Whenever a surface coal mining operation permit
28 provided under section 444.815 or a coal exploration operation

1 permit provided under section 444.845 is issued, denied,
2 suspended, or revoked by the department of natural resources, any
3 aggrieved person, by petition filed with the administrative
4 hearing commission within thirty days of the decision, may appeal
5 such decision as provided by sections 621.250 and 640.013. For
6 purposes of an appeal, the administrative hearing commission may
7 consider, based on competent and substantial scientific evidence
8 on the record, whether an interested party's health, safety, or
9 livelihood will be unduly impaired by the issuance, denial,
10 suspension, or revocation of the permit. The administrative
11 hearing commission may also consider, based on competent and
12 substantial scientific evidence on the record, whether the
13 operator has demonstrated, during the five-year period
14 immediately preceding the date of the permit application, a
15 pattern of noncompliance at other locations in Missouri that
16 suggests a reasonable likelihood of future acts of noncompliance.
17 In determining whether a reasonable likelihood of noncompliance
18 will exist in the future, the administrative hearing commission
19 may look to past acts of noncompliance in Missouri, but only to
20 the extent they suggest a reasonable likelihood of future acts of
21 noncompliance. Such past acts of noncompliance in Missouri, in
22 and of themselves, are an insufficient basis to suggest a
23 reasonable likelihood of future acts of noncompliance. In
24 addition, such past acts shall not be used as a basis to suggest
25 a reasonable likelihood of future acts of noncompliance unless
26 the noncompliance has caused or has the potential to cause, a
27 risk to human health or to the environment, or has caused or has
28 potential to cause pollution, or was knowingly committed, or is

1 defined by the United States Environmental Protection Agency as
2 other than minor. If a hearing petitioner demonstrates or the
3 administrative hearing commission finds either present acts of
4 noncompliance or a reasonable likelihood that the permit seeker
5 or the operations of associated persons or corporations in
6 Missouri will be in noncompliance in the future, such a showing
7 will satisfy the noncompliance requirement in this subsection.
8 In addition, such basis must be developed by multiple
9 noncompliances of any environmental law administered by the
10 Missouri department of natural resources at any single facility
11 in Missouri that resulted in harm to the environment or impaired
12 the health, safety, or livelihood of persons outside the
13 facility. For any permit seeker that has not been in business in
14 Missouri for the past five years, the administrative hearing
15 commission may review the record of noncompliance in any state
16 where the applicant has conducted business during the past five
17 years. Once the administrative hearing commission has reviewed
18 the appeal, the administrative hearing commission shall issue a
19 recommended decision to the commission on permit issuance,
20 denial, suspension, or revocation. The commission shall issue
21 its own decision, based on the appeal, for permit issuance,
22 denial, suspension, or revocation. If the commission changes a
23 finding of fact or conclusion of law made by the administrative
24 hearing commission, or modifies or vacates the decision
25 recommended by the administrative hearing commission, it shall
26 issue its own decision, which shall include findings of fact and
27 conclusions of law. The commission shall mail copies of its
28 final decision to the parties to the appeal or their counsel of

1 record. The commission's decision shall be subject to judicial
2 review pursuant to chapter 536, except that the court of appeals
3 district with territorial jurisdiction coextensive with the
4 county where the mine is located or is to be located shall have
5 original jurisdiction. No judicial review shall be available
6 until and unless all administrative remedies are exhausted.

7 621.250. 1. All authority to hear contested case
8 administrative appeals granted in chapters 236, 256, 260, 444,
9 640, 643, and 644, and to the hazardous waste management
10 commission in chapter 260, the [land reclamation] Missouri mining
11 commission in chapter 444, the safe drinking water commission in
12 chapter 640, the air conservation commission in chapter 643, and
13 the clean water commission in chapter 644 shall be transferred to
14 the administrative hearing commission under this chapter. The
15 authority to render final decisions after hearing on appeals
16 heard by the administrative hearing commission shall remain with
17 the commissions listed in this subsection. For appeals pursuant
18 to chapter 236, chapter 256, section 260.235, or section 260.249,
19 the administrative hearing commission shall render a final
20 decision rather than a recommended decision. The administrative
21 hearing commission may render its recommended or final decision
22 after hearing or through stipulation, consent order, agreed
23 settlement or by disposition in the nature of default judgment,
24 judgment on the pleadings, or summary determination, consistent
25 with the requirements of this subsection and the rules and
26 procedures of the administrative hearing commission.

27 2. Except as otherwise provided by law, any person or
28 entity who is a party to, or who is aggrieved or adversely

1 affected by, any finding, order, decision, or assessment for
2 which the authority to hear appeals was transferred to the
3 administrative hearing commission in subsection 1 of this section
4 may file a notice of appeal with the administrative hearing
5 commission within thirty days after any such finding, order,
6 decision, or assessment is placed in the United States mail or
7 within thirty days of any such finding, order, decision, or
8 assessment being delivered, whichever is earlier. Within ninety
9 days after the date on which the notice of appeal is filed the
10 administrative hearing commission may hold hearings, and within
11 one hundred twenty days after the date on which the notice of
12 appeal is filed shall make a recommended decision, or a final
13 decision where applicable, in accordance with the requirements of
14 this section and the rules and procedures of the administrative
15 hearing commission; provided, however, that the dates by which
16 the administrative hearing commission is required to hold
17 hearings and make a recommended decision may be extended at the
18 sole discretion of the permittee as either petitioner or
19 intervenor in the appeal.

20 3. Any decision by the director of the department of
21 natural resources that may be appealed as provided in subsection
22 1 of this section shall contain a notice of the right of appeal
23 in substantially the following language: "If you were adversely
24 affected by this decision, you may be entitled to pursue an
25 appeal before the administrative hearing commission. To appeal,
26 you must file a petition with the administrative hearing
27 commission within thirty days after the date this decision was
28 mailed or the date it was delivered, whichever date was earlier.

1 If any such petition is sent by registered mail or certified
2 mail, it will be deemed filed on the date it is mailed; if it is
3 sent by any method other than registered mail or certified mail,
4 it will be deemed filed on the date it is received by the
5 administrative hearing commission.". Within fifteen days after
6 the administrative hearing commission renders a recommended
7 decision, it shall transmit the record and a transcript of the
8 proceedings, together with the administrative hearing
9 commission's recommended decision to the commission having
10 authority to issue a final decision. The final decision of the
11 commission shall be issued within one hundred eighty days of the
12 date the notice of appeal in subsection 2 of this section is
13 filed and shall be based only on the facts and evidence in the
14 hearing record; provided, however, that the date by which the
15 commission is required to issue a final decision may be extended
16 at the sole discretion of the permittee as either petitioner or
17 intervenor in the appeal. The commission may adopt the
18 recommended decision as its final decision. The commission may
19 change a finding of fact or conclusion of law made by the
20 administrative hearing commission, or may vacate or modify the
21 recommended decision issued by the administrative hearing
22 commission, only if the commission states in writing the specific
23 reason for a change made under this subsection.

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

1 5. Appropriations shall be made from the respective funds
2 of the department of natural resources to cover the
3 administrative hearing commission's costs associated with these
4 appeals.

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

11 7. No cause of action or appeal arising out of any finding,
12 order, decision, or assessment of any of the commissions listed
13 in subsection 1 of this section shall accrue in any court unless
14 the party seeking to file such cause of action or appeal shall
15 have filed a notice of appeal and received a final decision in
16 accordance with the provisions of this section.

17 640.115. 1. Every municipal corporation, private
18 corporation, company, partnership, federal establishment, state
19 establishment or individual supplying or authorized to supply
20 drinking water to the public within the state shall file with the
21 department of natural resources a certified copy of the plans and
22 surveys of the waterworks with a description of the methods of
23 purification, treatment technology and source from which the
24 supply of water is derived, and no source of supply shall be used
25 without a written permit of approval issued to the continuing
26 operating authority by the department of natural resources, or
27 water dispensed to the public without first obtaining such
28 written permit of approval. Prior to a change of permittee, the

1 current permittee shall notify the department of the proposed
2 change and the department shall perform a permit review.

3 2. Construction, extension or alteration of a public water
4 system shall be in accordance with the rules and regulations of
5 the safe drinking water commission.

6 3. Permit applicants shall show, as part of their
7 application, that a permanent organization exists which will
8 serve as the continuing operating authority for the management,
9 operation, replacement, maintenance and modernization of the
10 facility. Such continuing operating authority for all community
11 water systems and nontransient, noncommunity water systems
12 commencing operation after October 1, 1999, shall be required to
13 have and maintain the managerial, technical and financial
14 capacity, as determined by the department, to comply with
15 sections 640.100 to 640.140.

16 4. Any community water system or nontransient, noncommunity
17 water system against which an administrative order has been
18 issued for significant noncompliance with the federal Safe
19 Drinking Water Act, as amended, sections 640.100 to 640.140 or
20 any rule or regulation promulgated thereunder shall be required
21 to show that a permanent organization exists that serves as the
22 continuing operating authority for the facility and that such
23 continuing operating authority has the managerial, technical and
24 financial capacity to comply with sections 640.100 to 640.140 and
25 regulations promulgated thereunder. If the water system cannot
26 show to the department's satisfaction that such continuing
27 operating authority exists, or if the water system is not making
28 substantial progress toward compliance, the water system's permit

1 may be revoked. The continuing operating authority may [reapply
2 for a permit in accordance with rules promulgated by the
3 commission] appeal such decision to the administrative hearing
4 commission as provided by sections 621.250 and 640.013.

5 5. Whenever a permit is issued, denied, suspended, or
6 revoked by the department, any aggrieved person, by petition
7 filed with the administrative hearing commission within thirty
8 days of the decision, may appeal such decision as provided by
9 sections 621.250 and 640.013. Once the administrative hearing
10 commission has reviewed the appeal, the administrative hearing
11 commission shall issue a recommended decision to the commission
12 on permit issuance, denial, suspension, or revocation. The
13 commission shall issue its own decision, based on the appeal, for
14 permit issuance, denial, suspension, or revocation. If the
15 commission changes a finding of fact or conclusion of law made by
16 the administrative hearing commission, or modifies or vacates the
17 decision recommended by the administrative hearing commission, it
18 shall issue its own decision, which shall include findings of
19 fact and conclusions of law. The commission shall mail copies of
20 its final decision to the parties to the appeal or their counsel
21 of record. The commission's decision shall be subject to
22 judicial review pursuant to chapter 536, except that the court of
23 appeals district with territorial jurisdiction coextensive with
24 the county where the waterworks is located, or is to be located,
25 shall have original jurisdiction. No judicial review shall be
26 available until and unless all administrative remedies are
27 exhausted.

28 643.075. 1. It shall be unlawful for any person to

1 commence construction of any air contaminant source in this
2 state, without a permit [therefor], if such source is of a class
3 fixed by regulation of the commission which requires a permit
4 [therefor].

5 2. Every source required to obtain a construction permit
6 shall make application [therefor] to the department [and shall
7 submit therewith] that includes such plans and specifications as
8 prescribed by rule. The director shall promptly investigate each
9 application, and if he or she determines that the source meets
10 and will meet the requirements of sections 643.010 to 643.190 and
11 the rules promulgated pursuant thereto, he or she shall issue a
12 construction permit with such conditions as he deems necessary to
13 ensure that the source will meet the requirements of sections
14 643.010 to 643.190 and the rules. An application submitted for
15 the construction or modification and operation of any regulated
16 air contaminant source shall receive a unified construction and
17 operating permit review process under section 643.078, unless the
18 applicant requests in writing that the construction and operating
19 permits be reviewed separately. If the director determines that
20 the source does not meet or will not meet the requirements of
21 sections 643.010 to 643.190 and the rules promulgated pursuant
22 thereto, he or she shall deny the construction permit.

23 3. Before issuing a construction permit to build or modify
24 an air contaminant source the director shall determine if the
25 ambient air quality standards in the vicinity of the source are
26 being exceeded and shall determine the impact on the ambient air
27 quality standards from the source. The director, in order to
28 effectuate the purposes of sections 643.010 to 643.190, may deny

1 a construction permit if the source will appreciably affect the
2 air quality or the air quality standards are being substantially
3 exceeded.

4 4. The director may require the applicant as a condition to
5 the issuance of the construction permit to provide and maintain
6 such facilities or to conduct such tests as are necessary to
7 determine the nature, extent, quantity or degree of air
8 contaminants discharged into the ambient air from the proposed
9 source.

10 5. The director shall act within thirty days after a
11 request for approval of an application for a construction permit.
12 The director shall render a decision to approve or deny a
13 construction permit within ninety days of receipt of a complete
14 application for a class B source and within one hundred
15 eighty-four days of receipt of a complete application for a class
16 A source. The director shall promptly notify the applicant in
17 writing of his action and if the construction permit is denied
18 state the reasons [therefor] for such denial.

19 6. As provided by sections 621.250 and 640.013, any
20 aggrieved person may appeal any permit decision made under this
21 section, including failure to render a decision within the time
22 period established in this section. A notice of appeal shall be
23 filed with the administrative hearing commission within thirty
24 days of the director's action or within thirty days from the date
25 by which the decision should have been rendered if the director
26 has failed to act. Once the administrative hearing commission
27 has reviewed the appeal, the administrative hearing commission
28 shall issue a recommended decision to the commission on permit

1 issuance, renewal, denial, suspension, or revocation, or any
2 condition of the permit. The commission shall issue its own
3 decision, based on the appeal, for permit issuance, renewal,
4 denial, suspension, or revocation, or any condition of the
5 permit. If the commission changes a finding of fact or
6 conclusion of law made by the administrative hearing commission,
7 or modifies or vacates the decision recommended by the
8 administrative hearing commission, it shall issue its own
9 decision, which shall include findings of fact and conclusions of
10 law. The commission shall mail copies of its final decision to
11 the parties to the appeal or their counsel of record. The
12 commission's decision shall be subject to judicial review
13 pursuant to chapter 536, except that the court of appeals
14 district with territorial jurisdiction coextensive with the
15 county where the air contaminant source is located or is to be
16 located, shall have original jurisdiction. No judicial review
17 shall be available until and unless all administrative remedies
18 are exhausted.

19 7. (1) There shall be a one hundred-dollar filing fee
20 payable to the state of Missouri with each application before a
21 construction permit shall be issued. No manufacturing or
22 processing plant or operating location or other air contaminant
23 source shall be required to pay more than one filing fee with a
24 construction permit application. The provisions of this section
25 shall not apply nor require the issuance of a permit wherein the
26 proposed construction is that of a private residence.

27 (2) Upon completion of the department's evaluation of the
28 application, but before receiving a construction permit, the

1 applicant shall reimburse the department for all reasonable costs
2 incurred by the department whether or not a construction permit
3 is issued by the department or withdrawn by the applicant. If
4 the department fails to approve or deny a construction permit
5 within the time period specified in this section, the applicant
6 shall not be required to reimburse the department for the review
7 of the construction permit application. The commission shall, by
8 rule, set the hourly charge, not to exceed the actual cost
9 thereof and not to exceed fifty dollars per hour, for review of
10 each construction permit application. The commission may exempt
11 any person from payment of the hourly fees under this
12 subdivision, or may reduce such fees, upon an appeal filed with
13 the commission by such person stating that the fee will create an
14 unreasonable economic hardship upon such person. The commission
15 may conduct a closed meeting and have closed records, as defined
16 in section 610.010, for the purpose of gathering information from
17 the person filing an appeal for the exemption. Information
18 obtained in this meeting may be held confidential by the
19 commission upon the request of the person filing the appeal for
20 exemption. If the fees or any portion of the fees imposed by
21 this section are not paid within ninety days from the date of
22 billing there shall be imposed interest upon the unpaid amount at
23 the rate of ten percent per annum from the date of billing until
24 payment is actually made. A construction permit application for
25 a portable facility may include any site at which the portable
26 facility is expected to be used; however, a separate site permit
27 application shall be required when the portable facility is used
28 or expected to be used at any site which is not included in a

1 previously approved construction permit application. Upon
2 receipt of the application, the applicant shall be notified by
3 the department of hourly fees and requirements put forth in this
4 subdivision.

5 (3) Applicants who withdraw their application before the
6 department completes its evaluation shall reimburse the
7 department for costs incurred in the evaluation.

8 (4) All moneys received pursuant to this section and
9 section 643.073 and any other moneys so designated shall be
10 placed in the state treasury and credited to the natural
11 resources protection fund air pollution permit fee subaccount,
12 created in section 640.220, and shall be expended for the
13 administration of this section and sections 643.073 and 643.078
14 and for no other purpose, and shall be used to supplement state
15 general revenue and federal funds appropriated to the department.
16 After appropriation, the moneys received pursuant to this section
17 and in such fund subaccount shall be expended for the
18 administration of this section and for no other purpose. Any
19 unexpended balance in such fund subaccount at the end of any
20 appropriation period shall not be transferred to the general
21 revenue fund of the state treasury and shall be exempt from the
22 provisions of section 33.080. Any interest received on such
23 deposits shall be credited to the fund subaccount.

24 8. Any person who obtains a valid permit from a city or
25 county pursuant to the authority granted in section 643.140 shall
26 be deemed to have met the requirements of this section and shall
27 not be liable to the department for construction permit fees
28 imposed pursuant to subsection 7 of this section.

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

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

11 3. Any person who wishes to construct or modify and operate
12 any regulated air contaminant source shall submit an application
13 to the department for the unified review of a construction permit
14 application under section 643.075 and an operating permit
15 application under this section, unless the applicant requests in
16 writing that the construction and operating permit applications
17 be reviewed separately. The director shall complete any unified
18 review within one hundred and eighty days of receipt of the
19 request for a class B source. For a class A source, the unified
20 review shall be completed within the time period established in
21 section 502 of the federal Clean Air Act, as amended, 42 U.S.C.
22 7661.

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

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

13 6. If the director determines that an air contaminant
14 source does not meet the terms and conditions of the construction
15 permit and that the operation of the source will result in
16 emissions which exceed the limits established in the construction
17 permit, he shall not validate the operating permit. If the
18 source corrects the deficiency, the director shall then validate
19 the operating permit. If the source is unable to correct the
20 deficiency, then the director and the applicant may, by mutual
21 agreement, add such terms and conditions to the operating permit
22 which are deemed appropriate, so long as the emissions from the
23 air contaminant source do not exceed the limits established in
24 the construction permit, and the director shall validate the
25 operating permit. The director may add terms and conditions to
26 the operating permit which allow the source to exceed the
27 emission limits established in the construction permit. In such
28 a case, the director shall notify the affected public and the

1 commission shall, upon request by any affected person, hold a
2 public hearing upon the revised operating permit application.

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

7 8. An applicant for a construction permit for an air
8 contaminant source with valid operating permit may request that
9 the air contaminant source be issued a new five-year operating
10 permit. The operating permit would be issued in the manner and
11 under the conditions provided in sections 643.010 to 643.190 and
12 would supersede any existing operating permit for the source.

13 9. The director shall take action within thirty days after
14 a request for validation of the operating permit and shall render
15 a decision within one hundred twenty days of receipt of a request
16 for issuance of an operating permit for a class B source. The
17 director shall render a decision within the time period
18 established in section 502 of the federal Clean Air Act, as
19 amended, 42 U.S.C. 7661, for a class A source. Any affected
20 person may appeal any permit decision, including failure to
21 render a decision within the time period established in this
22 section, to the administrative hearing commission as provided by
23 subsection 16 of this section, section 621.250, and section
24 640.013.

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

27 11. The director shall not approve an operating permit if
28 he receives an objection to approval of the permit from the

1 United States Environmental Protection Agency within the time
2 period specified under Title V of the Clean Air Act, as amended,
3 42 U.S.C. 7661, et seq.

4 12. The director shall enforce all applicable federal
5 rules, standards and requirements issued under the federal Clean
6 Air Act, as amended, 42 U.S.C. 7661, et seq., and shall
7 incorporate such applicable standards and any limitations
8 established pursuant to Title III into operating permits as
9 required under Title V of the federal Clean Air Act, as amended,
10 42 U.S.C. 7661, et seq.

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

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

1 15. An air contaminant source with a valid operating permit
2 which submits a complete application for a permit renewal at
3 least six months prior to the expiration of the permit shall be
4 deemed to have a valid operating permit until the director acts
5 upon its permit application. The director shall promptly notify
6 the applicant in writing of his action on the application and if
7 the operating permit is not issued state the reasons therefor.

8 16. The applicant may appeal to the administrative hearing
9 commission if [an] a construction, modification, or operating
10 permit is [not] issued, renewed, denied, suspended, modified, or
11 revoked by the department, or may appeal any condition[,
12 suspension, modification or revocation] of any permit by filing
13 [notice of appeal] a petition with the administrative hearing
14 commission within thirty days of the notice of the director's
15 response to the request for issuance of the construction,
16 modification, or operating permit as provided by sections 621.250
17 and 640.013. Once the administrative hearing commission has
18 reviewed the appeal, the administrative hearing commission shall
19 issue a recommended decision to the commission on the issuance,
20 renewal, denial, suspension, modification, revocation, or any
21 condition of the permit. The commission shall issue its own
22 decision, based on the appeal, for the issuance, renewal, denial,
23 suspension, modification, revocation, or any condition of the
24 permit. If the commission changes a finding of fact or
25 conclusion of law made by the administrative hearing commission,
26 or modifies or vacates the decision recommended by the
27 administrative hearing commission, it shall issue its own
28 decision, which shall include findings of fact and conclusions of

1 law. The commission shall mail copies of its final decision to
2 the parties to the appeal or their counsel of record. The
3 commission's decision shall be subject to judicial review
4 pursuant to chapter 536, except that the court of appeals
5 district with territorial jurisdiction coextensive with the
6 county where the air contaminant source is located or is to be
7 located shall have original jurisdiction. No judicial review
8 shall be available until and unless all administrative remedies
9 are exhausted.

10 17. Any person who obtains a valid operating permit from a
11 city or county pursuant to the authority granted in section
12 643.140 shall be deemed to have met the requirements of this
13 section.

14 643.650. 1. Any owner of a coal-fired electric generating
15 source in a National Ambient Air Quality Standards nonattainment
16 area currently designated as of April 1, 2015, shall develop an
17 ambient air quality monitoring or modeling network to
18 characterize the sulfur dioxide air quality surrounding the
19 electric generating source. The network shall adequately monitor
20 the ambient air quality for sulfur dioxide surrounding the entire
21 electric generating source and shall operate for not less than
22 twelve consecutive quarters. The owner of such electric
23 generating source shall notify the department of the manner in
24 which it intends to characterize by either modeling or monitoring
25 the air quality around such source. The location of any
26 monitoring network installed by the owner of such electric
27 generating source within a one-hour sulfur dioxide National
28 Ambient Air Quality Standards nonattainment area shall be

1 approved by the department.

2 2. Affected sources located in undesignated areas that
3 elect to use monitoring to evaluate ambient air quality shall be
4 consulted by the department on the use of existing monitors as
5 well as the location of any new monitors intended to comprise the
6 sulfur dioxide monitoring network. The department shall not
7 submit its recommendation to the Environmental Protection Agency
8 on the manner in which data will be gathered for the designation
9 process that is inconsistent with the elections made by affected
10 sources under this section. Where affected sources have elected
11 to monitor under this section, the department shall submit
12 recommendations for the designation process by the date set by a
13 final, effective, and applicable Environmental Protection Agency
14 requirement relating to state attainment designations and not
15 prior.

16 3. The department shall consider all ambient air quality
17 monitoring network data collected under subsection 1 of this
18 section and under any agreement authorized under this subsection
19 prior to proposing to the commission any sulfur dioxide
20 limitation, emission reduction requirement, or other requirement
21 for purposes of the one-hour sulfur dioxide National Ambient Air
22 Quality Standard for any electric generating source that has
23 elected to install a monitoring network under this section,
24 except:

25 (1) The department may propose to the commission any sulfur
26 dioxide limitations or emission reduction requirements
27 specifically agreed to in any voluntary agreement entered into
28 between the department and any owner of an electric generating

1 source that has elected to install a monitoring network under
2 this section; and

3 (2) The department may propose to the commission any
4 adjustments to the sulfur dioxide limitations or emission
5 reduction requirements applicable to any electric generating
6 source located in a sulfur dioxide nonattainment area and subject
7 to an agreement under subdivision (1) of this subsection, as
8 justified by an ambient air quality analysis relying on no fewer
9 than two quarters of monitored data collected through the
10 monitoring network allowable under subsection 1 of this section
11 and consistent with such agreement.

12 4. Nothing in this section shall prohibit the department
13 from entering into an agreement with an owner of an electric
14 generating source to limit or reduce sulfur dioxide emissions at
15 such affected source that is below the source's permitted sulfur
16 dioxide emission rate.

17 644.011. Whereas the pollution of the waters of this state
18 constitutes a menace to public health and welfare, creates a
19 public nuisance, is harmful to wildlife, fish and aquatic life
20 and impairs domestic, agricultural, industrial, recreational and
21 other legitimate uses of water, and whereas the problem of water
22 pollution in this state is closely related to the problem of
23 water pollution in adjoining states, and whereas this state must
24 possess the authority required of states in the Federal Water
25 Pollution Control Act as amended if it is to retain control of
26 its water pollution control programs, it is hereby declared to be
27 the public policy of this state to conserve the waters of the
28 state and to protect, maintain, and improve the quality thereof

1 for public water supplies and for domestic, agricultural,
2 industrial, recreational and other legitimate beneficial uses and
3 for the propagation of wildlife, fish and aquatic life; to
4 provide that no waste be discharged into any waters of the state
5 without first receiving the necessary treatment or other
6 corrective action to protect the legitimate beneficial uses of
7 such waters and meet the requirements of the Federal Water
8 Pollution Control Act as amended; to provide for the prevention,
9 abatement and control of new or existing water pollution; and to
10 cooperate with other agencies of the state, agencies of other
11 states, the federal government and any other persons in carrying
12 out these objectives. It is also the policy of this state to
13 strive to meet these objectives while maintaining maximum
14 employment and full industrial development of the state. The
15 commission shall seek the accomplishment of these objectives
16 through the prevention, abatement, and control of water pollution
17 by all practical and economically feasible methods.

18 644.016. When used in sections 644.006 to 644.141 and in
19 standards, rules and regulations promulgated pursuant to sections
20 644.006 to 644.141, the following words and phrases mean:

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

25 (2) "Commission", the clean water commission of the state
26 of Missouri created in section 644.021;

27 (3) "Conference, conciliation and persuasion", a process of
28 verbal or written communications consisting of meetings, reports,

1 correspondence or telephone conferences between authorized
2 representatives of the department and the alleged violator. The
3 process shall, at a minimum, consist of one offer to meet with
4 the alleged violator tendered by the department. During any such
5 meeting, the department and the alleged violator shall negotiate
6 in good faith to eliminate the alleged violation and shall
7 attempt to agree upon a plan to achieve compliance;

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

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

11 (6) "Discharge", the causing or permitting of one or more
12 water contaminants to enter the waters of the state;

13 (7) "Effluent control regulations", limitations on the
14 discharge of water contaminants;

15 (8) "General permit", a permit written with a standard
16 group of conditions and with applicability intended for a
17 designated category of water contaminant sources that have the
18 same or similar operations, discharges and geographical
19 locations, and that require the same or similar monitoring, and
20 that would be more appropriately controlled pursuant to a general
21 permit rather than pursuant to a site-specific permit;

22 (9) "General permit template", a draft general permit that
23 is being developed through a public participation process;

24 (10) "Human sewage", human excreta and wastewater,
25 including bath and toilet waste, residential laundry waste,
26 residential kitchen waste, and other similar waste from household
27 or establishment appurtenances;

28 (11) "Income" includes retirement benefits, consultant

1 fees, and stock dividends;

2 (12) "Minor violation", a violation which possesses a small
3 potential to harm the environment or human health or cause
4 pollution, was not knowingly committed, and is not defined by the
5 United States Environmental Protection Agency as other than
6 minor;

7 (13) "Permit by rule", a permit granted by rule, not by a
8 paper certificate, and conditioned by the permit holder's
9 compliance with commission rules;

10 (14) "Permit holders or applicants for a permit" shall not
11 include officials or employees who work full time for any
12 department or agency of the state of Missouri;

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

19 (16) "Point source", any discernible, confined and discrete
20 conveyance, including but not limited to any pipe, ditch,
21 channel, tunnel, conduit, well, discrete fissure, container,
22 rolling stock, concentrated animal feeding operation, or vessel
23 or other floating craft, from which pollutants are or may be
24 discharged. Point source does not include agricultural storm
25 water discharges and return flows from irrigated agriculture;

26 (17) "Pollution", such contamination or other alteration of
27 the physical, chemical or biological properties of any waters of
28 the state, including change in temperature, taste, color,

1 turbidity, or odor of the waters, or such discharge of any
2 liquid, gaseous, solid, radioactive, or other substance into any
3 waters of the state as will or is reasonably certain to create a
4 nuisance or render such waters harmful, detrimental or injurious
5 to public health, safety or welfare, or to domestic, industrial,
6 agricultural, recreational, or other legitimate beneficial uses,
7 or to wild animals, birds, fish or other aquatic life;

8 (18) "Pretreatment regulations", limitations on the
9 introduction of pollutants or water contaminants into publicly
10 owned treatment works or facilities which the commission
11 determines are not susceptible to treatment by such works or
12 facilities or which would interfere with their operation, except
13 that wastes as determined compatible for treatment pursuant to
14 any federal water pollution control act or guidelines shall be
15 limited or treated pursuant to this chapter only as required by
16 such act or guidelines;

17 (19) "Residential housing development", any land which is
18 divided or proposed to be divided into three or more lots,
19 whether contiguous or not, for the purpose of sale or lease as
20 part of a common promotional plan for residential housing;

21 (20) "Sewer system", pipelines or conduits, pumping
22 stations, and force mains, and all other structures, devices,
23 appurtenances and facilities used for collecting or conducting
24 wastes to an ultimate point for treatment or handling;

25 (21) "Significant portion of his or her income" shall mean
26 ten percent of gross personal income for a calendar year, except
27 that it shall mean fifty percent of gross personal income for a
28 calendar year if the recipient is over sixty years of age, and is

1 receiving such portion pursuant to retirement, pension, or
2 similar arrangement;

3 (22) "Site-specific permit", a permit written for
4 discharges emitted from a single water contaminant source and
5 containing specific conditions, monitoring requirements and
6 effluent limits to control such discharges;

7 (23) "Treatment facilities", any method, process, or
8 equipment which removes, reduces, or renders less obnoxious water
9 contaminants released from any source;

10 (24) "Water contaminant", any particulate matter or solid
11 matter or liquid or any gas or vapor or any combination thereof,
12 or any temperature change which is in or enters any waters of the
13 state either directly or indirectly by surface runoff, by sewer,
14 by subsurface seepage or otherwise, which causes or would cause
15 pollution upon entering waters of the state, or which violates or
16 exceeds any of the standards, regulations or limitations set
17 forth in sections 644.006 to 644.141 or any federal water
18 pollution control act, or is included in the definition of
19 pollutant in such federal act;

20 (25) "Water contaminant source", the point or points of
21 discharge from a single tract of property on which is located any
22 installation, operation or condition which includes any point
23 source defined in sections 644.006 to 644.141 and nonpoint source
24 pursuant to any federal water pollution control act, which causes
25 or permits a water contaminant therefrom to enter waters of the
26 state either directly or indirectly;

27 (26) "Water quality standards", specified concentrations
28 and durations of water contaminants which reflect the

1 relationship of the intensity and composition of water
2 contaminants to potential undesirable effects;

3 (27) "Waters of the state", all waters within the
4 jurisdiction of this state, including all rivers, streams, lakes
5 and other bodies of surface and subsurface water lying within or
6 forming a part of the boundaries of the state which are not
7 entirely confined and located completely upon lands owned, leased
8 or otherwise controlled by a single person or by two or more
9 persons jointly or as tenants in common [and includes waters of
10 the United States lying within the state].

11 644.051. 1. It is unlawful for any person:

12 (1) To cause pollution of any waters of the state or to
13 place or cause or permit to be placed any water contaminant in a
14 location where it is reasonably certain to cause pollution of any
15 waters of the state;

16 (2) To discharge any water contaminants into any waters of
17 the state which reduce the quality of such waters below the water
18 quality standards established by the commission;

19 (3) To violate any pretreatment and toxic material control
20 regulations, or to discharge any water contaminants into any
21 waters of the state which exceed effluent regulations or permit
22 provisions as established by the commission or required by any
23 federal water pollution control act;

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

27 2. It shall be unlawful for any person to operate, use or
28 maintain any water contaminant or point source in this state that

1 is subject to standards, rules or regulations promulgated
2 pursuant to the provisions of sections 644.006 to 644.141 unless
3 such person holds an operating permit from the commission,
4 subject to such exceptions as the commission may prescribe by
5 rule or regulation. However, no operating permit shall be
6 required of any person for any emission into publicly owned
7 treatment facilities or into publicly owned sewer systems
8 tributary to publicly owned treatment works.

9 3. It shall be unlawful for any person to construct, build,
10 replace or make major modification to any point source or
11 collection system that is principally designed to convey or
12 discharge human sewage to waters of the state, unless such person
13 obtains a construction permit from the commission, except as
14 provided in this section. The following activities shall be
15 excluded from construction permit requirements:

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

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

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

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

26 A construction permit may be required by the department in the
27 following circumstances:

28 (a) Substantial deviation from the commission's design

standards;

(b) To address noncompliance;

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

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

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

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

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

c. Such point source system may receive a post-construction site inspection by the department prior to receiving operating permit approval. A site inspection may be performed by the department, upon receipt of a complete operating permit application or submission of an engineer's statement of work complete.

1 A governmental unit may apply to the department for authorization
2 to operate a local supervised program, and the department may
3 authorize such a program. A local supervised program would
4 recognize the governmental unit's engineering capacity and
5 ability to conduct engineering work, supervise construction and
6 maintain compliance with relevant operating permit requirements.

7 4. Before issuing any permit required by this section, the
8 director shall issue such notices, conduct such hearings, and
9 consider such factors, comments and recommendations as required
10 by sections 644.006 to 644.141 or any federal water pollution
11 control act. The director shall determine if any state or any
12 provisions of any federal water pollution control act the state
13 is required to enforce, any state or federal effluent limitations
14 or regulations, water quality-related effluent limitations,
15 national standards of performance, toxic and pretreatment
16 standards, or water quality standards which apply to the source,
17 or any such standards in the vicinity of the source, are being
18 exceeded, and shall determine the impact on such water quality
19 standards from the source. The director, in order to effectuate
20 the purposes of sections 644.006 to 644.141, shall deny a permit
21 if the source will violate any such acts, regulations,
22 limitations or standards or will appreciably affect the water
23 quality standards or the water quality standards are being
24 substantially exceeded, unless the permit is issued with such
25 conditions as to make the source comply with such requirements
26 within an acceptable time schedule.

27 5. The director shall grant or deny the permit within sixty
28 days after all requirements of the Federal Water Pollution

1 Control Act concerning issuance of permits have been satisfied
2 unless the application does not require any permit pursuant to
3 any federal water pollution control act. The director or the
4 commission may require the applicant to provide and maintain such
5 facilities or to conduct such tests and monitor effluents as
6 necessary to determine the nature, extent, quantity or degree of
7 water contaminant discharged or released from the source,
8 establish and maintain records and make reports regarding such
9 determination.

10 6. The director shall promptly notify the applicant in
11 writing of his or her action and if the permit is denied state
12 the reasons [therefor] for such denial. As provided by sections
13 621.250 and 640.013, the applicant may appeal to the
14 administrative hearing commission from the denial of a permit or
15 from any condition in any permit by filing [notice of appeal] a
16 petition with the administrative hearing commission within thirty
17 days of the notice of denial or issuance of the permit. After a
18 final action is taken on a new or reissued general permit, a
19 potential applicant for the general permit who can demonstrate
20 that he or she is or may be adversely affected by any permit term
21 or condition may appeal the terms and conditions of the general
22 permit within thirty days of the department's issuance of the
23 general permit. In no event shall a permit constitute permission
24 to violate the law or any standard, rule or regulation
25 promulgated pursuant thereto. Once the administrative hearing
26 commission has reviewed the appeal, the administrative hearing
27 commission shall issue a recommended decision to the commission
28 on permit issuance, denial, or any condition of the permit. The

1 commission shall issue its own decision, based on the appeal, for
2 permit issuance, denial, or any condition of the permit. If the
3 commission changes a finding of fact or conclusion of law made by
4 the administrative hearing commission, or modifies or vacates the
5 decision recommended by the administrative hearing commission, it
6 shall issue its own decision, which shall include findings of
7 fact and conclusions of law. The commission shall mail copies of
8 its final decision to the parties to the appeal or their counsel
9 of record. The commission's decision shall be subject to
10 judicial review pursuant to chapter 536, except that the court of
11 appeals district with territorial jurisdiction coextensive with
12 the county where the point source is to be located, shall have
13 original jurisdiction. No judicial review shall be available
14 until and unless all administrative remedies are exhausted.

15 7. In any hearing held pursuant to this section that
16 involves a permit, license, or registration, the burden of proof
17 is on the party specified in section 640.012. Any decision of
18 the commission made pursuant to a hearing held pursuant to this
19 section is subject to judicial review as provided in section
20 644.071.

21 8. In any event, no permit issued pursuant to this section
22 shall be issued if properly objected to by the federal government
23 or any agency authorized to object pursuant to any federal water
24 pollution control act unless the application does not require any
25 permit pursuant to any federal water pollution control act.

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

1 10. No manufacturing or processing plant or operating
2 location shall be required to pay more than one operating fee.
3 Operating permits shall be issued for a period not to exceed five
4 years after date of issuance, except that general permits shall
5 be issued for a five-year period, and also except that neither a
6 construction nor an annual permit shall be required for a single
7 residence's waste treatment facilities. Applications for renewal
8 of a site-specific operating permit shall be filed at least one
9 hundred eighty days prior to the expiration of the existing
10 permit. Applications seeking to renew coverage under a general
11 permit shall be submitted at least thirty days prior to the
12 expiration of the general permit, unless the permittee has been
13 notified by the director that an earlier application must be
14 made. General permits may be applied for and issued
15 electronically once made available by the director.

16 11. Every permit issued to municipal or any publicly owned
17 treatment works or facility shall require the permittee to
18 provide the clean water commission with adequate notice of any
19 substantial new introductions of water contaminants or pollutants
20 into such works or facility from any source for which such notice
21 is required by sections 644.006 to 644.141 or any federal water
22 pollution control act. Such permit shall also require the
23 permittee to notify the clean water commission of any substantial
24 change in volume or character of water contaminants or pollutants
25 being introduced into its treatment works or facility by a source
26 which was introducing water contaminants or pollutants into its
27 works at the time of issuance of the permit. Notice must
28 describe the quality and quantity of effluent being introduced or

1 to be introduced into such works or facility by a source which
2 was introducing water contaminants or pollutants into its works
3 at the time of issuance of the permit. Notice must describe the
4 quality and quantity of effluent being introduced or to be
5 introduced into such works or facility and the anticipated impact
6 of such introduction on the quality or quantity of effluent to be
7 released from such works or facility into waters of the state.

8 12. The director or the commission may require the filing
9 or posting of a bond as a condition for the issuance of permits
10 for construction of temporary or future water treatment
11 facilities or facilities that utilize innovative technology for
12 wastewater treatment in an amount determined by the commission to
13 be sufficient to ensure compliance with all provisions of
14 sections 644.006 to 644.141, and any rules or regulations of the
15 commission and any condition as to such construction in the
16 permit. For the purposes of this section, "innovative technology
17 for wastewater treatment" shall mean a completely new and
18 generally unproven technology in the type or method of its
19 application that bench testing or theory suggest has
20 environmental, efficiency, and cost benefits beyond the standard
21 technologies. No bond shall be required for designs approved by
22 any federal agency or environmental regulatory agency of another
23 state. The bond shall be signed by the applicant as principal,
24 and by a corporate surety licensed to do business in the state of
25 Missouri and approved by the commission. The bond shall remain
26 in effect until the terms and conditions of the permit are met
27 and the provisions of sections 644.006 to 644.141 and rules and
28 regulations promulgated pursuant thereto are complied with.

1 13. (1) The department shall issue or deny applications
2 for construction and site-specific operating permits received
3 after January 1, 2001, within one hundred eighty days of the
4 department's receipt of an application. For general construction
5 and operating permit applications received after January 1, 2001,
6 that do not require a public participation process, the
7 department shall issue or deny the permits within sixty days of
8 the department's receipt of an application. For an application
9 seeking coverage under a renewed general permit that does not
10 require an individual public participation process, the director
11 shall issue or deny the permit within sixty days of the
12 director's receipt of the application, or upon issuance of the
13 general permit, whichever is later. In regard to an application
14 seeking coverage under an initial general permit that does not
15 require an individual public participation process, the director
16 shall issue or deny the permit within sixty days of the
17 department's receipt of the application. For an application
18 seeking coverage under a renewed general permit that requires an
19 individual public participation process, the director shall issue
20 or deny the permit within ninety days of the director's receipt
21 of the application, or upon issuance of the general permit,
22 whichever is later. In regard to an application for an initial
23 general permit that requires an individual public participation
24 process, the director shall issue or deny the permit within
25 ninety days of the director's receipt of the application.

26 (2) If the department fails to issue or deny with good
27 cause a construction or operating permit application within the
28 time frames established in subdivision (1) of this subsection,

1 the department shall refund the full amount of the initial
2 application fee within forty-five days of failure to meet the
3 established time frame. If the department fails to refund the
4 application fee within forty-five days, the refund amount shall
5 accrue interest at a rate established pursuant to section 32.065.

6 (3) Permit fee disputes may be appealed to the commission
7 within thirty days of the date established in subdivision (2) of
8 this subsection. If the applicant prevails in a permit fee
9 dispute appealed to the commission, the commission may order the
10 director to refund the applicant's permit fee plus interest and
11 reasonable attorney's fees as provided in sections 536.085 and
12 536.087. A refund of the initial application or annual fee does
13 not waive the applicant's responsibility to pay any annual fees
14 due each year following issuance of a permit.

15 (4) No later than December 31, 2001, the commission shall
16 promulgate regulations defining shorter review time periods than
17 the time frames established in subdivision (1) of this
18 subsection, when appropriate, for different classes of
19 construction and operating permits. In no case shall commission
20 regulations adopt permit review times that exceed the time frames
21 established in subdivision (1) of this subsection. The
22 department's failure to comply with the commission's permit
23 review time periods shall result in a refund of said permit fees
24 as set forth in subdivision (2) of this subsection. On a
25 semiannual basis, the department shall submit to the commission a
26 report which describes the different classes of permits and
27 reports on the number of days it took the department to issue
28 each permit from the date of receipt of the application and show

1 averages for each different class of permits.

2 (5) During the department's technical review of the
3 application, the department may request the applicant submit
4 supplemental or additional information necessary for adequate
5 permit review. The department's technical review letter shall
6 contain a sufficient description of the type of additional
7 information needed to comply with the application requirements.

8 (6) Nothing in this subsection shall be interpreted to mean
9 that inaction on a permit application shall be grounds to violate
10 any provisions of sections 644.006 to 644.141 or any rules
11 promulgated pursuant to sections 644.006 to 644.141.

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

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

25 16. The department shall implement permit shield provisions
26 equivalent to the permit shield provisions implemented by the
27 U.S. Environmental Protection Agency pursuant to the Clean Water
28 Act, Section 402(k), 33 U.S.C. Section 1342(k), and its

1 implementing regulations, for permits issued pursuant to chapter
2 644.

3 17. Prior to the development of a new general permit or
4 reissuance of a general permit for aquaculture, land disturbance
5 requiring a storm water permit, or reissuance of a general permit
6 under which fifty or more permits were issued under a general
7 permit during the immediately preceding five-year period for a
8 designated category of water contaminant sources, the director
9 shall implement a public participation process complying with the
10 following minimum requirements:

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

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

19 (3) The director shall hold a public informational meeting
20 to provide information on anticipated permit conditions and
21 requirements and to receive informal comments from permittees and
22 other interested persons. The director shall include notice of
23 the public informational meeting with the notice of intent to
24 issue a new general permit or reissue a general permit under
25 subdivision (2) of this subsection. The notice of the public
26 informational meeting, including the date, time and location,
27 shall be posted on the department's website at least thirty days
28 in advance of the public meeting. If the meeting is being held

1 for reissuance of a general permit, notice shall also be made by
2 electronic mail to all permittees holding the current general
3 permit which is expiring. Notice to current permittees shall be
4 made at least twenty days prior to the public meeting;

5 (4) The director shall hold a thirty-day public comment
6 period to receive comments on the general permit template with
7 the thirty-day comment period expiring at least sixty days prior
8 to the effective date of the general permit. Scanned copies of
9 the comments received during the public comment period shall be
10 posted on the department's website within five business days
11 after close of the public comment period;

12 (5) A revised draft of a general permit template and the
13 director's response to comments submitted during the public
14 comment period shall be posted on the department's website at
15 least forty-five days prior to issuance of the general permit.
16 At least forty-five days prior to issuance of the general permit
17 the department shall notify all persons who submitted comments to
18 the department that these documents have been posted to the
19 department's website;

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

22 18. Notices required to be made by the department pursuant
23 to subsection 17 of this section may be made by electronic mail.
24 The department shall not be required to make notice to any
25 permittee or other person who has not provided a current
26 electronic mail address to the department. In the event the
27 department chooses to make material modifications to the general
28 permit before its expiration, the department shall follow the

1 public participation process described in subsection 17 of this
2 section.

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

5 644.056. 1. The director shall cause investigations to be
6 made upon the request of the commission or upon receipt of
7 information concerning alleged violations of sections 644.006 to
8 644.141 or any standard, limitation, order, rule or regulation
9 promulgated pursuant thereto, or any term or condition of any
10 permit and may cause to be made any other investigations he or
11 she deems advisable. Violations shall include obtaining a permit
12 by misrepresentation or failure to fully disclose all relevant
13 facts.

14 2. If, in the opinion of the director, the investigation
15 discloses that a violation does exist, the director may, by
16 conference, conciliation or persuasion, endeavor to eliminate the
17 violation.

18 3. In case of the failure by conference, conciliation or
19 persuasion to correct or remedy any claimed violation, or as
20 required to immediately and effectively halt or eliminate any
21 imminent or substantial endangerments to the health or welfare of
22 persons resulting from the discharge of pollutants, the director
23 ~~[shall]~~ may order abatement ~~[or file an abatement complaint with~~
24 ~~the commission if no permit has been issued, or in addition may~~
25 ~~file a complaint to revoke a permit if such permit has been~~
26 ~~issued]~~ or request legal action by the attorney general. When
27 the director files a complaint, the commission shall order a
28 hearing. The director shall cause to have issued and served upon

1 the person complained against a written notice of the order or
2 complaint, together with a copy of the order or complaint, which
3 shall specify the provision of sections 644.006 to 644.141 or the
4 standard, rule, limitation, or regulation adopted pursuant
5 thereto, or the condition of the permit of which the person is
6 alleged to be in violation, and a statement of the manner in
7 which and the extent to which the person is alleged to violate
8 sections 644.006 to 644.141 or the standard, rule, limitation, or
9 regulation, or condition of the permit. In any case involving a
10 complaint, the commission shall require the person complained
11 against to answer the charges of the formal complaint at a
12 hearing before the commission at a time not less than thirty days
13 after the date of notice. Service may be made upon any person
14 within or without the state by registered mail, return receipt
15 requested. Any person against whom the director issues an order
16 may appeal the order to the commission within thirty days and the
17 appeal shall stay the enforcement of the order until final
18 determination by the commission. The commission shall set
19 appeals for a hearing at a time not less than thirty days after
20 the date of the request. The commission may sustain, reverse, or
21 modify the director's order or may make such other orders as the
22 commission deems appropriate under the circumstances. If any
23 order issued by the director is not appealed within the time
24 provided in this section, the order becomes final and may be
25 enforced as provided in section 644.076. When the commission
26 schedules a matter for hearing, the petitioner on appeal or the
27 respondent to a formal complaint may appear at the hearing in
28 person or by counsel, and may make oral argument, offer testimony

1 and evidence, and cross-examine witnesses. After due
2 consideration of the record, or upon default in appearance of the
3 respondent on the return day specified in the notice given as
4 provided in this subsection, the commission shall issue and enter
5 such final order, or make such final determination as it deems
6 appropriate under the circumstances, and it shall immediately
7 notify the petitioner or respondent thereof in writing by
8 certified or registered mail.

9 4. Permits may be revoked, terminated, or modified if
10 obtained in violation of sections 644.006 to 644.141 or by
11 misrepresentation or failing to fully disclose all relevant
12 facts, or when required to prevent violations of any provision of
13 sections 644.006 to 644.141, or to protect the waters of this
14 state, when such action is required by a change in conditions or
15 the existence of a condition which requires either a temporary or
16 permanent reduction or elimination of the authorized discharge,
17 subject to the right of appeal contained in [this section]
18 sections 621.250 and 640.013.

19 5. [When the commission schedules a matter for hearing, the
20 petitioner on appeal or the respondent to a formal complaint may
21 appear at the hearing in person or by counsel, and may make oral
22 argument, offer testimony and evidence, and cross-examine
23 witnesses.

24 6. After due consideration of the record, or upon default
25 in appearance of the respondent on the return day specified in
26 the notice given as provided in subsection 3, the commission
27 shall issue and enter such final order, or make such final
28 determination as it deems appropriate under the circumstances,

1 and it shall immediately notify the petitioner or respondent
2 thereof in writing by certified or registered mail.] Whenever a
3 permit under this chapter is revoked, terminated, or modified by
4 the department of natural resources, the applicant, by petition
5 filed with the administrative hearing commission within thirty
6 days of the decision, may appeal such decision as provided by
7 sections 621.250 and 640.013. Once the administrative hearing
8 commission has reviewed the appeal, the administrative hearing
9 commission shall issue a recommended decision to the commission
10 on permit revocation, termination, or modification. The
11 commission shall issue its own decision, based on the appeal, for
12 permit revocation, termination, or modification. If the
13 commission changes a finding of fact or conclusion of law made by
14 the administrative hearing commission, or modifies or vacates the
15 decision recommended by the administrative hearing commission, it
16 shall issue its own decision, which shall include findings of
17 fact and conclusions of law. The commission shall mail copies of
18 its final decision to the parties to the appeal or their counsel
19 of record. The commission's decision shall be subject to
20 judicial review pursuant to chapter 536, except that the court of
21 appeals district with territorial jurisdiction coextensive with
22 the county where the point source is located or is to be located
23 shall have original jurisdiction. No judicial review shall be
24 available until and unless all administrative remedies are
25 exhausted.