

**SENATE AMENDMENT NO. \_\_\_\_\_**

Offered by \_\_\_\_\_ of \_\_\_\_\_

Amend \_\_\_\_\_ SS/Senate Bill No. 476, Page 22, Section 259.210, Line 1

of said page, by inserting immediately after said line the following:

"260.235. Any person aggrieved by a forfeiture of any financial assurance instrument, civil or administrative penalty or denial, suspension or revocation of a permit required by section 260.205 or a modification to a permit issued under section 260.205 or any disapproval of the plan required by section 260.220, may appeal such decision as provided in [section] sections 621.250[, subject to judicial review as provided by law] and 640.013 by filing a petition with the administrative hearing commission within thirty days of the decision. The notice of the department shall be effected by certified mail and shall set forth the reasons for such forfeiture, disapproval, denial, suspension, civil penalty or revocation. The department may seek an injunction in the circuit court in which the facility is located requiring the facility for which the transfer of ownership has been denied, or the permit or modification of the permit has been denied, suspended or revoked, to cease operations from the date ordered by the court until such time as the appeal is resolved or obtain a performance bond in the amount and manner as prescribed by rule. The department's

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

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

1       shall:

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

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

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

1 generate, as nearly as is practicable, six hundred thousand  
2 dollars annually. No fee shall be collected pursuant to this  
3 subdivision from railroads that pay a fee pursuant to subsection  
4 18 of this section. Fees collected pursuant to this subdivision  
5 shall be deposited in the hazardous waste fund created pursuant  
6 to section 260.391.

7 2. If the department determines the application conforms to  
8 the 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, it  
11 shall issue the hazardous waste transporter license with such  
12 terms and conditions as it deems necessary to protect the health  
13 of humans and the environment. The department shall act within  
14 ninety days after receipt of the application. If the department  
15 denies the license, it shall issue a report to the applicant  
16 stating the reason for denial of the license.

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

24 4. Whenever a license is issued, renewed, denied, suspended  
25 or revoked by the department, any aggrieved person, by petition  
26 filed with the [department] administrative hearing commission  
27 within thirty days of the decision, may appeal such decision [and  
28 shall be entitled to a hearing as provided in section 260.400] as  
29 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  
29 unlicensed hazardous waste transporting equipment and to require

1       that it be adequate to provide protection for the health of  
2       humans and the environment.

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

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

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

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

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

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

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

28 (6) The department shall supervise any field work  
29 undertaken to collect geologic and engineering data for

1 submission with the application. The state geologist and  
2 departmental engineers shall review the geologic and engineering  
3 plans, respectively, and attest to their accuracy and adequacy.  
4 The applicant shall pay all reasonable costs, as determined by  
5 the commission, incurred by the department pursuant to this  
6 subsection.

7 8. (1) Prior to issuing or renewing a hazardous waste  
8 facility permit, the department shall issue public notice by  
9 press release or advertisement and shall notify all record owners  
10 of adjoining property by mail directed to the last known address,  
11 and the village, town or city, if any, and the county in which  
12 the hazardous waste facility is located; and, upon request, shall  
13 hold a public hearing after public notice as required in this  
14 subsection at a location convenient to the area affected by the  
15 issuance of the permit.

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

24 9. If the department determines that the application  
25 conforms to the provisions of any federal hazardous waste  
26 management act and sections 260.350 to 260.430 and the standards,  
27 rules and regulations adopted pursuant to sections 260.350 to  
28 260.430, it shall issue the hazardous waste facility permit, with  
29 such terms and conditions and require such testing and



1 construction supervision as it deems necessary to protect the  
2 health of humans or the environment. The department shall act  
3 within one hundred and eighty days after receipt of the  
4 application. If the department denies the permit, it shall issue  
5 a report to the applicant stating the reason for denial of a  
6 permit.

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

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

conclusions of law. The commission shall mail copies of its final decision to the parties to the appeal or their counsel of record. The commission's decision shall be subject to judicial review pursuant to chapter 536, except that the court of appeals district with territorial jurisdiction coextensive with the county where the hazardous waste facility is to be located or is located, shall have original jurisdiction. No judicial review shall be available until and unless all administrative remedies are exhausted.

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

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

(1) On-site storage of hazardous wastes where such storage is exempted by the commission by rule or regulation; however, such storage must conform to the provisions of any federal

1 hazardous waste management act and sections 260.350 to 260.430  
2 and the applicable standards, rules and regulations adopted  
3 pursuant to sections 260.350 to 260.430 and any other applicable  
4 hazardous materials storage and spill-prevention requirements  
5 provided by law;

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

9 (3) A resource recovery facility which the department  
10 certifies uses hazardous waste as a supplement to, or substitute  
11 for, nonwaste material, and that the sole purpose of the facility  
12 is manufacture of a product rather than treatment or disposal of  
13 hazardous wastes;

14 (4) That portion of a facility engaged in hazardous waste  
15 resource recovery, when the facility is engaged in both resource  
16 recovery and hazardous waste treatment or disposal, provided the  
17 owner or operator can demonstrate to the department's  
18 satisfaction and the department finds that such portion is not  
19 intended and is not used for hazardous waste treatment or  
20 disposal.

21 14. Facilities exempted pursuant to subsection 13 of this  
22 section must comply with the provisions of subdivisions (3) to  
23 (7) of section 260.390 and such other requirements, to be  
24 specified by rules and regulations, as are necessary to comply  
25 with any federal hazardous waste management act or regulations  
26 hereunder. Generators who use such an exempted facility shall  
27 keep records of hazardous wastes transported, except by legal  
28 flow through sewer lines, to the facility and submit such records  
29 to the department in accordance with the provisions of section

1 260.380 and the standards, rules and regulations adopted pursuant  
2 to sections 260.350 to 260.430. Any person, before constructing,  
3 altering or operating a resource recovery facility in this state  
4 shall file an application for a certification. Such application  
5 shall include:

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

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

22 15. The owner or operator of any hazardous waste facility  
23 in existence on September 28, 1977, who has achieved federal  
24 interim status pursuant to 42 U.S.C. 6925(e), and who has  
25 submitted to the department Part A of the federal facility permit  
26 application, may continue to receive and manage hazardous wastes  
27 in the manner as specified in the Part A application, and in  
28 accordance with federal interim status requirements, until  
29 completion of the administrative disposition of a permit

1 application submitted pursuant to sections 260.350 to 260.430.  
2 The department may at any time require submission of, or the  
3 owner or operator may at any time voluntarily submit, a complete  
4 application for a permit pursuant to sections 260.350 to 260.430  
5 and commission regulations. The authority to operate pursuant to  
6 this subsection shall cease one hundred eighty days after the  
7 department has notified an owner or operator that an application  
8 for permit pursuant to sections 260.350 to 260.430 must be  
9 submitted, unless within such time the owner or operator submits  
10 a completed application therefor. Upon submission of a complete  
11 application, the authority to operate pursuant to this subsection  
12 shall continue for such reasonable time as is required to  
13 complete the administrative disposition of the permit  
14 application. If a facility loses its federal interim status, or  
15 the Environmental Protection Agency requires the owner or  
16 operator to submit Part B of the federal application, the  
17 department shall notify the owner or operator that an application  
18 for a permit must be submitted pursuant to this subsection. In  
19 addition to compliance with the federal interim status  
20 requirements, the commission shall have the authority to adopt  
21 regulations requiring persons operating pursuant to this  
22 subsection to meet additional state interim status requirements.

23 16. No person, otherwise qualified pursuant to sections  
24 260.350 to 260.430 for a license to transport hazardous wastes or  
25 for a permit to construct, substantially alter or operate a  
26 hazardous waste facility, shall be denied such license or permit  
27 on the basis of a lack of need for such transport service or such  
28 facility because of the existence of other services or facilities  
29 capable of meeting that need; except that permits for hazardous

1 waste facilities may be denied on determination made by the  
2 department that the financial resources of the persons applying  
3 are such that the continued operation of the sites in accordance  
4 with sections 260.350 to 260.430 cannot be reasonably assured or  
5 on determination made by the department that the probable volume  
6 of business is insufficient to ensure and maintain the solvency  
7 of then existing permitted hazardous waste facilities.

8 17. All hazardous waste landfills constructed after October  
9 31, 1980, shall have a leachate collection system. The rules and  
10 regulations of the commission shall treat and protect all  
11 aquifers to the same level of protection. The provisions of this  
12 subsection shall not apply to the disposal of tailings and slag  
13 resulting from mining, milling and primary smelting operations.

14 18. Any railroad corporation as defined in section 388.010  
15 that transports any hazardous waste as defined in section 260.360  
16 or any hazardous substance as defined in section 260.500 shall  
17 pay an annual fee of three hundred fifty dollars. Fees collected  
18 pursuant to this subsection shall be deposited in the hazardous  
19 waste fund created in section 260.391."; and

20 Further amend said bill, page 25, section 260.500, line 14  
21 of said page, by inserting immediately after said line the  
22 following:

23 "444.600. 1. All applications for a permit shall be filed  
24 with the director who shall promptly investigate the application  
25 and make a [recommendation to the commission] decision within  
26 thirty days after the application is received as to whether the  
27 permit should be issued or denied. If the director is not  
28 satisfied with the information supplied by the applicant, he or  
29 she shall recommend denial of the permit. The director shall

1 promptly notify the applicant of this action and at the same time  
2 publish a notice of the [recommendation] decision in any  
3 newspaper with general circulation in the counties where the land  
4 is located, and shall send notice to those persons registered  
5 with the director pursuant to section 444.720. The director's  
6 decision shall be deemed to be the decision of the director of  
7 the department of natural resources and shall be subject to  
8 appeal to the administrative hearing commission as provided by  
9 sections 621.250 and 640.013.

10 2. [If the recommendation of the director is to deny the  
11 permit, a hearing as provided in sections 444.500 to 444.755  
12 shall be held by the commission if requested by the applicant  
13 within thirty days of the date of notice of the recommendation of  
14 the director.

15 3. If the recommendation of the director is for issuance of  
16 the permit, the commission may issue or deny the permit without a  
17 hearing provided the matter is passed upon at a public meeting no  
18 sooner than thirty days from the date of notice of the  
19 recommendation of the director, except that upon petition of any  
20 person aggrieved by the granting of the permit, a hearing shall  
21 be held as provided in section 444.680.

22 4. If the commission denies a permit, the applicant may  
23 petition the commission, within thirty days of notice of its  
24 action, for a hearing. If no petition is filed within the thirty  
25 day period, the decision of the commission is final and the  
26 applicant shall have no right of court review.

27 5. In any hearing held pursuant to this section the burden  
28 of proof shall be on the applicant for a permit. Any decision of  
29 the commission made pursuant to a hearing held under this section

1 is subject to judicial review as provided in section 444.700.]  
2 Whenever a strip mine operator permit provided under section  
3 444.540 is issued, denied, suspended, or revoked by the  
4 department of natural resources, any aggrieved person, by  
5 petition filed with the administrative hearing commission within  
6 thirty days of the decision, may appeal such decision as provided  
7 by sections 621.250 and 640.013. For purposes of an appeal, the  
8 administrative hearing commission may consider, based on  
9 competent and substantial scientific evidence on the record,  
10 whether an interested party's health, safety, or livelihood will  
11 be unduly impaired by the issuance, denial, suspension, or  
12 revocation of the permit. The administrative hearing commission  
13 may also consider, based on competent and substantial scientific  
14 evidence on the record, whether the operator has demonstrated,  
15 during the five-year period immediately preceding the date of the  
16 permit application, a pattern of noncompliance at other locations  
17 in Missouri that suggests a reasonable likelihood of future acts  
18 of noncompliance. In determining whether a reasonable likelihood  
19 of noncompliance will exist in the future, the administrative  
20 hearing commission may look to past acts of noncompliance in  
21 Missouri, but only to the extent they suggest a reasonable  
22 likelihood of future acts of noncompliance. Such past acts of  
23 noncompliance in Missouri, in and of themselves, are an  
24 insufficient basis to suggest a reasonable likelihood of future  
25 acts of noncompliance. In addition, such past acts shall not be  
26 used as a basis to suggest a reasonable likelihood of future acts  
27 of noncompliance unless the noncompliance has caused or has the  
28 potential to cause, a risk to human health or to the environment,  
29 or has caused or has potential to cause pollution, or was



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

1 commission's decision shall be subject to judicial review  
2 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.

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

20 [2.] The director's decision shall be deemed to be the  
21 decision of the director of the department of natural resources  
22 and shall be subject to appeal to the administrative hearing  
23 commission as provided by sections 640.013 and 621.250.

24 [3.] 2. Whenever a surface mining operation permit provided  
25 under section 444.772 is issued, denied, suspended, or revoked by  
26 the department of natural resources, any aggrieved person, by  
27 petition filed with the administrative hearing commission within  
28 thirty days of the decision, may appeal such decision as provided  
29 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 [demonstrates] finds either present acts of  
27 noncompliance or a reasonable likelihood that the permit seeker  
28 or the operations of associated persons or corporations in  
29 Missouri will be in noncompliance in the future, such a showing

1 will satisfy the noncompliance requirement in this subsection.  
2 In addition, such basis must be developed by multiple  
3 noncompliances of any environmental law administered by the  
4 Missouri department of natural resources at any single facility  
5 in Missouri that resulted in harm to the environment or impaired  
6 the health, safety or livelihood of persons outside the facility.  
7 For any permit seeker that has not been in business in Missouri  
8 for the past five years, the administrative hearing commission  
9 may review the record of noncompliance in any state where the  
10 applicant has conducted business during the past five years.  
11 [Once] The administrative hearing commission [has reviewed the  
12 appeal, the administrative hearing commission] shall [make a  
13 recommendation] issue a recommended decision to the commission on  
14 permit issuance [or], denial, suspension, or revocation.

15 [4.] The commission shall issue its own decision, based on  
16 the appeal, for permit issuance [or] denial, suspension, or  
17 revocation. If the commission changes a finding of fact or  
18 conclusion of law made by the administrative hearing commission,  
19 or modifies or vacates the decision recommended by the  
20 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  
29 until and unless all administrative remedies are exhausted.

1        444.980. Whenever a surface coal mining operation permit  
2 provided under section 444.815 or a coal exploration operation  
3 permit provided under section 444.845 is issued, denied,  
4 suspended, or revoked by the department of natural resources, any  
5 aggrieved person, by petition filed with the administrative  
6 hearing commission within thirty days of the decision, may appeal  
7 such decision as provided by sections 621.250 and 640.013. For  
8 purposes of an appeal, the administrative hearing commission may  
9 consider, based on competent and substantial scientific evidence  
10 on the record, whether an interested party's health, safety, or  
11 livelihood will be unduly impaired by the issuance, denial,  
12 suspension, or revocation of the permit. The administrative  
13 hearing commission may also consider, based on competent and  
14 substantial scientific evidence on the record, whether the  
15 operator has demonstrated, during the five-year period  
16 immediately preceding the date of the permit application, a  
17 pattern of noncompliance at other locations in Missouri that  
18 suggests a reasonable likelihood of future acts of noncompliance.  
19 In determining whether a reasonable likelihood of noncompliance  
20 will exist in the future, the administrative hearing commission  
21 may look to past acts of noncompliance in Missouri, but only to  
22 the extent they suggest a reasonable likelihood of future acts of  
23 noncompliance. Such past acts of noncompliance in Missouri, in  
24 and of themselves, are an insufficient basis to suggest a  
25 reasonable likelihood of future acts of noncompliance. In  
26 addition, such past acts shall not be used as a basis to suggest  
27 a reasonable likelihood of future acts of noncompliance unless  
28 the noncompliance has caused or has the potential to cause, a  
29 risk to human health or to the environment, or has caused or has

1 potential to cause pollution, or was knowingly committed, or is  
2 defined by the United States Environmental Protection Agency as  
3 other than minor. If a hearing petitioner demonstrates or the  
4 administrative hearing commission finds either present acts of  
5 noncompliance or a reasonable likelihood that the permit seeker  
6 or the operations of associated persons or corporations in  
7 Missouri will be in noncompliance in the future, such a showing  
8 will satisfy the noncompliance requirement in this subsection.  
9 In addition, such basis must be developed by multiple  
10 noncompliances of any environmental law administered by the  
11 Missouri department of natural resources at any single facility  
12 in Missouri that resulted in harm to the environment or impaired  
13 the health, safety, or livelihood of persons outside the  
14 facility. For any permit seeker that has not been in business in  
15 Missouri for the past five years, the administrative hearing  
16 commission may review the record of noncompliance in any state  
17 where the applicant has conducted business during the past five  
18 years. Once the administrative hearing commission has reviewed  
19 the appeal, the administrative hearing commission shall issue a  
20 recommended decision to the commission on permit issuance,  
21 denial, suspension, or revocation. The commission shall issue  
22 its own decision, based on the appeal, for permit issuance,  
23 denial, suspension, or revocation. If the commission changes a  
24 finding of fact or conclusion of law made by the administrative  
25 hearing commission, or modifies or vacates the decision  
26 recommended by the administrative hearing commission, it shall  
27 issue its own decision, which shall include findings of fact and  
28 conclusions of law. The commission shall mail copies of its  
29 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  
29 affected by, any finding, order, decision, or assessment for

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

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



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

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

27 5. Appropriations shall be made from the respective funds  
28 of the department of natural resources to cover the  
29 administrative hearing commission's costs associated with these

1 appeals.

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

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

14 640.115. 1. Every municipal corporation, private  
15 corporation, company, partnership, federal establishment, state  
16 establishment or individual supplying or authorized to supply  
17 drinking water to the public within the state shall file with the  
18 department of natural resources a certified copy of the plans and  
19 surveys of the waterworks with a description of the methods of  
20 purification, treatment technology and source from which the  
21 supply of water is derived, and no source of supply shall be used  
22 without a written permit of approval issued to the continuing  
23 operating authority by the department of natural resources, or  
24 water dispensed to the public without first obtaining such  
25 written permit of approval. Prior to a change of permittee, the  
26 current permittee shall notify the department of the proposed  
27 change and the department shall perform a permit review.

28 2. Construction, extension or alteration of a public water  
29 system shall be in accordance with the rules and regulations of

1 the safe drinking water commission.

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

12 4. Any community water system or nontransient, noncommunity  
13 water system against which an administrative order has been  
14 issued for significant noncompliance with the federal Safe  
15 Drinking Water Act, as amended, sections 640.100 to 640.140 or  
16 any rule or regulation promulgated thereunder shall be required  
17 to show that a permanent organization exists that serves as the  
18 continuing operating authority for the facility and that such  
19 continuing operating authority has the managerial, technical and  
20 financial capacity to comply with sections 640.100 to 640.140 and  
21 regulations promulgated thereunder. If the water system cannot  
22 show to the department's satisfaction that such continuing  
23 operating authority exists, or if the water system is not making  
24 substantial progress toward compliance, the water system's permit  
25 may be revoked. The continuing operating authority may [reapply  
26 for a permit in accordance with rules promulgated by the  
27 commission] appeal such decision to the administrative hearing  
28 commission as provided by sections 621.250 and 640.013.

29 5. Whenever a permit is issued, denied, suspended, or

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

23 643.075. 1. It shall be unlawful for any person to  
24 commence construction of any air contaminant source in this  
25 state, without a permit [therefor], if such source is of a class  
26 fixed by regulation of the commission which requires a permit  
27 [therefor].

28 2. Every source required to obtain a construction permit  
29 shall make application [therefor] to the department [and shall

submit therewith] that includes such plans and specifications as prescribed by rule. The director shall promptly investigate each application, and if he or she determines that the source meets and will meet the requirements of sections 643.010 to 643.190 and the rules promulgated pursuant thereto, he or she shall issue a construction permit with such conditions as he deems necessary to ensure that the source will meet the requirements of sections 643.010 to 643.190 and the rules. An application submitted for the construction or modification and operation of any regulated air contaminant source shall receive a unified construction and operating permit review process under section 643.078, unless the applicant requests in writing that the construction and operating permits be reviewed separately. If the director determines that the source does not meet or will not meet the requirements of sections 643.010 to 643.190 and the rules promulgated pursuant thereto, he or she shall deny the construction permit.

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

4. The director may require the applicant as a condition to the issuance of the construction permit to provide and maintain such facilities or to conduct such tests as are necessary to determine the nature, extent, quantity or degree of air

1 contaminants discharged into the ambient air from the proposed  
2 source.

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

12 6. As provided by sections 621.250 and 640.013, any  
13 aggrieved person may appeal any permit decision made under this  
14 section, including failure to render a decision within the time  
15 period established in this section. A notice of appeal shall be  
16 filed with the administrative hearing commission within thirty  
17 days of the director's action or within thirty days from the date  
18 by which the decision should have been rendered if the director  
19 has failed to act. Once the administrative hearing commission  
20 has reviewed the appeal, the administrative hearing commission  
21 shall issue a recommended decision to the commission on permit  
22 issuance, renewal, denial, suspension, or revocation, or any  
23 condition of the permit. The commission shall issue its own  
24 decision, based on the appeal, for permit issuance, renewal,  
25 denial, suspension, or revocation, or any condition of the  
26 permit. If the commission changes a finding of fact or  
27 conclusion of law made by the administrative hearing commission,  
28 or modifies or vacates the decision recommended by the  
29 administrative hearing commission, it shall issue its own

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

11         7. (1) There shall be a one hundred-dollar filing fee  
12 payable to the state of Missouri with each application before a  
13 construction permit shall be issued. No manufacturing or  
14 processing plant or operating location or other air contaminant  
15 source shall be required to pay more than one filing fee with a  
16 construction permit application. The provisions of this section  
17 shall not apply nor require the issuance of a permit wherein the  
18 proposed construction is that of a private residence.

19         (2) Upon completion of the department's evaluation of the  
20 application, but before receiving a construction permit, the  
21 applicant shall reimburse the department for all reasonable costs  
22 incurred by the department whether or not a construction permit  
23 is issued by the department or withdrawn by the applicant. If  
24 the department fails to approve or deny a construction permit  
25 within the time period specified in this section, the applicant  
26 shall not be required to reimburse the department for the review  
27 of the construction permit application. The commission shall, by  
28 rule, set the hourly charge, not to exceed the actual cost  
29 thereof and not to exceed fifty dollars per hour, for review of

1 each construction permit application. The commission may exempt  
2 any person from payment of the hourly fees under this  
3 subdivision, or may reduce such fees, upon an appeal filed with  
4 the commission by such person stating that the fee will create an  
5 unreasonable economic hardship upon such person. The commission  
6 may conduct a closed meeting and have closed records, as defined  
7 in section 610.010, for the purpose of gathering information from  
8 the person filing an appeal for the exemption. Information  
9 obtained in this meeting may be held confidential by the  
10 commission upon the request of the person filing the appeal for  
11 exemption. If the fees or any portion of the fees imposed by  
12 this section are not paid within ninety days from the date of  
13 billing there shall be imposed interest upon the unpaid amount at  
14 the rate of ten percent per annum from the date of billing until  
15 payment is actually made. A construction permit application for  
16 a portable facility may include any site at which the portable  
17 facility is expected to be used; however, a separate site permit  
18 application shall be required when the portable facility is used  
19 or expected to be used at any site which is not included in a  
20 previously approved construction permit application. Upon  
21 receipt of the application, the applicant shall be notified by  
22 the department of hourly fees and requirements put forth in this  
23 subdivision.

24 (3) Applicants who withdraw their application before the  
25 department completes its evaluation shall reimburse the  
26 department for costs incurred in the evaluation.

27 (4) All moneys received pursuant to this section and  
28 section 643.073 and any other moneys so designated shall be  
29 placed in the state treasury and credited to the natural



resources protection fund air pollution permit fee subaccount, created in section 640.220, and shall be expended for the administration of this section and sections 643.073 and 643.078 and for no other purpose, and shall be used to supplement state general revenue and federal funds appropriated to the department. After appropriation, the moneys received pursuant to this section and in such fund subaccount shall be expended for the administration of this section and for no other purpose. Any unexpended balance in such fund subaccount at the end of any appropriation period shall not be transferred to the general revenue fund of the state treasury and shall be exempt from the provisions of section 33.080. Any interest received on such deposits shall be credited to the fund subaccount.

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

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

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

3. Any person who wishes to construct or modify and operate

1 any regulated air contaminant source shall submit an application  
2 to the department for the unified review of a construction permit  
3 application under section 643.075 and an operating permit  
4 application under this section, unless the applicant requests in  
5 writing that the construction and operating permit applications  
6 be reviewed separately. The director shall complete any unified  
7 review within one hundred and eighty days of receipt of the  
8 request for a class B source. For a class A source, the unified  
9 review shall be completed within the time period established in  
10 section 502 of the federal Clean Air Act, as amended, 42 U.S.C.  
11 7661.

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

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

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

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

23           8. An applicant for a construction permit for an air  
24 contaminant source with valid operating permit may request that  
25 the air contaminant source be issued a new five-year operating  
26 permit. The operating permit would be issued in the manner and  
27 under the conditions provided in sections 643.010 to 643.190 and  
28 would supersede any existing operating permit for the source.

29           9. The director shall take action within thirty days after

1 a request for validation of the operating permit and shall render  
2 a decision within one hundred twenty days of receipt of a request  
3 for issuance of an operating permit for a class B source. The  
4 director shall render a decision within the time period  
5 established in section 502 of the federal Clean Air Act, as  
6 amended, 42 U.S.C. 7661, for a class A source. Any affected  
7 person may appeal any permit decision, including failure to  
8 render a decision within the time period established in this  
9 section, to the administrative hearing commission as provided by  
10 subsection 16 of this section, section 621.250, and section  
11 640.013.

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

14 11. The director shall not approve an operating permit if  
15 he receives an objection to approval of the permit from the  
16 United States Environmental Protection Agency within the time  
17 period specified under Title V of the Clean Air Act, as amended,  
18 42 U.S.C. 7661, et seq.

19 12. The director shall enforce all applicable federal  
20 rules, standards and requirements issued under the federal Clean  
21 Air Act, as amended, 42 U.S.C. 7661, et seq., and shall  
22 incorporate such applicable standards and any limitations  
23 established pursuant to Title III into operating permits as  
24 required under Title V of the federal Clean Air Act, as amended,  
25 42 U.S.C. 7661, et seq.

26 13. Applicable standards promulgated by the commission by  
27 rule shall be incorporated by the director into the operating  
28 permit of any air contaminant source which has, on the effective  
29 date of the rule, at least three years remaining before renewal

1 of its operating permit. If less than three years remain before  
2 renewal of the source's operating permit, such applicable  
3 standards shall be incorporated into the permit unless the permit  
4 contains a shield from such new requirements consistent with  
5 Title V of the federal Clean Air Act, as amended, 42 U.S.C. 7661,  
6 et seq.

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

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

22 16. The applicant may appeal to the administrative hearing  
23 commission if **[an]** a construction, modification, or operating  
24 permit is [not] issued, renewed, denied, suspended, modified, or  
25 revoked by the department, or may appeal any condition[,  
26 suspension, modification or revocation] of any permit by filing  
27 **[notice of appeal]** a petition with the administrative hearing  
28 commission within thirty days of the notice of the director's  
29 response to the request for issuance of the construction,

1 modification, or operating permit as provided by sections 621.250  
2 and 640.013. Once the administrative hearing commission has  
3 reviewed the appeal, the administrative hearing commission shall  
4 issue a recommended decision to the commission on the issuance,  
5 renewal, denial, suspension, modification, revocation, or any  
6 condition of the permit. The commission shall issue its own  
7 decision, based on the appeal, for the issuance, renewal, denial,  
8 suspension, modification, revocation, or any condition of the  
9 permit. If the commission changes a finding of fact or  
10 conclusion of law made by the administrative hearing commission,  
11 or modifies or vacates the decision recommended by the  
12 administrative hearing commission, it shall issue its own  
13 decision, which shall include findings of fact and conclusions of  
14 law. The commission shall mail copies of its final decision to  
15 the parties to the appeal or their counsel of record. The  
16 commission's decision shall be subject to judicial review  
17 pursuant to chapter 536, except that the court of appeals  
18 district with territorial jurisdiction coextensive with the  
19 county where the air contaminant source is located or is to be  
20 located shall have original jurisdiction. No judicial review  
21 shall be available until and unless all administrative remedies  
22 are exhausted.

23 17. Any person who obtains a valid operating permit from a  
24 city or county pursuant to the authority granted in section  
25 643.140 shall be deemed to have met the requirements of this  
26 section."; and

27 Further amend said bill, page 31, section 644.016, line 8 of  
28 said page, by inserting immediately after said line the  
29 following:

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

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

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

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

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

17           2. It shall be unlawful for any person to operate, use or  
18 maintain any water contaminant or point source in this state that  
19 is subject to standards, rules or regulations promulgated  
20 pursuant to the provisions of sections 644.006 to 644.141 unless  
21 such person holds an operating permit from the commission,  
22 subject to such exceptions as the commission may prescribe by  
23 rule or regulation. However, no operating permit shall be  
24 required of any person for any emission into publicly owned  
25 treatment facilities or into publicly owned sewer systems  
26 tributary to publicly owned treatment works.

27           3. It shall be unlawful for any person to construct, build,  
28 replace or make major modification to any point source or  
29 collection system that is principally designed to convey or

1 discharge human sewage to waters of the state, unless such person  
2 obtains a construction permit from the commission, except as  
3 provided in this section. The following activities shall be  
4 excluded from construction permit requirements:

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

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

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

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

15 A construction permit may be required by the department in the  
16 following circumstances:

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

19 (b) To address noncompliance;

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

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

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



1 construction permit requirement are subject to the following  
2 conditions:

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

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

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

17  
18 A governmental unit may apply to the department for authorization  
19 to operate a local supervised program, and the department may  
20 authorize such a program. A local supervised program would  
21 recognize the governmental unit's engineering capacity and  
22 ability to conduct engineering work, supervise construction and  
23 maintain compliance with relevant operating permit requirements.

24 4. Before issuing any permit required by this section, the  
25 director shall issue such notices, conduct such hearings, and  
26 consider such factors, comments and recommendations as required  
27 by sections 644.006 to 644.141 or any federal water pollution  
28 control act. The director shall determine if any state or any  
29 provisions of any federal water pollution control act the state

1 is required to enforce, any state or federal effluent limitations  
2 or regulations, water quality-related effluent limitations,  
3 national standards of performance, toxic and pretreatment  
4 standards, or water quality standards which apply to the source,  
5 or any such standards in the vicinity of the source, are being  
6 exceeded, and shall determine the impact on such water quality  
7 standards from the source. The director, in order to effectuate  
8 the purposes of sections 644.006 to 644.141, shall deny a permit  
9 if the source will violate any such acts, regulations,  
10 limitations or standards or will appreciably affect the water  
11 quality standards or the water quality standards are being  
12 substantially exceeded, unless the permit is issued with such  
13 conditions as to make the source comply with such requirements  
14 within an acceptable time schedule.

15 5. The director shall grant or deny the permit within sixty  
16 days after all requirements of the Federal Water Pollution  
17 Control Act concerning issuance of permits have been satisfied  
18 unless the application does not require any permit pursuant to  
19 any federal water pollution control act. The director or the  
20 commission may require the applicant to provide and maintain such  
21 facilities or to conduct such tests and monitor effluents as  
22 necessary to determine the nature, extent, quantity or degree of  
23 water contaminant discharged or released from the source,  
24 establish and maintain records and make reports regarding such  
25 determination.

26 6. The director shall promptly notify the applicant in  
27 writing of his or her action and if the permit is denied state  
28 the reasons [therefor] for such denial. As provided by sections  
29 621.250 and 640.013, the applicant may appeal to the

1 administrative hearing commission from the denial of a permit or  
2 from any condition in any permit by filing [notice of appeal] a  
3 petition with the administrative hearing commission within thirty  
4 days of the notice of denial or issuance of the permit. After a  
5 final action is taken on a new or reissued general permit, a  
6 potential applicant for the general permit who can demonstrate  
7 that he or she is or may be adversely affected by any permit term  
8 or condition may appeal the terms and conditions of the general  
9 permit within thirty days of the department's issuance of the  
10 general permit. In no event shall a permit constitute permission  
11 to violate the law or any standard, rule or regulation  
12 promulgated pursuant thereto. Once the administrative hearing  
13 commission has reviewed the appeal, the administrative hearing  
14 commission shall issue a recommended decision to the commission  
15 on permit issuance, denial, or any condition of the permit. The  
16 commission shall issue its own decision, based on the appeal, for  
17 permit issuance, denial, or any condition of the permit. If the  
18 commission changes a finding of fact or conclusion of law made by  
19 the administrative hearing commission, or modifies or vacates the  
20 decision recommended by the administrative hearing commission, it  
21 shall issue its own decision, which shall include findings of  
22 fact and conclusions of law. The commission shall mail copies of  
23 its final decision to the parties to the appeal or their counsel  
24 of record. The commission's decision shall be subject to  
25 judicial review pursuant to chapter 536, except that the court of  
26 appeals district with territorial jurisdiction coextensive with  
27 the county where the point source is to be located, shall have  
28 original jurisdiction. No judicial review shall be available  
29 until and unless all administrative remedies are exhausted.

1           7. In any hearing held pursuant to this section that  
2 involves a permit, license, or registration, the burden of proof  
3 is on the party specified in section 640.012. Any decision of  
4 the commission made pursuant to a hearing held pursuant to this  
5 section is subject to judicial review as provided in section  
6 644.071.

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

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

15           10. No manufacturing or processing plant or operating  
16 location shall be required to pay more than one operating fee.  
17 Operating permits shall be issued for a period not to exceed five  
18 years after date of issuance, except that general permits shall  
19 be issued for a five-year period, and also except that neither a  
20 construction nor an annual permit shall be required for a single  
21 residence's waste treatment facilities. Applications for renewal  
22 of a site-specific operating permit shall be filed at least one  
23 hundred eighty days prior to the expiration of the existing  
24 permit. Applications seeking to renew coverage under a general  
25 permit shall be submitted at least thirty days prior to the  
26 expiration of the general permit, unless the permittee has been  
27 notified by the director that an earlier application must be  
28 made. General permits may be applied for and issued  
29 electronically once made available by the director.

1           11. Every permit issued to municipal or any publicly owned  
2 treatment works or facility shall require the permittee to  
3 provide the clean water commission with adequate notice of any  
4 substantial new introductions of water contaminants or pollutants  
5 into such works or facility from any source for which such notice  
6 is required by sections 644.006 to 644.141 or any federal water  
7 pollution control act. Such permit shall also require the  
8 permittee to notify the clean water commission of any substantial  
9 change in volume or character of water contaminants or pollutants  
10 being introduced into its treatment works or facility by a source  
11 which was introducing water contaminants or pollutants into its  
12 works at the time of issuance of the permit. Notice must  
13 describe the quality and quantity of effluent being introduced or  
14 to be introduced into such works or facility by a source which  
15 was introducing water contaminants or pollutants into its works  
16 at the time of issuance of the permit. Notice must describe the  
17 quality and quantity of effluent being introduced or to be  
18 introduced into such works or facility and the anticipated impact  
19 of such introduction on the quality or quantity of effluent to be  
20 released from such works or facility into waters of the state.

21           12. The director or the commission may require the filing  
22 or posting of a bond as a condition for the issuance of permits  
23 for construction of temporary or future water treatment  
24 facilities or facilities that utilize innovative technology for  
25 wastewater treatment in an amount determined by the commission to  
26 be sufficient to ensure compliance with all provisions of  
27 sections 644.006 to 644.141, and any rules or regulations of the  
28 commission and any condition as to such construction in the  
29 permit. For the purposes of this section, "innovative technology

1 for wastewater treatment" shall mean a completely new and  
2 generally unproven technology in the type or method of its  
3 application that bench testing or theory suggest has  
4 environmental, efficiency, and cost benefits beyond the standard  
5 technologies. No bond shall be required for designs approved by  
6 any federal agency or environmental regulatory agency of another  
7 state. The bond shall be signed by the applicant as principal,  
8 and by a corporate surety licensed to do business in the state of  
9 Missouri and approved by the commission. The bond shall remain  
10 in effect until the terms and conditions of the permit are met  
11 and the provisions of sections 644.006 to 644.141 and rules and  
12 regulations promulgated pursuant thereto are complied with.

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

1 seeking coverage under a renewed general permit that requires an  
2 individual public participation process, the director shall issue  
3 or deny the permit within ninety days of the director's receipt  
4 of the application, or upon issuance of the general permit,  
5 whichever is later. In regard to an application for an initial  
6 general permit that requires an individual public participation  
7 process, the director shall issue or deny the permit within  
8 ninety days of the director's receipt of the application.

9 (2) If the department fails to issue or deny with good  
10 cause a construction or operating permit application within the  
11 time frames established in subdivision (1) of this subsection,  
12 the department shall refund the full amount of the initial  
13 application fee within forty-five days of failure to meet the  
14 established time frame. If the department fails to refund the  
15 application fee within forty-five days, the refund amount shall  
16 accrue interest at a rate established pursuant to section 32.065.

17 (3) Permit fee disputes may be appealed to the commission  
18 within thirty days of the date established in subdivision (2) of  
19 this subsection. If the applicant prevails in a permit fee  
20 dispute appealed to the commission, the commission may order the  
21 director to refund the applicant's permit fee plus interest and  
22 reasonable attorney's fees as provided in sections 536.085 and  
23 536.087. A refund of the initial application or annual fee does  
24 not waive the applicant's responsibility to pay any annual fees  
25 due each year following issuance of a permit.

26 (4) No later than December 31, 2001, the commission shall  
27 promulgate regulations defining shorter review time periods than  
28 the time frames established in subdivision (1) of this  
29 subsection, when appropriate, for different classes of

1 construction and operating permits. In no case shall commission  
2 regulations adopt permit review times that exceed the time frames  
3 established in subdivision (1) of this subsection. The  
4 department's failure to comply with the commission's permit  
5 review time periods shall result in a refund of said permit fees  
6 as set forth in subdivision (2) of this subsection. On a  
7 semiannual basis, the department shall submit to the commission a  
8 report which describes the different classes of permits and  
9 reports on the number of days it took the department to issue  
10 each permit from the date of receipt of the application and show  
11 averages for each different class of permits.

12 (5) During the department's technical review of the  
13 application, the department may request the applicant submit  
14 supplemental or additional information necessary for adequate  
15 permit review. The department's technical review letter shall  
16 contain a sufficient description of the type of additional  
17 information needed to comply with the application requirements.

18 (6) Nothing in this subsection shall be interpreted to mean  
19 that inaction on a permit application shall be grounds to violate  
20 any provisions of sections 644.006 to 644.141 or any rules  
21 promulgated pursuant to sections 644.006 to 644.141.

22 14. The department shall respond to all requests for  
23 individual certification under Section 401 of the Federal Clean  
24 Water Act within the lesser of sixty days or the allowed response  
25 period established pursuant to applicable federal regulations  
26 without request for an extension period unless such extension is  
27 determined by the commission to be necessary to evaluate  
28 significant impacts on water quality standards and the commission  
29 establishes a timetable for completion of such evaluation in a



1 period of no more than one hundred eighty days.

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

6 16. The department shall implement permit shield provisions  
7 equivalent to the permit shield provisions implemented by the  
8 U.S. Environmental Protection Agency pursuant to the Clean Water  
9 Act, Section 402(k), 33 U.S.C. Section 1342(k), and its  
10 implementing regulations, for permits issued pursuant to chapter  
11 644.

12 17. Prior to the development of a new general permit or  
13 reissuance of a general permit for aquaculture, land disturbance  
14 requiring a storm water permit, or reissuance of a general permit  
15 under which fifty or more permits were issued under a general  
16 permit during the immediately preceding five-year period for a  
17 designated category of water contaminant sources, the director  
18 shall implement a public participation process complying with the  
19 following minimum requirements:

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

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

28 (3) The director shall hold a public informational meeting  
29 to provide information on anticipated permit conditions and

1 requirements and to receive informal comments from permittees and  
2 other interested persons. The director shall include notice of  
3 the public informational meeting with the notice of intent to  
4 issue a new general permit or reissue a general permit under  
5 subdivision (2) of this subsection. The notice of the public  
6 informational meeting, including the date, time and location,  
7 shall be posted on the department's website at least thirty days  
8 in advance of the public meeting. If the meeting is being held  
9 for reissuance of a general permit, notice shall also be made by  
10 electronic mail to all permittees holding the current general  
11 permit which is expiring. Notice to current permittees shall be  
12 made at least twenty days prior to the public meeting;

13 (4) The director shall hold a thirty-day public comment  
14 period to receive comments on the general permit template with  
15 the thirty-day comment period expiring at least sixty days prior  
16 to the effective date of the general permit. Scanned copies of  
17 the comments received during the public comment period shall be  
18 posted on the department's website within five business days  
19 after close of the public comment period;

20 (5) A revised draft of a general permit template and the  
21 director's response to comments submitted during the public  
22 comment period shall be posted on the department's website at  
23 least forty-five days prior to issuance of the general permit.  
24 At least forty-five days prior to issuance of the general permit  
25 the department shall notify all persons who submitted comments to  
26 the department that these documents have been posted to the  
27 department's website;

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

1           18. Notices required to be made by the department pursuant  
2 to subsection 17 of this section may be made by electronic mail.  
3 The department shall not be required to make notice to any  
4 permittee or other person who has not provided a current  
5 electronic mail address to the department. In the event the  
6 department chooses to make material modifications to the general  
7 permit before its expiration, the department shall follow the  
8 public participation process described in subsection 17 of this  
9 section.

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

12           644.056. 1. The director shall cause investigations to be  
13 made upon the request of the commission or upon receipt of  
14 information concerning alleged violations of sections 644.006 to  
15 644.141 or any standard, limitation, order, rule or regulation  
16 promulgated pursuant thereto, or any term or condition of any  
17 permit and may cause to be made any other investigations he or  
18 she deems advisable. Violations shall include obtaining a permit  
19 by misrepresentation or failure to fully disclose all relevant  
20 facts.

21           2. If, in the opinion of the director, the investigation  
22 discloses that a violation does exist, the director may, by  
23 conference, conciliation or persuasion, endeavor to eliminate the  
24 violation.

25           3. In case of the failure by conference, conciliation or  
26 persuasion to correct or remedy any claimed violation, or as  
27 required to immediately and effectively halt or eliminate any  
28 imminent or substantial endangerments to the health or welfare of  
29 persons resulting from the discharge of pollutants, the director

1     [shall] may order abatement [or file an abatement complaint with  
2     the commission if no permit has been issued, or in addition may  
3     file a complaint to revoke a permit if such permit has been  
4     issued] or request legal action by the attorney general. When  
5     the director files a complaint, the commission shall order a  
6     hearing. The director shall cause to have issued and served upon  
7     the person complained against a written notice of the order or  
8     complaint, together with a copy of the order or complaint, which  
9     shall specify the provision of sections 644.006 to 644.141 or the  
10    standard, rule, limitation, or regulation adopted pursuant  
11    thereto, or the condition of the permit of which the person is  
12    alleged to be in violation, and a statement of the manner in  
13    which and the extent to which the person is alleged to violate  
14    sections 644.006 to 644.141 or the standard, rule, limitation, or  
15    regulation, or condition of the permit. In any case involving a  
16    complaint, the commission shall require the person complained  
17    against to answer the charges of the formal complaint at a  
18    hearing before the commission at a time not less than thirty days  
19    after the date of notice. Service may be made upon any person  
20    within or without the state by registered mail, return receipt  
21    requested. Any person against whom the director issues an order  
22    may appeal the order to the commission within thirty days and the  
23    appeal shall stay the enforcement of the order until final  
24    determination by the commission. The commission shall set  
25    appeals for a hearing at a time not less than thirty days after  
26    the date of the request. The commission may sustain, reverse, or  
27    modify the director's order or may make such other orders as the  
28    commission deems appropriate under the circumstances. If any  
29    order issued by the director is not appealed within the time

1 provided in this section, the order becomes final and may be  
2 enforced as provided in section 644.076. When the commission  
3 schedules a matter for hearing, the petitioner on appeal or the  
4 respondent to a formal complaint may appear at the hearing in  
5 person or by counsel, and may make oral argument, offer testimony  
6 and evidence, and cross-examine witnesses. After due  
7 consideration of the record, or upon default in appearance of the  
8 respondent on the return day specified in the notice given as  
9 provided in this subsection, the commission shall issue and enter  
10 such final order, or make such final determination as it deems  
11 appropriate under the circumstances, and it shall immediately  
12 notify the petitioner or respondent thereof in writing by  
13 certified or registered mail.

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

24 5. [When the commission schedules a matter for hearing, the  
25 petitioner on appeal or the respondent to a formal complaint may  
26 appear at the hearing in person or by counsel, and may make oral  
27 argument, offer testimony and evidence, and cross-examine  
28 witnesses.

29 6. After due consideration of the record, or upon default

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

1 Further amend the title and enacting clause accordingly.  
2