

SENATE BILL NO. 981

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BLACK.

4357S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 260.500 and 644.016, RSMo, and to enact in lieu thereof two new sections relating to waters of the state.

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

Section A. Sections 260.500 and 644.016, RSMo, are
2 repealed and two new sections enacted in lieu thereof, to be
3 known as sections 260.500 and 644.016, to read as follows:

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

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

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

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

17 (4) "Director", the director of the department of
18 natural resources;

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

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

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

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

30 (c) Any hazardous material designated by the Secretary
31 of the United States Department of Transportation pursuant
32 to the Hazardous Materials Transportation Act;

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

39 (6) "Hazardous substance emergency":

40 (a) Any release of hazardous substances in quantities
41 equal to or in excess of those determined pursuant to
42 Section 101(14) or 102 of the Comprehensive Environmental
43 Response, Compensation and Liability Act of 1980, as
44 amended, and Section 304 of the Superfund Amendments and
45 Reauthorization Act of 1986, as amended;

46 (b) Any release of petroleum including crude oil or
47 any fraction thereof, natural gas, natural gas liquids,
48 liquefied natural gas, or synthetic gas usable for fuel (or
49 mixtures of natural gas and such synthetic gas) in excess of
50 fifty gallons for liquids or three hundred cubic feet for

51 gases, except that the notification and reporting of any
52 release of natural gas or natural gas mixtures by or from
53 intrastate facilities, regardless of the quantity of such
54 release, shall be as specified by the public service
55 commission rather than pursuant to the notification and
56 reporting requirements contained in, or authorized by,
57 sections 260.500 to 260.550. Interstate natural gas
58 pipeline facilities shall report natural gas releases to the
59 state and the National Response Center in accordance with
60 federal Department of Transportation regulatory requirements;

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

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

66 (e) The department may promulgate rules and
67 regulations identifying the substances and the quantities
68 thereof which, if released, constitute a hazardous substance
69 emergency;

70 (7) "Person", any individual, partnership,
71 copartnership, firm, company, public or private corporation,
72 association, joint stock company, trust, estate, political
73 subdivision, or any agency, board, department, or bureau of
74 the state or federal government, or any other legal entity
75 whatever which is recognized by law as the subject of rights
76 and duties;

77 (8) "Person having control over a hazardous
78 substance", any person producing, handling, storing,
79 transporting, refining, or disposing of a hazardous
80 substance when a hazardous substance emergency occurs,
81 including bailees, carriers, and any other person in control
82 of a hazardous substance when a hazardous substance

83 emergency occurs, whether they own the hazardous substance
84 or are operating under a lease, contract, or other agreement
85 with the legal owner thereof;

86 (9) "Release", any threatened or real emission,
87 discharge, spillage, leakage, pumping, pouring, emptying or
88 dumping of a substance into or onto the land, air or waters
89 of the state unless done in compliance with the conditions
90 of a federal or state permit, unless the substance is
91 confined and is expected to stay confined to property owned,
92 leased or otherwise controlled by the person having control
93 over the substance, or unless, in the case of pesticides, if
94 application is done in accordance with the product label;

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

100 (11) "Waters of the state", all [waters within the
101 jurisdiction of this state, including all] **relatively**
102 **permanent, standing, or continuously flowing** rivers,
103 streams, lakes and [other bodies of surface and subsurface
104 water] **ponds** lying within or forming a part of the
105 boundaries of the state which are not entirely confined and
106 located completely upon lands owned, leased or otherwise
107 controlled by a single person or by two or more persons
108 jointly or as tenants in common. **Lakes and ponds must have**
109 **continuous surface connection to a relatively permanent,**
110 **standing or continuously flowing body of water. Waters of**
111 **the state includes wetlands adjacent to relatively**
112 **permanent, standing or continuously flowing bodies of water**
113 **identified with a continuous surface connection to those**
114 **waters. Waters of the state includes subsurface aquifers**

115 **that have surface connection with relatively permanent,**
116 **standing or continuously flowing rivers and streams.**

644.016. When used in sections 644.006 to 644.141 and
2 in standards, rules and regulations promulgated pursuant to
3 sections 644.006 to 644.141, the following words and phrases
4 mean:

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

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

12 (3) "Conference, conciliation and persuasion", a
13 process of verbal or written communications consisting of
14 meetings, reports, correspondence or telephone conferences
15 between authorized representatives of the department and the
16 alleged violator. The process shall, at a minimum, consist
17 of one offer to meet with the alleged violator tendered by
18 the department. During any such meeting, the department and
19 the alleged violator shall negotiate in good faith to
20 eliminate the alleged violation and shall attempt to agree
21 upon a plan to achieve compliance;

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

23 (5) "Director", the director of the department of
24 natural resources;

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

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

29 (8) "General permit", a permit written with a standard
30 group of conditions and with applicability intended for a

31 designated category of water contaminant sources that have
32 the same or similar operations, discharges and geographical
33 locations, and that require the same or similar monitoring,
34 and that would be more appropriately controlled pursuant to
35 a general permit rather than pursuant to a site-specific
36 permit;

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

40 (10) "Human sewage", human excreta and wastewater,
41 including bath and toilet waste, residential laundry waste,
42 residential kitchen waste, and other similar waste from
43 household or establishment appurtenances;

44 (11) "Income" includes retirement benefits, consultant
45 fees, and stock dividends;

46 (12) "Minor violation", a violation which possesses a
47 small potential to harm the environment or human health or
48 cause pollution, was not knowingly committed, and is not
49 defined by the United States Environmental Protection Agency
50 as other than minor;

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

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

57 (15) "Person", any individual, partnership,
58 copartnership, firm, company, public or private corporation,
59 association, joint stock company, trust, estate, political
60 subdivision, or any agency, board, department, or bureau of
61 the state or federal government, or any other legal entity

62 whatever which is recognized by law as the subject of rights
63 and duties;

64 (16) "Point source", any discernible, confined and
65 discrete conveyance, including but not limited to any pipe,
66 ditch, channel, tunnel, conduit, well, discrete fissure,
67 container, rolling stock, concentrated animal feeding
68 operation, or vessel or other floating craft, from which
69 pollutants are or may be discharged. Point source does not
70 include agricultural storm water discharges and return flows
71 from irrigated agriculture;

72 (17) "Pollution", such contamination or other
73 alteration of the physical, chemical or biological
74 properties of any waters of the state, including change in
75 temperature, taste, color, turbidity, or odor of the waters,
76 or such discharge of any liquid, gaseous, solid,
77 radioactive, or other substance into any waters of the state
78 as will or is reasonably certain to create a nuisance or
79 render such waters harmful, detrimental or injurious to
80 public health, safety or welfare, or to domestic,
81 industrial, agricultural, recreational, or other legitimate
82 beneficial uses, or to wild animals, birds, fish or other
83 aquatic life;

84 (18) "Pretreatment regulations", limitations on the
85 introduction of pollutants or water contaminants into
86 publicly owned treatment works or facilities which the
87 commission determines are not susceptible to treatment by
88 such works or facilities or which would interfere with their
89 operation, except that wastes as determined compatible for
90 treatment pursuant to any federal water pollution control
91 act or guidelines shall be limited or treated pursuant to
92 this chapter only as required by such act or guidelines;

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

98 (20) "Sewer system", pipelines or conduits, pumping
99 stations, and force mains, and all other structures,
100 devices, appurtenances and facilities used for collecting or
101 conducting wastes to an ultimate point for treatment or
102 handling;

103 (21) "Significant portion of his or her income" shall
104 mean ten percent of gross personal income for a calendar
105 year, except that it shall mean fifty percent of gross
106 personal income for a calendar year if the recipient is over
107 sixty years of age, and is receiving such portion pursuant
108 to retirement, pension, or similar arrangement;

109 (22) "Site-specific permit", a permit written for
110 discharges emitted from a single water contaminant source
111 and containing specific conditions, monitoring requirements
112 and effluent limits to control such discharges;

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

116 (24) "Water contaminant", any particulate matter or
117 solid matter or liquid or any gas or vapor or any
118 combination thereof, or any temperature change which is in
119 or enters any waters of the state either directly or
120 indirectly by surface runoff, by sewer, by subsurface
121 seepage or otherwise, which causes or would cause pollution
122 upon entering waters of the state, or which violates or
123 exceeds any of the standards, regulations or limitations set
124 forth in sections 644.006 to 644.141 or any federal water

125 pollution control act, or is included in the definition of
126 pollutant in such federal act;

127 (25) "Water contaminant source", the point or points
128 of discharge from a single tract of property on which is
129 located any installation, operation or condition which
130 includes any point source defined in sections 644.006 to
131 644.141 and nonpoint source pursuant to any federal water
132 pollution control act, which causes or permits a water
133 contaminant therefrom to enter waters of the state either
134 directly or indirectly;

135 (26) "Water quality standards", specified
136 concentrations and durations of water contaminants which
137 reflect the relationship of the intensity and composition of
138 water contaminants to potential undesirable effects;

139 (27) "Waters of the state", all [waters within the
140 jurisdiction of this state, including all] **relatively**
141 **permanent, standing, or continuously flowing** rivers,
142 streams, lakes and [other bodies of surface and subsurface
143 water] **ponds** lying within or forming a part of the
144 boundaries of the state which are not entirely confined and
145 located completely upon lands owned, leased or otherwise
146 controlled by a single person or by two or more persons
147 jointly or as tenants in common. **Lakes and ponds must have**
148 **continuous surface connection to a relatively permanent,**
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