

# SENATE BILL NO. 1427

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREGORY (21).

5875S.011

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 644.051 and 644.082, RSMo, and to enact in lieu thereof two new sections relating to the regulation of water contaminants, with penalty provisions.

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

Section A. Sections 644.051 and 644.082, RSMo, are  
2 repealed and two new sections enacted in lieu thereof, to be  
3 known as sections 644.051 and 644.082, to read as follows:

644.051. 1. It is unlawful for any person:

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

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

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

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

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

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

29           3. It shall be unlawful for any person to construct,  
30 build, replace or make major modification to any point  
31 source or collection system that is principally designed to  
32 convey or discharge human sewage to waters of the state,  
33 unless such person obtains a construction permit from the  
34 commission, except as provided in this section. The  
35 following activities shall be excluded from construction  
36 permit requirements:

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

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

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

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

47           4. A construction permit may be required by the  
48 department in the following circumstances:

49           (1) Substantial deviation from the commission's design  
50 standards;

51           (2) To address noncompliance;

52           (3) When an unauthorized discharge has occurred or has  
53 the potential to occur; or

54           (4) To correct a violation of water quality standards.

55           5. Any point source that proposes to construct an  
56 earthen storage structure to hold, convey, contain, store or  
57 treat domestic, agricultural, or industrial process  
58 wastewater also shall be subject to the construction permit  
59 provisions of subsections 3 to 5 of this section. However,  
60 any earthen basin constructed to retain and settle nontoxic,  
61 nonmetallic earthen materials such as soil, silt, and rock  
62 shall be exempt from the construction permit provisions of  
63 subsections 3 to 5 of this section. All other construction-  
64 related activities at point sources not subject to  
65 subsections 3 to 5 of this section shall be exempt from the  
66 construction permit requirements. All activities that are  
67 exempted from the construction permit requirement are  
68 subject to the following conditions:

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

74           (2) Such point source system shall be constructed in  
75 accordance with the registered professional engineer's  
76 design and plans; and

77           (3) Such point source system may receive a post-  
78 construction site inspection by the department prior to

79 receiving operating permit approval. A site inspection may  
80 be performed by the department, upon receipt of a complete  
81 operating permit application or submission of an engineer's  
82 statement of work complete.

83 6. Notwithstanding any provision of this section to  
84 the contrary, the commission may exempt an entity from the  
85 requirement to obtain a permit under this section based on  
86 licensure under the Missouri fertilizer law, sections  
87 266.291 to 266.351, only if the entity is producing products  
88 that are commercially sold to an end user in accordance with  
89 such sections and has accurate labeling for each container  
90 that includes the information required under subsection 1 of  
91 section 266.321.

92 7. Entities currently storing combined bulk  
93 fertilizers in storage basins shall not be exempt from any  
94 design requirements for agrichemical facilities established  
95 by rule when constructing new agrichemical facilities.

96 8. (1) In order to receive an operating permit under  
97 this section, any point source or operating location seeking  
98 an operating permit for a commingled offsite industrial  
99 wastewater or wastewater residuals open storage basin or  
100 open storage vessel shall meet current design requirements  
101 for a wastewater treatment facility's design capacity.

102 (2) Except as provided in subdivision (3) of this  
103 subsection, the department shall require at least, but not  
104 more than, the following buffer distances between the  
105 nearest commingled offsite industrial wastewater or  
106 wastewater residuals open storage basin or open storage  
107 vessel and any public building or occupied residence other  
108 than a public building or occupied residence that is  
109 operated by the commingled offsite industrial wastewater or  
110 wastewater residuals open storage basin or open storage

111 vessel or a residence from which a written agreement for  
112 operation is obtained:

113 (a) For a facility with a capacity of more than five  
114 hundred thousand gallons but less than or equal to five  
115 million gallons, one thousand feet;

116 (b) For a facility with a capacity of more than five  
117 million gallons but less than or equal to ten million  
118 gallons, two thousand feet; and

119 (c) For a facility with a capacity of more than ten  
120 million gallons, three thousand five hundred feet.

121 (3) All commingled offsite industrial wastewater or  
122 wastewater residuals open storage basins or open storage  
123 vessels holding valid operating permits as of July 9, 2024,  
124 shall be exempt from the buffer distances prescribed in  
125 subdivision (2) of this subsection. Such distances shall  
126 not apply to a facility that has received a written  
127 agreement signed by all affected property owners within the  
128 relevant buffer distance.

129 (4) The department shall require groundwater  
130 monitoring on a site-specific basis when, in the  
131 determination of the division of geological survey, the  
132 commingled offsite industrial wastewater and wastewater  
133 residuals open storage basin or open storage vessel is  
134 located in proximity to a geological feature that increases  
135 the likelihood of groundwater contamination.

136 (5) (a) The department shall establish by rule  
137 sampling requirements for commingled offsite industrial  
138 wastewater and wastewater residuals open storage basins or  
139 open storage vessels based on permitted materials.

140 (b) The department shall, within sixty days of July 9,  
141 2024, begin the process of promulgating rules, which shall  
142 include creating a chain of custody record form to be used

143 by all parties during the handling of testing samples, and,  
144 at a minimum, establish criteria to require annual sampling  
145 and testing of any contents of any commingled offsite  
146 industrial wastewater or wastewater residuals open storage  
147 basin or open storage vessel for:

148 a. The total concentrations of metals, including  
149 arsenic, aluminum, barium, cadmium, chromium, copper, lead,  
150 mercury, selenium, silver, and thallium; and

151 b. E. coli and fecal coliform.

152 (c) Testing under paragraph (b) of this subdivision  
153 shall be done by a third-party certified laboratory and  
154 results of the testing shall be sent to the department by  
155 the third-party certified laboratory annually.

156 9. A governmental unit may apply to the department for  
157 authorization to operate a local supervised program, and the  
158 department may authorize such a program. A local supervised  
159 program would recognize the governmental unit's engineering  
160 capacity and ability to conduct engineering work, supervise  
161 construction and maintain compliance with relevant operating  
162 permit requirements.

163 10. Before issuing any permit required by this  
164 section, the director shall issue such notices, conduct such  
165 hearings, and consider such factors, comments and  
166 recommendations as required by sections 644.006 to 644.141  
167 or any federal water pollution control act. The director  
168 shall determine if any state or any provisions of any  
169 federal water pollution control act the state is required to  
170 enforce, any state or federal effluent limitations or  
171 regulations, water quality-related effluent limitations,  
172 national standards of performance, toxic and pretreatment  
173 standards, or water quality standards which apply to the  
174 source, or any such standards in the vicinity of the source,

175 are being exceeded, and shall determine the impact on such  
176 water quality standards from the source. The director, in  
177 order to effectuate the purposes of sections 644.006 to  
178 644.141, shall deny a permit if the source will violate any  
179 such acts, regulations, limitations or standards or will  
180 appreciably affect the water quality standards or the water  
181 quality standards are being substantially exceeded, unless  
182 the permit is issued with such conditions as to make the  
183 source comply with such requirements within an acceptable  
184 time schedule.

185 11. The director shall grant or deny the permit within  
186 sixty days after all requirements of the Federal Water  
187 Pollution Control Act concerning issuance of permits have  
188 been satisfied unless the application does not require any  
189 permit pursuant to any federal water pollution control act.  
190 The director or the commission may require the applicant to  
191 provide and maintain such facilities or to conduct such  
192 tests and monitor effluents as necessary to determine the  
193 nature, extent, quantity or degree of water contaminant  
194 discharged or released from the source, establish and  
195 maintain records and make reports regarding such  
196 determination.

197 12. The director shall promptly notify the applicant  
198 in writing of his or her action and if the permit is denied  
199 state the reasons for such denial. As provided by sections  
200 621.250 and 640.013, the applicant may appeal to the  
201 administrative hearing commission from the denial of a  
202 permit or from any condition in any permit by filing a  
203 petition with the administrative hearing commission within  
204 thirty days of the notice of denial or issuance of the  
205 permit. After a final action is taken on a new or reissued  
206 general permit, a potential applicant for the general permit

207 who can demonstrate that he or she is or may be adversely  
208 affected by any permit term or condition may appeal the  
209 terms and conditions of the general permit within thirty  
210 days of the department's issuance of the general permit. In  
211 no event shall a permit constitute permission to violate the  
212 law or any standard, rule or regulation promulgated pursuant  
213 thereto. Once the administrative hearing commission has  
214 reviewed the appeal, the administrative hearing commission  
215 shall issue a recommended decision to the commission on  
216 permit issuance, denial, or any condition of the permit.  
217 The commission shall issue its own decision, based on the  
218 appeal, for permit issuance, denial, or any condition of the  
219 permit. If the commission changes a finding of fact or  
220 conclusion of law made by the administrative hearing  
221 commission, or modifies or vacates the decision recommended  
222 by the administrative hearing commission, it shall issue its  
223 own decision, which shall include findings of fact and  
224 conclusions of law. The commission shall mail copies of its  
225 final decision to the parties to the appeal or their counsel  
226 of record. The commission's decision shall be subject to  
227 judicial review pursuant to chapter 536, except that the  
228 court of appeals district with territorial jurisdiction  
229 coextensive with the county where the point source is to be  
230 located shall have original jurisdiction. No judicial  
231 review shall be available until and unless all  
232 administrative remedies are exhausted.

233 13. In any hearing held pursuant to this section that  
234 involves a permit, license, or registration, the burden of  
235 proof is on the party specified in section 640.012. Any  
236 decision of the commission made pursuant to a hearing held  
237 pursuant to this section is subject to judicial review as  
238 provided in section 644.071.

239           14. In any event, no permit issued pursuant to this  
240 section shall be issued if properly objected to by the  
241 federal government or any agency authorized to object  
242 pursuant to any federal water pollution control act unless  
243 the application does not require any permit pursuant to any  
244 federal water pollution control act.

245           15. Permits may be modified, reissued, or terminated  
246 at the request of the permittee. All requests shall be in  
247 writing and shall contain facts or reasons supporting the  
248 request.

249           16. No manufacturing or processing plant or operating  
250 location shall be required to pay more than one operating  
251 fee. Operating permits shall be issued for a period not to  
252 exceed five years after date of issuance, except that  
253 general permits shall be issued for a five-year period, and  
254 also except that neither a construction nor an annual permit  
255 shall be required for a single residence's waste treatment  
256 facilities. Applications for renewal of a site-specific  
257 operating permit shall be filed at least one hundred eighty  
258 days prior to the expiration of the existing permit.  
259 Applications seeking to renew coverage under a general  
260 permit shall be submitted at least thirty days prior to the  
261 expiration of the general permit, unless the permittee has  
262 been notified by the director that an earlier application  
263 must be made. General permits may be applied for and issued  
264 electronically once made available by the director.

265           17. Every permit issued to municipal or any publicly  
266 owned treatment works or facility shall require the  
267 permittee to provide the clean water commission with  
268 adequate notice of any substantial new introductions of  
269 water contaminants or pollutants into such works or facility  
270 from any source for which such notice is required by

271 sections 644.006 to 644.141 or any federal water pollution  
272 control act. Such permit shall also require the permittee  
273 to notify the clean water commission of any substantial  
274 change in volume or character of water contaminants or  
275 pollutants being introduced into its treatment works or  
276 facility by a source which was introducing water  
277 contaminants or pollutants into its works at the time of  
278 issuance of the permit. Notice must describe the quality  
279 and quantity of effluent being introduced or to be  
280 introduced into such works or facility by a source which was  
281 introducing water contaminants or pollutants into its works  
282 at the time of issuance of the permit. Notice must describe  
283 the quality and quantity of effluent being introduced or to  
284 be introduced into such works or facility and the  
285 anticipated impact of such introduction on the quality or  
286 quantity of effluent to be released from such works or  
287 facility into waters of the state.

288       18. The director or the commission may require the  
289 filing or posting of a bond as a condition for the issuance  
290 of permits for construction of temporary or future water  
291 treatment facilities or facilities that utilize innovative  
292 technology for wastewater treatment in an amount determined  
293 by the commission to be sufficient to ensure compliance with  
294 all provisions of sections 644.006 to 644.141, and any rules  
295 or regulations of the commission and any condition as to  
296 such construction in the permit. For the purposes of this  
297 section, "innovative technology for wastewater treatment"  
298 shall mean a completely new and generally unproven  
299 technology in the type or method of its application that  
300 bench testing or theory suggest has environmental,  
301 efficiency, and cost benefits beyond the standard  
302 technologies. No bond shall be required for designs

303 approved by any federal agency or environmental regulatory  
304 agency of another state. The bond shall be signed by the  
305 applicant as principal, and by a corporate surety licensed  
306 to do business in the state of Missouri and approved by the  
307 commission. The bond shall remain in effect until the terms  
308 and conditions of the permit are met and the provisions of  
309 sections 644.006 to 644.141 and rules and regulations  
310 promulgated pursuant thereto are complied with.

311 19. (1) The department shall issue or deny  
312 applications for construction and site-specific operating  
313 permits received after January 1, 2001, within one hundred  
314 eighty days of the department's receipt of an application.  
315 For general construction and operating permit applications  
316 received after January 1, 2001, that do not require a public  
317 participation process, the department shall issue or deny  
318 the permits within sixty days of the department's receipt of  
319 an application. For an application seeking coverage under a  
320 renewed general permit that does not require an individual  
321 public participation process, the director shall issue or  
322 deny the permit within sixty days of the director's receipt  
323 of the application, or upon issuance of the general permit,  
324 whichever is later. In regard to an application seeking  
325 coverage under an initial general permit that does not  
326 require an individual public participation process, the  
327 director shall issue or deny the permit within sixty days of  
328 the department's receipt of the application. For an  
329 application seeking coverage under a renewed general permit  
330 that requires an individual public participation process,  
331 the director shall issue or deny the permit within ninety  
332 days of the director's receipt of the application, or upon  
333 issuance of the general permit, whichever is later. In  
334 regard to an application for an initial general permit that

335 requires an individual public participation process, the  
336 director shall issue or deny the permit within ninety days  
337 of the director's receipt of the application.

338 (2) If the department fails to issue or deny with good  
339 cause a construction or operating permit application within  
340 the time frames established in subdivision (1) of this  
341 subsection, the department shall refund the full amount of  
342 the initial application fee within forty-five days of  
343 failure to meet the established time frame. If the  
344 department fails to refund the application fee within forty-  
345 five days, the refund amount shall accrue interest at a rate  
346 established pursuant to section 32.065.

347 (3) Permit fee disputes may be appealed to the  
348 commission within thirty days of the date established in  
349 subdivision (2) of this subsection. If the applicant  
350 prevails in a permit fee dispute appealed to the commission,  
351 the commission may order the director to refund the  
352 applicant's permit fee plus interest and reasonable  
353 attorney's fees as provided in sections 536.085 and  
354 536.087. A refund of the initial application or annual fee  
355 does not waive the applicant's responsibility to pay any  
356 annual fees due each year following issuance of a permit.

357 (4) No later than December 31, 2001, the commission  
358 shall promulgate regulations defining shorter review time  
359 periods than the time frames established in subdivision (1)  
360 of this subsection, when appropriate, for different classes  
361 of construction and operating permits. In no case shall  
362 commission regulations adopt permit review times that exceed  
363 the time frames established in subdivision (1) of this  
364 subsection. The department's failure to comply with the  
365 commission's permit review time periods shall result in a  
366 refund of said permit fees as set forth in subdivision (2)

367 of this subsection. On a semiannual basis, the department  
368 shall submit to the commission a report which describes the  
369 different classes of permits and reports on the number of  
370 days it took the department to issue each permit from the  
371 date of receipt of the application and show averages for  
372 each different class of permits.

373 (5) During the department's technical review of the  
374 application, the department may request the applicant submit  
375 supplemental or additional information necessary for  
376 adequate permit review. The department's technical review  
377 letter shall contain a sufficient description of the type of  
378 additional information needed to comply with the application  
379 requirements.

380 (6) Nothing in this subsection shall be interpreted to  
381 mean that inaction on a permit application shall be grounds  
382 to violate any provisions of sections 644.006 to 644.141 or  
383 any rules promulgated pursuant to sections 644.006 to  
384 644.141.

385 20. The department shall respond to all requests for  
386 individual certification under Section 401 of the Federal  
387 Clean Water Act within the lesser of sixty days or the  
388 allowed response period established pursuant to applicable  
389 federal regulations without request for an extension period  
390 unless such extension is determined by the commission to be  
391 necessary to evaluate significant impacts on water quality  
392 standards and the commission establishes a timetable for  
393 completion of such evaluation in a period of no more than  
394 one hundred eighty days.

395 21. All permit fees generated pursuant to this chapter  
396 shall not be used for the development or expansion of total  
397 maximum daily loads studies on either the Missouri or  
398 Mississippi rivers.

399           22. The department shall implement permit shield  
400 provisions equivalent to the permit shield provisions  
401 implemented by the U.S. Environmental Protection Agency  
402 pursuant to the Clean Water Act, Section 402(k), 33 U.S.C.  
403 Section 1342(k), and its implementing regulations, for  
404 permits issued pursuant to this chapter.

405           23. Prior to the development of a new general permit  
406 or reissuance of a general permit for aquaculture, land  
407 disturbance requiring a storm water permit, or reissuance of  
408 a general permit under which fifty or more permits were  
409 issued under a general permit during the immediately  
410 preceding five-year period for a designated category of  
411 water contaminant sources, the director shall implement a  
412 public participation process complying with the following  
413 minimum requirements:

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

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

423           (3) The director shall hold a public informational  
424 meeting to provide information on anticipated permit  
425 conditions and requirements and to receive informal comments  
426 from permittees and other interested persons. The director  
427 shall include notice of the public informational meeting  
428 with the notice of intent to issue a new general permit or  
429 reissue a general permit under subdivision (2) of this  
430 subsection. The notice of the public informational meeting,

431 including the date, time and location, shall be posted on  
432 the department's website at least thirty days in advance of  
433 the public meeting. If the meeting is being held for  
434 reissuance of a general permit, notice shall also be made by  
435 electronic mail to all permittees holding the current  
436 general permit which is expiring. Notice to current  
437 permittees shall be made at least twenty days prior to the  
438 public meeting;

439 (4) The director shall hold a thirty-day public  
440 comment period to receive comments on the general permit  
441 template with the thirty-day comment period expiring at  
442 least sixty days prior to the effective date of the general  
443 permit. Scanned copies of the comments received during the  
444 public comment period shall be posted on the department's  
445 website within five business days after close of the public  
446 comment period;

447 (5) A revised draft of a general permit template and  
448 the director's response to comments submitted during the  
449 public comment period shall be posted on the department's  
450 website at least forty-five days prior to issuance of the  
451 general permit. At least forty-five days prior to issuance  
452 of the general permit the department shall notify all  
453 persons who submitted comments to the department that these  
454 documents have been posted to the department's website;

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

458 24. Notices required to be made by the department  
459 pursuant to subsection 23 of this section may be made by  
460 electronic mail. The department shall not be required to  
461 make notice to any permittee or other person who has not  
462 provided a current electronic mail address to the

463 department. In the event the department chooses to make  
464 material modifications to the general permit before its  
465 expiration, the department shall follow the public  
466 participation process described in subsection 23 of this  
467 section.

644.082. It shall be unlawful for any person to  
2 operate, use or maintain and discharge water contaminants  
3 from any [water contaminant or] point source or wastewater  
4 treatment plant unless he holds a permit from the  
5 commission. Any person violating this section shall be  
6 deemed guilty of a misdemeanor and shall be fined upon  
7 conviction at least one hundred dollars and not more than  
8 five hundred dollars and shall be required to apply for such  
9 a permit within thirty days.

✓