

SENATE SUBSTITUTE

FOR

HOUSE BILL NO. 92

AN ACT

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

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

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4 644.011, 644.016, 644.051, and 644.056, RSMo, are repealed and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

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

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

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

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

5 (4) One member from the clean water commission;

6 (5) One member from the Missouri University of Science
7 and Technology petroleum engineering program;

8 (6) One member from the Missouri Independent Oil and Gas
9 Association; and

10 (7) Two members from the public.

11 259.020. The member entities in section 259.010 shall be
12 represented on the council by the executive head of each
13 respective entity, except that:

14 (1) The Missouri University of Science and Technology
15 shall be represented by a professor of petroleum engineering
16 employed at the university;

17 (2) The Missouri Independent Oil and Gas Association
18 shall be represented by a designated member of the
19 association; and

20 (3) The public members shall be appointed to the council
21 by the governor, with the advice and consent of the senate.
22 Both public members shall have an interest in and knowledge of
23 the oil and gas industry, and both shall be residents of
24 Missouri[, and at least one shall also be a resident of a
25 county of the third or fourth classification]. The executive
26 head of any member state agency, the professor of petroleum
27 engineering at the Missouri University of Science and

1 Technology and the member from the Missouri Independent Oil
2 and Gas Association may from time to time authorize any member
3 of the state agency's staff, another professor of petroleum
4 engineering at the Missouri University of Science and
5 Technology or another member of the Missouri Independent Oil
6 and Gas Association, respectively, to represent it on the
7 council and to fully exercise any of the powers and duties of
8 the member representative.

9 259.030. 1. The council shall elect a chairman and vice
10 chairman from the members of the council [other than the
11 representative of the division of geology and land survey]. A
12 chairman and vice chairman may serve more than a one-year
13 term, if so elected by the members of the council.

14 2. The state geologist shall act as administrator for
15 the council and shall be responsible for enforcing the
16 provisions of this chapter.

17 259.050. Unless the context otherwise requires, the
18 following words mean:

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

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

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

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

1 [(4)] (5) "Gas", all natural gas and all other fluid
2 hydrocarbons which are produced at the wellhead and not
3 hereinbelow defined as oil;

4 [(5)] (6) "Illegal gas" means gas which has been
5 produced from any well within this state in excess of the
6 quantity permitted by any rule, regulation, or order of the
7 council;

8 [(6)] (7) "Illegal oil" means oil which has been
9 produced from any well within the state in excess of the
10 quantity permitted by any rule, regulation, or order of the
11 council;

12 [(7)] (8) "Illegal product" means any product derived in
13 whole or in part from illegal oil or illegal gas;

14 [(8)] (9) "Noncommercial gas well", a gas well drilled
15 for the sole purpose of furnishing gas for private domestic
16 consumption by the owner and not for resale or trade;

17 [(9)] (10) "Oil", crude petroleum oil and other
18 hydrocarbons regardless of gravity which are produced at the
19 wellhead in liquid form and the liquid hydrocarbons known as
20 distillate or condensate recovered or extracted from gas,
21 other than gas produced in association with oil and commonly
22 known as casinghead gas. The term shall also include
23 hydrocarbons that do not flow to a wellhead but are produced
24 by other means, including those contained in oil-shale and
25 oil-sand;

26 [(10)] (11) "Owner", the person who has the right to
27 drill into and produce from a pool and to appropriate the oil

1 or gas he produced therefrom either for himself or others or
2 for himself and others;

3 [(11)] (12) "Pool", an underground reservoir containing
4 a common accumulation of oil or gas or both; each zone of a
5 structure which is completely separated from any other zone in
6 the same structure is a "pool", as that term is used in this
7 chapter;

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

10 (13) "Product", any commodity made from oil or gas and
11 includes refined crude oil, crude tops, topped crude,
12 processed crude, processed crude petroleum, residue from crude
13 petroleum, cracking stock, uncracked fuel oil, fuel oil,
14 treated crude oil, residuum, gas oil, casinghead gasoline,
15 natural-gas gasoline, kerosene, [~~benzine~~] benzene, wash oil,
16 waste oil, blended gasoline, lubricating oil, blends or
17 mixtures of oil with one or more liquid products or
18 by-products derived from oil or gas, and blends or mixtures of
19 two or more liquid products or by-products derived from oil or
20 gas whether [~~hereinabove~~] herein enumerated or not;

21 (14) "Reasonable market demand" means the demand for oil
22 or gas for reasonable current requirements for consumption and
23 use within and without the state, together with such
24 quantities as are reasonably necessary for building up or
25 maintaining reasonable working stocks and reasonable reserves
26 of oil or gas or product;

27 (15) "Waste" means and includes:

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

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

6 (c) The location, spacing, drilling, equipping,
7 operating, or producing of any oil or gas well or wells in a
8 manner which causes, or tends to cause, reduction in the
9 quantity of oil or gas ultimately recoverable from a pool
10 under prudent and proper operations, or which causes or tends
11 to cause unnecessary or excessive surface loss or destruction
12 of oil or gas;

13 (d) The inefficient storing of oil;

14 (e) The production of oil or gas in excess of
15 transportation or marketing facilities or in excess of
16 reasonable market demand; and

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

20 (16) "Well", any hole drilled in the earth for or in
21 connection with the exploration, discovery, or recovery of oil
22 or gas, or for or in connection with the underground storage
23 of gas in natural formation, or for or in connection with the
24 disposal of salt water, nonusable gas or other waste
25 accompanying the production of oil or gas.

26 259.052. 1. There is hereby created in the state
27 treasury the "Oil and Gas Resources Fund" which shall consist

1 of all gifts, donations, transfers, moneys appropriated by the
2 general assembly, permit application fees collected under
3 section 259.080, operating fees, closure fees, late fees,
4 severance fees, and bequests to the fund. The fund shall be
5 administered by the department of natural resources.

6 2. The state treasurer shall be custodian of the fund
7 and may approve disbursements from the fund in accordance with
8 sections 30.170 and 30.180. Notwithstanding the provisions of
9 section 33.080 to the contrary, any moneys remaining in the
10 fund at the end of the biennium shall not revert to the credit
11 of the general revenue fund. The state treasurer shall invest
12 moneys in the fund in the same manner as other funds are
13 invested. Any interest and moneys on such investments shall
14 be credited to the fund.

15 3. After appropriation by the general assembly, the
16 money in such fund shall be expended by the department to
17 administer the provisions of chapter 259, and to collect,
18 process, manage, interpret, and distribute geologic and
19 hydrologic resource information pertaining to oil and gas
20 potential, and not for any other purpose.

21 259.070. 1. The council has the duty of administering
22 the provisions of this chapter. The council shall meet at
23 least once each calendar quarter of the year and upon the call
24 of the chairperson.

25 2. The council shall conduct a review of the statutes
26 and rules and regulations under this chapter on a biennial
27 basis. Based on such review, the council, if necessary, shall

1 recommend changes to the statutes under this chapter and shall
2 amend rules and regulations accordingly.

3 3. (1) The council shall have the power and duty to
4 form an advisory committee to the council for the purpose of
5 reviewing the statutes and rules and regulations under
6 subsection 2 of this section. The advisory committee shall
7 make recommendations to the council when necessary to amend
8 current statutes and rules and regulations under this chapter
9 and shall review any proposed new or amended statute or
10 regulation before such proposed statute or regulation is
11 considered by the council.

12 (2) The advisory committee shall be made up of
13 representatives from the [division of geology and land survey]
14 department, the oil and gas industry and any council member
15 desiring to be on such advisory committee. The advisory
16 committee shall meet prior to each calendar quarter meeting of
17 the council, if necessary for the purposes set forth under
18 this subsection, and present any recommendations to the
19 council at such calendar quarter meeting. The council shall
20 designate one of its members to serve as the chairperson of
21 the advisory committee.

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

26 4. The council, acting through the department, has the
27 duty and authority to make such investigations as it deems

1 proper to determine whether waste exists or is imminent or
2 whether other facts exist which justify action.

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

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

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

10 (b) The making and filing of all mechanical well logs
11 and the filing of directional surveys if taken, and the filing
12 of reports on well location, drilling and production, and the
13 filing free of charge of samples and core chips and of
14 complete cores less tested sections, when requested in the
15 office of the state geologist within six months after the
16 completion or abandonment of the well;

17 (c) The drilling, casing, operation, and plugging of
18 wells in such manner as to prevent the escape of oil or gas
19 out of one stratum into another; the intrusion of water into
20 oil or gas stratum; the pollution of fresh water supplies by
21 oil, gas, or highly mineralized water; to prevent blowouts,
22 cavings, seepages, and fires; and to prevent the escape of
23 oil, gas, or water into workable coal or other mineral
24 deposits;

25 (d) The furnishing of a reasonable bond with good and
26 sufficient surety, conditioned upon the full compliance with
27 the provisions of this chapter, and the rules and regulations

1 of the council prescribed to govern the production of oil and
2 gas on state and private lands within the state of Missouri;
3 provided that, in lieu of a bond with a surety, an applicant
4 may furnish to the council his own personal bond, on
5 conditions as described in this paragraph, secured by a
6 certificate of deposit or an irrevocable letter of credit in
7 an amount equal to that of the required surety bond or secured
8 by some other financial instrument on conditions as above
9 described or as provided by council regulations;

10 (e) That the production from wells be separated into
11 gaseous and liquid hydrocarbons, and that each be accurately
12 measured by such means and upon such standards as may be
13 prescribed by the council;

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

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

19 (h) Metering or other measuring of any native and
20 indigenous Missouri-produced crude oil, gas, or product in
21 pipelines, gathering systems, barge terminals, loading racks,
22 refineries, or other places; and

23 (i) That every person who produces, sells, purchases,
24 acquires, stores, transports, refines, or processes native and
25 indigenous Missouri-produced crude oil or gas in this state
26 shall keep and maintain within this state complete and
27 accurate records of the quantities thereof, which records

1 shall be available for examination by the council or its
2 agents at all reasonable times and that every such person file
3 with the council such reports as it may prescribe with respect
4 to such oil or gas or the products thereof;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 purposes of the inspections or investigations described, the
2 [council] department or authorized representatives shall make
3 application for a search warrant. Upon a showing of probable
4 cause in writing and under oath, a suitable restricted search
5 warrant shall be issued by any judge having jurisdiction for
6 purposes of enabling inspections authorized under this
7 subdivision. The results of any inspection or investigation
8 pursuant to this subdivision shall be reduced to writing with
9 a copy furnished to the owner, person in possession, or
10 operator;

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

22 6. No rule or portion of a rule promulgated under the
23 authority of this chapter shall become effective unless it has
24 been promulgated pursuant to the provisions of section
25 536.024.

26 259.080. 1. It shall be unlawful to commence operations
27 for the drilling of a well for oil or gas, or to commence

1 operations to deepen any well to a different geological
2 formation, or to commence injection activities for enhanced
3 recovery of oil or gas or for disposal of fluids, without
4 first giving the state geologist notice of intention to drill
5 or intention to inject and first obtaining a permit from the
6 state geologist under such rules and regulations as may be
7 prescribed by the council.

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

1 department to file the final order of rulemaking for such rule
2 with the joint committee on administrative rules under
3 sections 536.021 and 536.024 no later than December first of
4 the same year. If such rules are not disapproved by the
5 general assembly in the manner set out in this section, they
6 shall take effect on January first of the following year, at
7 which point the existing fee structure shall expire. Any
8 regulation promulgated under this subsection shall be deemed
9 beyond the scope and authority provided in this subsection, or
10 detrimental to permit applicants, if the general assembly,
11 within the first sixty calendar days of the regular session
12 immediately following the filing of such regulation,
13 disapproves the regulation by concurrent resolution. If the
14 general assembly so disapproved any regulation filed under
15 this subsection, the department and the council shall not
16 implement the proposed fee structure and shall continue to use
17 the previous fee structure. The authority of the council to
18 further revise the fee structure as provided in this
19 subsection shall expire on August 28, 2025.

20 3. Failure to pay the fees, or any portion thereof,
21 established under this section or to submit required reports,
22 forms or information by the due date shall result in the
23 imposition of a late fee established by the council. The
24 department may issue an administrative order requiring payment
25 of unpaid fees or may request that the attorney general bring
26 an action in the appropriate circuit court to collect any
27 unpaid fee, late fee, interest, or attorney's fees and costs

1 incurred directly in fee collection. Such action may be
2 brought in the circuit court of Cole County, or, in the case
3 of well fees, in the circuit court of the county in which the
4 well is located.

5 259.100. 1. The council shall set spacing units as
6 follows:

7 (1) When necessary to prevent waste, to avoid the
8 drilling of unnecessary wells, or to protect correlative
9 rights, the council shall establish spacing units for a pool.
10 Spacing units when established shall be of uniform size and
11 shape for the entire pool, except that when found to be
12 necessary for any of the purposes above mentioned, the council
13 is authorized to divide any pool into zones and establish
14 spacing units for each zone, which units may differ in size
15 and shape from those established in any other zone;

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

19 (3) An order establishing spacing units for a pool shall
20 specify the size and shape of each unit and the location of
21 the permitted well thereon in accordance with a reasonably
22 uniform spacing plan. Upon application, if the state
23 geologist finds that a well drilled at the prescribed location
24 would not produce in paying quantities, or that surface
25 conditions would substantially add to the burden or hazard of
26 drilling such well, the [state geologist] department is
27 authorized to enter an order permitting the well to be drilled

1 at a location other than that prescribed by such spacing
2 order; however, the state geologist shall include in the order
3 suitable provisions to prevent the production from the spacing
4 unit of more than its just and equitable share of the oil and
5 gas in the pool;

6 (4) An order establishing spacing units for a pool shall
7 cover all lands determined or believed to be underlaid by such
8 pool, and may be modified by the [state geologist] department
9 from time to time to include additional areas determined to be
10 underlaid by such pool. When found necessary for the
11 prevention of waste, or to avoid the drilling of unnecessary
12 wells or to protect correlative rights, an order establishing
13 spacing units in a pool may be modified by the state geologist
14 to increase the size of spacing units in the pool or any zone
15 thereof, or to permit the drilling of additional wells on a
16 reasonable uniform plan in the pool, or any zone thereof.
17 Orders of the [state geologist] department may be appealed to
18 the council within thirty days.

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

21 3.] Applicants seeking a permit for a noncommercial gas
22 well shall file a bond [or other instrument of credit
23 acceptable to the council equal to the greater of three
24 hundred dollars or one dollar and fifty cents per well foot]
25 under paragraph (d) of subdivision (1) of subsection 5 of
26 section 259.070 and meet the following conditions and
27 procedures: an owner of a noncommercial gas well with

1 drilling rights may apply for the establishment of a drilling
2 unit [containing no less than three acres,] with a well set
3 back of one hundred sixty-five feet on which a well no deeper
4 than eight hundred feet in depth may be drilled. An owner of
5 a noncommercial gas well may apply to the [council] department
6 for a variance to establish a [drilling] spacing unit [of less
7 than three acres and/or less than one hundred sixty-five
8 feet], to set back distances, or both.

9 259.190. 1. Illegal oil, illegal gas, and illegal
10 product are declared to be contraband and are subject to
11 seizure and sale as herein provided; seizure and sale to be in
12 addition to any and all other remedies and penalties provided
13 in this chapter for violations relating to illegal oil,
14 illegal gas, or illegal product. Whenever the council
15 believes that any oil, gas or product is illegal, the council,
16 acting by the attorney general, shall bring a civil action in
17 rem in the circuit court of the county where such oil, gas, or
18 product is found, to seize and sell the same, or the council
19 may include such an action in rem for the seizure and sale of
20 illegal oil, illegal gas, or illegal product in any suit
21 brought for an injunction or penalty involving illegal oil,
22 illegal gas, or illegal product. Any person claiming an
23 interest in oil, gas, or product affected by any such action
24 shall have the right to intervene as an interested party in
25 such action.

26 2. Actions for the seizure and sale of illegal oil,
27 illegal gas, or illegal product shall be strictly in rem, and

1 shall proceed in the name of the state as plaintiff against
2 the illegal oil, illegal gas, or illegal products as
3 defendant. No bond or similar undertaking shall be required
4 of the plaintiff. Upon the filing of the petition for seizure
5 and sale, the attorney general shall issue a notice, with a
6 copy of the complaint attached thereto, which shall be served
7 in the manner provided for service of original notices in
8 civil actions, upon any and all persons having or claiming any
9 interest in the illegal oil, illegal gas, or illegal products
10 described in the petition. Service shall be completed by the
11 filing of an affidavit by the person making the service,
12 stating the time and manner of making such service. Any
13 person who fails to appear and answer within the period of
14 thirty days shall be forever barred by the judgment based on
15 such service. If the court, on a properly verified petition,
16 or affidavits, or oral testimony, finds that grounds for
17 seizure and for sale exist, the court shall issue an immediate
18 order of seizure, describing the oil, gas, or product to be
19 seized and directing the sheriff of the county to take such
20 oil, gas, or product into his custody, actual or constructive,
21 and to hold the same subject to the further order of the
22 court. The court, in such order of seizure, may direct the
23 sheriff to deliver the oil, gas, or product seized by him
24 under the order to an agent appointed by the court as the
25 agent of the court; such agent to give bond in an amount and
26 with such surety as the court may direct, conditioned upon his
27 compliance with the orders of the court concerning the custody

1 and disposition of such oil, gas, or product.

2 3. Any person having an interest in oil, gas, or product
3 described in an order of seizure and contesting the right of
4 the state to the seizure and sale thereof may, prior to the
5 sale thereof as herein provided, obtain the release thereof,
6 upon furnishing bond to the sheriff, approved by the court, in
7 an amount equal to one hundred fifty percent of the market
8 value of the oil, gas, or product to be released, and
9 conditioned as the court may direct upon redelivery to the
10 sheriff of such product released or upon payment to the
11 sheriff of the market value thereof as the court may direct,
12 if and when ordered by the court, and upon full compliance
13 with the further orders of the court.

14 4. If the court, after a hearing upon a petition for the
15 seizure and sale of oil, gas, or product, finds that such oil,
16 gas, or product is contraband, the court shall order the sale
17 thereof by the sheriff in the same manner and upon the same
18 notice of sale as provided by law for the sale of personal
19 property on execution of judgment entered in a civil action
20 except that the court may order that the illegal oil, illegal
21 gas, or illegal product be sold in specified lots or portions
22 and at specified intervals. Upon such sale, title to the oil,
23 gas, or product sold shall vest in the purchaser free of the
24 claims of any and all persons having any title thereto or
25 interest therein at or prior to the seizure thereof, and the
26 same shall be legal oil, legal gas, or legal product, as the
27 case may be, in the hands of the purchaser.

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

27 259.210. 1. Whenever it appears that any person is

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

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

1 order of the council, and the action shall proceed and
2 injunctive relief may be granted to the council or the
3 petitioner without bond in the same manner as if suit had been
4 brought by the council.

5 260.235. Any person aggrieved by a forfeiture of any
6 financial assurance instrument, civil or administrative
7 penalty or denial, suspension or revocation of a permit
8 required by section 260.205 or a modification to a permit
9 issued under section 260.205 or any disapproval of the plan
10 required by section 260.220, may appeal such decision as
11 provided in [section] sections 621.250[, subject to judicial
12 review as provided by law] and 640.013 by filing a petition
13 with the administrative hearing commission within thirty days
14 of the decision. The notice of the department shall be
15 effected by certified mail and shall set forth the reasons for
16 such forfeiture, disapproval, denial, suspension, civil
17 penalty or revocation. The department may seek an injunction
18 in the circuit court in which the facility is located
19 requiring the facility for which the transfer of ownership has
20 been denied, or the permit or modification of the permit has
21 been denied, suspended or revoked, to cease operations from
22 the date ordered by the court until such time as the appeal is
23 resolved or obtain a performance bond in the amount and manner
24 as prescribed by rule. The department's action seeking an
25 injunction shall be based on the seriousness of the threat to
26 the environment which continued operation of the facility
27 poses. A bond may be required in order to stay the effect of

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

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

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

25 (3) Include, as specified in rules and regulations, a
26 fee payable to the state of Missouri which shall consist of an
27 annual application fee, plus an annual use fee based upon

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

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

20 3. A license may be suspended or revoked whenever the
21 department determines that the equipment is or has been
22 operated in violation of any provision of sections 260.350 to
23 260.430 or any standard, rule or regulation, order, or license
24 term or condition adopted or issued pursuant to sections
25 260.350 to 260.430, poses a threat to the health of humans or
26 the environment, or is creating a public nuisance.

27 4. Whenever a license is issued, renewed, denied,

1 suspended or revoked by the department, any aggrieved person,
2 by petition filed with the [department] administrative hearing
3 commission within thirty days of the decision, may appeal such
4 decision [and shall be entitled to a hearing as provided in
5 section 260.400] as provided by sections 621.250 and 640.013.
6 Once the administrative hearing commission has reviewed the
7 appeal, the administrative hearing commission shall issue a
8 recommended decision to the commission on license issuance,
9 renewal, denial, suspension, or revocation. The commission
10 shall issue its own decision, based on the appeal, for license
11 issuance, renewal, denial, suspension, or revocation. If the
12 commission changes a finding of fact or conclusion of law made
13 by the administrative hearing commission, or modifies or
14 vacates the decision recommended by the administrative hearing
15 commission, it shall issue its own decision, which shall
16 include findings of fact and conclusions of law. The
17 commission shall mail copies of its final decision to the
18 parties to the appeal or their counsel of record. The
19 commission's decision shall be subject to judicial review
20 pursuant to chapter 536. No judicial review shall be
21 available until and unless all administrative remedies are
22 exhausted.

23 5. A license shall be issued for a period of one year
24 and shall be renewed upon proper application by the holder and
25 a determination by the department that the applicant is in
26 compliance with all provisions of sections 260.350 to 260.430
27 and all standards, rules and regulations, orders and license

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

3 6. A license is not required for the transport of any
4 hazardous waste on the premises where it is generated or onto
5 contiguous property owned by the generator thereof, or for
6 those persons exempted in section 260.380. Nothing in this
7 subsection shall be interpreted to preclude the department
8 from inspecting unlicensed hazardous waste transporting
9 equipment and to require that it be adequate to provide
10 protection for the health of humans and the environment.

11 7. After six months from the effective date of the
12 standards, rules and regulations adopted by the commission
13 pursuant to section 260.370, it shall be unlawful for any
14 person to construct, substantially alter or operate, including
15 operations specified in the rules and regulations, a hazardous
16 waste facility without first obtaining a hazardous waste
17 facility permit for such construction, alteration or operation
18 from the department. Such person must submit to the
19 department at least ninety days prior to submitting a permit
20 application a letter of intent to construct, substantially
21 alter or operate any hazardous waste disposal facility. The
22 person must file an application within one hundred eighty days
23 of the filing of a letter of intent unless granted an
24 extension by the commission. The department shall publish
25 such letter of intent as specified in section 493.050 within
26 ten days of receipt of such letter. The letter shall be
27 published once each week for four weeks in the county where

1 the hazardous waste disposal facility is proposed. Once such
2 letter is submitted, all conditions for the permit application
3 evaluation purposes in existence as of the date of submission
4 shall be deemed frozen, in that no subsequent action by any
5 person to change such conditions in an attempt to thwart a
6 fair and impartial decision on the application for a permit
7 shall be allowed as grounds for denial of the permit. Any
8 person before constructing, substantially altering or
9 operating a hazardous waste facility in this state shall file
10 an application for a permit which shall:

11 (1) Be submitted on a form provided for this purpose by
12 the department and shall furnish the department with plans,
13 specifications and such other data as may be necessary to
14 demonstrate to the satisfaction of the department that such
15 facility does or will provide adequate protection of the
16 health of humans and the environment and does or will comply
17 with the provisions of any federal hazardous waste management
18 act and sections 260.350 to 260.430 and the standards, rules
19 and regulations adopted pursuant to sections 260.350 to
20 260.430;

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

25 (3) Include, as specified by rules and regulations,
26 demonstration of financial responsibility, including, but not
27 limited to, guarantees, liability insurance, posting of bond

1 or any combination thereof, which shall be related to type and
2 size of facility;

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

6 (5) Include a fee payable to the state of Missouri which
7 shall not exceed one thousand dollars, which shall cover the
8 first year of the permit, if issued, but which is not
9 refundable. If the permit is issued for more than one year, a
10 fee equal in amount to the first year's fee shall be paid to
11 the state of Missouri prior to issuance of the permit for each
12 year the permit is to be in effect beyond the first year;

13 (6) The department shall supervise any field work
14 undertaken to collect geologic and engineering data for
15 submission with the application. The state geologist and
16 departmental engineers shall review the geologic and
17 engineering plans, respectively, and attest to their accuracy
18 and adequacy. The applicant shall pay all reasonable costs,
19 as determined by the commission, incurred by the department
20 pursuant to this subsection.

21 8. (1) Prior to issuing or renewing a hazardous waste
22 facility permit, the department shall issue public notice by
23 press release or advertisement and shall notify all record
24 owners of adjoining property by mail directed to the last
25 known address, and the village, town or city, if any, and the
26 county in which the hazardous waste facility is located; and,
27 upon request, shall hold a public hearing after public notice

1 as required in this subsection at a location convenient to the
2 area affected by the issuance of the permit.

3 (2) Prior to issuing or renewing a hazardous waste
4 disposal facility permit the department shall issue public
5 notice by press release and advertisement and shall notify all
6 record owners of property, within one mile of the outer
7 boundaries of the site, by mail directed to the last known
8 address; and shall hold a public hearing after public notice
9 as required in this subsection at a location convenient to the
10 area affected by the issuance of the permit.

11 9. If the department determines that the application
12 conforms to the provisions of any federal hazardous waste
13 management act and sections 260.350 to 260.430 and the
14 standards, rules and regulations adopted pursuant to sections
15 260.350 to 260.430, it shall issue the hazardous waste
16 facility permit, with such terms and conditions and require
17 such testing and construction supervision as it deems
18 necessary to protect the health of humans or the environment.
19 The department shall act within one hundred and eighty days
20 after receipt of the application. If the department denies
21 the permit, it shall issue a report to the applicant stating
22 the reason for denial of a permit.

23 10. A permit may be suspended or revoked whenever the
24 department determines that the hazardous waste facility is, or
25 has been, operated in violation of any provision of sections
26 260.350 to 260.430 or any standard, rule or regulation, order
27 or permit term or condition adopted or issued pursuant to

1 sections 260.350 to 260.430, poses a threat to the health of
2 humans or the environment or is creating a public nuisance.

3 11. Whenever a permit is issued, renewed, denied,
4 suspended or revoked by the department, any aggrieved person,
5 by petition filed with the [department] administrative hearing
6 commission within thirty days of the decision, may appeal such
7 decision [and shall be entitled to a hearing as provided in
8 section 260.400] as provided by sections 621.250 and 640.013.

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

1 remedies are exhausted.

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

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

21 (1) On-site storage of hazardous wastes where such
22 storage is exempted by the commission by rule or regulation;
23 however, such storage must conform to the provisions of any
24 federal hazardous waste management act and sections 260.350 to
25 260.430 and the applicable standards, rules and regulations
26 adopted pursuant to sections 260.350 to 260.430 and any other
27 applicable hazardous materials storage and spill-prevention

1 requirements provided by law;

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

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

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

17 14. Facilities exempted pursuant to subsection 13 of
18 this section must comply with the provisions of subdivisions
19 (3) to (7) of section 260.390 and such other requirements, to
20 be specified by rules and regulations, as are necessary to
21 comply with any federal hazardous waste management act or
22 regulations hereunder. Generators who use such an exempted
23 facility shall keep records of hazardous wastes transported,
24 except by legal flow through sewer lines, to the facility and
25 submit such records to the department in accordance with the
26 provisions of section 260.380 and the standards, rules and
27 regulations adopted pursuant to sections 260.350 to 260.430.

1 Any person, before constructing, altering or operating a
2 resource recovery facility in this state shall file an
3 application for a certification. Such application shall
4 include:

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

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

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

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

27 16. No person, otherwise qualified pursuant to sections

1 260.350 to 260.430 for a license to transport hazardous wastes
2 or for a permit to construct, substantially alter or operate a
3 hazardous waste facility, shall be denied such license or
4 permit on the basis of a lack of need for such transport
5 service or such facility because of the existence of other
6 services or facilities capable of meeting that need; except
7 that permits for hazardous waste facilities may be denied on
8 determination made by the department that the financial
9 resources of the persons applying are such that the continued
10 operation of the sites in accordance with sections 260.350 to
11 260.430 cannot be reasonably assured or on determination made
12 by the department that the probable volume of business is
13 insufficient to ensure and maintain the solvency of then
14 existing permitted hazardous waste facilities.

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

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

1 260.391.

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

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

8 (2) "Cleanup costs", all costs incurred by the state or
9 any of its political subdivisions, or their agents, or by any
10 other person participating with the approval of the department
11 of natural resources in the prevention or mitigation of
12 damages from a hazardous substance emergency or the cleanup of
13 a hazardous substance involved in a hazardous substance
14 emergency, including a proportionate share of those costs
15 necessary to maintain the services authorized in sections
16 260.500 to 260.550;

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

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

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

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

25 (b) Any element, compound, mixture, solution, or
26 substance designated pursuant to Sections 101(14) and 102 of
27 the Comprehensive Environmental Response, Compensation and

1 Liability Act of 1980, as amended, and Section 302 of the
2 Superfund Amendments and Reauthorization Act of 1986, as
3 amended; and

4 (c) Any hazardous material designated by the Secretary
5 of the United States Department of Transportation pursuant to
6 the Hazardous Materials Transportation Act;

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

13 (6) "Hazardous substance emergency":

14 (a) Any release of hazardous substances in quantities
15 equal to or in excess of those determined pursuant to Section
16 101(14) or 102 of the Comprehensive Environmental Response,
17 Compensation and Liability Act of 1980, as amended, and
18 Section 304 of the Superfund Amendments and Reauthorization
19 Act of 1986, as amended;

20 (b) Any release of petroleum including crude oil or any
21 fraction thereof, natural gas, natural gas liquids, liquefied
22 natural gas, or synthetic gas usable for fuel (or mixtures of
23 natural gas and such synthetic gas) in excess of fifty gallons
24 for liquids or three hundred cubic feet for gases, except that
25 the notification and reporting of any release of natural gas
26 or natural gas mixtures by or from intrastate facilities,
27 regardless of the quantity of such release, shall be as

1 specified by the public service commission rather than
2 pursuant to the notification and reporting requirements
3 contained in, or authorized by, sections 260.500 to 260.550.
4 Interstate natural gas pipeline facilities shall report
5 natural gas releases to the state and the National Response
6 Center in accordance with federal Department of Transportation
7 regulatory requirements;

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

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

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

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

23 (8) "Person having control over a hazardous substance",
24 any person producing, handling, storing, transporting,
25 refining, or disposing of a hazardous substance when a
26 hazardous substance emergency occurs, including bailees,
27 carriers, and any other person in control of a hazardous

1 substance when a hazardous substance emergency occurs, whether
2 they own the hazardous substance or are operating under a
3 lease, contract, or other agreement with the legal owner
4 thereof;

5 (9) "Release", any threatened or real emission,
6 discharge, spillage, leakage, pumping, pouring, emptying or
7 dumping of a substance into or onto the land, air or waters of
8 the state unless done in compliance with the conditions of a
9 federal or state permit, unless the substance is confined and
10 is expected to stay confined to property owned, leased or
11 otherwise controlled by the person having control over the
12 substance, or unless, in the case of pesticides, if
13 application is done in accordance with the product label;

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

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

27 444.600. 1. All applications for a permit shall be

1 filed with the director who shall promptly investigate the
2 application and make a [recommendation to the commission]
3 decision within thirty days after the application is received
4 as to whether the permit should be issued or denied. If the
5 director is not satisfied with the information supplied by the
6 applicant, he or she shall recommend denial of the permit.
7 The director shall promptly notify the applicant of this
8 action and at the same time publish a notice of the
9 [recommendation] decision in any newspaper with general
10 circulation in the counties where the land is located, and
11 shall send notice to those persons registered with the
12 director pursuant to section 444.720. The director's decision
13 shall be deemed to be the decision of the director of the
14 department of natural resources and shall be subject to appeal
15 to the administrative hearing commission as provided by
16 sections 621.250 and 640.013.

17 2. [If the recommendation of the director is to deny the
18 permit, a hearing as provided in sections 444.500 to 444.755
19 shall be held by the commission if requested by the applicant
20 within thirty days of the date of notice of the recommendation
21 of the director.

22 3. If the recommendation of the director is for issuance
23 of the permit, the commission may issue or deny the permit
24 without a hearing provided the matter is passed upon at a
25 public meeting no sooner than thirty days from the date of
26 notice of the recommendation of the director, except that upon
27 petition of any person aggrieved by the granting of the

1 permit, a hearing shall be held as provided in section
2 444.680.

3 4. If the commission denies a permit, the applicant may
4 petition the commission, within thirty days of notice of its
5 action, for a hearing. If no petition is filed within the
6 thirty day period, the decision of the commission is final and
7 the applicant shall have no right of court review.

8 5. In any hearing held pursuant to this section the
9 burden of proof shall be on the applicant for a permit. Any
10 decision of the commission made pursuant to a hearing held
11 under this section is subject to judicial review as provided
12 in section 444.700.] Whenever a strip mine operator permit
13 provided under section 444.540 is issued, denied, suspended,
14 or revoked by the department of natural resources, any
15 aggrieved person, by petition filed with the administrative
16 hearing commission within thirty days of the decision, may
17 appeal such decision as provided by sections 621.250 and
18 640.013. For purposes of an appeal, the administrative
19 hearing commission may consider, based on competent and
20 substantial scientific evidence on the record, whether an
21 interested party's health, safety, or livelihood will be
22 unduly impaired by the issuance, denial, suspension, or
23 revocation of the permit. The administrative hearing
24 commission may also consider, based on competent and
25 substantial scientific evidence on the record, whether the
26 operator has demonstrated, during the five-year period
27 immediately preceding the date of the permit application, a

1 pattern of noncompliance at other locations in Missouri that
2 suggests a reasonable likelihood of future acts of
3 noncompliance. In determining whether a reasonable likelihood
4 of noncompliance will exist in the future, the administrative
5 hearing commission may look to past acts of noncompliance in
6 Missouri, but only to the extent they suggest a reasonable
7 likelihood of future acts of noncompliance. Such past acts of
8 noncompliance in Missouri, in and of themselves, are an
9 insufficient basis to suggest a reasonable likelihood of
10 future acts of noncompliance. In addition, such past acts
11 shall not be used as a basis to suggest a reasonable
12 likelihood of future acts of noncompliance unless the
13 noncompliance has caused or has the potential to cause, a risk
14 to human health or to the environment, or has caused or has
15 potential to cause pollution, or was knowingly committed, or
16 is defined by the United States Environmental Protection
17 Agency as other than minor. If a hearing petitioner
18 demonstrates or the administrative hearing commission finds
19 either present acts of noncompliance or a reasonable
20 likelihood that the permit seeker or the operations of
21 associated persons or corporations in Missouri will be in
22 noncompliance in the future, such a showing will satisfy the
23 noncompliance requirement in this subsection. In addition,
24 such basis must be developed by multiple noncompliances of any
25 environmental law administered by the Missouri department of
26 natural resources at any single facility in Missouri that
27 resulted in harm to the environment or impaired the health,

1 safety, or livelihood of persons outside the facility. For
2 any permit seeker that has not been in business in Missouri
3 for the past five years, the administrative hearing commission
4 may review the record of noncompliance in any state where the
5 applicant has conducted business during the past five years.
6 Once the administrative hearing commission has reviewed the
7 appeal, the administrative hearing commission shall issue a
8 recommended decision to the commission on permit issuance,
9 denial, suspension, or revocation. The commission shall issue
10 its own decision, based on the appeal, for permit issuance,
11 denial, suspension, or revocation. If the commission changes
12 a finding of fact or conclusion of law made by the
13 administrative hearing commission, or modifies or vacates the
14 decision recommended by the administrative hearing commission,
15 it shall issue its own decision, which shall include findings
16 of fact and conclusions of law. The commission shall mail
17 copies of its final decision to the parties to the appeal or
18 their counsel of record. The commission's decision shall be
19 subject to judicial review pursuant to chapter 536, except
20 that the court of appeals district with territorial
21 jurisdiction coextensive with the county where the mine is
22 located or is to be located shall have original jurisdiction.
23 No judicial review shall be available until and unless all
24 administrative remedies are exhausted.

25 444.773. 1. All applications for a permit shall be
26 filed with the director, who shall promptly investigate the
27 application and make a decision within six weeks after

1 completion of the process provided in subsection 10 of section
2 444.772 to issue or deny the permit. If the director
3 determines that the application has not fully complied with
4 the provisions of section 444.772 or any rule or regulation
5 promulgated pursuant to that section, the director may seek
6 additional information from the applicant before making a
7 decision to issue or deny the permit. The director shall
8 consider any public comments when making the decision to issue
9 or deny the permit. In issuing a permit, the director may
10 impose reasonable conditions consistent with the provisions of
11 sections 444.760 to 444.790.

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

17 [3.] 2. Whenever a surface mining operation permit
18 provided under section 444.772 is issued, denied, suspended,
19 or revoked by the department of natural resources, any
20 aggrieved person, by petition filed with the administrative
21 hearing commission within thirty days of the decision, may
22 appeal such decision as provided by sections 621.250 and
23 640.013. For purposes of an appeal, the administrative
24 hearing commission may consider, based on competent and
25 substantial scientific evidence on the record, whether an
26 interested party's health, safety or livelihood will be unduly
27 impaired by the issuance, denial, suspension, or revocation of

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

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

15 [4.] The commission shall issue its own decision, based
16 on 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
19 commission, or modifies or vacates the decision recommended by
20 the administrative hearing commission, it shall issue its own
21 decision, which shall include findings of fact and conclusions
22 of law. The commission shall mail copies of its final
23 decision to the parties to the appeal or their counsel of
24 record. The commission's decision shall be subject to
25 judicial review pursuant to chapter 536, except that the court
26 of appeals district with territorial jurisdiction coextensive
27 with the county where the mine is located or is to be located

1 shall have original jurisdiction. No judicial review shall be
2 available until and unless all administrative remedies are
3 exhausted.

4 444.980. Whenever a surface coal mining operation permit
5 provided under section 444.815 or a coal exploration operation
6 permit provided under section 444.845 is issued, denied,
7 suspended, or revoked by the department of natural resources,
8 any aggrieved person, by petition filed with the
9 administrative hearing commission within thirty days of the
10 decision, may appeal such decision as provided by sections
11 621.250 and 640.013. For purposes of an appeal, the
12 administrative hearing commission may consider, based on
13 competent and substantial scientific evidence on the record,
14 whether an interested party's health, safety, or livelihood
15 will be unduly impaired by the issuance, denial, suspension,
16 or revocation of the permit. The administrative hearing
17 commission may also consider, based on competent and
18 substantial scientific evidence on the record, whether the
19 operator has demonstrated, during the five-year period
20 immediately preceding the date of the permit application, a
21 pattern of noncompliance at other locations in Missouri that
22 suggests a reasonable likelihood of future acts of
23 noncompliance. In determining whether a reasonable likelihood
24 of noncompliance will exist in the future, the administrative
25 hearing commission may look to past acts of noncompliance in
26 Missouri, but only to the extent they suggest a reasonable
27 likelihood of future acts of noncompliance. Such past acts of

1 noncompliance in Missouri, in and of themselves, are an
2 insufficient basis to suggest a reasonable likelihood of
3 future acts of noncompliance. In addition, such past acts
4 shall not be used as a basis to suggest a reasonable
5 likelihood of future acts of noncompliance unless the
6 noncompliance has caused or has the potential to cause, a risk
7 to human health or to the environment, or has caused or has
8 potential to cause pollution, or was knowingly committed, or
9 is defined by the United States Environmental Protection
10 Agency as other than minor. If a hearing petitioner
11 demonstrates or the administrative hearing commission finds
12 either present acts of noncompliance or a reasonable
13 likelihood that the permit seeker or the operations of
14 associated persons or corporations in Missouri will be in
15 noncompliance in the future, such a showing will satisfy the
16 noncompliance requirement in this subsection. In addition,
17 such basis must be developed by multiple noncompliances of any
18 environmental law administered by the Missouri department of
19 natural resources at any single facility in Missouri that
20 resulted in harm to the environment or impaired the health,
21 safety, or livelihood of persons outside the facility. For
22 any permit seeker that has not been in business in Missouri
23 for the past five years, the administrative hearing commission
24 may review the record of noncompliance in any state where the
25 applicant has conducted business during the past five years.
26 Once the administrative hearing commission has reviewed the
27 appeal, the administrative hearing commission shall issue a

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

18 621.250. 1. All authority to hear contested case
19 administrative appeals granted in chapters 236, 256, 260, 444,
20 640, 643, and 644, and to the hazardous waste management
21 commission in chapter 260, the [land reclamation] Missouri
22 mining commission in chapter 444, the safe drinking water
23 commission in chapter 640, the air conservation commission in
24 chapter 643, and the clean water commission in chapter 644
25 shall be transferred to the administrative hearing commission
26 under this chapter. The authority to render final decisions
27 after hearing on appeals heard by the administrative hearing

1 commission shall remain with the commissions listed in this
2 subsection. For appeals pursuant to chapter 236, chapter 256,
3 section 260.235, or section 260.249, the administrative
4 hearing commission shall render a final decision rather than a
5 recommended decision. The administrative hearing commission
6 may render its recommended or final decision after hearing or
7 through stipulation, consent order, agreed settlement or by
8 disposition in the nature of default judgment, judgment on the
9 pleadings, or summary determination, consistent with the
10 requirements of this subsection and the rules and procedures
11 of the administrative hearing commission.

12 2. Except as otherwise provided by law, any person or
13 entity who is a party to, or who is aggrieved or adversely
14 affected by, any finding, order, decision, or assessment for
15 which the authority to hear appeals was transferred to the
16 administrative hearing commission in subsection 1 of this
17 section may file a notice of appeal with the administrative
18 hearing commission within thirty days after any such finding,
19 order, decision, or assessment is placed in the United States
20 mail or within thirty days of any such finding, order,
21 decision, or assessment being delivered, whichever is earlier.
22 Within ninety days after the date on which the notice of
23 appeal is filed the administrative hearing commission may hold
24 hearings, and within one hundred twenty days after the date on
25 which the notice of appeal is filed shall make a recommended
26 decision, or a final decision where applicable, in accordance
27 with the requirements of this section and the rules and

1 procedures of the administrative hearing commission; provided,
2 however, that the dates by which the administrative hearing
3 commission is required to hold hearings and make a recommended
4 decision may be extended at the sole discretion of the
5 permittee as either petitioner or intervenor in the appeal.

6 3. Any decision by the director of the department of
7 natural resources that may be appealed as provided in
8 subsection 1 of this section shall contain a notice of the
9 right of appeal in substantially the following language: "If
10 you were adversely affected by this decision, you may be
11 entitled to pursue an appeal before the administrative hearing
12 commission. To appeal, you must file a petition with the
13 administrative hearing commission within thirty days after the
14 date this decision was mailed or the date it was delivered,
15 whichever date was earlier. If any such petition is sent by
16 registered mail or certified mail, it will be deemed filed on
17 the date it is mailed; if it is sent by any method other than
18 registered mail or certified mail, it will be deemed filed on
19 the date it is received by the administrative hearing
20 commission.". Within fifteen days after the administrative
21 hearing commission renders a recommended decision, it shall
22 transmit the record and a transcript of the proceedings,
23 together with the administrative hearing commission's
24 recommended decision to the commission having authority to
25 issue a final decision. The final decision of the commission
26 shall be issued within one hundred eighty days of the date the
27 notice of appeal in subsection 2 of this section is filed and

1 shall be based only on the facts and evidence in the hearing
2 record; provided, however, that the date by which the
3 commission is required to issue a final decision may be
4 extended at the sole discretion of the permittee as either
5 petitioner or intervenor in the appeal. The commission may
6 adopt the recommended decision as its final decision. The
7 commission may change a finding of fact or conclusion of law
8 made by the administrative hearing commission, or may vacate
9 or modify the recommended decision issued by the
10 administrative hearing commission, only if the commission
11 states in writing the specific reason for a change made under
12 this subsection.

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

18 5. Appropriations shall be made from the respective
19 funds of the department of natural resources to cover the
20 administrative hearing commission's costs associated with
21 these appeals.

22 6. In all matters heard by the administrative hearing
23 commission under this section, the burden of proof shall
24 comply with section 640.012. The hearings shall be conducted
25 by the administrative hearing commission in accordance with
26 the provisions of chapter 536 and its regulations promulgated
27 thereunder.

1 7. No cause of action or appeal arising out of any
2 finding, order, decision, or assessment of any of the
3 commissions listed in subsection 1 of this section shall
4 accrue in any court unless the party seeking to file such
5 cause of action or appeal shall have filed a notice of appeal
6 and received a final decision in accordance with the
7 provisions of this section.

8 640.115. 1. Every municipal corporation, private
9 corporation, company, partnership, federal establishment,
10 state establishment or individual supplying or authorized to
11 supply drinking water to the public within the state shall
12 file with the department of natural resources a certified copy
13 of the plans and surveys of the waterworks with a description
14 of the methods of purification, treatment technology and
15 source from which the supply of water is derived, and no
16 source of supply shall be used without a written permit of
17 approval issued to the continuing operating authority by the
18 department of natural resources, or water dispensed to the
19 public without first obtaining such written permit of
20 approval. Prior to a change of permittee, the current
21 permittee shall notify the department of the proposed change
22 and the department shall perform a permit review.

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

26 3. Permit applicants shall show, as part of their
27 application, that a permanent organization exists which will

1 serve as the continuing operating authority for the
2 management, operation, replacement, maintenance and
3 modernization of the facility. Such continuing operating
4 authority for all community water systems and nontransient,
5 noncommunity water systems commencing operation after October
6 1, 1999, shall be required to have and maintain the
7 managerial, technical and financial capacity, as determined by
8 the department, to comply with sections 640.100 to 640.140.

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

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

25 643.075. 1. It shall be unlawful for any person to
26 commence construction of any air contaminant source in this
27 state, without a permit [therefor], if such source is of a

1 class fixed by regulation of the commission which requires a
2 permit [therefor].

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

23 3. Before issuing a construction permit to build or
24 modify an air contaminant source the director shall determine
25 if the ambient air quality standards in the vicinity of the
26 source are being exceeded and shall determine the impact on
27 the ambient air quality standards from the source. The

1 director, in order to effectuate the purposes of sections
2 643.010 to 643.190, may deny a construction permit if the
3 source will appreciably affect the air quality or the air
4 quality standards are being substantially exceeded.

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

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

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

1 have been rendered if the director has failed to act. Once
2 the administrative hearing commission has reviewed the appeal,
3 the administrative hearing commission shall issue a
4 recommended decision to the commission on permit issuance,
5 renewal, denial, suspension, or revocation, or any condition
6 of the permit. The commission shall issue its own decision,
7 based on the appeal, for permit issuance, renewal, denial,
8 suspension, or revocation, or any condition of the permit. If
9 the commission changes a finding of fact or conclusion of law
10 made by the administrative hearing commission, or modifies or
11 vacates the decision recommended by the administrative hearing
12 commission, it shall issue its own decision, which shall
13 include findings of fact and conclusions of law. The
14 commission shall mail copies of its final decision to the
15 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
22 remedies are exhausted.

23 7. (1) There shall be a one hundred-dollar filing fee
24 payable to the state of Missouri with each application before
25 a construction permit shall be issued. No manufacturing or
26 processing plant or operating location or other air
27 contaminant source shall be required to pay more than one

1 filing fee with a construction permit application. The
2 provisions of this section shall not apply nor require the
3 issuance of a permit wherein the proposed construction is that
4 of a private residence.

5 (2) Upon completion of the department's evaluation of
6 the application, but before receiving a construction permit,
7 the applicant shall reimburse the department for all
8 reasonable costs incurred by the department whether or not a
9 construction permit is issued by the department or withdrawn
10 by the applicant. If the department fails to approve or deny
11 a construction permit within the time period specified in this
12 section, the applicant shall not be required to reimburse the
13 department for the review of the construction permit
14 application. The commission shall, by rule, set the hourly
15 charge, not to exceed the actual cost thereof and not to
16 exceed fifty dollars per hour, for review of each construction
17 permit application. The commission may exempt any person from
18 payment of the hourly fees under this subdivision, or may
19 reduce such fees, upon an appeal filed with the commission by
20 such person stating that the fee will create an unreasonable
21 economic hardship upon such person. The commission may
22 conduct a closed meeting and have closed records, as defined
23 in section 610.010, for the purpose of gathering information
24 from the person filing an appeal for the exemption.
25 Information obtained in this meeting may be held confidential
26 by the commission upon the request of the person filing the
27 appeal for exemption. If the fees or any portion of the fees

1 imposed by this section are not paid within ninety days from
2 the date of billing there shall be imposed interest upon the
3 unpaid amount at the rate of ten percent per annum from the
4 date of billing until payment is actually made. A
5 construction permit application for a portable facility may
6 include any site at which the portable facility is expected to
7 be used; however, a separate site permit application shall be
8 required when the portable facility is used or expected to be
9 used at any site which is not included in a previously
10 approved construction permit application. Upon receipt of the
11 application, the applicant shall be notified by the department
12 of hourly fees and requirements put forth in this subdivision.

13
14 (3) Applicants who withdraw their application before the
15 department completes its evaluation shall reimburse the
16 department for costs incurred in the evaluation.

17 (4) All moneys received pursuant to this section and
18 section 643.073 and any other moneys so designated shall be
19 placed in the state treasury and credited to the natural
20 resources protection fund air pollution permit fee subaccount,
21 created in section 640.220, and shall be expended for the
22 administration of this section and sections 643.073 and
23 643.078 and for no other purpose, and shall be used to
24 supplement state general revenue and federal funds
25 appropriated to the department. After appropriation, the
26 moneys received pursuant to this section and in such fund
27 subaccount shall be expended for the administration of this

1 section and for no other purpose. Any unexpended balance in
2 such fund subaccount at the end of any appropriation period
3 shall not be transferred to the general revenue fund of the
4 state treasury and shall be exempt from the provisions of
5 section 33.080. Any interest received on such deposits shall
6 be credited to the fund subaccount.

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

12 643.078. 1. It shall be unlawful for any person to
13 operate any regulated air contaminant source after August 28,
14 1992, without an operating permit except as otherwise provided
15 in sections 643.010 to 643.190.

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

22 3. Any person who wishes to construct or modify and
23 operate any regulated air contaminant source shall submit an
24 application to the department for the unified review of a
25 construction permit application under section 643.075 and an
26 operating permit application under this section, unless the
27 applicant requests in writing that the construction and

1 operating permit applications be reviewed separately. The
2 director shall complete any unified review within one hundred
3 and eighty days of receipt of the request for a class B
4 source. For a class A source, the unified review shall be
5 completed within the time period established in section 502 of
6 the federal Clean Air Act, as amended, 42 U.S.C. 7661.

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

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

25 6. If the director determines that an air contaminant
26 source does not meet the terms and conditions of the
27 construction permit and that the operation of the source will

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

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

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

1 to 643.190 and would supersede any existing operating permit
2 for the source.

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

15 10. The director may suspend, revoke or modify an
16 operating permit for cause.

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

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

1 amended, 42 U.S.C. 7661, et seq.

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

12 14. The holder of a valid operating permit shall have
13 operational flexibility to make changes to any air contaminant
14 source, if the changes will not result in air contaminant
15 emissions in excess of those established in the operating
16 permit or result in the emissions of any air contaminant not
17 previously emitted without obtaining a modification of the
18 operating permit provided such changes are consistent with
19 Section 502(b)(10) of the federal Clean Air Act, as amended,
20 42 U.S.C. 7661.

21 15. An air contaminant source with a valid operating
22 permit which submits a complete application for a permit
23 renewal at least six months prior to the expiration of the
24 permit shall be deemed to have a valid operating permit until
25 the director acts upon its permit application. The director
26 shall promptly notify the applicant in writing of his action
27 on the application and if the operating permit is not issued

1 state the reasons therefor.

2 16. The applicant may appeal to the administrative
3 hearing commission if [an] a construction, modification, or
4 operating permit is [not] issued, renewed, denied, suspended,
5 modified, or revoked by the department, or may appeal any
6 condition[, suspension, modification or revocation] of any
7 permit by filing [notice of appeal] a petition with the
8 administrative hearing commission within thirty days of the
9 notice of the director's response to the request for issuance
10 of the construction, modification, or operating permit as
11 provided by sections 621.250 and 640.013. Once the
12 administrative hearing commission has reviewed the appeal, the
13 administrative hearing commission shall issue a recommended
14 decision to the commission on the issuance, renewal, denial,
15 suspension, modification, revocation, or any condition of the
16 permit. The commission shall issue its own decision, based on
17 the appeal, for the issuance, renewal, denial, suspension,
18 modification, revocation, or any condition of the permit. If
19 the commission changes a finding of fact or conclusion of law
20 made by the administrative hearing commission, or modifies or
21 vacates the decision recommended by the administrative hearing
22 commission, it shall issue its own decision, which shall
23 include findings of fact and conclusions of law. The
24 commission shall mail copies of its final decision to the
25 parties to the appeal or their counsel of record. The
26 commission's decision shall be subject to judicial review
27 pursuant to chapter 536, except that the court of appeals

1 district with territorial jurisdiction coextensive with the
2 county where the air contaminant source is located or is to be
3 located shall have original jurisdiction. No judicial review
4 shall be available until and unless all administrative
5 remedies are exhausted.

6 17. Any person who obtains a valid operating permit from
7 a city or county pursuant to the authority granted in section
8 643.140 shall be deemed to have met the requirements of this
9 section.

10 643.650. 1. Any owner of a coal-fired electric
11 generating source in a National Ambient Air Quality Standards
12 nonattainment area currently designated as of April 1, 2015,
13 shall develop an ambient air quality monitoring or modeling
14 network to characterize the sulfur dioxide air quality
15 surrounding the electric generating source. The network shall
16 adequately monitor the ambient air quality for sulfur dioxide
17 surrounding the entire electric generating source and shall
18 operate for not less than twelve consecutive quarters. The
19 owner of such electric generating source shall notify the
20 department of the manner in which it intends to characterize
21 by either modeling or monitoring the air quality around such
22 source. The location of any monitoring network installed by
23 the owner of such electric generating source within a one-hour
24 sulfur dioxide National Ambient Air Quality Standards
25 nonattainment area shall be approved by the department.

26 2. Affected sources located in undesignated areas that
27 elect to use monitoring to evaluate ambient air quality shall

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

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

23 (1) The department may propose to the commission any
24 sulfur dioxide limitations or emission reduction requirements
25 specifically agreed to in any voluntary agreement entered into
26 between the department and any owner of an electric generating
27 source that has elected to install a monitoring network under

1 this section; and

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

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

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

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

21 644.016. When used in sections 644.006 to 644.141 and in
22 standards, rules and regulations promulgated pursuant to
23 sections 644.006 to 644.141, the following words and phrases
24 mean:

25 (1) "Aquaculture facility", a hatchery, fish farm, or
26 other facility used for the production of aquatic animals that
27 is required to have a permit pursuant to the federal Clean

1 Water Act, as amended, 33 U.S.C. 1251, et seq.;

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

4 (3) "Conference, conciliation and persuasion", a process
5 of verbal or written communications consisting of meetings,
6 reports, correspondence or telephone conferences between
7 authorized representatives of the department and the alleged
8 violator. The process shall, at a minimum, consist of one
9 offer to meet with the alleged violator tendered by the
10 department. During any such meeting, the department and the
11 alleged violator shall negotiate in good faith to eliminate
12 the alleged violation and shall attempt to agree upon a plan
13 to achieve compliance;

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

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

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

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

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

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

4 (10) "Human sewage", human excreta and wastewater,
5 including bath and toilet waste, residential laundry waste,
6 residential kitchen waste, and other similar waste from
7 household or establishment appurtenances;

8 (11) "Income" includes retirement benefits, consultant
9 fees, and stock dividends;

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

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

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

21 (15) "Person", any individual, partnership,
22 copartnership, firm, company, public or private corporation,
23 association, joint stock company, trust, estate, political
24 subdivision, or any agency, board, department, or bureau of
25 the state or federal government, or any other legal entity
26 whatever which is recognized by law as the subject of rights
27 and duties;

1 (16) "Point source", any discernible, confined and
2 discrete conveyance, including but not limited to any pipe,
3 ditch, channel, tunnel, conduit, well, discrete fissure,
4 container, rolling stock, concentrated animal feeding
5 operation, or vessel or other floating craft, from which
6 pollutants are or may be discharged. Point source does not
7 include agricultural storm water discharges and return flows
8 from irrigated agriculture;

9 (17) "Pollution", such contamination or other alteration
10 of the physical, chemical or biological properties of any
11 waters of the state, including change in temperature, taste,
12 color, turbidity, or odor of the waters, or such discharge of
13 any liquid, gaseous, solid, radioactive, or other substance
14 into any waters of the state as will or is reasonably certain
15 to create a nuisance or render such waters harmful,
16 detrimental or injurious to public health, safety or welfare,
17 or to domestic, industrial, agricultural, recreational, or
18 other legitimate beneficial uses, or to wild animals, birds,
19 fish or other aquatic life;

20 (18) "Pretreatment regulations", limitations on the
21 introduction of pollutants or water contaminants into publicly
22 owned treatment works or facilities which the commission
23 determines are not susceptible to treatment by such works or
24 facilities or which would interfere with their operation,
25 except that wastes as determined compatible for treatment
26 pursuant to any federal water pollution control act or
27 guidelines shall be limited or treated pursuant to this

1 chapter only as required by such act or guidelines;

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

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

10 (21) "Significant portion of his or her income" shall
11 mean ten percent of gross personal income for a calendar year,
12 except that it shall mean fifty percent of gross personal
13 income for a calendar year if the recipient is over sixty
14 years of age, and is receiving such portion pursuant to
15 retirement, pension, or similar arrangement;

16 (22) "Site-specific permit", a permit written for
17 discharges emitted from a single water contaminant source and
18 containing specific conditions, monitoring requirements and
19 effluent limits to control such discharges;

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

23 (24) "Water contaminant", any particulate matter or
24 solid matter or liquid or any gas or vapor or any combination
25 thereof, or any temperature change which is in or enters any
26 waters of the state either directly or indirectly by surface
27 runoff, by sewer, by subsurface seepage or otherwise, which

1 causes or would cause pollution upon entering waters of the
2 state, or which violates or exceeds any of the standards,
3 regulations or limitations set forth in sections 644.006 to
4 644.141 or any federal water pollution control act, or is
5 included in the definition of pollutant in such federal act;

6 (25) "Water contaminant source", the point or points of
7 discharge from a single tract of property on which is located
8 any installation, operation or condition which includes any
9 point source defined in sections 644.006 to 644.141 and
10 nonpoint source pursuant to any federal water pollution
11 control act, which causes or permits a water contaminant
12 therefrom to enter waters of the state either directly or
13 indirectly;

14 (26) "Water quality standards", specified concentrations
15 and durations of water contaminants which reflect the
16 relationship of the intensity and composition of water
17 contaminants to potential undesirable effects;

18 (27) "Waters of the state", all waters within the
19 jurisdiction of this state, including all rivers, streams,
20 lakes and other bodies of surface and subsurface water lying
21 within or forming a part of the boundaries of the state which
22 are not entirely confined and located completely upon lands
23 owned, leased or otherwise controlled by a single person or by
24 two or more persons jointly or as tenants in common [and
25 includes waters of the United States lying within the state].

26 644.051. 1. It is unlawful for any person:

27 (1) To cause pollution of any waters of the state or to

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

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

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

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

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

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

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

1 point sources shall be exempt from the construction permit
2 requirements. All activities that are exempted from the
3 construction permit requirement are subject to the following
4 conditions:

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

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

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

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

27 4. Before issuing any permit required by this section,

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

21 5. The director shall grant or deny the permit within
22 sixty days after all requirements of the Federal Water
23 Pollution Control Act concerning issuance of permits have been
24 satisfied unless the application does not require any permit
25 pursuant to any federal water pollution control act. The
26 director or the commission may require the applicant to
27 provide and maintain such facilities or to conduct such tests

1 and monitor effluents as necessary to determine the nature,
2 extent, quantity or degree of water contaminant discharged or
3 released from the source, establish and maintain records and
4 make reports regarding such determination.

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

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

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

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

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

1 request.

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

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

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

12
13 12. The director or the commission may require the
14 filing or posting of a bond as a condition for the issuance of
15 permits for construction of temporary or future water
16 treatment facilities or facilities that utilize innovative
17 technology for wastewater treatment in an amount determined by
18 the commission to be sufficient to ensure compliance with all
19 provisions of sections 644.006 to 644.141, and any rules or
20 regulations of the commission and any condition as to such
21 construction in the permit. For the purposes of this section,
22 "innovative technology for wastewater treatment" shall mean a
23 completely new and generally unproven technology in the type
24 or method of its application that bench testing or theory
25 suggest has environmental, efficiency, and cost benefits
26 beyond the standard technologies. No bond shall be required
27 for designs approved by any federal agency or environmental

1 regulatory agency of another state. The bond shall be signed
2 by the applicant as principal, and by a corporate surety
3 licensed to do business in the state of Missouri and approved
4 by the commission. The bond shall remain in effect until the
5 terms and conditions of the permit are met and the provisions
6 of sections 644.006 to 644.141 and rules and regulations
7 promulgated pursuant thereto are complied with.

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

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

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

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

26 (4) No later than December 31, 2001, the commission
27 shall promulgate regulations defining shorter review time

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

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

22 (6) Nothing in this subsection shall be interpreted to
23 mean that inaction on a permit application shall be grounds to
24 violate any provisions of sections 644.006 to 644.141 or any
25 rules promulgated pursuant to sections 644.006 to 644.141.

26 14. The department shall respond to all requests for
27 individual certification under Section 401 of the Federal

1 Clean Water Act within the lesser of sixty days or the allowed
2 response period established pursuant to applicable federal
3 regulations without request for an extension period unless
4 such extension is determined by the commission to be necessary
5 to evaluate significant impacts on water quality standards and
6 the commission establishes a timetable for completion of such
7 evaluation in a period of no more than one hundred eighty
8 days.

9 15. All permit fees generated pursuant to this chapter
10 shall not be used for the development or expansion of total
11 maximum daily loads studies on either the Missouri or
12 Mississippi rivers.

13 16. The department shall implement permit shield
14 provisions equivalent to the permit shield provisions
15 implemented by the U.S. Environmental Protection Agency
16 pursuant to the Clean Water Act, Section 402(k), 33 U.S.C.
17 Section 1342(k), and its implementing regulations, for permits
18 issued pursuant to chapter 644.

19 17. Prior to the development of a new general permit or
20 reissuance of a general permit for aquaculture, land
21 disturbance requiring a storm water permit, or reissuance of a
22 general permit under which fifty or more permits were issued
23 under a general permit during the immediately preceding
24 five-year period for a designated category of water
25 contaminant sources, the director shall implement a public
26 participation process complying with the following minimum
27 requirements:

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

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

10 (3) The director shall hold a public informational
11 meeting to provide information on anticipated permit
12 conditions and requirements and to receive informal comments
13 from permittees and other interested persons. The director
14 shall include notice of the public informational meeting with
15 the notice of intent to issue a new general permit or reissue
16 a general permit under subdivision (2) of this subsection.
17 The notice of the public informational meeting, including the
18 date, time and location, shall be posted on the department's
19 website at least thirty days in advance of the public meeting.
20 If the meeting is being held for reissuance of a general
21 permit, notice shall also be made by electronic mail to all
22 permittees holding the current general permit which is
23 expiring. Notice to current permittees shall be made at least
24 twenty days prior to the public meeting;

25 (4) The director shall hold a thirty-day public comment
26 period to receive comments on the general permit template with
27 the thirty-day comment period expiring at least sixty days

1 prior to the effective date of the general permit. Scanned
2 copies of the comments received during the public comment
3 period shall be posted on the department's website within five
4 business days after close of the public comment period;

5 (5) A revised draft of a general permit template and the
6 director's response to comments submitted during the public
7 comment period shall be posted on the department's website at
8 least forty-five days prior to issuance of the general permit.
9 At least forty-five days prior to issuance of the general
10 permit the department shall notify all persons who submitted
11 comments to the department that these documents have been
12 posted to the department's website;

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

16 18. Notices required to be made by the department
17 pursuant to subsection 17 of this section may be made by
18 electronic mail. The department shall not be required to make
19 notice to any permittee or other person who has not provided a
20 current electronic mail address to the department. In the
21 event the department chooses to make material modifications to
22 the general permit before its expiration, the department shall
23 follow the public participation process described in
24 subsection 17 of this section.

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

27 644.056. 1. The director shall cause investigations to

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

9 2. If, in the opinion of the director, the investigation
10 discloses that a violation does exist, the director may, by
11 conference, conciliation or persuasion, endeavor to eliminate
12 the violation.

13 3. In case of the failure by conference, conciliation or
14 persuasion to correct or remedy any claimed violation, or as
15 required to immediately and effectively halt or eliminate any
16 imminent or substantial endangerments to the health or welfare
17 of persons resulting from the discharge of pollutants, the
18 director [~~shall~~] may order abatement [~~or file an abatement~~
19 ~~complaint with the commission if no permit has been issued, or~~
20 ~~in addition may file a complaint to revoke a permit if such~~
21 ~~permit has been issued]~~ or request legal action by the
22 attorney general. When the director files a complaint, the
23 commission shall order a hearing. The director shall cause to
24 have issued and served upon the person complained against a
25 written notice of the order or complaint, together with a copy
26 of the order or complaint, which shall specify the provision
27 of sections 644.006 to 644.141 or the standard, rule,

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

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

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

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

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

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