

FIRST REGULAR SESSION

# HOUSE BILL NO. 672

## 92ND GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVES TOWNLEY, MYERS, SCHLOTTACH, ENGLER, DEEKEN,  
BARNITZ, BLACK, CROWELL (Co-sponsors), QUINN, THRELKELD, LIPKE,  
CRAWFORD AND SUTHERLAND.

Read 1<sup>st</sup> time March 13, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2128L.011

---

### AN ACT

To repeal section 643.078, RSMo, and to enact in lieu thereof one new section relating to air operating permits.

---

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

Section A. Section 643.078, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 643.078, to read as follows:

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

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

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

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.**

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

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

28           6. If the director determines that an air contaminant source does not meet the terms and  
29 conditions of the construction permit and that the operation of the source will result in emissions  
30 which exceed the limits established in the construction permit, he **or she** shall not validate the  
31 operating permit. If the source corrects the deficiency, the director shall then validate the  
32 operating permit. If the source is unable to correct the deficiency, then the director and the  
33 applicant may, by mutual agreement, add such terms and conditions to the operating permit  
34 which are deemed appropriate, so long as the emissions from the air contaminant source do not  
35 exceed the limits established in the construction permit, and the director shall validate the  
36 operating permit. The director may add terms and conditions to the operating permit which  
37 allow the source to exceed the emission limits established in the construction permit. In such  
38 a case, the director shall notify the affected public and the commission shall, upon request by any  
39 affected person, hold a public hearing upon the revised operating permit application.

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

43           8. An applicant for a construction permit for an air contaminant source with valid  
44 operating permit may request that the air contaminant source be issued a new five-year operating  
45 permit. The operating permit would be issued in the manner and [under] **pursuant to** the  
46 conditions provided in sections 643.010 to 643.190 and would supersede any existing operating  
47 permit for the source.

48           9. [The director shall take action within thirty days after a request for validation of the  
49 operating permit and shall render a decision within one hundred twenty days of receipt of a  
50 request for issuance of an operating permit for a class B source.] The director shall render a  
51 decision within the time period established in section 502 of the federal Clean Air Act, as

52 amended, 42 U.S.C. 7661, for a class A source. Any affected person may appeal any permit  
53 decision, including failure to render a decision within the time period established in this section,  
54 to the commission.

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

56 11. The director shall not approve an operating permit if he receives an objection to  
57 approval of the permit from the United States Environmental Protection Agency within the time  
58 period specified [under] **pursuant to** Title V of the Clean Air Act, as amended, 42 U.S.C. 7661,  
59 et seq.

60 12. The director shall enforce all applicable federal rules, standards and requirements  
61 issued [under] **pursuant to** the federal Clean Air Act, as amended, 42 U.S.C. 7661, et seq., and  
62 shall incorporate such applicable standards and any limitations established pursuant to Title III  
63 into operating permits as required [under] **pursuant to** Title V of the federal Clean Air Act, as  
64 amended, 42 U.S.C. 7661, et seq.

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

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

78 15. An air contaminant source with a valid operating permit which submits a complete  
79 application for a permit renewal at least six months prior to the expiration of the permit shall be  
80 deemed to have a valid operating permit until the director acts upon its permit application. The  
81 director shall promptly notify the applicant in writing of his **or her** action on the application and  
82 if the operating permit is not issued state the reasons therefor.

83 16. The applicant may appeal to the commission if an operating permit is not issued or  
84 may appeal any condition, suspension, modification or revocation of any permit by filing notice  
85 of appeal with the commission within thirty days of the notice of the director's response to the  
86 request for issuance of the operating permit.

87 17. Any person who obtains a valid operating permit from a city or county pursuant to

88 the authority granted in section 643.140 shall be deemed to have met the requirements of this  
89 section.