

FIRST REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 257

## 92ND GENERAL ASSEMBLY

0602S.23T

2003

---

### AN ACT

To repeal sections 143.121, 148.330, 340.216, 348.015, 348.430, 348.432, 430.030, 640.700, 640.703, 640.710, 640.715, 640.725, 640.730, 640.735, 640.740, 640.745, 640.747, 640.750, 640.755, 640.758, 644.016, and 644.051, RSMo, and to enact in lieu thereof forty new sections relating to agriculture, with penalty provisions.

---

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

Section A. Sections 143.121, 148.330, 340.216, 348.015, 348.430, 348.432, 430.030, 640.700, 640.703, 640.710, 640.715, 640.725, 640.730, 640.735, 640.740, 640.745, 640.747, 640.750, 640.755, 640.758, 644.016, and 644.051, RSMo, are repealed and forty new sections enacted in lieu thereof, to be known as sections 10.150, 143.121, 148.330, 261.250, 261.253, 261.256, 261.259, 261.262, 261.265, 261.268, 261.271, 261.277, 261.283, 261.289, 267.800, 340.216, 348.015, 348.430, 348.432, 430.030, 644.016, 644.051, 644.581, 644.582, 644.583, 644.600, 644.603, 644.610, 644.615, 644.617, 644.625, 644.630, 644.635, 644.640, 644.645, 644.647, 644.650, 644.655, 644.657, and 1, to read as follows:

**10.150. The Missouri native grass (*Andropogon gerardii*) known as "Big Bluestem" is selected for, and shall be known as, the official grass of the state of Missouri.**

143.121. 1. The Missouri adjusted gross income of a resident individual shall be [his] **the taxpayer's** federal adjusted gross income subject to the modifications in this section.

2. There shall be added to [his] **the taxpayer's** federal adjusted gross income:

**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.**

4 (a) The amount of any federal income tax refund received for a prior year which resulted  
5 in a Missouri income tax benefit;

6 (b) Interest on certain governmental obligations excluded from federal gross income by  
7 Section 103 of the Internal Revenue Code. The previous sentence shall not apply to interest on  
8 obligations of the state of Missouri or any of its political subdivisions or authorities and shall not  
9 apply to the interest described in subdivision (a) of subsection 3 of this section. The amount  
10 added [under] **pursuant to** this paragraph shall be reduced by the amounts applicable to such  
11 interest that would have been deductible in computing the taxable income of the taxpayer except  
12 only for the application of Section 265 of the Internal Revenue Code. The reduction shall only  
13 be made if it is at least five hundred dollars;

14 (c) The amount of any deduction that is included in the computation of federal taxable  
15 income [under] **pursuant to** Section 168 of the Internal Revenue Code as amended by the Job  
16 Creation and Worker Assistance Act of 2002 to the extent the amount deducted relates to  
17 property purchased on or after July 1, 2002, but before July 1, 2003, and to the extent the amount  
18 deducted exceeds the amount that would have been deductible [under] **pursuant to** Section 168  
19 of the Internal Revenue Code of 1986 as in effect on January 1, 2002; and

20 (d) The amount of any deduction that is included in the computation of federal taxable  
21 income for net operating loss allowed by Section 172 of the Internal Revenue Code of 1986, as  
22 amended, [except for any deduction] **other than the deduction allowed by Section**  
23 **172(b)(1)(G) and Section 172(i) of the Internal Revenue Code of 1986, as amended,** for a  
24 net operating loss the taxpayer claims in the tax year in which the net operating loss occurred or  
25 carries forward for a period [not to exceed] **of more than** twenty years and carries backward for  
26 [not] more than two years.

27 3. There shall be subtracted from [his] **the taxpayer's** federal adjusted gross income the  
28 following amounts to the extent included in federal adjusted gross income:

29 (a) Interest or dividends on obligations of the United States and its territories and  
30 possessions or of any authority, commission or instrumentality of the United States to the extent  
31 exempt from Missouri income taxes [under] **pursuant to** the laws of the United States. The  
32 amount subtracted [under] **pursuant to** this paragraph shall be reduced by any interest on  
33 indebtedness incurred to carry the described obligations or securities and by any expenses  
34 incurred in the production of interest or dividend income described in this paragraph. The  
35 reduction in the previous sentence shall only apply to the extent that such expenses including  
36 amortizable bond premiums are deducted in determining [his] **the taxpayer's** federal adjusted  
37 gross income or included in [his] **the taxpayer's** Missouri itemized deduction. The reduction  
38 shall only be made if the expenses total at least five hundred dollars;

39 (b) The portion of any gain, from the sale or other disposition of property having a higher  
40 adjusted basis to the taxpayer for Missouri income tax purposes than for federal income tax  
41 purposes on December 31, 1972, that does not exceed such difference in basis. If a gain is  
42 considered a long-term capital gain for federal income tax purposes, the modification shall be  
43 limited to one-half of such portion of the gain;

44 (c) The amount necessary to prevent the taxation [under sections 143.011 to 143.996]  
45 **pursuant to chapter 143** of any annuity or other amount of income or gain which was properly  
46 included in income or gain and was taxed [under] **pursuant to** the laws of Missouri for a taxable  
47 year prior to January 1, 1973, to the taxpayer, or to a decedent by reason of whose death the  
48 taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the  
49 taxpayer received the income or gain;

50 (d) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the  
51 extent that the same are included in federal adjusted gross income;

52 (e) The amount of any state income tax refund for a prior year which was included in the  
53 federal adjusted gross income;

54 (f) The portion of capital gain specified in [subsection 3 of section 144.747] **section**  
55 **135.357**, RSMo, that would otherwise be included in federal adjusted gross income; and

56 (g) The amount that would have been deducted in the computation of federal taxable  
57 income [under] **pursuant to** Section 168 of the Internal Revenue Code as in effect on January  
58 1, 2002, to the extent that amount relates to property purchased on or after July 1, 2002, but  
59 before July 1, 2003, and to the extent that amount exceeds the amount actually deducted [under]  
60 **pursuant to** Section 168 of the Internal Revenue Code as amended by the Job Creation and  
61 Worker Assistance Act of 2002.

62 4. There shall be added to or subtracted from [his] **the taxpayer's** federal adjusted gross  
63 income the taxpayer's share of the Missouri fiduciary adjustment provided in section 143.351.

64 5. There shall be added to or subtracted from [his] **the taxpayer's** federal adjusted gross  
65 income the modifications provided in section 143.411.

148.330. 1. Every such company shall, on or before the first day of March in each year,  
2 make a return, verified by the affidavit of its president and secretary, or other authorized officers,  
3 to the director of the department of insurance stating the amount of all premiums received on  
4 account of policies issued in this state by the company, whether in cash or in notes, during the  
5 year ending on the thirty-first day of December, next preceding. Upon receipt of such returns  
6 the director of the department of insurance shall verify the same and certify the amount of tax  
7 due from the various companies on the basis and at the rates provided in section 148.320, and  
8 shall certify the same to the director of revenue together with the amount of the quarterly

9 installments to be made as provided in subsection 2 of this section, on or before the thirtieth day  
10 of April of each year.

11 2. Beginning January 1, 1983, the amount of the tax due for that calendar year and each  
12 succeeding calendar year thereafter shall be paid in four approximately equal estimated quarterly  
13 installments, and a fifth reconciling installment. The first four installments shall be based upon  
14 the tax for the immediately preceding taxable year ending on the thirty-first day of December,  
15 next preceding. The quarterly installments shall be made on the first day of March, the first day  
16 of June, the first day of September and the first day of December. Immediately after receiving  
17 certification from the director of the department of insurance of the amount of tax due from the  
18 various companies the director of revenue shall notify and assess each company the amount of  
19 taxes on its premiums for the calendar year ending on the thirty-first day of December, next  
20 preceding. The director of revenue shall also notify and assess each company the amount of the  
21 estimated quarterly installments to be made for the calendar year. If the amount of the actual tax  
22 due for any year exceeds the total of the installments made for such year, the balance of the tax  
23 due shall be paid on the first day of June of the year following, together with the regular quarterly  
24 payment due at that time. If the total amount of the tax actually due is less than the total amount  
25 of the installments actually paid, the amount by which the amount paid exceeds the amount due  
26 shall be credited against the tax for the following year and deducted from the quarterly  
27 installment otherwise due on the first day of June. If the March first quarterly installment made  
28 by a company is less than the amount assessed by the director of revenue, the difference will be  
29 due on June first, but no interest will accrue to the state on the difference unless the amount paid  
30 by the company is less than eighty percent of one-fourth of the total amount of tax assessed by  
31 the director of revenue for the immediately preceding taxable year. The state treasurer, upon  
32 receiving the moneys paid as a tax upon such premiums to the director of revenue, shall place  
33 the moneys to the credit of a fund to be known as "The County Stock Insurance Fund", which  
34 is hereby created and established.

35 3. If the estimated quarterly tax installments are not so paid, the director of revenue shall  
36 certify such fact to the director of the division of insurance who shall thereafter suspend such  
37 delinquent company or companies from the further transaction of business in this state until such  
38 taxes shall be paid and such companies shall be subject to the provisions of sections 148.410 to  
39 148.461.

40 4. On or before the first day of September of each year the commissioner of  
41 administration shall apportion all moneys in the county stock insurance fund to the general  
42 revenue fund of the state, to the county treasurer and to the treasurer of the school district in  
43 which the principal office of the company paying the same is located. All premium tax credits  
44 described in sections 135.500 to 135.529, RSMo, **and sections 348.430 and 348.432, RSMo,**

45 shall only reduce the amounts apportioned to the general revenue fund of the state and shall not  
46 reduce any moneys apportioned to the treasurer of the school district in which the principal office  
47 of the company paying the same is located. Apportionments shall be made in the same ratio  
48 which the rates of levy for the same year for state purposes, for county purposes, and for all  
49 school district purposes, bear to each other; provided that any proceeds from such tax for prior  
50 years remaining on hand in the hands of the county collector or county treasurer undistributed  
51 [on the effective date of sections 148.310 to 148.460] and any proceeds of such tax for prior  
52 years collected thereafter shall be distributed and paid in accordance with the provisions of such  
53 sections. Whenever the word "county" occurs herein it shall be construed to include the city of  
54 St. Louis.

261.250. Sections 261.250 to 261.289 shall be known and may be cited as the  
2 "Growers' District Authorization Act".

261.253. As used in sections 261.250 to 261.289, the following terms shall mean:

- 2 (1) "Clerk", the clerk or other official of the municipality or county who is the  
3 custodian of the official records of the municipality or county;
- 4 (2) "District" or "growers' district", a district organized pursuant to sections  
5 261.250 to 261.289;
- 6 (3) "Federal government", the United States of America or any agency or  
7 instrumentality, corporate or otherwise, of the United States of America;
- 8 (4) "Municipality", any incorporated city, town, or village in the state;
- 9 (5) "Person", any individual, firm, partnership, corporation, company, association,  
10 joint stock association, or body politic; and shall include any trustee, receiver, assignee, or  
11 other similar representative thereof;
- 12 (6) "Public body", the state or any municipality, county township, board,  
13 commission, authority, district, or any other subdivision of the state;
- 14 (7) "Real property", all lands, including improvements and fixtures thereon, and  
15 property of any nature appurtenant thereto, or used in connection therewith, and every  
16 estate, interest and right, legal or equitable, therein, including terms for years and liens by  
17 way of judgment, mortgage or otherwise and the indebtedness secured by such liens.

261.256. 1. It is hereby established that growers' districts may be voluntarily  
2 created by Missouri producers raising agricultural crops for food, feed, industrial and  
3 pharmaceutical uses, to be known by the name established by the creators of the growers'  
4 district. Nothing in sections 261.250 to 261.289 shall force any private property owner to  
5 participate in a growers' district.

6 2. Upon organization, each district shall file with the clerk of the circuit court in  
7 the county in which the majority of the district is located and shall adopt bylaws

8 addressing governance of the district, expansion of the district to include new members,  
9 and the exercise of any other powers necessary to effectuate the purposes of sections  
10 261.250 to 261.289.

261.259. 1. The members of a district shall elect a board of commissioners of such  
2 district which shall consist of five commissioners.

3 2. All commissioners of a district shall be owners or operators of land used for the  
4 cultivation of commercial crops within the physical boundaries of the district.

5 3. Commissioners shall be appointed for a term of office of four years except that  
6 all vacancies shall be filled for the unexpired term.

261.262. 1. The powers vested in each district pursuant to sections 261.250 to  
2 261.289 shall be exercised by the board of commissioners thereof. A majority of the  
3 commissioners shall constitute a quorum of such board for the purpose of conducting  
4 business and exercising the powers of the authority and for all other purposes. Action may  
5 be taken by the board upon a vote of a majority of the commissioners present, unless in any  
6 case the bylaws of the authority shall require a larger number. Meetings of the board of  
7 an authority may be held anywhere within the perimeter boundaries of the area of  
8 operation of the authority.

9 2. The commissioners of an authority shall elect a chairman from among the  
10 commissioners. A district may employ attorneys, engineers, agronomists, technical experts  
11 and such other officers, agents and employees, permanent and temporary, as it may  
12 require, and shall determine their qualifications, duties and compensation. A district may  
13 delegate to one or more of its agents or employees such powers or duties as it may deem  
14 proper.

261.265. A commissioner of a district shall receive no compensation for his or her  
2 services, but shall be entitled to the necessary expenses, including traveling expenses,  
3 incurred in the discharge of his or her duties. Each commissioner shall hold office until  
4 such successor has been appointed and qualified.

261.268. For inefficiency or neglect of duty or misconduct in office, a commissioner  
2 of a district may be removed by a majority of the board of commissioners, excluding the  
3 commissioner at issue, but a commissioner shall be removed only after a hearing at which  
4 the commissioner at issue is present and given an opportunity to be heard.

261.271. 1. A district shall have all the powers necessary or convenient to carry out  
2 and effectuate the purposes and provisions of sections 261.250 to 261.289 including the  
3 following powers in addition to other granted herein:

4 (1) To sue and to be sued;

5 (2) To have a seal and to alter the same at pleasure;

6           **(3) To have perpetual succession;**

7           **(4) To make and execute contracts and other instruments necessary or convenient**  
8 **to the exercise of the powers of the authority;**

9           **(5) To make, and from time to time, amend and repeal bylaws, rules and**  
10 **regulations not inconsistent with sections 261.250 to 261.289 to carry out the provisions of**  
11 **sections;**

12           **(6) Adopt regulations;**

13           **(7) Assess charges and penalties as may be necessary to effectuate the purpose of**  
14 **sections 261.250 to 261.289 and according to the regulations established by the district;**

15           **(8) Within its area of operation, to purchase, lease, obtain options upon, acquire**  
16 **by gift, grant, bequest, devise, or otherwise, any real or personal property or any interest**  
17 **therein, including fee simple absolute title, together with any improvements thereon,**  
18 **necessary or incidental to its purposes, to hold, improve, or clear any such property; to sell,**  
19 **lease, exchange, transfer, assign, subdivide, retain for its own use, mortgage, pledge,**  
20 **hypothecate or otherwise encumber or dispose of any real or personal property or any**  
21 **interest therein; to enter into contracts with public agencies containing covenants,**  
22 **restrictions and conditions regarding the use of such property for the district's purposes**  
23 **and such other covenants, restrictions and conditions as the district may deem necessary**  
24 **to effectuate the purposes of sections 261.250 to 261.289; to make any of the covenants,**  
25 **restrictions, or conditions of the foregoing contracts running with the land, and to provide**  
26 **appropriate remedies for any breach of any such covenants, or conditions, including the**  
27 **right in the authority to terminate such contracts and any interest in the property created**  
28 **pursuant thereto; to insure or provide for the insurance of any real or personal property**  
29 **or operations of authority against any risks or hazards, including the power to pay**  
30 **premiums on any such insurance; and to enter into contracts necessary to effectuate the**  
31 **purposes of sections 261.250 to 261.289; provided, however, that no statutory provision**  
32 **with respect to the acquisition, clearance or disposition of property by other public bodies**  
33 **shall restrict an authority or other public bodies exercising powers pursuant to this section,**  
34 **in such functions, unless the general assembly shall specifically so state;**

35           **(9) To invest any funds held in reserves or sinking funds or any funds not required**  
36 **for immediate disbursement, in property or securities in which savings banks may legally**  
37 **invest funds subject to their control;**

38           **(10) To borrow money and to apply for and accept advances, loans, grants,**  
39 **contributions and any other form of financial assistance from the federal government, the**  
40 **state, county, municipality or other public body or from any sources public or private, for**

the purposes of sections 261.250 to 261.289, to give such security as may be required and to enter into and carry out contracts in connection therewith;

(11) Acting through one or more commissioners or other persons designated by the authority, to conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to administer oaths; to make available to appropriate agencies, including those charged with the duty of abating or requiring the correction of nuisances or like conditions, its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, safety, or welfare;

(12) To make such expenditures as may be necessary to carry out the purposes of sections 261.250 to 261.289; and

(13) To exercise all powers or parts or combinations of powers necessary, convenient or appropriate to undertake and carry out all the powers herein granted.

2. A grower district incorporated under the provisions of sections 261.250 to 261.289, shall be dissolved if, at any time the majority of owners the acres of land within said district, petition the circuit court, where said district was incorporated, for a dissolution thereof.

261.277. For the purpose of aiding and cooperating with a district, any public body may, upon such terms, with reasonable consideration, as it may determine:

(1) Dedicate, sell, convey or lease any of its interest in any property, or grant easements, licenses or any other rights or privileges therein to a district;

(2) Cause administrative and other services to be furnished to the authority of the character which the public body is otherwise empowered to undertake or furnish for the same or other purposes;

(3) Do any and all things necessary or convenient to aid and cooperate in the planning or carrying out the purposes of a district;

(4) Lend, grant or contribute funds to a district;

(5) Employ any funds belonging to or within the control of such public body, including funds derived from the sale or furnishing of property, service, or facilities to a district; and

(6) Enter into agreements with a district representing action to be taken by such public body pursuant to any of the powers granted by sections 261.250 to 261.289.

261.283. Any two or more districts may join or cooperate with one another in the exercise of any or all of the powers conferred hereby to effectuate the purposes of sections 261.250 to 261.289.



261.289. The powers conferred by sections 261.250 to 261.289 shall be in addition  
2 and supplemental to the powers conferred by any other law.

267.800. Interstate and intrastate movement of animals pursuant to the health and  
2 management of privately owned domestic and exotic ungulates within the state of the  
3 Missouri shall be under the jurisdiction and control of the Missouri department of  
4 agriculture. Any costs associated with inspections by the department pursuant to this  
5 section shall be at the expense of the owner.

340.216. 1. It is unlawful for any person not licensed as a veterinarian under the  
2 provisions of sections 340.200 to 340.330 to practice veterinary medicine or to do any act which  
3 requires knowledge of veterinary medicine for valuable consideration, or for any person not so  
4 licensed to hold himself or herself out to the public as a practitioner of veterinary medicine by  
5 advertisement, the use of any title or abbreviation with the person's name, or otherwise; except  
6 that nothing in sections 340.200 to 340.330 shall be construed as prohibiting:

7 (1) Any person from gratuitously providing emergency treatment, aid or assistance to  
8 animals where a licensed veterinarian is not available within a reasonable length of time if the  
9 person does not represent himself or herself to be a veterinarian or use any title or degree  
10 appertaining to the practice thereof;

11 (2) Acts of a person who is a student in good standing in a school or college of veterinary  
12 medicine or while working as a student preceptee, in performing duties or functions assigned by  
13 the student's instructors, or while working under the appropriate level of supervision of a licensed  
14 veterinarian as is consistent with the particular delegated animal health care task as established  
15 by board rule, and acts performed by a student in a school or college of veterinary medicine  
16 recognized by the board and performed as part of the education and training curriculum of the  
17 school under the supervision of the faculty. The unsupervised or unauthorized practice of  
18 veterinary medicine, even though on the premises of a school or college of veterinary medicine,  
19 is prohibited;

20 (3) Personnel employed by the United States Department of Agriculture or the Missouri  
21 department of agriculture from engaging in animal disease, parasite control or eradication  
22 programs, or other functions specifically required and authorized to be performed by unlicensed  
23 federal or state officials under any lawful act or statute, except that this exemption shall not apply  
24 to such persons not actively engaged in performing or fulfilling their official duties and  
25 responsibilities;

26 (4) Any merchant or manufacturer from selling drugs, medicine, appliances or other  
27 products used in the prevention or treatment of animal diseases if such drug, medicine, appliance  
28 or other product is not marked by the appropriate federal label. Such merchants or manufacturers

29 shall not, either directly or indirectly, attempt to diagnose a symptom or disease in order to  
30 advise treatment, use of drugs, medicine, appliances or other products;

31 (5) The owner of any animal or animals and the owner's full-time employees from caring  
32 for and treating any animals belonging to such owner, with or without the advice and  
33 consultation of a licensed veterinarian, provided that the ownership of the animal or animals is  
34 not transferred, or employment changed, to avoid the provisions of sections 340.200 to 340.330;  
35 however, only a licensed veterinarian may immunize or treat an animal for diseases which are  
36 communicable to humans and which are of public health significance, except as otherwise  
37 provided for by board rule;

38 (6) Any graduate of any accredited school of veterinary medicine while engaged in a  
39 veterinary candidacy program or foreign graduate from a nonaccredited school or college of  
40 veterinary medicine while engaged in a veterinary candidacy program or clinical evaluation  
41 program, and while under the appropriate level of supervision of a licensed veterinarian  
42 performing acts which are consistent with the particular delegated animal health care task;

43 (7) State agencies, accredited schools, institutions, foundations, business corporations  
44 or associations, physicians licensed to practice medicine and surgery in all its branches, graduate  
45 doctors of veterinary medicine, or persons under the direct supervision thereof from conducting  
46 experiments and scientific research on animals in the development of pharmaceuticals,  
47 biologicals, serums, or methods of treatment, or techniques for the diagnosis or treatment of  
48 human ailments, or when engaged in the study and development of methods and techniques  
49 directly or indirectly applicable to the problems of the practice of veterinary medicine;

50 (8) Any veterinary technician, duly registered by, and in good standing with, the board  
51 from administering medication, appliances or other products for the treatment of animals while  
52 under the appropriate level of supervision as is consistent with the delegated animal health care  
53 task; and

54 (9) A consulting veterinarian while working in a consulting capacity in Missouri while  
55 under the immediate supervision of a veterinarian licensed and in good standing under sections  
56 340.200 to 340.330.

57 2. Nothing in sections 340.200 to 340.330 shall be construed as limiting the board's  
58 authority to provide other exemptions or exceptions to the requirements of licensing as the board  
59 may find necessary or appropriate under its rulemaking authority.

60 **3. Notwithstanding any other provisions of sections 340.200 to 340.330, rule or**  
61 **regulation to the contrary, nothing shall prohibit a licensed physical therapist or their**  
62 **assistant from providing rehabilitation services on animals pursuant to a written**  
63 **prescription of a licensed veterinarian.**

348.015. As used in sections 348.005 to 348.225, the following terms shall mean:

2 (1) "Agricultural development loan", a loan for the acquisition, construction,  
3 improvement, or rehabilitation of agricultural property;

4 (2) "Agricultural property", any land and easements and real and personal property,  
5 including, but not limited to, buildings, structures, improvements, equipment, and livestock,  
6 which is used or is to be used in Missouri by Missouri residents for:

7 (a) The operation of a farm or ranch;

8 (b) Planting, cultivating, or harvesting cereals, natural fibers, fruits, vegetables, or trees;

9 (c) Grazing, feeding, or the care of livestock, poultry, or fish;

10 (d) Dairy production;

11 (e) Storing, transporting, or processing farm and ranch products, including, without  
12 limitation, facilities such as grain elevators, cotton gins, shipping heads, livestock pens,  
13 warehouses, wharfs, docks, creameries, or feed plants; and

14 (f) Supplying and conserving water, draining or irrigating land, collecting, treating, and  
15 disposing of liquid and solid waste, or controlling pollution, as needed for the operations set out  
16 in this subdivision;

17 (3) "Authority", the Missouri agricultural and small business development authority  
18 organized pursuant to the provisions of sections 348.005 to 348.180;

19 (4) "Bonds", any bonds, notes, debentures, interim certificates, bond, grant, or revenue  
20 anticipation notes, or any other evidences of indebtedness;

21 (5) "Borrower", any individual, partnership, corporation, including a corporation or other  
22 entity organized pursuant to section 274.220, RSMo, firm, cooperative, association, trust, estate,  
23 political subdivision, state agency, or other legal entity or its representative executing a note or  
24 other evidence of a loan;

25 (6) "Eligible borrower", a borrower qualifying for an agricultural development loan, a  
26 small business development loan, or a small business pollution control facility loan under such  
27 criteria and priorities as may be established in rules of the authority or in procedural manuals  
28 issued thereunder for the purpose of directing the use of available loan funds on the basis of need  
29 for and value of each loan for the maintenance of the agricultural economy or small business and  
30 on the meeting of pollution control objectives and assuring conformity with conditions  
31 established by insurers or guarantors of loans and the preservation of the security of bonds or  
32 notes issued to finance the loan;

33 (7) "Insurer" or "guarantor", the Farmers Home Administration of the Department of  
34 Agriculture of the United States, the United States Small Business Administration, or any other  
35 or successor agency or instrumentality of the United States having power, or any insurance  
36 company qualified under Missouri law, to insure or guarantee the payment of agricultural

37 development loans, small business development loans, or small business pollution control  
38 facility loans and interest thereon, or any portion thereof;

39 (8) "Lender", any state or national bank, federal land bank, production credit association,  
40 bank for cooperatives, federal or state- chartered savings and loan association or building and  
41 loan association or small business investment company that is subject to credit examination by  
42 an agency of the state or federal government, or any other lending institution approved by the  
43 insurer or guarantor of an agricultural development loan, small business development loan, or  
44 small business pollution control facility loan which undertakes to make or service such a loan;

45 (9) "Pollution", any form of environmental pollution including, but not limited to, water  
46 pollution, air pollution, land pollution, solid waste pollution, thermal pollution, radiation  
47 contamination, or noise pollution;

48 (10) "Pollution control facility" or "facilities", any land, interest in land, building,  
49 structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any  
50 combination thereof, and all real and personal property deemed necessary therewith, having to  
51 do with, or the end purpose of which is, reducing, controlling, or preventing pollution;

52 (11) "Small business", those enterprises which, at the time of their application to the  
53 authority, meet the criteria, as interpreted and applied by the authority, for definition as a "small  
54 business" established for the Small Business Administration and set forth in Section 121.301 of  
55 Part 121 of Title 13 of the Code of Federal Regulations;

56 (12) "Small business development loan", a loan for the acquisition, construction,  
57 improvement, or rehabilitation of property owned or to be acquired by a small business as  
58 defined herein;

59 (13) "Small business pollution control facility loan", a loan for the acquisition,  
60 construction, improvement, or rehabilitation of a pollution control facility or facilities by a small  
61 business;

62 (14) **"Value added agricultural products", any product or products that are the**  
63 **result of:**

64 (a) **Using an agricultural product grown in this state to produce another**  
65 **agricultural product grown in this state;**

66 (b) **A change in the physical state or form of the original agricultural product;**

67 (c) **An agricultural product grown in this state whose value has been enhanced by**  
68 **special production methods such as organically-grown products; or**

69 (d) **A physical segregation of a commodity or agricultural product grown in this**  
70 **state that enhances its value such as identity preserved marketing systems.**

348.430. 1. The tax credit created in this section shall be known as the "Agricultural  
2 Product Utilization Contributor Tax Credit".

3           2. As used in this section, the following terms mean:

4           (1) "Authority", the agriculture and small business development authority as provided  
5 in this chapter;

6           (2) "Contributor", an individual, partnership, corporation, trust, limited liability  
7 company, entity or person that contributes cash funds to the authority;

8           (3) "Development facility", a facility producing either a good derived from an  
9 agricultural commodity or using a process to produce a good derived from an agricultural  
10 product;

11           (4) "Eligible new generation cooperative", a nonprofit cooperative association formed  
12 pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose  
13 of operating a development facility or a renewable fuel production facility;

14           (5) "Eligible new generation processing entity", a partnership, corporation, cooperative,  
15 or limited liability company organized or incorporated pursuant to the laws of this state  
16 consisting of not less than twelve members, approved by the authority, for the purpose of owning  
17 or operating within this state a development facility or a renewable fuel production facility in  
18 which producer members:

19           (a) Hold a majority of the governance or voting rights of the entity and any governing  
20 committee;

21           (b) Control the hiring and firing of management; and

22           (c) Deliver agricultural commodities or products to the entity for processing, unless  
23 processing is required by multiple entities;

24           (6) "Renewable fuel production facility", a facility producing an energy source which is  
25 derived from a renewable, domestically grown, organic compound capable of powering  
26 machinery, including an engine or power plant, and any by-product derived from such energy  
27 source.

28           3. For **all tax [year] years beginning on or after January 1, 1999**, a contributor who  
29 contributes funds to the authority may receive a credit against the tax otherwise due pursuant to  
30 chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo,  
31 chapter 148, RSMo, chapter 147, RSMo, in an amount of up to one hundred percent of such  
32 contribution. The awarding of such credit shall be at the approval of the authority, based on the  
33 least amount of credits necessary to provide incentive for the contributions. A contributor that  
34 receives tax credits for a contribution to the authority shall receive no other consideration or  
35 compensation for such contribution, other than a federal tax deduction, if applicable, and  
36 goodwill. A contributor that receives tax credits for a contribution provided in this section may  
37 not be a member, owner, investor or lender of an eligible new generation cooperative or eligible

38 new generation processing entity that receives financial assistance from the authority either at  
39 the time the contribution is made or for a period of two years thereafter.

40 4. A contributor shall submit to the authority an application for the tax credit authorized  
41 by this section on a form provided by the authority. If the contributor meets all criteria  
42 prescribed by this section and the authority, the authority shall issue a tax credit certificate in the  
43 appropriate amount. Tax credits issued pursuant to this section [shall initially] **may** be claimed  
44 in the taxable year in which the contributor contributes funds to the authority. [Any amount of  
45 credit that exceeds the tax due for a contributor's taxable year] **Tax credits allowed pursuant**  
46 **to this section may immediately be carried back to any of the contributor's three prior tax**  
47 **years and** may be carried forward to any of the contributor's five subsequent taxable years. Tax  
48 credits issued pursuant to this section may be assigned, transferred or sold. Whenever a  
49 certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized  
50 endorsement shall be filed with the authority specifying the name and address of the new owner  
51 of the tax credit or the value of the credit.

52 5. The funds derived from contributions in this section shall be used for financial  
53 assistance or technical assistance for the purposes provided in section 348.407, to rural  
54 agricultural business concepts as approved by the authority. The authority may provide or  
55 facilitate loans, equity investments, or guaranteed loans for rural agricultural business concepts,  
56 but limited to two million dollars per project or the net state economic impact, whichever is less.  
57 Loans, equity investments or guaranteed loans may only be provided to feasible projects, and for  
58 an amount that is the least amount necessary to cause the project to occur, as determined by the  
59 authority. The authority may structure the loans, equity investments or guaranteed loans in a way  
60 that facilitates the project, but also provides for a compensatory return on investment or loan  
61 payment to the authority, based on the risk of the project.

62 6. In any given year, at least ten percent of the funds granted to rural agricultural business  
63 concepts shall be awarded to grant requests of twenty-five thousand dollars or less. No single  
64 rural agricultural business concept shall receive more than two hundred thousand dollars in grant  
65 awards from the authority. Agricultural businesses owned by minority members or women shall  
66 be given consideration in the allocation of funds.

348.432. 1. The tax credit created in this section shall be known as the "New Generation  
2 Cooperative Incentive Tax Credit".

3 2. As used in this section, the following terms mean:

4 (1) "Authority", the agriculture and small business development authority as provided  
5 in this chapter;

6 (2) "Development facility", a facility producing either a good derived from an  
7 agricultural commodity or using a process to produce a good derived from an agricultural  
8 product;

9 (3) "Eligible new generation cooperative", a nonprofit cooperative association formed  
10 pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose  
11 of operating a development facility or a renewable fuel production facility and approved by the  
12 authority;

13 (4) "Eligible new generation processing entity", a partnership, corporation, cooperative,  
14 or limited liability company organized or incorporated pursuant to the laws of this state  
15 consisting of not less than twelve members, approved by the authority, for the purpose of owning  
16 or operating within this state a development facility or a renewable fuel production facility in  
17 which producer members:

18 (a) Hold a majority of the governance or voting rights of the entity and any governing  
19 committee;

20 (b) Control the hiring and firing of management; and

21 (c) Deliver agricultural commodities or products to the entity for processing, unless  
22 processing is required by multiple entities;

23 (5) "Employee-qualified capital project", an eligible new generation cooperative with  
24 capital costs greater than fifteen million dollars which will employ at least [one hundred] **sixty**  
25 employees;

26 (6) "Large capital project", an eligible new generation cooperative with capital costs  
27 greater than one million dollars;

28 (7) "Producer member", a person, partnership, corporation, trust or limited liability  
29 company whose main purpose is agricultural production that invests cash funds to an eligible  
30 new generation cooperative or eligible new generation processing entity;

31 (8) "Renewable fuel production facility", a facility producing an energy source which is  
32 derived from a renewable, domestically grown, organic compound capable of powering  
33 machinery, including an engine or power plant, and any by-product derived from such energy  
34 source;

35 (9) "Small capital project", an eligible new generation cooperative with capital costs of  
36 no more than one million dollars.

37 3. Beginning tax year 1999, and ending December 31, 2002, any producer member who  
38 invests cash funds in an eligible new generation cooperative or eligible new generation  
39 processing entity may receive a credit against the tax otherwise due pursuant to chapter 143,  
40 RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, or chapter

41 148, RSMo, chapter 147, RSMo, in an amount equal to the lesser of fifty percent of such  
42 producer member's investment or fifteen thousand dollars.

43 4. For all tax years beginning on or after January 1, 2003, any producer member who  
44 invests cash funds in an eligible new generation cooperative **or eligible new generation**  
45 **processing entity** may receive a credit against the tax otherwise due pursuant to chapter 143,  
46 RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, chapter 147,  
47 RSMo, or chapter 148, RSMo, in an amount equal to the lesser of fifty percent of such producer  
48 member's investment or fifteen thousand dollars.

49 5. A producer member shall submit to the authority an application for the tax credit  
50 authorized by this section on a form provided by the authority. If the producer member meets  
51 all criteria prescribed by this section and is approved by the authority, the authority shall issue  
52 a tax credit certificate in the appropriate amount. Tax credits issued pursuant to this section  
53 [shall initially be claimed in the taxable year in which the producer member contributes capital  
54 to an eligible new generation cooperative or eligible new generation processing entity. Any  
55 amount of credit that exceeds the tax due for a producer member's taxable year] may be carried  
56 back to any of the producer member's three prior taxable years and carried forward to any of the  
57 producer member's five subsequent taxable years **regardless of the type of tax liability to**  
58 **which such credits are applied as authorized pursuant to subsection 3 of this section.** Tax  
59 credits issued pursuant to this section may be assigned, transferred, sold or otherwise conveyed  
60 and the new owner of the tax credit shall have the same rights in the credit as the producer  
61 member. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise  
62 conveyed, a notarized endorsement shall be filed with the authority specifying the name and  
63 address of the new owner of the tax credit or the value of the credit.

64 6. Ten percent of the tax credits authorized pursuant to this section initially shall be  
65 offered in any fiscal year to small capital projects. If any portion of the ten percent of tax credits  
66 offered to small capital costs projects is unused in any calendar year, then the unused portion of  
67 tax credits may be offered to employee-qualified capital projects and large capital projects. If  
68 the authority receives more applications for tax credits for small capital projects than tax credits  
69 are authorized therefor, then the authority, by rule, shall determine the method of distribution of  
70 tax credits authorized for small capital projects.

71 7. Ninety percent of the tax credits authorized pursuant to this section initially shall be  
72 offered in any fiscal year to employee-qualified capital projects and large capital projects. If any  
73 portion of the ninety percent of tax credits offered to employee-qualified capital projects and  
74 large capital costs projects is unused in any fiscal year, then the unused portion of tax credits may  
75 be offered to small capital projects. The maximum tax credit allowed per employee-qualified  
76 capital project is three million dollars and the maximum tax credit allowed per large capital



77 project is one million five hundred thousand dollars. If the authority approves the maximum tax  
78 credit allowed for any employee-qualified capital project or any large capital project, then the  
79 authority, by rule, shall determine the method of distribution of such maximum tax credit. In  
80 addition, if the authority receives more tax credit applications for employee-qualified capital  
81 projects and large capital projects than the amount of tax credits authorized therefor, then the  
82 authority, by rule, shall determine the method of distribution of tax credits authorized for  
83 employee-qualified capital projects and large capital projects.

430.030. 1. Every person who furnishes labor or material on any horse, mule or other  
2 animal, who shall obtain a written memorandum of the work or material furnished, or to be  
3 furnished, signed by the owner of such horse, mule or other animal, shall have a lien for the  
4 amount of such work or material as is ordered or stated in such written memorandum. **The**  
5 **provisions of this section shall include liens against livestock for veterinary care for any**  
6 **payments overdue by one calendar year.**

7 2. Such lien shall be on such horse, mule or other animal as shall be placed in the  
8 possession of the person furnishing the labor or material; provided, however, that for labor and  
9 material furnished on more than one horse, mule or other animal belonging to the same owner,  
10 the person furnishing such labor and material may, at his option, have a lien on any one or more  
11 of such horses, mules or other animals for the amount of labor and material furnished on all of  
12 such horses, mules and other animals belonging to such owner.

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

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

7 (2) "Commission", the clean water commission of the state of Missouri created in section  
8 644.021;

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

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

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

- 17 (6) "Discharge", the causing or permitting of one or more water contaminants to enter  
18 the waters of the state;
- 19 (7) "Effluent control regulations", limitations on the discharge of water contaminants;
- 20 (8) "General permit", a permit written with a standard group of conditions and with  
21 applicability intended for a designated category of water contaminant sources that have the same  
22 or similar operations, discharges and geographical locations, and that require the same or similar  
23 monitoring, and that would be more appropriately controlled pursuant to a general permit rather  
24 than pursuant to a site-specific permit;
- 25 (9) "Human sewage", human excreta and wastewater, including bath and toilet waste,  
26 residential laundry waste, residential kitchen waste, and other similar waste from household or  
27 establishment appurtenances;
- 28 (10) "Income" includes retirement benefits, consultant fees, and stock dividends;
- 29 (11) "Minor violation", a violation which possesses a small potential to harm the  
30 environment or human health or cause pollution, was not knowingly committed, and is not  
31 defined by the United States Environmental Protection Agency as other than minor;
- 32 (12) "Permit by rule", a permit granted by rule, not by a paper certificate, and  
33 conditioned by the permit holder's compliance with commission rules;
- 34 (13) "Permit holders or applicants for a permit" shall not include officials or employees  
35 who work full time for any department or agency of the state of Missouri;
- 36 (14) "Person", any individual, partnership, copartnership, firm, company, public or  
37 private corporation, association, joint stock company, trust, estate, political subdivision, or any  
38 agency, board, department, or bureau of the state or federal government, or any other legal entity  
39 whatever which is recognized by law as the subject of rights and duties;
- 40 (15) "Point source", any discernible, confined and discrete conveyance, including but not  
41 limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock,  
42 concentrated animal feeding operation, or vessel or other floating craft, from which pollutants  
43 are or may be discharged. **This term does not include agricultural stormwater discharges**  
44 **and return flows from irrigated agriculture;**
- 45 (16) "Pollution", such contamination or other alteration of the physical, chemical or  
46 biological properties of any waters of the state, including change in temperature, taste, color,  
47 turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or  
48 other substance into any waters of the state as will or is reasonably certain to create a nuisance  
49 or render such waters harmful, detrimental or injurious to public health, safety or welfare, or to  
50 domestic, industrial, agricultural, recreational, or other legitimate beneficial uses, or to wild  
51 animals, birds, fish or other aquatic life;

52 (17) "Pretreatment regulations", limitations on the introduction of pollutants or water  
53 contaminants into publicly owned treatment works or facilities which the commission determines  
54 are not susceptible to treatment by such works or facilities or which would interfere with their  
55 operation, except that wastes as determined compatible for treatment pursuant to any federal  
56 water pollution control act or guidelines shall be limited or treated pursuant to this chapter only  
57 as required by such act or guidelines;

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

61 (19) "Sewer system", pipelines or conduits, pumping stations, and force mains, and all  
62 other structures, devices, appurtenances and facilities used for collecting or conducting wastes  
63 to an ultimate point for treatment or handling;

64 (20) "Significant portion of his or her income" shall mean ten percent of gross personal  
65 income for a calendar year, except that it shall mean fifty percent of gross personal income for  
66 a calendar year if the recipient is over sixty years of age, and is receiving such portion pursuant  
67 to retirement, pension, or similar arrangement;

68 (21) "Site-specific permit", a permit written for discharges emitted from a single water  
69 contaminant source and containing specific conditions, monitoring requirements and effluent  
70 limits to control such discharges;

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

73 (23) "Water contaminant", any particulate matter or solid matter or liquid or any gas or  
74 vapor or any combination thereof, or any temperature change which is in or enters any waters of  
75 the state either directly or indirectly by surface runoff, by sewer, by subsurface seepage or  
76 otherwise, which causes or would cause pollution upon entering waters of the state, or which  
77 violates or exceeds any of the standards, regulations or limitations set forth in sections 644.006  
78 to 644.141 or any federal water pollution control act, or is included in the definition of pollutant  
79 in such federal act;

80 (24) "Water contaminant source", the point or points of discharge from a single tract of  
81 property on which is located any installation, operation or condition which includes any point  
82 source defined in sections 644.006 to 644.141 [and nonpoint source pursuant to any federal water  
83 pollution control act], which causes or permits a water contaminant therefrom to enter waters of  
84 the state either directly or indirectly;

85 (25) "Water quality standards", specified concentrations and durations of water  
86 contaminants which reflect the relationship of the intensity and composition of water  
87 contaminants to potential undesirable effects;

88 (26) "Waters of the state", all rivers, streams, lakes and other bodies of surface and  
89 subsurface water lying within or forming a part of the boundaries of the state which are not  
90 entirely confined and located completely upon lands owned, leased or otherwise controlled by  
91 a single person or by two or more persons jointly or as tenants in common and includes waters  
92 of the United States lying within the state.

644.051. 1. It is unlawful for any person:

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

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

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

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

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

20 3. Every proposed water contaminant or point source which, when constructed or  
21 installed or established, will be subject to any federal water pollution control act or sections  
22 644.006 to 644.141 or regulations promulgated pursuant to the provisions of such act shall make  
23 application to the director for a permit at least thirty days prior to the initiation of construction  
24 or installation or establishment. Every water contaminant or point source in existence when  
25 regulations or sections 644.006 to 644.141 become effective shall make application to the  
26 director for a permit within sixty days after the regulations or sections 644.006 to 644.141  
27 become effective, whichever shall be earlier. The director shall promptly investigate each  
28 application, which investigation shall include such hearings and notice, and consideration of such  
29 comments and recommendations as required by sections 644.006 to 644.141 and any federal  
30 water pollution control act. If the director determines that the source meets or will meet the  
31 requirements of sections 644.006 to 644.141 and the regulations promulgated pursuant thereto,

32 the director shall issue a permit with such conditions as he or she deems necessary to ensure that  
33 the source will meet the requirements of sections 644.006 to 644.141 and any federal water  
34 pollution control act as it applies to sources in this state. If the director determines that the  
35 source does not meet or will not meet the requirements of either act and the regulations pursuant  
36 thereto, the director shall deny the permit pursuant to the applicable act and issue any notices  
37 required by sections 644.006 to 644.141 and any federal water pollution control act.  
38 **Notwithstanding the provisions of subsections 1 and 2 of this section to the contrary,**  
39 **notices of violation shall not be issued for a release of a water contaminant from an animal**  
40 **confinement facility or the animal waste application system, excluding lagoons, that is**  
41 **totally confined on the owner's property, so long as it does not enter waters of this state,**  
42 **and clean up begins within twenty-four hours and is remediated as soon as practicable.**

43 4. Before issuing a permit to build or enlarge a water contaminant or point source or  
44 reissuing any permit, the director shall issue such notices, conduct such hearings, and consider  
45 such factors, comments and recommendations as required by sections 644.006 to 644.141 or any  
46 federal water pollution control act. The director shall determine if any state or any provisions  
47 of any federal water pollution control act the state is required to enforce, any state or federal  
48 effluent limitations or regulations, water quality-related effluent limitations, national standards  
49 of performance, toxic and pretreatment standards, or water quality standards which apply to the  
50 source, or any such standards in the vicinity of the source, are being exceeded, and shall  
51 determine the impact on such water quality standards from the source. The director, in order to  
52 effectuate the purposes of sections 644.006 to 644.141, shall deny a permit if the source will  
53 violate any such acts, regulations, limitations or standards or will appreciably affect the water  
54 quality standards or the water quality standards are being substantially exceeded, unless the  
55 permit is issued with such conditions as to make the source comply with such requirements  
56 within an acceptable time schedule. Prior to the development or renewal of a general permit or  
57 permit by rule, for aquaculture, the director shall convene a meeting or meetings of permit  
58 holders and applicants to evaluate the impacts of permits and to discuss any terms and conditions  
59 that may be necessary to protect waters of the state. Following the discussions, the director shall  
60 finalize a draft permit that considers the comments of the meeting participants and post the draft  
61 permit on notice for public comment. The director shall concurrently post with the draft permit  
62 an explanation of the draft permit and shall identify types of facilities which are subject to the  
63 permit conditions. Affected public or applicants for new general permits, renewed general  
64 permits or permits by rule may request a hearing with respect to the new requirements in  
65 accordance with this section. If a request for a hearing is received, the commission shall hold  
66 a hearing to receive comments on issues of significant technical merit and concerns related to  
67 the responsibilities of the Missouri clean water law. The commission shall conduct such

68 hearings in accordance with this section. After consideration of such comments, a final action  
69 on the permit shall be rendered. The time between the date of the hearing request and the  
70 hearing itself shall not be counted as time elapsed pursuant to subdivision (1) of subsection 13  
71 of this section.

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

79 6. The director shall promptly notify the applicant in writing of his or her action and if  
80 the permit is denied state the reasons therefor. The applicant may appeal to the commission from  
81 the denial of a permit or from any condition in any permit by filing notice of appeal with the  
82 commission within thirty days of the notice of denial or issuance of the permit. The commission  
83 shall set the matter for hearing not less than thirty days after the notice of appeal is filed. In no  
84 event shall a permit constitute permission to violate the law or any standard, rule or regulation  
85 promulgated pursuant thereto.

86 7. In any hearing held pursuant to this section the burden of proof is on the applicant for  
87 a permit. Any decision of the commission made pursuant to a hearing held pursuant to this  
88 section is subject to judicial review as provided in section 644.071.

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

93 9. Unless a site-specific permit is requested by the applicant, aquaculture facilities shall  
94 be governed by a general permit issued pursuant to this section with a fee not to exceed two  
95 hundred fifty dollars pursuant to subdivision (5) of subsection 6 of section 644.052. However,  
96 any aquaculture facility which materially violates the conditions and requirements of such permit  
97 may be required to obtain a site-specific permit.

98 10. No manufacturing or processing plant or operating location shall be required to pay  
99 more than one operating fee. Operating permits shall be issued for a period not to exceed five  
100 years after date of issuance, except that general permits shall be issued for a five-year period, and  
101 also except that neither a construction nor an annual permit shall be required for a single  
102 residence's waste treatment facilities. Applications for renewal of an operating permit shall be  
103 filed at least one hundred eighty days prior to the expiration of the existing permit.

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

12. The director or the commission may require the filing or posting of a bond as a condition for the issuance of permits for construction of temporary or future water treatment facilities in an amount determined by the commission to be sufficient to ensure compliance with all provisions of sections 644.006 to 644.141, and any rules or regulations of the commission and any condition as to such construction in the permit. The bond shall be signed by the applicant as principal, and by a corporate surety licensed to do business in the state of Missouri and approved by the commission. The bond shall remain in effect until the terms and conditions of the permit are met and the provisions of sections 644.006 to 644.141 and rules and regulations promulgated pursuant thereto are complied with.

(1) The department shall issue or deny applications for construction and site-specific operating permits received after January 1, 2001, within one hundred eighty days of the department's receipt of an application. For general construction and operating permit applications received after January 1, 2001, that do not require a public participation process, the department shall issue or deny the requested permits within sixty days of the department's receipt of an application.

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

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

(4) No later than December 31, 2001, the commission shall promulgate regulations defining shorter review time periods than the time frames established in subdivision (1) of this subsection, when appropriate, for different classes of construction and operating permits. In no case shall commission regulations adopt permit review times that exceed the time frames established in subdivision (1) of this subsection. The department's failure to comply with the commission's permit review time periods shall result in a refund of said permit fees as set forth in subdivision (2) of this subsection. On a semiannual basis, the department shall submit to the commission a report which describes the different classes of permits and reports on the number of days it took the department to issue each permit from the date of receipt of the application and show averages for each different class of permits.

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

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

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

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

**644.581. In addition to those sums authorized prior to August 28, 2004, the board of fund commissioners of the state of Missouri, as authorized by section 37(e) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum**



4 of ten million dollars in the manner described, and for the purposes set out, in chapter 640,  
5 RSMo, and this chapter.

644.582. In addition to those sums authorized prior to August 28, 2004, the board  
2 of fund commissioners of the state of Missouri, as authorized by section 37(g) of article III  
3 of the Constitution of the state of Missouri, may borrow on the credit of this state the sum  
4 of ten million dollars in the manner described, and for the purposes set out, in chapter 640,  
5 RSMo, and in this chapter.

644.583. In addition to those sums authorized prior to August 28, 2004, the board  
2 of fund commissioners of the state of Missouri, as authorized by section 37(h) of article III  
3 of the Constitution of the state of Missouri, may borrow on the credit of this state the sum  
4 of twenty million dollars in the manner described, and for the purposes set out, in chapter  
5 640, RSMO, and in this chapter.

644.600. Sections 644.600, 644.625, 644.630, 644.635 and 644.650 shall only apply  
2 to class IA facilities which use a flush system.

644.603. For the purposes of sections 644.600 to 644.655, the following terms mean:  
2 (1) "Animal feeding operation" or "AFO", a lot or facility, other than an aquatic  
3 animal production facility, where the following conditions are met:

4 (a) Animals, other than aquatic animals, have been, are, or will be stabled or  
5 confined and fed or maintained for a total of forty-five days or more in any twelve-month  
6 period; and

7 (b) Crops, vegetation, forage growth, or post-harvest residues are not sustained in  
8 the normal growing season over any portion of the lot or facility;

9 (2) "Class I", the same meaning as a large concentrated animal feeding operation  
10 as that term is defined in 40 C.F.R. Section 122.23(b)(4) as of April 14, 2003;

11 (3) "Class IA", any concentrated animal feeding operation with a capacity of at  
12 least seven times the number of animals as described in the definition of a large  
13 concentrated animal feeding operation as that term is defined in 40 C.F.R. Section  
14 122.23(b)(4) as of April 14, 2003;

15 (4) "Class IB", any concentrated animal feeding operation with a capacity of at  
16 least three but less than seven times the number of animals as described in the definition  
17 of a large concentrated animal feeding operation as that term is defined in 40 C.F.R.  
18 Section 122.23(b)(4) as of April 14, 2003;

19 (5) "Class IC", any concentrated animal feeding operation with a capacity of at  
20 least one but less than three times the number of animals as described in the definition of  
21 a large concentrated animal feeding operation as that term is defined in 40 C.F.R. Section  
22 122.23(b)(4) as of April 14, 2003;

23           (6) "Class II", the same meaning as a medium concentrated animal feeding  
24 operation as that term is defined in 40 C.F.R. Section 122.23(b)(6) as of April 14, 2003;

25           (7) "Concentrated animal feeding operation" or "CAFO", an AFO that is defined  
26 as a class I CAFO or class II CAFO, or is designated as a CAFO in accordance with  
27 subsection 2 of section 644.610. Two or more AFOs under common ownership are  
28 considered to be a single AFO for the purposes of determining the number of animals at  
29 an operation if such AFOs adjoin each other or use a common area or system for the  
30 disposal of waste;

31           (8) "Department", the department of natural resources;

32           (9) "Facility", any class IA concentrated animal feeding operation which uses a  
33 flush system;

34           (10) "Flush system", an automated system of moving or removing manure utilizing  
35 liquid as the primary agent as opposed to a primarily mechanical or manually operated  
36 system such as a pull plug or scraper system;

37           (11) "Liquified animal waste handling facility", any concentrated animal feeding  
38 operation that stores animal waste in a lagoon, including all gravity outfall lines, recycle  
39 pump stations, and recycle force mains;

40           (12) "Sensitive areas", areas in the watershed located within five miles upstream  
41 of any stream or river drinking water intake structure, other than those intake structures  
42 on the Missouri and Mississippi rivers.

          644.610. 1. The clean water commission shall have the authority and jurisdiction  
2 to regulate the establishment, permitting, design, construction, operation, and management  
3 of any class I concentrated animal feeding operation. The clean water commission shall  
4 promulgate rules regulating the establishment, permitting, design, construction, operation,  
5 and management of any class I concentrated animal feeding operations. Such rules may  
6 require monitoring wells on a site-specific basis when, in the determination of the division  
7 of geological survey and resource assessment, class IA concentrated animal feeding  
8 operation lagoons are located in hydrologically sensitive areas where the quality of  
9 groundwater may be compromised. Such rules and regulations shall be designed to afford  
10 a prudent degree of environmental protection while accommodating modern agricultural  
11 practices.

12           2. The department may designate an AFO as a concentrated animal feeding  
13 operation upon determining that it is a significant contributor of pollutants to waters of  
14 the state.

15           (1) In making this designation, the department shall consider the following factors:

16           (a) The size of the AFO and the amount of wastes reaching waters of the state;

- 17           (b) The location of the AFO relative to waters of the state;
- 18           (c) The means of conveyance of animal wastes and process wastes into waters of the
- 19 state;
- 20           (d) The slope, vegetation, rainfall, and other factors affecting the likelihood or
- 21 frequency of discharge of animal wastes manure and process waste into waters of the state;
- 22 and
- 23           (e) Other relevant factors.
- 24           (2) No AFO shall be designated under this subsection unless the department has
- 25 conducted an on-site inspection of the operation and determined that the operation should
- 26 and could be regulated as a concentrated animal feeding operation. In addition, no AFO
- 27 with numbers of animals below a class II concentrated animal feeding operation shall be
- 28 designated as a CAFO.

644.615. 1. Prior to filing an application to acquire a construction permit from the

2 department for a new facility or for an increase of animal units to an existing facility, the

3 owner or operator of any class IA concentrated animal feeding operation shall provide the

4 following information to the department, to the county governing body, and to all

5 adjoining property owners of property located within one and one-half times the buffer

6 distance as specified in subsection 4 of section 644.610:

- 7           (1) The number of animals anticipated at such IA facility;
- 8           (2) A general description of the waste handling plan and layout of the facility;
- 9           (3) The location and number of acres of such facility;
- 10           (4) Name, address, telephone number, and registered agent or other appropriate
- 11 contact for further information as it relates to subdivisions (1) to (3) of this subsection;
- 12           (5) A statement explaining that the department will accept written comments from
- 13 the public for a period of thirty days after the department places the draft permit on public
- 14 notice; and
- 15           (6) The address of the department's regional or state office.

16           2. The department shall require proof of such notification prior to processing an

17 application for a construction permit. Proof of notification shall consist of a statement

18 certifying that the notification was accomplished by mailing a letter to the department, the

19 county governing body, and to all adjoining property owners as described in subsection 1

20 of this section at their last known address as maintained by the county assessor's office.

21           3. The department shall not issue a permit to a facility described in subsection 1 of

22 this section to engage in any activity regulated by the department unless the applicant is

23 substantially in compliance with sections 644.600 to 644.655.

24           **4. The department shall issue a permit or respond with a letter of comment to**  
25 **permit applicants within forty-five days of receiving a completed permit application.**

**644.617. Notwithstanding any other provision of law to the contrary, any**  
2 **corporation or cooperative engaged in farming, as defined in section 350.010, RSMo, shall**  
3 **not be eligible for any state tax credits, deductions, state grants, loans, or other financial**  
4 **or economic assistance, unless a family farm or a family farm corporation, as defined in**  
5 **section 350.010, RSMo, receives such credits, deductions, grants, loans, or other assistance.**  
6 **This section does not apply to agricultural processing or food processing facilities.**

**644.625. 1. The owner or operator of any class IA liquified animal waste handling**  
2 **facility utilizing a flush system shall employ one or more persons who shall visually inspect**  
3 **the liquified animal waste handling facility for unauthorized discharge and structural**  
4 **integrity of any lagoon with a water level less than eighteen inches below the emergency**  
5 **spillway at least every twelve hours with a deviation of not to exceed three hours. The**  
6 **owner or operator of the facility shall keep records of each inspection. Such records shall**  
7 **be retained for three years. The department shall provide or approve a form provided by**  
8 **the owner or operator for each facility for such inspections.**

9           **2. All new construction permits for liquified animal waste handling facilities**  
10 **utilizing a flush system shall have an electronic or mechanical shutoff of the system in the**  
11 **event of pipe stoppage. As of July 1, 1997, all existing liquified animal waste handling**  
12 **facilities utilizing a flush system shall have, at a minimum, an electronic or mechanical**  
13 **shutoff of the system in the event of pipe stoppage or backflow.**

**644.630. 1. The owner or operator of every liquified animal waste handling facility**  
2 **utilizing a flush system that poses a risk as determined by the department to any public**  
3 **drinking water supply or any aquatic life, or lies within a drainage basin and is within**  
4 **three hundred feet of any adjacent landowner, shall have a failsafe containment structure**  
5 **or earthen dam that will contain, in the event of an unauthorized discharge, a minimum**  
6 **volume equal to the maximum capacity of flushing in any twenty-four hour period from**  
7 **all gravity outfall lines, recycle pump station and recycle force mains.**

8           **2. Construction of such structure or dam, as provided in subsection 1 of this**  
9 **section, shall commence within ninety days of June 25, 1996.**

**644.635. Within twenty-four hours, any unauthorized discharge by a class IA**  
2 **concentrated animal feeding operation that has crossed the property line of the facility or**  
3 **any unauthorized discharge by a class IA concentrated animal feeding operation that**  
4 **utilizes a flush system of which the failsafe containment structure or earthen dam has**  
5 **failed to contain and has crossed the property line of the facility, or enters waters of the**

6 state shall be reported to the department and to all adjoining property owners of the  
7 facility onto whose property the unauthorized discharge flowed.

644.640. There is hereby established in the state treasury the "Concentrated  
2 Animal Feeding Operation Indemnity Fund", to be known as the "fund" for the purposes  
3 of sections 644.640 to 644.647. All fees or other moneys payable pursuant to the provisions  
4 of section 644.645 or other moneys received including gifts, grants, appropriations, and  
5 bequests from federal, private, or other sources made for the purpose of the provisions of  
6 sections 644.600 to 644.655, shall be payable to and collected by the director of the  
7 department of natural resources and deposited in this fund. The money in this fund, upon  
8 appropriation, shall be expended to close class IA, class IB, class IC and class II  
9 concentrated animal feeding operations as defined in the department's rules, that have  
10 been placed in the control of the government due to bankruptcy or failure to pay property  
11 taxes, or if the class IA, class IB, class IC or class II concentrated animal feeding operation  
12 is abandoned property. "Abandoned property", for the purposes of this section, means  
13 real property previously used for, or which has the potential to be used for, agricultural  
14 purposes which has been placed in the control of the state, a county, or municipal  
15 government, or an agency thereof, through donation, purchase, tax delinquency,  
16 foreclosure, default or settlement, including conveyance by deed in lieu of foreclosure, and  
17 has been vacant for a period of not less than three years. Any portion of the fund not  
18 immediately needed for the purposes authorized shall be invested by the state treasurer as  
19 provided by the constitution and laws of this state. All income from such investments shall  
20 be deposited in the fund. Any unexpended balance in the fund at the end of any  
21 appropriation period shall not be transferred to the general revenue fund and, accordingly,  
22 shall be exempt from the provisions of section 33.080, RSMo, relating to the transfer of  
23 funds to the general revenue funds of the state by the state treasurer.

644.645. 1. The owner or operator of each class IA concentrated animal feeding  
2 operation utilizing a liquified animal waste handling facility shall remit to the department  
3 of natural resources a fee of ten cents per animal unit permitted to be deposited in the  
4 fund. The fee is due and payable to the department on the first anniversary of issuance of  
5 each owner or operator permit to operate such a facility and for nine years thereafter on  
6 the same date. The department of natural resources shall provide forms which such owner  
7 or operator shall use to file and pay this fee.

8 2. The fund shall be administered by the department for the purpose of carrying  
9 out the provisions of sections 644.600 to 644.655, relating to closure of class IA, class IB,  
10 class IC and class II concentrated animal feeding operation wastewater lagoons.

11           **3. The fund administrators may only expend moneys for animal waste lagoon**  
12 **closure activities on real property which:**

13           **(1) Has been placed in the control of the state, a county, or municipal government,**  
14 **or an agency thereof, through donation, purchase, tax delinquency, foreclosure, default or**  
15 **settlement, including conveyance by deed in lieu of foreclosure, and pose a threat to human**  
16 **health, the environment, or a threat to groundwater; and**

17           **(2) The state, county, or municipal government, or an agency thereof, has made**  
18 **reasonable and prudent efforts to sell said property to a qualifying purchaser.**

19           **4. The fund administrators shall expend no more than one hundred thousand**  
20 **dollars per lagoon for animal waste lagoon closure activities. The fund administrators**  
21 **shall only expend those moneys necessary to achieve a minimum level of closure and still**  
22 **protect human health and the environment. Closure activities shall include lagoon**  
23 **dewatering and removal of animal waste sludge, if any, both of which shall be land applied**  
24 **at a nutrient management application rate designed to minimize phosphorus and nitrogen**  
25 **transport from fields to surface waters in compliance with the technical standards for**  
26 **nutrient management established by the director or otherwise used or disposed of in a**  
27 **manner approved by the director. After dewatering, lagoons which are located in a**  
28 **drainage basin and are capable of meeting all applicable pond requirements of the Natural**  
29 **Resources Conservation Service (NRCS) with minimal additional expense should be**  
30 **maintained as a pond. Otherwise, the lagoon berms should be breached and graded in**  
31 **such a manner to reasonably conform to the surrounding land contours.**

**644.647. In the event the department determines that a class IA, class IB, class IC**  
2 **or class II concentrated animal feeding operation has been successfully closed by the owner**  
3 **or operator, all moneys paid by such operation into the concentrated animal feeding**  
4 **operation indemnity fund shall be returned to such operation.**

**644.650. The department shall conduct at least one on-site inspection of each**  
2 **facility quarterly.**

**644.655. 1. No rule or portion of a rule promulgated under the authority of sections**  
2 **644.600 to 644.655 shall become effective unless it has been promulgated pursuant to the**  
3 **provisions of chapter 536, RSMo.**

4           **2. Sections 644.600 to 644.655 shall be administered by the clean water commission**  
5 **pursuant to the provisions and requirements of this chapter.**

6           **3. The provisions of sections 644.600 to 644.655 shall not be construed to apply to**  
7 **any livestock market.**

**644.657. The provisions of this act shall not be construed to apply to any livestock**  
2 **market.**

**Section 1. Any veterinarian licensed and accredited in the state of Missouri is authorized by the Missouri department of agriculture or the federal Animal and Plant Health Inspection Service veterinarian in charge to impose any such restrictions on animals, persons, and vehicles as he or she sees fit to prevent the spread of contagious reportable diseases, a toxic agent, or radioactive contaminated animals of poultry. Any person who obstructs any action by a veterinarian imposing such restrictions shall be guilty of a class A misdemeanor.**

[640.700. Sections 640.700, 640.725, 640.730, 640.735 and 640.750 shall only apply to class IA facilities as defined by the department rules in effect as of January 30, 1996, which use a flush system.]

[640.703. For the purposes of sections 640.700 to 640.755, the following terms mean:

(1) "Animal units", shall be defined by rules of the department in effect as of January 30, 1996;

(2) "Animal waste wet handling facility", includes all gravity outfall lines, recycle pump stations, recycle force mains and appurtenances;

(3) "Class IA", any concentrated animal feeding operation with a capacity of seven thousand animal units or more;

(4) "Class IB", any concentrated animal feeding operation with a capacity between three thousand animal units and six thousand nine hundred and ninety-nine animal units inclusive;

(5) "Class IC", any concentrated animal feeding operation with a capacity between one thousand animal units and two thousand nine hundred and ninety-nine animal units inclusive;

(6) "Class II", any concentrated animal feeding operation with a capacity of at least three hundred animal units, but less than one thousand animal units;

(7) "Department", the department of natural resources;

(8) "Facility", any class IA concentrated animal feeding operation which uses a flush system;

(9) "Flush system", a system of moving or removing manure utilizing liquid as the primary agent as opposed to a primarily mechanical or automatic device;

(10) "Sensitive areas", areas in the watershed located within five miles upstream of any stream or river drinking water intake structure, other than those intake structures on the Missouri and Mississippi rivers.]

[640.710. 1. The department shall promulgate rules regulating the establishment, permitting, design, construction, operation and management of class

I facilities. The department shall have the authority and jurisdiction to regulate the establishment, permitting, design, construction, operation and management of any class I facility. Such rules may require monitoring wells on a site-specific basis when, in the determination of the division of geology and land survey, class IA concentrated animal feeding operation lagoons are located in hydrologically sensitive areas where the quality of groundwater may be compromised. Such rules and regulations shall be designed to afford a prudent degree of environmental protection while accommodating modern agricultural practices.

2. Except as provided in subsections 3 and 4 of this section, the department shall require at least but not more than the following buffer distances between the nearest confinement building or lagoon and any public building or occupied residence, except a residence which is owned by the concentrated animal feeding operation or a residence from which a written agreement for operation is obtained:

(1) For concentrated animal feeding operations with at least one thousand animal units, one thousand feet;

(2) For concentrated animal feeding operations with between three thousand and six thousand nine hundred ninety-nine animal units inclusive, two thousand feet; and

(3) For concentrated animal feeding operations of seven thousand or more animal units, three thousand feet.

3. All concentrated animal feeding operations in existence as of June 25, 1996, shall be exempt from the buffer distances prescribed in subsection 2 of this section. Such distances shall not apply to concentrated animal feeding operations which have received a written agreement which has been signed by all affected property owners within the buffer distance.

4. The department may, upon review of the information contained in the site plan including, but not limited to, the prevailing winds, topography and other local environmental factors, authorize a distance which is less than the distance prescribed in subsection 2 of this section. The department's recommendation shall be sent to the governing body of the county in which such site is proposed. The department's authorized buffer distance shall become effective unless the county governing body rejects the department's recommendation by a majority vote at the next meeting of the governing body after the recommendation is received.

5. Nothing in this section shall be construed as restricting local controls.]

[640.715. 1. Prior to filing an application to acquire a construction permit from the department, the owner or operator of any class IA, class IB, or class IC



concentrated animal feeding operation shall provide the following information to the department, to the county governing body and to all adjoining property owners of property located within one and one-half times the buffer distance as specified in subsection 2 of section 640.710 for the size of the proposed facility:

- (1) The number of animals anticipated at such facility;
- (2) The waste handling plan and general layout of the facility;
- (3) The location and number of acres of such facility;
- (4) Name, address, telephone number and registered agent for further information as it relates to subdivisions (1) to (3) of this subsection;
- (5) Notice that the department will accept written comments from the public for a period of thirty days; and
- (6) The address of the regional or state office of the department.

The department shall require proof of such notification upon accepting an application for a construction permit. The department shall accept written comments from the public for thirty days after receipt of application for construction permit.

2. The department shall not issue a permit to a facility described in subsection 1 of this section to engage in any activity regulated by the department unless the applicant is in compliance with sections 640.700 to 640.755.

3. The department shall issue a permit or respond with a letter of comment to the owner or operator of such facility within forty-five days of receiving a completed permit application and verification of compliance with subsection 1 of this section.]

[640.725. 1. The owner or operator of any flush system animal waste wet handling facility shall employ one or more persons who shall visually inspect the animal waste wet handling facility and lagoons for unauthorized discharge and structural integrity at least every twelve hours with a deviation of not to exceed three hours. The owner or operator of the facility shall keep records of each inspection. Such records shall be retained for three years. The department shall provide or approve a form provided by the owner or operator for each facility for such inspections.

2. All new construction permits for flush system animal waste wet handling facilities shall have an electronic or mechanical shutoff of the system in the event of pipe stoppage. As of July 1, 1997, all existing flush system animal waste wet handling facilities shall have, at a minimum, an electronic or mechanical shutoff of the system in the event of pipe stoppage or backflow.]

[640.730. 1. The owner or operator of every facility, with a flush system animal waste wet handling facility that poses a risk as determined by the department to any public drinking water supply or any aquatic life, or lies within a drainage basin and is within three hundred feet of any adjacent landowner, shall have a failsafe containment structure or earthen dam that will contain, in the event of an unauthorized discharge, a minimum volume equal to the maximum capacity of flushing in any twenty-four hour period from all gravity outfall lines, recycle pump station and recycle force mains.

2. Construction of such structure or dam, as provided in subsection 1 of this section, shall commence within ninety days of June 25, 1996.]

[640.735. Within twenty-four hours, any unauthorized discharge by a flush system animal waste wet handling facility that has crossed the property line of the facility or any unauthorized discharge by a flush system animal waste wet handling facility of which the failsafe containment structure or earthen dam has failed to contain and has crossed the property line of the facility, or enters waters of the state shall be reported to the department and to all adjoining property owners of the facility as listed on the site-specific permit.]

[640.740. There is hereby established in the state treasury the "Concentrated Animal Feeding Operation Indemnity Fund", to be known as the "fund" for the purposes of sections 640.740 to 640.747. All fees or other moneys payable pursuant to the provisions of section 640.745 or other moneys received including gifts, grants, appropriations, and bequests from federal, private or other sources made for the purpose of the provisions of this act shall be payable to and collected by the director of the department of natural resources and deposited in this fund. The money in this fund, upon appropriation, shall be expended to close class IA, class IB, class IC and class II concentrated animal feeding operations as defined in the department's rules, that have been placed in the control of the government due to bankruptcy or failure to pay property taxes, or if the class IA, class IB, class IC or class II concentrated animal feeding operation is abandoned property. "Abandoned property", for the purposes of this section, means real property previously used for, or which has the potential to be used for, agricultural purposes which has been placed in the control of the state, a county, or municipal government, or an agency thereof, through donation, purchase, tax delinquency, foreclosure, default or settlement, including conveyance by deed in lieu of foreclosure, and has been vacant for a period of not less than three years. Any portion of the fund not immediately needed for the purposes authorized shall be invested by the state treasurer as provided by the

constitution and laws of this state. All income from such investments shall be deposited in the fund. Any unexpended balance in the fund at the end of any appropriation period shall not be transferred to the general revenue fund and, accordingly, shall be exempt from the provisions of section 33.080, RSMo, relating to the transfer of funds to the general revenue funds of the state by the state treasurer.]

[640.745. 1. The owner or operator of each class IA concentrated animal feeding operation utilizing flush systems shall remit to the department of natural resources a fee of ten cents per animal unit permitted to be deposited in the fund. The fee is due and payable to the department on the first anniversary of issuance of each owner or operator permit to operate such a facility and for nine years thereafter on the same date. The department of natural resources shall provide forms which such owner or operator shall use to file and pay this fee.

2. The fund shall be administered by the department for the purpose of carrying out the provisions of sections 640.700 to 640.755, relating to closure of class IA, class IB, class IC and class II concentrated animal feeding operation wastewater lagoons.

3. The fund administrators may only expend moneys for animal waste lagoon closure activities on real property which:

(1) Has been placed in the control of the state, a county, or municipal government, or an agency thereof, through donation, purchase, tax delinquency, foreclosure, default or settlement, including conveyance by deed in lieu of foreclosure, and pose a threat to human health, the environment, or a threat to groundwater; and

(2) The state, county, or municipal government, or an agency thereof, has made reasonable and prudent efforts to sell said property to a qualifying purchaser.

4. The fund administrators shall expend no more than one hundred thousand dollars per lagoon for animal waste lagoon closure activities. The fund administrators shall only expend those moneys necessary to achieve a minimum level of closure and still protect human health and the environment. Closure activities shall include lagoon dewatering and removal of animal waste sludge, if any, both of which shall be land applied at a nutrient management application rate based on the most limiting nutrient as determined by Missouri clean water commission regulation. After dewatering, lagoons which are located in a drainage basin and are capable of meeting all applicable pond requirements of the Natural Resources Conservation Service (NRCS) with minimal additional expense should be maintained as a pond.

31           Otherwise, the lagoon berms should be breached and graded in such a manner to  
32           reasonably conform to the surrounding land contours.]

                  [640.747. In the event the department determines that a class IA, class IB,  
2           class IC or class II concentrated animal feeding operation has been successfully  
3           closed by the owner or operator, all moneys paid by such operation into the  
4           concentrated animal feeding operation indemnity fund shall be returned to such  
5           operation.]

                  [640.750. The department shall conduct at least one on-site inspection of  
2           each facility quarterly.]

                  [640.755. 1. No rule or portion of a rule promulgated under the authority of  
2           sections 640.700 to 640.755 shall become effective unless it has been promulgated  
3           pursuant to the provisions of section 536.024, RSMo.

4                     2. Sections 640.700 to 640.755 shall be administered by the clean water  
5           commission pursuant to the provisions and requirements of chapter 644, RSMo.]

                  [640.758. The provisions of this act shall not be construed to apply to any  
2           livestock market.]