

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 159**  
**94TH GENERAL ASSEMBLY**

---

Reported from the Special Committee on Energy and Environment February 20, 2007 with recommendation that House Committee Substitute for House Bill No. 159 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

0717L.03C

---

**AN ACT**

To repeal sections 236.400, 236.410, 236.415, 236.420, 236.425, 236.435, 236.440, 236.445, 236.460, 236.465, and 236.500, RSMo, and to enact in lieu thereof eleven new sections relating to dam and reservoir safety, with penalty provisions.

---

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

Section A. Sections 236.400, 236.410, 236.415, 236.420, 236.425, 236.435, 236.440, 236.445, 236.460, 236.465, and 236.500, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 236.400, 236.410, 236.415, 236.420, 236.425, 236.435, 236.440, 236.445, 236.460, 236.465, and 236.500, to read as follows:

236.400. As used in sections 236.400 to 236.500, standards, rules and regulations promulgated hereunder, unless the context otherwise requires the following words and terms mean:

(1) "Agricultural dam", any dam constructed to impound water for use in irrigation, livestock watering, or commercial fish rearing and sale;

(2) "Alterations", "repairs", or either of them, such alterations or repairs as affect the safety of a dam or reservoir, or public safety, life or property;

(3) "Chief engineer", the head of the dam and reservoir safety program of the department of natural resources or his representative;

(4) "Construction permit", a written authorization issued by the council giving the owner of a high hazard or significant hazard dam the right to construct, alter, enlarge, reduce, repair

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

12 or remove a dam or reservoir or appurtenances thereto, with such conditions as are necessary to  
13 adequately protect the public safety, life, property, the dam or reservoir;

14 (5) "Dam", any artificial or manmade barrier, **including appurtenant works**, which  
15 does or may impound water, and [which impoundment has or may have a surface area of fifteen  
16 or more acres of water at the water storage elevation, or which is thirty-five feet or more in  
17 height from the natural bed of the stream or watercourse measured at the downstream toe of the  
18 barrier or dam, if it is not across a streambed or watercourse, together with appurtenant works.  
19 Sections 236.400 to 236.500 shall not apply to any dam which is not or will not be in excess of  
20 thirty-five feet in height or to any dam or reservoir licensed and operated under the Federal  
21 Power Act] **is twenty-five feet or more in height with a storage volume of at least fifty acre-**  
22 **feet of water. For purposes of this definition, the height of the dam is measured either from**  
23 **the natural bed of the stream or watercourse at the downstream toe of the barrier or dam**  
24 **or the lowest point on the downstream toe of the dam, whichever is lower, up to the dam**  
25 **crest elevation. The storage volume is the amount of water stored in the reservoir below**  
26 **the dam crest elevation;**

27 (6) "Dam and reservoir safety council", as designated by sections 236.400 to 236.500 and  
28 referred to as the "council" shall consist of seven members appointed by the governor according  
29 to the provisions of sections 236.400 to 236.500;

30 (7) **"Dam crest elevation", the lowest elevation of the top surface of the dam**  
31 **exclusive of the spillway;**

32 (8) "Director", the director of the department of natural resources of the state of  
33 Missouri;

34 (9) **"Downstream environment zone", the area downstream of a dam that would**  
35 **be affected by inundation in the event the dam failed with the water level in the lake being**  
36 **at the dam crest level. Inundation is water two feet or more deep around the impacted**  
37 **structure;**

38 [(8)](10) "Enlargement", any change in or addition to an existing dam or reservoir which  
39 raises the height of a dam, increases the watershed for a reservoir, or raises the water storage  
40 elevation of the water impounded by a dam or reservoir;

41 [(9)](11) "Experienced professional engineer", an engineer registered in the state of  
42 Missouri and experienced in hydraulics, hydrology and civil engineering as applied to dam  
43 design and construction;

44 [(10)](12) **"High hazard", loss of human life is probable or expected if the dam**  
45 **were to fail. Loss of life is assumed to occur if the dam fails and permanent dwellings or**  
46 **any public building, campground with permanent water and electrical services, or**  
47 **industrial buildings exist within the downstream environment zone;**

48           **(13) "Industrial building", a permanent, enclosed structure used by groups of**  
49 **workers usually involved in some type of manufacturing, processing, or industrial related**  
50 **process;**

51           **(14) "Low hazard", any dam that is not high hazard or significant hazard;**

52           **(15) "Maintenance", the proper keeping of all aspects of a dam or reservoir and**  
53 **appurtenances thereto, that pertain to safety, in a state of repair and working order as necessary**  
54 **to comply with sections 236.400 to 236.500, any permit hereunder, and protect public safety, life**  
55 **and property;**

56           **[(11)] (16) "Natural physical changes", those changes not directly or indirectly caused**  
57 **by man which affect the safety of the dam or reservoir;**

58           **[(12)] (17) "Operation", the physical changes, natural or manmade that occur or are made**  
59 **to a dam or reservoir, or operation of the mechanisms or appurtenances of the dam or reservoir,**  
60 **which affect or may affect public safety, life or property;**

61           **[(13)] (18) "Operation or operating permit", a written authorization issued by the**  
62 **council giving the owner the right to operate and maintain a high hazard or significant**  
63 **hazard dam for a period of up to five years and indicating that the dam meets the**  
64 **requirements of sections 236.400 to 236.500 and the guidelines, standards, rules, and**  
65 **regulations issued under sections 236.400 to 236.500. The permit shall contain such**  
66 **conditions as to operations, maintenance, and repair as are necessary to protect public**  
67 **safety, life, and the dam or reservoir adequately;**

68           **(19) "Owner", a person who owns, controls, operates, maintains, manages, or proposes**  
69 **to construct a dam or reservoir including:**

70           (b) The state and its departments, institutions, agencies, and political subdivisions, but  
71 not the United States government;

72           (b) A municipal or quasi-municipal corporation;

73           (c) A district;

74           (d) A public utility;

75           (e) A natural person, firm, partnership, association, corporation, political subdivision,  
76 or legal entity;

77           (f) The duly authorized agents, lessees, or trustees of any of the foregoing;

78           (g) Receivers or trustees appointed by any court for any of the foregoing;

79           **(20) "Permanent dwelling", a dwelling occupied at least ninety days a year;**

80           **[(14)] (21) "Permit", a construction[, safety or registration] or operating permit;**

81           **[(15)] (22) "Permit applicant", an owner who applies for a construction[, safety or**  
82 **registration] or operating permit;**

83           **(23) "Public building", a permanent, enclosed structure used by the general public**  
84 **but not necessarily owned by the public;**

85           **(24) "Public utility", a drinking reservoir, drinking water and wastewater**  
86 **treatment facilities, and electrical power plants;**

87           [(16)] **(25) "Reduction", any decrease in the height of a dam, watershed size, or water**  
88 **storage elevation of the water impounded by a dam or reservoir;**

89           [(17)] **"Registration permit", a permit issued for a period not to exceed five years by the**  
90 **council to the owner of a dam or reservoir in existence on September 28, 1979, or which**  
91 **becomes subject to the provisions of sections 236.400 to 236.500 for such dams and reservoirs**  
92 **which are in a properly maintained condition or which have made and complied with**  
93 **recommendations for corrections of observed defects of the dam or reservoir and have been**  
94 **examined and approved in accordance with sections 236.400 to 236.500 and standards, rules and**  
95 **regulations and guidelines issued pursuant to sections 236.400 to 236.500;**

96           [(18)] **(26) "Registration", a written statement submitted to the chief engineer on**  
97 **forms provided by the department, by the owner of a dam or reservoir, including the name**  
98 **of the legal owner, a contact person, the address of the legal owner and contact person, the**  
99 **telephone number of the legal owner and contact person, the height of the dam, the**  
100 **estimated reservoir storage volume at the dam crest elevation, and the general location of**  
101 **the dam;**

102           **(27) "Reservoir", any impoundment which results from a dam as defined in sections**  
103 **236.400 to 236.500;**

104           [(19)] **"Safety permit", a permit issued to the owner for a period of five years, or less if**  
105 **safety considerations so require, by the council indicating that the dam meets the requirements**  
106 **of sections 236.400 to 236.500 and the guidelines, standards, rules and regulations issued**  
107 **pursuant to sections 236.400 to 236.500, and containing such conditions as to operations,**  
108 **maintenance and repair as are necessary to adequately protect public safety, life and the dam or**  
109 **reservoir;**

110           [(20)] **(28) "Significant hazard", no loss of human life expected if the dam were to**  
111 **fail, but significant damage, to public services or infrastructure are probable or expected**  
112 **if the dam were to fail, including, but not limited to, loss of public drinking water supply**  
113 **impounded by such dam or reservoir. Public services and infrastructure are defined as**  
114 **state numbered highways, interstate highways, or public utilities;**

115           **(29) "Water", water, other liquid or tailings;**

116           [(21)] **(30) "Water storage elevation", that elevation of water surface at the principal**  
117 **spillway which could be obtained by the dam or reservoir were there no outflow and were the**  
118 **reservoir full of water;**

119 [(22)] (31) "Watershed", the area, usually expressed in acres of square miles, that  
120 contributes or may contribute surface water to a reservoir.

236.410. 1. There is hereby created a "Dam and Reservoir Safety Council", whose  
2 domicile for the purposes of sections 236.400 to 236.500 shall be the department of natural  
3 resources of the state of Missouri, for the regulation of dam and reservoir safety. The council  
4 shall consist of seven members, no more than four of whom shall be members of the same  
5 political party, appointed by the governor with the advice and consent of the senate.

6 2. The members of the council shall have a background of academic training or  
7 professional experience directly related to the design of dams and reservoirs. At least two  
8 members of the council shall be professional engineers registered in the state of Missouri, one  
9 of whom shall represent the general public; at least one member shall be [an engineering] a  
10 geologist **registered in the state of Missouri whom also has professional geological practice**  
11 **experience relating to dam safety**; at least one member, in addition to the professional  
12 engineer, shall be a representative of the general public; two members shall be from industry, one  
13 of whom shall be earthmoving contractors; and one member shall be the owner of a **regulated**  
14 **high hazard or significant hazard** dam or reservoir. The members shall serve for a term of two  
15 years; except, of the first appointments three shall be appointed for one year. The governor shall  
16 fill any vacancy on the council and may remove any appointed member for cause. The council  
17 shall annually elect a chairman and vice chairman from among its members. The council shall  
18 meet regularly but not less than quarterly. Special meetings and hearings may be called upon  
19 delivery of written notice to each member of the council signed by the director, the chief  
20 engineer, the council chairman or four of the council members. Four members of the council  
21 shall constitute a quorum to transact the business of the council. The council shall decide all  
22 questions by a majority vote of those present and constituting a quorum. The members of this  
23 council shall not receive any compensations other than for actual travel and subsistence when  
24 acting officially as members of the council.

236.415. 1. The council considering recommendations of the chief engineer shall,  
2 subsequent to a public meeting, adopt, subject to the approval of the director, the general  
3 technological guidelines and the standards, guidelines, rules and regulations applicable to  
4 permits, **hazard classification**, the design, construction, maintenance, operation, alteration,  
5 repair, enlargement, reduction, removal or natural physical changes that may occur to a dam or  
6 reservoir. Violations of guidelines, standards, rules and regulations are violations of sections  
7 236.400 to 236.500 permitting the revocation, suspension, or refusal to issue any permit required  
8 by sections 236.400 to 236.500. No standards, guidelines, rules, or regulations shall be adopted,  
9 or any amendment or repeal thereof shall be effective, except after a public hearing to be held  
10 after thirty days' prior notice by advertisement or press release, and publication as required in

11 chapter 536, RSMo, of the date, time and place of the hearing and opportunity given to the public  
12 to be heard.

13 2. At the hearing, opportunity to be heard by the council with respect to the subject  
14 thereof shall be afforded any interested person upon written request to the council, addressed to  
15 the chief engineer, received not later than seven days prior to the hearing and may be afforded  
16 to other persons if convenient. In addition, any interested person, whether or not heard, may  
17 submit, within seven days subsequent to the hearings, a written statement of his views. The  
18 council may solicit the views, in writing, of persons who may be affected by, or interested in,  
19 proposed rules and regulations, standards or guidelines. Any person heard or represented at the  
20 hearing or making written request for notice shall be given written notice of the action of the  
21 council with respect to the subject thereof.

22 3. The council upon hearing the recommendations of the chief engineer and reviewing  
23 the application for a construction or [registration] **operating** permit shall approve or deny the  
24 permit application. The council may delegate authority to approve or deny permit applications  
25 to the chief engineer, whose actions shall be subject to appeal to the council as provided in  
26 subsection 2 of section 236.425.

27 4. No standard, rule or regulation or guideline, or amendment or repeal thereof, adopted  
28 by the council shall be in force and effect until it has been approved in writing by the director and  
29 the requirements of chapter 536, RSMo, are satisfied. The affirmative vote of at least four  
30 members of the council shall be required for adoption.

31 **5. The inspection fee for dams not licensed and operated under the Federal Power**  
32 **Act shall be four hundred fifty dollars per dam per year for high hazard dams and two**  
33 **hundred fifty dollars per dam per year for significant hazard dams. An application fee for**  
34 **new high hazard or significant hazard dams constructed after August 28, 2007, and not**  
35 **licensed or operated under the Federal Power Act shall be assessed a permit application**  
36 **review fee of three thousand dollars or one percent of the actual total cost for construction**  
37 **of the dam, whichever is lower. Inspection fees and construction permit application review**  
38 **fees for dams licensed and operated under the Federal Power Act shall be established by**  
39 **the council. All of the above fees shall be adjusted on July first of every year according to**  
40 **the Engineering News Record inflation factor index for professional engineering services.**  
41 **All agricultural dams shall be exempt from the inspection fee. If the council with the**  
42 **advice of the chief engineer determines that the dam or reservoir is no longer used for**  
43 **agricultural services, it shall become subject to the inspection fee.**

236.420. The council, with the advice and assistance of the chief engineer, shall carry  
2 out a state program of inspection of dams and reservoirs in accordance with regulations adopted  
3 by the council. All **high hazard and significant hazard** dams and reservoirs in this state shall

4 be inspected on a periodic basis to determine if they constitute a threat to public safety, life or  
5 property. **High hazard dams shall be inspected at least every three years, and significant**  
6 **hazard dams shall be inspected at least every five years. Dams licensed and operated**  
7 **under the Federal Power Act shall be inspected yearly.** The chief engineer shall submit  
8 reports to the director and the council concerning the condition of each dam or reservoir  
9 inspected, and recommendations as to any alterations or repairs needed.

236.425. 1. The chief engineer shall administer the provisions of sections 236.400 to  
2 236.500 by:

3 (1) Recommending [general] technological guidelines that pertain to the design,  
4 construction, maintenance, operation, use, alteration, repair, enlargement, reduction, or natural  
5 physical changes of, or that may occur to, a dam or reservoir including their removal[; except  
6 that, detailed technical specifications shall not be promulgated to regulate the design,  
7 construction, operation, maintenance, use, alteration, repair or removal of a dam or reservoir].  
8 Such guidelines shall not be effective until adopted by the council and approved by the director  
9 at a public meeting, after notice requirements set forth in subsection 1 of section 236.415 herein  
10 have been satisfied;

11 (2) Making recommendations concerning the issuing, continuing in effect, revoking,  
12 modifying, suspending, or denying, under such conditions as prescribed by sections 236.400 to  
13 236.500 and such rules as may be adopted to protect public safety, life, property, dams and  
14 reservoirs, construction permits for the construction, alteration, enlargement, reduction, repair  
15 or removal of **high hazard and significant hazard** dams or appurtenances thereto, and [safety  
16 and registration] **operating** permits to [insure] **ensure** continuing protection of public safety, life,  
17 property, dams and reservoirs, for all **high hazard and significant hazard** dams subject to the  
18 provisions of sections 236.400 to 236.500;

19 (3) Making such investigations, including hearings, as are proper to protect public safety,  
20 life and property from an unsafe dam or reservoir, and to determine whether any permits should  
21 be issued, continued, revoked, modified, suspended, or denied or whether any violations of  
22 sections 236.400 to 236.500, standards, or rules or regulations have occurred or are occurring;

23 (4) Entering, at any reasonable time, any private or public premises as necessary to make  
24 an investigation or inspection of a dam or reservoir, or records kept, pertaining thereto, and such  
25 inspection shall follow reasonable notice to the owner given prior to such investigation or  
26 inspection except in the case of an emergency threatening public safety, life or property, in which  
27 case such inspection or investigation may be made without prior notice. A suitably restricted  
28 search warrant, upon a showing of probable cause in writing and upon oath, shall be issued by  
29 any judge having jurisdiction, to the chief engineer or his representative for the purpose of  
30 enabling him to make the inspection.

31           2. The council shall meet with or hear the appeal of a permit applicant and his  
32 representative upon request of the permit applicant if the chief engineer has rejected the  
33 application for a construction[, safety or registration] **or operating** permit.

236.435. 1. Prior to the commencement of the construction, alteration, enlargement,  
2 reduction or removal of a **high hazard or significant hazard** dam or reservoir, the owner shall  
3 apply to the council and upon satisfying the requirements of sections 236.400 to 236.500 and the  
4 rules, regulations and standards promulgated pursuant hereto, obtain a construction permit.

5           2. The application for a construction permit shall bear the seal and signature of an  
6 experienced professional engineer registered in Missouri [or employed by a qualified engineering  
7 division of a state or federal agency regularly engaged in dam construction for soil and water  
8 conservation, or irrigation or relating to wildlife conservation] and shall be accompanied by the  
9 design report and plans and [specification] **specifications** of the proposed design, alteration,  
10 enlargement, reduction, repair or removal of the dam or reservoir. **Geological investigation,**  
11 **interpretation, and report writing done in support of a construction permit application for**  
12 **a high hazard dam shall bear the seal and signature of a geologist or a professional**  
13 **engineer registered in the state of Missouri whom also has professional geological practice**  
14 **experience relating to dam safety.**

15           3. Any person constructing or owning a dam or reservoir, or living or owning property  
16 in an area affected, or whose safety may be affected by such dam or reservoir may consult with  
17 the chief engineer concerning such dam or reservoir.

18           4. The council upon hearing the recommendation of the chief engineer shall approve or  
19 deny an application for a construction permit within forty-five days after its receipt or the  
20 completion of any hearings in connection with such application, whichever is later. The permit  
21 shall be issued upon the receipt of the application if, in the judgment of the council, requirements  
22 of sections 236.400 to 236.500 and all standards, rules and regulations hereunder are satisfied  
23 and the design will be adequate to protect the public safety, life and property.

24           5. The council upon hearing the recommendation of the chief engineer may reject the  
25 application if it decides that there is insufficient information to determine the safety of the  
26 proposed construction, alteration, enlargement, reduction or removal of the dam or reservoir or  
27 that the construction, alteration, enlargement, reduction or removal of the dam or reservoir would  
28 endanger public safety, life or property, or otherwise not comply with sections 236.400 to  
29 236.500 and any rules, standards, guidelines and regulations adopted hereunder.

30           6. A landowner who now owns or proposes to construct an agricultural dam or reservoir  
31 which will be used primarily for agricultural purposes will be exempt from all provisions of  
32 sections 236.400 to 236.500. If the council with the advice of the chief engineer, determines that  
33 the dam or reservoir is no longer used primarily for agricultural services **or is a high or**



34 **significant hazard dam or reservoir**, it shall become subject to the provisions of sections  
35 236.400 to 236.500. **Dams with a significant hazard downstream environment zone**  
36 **classification shall be exempt from the permitting requirements as long as the storage**  
37 **volume of the reservoir at the dam crest elevation is less than one hundred acre-feet.**

38 7. [Dams or their construction, alterations, enlargements, reductions or removals  
39 designed by, and their construction, alteration, enlargement, reduction or repair or removal  
40 monitored by, a qualified engineer regularly engaged in dam construction for soil and water  
41 conservation or irrigation or relating to wildlife conservation are for the purposes of such  
42 construction or other listed actions exempt from the provisions of this section except that the  
43 plans for the dam shall be filed with the chief engineer prior to construction, or other listed  
44 action. Amended plans shall be filed at the completion of construction or other listed action if  
45 there have been significant deviations from the previously filed plans.] **Any dam or reservoir**  
46 **with a surface area of five acres or less at the water storage elevation that will be used**  
47 **primarily for fireclay quarry reclamation under the provisions of the land reclamation**  
48 **commission shall be exempt from all provisions of sections 236.400 to 236.500;**

49 8. **Any dam or reservoir providing thirty or less megawatts that, in the event of**  
50 **catastrophic failure, would emit water that is fully contained on federal property where**  
51 **no permanent structures are located shall be exempt from all provisions of sections 236.400**  
52 **to 236.500.**

236.440. 1. The owner shall notify the council upon completion of construction,  
2 alteration, enlargement, or reduction of the **high hazard or significant hazard** dam or reservoir.  
3 This notification shall bear the seal and signature of an experienced professional engineer and  
4 shall be accompanied by an application for [a safety] **an operating** permit. The owner of any  
5 **high hazard or significant hazard** dam or reservoir subject to the provisions of sections  
6 236.400 to 236.500 shall obtain [a safety] **an operating** permit following completion of  
7 construction.

8 2. Upon receipt of complete and proper application for [a safety] **an operating** permit,  
9 including notification of completion by the owner and certification by an experienced  
10 professional engineer that the new construction, alteration, enlargement or reduction has been  
11 completed in accordance with the provisions of the construction permit and sections 236.400 to  
12 236.500, the council shall upon receipt of the application issue [a safety] **an operating** permit.  
13 The council upon advice of the chief engineer may deny the application if it determines that  
14 violations of the construction permit or sections 236.400 to 236.500 exist. If revisions have been  
15 made which vary substantially from the provisions of the construction permit, it must be shown  
16 that the revisions do not endanger public safety, life or property. The [safety] **operating** permit  
17 for dams constructed pursuant to a construction permit issued under sections 236.400 to 236.500,

18 may contain conditions the council upon advice of the chief engineer determines are necessary  
19 for the protection of public safety, life and property and a schedule and timetable for the dam and  
20 reservoir to achieve compliance with the construction permit and provisions of sections 236.400  
21 to 236.500, standards, rules and regulations promulgated hereunder, but such conditions shall  
22 not be more stringent or restrictive than those contained in the construction permit.

23 3. [Owners of dams and reservoirs in existence on September 28, 1979, shall obtain  
24 registration permits for dams of fifty to seventy feet in height within four years, and for dams up  
25 to fifty feet in height within six years of September 28, 1979, or as otherwise required by the  
26 provisions of sections 236.400 to 236.500 and rules and regulations adopted hereunder. A  
27 registration] **An operating** permit shall be issued by the council upon the advice of the chief  
28 engineer for dams and reservoirs only after it is determined that the **high hazard or significant**  
29 **hazard** dam meets the standards of sections 236.400 to 236.500 and rules and regulations  
30 hereunder, and any recommendations made by the inspecting engineer pursuant thereto.

31 4. **Owners of all dams in existence on or constructed after August 28, 2007, who do**  
32 **not have a current registration or safety permit issued prior to August 28, 2007, shall**  
33 **register the existence of their dam with the chief engineer no later than six months after**  
34 **August 28, 2007, and the owners of high hazard or significant hazard dams shall apply for**  
35 **an operating permit no later than one year after August 28, 2007, or at such other future**  
36 **time as the council shall adopt by rule.**

37 5. **Owners of a dam or reservoir licensed and operating under the Federal Power**  
38 **Act, 16 U.S.C. Section 791a, et Seq., as amended, shall apply for an operating permit no**  
39 **later than three months after August 28, 2007.**

40 6. Upon complete and proper application for [a registration] **an operating** permit, on  
41 forms provided by the department of natural resources, by the owner of a **high hazard or**  
42 **significant hazard** dam [in existence upon September 28, 1979, including a certification by an  
43 experienced professional engineer or an engineering division of a state or federal agency  
44 regularly engaged in dam construction for soil or water conservation, irrigation, or relating to  
45 wildlife conservation,] that the dam has been inspected in accordance with sections 236.400 to  
46 236.500, standards, rules and regulations and guidelines promulgated hereunder, and that the  
47 owner has complied with the inspecting engineer's [or agency's] recommendations necessary to  
48 correct observed defects of the dam or reservoir, the council shall, upon receipt of the  
49 application, issue [a registration] **an operating** permit. The council upon hearing the  
50 recommendations of the chief engineer may deny the application if it determines that the owner  
51 has not complied with the inspecting engineer's [or agency's] recommendations.

52 [5.] 7. For **high hazard or significant hazard** dams for which construction was  
53 completed prior to the effective date of the construction permit requirements hereunder, the

54 [registration] **operating** permit may contain conditions the council upon hearing  
55 recommendations of the chief engineer determines to be necessary to bring the dam and reservoir  
56 into compliance with sections 236.400 to 236.500 and standards, rules and regulations  
57 promulgated hereunder.

58 [6.] **8.** If a **high hazard or significant hazard** dam or reservoir has been removed by  
59 the owner, the council shall issue a final approval upon notification by the owner and receipt of  
60 certification by an experienced professional engineer that the removal has been carried out in  
61 accordance with the provisions of the construction permit issued for such removal. Failure to  
62 obtain final approval shall be a violation of sections 236.400 to 236.500.

63 [7. The council shall issue safety permits for dams or their construction, alterations,  
64 enlargements, reductions or removals designed by, and their construction or other listed actions  
65 monitored by, a state or federal agency engaged in dam construction for soil and water  
66 conservation, irrigation or relating to wildlife conservation provided the owners obtain from such  
67 agency and file with the chief engineer a statement upon completion of the construction or other  
68 listed actions and at not greater than five year intervals, and with every application for renewal  
69 of a safety permit, that the dam conforms to the plans on file with the chief engineer and is in a  
70 safe, properly maintained condition.

71 **8.] 9.** The owner shall apply for renewal of [a safety or registration] **an operating** permit  
72 not less than sixty days prior to expiration of the previously issued permit. The chief engineer  
73 shall determine if the dam and reservoir are essentially as described in the latest permit issued  
74 for that dam and reservoir, whether they satisfy the requirements of sections 236.400 to 236.500  
75 and any rules, regulations, standards and guidelines adopted pursuant to sections 236.400 to  
76 236.500 and whether any inspection conducted in connection with the permit renewal reveals  
77 any defect in the dam or reservoir which would threaten public safety, life or property. Unless  
78 the chief engineer determines that the dam and reservoir are not properly maintained, do not  
79 satisfy the requirements of the permit, act or rules, regulations, standards and guidelines  
80 promulgated hereunder, or that defects revealed by the inspection are not corrected, the council  
81 upon hearing the recommendations of the chief engineer shall issue or renew the [safety or  
82 registration] **operating** permit upon forty-five days of the receipt of a complete and proper  
83 application. The council may require the owner to furnish a certification, as a part of an  
84 application to renew a permit hereunder, by an experienced professional engineer [or a qualified  
85 engineering division of a state or federal agency regularly engaged in dam construction for water  
86 conservation, irrigation or relating to wildlife conservation] that the dam is in a properly  
87 maintained condition and that any recommendation for correction of defects which violate  
88 sections 236.400 to 236.500, guidelines, rules, regulations and standards hereunder or which

89 threaten public safety, life or property have been complied with and that the engineer detected  
90 no other such defects which have not been corrected.

91 [9.] **10.** If a barrier or water impoundment becomes a dam or reservoir through alteration  
92 or enlargement as defined herein, it shall be subject to the provisions of sections 236.400 to  
93 236.500, **and the owner shall register the dam with the council immediately.**

94 **11. If downstream conditions change the hazard classification of any dam or**  
95 **reservoir, it shall be immediately subject to the provisions of sections 236.400 to 236.500**  
96 **for that new class.**

97 [10.] **12.** Failure to obtain and comply with a permit as required in this section is a  
98 violation of sections 236.400 to 236.500.

236.445. 1. If it is found that a **high hazard or significant hazard** dam or reservoir  
2 presents a threat to public safety, life or property, or that the safety of the dam or reservoir is  
3 threatened, the permit for the dam or reservoir shall be suspended and shall be reinstated only  
4 when the owner at his expense has completed the necessary alteration or has established such  
5 operational procedures as the council upon hearing the recommendations of the chief engineer  
6 deems necessary for protection of the public safety, life, property, the dam or reservoir. If  
7 necessary for such protection, the council may require the owner at his expense to remove the  
8 dam or reservoir, or if the owner refuses or neglects to act, the state may alter or remove the dam  
9 or reservoir, and the chief engineer may recover the costs of such action as provided in section  
10 236.450.

11 2. If the owner refuses to alter or remove a dam or reservoir as directed when found to  
12 be a threat as set forth in sections 236.400 to 236.500, he shall be in violation of sections  
13 236.400 to 236.500 and the permit requirements hereunder, and such action shall subject the  
14 owner to the enforcement provisions contained herein and revocation of the permit.

236.460. **1.** The owner shall notify the chief engineer upon the sale or other transfer of  
2 interest in a dam or reservoir, either existing or under construction, alteration or removal. The  
3 construction[, safety or registration] **or operating** permit shall be transferred to the successive  
4 owner, **along with notification of the current hazard classification of the dam,** upon receipt  
5 of this notification and upon determination that such transfer will not endanger public safety, life,  
6 property, the dam or reservoir.

7 **2. Failure to notify the chief engineer of the transfer shall result in the prior owner**  
8 **retaining the obligations imposed by sections 236.400 to 236.500 until such time as the chief**  
9 **engineer is notified. In the event that the prior owner is a corporation and the corporation**  
10 **fails to transfer ownership or interest because of the dissolution or bankruptcy of the**  
11 **corporation, then the officers, directors, and stockholders, if any, individually shall have**  
12 **all obligations imposed by sections 236.400 to 236.500.**

236.465. Irrespective of any other provisions of sections 236.400 to 236.500, the following provisions shall apply to the construction, alteration or enlargement of tailing, slime and settling ponds and to other similar industrial water retention structures included within the definitions of dam or reservoir in section 236.400:

(1) Applications for construction[, safety or registration] **and operating** permits shall be submitted as provided in section 236.435 and section 236.440 except that design plans and specifications which outline any anticipated enlargement of the industrial water retention structure shall be included;

(2) It shall not be necessary to reapply for a permit each time the structure is enlarged if the enlargement plans have been submitted in and approved with the original application, and the provisions of subdivision (3) of this section have been satisfied;

(3) Upon notification of the chief engineer, bearing the seal and signature of an experienced professional engineer, that the initial phase of construction has been completed in accordance with the provisions of the construction permit and sections 236.400 to 236.500, or if [a registration] **an operating** permit has been issued as provided in subdivision (1) of this section, and before any enlargement is begun, and if no violation of sections 236.400 to 236.500 can be shown, [a safety permit or a registration] **an operating** permit with special provisions that authorize the planned enlargement to the initially constructed structure shall be issued, on application, if enlargement plans were included and approved in the original application;

(4) It is not necessary to retain continuously a professional engineer after the initial stage of construction;

(5) The dam shall be inspected by an experienced professional engineer registered in the state of Missouri as required to renew the [safety permit or registration] **operating** permit at five-year intervals unless safety of the public, life and property require a shorter period of time;

(6) The chief engineer shall make inspections of these structures as necessary to insure adequate protection for public safety, life and property[;

(7) Where it is shown that a tailings, slime and settling pond, or other similar water retention structure is subject to inspection for safety, using standards at least as stringent as those required under sections 236.400 to 236.500, by a federal or state agency and the owner notifies the council that the structure is subject to such inspection, such structures shall be exempt from the provisions of sections 236.400 to 236.500].

236.500. 1. Any person who willfully violates any of the provisions of sections 236.400 to 236.500 is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than five hundred dollars nor more than ten thousand dollars, or by confinement in the county jail for a term of not less than thirty days nor more than one year, or by both such fine and confinement.

6           2. In the event of a continuing violation, each day that the violation continues shall  
7 constitute a separate and distinct offense.

8           3. Any person who willfully obstructs, hinders or prevents the council, the chief engineer  
9 or his agents or employees from performing the duties imposed by sections 236.400 to 236.500  
10 and rules and regulations promulgated hereunder or who willfully resists the council, the chief  
11 engineer or his agents in the performance of the duties imposed on them by sections 236.400 to  
12 236.500 and rules and regulations promulgated hereunder is guilty of a misdemeanor and, upon  
13 conviction, shall be punished as provided in subsection 1 of this section.

14           4. Any owner who willfully engages in the construction, repair, alteration or removal of  
15 any **high hazard or significant hazard** dam or reservoir without a construction permit or in  
16 violation of a construction permit or willfully violates the requirements of or for [a safety or  
17 registration] **an operating** permit is guilty of a misdemeanor and, upon conviction, shall be  
18 punished as provided in subsection 1 of this section.

✓