

House _____ Amendment NO. _____

Offered By

1 AMEND Senate Committee Substitute for Senate Bill No. 642, Page 1, in the Title , Line 3, by
2 deleting the words "surface mining" and inserting in lieu thereof the words "natural resources"; and
3

4 Further amend said bill and page, Section A, Line 3, by inserting after all of said section and line the
5 following:
6

7 "260.273. 1. Any person purchasing a new tire may present to the seller the used tire or remains of
8 such used tire for which the new tire purchased is to replace.

9 2. A fee for each new tire sold at retail shall be imposed on any person engaging in the
10 business of making retail sales of new tires within this state. The fee shall be charged by the retailer
11 to the person who purchases a tire for use and not for resale. Such fee shall be imposed at the rate of
12 fifty cents for each new tire sold. Such fee shall be added to the total cost to the purchaser at retail
13 after all applicable sales taxes on the tires have been computed. The fee imposed, less six percent of
14 fees collected, which shall be retained by the tire retailer as collection costs, shall be paid to the
15 department of revenue in the form and manner required by the department of revenue and shall
16 include the total number of new tires sold during the preceding month. The department of revenue
17 shall promulgate rules and regulations necessary to administer the fee collection and enforcement.
18 The terms "sold at retail" and "retail sales" do not include the sale of new tires to a person solely for
19 the purpose of resale, if the subsequent retail sale in this state is to the ultimate consumer and is
20 subject to the fee.

21 3. The department of revenue shall administer, collect and enforce the fee authorized
22 pursuant to this section pursuant to the same procedures used in the administration, collection and
23 enforcement of the general state sales and use tax imposed pursuant to chapter 144 except as
24 provided in this section. The proceeds of the new tire fee, less four percent of the proceeds, which
25 shall be retained by the department of revenue as collection costs, shall be transferred by the
26 department of revenue into an appropriate subaccount of the solid waste management fund, created
27 pursuant to section 260.330.

28 4. Up to five percent of the revenue available may be allocated, upon appropriation, to the
29 department of natural resources to be used cooperatively with the department of elementary and
30 secondary education for the purposes of developing environmental educational materials, programs,
31 and curriculum that assist in the department's implementation of sections 260.200 to 260.345.

32 5. Up to fifty percent of the moneys received pursuant to this section may, upon
Action Taken _____ Date _____

1 appropriation, be used to administer the programs imposed by this section. Up to forty-five percent
 2 of the moneys received under this section may, upon appropriation, be used for the grants authorized
 3 in subdivision (2) of subsection 6 of this section. All remaining moneys shall be allocated, upon
 4 appropriation, for the projects authorized in section 260.276, except that any unencumbered moneys
 5 may be used for public health, environmental, and safety projects in response to environmental or
 6 public health emergencies and threats as determined by the director.

7 6. The department shall promulgate, by rule, a statewide plan for the use of moneys received
 8 pursuant to this section to accomplish the following:

- 9 (1) Removal of [waste] scrap tires from illegal tire dumps;
- 10 (2) Providing grants to persons that will use products derived from [waste] scrap tires, or
 11 [used waste] use scrap tires as a fuel or fuel supplement; and
- 12 (3) Resource recovery activities conducted by the department pursuant to section 260.276.

13 7. The fee imposed in subsection 2 of this section shall begin the first day of the month
 14 which falls at least thirty days but no more than sixty days immediately following August 28, 2005,
 15 and shall terminate January 1, [2015] 2020.

16 260.279. In letting contracts for the performance of any job or service for the removal or
 17 clean up of [waste] scrap tires under this chapter, the department of natural resources shall, in
 18 addition to the requirements of sections 34.073 and 34.076 and any other points awarded during the
 19 evaluation process, give to any vendor that meets one or more of the following factors a five percent
 20 preference and ten bonus points for each factor met:

21 (1) The bid is submitted by a vendor that has resided or maintained its headquarters or
 22 principal place of business in Missouri continuously for the two years immediately preceding the
 23 date on which the bid is submitted;

24 (2) The bid is submitted by a nonresident corporation vendor that has an affiliate or
 25 subsidiary that employs at least twenty state residents and has maintained its headquarters or
 26 principal place of business in Missouri continuously for the two years immediately preceding the
 27 date on which the bid is submitted;

28 (3) The bid is submitted by a vendor that resides or maintains its headquarters or principal
 29 place of business in Missouri and, for the purposes of completing the bid project and continuously
 30 over the entire term of the project, an average of at least seventy-five percent of such vendor's
 31 employees are Missouri residents who have resided in the state continuously for at least two years
 32 immediately preceding the date on which the bid is submitted. Such vendor must certify the
 33 residency requirements of this subdivision and submit a written claim for preference at the time the
 34 bid is submitted;

35 (4) The bid is submitted by a nonresident vendor that has an affiliate or subsidiary that
 36 employs at least twenty state residents and has maintained its headquarters or principal place of
 37 business in Missouri and, for the purposes of completing the bid project and continuously over the
 38 entire term of the project, an average of at least seventy-five percent of such vendor's employees are
 39 Missouri residents who have resided in the state continuously for at least two years immediately
 40 preceding the date on which the bid is submitted. Such vendor must certify the residency
 41 requirements of this section and submit a written claim for preference at the time the bid is

1 submitted;

2 (5) The bid is submitted by any vendor that provides written certification that the end use of
3 the tires collected during the project will be for fuel purposes or for the manufacture of a useable
4 good or product. For the purposes of this section, the landfilling of [waste] scrap tires, [waste] scrap
5 tire chips, or [waste] scrap tire shreds in any manner, including landfill cover, shall not permit the
6 vendor a preference.

7 260.355. Exempted from the provisions of sections 260.350 to 260.480 are:

8 (1) Radioactive wastes regulated under section 2011, et seq., of title 42 of United States
9 Code;

10 (2) Emissions to the air subject to regulation of and which are regulated by the Missouri air
11 conservation commission pursuant to chapter 643;

12 (3) Discharges to the waters of this state pursuant to a permit issued by the Missouri clean
13 water commission pursuant to chapter 204;

14 (4) Fluids injected or returned into subsurface formations in connection with oil or gas
15 operations regulated by the Missouri oil and gas council pursuant to chapter 259;

16 (5) Mining wastes used in reclamation of mined lands pursuant to a permit issued by the
17 Missouri [land reclamation] mining commission pursuant to chapter 444.

18 260.380. 1. After six months from the effective date of the standards, rules and regulations
19 adopted by the commission pursuant to section 260.370, hazardous waste generators located in
20 Missouri shall:

21 (1) Promptly file and maintain with the department, on registration forms it provides for this
22 purpose, information on hazardous waste generation and management as specified by rules and
23 regulations. Hazardous waste generators shall pay a one hundred dollar registration fee upon initial
24 registration, and a one hundred dollar registration renewal fee annually thereafter to maintain an
25 active registration. Such fees shall be deposited in the hazardous waste fund created in section
26 260.391;

27 (2) Containerize and label all hazardous wastes as specified by standards, rules and
28 regulations;

29 (3) Segregate all hazardous wastes from all nonhazardous wastes and from noncompatible
30 wastes, materials and other potential hazards as specified by standards, rules and regulations;

31 (4) Provide safe storage and handling, including spill protection, as specified by standards,
32 rules and regulations, for all hazardous wastes from the time of their generation to the time of their
33 removal from the site of generation;

34 (5) Unless provided otherwise in the rules and regulations, utilize only a hazardous waste
35 transporter holding a license pursuant to sections 260.350 to 260.430 for the removal of all
36 hazardous wastes from the premises where they were generated;

37 (6) Unless provided otherwise in the rules and regulations, provide a separate manifest to the
38 transporter for each load of hazardous waste transported from the premises where it was generated.
39 The generator shall specify the destination of such load on the manifest. The manner in which the
40 manifest shall be completed, signed and filed with the department shall be in accordance with rules
41 and regulations;

1 (7) Utilize for treatment, resource recovery, disposal or storage of all hazardous wastes, only
2 a hazardous waste facility authorized to operate pursuant to sections 260.350 to 260.430 or the
3 federal Resource Conservation and Recovery Act, or a state hazardous waste management program
4 authorized pursuant to the federal Resource Conservation and Recovery Act, or any facility
5 exempted from the permit required pursuant to section 260.395;

6 (8) Collect and maintain such records, perform such monitoring or analyses, and submit such
7 reports on any hazardous waste generated, its transportation and final disposition, as specified in
8 sections 260.350 to 260.430 and rules and regulations adopted pursuant to sections 260.350 to
9 260.430;

10 (9) Make available to the department upon request samples of waste and all records relating
11 to hazardous waste generation and management for inspection and copying and allow the department
12 to make unhampered inspections at any reasonable time of hazardous waste generation and
13 management facilities located on the generator's property and hazardous waste generation and
14 management practices carried out on the generator's property;

15 (10) (a) Pay annually, on or before January first of each year, effective January 1, 1982, a
16 fee to the state of Missouri to be placed in the hazardous waste fund. The fee shall be five dollars per
17 ton or portion thereof of hazardous waste registered with the department as specified in subdivision
18 (1) of this subsection for the twelve-month period ending June thirtieth of the previous year.
19 However, the fee shall not exceed fifty-two thousand dollars per generator site per year nor be less
20 than one hundred fifty dollars per generator site per year.

21 (b) All moneys payable pursuant to the provisions of this subdivision shall be promptly
22 transmitted to the department of revenue, which shall deposit the same in the state treasury to the
23 credit of the hazardous waste fund created in section 260.391.

24 (c) The hazardous waste management commission shall establish and submit to the
25 department of revenue procedures relating to the collection of the fees authorized by this
26 subdivision. Such procedures shall include, but not be limited to, necessary records identifying the
27 quantities of hazardous waste registered, the form and submission of reports to accompany the
28 payment of fees, the time and manner of payment of fees, which shall not be more often than
29 quarterly.

30 (d) Notwithstanding any statutory fee amounts or maximums to the contrary, the director of
31 the department of natural resources may conduct a comprehensive review [of] and propose changes
32 to the fee structure set forth in this section. The comprehensive review shall include stakeholder
33 meetings in order to solicit stakeholder input from each of the following groups: cement kiln
34 representatives, chemical companies, large and small hazardous waste generators, and any other
35 interested parties. Upon completion of the comprehensive review, the department shall submit a
36 proposed [changes to the] fee structure with stakeholder agreement to the hazardous waste
37 management commission. The commission shall[, upon receiving the department's
38 recommendations,] review such recommendations at the forthcoming regular or special meeting, but
39 shall not vote on the fee structure until a subsequent meeting. [The commission shall not take a vote
40 on the fee structure until the following regular meeting.] If the commission approves, by vote of
41 two-thirds majority or five of seven commissioners, the [hazardous waste] fee structure

1 recommendations, the commission shall [promulgate by regulation and publish the recommended fee
 2 structure no later than October first of the same year. The commission shall] authorize the
 3 department to file a notice of proposed rulemaking containing the recommended fee structure, and
 4 after considering public comments may authorize the department to file the order of rulemaking for
 5 such rule with the joint committee on administrative rules pursuant to sections 536.021 and 536.024
 6 no later than December first of the same year. If such rules are not disapproved by the general
 7 assembly in the manner set out below, they shall take effect on January first of the [next
 8 odd-numbered] following calendar year and the fee structure set out in this section shall expire upon
 9 the effective date of the commission-adopted fee structure, contrary to subsection 4 of this section.
 10 Any regulation promulgated under this subsection shall be deemed to be beyond the scope and
 11 authority provided in this subsection, or detrimental to permit applicants, if the general assembly,
 12 within the first sixty calendar days of the regular session immediately following the [promulgation]
 13 filing of such regulation[, by concurrent resolution, shall disapprove the fee structure contained in
 14 such regulation] disapproves the regulation by concurrent resolution. If the general assembly so
 15 disapproves any regulation [promulgated] filed under this subsection, [the hazardous waste
 16 management commission shall continue to use the fee structure set forth in the most recent preceding
 17 regulation promulgated under this subsection.] the department and the commission shall not
 18 implement the proposed fee structure and shall continue to use the previous fee structure. The
 19 authority of the commission to further revise the fee structure as provided by this subsection shall
 20 expire on August 28, [2023] 2024.

21 2. Missouri treatment, storage, or disposal facilities shall pay annually, on or before January
 22 first of each year, a fee to the department equal to two dollars per ton or portion thereof for all
 23 hazardous waste received from outside the state. This fee shall be based on the hazardous waste
 24 received for the twelve-month period ending June thirtieth of the previous year.

25 3. Exempted from the requirements of this section are individual householders and farmers
 26 who generate only small quantities of hazardous waste and any person the commission determines
 27 generates only small quantities of hazardous waste on an infrequent basis, except that:

28 (1) Householders, farmers and exempted persons shall manage all hazardous wastes they
 29 may generate in a manner so as not to adversely affect the health of humans, or pose a threat to the
 30 environment, or create a public nuisance; and

31 (2) The department may determine that a specific quantity of a specific hazardous waste
 32 requires special management. Upon such determination and after public notice by press release or
 33 advertisement thereof, including instructions for handling and delivery, generators exempted
 34 pursuant to this subsection shall deliver, but without a manifest or the requirement to use a licensed
 35 hazardous waste transporter, such waste to:

36 (a) Any storage, treatment or disposal site authorized to operate pursuant to sections 260.350
 37 to 260.430 or the federal Resource Conservation and Recovery Act, or a state hazardous waste
 38 management program authorized pursuant to the federal Resource Conservation and Recovery Act
 39 which the department designates for this purpose; or

40 (b) A collection station or vehicle which the department may arrange for and designate for
 41 this purpose.

1 4. Failure to pay the fee, or any portion thereof, prescribed in this section by the due date
2 shall result in the imposition of a penalty equal to fifteen percent of the original fee. The fee
3 prescribed in this section shall expire December 31, 2018, except that the department shall levy and
4 collect this fee for any hazardous waste generated prior to such date and reported to the department.

5 260.392. 1. As used in sections 260.392 to 260.399, the following terms mean:

6 (1) "Cask", all the components and systems associated with the container in which spent fuel,
7 high-level radioactive waste, highway route controlled quantity, or transuranic radioactive waste are
8 stored;

9 (2) "High-level radioactive waste", the highly radioactive material resulting from the
10 reprocessing of spent nuclear fuel including liquid waste produced directly in reprocessing and any
11 solid material derived from such liquid waste that contains fission products in sufficient
12 concentrations, and other highly radioactive material that the United States Nuclear Regulatory
13 Commission has determined to be high-level radioactive waste requiring permanent isolation;

14 (3) "Highway route controlled quantity", as defined in 49 CFR Part 173.403, as amended, a
15 quantity of radioactive material within a single package. Highway route controlled quantity
16 shipments of thirty miles or less within the state are exempt from the provisions of this section;

17 (4) "Low-level radioactive waste", any radioactive waste not classified as high-level
18 radioactive waste, transuranic radioactive waste, or spent nuclear fuel by the United States Nuclear
19 Regulatory Commission, consistent with existing law. Shipment of all sealed sources meeting the
20 definition of low-level radioactive waste, shipments of low-level radioactive waste that are within a
21 radius of no more than fifty miles from the point of origin, and all naturally occurring radioactive
22 material given written approval for landfill disposal by the Missouri department of natural resources
23 under 10 CSR 80-3.010 are exempt from the provisions of this section. Any low-level radioactive
24 waste that has a radioactive half-life equal to or less than one hundred twenty days is exempt from
25 the provisions of this section;

26 (5) "Shipper", the generator, owner, or company contracting for transportation by truck or
27 rail of the spent fuel, high-level radioactive waste, highway route controlled quantity shipments,
28 transuranic radioactive waste, or low-level radioactive waste;

29 (6) "Spent nuclear fuel", fuel that has been withdrawn from a nuclear reactor following
30 irradiation, the constituent elements of which have not been separated by reprocessing;

31 (7) "State-funded institutions of higher education", any campus of any university within the
32 state of Missouri that receives state funding and has a nuclear research reactor;

33 (8) "Transuranic radioactive waste", defined in 40 CFR Part 191.02, as amended, as waste
34 containing more than one hundred nanocuries of alpha-emitting transuranic isotopes with half-lives
35 greater than twenty years, per gram of waste. For the purposes of this section, transuranic waste
36 shall not include:

37 (a) High-level radioactive wastes;

38 (b) Any waste determined by the Environmental Protection Agency with the concurrence of
39 the Environmental Protection Agency administrator that does not need the degree of isolation
40 required by this section; or

41 (c) Any waste that the United States Nuclear Regulatory Commission has approved for

1 disposal on a case-by-case basis in accordance with 10 CFR Part 61, as amended.

2 2. Any shipper that ships high-level radioactive waste, transuranic radioactive waste,
3 highway route controlled quantity shipments, spent nuclear fuel, or low-level radioactive waste
4 through or within the state shall be subject to the fees established in this subsection, provided that no
5 state-funded institution of higher education that ships nuclear waste shall pay any such fee. These
6 higher education institutions shall reimburse the Missouri state highway patrol directly for all costs
7 related to shipment escorts. The fees for all other shipments shall be:

8 (1) One thousand eight hundred dollars for each truck transporting through or within the
9 state high-level radioactive waste, transuranic radioactive waste, spent nuclear fuel or highway route
10 controlled quantity shipments. All truck shipments of high-level radioactive waste, transuranic
11 radioactive waste, spent nuclear fuel, or highway route controlled quantity shipments are subject to a
12 surcharge of twenty-five dollars per mile for every mile over two hundred miles traveled within the
13 state;

14 (2) One thousand three hundred dollars for the first cask and one hundred twenty-five dollars
15 for each additional cask for each rail shipment through or within the state of high-level radioactive
16 waste, transuranic radioactive waste, or spent nuclear fuel;

17 (3) One hundred twenty-five dollars for each truck or train transporting low-level radioactive
18 waste through or within the state.

19
20 The department of natural resources may accept an annual shipment fee as negotiated with a shipper
21 or accept payment per shipment.

22 3. All revenue generated from the fees established in subsection 2 of this section shall be
23 deposited into the environmental radiation monitoring fund established in section 260.750 and shall
24 be used by the department of natural resources to achieve the following objectives and for purposes
25 related to the shipment of high-level radioactive waste, transuranic radioactive waste, highway route
26 controlled quantity shipments, spent nuclear fuel, or low-level radioactive waste, including, but not
27 limited to:

28 (1) Inspections, escorts, and security for waste shipment and planning;

29 (2) Coordination of emergency response capability;

30 (3) Education and training of state, county, and local emergency responders;

31 (4) Purchase and maintenance of necessary equipment and supplies for state, county, and
32 local emergency responders through grants or other funding mechanisms;

33 (5) Emergency responses to any transportation incident involving the high-level radioactive
34 waste, transuranic radioactive waste, highway route controlled quantity shipments, spent nuclear
35 fuel, or low-level radioactive waste;

36 (6) Oversight of any environmental remediation necessary resulting from an incident
37 involving a shipment of high-level radioactive waste, transuranic radioactive waste, highway route
38 controlled quantity shipments, spent nuclear fuel, or low-level radioactive waste. Reimbursement
39 for oversight of any such incident shall not reduce or eliminate the liability of any party responsible
40 for the incident; such party may be liable for full reimbursement to the state or payment of any other
41 costs associated with the cleanup of contamination related to a transportation incident;

1 (7) Administrative costs attributable to the state agencies which are incurred through their
2 involvement as it relates to the shipment of high-level radioactive waste, transuranic radioactive
3 waste, highway route controlled quantity shipments, spent nuclear fuel, or low-level radioactive
4 waste through or within the state.

5 4. Nothing in this section shall preclude any other state agency from receiving
6 reimbursement from the department of natural resources and the environmental radiation monitoring
7 fund for services rendered that achieve the objectives and comply with the provisions of this section.

8 5. Any unencumbered balance in the environmental radiation monitoring fund that exceeds
9 three hundred thousand dollars in any given fiscal year shall be returned to shippers on a pro rata
10 basis, based on the shipper's contribution into the environmental radiation monitoring fund for that
11 fiscal year.

12 6. The department of natural resources, in coordination with the department of health and
13 senior services and the department of public safety, may promulgate rules necessary to carry out the
14 provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010,
15 that is created under the authority delegated in this section shall become effective only if it complies
16 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This
17 section and chapter 536 are nonseverable and if any of the powers vested with the general assembly
18 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
19 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or
20 adopted after August 28, 2009, shall be invalid and void.

21 7. All funds deposited in the environmental radiation monitoring fund through fees
22 established in subsection 2 of this section shall be utilized, subject to appropriation by the general
23 assembly, for the administration and enforcement of this section by the department of natural
24 resources. All interest earned by the moneys in the fund shall accrue to the fund.

25 8. All fees shall be paid to the department of natural resources prior to shipment.

26 9. Notice of any shipment of high-level radioactive waste, transuranic radioactive waste,
27 highway route controlled quantity shipments, or spent nuclear fuel through or within the state shall
28 be provided by the shipper to the governor's designee for advanced notification, as described in 10
29 CFR Parts 71 and 73, as amended, prior to such shipment entering the state. Notice of any shipment
30 of low-level radioactive waste through or within the state shall be provided by the shipper to the
31 Missouri department of natural resources before such shipment enters the state.

32 10. Any shipper who fails to pay a fee assessed under this section, or fails to provide notice
33 of a shipment, shall be liable in a civil action for an amount not to exceed ten times the amount
34 assessed and not paid. The action shall be brought by the attorney general at the request of the
35 department of natural resources. If the action involves a facility domiciled in the state, the action
36 shall be brought in the circuit court of the county in which the facility is located. If the action does
37 not involve a facility domiciled in the state, the action shall be brought in the circuit court of Cole
38 County.

39 11. Beginning on December 31, 2009, and every two years thereafter, the department of
40 natural resources shall prepare and submit a report on activities of the environmental radiation
41 monitoring fund to the general assembly. This report shall include information on fee income

received and expenditures made by the state to enforce and administer the provisions of this section.

12. The provisions of this section shall not apply to high-level radioactive waste, transuranic radioactive waste, highway route controlled quantity shipments, spent nuclear fuel, or low-level radioactive waste shipped by or for the federal government for military or national defense purposes.

13. [Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after August 28, 2009, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized,] The program authorized under this section shall automatically sunset [twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset] on August 28, 2024.

260.475. 1. Every hazardous waste generator located in Missouri shall pay, in addition to the fees imposed in section 260.380, a fee of twenty-five dollars per ton annually on all hazardous waste which is discharged, deposited, dumped or placed into or on the soil as a final action, and two dollars per ton on all other hazardous waste transported off site. No fee shall be imposed upon any hazardous waste generator who registers less than ten tons of hazardous waste annually pursuant to section 260.380, or upon:

(1) Hazardous waste which must be disposed of as provided by a remedial plan for an abandoned or uncontrolled hazardous waste site;

(2) Fly ash waste, bottom ash waste, slag waste and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(3) Solid waste from the extraction, beneficiation and processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore and smelter slag waste from the processing of materials into reclaimed metals;

(4) Cement kiln dust waste;

(5) Waste oil; or

(6) Hazardous waste that is:

(a) Reclaimed or reused for energy and materials;

(b) Transformed into new products which are not wastes;

(c) Destroyed or treated to render the hazardous waste nonhazardous; or

(d) Waste discharged to a publicly owned treatment works.

2. The fees imposed in this section shall be reported and paid to the department on an annual basis not later than the first of January. The payment shall be accompanied by a return in such form as the department may prescribe.

3. All moneys collected or received by the department pursuant to this section shall be transmitted to the department of revenue for deposit in the state treasury to the credit of the hazardous waste fund created pursuant to section 260.391. Following each annual reporting date, the state treasurer shall certify the amount deposited in the fund to the commission.

4. If any generator or transporter fails or refuses to pay the fees imposed by this section, or fails or refuses to furnish any information reasonably requested by the department relating to such

1 fees, there shall be imposed, in addition to the fee determined to be owed, a penalty of fifteen percent
2 of the fee shall be deposited in the hazardous waste fund.

3 5. If the fees or any portion of the fees imposed by this section are not paid by the date
4 prescribed for such payment, there shall be imposed interest upon the unpaid amount at the rate of
5 ten percent per annum from the date prescribed for its payment until payment is actually made, all of
6 which shall be deposited in the hazardous waste fund.

7 6. The state treasurer is authorized to deposit all of the moneys in the hazardous waste fund
8 in any of the qualified depositories of the state. All such deposits shall be secured in such a manner
9 and shall be made upon such terms and conditions as are now or may hereafter be provided for by
10 law relative to state deposits. Interest received on such deposits shall be credited to the hazardous
11 waste fund.

12 7. This fee shall expire December 31, 2018, except that the department shall levy and collect
13 this fee for any hazardous waste generated prior to such date and reported to the department.

14 8. Notwithstanding any statutory fee amounts or maximums to the contrary, the director of
15 the department of natural resources may conduct a comprehensive review [of] and propose changes
16 to the fee structure set forth in this section. The comprehensive review shall include stakeholder
17 meetings in order to solicit stakeholder input from each of the following groups: cement kiln
18 representatives, chemical companies, large and small hazardous waste generators, and any other
19 interested parties. Upon completion of the comprehensive review, the department shall submit a
20 proposed [changes to the] fee structure with stakeholder agreement to the hazardous waste
21 management commission. The commission shall[, upon receiving the department's
22 recommendations,] review such recommendations at the forthcoming regular or special meeting, but
23 shall not vote on the fee structure until a subsequent meeting. [The commission shall not take a vote
24 on the fee structure until the following regular meeting.] If the commission approves, by vote of
25 two-thirds majority or five of seven commissioners, the [hazardous waste] fee structure
26 recommendations, the commission shall [promulgate by regulation and publish the recommended fee
27 structure no later than October first of the same year. The commission shall] authorize the
28 department to file a notice of proposed rulemaking containing the recommended fee structure, and
29 after considering public comments may authorize the department to file the order of rulemaking for
30 such rule with the joint committee on administrative rules pursuant to sections 536.021 and 536.024
31 no later than December first of the same year. If such rules are not disapproved by the general
32 assembly in the manner set out below, they shall take effect on January first of the [next
33 odd-numbered] following calendar year and the fee structure set out in this section shall expire upon
34 the effective date of the commission-adopted fee structure, contrary to subsection 7 of this section.
35 Any regulation promulgated under this subsection shall be deemed to be beyond the scope and
36 authority provided in this subsection, or detrimental to permit applicants, if the general assembly,
37 within the first sixty calendar days of the regular session immediately following the [promulgation]
38 filing of such regulation[, by concurrent resolution, shall disapprove the fee structure contained in
39 such regulation] disapproves the regulation by concurrent resolution. If the general assembly so
40 disapproves any regulation [promulgated] filed under this subsection, [the hazardous waste
41 management commission shall continue to use the fee structure set forth in the most recent preceding

1 regulation promulgated under this subsection.] the department and the commission shall not
 2 implement the proposed fee structure and shall continue to use the previous fee structure. The
 3 authority of the commission to further revise the fee structure as provided by this subsection shall
 4 expire on August 28, [2023] 2024.

5 444.510. As used in sections 444.500 to 444.755, unless the context clearly indicates
 6 otherwise, the following words and terms mean:

7 (1) "Affected land", the pit area or area from which overburden has been removed, or upon
 8 which overburden has been deposited;

9 (2) "Box cut", the first open cut in the mining of coal which results in the placing of
 10 overburden on the surface of the land adjacent to the initial pit and outside of the area of land to be
 11 mined;

12 (3) "Commission", the [land reclamation] Missouri mining commission within the
 13 department of natural resources created by section 444.520;

14 (4) "Company owned land", land owned by the operator in fee simple;

15 (5) "Director", the staff director of the [land reclamation] Missouri mining commission;

16 (6) "Gob", that portion of refuse consisting of waste coal or bony coal of relatively large size
 17 which is separated from the marketable coal in the cleaning process or solid refuse material, not
 18 readily waterborne or pumpable, without crushing;

19 (7) "Highwall", that side of the pit adjacent to unmined land;

20 (8) "Leased land", all affected land where the operator does not own the land in fee simple;

21 (9) "Operator", any person, firm or corporation engaged in or controlling a strip mining
 22 operation;

23 (10) "Overburden", as applied to the strip mining of coal, means all of the earth and other
 24 materials which lie above natural deposits of coal, and includes such earth and other materials
 25 disturbed from their natural state in the process of strip mining;

26 (11) "Owner", the owner of any right in the land other than the operator;

27 (12) "Peak", a projecting point of overburden created in the strip mining process or that
 28 portion of unmined land remaining within the pit;

29 (13) "Person", any individual, partnership, copartnership, firm, company, public or private
 30 corporation, association, joint stock company, trust, estate, political subdivision, or any agency,
 31 board, department, or bureau of the state or federal government, or any other legal entity whatever
 32 which is recognized by law as the subject of rights and duties;

33 (14) "Pit", the place where coal is being or has been mined by strip mining;

34 (15) "Refuse", all waste material directly connected with the cleaning and preparation of
 35 substances mined by strip mining;

36 (16) "Ridge", a lengthened elevation of overburden created in the strip mining process;

37 (17) "Strip mining", mining by removing the overburden lying above natural deposits of
 38 coal, and mining directly from the natural deposits thereby exposed, and includes mining of exposed
 39 natural deposits of coal over which no overburden lies; except that "strip mining" of coal shall only
 40 mean those activities exempted from the "Surface Coal Mining Law", pursuant to subsection 6 of
 41 section 444.815.

1 444.520. 1. There is a [land reclamation] Missouri mining commission whose domicile for
2 administrative purposes is the department of natural resources. The commission shall consist of the
3 following [seven] eight persons: The state geologist, the director of the department of conservation,
4 the director of staff of the clean water commission, and [four] five other persons selected from the
5 general public who are residents of Missouri and who shall have an interest in and knowledge of
6 conservation and land reclamation, and one of whom shall in addition have training and experience
7 in surface mining, one of whom shall in addition have training and experience in subsurface mining,
8 but not more than [one] two can have a direct connection with the mining industry. The [four] five
9 members from the general public shall be appointed by the governor, by and with the advice and
10 consent of the senate. No more than [two] three of the appointed members shall belong to the same
11 political party. The three members who serve on the commission by virtue of their office may
12 designate a representative to attend any meetings in their place and exercise all their powers and
13 duties. All necessary personnel required by the commission shall be selected, employed and
14 discharged by the commission. The director of the department shall not have the authority to abolish
15 positions.

16 2. The initial term of the appointed members shall be as follows: Two members, each from a
17 different political party, shall be appointed for a term of two years, and two members, each from a
18 different political party, shall be appointed for a term of four years. The governor shall designate the
19 term of office for each person appointed when making the initial appointment. The terms of their
20 successors shall be for four years. There is no limitation on the number of terms any appointed
21 member may serve. The terms of all members shall continue until their successors have been duly
22 appointed and qualified. If a vacancy occurs in the appointed membership, the governor shall
23 appoint a member for the remaining portion of the unexpired term created by the vacancy. The
24 governor may remove any appointed member for cause.

25 3. All members of the commission shall serve without compensation for their duties, but
26 shall be reimbursed for necessary travel and other expenses incurred in the performance of their
27 official duties.

28 4. At the first meeting of the commission, which shall be called by the state geologist, and at
29 yearly intervals thereafter, the members shall select from among themselves a chairman and a vice
30 chairman. The members of the commission shall appoint a qualified director who shall be a
31 full-time employee of the commission and who shall act as its administrative agent. The commission
32 shall determine the compensation of the director to be payable from appropriations made for that
33 purpose.

34 444.762. It is hereby declared to be the policy of this state to strike a balance between
35 [surface] mining of minerals and reclamation of land subjected to surface disturbance by [surface]
36 mining, as contemporaneously as possible, and for the conservation of land, and thereby to preserve
37 natural resources, to encourage the planting of forests, to advance the seeding of grasses and legumes
38 for grazing purposes and crops for harvest, to aid in the protection of wildlife and aquatic resources,
39 to establish recreational, home and industrial sites, to protect and perpetuate the taxable value of
40 property, and to protect and promote the health, safety and general welfare of the people of this state.

41 444.765. Wherever used or referred to in sections 444.760 to 444.790, unless a different

1 meaning clearly appears from the context, the following terms mean:

2 (1) "Affected land", the pit area or area from which overburden shall have been removed, or
3 upon which overburden has been deposited after September 28, 1971. When mining is conducted
4 underground, affected land means any excavation or removal of overburden required to create access
5 to mine openings, except that areas of disturbance encompassed by the actual underground openings
6 for air shafts, portals, adits and haul roads in addition to disturbances within fifty feet of any
7 openings for haul roads, portals or adits shall not be considered affected land. Sites which exceed
8 the excluded areas by more than one acre for underground mining operations shall obtain a permit
9 for the total extent of affected lands with no exclusions as required under sections 444.760 to
10 444.790;

11 (2) "Beneficiation", the dressing or processing of minerals for the purpose of regulating the
12 size of the desired product, removing unwanted constituents, and improving the quality or purity of a
13 desired product;

14 (3) "Commercial purpose", the purpose of extracting minerals for their value in sales to other
15 persons or for incorporation into a product;

16 (4) "Commission", the [land reclamation] Missouri mining commission in the department of
17 natural resources created by section 444.520;

18 (5) "Construction", construction, erection, alteration, maintenance, or repair of any facility
19 including but not limited to any building, structure, highway, road, bridge, viaduct, water or sewer
20 line, pipeline or utility line, and demolition, excavation, land clearance, and moving of minerals or
21 fill dirt in connection therewith;

22 (6) "Department", the department of natural resources;

23 (7) "Director", the staff director of the [land reclamation] Missouri mining commission or
24 his or her designee;

25 (8) "Excavation", any operation in which earth, minerals, or other material in or on the
26 ground is moved, removed, or otherwise displaced for purposes of construction at the site of
27 excavation, by means of any tools, equipment, or explosives and includes, but is not limited to,
28 backfilling, grading, trenching, digging, ditching, drilling, well-drilling, auguring, boring, tunneling,
29 scraping, cable or pipe plowing, plowing-in, pulling-in, ripping, driving, demolition of structures,
30 and the use of high-velocity air to disintegrate and suction to remove earth and other materials. For
31 purposes of this section, excavation or removal of overburden for purposes of mining for a
32 commercial purpose or for purposes of reclamation of land subjected to surface mining is not
33 included in this definition. Neither shall excavations of sand and gravel by political subdivisions
34 using their own personnel and equipment or private individuals for personal use be included in this
35 definition;

36 (9) "Fill dirt", material removed from its natural location through mining or construction
37 activity, which is a mixture of unconsolidated earthy material, which may include some minerals,
38 and which is used to fill, raise, or level the surface of the ground at the site of disposition, which may
39 be at the site it was removed or on other property, and which is not processed to extract mineral
40 components of the mixture. Backfill material for use in completing reclamation is not included in
41 this definition;

(10) "Land improvement", work performed by or for a public or private owner or lessor of real property for purposes of improving the suitability of the property for construction at an undetermined future date, where specific plans for construction do not currently exist;

(11) "Mineral", a constituent of the earth in a solid state which, when extracted from the earth, is usable in its natural form or is capable of conversion into a usable form as a chemical, an energy source, or raw material for manufacturing or construction material. For the purposes of this section, this definition includes barite, tar sands, [and] oil shales, cadmium, barium, nickel, cobalt, molybdenum, germanium, gallium, tellurium, selenium, vanadium, indium, mercury, uranium, rare earth elements, platinum group elements, manganese, phosphorus, sodium, titanium, zirconium, lithium, thorium, or tungsten; but does not include iron, lead, zinc, gold, silver, coal, surface or subsurface water, fill dirt, natural oil or gas together with other chemicals recovered therewith;

(12) "Mining", the removal of overburden and extraction of underlying minerals or the extraction of minerals from exposed natural deposits for a commercial purpose, as defined by this section;

(13) "Operator", any person, firm or corporation engaged in and controlling a surface mining operation;

(14) "Overburden", all of the earth and other materials which lie above natural deposits of minerals; and also means such earth and other materials disturbed from their natural state in the process of surface mining other than what is defined in subdivision (10) of this section;

(15) "Peak", a projecting point of overburden created in the surface mining process;

(16) "Pit", the place where minerals are being or have been mined by surface mining;

(17) "Public entity", the state or any officer, official, authority, board, or commission of the state and any county, city, or other political subdivision of the state, or any institution supported in whole or in part by public funds;

(18) "Refuse", all waste material directly connected with the cleaning and preparation of substance mined by surface mining;

(19) "Ridge", a lengthened elevation of overburden created in the surface mining process;

(20) "Site" or "mining site", any location or group of associated locations separated by a natural barrier where minerals are being surface mined by the same operator;

(21) "Surface mining", the mining of minerals for commercial purposes by removing the overburden lying above natural deposits thereof, and mining directly from the natural deposits thereby exposed, and shall include mining of exposed natural deposits of such minerals over which no overburden lies and, after August 28, 1990, the surface effects of underground mining operations for such minerals. For purposes of the provisions of sections 444.760 to 444.790, surface mining shall not include excavations to move minerals or fill dirt within the confines of the real property where excavation occurs or to remove minerals or fill dirt from the real property in preparation for construction at the site of excavation. No excavation of fill dirt shall be deemed surface mining regardless of the site of disposition or whether construction occurs at the site of excavation.

444.768. 1. Notwithstanding any statutory fee amounts or maximums to the contrary, the director of the department of natural resources may conduct a comprehensive review and propose changes to the fee, bond, or assessment structure as set forth in chapter 444. The comprehensive

review shall include stakeholder meetings in order to solicit stakeholder input from regulated entities and any other interested parties. Upon completion of the comprehensive review, the department shall submit a proposed fee, bond, or assessment structure with stakeholder agreement to the Missouri mining commission. The commission shall review such recommendations at a forthcoming regular or special meeting, but shall not vote on the proposed structure until a subsequent meeting. If the commission approves, by vote of two-thirds majority, the fee, bond, or assessment structure recommendations, the commission shall authorize the department to file a notice of proposed rulemaking containing the recommended structure, and after considering public comments may authorize the department to file the final order of rulemaking for such rule with the joint committee on administrative rules pursuant to sections 536.021 and 536.024 no later than December first of the same year. If such rules are not disapproved by the general assembly in the manner set out below, they shall take effect on January first of the following calendar year, at which point the existing fee, bond, or assessment structure shall expire. Any regulation promulgated under this subsection shall be deemed to be beyond the scope and authority provided in this subsection, or detrimental to permit applicants, if the general assembly, within the first sixty days of the regular session immediately following the filing of such regulation disapproves the regulation by concurrent resolution. If the general assembly so disapproves any regulation filed under this subsection, the department and the commission shall not implement the proposed fee, bond, or assessment structure and shall continue to use the previous fee, bond, or assessment structure. The authority for the commission to further revise the fee, bond, or assessment structure as provided in this subsection shall expire on August 28, 2024.

2. Failure to pay any fee, bond, or assessment, or any portion thereof, referenced in this section by the due date may result in the imposition of a late fee equal to fifteen percent of the unpaid amount, plus ten percent interest per annum. Any order issued by the department under chapter 444 may require payment of such amounts. The department may bring an action in the appropriate circuit court to collect any unpaid fee, late fee, interest, or attorney's fees and costs incurred directly in fee collection. Such action may be brought in the circuit court of the county in which the facility is located, or in the circuit court of Cole County.

444.770. 1. It shall be unlawful for any operator to engage in surface mining without first obtaining from the commission a permit to do so, in such form as is hereinafter provided, including any operator involved in any gravel mining operation where the annual tonnage of gravel mined by such operator is less than five thousand tons, except as provided in subsection 2 of this section.

2. (1) A property owner or operator conducting gravel removal at the request of a property owner for the primary purpose of managing seasonal gravel accretion on property not used primarily for gravel mining, or a political subdivision who contracts with an operator for excavation to obtain sand and gravel material solely for the use of such political subdivision shall be exempt from obtaining a permit as required in subsection 1 of this section. Such gravel removal shall be conducted solely on the property owner's or political subdivision's property and shall be in accordance with department guidelines, rules, and regulations. The property owner shall notify the department before any person or operator conducts gravel removal from the property owner's property if the gravel is sold. Notification shall include the nature of the activity, name of the county

1 and stream in which the site is located and the property owner's name. The property owner shall not
2 be required to notify the department regarding any gravel removal at each site location for up to one
3 year from the original notification regarding that site. The property owner shall renotify the
4 department before any person or operator conducts gravel removal at any site after the expiration of
5 one year from the previous notification regarding that site. At the time of each notification to the
6 department, the department shall provide the property owner with a copy of the department's
7 guidelines, rules, and regulations relevant to the activity reported. Said guidelines, rules and
8 regulations may be transmitted either by mail or via the internet.

9 (2) The annual tonnage of gravel mined by such property owner or operator conducting
10 gravel removal at the request of a property owner shall be less than two thousand tons, with a site
11 limitation of one thousand tons annually. Any operator conducting gravel removal at the request of a
12 property owner that has removed two thousand tons of sand and gravel material within one calendar
13 year shall have a watershed management practice plan approved by the commission in order to
14 remove any future sand or gravel material the remainder of the calendar year. The application for
15 approval shall be accompanied by an application fee equivalent to the fee paid under section 444.772
16 and shall contain the name of the watershed from which the operator will be conducting sand and
17 gravel removal, the location within the watershed district that the sand and gravel will be removed,
18 and the description of the vehicles and equipment used for removal. Upon approval of the watershed
19 management practice plan, the department shall provide a copy of the relevant commission
20 regulations to the operator.

21 (3) No property owner or operator conducting gravel removal at the request of a property
22 owner for the primary purpose of managing seasonal gravel accretion on property not used primarily
23 for gravel mining shall conduct gravel removal from any site located within a distance, to be
24 determined by the commission and included in the guidelines, rules, and regulations given to the
25 property owner at the time of notification, of any building, structure, highway, road, bridge, viaduct,
26 water or sewer line, and pipeline or utility line.

27 3. Sections 444.760 to 444.790 shall apply only to those areas which are opened on or after
28 January 1, 1972, or to the extended portion of affected areas extended after that date. The effective
29 date of this section for minerals not previously covered under the provisions of sections 444.760 to
30 444.790 shall be August 28, 1990.

31 4. All surface mining operations where land is affected after September 28, 1971, which are
32 under the control of any government agency whose regulations are equal to or greater than those
33 imposed by section 444.774, are not subject to the further provisions of sections 444.760 to 444.790,
34 except that such operations shall be registered with the [land reclamation] Missouri mining
35 commission.

36 5. Any portion of a surface mining operation which is subject to the provisions of sections
37 260.200 to 260.245 and the regulations promulgated thereunder, shall not be subject to the
38 provisions of sections 444.760 to 444.790, and any bonds or portions thereof applicable to such
39 operations shall be promptly released by the commission, and the associated permits cancelled by the
40 commission upon presentation to it of satisfactory evidence that the operator has received a permit
41 pursuant to section 260.205 and the regulations promulgated thereunder. Any land reclamation bond

1 associated with such released permits shall be retained by the commission until presentation to the
2 commission of satisfactory evidence that:

3 (1) The operator has complied with sections 260.226 and 260.227, and the regulations
4 promulgated thereunder, pertaining to closure and postclosure plans and financial assurance
5 instruments; and

6 (2) The operator has commenced operation of the solid waste disposal area or sanitary
7 landfill as those terms are defined in chapter 260.

8 6. Notwithstanding the provisions of subsection 1 of this section, any political subdivision
9 which uses its own personnel and equipment or any private individual for personal use may conduct
10 in-stream gravel operations without obtaining from the commission a permit to conduct such an
11 activity.

12 7. Any person filing a complaint of an alleged violation of this section with the department
13 shall identify themselves by name and telephone number, provide the date and location of the violation,
14 and provide adequate information, as determined by the department, that there has been a violation.
15 Any records, statements, or communications submitted by any person to the department relevant to
16 the complaint shall remain confidential and used solely by the department to investigate such alleged
17 violation."; and
18

19 Further amend said bill, Page 7, Section 444.773, Line 92, by inserting after all of said section and
20 line the following:

21
22 "444.805. As used in this law, unless the context clearly indicates otherwise, the following
23 words and terms mean:

24 (1) "Approximate original contour", that surface configuration achieved by backfilling and
25 grading of the mined area so that the reclaimed area, including any terracing or access roads, closely
26 resembles the general surface configuration of the land prior to mining and blends into and
27 complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles
28 eliminated; water impoundments may be permitted where the commission determines that they are in
29 compliance with subdivision (8) of subsection 2 of section 444.855;

30 (2) "Coal preparation area", that portion of the permitted area used for the beneficiation of
31 raw coal and structures related to the beneficiation process such as the washer, tipple, crusher, slurry
32 pond or ponds, gob pile and all waste material directly connected with the cleaning, preparation and
33 shipping of coal, but does not include subsurface coal waste disposal areas;

34 (3) "Coal preparation area reclamation", the reclamation of the coal preparation area by
35 disposal or burial or both of coal waste according to the approved reclamation plan, the replacement
36 of topsoil, and initial seeding;

37 (4) "Commission", the [land reclamation] Missouri mining commission created by section
38 444.520;

39 (5) "Director", the staff director of the [land reclamation] Missouri mining commission;

40 (6) "Federal lands", any land, including mineral interests, owned by the United States
41 without regard to how the United States acquired ownership of the land and without regard to the

1 agency having responsibility for management thereof, except Indian lands;

2 (7) "Federal lands program", a program established by the United States Secretary of the
3 Interior to regulate surface coal mining and reclamation operations on federal lands;

4 (8) "Imminent danger to the health and safety of the public", the existence of any condition
5 or practice, or any violation of a permit or other requirement of this law in a surface coal mining and
6 reclamation operation, which condition, practice, or violation could reasonably be expected to cause
7 substantial physical harm to persons outside the permit area before such condition, practice, or
8 violation can be abated. A reasonable expectation of death or serious injury before abatement exists
9 if a rational person, subjected to the same conditions or practices giving rise to the peril, would not
10 expose himself or herself to the danger during the time necessary for abatement;

11 (9) "Operator", any person engaged in coal mining;

12 (10) "Permit", a permit to conduct surface coal mining and reclamation operations issued by
13 the commission;

14 (11) "Permit area", the area of land indicated on the approved map submitted by the operator
15 with his application, which area of land shall be covered by the operator's bond and shall be readily
16 identifiable by appropriate markers on the site;

17 (12) "Permittee", a person holding a permit;

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

22 (14) "Phase I reclamation", the filling and grading of all areas disturbed in the conduct of
23 surface coal mining operations, including the replacement of top soil and initial seeding;

24 (15) "Phase I reclamation bond", a bond for performance filed by a permittee pursuant to
25 section 444.950 that may have no less than eighty percent released upon the successful completion of
26 phase I reclamation of a permit area in accordance with the approved reclamation plan, with the rest
27 of the bond remaining in effect until phase III liability is released;

28 (16) "Prime farmland", land which historically has been used for intensive agricultural
29 purposes, and which meets the technical criteria established by the commission on the basis of such
30 factors as moisture availability, temperature regime, chemical balance, permeability, surface layer
31 composition, susceptibility to flooding, and erosion characteristics;

32 (17) "Reclamation plan", a plan submitted by an applicant for a permit which sets forth a
33 plan for reclamation of the proposed surface coal mining operations;

34 (18) "Surface coal mining and reclamation operations", surface coal mining operations and
35 all activities necessary and incident to the reclamation of such operations;

36 (19) "Surface coal mining operations", or "affected land", or "disturbed land":

37 (a) Activities conducted on the surface of lands in connection with a surface coal mine or
38 surface operations and surface impacts incident to an underground coal mine. Such activities include
39 excavation for the purpose of obtaining coal including such common methods as contour, strip,
40 auger, mountaintop removal, box cut, open pit, and area mining, the uses of explosives and blasting,
41 and in situ distillation or retorting, leaching or other chemical or physical processing, and the

cleaning, concentrating, or other processing or preparation, loading of coal at or near the mine site; provided, however, that such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percentum of the tonnage of minerals removed for purposes of commercial use or sale, or coal explorations subject to section 444.845; and

(b) The areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities;

(20) "This law" or "law", sections 444.800 to 444.970;

(21) "Unwarranted failure to comply", the failure of a permittee to prevent the occurrence of any violation of the permit, reclamation plan, law or rule and regulation, due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any such violation due to indifference, lack of diligence, or lack of reasonable care.

640.015. 1. All provisions of the law to the contrary notwithstanding, all rules that prescribe environmental conditions or standards promulgated by the department of natural resources, a board or a commission, pursuant to authorities granted in this chapter and chapters 260, 278, 319, 444, 643, and 644, the hazardous waste management commission in chapter 260, the state soil and water districts commission in chapter 278, the [land reclamation] Missouri mining commission in chapter 444, the safe drinking water commission in this chapter, the air conservation commission in chapter 643, and the clean water commission in chapter 644 shall cite the specific section of law or legal authority. The rule shall also be based on the regulatory impact report provided in this section.

2. The regulatory impact report required by this section shall include:

(1) A report on the peer-reviewed scientific data used to commence the rulemaking process;

(2) A description of persons who will most likely be affected by the proposed rule, including persons that will bear the costs of the proposed rule and persons that will benefit from the proposed rule;

(3) A description of the environmental and economic costs and benefits of the proposed rule;

(4) The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenue;

(5) A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction, which includes both economic and environmental costs and benefits;

(6) A determination of whether there are less costly or less intrusive methods for achieving the proposed rule;

(7) A description of any alternative method for achieving the purpose of the proposed rule that were seriously considered by the department and the reasons why they were rejected in favor of the proposed rule;

- 1 (8) An analysis of both short-term and long-term consequences of the proposed rule;
- 2 (9) An explanation of the risks to human health, public welfare, or the environment
- 3 addressed by the proposed rule;
- 4 (10) The identification of the sources of scientific information used in evaluating the risk and
- 5 a summary of such information;
- 6 (11) A description and impact statement of any uncertainties and assumptions made in
- 7 conducting the analysis on the resulting risk estimate;
- 8 (12) A description of any significant countervailing risks that may be caused by the proposed
- 9 rule; and
- 10 (13) The identification of at least one, if any, alternative regulatory approaches that will
- 11 produce comparable human health, public welfare, or environmental outcomes.
- 12 3. The department, board, or commission shall develop the regulatory impact report required
- 13 by this section using peer-reviewed and published data or when the peer-reviewed data is not
- 14 reasonably available, a written explanation shall be filed at the time of the rule promulgation notice
- 15 explaining why the peer-reviewed data was not available to support the regulation. If the
- 16 peer-reviewed data is not available, the department must provide all scientific references and the
- 17 types, amount, and sources of scientific information that was used to develop the rule at the time of
- 18 the rule promulgation notice.
- 19 4. The department, board, or commission shall publish in at least one newspaper of general
- 20 circulation, qualified pursuant to chapter 493, with an average circulation of twenty thousand or
- 21 more and on the department, board, or commission website a notice of availability of any regulatory
- 22 impact report conducted pursuant to this section and shall make such assessments and analyses
- 23 available to the public by posting them on the department, board, or commission website. The
- 24 department, board, or commission shall allow at least sixty days for the public to submit comments
- 25 and shall post all comments and respond to all significant comments prior to promulgating the rule.
- 26 5. The department, board, or commission shall file a copy of the regulatory impact report
- 27 with the joint committee on administrative rules concurrently with the filing of the proposed rule
- 28 pursuant to section 536.024.
- 29 6. If the department, board, or commission fails to conduct the regulatory impact report as
- 30 required for each proposed rule pursuant to this section, such rule shall be void unless the written
- 31 explanation delineating why the peer-reviewed data was not available has been filed at the time of
- 32 the rule promulgation notice.
- 33 7. Any other provision of this section to the contrary notwithstanding, the department, board,
- 34 or commission referenced in subsection 1 of this section may adopt a rule without conducting a
- 35 regulatory impact report if the director of the department determines that immediate action is
- 36 necessary to protect human health, public welfare, or the environment; provided, however, in doing
- 37 so, the department, board, or commission shall be required to provide written justification as to why
- 38 it deviated from conducting a regulatory impact report and shall complete the regulatory impact
- 39 report within one hundred eighty days of the adoption of the rule.
- 40 8. The provisions of this section shall not apply if the department adopts environmental
- 41 protection agency rules and rules from other applicable federal agencies without variance.

1 640.016. 1. The department of natural resources shall not place in any permit any
2 requirement, provision, stipulation, or any other restriction which is not prescribed or authorized by
3 regulation or statute, unless the requirement, provision, stipulation, or other restriction is pursuant to
4 the authority addressed in statute.

5 2. Prior to submitting a permit to public comment the department of natural resources shall
6 deliver such permit to the permit applicant at the contact address on the permit application for final
7 review. In the interest of expediting permit issuance, permit applicants may waive the opportunity to
8 review draft permits prior to public notice. The permit applicant shall have ten days to review the
9 permit for errors. Upon receipt of the applicant's review of the permit, the department of natural
10 resources shall correct the permit where nonsubstantive drafting errors exist. The department of
11 natural resources shall make such changes within ten days and submit the permit for public
12 comment. If the permit applicant is not provided the opportunity to review permits prior to
13 submission for public comment, the permit applicant shall have the authority to correct drafting
14 errors in their permits after they are issued without paying any fee for such changes or modifications.

15 3. In any matter where a permit is denied by the department of natural resources pursuant to
16 authorities granted in this chapter and chapters 260, 278, 319, 444, 643, and 644, the hazardous
17 waste management commission in chapter 260, the state soil and water districts commission in
18 chapter 278, the [land reclamation] Missouri mining commission in chapter 444, the safe drinking
19 water commission in this chapter, the air conservation commission in chapter 643, and the clean
20 water commission in chapter 644, such denial shall clearly state the basis for such denial.

21 4. Once a permit or action has been approved by the department, the department shall not
22 revoke or change, without written permission from the permittee, the decision for a period of one
23 year or unless the department determines that immediate action is necessary to protect human health,
24 public welfare, or the environment.

25 640.100. 1. The safe drinking water commission created in section 640.105 shall
26 promulgate rules necessary for the implementation, administration and enforcement of sections
27 640.100 to 640.140 and the federal Safe Drinking Water Act as amended.

28 2. No standard, rule or regulation or any amendment or repeal thereof shall be adopted
29 except after a public hearing to be held by the commission after at least thirty days' prior notice in the
30 manner prescribed by the rulemaking provisions of chapter 536 and an opportunity given to the
31 public to be heard; the commission may solicit the views, in writing, of persons who may be affected
32 by, knowledgeable about, or interested in proposed rules and regulations, or standards. Any person
33 heard or registered at the hearing, or making written request for notice, shall be given written notice
34 of the action of the commission with respect to the subject thereof. Any rule or portion of a rule, as
35 that term is defined in section 536.010, that is promulgated to administer and enforce sections
36 640.100 to 640.140 shall become effective only if the agency has fully complied with all of the
37 requirements of chapter 536, including but not limited to section 536.028, if applicable, after June 9,
38 1998. All rulemaking authority delegated prior to June 9, 1998, is of no force and effect and
39 repealed as of June 9, 1998, however, nothing in this section shall be interpreted to repeal or affect
40 the validity of any rule adopted or promulgated prior to June 9, 1998. If the provisions of section
41 536.028 apply, the provisions of this section are nonseverable and if any of the powers vested with

1 the general assembly pursuant to section 536.028 to review, to delay the effective date, or to
2 disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported
3 grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking
4 shall be invalid and void, except that nothing in this chapter or chapter 644 shall affect the validity of
5 any rule adopted and promulgated prior to June 9, 1998.

6 3. The commission shall promulgate rules and regulations for the certification of public
7 water system operators, backflow prevention assembly testers and laboratories conducting tests
8 pursuant to sections 640.100 to 640.140. Any person seeking to be a certified backflow prevention
9 assembly tester shall satisfactorily complete standard, nationally recognized written and performance
10 examinations designed to ensure that the person is competent to determine if the assembly is
11 functioning within its design specifications. Any such state certification shall satisfy any need for
12 local certification as a backflow prevention assembly tester. However, political subdivisions may set
13 additional testing standards for individuals who are seeking to be certified as backflow prevention
14 assembly testers. Notwithstanding any other provision of law to the contrary, agencies of the state or
15 its political subdivisions shall only require carbonated beverage dispensers to conform to the
16 backflow protection requirements established in the National Sanitation Foundation standard
17 eighteen, and the dispensers shall be so listed by an independent testing laboratory. The commission
18 shall promulgate rules and regulations for collection of samples and analysis of water furnished by
19 municipalities, corporations, companies, state establishments, federal establishments or individuals
20 to the public. The department of natural resources or the department of health and senior services
21 shall, at the request of any supplier, make any analyses or tests required pursuant to the terms of
22 section 192.320 and sections 640.100 to 640.140. The department shall collect fees to cover the
23 reasonable cost of laboratory services, both within the department of natural resources and the
24 department of health and senior services, laboratory certification and program administration as
25 required by sections 640.100 to 640.140. The laboratory services and program administration fees
26 pursuant to this subsection shall not exceed two hundred dollars for a supplier supplying less than
27 four thousand one hundred service connections, three hundred dollars for supplying less than seven
28 thousand six hundred service connections, five hundred dollars for supplying seven thousand six
29 hundred or more service connections, and five hundred dollars for testing surface water. Such fees
30 shall be deposited in the safe drinking water fund as specified in section 640.110. The analysis of all
31 drinking water required by section 192.320 and sections 640.100 to 640.140 shall be made by the
32 department of natural resources laboratories, department of health and senior services laboratories or
33 laboratories certified by the department of natural resources.

34 4. The department of natural resources shall establish and maintain an inventory of public
35 water supplies and conduct sanitary surveys of public water systems. Such records shall be available
36 for public inspection during regular business hours.

37 5. (1) For the purpose of complying with federal requirements for maintaining the primacy
38 of state enforcement of the federal Safe Drinking Water Act, the department is hereby directed to
39 request appropriations from the general revenue fund and all other appropriate sources to fund the
40 activities of the public drinking water program and in addition to the fees authorized pursuant to
41 subsection 3 of this section, an annual fee for each customer service connection with a public water

1 system is hereby authorized to be imposed upon all customers of public water systems in this state.
 2 [The fees collected shall not exceed the amounts specified in this subsection and the commission
 3 may set the fees, by rule, in a lower amount by proportionally reducing all fees charged pursuant to
 4 this subsection from the specified maximum amounts. Reductions shall be roughly proportional but
 5 in each case shall be divisible by twelve.] Each customer of a public water system shall pay an
 6 annual fee for each customer service connection.

7 (2) The annual fee per customer service connection for unmetered customers and customers
 8 with meters not greater than one inch in size shall be based upon the number of service connections
 9 in the water system serving that customer, and shall not exceed:

10	1 to 1,000 connections.....	\$ 3.24
11	1,001 to 4,000 connections.....	3.00
12	4,001 to 7,000 connections.....	2.76
13	7,001 to 10,000 connections.....	2.40
14	10,001 to 20,000 connections.....	2.16
15	20,001 to 35,000 connections.....	1.92
16	35,001 to 50,000 connections.....	1.56
17	50,001 to 100,000 connections.....	1.32
18	More than 100,000 connections.....	1.08.

19 (3) The annual user fee for customers having meters greater than one inch but less than or
 20 equal to two inches in size shall not exceed seven dollars and forty-four cents; for customers with
 21 meters greater than two inches but less than or equal to four inches in size shall not exceed forty-one
 22 dollars and sixteen cents; and for customers with meters greater than four inches in size shall not
 23 exceed eighty-two dollars and forty-four cents.

24 (4) Customers served by multiple connections shall pay an annual user fee based on the
 25 above rates for each connection, except that no single facility served by multiple connections shall
 26 pay a total of more than five hundred dollars per year.

27 6. Fees imposed pursuant to subsection 5 of this section shall become effective on August
 28 28, 2006, and shall be collected by the public water system serving the customer beginning
 29 September 1, 2006, and continuing until such time that the safe drinking water commission, at its
 30 discretion, specifies a [lower] different amount under [subdivision (1) of] subsection [5] 8 of this
 31 section. The commission shall promulgate rules and regulations on the procedures for billing,
 32 collection and delinquent payment. Fees collected by a public water system pursuant to subsection 5
 33 of this section and fees established by the commission pursuant to subsection 8 of this section are
 34 state fees. The annual fee shall be enumerated separately from all other charges, and shall be
 35 collected in monthly, quarterly or annual increments. Such fees shall be transferred to the director of
 36 the department of revenue at frequencies not less than quarterly. Two percent of the revenue arising
 37 from the fees shall be retained by the public water system for the purpose of reimbursing its expenses
 38 for billing and collection of such fees.

39 7. Imposition and collection of the fees authorized in subsection 5 and fees established by the
 40 commission pursuant to subsection 8 of this section shall be suspended on the first day of a calendar
 41 quarter if, during the preceding calendar quarter, the federally delegated authority granted to the safe

1 drinking water program within the department of natural resources to administer the Safe Drinking
2 Water Act, 42 U.S.C. 300g-2, is withdrawn. The fee shall not be reinstated until the first day of the
3 calendar quarter following the quarter during which such delegated authority is reinstated.

4 8. [Fees imposed pursuant to subsection 5 of this section shall expire on September 1, 2017.]
5 Notwithstanding any statutory fee amounts or maximums to the contrary, the department of natural
6 resources may conduct a comprehensive review and propose changes to the fee structure set forth in
7 this section. The comprehensive review shall include stakeholder meetings in order to solicit
8 stakeholder input from public and private water suppliers, and any other interested parties. Upon
9 completion of the comprehensive review, the department shall submit a proposed fee structure with
10 stakeholder agreement to the safe drinking water commission. The commission shall review such
11 recommendations at a forthcoming regular or special meeting, but shall not vote on the fee structure
12 until a subsequent meeting. If the commission approves, by vote of two-thirds majority or six of
13 nine commissioners, the fee structure recommendations, the commission shall authorize the
14 department to file a notice of proposed rulemaking containing the recommended fee structure, and
15 after considering public comments may authorize the department to file the final order of rulemaking
16 for such rule with the joint committee on administrative rules pursuant to sections 536.021 and
17 536.024 no later than December first of the same year. If such rules are not disapproved by the
18 general assembly in the manner set out below, they shall take effect on January first of the following
19 calendar year, at which point the existing fee structure shall expire. Any regulation promulgated
20 under this subsection shall be deemed to be beyond the scope and authority provided in this
21 subsection, or detrimental to permit applicants, if the general assembly within the first sixty calendar
22 days of the regular session immediately following the filing of such regulation, disapproves the
23 regulation by concurrent resolution. If the general assembly so disapproves any regulation filed
24 under this subsection, the department and the commission shall not implement the proposed fee
25 structure and shall continue to use the previous fee structure. The authority of the commission to
26 further revise the fee structure as provided by this subsection shall expire on August 28, 2024.

27 643.055. 1. Other provisions of law notwithstanding, the Missouri air conservation
28 commission shall have the authority to promulgate rules and regulations, pursuant to chapter 536, to
29 establish standards and guidelines to ensure that the state of Missouri is in compliance with the
30 provisions of the federal Clean Air Act, as amended (42 U.S.C. Section 7401, et seq.). The
31 standards and guidelines so established shall not be any stricter than those required under the
32 provisions of the federal Clean Air Act, as amended; nor shall those standards and guidelines be
33 enforced in any area of the state prior to the time required by the federal Clean Air Act, as amended.
34 The restrictions of this section shall not apply to the parts of a state implementation plan developed
35 by the commission to bring a nonattainment area into compliance and to maintain compliance when
36 needed to have a United States Environmental Protection Agency approved state implementation
37 plan. The determination of which parts of a state implementation plan are not subject to the
38 restrictions of this section shall be based upon specific findings of fact by the air conservation
39 commission as to the rules, regulations and criteria that are needed to have a United States
40 Environmental Protection Agency approved plan.

41 2. The Missouri air conservation commission shall also have the authority to grant

1 exceptions and variances from the rules set under subsection 1 of this section when the person
2 applying for the exception or variance can show that compliance with such rules:

- 3 (1) Would cause economic hardship; or
- 4 (2) Is physically impossible; or
- 5 (3) Is more detrimental to the environment than the variance would be; or
- 6 (4) Is impractical or of insignificant value under the existing conditions.

7 3. The department shall not regulate the manufacture, performance, or use of residential
8 wood burning heaters or appliances through a state implementation plan or otherwise, unless first
9 specifically authorized to do so by the general assembly. No rule or regulation respecting the
10 establishment or the enforcement of performance standards for residential wood burning heaters or
11 appliances shall become effective unless and until first approved by the joint committee on
12 administrative rules.

13 4. New rules or regulations shall not be applied to existing wood burning furnaces, stoves,
14 fireplaces, or heaters that individuals are currently using as their source of heat for their homes or
15 businesses. All wood burning furnaces, stoves, fireplaces, and heaters existing on August 28, 2014
16 shall be not subject to any rules or regulations enacted after such date. No employee of the state or
17 state agency shall enforce any new rules or regulations against such existing wood burning furnaces,
18 stoves, fireplaces, and heaters.

19 643.079. 1. Any air contaminant source required to obtain a permit issued under sections
20 643.010 to 643.355 shall pay annually beginning April 1, 1993, a fee as provided herein. For the
21 first year the fee shall be twenty-five dollars per ton of each regulated air contaminant emitted.
22 Thereafter, the fee shall be set every three years by the commission by rule and shall be at least
23 twenty-five dollars per ton of regulated air contaminant emitted but not more than forty dollars per
24 ton of regulated air contaminant emitted in the previous calendar year. If necessary, the commission
25 may make annual adjustments to the fee by rule. The fee shall be set at an amount consistent with
26 the need to fund the reasonable cost of administering sections 643.010 to 643.355, taking into
27 account other moneys received pursuant to sections 643.010 to 643.355. For the purpose of
28 determining the amount of air contaminant emissions on which the fees authorized under this section
29 are assessed, a facility shall be considered one source under the definition of subsection 2 of section
30 643.078, except that a facility with multiple operating permits shall pay the emission fees authorized
31 under this section separately for air contaminants emitted under each individual permit.

32 2. A source which produces charcoal from wood shall pay an annual emission fee under this
33 subsection in lieu of the fee established in subsection 1 of this section. The fee shall be based upon a
34 maximum fee of twenty-five dollars per ton and applied upon each ton of regulated air contaminant
35 emitted for the first four thousand tons of each contaminant emitted in the amount established by the
36 commission pursuant to subsection 1 of this section, reduced according to the following schedule:

- 37 (1) For fees payable under this subsection in the years 1993 and 1994, the fee shall be
38 reduced by one hundred percent;
- 39 (2) For fees payable under this subsection in the years 1995, 1996 and 1997, the fee shall be
40 reduced by eighty percent;
- 41 (3) For fees payable under this subsection in the years 1998, 1999 and 2000, the fee shall be

1 reduced by sixty percent.

2 3. The fees imposed in subsection 2 of this section shall not be imposed or collected after the
3 year 2000 unless the general assembly reimposes the fee.

4 4. Each air contaminant source with a permit issued under sections 643.010 to 643.355 shall
5 pay the fee for the first four thousand tons of each regulated air contaminant emitted each year but no
6 air contaminant source shall pay fees on total emissions of regulated air contaminants in excess of
7 twelve thousand tons in any calendar year. A permitted air contaminant source which emitted less
8 than one ton of all regulated pollutants shall pay a fee equal to the amount per ton set by the
9 commission. An air contaminant source which pays emission fees to a holder of a certificate of
10 authority issued pursuant to section 643.140 may deduct such fees from any amount due under this
11 section. The fees imposed in this section shall not be applied to carbon oxide emissions. The fees
12 imposed in subsection 1 and this subsection shall not be applied to sulfur dioxide emissions from any
13 Phase I affected unit subject to the requirements of Title IV, Section 404, of the federal Clean Air
14 Act, as amended, 42 U.S.C. 7651, et seq., any sooner than January 1, 2000. The fees imposed on
15 emissions from Phase I affected units shall be consistent with and shall not exceed the provisions of
16 the federal Clean Air Act, as amended, and the regulations promulgated thereunder. Any such fee on
17 emissions from any Phase I affected unit shall be reduced by the amount of the service fee paid by
18 that Phase I affected unit pursuant to subsection 8 of this section in that year. Any fees that may be
19 imposed on Phase I sources shall follow the procedures set forth in subsection 1 and this subsection
20 and shall not be applied retroactively.

21 5. Moneys collected under this section shall be transmitted to the director of revenue for
22 deposit in appropriate subaccounts of the natural resources protection fund created in section
23 640.220. A subaccount shall be maintained for fees paid by air contaminant sources which are
24 required to be permitted under Title V of the federal Clean Air Act, as amended, 42 U.S.C. Section
25 7661, et seq., and used, upon appropriation, to fund activities by the department to implement the
26 operating permits program authorized by Title V of the federal Clean Air Act, as amended. Another
27 subaccount shall be maintained for fees paid by air contaminant sources which are not required to be
28 permitted under Title V of the federal Clean Air Act as amended, and used, upon appropriation, to
29 fund other air pollution control program activities. Another subaccount shall be maintained for
30 service fees paid under subsection 8 of this section by Phase I affected units which are subject to the
31 requirements of Title IV, Section 404, of the federal Clean Air Act Amendments of 1990, as
32 amended, 42 U.S.C. 7651, and used, upon appropriation, to fund air pollution control program
33 activities. The provisions of section 33.080 to the contrary notwithstanding, moneys in the fund
34 shall not revert to general revenue at the end of each biennium. Interest earned by moneys in the
35 subaccounts shall be retained in the subaccounts. The per-ton fees established under subsection 1 of
36 this section may be adjusted annually, consistent with the need to fund the reasonable costs of the
37 program, but shall not be less than twenty-five dollars per ton of regulated air contaminant nor more
38 than forty dollars per ton of regulated air contaminant. The first adjustment shall apply to moneys
39 payable on April 1, 1994, and shall be based upon the general price level for the twelve-month
40 period ending on August thirty-first of the previous calendar year.

41 6. The department may initiate a civil action in circuit court against any air contaminant

1 source which has not remitted the appropriate fees within thirty days. In any judgment against the
 2 source, the department shall be awarded interest at a rate determined pursuant to section 408.030 and
 3 reasonable attorney's fees. In any judgment against the department, the source shall be awarded
 4 reasonable attorney's fees.

5 7. The department shall not suspend or revoke a permit for an air contaminant source solely
 6 because the source has not submitted the fees pursuant to this section.

7 8. Any Phase I affected unit which is subject to the requirements of Title IV, Section 404, of
 8 the federal Clean Air Act, as amended, 42 U.S.C. 7651, shall pay annually beginning April 1, 1993,
 9 and terminating December 31, 1999, a service fee for the previous calendar year as provided herein.

10 For the first year, the service fee shall be twenty-five thousand dollars for each Phase I affected
 11 generating unit to help fund the administration of sections 643.010 to 643.355. Thereafter, the
 12 service fee shall be annually set by the commission by rule, following public hearing, based on an
 13 annual allocation prepared by the department showing the details of all costs and expenses upon
 14 which such fees are based consistent with the department's reasonable needs to administer and
 15 implement sections 643.010 to 643.355 and to fulfill its responsibilities with respect to Phase I
 16 affected units, but such service fee shall not exceed twenty-five thousand dollars per generating unit.
 17 Any such Phase I affected unit which is located on one or more contiguous tracts of land with any
 18 Phase II generating unit that pays fees under subsection 1 or subsection 2 of this section shall be
 19 exempt from paying service fees under this subsection. A "contiguous tract of land" shall be defined
 20 to mean adjacent land, excluding public roads, highways and railroads, which is under the control of
 21 or owned by the permit holder and operated as a single enterprise.

22 9. The department of natural resources shall determine the fees due pursuant to this section
 23 by the state of Missouri and its departments, agencies and institutions, including two- and four-year
 24 institutions of higher education. The director of the department of natural resources shall forward
 25 the various totals due to the joint committee on capital improvements and the directors of the
 26 individual departments, agencies and institutions. The departments, as part of the budget process,
 27 shall annually request by specific line item appropriation funds to pay said fees and capital funding
 28 for projects determined to significantly improve air quality. If the general assembly fails to
 29 appropriate funds for emissions fees as specifically requested, the departments, agencies and
 30 institutions shall pay said fees from other sources of revenue or funds available. The state of
 31 Missouri and its departments, agencies and institutions may receive assistance from the small
 32 business technical assistance program established pursuant to section 643.173.

33 10. Notwithstanding any statutory fee amounts or maximums to the contrary, the [director of
 34 the] department of natural resources may conduct a comprehensive review [of] and propose changes
 35 to the fee structure [set forth in this section. The comprehensive review shall include] authorized by
 36 sections 643.073, 643.075, 643.079, 643.225, 643.228, 643.232, 643.237, and 643.242 after holding
 37 stakeholder meetings in order to solicit stakeholder input from each of the following groups: the
 38 asbestos industry, electric utilities, mineral and metallic mining and processing facilities, cement kiln
 39 representatives, and any other interested industrial or business entities or interested parties. [Upon
 40 completion of the comprehensive review,] The department shall submit a proposed [changes to the]
 41 fee structure with stakeholder agreement to the air conservation commission. The commission

shall[, upon receiving the department's recommendations,] review such recommendations at the forthcoming regular or special meeting, but shall not vote on the fee structure until a subsequent meeting. [The commission shall review fee structure recommendations from the department. The commission shall not take a vote on the fee structure recommendations until the following regular or special meeting.] If the commission approves, by vote of two-thirds majority or five of seven commissioners, the fee structure recommendations, the commission shall [promulgate by regulation and publish the recommended fee structure no later than October first of the same year. The commission shall] authorize the department to file a notice of proposed rulemaking containing the recommended fee structure, and after considering public comments, may authorize the department to file the order of rulemaking for such rule with the joint committee on administrative rules pursuant to sections 536.021 and 536.024 no later than December first of the same year. If such rules are not disapproved by the general assembly in the manner set out below, they shall take effect on January first of the [next odd-numbered] following calendar year and the previous fee structure [set out in this section] shall expire upon the effective date of the commission-adopted fee structure. Any regulation promulgated under this subsection shall be deemed to be beyond the scope and authority provided in this subsection, or detrimental to permit applicants, if the general assembly, within the first sixty calendar days of the regular session immediately following the [promulgation] filing of such regulation, by concurrent resolution[, shall disapprove the fee structure contained in such regulation] disapproves the regulation by concurrent resolution. If the general assembly so disapproves any regulation [promulgated] filed under this subsection, the [air conservation] commission shall continue to use the previous fee structure [set forth in the most recent preceding regulation promulgated under this subsection]. The authority of the commission to further revise the fee structure as provided by this subsection shall expire on August 28, [2023] 2024.

644.026. 1. The commission shall:

- (1) Exercise general supervision of the administration and enforcement of sections 644.006 to 644.141 and all rules and regulations and orders promulgated thereunder;
- (2) Develop comprehensive plans and programs for the prevention, control and abatement of new or existing pollution of the waters of the state;
- (3) Advise, consult, and cooperate with other agencies of the state, the federal government, other states and interstate agencies, and with affected groups, political subdivisions and industries in furtherance of the purposes of sections 644.006 to 644.141;
- (4) Accept gifts, contributions, donations, loans and grants from the federal government and from other sources, public or private, for carrying out any of its functions, which funds shall not be expended for other than the purposes for which provided;
- (5) Encourage, participate in, or conduct studies, investigations, and research and demonstrations relating to water pollution and causes, prevention, control and abatement thereof as it may deem advisable and necessary for the discharge of its duties pursuant to sections 644.006 to 644.141;
- (6) Collect and disseminate information relating to water pollution and the prevention, control and abatement thereof;
- (7) After holding public hearings, identify waters of the state and prescribe water quality

1 standards for them, giving due recognition to variations, if any, and the characteristics of different
2 waters of the state which may be deemed by the commission to be relevant insofar as possible
3 pursuant to any federal water pollution control act. These shall be reevaluated and modified as
4 required by any federal water pollution control act;

5 (8) Adopt, amend, promulgate, or repeal after due notice and hearing rules and regulations to
6 enforce, implement, and effectuate the powers and duties of sections 644.006 to 644.141 and any
7 required of this state by any federal water pollution control act, and as the commission may deem
8 necessary to prevent, control and abate existing or potential pollution. In addition to opportunities to
9 submit written statements or provide testimony at public hearings in support of or in opposition to
10 proposed rulemakings as required by section 536.021, any person who submits written comments or
11 oral testimony on a proposed rule shall, at any public meeting to vote on an order of rulemaking or
12 other commission policy, have the opportunity to respond to the proposed order of rulemaking or
13 department of natural resources' response to comments to the extent that such response is limited to
14 issues raised in oral or written comments made during the public notice comment period or public
15 hearing on the proposed rule;

16 (9) Issue, modify or revoke orders prohibiting or abating discharges of water contaminants
17 into the waters of the state or adopting other remedial measures to prevent, control or abate
18 pollution;

19 (10) Administer state and federal grants and loans to municipalities and political
20 subdivisions for the planning and construction of sewage treatment works;

21 (11) Hold such hearings, issue such notices of hearings and subpoenas requiring the
22 attendance of such witnesses and the production of such evidence, administer such oaths, and take
23 such testimony as the commission deems necessary or as required by any federal water pollution
24 control act. Any of these powers may be exercised on behalf of the commission by any members
25 thereof or a hearing officer designated by it;

26 (12) Require the prior submission of plans and specifications, or other data including the
27 quantity and types of water contaminants, and inspect the construction of treatment facilities and
28 sewer systems or any part thereof in connection with the issuance of such permits or approval as are
29 required by sections 644.006 to 644.141, except that manholes and polyvinyl chloride (PVC) pipe
30 used for gravity sewers and with a diameter no greater than twenty-seven inches shall not be required
31 to be tested for leakage;

32 (13) Issue, continue in effect, revoke, modify or deny, under such conditions as it may
33 prescribe, to prevent, control or abate pollution or any violations of sections 644.006 to 644.141 or
34 any federal water pollution control act, permits for the discharge of water contaminants into the
35 waters of this state, and for the installation, modification or operation of treatment facilities, sewer
36 systems or any parts thereof. Such permit conditions, in addition to all other requirements of this
37 subdivision, shall ensure compliance with all effluent regulations or limitations, water quality related
38 effluent limitations, national standards of performance and toxic and pretreatment effluent standards,
39 and all requirements and time schedules thereunder as established by sections 644.006 to 644.141
40 and any federal water pollution control act; however, no permit shall be required of any person for
41 any emission into publicly owned treatment facilities or into publicly owned sewer systems tributary

1 to publicly owned treatment works;

2 (14) Establish permits by rule. Such permits shall only be available for those facilities or
3 classes of facilities that control potential water contaminants that pose a reduced threat to public
4 health or the environment and that are in compliance with commission water quality standards rules,
5 effluent rules or rules establishing permits by rule. Such permits by rule shall have the same legal
6 standing as other permits issued pursuant to this chapter. Nothing in this section shall prohibit the
7 commission from requiring a site-specific permit or a general permit for individual facilities;

8 (15) Require proper maintenance and operation of treatment facilities and sewer systems and
9 proper disposal of residual waste from all such facilities and systems;

10 (16) Exercise all incidental powers necessary to carry out the purposes of sections 644.006 to
11 644.141, assure that the state of Missouri complies with any federal water pollution control act,
12 retains maximum control thereunder and receives all desired federal grants, aid and benefits;

13 (17) Establish effluent and pretreatment and toxic material control regulations to further the
14 purposes of sections 644.006 to 644.141 and as required to ensure compliance with all effluent
15 limitations, water quality-related effluent limitations, national standards of performance and toxic
16 and pretreatment effluent standards, and all requirements and any time schedules thereunder, as
17 established by any federal water pollution control act for point sources in this state, and where
18 necessary to prevent violation of water quality standards of this state;

19 (18) Prohibit all discharges of radiological, chemical, or biological warfare agent or
20 high-level radioactive waste into waters of this state;

21 (19) Require that all publicly owned treatment works or facilities which receive or have
22 received grants or loans from the state or the federal government for construction or improvement
23 make all charges required by sections 644.006 to 644.141 or any federal water pollution control act
24 for use and recovery of capital costs, and the operating authority for such works or facility is hereby
25 authorized to make any such charges;

26 (20) Represent the state of Missouri in all matters pertaining to interstate water pollution
27 including the negotiation of interstate compacts or agreements;

28 (21) Develop such facts and make such investigations as are consistent with the purposes of
29 sections 644.006 to 644.141, and, in connection therewith, to enter or authorize any representative of
30 the commission to enter at all reasonable times and upon reasonable notice in or upon any private or
31 public property for any purpose required by any federal water pollution control act or sections
32 644.006 to 644.141 for the purpose of developing rules, regulations, limitations, standards, or permit
33 conditions, or inspecting or investigating any records required to be kept by sections 644.006 to
34 644.141 or any permit issued pursuant to sections 644.006 to 644.141, any condition which the
35 commission or director has probable cause to believe to be a water contaminant source or the site of
36 any suspected violation of sections 644.006 to 644.141, regulations, standards, or limitations, or
37 permits issued pursuant to sections 644.006 to 644.141. The results of any such investigation shall
38 be reduced to writing, and shall be furnished to the owner or operator of the property. No person
39 shall refuse entry or access, requested for the purposes of inspection pursuant to this subdivision, to
40 an authorized representative in carrying out the inspection. A suitably restricted search warrant,
41 upon a showing of probable cause in writing and upon oath, shall be issued by any judge or associate

1 circuit judge having jurisdiction to any representative for the purpose of enabling him or her to make
 2 such inspection. Information obtained pursuant to this section shall be available to the public unless
 3 it constitutes trade secrets or confidential information, other than effluent data, of the person from
 4 whom it is obtained, except when disclosure is required pursuant to any federal water pollution
 5 control act;

6 (22) Retain, employ, provide for, and compensate, within appropriations available therefor,
 7 such consultants, assistants, deputies, clerks and other employees on a full- or part-time basis as may
 8 be necessary to carry out the provisions of sections 644.006 to 644.141 and prescribe the times at
 9 which they shall be appointed and their powers and duties;

10 (23) Secure necessary scientific, technical, administrative and operation services, including
 11 laboratory facilities, by contract or otherwise, with any educational institution, experiment station, or
 12 any board, department, or other agency of any political subdivision of the state or the federal
 13 government;

14 (24) Require persons owning or engaged in operations which do or could discharge water
 15 contaminants, or introduce water contaminants or pollutants of a quality and quantity to be
 16 established by the commission, into any publicly owned treatment works or facility, to provide and
 17 maintain any facilities and conduct any tests and monitoring necessary to establish and maintain
 18 records and to file reports containing information relating to measures to prevent, lessen or render
 19 any discharge less harmful or relating to rate, period, composition, temperature, and quality and
 20 quantity of the effluent, and any other information required by any federal water pollution control act
 21 or the director, and to make them public, except as provided in subdivision (21) of this section. The
 22 commission shall develop and adopt such procedures for inspection, investigation, testing, sampling,
 23 monitoring and entry respecting water contaminant and point sources as may be required for
 24 approval of such a program pursuant to any federal water pollution control act;

25 (25) Take any action necessary to implement continuing planning processes and areawide
 26 waste treatment management as established pursuant to any federal water pollution control act or
 27 sections 644.006 to 644.141;

28 (26) Exercise general supervision of the department as the sole designated state agency with
 29 authority to administer the federal Clean Water Act in the state of Missouri, which shall include
 30 authority to approve any stream or wetland mitigation used in connection with any section 401 water
 31 quality certification.

32 2. No rule or portion of a rule promulgated pursuant to this chapter shall become effective
 33 unless it has been promulgated pursuant to chapter 536.

34 644.051. 1. It is unlawful for any person:

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

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

40 (3) To violate any pretreatment and toxic material control regulations, or to discharge any
 41 water contaminants into any waters of the state which exceed effluent regulations or permit

1 provisions as established by the commission or required by any federal water pollution control act;

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

4 2. It shall be unlawful for any person to operate, use or maintain any water contaminant or
5 point source in this state that is subject to standards, rules or regulations promulgated pursuant to the
6 provisions of sections 644.006 to 644.141 unless such person holds an operating permit from the
7 commission, subject to such exceptions as the commission may prescribe by rule or regulation.
8 However, no operating permit shall be required of any person for any emission into publicly owned
9 treatment facilities or into publicly owned sewer systems tributary to publicly owned treatment
10 works.

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

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

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

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

21 (4) Any other exclusions the commission may promulgate by rule.
22

23 [However, nothing shall prevent the department from taking action to assure protection of the
24 environment and human health.] A construction permit may be required [where necessary as
25 determined by the department, including] by the department in the following circumstances:

26 (a) Substantial deviation from the commission's design standards;

27 (b) To [correct] address noncompliance;

28 (c) When an unauthorized discharge has occurred or has the potential to occur; or

29 (d) To correct a violation of water quality standards.
30

31 In addition, any point source that proposes to construct an earthen storage structure to hold, convey,
32 contain, store or treat domestic, agricultural, or industrial process wastewater also shall be subject to
33 the construction permit provisions of this subsection. All other construction-related activities at
34 point sources shall be exempt from the construction permit requirements. All activities that are
35 exempted from the construction permit requirement are subject to the following conditions:

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

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

41 c. Such point source system may receive a post-construction site inspection by the

1 department prior to receiving operating permit approval. A site inspection may be performed by the
2 department, upon receipt of a complete operating permit application or submission of an engineer's
3 statement of work complete.
4

5 A governmental unit may apply to the department for authorization to operate a local supervised
6 program, and the department may authorize such a program. A local supervised program would
7 recognize the governmental unit's engineering capacity and ability to conduct engineering work,
8 supervise construction and maintain compliance with relevant operating permit requirements.

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

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

29 6. The director shall promptly notify the applicant in writing of his or her action and if the
30 permit is denied state the reasons therefor. The applicant may appeal to the commission from the
31 denial of a permit or from any condition in any permit by filing notice of appeal with the
32 commission within thirty days of the notice of denial or issuance of the permit. After a final action is
33 taken on a new or reissued general permit, a potential applicant for the general permit who can
34 demonstrate that he or she is or may be adversely affected by any permit term or condition may
35 appeal the terms and conditions of the general permit within thirty days of the department's issuance
36 of the general permit. In no event shall a permit constitute permission to violate the law or any
37 standard, rule or regulation promulgated pursuant thereto.

38 7. In any hearing held pursuant to this section that involves a permit, license, or registration,
39 the burden of proof is on the party specified in section 640.012. Any decision of the commission
40 made pursuant to a hearing held pursuant to this section is subject to judicial review as provided in
41 section 644.071.

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

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

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

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

30 12. The director or the commission may require the filing or posting of a bond as a condition
31 for the issuance of permits for construction of temporary or future water treatment facilities or
32 facilities that utilize innovative technology for wastewater treatment in an amount determined by the
33 commission to be sufficient to ensure compliance with all provisions of sections 644.006 to 644.141,
34 and any rules or regulations of the commission and any condition as to such construction in the
35 permit. For the purposes of this section, "innovative technology for wastewater treatment" shall
36 mean a completely new and generally unproven technology in the type or method of its application
37 that bench testing or theory suggest has environmental, efficiency, and cost benefits beyond the
38 standard technologies. No bond shall be required for designs approved by any federal agency or
39 environmental regulatory agency of another state. The bond shall be signed by the applicant as
40 principal, and by a corporate surety licensed to do business in the state of Missouri and approved by
41 the commission. The bond shall remain in effect until the terms and conditions of the permit are met

1 and the provisions of sections 644.006 to 644.141 and rules and regulations promulgated pursuant
2 thereto are complied with.

3 13. (1) The department shall issue or deny applications for construction and site-specific
4 operating permits received after January 1, 2001, within one hundred eighty days of the department's
5 receipt of an application. For general construction and operating permit applications received after
6 January 1, 2001, that do not require a public participation process, the department shall issue or deny
7 the permits within sixty days of the department's receipt of an application. For an application
8 seeking coverage under a renewed general permit that does not require an individual public
9 participation process, the director shall issue or deny the permit within sixty days of the director's
10 receipt of the application, or upon issuance of the general permit, whichever is later. In regard to an
11 application seeking coverage under an initial general permit that does not require an individual
12 public participation process, the director shall issue or deny the permit within sixty days of the
13 department's receipt of the application. For an application seeking coverage under a renewed general
14 permit that requires an individual public participation process, the director shall issue or deny the
15 permit within ninety days of the director's receipt of the application, or upon issuance of the general
16 permit, whichever is later. In regard to an application for an initial general permit that requires an
17 individual public participation process, the director shall issue or deny the permit within ninety days
18 of the director's receipt of the application.

19 (2) If the department fails to issue or deny with good cause a construction or operating
20 permit application within the time frames established in subdivision (1) of this subsection, the
21 department shall refund the full amount of the initial application fee within forty-five days of failure
22 to meet the established time frame. If the department fails to refund the application fee within
23 forty-five days, the refund amount shall accrue interest at a rate established pursuant to section
24 32.065.

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

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

41 (5) During the department's technical review of the application, the department may request

1 the applicant submit supplemental or additional information necessary for adequate permit review.
2 The department's technical review letter shall contain a sufficient description of the type of
3 additional information needed to comply with the application requirements.

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

7 14. The department shall respond to all requests for individual certification under Section
8 401 of the Federal Clean Water Act within the lesser of sixty days or the allowed response period
9 established pursuant to applicable federal regulations without request for an extension period unless
10 such extension is determined by the commission to be necessary to evaluate significant impacts on
11 water quality standards and the commission establishes a timetable for completion of such evaluation
12 in a period of no more than one hundred eighty days.

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

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

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

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

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

30 (3) The director shall hold a public informational meeting to provide information on
31 anticipated permit conditions and requirements and to receive informal comments from permittees
32 and other interested persons. The director shall include notice of the public informational meeting
33 with the notice of intent to issue a new general permit or reissue a general permit under subdivision
34 (2) of this subsection. The notice of the public informational meeting, including the date, time and
35 location, shall be posted on the department's website at least thirty days in advance of the public
36 meeting. If the meeting is being held for reissuance of a general permit, notice shall also be made by
37 electronic mail to all permittees holding the current general permit which is expiring. Notice to
38 current permittees shall be made at least twenty days prior to the public meeting;

39 (4) The director shall hold a thirty-day public comment period to receive comments on the
40 general permit template with the thirty-day comment period expiring at least sixty days prior to the
41 effective date of the general permit. Scanned copies of the comments received during the public

comment period shall be posted on the department's website within five business days after close of the public comment period;

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

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

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

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

644.057. Notwithstanding any statutory fee amounts or maximums to the contrary, the director of the department of natural resources may conduct a comprehensive review [of] and propose changes to the clean water fee structure set forth in sections 644.052 [and], 644.053, and 644.061. The comprehensive review shall include stakeholder meetings in order to solicit stakeholder input from each of the following groups: agriculture, industry, municipalities, public and private wastewater facilities, and the development community. Upon completion of the comprehensive review, the department shall submit a proposed [changes to the] fee structure with stakeholder agreement to the clean water commission. The commission shall[, upon receiving the department's recommendations,] review such recommendations at the forthcoming regular or special meeting [under subsection 3 of section 644.021], but shall not vote on the fee structure until a subsequent meeting. [The commission shall not take a vote on the clean water fee structure recommendations until the following regular or special meeting.] In no case shall the clean water commission adopt or recommend any clean water fee in excess of five thousand dollars. If the commission approves, by vote of two-thirds majority or five of seven commissioners, the [clean water] fee structure recommendations, the commission shall [promulgate by regulation and publish the recommended clean water fee structure no later than October first of the same year. The commission shall] authorize the department to file a notice of proposed rulemaking containing the recommended fee structure, and after considering public comments, may authorize the department to file the order of rulemaking for such rule with the joint committee on administrative rules pursuant to sections 536.021 and 536.024 no later than December first of the same year. If such rules are not disapproved by the general assembly in the manner set out below, they shall take effect on January first of the [next odd-numbered] following calendar year and the fee structures set forth in sections 644.052 [and], 644.053, and 644.061 shall expire upon the effective date of the commission-adopted fee structure, contrary to section 644.054. Any regulation promulgated under this subsection shall be

deemed to be beyond the scope and authority provided in this subsection, or detrimental to permit applicants, if the general assembly, within the first sixty calendar days of the regular session immediately following the [promulgation] filing of such regulation[, by concurrent resolution, shall disapprove the fee structure contained in such regulation] disapproves the regulation by concurrent resolution. If the general assembly so disapproves any regulation [promulgated] filed under this subsection, the [clean water commission shall continue to use the fee structure set forth in the most recent preceding regulation promulgated under this subsection.] department and the commission shall not implement the proposed fee structure and shall continue to use the previous fee structure. The authority of the commission to further revise the fee structure provided by this section shall expire on August 28, [2023] 2024.

644.058. Notwithstanding the provisions of section 644.026 to the contrary, in promulgating water quality standards, the commission shall only revise water quality standards upon the completion of an assessment by the department finding that there is an environmental need for such revision. As part of the implementation of any revised water quality standards modifications of twenty-five percent or more, the department shall conduct an evaluation which shall include the environmental and economic impacts of the revised water quality standards on a subbasin basis. This evaluation shall be conducted at the eight-digit hydrologic unit code level. The department shall document these evaluations and use them in making individual site-specific permit decisions.

644.145. 1. When issuing permits under this chapter that incorporate a new requirement for discharges from publicly owned combined or separate sanitary or storm sewer systems or treatment works, or when enforcing provisions of this chapter or the Federal Water Pollution Control Act, 33 U.S.C. 1251, et seq., pertaining to any portion of a publicly owned combined or separate sanitary or storm sewer system or treatment works, the department of natural resources shall make a finding of affordability on the costs to be incurred and the impact of any rate changes on ratepayers upon which to base such permits and decisions, to the extent allowable under this chapter and the Federal Water Pollution Control Act.

2. (1) The department of natural resources shall not be required under this section to make a finding of affordability when:

- (a) Issuing collection system extension permits;
- (b) Issuing National Pollution Discharge Elimination System operating permit renewals which include no new environmental requirements; or
- (c) The permit applicant certifies that the applicable requirements are affordable to implement or otherwise waives the requirement for an affordability finding; however, at no time shall the department require that any applicant certify, as a condition to approving any permit, administrative or civil action, that a requirement, condition, or penalty is affordable.

(2) The exceptions provided under paragraph (c) of subdivision (1) of this subsection do not apply when the community being served has less than three thousand three hundred residents.

3. When used in this chapter and in standards, rules and regulations promulgated pursuant to this chapter, the following words and phrases mean:

- (1) "Affordability", with respect to payment of a utility bill, a measure of whether an individual customer or household with an income equal to the lower of the median household

1 income for their community or the state of Missouri can pay the bill without undue hardship or
 2 unreasonable sacrifice in the essential lifestyle or spending patterns of the individual or household,
 3 taking into consideration the criteria described in subsection 4 of this section;

4 (2) "Financial capability", the financial capability of a community to make investments
 5 necessary to make water quality-related improvements;

6 (3) "Finding of affordability", a department statement as to whether an individual or a
 7 household receiving as income an amount equal to the lower of the median household income for the
 8 applicant community or the state of Missouri would be required to make unreasonable sacrifices in
 9 their essential lifestyle or spending patterns or undergo hardships in order to make the projected
 10 monthly payments for sewer services. The department shall make a statement that the proposed
 11 changes meet the definition of affordable, or fail to meet the definition of affordable, or are
 12 implemented as a federal mandate regardless of affordability.

13 4. The department of natural resources shall adopt procedures by which it will make
 14 affordability findings that evaluate the affordability of permit requirements and enforcement actions
 15 described in subsection 1 of this section, and may begin implementing such procedures prior to
 16 promulgating implementing regulations. The commission shall have the authority to promulgate
 17 rules to implement this section pursuant to chapters 536 and 644, and shall promulgate such rules as
 18 soon as practicable. Affordability findings shall be based upon reasonably verifiable data and shall
 19 include an assessment of affordability with respect to persons or entities affected. The department
 20 shall offer the permittee an opportunity to review a draft affordability finding, and the permittee may
 21 suggest changes and provide additional supporting information, subject to subsection 6 of this
 22 section. The finding shall be based upon the following criteria:

23 (1) A community's financial capability and ability to raise or secure necessary funding;

24 (2) Affordability of pollution control options for the individuals or households at or below
 25 the median household income level of the community;

26 (3) An evaluation of the overall costs and environmental benefits of the control technologies;

27 (4) Inclusion of ongoing costs of operating and maintaining the existing wastewater
 28 collection and treatment system, including payments on outstanding debts for wastewater collection
 29 and treatment systems when calculating projected rates;

30 (5) An inclusion of ways to reduce economic impacts on distressed populations in the
 31 community, including but not limited to low- and fixed-income populations. This requirement
 32 includes but is not limited to:

33 (a) Allowing adequate time in implementation schedules to mitigate potential adverse
 34 impacts on distressed populations resulting from the costs of the improvements and taking into
 35 consideration local community economic considerations; and

36 (b) Allowing for reasonable accommodations for regulated entities when inflexible standards
 37 and fines would impose a disproportionate financial hardship in light of the environmental benefits
 38 to be gained;

39 [(5)] (6) An assessment of other community investments and operating costs relating to
 40 environmental improvements and public health protection;

41 [(6)] (7) An assessment of factors set forth in the United States Environmental Protection

Agency's guidance, including but not limited to the "Combined Sewer Overflow Guidance for Financial Capability Assessment and Schedule Development" that may ease the cost burdens of implementing wet weather control plans, including but not limited to small system considerations, the attainability of water quality standards, and the development of wet weather standards; and

[(7)] (8) An assessment of any other relevant local community economic condition.

5. Prescriptive formulas and measures used in determining financial capability, affordability, and thresholds for expenditure, such as median household income, should not be considered to be the only indicator of a community's ability to implement control technology and shall be viewed in the context of other economic conditions rather than as a threshold to be achieved.

6. Reasonable time spent preparing draft affordability findings, allowing permittees to review draft affordability findings or draft permits, or revising draft affordability findings, shall be allowed in addition to the department's deadlines for making permitting decisions pursuant to section 644.051.

7. If the department of natural resources fails to make a finding of affordability where required by this section, then the resulting permit or decision shall be null, void and unenforceable.

8. The department of natural resources' findings under this section may be appealed to the commission pursuant to subsection 6 of section 644.051.

9. The department shall file an annual report by the beginning of the fiscal year with the governor, the speaker of the house of representatives, the president pro tempore of the senate, and the chairs of the committees in both houses having primary jurisdiction over natural resource issues showing at least the following information on the findings of affordability completed in the previous calendar year:

(1) The total number of findings of affordability issued by the department, those categorized as affordable, those categorized as not meeting the definition of affordable, and those implemented as a federal mandate regardless of affordability;

(2) The average increase in sewer rates both in dollars and percentage for all findings found to be affordable;

(3) The average increase in sewer rates as a percentage of median house income in the communities for those findings determined to be affordable and a separate calculation of average increases in sewer rates for those found not to meet the definition of affordable;

(4) A list of all the permit holders receiving findings, and for each permittee the following data taken from the finding of affordability shall be listed:

(a) Current and projected monthly residential sewer rates in dollars;

(b) Projected monthly residential sewer rates as a percentage of median house income;

(c) Percentage of households at or below the state poverty rate."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.