

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1302

AN ACT

To repeal sections 259.010, 259.030, 259.040, 259.050, 259.070, 259.080, 259.100, 259.190, 260.273, 260.279, 260.355, 260.380, 260.392, 260.475, 444.510, 444.520, 444.762, 444.765, 444.770, 444.805, 640.015, 640.016, 640.100, 643.055, 643.079, 644.026, 644.051, 644.057, and 644.145, RSMo, and to enact in lieu thereof thirty-two new sections relating to the department of natural resources, with penalty provisions.

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

1 Section A. Sections 259.010, 259.030, 259.040, 259.050,
2 259.070, 259.080, 259.100, 259.190, 260.273, 260.279, 260.355,
3 260.380, 260.392, 260.475, 444.510, 444.520, 444.762, 444.765,
4 444.770, 444.805, 640.015, 640.016, 640.100, 643.055, 643.079,
5 644.026, 644.051, 644.057, and 644.145, RSMo, are repealed and
6 thirty-two new sections enacted in lieu thereof, to be known as
7 sections 259.010, 259.030, 259.040, 259.050, 259.052, 259.070,
8 259.080, 259.100, 259.190, 260.273, 260.279, 260.355, 260.380,
9 260.392, 260.475, 444.510, 444.520, 444.762, 444.765, 444.768,
10 444.770, 444.805, 640.015, 640.016, 640.100, 643.055, 643.079,
11 644.026, 644.051, 644.057, 644.058, and 644.145, to read as
12 follows:

1 259.010. There shall be a "State Oil and Gas Council"
2 composed of the following members in accordance with the
3 provisions of section 259.020:

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

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

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

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

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

11 (6) One member from the Missouri Independent Oil and Gas
12 Association; and

13 (7) Two members from the public.

14 259.030. 1. The chairperson of the council shall [elect a
15 chairman and vice chairman from the members of the council other
16 than the representative of the division of geology and land
17 survey. A chairman and vice chairman may serve more than a
18 one-year term, if so elected by the members of the council] be
19 the member from the Missouri University of Science and Technology
20 petroleum engineering program. The vice chairperson of the
21 council shall be the state geologist.

22 2. The state geologist shall act as administrator for the
23 council and shall be responsible for enforcing the provisions of
24 this chapter.

25 259.040. Representatives of the member state agencies shall
26 not receive any additional compensation for their services as
27 representatives on the council and all expenses of the state
28 agency representatives shall be paid by their respective agency.

1 The [professor of petroleum engineering,] member from the
2 Missouri University of Science and Technology petroleum
3 engineering program and the member from the Missouri Independent
4 Oil and Gas Association [and the public members] shall not
5 receive any compensation for their services as representatives on
6 the council and all expenses of such representatives shall be
7 paid by their respective entities. Public members of the council
8 shall be reimbursed for reasonable expenses incurred in the
9 performance of their official duties in accordance with the
10 reimbursement policy of the department of natural resources. All
11 reimbursements paid under this section shall be paid from the oil
12 and gas resources fund established in section 259.052.

13 259.050. Unless the context otherwise requires, the
14 following words mean:

15 (1) "Certificate of clearance" [means], a permit prescribed
16 by the council for the transportation or the delivery of oil or
17 gas or product and issued or registered in accordance with the
18 rule, regulation, or order requiring such permit;

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

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

22 (4) "Field", the general area [underlaid] underlain by one
23 or more pools;

24 [(4)] (5) "Gas", all natural gas and all other fluid
25 hydrocarbons which are produced at the wellhead and not
26 [hereinbelow] defined as oil;

27 [(5)] (6) "Illegal gas" [means], gas which has been
28 produced from any well within this state in excess of the

1 quantity permitted by any rule, regulation, or order of the
2 council;

3 [(6)] (7) "Illegal oil" [means], oil which has been
4 produced from any well within the state in excess of the quantity
5 permitted by any rule, regulation, or order of the council;

6 [(7)] (8) "Illegal product" [means], any product derived in
7 whole or in part from illegal oil or illegal gas;

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

11 [(9)] (10) "Oil", crude petroleum oil and other
12 hydrocarbons regardless of gravity which are produced at the
13 wellhead in liquid form and the liquid hydrocarbons known as
14 distillate or condensate recovered or extracted from gas, other
15 than gas produced in association with oil and commonly known as
16 casinghead gas;

17 [(10)] (11) "Owner", the person who has the right to drill
18 into and produce from a pool and to appropriate the oil or gas he
19 produced therefrom either for himself or others or for himself
20 and others;

21 [(11)] (12) "Pool", an underground reservoir containing a
22 common accumulation of oil or gas or both; each zone of a
23 structure which is completely separated from any other zone in
24 the same structure is a "pool", as that term is used in this
25 chapter;

26 [(12)] (13) "Producer", the owner of a well or wells
27 capable of producing oil or gas or both;

28 [(13)] (14) "Product", any commodity made from oil or gas

1 and includes refined crude oil, crude tops, topped crude,
2 processed crude, processed crude petroleum, residue from crude
3 petroleum, cracking stock, uncracked fuel oil, fuel oil, treated
4 crude oil, residuum, gas oil, casinghead gasoline, natural-gas
5 gasoline, kerosene, [benzine] benzene, wash oil, waste oil,
6 blended gasoline, lubricating oil, blends or mixtures of oil with
7 one or more liquid products or by-products derived from oil or
8 gas, and blends or mixtures of two or more liquid products or
9 by-products derived from oil or gas whether [hereinabove]
10 enumerated in this section or not;

11 [(14)] (15) "Reasonable market demand" [means], the demand
12 for oil or gas for reasonable current requirements for
13 consumption and use within and without the state, together with
14 such quantities as are reasonably necessary for building up or
15 maintaining reasonable working stocks and reasonable reserves of
16 oil or gas or product;

17 [(15)] (16) "Waste" [means and], includes:

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

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

23 (c) The location, spacing, drilling, equipping, operating,
24 or producing of any oil or gas well or wells in a manner which
25 causes, or tends to cause, reduction in the quantity of oil or
26 gas ultimately recoverable from a pool under prudent and proper
27 operations, or which causes or tends to cause unnecessary or
28 excessive surface loss or destruction of oil or gas;

1 (d) The inefficient storing of oil;

2 (e) The production of oil or gas in excess of
3 transportation or marketing facilities or in excess of reasonable
4 market demand; and

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

8 [(16)] (17) "Well", any hole drilled in the earth for or in
9 connection with the exploration, discovery, or recovery of oil or
10 gas, or for or in connection with the underground storage of gas
11 in natural formation, or for or in connection with the disposal
12 of salt water, [nonusable] unusable gas or other waste
13 accompanying the production of oil or gas.

14 259.052. 1. There is hereby created in the state treasury
15 the "Oil and Gas Resources Fund" which shall consist of all
16 gifts, donations, transfers, moneys appropriated by the general
17 assembly, permit application fees collected under section
18 259.080, operating fees, closure fees, late fees, and bequests to
19 the fund. The fund shall be administered by the department of
20 natural resources.

21 2. The state treasurer shall be custodian of the fund and
22 may approve disbursements from the fund in accordance with
23 sections 30.170 and 30.180. Notwithstanding the provisions of
24 section 33.080 to the contrary, any moneys remaining in the fund
25 at the end of the biennium shall not revert to the credit of the
26 general revenue fund. The state treasurer shall invest moneys in
27 the fund in the same manner as other funds are invested. Any
28 interest and moneys earned on such investments shall be credited

1 to the fund.

2 3. After appropriation by the general assembly, the money
3 in such fund shall be expended by the department to administer
4 the provisions of chapter 259, and to collect, process, manage,
5 interpret, and distribute geologic and hydrologic resource
6 information pertaining to oil and gas potential, and for no other
7 purpose.

8 259.070. 1. The council has the duty of administering the
9 provisions of this chapter. The council shall meet at least once
10 each calendar quarter of the year and upon the call of the
11 chairperson.

12 2. The council shall conduct a review of the statutes and
13 rules and regulations under this chapter on a biennial basis.
14 Based on such review, the council, if necessary, shall recommend
15 changes to the statutes under this chapter and shall amend rules
16 and regulations accordingly.

17 3. (1) The council shall have the power and duty to form
18 an advisory committee to the council for the purpose of reviewing
19 the statutes and rules and regulations under subsection 2 of this
20 section. The advisory committee shall make recommendations to
21 the council when necessary to amend current statutes and rules
22 and regulations under this chapter and shall review any proposed
23 new or amended statute or regulation before such proposed statute
24 or regulation is considered by the council.

25 (2) The advisory committee shall be made up of
26 representatives from the [division of geology and land survey]
27 department, the oil and gas industry and any council member
28 desiring to be on such advisory committee. The advisory

1 committee shall meet prior to each calendar quarter meeting of
2 the council, if necessary for the purposes set forth under this
3 subsection, and present any recommendations to the council at
4 such calendar quarter meeting. The council shall designate one
5 of its members to serve as the chairperson of the advisory
6 committee.

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

11 4. The council, acting through the department, has the duty
12 and authority to make such investigations as it deems proper to
13 determine whether waste exists or is imminent or whether other
14 facts exist which justify action.

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

17 (1) To require:

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

21 (b) The making and filing of all mechanical well logs and
22 the filing of directional surveys if taken, and the filing of
23 reports on well location, drilling and production, and the filing
24 free of charge of samples and core chips and of complete cores
25 less tested sections, when requested in the office of the state
26 geologist within six months after the completion or abandonment
27 of the well;

28 (c) The drilling, casing, operation, and plugging of wells

1 in such manner as to prevent the escape of oil or gas out of one
2 stratum into another; the intrusion of water into oil or gas
3 stratum; the pollution of fresh water supplies by oil, gas, or
4 highly mineralized water; to prevent blowouts, cavings, seepages,
5 and fires; and to prevent the escape of oil, gas, or water into
6 workable coal or other mineral deposits;

7 (d) The furnishing of a reasonable bond with good and
8 sufficient surety, conditioned upon the full compliance with the
9 provisions of this chapter, and the rules and regulations of the
10 council prescribed to govern the production of oil and gas on
11 state and private lands within the state of Missouri; [provided
12 that, in lieu of a bond with a surety, an applicant may furnish
13 to the council his own personal bond, on conditions as described
14 in this paragraph, secured by a certificate of deposit or an
15 irrevocable letter of credit in an amount equal to that of the
16 required surety bond or secured by some other financial
17 instrument on conditions as above described or as provided by
18 council regulations;]

19 (e) That the production from wells be separated into
20 gaseous and liquid hydrocarbons, and that each be accurately
21 measured by such means and upon such standards as may be
22 prescribed by the council;

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

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

28 (h) Metering or other measuring of any native and

1 indigenous Missouri-produced crude oil, gas, or product in
2 pipelines, gathering systems, barge terminals, loading racks,
3 refineries, or other places; and

4 (i) That every person who produces, sells, purchases,
5 acquires, stores, transports, refines, or processes native and
6 indigenous Missouri-produced crude oil or gas in this state shall
7 keep and maintain within this state complete and accurate records
8 of the quantities thereof, which records shall be available for
9 examination by the council or its agents at all reasonable times
10 and that every such person file with the council such reports as
11 it may prescribe with respect to such oil or gas or the products
12 thereof;

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

14 (a) The drilling, producing, and plugging of wells, and all
15 other operations for the production of oil or gas;

16 (b) The [shooting and chemical] treatment of wells;

17 (c) The spacing of wells;

18 (d) Operations to increase ultimate recovery such as
19 cycling of gas, the maintenance of pressure, and the introduction
20 of gas, water, or other substances into producing formations; and

21 (e) Disposal of highly mineralized water and oil field
22 wastes;

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

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

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

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

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

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

15 (8) To develop such facts and make such investigations or
16 inspections as are consistent with the purposes of this chapter.
17 Members of the council or authorized representatives may, with
18 the consent of the owner or person in possession, enter upon any
19 property for the purposes of inspecting or investigating any
20 condition which the council shall have probable cause to believe
21 is subject to regulation under this chapter, the rules and
22 regulations promulgated pursuant thereto or any permit issued by
23 the council. If the owner or person in possession of the
24 property refuses entry or access for purposes of the inspections
25 or investigations described, the council or authorized
26 representatives shall make application for a search warrant.
27 Upon a showing of probable cause in writing and under oath, a
28 suitable restricted search warrant shall be issued by any judge

1 having jurisdiction for purposes of enabling inspections
2 authorized under this subdivision. The results of any inspection
3 or investigation pursuant to this subdivision shall be reduced to
4 writing with a copy furnished to the owner, person in possession,
5 or operator;

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

17 6. No rule or portion of a rule promulgated under the
18 authority of this chapter shall become effective unless it has
19 been promulgated pursuant to the provisions of section 536.024.

20 259.080. 1. It shall be unlawful to commence operations
21 for the drilling of a well for oil or gas, or to commence
22 operations to deepen any well to a different geological
23 formation, without first giving the state geologist notice of
24 intention to drill and first obtaining a permit from the state
25 geologist under such rules and regulations as may be prescribed
26 by the council.

27 2. The department of natural resources may conduct a
28 comprehensive review, and propose a new fee structure, or propose

1 changes to the oil and gas fee structure, which may include but
2 need not be limited to permit application fees, operating fees,
3 closure fees, and late fees. The comprehensive review shall
4 include stakeholder meetings in order to solicit stakeholder
5 input from each of the following groups: oil and gas industry
6 representatives, the advisory committee, and any other interested
7 parties. Upon completion of the comprehensive review, the
8 department shall submit a proposed fee structure or changes to
9 the oil and gas fee structure with stakeholder agreement to the
10 oil and gas council. The council shall review such
11 recommendations at the forthcoming regular or special meeting,
12 but shall not vote on the fee structure until a subsequent
13 meeting. If the council approves, by vote of two-thirds majority
14 or five of eight commissioners, the fee structure
15 recommendations, the council shall authorize the department to
16 file a notice of proposed rulemaking containing the recommended
17 fee structure, and after considering public comments may
18 authorize the department to file the final order of rulemaking
19 for such rule with the joint committee on administrative rules
20 pursuant to sections 536.021 and 536.024 no later than December
21 first of the same year. If such rules are not disapproved by the
22 general assembly in the manner set out below, they shall take
23 effect on January first of the following calendar year, at which
24 point the existing fee structure shall expire. Any regulation
25 promulgated under this subsection shall be deemed beyond the
26 scope and authority provided in this subsection, or detrimental
27 to permit applicants, if the general assembly, within the first
28 sixty calendar days of the regular session immediately following

1 the filing of such regulation, disapproves the regulation by
2 concurrent resolution. If the general assembly so disapproves
3 any regulation filed under this subsection, the department and
4 the council shall not implement the proposed fee structure and
5 shall continue to use the previous fee structure. The authority
6 of the council to further revise the fee structure as provided in
7 this subsection shall expire on August 28, 2024.

8 3. Failure to pay the fees, or any portion thereof,
9 established under this section by the due date shall result in
10 the imposition of a late fee established by the council. The
11 department may bring an action in the appropriate circuit court
12 to collect any unpaid fee, late fee, interest, or attorney's fees
13 and costs incurred directly in fee collection. Such action may
14 be brought in the circuit court of the county in which the
15 facility is located, or in the circuit court of Cole County.

16 259.100. 1. The council shall set spacing units as
17 follows:

18 (1) When necessary to prevent waste, to avoid the drilling
19 of unnecessary wells, or to protect correlative rights, the
20 council shall establish spacing units for a pool. Spacing units
21 when established shall be of uniform size and shape for the
22 entire pool, except that when found to be necessary for any of
23 the purposes above mentioned, the council is authorized to divide
24 any pool into zones and establish spacing units for each zone,
25 which units may differ in size and shape from those established
26 in any other zone;

27 (2) The size and shape of spacing units are to be such as
28 will result in the efficient and economical development of the

1 pool as a whole;

2 (3) An order establishing spacing units for a pool shall
3 specify the size and shape of each unit and the location of the
4 permitted well thereon in accordance with a reasonably uniform
5 spacing plan. Upon application, if the state geologist finds
6 that a well drilled at the prescribed location would not produce
7 in paying quantities, or that surface conditions would
8 substantially add to the burden or hazard of drilling such well,
9 the state geologist is authorized to enter an order permitting
10 the well to be drilled at a location other than that prescribed
11 by such spacing order; however, the state geologist shall include
12 in the order suitable provisions to prevent the production from
13 the spacing unit of more than its just and equitable share of the
14 oil and gas in the pool;

15 (4) An order establishing spacing units for a pool shall
16 cover all lands determined or believed to be [underlaid]
17 underlain by such pool, and may be modified by the [state
18 geologist] department from time to time to include additional
19 areas determined to be [underlaid] underlain by such pool. When
20 found necessary for the prevention of waste, or to avoid the
21 drilling of unnecessary wells or to protect correlative rights,
22 an order establishing spacing units in a pool may be modified by
23 the state geologist to increase the size of spacing units in the
24 pool or any zone thereof, or to permit the drilling of additional
25 wells on a reasonable uniform plan in the pool, or any zone
26 thereof. Orders of the [state geologist may] department shall be
27 appealed to the council within thirty days of notification that
28 spacing units have been changed.

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

3 3.] Applicants seeking a permit for a noncommercial gas
4 well shall file a bond [or other instrument of credit acceptable
5 to the council equal to the greater of three hundred dollars or
6 one dollar and fifty cents per well foot] pursuant to paragraph
7 (d) of subdivision (1) of subsection 5 of section 259.070 and
8 meet the following conditions and procedures: an owner of a
9 noncommercial gas well with drilling rights may apply for the
10 establishment of a drilling unit [containing no less than three
11 acres,] with a well set back of one hundred sixty-five feet on
12 which a well no deeper than eight hundred feet in depth may be
13 drilled. An owner of a noncommercial gas well may apply to the
14 council for a variance to establish a drilling unit [of less than
15 three acres and/or less than one hundred sixty-five feet], to set
16 back distances, or both.

17 259.190. 1. Illegal oil, illegal gas, and illegal product
18 are declared to be contraband and are subject to seizure and sale
19 as herein provided; seizure and sale to be in addition to any and
20 all other remedies and penalties provided in this chapter for
21 violations relating to illegal oil, illegal gas, or illegal
22 product. Whenever the council believes that any oil, gas or
23 product is illegal, the council, acting by the attorney general,
24 shall bring a civil action in rem in the circuit court of the
25 county where such oil, gas, or product is found, to seize and
26 sell the same, or the council may include such an action in rem
27 for the seizure and sale of illegal oil, illegal gas, or illegal
28 product in any suit brought for an injunction or penalty

1 involving illegal oil, illegal gas, or illegal product. Any
2 person claiming an interest in oil, gas, or product affected by
3 any such action shall have the right to intervene as an
4 interested party in such action.

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

1 appointed by the court as the agent of the court; such agent to
2 give bond in an amount and with such surety as the court may
3 direct, conditioned upon his compliance with the orders of the
4 court concerning the custody and disposition of such oil, gas, or
5 product.

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

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

1 at or prior to the seizure thereof, and the same shall be legal
2 oil, legal gas, or legal product, as the case may be, in the
3 hands of the purchaser.

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

28 260.273. 1. Any person purchasing a new tire may present

1 to the seller the used tire or remains of such used tire for
2 which the new tire purchased is to replace.

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

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

1 revenue into an appropriate subaccount of the solid waste
2 management fund, created pursuant to section 260.330.

3 4. Up to five percent of the revenue available may be
4 allocated, upon appropriation, to the department of natural
5 resources to be used cooperatively with the department of
6 elementary and secondary education for the purposes of developing
7 environmental educational materials, programs, and curriculum
8 that assist in the department's implementation of sections
9 260.200 to 260.345.

10 5. Up to fifty percent of the moneys received pursuant to
11 this section may, upon appropriation, be used to administer the
12 programs imposed by this section. Up to forty-five percent of
13 the moneys received under this section may, upon appropriation,
14 be used for the grants authorized in subdivision (2) of
15 subsection 6 of this section. All remaining moneys shall be
16 allocated, upon appropriation, for the projects authorized in
17 section 260.276, except that any unencumbered moneys may be used
18 for public health, environmental, and safety projects in response
19 to environmental or public health emergencies and threats as
20 determined by the director.

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

- 24 (1) Removal of [waste] scrap tires from illegal tire dumps;
25 (2) Providing grants to persons that will use products
26 derived from [waste] scrap tires, or [used waste] use scrap tires
27 as a fuel or fuel supplement; and
28 (3) Resource recovery activities conducted by the

1 department pursuant to section 260.276.

2 7. The fee imposed in subsection 2 of this section shall
3 begin the first day of the month which falls at least thirty days
4 but no more than sixty days immediately following August 28,
5 2005, and shall terminate January 1, [2015] 2020.

6 260.279. In letting contracts for the performance of any
7 job or service for the removal or clean up of [waste] scrap tires
8 under this chapter, the department of natural resources shall, in
9 addition to the requirements of sections 34.073 and 34.076 and
10 any other points awarded during the evaluation process, give to
11 any vendor that meets one or more of the following factors a five
12 percent preference and ten bonus points for each factor met:

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

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

23 (3) The bid is submitted by a vendor that resides or
24 maintains its headquarters or principal place of business in
25 Missouri and, for the purposes of completing the bid project and
26 continuously over the entire term of the project, an average of
27 at least seventy-five percent of such vendor's employees are
28 Missouri residents who have resided in the state continuously for

1 at least two years immediately preceding the date on which the
2 bid is submitted. Such vendor must certify the residency
3 requirements of this subdivision and submit a written claim for
4 preference at the time the bid is submitted;

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

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

24 260.355. Exempted from the provisions of sections 260.350
25 to 260.480 are:

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

28 (2) Emissions to the air subject to regulation of and which

1 are regulated by the Missouri air conservation commission
2 pursuant to chapter 643;

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

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

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

12 260.380. 1. After six months from the effective date of
13 the standards, rules and regulations adopted by the commission
14 pursuant to section 260.370, hazardous waste generators located
15 in Missouri shall:

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

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

26 (3) Segregate all hazardous wastes from all nonhazardous
27 wastes and from noncompatible wastes, materials and other
28 potential hazards as specified by standards, rules and

1 regulations;

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

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

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

17 (7) Utilize for treatment, resource recovery, disposal or
18 storage of all hazardous wastes, only a hazardous waste facility
19 authorized to operate pursuant to sections 260.350 to 260.430 or
20 the federal Resource Conservation and Recovery Act, or a state
21 hazardous waste management program authorized pursuant to the
22 federal Resource Conservation and Recovery Act, or any facility
23 exempted from the permit required pursuant to section 260.395;

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

1 (9) Make available to the department upon request samples
2 of waste and all records relating to hazardous waste generation
3 and management for inspection and copying and allow the
4 department to make unhampered inspections at any reasonable time
5 of hazardous waste generation and management facilities located
6 on the generator's property and hazardous waste generation and
7 management practices carried out on the generator's property;

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

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

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

1 which shall not be more often than quarterly.

2 (d) Notwithstanding any statutory fee amounts or maximums
3 to the contrary, the director of the department of natural
4 resources may conduct a comprehensive review [of] and propose
5 changes to the fee structure set forth in this section. The
6 comprehensive review shall include stakeholder meetings in order
7 to solicit stakeholder input from each of the following groups:
8 cement kiln representatives, chemical companies, large and small
9 hazardous waste generators, and any other interested parties.
10 Upon completion of the comprehensive review, the department shall
11 submit a proposed [changes to the] fee structure with stakeholder
12 agreement to the hazardous waste management commission. The
13 commission shall[, upon receiving the department's
14 recommendations,] review such recommendations at the forthcoming
15 regular or special meeting, but shall not vote on the fee
16 structure until a subsequent meeting. [The commission shall not
17 take a vote on the fee structure until the following regular
18 meeting.] If the commission approves, by vote of two-thirds
19 majority or five of seven commissioners, the [hazardous waste]
20 fee structure recommendations, the commission shall [promulgate
21 by regulation and publish the recommended fee structure no later
22 than October first of the same year. The commission shall]
23 authorize the department to file a notice of proposed rulemaking
24 containing the recommended fee structure, and after considering
25 public comments may authorize the department to file the order of
26 rulemaking for such rule with the joint committee on
27 administrative rules pursuant to sections 536.021 and 536.024 no
28 later than December first of the same year. If such rules are

1 not disapproved by the general assembly in the manner set out
2 below, they shall take effect on January first of the [next
3 odd-numbered] following calendar year and the fee structure set
4 out in this section shall expire upon the effective date of the
5 commission-adopted fee structure, contrary to subsection 4 of
6 this section. Any regulation promulgated under this subsection
7 shall be deemed to be beyond the scope and authority provided in
8 this subsection, or detrimental to permit applicants, if the
9 general assembly, within the first sixty calendar days of the
10 regular session immediately following the [promulgation] filing
11 of such regulation[, by concurrent resolution, shall disapprove
12 the fee structure contained in such regulation] disapproves the
13 regulation by concurrent resolution. If the general assembly so
14 disapproves any regulation [promulgated] filed under this
15 subsection, [the hazardous waste management commission shall
16 continue to use the fee structure set forth in the most recent
17 preceding regulation promulgated under this subsection.] the
18 department and the commission shall not implement the proposed
19 fee structure and shall continue to use the previous fee
20 structure. The authority of the commission to further revise the
21 fee structure as provided by this subsection shall expire on
22 August 28, [2023] 2024.

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

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

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

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

17 (a) Any storage, treatment or disposal site authorized to
18 operate pursuant to sections 260.350 to 260.430 or the federal
19 Resource Conservation and Recovery Act, or a state hazardous
20 waste management program authorized pursuant to the federal
21 Resource Conservation and Recovery Act which the department
22 designates for this purpose; or

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

25 4. Failure to pay the fee, or any portion thereof,
26 prescribed in this section by the due date shall result in the
27 imposition of a penalty equal to fifteen percent of the original
28 fee. The fee prescribed in this section shall expire December

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

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

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

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

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

(4) "Low-level radioactive waste", any radioactive waste not classified as high-level radioactive waste, transuranic radioactive waste, or spent nuclear fuel by the United States Nuclear Regulatory Commission, consistent with existing law. Shipment of all sealed sources meeting the definition of low-level radioactive waste, shipments of low-level radioactive

1 waste that are within a radius of no more than fifty miles from
2 the point of origin, and all naturally occurring radioactive
3 material given written approval for landfill disposal by the
4 Missouri department of natural resources under 10 CSR 80-3.010
5 are exempt from the provisions of this section. Any low-level
6 radioactive waste that has a radioactive half-life equal to or
7 less than one hundred twenty days is exempt from the provisions
8 of this section;

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

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

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

19 (8) "Transuranic radioactive waste", defined in 40 CFR Part
20 191.02, as amended, as waste containing more than one hundred
21 nanocuries of alpha-emitting transuranic isotopes with half-lives
22 greater than twenty years, per gram of waste. For the purposes
23 of this section, transuranic waste shall not include:

24 (a) High-level radioactive wastes;

25 (b) Any waste determined by the Environmental Protection
26 Agency with the concurrence of the Environmental Protection
27 Agency administrator that does not need the degree of isolation
28 required by this section; or

1 (c) Any waste that the United States Nuclear Regulatory
2 Commission has approved for disposal on a case-by-case basis in
3 accordance with 10 CFR Part 61, as amended.

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

14 (1) One thousand eight hundred dollars for each truck
15 transporting through or within the state high-level radioactive
16 waste, transuranic radioactive waste, spent nuclear fuel or
17 highway route controlled quantity shipments. All truck shipments
18 of high-level radioactive waste, transuranic radioactive waste,
19 spent nuclear fuel, or highway route controlled quantity
20 shipments are subject to a surcharge of twenty-five dollars per
21 mile for every mile over two hundred miles traveled within the
22 state;

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

28 (3) One hundred twenty-five dollars for each truck or train

1 transporting low-level radioactive waste through or within the
2 state.

3
4 The department of natural resources may accept an annual shipment
5 fee as negotiated with a shipper or accept payment per shipment.

6 3. All revenue generated from the fees established in
7 subsection 2 of this section shall be deposited into the
8 environmental radiation monitoring fund established in section
9 260.750 and shall be used by the department of natural resources
10 to achieve the following objectives and for purposes related to
11 the shipment of high-level radioactive waste, transuranic
12 radioactive waste, highway route controlled quantity shipments,
13 spent nuclear fuel, or low-level radioactive waste, including,
14 but not limited to:

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

17 (2) Coordination of emergency response capability;

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

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

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

27 (6) Oversight of any environmental remediation necessary
28 resulting from an incident involving a shipment of high-level

1 radioactive waste, transuranic radioactive waste, highway route
2 controlled quantity shipments, spent nuclear fuel, or low-level
3 radioactive waste. Reimbursement for oversight of any such
4 incident shall not reduce or eliminate the liability of any party
5 responsible for the incident; such party may be liable for full
6 reimbursement to the state or payment of any other costs
7 associated with the cleanup of contamination related to a
8 transportation incident;

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

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

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

24 6. The department of natural resources, in coordination
25 with the department of health and senior services and the
26 department of public safety, may promulgate rules necessary to
27 carry out the provisions of this section. Any rule or portion of
28 a rule, as that term is defined in section 536.010, that is

1 created under the authority delegated in this section shall
2 become effective only if it complies with and is subject to all
3 of the provisions of chapter 536 and, if applicable, section
4 536.028. This section and chapter 536 are nonseverable and if
5 any of the powers vested with the general assembly pursuant to
6 chapter 536 to review, to delay the effective date, or to
7 disapprove and annul a rule are subsequently held
8 unconstitutional, then the grant of rulemaking authority and any
9 rule proposed or adopted after August 28, 2009, shall be invalid
10 and void.

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

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

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

28 10. Any shipper who fails to pay a fee assessed under this

1 section, or fails to provide notice of a shipment, shall be
2 liable in a civil action for an amount not to exceed ten times
3 the amount assessed and not paid. The action shall be brought by
4 the attorney general at the request of the department of natural
5 resources. If the action involves a facility domiciled in the
6 state, the action shall be brought in the circuit court of the
7 county in which the facility is located. If the action does not
8 involve a facility domiciled in the state, the action shall be
9 brought in the circuit court of Cole County.

10 11. Beginning on December 31, 2009, and every two years
11 thereafter, the department of natural resources shall prepare and
12 submit a report on activities of the environmental radiation
13 monitoring fund to the general assembly. This report shall
14 include information on fee income received and expenditures made
15 by the state to enforce and administer the provisions of this
16 section.

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

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

23 (1) The provisions of the new program authorized under this
24 section shall automatically sunset six years after August 28,
25 2009, unless reauthorized by an act of the general assembly; and

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

1 section; and

2 (3) This section shall terminate on September first of the
3 calendar year immediately following the calendar year in which
4 the program authorized under this section is sunset] on August
5 28, 2024.

6 260.475. 1. Every hazardous waste generator located in
7 Missouri shall pay, in addition to the fees imposed in section
8 260.380, a fee of twenty-five dollars per ton annually on all
9 hazardous waste which is discharged, deposited, dumped or placed
10 into or on the soil as a final action, and two dollars per ton on
11 all other hazardous waste transported off site. No fee shall be
12 imposed upon any hazardous waste generator who registers less
13 than ten tons of hazardous waste annually pursuant to section
14 260.380, or upon:

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

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

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

25 (4) Cement kiln dust waste;

26 (5) Waste oil; or

27 (6) Hazardous waste that is:

28 (a) Reclaimed or reused for energy and materials;

1 (b) Transformed into new products which are not wastes;
2 (c) Destroyed or treated to render the hazardous waste
3 nonhazardous; or
4 (d) Waste discharged to a publicly owned treatment works.

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

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

15 4. If any generator or transporter fails or refuses to pay
16 the fees imposed by this section, or fails or refuses to furnish
17 any information reasonably requested by the department relating
18 to such fees, there shall be imposed, in addition to the fee
19 determined to be owed, a penalty of fifteen percent of the fee
20 shall be deposited in the hazardous waste fund.

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

27 6. The state treasurer is authorized to deposit all of the
28 moneys in the hazardous waste fund in any of the qualified

1 depositories of the state. All such deposits shall be secured in
2 such a manner and shall be made upon such terms and conditions as
3 are now or may hereafter be provided for by law relative to state
4 deposits. Interest received on such deposits shall be credited
5 to the hazardous waste fund.

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

10 8. Notwithstanding any statutory fee amounts or maximums to
11 the contrary, the director of the department of natural resources
12 may conduct a comprehensive review [of] and propose changes to
13 the fee structure set forth in this section. The comprehensive
14 review shall include stakeholder meetings in order to solicit
15 stakeholder input from each of the following groups: cement kiln
16 representatives, chemical companies, large and small hazardous
17 waste generators, and any other interested parties. Upon
18 completion of the comprehensive review, the department shall
19 submit a proposed [changes to the] fee structure with stakeholder
20 agreement to the hazardous waste management commission. The
21 commission shall[, upon receiving the department's
22 recommendations,] review such recommendations at the forthcoming
23 regular or special meeting, but shall not vote on the fee
24 structure until a subsequent meeting. [The commission shall not
25 take a vote on the fee structure until the following regular
26 meeting.] If the commission approves, by vote of two-thirds
27 majority or five of seven commissioners, the [hazardous waste]
28 fee structure recommendations, the commission shall [promulgate

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

1 fee structure as provided by this subsection shall expire on
2 August 28, [2023] 2024.

3 444.510. As used in sections 444.500 to 444.755, unless the
4 context clearly indicates otherwise, the following words and
5 terms mean:

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

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

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

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

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

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

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

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

28 (9) "Operator", any person, firm or corporation engaged in

1 or controlling a strip mining operation;

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

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

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

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

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

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

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

24 (17) "Strip mining", mining by removing the overburden
25 lying above natural deposits of coal, and mining directly from
26 the natural deposits thereby exposed, and includes mining of
27 exposed natural deposits of coal over which no overburden lies;
28 except that "strip mining" of coal shall only mean those

activities exempted from the "Surface Coal Mining Law", pursuant to subsection 6 of section 444.815.

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

2. The initial term of the appointed members shall be as follows: Two members, each from a different political party, shall be appointed for a term of two years, and two members, each from a different political party, shall be appointed for a term

1 of four years. The governor shall designate the term of office
2 for each person appointed when making the initial appointment.
3 The terms of their successors shall be for four years. There is
4 no limitation on the number of terms any appointed member may
5 serve. The terms of all members shall continue until their
6 successors have been duly appointed and qualified. If a vacancy
7 occurs in the appointed membership, the governor shall appoint a
8 member for the remaining portion of the unexpired term created by
9 the vacancy. The governor may remove any appointed member for
10 cause.

11 3. All members of the commission shall serve without
12 compensation for their duties, but shall be reimbursed for
13 necessary travel and other expenses incurred in the performance
14 of their official duties.

15 4. At the first meeting of the commission, which shall be
16 called by the state geologist, and at yearly intervals
17 thereafter, the members shall select from among themselves a
18 chairman and a vice chairman. The members of the commission
19 shall appoint a qualified director who shall be a full-time
20 employee of the commission and who shall act as its
21 administrative agent. The commission shall determine the
22 compensation of the director to be payable from appropriations
23 made for that purpose.

24 444.762. It is hereby declared to be the policy of this
25 state to strike a balance between [surface] mining of minerals
26 and reclamation of land subjected to surface disturbance by
27 [surface] mining, as contemporaneously as possible, and for the
28 conservation of land, and thereby to preserve natural resources,

1 to encourage the planting of forests, to advance the seeding of
2 grasses and legumes for grazing purposes and crops for harvest,
3 to aid in the protection of wildlife and aquatic resources, to
4 establish recreational, home and industrial sites, to protect and
5 perpetuate the taxable value of property, and to protect and
6 promote the health, safety and general welfare of the people of
7 this state.

8 444.765. Wherever used or referred to in sections 444.760
9 to 444.790, unless a different meaning clearly appears from the
10 context, the following terms mean:

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

24 (2) "Beneficiation", the dressing or processing of minerals
25 for the purpose of regulating the size of the desired product,
26 removing unwanted constituents, and improving the quality or
27 purity of a desired product;

28 (3) "Commercial purpose", the purpose of extracting

1 minerals for their value in sales to other persons or for
2 incorporation into a product;

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

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

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

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

15 (8) "Excavation", any operation in which earth, minerals,
16 or other material in or on the ground is moved, removed, or
17 otherwise displaced for purposes of construction at the site of
18 excavation, by means of any tools, equipment, or explosives and
19 includes, but is not limited to, backfilling, grading, trenching,
20 digging, ditching, drilling, well-drilling, auguring, boring,
21 tunneling, scraping, cable or pipe plowing, plowing-in,
22 pulling-in, ripping, driving, demolition of structures, and the
23 use of high-velocity air to disintegrate and suction to remove
24 earth and other materials. For purposes of this section,
25 excavation or removal of overburden for purposes of mining for a
26 commercial purpose or for purposes of reclamation of land
27 subjected to surface mining is not included in this definition.
28 Neither shall excavations of sand and gravel by political

1 subdivisions using their own personnel and equipment or private
2 individuals for personal use be included in this definition;

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

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

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

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

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

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

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

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

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

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

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

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

28 (21) "Surface mining", the mining of minerals for

1 commercial purposes by removing the overburden lying above
2 natural deposits thereof, and mining directly from the natural
3 deposits thereby exposed, and shall include mining of exposed
4 natural deposits of such minerals over which no overburden lies
5 and, after August 28, 1990, the surface effects of underground
6 mining operations for such minerals. For purposes of the
7 provisions of sections 444.760 to 444.790, surface mining shall
8 not include excavations to move minerals or fill dirt within the
9 confines of the real property where excavation occurs or to
10 remove minerals or fill dirt from the real property in
11 preparation for construction at the site of excavation. No
12 excavation of fill dirt shall be deemed surface mining regardless
13 of the site of disposition or whether construction occurs at the
14 site of excavation.

15 444.768. 1. Notwithstanding any statutory fee amounts or
16 maximums to the contrary, the director of the department of
17 natural resources may conduct a comprehensive review and propose
18 changes to the fee, bond, or assessment structure as set forth in
19 chapter 444. The comprehensive review shall include stakeholder
20 meetings in order to solicit stakeholder input from regulated
21 entities and any other interested parties. Upon completion of
22 the comprehensive review, the department shall submit a proposed
23 fee, bond, or assessment structure with stakeholder agreement to
24 the Missouri mining commission. The commission shall review such
25 recommendations at a forthcoming regular or special meeting, but
26 shall not vote on the proposed structure until a subsequent
27 meeting. If the commission approves, by vote of two-thirds
28 majority, the fee, bond, or assessment structure recommendations,

1 the commission shall authorize the department to file a notice of
2 proposed rulemaking containing the recommended structure, and
3 after considering public comments may authorize the department to
4 file the final order of rulemaking for such rule with the joint
5 committee on administrative rules pursuant to sections 536.021
6 and 536.024 no later than December first of the same year. If
7 such rules are not disapproved by the general assembly in the
8 manner set out below, they shall take effect on January first of
9 the following calendar year, at which point the existing fee,
10 bond, or assessment structure shall expire. Any regulation
11 promulgated under this subsection shall be deemed to be beyond
12 the scope and authority provided in this subsection, or
13 detrimental to permit applicants, if the general assembly, within
14 the first sixty days of the regular session immediately following
15 the filing of such regulation disapproves the regulation by
16 concurrent resolution. If the general assembly so disapproves
17 any regulation filed under this subsection, the department and
18 the commission shall not implement the proposed fee, bond, or
19 assessment structure and shall continue to use the previous fee,
20 bond, or assessment structure. The authority for the commission
21 to further revise the fee, bond, or assessment structure as
22 provided in this subsection shall expire on August 28, 2024.

23 2. Failure to pay any fee, bond, or assessment, or any
24 portion thereof, referenced in this section by the due date may
25 result in the imposition of a late fee equal to fifteen percent
26 of the unpaid amount, plus ten percent interest per annum. Any
27 order issued by the department under chapter 444 may require
28 payment of such amounts. The department may bring an action in

1 the appropriate circuit court to collect any unpaid fee, late
2 fee, interest, or attorney's fees and costs incurred directly in
3 fee collection. Such action may be brought in the circuit court
4 of the county in which the facility is located, or in the circuit
5 court of Cole County.

6 444.770. 1. It shall be unlawful for any operator to
7 engage in surface mining without first obtaining from the
8 commission a permit to do so, in such form as is hereinafter
9 provided, including any operator involved in any gravel mining
10 operation where the annual tonnage of gravel mined by such
11 operator is less than five thousand tons, except as provided in
12 subsection 2 of this section.

13 2. (1) A property owner or operator conducting gravel
14 removal at the request of a property owner for the primary
15 purpose of managing seasonal gravel accretion on property not
16 used primarily for gravel mining, or a political subdivision who
17 contracts with an operator for excavation to obtain sand and
18 gravel material solely for the use of such political subdivision
19 shall be exempt from obtaining a permit as required in subsection
20 1 of this section. Such gravel removal shall be conducted solely
21 on the property owner's or political subdivision's property and
22 shall be in accordance with department guidelines, rules, and
23 regulations. The property owner shall notify the department
24 before any person or operator conducts gravel removal from the
25 property owner's property if the gravel is sold. Notification
26 shall include the nature of the activity, name of the county and
27 stream in which the site is located and the property owner's
28 name. The property owner shall not be required to notify the

1 department regarding any gravel removal at each site location for
2 up to one year from the original notification regarding that
3 site. The property owner shall renotify the department before
4 any person or operator conducts gravel removal at any site after
5 the expiration of one year from the previous notification
6 regarding that site. At the time of each notification to the
7 department, the department shall provide the property owner with
8 a copy of the department's guidelines, rules, and regulations
9 relevant to the activity reported. Said guidelines, rules and
10 regulations may be transmitted either by mail or via the
11 internet.

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

1 regulations to the operator.

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

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

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

24 5. Any portion of a surface mining operation which is
25 subject to the provisions of sections 260.200 to 260.245 and the
26 regulations promulgated thereunder, shall not be subject to the
27 provisions of sections 444.760 to 444.790, and any bonds or
28 portions thereof applicable to such operations shall be promptly

1 released by the commission, and the associated permits cancelled
2 by the commission upon presentation to it of satisfactory
3 evidence that the operator has received a permit pursuant to
4 section 260.205 and the regulations promulgated thereunder. Any
5 land reclamation bond associated with such released permits shall
6 be retained by the commission until presentation to the
7 commission of satisfactory evidence that:

8 (1) The operator has complied with sections 260.226 and
9 260.227, and the regulations promulgated thereunder, pertaining
10 to closure and postclosure plans and financial assurance
11 instruments; and

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

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

20 7. Any person filing a complaint of an alleged violation of
21 this section with the department shall identify themselves by name
22 and telephone number, provide the date and location of the
23 violation, and provide adequate information, as determined by the
24 department, that there has been a violation.

25 Any records, statements, or communications submitted by any
26 person to the department relevant to the complaint shall remain
27 confidential and used solely by the department to investigate
28 such alleged violation.

1 444.805. As used in this law, unless the context clearly
2 indicates otherwise, the following words and terms mean:

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (13) "Person", any individual, partnership, copartnership,
27 firm, company, public or private corporation, association, joint
28 stock company, trust, estate, political subdivision, or any

1 agency, board, department, or bureau of the state or federal
2 government, or any other legal entity whatever which is
3 recognized by law as the subject of rights and duties;

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

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

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

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

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

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

27 (a) Activities conducted on the surface of lands in
28 connection with a surface coal mine or surface operations and

1 surface impacts incident to an underground coal mine. Such
2 activities include excavation for the purpose of obtaining coal
3 including such common methods as contour, strip, auger,
4 mountaintop removal, box cut, open pit, and area mining, the uses
5 of explosives and blasting, and in situ distillation or
6 retorting, leaching or other chemical or physical processing, and
7 the cleaning, concentrating, or other processing or preparation,
8 loading of coal at or near the mine site; provided, however, that
9 such activities do not include the extraction of coal incidental
10 to the extraction of other minerals where coal does not exceed
11 sixteen and two-thirds percentum of the tonnage of minerals
12 removed for purposes of commercial use or sale, or coal
13 explorations subject to section 444.845; and

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

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

28 (21) "Unwarranted failure to comply", the failure of a

1 permittee to prevent the occurrence of any violation of the
2 permit, reclamation plan, law or rule and regulation, due to
3 indifference, lack of diligence, or lack of reasonable care, or
4 the failure to abate any such violation due to indifference, lack
5 of diligence, or lack of reasonable care.

6 640.015. 1. All provisions of the law to the contrary
7 notwithstanding, all rules that prescribe environmental
8 conditions or standards promulgated by the department of natural
9 resources, a board or a commission, pursuant to authorities
10 granted in this chapter and chapters 260, 278, 319, 444, 643, and
11 644, the hazardous waste management commission in chapter 260,
12 the state soil and water districts commission in chapter 278, the
13 [land reclamation] Missouri mining commission in chapter 444, the
14 safe drinking water commission in this chapter, the air
15 conservation commission in chapter 643, and the clean water
16 commission in chapter 644 shall cite the specific section of law
17 or legal authority. The rule shall also be based on the
18 regulatory impact report provided in this section.

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

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

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

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

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

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

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

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

14 (8) An analysis of both short-term and long-term
15 consequences of the proposed rule;

16 (9) An explanation of the risks to human health, public
17 welfare, or the environment addressed by the proposed rule;

18 (10) The identification of the sources of scientific
19 information used in evaluating the risk and a summary of such
20 information;

21 (11) A description and impact statement of any
22 uncertainties and assumptions made in conducting the analysis on
23 the resulting risk estimate;

24 (12) A description of any significant countervailing risks
25 that may be caused by the proposed rule; and

26 (13) The identification of at least one, if any,
27 alternative regulatory approaches that will produce comparable
28 human health, public welfare, or environmental outcomes.

1 3. The department, board, or commission shall develop the
2 regulatory impact report required by this section using
3 peer-reviewed and published data or when the peer-reviewed data
4 is not reasonably available, a written explanation shall be filed
5 at the time of the rule promulgation notice explaining why the
6 peer-reviewed data was not available to support the regulation.
7 If the peer-reviewed data is not available, the department must
8 provide all scientific references and the types, amount, and
9 sources of scientific information that was used to develop the
10 rule at the time of the rule promulgation notice.

11 4. The department, board, or commission shall publish in at
12 least one newspaper of general circulation, qualified pursuant to
13 chapter 493, with an average circulation of twenty thousand or
14 more and on the department, board, or commission website a notice
15 of availability of any regulatory impact report conducted
16 pursuant to this section and shall make such assessments and
17 analyses available to the public by posting them on the
18 department, board, or commission website. The department, board,
19 or commission shall allow at least sixty days for the public to
20 submit comments and shall post all comments and respond to all
21 significant comments prior to promulgating the rule.

22 5. The department, board, or commission shall file a copy
23 of the regulatory impact report with the joint committee on
24 administrative rules concurrently with the filing of the proposed
25 rule pursuant to section 536.024.

26 6. If the department, board, or commission fails to conduct
27 the regulatory impact report as required for each proposed rule
28 pursuant to this section, such rule shall be void unless the

1 written explanation delineating why the peer-reviewed data was
2 not available has been filed at the time of the rule promulgation
3 notice.

4 7. Any other provision of this section to the contrary
5 notwithstanding, the department, board, or commission referenced
6 in subsection 1 of this section may adopt a rule without
7 conducting a regulatory impact report if the director of the
8 department determines that immediate action is necessary to
9 protect human health, public welfare, or the environment;
10 provided, however, in doing so, the department, board, or
11 commission shall be required to provide written justification as
12 to why it deviated from conducting a regulatory impact report and
13 shall complete the regulatory impact report within one hundred
14 eighty days of the adoption of the rule.

15 8. The provisions of this section shall not apply if the
16 department adopts environmental protection agency rules and rules
17 from other applicable federal agencies without variance.

18 640.016. 1. The department of natural resources shall not
19 place in any permit any requirement, provision, stipulation, or
20 any other restriction which is not prescribed or authorized by
21 regulation or statute, unless the requirement, provision,
22 stipulation, or other restriction is pursuant to the authority
23 addressed in statute.

24 2. Prior to submitting a permit to public comment the
25 department of natural resources shall deliver such permit to the
26 permit applicant at the contact address on the permit application
27 for final review. In the interest of expediting permit issuance,
28 permit applicants may waive the opportunity to review draft

1 permits prior to public notice. The permit applicant shall have
2 ten days to review the permit for errors. Upon receipt of the
3 applicant's review of the permit, the department of natural
4 resources shall correct the permit where nonsubstantive drafting
5 errors exist. The department of natural resources shall make
6 such changes within ten days and submit the permit for public
7 comment. If the permit applicant is not provided the opportunity
8 to review permits prior to submission for public comment, the
9 permit applicant shall have the authority to correct drafting
10 errors in their permits after they are issued without paying any
11 fee for such changes or modifications.

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

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

28 640.100. 1. The safe drinking water commission created in

1 section 640.105 shall promulgate rules necessary for the
2 implementation, administration and enforcement of sections
3 640.100 to 640.140 and the federal Safe Drinking Water Act as
4 amended.

5 2. No standard, rule or regulation or any amendment or
6 repeal thereof shall be adopted except after a public hearing to
7 be held by the commission after at least thirty days' prior
8 notice in the manner prescribed by the rulemaking provisions of
9 chapter 536 and an opportunity given to the public to be heard;
10 the commission may solicit the views, in writing, of persons who
11 may be affected by, knowledgeable about, or interested in
12 proposed rules and regulations, or standards. Any person heard
13 or registered at the hearing, or making written request for
14 notice, shall be given written notice of the action of the
15 commission with respect to the subject thereof. Any rule or
16 portion of a rule, as that term is defined in section 536.010,
17 that is promulgated to administer and enforce sections 640.100 to
18 640.140 shall become effective only if the agency has fully
19 complied with all of the requirements of chapter 536, including
20 but not limited to section 536.028, if applicable, after June 9,
21 1998. All rulemaking authority delegated prior to June 9, 1998,
22 is of no force and effect and repealed as of June 9, 1998,
23 however, nothing in this section shall be interpreted to repeal
24 or affect the validity of any rule adopted or promulgated prior
25 to June 9, 1998. If the provisions of section 536.028 apply, the
26 provisions of this section are nonseverable and if any of the
27 powers vested with the general assembly pursuant to section
28 536.028 to review, to delay the effective date, or to disapprove

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

7 3. The commission shall promulgate rules and regulations
8 for the certification of public water system operators, backflow
9 prevention assembly testers and laboratories conducting tests
10 pursuant to sections 640.100 to 640.140. Any person seeking to
11 be a certified backflow prevention assembly tester shall
12 satisfactorily complete standard, nationally recognized written
13 and performance examinations designed to ensure that the person
14 is competent to determine if the assembly is functioning within
15 its design specifications. Any such state certification shall
16 satisfy any need for local certification as a backflow prevention
17 assembly tester. However, political subdivisions may set
18 additional testing standards for individuals who are seeking to
19 be certified as backflow prevention assembly testers.
20 Notwithstanding any other provision of law to the contrary,
21 agencies of the state or its political subdivisions shall only
22 require carbonated beverage dispensers to conform to the backflow
23 protection requirements established in the National Sanitation
24 Foundation standard eighteen, and the dispensers shall be so
25 listed by an independent testing laboratory. The commission
26 shall promulgate rules and regulations for collection of samples
27 and analysis of water furnished by municipalities, corporations,
28 companies, state establishments, federal establishments or

1 individuals to the public. The department of natural resources
2 or the department of health and senior services shall, at the
3 request of any supplier, make any analyses or tests required
4 pursuant to the terms of section 192.320 and sections 640.100 to
5 640.140. The department shall collect fees to cover the
6 reasonable cost of laboratory services, both within the
7 department of natural resources and the department of health and
8 senior services, laboratory certification and program
9 administration as required by sections 640.100 to 640.140. The
10 laboratory services and program administration fees pursuant to
11 this subsection shall not exceed two hundred dollars for a
12 supplier supplying less than four thousand one hundred service
13 connections, three hundred dollars for supplying less than seven
14 thousand six hundred service connections, five hundred dollars
15 for supplying seven thousand six hundred or more service
16 connections, and five hundred dollars for testing surface water.
17 Such fees shall be deposited in the safe drinking water fund as
18 specified in section 640.110. The analysis of all drinking water
19 required by section 192.320 and sections 640.100 to 640.140 shall
20 be made by the department of natural resources laboratories,
21 department of health and senior services laboratories or
22 laboratories certified by the department of natural resources.

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

27 5. (1) For the purpose of complying with federal
28 requirements for maintaining the primacy of state enforcement of

the federal Safe Drinking Water Act, the department is hereby directed to request appropriations from the general revenue fund and all other appropriate sources to fund the activities of the public drinking water program and in addition to the fees authorized pursuant to subsection 3 of this section, an annual fee for each customer service connection with a public water system is hereby authorized to be imposed upon all customers of public water systems in this state. [The fees collected shall not exceed the amounts specified in this subsection and the commission may set the fees, by rule, in a lower amount by proportionally reducing all fees charged pursuant to this subsection from the specified maximum amounts. Reductions shall be roughly proportional but in each case shall be divisible by twelve.] Each customer of a public water system shall pay an annual fee for each customer service connection.

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

1 to 1,000 connections.....	\$ 3.24
1,001 to 4,000 connections.....	3.00
4,001 to 7,000 connections.....	2.76
7,001 to 10,000 connections.....	2.40
10,001 to 20,000 connections.....	2.16
20,001 to 35,000 connections.....	1.92
35,001 to 50,000 connections.....	1.56
50,001 to 100,000 connections.....	1.32

1 More than 100,000 connections..... 1.08.

2 (3) The annual user fee for customers having meters greater
3 than one inch but less than or equal to two inches in size shall
4 not exceed seven dollars and forty-four cents; for customers with
5 meters greater than two inches but less than or equal to four
6 inches in size shall not exceed forty-one dollars and sixteen
7 cents; and for customers with meters greater than four inches in
8 size shall not exceed eighty-two dollars and forty-four cents.

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

13 6. Fees imposed pursuant to subsection 5 of this section
14 shall become effective on August 28, 2006, and shall be collected
15 by the public water system serving the customer beginning
16 September 1, 2006, and continuing until such time that the safe
17 drinking water commission, at its discretion, specifies a [lower]
18 different amount under [subdivision (1) of] subsection [5] 8 of
19 this section. The commission shall promulgate rules and
20 regulations on the procedures for billing, collection and
21 delinquent payment. Fees collected by a public water system
22 pursuant to subsection 5 of this section and fees established by
23 the commission pursuant to subsection 8 of this section are state
24 fees. The annual fee shall be enumerated separately from all
25 other charges, and shall be collected in monthly, quarterly or
26 annual increments. Such fees shall be transferred to the
27 director of the department of revenue at frequencies not less
28 than quarterly. Two percent of the revenue arising from the fees

1 shall be retained by the public water system for the purpose of
2 reimbursing its expenses for billing and collection of such fees.

3 7. Imposition and collection of the fees authorized in
4 subsection 5 and fees established by the commission pursuant to
5 subsection 8 of this section shall be suspended on the first day
6 of a calendar quarter if, during the preceding calendar quarter,
7 the federally delegated authority granted to the safe drinking
8 water program within the department of natural resources to
9 administer the Safe Drinking Water Act, 42 U.S.C. 300g-2, is
10 withdrawn. The fee shall not be reinstated until the first day
11 of the calendar quarter following the quarter during which such
12 delegated authority is reinstated.

13 8. [Fees imposed pursuant to subsection 5 of this section
14 shall expire on September 1, 2017.] Notwithstanding any
15 statutory fee amounts or maximums to the contrary, the department
16 of natural resources may conduct a comprehensive review and
17 propose changes to the fee structure set forth in this section.
18 The comprehensive review shall include stakeholder meetings in
19 order to solicit stakeholder input from public and private water
20 suppliers, and any other interested parties. Upon completion of
21 the comprehensive review, the department shall submit a proposed
22 fee structure with stakeholder agreement to the safe drinking
23 water commission. The commission shall review such
24 recommendations at a forthcoming regular or special meeting, but
25 shall not vote on the fee structure until a subsequent meeting.
26 If the commission approves, by vote of two-thirds majority or six
27 of nine commissioners, the fee structure recommendations, the
28 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 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
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 calendar 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 structure and shall continue to use
the previous fee structure. The authority of the commission to
further revise the fee structure as provided by this subsection
shall expire on August 28, 2024.

643.055. 1. Other provisions of law notwithstanding, the Missouri air conservation commission shall have the authority to promulgate rules and regulations, pursuant to chapter 536, to establish standards and guidelines to ensure that the state of Missouri is in compliance with the provisions of the federal Clean Air Act, as amended (42 U.S.C. Section 7401, et seq.). The standards and guidelines so established shall not be any stricter than those required under the provisions of the federal Clean Air

1 Act, as amended; nor shall those standards and guidelines be
2 enforced in any area of the state prior to the time required by
3 the federal Clean Air Act, as amended. The restrictions of this
4 section shall not apply to the parts of a state implementation
5 plan developed by the commission to bring a nonattainment area
6 into compliance and to maintain compliance when needed to have a
7 United States Environmental Protection Agency approved state
8 implementation plan. The determination of which parts of a state
9 implementation plan are not subject to the restrictions of this
10 section shall be based upon specific findings of fact by the air
11 conservation commission as to the rules, regulations and criteria
12 that are needed to have a United States Environmental Protection
13 Agency approved plan.

14 2. The Missouri air conservation commission shall also have
15 the authority to grant exceptions and variances from the rules
16 set under subsection 1 of this section when the person applying
17 for the exception or variance can show that compliance with such
18 rules:

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

25 3. The department shall not regulate the manufacture,
26 performance, or use of residential wood burning heaters or
27 appliances through a state implementation plan or otherwise,
28 unless first specifically authorized to do so by the general

1 assembly. No rule or regulation respecting the establishment or
2 the enforcement of performance standards for residential wood
3 burning heaters or appliances shall become effective unless and
4 until first approved by the joint committee on administrative
5 rules.

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

15 643.079. 1. Any air contaminant source required to obtain
16 a permit issued under sections 643.010 to 643.355 shall pay
17 annually beginning April 1, 1993, a fee as provided herein. For
18 the first year the fee shall be twenty-five dollars per ton of
19 each regulated air contaminant emitted. Thereafter, the fee
20 shall be set every three years by the commission by rule and
21 shall be at least twenty-five dollars per ton of regulated air
22 contaminant emitted but not more than forty dollars per ton of
23 regulated air contaminant emitted in the previous calendar year.
24 If necessary, the commission may make annual adjustments to the
25 fee by rule. The fee shall be set at an amount consistent with
26 the need to fund the reasonable cost of administering sections
27 643.010 to 643.355, taking into account other moneys received
28 pursuant to sections 643.010 to 643.355. For the purpose of

1 determining the amount of air contaminant emissions on which the
2 fees authorized under this section are assessed, a facility shall
3 be considered one source under the definition of subsection 2 of
4 section 643.078, except that a facility with multiple operating
5 permits shall pay the emission fees authorized under this section
6 separately for air contaminants emitted under each individual
7 permit.

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

16 (1) For fees payable under this subsection in the years
17 1993 and 1994, the fee shall be reduced by one hundred percent;

18 (2) For fees payable under this subsection in the years
19 1995, 1996 and 1997, the fee shall be reduced by eighty percent;

20 (3) For fees payable under this subsection in the years
21 1998, 1999 and 2000, the fee shall be reduced by sixty percent.

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

25 4. Each air contaminant source with a permit issued under
26 sections 643.010 to 643.355 shall pay the fee for the first four
27 thousand tons of each regulated air contaminant emitted each year
28 but no air contaminant source shall pay fees on total emissions

1 of regulated air contaminants in excess of twelve thousand tons
2 in any calendar year. A permitted air contaminant source which
3 emitted less than one ton of all regulated pollutants shall pay a
4 fee equal to the amount per ton set by the commission. An air
5 contaminant source which pays emission fees to a holder of a
6 certificate of authority issued pursuant to section 643.140 may
7 deduct such fees from any amount due under this section. The
8 fees imposed in this section shall not be applied to carbon oxide
9 emissions. The fees imposed in subsection 1 and this subsection
10 shall not be applied to sulfur dioxide emissions from any Phase I
11 affected unit subject to the requirements of Title IV, Section
12 404, of the federal Clean Air Act, as amended, 42 U.S.C. 7651,
13 et seq., any sooner than January 1, 2000. The fees imposed on
14 emissions from Phase I affected units shall be consistent with
15 and shall not exceed the provisions of the federal Clean Air Act,
16 as amended, and the regulations promulgated thereunder. Any such
17 fee on emissions from any Phase I affected unit shall be reduced
18 by the amount of the service fee paid by that Phase I affected
19 unit pursuant to subsection 8 of this section in that year. Any
20 fees that may be imposed on Phase I sources shall follow the
21 procedures set forth in subsection 1 and this subsection and
22 shall not be applied retroactively.

23 5. Moneys collected under this section shall be transmitted
24 to the director of revenue for deposit in appropriate subaccounts
25 of the natural resources protection fund created in section
26 640.220. A subaccount shall be maintained for fees paid by air
27 contaminant sources which are required to be permitted under
28 Title V of the federal Clean Air Act, as amended, 42 U.S.C.

1 Section 7661, et seq., and used, upon appropriation, to fund
2 activities by the department to implement the operating permits
3 program authorized by Title V of the federal Clean Air Act, as
4 amended. Another subaccount shall be maintained for fees paid by
5 air contaminant sources which are not required to be permitted
6 under Title V of the federal Clean Air Act as amended, and used,
7 upon appropriation, to fund other air pollution control program
8 activities. Another subaccount shall be maintained for service
9 fees paid under subsection 8 of this section by Phase I affected
10 units which are subject to the requirements of Title IV, Section
11 404, of the federal Clean Air Act Amendments of 1990, as amended,
12 42 U.S.C. 7651, and used, upon appropriation, to fund air
13 pollution control program activities. The provisions of section
14 33.080 to the contrary notwithstanding, moneys in the fund shall
15 not revert to general revenue at the end of each biennium.
16 Interest earned by moneys in the subaccounts shall be retained in
17 the subaccounts. The per-ton fees established under subsection 1
18 of this section may be adjusted annually, consistent with the
19 need to fund the reasonable costs of the program, but shall not
20 be less than twenty-five dollars per ton of regulated air
21 contaminant nor more than forty dollars per ton of regulated air
22 contaminant. The first adjustment shall apply to moneys payable
23 on April 1, 1994, and shall be based upon the general price level
24 for the twelve-month period ending on August thirty-first of the
25 previous calendar year.

26 6. The department may initiate a civil action in circuit
27 court against any air contaminant source which has not remitted
28 the appropriate fees within thirty days. In any judgment against

1 the source, the department shall be awarded interest at a rate
2 determined pursuant to section 408.030 and reasonable attorney's
3 fees. In any judgment against the department, the source shall
4 be awarded reasonable attorney's fees.

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

8 8. Any Phase I affected unit which is subject to the
9 requirements of Title IV, Section 404, of the federal Clean Air
10 Act, as amended, 42 U.S.C. 7651, shall pay annually beginning
11 April 1, 1993, and terminating December 31, 1999, a service fee
12 for the previous calendar year as provided herein. For the first
13 year, the service fee shall be twenty-five thousand dollars for
14 each Phase I affected generating unit to help fund the
15 administration of sections 643.010 to 643.355. Thereafter, the
16 service fee shall be annually set by the commission by rule,
17 following public hearing, based on an annual allocation prepared
18 by the department showing the details of all costs and expenses
19 upon which such fees are based consistent with the department's
20 reasonable needs to administer and implement sections 643.010 to
21 643.355 and to fulfill its responsibilities with respect to Phase
22 I affected units, but such service fee shall not exceed
23 twenty-five thousand dollars per generating unit. Any such Phase
24 I affected unit which is located on one or more contiguous tracts
25 of land with any Phase II generating unit that pays fees under
26 subsection 1 or subsection 2 of this section shall be exempt from
27 paying service fees under this subsection. A "contiguous tract
28 of land" shall be defined to mean adjacent land, excluding public

1 roads, highways and railroads, which is under the control of or
2 owned by the permit holder and operated as a single enterprise.

3 9. The department of natural resources shall determine the
4 fees due pursuant to this section by the state of Missouri and
5 its departments, agencies and institutions, including two- and
6 four-year institutions of higher education. The director of the
7 department of natural resources shall forward the various totals
8 due to the joint committee on capital improvements and the
9 directors of the individual departments, agencies and
10 institutions. The departments, as part of the budget process,
11 shall annually request by specific line item appropriation funds
12 to pay said fees and capital funding for projects determined to
13 significantly improve air quality. If the general assembly fails
14 to appropriate funds for emissions fees as specifically
15 requested, the departments, agencies and institutions shall pay
16 said fees from other sources of revenue or funds available. The
17 state of Missouri and its departments, agencies and institutions
18 may receive assistance from the small business technical
19 assistance program established pursuant to section 643.173.

20 10. Notwithstanding any statutory fee amounts or maximums
21 to the contrary, the [director of the] department of natural
22 resources may conduct a comprehensive review [of] and propose
23 changes to the fee structure [set forth in this section. The
24 comprehensive review shall include] authorized by sections
25 643.073, 643.075, 643.079, 643.225, 643.228, 643.232, 643.237,
26 and 643.242 after holding stakeholder meetings in order to
27 solicit stakeholder input from each of the following groups: the
28 asbestos industry, electric utilities, mineral and metallic

1 mining and processing facilities, cement kiln representatives,
2 and any other interested industrial or business entities or
3 interested parties. [Upon completion of the comprehensive
4 review,] The department shall submit a proposed [changes to the]
5 fee structure with stakeholder agreement to the air conservation
6 commission. The commission shall[, upon receiving the
7 department's recommendations,] review such recommendations at the
8 forthcoming regular or special meeting, but shall not vote on the
9 fee structure until a subsequent meeting. [The commission shall
10 review fee structure recommendations from the department. The
11 commission shall not take a vote on the fee structure
12 recommendations until the following regular or special meeting.]
13 If the commission approves, by vote of two-thirds majority or
14 five of seven commissioners, the fee structure recommendations,
15 the commission shall [promulgate by regulation and publish the
16 recommended fee structure no later than October first of the same
17 year. The commission shall] authorize the department to file a
18 notice of proposed rulemaking containing the recommended fee
19 structure, and after considering public comments, may authorize
20 the department to file the order of rulemaking for such rule with
21 the joint committee on administrative rules pursuant to sections
22 536.021 and 536.024 no later than December first of the same
23 year. If such rules are not disapproved by the general assembly
24 in the manner set out below, they shall take effect on January
25 first of the [next odd-numbered] following calendar year and the
26 previous fee structure [set out in this section] shall expire
27 upon the effective date of the commission-adopted fee structure.
28 Any regulation promulgated under this subsection shall be deemed

1 to be beyond the scope and authority provided in this subsection,
2 or detrimental to permit applicants, if the general assembly,
3 within the first sixty calendar days of the regular session
4 immediately following the [promulgation] filing of such
5 regulation, by concurrent resolution[, shall disapprove the fee
6 structure contained in such regulation] disapproves the
7 regulation by concurrent resolution. If the general assembly so
8 disapproves any regulation [promulgated] filed under this
9 subsection, the [air conservation] commission shall continue to
10 use the previous fee structure [set forth in the most recent
11 preceding regulation promulgated under this subsection]. The
12 authority of the commission to further revise the fee structure
13 as provided by this subsection shall expire on August 28, [2023]
14 2024.

15 644.026. 1. The commission shall:

16 (1) Exercise general supervision of the administration and
17 enforcement of sections 644.006 to 644.141 and all rules and
18 regulations and orders promulgated thereunder;

19 (2) Develop comprehensive plans and programs for the
20 prevention, control and abatement of new or existing pollution of
21 the waters of the state;

22 (3) Advise, consult, and cooperate with other agencies of
23 the state, the federal government, other states and interstate
24 agencies, and with affected groups, political subdivisions and
25 industries in furtherance of the purposes of sections 644.006 to
26 644.141;

27 (4) Accept gifts, contributions, donations, loans and
28 grants from the federal government and from other sources, public

1 or private, for carrying out any of its functions, which funds
2 shall not be expended for other than the purposes for which
3 provided;

4 (5) Encourage, participate in, or conduct studies,
5 investigations, and research and demonstrations relating to water
6 pollution and causes, prevention, control and abatement thereof
7 as it may deem advisable and necessary for the discharge of its
8 duties pursuant to sections 644.006 to 644.141;

9 (6) Collect and disseminate information relating to water
10 pollution and the prevention, control and abatement thereof;

11 (7) After holding public hearings, identify waters of the
12 state and prescribe water quality standards for them, giving due
13 recognition to variations, if any, and the characteristics of
14 different waters of the state which may be deemed by the
15 commission to be relevant insofar as possible pursuant to any
16 federal water pollution control act. These shall be reevaluated
17 and modified as required by any federal water pollution control
18 act;

19 (8) Adopt, amend, promulgate, or repeal after due notice
20 and hearing rules and regulations to enforce, implement, and
21 effectuate the powers and duties of sections 644.006 to 644.141
22 and any required of this state by any federal water pollution
23 control act, and as the commission may deem necessary to prevent,
24 control and abate existing or potential pollution. In addition
25 to opportunities to submit written statements or provide
26 testimony at public hearings in support of or in opposition to
27 proposed rulemakings as required by section 536.021, any person
28 who submits written comments or oral testimony on a proposed rule

1 shall, at any public meeting to vote on an order of rulemaking or
2 other commission policy, have the opportunity to respond to the
3 proposed order of rulemaking or department of natural resources'
4 response to comments to the extent that such response is limited
5 to issues raised in oral or written comments made during the
6 public notice comment period or public hearing on the proposed
7 rule;

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

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

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

22 (12) Require the prior submission of plans and
23 specifications, or other data including the quantity and types of
24 water contaminants, and inspect the construction of treatment
25 facilities and sewer systems or any part thereof in connection
26 with the issuance of such permits or approval as are required by
27 sections 644.006 to 644.141, except that manholes and polyvinyl
28 chloride (PVC) pipe used for gravity sewers and with a diameter

1 no greater than twenty-seven inches shall not be required to be
2 tested for leakage;

3 (13) Issue, continue in effect, revoke, modify or deny,
4 under such conditions as it may prescribe, to prevent, control or
5 abate pollution or any violations of sections 644.006 to 644.141
6 or any federal water pollution control act, permits for the
7 discharge of water contaminants into the waters of this state,
8 and for the installation, modification or operation of treatment
9 facilities, sewer systems or any parts thereof. Such permit
10 conditions, in addition to all other requirements of this
11 subdivision, shall ensure compliance with all effluent
12 regulations or limitations, water quality related effluent
13 limitations, national standards of performance and toxic and
14 pretreatment effluent standards, and all requirements and time
15 schedules thereunder as established by sections 644.006 to
16 644.141 and any federal water pollution control act; however, no
17 permit shall be required of any person for any emission into
18 publicly owned treatment facilities or into publicly owned sewer
19 systems tributary to publicly owned treatment works;

20 (14) Establish permits by rule. Such permits shall only be
21 available for those facilities or classes of facilities that
22 control potential water contaminants that pose a reduced threat
23 to public health or the environment and that are in compliance
24 with commission water quality standards rules, effluent rules or
25 rules establishing permits by rule. Such permits by rule shall
26 have the same legal standing as other permits issued pursuant to
27 this chapter. Nothing in this section shall prohibit the
28 commission from requiring a site-specific permit or a general

1 permit for individual facilities;

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

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

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

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

22 (19) Require that all publicly owned treatment works or
23 facilities which receive or have received grants or loans from
24 the state or the federal government for construction or
25 improvement make all charges required by sections 644.006 to
26 644.141 or any federal water pollution control act for use and
27 recovery of capital costs, and the operating authority for such
28 works or facility is hereby authorized to make any such charges;

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

4 (21) Develop such facts and make such investigations as are
5 consistent with the purposes of sections 644.006 to 644.141, and,
6 in connection therewith, to enter or authorize any representative
7 of the commission to enter at all reasonable times and upon
8 reasonable notice in or upon any private or public property for
9 any purpose required by any federal water pollution control act
10 or sections 644.006 to 644.141 for the purpose of developing
11 rules, regulations, limitations, standards, or permit conditions,
12 or inspecting or investigating any records required to be kept by
13 sections 644.006 to 644.141 or any permit issued pursuant to
14 sections 644.006 to 644.141, any condition which the commission
15 or director has probable cause to believe to be a water
16 contaminant source or the site of any suspected violation of
17 sections 644.006 to 644.141, regulations, standards, or
18 limitations, or permits issued pursuant to sections 644.006 to
19 644.141. The results of any such investigation shall be reduced
20 to writing, and shall be furnished to the owner or operator of
21 the property. No person shall refuse entry or access, requested
22 for the purposes of inspection pursuant to this subdivision, to
23 an authorized representative in carrying out the inspection. A
24 suitably restricted search warrant, upon a showing of probable
25 cause in writing and upon oath, shall be issued by any judge or
26 associate circuit judge having jurisdiction to any representative
27 for the purpose of enabling him or her to make such inspection.
28 Information obtained pursuant to this section shall be available

1 to the public unless it constitutes trade secrets or confidential
2 information, other than effluent data, of the person from whom it
3 is obtained, except when disclosure is required pursuant to any
4 federal water pollution control act;

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

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

16 (24) Require persons owning or engaged in operations which
17 do or could discharge water contaminants, or introduce water
18 contaminants or pollutants of a quality and quantity to be
19 established by the commission, into any publicly owned treatment
20 works or facility, to provide and maintain any facilities and
21 conduct any tests and monitoring necessary to establish and
22 maintain records and to file reports containing information
23 relating to measures to prevent, lessen or render any discharge
24 less harmful or relating to rate, period, composition,
25 temperature, and quality and quantity of the effluent, and any
26 other information required by any federal water pollution control
27 act or the director, and to make them public, except as provided
28 in subdivision (21) of this section. The commission shall

1 develop and adopt such procedures for inspection, investigation,
2 testing, sampling, monitoring and entry respecting water
3 contaminant and point sources as may be required for approval of
4 such a program pursuant to any federal water pollution control
5 act;

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

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

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

19 644.051. 1. It is unlawful for any person:

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

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

27 (3) To violate any pretreatment and toxic material control
28 regulations, or to discharge any water contaminants into any

1 waters of the state which exceed effluent regulations or permit
2 provisions as established by the commission or required by any
3 federal water pollution control act;

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

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

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

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

27 (2) All sewer extensions or collection projects that are
28 one thousand feet in length or less with fewer than two lift

1 stations;

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

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

6
7 [However, nothing shall prevent the department from taking action
8 to assure protection of the environment and human health.] A
9 construction permit may be required [where necessary as
10 determined by the department, including] by the department in the
11 following circumstances:

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

14 (b) To [correct] address noncompliance;

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

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

18
19 In addition, any point source that proposes to construct an
20 earthen storage structure to hold, convey, contain, store or
21 treat domestic, agricultural, or industrial process wastewater
22 also shall be subject to the construction permit provisions of
23 this subsection. All other construction-related activities at
24 point sources shall be exempt from the construction permit
25 requirements. All activities that are exempted from the
26 construction permit requirement are subject to the following
27 conditions:

28 a. Any point source system designed to hold, convey,

1 contain, store or treat domestic, agricultural or industrial
2 process wastewater shall be designed by a professional engineer
3 registered in Missouri in accordance with the commission's design
4 rules;

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

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

14
15 A governmental unit may apply to the department for authorization
16 to operate a local supervised program, and the department may
17 authorize such a program. A local supervised program would
18 recognize the governmental unit's engineering capacity and
19 ability to conduct engineering work, supervise construction and
20 maintain compliance with relevant operating permit requirements.

21 4. Before issuing any permit required by this section, the
22 director shall issue such notices, conduct such hearings, and
23 consider such factors, comments and recommendations as required
24 by sections 644.006 to 644.141 or any federal water pollution
25 control act. The director shall determine if any state or any
26 provisions of any federal water pollution control act the state
27 is required to enforce, any state or federal effluent limitations
28 or regulations, water quality-related effluent limitations,

1 national standards of performance, toxic and pretreatment
2 standards, or water quality standards which apply to the source,
3 or any such standards in the vicinity of the source, are being
4 exceeded, and shall determine the impact on such water quality
5 standards from the source. The director, in order to effectuate
6 the purposes of sections 644.006 to 644.141, shall deny a permit
7 if the source will violate any such acts, regulations,
8 limitations or standards or will appreciably affect the water
9 quality standards or the water quality standards are being
10 substantially exceeded, unless the permit is issued with such
11 conditions as to make the source comply with such requirements
12 within an acceptable time schedule.

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

24 6. The director shall promptly notify the applicant in
25 writing of his or her action and if the permit is denied state
26 the reasons therefor. The applicant may appeal to the commission
27 from the denial of a permit or from any condition in any permit
28 by filing notice of appeal with the commission within thirty days

1 of the notice of denial or issuance of the permit. After a final
2 action is taken on a new or reissued general permit, a potential
3 applicant for the general permit who can demonstrate that he or
4 she is or may be adversely affected by any permit term or
5 condition may appeal the terms and conditions of the general
6 permit within thirty days of the department's issuance of the
7 general permit. In no event shall a permit constitute permission
8 to violate the law or any standard, rule or regulation
9 promulgated pursuant thereto.

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

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

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

24 10. No manufacturing or processing plant or operating
25 location shall be required to pay more than one operating fee.
26 Operating permits shall be issued for a period not to exceed five
27 years after date of issuance, except that general permits shall
28 be issued for a five-year period, and also except that neither a

1 construction nor an annual permit shall be required for a single
2 residence's waste treatment facilities. Applications for renewal
3 of a site-specific operating permit shall be filed at least one
4 hundred eighty days prior to the expiration of the existing
5 permit. Applications seeking to renew coverage under a general
6 permit shall be submitted at least thirty days prior to the
7 expiration of the general permit, unless the permittee has been
8 notified by the director that an earlier application must be
9 made. General permits may be applied for and issued
10 electronically once made available by the director.

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

1 of such introduction on the quality or quantity of effluent to be
2 released from such works or facility into waters of the state.

3 12. The director or the commission may require the filing
4 or posting of a bond as a condition for the issuance of permits
5 for construction of temporary or future water treatment
6 facilities or facilities that utilize innovative technology for
7 wastewater treatment in an amount determined by the commission to
8 be sufficient to ensure compliance with all provisions of
9 sections 644.006 to 644.141, and any rules or regulations of the
10 commission and any condition as to such construction in the
11 permit. For the purposes of this section, "innovative technology
12 for wastewater treatment" shall mean a completely new and
13 generally unproven technology in the type or method of its
14 application that bench testing or theory suggest has
15 environmental, efficiency, and cost benefits beyond the standard
16 technologies. No bond shall be required for designs approved by
17 any federal agency or environmental regulatory agency of another
18 state. The bond shall be signed by the applicant as principal,
19 and by a corporate surety licensed to do business in the state of
20 Missouri and approved by the commission. The bond shall remain
21 in effect until the terms and conditions of the permit are met
22 and the provisions of sections 644.006 to 644.141 and rules and
23 regulations promulgated pursuant thereto are complied with.

24 13. (1) The department shall issue or deny applications
25 for construction and site-specific operating permits received
26 after January 1, 2001, within one hundred eighty days of the
27 department's receipt of an application. For general construction
28 and operating permit applications received after January 1, 2001,

1 that do not require a public participation process, the
2 department shall issue or deny the permits within sixty days of
3 the department's receipt of an application. For an application
4 seeking coverage under a renewed general permit that does not
5 require an individual public participation process, the director
6 shall issue or deny the permit within sixty days of the
7 director's receipt of the application, or upon issuance of the
8 general permit, whichever is later. In regard to an application
9 seeking coverage under an initial general permit that does not
10 require an individual public participation process, the director
11 shall issue or deny the permit within sixty days of the
12 department's receipt of the application. For an application
13 seeking coverage under a renewed general permit that requires an
14 individual public participation process, the director shall issue
15 or deny the permit within ninety days of the director's receipt
16 of the application, or upon issuance of the general permit,
17 whichever is later. In regard to an application for an initial
18 general permit that requires an individual public participation
19 process, the director shall issue or deny the permit within
20 ninety days of the director's receipt of the application.

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

1 (3) Permit fee disputes may be appealed to the commission
2 within thirty days of the date established in subdivision (2) of
3 this subsection. If the applicant prevails in a permit fee
4 dispute appealed to the commission, the commission may order the
5 director to refund the applicant's permit fee plus interest and
6 reasonable attorney's fees as provided in sections 536.085 and
7 536.087. A refund of the initial application or annual fee does
8 not waive the applicant's responsibility to pay any annual fees
9 due each year following issuance of a permit.

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

25 (5) During the department's technical review of the
26 application, the department may request the applicant submit
27 supplemental or additional information necessary for adequate
28 permit review. The department's technical review letter shall

1 contain a sufficient description of the type of additional
2 information needed to comply with the application requirements.

3 (6) Nothing in this subsection shall be interpreted to mean
4 that inaction on a permit application shall be grounds to violate
5 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
8 individual certification under Section 401 of the Federal Clean
9 Water Act within the lesser of sixty days or the allowed response
10 period established pursuant to applicable federal regulations
11 without request for an extension period unless such extension is
12 determined by the commission to be necessary to evaluate
13 significant impacts on water quality standards and the commission
14 establishes a timetable for completion of such evaluation in a
15 period of no more than one hundred eighty days.

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

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

25 17. Prior to the development of a new general permit or
26 reissuance of a general permit for aquaculture, land disturbance
27 requiring a storm water permit, or reissuance of a general permit
28 under which fifty or more permits were issued under a general

1 permit during the immediately preceding five-year period for a
2 designated category of water contaminant sources, the director
3 shall implement a public participation process complying with the
4 following minimum requirements:

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

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

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

27 (4) The director shall hold a thirty-day public comment
28 period to receive comments on the general permit template with

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

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

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

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

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

27 644.057. Notwithstanding any statutory fee amounts or
28 maximums to the contrary, the director of the department of

1 natural resources may conduct a comprehensive review [of] and
2 propose changes to the clean water fee structure set forth in
3 sections 644.052 [and], 644.053, and 644.061. The comprehensive
4 review shall include stakeholder meetings in order to solicit
5 stakeholder input from each of the following groups:
6 agriculture, industry, municipalities, public and private
7 wastewater facilities, and the development community. Upon
8 completion of the comprehensive review, the department shall
9 submit a proposed [changes to the] fee structure with stakeholder
10 agreement to the clean water commission. The commission shall[,
11 upon receiving the department's recommendations,] review such
12 recommendations at the forthcoming regular or special meeting
13 [under subsection 3 of section 644.021],but shall not vote on the
14 fee structure until a subsequent meeting. [The commission shall
15 not take a vote on the clean water fee structure recommendations
16 until the following regular or special meeting.] In no case
17 shall the clean water commission adopt or recommend any clean
18 water fee in excess of five thousand dollars. If the commission
19 approves, by vote of two-thirds majority or five of seven
20 commissioners, the [clean water] fee structure recommendations,
21 the commission shall [promulgate by regulation and publish the
22 recommended clean water fee structure no later than October first
23 of the same year. The commission shall] authorize the department
24 to file a notice of proposed rulemaking containing the
25 recommended fee structure, and after considering public comments,
26 may authorize the department to file the order of rulemaking for
27 such rule with the joint committee on administrative rules
28 pursuant to sections 536.021 and 536.024 no later than December

1 first of the same year. If such rules are not disapproved by the
2 general assembly in the manner set out below, they shall take
3 effect on January first of the ~~next odd-numbered~~ following
4 calendar year and the fee structures set forth in sections
5 644.052 ~~[and]~~, 644.053, and 644.061 shall expire upon the
6 effective date of the commission-adopted fee structure, contrary
7 to section 644.054. Any regulation promulgated under this
8 subsection shall be deemed to be beyond the scope and authority
9 provided in this subsection, or detrimental to permit applicants,
10 if the general assembly, within the first sixty calendar days of
11 the regular session immediately following the ~~[promulgation]~~
12 filing of such regulation[, by concurrent resolution, shall
13 disapprove the fee structure contained in such regulation]
14 disapproves the regulation by concurrent resolution. If the
15 general assembly so disapproves any regulation ~~[promulgated]~~
16 filed under this subsection, the ~~[clean water commission shall~~
17 continue to use the fee structure set forth in the most recent
18 preceding regulation promulgated under this subsection.]
19 department and the commission shall not implement the proposed
20 fee structure and shall continue to use the previous fee
21 structure. The authority of the commission to further revise the
22 fee structure provided by this section shall expire on August 28,
23 [2023] 2024.

24 644.058. Notwithstanding the provisions of section 644.026
25 to the contrary, in promulgating water quality standards, the
26 commission shall only revise water quality standards upon the
27 completion of an assessment by the department finding that there
28 is an environmental need for such revision. As part of the

1 implementation of any revised water quality standards
2 modifications of twenty-five percent or more, the department
3 shall conduct an evaluation which shall include the environmental
4 and economic impacts of the revised water quality standards on a
5 subbasin basis. This evaluation shall be conducted at the eight-
6 digit hydrologic unit code level. The department shall document
7 these evaluations and use them in making individual site-specific
8 permit decisions.

9 644.145. 1. When issuing permits under this chapter that
10 incorporate a new requirement for discharges from publicly owned
11 combined or separate sanitary or storm sewer systems or treatment
12 works, or when enforcing provisions of this chapter or the
13 Federal Water Pollution Control Act, 33 U.S.C. 1251, et seq.,
14 pertaining to any portion of a publicly owned combined or
15 separate sanitary or storm sewer system or treatment works, the
16 department of natural resources shall make a finding of
17 affordability on the costs to be incurred and the impact of any
18 rate changes on ratepayers upon which to base such permits and
19 decisions, to the extent allowable under this chapter and the
20 Federal Water Pollution Control Act.

21 2. (1) The department of natural resources shall not be
22 required under this section to make a finding of affordability
23 when:

24 (a) Issuing collection system extension permits;

25 (b) Issuing National Pollution Discharge Elimination System
26 operating permit renewals which include no new environmental
27 requirements; or

28 (c) The permit applicant certifies that the applicable

1 requirements are affordable to implement or otherwise waives the
2 requirement for an affordability finding; however, at no time
3 shall the department require that any applicant certify, as a
4 condition to approving any permit, administrative or civil
5 action, that a requirement, condition, or penalty is affordable.

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

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

13 (1) "Affordability", with respect to payment of a utility
14 bill, a measure of whether an individual customer or household
15 with an income equal to the lower of the median household income
16 for their community or the state of Missouri can pay the bill
17 without undue hardship or unreasonable sacrifice in the essential
18 lifestyle or spending patterns of the individual or household,
19 taking into consideration the criteria described in subsection 4
20 of this section;

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

24 (3) "Finding of affordability", a department statement as
25 to whether an individual or a household receiving as income an
26 amount equal to the lower of the median household income for the
27 applicant community or the state of Missouri would be required to
28 make unreasonable sacrifices in their essential lifestyle or

1 spending patterns or undergo hardships in order to make the
2 projected monthly payments for sewer services. The department
3 shall make a statement that the proposed changes meet the
4 definition of affordable, or fail to meet the definition of
5 affordable, or are implemented as a federal mandate regardless of
6 affordability.

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

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

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

28 (3) An evaluation of the overall costs and environmental

benefits of the control technologies;

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

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

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

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

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

[(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

1 [(7)] (8) An assessment of any other relevant local
2 community economic condition.

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

10 6. Reasonable time spent preparing draft affordability
11 findings, allowing permittees to review draft affordability
12 findings or draft permits, or revising draft affordability
13 findings, shall be allowed in addition to the department's
14 deadlines for making permitting decisions pursuant to section
15 644.051.

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

20 8. The department of natural resources' findings under this
21 section may be appealed to the commission pursuant to subsection
22 6 of section 644.051.

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

1 completed in the previous calendar year:

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

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

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

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

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

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

21 (c) Percentage of households at or below the state poverty
22 rate.