

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Bill No. 109, Page 3, Section 256.710, Line 51, by
2 inserting after all of said section and line the following:
3

4 "640.099. Notwithstanding the provisions of section 1.140 to the contrary, the provisions of
5 sections 37.070, 67.4500, 67.4505, 67.4510, 67.4515, 67.4520, ~~[192.105,]~~ 247.060, 253.090,
6 442.014, 444.771, 444.773, 621.250, 640.018, 640.128, ~~[640.850,]~~ 643.020, 643.040, 643.050,
7 643.060, 643.079, 643.080, 643.130, 643.191, 643.225, 643.232, 643.237, 643.240, 643.242,
8 643.245, 643.250, 644.036, ~~[644.051,]~~ 644.054, 644.071, 644.145, 701.033, ~~[701.058,]~~ and this
9 section shall be nonseverable, and if any provision is for any reason held to be invalid, such decision
10 shall invalidate all of the remaining provisions of sections 37.070, 67.4500, 67.4505, 67.4510,
11 67.4515, 67.4520, ~~[192.105,]~~ 247.060, 253.090, 442.014, 444.771, 444.773, 621.250, 640.018,
12 640.128, ~~[640.850,]~~ 643.020, 643.040, 643.050, 643.060, 643.079, 643.080, 643.130, 643.191,
13 643.225, 643.232, 643.237, 643.240, 643.242, 643.245, 643.250, 644.036, ~~[644.051,]~~ 644.054,
14 644.071, 644.145, 701.033, ~~[701.058,]~~ and this section.

15 644.051. 1. It is unlawful for any person:

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

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

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

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

26 2. It shall be unlawful for any person to operate, use or maintain any water contaminant or
27 point source in this state that is subject to standards, rules or regulations promulgated pursuant to the
28 provisions of sections 644.006 to 644.141 unless such person holds an operating permit from the
29 commission, subject to such exceptions as the commission may prescribe by rule or regulation.

30 However, no operating permit shall be required of any person for any emission into publicly owned

Action Taken _____ Date _____

1 treatment facilities or into publicly owned sewer systems tributary to publicly owned treatment
2 works.

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

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

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

12 (3) All sewer collection projects that are authorized through a local supervised program;
13 ~~[and]~~

14 (4) Any earthen basin constructed to retain and settle nontoxic, nonmetallic earthen
15 materials such as soil, silt, and rock; and

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

17 4. A construction permit may be required by the department in the following circumstances:

18 ~~[(a)]~~ (1) Substantial deviation from the commission's design standards;

19 ~~[(b)]~~ (2) To address noncompliance;

20 ~~[(c)]~~ (3) When an unauthorized discharge has occurred or has the potential to occur; or

21 ~~[(d)]~~ (4) To correct a violation of water quality standards.

22 ~~[In addition,]~~ 5. Any point source that proposes to construct an earthen storage structure to
23 hold, convey, contain, store or treat domestic, agricultural, or industrial process wastewater also
24 shall be subject to the construction permit provisions of this subsection. All other construction-
25 related activities at point sources shall be exempt from the construction permit requirements. All
26 activities that are exempted from the construction permit requirement are subject to the following
27 conditions:

28 ~~[(a-)]~~ (1) Any point source system designed to hold, convey, contain, store or treat domestic,
29 agricultural or industrial process wastewater shall be designed by a professional engineer registered
30 in Missouri in accordance with the commission's design rules;

31 ~~[(b-)]~~ (2) Such point source system shall be constructed in accordance with the registered
32 professional engineer's design and plans; and

33 ~~[(c-)]~~ (3) Such point source system may receive a post-construction site inspection by the
34 department prior to receiving operating permit approval. A site inspection may be performed by the
35 department, upon receipt of a complete operating permit application or submission of an engineer's
36 statement of work complete.

37 6. A governmental unit may apply to the department for authorization to operate a local
38 supervised program, and the department may authorize such a program. A local supervised program

1 would recognize the governmental unit's engineering capacity and ability to conduct engineering
2 work, supervise construction and maintain compliance with relevant operating permit requirements.

3 [4.] 7. Before issuing any permit required by this section, the director shall issue such
4 notices, conduct such hearings, and consider such factors, comments and recommendations as
5 required by sections 644.006 to 644.141 or any federal water pollution control act. The director
6 shall determine if any state or any provisions of any federal water pollution control act the state is
7 required to enforce, any state or federal effluent limitations or regulations, water quality-related
8 effluent limitations, national standards of performance, toxic and pretreatment standards, or water
9 quality standards which apply to the source, or any such standards in the vicinity of the source, are
10 being exceeded, and shall determine the impact on such water quality standards from the source.
11 The director, in order to effectuate the purposes of sections 644.006 to 644.141, shall deny a permit
12 if the source will violate any such acts, regulations, limitations or standards or will appreciably
13 affect the water quality standards or the water quality standards are being substantially exceeded,
14 unless the permit is issued with such conditions as to make the source comply with such
15 requirements within an acceptable time schedule.

16 [5.] 8. The director shall grant or deny the permit within sixty days after all requirements of
17 the Federal Water Pollution Control Act concerning issuance of permits have been satisfied unless
18 the application does not require any permit pursuant to any federal water pollution control act. The
19 director or the commission may require the applicant to provide and maintain such facilities or to
20 conduct such tests and monitor effluents as necessary to determine the nature, extent, quantity or
21 degree of water contaminant discharged or released from the source, establish and maintain records
22 and make reports regarding such determination.

23 [6.] 9. The director shall promptly notify the applicant in writing of his or her action and if
24 the permit is denied state the reasons for such denial. As provided by sections 621.250 and 640.013,
25 the applicant may appeal to the administrative hearing commission from the denial of a permit or
26 from any condition in any permit by filing a petition with the administrative hearing commission
27 within thirty days of the notice of denial or issuance of the permit. After a final action is taken on a
28 new or reissued general permit, a potential applicant for the general permit who can demonstrate
29 that he or she is or may be adversely affected by any permit term or condition may appeal the terms
30 and conditions of the general permit within thirty days of the department's issuance of the general
31 permit. In no event shall a permit constitute permission to violate the law or any standard, rule or
32 regulation promulgated pursuant thereto. Once the administrative hearing commission has reviewed
33 the appeal, the administrative hearing commission shall issue a recommended decision to the
34 commission on permit issuance, denial, or any condition of the permit. The commission shall issue
35 its own decision, based on the appeal, for permit issuance, denial, or any condition of the permit. If
36 the commission changes a finding of fact or conclusion of law made by the administrative hearing
37 commission, or modifies or vacates the decision recommended by the administrative hearing
38 commission, it shall issue its own decision, which shall include findings of fact and conclusions of
39 law. The commission shall mail copies of its final decision to the parties to the appeal or their

1 counsel of record. The commission's decision shall be subject to judicial review pursuant to chapter
2 536, except that the court of appeals district with territorial jurisdiction coextensive with the county
3 where the point source is to be located shall have original jurisdiction. No judicial review shall be
4 available until and unless all administrative remedies are exhausted.

5 [7-] 10. In any hearing held pursuant to this section that involves a permit, license, or
6 registration, the burden of proof is on the party specified in section 640.012. Any decision of the
7 commission made pursuant to a hearing held pursuant to this section is subject to judicial review as
8 provided in section 644.071.

9 [8-] 11. In any event, no permit issued pursuant to this section shall be issued if properly
10 objected to by the federal government or any agency authorized to object pursuant to any federal
11 water pollution control act unless the application does not require any permit pursuant to any federal
12 water pollution control act.

13 [9-] 12. Permits may be modified, reissued, or terminated at the request of the permittee.
14 All requests shall be in writing and shall contain facts or reasons supporting the request.

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

25 [11-] 14. Every permit issued to municipal or any publicly owned treatment works or facility
26 shall require the permittee to provide the clean water commission with adequate notice of any
27 substantial new introductions of water contaminants or pollutants into such works or facility from
28 any source for which such notice is required by sections 644.006 to 644.141 or any federal water
29 pollution control act. Such permit shall also require the permittee to notify the clean water
30 commission of any substantial change in volume or character of water contaminants or pollutants
31 being introduced into its treatment works or facility by a source which was introducing water
32 contaminants or pollutants into its works at the time of issuance of the permit. Notice must describe
33 the quality and quantity of effluent being introduced or to be introduced into such works or facility
34 by a source which was introducing water contaminants or pollutants into its works at the time of
35 issuance of the permit. Notice must describe the quality and quantity of effluent being introduced or
36 to be introduced into such works or facility and the anticipated impact of such introduction on the
37 quality or quantity of effluent to be released from such works or facility into waters of the state.

38 [12-] 15. The director or the commission may require the filing or posting of a bond as a
39 condition for the issuance of permits for construction of temporary or future water treatment

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

13 ~~[13-]~~ 16. (1) The department shall issue or deny applications for construction and site-
14 specific operating permits received after January 1, 2001, within one hundred eighty days of the
15 department's receipt of an application. For general construction and operating permit applications
16 received after January 1, 2001, that do not require a public participation process, the department
17 shall issue or deny the permits within sixty days of the department's receipt of an application. For
18 an application seeking coverage under a renewed general permit that does not require an individual
19 public participation process, the director shall issue or deny the permit within sixty days of the
20 director's receipt of the application, or upon issuance of the general permit, whichever is later. In
21 regard to an application seeking coverage under an initial general permit that does not require an
22 individual public participation process, the director shall issue or deny the permit within sixty days
23 of the department's receipt of the application. For an application seeking coverage under a renewed
24 general permit that requires an individual public participation process, the director shall issue or
25 deny the permit within ninety days of the director's receipt of the application, or upon issuance of
26 the general permit, whichever is later. In regard to an application for an initial general permit that
27 requires an individual public participation process, the director shall issue or deny the permit within
28 ninety days of the director's receipt of the application.

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

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

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

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

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

18 ~~[14:]~~ 17. The department shall respond to all requests for individual certification under
19 Section 401 of the Federal Clean Water Act within the lesser of sixty days or the allowed response
20 period established pursuant to applicable federal regulations without request for an extension period
21 unless such extension is determined by the commission to be necessary to evaluate significant
22 impacts on water quality standards and the commission establishes a timetable for completion of
23 such evaluation in a period of no more than one hundred eighty days.

24 ~~[15:]~~ 18. All permit fees generated pursuant to this chapter shall not be used for the
25 development or expansion of total maximum daily loads studies on either the Missouri or
26 Mississippi rivers.

27 ~~[16:]~~ 19. The department shall implement permit shield provisions equivalent to the permit
28 shield provisions implemented by the U.S. Environmental Protection Agency pursuant to the Clean
29 Water Act, Section 402(k), 33 U.S.C. Section 1342(k), and its implementing regulations, for permits
30 issued pursuant to chapter 644.

31 ~~[17:]~~ 20. Prior to the development of a new general permit or reissuance of a general permit
32 for aquaculture, land disturbance requiring a storm water permit, or reissuance of a general permit
33 under which fifty or more permits were issued under a general permit during the immediately
34 preceding five-year period for a designated category of water contaminant sources, the director shall
35 implement a public participation process complying with the following minimum requirements:

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

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

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

(4) The director shall hold a thirty-day public comment period to receive comments on the general permit template with the thirty-day comment period expiring at least sixty days prior to the effective date of the general permit. Scanned copies of the comments received during the public comment period shall be posted on the department's website within five business days after close of the public comment period;

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

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

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

~~[19. The provisions of subsection 17 of this section shall become effective beginning January 1, 2013.]~~; and

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