

House _____ Amendment NO. _____

Offered By

1 AMEND Senate Substitute for Senate Bill No. 1298, Page 17, Section 307.010, Line 20, by
2 inserting after all of said section and line the following:

3
4 "644.016. When used in sections 644.006 to 644.141 and in standards, rules and regulations
5 promulgated pursuant to sections 644.006 to 644.141, the following words and phrases mean:

6 (1) "Agrichemical facility", any site, with the exception of chemical production facilities,
7 where bulk pesticides or fertilizers, excluding anhydrous ammonia fertilizer, are:

8 (a) Stored and combined in nonmobile containers, dedicated containers, or storage basins; or

9 (b) Stored or being mixed, applied, repackaged, or transferred between containers or storage
10 basins;

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

14 [(2)] (3) "Commission", the clean water commission of the state of Missouri created in
15 section 644.021;

16 [(3)] (4) "Conference, conciliation and persuasion", a process of verbal or written
17 communications consisting of meetings, reports, correspondence or telephone conferences between
18 authorized representatives of the department and the alleged violator. The process shall, at a
19 minimum, consist of one offer to meet with the alleged violator tendered by the department. During
20 any such meeting, the department and the alleged violator shall negotiate in good faith to eliminate
21 the alleged violation and shall attempt to agree upon a plan to achieve compliance;

22 [(4)] (5) "Department", the department of natural resources;

23 [(5)] (6) "Director", the director of the department of natural resources;

24 [(6)] (7) "Discharge", the causing or permitting of one or more water contaminants to enter
25 the waters of the state;

26 [(7)] (8) "Effluent control regulations", limitations on the discharge of water contaminants;

27 [(8)] (9) "General permit", a permit written with a standard group of conditions and with
28 applicability intended for a designated category of water contaminant sources that have the same or
29 similar operations, discharges and geographical locations, and that require the same or similar

Action Taken _____ Date _____

1 monitoring, and that would be more appropriately controlled pursuant to a general permit rather than
2 pursuant to a site-specific permit;

3 ~~[(9)]~~ (10) "General permit template", a draft general permit that is being developed through
4 a public participation process;

5 ~~[(10)]~~ (11) "Human sewage", human excreta and wastewater, including bath and toilet
6 waste, residential laundry waste, residential kitchen waste, and other similar waste from household
7 or establishment appurtenances;

8 ~~[(11)]~~ (12) "Income" includes retirement benefits, consultant fees, and stock dividends;

9 ~~[(12)]~~ (13) "Minor violation", a violation which possesses a small potential to harm the
10 environment or human health or cause pollution, was not knowingly committed, and is not defined
11 by the United States Environmental Protection Agency as other than minor;

12 ~~[(13)]~~ (14) "Operating location", all contiguous lands owned, operated, or controlled by one
13 or more persons jointly or as tenants in common, except land application sites are not required to be
14 contiguous;

15 (15) "Permit by rule", a permit granted by rule, not by a paper certificate, and conditioned
16 by the permit holder's compliance with commission rules;

17 ~~[(14)]~~ (16) "Permit holders or applicants for a permit" shall not include officials or
18 employees who work full time for any department or agency of the state of Missouri;

19 ~~[(15)]~~ (17) "Person", any individual, partnership, copartnership, firm, company, public or
20 private corporation, association, joint stock company, trust, estate, political subdivision, or any
21 agency, board, department, or bureau of the state or federal government, or any other legal entity
22 whatever which is recognized by law as the subject of rights and duties;

23 ~~[(16)]~~ (18) "Point source", any discernible, confined and discrete conveyance, including but
24 not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling
25 stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants
26 are or may be discharged. Point source does not include agricultural storm water discharges and
27 return flows from irrigated agriculture;

28 ~~[(17)]~~ (19) "Pollution", such contamination or other alteration of the physical, chemical or
29 biological properties of any waters of the state, including change in temperature, taste, color,
30 turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other
31 substance into any waters of the state as will or is reasonably certain to create a nuisance or render
32 such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic,
33 industrial, agricultural, recreational, or other legitimate beneficial uses, or to wild animals, birds,
34 fish or other aquatic life;

35 ~~[(18)]~~ (20) "Pretreatment regulations", limitations on the introduction of pollutants or water
36 contaminants into publicly owned treatment works or facilities which the commission determines
37 are not susceptible to treatment by such works or facilities or which would interfere with their
38 operation, except that wastes as determined compatible for treatment pursuant to any federal water

1 pollution control act or guidelines shall be limited or treated pursuant to this chapter only as
2 required by such act or guidelines;

3 ~~[(19)]~~ (21) "Residential housing development", any land which is divided or proposed to be
4 divided into three or more lots, whether contiguous or not, for the purpose of sale or lease as part of
5 a common promotional plan for residential housing;

6 ~~[(20)]~~ (22) "Sewer system", pipelines or conduits, pumping stations, and force mains, and
7 all other structures, devices, appurtenances and facilities used for collecting or conducting wastes to
8 an ultimate point for treatment or handling;

9 ~~[(21)]~~ (23) "Significant portion of his or her income" shall mean ten percent of gross
10 personal income for a calendar year, except that it shall mean fifty percent of gross personal income
11 for a calendar year if the recipient is over sixty years of age, and is receiving such portion pursuant
12 to retirement, pension, or similar arrangement;

13 ~~[(22)]~~ (24) "Site-specific permit", a permit written for discharges emitted from a single
14 water contaminant source and containing specific conditions, monitoring requirements and effluent
15 limits to control such discharges;

16 ~~[(23)]~~ (25) "Treatment facilities", any method, process, or equipment which removes,
17 reduces, or renders less obnoxious water contaminants released from any source;

18 ~~[(24)]~~ (26) "Water contaminant", any particulate matter or solid matter or liquid or any gas
19 or vapor or any combination thereof, or any temperature change which is in or enters any waters of
20 the state either directly or indirectly by surface runoff, by sewer, by subsurface seepage or
21 otherwise, which causes or would cause pollution upon entering waters of the state, or which
22 violates or exceeds any of the standards, regulations or limitations set forth in sections 644.006 to
23 644.141 or any federal water pollution control act, or is included in the definition of pollutant in
24 such federal act;

25 ~~[(25)]~~ (27) "Water contaminant source", the point or points of discharge from a single tract
26 of property on which is located any installation, operation or condition which includes any point
27 source defined in sections 644.006 to 644.141 and nonpoint source pursuant to any federal water
28 pollution control act, which causes or permits a water contaminant therefrom to enter waters of the
29 state either directly or indirectly;

30 ~~[(26)]~~ (28) "Water quality standards", specified concentrations and durations of water
31 contaminants which reflect the relationship of the intensity and composition of water contaminants
32 to potential undesirable effects;

33 ~~[(27)]~~ (29) "Waters of the state", all waters within the jurisdiction of this state, including all
34 rivers, streams, lakes and other bodies of surface and subsurface water lying within or forming a part
35 of the boundaries of the state which are not entirely confined and located completely upon lands
36 owned, leased or otherwise controlled by a single person or by two or more persons jointly or as
37 tenants in common.

38 644.041. 1. As promptly as possible the commission shall adopt and promulgate reasonable
39 effluent, pretreatment and toxic material control regulations which require the use of effective

1 treatment facilities, or other methods to prevent water contamination, for each and every significant
2 source, potential source, and classification of sources of water contaminants, or to limit or prevent
3 introduction of water contaminants into publicly owned treatment works or facilities as required
4 under any federal water pollution control act, throughout the state and thereafter may modify such
5 regulations from time to time.

6 2. Any land application of industrial wastewater, industrial wastewater treatment sludge, and
7 related process wastes, excluding concentrated animal feeding operations, livestock markets, and
8 animal manure, shall be subject to a nutrient management technical standard established and
9 incorporated into rule by the department, which shall include land application practices, setbacks,
10 sampling requirements and frequency, and a process for establishing land application rates. Such
11 rules shall be designed to ensure safe and clean soils and water for the surrounding community
12 while accommodating modern agricultural practices.

13 644.051. 1. It is unlawful for any person:

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

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

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

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

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

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

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

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

- 1 (3) All sewer collection projects that are authorized through a local supervised program; and
2 (4) Any other exclusions the commission may promulgate by rule.

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

- 4 (1) Substantial deviation from the commission's design standards;
5 (2) To address noncompliance;
6 (3) When an unauthorized discharge has occurred or has the potential to occur; or
7 (4) To correct a violation of water quality standards.

8 5. Any point source that proposes to construct an earthen storage structure to hold, convey,
9 contain, store or treat domestic, agricultural, or industrial process wastewater also shall be subject to
10 the construction permit provisions of subsections 3 to 5 of this section. However, any earthen basin
11 constructed to retain and settle nontoxic, nonmetallic earthen materials such as soil, silt, and rock
12 shall be exempt from the construction permit provisions of subsections 3 to 5 of this section. All
13 other construction-related activities at point sources not subject to subsections 3 to 5 of this section
14 shall be exempt from the construction permit requirements. All activities that are exempted from
15 the construction permit requirement are subject to the following conditions:

16 (1) Any point source system designed to hold, convey, contain, store or treat domestic,
17 agricultural or industrial process wastewater shall be designed by a professional engineer registered
18 in Missouri in accordance with the commission's design rules;

19 (2) Such point source system shall be constructed in accordance with the registered
20 professional engineer's design and plans; and

21 (3) Such point source system may receive a post-construction site inspection by the
22 department prior to receiving operating permit approval. A site inspection may be performed by the
23 department, upon receipt of a complete operating permit application or submission of an engineer's
24 statement of work complete.

25 6. Notwithstanding any provision of this section to the contrary, the commission may
26 exempt an entity from the requirement to obtain a permit under this section based on licensure under
27 the Missouri fertilizer law, sections 266.291 to 266.351, only if the entity is producing products that
28 are commercially sold to an end user in accordance with such sections and has accurate labeling for
29 each container that includes the information required under subsection 1 of section 266.321.

30 7. Entities currently storing combined bulk fertilizers in storage basins shall not be exempt
31 from any design requirements for agrichemical facilities established by rule when constructing new
32 agrichemical facilities.

33 8. (1) In order to receive an operating permit under this section, any point source or
34 operating location seeking an operating permit for a commingled offsite industrial wastewater or
35 wastewater residuals open storage basin or open storage vessel shall meet current design
36 requirements for wastewater treatment facilities and demonstrate the capacity to manage its design
37 flow.

38 (2) Except as provided in subdivision (3) of this subsection, the department shall require at
39 least, but not more than, the following buffer distances between the nearest commingled offsite

1 industrial wastewater or wastewater residuals open storage basin or open storage vessel and any
2 public building or occupied residence other than a public building or occupied residence that is
3 owned by the commingled offsite industrial wastewater or wastewater residuals open storage basin
4 or open storage vessel or a residence from which a written agreement for operation is obtained:

5 (a) For a facility with a capacity of more than five hundred thousand gallons but less than or
6 equal to five million gallons, one thousand feet;

7 (b) For a facility with a capacity of more than five million gallons but less than or equal to
8 ten million gallons, two thousand feet; and

9 (c) For a facility with a capacity of more than ten million gallons, four thousand feet.

10 (3) All commingled offsite industrial wastewater or wastewater residuals open storage
11 basins or open storage vessels holding valid operating permits as of the effective date of this section
12 shall be exempt from the buffer distances prescribed in subdivision (2) of this subsection. Such
13 distances shall not apply to a facility that has received a written agreement signed by all affected
14 property owners within the relevant buffer distance.

15 (4) The department shall require groundwater monitoring wells on a site-specific basis
16 when, in the determination of the division of geological survey, the commingled offsite industrial
17 wastewater and wastewater residuals open storage basin or open storage vessel is located in
18 hydrologically sensitive areas where the groundwater may be compromised.

19 (5) (a) The department shall establish by rule sampling requirements for commingled
20 offsite industrial wastewater and wastewater residuals open storage basins or open storage vessels
21 based on a basin's or vessel's design flow and permitted materials.

22 (b) The department shall, within one hundred twenty days of the effective date of this
23 section, promulgate rules, including creating a chain of custody record form to be used by all parties
24 during the handling of testing samples, and, at a minimum, establish criteria to require monthly
25 sampling and testing of any contents of any commingled offsite industrial wastewater or wastewater
26 residuals open storage basin or open storage vessel for:

27 a. The total concentrations of metals, including arsenic, aluminum, barium, cadmium,
28 chromium, copper, lead, mercury, selenium, silver, and thallium; and

29 b. Any pathogens, including E. coli, fecal coliform, and salmonella.

30 (c) Testing under paragraph (b) of this subdivision shall be done by a third-party certified
31 laboratory and results of the testing shall be sent to the department by the third-party certified
32 laboratory.

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

37 [7-] 10. Before issuing any permit required by this section, the director shall issue such
38 notices, conduct such hearings, and consider such factors, comments and recommendations as
39 required by sections 644.006 to 644.141 or any federal water pollution control act. The director

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

11 ~~[8.]~~ 11. The director shall grant or deny the permit within sixty days after all requirements of
12 the Federal Water Pollution Control Act concerning issuance of permits have been satisfied unless
13 the application does not require any permit pursuant to any federal water pollution control act. The
14 director or the commission may require the applicant to provide and maintain such facilities or to
15 conduct such tests and monitor effluents as necessary to determine the nature, extent, quantity or
16 degree of water contaminant discharged or released from the source, establish and maintain records
17 and make reports regarding such determination.

18 ~~[9.]~~ 12. The director shall promptly notify the applicant in writing of his or her action and if
19 the permit is denied state the reasons for such denial. As provided by sections 621.250 and 640.013,
20 the applicant may appeal to the administrative hearing commission from the denial of a permit or
21 from any condition in any permit by filing a petition with the administrative hearing commission
22 within thirty days of the notice of denial or issuance of the permit. After a final action is taken on a
23 new or reissued general permit, a potential applicant for the general permit who can demonstrate
24 that he or she is or may be adversely affected by any permit term or condition may appeal the terms
25 and conditions of the general permit within thirty days of the department's issuance of the general
26 permit. In no event shall a permit constitute permission to violate the law or any standard, rule or
27 regulation promulgated pursuant thereto. Once the administrative hearing commission has reviewed
28 the appeal, the administrative hearing commission shall issue a recommended decision to the
29 commission on permit issuance, denial, or any condition of the permit. The commission shall issue
30 its own decision, based on the appeal, for permit issuance, denial, or any condition of the permit. If
31 the commission changes a finding of fact or conclusion of law made by the administrative hearing
32 commission, or modifies or vacates the decision recommended by the administrative hearing
33 commission, it shall issue its own decision, which shall include findings of fact and conclusions of
34 law. The commission shall mail copies of its final decision to the parties to the appeal or their
35 counsel of record. The commission's decision shall be subject to judicial review pursuant to chapter
36 536, except that the court of appeals district with territorial jurisdiction coextensive with the county
37 where the point source is to be located shall have original jurisdiction. No judicial review shall be
38 available until and unless all administrative remedies are exhausted.

1 ~~[40.]~~ 13. In any hearing held pursuant to this section that involves a permit, license, or
2 registration, the burden of proof is on the party specified in section 640.012. Any decision of the
3 commission made pursuant to a hearing held pursuant to this section is subject to judicial review as
4 provided in section 644.071.

5 ~~[41.]~~ 14. In any event, no permit issued pursuant to this section shall be issued if properly
6 objected to by the federal government or any agency authorized to object pursuant to any federal
7 water pollution control act unless the application does not require any permit pursuant to any federal
8 water pollution control act.

9 ~~[42.]~~ 15. Permits may be modified, reissued, or terminated at the request of the permittee.
10 All requests shall be in writing and shall contain facts or reasons supporting the request.

11 ~~[43.]~~ 16. No manufacturing or processing plant or operating location shall be required to pay
12 more than one operating fee. Operating permits shall be issued for a period not to exceed five years
13 after date of issuance, except that general permits shall be issued for a five-year period, and also
14 except that neither a construction nor an annual permit shall be required for a single residence's
15 waste treatment facilities. Applications for renewal of a site-specific operating permit shall be filed
16 at least one hundred eighty days prior to the expiration of the existing permit. Applications seeking
17 to renew coverage under a general permit shall be submitted at least thirty days prior to the
18 expiration of the general permit, unless the permittee has been notified by the director that an earlier
19 application must be made. General permits may be applied for and issued electronically once made
20 available by the director.

21 ~~[44.]~~ 17. Every permit issued to municipal or any publicly owned treatment works or facility
22 shall require the permittee to provide the clean water commission with adequate notice of any
23 substantial new introductions of water contaminants or pollutants into such works or facility from
24 any source for which such notice is required by sections 644.006 to 644.141 or any federal water
25 pollution control act. Such permit shall also require the permittee to notify the clean water
26 commission of any substantial change in volume or character of water contaminants or pollutants
27 being introduced into its treatment works or facility by a source which was introducing water
28 contaminants or pollutants into its works at the time of issuance of the permit. Notice must describe
29 the quality and quantity of effluent being introduced or to be introduced into such works or facility
30 by a source which was introducing water contaminants or pollutants into its works at the time of
31 issuance of the permit. Notice must describe the quality and quantity of effluent being introduced or
32 to be introduced into such works or facility and the anticipated impact of such introduction on the
33 quality or quantity of effluent to be released from such works or facility into waters of the state.

34 ~~[45.]~~ 18. The director or the commission may require the filing or posting of a bond as a
35 condition for the issuance of permits for construction of temporary or future water treatment
36 facilities or facilities that utilize innovative technology for wastewater treatment in an amount
37 determined by the commission to be sufficient to ensure compliance with all provisions of sections
38 644.006 to 644.141, and any rules or regulations of the commission and any condition as to such
39 construction in the permit. For the purposes of this section, "innovative technology for wastewater

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

9 [46:] 19. (1) The department shall issue or deny applications for construction and site-
10 specific operating permits received after January 1, 2001, within one hundred eighty days of the
11 department's receipt of an application. For general construction and operating permit applications
12 received after January 1, 2001, that do not require a public participation process, the department
13 shall issue or deny the permits within sixty days of the department's receipt of an application. For
14 an application seeking coverage under a renewed general permit that does not require an individual
15 public participation process, the director shall issue or deny the permit within sixty days of the
16 director's receipt of the application, or upon issuance of the general permit, whichever is later. In
17 regard to an application seeking coverage under an initial general permit that does not require an
18 individual public participation process, the director shall issue or deny the permit within sixty days
19 of the department's receipt of the application. For an application seeking coverage under a renewed
20 general permit that requires an individual public participation process, the director shall issue or
21 deny the permit within ninety days of the director's receipt of the application, or upon issuance of
22 the general permit, whichever is later. In regard to an application for an initial general permit that
23 requires an individual public participation process, the director shall issue or deny the permit within
24 ninety days of the director's receipt of the application.

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

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

36 (4) No later than December 31, 2001, the commission shall promulgate regulations defining
37 shorter review time periods than the time frames established in subdivision (1) of this subsection,
38 when appropriate, for different classes of construction and operating permits. In no case shall
39 commission regulations adopt permit review times that exceed the time frames established in

1 subdivision (1) of this subsection. The department's failure to comply with the commission's permit
2 review time periods shall result in a refund of said permit fees as set forth in subdivision (2) of this
3 subsection. On a semiannual basis, the department shall submit to the commission a report which
4 describes the different classes of permits and reports on the number of days it took the department to
5 issue each permit from the date of receipt of the application and show averages for each different
6 class of permits.

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

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

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

20 ~~[18:]~~ 21. All permit fees generated pursuant to this chapter shall not be used for the
21 development or expansion of total maximum daily loads studies on either the Missouri or
22 Mississippi rivers.

23 ~~[19:]~~ 22. The department shall implement permit shield provisions equivalent to the permit
24 shield provisions implemented by the U.S. Environmental Protection Agency pursuant to the Clean
25 Water Act, Section 402(k), 33 U.S.C. Section 1342(k), and its implementing regulations, for permits
26 issued pursuant to this chapter.

27 ~~[20:]~~ 23. Prior to the development of a new general permit or reissuance of a general permit
28 for aquaculture, land disturbance requiring a storm water permit, or reissuance of a general permit
29 under which fifty or more permits were issued under a general permit during the immediately
30 preceding five-year period for a designated category of water contaminant sources, the director shall
31 implement a public participation process complying with the following minimum requirements:

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

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

38 (3) The director shall hold a public informational meeting to provide information on
39 anticipated permit conditions and requirements and to receive informal comments from permittees

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

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

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

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

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

26 644.145. 1. When issuing permits under this chapter that incorporate a new requirement for
27 discharges from publicly owned combined or separate sanitary or storm sewer systems or water or
28 sewer treatment works, or when enforcing provisions of this chapter or the Federal Water Pollution
29 Control Act, 33 U.S.C. Section 1251, et seq., pertaining to any portion of a publicly owned
30 combined or separate sanitary or storm sewer system or water or sewer treatment works, the
31 department of natural resources shall make a finding of affordability on the costs to be incurred and
32 the impact of any rate changes on ratepayers upon which to base such permits and decisions, to the
33 extent allowable under this chapter and the Federal Water Pollution Control Act.

34 2. (1) The department of natural resources shall not be required under this section to make a
35 finding of affordability when:

36 (a) Issuing collection system extension permits;

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

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

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

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

9 (1) "Affordability", with respect to payment of a utility bill, a measure of whether an
10 individual customer or household with an income equal to or lower than the median household
11 income for their community can pay the bill without undue hardship or unreasonable sacrifice in the
12 essential lifestyle or spending patterns of the individual or household, taking into consideration the
13 criteria described in subsection 4 of this section;

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

16 (3) "Finding of affordability", a department statement as to whether an individual or a
17 household receiving as income an amount equal to or lower than the median household income for
18 the applicant community would be required to make unreasonable sacrifices in the individual's or
19 the household's essential lifestyle or spending patterns or undergo hardships in order to make the
20 projected monthly payments for sewer services. The department shall make a statement that the
21 proposed changes meet the definition of affordable, or fail to meet the definition of affordable, or
22 are implemented as a federal mandate regardless of affordability.

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

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

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

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

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

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

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

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

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

15 (7) An assessment of factors set forth in the United States Environmental Protection
16 Agency's guidance, including but not limited to the "Combined Sewer Overflow Guidance for
17 Financial Capability Assessment and Schedule Development" that may ease the cost burdens of
18 implementing wet weather control plans, including but not limited to small system considerations,
19 the attainability of water quality standards, and the development of wet weather standards; and

20 (8) An assessment of any other relevant local community economic condition.

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

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

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

31 8. The department of natural resources' findings under this section may be appealed to the
32 commission pursuant to subsection [9] 12 of section 644.051.

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

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

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

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

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

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

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

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

14 Section B. Because immediate action is necessary to protect the health of Missourians living
15 near certain industrial wastewater facilities and to protect the environment from the release of
16 pollution, section A of this act is deemed necessary for the immediate preservation of the public
17 health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning
18 of the constitution, and section A of this act shall be in full force and effect upon its passage and
19 approval."; and
20

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