

HOUSE BILL NO. 3076

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE JUSTUS.

6564H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 644.051 and 644.082, RSMo, and to enact in lieu thereof two new sections relating to water contaminant sources.

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

Section A. Sections 644.051 and 644.082, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 644.051 and 644.082, to read as follows:

644.051. 1. It is unlawful for any person:

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

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

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

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

13 2. It shall be unlawful for any person to operate, use or maintain any ~~water~~
14 ~~contaminant or~~ point source in this state that is subject to standards, rules or regulations
15 promulgated pursuant to the provisions of sections 644.006 to 644.141 unless such person
16 holds an operating permit from the commission, subject to such exceptions as the commission
17 may prescribe by rule or regulation. However, no operating permit shall be required of any

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

18 person for any emission into publicly owned treatment facilities or into publicly owned sewer
19 systems tributary to publicly owned treatment works.

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

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

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

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

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

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

34 (1) Substantial deviation from the commission's design standards;

35 (2) To address noncompliance;

36 (3) When an unauthorized discharge has occurred or has the potential to occur; or

37 (4) To correct a violation of water quality standards.

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

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

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

52 (3) Such point source system may receive a post-construction site inspection by the
53 department prior to receiving operating permit approval. A site inspection may be performed

54 by the department, upon receipt of a complete operating permit application or submission of
55 an engineer's statement of work complete.

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

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

65 8. (1) In order to receive an operating permit under this section, any point source or
66 operating location seeking an operating permit for a commingled offsite industrial wastewater
67 or wastewater residuals open storage basin or open storage vessel shall meet current design
68 requirements for a wastewater treatment facility's design capacity.

69 (2) Except as provided in subdivision (3) of this subsection, the department shall
70 require at least, but not more than, the following buffer distances between the nearest
71 commingled offsite industrial wastewater or wastewater residuals open storage basin or open
72 storage vessel and any public building or occupied residence other than a public building or
73 occupied residence that is operated by the commingled offsite industrial wastewater or
74 wastewater residuals open storage basin or open storage vessel or a residence from which a
75 written agreement for operation is obtained:

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

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

80 (c) For a facility with a capacity of more than ten million gallons, three thousand five
81 hundred feet.

82 (3) All commingled offsite industrial wastewater or wastewater residuals open
83 storage basins or open storage vessels holding valid operating permits as of July 9, 2024, shall
84 be exempt from the buffer distances prescribed in subdivision (2) of this subsection. Such
85 distances shall not apply to a facility that has received a written agreement signed by all
86 affected property owners within the relevant buffer distance.

87 (4) The department shall require groundwater monitoring on a site-specific basis
88 when, in the determination of the division of geological survey, the commingled offsite
89 industrial wastewater and wastewater residuals open storage basin or open storage vessel is

90 located in proximity to a geological feature that increases the likelihood of groundwater
91 contamination.

92 (5) (a) The department shall establish by rule sampling requirements for commingled
93 offsite industrial wastewater and wastewater residuals open storage basins or open storage
94 vessels based on permitted materials.

95 (b) The department shall, within sixty days of July 9, 2024, begin the process of
96 promulgating rules, which shall include creating a chain of custody record form to be used by
97 all parties during the handling of testing samples, and, at a minimum, establish criteria to
98 require annual sampling and testing of any contents of any commingled offsite industrial
99 wastewater or wastewater residuals open storage basin or open storage vessel for:

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

102 b. E. coli and fecal coliform.

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

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

111 10. Before issuing any permit required by this section, the director shall issue such
112 notices, conduct such hearings, and consider such factors, comments and recommendations as
113 required by sections 644.006 to 644.141 or any federal water pollution control act. The
114 director shall determine if any state or any provisions of any federal water pollution control
115 act the state is required to enforce, any state or federal effluent limitations or regulations,
116 water quality-related effluent limitations, national standards of performance, toxic and
117 pretreatment standards, or water quality standards which apply to the source, or any such
118 standards in the vicinity of the source, are being exceeded, and shall determine the impact on
119 such water quality standards from the source. The director, in order to effectuate the purposes
120 of sections 644.006 to 644.141, shall deny a permit if the source will violate any such acts,
121 regulations, limitations or standards or will appreciably affect the water quality standards or
122 the water quality standards are being substantially exceeded, unless the permit is issued with
123 such conditions as to make the source comply with such requirements within an acceptable
124 time schedule.

125 11. The director shall grant or deny the permit within sixty days after all requirements
126 of the Federal Water Pollution Control Act concerning issuance of permits have been satisfied

127 unless the application does not require any permit pursuant to any federal water pollution
128 control act. The director or the commission may require the applicant to provide and
129 maintain such facilities or to conduct such tests and monitor effluents as necessary to
130 determine the nature, extent, quantity or degree of water contaminant discharged or released
131 from the source, establish and maintain records and make reports regarding such
132 determination.

133 12. The director shall promptly notify the applicant in writing of his or her action and
134 if the permit is denied state the reasons for such denial. As provided by sections 621.250 and
135 640.013, the applicant may appeal to the administrative hearing commission from the denial
136 of a permit or from any condition in any permit by filing a petition with the administrative
137 hearing commission within thirty days of the notice of denial or issuance of the permit. After
138 a final action is taken on a new or reissued general permit, a potential applicant for the general
139 permit who can demonstrate that he or she is or may be adversely affected by any permit term
140 or condition may appeal the terms and conditions of the general permit within thirty days of
141 the department's issuance of the general permit. In no event shall a permit constitute
142 permission to violate the law or any standard, rule or regulation promulgated pursuant thereto.
143 Once the administrative hearing commission has reviewed the appeal, the administrative
144 hearing commission shall issue a recommended decision to the commission on permit
145 issuance, denial, or any condition of the permit. The commission shall issue its own decision,
146 based on the appeal, for permit issuance, denial, or any condition of the permit. If the
147 commission changes a finding of fact or conclusion of law made by the administrative
148 hearing commission, or modifies or vacates the decision recommended by the administrative
149 hearing commission, it shall issue its own decision, which shall include findings of fact and
150 conclusions of law. The commission shall mail copies of its final decision to the parties to the
151 appeal or their counsel of record. The commission's decision shall be subject to judicial
152 review pursuant to chapter 536, except that the court of appeals district with territorial
153 jurisdiction coextensive with the county where the point source is to be located shall have
154 original jurisdiction. No judicial review shall be available until and unless all administrative
155 remedies are exhausted.

156 13. In any hearing held pursuant to this section that involves a permit, license, or
157 registration, the burden of proof is on the party specified in section 640.012. Any decision of
158 the commission made pursuant to a hearing held pursuant to this section is subject to judicial
159 review as provided in section 644.071.

160 14. In any event, no permit issued pursuant to this section shall be issued if properly
161 objected to by the federal government or any agency authorized to object pursuant to any
162 federal water pollution control act unless the application does not require any permit pursuant
163 to any federal water pollution control act.

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

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

176 17. Every permit issued to municipal or any publicly owned treatment works or
177 facility shall require the permittee to provide the clean water commission with adequate
178 notice of any substantial new introductions of water contaminants or pollutants into such
179 works or facility from any source for which such notice is required by sections 644.006 to
180 644.141 or any federal water pollution control act. Such permit shall also require the
181 permittee to notify the clean water commission of any substantial change in volume or
182 character of water contaminants or pollutants being introduced into its treatment works or
183 facility by a source which was introducing water contaminants or pollutants into its works at
184 the time of issuance of the permit. Notice must describe the quality and quantity of effluent
185 being introduced or to be introduced into such works or facility by a source which was
186 introducing water contaminants or pollutants into its works at the time of issuance of the
187 permit. Notice must describe the quality and quantity of effluent being introduced or to be
188 introduced into such works or facility and the anticipated impact of such introduction on the
189 quality or quantity of effluent to be released from such works or facility into waters of the
190 state.

191 18. The director or the commission may require the filing or posting of a bond as a
192 condition for the issuance of permits for construction of temporary or future water treatment
193 facilities or facilities that utilize innovative technology for wastewater treatment in an amount
194 determined by the commission to be sufficient to ensure compliance with all provisions of
195 sections 644.006 to 644.141, and any rules or regulations of the commission and any
196 condition as to such construction in the permit. For the purposes of this section, "innovative
197 technology for wastewater treatment" shall mean a completely new and generally unproven
198 technology in the type or method of its application that bench testing or theory suggest has
199 environmental, efficiency, and cost benefits beyond the standard technologies. No bond shall
200 be required for designs approved by any federal agency or environmental regulatory agency

201 of another state. The bond shall be signed by the applicant as principal, and by a corporate
202 surety licensed to do business in the state of Missouri and approved by the commission. The
203 bond shall remain in effect until the terms and conditions of the permit are met and the
204 provisions of sections 644.006 to 644.141 and rules and regulations promulgated pursuant
205 thereto are complied with.

206 19. (1) The department shall issue or deny applications for construction and site-
207 specific operating permits received after January 1, 2001, within one hundred eighty days of
208 the department's receipt of an application. For general construction and operating permit
209 applications received after January 1, 2001, that do not require a public participation process,
210 the department shall issue or deny the permits within sixty days of the department's receipt of
211 an application. For an application seeking coverage under a renewed general permit that does
212 not require an individual public participation process, the director shall issue or deny the
213 permit within sixty days of the director's receipt of the application, or upon issuance of the
214 general permit, whichever is later. In regard to an application seeking coverage under an
215 initial general permit that does not require an individual public participation process, the
216 director shall issue or deny the permit within sixty days of the department's receipt of the
217 application. For an application seeking coverage under a renewed general permit that
218 requires an individual public participation process, the director shall issue or deny the permit
219 within ninety days of the director's receipt of the application, or upon issuance of the general
220 permit, whichever is later. In regard to an application for an initial general permit that
221 requires an individual public participation process, the director shall issue or deny the permit
222 within ninety days of the director's receipt of the application.

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

229 (3) Permit fee disputes may be appealed to the commission within thirty days of the
230 date established in subdivision (2) of this subsection. If the applicant prevails in a permit fee
231 dispute appealed to the commission, the commission may order the director to refund the
232 applicant's permit fee plus interest and reasonable attorney's fees as provided in sections
233 536.085 and 536.087. A refund of the initial application or annual fee does not waive the
234 applicant's responsibility to pay any annual fees due each year following issuance of a permit.

235 (4) No later than December 31, 2001, the commission shall promulgate regulations
236 defining shorter review time periods than the time frames established in subdivision (1) of
237 this subsection, when appropriate, for different classes of construction and operating permits.

238 In no case shall commission regulations adopt permit review times that exceed the time
239 frames established in subdivision (1) of this subsection. The department's failure to comply
240 with the commission's permit review time periods shall result in a refund of said permit fees
241 as set forth in subdivision (2) of this subsection. On a semiannual basis, the department shall
242 submit to the commission a report which describes the different classes of permits and reports
243 on the number of days it took the department to issue each permit from the date of receipt of
244 the application and show averages for each different class of permits.

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

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

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

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

262 22. The department shall implement permit shield provisions equivalent to the permit
263 shield provisions implemented by the U.S. Environmental Protection Agency pursuant to the
264 Clean Water Act, Section 402(k), 33 U.S.C. Section 1342(k), and its implementing
265 regulations, for permits issued pursuant to this chapter.

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

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

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

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

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

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

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

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

644.082. It shall be unlawful for any person to operate, use or maintain and discharge
2 water contaminants from any [~~water contaminant or~~] point source or wastewater treatment
3 plant unless he holds a permit from the commission. Any person violating this section shall
4 be deemed guilty of a misdemeanor and shall be fined upon conviction at least one hundred

5 dollars and not more than five hundred dollars and shall be required to apply for such a permit
6 within thirty days.

✓