

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 3076

103RD GENERAL ASSEMBLY

6564H.02P

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 644.051 and 644.059, RSMo, and to enact in lieu thereof two new sections relating to clean water permitting.

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

Section A. Sections 644.051 and 644.059, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 644.051 and 644.059, 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 **or as exempted in section 644.059**. However, no

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 operating permit shall be required of any person for any emission into publicly owned
19 treatment facilities or into publicly owned sewer systems tributary to publicly owned
20 treatment works.

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

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

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

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

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

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

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

36 (2) To address noncompliance;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

103 b. E. coli and fecal coliform.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

644.059. Agricultural **nonpoint sources and agricultural** storm water discharges
2 and return flows from irrigated agriculture shall be exempt from permitting requirements set
3 forth in sections 644.006 to 644.141. Agricultural storm water discharges and return flows
4 from irrigated agriculture shall not be considered unlawful under subdivisions (1) and (2) of
5 subsection 1 of section 644.051 unless such discharges or return flows have entered waters of

6 the state and have rendered such waters harmful, detrimental, or injurious to public health,
7 safety, or welfare, or to industrial or agricultural uses, or to wild animals, birds, or fish. For
8 the purposes of this section, agricultural storm water discharges and return flows from
9 irrigated agriculture shall include storm water and snow melt runoff, drainage, and
10 infiltration, including water that leaves land as a result of the application of irrigation water,
11 both surface and subsurface, from standard farming industry practices. This shall include but
12 not be limited to cultivation and tillage of soil, and production, growing, raising, and
13 harvesting of agricultural commodities and livestock. Nothing in this section shall be
14 construed to effect, limit, or supersede sections 640.700 to 640.755 or any other law or
15 regulation of concentrated animal feeding operations.

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