

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE #2 FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1149
93RD GENERAL ASSEMBLY

3774S.07T

2006

AN ACT

To repeal sections 227.240, 640.100, 644.016, 644.036, 644.051, 644.054, and 701.450 RSMo, and to enact in lieu thereof eleven new sections relating to the regulation of water.

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

Section A. Sections 227.240, 640.100, 644.016, 644.036, 644.051, 644.054, and 701.450 RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 67.1848, 227.240, 640.100, 644.016, 644.036, 644.051, 644.054, 644.587, 644.588, 644.589, and 701.450 to read as follows:

67.1848. All public water supply districts, sewer districts, and municipalities, including villages, shall have the right to lay, install, construct, repair, and maintain sewer and water lines in public highways, roads, streets, and alleys, subject to the reasonable rules and regulations of governmental bodies having jurisdiction of such public places. Due regard shall be taken for the rights of the public in its use of thoroughfares and equal rights of other utilities thereto.

227.240. 1. The location and removal of all telephone, cable television, and electric light and power transmission lines, poles, wires, and conduits and all pipelines and tramways, erected or constructed, or hereafter to be erected or constructed by any corporation, **municipality, public water supply district, sewer district**, association or persons, within the right-of-way of any state highway, insofar as the public travel and traffic is concerned, and insofar as the same may interfere with the construction or maintenance of any such highway, shall be under the control and supervision of the state highways and transportation commission.

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.

8 2. A cable television corporation or company shall be permitted to place its lines within
9 the right-of-way of any state highway, consistent with the rules and regulations of the state
10 highways and transportation commission. The state highways and transportation commission
11 shall establish a system for receiving and resolving complaints with respect to cable television
12 lines placed in, or removed from, the right-of-way of a state highway.

13 3. The commission or some officer selected by the commission shall serve a written
14 notice upon the **entity**, person or corporation owning or maintaining any such lines, poles, wires,
15 conduits, pipelines, or tramways, which notice shall contain a plan or chart indicating the places
16 on the right-of-way at which such lines, poles, wires, conduits, pipelines or tramways may be
17 maintained. The notice shall also state the time when the work of hard surfacing said roads is
18 proposed to commence, and shall further state that a hearing shall be had upon the proposed plan
19 of location and matters incidental thereto, giving the place and date of such hearing.
20 Immediately after such hearing the said owner shall be given a notice of the findings and orders
21 of the commission and shall be given a reasonable time thereafter to comply therewith; provided,
22 however, that the effect of any change ordered by the commission shall not be to remove all or
23 any part of such lines, poles, wires, conduits, pipelines or tramways from the right-of-way of the
24 highway. The removal of the same shall be made at the cost and expense of the owners thereof
25 unless otherwise provided by said commission, and in the event of the failure of such owners to
26 remove the same at the time so determined they may be removed by the state highways and
27 transportation commission, or under its direction, and the cost thereof collected from such
28 owners, and such owners shall not be liable in any way to any person for the placing and
29 maintaining of such lines, poles, wires, conduits, pipelines and tramways at the places prescribed
30 by the commission.

31 4. The commission is authorized in the name of the state of Missouri to institute and
32 maintain, through the attorney general, such suits and actions as may be necessary to enforce the
33 provisions of this section. Any corporation, association or the officers or agents of such
34 corporations or associations, or any other person who shall erect or maintain any such lines,
35 poles, wires, conduits, pipelines or tramways, within the right-of-way of such roads which are
36 hard-surfaced, which are not in accordance with such orders of the commission, shall be deemed
37 guilty of a misdemeanor.

640.100. 1. The safe drinking water commission created in section 640.105 shall
2 promulgate rules necessary for the implementation, administration and enforcement of sections
3 640.100 to 640.140 and the federal Safe Drinking Water Act as amended.

4 2. No standard, rule or regulation or any amendment or repeal thereof shall be adopted
5 except after a public hearing to be held by the commission after at least thirty days' prior notice
6 in the manner prescribed by the rulemaking provisions of chapter 536, RSMo, and an opportunity

7 given to the public to be heard; the commission may solicit the views, in writing, of persons who
8 may be affected by, knowledgeable about, or interested in proposed rules and regulations, or
9 standards. Any person heard or registered at the hearing, or making written request for notice,
10 shall be given written notice of the action of the commission with respect to the subject thereof.
11 Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is
12 promulgated to administer and enforce sections 640.100 to 640.140 shall become effective only
13 if the agency has fully complied with all of the requirements of chapter 536, RSMo, including
14 but not limited to, section 536.028, RSMo, if applicable, after June 9, 1998. All rulemaking
15 authority delegated prior to June 9, 1998, is of no force and effect and repealed as of June 9,
16 1998, however, nothing in this section shall be interpreted to repeal or affect the validity of any
17 rule adopted or promulgated prior to June 9, 1998. If the provisions of section 536.028, RSMo,
18 apply, the provisions of this section are nonseverable and if any of the powers vested with the
19 general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or
20 to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the
21 purported grant of rulemaking authority and any rule so proposed and contained in the order of
22 rulemaking shall be invalid and void, except that nothing in this chapter or chapter 644, RSMo,
23 shall affect the validity of any rule adopted and promulgated prior to June 9, 1998.

24 3. The commission shall promulgate rules and regulations for the certification of public
25 water system operators, backflow prevention assembly testers and laboratories conducting tests
26 pursuant to sections 640.100 to 640.140. Any person seeking to be a certified backflow
27 prevention assembly tester shall satisfactorily complete standard, nationally recognized written
28 and performance examinations designed to ensure that the person is competent to determine if
29 the assembly is functioning within its design specifications. Any such state certification shall
30 satisfy any need for local certification as a backflow prevention assembly tester. However,
31 political subdivisions may set additional testing standards for individuals who are seeking to be
32 certified as backflow prevention assembly testers. Notwithstanding any other provision of law
33 to the contrary, agencies of the state or its political subdivisions shall only require carbonated
34 beverage dispensers to conform to the backflow protection requirements established in the
35 National Sanitation Foundation standard eighteen, and the dispensers shall be so listed by an
36 independent testing laboratory. The commission shall promulgate rules and regulations for
37 collection of samples and analysis of water furnished by municipalities, corporations, companies,
38 state establishments, federal establishments or individuals to the public. The department of
39 natural resources or the department of health and senior services shall, at the request of any
40 supplier, make any analyses or tests required pursuant to the terms of section 192.320, RSMo,
41 and sections 640.100 to 640.140. The department shall collect fees to cover the reasonable cost
42 of laboratory services, both within the department of natural resources and the department of

43 health and senior services, laboratory certification and program administration as required by
 44 sections 640.100 to 640.140. The laboratory services and program administration fees pursuant
 45 to this subsection shall not exceed two hundred dollars for a supplier supplying less than four
 46 thousand one hundred service connections, three hundred dollars for supplying less than seven
 47 thousand six hundred service connections, five hundred dollars for supplying seven thousand six
 48 hundred or more service connections, and five hundred dollars for testing surface water. Such
 49 fees shall be deposited in the safe drinking water fund as specified in section 640.110. The
 50 analysis of all drinking water required by section 192.320, RSMo, and sections 640.100 to
 51 640.140 shall be made by the department of natural resources laboratories, department of health
 52 and senior services laboratories or laboratories certified by the department of natural resources.

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

56 5. (1) For the purpose of complying with federal requirements for maintaining the
 57 primacy of state enforcement of the federal Safe Drinking Water Act, the department is hereby
 58 directed to request appropriations from the general revenue fund and all other appropriate
 59 sources to fund the activities of the public drinking water program and in addition to the fees
 60 authorized pursuant to subsection 3 of this section, an annual fee for each customer service
 61 connection with a public water system is hereby authorized to be imposed upon all customers
 62 of public water systems in this state. The fees collected shall not exceed the amounts specified
 63 in this subsection and the commission may set the fees, by rule, in a lower amount by
 64 proportionally reducing all fees charged pursuant to this subsection from the specified maximum
 65 amounts. **Reductions shall be roughly proportional but in each case shall be divisible by**
 66 **twelve.** Each customer of a public water system shall pay an annual fee for each customer
 67 service connection.

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

71	1 to 1,000 connections	\$ [2.00] 3.24
72	1,001 to 4,000 connections	[1.84] 3.00
73	4,001 to 7,000 connections	[1.67] 2.76
74	7,001 to 10,000 connections	[1.50] 2.40
75	10,001 to 20,000 connections	[1.34] 2.16
76	20,001 to 35,000 connections	[1.17] 1.92
77	35,001 to 50,000 connections	[1.00] 1.56
78	50,001 to 100,000 connections	[.84] 1.32

79 More than 100,000 connections [.66] **1.08.**

80 (3) The annual user fee for customers having meters greater than one inch but less than
81 or equal to two inches in size shall not exceed [five dollars] **seven dollars and forty-four cents;**
82 for customers with meters greater than two inches but less than or equal to four inches in size
83 shall not exceed [twenty-five dollars] **forty-one dollars and sixteen cents;** and for customers
84 with meters greater than four inches in size shall not exceed [fifty dollars] **eighty-two dollars**
85 **and forty-four cents.**

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

89 6. Fees imposed pursuant to subsection 5 of this section shall become effective on
90 [August 28, 1992] **August 28, 2006**, and shall be collected by the public water system serving
91 the customer **beginning September 1, 2006, and continuing until such time that the safe**
92 **drinking water commission, at its discretion, specifies a lower amount under subdivision**
93 **(1) of subsection 5 of this section.** The commission shall promulgate rules and regulations on
94 the procedures for billing, collection and delinquent payment. Fees collected by a public water
95 system pursuant to subsection 5 of this section are state fees. The annual fee shall be enumerated
96 separately from all other charges, and shall be collected in monthly, quarterly or annual
97 increments. Such fees shall be transferred to the director of the department of revenue at
98 frequencies not less than quarterly. Two percent of the revenue arising from the fees shall be
99 retained by the public water system for the purpose of reimbursing its expenses for billing and
100 collection of such fees.

101 7. Imposition and collection of the fees authorized in subsection 5 of this section shall
102 be suspended on the first day of a calendar quarter if, during the preceding calendar quarter, the
103 federally delegated authority granted to the safe drinking water program within the department
104 of natural resources to administer the Safe Drinking Water Act, 42 U.S.C. 300g-2, is withdrawn.
105 The fee shall not be reinstated until the first day of the calendar quarter following the quarter
106 during which such delegated authority is reinstated.

107 8. Fees imposed pursuant to subsection 5 of this section shall expire on September 1,
108 [2007] **2012.**

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

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

7 (2) "Commission", the clean water commission of the state of Missouri created in section
8 644.021;

9 (3) "Conference, conciliation and persuasion", a process of verbal or written
10 communications consisting of meetings, reports, correspondence or telephone conferences
11 between authorized representatives of the department and the alleged violator. The process shall,
12 at a minimum, consist of one offer to meet with the alleged violator tendered by the department.
13 During any such meeting, the department and the alleged violator shall negotiate in good faith
14 to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance;

15 (4) "Department", the department of natural resources;

16 (5) "Director", the director of the department of natural resources;

17 (6) "Discharge", the causing or permitting of one or more water contaminants to enter
18 the waters of the state;

19 (7) "Effluent control regulations", limitations on the discharge of water contaminants;

20 (8) "General permit", a permit written with a standard group of conditions and with
21 applicability intended for a designated category of water contaminant sources that have the same
22 or similar operations, discharges and geographical locations, and that require the same or similar
23 monitoring, and that would be more appropriately controlled pursuant to a general permit rather
24 than pursuant to a site-specific permit;

25 (9) "Human sewage", human excreta and wastewater, including bath and toilet waste,
26 residential laundry waste, residential kitchen waste, and other similar waste from household or
27 establishment appurtenances;

28 (10) "Income" includes retirement benefits, consultant fees, and stock dividends;

29 (11) "Minor violation", a violation which possesses a small potential to harm the
30 environment or human health or cause pollution, was not knowingly committed, and is not
31 defined by the United States Environmental Protection Agency as other than minor;

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

34 (13) "Permit holders or applicants for a permit" shall not include officials or employees
35 who work full time for any department or agency of the state of Missouri;

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

40 (15) "Point source", any discernible, confined and discrete conveyance, including but not
41 limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock,
42 concentrated animal feeding operation, or vessel or other floating craft, from which pollutants

43 are or may be discharged. **Point source does not include agricultural storm water discharges**
44 **and return flows from irrigated agriculture;**

45 (16) "Pollution", such contamination or other alteration of the physical, chemical or
46 biological properties of any waters of the state, including change in temperature, taste, color,
47 turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or
48 other substance into any waters of the state as will or is reasonably certain to create a nuisance
49 or render such waters harmful, detrimental or injurious to public health, safety or welfare, or to
50 domestic, industrial, agricultural, recreational, or other legitimate beneficial uses, or to wild
51 animals, birds, fish or other aquatic life;

52 (17) "Pretreatment regulations", limitations on the introduction of pollutants or water
53 contaminants into publicly owned treatment works or facilities which the commission determines
54 are not susceptible to treatment by such works or facilities or which would interfere with their
55 operation, except that wastes as determined compatible for treatment pursuant to any federal
56 water pollution control act or guidelines shall be limited or treated pursuant to this chapter only
57 as required by such act or guidelines;

58 (18) "Residential housing development", any land which is divided or proposed to be
59 divided into three or more lots, whether contiguous or not, for the purpose of sale or lease as part
60 of a common promotional plan for residential housing;

61 (19) "Sewer system", pipelines or conduits, pumping stations, and force mains, and all
62 other structures, devices, appurtenances and facilities used for collecting or conducting wastes
63 to an ultimate point for treatment or handling;

64 (20) "Significant portion of his or her income" shall mean ten percent of gross personal
65 income for a calendar year, except that it shall mean fifty percent of gross personal income for
66 a calendar year if the recipient is over sixty years of age, and is receiving such portion pursuant
67 to retirement, pension, or similar arrangement;

68 (21) "Site-specific permit", a permit written for discharges emitted from a single water
69 contaminant source and containing specific conditions, monitoring requirements and effluent
70 limits to control such discharges;

71 (22) "Treatment facilities", any method, process, or equipment which removes, reduces,
72 or renders less obnoxious water contaminants released from any source;

73 (23) "Water contaminant", any particulate matter or solid matter or liquid or any gas or
74 vapor or any combination thereof, or any temperature change which is in or enters any waters of
75 the state either directly or indirectly by surface runoff, by sewer, by subsurface seepage or
76 otherwise, which causes or would cause pollution upon entering waters of the state, or which
77 violates or exceeds any of the standards, regulations or limitations set forth in sections 644.006

78 to 644.141 or any federal water pollution control act, or is included in the definition of pollutant
79 in such federal act;

80 (24) "Water contaminant source", the point or points of discharge from a single tract of
81 property on which is located any installation, operation or condition which includes any point
82 source defined in sections 644.006 to 644.141 and nonpoint source pursuant to any federal water
83 pollution control act, which causes or permits a water contaminant therefrom to enter waters of
84 the state either directly or indirectly;

85 (25) "Water quality standards", specified concentrations and durations of water
86 contaminants which reflect the relationship of the intensity and composition of water
87 contaminants to potential undesirable effects;

88 (26) "Waters of the state", all rivers, streams, lakes and other bodies of surface and
89 subsurface water lying within or forming a part of the boundaries of the state which are not
90 entirely confined and located completely upon lands owned, leased or otherwise controlled by
91 a single person or by two or more persons jointly or as tenants in common and includes waters
92 of the United States lying within the state.

644.036. 1. No standard, rule or regulation or any amendment or repeal thereof shall be
2 adopted except after a public hearing to be held after thirty days' prior notice by advertisement
3 of the date, time and place of the hearing and opportunity given to the public to be heard. Notice
4 of the hearings and copies of the proposed standard, rule or regulation or any amendment or
5 repeal thereof shall also be given by regular mail, at least thirty days prior to the scheduled date
6 of the hearing, to any person who has registered with the director for the purpose of receiving
7 notice of such public hearings in accordance with the procedures prescribed by the commission
8 at least forty-five days prior to the scheduled date of the hearing. However, this provision shall
9 not preclude necessary changes during this thirty-day period.

10 2. At the hearing, opportunity to be heard by the commission with respect to the subject
11 thereof shall be afforded any interested person upon written request to the commission, addressed
12 to the director, not later than seven days prior to the hearing, and may be afforded to other
13 persons if convenient. In addition, any interested persons, whether or not heard, may submit,
14 within seven days subsequent to the hearings, a written statement of their views. The
15 commission may solicit the views, in writing, of persons who may be affected by, or interested
16 in, proposed rules and regulations, or standards. Any person heard or represented at the hearing
17 or making written request for notice shall be given written notice of the action of the commission
18 with respect to the subject thereof.

19 3. Any standard, rule or regulation or amendment or repeal thereof shall not be deemed
20 adopted or in force and effect until it has been approved in writing by at least four members of
21 the commission. A standard, rule or regulation or an amendment or repeal thereof shall not

22 become effective until a certified copy thereof has been filed with the secretary of state as
23 provided in chapter 536, RSMo.

24 4. Unless prohibited by any federal water pollution control act, any standard, rule or
25 regulation or any amendment or repeal thereof which is adopted by the commission may differ
26 in its terms and provisions as between particular types and conditions of water quality standards
27 or of water contaminants, as between particular classes of water contaminant sources, and as
28 between particular waters of the state.

29 5. Any listing required by Section 303(d) of the federal Clean Water Act, as amended,
30 33 U.S.C. 1251 et seq., to be sent to the U.S. Environmental Protection Agency for [their] **its**
31 approval that will result in any waters of [this] **the** state being classified as impaired shall be
32 adopted by [rule pursuant to chapter 536, RSMo. Total maximum daily loads shall not be
33 required for any listed waters that subsequently are determined to meet water quality standards]
34 **the commission after a public hearing, or series of hearings, held in accordance with the**
35 **following procedures. The department of natural resources shall publish in at least six**
36 **regional newspapers, in advance, a notice by advertisement the availability of a proposed**
37 **list of impaired waters of the state and such notice shall include at least ninety days'**
38 **advance notice of the date, time, and place of the public hearing and opportunity given to**
39 **the public to be heard. Notice of the hearings and copies of the proposed list of impaired**
40 **waters also shall be posted on the department of natural resources' website and given by**
41 **regular mail, at least ninety days prior to the scheduled date of the hearing, to any person**
42 **who has registered with the director for the purpose of receiving notice of such public**
43 **hearings. The proposed list of impaired waters shall identify the water segment, the uses**
44 **to be made of such waters, the uses impaired, identify the pollutants causing or expected**
45 **to cause violations of the applicable water quality standards, and provide a summary of**
46 **the data relied upon to make the preliminary determination. Contemporaneous with the**
47 **publication of the notice of public hearing, the department shall make available on its**
48 **website all data and information it relied upon to prepare the proposed list of impaired**
49 **waters, including a narrative explanation of how the department determined the water**
50 **segment was impaired. At any time after the public notice and until seven days after the**
51 **public hearing, the department shall accept written comments on the proposed list of**
52 **impaired waters. After the public hearing and after all written comments have been**
53 **submitted, the department shall prepare a written response to all comments and a revised**
54 **list of impaired waters. The commission shall adopt a list of impaired waters in a public**
55 **meeting during which the public shall be afforded an opportunity to respond to the**
56 **department's written response to comments and revised list of impaired waters. Notice of**
57 **the meeting shall include the date, time, and place of the public meeting and shall provide**

58 **notice that the commission will give interested persons the opportunity to respond to the**
59 **department's revised list of impaired waters and written responses to comments. At its**
60 **discretion, the commission may extend public comment periods or hold additional public**
61 **hearings on the proposed and revised lists of impaired waters. The commission shall not**
62 **vote to add to the list of impaired waters any waters not recommended by the department**
63 **in the proposed or revised lists of impaired waters without granting the public at least**
64 **thirty additional days to comment on the proposed addition. The list of impaired waters**
65 **adopted by the commission shall not be deemed to be a rule as defined by section 536.010,**
66 **RSMo. The listing of any water segment on the list of impaired waters adopted by the**
67 **commission shall be subject to judicial review by any adversely affected party under**
68 **section 536.150, RSMo. The provisions in this subsection shall expire on August 28, 2009.**

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 permit
9 provisions as established by the commission or required by any federal water pollution control
10 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 build, erect, alter, replace, operate, use or
14 maintain any water contaminant or point source in this state that is subject to standards, rules or
15 regulations promulgated pursuant to the provisions of sections 644.006 to 644.141 unless such
16 person holds a permit from the commission, subject to such exceptions as the commission may
17 prescribe by rule or regulation. However, no permit shall be required of any person for any
18 emission into publicly owned treatment facilities or into publicly owned sewer systems tributary
19 to publicly owned treatment works.

20 3. Every proposed water contaminant or point source which, when constructed or
21 installed or established, will be subject to any federal water pollution control act or sections
22 644.006 to 644.141 or regulations promulgated pursuant to the provisions of such act shall make
23 application to the director for a permit at least thirty days prior to the initiation of construction
24 or installation or establishment. Every water contaminant or point source in existence when
25 regulations or sections 644.006 to 644.141 become effective shall make application to the

26 director for a permit within sixty days after the regulations or sections 644.006 to 644.141
27 become effective, whichever shall be earlier. The director shall promptly investigate each
28 application, which investigation shall include such hearings and notice, and consideration of such
29 comments and recommendations as required by sections 644.006 to 644.141 and any federal
30 water pollution control act. If the director determines that the source meets or will meet the
31 requirements of sections 644.006 to 644.141 and the regulations promulgated pursuant thereto,
32 the director shall issue a permit with such conditions as he or she deems necessary to ensure that
33 the source will meet the requirements of sections 644.006 to 644.141 and any federal water
34 pollution control act as it applies to sources in this state. If the director determines that the
35 source does not meet or will not meet the requirements of either act and the regulations pursuant
36 thereto, the director shall deny the permit pursuant to the applicable act and issue any notices
37 required by sections 644.006 to 644.141 and any federal water pollution control act.

38 4. Before issuing a permit to build or enlarge a water contaminant or point source or
39 reissuing any permit, the director shall issue such notices, conduct such hearings, and consider
40 such factors, comments and recommendations as required by sections 644.006 to 644.141 or any
41 federal water pollution control act. The director shall determine if any state or any provisions
42 of any federal water pollution control act the state is required to enforce, any state or federal
43 effluent limitations or regulations, water quality-related effluent limitations, national standards
44 of performance, toxic and pretreatment standards, or water quality standards which apply to the
45 source, or any such standards in the vicinity of the source, are being exceeded, and shall
46 determine the impact on such water quality standards from the source. The director, in order to
47 effectuate the purposes of sections 644.006 to 644.141, shall deny a permit if the source will
48 violate any such acts, regulations, limitations or standards or will appreciably affect the water
49 quality standards or the water quality standards are being substantially exceeded, unless the
50 permit is issued with such conditions as to make the source comply with such requirements
51 within an acceptable time schedule. Prior to the development or renewal of a general permit or
52 permit by rule, for aquaculture, the director shall convene a meeting or meetings of permit
53 holders and applicants to evaluate the impacts of permits and to discuss any terms and conditions
54 that may be necessary to protect waters of the state. Following the discussions, the director shall
55 finalize a draft permit that considers the comments of the meeting participants and post the draft
56 permit on notice for public comment. The director shall concurrently post with the draft permit
57 an explanation of the draft permit and shall identify types of facilities which are subject to the
58 permit conditions. Affected public or applicants for new general permits, renewed general
59 permits or permits by rule may request a hearing with respect to the new requirements in
60 accordance with this section. If a request for a hearing is received, the commission shall hold
61 a hearing to receive comments on issues of significant technical merit and concerns related to

62 the responsibilities of the Missouri clean water law. The commission shall conduct such
63 hearings in accordance with this section. After consideration of such comments, a final action
64 on the permit shall be rendered. The time between the date of the hearing request and the
65 hearing itself shall not be counted as time elapsed pursuant to subdivision (1) of subsection 13
66 of this section.

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

74 6. The director shall promptly notify the applicant in writing of his or her action and if
75 the permit is denied state the reasons therefor. The applicant may appeal to the commission from
76 the denial of a permit or from any condition in any permit by filing notice of appeal with the
77 commission within thirty days of the notice of denial or issuance of the permit. The commission
78 shall set the matter for hearing not less than thirty days after the notice of appeal is filed. In no
79 event shall a permit constitute permission to violate the law or any standard, rule or regulation
80 promulgated pursuant thereto.

81 7. In any hearing held pursuant to this section the burden of proof is on the applicant for
82 a permit. Any decision of the commission made pursuant to a hearing held pursuant to this
83 section is subject to judicial review as provided in section 644.071.

84 8. In any event, no permit issued pursuant to this section shall be issued if properly
85 objected to by the federal government or any agency authorized to object pursuant to any federal
86 water pollution control act unless the application does not require any permit pursuant to any
87 federal water pollution control act.

88 9. Unless a site-specific permit is requested by the applicant, aquaculture facilities shall
89 be governed by a general permit issued pursuant to this section with a fee not to exceed two
90 hundred fifty dollars pursuant to subdivision (5) of subsection 6 of section 644.052. However,
91 any aquaculture facility which materially violates the conditions and requirements of such permit
92 may be required to obtain a site-specific permit.

93 10. No manufacturing or processing plant or operating location shall be required to pay
94 more than one operating fee. Operating permits shall be issued for a period not to exceed five
95 years after date of issuance, except that general permits shall be issued for a five-year period, and
96 also except that neither a construction nor an annual permit shall be required for a single

97 residence's waste treatment facilities. Applications for renewal of an operating permit shall be
98 filed at least one hundred eighty days prior to the expiration of the existing permit.

99 11. Every permit issued to municipal or any publicly owned treatment works or facility
100 shall require the permittee to provide the clean water commission with adequate notice of any
101 substantial new introductions of water contaminants or pollutants into such works or facility
102 from any source for which such notice is required by sections 644.006 to 644.141 or any federal
103 water pollution control act. Such permit shall also require the permittee to notify the clean water
104 commission of any substantial change in volume or character of water contaminants or pollutants
105 being introduced into its treatment works or facility by a source which was introducing water
106 contaminants or pollutants into its works at the time of issuance of the permit. Notice must
107 describe the quality and quantity of effluent being introduced or to be introduced into such works
108 or facility by a source which was introducing water contaminants or pollutants into its works at
109 the time of issuance of the permit. Notice must describe the quality and quantity of effluent
110 being introduced or to be introduced into such works or facility and the anticipated impact of
111 such introduction on the quality or quantity of effluent to be released from such works or facility
112 into waters of the state.

113 12. The director or the commission may require the filing or posting of a bond as a
114 condition for the issuance of permits for construction of temporary or future water treatment
115 facilities **or facilities that utilize innovative technology for wastewater treatment** in an
116 amount determined by the commission to be sufficient to ensure compliance with all provisions
117 of sections 644.006 to 644.141, and any rules or regulations of the commission and any condition
118 as to such construction in the permit. **For the purposes of this section, "innovative technology**
119 **for wastewater treatment" shall mean a completely new and generally unproven**
120 **technology in the type or method of its application that bench testing or theory suggest has**
121 **environmental, efficiency, and cost benefits beyond the standard technologies. No bond**
122 **shall be required for designs approved by any federal agency or environmental regulatory**
123 **agency of another state.** The bond shall be signed by the applicant as principal, and by a
124 corporate surety licensed to do business in the state of Missouri and approved by the
125 commission. The bond shall remain in effect until the terms and conditions of the permit are met
126 and the provisions of sections 644.006 to 644.141 and rules and regulations promulgated
127 pursuant thereto are complied with.

128 13. (1) The department shall issue or deny applications for construction and site-specific
129 operating permits received after January 1, 2001, within one hundred eighty days of the
130 department's receipt of an application. For general construction and operating permit
131 applications received after January 1, 2001, that do not require a public participation process, the

132 department shall issue or deny the requested permits within sixty days of the department's receipt
133 of an application.

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

140 (3) Permit fee disputes may be appealed to the commission within thirty days of the date
141 established in subdivision (2) of this subsection. If the applicant prevails in a permit fee dispute
142 appealed to the commission, the commission may order the director to refund the applicant's
143 permit fee plus interest and reasonable attorney's fees as provided in sections 536.085 and
144 536.087, RSMo. A refund of the initial application or annual fee does not waive the applicant's
145 responsibility to pay any annual fees due each year following issuance of a permit.

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

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

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

163 14. The department shall respond to all requests for individual certification under Section
164 401 of the Federal Clean Water Act within the lesser of sixty days or the allowed response period
165 established pursuant to applicable federal regulations without request for an extension period
166 unless such extension is determined by the commission to be necessary to evaluate significant

167 impacts on water quality standards and the commission establishes a timetable for completion
168 of such evaluation in a period of no more than one hundred eighty days.

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

644.054. 1. Fees imposed in sections 644.052 and 644.053 shall, except for those fees
2 imposed pursuant to subsection 4 and subsections 6 to 13 of section 644.052, become effective
3 October 1, 1990, and shall expire December 31, [2007] **2009**. Fees imposed pursuant to
4 subsection 4 and subsections 6 to 13 of section 644.052 shall become effective August 28, 2000,
5 and shall expire on December 31, [2007] **2009**. The clean water commission shall promulgate
6 rules and regulations on the procedures for billing and collection. All sums received through the
7 payment of fees shall be placed in the state treasury and credited to an appropriate subaccount
8 of the natural resources protection fund created in section 640.220, RSMo. Moneys in the
9 subaccount shall be expended, upon appropriation, solely for the administration of sections
10 644.006 to 644.141. Fees collected pursuant to subsection 10 of section 644.052 by a city, a
11 public sewer district, a public water district or other publicly owned treatment works are state
12 fees. Five percent of the fee revenue collected shall be retained by the city, public sewer district,
13 public water district or other publicly owned treatment works as reimbursement of billing and
14 collection expenses.

15 2. The commission may grant a variance pursuant to section 644.061 to reduce fees
16 collected pursuant to section 644.052 for facilities that adopt systems or technologies that reduce
17 the discharge of water contaminants substantially below the levels required by commission rules.

18 3. Fees imposed in subsections 2 to 6 of section 644.052 shall be due [in accordance with
19 the following schedule after August 27, 2000:

20 (1) For new or renewed permits, fees shall be due] on the date of application and on each
21 anniversary date of permit issuance thereafter until the permit is terminated[;

22 (2) For permits in effect on August 27, 2000, fees shall be due on each anniversary date
23 of permit issuance until the permit is terminated;

24 (3) For general permits issued pursuant to subdivisions (2) and (4) of subsection 6 of
25 section 644.052 and in effect on August 27, 2000, the permittee will be credited thirty dollars on
26 each anniversary date of permit issuance that falls between August 27, 2000, and the date the
27 permit expires].

28 **4. There shall be convened a joint committee appointed by the president pro tem**
29 **of the senate and the speaker of the house of representatives to consider proposals for**
30 **restructuring the fees imposed in sections 644.052 and 644.053. The committee shall review**
31 **stormwater programs, the state's implementation of the federal clean water program and**

32 related state clean water responsibilities and evaluate the costs to the state for maintaining
33 the programs. The committee shall prepare and submit a report including
34 recommendations on funding the state clean water program and stormwater programs to
35 the governor, the house of representatives, and the senate no later than December 31, 2008.

2 **644.587.** In addition to those sums authorized prior to August 28, 2007, the board
3 of fund commissioners of the state of Missouri, as authorized by section 37(e) of article III
4 of the Constitution of the state of Missouri, may borrow on the credit of this state the sum
5 of ten million dollars in the manner described, and for purposes set out, in chapter 640,
6 RSMo, and this chapter.

2 **644.588.** In addition to those sums authorized prior to August 28, 2007, the board
3 of fund commissioners of the state of Missouri, as authorized by section 37(g) of article III
4 of the Constitution of the state of Missouri, may borrow on the credit of this state the sum
5 of ten million dollars in the manner described, and the purposes set out, in chapter 640,
6 RSMo, and in this chapter.

2 **644.589.** In addition to those sums authorized prior to August 28, 2007, the board
3 of fund commissioners of the state of Missouri, as authorized by section 37(h) of article III
4 of the Constitution of the state of Missouri, may borrow on the credit of this state the sum
5 of twenty million dollars in the manner described, and for the purposes set out, in chapter
6 640, RSMo, and in this chapter.

2 701.450. 1. For any facility for which construction commences after August 28, 1995,
3 which is constructed as a place of assembly for public amusement including, but not limited to,
4 sports stadiums and arenas, auditoriums and assembly halls, there shall be provided an equal
5 number of water closets for women as there are the number of water closets and urinals provided
6 for men, and there shall be provided an equal number of diaper changing stations for men as
7 there are the number provided for women.

2 2. Each facility described in subsection 1 of this section constructed or under construction
3 prior to August 28, 1995, shall provide water closets in the same ratio as required in subsection
4 1 of this section whenever such facility undergoes major structural renovation.

10 3. As used in subsection 2 of this section, the term “major structural renovation” means
11 any reconstruction, rehabilitation, addition or other improvement which required more than fifty
12 percent of the gross floor area of the existing facility to be rebuilt. The provisions of this act
13 shall only apply to such portions of the building being renovated and not to the entire building.

14 **4. Notwithstanding any other provision of this section to the contrary, if any**
15 **facility described in subsection 1 of this section located in any city not within a county is**
16 **constructed in compliance with the requirements of the applicable building and plumbing**
17 **codes of such city related to the minimum number of water closets that are designated for**

18 **women, such facility shall not be required to comply with the requirements of subsection**
19 **1 of this section until one year following the date of its substantial completion.**

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