

## 2.1 Permitting Framework and Scope/Regulatory Framework

### Applicability:

This is a description of the statutes and regulations that pertain to writing NPDES discharge (operating) permits and construction permits.

### Content:

The Clean Water Commission (CWC) is authorized to issue permits for wastewater discharges and the construction of treatment facilities and sewer systems by the Missouri Clean Water Law at Section 644.026.1(13). The requirement to obtain a permit for discharge or construction is contained in Section 644.051.2. The CWC promulgated rules at 10 CSR 20-6 to specify the various requirements for obtaining the permits. Rules at 10 CSR 20-7 contain the state's Effluent Limitations and Water Quality Standards.

The State of Missouri accepted delegation of authority from the Environmental Protection Agency (EPA) to administer a program equivalent to the National Pollutant Discharge Elimination System (NPDES). While termed State Operating Permits, the operating permits issued through the CWC are also considered effective as federal permits under the NPDES. Consequently, the EPA provides oversight for the state's permitting program (see Section 4.2). The federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), Title IV, and the Code of Federal Regulations at 40 CFR Parts 122 through 125 provide the national framework for the NPDES Program, including requirements for state programs.

Issued permits are legally binding documents and are enforceable by the state, U.S. EPA and citizens in specific situations (see Section 4.7.3). Applicants have rights to appeal permits following their issuance (see Section 4.1.11). Under some circumstances, a regulated entity may obtain a variance from certain permitting requirements (see Chapter 9).

The Department of Natural Resources cannot consider as relevant comments or objections to a state operating permit related to issues outside the authority of the CWC. A 1979 Appellate Court decision addressed this (see *Curdt v. Mo. Clean Water Commission*, 586 S.W. 2d 58 Mo. App 1979). In brief, the decision affirms that the CWC authority under the Clean Water Law is limited to water quality issues and does not extend to protection of the riparian rights of downstream landowners. A primary effect of this is that, if the facility will comply with the water quality requirements of the law, the CWC cannot deny a permit application based on the proposed location of the point source (wastewater treatment facility) or on the quantity of flow that may be released from the facility. Downstream landowners (or other affected parties) must protect their riparian or property rights through statutory or legal provisions other than the Clean Water Law.

### Legal References:

*Missouri Clean Water Law, Chapter 644*

[644.026.1\(13\)](#) Powers and duties of commission--rules, procedure.

[644.051.2](#) Prohibited acts--permits required, when, fee--bond required of permit holders, when--permit application procedures--rulemaking--limitation on use of permit fee moneys.

*Code of State Regulations:*

[10 CSR 20-2.010](#) Definitions

[10 CSR 20-6](#) Construction and Operating Permits

[10 CSR 20-7](#) Water Quality  
*Federal Clean Water Act,*  
[Section 402](#) Title IV-- Permits and Licenses  
*Code of Federal Regulations*  
[40 CFR 122 -](#)  
[125](#)

**Other Links:**

**Key Words:**

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