

# Appendix I.1 Missouri Clean Water Law

## Chapter 644 RSMo

This Appendix contains a very brief discussion of each section of the Missouri Clean Water Law, Chapter 644, RSMo. The purpose of this appendix is to help guide the reader to the appropriate sections of law. This summary should not be used to reach conclusions pertaining to requirements and authorities contained in this law. Conclusions should be made after reviewing the law, related regulations and judicial opinions.

### **644.006. Citation of act.**

### **644.011. Statement of policy.**

### **644.016. Definitions.**

### **644.018. Reasonable use defined in cases involving surface water in flood-prone areas.**

*This section establishes liability criteria for damage from flood events (This is not a Commission issue).*

### **644.021. Commission created, members, qualifications, term--meetings--executive secretary, qualifications.**

*This section of the clean water law sets out the requirements for clean water commission members. It outlines the selection process for appointing clean water commission members, terms of the commission member appointment, scheduling of the commission meetings and rules for the commissions appointing of an executive secretary.*

### **644.026. Powers and duties of commission--rules, procedure, review, generally, this chapter.**

*This section of the clean water law sets out the duties and requirements of the clean water commission. The clean water commission shall provide services necessary in the prevention, control and abatement of new and existing pollution of the waters of the state. The commission is to develop plans and programs, encourage research, issue permits and enforce the clean water law, issue financial assistance, and enter into contracts in order to achieve the goal of prevention, control and abatement of water pollution. This section sets criteria that the commission will comply with in the developing and implementing of rules to benefit the waters of the state.*

### **644.027. Sewer districts and systems made available to political subdivisions, no restriction allowed on connecting to system.**

*This section clarifies that the clean water law does not restrict political subdivisions of the state (cities, sewer districts, etc) from requiring persons to connect to their sewer system.*

### **644.031. Storm water control first class counties, Kansas City, St. Louis city--distribution of funds--plan required--contracts for construction to be made within eighteen months--unused funds returned to clean water commission--redistribution of fund to all eligible cities and counties--state to pay one-third of cost--distribution directly to districts in certain cities and counties.**

*This section of the clean water law sets out the requirements for participation in the storm water grants program. Funds are distributed on a proportionate share basis based on the latest*

*census. Criteria are included to indicate when the funds must be awarded and, if not, how unused funds are to be redistributed.*

**644.031. Sales tax for purpose of storm water control or local parks or both may be imposed by any county or municipality--tax, how calculated --voter approval--ballot form--effective when--failure of tax, resubmission, when--revenue may be used for parks located outside of county or municipality, when.**

*This section authorizes local sales taxes for storm water control and parks.*

**644.032. Sales tax for purpose of storm water control or local parks or both may be imposed by any county or municipality--tax, how calculated --voter approval--ballot form--effective when--failure of tax, resubmission, when--revenue may be used for parks located outside of county or municipality, when.**

*More on local storm water and parks sales taxes.*

**644.033. Sales tax collection to be deposited in local parks and storm water control sales tax fund--fund established--powers and duties of director of revenue--abolition of tax, procedure.**

*More on local storm water and parks sales taxes.*

**644.034. Wastewater and water pollution abatement in certain counties (including Christian and Greene counties), amount--issue submitted to voters, ballot language--sales tax, special trust fund established, purpose.**

*Establishes criteria for local sales taxes for water pollution control in Greene and Christian Counties.*

**644.036. Public hearings--rules and regulations, how promulgated**

*This section of the clean water law sets out the requirements for the clean water commission in making rules. The grant of rulemaking authority itself is in section 644.026(7) and (8). Any rule or regulation must be heard in open forum, with notice to interested parties. The commission must accept verbal or written comment, within time limits, and may also solicit comments from selected persons. A statutory majority of the commission is necessary to adopt a rule or regulation. Persons commenting must be notified of the commission's decision. Rules are not effective unless filed with the Secretary of State's office. Rules may differentiate between terms and conditions, water contaminants and waters of the state.*

**644.041. Effluent regulations to be promulgated.**

*This section of the clean water law sets out the requirements for adopting effluent, pretreatment and toxic material control regulations. These regulations are to be promulgated for each significant source, potential source, and every classification of sources of water contamination.*

**644.042. Losing streams, a rebuttable presumption, how determined.**

*Permits the commission to adopt a rule that assumes any stream within a mile of a losing stream is also losing, until shown otherwise.*

**644.051. Prohibited acts--permits required, when, fee--bond required of permit holders, when--permit application procedures--rulemaking--limitation on use of permit fee moneys.**

*This section of the clean water law designates certain acts that are prohibited in order to protect waters of the state. Permitting requirements are established for any person to build, erect, alter, replace, operate, use or maintain any water contaminant or point source in the state. Procedures are established to inform the public of pending permits to be issued and to consider such factors,*

comments and recommendations received. Permits may be denied if the source will violate any act, regulation, limitation or standard. The appeal of a permit denial or any condition in a permit is authorized if a notice of appeal is filed in a timely manner.

The maximum length of five years is established for operating permits and the requirement for permittees to notify the clean water commission of any substantial change in volume or character of water contaminants or pollutants is established. The filing or posting of a bond as a condition for the issuance of permits is authorized.

This section also contains requirements for permit processing timeframes.

**644.052. Permit types, fees, amounts--requests for permit modifications --requests for federal clean water certifications.**

This section of the clean water law establishes a fee system for operating permit actions, connection fees for certain POTWs filing fees for permits by rule and fees for "401" water quality certifications.

**644.053. Construction permit, fees--general construction permits by rule, fees not to exceed this section--animal feeding operation permit fees.**

This section of the clean water law establishes a fee system for all construction permit activities and for CAFO operator certification.

**644.054. Fees, billing and collection--administration, generally--fees to become effective, when--fees to expire, when--variances granted, when.**

This section establishes fee implementation schedules and sunsets. The language also allows fee variances for new technology and establishes parameters for use of the funds generated from fee collections.

**644.055. Fees, nonpayment--penalty.**

This section of the clean water law establishes a penalty amount and procedure for collection of unpaid fees. The penalty amount is 2% of the unpaid fees for each month the fee is delinquent. If fees are not paid within 6 months, the attorney general shall initiate action for collection of the fees and interest.

**644.056. Investigations, when--misrepresentation or failure to disclose a violation, when--abatement orders and abatement complaints, when--permits terminated, when--hearings--final determination.**

This section of the clean water law establishes the procedures to be followed when a violation of the law is alleged. An investigation shall be conducted to determine if a violation has occurred. If the investigation discloses that a violation has occurred, then first, conference, conciliation or persuasion will be used to eliminate the violation. In case of failure by conference, conciliation or persuasion, the procedure for ordering abatement, filing abatement complaints, the rights of appeal, and the duties of the commission in the event of an appeal is established. Provisions are also made in this section to terminate or modify permits to protect waters of the state.

**644.061. Variances, when allowed--petition, fee--variance revoked, when--judicial review, how.**

This section of the clean water law establishes an ability for variances from the clean water law, standards, rule or regulations. Variances shall be granted for a specific period of time and may not be granted if the variance is prohibited by the federal water pollution control act or if the variance will continue a condition which may cause adverse health effects upon humans, fish, aquatic life, game or other wildlife. A filing fee of \$250 shall be payable with the variance

application and a recommendation must be made to the clean water commission (CWC) within 60 days of receipt of the application.

If the CWC denies the variance, a hearing shall be held if requested by the petitioner. The CWC may also require the filing of a bond as a condition for the issuance of a variance in an amount sufficient to insure compliance with the terms and conditions of the variance.

**644.066. Public hearings, how conducted--transcripts available--discovery proceedings--hearings before single commissioner, when--final orders, how approved.**

*This section of the clean water law sets out requirements for hearings, both rulemaking hearings and contested cases. Testimony is under oath and recorded in a transcript that is available for review. Subpoenas may be issued; rules of discovery apply. Hearings on rules shall be before at least four commission members; others may be heard before one member or an appointed hearing officer, who then must recommend finds of fact and may propose conclusions of law to the full commission. A statutory majority of the commission is necessary to take final action on a matter raised in a hearing. Commissioners not in attendance at the hearing may vote after reviewing the transcript and exhibits.*

**644.071. Judicial review authorized.**

*In accordance with the administrative procedures act (chapter 536) this section of the clean water law provides that final orders or determinations of the commission may be appealed to court, provided all administrative remedies have been exhausted. In reviewing rules, the court must review the administrative record of the rule for validity and reasonableness, and other evidence.*

**644.076. Unlawful acts prohibited--false statements and negligent acts prohibited--penalty--exception.**

*In the event that a violation of the clean water law, any standard, rule or regulation promulgated by the commission has been determined to have occurred, this section of the law provides for the legal procedures to be followed to collect civil penalties. The commission or executive secretary may request either the attorney general or a prosecuting attorney to bring action in a court of competent jurisdiction. This section sets a maximum penalty of \$10,000 per day for each day, or part thereof, the violation occurred and continues to occur. It is required under this section to make an offer to resolve the civil penalty and to negotiate in good faith through conference, conciliation and persuasion. This section continues on to establish the maximum fines and imprisonment for persons convicted of knowingly making false statements, representations or certifications and willfully or negligently committing a violation of the clean water law, any standard, rule or regulation promulgated by the commission.*

**644.079. Administrative penalties, assessments, restrictions--conference, conciliation and persuasion--rules--payment--appeal--collection, disposition.**

*In addition to 644.076, this section provides the ability to assess penalties by administrative order. The process of resolving the violation through conference, conciliation and persuasion is required. A penalty assessed under this section must state the statute under which the penalty is being sought, the manner of collection and the rights of appeal. The amount of administrative penalty assessed per day shall not exceed \$10,000 per day. Any final order imposing an administrative penalty is subject to judicial review upon the filing of a petition pursuant to section 536.100, RSMo.*

**644.082. Discharging water contaminants, permit required--violation, penalties.**

*This section of the clean water law states that a permit is required for any person or entity that has a facility which discharges any water contaminants from any water contaminant or point source or wastewater treatment plant. It further states that any person in violation of this section,*

upon conviction, is guilty of a misdemeanor and subject to a fine of at least \$100.00 and no more than \$500.00 and must make application for a permit within 30 days.

**644.091. State or its subdivisions not to contract with violator.**

*This section of the clean water law states that the State or its officers, agencies, or departments are not to enter any contract with any person who 1) is required to apply for a permit (per the provisions of 644.051) unless that person has received a permit or 2) is in violation or in contempt of any court order of any of the provisions in 644.006 to 644.141 pertaining to their permit. This does not apply, if the person or entity has received a variance per the provisions of section 644.061 and the provisions of the variance are being met.*

**644.096. State or its subdivisions may recover actual damages from violators.**

*This section of the clean water law states that the State or its subdivisions may recover actual damages to any water of the state which was caused by a violator, including all costs and expenses necessary to establish or collect any sums under section 644.006 to 644.141 and any costs and expenses of restoring any waters of the state to their existing condition prior to the violation. This section of the law further states that the costs and expenses incurred by the state or its subdivisions shall be pursued by the attorney general or a prosecuting attorney in any court where an action for injunctive relief hereunder could be brought.*

**644.101. Certain drinking water and water pollution projects, state may provide assistance.**

*This section of the clean water law authorizes grants and loans for public drinking water and wastewater facilities.*

**644.102. Matching grants for state revolving loan recipients terminates June 30, 1992.**

*This section of the clean water law establishes that a 15% state matching grant to SRF loans will no longer be offered after June 30, 1992. It also authorized the Board of Fund commissioners to borrow an additional \$35 million to support the water pollution abatement programs under 640 and 644 RSMo.*

**644.106. State contributions limited-interest, limited--administrative fee allowed.**

*This section of the clean water law establishes that the maximum state grant percentage 55%. It also allows the department to charge interest and an administrative fee on loans made under this chapter.*

**644.111. Commission to administer all state funds.**

*This section of the clean water law establishes that the Mo. Clean Water Commission is the agency responsible for the administration of state funds for grant and loan programs.*

**644.116. Rules and regulations to be adopted by commission--clean water commission to implement plan.**

*This section of the clean water law establishes the commission's authority to establish needs, priorities and standards for programs under this chapter and to implement the intended use plan.*

**644.117. Small rural communities to have percentage of funds.**

*This section of the clean water law establishes that small rural communities shall receive at least twenty percent of the state grant and loan funds. Federally supported programs are exempt from this calculation.*

**644.121. Rules and procedures, commission to adopt.**

*This section of the clean water law authorized the clean water commission to adopt rules, regulations, and procedures as necessary for the effective administration of the grant and loan programs and as necessary to comply with federal requirements.*

**644.122. Water and wastewater loan fund established--use of funds --deposits, disbursements--exempt from transfer to general revenue.**

*This section of the clean water law establishes the water and wastewater loan fund through which all monies received by the department under the SRF shall be deposited. It further identifies seven activities that may be supported by these funds. Unexpended balances in the fund are exempt from the biennium criteria in 33.080. Planning, design and construction of publicly owned water and wastewater treatment facilities, as well as non-point source control facilities are eligible to receive loans under this section.*

**644.123. Repayment of loans credited to fund--administrative fees, deposit of, uses of.-**

*This section of the clean water law establishes that the repayment of principal and interest shall be deposited into the water and wastewater loan fund. Any administrative fees shall be credited to a subaccount of the natural resources protection fund.*

**644.124. State treasurer authorized to invest moneys of fund.**

*This section establishes that the state treasurer is authorized to invest the funds deposited into the wastewater loan fund as provided in section 30.260. Interest earnings shall be credited to the fund.*

**644.125. Delinquent repayment by county or municipality, repayment out of sales tax revenues, how--agreements required.**

*This section of the clean water law establishes that if any county or municipality fails to make timely payment of principal and interest, the director of the department of natural resources shall notify the director of the department of revenue and that the director of revenue shall deduct such repayment amounts from the next and succeeding apportionments of local sales tax distributions until the debt is satisfied. The percentage of this deduction shall be negotiated between the clean water commission and the defaulting political subdivision and is binding upon the department of natural resources.*

**644.126. Water pollution board rules and orders to remain in effect until new standards are adopted by the commission.**

*This section of the clean water law maintained the rules and other criteria and decision of the clean water commission's predecessor, the water pollution board, until the clean water commission took action to change, expand or otherwise modify the board's work.*

**644.131. Other legal remedies not to be affected or abridged by sections 644.006 to 644.141.**

*This section of the clean water law states that it contains nothing that would prevent any person from exercising rights or from suppressing a nuisance.*

**644.136. Commission designated official state agency to deal with federal government relative to water pollution.**

*This section of the clean water law authorizes the clean water commission to take action to obtain whatever federal help may be available for water pollution control, including grant funds, to approve state or municipal projects, participate in federal proceedings, recommend measures to reduce water contamination, and recommend to the governor areas for designation for special water pollution control planning and operation.*

**644.141. Designation of special areas by governor--appointment of agency to control--qualification of control agency.**

A. PLANNING AUTHORITY.

*This section of the clean water law allows the governor to appoint specific authorities to conduct one time or on-going planning activities to address water pollution concerns in the state.*

B. MANAGEMENT AUTHORITY

*This section of the clean water law allows the governor to designate local management authorities for water pollution control.*

C. INTERSTATE AGENCIES.

*This section of the clean water allows the designations to include interstate areas.*

D. TERMINATION OF AUTHORITY.

*This section of the clean water law authorizes the governor to make changes in the designated areas or planning staff. It also includes the clean water commission in planning activities for designated areas and designates the clean water commission as the authority for areas not specifically designated.*

**644.143. Commission to establish groundwater remediation procedures, criteria for procedures.**

*Requires the commission to adopt rules to determine whether cleanup of contaminated groundwater is necessary.*

**644.150. Subdivision Defined.**

*Restricts us from classifying parcels of land divided into lots of more than five acres as a "subdivision".*

WATER POLLUTION BONDS

**644.500-644.600.**

*These sections contain particulars of the water pollution control bonds. They are not discussed here since they do not pertain to permitting.*