

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE NO. 2 FOR

HOUSE BILL NO. 1973

99TH GENERAL ASSEMBLY

5740H.04P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 644.016, RSMo, and to enact in lieu thereof two new sections relating to agricultural stormwater discharge.

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

Section A. Section 644.016, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 644.016 and 644.059, RSMo, to read as follows:

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

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

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

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

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

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

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.

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) "General permit template", a draft general permit that is being developed through a
26 public participation process;

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

30 (11) "Income" includes retirement benefits, consultant fees, and stock dividends;

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

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

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

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

42 (16) "Point source", any discernible, confined and discrete conveyance, including but not
43 limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock,
44 concentrated animal feeding operation, or vessel or other floating craft, from which pollutants
45 are or may be discharged. Point source does not include agricultural storm water discharges and
46 return flows from irrigated agriculture;

47 (17) "Pollution", such contamination or other alteration of the physical, chemical or
48 biological properties of any waters of the state, including change in temperature, taste, color,
49 turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or
50 other substance into any waters of the state as will or is reasonably certain to create a nuisance
51 or render such waters harmful, detrimental or injurious to public health, safety or welfare, or to

52 domestic, industrial, agricultural, recreational, or other legitimate beneficial uses, or to wild
53 animals, birds, fish or other aquatic life;

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

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

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

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

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

73 (23) "Treatment facilities", any method, process, or equipment which removes, reduces,
74 or renders less obnoxious water contaminants released from any source;

75 (24) "Water contaminant", any particulate matter or solid matter or liquid or any gas or
76 vapor or any combination thereof, ~~[or any temperature change]~~ which is in or enters any waters
77 of the state either directly or indirectly by surface runoff, by sewer, by subsurface seepage or
78 otherwise, which causes or would cause pollution upon entering waters of the state, or which
79 violates or exceeds any of the standards, regulations or limitations set forth in sections 644.006
80 to 644.141 or any federal water pollution control act, or is included in the definition of pollutant
81 in such federal act;

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

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

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

**644.059. Agricultural stormwater discharges and return flows from irrigated
2 agriculture shall be exempt from the permit requirements of sections 644.006 to 644.141.
3 Agricultural stormwater discharges and return flows from irrigated agriculture shall not
4 be considered unlawful under subdivision (1) or (2) of subsection 1 of section 644.051,
5 unless those discharges or return flows have entered waters of the state and have rendered
6 such waters harmful, detrimental, or injurious to public health, safety, or welfare, to
7 industrial or agricultural uses, or to wild animals, birds, or fish. For the purposes of this
8 section, agricultural stormwater discharges and return flows from irrigated agriculture
9 shall include stormwater and snow melt runoff, drainage, and infiltration, including water
10 that leaves land as a result of the application of irrigation water, both surface and
11 subsurface, from standard farming industry practices. This shall include, but not be
12 limited to, cultivation and tillage of soil, and production, growing, raising, and harvesting
13 of agricultural commodities and livestock. Nothing in this section shall be construed to
14 effect, limit, or supersede sections 640.700 to 640.755 or any other law or regulation of
15 concentrated animal feeding operations.**

✓