

FIRST REGULAR SESSION

# HOUSE BILL NO. 92

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MILLER.

0070H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 260.500 and 644.016, RSMo, and to enact in lieu thereof two new sections relating to the definition of waters of the state.

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

Section A. Sections 260.500 and 644.016, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 260.500 and 644.016, to read as follows:

260.500. As used in sections 260.500 to 260.550, unless the context clearly indicates otherwise, the following terms mean:

(1) "Cleanup", all actions necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove, or dispose of a hazardous substance;

(2) "Cleanup costs", all costs incurred by the state or any of its political subdivisions, or their agents, or by any other person participating with the approval of the department of natural resources in the prevention or mitigation of damages from a hazardous substance emergency or the cleanup of a hazardous substance involved in a hazardous substance emergency, including a proportionate share of those costs necessary to maintain the services authorized in sections 260.500 to 260.550;

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

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

(5) "Hazardous substance", any substance or mixture of substances that presents a danger to the public health or safety or the environment and includes:

(a) Any hazardous waste identified or listed by the department pursuant to sections 260.350 to 260.430;

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 (b) Any element, compound, mixture, solution, or substance designated pursuant to  
18 Sections 101(14) and 102 of the Comprehensive Environmental Response, Compensation and  
19 Liability Act of 1980, as amended, and Section 302 of the Superfund Amendments and  
20 Reauthorization Act of 1986, as amended; and

21 (c) Any hazardous material designated by the Secretary of the United States Department  
22 of Transportation pursuant to the Hazardous Materials Transportation Act;

23 (d) "Hazardous substances" does not include radioactive materials, wastes, emissions or  
24 discharges that are licensed or regulated by laws of the federal government or of this state.  
25 However, such material released due to a transportation accident shall be considered a hazardous  
26 substance;

27 (6) "Hazardous substance emergency":

28 (a) Any release of hazardous substances in quantities equal to or in excess of those  
29 determined pursuant to Section 101(14) or 102 of the Comprehensive Environmental Response,  
30 Compensation and Liability Act of 1980, as amended, and Section 304 of the Superfund  
31 Amendments and Reauthorization Act of 1986, as amended;

32 (b) Any release of petroleum including crude oil or any fraction thereof, natural gas,  
33 natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural  
34 gas and such synthetic gas) in excess of fifty gallons for liquids or three hundred cubic feet for  
35 gases, except that the notification and reporting of any release of natural gas or natural gas  
36 mixtures by or from intrastate facilities, regardless of the quantity of such release, shall be as  
37 specified by the public service commission rather than pursuant to the notification and reporting  
38 requirements contained in, or authorized by, sections 260.500 to 260.550. Interstate natural gas  
39 pipeline facilities shall report natural gas releases to the state and the National Response Center  
40 in accordance with federal Department of Transportation regulatory requirements;

41 (c) Any release of a hazardous waste which is reportable pursuant to sections 260.350  
42 to 260.430;

43 (d) Any release of a hazardous substance which requires immediate notice pursuant to  
44 Part 171 of Title 49 of the Code of Federal Regulations;

45 (e) The department may promulgate rules and regulations identifying the substances and  
46 the quantities thereof which, if released, constitute a hazardous substance emergency;

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

51 (8) "Person having control over a hazardous substance", any person producing, handling,  
52 storing, transporting, refining, or disposing of a hazardous substance when a hazardous substance

53 emergency occurs, including bailees, carriers, and any other person in control of a hazardous  
54 substance when a hazardous substance emergency occurs, whether they own the hazardous  
55 substance or are operating under a lease, contract, or other agreement with the legal owner  
56 thereof;

57 (9) "Release", any threatened or real emission, discharge, spillage, leakage, pumping,  
58 pouring, emptying or dumping of a substance into or onto the land, air or waters of the state  
59 unless done in compliance with the conditions of a federal or state permit, unless the substance  
60 is confined and is expected to stay confined to property owned, leased or otherwise controlled  
61 by the person having control over the substance, or unless, in the case of pesticides, if application  
62 is done in accordance with the product label;

63 (10) "State of Missouri basic emergency operations plan", the state plan, its annexes, and  
64 appendices as developed or maintained by the state emergency management agency for response  
65 to natural and man-made disasters in this state;

66 (11) "Waters of the state", all rivers, streams, lakes and other bodies of surface and  
67 subsurface water lying within or forming a part of the boundaries of the state which are not  
68 entirely confined and located completely upon lands owned, leased or otherwise controlled by  
69 a single person or by two or more persons jointly or as tenants in common [and includes waters  
70 of the United States lying within the state].

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

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