

SECOND REGULAR SESSION

HOUSE BILL NO. 2490

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE EALY.

4121H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 260.205, RSMo, and to enact in lieu thereof one new section relating to solid waste disposal area permits.

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

Section A. Section 260.205, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 260.205, to read as follows:

260.205. 1. It shall be unlawful for any person to operate a solid waste processing facility or solid waste disposal area of a solid waste management system without first obtaining an operating permit from the department. It shall be unlawful for any person to construct a solid waste processing facility or solid waste disposal area without first obtaining a construction permit from the department pursuant to this section. A current authorization to operate issued by the department pursuant to sections 260.200 to 260.345 shall be considered to be a permit to operate for purposes of this section for all solid waste disposal areas and processing facilities existing on August 28, 1995. A permit shall not be issued for a sanitary landfill to be located in a flood area, as determined by the department, where flood waters are likely to significantly erode final cover. A permit shall not be required to operate a waste stabilization lagoon, settling pond or other water treatment facility which has a valid permit from the Missouri clean water commission even though the facility may receive solid or semisolid waste materials.

2. No person or operator may apply for or obtain a permit to construct a solid waste disposal area unless the person has requested the department to conduct a preliminary site investigation and obtained preliminary approval from the department. The department shall,

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 within sixty days of such request, conduct a preliminary investigation and approve or
18 disapprove the site.

19 3. All proposed solid waste disposal areas for which a preliminary site investigation
20 request pursuant to subsection 2 of this section is received by the department on or after
21 August 28, 1999, shall be subject to a public involvement activity as part of the permit
22 application process. The activity shall consist of the following:

23 (1) The applicant shall notify the public of the preliminary site investigation approval
24 within thirty days after the receipt of such approval. Such public notification shall be by
25 certified mail to the governing body of the county or city in which the proposed disposal area
26 is to be located and by certified mail to the solid waste management district in which the
27 proposed disposal area is to be located;

28 (2) Within ninety days after the preliminary site investigation approval, the
29 department shall conduct a public awareness session in the county in which the proposed
30 disposal area is to be located. The department shall provide public notice of such session by
31 both printed and broadcast media at least thirty days prior to such session. Printed
32 notification shall include publication in at least one newspaper having general circulation
33 within the county in which the proposed disposal area is to be located. Broadcast notification
34 shall include public service announcements on radio stations that have broadcast coverage
35 within the county in which the proposed disposal area is to be located. The intent of such
36 public awareness session shall be to provide general information to interested citizens on the
37 design and operation of solid waste disposal areas;

38 (3) At least sixty days prior to the submission to the department of a report on the
39 results of a detailed site investigation pursuant to subsection 4 of this section, the applicant
40 shall conduct a community involvement session in the county in which the proposed disposal
41 area is to be located. Department staff shall attend any such session. The applicant shall
42 provide public notice of such session by both printed and broadcast media at least thirty days
43 prior to such session. Printed notification shall include publication in at least one newspaper
44 having general circulation within the county in which the proposed disposal area is to be
45 located. Broadcast notification shall include public service announcements on radio stations
46 that have broadcast coverage within the county in which the proposed disposal area is to be
47 located. Such public notices shall include the addresses of the applicant and the department
48 and information on a public comment period. Such public comment period shall begin on the
49 day of the community involvement session and continue for at least thirty days after such
50 session. The applicant shall respond to all persons submitting comments during the public
51 comment period no more than thirty days after the receipt of such comments;

52 (4) If a proposed solid waste disposal area is to be located in a county or city that has
53 local planning and zoning requirements, the applicant shall not be required to conduct a
54 community involvement session if the following conditions are met:

55 (a) The local planning and zoning requirements include a public meeting;

56 (b) The applicant notifies the department of intent to utilize such meeting in lieu of
57 the community involvement session at least thirty days prior to such meeting;

58 (c) The requirements of such meeting include providing public notice by printed or
59 broadcast media at least thirty days prior to such meeting;

60 (d) Such meeting is held at least thirty days prior to the submission to the department
61 of a report on the results of a detailed site investigation pursuant to subsection 4 of this
62 section;

63 (e) The applicant submits to the department a record of such meeting;

64 (f) A public comment period begins on the day of such meeting and continues for at
65 least fourteen days after such meeting, and the applicant responds to all persons submitting
66 comments during such public comment period no more than fourteen days after the receipt of
67 such comments.

68 4. No person may apply for or obtain a permit to construct a solid waste disposal area
69 unless the person has submitted to the department a plan for conducting a detailed surface and
70 subsurface geologic and hydrologic investigation and has obtained geologic and hydrologic
71 site approval from the department. The department shall approve or disapprove the plan
72 within thirty days of receipt. The applicant shall conduct the investigation pursuant to the
73 plan and submit the results to the department. The department shall provide approval or
74 disapproval within sixty days of receipt of the investigation results.

75 5. (1) Every person desiring to construct a solid waste processing facility or solid
76 waste disposal area shall make application for a permit on forms provided for this purpose by
77 the department. Every applicant shall submit evidence of financial responsibility with the
78 application. Any applicant who relies in part upon a parent corporation for this demonstration
79 shall also submit evidence of financial responsibility for that corporation and any other
80 subsidiary thereof.

81 (2) Every applicant shall provide a financial assurance instrument or instruments to
82 the department prior to the granting of a construction permit for a solid waste disposal area.
83 The financial assurance instrument or instruments shall be irrevocable, meet all requirements
84 established by the department and shall not be cancelled, revoked, disbursed, released or
85 allowed to terminate without the approval of the department. After the cessation of active
86 operation of a sanitary landfill, or other solid waste disposal area as designed by the
87 department, neither the guarantor nor the operator shall cancel, revoke or disburse the

88 financial assurance instrument or allow the instrument to terminate until the operator is
89 released from postclosure monitoring and care responsibilities pursuant to section 260.227.

90 (3) The applicant for a permit to construct a solid waste disposal area shall provide
91 the department with plans, specifications, and such other data as may be necessary to comply
92 with the purpose of sections 260.200 to 260.345. The application shall demonstrate
93 compliance with all applicable local planning and zoning requirements. The department shall
94 make an investigation of the solid waste disposal area and determine whether it complies with
95 the provisions of sections 260.200 to 260.345 and the rules and regulations adopted pursuant
96 to sections 260.200 to 260.345. Within twelve consecutive months of the receipt of an
97 application for a construction permit the department shall approve or deny the application.
98 The department shall issue rules and regulations establishing time limits for permit
99 modifications and renewal of a permit for a solid waste disposal area. The time limit shall be
100 consistent with this chapter.

101 (4) The applicant for a permit to construct a solid waste processing facility shall
102 provide the department with plans, specifications and such other data as may be necessary to
103 comply with the purpose of sections 260.200 to 260.345. Within one hundred eighty days of
104 receipt of the application, the department shall determine whether it complies with the
105 provisions of sections 260.200 to 260.345. Within twelve consecutive months of the receipt
106 of an application for a permit to construct an incinerator as described in the definition of solid
107 waste processing facility in section 260.200 or a material recovery facility as described in the
108 definition of solid waste processing facility in section 260.200, and within six months for
109 permit modifications, the department shall approve or deny the application. Permits issued
110 for solid waste facilities shall be for the anticipated life of the facility.

111 (5) If the department fails to approve or deny an application for a permit or a permit
112 modification within the time limits specified in subdivisions (3) and (4) of this subsection, the
113 applicant may maintain an action in the circuit court of Cole County or that of the county in
114 which the facility is located or is to be sited. The court shall order the department to show
115 cause why it has not acted on the permit and the court may, upon the presentation of evidence
116 satisfactory to the court, order the department to issue or deny such permit or permit
117 modification. Permits for solid waste disposal areas, whether issued by the department or
118 ordered to be issued by a court, shall be for the anticipated life of the facility.

119 (6) The applicant for a permit to construct a solid waste processing facility shall pay
120 an application fee of one thousand dollars. Upon completion of the department's evaluation
121 of the application, but before receiving a permit, the applicant shall reimburse the department
122 for all reasonable costs incurred by the department up to a maximum of four thousand dollars.
123 The applicant for a permit to construct a solid waste disposal area shall pay an application fee
124 of two thousand dollars. Upon completion of the department's evaluations of the application,

125 but before receiving a permit, the applicant shall reimburse the department for all reasonable
126 costs incurred by the department up to a maximum of eight thousand dollars. Applicants who
127 withdraw their application before the department completes its evaluation shall be required to
128 reimburse the department for costs incurred in the evaluation. The department shall not
129 collect the fees authorized in this subdivision unless it complies with the time limits
130 established in this section.

131 (7) When the review reveals that the facility or area does conform with the provisions
132 of sections 260.200 to 260.345 and the rules and regulations adopted pursuant to sections
133 260.200 to 260.345, the department shall approve the application and shall issue a permit for
134 the construction of each solid waste processing facility or solid waste disposal area as set
135 forth in the application and with any permit terms and conditions which the department deems
136 appropriate. In the event that the facility or area fails to meet the rules and regulations
137 adopted pursuant to sections 260.200 to 260.345, the department shall issue a report to the
138 applicant stating the reason for denial of a permit.

139 6. Plans, designs, and relevant data for the construction of solid waste processing
140 facilities and solid waste disposal areas shall be submitted to the department by a registered
141 professional engineer licensed by the state of Missouri for approval prior to the construction,
142 alteration or operation of such a facility or area.

143 7. Any person or operator as defined in section 260.200 who intends to obtain a
144 construction permit in a solid waste management district with an approved solid waste
145 management plan shall request a recommendation in support of the application from the
146 executive board created in section 260.315. The executive board shall consider the impact of
147 the proposal on, and the extent to which the proposal conforms to, the approved district solid
148 waste management plan prepared pursuant to section 260.325. The executive board shall act
149 upon the request for a recommendation within sixty days of receipt and shall submit a
150 resolution to the department specifying its position and its recommendation regarding
151 conformity of the application to the solid waste plan. The board's failure to submit a
152 resolution constitutes recommendation of the application. The department may consider the
153 application, regardless of the board's action thereon and may deny the construction permit if
154 the application fails to meet the requirements of sections 260.200 to 260.345, or if the
155 application is inconsistent with the district's solid waste management plan.

156 8. If the site proposed for a solid waste disposal area is not owned by the applicant,
157 the owner or owners of the site shall acknowledge that an application pursuant to sections
158 260.200 to 260.345 is to be submitted by signature or signatures thereon. The department
159 shall provide the owner with copies of all communication with the operator, including
160 inspection reports and orders issued pursuant to section 260.230.

161 9. The department shall not issue a permit for the operation of a solid waste disposal
162 area designed to serve a city with a population of greater than four hundred thousand located
163 in more than one county, if the site is located within [~~one-half mile~~] **two miles** of an adjoining
164 municipality, without the approval of the governing body of such municipality. The
165 governing body shall conduct a public hearing within fifteen days of notice, shall publicize
166 the hearing in at least one newspaper having general circulation in the municipality, and shall
167 vote to approve or disapprove the land disposal facility within thirty days after the close of the
168 hearing.

169 10. (1) Upon receipt of an application for a permit to construct a solid waste
170 processing facility or disposal area, the department shall notify the public of such receipt:

171 (a) By legal notice published in a newspaper of general circulation in the area of the
172 proposed disposal area or processing facility;

173 (b) By certified mail to the governing body of the county or city in which the
174 proposed disposal area or processing facility is to be located; and

175 (c) By mail to the last known address of all record owners of contiguous real property
176 or real property located within one thousand feet of the proposed disposal area and, for a
177 proposed processing facility, notice as provided in section 64.875 or section 89.060,
178 whichever is applicable.

179 (2) If an application for a construction permit meets all statutory and regulatory
180 requirements for issuance, a public hearing on the draft permit shall be held by the department
181 in the county in which the proposed solid waste disposal area is to be located prior to the
182 issuance of the permit. The department shall provide public notice of such hearing by both
183 printed and broadcast media at least thirty days prior to such hearing. Printed notification
184 shall include publication in at least one newspaper having general circulation within the
185 county in which the proposed disposal area is to be located. Broadcast notification shall
186 include public service announcements on radio stations that have broadcast coverage within
187 the county in which the proposed disposal area is to be located.

188 11. After the issuance of a construction permit for a solid waste disposal area, but
189 prior to the beginning of disposal operations, the owner and the department shall execute an
190 easement to allow the department, its agents or its contractors to enter the premises to
191 complete work specified in the closure plan, or to monitor or maintain the site or to take
192 remedial action during the postclosure period. After issuance of a construction permit for a
193 solid waste disposal area, but prior to the beginning of disposal operations, the owner shall
194 submit evidence that such owner has recorded, in the office of the recorder of deeds in the
195 county where the disposal area is located, a notice and covenant running with the land that the
196 property has been permitted as a solid waste disposal area and prohibits use of the land in any

197 manner which interferes with the closure and, where appropriate, postclosure plans filed with
198 the department.

199 12. Every person desiring to obtain a permit to operate a solid waste disposal area or
200 processing facility shall submit applicable information and apply for an operating permit from
201 the department. The department shall review the information and determine, within sixty
202 days of receipt, whether it complies with the provisions of sections 260.200 to 260.345 and
203 the rules and regulations adopted pursuant to sections 260.200 to 260.345. When the review
204 reveals that the facility or area does conform with the provisions of sections 260.200 to
205 260.345 and the rules and regulations adopted pursuant to sections 260.200 to 260.345, the
206 department shall issue a permit for the operation of each solid waste processing facility or
207 solid waste disposal area and with any permit terms and conditions which the department
208 deems appropriate. In the event that the facility or area fails to meet the rules and regulations
209 adopted pursuant to sections 260.200 to 260.345, the department shall issue a report to the
210 applicant stating the reason for denial of a permit.

211 13. Each solid waste disposal area, except utility waste landfills unless otherwise and
212 to the extent required by the department, and those solid waste processing facilities
213 designated by rule, shall be operated under the direction of a certified solid waste technician
214 in accordance with sections 260.200 to 260.345 and the rules and regulations promulgated
215 pursuant to sections 260.200 to 260.345.

216 14. Base data for the quality and quantity of groundwater in the solid waste disposal
217 area shall be collected and submitted to the department prior to the operation of a new or
218 expansion of an existing solid waste disposal area. Base data shall include a chemical
219 analysis of groundwater drawn from the proposed solid waste disposal area.

220 15. Leachate collection and removal systems shall be incorporated into new or
221 expanded sanitary landfills which are permitted after August 13, 1986. The department shall
222 assess the need for a leachate collection system for all types of solid waste disposal areas,
223 other than sanitary landfills, and the need for monitoring wells when it evaluates the
224 application for all new or expanded solid waste disposal areas. The department may require
225 an operator of a solid waste disposal area to install a leachate collection system before the
226 beginning of disposal operations, at any time during disposal operations for unfilled portions
227 of the area, or for any portion of the disposal area as a part of a remedial plan. The
228 department may require the operator to install monitoring wells before the beginning of
229 disposal operations or at any time during the operational life or postclosure care period if it
230 concludes that conditions at the area warrant such monitoring. The operator of a demolition
231 landfill or utility waste landfill shall not be required to install a leachate collection and
232 removal system or monitoring wells unless otherwise and to the extent the department so

233 requires based on hazardous waste characteristic criteria or site specific geohydrological
234 characteristics or conditions.

235 16. Permits granted by the department, as provided in sections 260.200 to 260.345,
236 shall be subject to suspension for a designated period of time, civil penalty or revocation
237 whenever the department determines that the solid waste processing facility or solid waste
238 disposal area is, or has been, operated in violation of sections 260.200 to 260.345 or the rules
239 or regulations adopted pursuant to sections 260.200 to 260.345, or has been operated in
240 violation of any permit terms and conditions, or is creating a public nuisance, health hazard,
241 or environmental pollution. In the event a permit is suspended or revoked, the person named
242 in the permit shall be fully informed as to the reasons for such action.

243 17. Each permit for operation of a facility or area shall be issued only to the person
244 named in the application. Permits are transferable as a modification to the permit. An
245 application to transfer ownership shall identify the proposed permittee. A disclosure
246 statement for the proposed permittee listing violations contained in the definition of
247 disclosure statement found in section 260.200 shall be submitted to the department. The
248 operation and design plans for the facility or area shall be updated to provide compliance with
249 the currently applicable law and rules. A financial assurance instrument in such an amount
250 and form as prescribed by the department shall be provided for solid waste disposal areas by
251 the proposed permittee prior to transfer of the permit. The financial assurance instrument of
252 the original permittee shall not be released until the new permittee's financial assurance
253 instrument has been approved by the department and the transfer of ownership is complete.

254 18. Those solid waste disposal areas permitted on January 1, 1996, shall, upon
255 submission of a request for permit modification, be granted a solid waste management area
256 operating permit if the request meets reasonable requirements set out by the department.

257 19. In case a permit required pursuant to this section is denied or revoked, the person
258 may request a hearing in accordance with section 260.235.

259 20. Every applicant for a permit shall file a disclosure statement with the information
260 required by and on a form developed by the department of natural resources at the same time
261 the application for a permit is filed with the department.

262 21. Upon request of the director of the department of natural resources, the applicant
263 for a permit, any person that could reasonably be expected to be involved in management
264 activities of the solid waste disposal area or solid waste processing facility, or any person who
265 has a controlling interest in any permittee shall be required to submit to a criminal
266 background check under section 43.543.

267 22. All persons required to file a disclosure statement shall provide any assistance or
268 information requested by the director or by the Missouri state highway patrol and shall
269 cooperate in any inquiry or investigation conducted by the department and any inquiry,

270 investigation or hearing conducted by the director. If, upon issuance of a formal request to
271 answer any inquiry or produce information, evidence or testimony, any person required to file
272 a disclosure statement refuses to comply, the application of an applicant or the permit of a
273 permittee may be denied or revoked by the director.

274 23. If any of the information required to be included in the disclosure statement
275 changes, or if any additional information should be added after the filing of the statement, the
276 person required to file it shall provide that information to the director in writing, within thirty
277 days after the change or addition. The failure to provide such information within thirty days
278 may constitute the basis for the revocation of or denial of an application for any permit issued
279 or applied for in accordance with this section, but only if, prior to any such denial or
280 revocation, the director notifies the applicant or permittee of the director's intention to do so
281 and gives the applicant or permittee fourteen days from the date of the notice to explain why
282 the information was not provided within the required thirty-day period. The director shall
283 consider this information when determining whether to revoke, deny or conditionally grant
284 the permit.

285 24. No person shall be required to submit the disclosure statement required by this
286 section if the person is a corporation or an officer, director or shareholder of that corporation
287 or any subsidiary thereof, and that corporation:

288 (1) Has on file and in effect with the federal Securities and Exchange Commission a
289 registration statement required under Section 5, Chapter 38, Title 1 of the Securities Act of
290 1933, as amended, 15 U.S.C. Section 77e(c);

291 (2) Submits to the director with the application for a permit evidence of the
292 registration described in subdivision (1) of this subsection and a copy of the corporation's
293 most recent annual form 10-K or an equivalent report; and

294 (3) Submits to the director on the anniversary date of the issuance of any permit it
295 holds under the Missouri solid waste management law evidence of registration described in
296 subdivision (1) of this subsection and a copy of the corporation's most recent annual form 10-
297 K or an equivalent report.

298 25. After permit issuance, each facility shall annually file an update to the disclosure
299 statement with the department of natural resources on or before March thirty-first of each
300 year. Failure to provide such update may result in penalties as provided for under section
301 260.240.

302 26. Any county, district, municipality, authority, or other political subdivision of this
303 state which owns and operates a sanitary landfill shall be exempt from the requirement for the
304 filing of the disclosure statement and annual update to the disclosure statement.

305 27. Any person seeking a permit to operate a solid waste disposal area, a solid waste
306 processing facility, or a resource recovery facility shall, concurrently with the filing of the

307 application for a permit, disclose any convictions in this state, county or county-equivalent
308 public health or land use ordinances related to the management of solid waste. If the
309 department finds that there has been a continuing pattern of adjudicated violations by the
310 applicant, the department may deny the application.

311 28. No permit to construct or permit to operate shall be required pursuant to this
312 section for any utility waste landfill located in a county of the third classification with a
313 township form of government which has a population of at least eleven thousand inhabitants
314 and no more than twelve thousand five hundred inhabitants according to the most recent
315 decennial census, if such utility waste landfill complies with all design and operating
316 standards and closure requirements applicable to utility waste landfills pursuant to sections
317 260.200 to 260.345 and provided that no waste disposed of at such utility waste landfill is
318 considered hazardous waste pursuant to the Missouri hazardous waste law.

319 29. Advanced recycling facilities are not subject to the requirements of this section as
320 long as the feedstocks received by such facility are source-separated or diverted or recovered
321 from municipal or other waste streams prior to acceptance at the advanced recycling facility.

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