

SECOND REGULAR SESSION

HOUSE BILL NO. 1821

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LEWIS (6).

2966H.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 environmental control.

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Section A. Section 260.205, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 260.205, to read as follows: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~~]~~ or settling pond or ~~[other water treatment facility which has]~~ **for any county, instrumentality of the state, municipality, public water district, public sewer district, community water system, nonprofit noncommunity water system, or any combination of such entities that have a valid permit under chapter 644** from the Missouri clean water commission ~~[even though the facility may receive solid or semisolid waste materials]~~ **to construct and operate any publicly or privately owned wastewater treatment works or related facilities.**

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.

18 2. No person or operator may apply for or obtain a permit to construct a solid waste
19 disposal area unless the person has requested the department to conduct a preliminary site
20 investigation and obtained preliminary approval from the department. The department shall,
21 within sixty days of such request, conduct a preliminary investigation and approve or
22 disapprove the site.

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

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

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

42 (3) At least sixty days prior to the submission to the department of a report on the
43 results of a detailed site investigation pursuant to subsection 4 of this section, the applicant
44 shall conduct a community involvement session in the county in which the proposed disposal
45 area is to be located. Department staff shall attend any such session. The applicant shall
46 provide public notice of such session by both printed and broadcast media at least thirty days
47 prior to such session. Printed notification shall include publication in at least one newspaper
48 having general circulation within the county in which the proposed disposal area is to be
49 located. Broadcast notification shall include public service announcements on radio stations
50 that have broadcast coverage within the county in which the proposed disposal area is to be
51 located. Such public notices shall include the addresses of the applicant and the department
52 and information on a public comment period. Such public comment period shall begin on the
53 day of the community involvement session and continue for at least thirty days after such

54 session. The applicant shall respond to all persons submitting comments during the public
55 comment period no more than thirty days after the receipt of such comments;

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

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

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

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

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

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

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

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

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

85 (2) Every applicant shall provide a financial assurance instrument or instruments to
86 the department prior to the granting of a construction permit for a solid waste disposal area.
87 The financial assurance instrument or instruments shall be irrevocable, meet all requirements
88 established by the department and shall not be cancelled, revoked, disbursed, released or
89 allowed to terminate without the approval of the department. After the cessation of active
90 operation of a sanitary landfill, or other solid waste disposal area as designed by the

91 department, neither the guarantor nor the operator shall cancel, revoke or disburse the
92 financial assurance instrument or allow the instrument to terminate until the operator is
93 released from postclosure monitoring and care responsibilities pursuant to section 260.227.

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

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

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

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

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

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

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

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

160 8. If the site proposed for a solid waste disposal area is not owned by the applicant,
161 the owner or owners of the site shall acknowledge that an application pursuant to sections
162 260.200 to 260.345 is to be submitted by signature or signatures thereon. The department
163 shall provide the owner with copies of all communication with the operator, including
164 inspection reports and orders issued pursuant to section 260.230.

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

173 10. (1) Upon receipt of an application for a permit to construct a solid waste
174 processing facility or disposal area, the department shall notify the public of such receipt:

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

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

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

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

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

201 manner which interferes with the closure and, where appropriate, postclosure plans filed with
202 the department.

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

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

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

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

237 requires based on hazardous waste characteristic criteria or site specific geohydrological
238 characteristics or conditions.

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

247 17. Each permit for operation of a facility or area shall be issued only to the person
248 named in the application. Permits are **not** transferable, ~~[as a modification to the permit]~~ **and**
249 **any subsequent assignee, purchaser, or transferee of either the person named in the**
250 **application or of the assets comprising the facility or area shall submit a new application**
251 **to the department.** An application to transfer ownership shall identify the proposed
252 permittee. **The proposed permittee shall comply with all public notice, public meeting,**
253 **financial disclosure, criminal background check, and financial assurance requirements**
254 **in this section.** A disclosure statement for the proposed permittee listing violations contained
255 in the definition of disclosure statement found in section 260.200 shall be submitted to the
256 department. The operation and design plans for the facility or area shall be updated to
257 provide compliance with the currently applicable law and rules. A financial assurance
258 instrument in such an amount and form as prescribed by the department shall be provided for
259 solid waste disposal areas by the proposed permittee prior to transfer of the permit. The
260 financial assurance instrument of the original permittee shall not be released until the new
261 permittee's financial assurance instrument has been approved by the department and the
262 transfer of ownership is complete.

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

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

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

271 21. Upon request of the director of the department of natural resources, the applicant
272 for a permit, any person that could reasonably be expected to be involved in management
273 activities of the solid waste disposal area or solid waste processing facility, or any person who

274 has a controlling interest in any permittee shall be required to submit to a criminal
275 background check under section 43.543.

276 22. All persons required to file a disclosure statement shall provide any assistance or
277 information requested by the director or by the Missouri state highway patrol and shall
278 cooperate in any inquiry or investigation conducted by the department and any inquiry,
279 investigation or hearing conducted by the director. If, upon issuance of a formal request to
280 answer any inquiry or produce information, evidence or testimony, any person required to file
281 a disclosure statement refuses to comply, the application of an applicant or the permit of a
282 permittee may be denied or revoked by the director.

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

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

297 (1) Has on file and in effect with the federal Securities and Exchange Commission a
298 registration statement required under Section 5, Chapter 38, Title 1 of the Securities Act of
299 1933, as amended, 15 U.S.C. Section 77e(c);

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

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

307 25. After permit issuance, each facility shall annually file an update to the disclosure
308 statement with the department of natural resources on or before March thirty-first of each
309 year. Failure to provide such update may result in penalties as provided for under section
310 260.240.

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

314 27. Any person seeking a permit to operate a solid waste disposal area, a solid waste
315 processing facility, or a resource recovery facility shall, concurrently with the filing of the
316 application for a permit, disclose any convictions in this state, county or county-equivalent
317 public health or land use ordinances related to the management of solid waste. If the
318 department finds that there has been a continuing pattern of adjudicated violations by the
319 applicant, the department may deny the application.

320 28. No permit to construct or permit to operate shall be required pursuant to this
321 section for any utility waste landfill located in a county of the third classification with a
322 township form of government which has a population of at least eleven thousand inhabitants
323 and no more than twelve thousand five hundred inhabitants according to the most recent
324 decennial census, if such utility waste landfill complies with all design and operating
325 standards and closure requirements applicable to utility waste landfills pursuant to sections
326 260.200 to 260.345 and provided that no waste disposed of at such utility waste landfill is
327 considered hazardous waste pursuant to the Missouri hazardous waste law.

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

331 **30. Any facility that accepts and stores solid wastes as defined in this chapter**
332 **and that formerly operated under a fertilizer distributor permit issued by the Missouri**
333 **fertilizer control board shall apply for and obtain solid waste permits from the**
334 **department under subsection 1 of this section.**

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