

FIRST REGULAR SESSION

SENATE BILL NO. 416

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR DIXON.

Read 1st time February 27, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1893S.011

AN ACT

To repeal sections 60.530, 60.560, 60.590, 60.620, 194.400, 194.408, 194.409, 236.400, 236.405, 236.410, 236.415, 236.420, 236.425, 236.430, 236.435, 236.440, 236.445, 236.465, 236.470, 236.475, 236.480, 236.495, 236.500, 256.603, 256.605, 256.606, 256.614, 256.623, 256.626, 256.630, 256.637, 256.700, 256.705, 256.710, 258.010, 258.020, 258.030, 258.060, 258.070, 258.080, 259.010, 259.020, 259.030, 259.040, 259.050, 259.070, 259.080, 259.090, 259.100, 259.110, 259.120, 259.140, 259.150, 259.160, 259.170, 259.180, 259.190, 259.200, 259.210, 260.235, 260.249, 260.335, 260.345, 621.250, 640.010, 640.012, 640.017, and 640.430, RSMo, and to enact in lieu thereof fifty-five new sections relating to the department of natural resources, with existing penalty provisions.

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

Section A. Sections 60.530, 60.560, 60.590, 60.620, 194.400, 194.408, 194.409, 236.400, 236.405, 236.410, 236.415, 236.420, 236.425, 236.430, 236.435, 236.440, 236.445, 236.465, 236.470, 236.475, 236.480, 236.495, 236.500, 256.603, 256.605, 256.606, 256.614, 256.623, 256.626, 256.630, 256.637, 256.700, 256.705, 256.710, 258.010, 258.020, 258.030, 258.060, 258.070, 258.080, 259.010, 259.020, 259.030, 259.040, 259.050, 259.070, 259.080, 259.090, 259.100, 259.110, 259.120, 259.140, 259.150, 259.160, 259.170, 259.180, 259.190, 259.200, 259.210, 260.235, 260.249, 260.335, 260.345, 621.250, 640.010, 640.012, 640.017, and 640.430, RSMo, are repealed and fifty-five new sections enacted in lieu thereof, to be known as sections 60.530, 60.560, 60.590, 194.400, 194.408, 236.400, 236.405, 236.415, 236.420, 236.425, 236.430, 236.435, 236.440, 236.445, 236.465, 236.470, 236.475, 236.480, 236.495, 236.500, 256.603, 256.606, 256.614, 256.623, 256.626,

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

13 256.630, 256.637, 256.700, 256.705, 258.010, 258.060, 258.070, 258.080, 259.030,
14 259.050, 259.070, 259.080, 259.090, 259.100, 259.110, 259.120, 259.140, 259.160,
15 259.170, 259.180, 259.190, 259.200, 259.210, 260.235, 260.249, 260.335, 621.250,
16 640.010, 640.012, and 640.017, to read as follows:

60.530. The **department of natural resources, through the** state
2 land surveyor, shall[, under guidance of the department of natural resources and
3 with the recommendation of the land survey commission,] carry out the routine
4 functions and duties of the department of natural resources, as prescribed in
5 sections 60.510 to 60.620 and section 60.670. He or she shall, whenever practical,
6 cause all land surveys, except geodetic surveys, to be executed, under his or her
7 direction by the registered county surveyor or a local registered land surveyor
8 when no registered county surveyor exists. He or she shall perform such other
9 work and acts as shall, in the judgment of the department of natural resources
10 [and with the recommendation of the land survey commission], be necessary and
11 proper to carry out the objectives of sections 60.510 to 60.620 and section 60.670
12 [and,]. Within the limits of appropriations made therefor, and subject to [the
13 approval of the department of natural resources and] the state merit system, **the**
14 **department shall** employ and fix the compensation of such additional employees
15 as may be necessary to carry out the provisions of sections 60.510 to 60.620 and
16 section 60.670.

60.560. Upon their request, the state attorney general shall advise the
2 [land survey commission or the] department of natural resources [or], **including**
3 the state land surveyor, with respect to any legal matter, and shall represent the
4 [land survey commission or] department of natural resources in any proceeding
5 in any court of the state in which the [land survey commission or] **department's**
6 land survey program shall be a party.

60.590. 1. On request of the department of natural resources or the state
2 land surveyor, all city and county recorders of deeds, together with all
3 departments, boards or agencies of state government, county, or city government,
4 shall furnish to the department of natural resources [or], **through** the state land
5 surveyor, certified copies of desired records which are in their custody. This
6 service shall be free of cost when possible; otherwise, it shall be at actual cost of
7 reproduction of the records. On the same basis of cost, the department of natural
8 resources shall furnish records within its custody to other agencies or
9 departments of state, county or city, certifying them.

10 2. The department of natural resources may produce, reproduce and sell

11 maps, plats, reports, studies, and records, and [the commission shall recommend
12 to] the department of natural resources [the charges] **may accept payment**
13 therefor. All income received shall be promptly deposited in the state treasury
14 to the credit of the department of natural resources document services fund.

194.400. As used in sections 194.400 to 194.410 the following words and
2 phrases mean:

3 (1) "Committee", [the unmarked human burial consultation] **any**
4 committee **deemed necessary or advisable by the department of natural**
5 **resources to consult on matters concern human burial;**

6 (2) "Cultural items", shall include:

7 (a) "Associated funerary objects", objects that are reasonably believed to
8 have been placed with individual human remains either at the time of death, or
9 during the death rite or ceremony, or later, and all other items exclusively made
10 for burial purposes including items made to contain human remains;

11 (b) "Unassociated funerary objects", objects that are reasonably believed
12 to have been placed with individual human remains either at the time of death
13 or during the death rite or ceremony, or later, which can be identified by a
14 preponderance of the evidence as related to known human remains or an
15 unmarked human burial site or can be identified as having been removed from
16 a specific unmarked human burial site;

17 (3) "General archaeological investigation", refers to:

18 (a) Excavations performed by professional archaeologists usually
19 consisting of a structured scientific undertaking comprised of three segments
20 including field investigations, laboratory analysis, and preparation and
21 submission of a report of investigation; and

22 (b) Identification of the presence of human remains in excavated materials
23 considered to occur at the completion of the laboratory analysis segment of the
24 studies as above;

25 (4) "Professional archaeologist", a person who has a graduate degree in
26 archaeology, anthropology, or closely related field, at least one year of full-time
27 professional experience or equivalent specialized training in archaeological
28 research, administration of management, or at least four months of supervised
29 field and analytic experience in general North American archaeology and
30 demonstrated ability to carry archaeological research to completion, as evidenced
31 by a master of arts or master of science thesis, or report equivalent in scope and
32 quality;

33 (5) "Second or subsequent violation", any violation, other than the first
34 violation, of a criminal law related to the trafficking of human remains or cultural
35 items located in the state of Missouri, the United States, or any other state;

36 (6) "Skeletal analyst", a person possessing a postgraduate degree
37 representing specialized training in skeletal biology, forensic osteology, or other
38 relevant aspects of physical anthropology. The skeletal analyst shall have a
39 minimum experience of one year in conducting laboratory reconstruction and
40 analysis, and shall have demonstrated the ability to design and execute a skeletal
41 analysis, and to present the written results and interpretations of such analysis
42 in a thorough, scientific, and timely manner;

43 (7) "Specific scientific investigations", refers to detailed studies of human
44 remains by professional archaeologists, anthropologists, osteologists, or
45 professionals in related disciplines;

46 (8) "State historic preservation officer", the director of the department of
47 natural resources **or his or her designee**;

48 (9) "Unmarked human burial", any instance where human skeletal
49 remains are discovered or believed to exist, but for which there exists no written
50 historical documentation or grave markers.

194.408. Whenever an unmarked human burial or human skeletal
2 remains are reported to the state historic preservation officer, the state historic
3 preservation officer shall proceed as follows:

4 (1) Insofar as possible, the state historic preservation officer shall make
5 reasonable efforts to identify and locate persons who can establish direct kinship
6 with or descent from the individual whose remains constitute the burial. The
7 state historic preservation officer, in consultation with the most closely related
8 family member, shall determine the proper disposition of the remains;

9 (2) When no direct kin or descendants can be identified or located, but the
10 burial or remains can be shown to have ethnic affinity with living peoples, the
11 state historic preservation officer in consultation with the leaders of the ethnic
12 groups having a relation to the burial or remains shall determine the proper
13 disposition of the remains. But, if the state historic preservation officer
14 determines the burial or remains are scientifically significant, no reinterment
15 shall occur until the burial or remains have been examined by a skeletal analyst
16 designated by the state historic preservation officer. In no event shall
17 reinterment be delayed more than one year;

18 (3) When the burial or remains cannot be related to any living peoples,

19 the state historic preservation officer[, in consultation with the unmarked human
20 burial consultation committee,] shall determine the proper disposition of the
21 burial or remains. But, if the state historic preservation officer determines the
22 burial or remains are scientifically significant, no reinterment shall occur until
23 the burial or remains have been examined by a skeletal analyst designated by the
24 state historic preservation officer. In no event shall reinterment be delayed more
25 than one year unless otherwise and to the extent determined by the committee;

26 (4) Notwithstanding subdivisions (2) and (3) of this section the state
27 historical preservation officer may [seek approval from the unmarked human
28 burial consultation committee to] delay reinterment of the remains for an
29 additional scientific study in a facility chosen by the state historic preservation
30 officer. [If the study is approved by the committee reinterment shall be delayed
31 for a period as specified by the committee.]

236.400. As used in sections 236.400 to 236.500, standards, rules and
2 regulations promulgated hereunder, unless the context otherwise requires the
3 following words and terms mean:

4 (1) "Agricultural dam", any dam constructed to impound water for use in
5 irrigation, livestock watering, or commercial fish rearing and sale;

6 (2) "Alterations", "repairs", or either of them, such alterations or repairs
7 as affect the safety of a dam or reservoir, or public safety, life or property;

8 (3) "Chief engineer", the head of the dam and reservoir safety program of
9 the department of natural resources or his **or her** representative;

10 (4) "Construction permit", a written authorization issued by the [council]
11 **department, through the chief engineer**, giving the owner the right to
12 construct, alter, enlarge, reduce, repair or remove a dam or reservoir or
13 appurtenances thereto, with such conditions as are necessary to adequately
14 protect the public safety, life, property, the dam or reservoir;

15 (5) "Dam", any artificial or manmade barrier which does or may impound
16 water, and which impoundment has or may have a surface area of fifteen or more
17 acres of water at the water storage elevation, or which is thirty-five feet or more
18 in height from the natural bed of the stream or watercourse measured at the
19 downstream toe of the barrier or dam, if it is not across a streambed or
20 watercourse, together with appurtenant works. Sections 236.400 to 236.500 shall
21 not apply to any dam which is not or will not be in excess of thirty-five feet in
22 height or to any dam or reservoir licensed and operated under the Federal Power
23 Act;

24 (6) ["Dam and reservoir safety council", as designated by sections 236.400
25 to 236.500 and referred to as the "council" shall consist of seven members
26 appointed by the governor according to the provisions of sections 236.400 to
27 236.500;

28 (7) "Director", the director of the department of natural resources of the
29 state of Missouri;

30 [(8)] (7) "Enlargement", any change in or addition to an existing dam or
31 reservoir which raises the height of a dam, increases the watershed for a
32 reservoir, or raises the water storage elevation of the water impounded by a dam
33 or reservoir;

34 [(9)] (8) "Experienced professional engineer", an engineer registered in
35 the state of Missouri and experienced in hydraulics, hydrology and civil
36 engineering as applied to dam design and construction;

37 [(10)] (9) "Maintenance", the proper keeping of all aspects of a dam or
38 reservoir and appurtenances thereto, that pertain to safety, in a state of repair
39 and working order as necessary to comply with sections 236.400 to 236.500, any
40 permit hereunder, and protect public safety, life and property;

41 [(11)] (10) "Natural physical changes", those changes not directly or
42 indirectly caused by man which affect the safety of the dam or reservoir;

43 [(12)] (11) "Operation", the physical changes, natural or manmade that
44 occur or are made to a dam or reservoir, or operation of the mechanisms or
45 appurtenances of the dam or reservoir, which affect or may affect public safety,
46 life or property;

47 [(13)] (12) "Owner", a person who owns, controls, operates, maintains,
48 manages, or proposes to construct a dam or reservoir including:

49 (a) The state and its departments, institutions, agencies, and political
50 subdivisions, but not the United States government;

51 (b) A municipal or quasi-municipal corporation;

52 (c) A district;

53 (d) A public utility;

54 (e) A natural person, firm, partnership, association, corporation, political
55 subdivision, or legal entity;

56 (f) The duly authorized agents, lessees, or trustees of any of the foregoing;

57 (g) Receivers or trustees appointed by any court for any of the foregoing;

58 [(14)] (13) "Permit", a construction, safety or registration permit;

59 [(15)] (14) "Permit applicant", an owner who applies for a construction,

60 safety or registration permit;

61 [(16)] (15) "Reduction", any decrease in the height of a dam, watershed
62 size, or water storage elevation of the water impounded by a dam or reservoir;

63 [(17)] (16) "Registration permit", a permit issued for a period not to
64 exceed five years [by the council] to the owner of a dam or reservoir in existence
65 on September 28, 1979, or which becomes subject to the provisions of sections
66 236.400 to 236.500 for such dams and reservoirs which are in a properly
67 maintained condition or which have made and complied with recommendations
68 for corrections of observed defects of the dam or reservoir and have been
69 examined and approved in accordance with sections 236.400 to 236.500 and
70 standards, rules and regulations and guidelines issued pursuant to sections
71 236.400 to 236.500;

72 [(18)] (17) "Reservoir", any impoundment which results from a dam as
73 defined in sections 236.400 to 236.500;

74 [(19)] (18) "Safety permit", a permit issued to the owner for a period of
75 five years, or less if safety considerations so require, by the [council]
76 **department** indicating that the dam meets the requirements of sections 236.400
77 to 236.500 and the guidelines, standards, rules and regulations issued pursuant
78 to sections 236.400 to 236.500, and containing such conditions as to operations,
79 maintenance and repair as are necessary to adequately protect public safety, life
80 and the dam or reservoir;

81 [(20)] (19) "Water", water, other liquid or tailings;

82 [(21)] (20) "Water storage elevation", that elevation of water surface at
83 the principal spillway which could be obtained by the dam or reservoir were there
84 no outflow and were the reservoir full of water;

85 [(22)] (21) "Watershed", the area, usually expressed in acres of square
86 miles, that contributes or may contribute surface water to a reservoir.

236.405. 1. There is hereby created a dam and reservoir safety program
2 in the department of natural resources. The [council] **department, through**
3 **the chief engineer**, shall promulgate rules, regulations, guidelines, and
4 standards relating to the determination of whether a dam or reservoir constitutes
5 a danger to public safety, life or property to be effective [upon approval by the
6 director] **as provided by law**.

7 2. The director of the department of natural resources shall employ an
8 experienced professional engineer as chief engineer and assistants to administer
9 the activities of the dam and reservoir safety program.

10 3. The chief engineer shall be selected under the state merit system on
11 the basis of professional experience directly related to the design and construction
12 of dams and reservoirs.

13 4. The findings, opinions, and orders of the [council and] **department**,
14 **through** the chief engineer, shall be kept as permanent public records in the
15 offices of the department of natural resources.

16 5. No rule or portion of a rule promulgated under the authority of sections
17 236.400 to 236.500 shall become effective unless it has been promulgated
18 pursuant to the provisions of section 536.024.

236.415. 1. The [council considering recommendations of] **department**,
2 **through** the chief engineer [shall, subsequent to a public meeting, adopt, subject
3 to the approval of the director, the general technological guidelines and the], **may**
4 **adopt** standards, guidelines, rules and regulations applicable to permits, the
5 design, construction, maintenance, operation, alteration, repair, enlargement,
6 reduction, removal or natural physical changes that may occur to a dam or
7 reservoir. Violations of guidelines, standards, rules and regulations are violations
8 of sections 236.400 to 236.500 permitting the revocation, suspension, or refusal
9 to issue any permit required by sections 236.400 to 236.500. No standards,
10 guidelines, rules, or regulations shall be adopted, or any amendment or repeal
11 thereof shall be effective, except after a public hearing to be held after thirty
12 days' prior notice by advertisement or press release, and publication as required
13 in chapter 536 of the date, time and place of the hearing and opportunity given
14 to the public to be heard.

15 2. At the hearing, opportunity to be heard [by the council] with respect
16 to the subject thereof shall be afforded any interested person upon written
17 request to the [council] **department**, addressed to the chief engineer, received
18 not later than seven days prior to the hearing and may be afforded to other
19 persons if convenient. In addition, any interested person, whether or not heard,
20 may submit, within seven days subsequent to the hearings, a written statement
21 of his **or her** views. The [council] **department** may solicit the views, in writing,
22 of persons who may be affected by, or interested in, proposed rules and
23 regulations, standards or guidelines. Any person heard or represented at the
24 hearing or making written request for notice shall be given written notice of the
25 action of the [council] **department** with respect to the subject thereof.

26 3. The [council upon hearing the recommendations of] **department**,
27 **through** the chief engineer [and], **after** reviewing [the] **an** application for a

28 construction or registration permit, shall approve or deny the permit
29 application. The [council] **department** may delegate authority to approve or
30 deny permit applications to the chief engineer, [whose] **and such** actions shall
31 be subject to appeal [to the council] as provided in subsection 2 of section 236.425
32 **and section 621.250.**

33 4. No standard, rule or regulation or guideline, or amendment or repeal
34 thereof[, adopted by the council] shall be in force and effect until it has been
35 approved in writing by the director and the requirements of chapter 536 are
36 satisfied. [The affirmative vote of at least four members of the council shall be
37 required for adoption.]

236.420. The [council, with the advice and assistance of] **department,**
2 **through** the chief engineer, shall carry out a state program of inspection of dams
3 and reservoirs in accordance with **applicable** regulations [adopted by the
4 council]. All dams and reservoirs in this state shall be inspected on a periodic
5 basis to determine if they constitute a threat to public safety, life or
6 property. The chief engineer shall submit reports to the director [and the
7 council] concerning the condition of each dam or reservoir inspected, and
8 [recommendations as to] **the status of** any alterations or repairs needed.

236.425. 1. The **department, through the** chief engineer, shall
2 administer the provisions of sections 236.400 to 236.500 by:

3 (1) [Recommending] **Adopting** general technological **standards or**
4 guidelines that pertain to the design, construction, maintenance, operation, use,
5 alteration, repair, enlargement, reduction, or natural physical changes of, or that
6 may occur to, a dam or reservoir including their removal; except that, detailed
7 technical specifications shall not be promulgated to regulate the design,
8 construction, operation, maintenance, use, alteration, repair or removal of a dam
9 or reservoir. Such **standards or** guidelines shall [not be] **become** effective
10 [until adopted by the council and approved by the director at a public meeting,
11 after notice requirements set forth in subsection 1 of] **as provided in** section
12 236.415 [herein have been satisfied];

13 (2) [Making recommendations concerning the] Issuing, continuing in
14 effect, revoking, modifying, suspending, or denying, under such conditions as
15 prescribed by sections 236.400 to 236.500 and such rules as may be adopted to
16 protect public safety, life, property, dams and reservoirs, construction permits for
17 the construction, alteration, enlargement, reduction, repair or removal of dams
18 or appurtenances thereto, and safety and registration permits to insure

19 continuing protection of public safety, life, property, dams and reservoirs, for all
20 dams subject to the provisions of sections 236.400 to 236.500;

21 (3) Making such investigations, including **meetings or** hearings, as are
22 proper to protect public safety, life and property from an unsafe dam or reservoir,
23 and to determine whether any permits should be issued, continued, revoked,
24 modified, suspended, or denied or whether any violations of sections 236.400 to
25 236.500, standards, or rules or regulations have occurred or are occurring;

26 (4) Entering, at any reasonable time, any private or public premises as
27 necessary to make an investigation or inspection of a dam or reservoir, or records
28 kept, pertaining thereto, and such inspection shall follow reasonable notice to the
29 owner given prior to such investigation or inspection except in the case of an
30 emergency threatening public safety, life or property, in which case such
31 inspection or investigation may be made without prior notice. A suitably
32 restricted search warrant, upon a showing of probable cause in writing and upon
33 oath, shall be issued by any judge having jurisdiction, to [the chief engineer or
34 his] **a representative of the department** for the purpose of enabling [him to
35 make] the inspection.

36 2. The [council] **director, or his or her representative**, shall meet
37 with [or hear the appeal of] a permit applicant and his **or her** representative
38 upon request of the permit applicant if the chief engineer has rejected the
39 application for a construction, safety or registration permit. **The department's**
40 **final decision may be appealed as provided in sections 621.250.**

236.430. The [council] **department** shall retain, employ, provide for and
2 compensate within appropriations available therefor, such consultants, assistants,
3 and other employees on a full- or part-time basis as may be necessary to carry out
4 the provisions of sections 236.400 to 236.500 and prescribe the times at which
5 they shall be appointed and their powers and duties.

236.435. 1. Prior to the commencement of the construction, alteration,
2 enlargement, reduction or removal of a dam or reservoir, the owner shall apply
3 to the [council] **department** and upon satisfying the requirements of sections
4 236.400 to 236.500 and the rules, regulations and standards promulgated
5 pursuant hereto, obtain a construction permit.

6 2. The application for a construction permit shall bear the seal and
7 signature of an experienced professional engineer registered in Missouri or
8 employed by a qualified engineering division of a state or federal agency regularly
9 engaged in dam construction for soil and water conservation, or irrigation or

10 relating to wildlife conservation and shall be accompanied by the design report
11 and plans and specification of the proposed design, alteration, enlargement,
12 reduction, repair or removal of the dam or reservoir.

13 3. Any person constructing or owning a dam or reservoir, or living or
14 owning property in an area affected, or whose safety may be affected by such dam
15 or reservoir may consult with the chief engineer concerning such dam or
16 reservoir.

17 4. The [council upon hearing the recommendation of] **department,**
18 **through** the chief engineer, shall approve or deny an application for a
19 construction permit within forty-five days after its receipt or the completion of
20 any hearings in connection with such application, whichever is later. The permit
21 shall be issued upon the receipt of the application if, in the judgment of the
22 [council] **department,** requirements of sections 236.400 to 236.500 and all
23 standards, rules and regulations hereunder are satisfied and the design will be
24 adequate to protect the public safety, life and property.

25 5. The [council upon hearing the recommendation of] **department,**
26 **through** the chief engineer, may reject the application if it decides that there is
27 insufficient information to determine the safety of the proposed construction,
28 alteration, enlargement, reduction or removal of the dam or reservoir or that the
29 construction, alteration, enlargement, reduction or removal of the dam or
30 reservoir would endanger public safety, life or property, or otherwise not comply
31 with sections 236.400 to 236.500 and any rules, standards, guidelines and
32 regulations adopted hereunder.

33 6. A landowner who now owns or proposes to construct an agricultural
34 dam or reservoir which will be used primarily for agricultural purposes will be
35 exempt from all provisions of sections 236.400 to 236.500. If the [council with the
36 advice of] **department, through** the chief engineer, determines that the dam or
37 reservoir is no longer used primarily for agricultural services, it shall become
38 subject to the provisions of sections 236.400 to 236.500.

39 7. Dams or their construction, alterations, enlargements, reductions or
40 removals designed by, and their construction, alteration, enlargement, reduction
41 or repair or removal monitored by, a qualified engineer regularly engaged in dam
42 construction for soil and water conservation or irrigation or relating to wildlife
43 conservation are for the purposes of such construction or other listed actions
44 exempt from the provisions of this section except that the plans for the dam shall
45 be filed with the chief engineer prior to construction, or other listed

46 action. Amended plans shall be filed at the completion of construction or other
47 listed action if there have been significant deviations from the previously filed
48 plans.

236.440. 1. The owner shall notify the **[council] department, through**
2 **the chief engineer**, upon completion of construction, alteration, enlargement,
3 or reduction of the dam or reservoir. This notification shall bear the seal and
4 signature of an experienced professional engineer and shall be accompanied by
5 an application for a safety permit. The owner of any dam or reservoir subject to
6 the provisions of sections 236.400 to 236.500 shall obtain a safety permit
7 following completion of construction.

8 2. Upon receipt of complete and proper application for a safety permit,
9 including notification of completion by the owner and certification by an
10 experienced professional engineer that the new construction, alteration,
11 enlargement or reduction has been completed in accordance with the provisions
12 of the construction permit and sections 236.400 to 236.500, the **[council]**
13 **department, through the chief engineer**, shall upon receipt of the
14 application issue a safety permit. The **[council upon advice of] department,**
15 **through** the chief engineer, may deny the application if it determines that
16 violations of the construction permit or sections 236.400 to 236.500 exist. If
17 revisions have been made which vary substantially from the provisions of the
18 construction permit, it must be shown that the revisions do not endanger public
19 safety, life or property. The safety permit for dams constructed pursuant to a
20 construction permit issued under sections 236.400 to 236.500, may contain
21 conditions the **[council upon advice of] department, through** the chief engineer,
22 determines are necessary for the protection of public safety, life and property and
23 a schedule and timetable for the dam and reservoir to achieve compliance with
24 the construction permit and provisions of sections 236.400 to 236.500, standards,
25 rules and regulations promulgated hereunder, but such conditions shall not be
26 more stringent or restrictive than those contained in the construction permit.

27 3. Owners of dams and reservoirs in existence on September 28, 1979,
28 shall obtain registration permits for dams of fifty to seventy feet in height within
29 four years, and for dams up to fifty feet in height within six years of September
30 28, 1979, or as otherwise required by the provisions of sections 236.400 to 236.500
31 and rules and regulations adopted hereunder. A registration permit shall be
32 issued by the **[council upon the advice of] department, through** the chief
33 engineer, for dams and reservoirs only after it is determined that the dam meets

34 the standards of sections 236.400 to 236.500 and rules and regulations hereunder,
35 and any recommendations made by the inspecting engineer pursuant thereto.

36 4. Upon complete and proper application for a registration permit, on
37 forms provided by the department of natural resources, by the owner of a dam in
38 existence upon September 28, 1979, including a certification by an experienced
39 professional engineer or an engineering division of a state or federal agency
40 regularly engaged in dam construction for soil or water conservation, irrigation,
41 or relating to wildlife conservation, that the dam has been inspected in
42 accordance with sections 236.400 to 236.500, standards, rules and regulations and
43 guidelines promulgated hereunder, and that the owner has complied with the
44 inspecting engineer's or agency's recommendations necessary to correct observed
45 defects of the dam or reservoir, the **[council] department, through the chief**
46 **engineer**, shall, upon receipt of the application, issue a registration permit. The
47 **[council upon hearing the recommendations of] department, through** the chief
48 engineer, may deny the application if it determines that the owner has not
49 complied with the inspecting engineer's or agency's recommendations.

50 5. For dams for which construction was completed prior to the effective
51 date of the construction permit requirements hereunder, the registration permit
52 may contain conditions the **[council upon hearing recommendations of]**
53 **department, through** the chief engineer, determines to be necessary to bring
54 the dam and reservoir into compliance with sections 236.400 to 236.500 and
55 standards, rules and regulations promulgated hereunder.

56 6. If a dam or reservoir has been removed by the owner, the **[council]**
57 **department, through the chief engineer**, shall issue a final approval upon
58 notification by the owner and receipt of certification by an experienced
59 professional engineer that the removal has been carried out in accordance with
60 the provisions of the construction permit issued for such removal. Failure to
61 obtain final approval shall be a violation of sections 236.400 to 236.500.

62 7. The **[council] department, through the chief engineer**, shall issue
63 safety permits for dams or their construction, alterations, enlargements,
64 reductions or removals designed by, and their construction or other listed actions
65 monitored by, a state or federal agency engaged in dam construction for soil and
66 water conservation, irrigation or relating to wildlife conservation provided the
67 owners obtain from such agency and file with the chief engineer a statement upon
68 completion of the construction or other listed actions and at not greater than five
69 year intervals, and with every application for renewal of a safety permit, that the

70 dam conforms to the plans on file with the chief engineer and is in a safe,
71 properly maintained condition.

72 8. The owner shall apply for renewal of a safety or registration permit not
73 less than sixty days prior to expiration of the previously issued permit. The chief
74 engineer shall determine if the dam and reservoir are essentially as described in
75 the latest permit issued for that dam and reservoir, whether they satisfy the
76 requirements of sections 236.400 to 236.500 and any rules, regulations, standards
77 and guidelines adopted pursuant to sections 236.400 to 236.500 and whether any
78 inspection conducted in connection with the permit renewal reveals any defect in
79 the dam or reservoir which would threaten public safety, life or property. Unless
80 the **department, through the** chief engineer, determines that the dam and
81 reservoir are not properly maintained, do not satisfy the requirements of the
82 permit, act or rules, regulations, standards and guidelines promulgated
83 hereunder, or that defects revealed by the inspection are not corrected, the
84 [council upon hearing the recommendations of] **department, through** the chief
85 engineer, shall issue or renew the safety or registration permit upon forty-five
86 days of the receipt of a complete and proper application. The [council]
87 **department, through the chief engineer,** may require the owner to furnish
88 a certification, as a part of an application to renew a permit hereunder, by an
89 experienced professional engineer or a qualified engineering division of a state
90 or federal agency regularly engaged in dam construction for water conservation,
91 irrigation or relating to wildlife conservation that the dam is in a properly
92 maintained condition and that any recommendation for correction of defects
93 which violate sections 236.400 to 236.500, guidelines, rules, regulations and
94 standards hereunder or which threaten public safety, life or property have been
95 complied with and that the engineer detected no other such defects which have
96 not been corrected.

97 9. If a barrier or water impoundment becomes a dam or reservoir through
98 alteration or enlargement as defined herein, it shall be subject to the provisions
99 of sections 236.400 to 236.500.

100 10. Failure to obtain and comply with a permit as required in this section
101 is a violation of sections 236.400 to 236.500.

236.445. 1. If it is found that a dam or reservoir presents a threat to
2 public safety, life or property, or that the safety of the dam or reservoir is
3 threatened, the permit for the dam or reservoir shall be suspended and shall be
4 reinstated only when the owner at his **or her** expense has completed the

5 necessary alteration or has established such operational procedures as the
6 [council upon hearing the recommendations of] **department, through** the chief
7 engineer, deems necessary for protection of the public safety, life, property, the
8 dam or reservoir. If necessary for such protection, the [council] **department,**
9 **through the chief engineer,** may require the owner at his **or her** expense to
10 remove the dam or reservoir, or if the owner refuses or neglects to act, the state
11 may alter or remove the dam or reservoir, and the [chief engineer] **department**
12 may recover the costs of such action as provided in section 236.450.

13 2. If the owner refuses to alter or remove a dam or reservoir as directed
14 when found to be a threat as set forth in sections 236.400 to 236.500, he shall be
15 in violation of sections 236.400 to 236.500 and the permit requirements
16 hereunder, and such action shall subject the owner to the enforcement provisions
17 contained herein and revocation of the permit.

236.465. Irrespective of any other provisions of sections 236.400 to
2 236.500, the following provisions shall apply to the construction, alteration or
3 enlargement of tailing, slime and settling ponds and to other similar industrial
4 water retention structures included within the definitions of dam or reservoir in
5 section 236.400:

6 (1) Applications for construction, safety or registration permits shall be
7 submitted as provided in section 236.435 and section 236.440 except that design
8 plans and specifications which outline any anticipated enlargement of the
9 industrial water retention structure shall be included;

10 (2) It shall not be necessary to reapply for a permit each time the
11 structure is enlarged if the enlargement plans have been submitted in and
12 approved with the original application, and the provisions of subdivision (3) of
13 this section have been satisfied;

14 (3) Upon notification of the chief engineer, bearing the seal and signature
15 of an experienced professional engineer, that the initial phase of construction has
16 been completed in accordance with the provisions of the construction permit and
17 sections 236.400 to 236.500, or if a registration permit has been issued as
18 provided in subdivision (1) of this section, and before any enlargement is begun,
19 and if no violation of sections 236.400 to 236.500 can be shown, a safety permit
20 or a registration permit with special provisions that authorize the planned
21 enlargement to the initially constructed structure shall be issued, on application,
22 if enlargement plans were included and approved in the original application;

23 (4) It is not necessary to retain continuously a professional engineer after

24 the initial stage of construction;

25 (5) The dam shall be inspected by an experienced professional engineer
26 registered in the state of Missouri as required to renew the safety permit or
27 registration permit at five-year intervals unless safety of the public, life and
28 property require a shorter period of time;

29 (6) The chief engineer shall make inspections of these structures as
30 necessary to insure adequate protection for public safety, life and property;

31 (7) Where it is shown that a tailings, slime and settling pond, or other
32 similar water retention structure is subject to inspection for safety, using
33 standards at least as stringent as those required under sections 236.400 to
34 236.500, by a federal or state agency and the owner notifies the [council]
35 **department, through the chief engineer**, that the structure is subject to such
36 inspection, such structures shall be exempt from the provisions of sections
37 236.400 to 236.500.

236.470. 1. At any public hearing, all testimony taken [before the council,
2 or a hearing officer appointed by the council chairman,] shall be under oath and
3 recorded stenographically. The transcript so recorded shall be made available to
4 any person upon payment of the usual charge therefor.

5 2. In any such hearing, [any member of the council or the hearing officer
6 shall] **the department may** issue [in the name of the council] a notice of
7 hearing and subpoenas. Subpoenas shall be issued and enforced as provided in
8 section 536.077. [The rules of discovery that apply in any civil case apply to
9 hearings held by the council.]

10 3. All **public** hearings to approve, amend or repeal guidelines, standards
11 or rules and regulations shall be held [before at least four members of the
12 council] **in a manner consistent with chapter 536 and chapter 610**.

13 [4. All other hearings may be held before one council member designated
14 by the council chairman or a hearing officer who shall be a member of the
15 Missouri bar and appointed by the council chairman. The hearing officer or
16 council member shall preside at the hearing and hear all evidence and rule on the
17 admissibility of evidence. The hearing officer or council member shall make
18 recommended findings of fact and may make recommended conclusions of law to
19 the council.

20 5. All final orders or determinations or other final actions by the council
21 shall be approved in writing by at least four members of the council. Any council
22 member approving in writing any final order or determination or other final

23 action, who did not attend the hearing, shall do so only after reviewing all
24 exhibits and reading the entire transcript.]

236.475. In the absence of willful and wanton misconduct, no action shall
2 be brought against the **department, any members of the former dam and**
3 **reservoir safety** council, the chief engineer, or [his] **their** agents, [or
4 department] employees, or private individuals employed as consultants by the
5 department for the recovery of damages caused by the partial or total failure of
6 any dam or reservoir or through the use or operation of any dam or reservoir
7 upon the ground that such person is liable by virtue of any of the following:

- 8 (1) The approval of a dam or reservoir or permits therefor;
- 9 (2) The issuance or enforcement of orders relating to maintenance,
10 operation or repair of a dam or reservoir;
- 11 (3) Control and regulation of a dam or reservoir;
- 12 (4) Measures taken to protect against failure during an emergency.

236.480. 1. All final decisions, orders, actions or determinations made
2 pursuant to the provisions of sections 236.400 to 236.500 [are] **may be appealed**
3 **pursuant to section 621.250**, subject to judicial review [pursuant to the
4 provisions of chapter 536] **as provided by law**. No judicial review shall be
5 available, however, until all administrative remedies are exhausted.

6 2. In any suit filed pursuant to section 536.050 concerning the validity of
7 the standards, rules, guidelines and regulations promulgated hereunder, the court
8 shall review the record made pursuant to their adoption to determine the validity
9 and reasonableness of such standards, rules, guidelines and regulations and may
10 hear such additional evidence as it deems necessary.

236.495. 1. In carrying out the provisions of sections 236.400 to 236.500
2 and to the extent not inconsistent with chapter 491, the **department, through**
3 **the** chief engineer [or council], may subpoena witnesses and compel their
4 attendance, and may also require the submission of books, papers, documents or
5 other pertinent data in any hearing or enforcement proceedings hereunder or in
6 any case wherein a violation of this chapter is alleged. Upon failure or refusal
7 to comply with such order or upon failure to honor a subpoena, as herein
8 provided, the [council] **department** may request the attorney general or a
9 prosecuting attorney to apply to the circuit court having jurisdiction to enforce
10 compliance.

11 2. The [council] **department** may request the attorney general or a
12 prosecuting attorney, in the name of the state, to institute a suit for injunctive

13 relief to stop or prevent violations of the provisions of sections 236.400 to 236.500,
14 permits, standards, orders and rules and regulations promulgated hereunder,
15 which shall be violations of sections 236.400 to 236.500, or to restrain any
16 violation thereof, or after written notification of violation by the [council]
17 **department**, and a reasonable time to correct such violation, for the assessment
18 of a penalty of up to one thousand dollars per day, for each day or part thereof
19 the violation continues to occur after such notice. Such action may be brought in
20 any county where the defendant's principal place of business is located, where the
21 dam or reservoir is located, or the violation does or may occur.

236.500. 1. Any person who willfully violates any of the provisions of
2 sections 236.400 to 236.500 is guilty of a misdemeanor and, upon conviction, shall
3 be punished by a fine of not less than five hundred dollars nor more than ten
4 thousand dollars, or by confinement in the county jail for a term of not less than
5 thirty days nor more than one year, or by both such fine and confinement.

6 2. In the event of a continuing violation, each day that the violation
7 continues shall constitute a separate and distinct offense.

8 3. Any person who willfully obstructs, hinders or prevents the [council,
9 the chief engineer] **department** or [his] **its** agents or employees from performing
10 the duties imposed by sections 236.400 to 236.500 and rules and regulations
11 promulgated hereunder or who willfully resists the [council, the chief engineer]
12 **department** or [his] **its** agents in the performance of the duties imposed on
13 them by sections 236.400 to 236.500 and rules and regulations promulgated
14 hereunder is guilty of a misdemeanor and, upon conviction, shall be punished as
15 provided in subsection 1 of this section.

16 4. Any owner who willfully engages in the construction, repair, alteration
17 or removal of any dam or reservoir without a construction permit or in violation
18 of a construction permit or willfully violates the requirements of or for a safety
19 or registration permit is guilty of a misdemeanor and, upon conviction, shall be
20 punished as provided in subsection 1 of this section.

256.603. As used in sections 256.600 to 256.640, the following terms
2 mean:

3 (1) "Abandoned well", a well shall be deemed abandoned which is in such
4 a state of disrepair that continued use for the purpose of thermal recovery or
5 obtaining groundwater is impractical and which has not been in use for a period
6 of two years or more. The term "abandoned well" includes a test hole or a
7 monitoring well which was drilled in the exploration for minerals, or for

8 geological, water quality or hydrologic data from the time that it is no longer used
9 for exploratory purposes and that has not been plugged in accordance with rules
10 and regulations pursuant to sections 256.600 to 256.640;

11 (2) ["Board", the body created in section 256.605;

12 (3)] "Certification report", a form to be sent to the division upon
13 completion of any well which shows the location, static water level, total depth,
14 initial pumpage, hole size, casing size and length, and name of well owner;

15 [(4)] (3) "Division" or "**department**", the **department of natural**
16 **resources, through the state geologist and** division of geology and land
17 survey;

18 [(5)] (4) "Driller's log", a record accurately kept at the time of drilling
19 showing the depth, thickness, character of the different strata penetrated,
20 location of water-bearing strata, depth, size and character of casing installed,
21 together with any other data or information required on the certification report
22 forms;

23 [(6)] (5) "Examination", an assessment of professional competency
24 administered to applicants;

25 [(7)] (6) "Heat pump installation contractor", any person, including
26 owner, operator or drilling supervisor who engages for compensation in the
27 drilling, boring, coring, or construction of any well in the state for extracting
28 thermal energy;

29 [(8)] (7) "Monitoring well installation contractor", any person, including
30 owner, operator, or drilling supervisor who engages for compensation in the
31 drilling, boring, coring, or construction of any well in this state which is drilled
32 for geologic data, water quality, or hydrologic data;

33 [(9)] (8) "Permitted well driller", any person who holds a permit issued
34 pursuant to the provisions of sections 256.600 to 256.640;

35 [(10)] (9) "Person", any individual, whether or not connected with a firm,
36 partnership, association, corporation, or any other group or combination acting
37 as a unit;

38 [(11)] (10) "Pump installation contractor", any person, firm or corporation
39 engaged in the business of installing or repairing pumps and pumping equipment;

40 [(12)] (11) "Registration report", a form to be sent to the [division]
41 **department** upon completion of plugging of an abandoned well, raising casings,
42 lining wells, deepening of wells, major repairs and alterations, and jetted wells;

43 [(13)] (12) "Well", an excavation that is drilled, cored, bored, washed,

44 driven, dug, jetted, trenched, or otherwise constructed when the intended use of
45 such excavation is for the acquisition of groundwater supply, for monitoring,
46 thermal exchange or for exploration for minerals or geologic or hydrologic data;
47 but such term does not include a cistern, an excavation made for the purpose of
48 obtaining or for prospecting for oil or natural gas, or for construction foundation
49 data, dewatering of construction sites or dewatering of existing structures,
50 observation wells used as a part of an underground storage tank leak detection
51 system of a minimal depth, as determined by the **[board] department** by rule,
52 or for inserting media to repressure oil or natural-gas-bearing formations;

53 **[(14)] (13)** "Well installation contractor", any person, including owner,
54 operator, and drilling supervisor who engages for compensation in the drilling,
55 boring, coring, or construction of any well in this state. The term, however, shall
56 not include any person who drills, bores, cores, or constructs a water well on his
57 **or her** own property for his **or her** own use or a person who assists in the
58 construction of a water well under the direct supervision of a permitted well
59 installation contractor and is not primarily responsible for drilling operations;

60 **[(15)] (14)** "Well owner", any person or corporation who is the party
61 responsible for having a well drilled and whose name appears on the well
62 registration or certification form.

256.606. 1. The **[board] department** shall adopt and amend rules and
2 regulations pursuant to chapter 536 which may be reasonably necessary to govern
3 the regulation of the well, the heat pump, monitoring well, and pump installation
4 industry in the state of Missouri.

5 2. The **[division with the approval of the board] department** shall
6 prepare examinations and pass upon qualifications of the applicants for
7 permits. The **[division with the approval of the board] department** may
8 recognize, prepare, or carry out continuing education programs for permittees.

256.614. 1. The **[division] department** shall be notified, on certification
2 or registration forms to be provided by the **[division] department**, of the
3 activities specified in this section within sixty days:

- 4 (1) Certification forms shall be used to report:
 - 5 (a) New well construction;
 - 6 (b) New pump installations;
 - 7 (c) Drilling of monitoring wells;
 - 8 (d) Drilling of heat pump wells;
- 9 (2) Registration forms shall be used to report:

- 10 (a) Plugging of wells;
- 11 (b) Raising of casing;
- 12 (c) Lining of wells;
- 13 (d) Deepening of wells;
- 14 (e) Major repairs and alteration to wells;
- 15 (f) Jetted well construction;

16 (3) The certification form shall be accompanied by the certification fee and
 17 the registration form shall be accompanied by the registration fee, however, on
 18 new well construction and new pump installation, only one fee shall be required.

19 2. Any well driller who encounters oil or gas during drilling operations or
 20 a well owner who converts a well from a water well to an oil or gas well shall
 21 notify the [division] **department** and file for a permit [from the Missouri oil and
 22 gas council] **pursuant to chapter 259**, and the well shall be completed in
 23 accordance with the regulations [of the council] **promulgated pursuant to**
 24 **chapter 259**.

256.623. 1. The [board shall] **department may** by rules and regulations
 2 establish reasonable and necessary fees for:

- 3 (1) Permits;
- 4 (2) Renewal of permits;
- 5 (3) Duplicate permits;
- 6 (4) Rig permits;
- 7 (5) Certification reports;
- 8 (6) Registration reports;
- 9 (7) [Division publications (not to exceed the cost of publication and
 10 handling);
- 11 (8)] Logging of wells;
- 12 [(9)] **(8)** Examinations; and
- 13 [(10)] **(9)** Late document submittals.

14 2. The fees shall be set at a level necessary to produce revenue which
 15 shall not substantially exceed the cost and expense of administering sections
 16 256.600 to 256.640. The [board] **department** shall also by rules and regulations
 17 set forth appeal processes for contractors subject to disciplinary action and shall
 18 set forth procedures by which any aggrieved party may [bring a complaint to the
 19 division] **pursue appeals consistent with section 621.250**.

256.626. 1. The [board] **department** shall adopt, amend, and promulgate
 2 in the manner provided by law, and enforce rules and regulations pertaining to

3 the construction and abandonment of wells, and the permitting of operators and
4 contractors under sections 256.600 to 256.640.

5 2. The [board] **department** shall specify by rule and regulation the types
6 of materials which may be used as a coolant in a heat pump well. Preference
7 shall be given to those coolants which would present the least threat to
8 groundwater if released into the environment. The [board] **department** shall
9 also specify by rule and regulation those coolants which shall not be used in heat
10 pump wells due to their potentially harmful effects if released into the
11 environment.

256.630. 1. If the [division] **department** determines that the holder of
2 any permit issued pursuant to sections 256.600 to 256.640 has violated any
3 provision of sections 256.600 to 256.640, or any rule or regulation adopted
4 pursuant thereto, the [division shall] **department may** reprimand, suspend,
5 place any such permittee on probation or revoke a permit.

6 2. The [division] **department** shall cause to have issued and served upon
7 the permittee a written notice of the order or revocation issued under section
8 256.619 or this section, which notice shall include a copy of the order, shall
9 specify the provision of sections 256.600 to 256.640, or the standard, rule or
10 regulation, order or permit term or condition of which the permittee is alleged to
11 be in violation and a statement of the manner in which the person is alleged to
12 violate sections 256.600 to 256.640, or the standard, rule or regulation, order or
13 permit term or condition. Service may be made upon any person within or
14 without the state by registered or certified mail, return receipt requested. Any
15 person against whom the [division] **department** issues an order may appeal it
16 [by filing a petition with the board within thirty days] **pursuant to section**
17 **621.250**. The appeal shall stay the enforcement of the order until a final
18 determination is made.

19 3. [After due consideration of the record, or upon default in appearance
20 of the petitioner at any hearing of which he has been given notice by registered
21 or certified mail, the board shall issue and enter such final order, or make such
22 final determination as it deems appropriate under the circumstances. The board
23 may sustain, reverse or modify the division's order or may make such other orders
24 as it deems appropriate under the circumstances. It shall notify the petitioner
25 or respondent thereof in writing by certified or registered mail.

26 4.] Any affected person aggrieved by an action of the [division]
27 **department under sections 256.600 through 256.640** may appeal [to the

28 board. At any public hearing all testimony taken before the board, or a hearing
29 officer appointed by the board, shall be under oath and recorded
30 stenographically. The transcript so recorded shall be made available to any
31 person upon payment of a fee equal to the cost of reproduction. All final orders
32 and determinations of the board or the division made pursuant to the provisions
33 of sections 256.600 to 256.640 are subject to judicial review pursuant to the
34 provisions of section 536.100. Any] **the department's decision pursuant to**
35 **section 621.250, subject to judicial review as provided by law, if such**
36 person [who] has exhausted all administrative remedies [provided by chapter 536
37 and who is aggrieved by a final decision in a contested case, whether such
38 decision is affirmative or negative in form, shall be entitled to judicial review in
39 the form of a trial de novo in the circuit court of the county wherein the alleged
40 impropriety occurred].

256.637. 1. Any person who willfully violates any of the provisions of
2 sections 256.600 to 256.640 is guilty of a class A misdemeanor.

3 2. In the event of a continuing violation, each day that the violation
4 continues shall constitute a separate and distinct offense.

5 3. Any person who willfully obstructs, hinders or prevents agents of the
6 [division] **department** in the performance of the duties imposed on them by
7 sections 256.600 to 256.640 is guilty of a class A misdemeanor.

8 4. Any well owner who knowingly causes or permits a hazardous or
9 potentially hazardous condition to exist which could cause deterioration of
10 groundwater quality in the system, even in a local area, shall forfeit his **or her**
11 right to an approved, certified well. He shall also be liable to legal action by the
12 state and any neighboring well owners should the condition endanger the
13 groundwater in surrounding areas. If the [division] **department** finds that such
14 conditions exist, it [shall] **may** order the well owner to plug the well.

15 5. Upon receipt of a complaint filed with the [division] **department**
16 alleging that any provision of sections 256.600 to 256.640, or any standard, rule
17 or regulation promulgated thereto was violated, the [division] **department** may
18 institute a civil action in the jurisdiction where the well is located for injunctive
19 relief through the office of the **attorney general** or prosecuting attorney of the
20 county wherein the alleged violation occurred to prevent such violation or further
21 violation, or for the assessment of a civil penalty not to exceed five hundred
22 dollars per day for each day, or part thereof, the violation occurred and continued
23 to occur, or both, as the court deems proper. For the purpose of this section, the

24 filing of a well registration or certification form containing false information shall
25 constitute a violation for each day after notification that such form is on file with
26 the [division] **department**. Any moneys paid in civil penalties shall be deposited
27 in the groundwater protection fund.

256.700. 1. Any operator desiring to engage in surface mining who
2 applies for a permit under section 444.772 shall, in addition to all other fees
3 authorized under such section, annually submit a geologic resources fee. Such fee
4 shall be deposited in the geologic resources fund established and expended under
5 section 256.705. For any operator of a gravel mining operation where the annual
6 tonnage of gravel mined by such operator is less than five thousand tons, there
7 shall be no fee under this section.

8 2. The director of the department of natural resources may require a
9 geologic resources fee for each permit not to exceed one hundred dollars. The
10 director may also require a geologic resources fee for each site listed on a permit
11 not to exceed one hundred dollars for each site. The director may also require a
12 geologic resources fee for each acre permitted by the operator under section
13 444.772 not to exceed ten dollars per acre. If such fee is assessed, the fee per
14 acre on all acres bonded by a single operator that exceeds a total of three hundred
15 acres shall be reduced by fifty percent. In no case shall the geologic resources fee
16 portion for any permit issued under section 444.772 be more than three thousand
17 five hundred dollars.

18 3. Beginning August 28, 2007, the geologic resources fee shall be set at a
19 permit fee of fifty dollars, a site fee of fifty dollars, and an acre fee of six
20 dollars. Fees may be raised as allowed in this subsection by a regulation change
21 promulgated by the director of the department of natural resources. Prior to such
22 a regulation change, the director shall consult [the industrial minerals advisory
23 council created under section 256.710] **with stakeholders** in order to determine
24 the need for such an increase in fees.

25 4. Fees imposed under this section shall become effective August 28, 2007,
26 and shall expire on December 31, 2020. No other provisions of sections 256.700
27 to 256.710 shall expire.

28 5. The department of natural resources may promulgate rules to
29 implement the provisions of sections 256.700 to 256.710. Any rule or portion of
30 a rule, as that term is defined in section 536.010, that is created under the
31 authority delegated in this section shall become effective only if it complies with
32 and is subject to all of the provisions of chapter 536 and, if applicable, section

33 536.028. This section and chapter 536 are nonseverable and if any of the powers
34 vested with the general assembly under chapter 536 to review, to delay the
35 effective date, or to disapprove and annul a rule are subsequently held
36 unconstitutional, then the grant of rulemaking authority and any rule proposed
37 or adopted after August 28, 2007, shall be invalid and void.

256.705. 1. All sums received through the payment of fees under section
2 256.700 shall be placed in the state treasury and credited to the "Geologic
3 Resources Fund" which is hereby created.

4 2. After appropriation by the general assembly, the money in such fund
5 shall be expended to collect, process, manage, and distribute geologic and
6 hydrologic resource information pertaining to mineral resource potential in order
7 to assist the mineral industry and for no other purpose. Such funds shall be
8 utilized by the division of geology and land survey within the department of
9 natural resources.

10 3. Any portion of the fund not immediately needed for the purposes
11 authorized shall be invested by the state treasurer as provided by the constitution
12 and laws of this state. All income from such investments shall, unless otherwise
13 prohibited by the constitution of this state, be deposited in the geologic resources
14 fund. The provisions of section 33.080 relating to the transfer of unexpended
15 balances in various funds to the general revenue fund at the end of each
16 biennium shall not apply to funds in the geologic resources fund.

17 4. General revenue of the state or other state funds may be appropriated
18 or expended for the administration of sections 256.700 to 256.710. The
19 **department, through the** state geologist, may enter into a memorandum of
20 understanding or other agreement that allows for state or federal funds to
21 supplement the geologic resources fund.

258.010. 1. [There shall be a "State Interagency Council for Outdoor
2 Recreation" composed of the following state agencies:

- 3 (1) Department of agriculture;
- 4 (2) Office of administration;
- 5 (3) Department of social services;
- 6 (4) Department of economic development;
- 7 (5) Department of conservation;
- 8 (6) Department of natural resources;
- 9 (7) Department of transportation;
- 10 (8) University of Missouri] **The department of natural resources**

11 **shall be responsible for convening any committee, council, or board the**
12 **department deems necessary or advisable in order for the department**
13 **to perform any functions or duties related to state parks or historic**
14 **sites, recreational trails, outdoor recreation, any federal grant program**
15 **pursuant to chapters 253 and 258, any federal land and water**
16 **conservation fund act, 28 U.S.C. 206, or any other law.**

17 2. The department of natural resources shall provide all staff support and
18 office space for [the council] **any such bodies.**

258.060. The [state inter-agency council for outdoor recreation]
2 **department of natural resources** shall be:

3 (1) The official state agency for liaison with the federal bureau of outdoor
4 recreation;

5 (2) The official state agency to receive and disburse federal funds
6 available to this state for overall outdoor recreation planning **and any**
7 **recreational trails planning or programs;**

8 (3) The official state agency to receive and allocate to the appropriate
9 agency, or political subdivision, federal funds available for outdoor recreation **or**
10 **recreational trails** programs; and

11 (4) Shall provide a forum for consideration of outdoor recreation problems
12 affecting member agencies and as an advisory and planning agency for overall
13 outdoor recreational programs. The [council] **department** may provide
14 information and advisory services for any political subdivision requesting its
15 services.

258.070. Representatives of [the member agencies] **any committee,**
2 **council, or board convened by the department pursuant to section**
3 **258.010** shall not receive any additional compensation for their services [as
4 representatives on the council], and all expenses of **any** agency representatives
5 shall be paid by their respective agency.

258.080. 1. There is hereby created in the state treasury for the use of
2 the [state inter-agency council for outdoor recreation] **department of natural**
3 **resources** a fund to be known as "The Inter-Agency Council Fund". All federal
4 moneys received by the state of Missouri from the Land and Water Conservation
5 Fund Act of 1965, Public Law 88-578, shall be deposited in the fund.

6 2. Moneys deposited in the fund shall, upon appropriation by the general
7 assembly to the [state inter-agency council for outdoor recreation] **department,**
8 be received and expended or allocated by the [state inter-agency council]

9 **department** for outdoor recreation for outdoor recreation planning, acquisition
10 and development and for no other purposes; provided, however, that not less than
11 fifty percent of the moneys appropriated shall be allocated by [said council] **the**
12 **department** to political subdivisions of the state of Missouri, none of which
13 moneys so allocated shall be expended for the improvement or operation of
14 projects under the supervision or control of any state agency.

15 3. Any unexpended balance in [the inter-agency council] **such** fund at the
16 end of any appropriation period shall not be transferred to the general revenue
17 fund of the state treasury and, accordingly, shall be exempt from the provisions
18 of section 33.080 relating to transfer of funds to the general revenue funds of the
19 state by the state treasurer.

259.030. [1. The council shall elect a chairman and vice chairman from
2 the members of the council other than the representative of the division of
3 geology and land survey. A chairman and vice chairman may serve more than a
4 one-year term, if so elected by the members of the council.

5 2.] The **director of the department of natural resources, through**
6 **the** state geologist [shall act as administrator for the council and], shall be
7 responsible for enforcing the provisions of this chapter.

259.050. Unless the context otherwise requires, **when used for**
2 **purposes of this chapter**, the following words mean:

3 (1) "Certificate of clearance" [means a], permit [prescribed] **issued** by the
4 [council] **department** for the transportation or the delivery of oil or gas or
5 product and issued or registered in accordance with the rule, regulation, or order
6 requiring such permit;

7 (2) "[Council", the state oil and gas council established by section 259.010]
8 **Department" or "director" or "state geologist", the director of the**
9 **Missouri department of natural resources, through the state geologist**
10 **and the division of geology and land survey;**

11 (3) "Field", the general area underlaid by one or more pools;

12 (4) "Gas", all natural gas and all other fluid hydrocarbons which are
13 produced at the wellhead and not hereinbelow defined as oil;

14 (5) "Illegal gas" [means], gas which has been produced from any well
15 within this state in excess of the quantity permitted by any rule, regulation, or
16 order [of the council] **pursuant to this chapter;**

17 (6) "Illegal oil" [means], oil which has been produced from any well within
18 the state in excess of the quantity permitted by any rule, regulation, or order [of

19 the council] **pursuant to this chapter;**

20 (7) "Illegal product" [means], any product derived in whole or in part from
21 illegal oil or illegal gas;

22 (8) "Noncommercial gas well", a gas well drilled for the sole purpose of
23 furnishing gas for private domestic consumption by the owner and not for resale
24 or trade;

25 (9) "Oil", crude petroleum oil and other hydrocarbons regardless of gravity
26 which are produced at the wellhead in liquid form and the liquid hydrocarbons
27 known as distillate or condensate recovered or extracted from gas, other than gas
28 produced in association with oil and commonly known as casinghead gas;

29 (10) "Owner", the person who has the right to drill into and produce from
30 a pool and to appropriate the oil or gas he produced therefrom either for himself
31 or others or for himself and others;

32 (11) "Pool", an underground reservoir containing a common accumulation
33 of oil or gas or both; each zone of a structure which is completely separated from
34 any other zone in the same structure is a "pool", as that term is used in this
35 chapter;

36 (12) "Producer", the owner of a well or wells capable of producing oil or
37 gas or both;

38 (13) "Product", any commodity made from oil or gas and includes refined
39 crude oil, crude tops, topped crude, processed crude, processed crude petroleum,
40 residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated
41 crude oil, residuum, gas oil, casinghead gasoline, natural-gas gasoline, kerosene,
42 benzine, wash oil, waste oil, blended gasoline, lubricating oil, blends or mixtures
43 of oil with one or more liquid products or by-products derived from oil or gas, and
44 blends or mixtures of two or more liquid products or by-products derived from oil
45 or gas whether hereinabove enumerated or not;

46 (14) "Reasonable market demand" [means], the demand for oil or gas for
47 reasonable current requirements for consumption and use within and without the
48 state, together with such quantities as are reasonably necessary for building up
49 or maintaining reasonable working stocks and reasonable reserves of oil or gas
50 or product;

51 (15) "Waste" means and includes:

52 (a) Physical waste, as that term is generally understood in the oil and gas
53 industry, but not including unavoidable or accidental waste;

54 (b) The inefficient, excessive, or improper use of, or the unnecessary

55 dissipation of, reservoir energy;

56 (c) The location, spacing, drilling, equipping, operating, or producing of
57 any oil or gas well or wells in a manner which causes, or tends to cause, reduction
58 in the quantity of oil or gas ultimately recoverable from a pool under prudent and
59 proper operations, or which causes or tends to cause unnecessary or excessive
60 surface loss or destruction of oil or gas;

61 (d) The inefficient storing of oil;

62 (e) The production of oil or gas in excess of transportation or marketing
63 facilities or in excess of reasonable market demand; and

64 (f) Through negligence, the unnecessary or excessive surface loss or
65 destruction of oil or gas resulting from evaporation, seepage, leakage or deliberate
66 combustion;

67 (16) "Well", any hole drilled in the earth for or in connection with the
68 exploration, discovery, or recovery of oil or gas, or for or in connection with the
69 underground storage of gas in natural formation, or for or in connection with the
70 disposal of salt water, nonusable gas or other waste accompanying the production
71 of oil or gas.

259.070. 1. The [council] **department** has the duty of administering the
2 provisions of this chapter. [The council shall meet at least once each calendar
3 quarter of the year and upon the call of the chairperson.

4 2. The council shall conduct a review of the statutes and rules and
5 regulations under this chapter on a biennial basis. Based on such review, the
6 council, if necessary, shall recommend changes to the statutes under this chapter
7 and shall amend rules and regulations accordingly.

8 3. (1) The council shall have the power and duty to]

9 **2. The department may** form an advisory committee [to the council] for
10 the purpose of reviewing the statutes and rules and regulations under [subsection
11 2 of this section. The advisory committee shall make recommendations to the
12 council when necessary to amend current statutes and rules and regulations
13 under this chapter and shall review any proposed new or amended statute or
14 regulation before such proposed statute or regulation is considered by the council.

15 (2) The advisory committee shall be made up of representatives from the
16 division of geology and land survey, the oil and gas industry and any council
17 member desiring to be on such advisory committee. The advisory committee shall
18 meet prior to each calendar quarter meeting of the council, if necessary for the
19 purposes set forth under this subsection, and present any recommendations to the

20 council at such calendar quarter meeting. The council shall designate one of its
21 members to serve as the chairperson of the advisory committee.

22 (3) The] **this chapter. Any such** advisory committee may make
23 recommendations to the [council] **department** on appropriate fees or other
24 funding mechanisms to support the oil and gas program efforts of the [division
25 of geology and land survey] **department**.

26 [4.] **3.** The [council] **department** has the duty and authority to make
27 such investigations as it deems proper to determine whether waste exists or is
28 imminent or whether other facts exist which justify action.

29 [5.] **4.** The [council acting through the office of the state geologist]
30 **department** has the authority:

31 (1) To require:

32 (a) Identification of ownership of oil or gas wells, producing leases, tanks,
33 plants, structures, and facilities for the refining or intrastate transportation of
34 oil and gas;

35 (b) The making and filing of all mechanical well logs and the filing of
36 directional surveys if taken, and the filing of reports on well location, drilling and
37 production, and the filing free of charge of samples and core chips and of complete
38 cores less tested sections, when requested in the office of the state geologist
39 within six months after the completion or abandonment of the well;

40 (c) The drilling, casing, operation, and plugging of wells in such manner
41 as to prevent the escape of oil or gas out of one stratum into another; the
42 intrusion of water into oil or gas stratum; the pollution of fresh water supplies
43 by oil, gas, or highly mineralized water; to prevent blowouts, cavings, seepages,
44 and fires; and to prevent the escape of oil, gas, or water into workable coal or
45 other mineral deposits;

46 (d) The furnishing of a reasonable bond with good and sufficient surety,
47 conditioned upon the full compliance with the provisions of this chapter, and the
48 rules and regulations [of the council] prescribed **pursuant to this chapter** to
49 govern the production of oil and gas on state and private lands within the state
50 of Missouri; provided that, in lieu of a bond with a surety, an applicant may
51 furnish to the [council] **department** his **or her** own personal bond, on conditions
52 as described in this paragraph, secured by a certificate of deposit or an
53 irrevocable letter of credit in an amount equal to that of the required surety bond
54 or secured by some other financial instrument on conditions as above described
55 or as provided by [council] **applicable** regulations;

56 (e) That the production from wells be separated into gaseous and liquid
57 hydrocarbons, and that each be accurately measured by such means and upon
58 such standards as may be prescribed by the [council] **department**;

59 (f) The operation of wells with efficient gas-oil and water-oil ratios, and
60 to fix these ratios;

61 (g) Certificates of clearance in connection with the transportation or
62 delivery of any native and indigenous Missouri produced crude oil, gas, or any
63 product;

64 (h) Metering or other measuring of any native and indigenous
65 Missouri-produced crude oil, gas, or product in pipelines, gathering systems,
66 barge terminals, loading racks, refineries, or other places; and

67 (i) That every person who produces, sells, purchases, acquires, stores,
68 transports, refines, or processes native and indigenous Missouri-produced crude
69 oil or gas in this state shall keep and maintain within this state complete and
70 accurate records of the quantities thereof, which records shall be available for
71 examination by the [council] **department** or its agents at all reasonable times
72 and that every such person file with the [council] **department** such reports as
73 it may prescribe with respect to such oil or gas or the products thereof;

74 (2) To regulate pursuant to rules adopted by the [council] **department**:

75 (a) The drilling, producing, and plugging of wells, and all other operations
76 for the production of oil or gas;

77 (b) The shooting and chemical treatment of wells;

78 (c) The spacing of wells;

79 (d) Operations to increase ultimate recovery such as cycling of gas, the
80 maintenance of pressure, and the introduction of gas, water, or other substances
81 into producing formations; and

82 (e) Disposal of highly mineralized water and oil field wastes;

83 (3) To limit and to allocate the production of oil and gas from any field,
84 pool, or area;

85 (4) To classify wells as oil or gas wells for purposes material to the
86 interpretation or enforcement of this chapter;

87 (5) To promulgate and to enforce rules, regulations, and orders to
88 effectuate the purposes and the intent of this chapter;

89 (6) To make rules, regulations, or orders for the classification of wells as
90 oil wells or dry natural gas wells; or wells drilled, or to be drilled, for geological
91 information; or as wells for secondary recovery projects; or wells for the disposal

92 of highly mineralized water, brine, or other oil field wastes; or wells for the
93 storage of dry natural gas, or casinghead gas; or wells for the development of
94 reservoirs for the storage of liquid petroleum gas;

95 (7) To detail such personnel and equipment or enter into such contracts
96 as it may deem necessary for carrying out the plugging of or other remedial
97 measures on wells which have been abandoned and not plugged according to the
98 standards for plugging set out in the rules and regulations promulgated [by the
99 council] pursuant to this chapter. [Members of the council] **The department**
100 or authorized representatives may, with the consent of the owner or person in
101 possession, enter any property for the purpose of investigating, plugging, or
102 performing remedial measures on any well, or to supervise the investigation,
103 plugging, or performance of remedial measures on any well. A reasonable effort
104 to contact the owner or the person in possession of the property to seek his **or**
105 **her** permission shall be made before members of the [council] **department** or
106 authorized representatives enter the property for the purposes described in this
107 paragraph. If the owner or person in possession of the property cannot be found
108 or refuses entry or access to [any member of the council] **the department** or to
109 any authorized representative presenting appropriate credentials, the [council]
110 **department** may request the attorney general to initiate in any court of
111 competent jurisdiction an action for injunctive relief to restrain any interference
112 with the exercise of powers and duties described in this subdivision. Any entry
113 authorized under this subdivision shall be construed as an exercise of the police
114 power for the protection of public health, safety and general welfare and shall not
115 be construed as an act of condemnation of property nor of trespass
116 thereon. [Members of the council] **The department** and authorized
117 representatives shall not be liable for any damages necessarily resulting from the
118 entry upon land for purposes of investigating, plugging, or performing remedial
119 measures or the supervision of such activity. However, if growing crops are
120 present, arrangements for timing of such remedial work may be agreed upon
121 between the state and landowner in order to minimize damages;

122 (8) To develop such facts and make such investigations or inspections as
123 are consistent with the purposes of this chapter. [Members of the council] **The**
124 **department** or authorized representatives may, with the consent of the owner
125 or person in possession, enter upon any property for the purposes of inspecting
126 or investigating any condition which the [council] **department** shall have
127 probable cause to believe is subject to regulation under this chapter, the rules

128 and regulations promulgated pursuant thereto or any permit issued by the
129 [council] **department**. If the owner or person in possession of the property
130 refuses entry or access for purposes of the inspections or investigations described,
131 the [council] **department** or authorized representatives [shall] **may** make
132 application for a search warrant. Upon a showing of probable cause in writing
133 and under oath, a suitable restricted search warrant shall be issued by any judge
134 having jurisdiction for purposes of enabling inspections authorized under this
135 subdivision. The results of any inspection or investigation pursuant to this
136 subdivision shall be reduced to writing with a copy furnished to the owner, person
137 in possession, or operator;

138 (9) To cooperate with landowners with respect to the conversion of wells
139 drilled for oil and gas to alternative use as water wells as follows: the state
140 geologist shall determine the feasibility of the conversion of a well drilled under
141 a permit for oil and gas for use as a water well and shall advise the landowner
142 of modifications required for conversion of the well in a manner that is consistent
143 with the requirements of this chapter. If such conversion is carried out, release
144 of the operator from legal liability or other responsibility shall be required and
145 the expense of the conversion shall be borne by the landowner.

146 [6.] 5. No rule or portion of a rule promulgated under the authority of
147 this chapter shall become effective unless it has been promulgated pursuant to
148 the provisions of section 536.024.

259.080. It shall be unlawful to commence operations for the drilling of
2 a well for oil or gas, or to commence operations to deepen any well to a different
3 geological formation, without first giving the [state geologist] **department** notice
4 of intention to drill and first obtaining a permit from the [state geologist]
5 **department** under such rules and regulations as may be prescribed by the
6 [council] **department**.

259.090. The [council] **department** shall determine market demand for
2 each marketing district and shall regulate the amount of production as follows:

3 (1) The [council shall] **department may** limit the production of oil and
4 gas within each marketing district to that amount which can be produced without
5 waste, and which does not exceed the reasonable market demand.

6 (2) Whenever the [council] **department** limits the total amount of oil or
7 gas which may be produced in the state or a marketing district, the [council]
8 **department** shall allocate or distribute the allowable production among the
9 pools therein on a reasonable basis, giving, where reasonable under the

10 circumstances to each pool with small wells of settled production, an allowable
11 production which prevents the general premature abandonment of such wells in
12 the pool.

13 (3) Whenever the [council] **department** limits the total amount of oil or
14 gas which may be produced in any pool in this state to an amount less than that
15 amount which the pool could produce if no restriction was imposed, regardless of
16 whether or not the limitation is imposed in relation to the limitation on the total
17 amount of oil or gas produced in the marketing district wherein the pool is
18 located, the [council] **department** shall allocate or distribute the allowable
19 production among the several wells or producing properties in the pool on a
20 reasonable basis, preventing or minimizing reasonable avoidable drainage, so that
21 each property will have the opportunity to produce or to receive its just and
22 equitable share, subject to the reasonable necessities for the prevention of waste.

23 (4) In allocating the market demand for gas as between pools within
24 marketing districts, the [council] **department** shall give due regard to the fact
25 that gas produced from oil pools is to be regulated in a manner as will protect the
26 reasonable use of its energy for oil production.

27 (5) The [council] **department** shall not be required to determine the
28 reasonable market demand applicable to any single pool, except in relation to all
29 other pools within the same marketing district, and in relation to the demand
30 applicable to the marketing district. In allocating allowables to pools, the
31 [council] **department** may consider, but shall not be bound by, nominations of
32 purchasers to purchase from particular fields, pools, or portions thereof. The
33 [council] **department** shall allocate the total allowable for the state in such
34 manner as prevents undue discrimination between marketing districts, fields,
35 pools, or portions thereof resulting from selective buying or nomination by
36 purchasers.

259.100. 1. The [council] **department** shall set spacing units as follows:

2 (1) When necessary to prevent waste, to avoid the drilling of unnecessary
3 wells, or to protect correlative rights, the [council] **department** shall establish
4 spacing units for a pool. Spacing units when established shall be of uniform size
5 and shape for the entire pool, except that when found to be necessary for any of
6 the purposes above mentioned, the [council] **department** is authorized to divide
7 any pool into zones and establish spacing units for each zone, which units may
8 differ in size and shape from those established in any other zone;

9 (2) The size and shape of spacing units are to be such as will result in the

10 efficient and economical development of the pool as a whole;

11 (3) An order establishing spacing units for a pool shall specify the size
12 and shape of each unit and the location of the permitted well thereon in
13 accordance with a reasonably uniform spacing plan. Upon application, if the
14 [state geologist] **department** finds that a well drilled at the prescribed location
15 would not produce in paying quantities, or that surface conditions would
16 substantially add to the burden or hazard of drilling such well, the [state
17 geologist] **department** is authorized to enter an order permitting the well to be
18 drilled at a location other than that prescribed by such spacing order; however,
19 the [state geologist] **department** shall include in the order suitable provisions
20 to prevent the production from the spacing unit of more than its just and
21 equitable share of the oil and gas in the pool;

22 (4) An order establishing units for a pool shall cover all lands determined
23 or believed to be underlaid by such pool, and may be modified by the [state
24 geologist] **department** from time to time to include additional areas determined
25 to be underlaid by such pool. When found necessary for the prevention of waste,
26 or to avoid the drilling of unnecessary wells or to protect correlative rights, an
27 order establishing spacing units in a pool may be modified by the [state geologist]
28 **department** to increase the size of spacing units in the pool or any zone thereof,
29 or to permit the drilling of additional wells on a reasonable uniform plan in the
30 pool, or any zone thereof. Orders of the [state geologist] **department issued**
31 **pursuant to this section** may be appealed [to the council] within thirty days
32 **pursuant to section 259.170.**

33 2. The provisions of subsection 1 of this section shall not apply to
34 noncommercial gas wells.

35 3. Applicants seeking a permit for a noncommercial gas well shall file a
36 bond or other instrument of credit acceptable to the [council] **department** equal
37 to the greater of three hundred dollars or one dollar and fifty cents per well foot
38 and meet the following conditions and procedures: an owner of a noncommercial
39 gas well with drilling rights may apply for the establishment of a drilling unit
40 containing no less than three acres, with a well set back of one hundred sixty-five
41 feet on which a well no deeper than eight hundred feet in depth may be drilled.
42 An owner may apply to the [council] **department** for a variance to establish a
43 drilling unit of less than three acres and/or less than one hundred sixty-five feet
44 set back.

259.110. 1. When two or more separately owned tracts are embraced

2 within a spacing unit, or when there are separately owned interests in all or a
3 part of the spacing unit, then the owners and royalty owners thereof may pool
4 their interests for the development and operation of the spacing unit. In the
5 absence of voluntary pooling, the [council] **department**, upon the application of
6 any interested person, [shall] **may** enter an order pooling all interests in the
7 spacing unit for the development and operations thereof. Each such pooling order
8 shall be made after notice and hearing, and shall be upon terms and conditions
9 that are just and reasonable, and that afford to the owner of each tract or interest
10 in the spacing unit the opportunity to recover or receive, without unnecessary
11 expense, his **or her** just and equitable share. Operations incident to the drilling
12 of a well upon any portion of a spacing unit covered by a pooling order shall be
13 deemed for all purposes the conduct of such operations upon each separately
14 owned tract in the drilling unit by the several owners thereof. That portion of the
15 production allocated to each tract included in a spacing unit covered by a pooling
16 order shall, when produced, be deemed for all purposes to have been produced
17 from such tract by a well drilled thereon.

18 2. Each pooling order shall make provision for the drilling and operation
19 of a well on the spacing unit, and for the payment of the reasonable actual cost
20 thereof by the owners of interests in the spacing unit, plus a reasonable charge
21 for supervision. In the event of any dispute as to such costs the [council shall]
22 **department may** determine the proper costs. If one or more of the owners shall
23 drill and operate, or pay the expenses of drilling and operating the well for the
24 benefit of others, then the owner or owners so drilling or operating shall, upon
25 complying with the terms of section 259.130, have a lien on the share of
26 production from the spacing unit accruing to the interest of each of the other
27 owners for the payment of his **or her** proportionate share of such expenses. All
28 the oil and gas subject to the lien shall be marketed and sold and the proceeds
29 applied in payment of the expenses secured by such lien as provided for in section
30 259.100.

259.120. 1. A voluntary agreement for the unit or cooperative
2 development and operation of a field or pool, in connection with the conduct of
3 repressuring or pressure maintenance operations, cycling or recycling operations,
4 including the extraction and separation of liquid hydrocarbons from natural gas
5 in connection therewith, or any other method of operation, including selective
6 production methods, injection of water or other fluids, and including but not
7 limited to thermal or combustion processes, is authorized and may be performed

8 and shall not be held or construed to violate any of the statutes of this state
9 relating to trusts, monopolies, or contracts and combinations in restraint of trade,
10 if the agreement is approved by the [council] **department** as being in the public
11 interest, protective of correlative rights, and reasonably necessary to increase
12 ultimate recovery or to prevent waste of oil or gas. Such voluntary agreements
13 bind only the persons who execute them, and their heirs, successors, assigns, and
14 legal representatives.

15 2. Where a unit or cooperative plan of development and operation has
16 been submitted to the owners of interests in a field or pool and one or more of
17 such owners fails or refuses to execute the applicable unit agreements for such
18 plan, then, upon the filing of a petition as hereinafter provided, the [council]
19 **department**, after notice, shall hold a public hearing to consider the need for the
20 operation as a unit of an entire pool, or any portion thereof, to prevent waste, to
21 increase ultimate recovery of oil and gas and to protect correlative rights. The
22 petition shall contain the following:

- 23 (1) A description of the proposed unit area;
24 (2) A statement of the nature of the proposed unit operation;
25 (3) Conformed copies of the applicable unit agreements, which may be
26 composites of executed counterparts. The petition may be filed by any one or
27 more of the owners who have executed the applicable unit agreements.

28 3. If, after hearing and considering the petition and evidence offered in
29 support thereof, the [council] **department** finds that:

30 (1) The proposed unit plan has been agreed to by persons, who, at the
31 time of filing of the petition, owned of record legal title to at least seventy-five
32 percent interest in the right to drill into and produce oil and gas from the total
33 proposed unit area and by persons, who, at that time, owned of record legal title
34 to at least seventy-five percent of production payments, royalty and overriding
35 royalty payable with respect to oil and gas produced from the total proposed unit
36 area, and that

37 (2) Unit operation of the pool, or any portion thereof, proposed to be
38 unitized, is reasonably necessary to prevent waste, to increase ultimate recovery
39 of oil and gas and to protect correlative rights, and that

40 (3) The value of the additional oil and gas to be recovered from the
41 proposed unit area as a result of the proposed unit operation will exceed the
42 additional cost incident to conducting such operation, [it] **the department** shall
43 issue an order requiring unit operation in accordance with the terms of the

44 applicable unit operating agreements. Such order and the unit plan shall,
45 thereafter, be effective as to and binding upon each person owning an interest in
46 the unit area, or in oil and gas produced therefrom or the proceeds thereof.

47 4. The order requiring unit operation shall be fair and reasonable under
48 all circumstances and shall include:

49 (1) A description of the unit area;

50 (2) An allocation, upon the basis agreed upon by the provisions of the unit
51 applicable agreements, and found by the [council] **department** to be fair and
52 equitable to each separately owned tract in the unit area, in that under the
53 allocation each separately owned tract receives its fair share of all of the oil and
54 gas produced from the unit area and not required or consumed in the conduct of
55 the operation of the unit area or unavoidably lost;

56 (3) A provision for the credits and charges to be made in the adjustment
57 among the owners of the unit area for their respective investments in wells,
58 tanks, pumps, machinery, materials and equipment contributed to the unit
59 operation. The net amount charged against the owner or owners of a separately
60 owned tract shall be considered expenses of unit operation chargeable against
61 such tract;

62 (4) A provision that a part of the expenses of unit operation, including
63 capital investments, be charged to each separately owned tract in the same
64 proportion that the tract shares in the unit production. The expenses chargeable
65 to a tract shall be paid by the person or persons who, in the absence of unit
66 operation, would be responsible for the expense of developing and operating such
67 tract;

68 (5) Designation of the unit operator and the time at which the unit
69 operation shall commence; and

70 (6) Those additional provisions, not in conflict with, or inconsistent with,
71 the applicable unit agreements, which the [council] **department** determines to
72 be appropriate for the prevention of waste and the protection of all interested
73 parties.

74 5. The obligation or liability of each owner in the several separately
75 owned tracts for the payment of unit expense shall at all times be several and not
76 joint or collective and in no event shall an owner of the oil and gas rights in the
77 separately owned tract be chargeable with, obligated or liable, directly or
78 indirectly, for, more than the amount apportioned, assessed or otherwise charged
79 to his **or her** interest in such separately owned tract pursuant to the plan of

80 unitization.

81 6. The [council] **department**, upon the filing of a petition in a form
82 complying with the requirements of subsection 2 of this section, may, after notice
83 and hearing, require unit operation of a pool, or portion thereof, when the unit
84 area newly established embraces a unit area within the same pool established by
85 a previous order of the [council] **department**. In each such case the petition
86 shall be accompanied by a copy of the proposed unit agreements with respect to
87 the operation of the unit as so enlarged, in the form meeting the requirements of
88 subdivision (3) of subsection 2 of this section. In each such instance the proposed
89 unit agreements shall be executed by persons owning interests in oil and gas in
90 the entire unitized area so enlarged in sufficient numbers to comply with the
91 requirements of subdivision (1) of subsection 3 of this section; provided that, if
92 the unit agreements then in effect with respect to the unit area to which an
93 additional portion of a pool is to be added contain provisions, under the terms of
94 which additions to the unit area may be made, the application for such
95 enlargement of the unitized area need only be accompanied by an agreement,
96 executed by persons owning interests in oil and gas under the area to be added
97 to the unit area in numbers sufficient to comply with the requirements of
98 subdivision (1) of subsection 3 of this section, for the inclusion, in accordance with
99 the plan provided in the unit agreements involved, of the additional area to the
100 unit area then existing. In either such case, such new order, in providing for
101 allocation of unit production from the enlarged unit area, shall first treat the unit
102 area previously established as a single tract, and the portion of unit production
103 so allocated thereto shall then be allocated among the separately owned tracts
104 included in such previously established unit area in the same proportion as those
105 specified therefor in the previous order. In no event shall said new order alter
106 the relative values of tract factors of the previously established unit area, except
107 by consent of all parties owning interests in the tract affected.

108 7. An order of the [council] **department** entered under subsection 6 shall
109 be effective as to the enlarged unit area and to all persons owning interests in oil
110 and gas therein to the same extent as an order entered under subsection 3, shall
111 contain provisions with respect to the enlarged unit area to meet the
112 requirements of subsection 4, and the provisions of subsections 5 and 6 shall be
113 applicable to obligations incurred in the operation of the enlarged unit area.

114 8. The portion of oil and gas produced from the unit area and allocated to
115 a separately owned tract shall be deemed, for all purposes, to have been actually

116 produced from such tract, and operations for the production of oil and gas from
117 any part of the unit area, conducted pursuant to the order of the [council]
118 **department**, shall be deemed, for all purposes, to be operations for the
119 production of oil and gas from each separately owned tract in the unit area.

120 9. The formation of such a unit as provided for in subsections 2 through
121 9 of this section and the operation of the unit under order of the [council]
122 **department** shall not be a violation of any statute of this state relating to trusts,
123 monopolies, contracts or combinations in restraint of trade.

259.140. 1. The [council] **department** shall prescribe rules and
2 regulations governing the practice and procedure before it **pursuant this**
3 **chapter**.

4 2. No order, or amendment thereof, except in an emergency, shall be made
5 by the [council] **department** without a public hearing upon at least ten days'
6 notice. The public hearing shall be held at such time and place as may be
7 prescribed by the [council] **department**, and any interested person shall be
8 entitled to be heard.

9 3. When an emergency requiring immediate action is found to exist, the
10 [council] **department** is authorized to issue an emergency order without notice
11 of hearing, which shall be effective upon [promulgation] **issuance**. No
12 emergency order shall remain effective for more than [fifteen] **thirty** days.

13 4. Any notice required by this chapter shall be given at the election of the
14 [council] **department** either by personal service or by letter to the last recorded
15 address of the person to whom the order is directed, and one publication in a
16 newspaper of general circulation in the county where the land affected, or some
17 part thereof, is situated. If the notice is applicable throughout the state, then it
18 shall be published in a newspaper of general circulation which is published in
19 Jefferson City. The notice shall issue in the name of the state, shall be signed by
20 the [state geologist] **department**, shall specify the style and number of the
21 proceeding, the time and place of [the] **any** hearing, and shall briefly state the
22 purpose of the proceeding. Should the [council] **department** elect to give notice
23 by personal service, such service may be made by any officer authorized to serve
24 process, or by any agent of the [council] **department**, in the same manner as is
25 provided by law for the service of original notices in civil actions in the circuit
26 courts of the state. Proof of the service by such agent shall be by the affidavit of
27 the person making personal service.

28 5. All orders issued by the [council] **department** shall be in writing,

29 shall be entered in full and indexed in books to be kept by the state geologist for
30 that purpose, and shall be public records open for inspection at all times during
31 reasonable office hours. A copy of any rule, regulation, or order certified by the
32 state geologist or any officer of the [council] **department** shall be received in
33 evidence in all courts of this state with the same effect as the original.

34 6. The [council] **department** may act upon its own motion, or upon the
35 petition of any interested person. On the filing of a petition concerning any
36 matter within the jurisdiction of the [council] **department pursuant to this**
37 **chapter**, the [council] **department** shall promptly fix a date for a hearing
38 thereon, and shall cause notice of the hearing to be given. The hearing shall be
39 held without undue delay after the filing of the petition. The [council]
40 **department** shall enter its order within thirty days after the hearing. In the
41 event that the matter is submitted on a question or questions of fact, the [council]
42 **department** shall enter its order within thirty days after the finding of facts is
43 submitted to the [council] **department**.

259.160. Any person adversely affected by any **final** order of the [council]
2 **department pursuant to this chapter** may within thirty days after its
3 effective date apply to the [council] **department** in writing for a rehearing. The
4 application for rehearing shall be acted upon within fifteen days after its filing,
5 and if granted, the rehearing shall be held without undue delay.

259.170. 1. Any person adversely affected by [an] **any final** order
2 entered by the [council] **department pursuant to this chapter** may [appeal
3 from] **file a petition for judicial review of** such order [to] **in** the circuit court
4 of Cole County or [to] the circuit court of any county in which the property
5 affected or some portion thereof is located. [Notice of appeal] **Such petition**
6 must be filed [with the council] within thirty days after the entry of the order
7 complained of, or within thirty days after the entry of the order overruling a
8 motion for rehearing, or within thirty days after sustaining the original order in
9 the event a rehearing has been held. The [notice of appeal] **petition** must
10 identify the order complained of and the grounds for appeal. The [appellant]
11 **petitioner** shall file a copy of the transcript of the hearing or rehearing before
12 the [council] **department** as hereinafter provided, and the [appellant]
13 **petitioner** shall provide the transcript at his **or her** expense. The [transcript]
14 **department** shall [be delivered] **deliver the transcript** to the [appellant]
15 **petitioner**, or his **or her** designated attorney, within sixty days after the filing
16 of the [notice of appeal] **petition**.

17 2. Within ninety days after the filing of the [notice of appeal] **petition**,
18 the [appellant] **petitioner** must file in the circuit court the transcript of the
19 proceedings before the [council, together with a petition for review which states
20 briefly the grounds for the appeal. An appeal shall be perfected by filing the
21 notice of appeal within the specified thirty day period] **department**. The
22 [appeal] **case** may be dismissed by the [circuit] court for failure of the
23 [appellant] **petitioner** to file the transcript and petition for review within the
24 time specified, unless for good cause shown the time is extended by order of the
25 [circuit] court.

26 3. At the time of filing of the [notice of appeal] **petition**, if an application
27 for the suspension **or stay** of the order is filed, the [council] **court** shall enter
28 an order fixing the amount of the supersedeas bond **as a condition of**
29 **suspending the effect of the department's order until its final**
30 **disposition**. Within ten days after the entry of an order [by the council] which
31 fixes the amount of the bond, the appellant must file [with the council] a
32 supersedeas bond in the required amount and with proper surety; upon approval
33 of the bond, the [council] **court** shall suspend the order complained of until its
34 final disposition [upon appeal]. The bond shall run in favor of the state for the
35 use and benefit of any person who may suffer damage by reason of the suspension
36 of the order in the event the same is [affirmed by the circuit court] **upheld**. If
37 the order [of the council] is not superseded, it shall continue in force and effect
38 as if no appeal was pending.

39 4. The circuit court shall, insofar as is practicable, give precedence to
40 [appeals from] **actions for judicial review of** orders of the [council]
41 **department pursuant to this chapter**. [Upon the appeal of such an order]
42 The circuit court shall review the proceedings before the [council] **department**
43 as disclosed by the transcript [upon appeal], and thereafter enter its judgment
44 affirming or reversing the order [appealed]. Orders of the [council] **department**
45 shall be sustained if the [council has regularly pursued its authority and its]
46 **department's** findings and conclusions are [sustained] **supported** by the law
47 and by substantial and credible evidence.

48 5. **Costs of such proceedings may be set and taxed by the court**
49 **as appropriate**.

259.180. The sale, purchase, acquisition, transportation, refining,
2 processing, or handling of illegal oil, illegal gas, or illegal product is hereby
3 prohibited. However, no penalty by way of fine shall be imposed upon a person

4 who sells, purchases, acquires, transports, refines, processes, or handles illegal
5 oil, illegal gas, or illegal product unless:

6 (1) Such person knows, or is put on notice, of facts indicating that illegal
7 oil, illegal gas, or illegal product is involved; or

8 (2) Such person fails to obtain a certificate of clearance with respect to
9 such oil, gas, or product where prescribed by order of the [council] **department**,
10 or fails to follow any other method prescribed by an order of the [council]
11 **department** for the identification of such oil, gas or product.

259.190. 1. Illegal oil, illegal gas, and illegal product are declared to be
2 contraband and are subject to seizure and sale as herein provided; seizure and
3 sale to be in addition to any and all other remedies and penalties provided in this
4 chapter for violations relating to illegal oil, illegal gas, or illegal
5 product. Whenever the [council] **department** believes that any oil, gas or
6 product is illegal, the [council] **department**, acting by the attorney general,
7 [shall] **may** bring a civil action in rem in the circuit court of the county where
8 such oil, gas, or product is found, to seize and sell the same, or the [council]
9 **department** may include such an action in rem for the seizure and sale of illegal
10 oil, illegal gas, or illegal product in any suit brought for an injunction or penalty
11 involving illegal oil, illegal gas, or illegal product. Any person claiming an
12 interest in oil, gas, or product affected by any such action shall have the right to
13 intervene as an interested party in such action.

14 2. Actions for the seizure and sale of illegal oil, illegal gas, or illegal
15 product shall be strictly in rem, and shall proceed in the name of the state as
16 plaintiff against the illegal oil, illegal gas, or illegal products as defendant. No
17 bond or similar undertaking shall be required of the plaintiff. Upon the filing of
18 the petition for seizure and sale, the attorney general shall issue a notice, with
19 a copy of the complaint attached thereto, which shall be served in the manner
20 provided for service of original notices in civil actions, upon any and all persons
21 having or claiming any interest in the illegal oil, illegal gas, or illegal products
22 described in the petition. Service shall be completed by the filing of an affidavit
23 by the person making the service, stating the time and manner of making such
24 service. Any person who fails to appear and answer within the period of thirty
25 days shall be forever barred by the judgment based on such service. If the court,
26 on a properly verified petition, or affidavits, or oral testimony, finds that grounds
27 for seizure and for sale exist, the court shall issue an immediate order of seizure,
28 describing the oil, gas, or product to be seized and directing the sheriff of the

29 county to take such oil, gas, or product into his **or her** custody, actual or
30 constructive, and to hold the same subject to the further order of the court. The
31 court, in such order of seizure, may direct the sheriff to deliver the oil, gas, or
32 product seized by him **or her** under the order to an agent appointed by the court
33 as the agent of the court; such agent to give bond in an amount and with such
34 surety as the court may direct, conditioned upon his **or her** compliance with the
35 orders of the court concerning the custody and disposition of such oil, gas, or
36 product.

37 3. Any person having an interest in oil, gas, or product described in an
38 order of seizure and contesting the right of the state to the seizure and sale
39 thereof may, prior to the sale thereof as herein provided, obtain the release
40 thereof, upon furnishing bond to the sheriff, approved by the court, in an amount
41 equal to one hundred fifty percent of the market value of the oil, gas, or product
42 to be released, and conditioned as the court may direct upon redelivery to the
43 sheriff of such product released or upon payment to the sheriff of the market
44 value thereof as the court may direct, if and when ordered by the court, and upon
45 full compliance with the further orders of the court.

46 4. If the court, after a hearing upon a petition for the seizure and sale of
47 oil, gas, or product, finds that such oil, gas, or product is contraband, the court
48 shall order the sale thereof by the sheriff in the same manner and upon the same
49 notice of sale as provided by law for the sale of personal property on execution of
50 judgment entered in a civil action except that the court may order that the illegal
51 oil, illegal gas, or illegal product be sold in specified lots or portions and at
52 specified intervals. Upon such sale, title to the oil, gas, or product sold shall vest
53 in the purchaser free of the claims of any and all persons having any title thereto
54 or interest therein at or prior to the seizure thereof, and the same shall be legal
55 oil, legal gas, or legal product, as the case may be, in the hands of the purchaser.

56 5. All proceeds derived from the sale of illegal oil, illegal gas, or illegal
57 product, as above provided, after payment of costs of suit and expenses incident
58 to the sale, all amounts obtained by the **[council] department** from the forfeiture
59 of surety or personal bonds required under paragraph (d) of subdivision (1) of
60 section 259.070, and any money recovered under subsection 1 of section 259.200
61 shall be paid to the state treasurer and credited to the "Oil and Gas Remedial
62 Fund", which is hereby created. The money in the oil and gas remedial fund may
63 be used by the **[council] department** to pay for the plugging of, or other remedial
64 measures on, wells and to pay the expenses incurred by the **[council]**

65 **department** in performing the duties imposed on it by this chapter. Any
66 unexpended balance in the fund at the end of the fiscal year not exceeding fifty
67 thousand dollars is exempt from the provisions of section 33.080 relating to
68 transfer of unexpended balances to the ordinary revenue funds.

259.200. 1. Any person who violates any provision of this chapter, or any
2 rule, regulation, or order of the [council] **department** shall be subject to a
3 penalty of not more than one thousand dollars for each act of violation and for
4 each day that such violation continues, unless the penalty for such violation is
5 otherwise specifically provided for and made exclusive in this chapter.

6 2. If any person, for the purpose of evading this chapter, or any rule,
7 regulation, or order of the [council] **department**, shall make or cause to be made
8 any false entry or statement in a report required by this chapter or by any such
9 rule, regulation, or order, or shall make or cause to be made any false entry in
10 any record, account, or memorandum required by this chapter, or by any such
11 rule, regulation, or order, or shall omit, or cause to be omitted, from any such
12 record, account, or memorandum, full, true, and correct entries as required by
13 this chapter, or by any such rule, regulation, or order, or shall remove from this
14 state or destroy, mutilate, alter or falsify any such record, account, or
15 memorandum, such person shall be guilty of a misdemeanor and upon conviction
16 shall be punished as provided by law.

17 3. Any person knowingly aiding or abetting any other person in the
18 violation of any provision of this chapter, or any rule, regulation, or order of the
19 [council] **department** shall be subject to the same penalty as that prescribed by
20 this chapter for the violation by such other person.

21 4. The penalties provided in this section shall be recoverable by suit filed
22 by the attorney general in the name and on behalf of the [council] **department**,
23 in the circuit court of the county in which the defendant resides, or in which any
24 defendant resides, if there be more than one defendant, or in the circuit court of
25 any county in which the violation occurred. The payment of any such penalty
26 shall not operate to legalize any illegal oil, illegal gas, or illegal product involved
27 in the violation for which the penalty is imposed, or to relieve a person on whom
28 the penalty is imposed from liability to any other person for damages arising out
29 of such violation.

259.210. 1. Whenever it appears that any person is violating or
2 threatening to violate any provision of this chapter, or any rule, regulation, or
3 order of the [council] **department**, the [council shall] **department may** bring

4 suit against such person in the circuit court of any county where the violation
5 occurs or is threatened, to restrain such person from continuing the violation or
6 from carrying out the threat of violation. In any such suit, the court shall have
7 jurisdiction to grant to the [council] **department**, without bond or other
8 undertaking, such prohibitory and mandatory injunctions as the facts may
9 warrant, including temporary restraining orders, preliminary injunctions,
10 temporary, preliminary, or final orders restraining the movement or disposition
11 of any illegal oil, illegal gas, or illegal product, any of which the court may order
12 to be impounded or placed in the custody of an agent appointed by the court.

13 2. If the [council] **department** shall fail to bring suit to enjoin a violation
14 or a threatened violation of any provision of this chapter, or any rule, regulation,
15 or order of the [council] **department**, within ten days after receipt of written
16 request to do so by any person who is or will be adversely affected by such
17 violation, the person making such request may bring suit in his **or her** own
18 behalf to restrain such violation or threatened violation in any court in which the
19 [council] **department** might have brought suit. The [council] **department** shall
20 be made a party defendant in such suit in addition to the person violating or
21 threatening to violate a provision of this chapter, or a rule, regulation, or order
22 of the [council] **department**, and the action shall proceed and injunctive relief
23 may be granted to the [council] **department** or the petitioner without bond in
24 the same manner as if suit had been brought by the [council] **department**.

260.235. [1.] Any person aggrieved by a forfeiture of any financial
2 assurance instrument, civil or administrative penalty or denial, suspension or
3 revocation of a permit required by section 260.205 or a modification to a permit
4 issued under section 260.205 or any disapproval of the plan required by section
5 260.220, may [within thirty days of notice of such action request a hearing]
6 **appeal such decision as provided in section 621.250, subject to judicial**
7 **review as provided by law.** The notice of the department shall be effected by
8 certified mail and shall set forth the reasons for such forfeiture, disapproval,
9 denial, suspension, civil penalty or revocation. The department may seek an
10 injunction in the circuit court in which the facility is located requiring the facility
11 for which the transfer of ownership has been denied, or the permit or modification
12 of the permit has been denied, suspended or revoked, to cease operations from the
13 date ordered by the court until such time as the appeal is resolved or obtain a
14 performance bond in the amount and manner as prescribed by rule. The
15 department's action seeking an injunction shall be based on the seriousness of the

16 threat to the environment which continued operation of the facility poses. [The]
17 **A bond may be required in order to stay the effect of the department's**
18 **action until the appeal is resolved, in which case such bond** shall remain
19 in place until the appeal is resolved. If the department's decision is upheld, the
20 bond shall be forfeited and placed in a separate subaccount of the solid waste
21 management fund.

22 [2. The hearing shall be conducted by the director or his designated
23 representative in accordance with the procedures set forth in sections 536.070,
24 536.073, 536.077, 536.080, and 536.090. The decision of the department shall
25 become final thirty days after delivery or certified mailing of a copy of it to the
26 person. Such decisions may be appealed to the administrative hearing
27 commission pursuant to sections 536.063 to 536.095 and shall be subject to
28 judicial review of a final decision as provided in sections 536.100 to 536.140.]

260.249. 1. In addition to any other remedy provided by law, upon a
2 determination by the director that a provision of sections 260.200 to 260.281, or
3 a standard, limitation, order, rule or regulation promulgated pursuant thereto,
4 or a term or condition of any permit has been violated, the director may issue an
5 order assessing an administrative penalty upon the violator under this section.
6 An administrative penalty shall not be imposed until the director has sought to
7 resolve the violations through conference, conciliation and persuasion and shall
8 not be imposed for minor violations of sections 260.200 to 260.281 or minor
9 violation of any standard, limitation, order, rule or regulation promulgated
10 pursuant to sections 260.200 to 260.281 or minor violations of any term or
11 condition of a permit issued pursuant to sections 260.200 to 260.281 or any
12 violations of sections 260.200 to 260.281 by any person resulting from
13 mismanagement of solid waste generated and managed on the property of the
14 place of residence of the person. If the violation is resolved through conference,
15 conciliation and persuasion, no administrative penalty shall be assessed unless
16 the violation has caused, or has the potential to cause, a risk to human health or
17 to the environment, or has caused or has potential to cause pollution, or was
18 knowingly committed, or is defined by the United States Environmental
19 Protection Agency as other than minor. Any order assessing an administrative
20 penalty shall state that an administrative penalty is being assessed under this
21 section and that the person subject to the penalty may appeal as provided by
22 section 260.235 **and section 621.250**. Any such order that fails to state the
23 statute under which the penalty is being sought, the manner of collection or

24 rights of appeal shall result in the state's waiving any right to collection of the
25 penalty.

26 2. The department shall promulgate rules and regulations for the
27 assessment of administrative penalties. The amount of the administrative
28 penalty assessed per day of violation for each violation under this section shall
29 not exceed the amount of the civil penalty specified in section 260.240. Such
30 rules shall reflect the criteria used for the administrative penalty matrix as
31 provided for in the Resource Conservation and Recovery Act, 42 U.S.C. 6928(a),
32 Section 3008(a), and the harm or potential harm which the violation causes, or
33 may cause, the violator's previous compliance record, and any other factors which
34 the department may reasonably deem relevant. An administrative penalty shall
35 be paid within sixty days from the date of issuance of the order assessing the
36 penalty. Any person subject to an administrative penalty may appeal as provided
37 in section 260.235 **and section 621.250**. Any appeal will stay the due date of
38 such administrative penalty until the appeal is resolved. Any person who fails
39 to pay an administrative penalty by the final due date shall be liable to the state
40 for a surcharge of fifteen percent of the penalty plus ten percent per annum on
41 any amounts owed. Any administrative penalty paid pursuant to this section
42 shall be handled in accordance with section 7 of article IX of the state
43 constitution. An action may be brought in the appropriate circuit court to collect
44 any unpaid administrative penalty, and for attorney's fees and costs incurred
45 directly in the collection thereof.

46 3. An administrative penalty shall not be increased in those instances
47 where department action, or failure to act, has caused a continuation of the
48 violation that was a basis for the penalty. Any administrative penalty must be
49 assessed within two years following the department's initial discovery of such
50 alleged violation, or from the date the department in the exercise of ordinary
51 diligence should have discovered such alleged violation.

52 4. The state may elect to assess an administrative penalty, or, in lieu
53 thereof, to request that the attorney general or prosecutor file an appropriate
54 legal action seeking a civil penalty in the appropriate circuit court.

55 5. Any final order imposing an administrative penalty [is subject to
56 judicial review upon the filing of a petition pursuant to section 536.100] **may be**
57 **appealed** by any person subject to the administrative penalty **as provided in**
58 **section 260.235 and section 621.250, subject to judicial review as**
59 **provided by law. No judicial review shall be available until all**

60 administrative remedies are exhausted.

260.335. 1. Each fiscal year eight hundred thousand dollars from the
2 solid waste management fund shall be made available, upon appropriation, to the
3 department and the environmental improvement and energy resources authority
4 to fund activities that promote the development and maintenance of markets for
5 recovered materials. Each fiscal year up to two hundred thousand dollars from
6 the solid waste management fund be used by the department upon appropriation
7 for grants to solid waste management districts for district grants and district
8 operations. Only those solid waste management districts that are allocated fewer
9 funds under subsection 2 of this section than if revenues had been allocated based
10 on the criteria in effect in this section on August 27, 2004, are eligible for these
11 grants. An eligible district shall receive a proportionate share of these grants
12 based on that district's share of the total reduction in funds for eligible districts
13 calculated by comparing the amount of funds allocated under subsection 2 of this
14 section with the amount of funds that would have been allocated using the
15 criteria in effect in this section on August 27, 2004. The department and the
16 authority shall establish a joint interagency agreement with the department of
17 economic development to identify state priorities for market development and to
18 develop the criteria to be used to judge proposed projects. Additional moneys may
19 be appropriated in subsequent fiscal years if requested. The authority shall
20 establish a procedure to measure the effectiveness of the grant program under
21 this subsection and shall provide a report to the governor and general assembly
22 by January fifteenth of each year regarding the effectiveness of the program.

23 2. All remaining revenues deposited into the fund each fiscal year after
24 moneys have been made available under subsection 1 of this section shall be
25 allocated as follows:

26 (1) Thirty-nine percent of the revenues shall be dedicated, upon
27 appropriation, to the elimination of illegal solid waste disposal, to identify and
28 prosecute persons disposing of solid waste illegally, to conduct solid waste
29 permitting activities, to administer grants and perform other duties imposed in
30 sections 260.200 to 260.345 and section 260.432. In addition to the thirty-nine
31 percent of the revenues, the department may receive any annual increase in the
32 charge during October 1, 2005, to October 1, 2014, under section 260.330 and
33 such increases shall be used solely to fund the operating costs of the department;

34 (2) Sixty-one percent of the revenues, except any annual increases in the
35 charge under section 260.330 during October 1, 2005, to October 1, 2014, which

36 shall be used solely to fund the operating costs of the department, shall be
37 allocated through grants, upon appropriation, to participating cities, counties, and
38 districts. Revenues to be allocated under this subdivision shall be divided as
39 follows: forty percent shall be allocated based on the population of each district
40 in the latest decennial census, and sixty percent shall be allocated based on the
41 amount of revenue generated within each district. For the purposes of this
42 subdivision, revenue generated within each district shall be determined from the
43 previous year's data. No more than fifty percent of the revenue allocable under
44 this subdivision may be allocated to the districts upon approval of the department
45 for implementation of a solid waste management plan and district operations, and
46 at least fifty percent of the revenue allocable to the districts under this
47 subdivision shall be allocated to the cities and counties of the district or to
48 persons or entities providing solid waste management, waste reduction, recycling
49 and related services in these cities and counties. Each district shall receive a
50 minimum of seventy-five thousand dollars under this subdivision. After August
51 28, 2005, each district shall receive a minimum of ninety-five thousand dollars
52 under this subdivision for district grants and district operations. Each district
53 receiving moneys under this subdivision shall expend such moneys pursuant to
54 a solid waste management plan required under section 260.325, and only in the
55 case that the district is in compliance with planning requirements established by
56 the department. Moneys shall be awarded based upon grant applications. Any
57 moneys remaining in any fiscal year due to insufficient or inadequate applications
58 may be reallocated pursuant to this subdivision;

59 (3) Except for the amount up to one-fourth of the department's previous
60 fiscal year expense, any remaining unencumbered funds generated under
61 subdivision (1) of this subsection in prior fiscal years shall be reallocated under
62 this section;

63 (4) Funds may be made available under this subsection for the
64 administration and grants of the used motor oil program described in section
65 260.253;

66 (5) The department and the environmental improvement and energy
67 resources authority shall conduct sample audits of grants provided under this
68 subsection.

69 3. The [advisory board created in section 260.345 shall recommend]
70 **department shall establish** criteria to be used to allocate grant moneys to
71 districts, cities and counties. These criteria shall establish a priority for

72 proposals which provide methods of solid waste reduction and recycling. The
73 department shall promulgate criteria for evaluating grants by rule and
74 regulation. Projects of cities and counties located within a district which are
75 funded by grants under this section shall conform to the district solid waste
76 management plan.

77 4. The funds awarded to the districts, counties and cities pursuant to this
78 section shall be used for the purposes set forth in sections 260.300 to 260.345,
79 and shall be used in addition to existing funds appropriated by counties and cities
80 for solid waste management and shall not supplant county or city appropriated
81 funds.

82 5. The department[, in conjunction with the solid waste advisory board,]
83 shall review the performance of all grant recipients to ensure that grant moneys
84 were appropriately and effectively expended to further the purposes of the grant,
85 as expressed in the recipient's grant application. The grant application shall
86 contain specific goals and implementation dates, and grant recipients shall be
87 contractually obligated to fulfill same. The department may require the recipient
88 to submit periodic reports and such other data as are necessary, both during the
89 grant period and up to five years thereafter, to ensure compliance with this
90 section. The department may audit the records of any recipient to ensure
91 compliance with this section. Recipients of grants under sections 260.300 to
92 260.345 shall maintain such records as required by the department. If a grant
93 recipient fails to maintain records or submit reports as required herein, refuses
94 the department access to the records, or fails to meet the department's
95 performance standards, the department may withhold subsequent grant
96 payments, if any, and may compel the repayment of funds provided to the
97 recipient pursuant to a grant.

98 6. The department shall provide for a security interest in any machinery
99 or equipment purchased through grant moneys distributed pursuant to this
100 section.

101 7. If the moneys are not transmitted to the department within the time
102 frame established by the rule promulgated, interest shall be imposed on the
103 moneys due the department at the rate of ten percent per annum from the
104 prescribed due date until payment is actually made. These interest amounts
105 shall be deposited to the credit of the solid waste management fund.

621.250. 1. All authority to hear **contested case administrative**
2 appeals granted in chapters **236, 256**, 260, 444, 640, 643, and 644, and to the

3 hazardous waste management commission in chapter 260, the land reclamation
4 commission in chapter 444, the safe drinking water commission in chapter 640,
5 the air conservation commission in chapter 643, and the clean water commission
6 in chapter 644 shall be transferred to the administrative hearing commission
7 under this chapter. The authority to render final decisions after hearing on
8 appeals heard by the administrative hearing commission shall remain with the
9 commissions listed in this subsection. **For appeals pursuant to chapter 236,**
10 **chapter 256, section 260.235, or section 260.249, the administrative**
11 **hearing commission shall render a final decision rather than a**
12 **recommended decision.** The administrative hearing commission may render
13 [a] its recommended or final decision after hearing or through stipulation,
14 consent order, agreed settlement or by disposition in the nature of default
15 judgment, judgment on the pleadings, or summary determination, consistent with
16 the requirements of this subsection and the rules and procedures of the
17 administrative hearing commission.

18 2. Except as otherwise provided by law, any person or entity who is a
19 party to, or who is aggrieved or adversely affected by, any finding, order, decision,
20 or assessment for which the authority to hear appeals was transferred to the
21 administrative hearing commission in subsection 1 of this section may file a
22 notice of appeal with the administrative hearing commission within thirty days
23 after any such finding, order, decision, or assessment is placed in the United
24 States mail or within thirty days of any such finding, order, decision, or
25 assessment being delivered, whichever is earlier. Within ninety days after the
26 date on which the notice of appeal is filed the administrative hearing commission
27 may hold hearings, and within one hundred twenty days after the date on which
28 the notice of appeal is filed shall make a recommended decision [based on those
29 hearings or shall make a recommended decision based on stipulation of the
30 parties, consent order, agreed settlement or by disposition in the nature of default
31 judgment, judgment on the pleadings, or summary determination], **or a final**
32 **decision where applicable,** in accordance with the requirements of this
33 [subsection] **section** and the rules and procedures of the administrative hearing
34 commission; provided, however, that the dates by which the administrative
35 hearing commission is required to hold hearings and make a recommended
36 decision may be extended at the sole discretion of the permittee as either
37 petitioner or intervenor in the appeal.

38 3. Any decision by the director of the department of natural resources that

39 may be appealed as provided in subsection 1 of this section shall contain a notice
40 of the right of appeal in substantially the following language: "If you were
41 adversely affected by this decision, you may **be entitled to pursue an** appeal
42 **[to have the matter heard by] before** the administrative hearing commission. To
43 appeal, you must file a petition with the administrative hearing commission
44 within thirty days after the date this decision was mailed or the date it was
45 delivered, whichever date was earlier. If any such petition is sent by registered
46 mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent
47 by any method other than registered mail or certified mail, it will be deemed filed
48 on the date it is received by the administrative hearing commission.". Within
49 fifteen days after the administrative hearing commission renders [its] a
50 recommended decision, it shall transmit the record and a transcript of the
51 proceedings, together with the administrative hearing commission's recommended
52 decision to the commission having authority to issue a final decision. The final
53 decision of the commission shall be issued within one hundred eighty days of the
54 date the notice of appeal in subsection 2 of this section is filed and shall be based
55 only on the facts and evidence in the hearing record; provided, however, that the
56 date by which the commission is required to issue a final decision may be
57 extended at the sole discretion of the permittee as either petitioner or intervenor
58 in the appeal. The commission may adopt the recommended decision as its final
59 decision. The commission may change a finding of fact or conclusion of law made
60 by the administrative hearing commission, or may vacate or modify the
61 recommended decision issued by the administrative hearing commission, only if
62 the commission states in writing the specific reason for a change made under this
63 subsection.

64 4. In the event the person filing the appeal prevails in any dispute under
65 this section, interest shall be allowed upon any amount found to have been
66 wrongfully collected or erroneously paid at the rate established by the director of
67 the department of revenue under section 32.065.

68 5. Appropriations shall be made from the respective funds of the [various
69 commissions] **department of natural resources** to cover the administrative
70 hearing commission's costs associated with these appeals.

71 6. In all matters heard by the administrative hearing commission under
72 this section, the burden of proof shall comply with section 640.012. The hearings
73 shall be conducted by the administrative hearing commission in accordance with
74 the provisions of chapter 536 and its regulations promulgated thereunder.

75 7. No cause of action or appeal arising out of any finding, order, decision,
76 or assessment of any of the commissions listed in subsection 1 of this section shall
77 accrue in any court unless the party seeking to file such cause of action or appeal
78 shall have filed a notice of appeal and received a final decision in accordance with
79 the provisions of this section.

640.010. 1. There is hereby created a department of natural resources in
2 charge of a director appointed by the governor, by and with the advice and
3 consent of the senate. The director shall administer the programs assigned to the
4 department relating to environmental control and the conservation and
5 management of natural resources. The director shall coordinate and supervise
6 all staff and other personnel assigned to the department. He shall faithfully
7 cause to be executed all policies established by the boards and commissions
8 assigned to the department, be subject to their decisions as to all substantive and
9 procedural rules and his **or her** decisions shall be subject to appeal [to the board
10 or commission on request of the board or commission or by affected parties] **as**
11 **provided by law**. The director shall recommend policies to the various boards
12 and commissions assigned to the department to achieve effective and coordinated
13 environmental control and natural resource conservation policies.

14 2. The director shall appoint directors of staff to service each of the policy
15 making boards or commissions assigned to the department. Each director of staff
16 shall be qualified by education, training and experience in the technical matters
17 of the board to which he is assigned and his **or her** appointment shall be
18 approved by the board to which he is assigned and he shall be removed or
19 reassigned on their request in writing to the director of the department. All other
20 employees of the department and of each board and commission assigned to the
21 department shall be appointed by the director of the department in accord with
22 chapter 36, and shall be assigned and may be reassigned as required by the
23 director of the department in such a manner as to provide optimum service,
24 efficiency and economy.

25 3. The air conservation commission, chapter 203 and others, the clean
26 water commission, chapter 204 and others, are transferred by type II transfer to
27 the department of natural resources. The governor shall appoint the members of
28 these bodies in accord with the laws establishing them, with the advice and
29 consent of the senate. The bodies hereby transferred shall retain all rulemaking
30 and hearing powers allotted by law, as well as those of any bodies transferred to
31 their jurisdiction. All the powers, duties and functions of the state environmental

32 improvement authority, chapter 260 and others, are transferred by type III
33 transfer to the air conservation commission. All the powers, duties and functions
34 of the water resources board, chapter 256 and others, are transferred by type I
35 transfer to the clean water commission and the board is abolished. No member
36 of the clean water commission shall receive or shall have received, during the
37 previous two years from the date of his **or her** appointment, a significant portion
38 of his **or her** income directly or indirectly from permit holders or applicants for
39 a permit under the jurisdiction of the clean water commission. The state park
40 board, chapter 253, is transferred to the department of natural resources by type
41 I transfer.

42 4. All the powers, duties and functions of the state soil and water districts
43 commission, chapter 278 and others, are transferred by a type II transfer to the
44 department.

45 5. All the powers, duties and functions of the state geologist, chapter 256
46 and others, are transferred by type I transfer to the department of natural
47 resources. All the powers, duties and functions of the state land survey
48 authority, chapter 60, are transferred to the department of natural resources by
49 type I transfer and the authority is abolished. All the powers, duties and
50 functions of the state oil and gas council, chapter 259 and others, are transferred
51 to the department of natural resources [by type II transfer] **and the council is**
52 **abolished**. The director of the department shall appoint a state geologist who
53 shall have the duties to supervise and coordinate the work formerly done by the
54 [departments or authorities] **bodies** abolished by this subsection[, and shall
55 provide staff services for the state oil and gas council].

56 6. All the powers, duties and functions of the land reclamation
57 commission, chapter 444 and others, are transferred to the department of natural
58 resources by type II transfer. All necessary personnel required by the commission
59 shall be selected, employed and discharged by the commission. The director of
60 the department shall not have the authority to abolish positions.

61 7. The functions performed by the division of health in relation to the
62 maintenance of a safe quality of water dispensed to the public, sections 640.100
63 to 640.115, and others, and for licensing and regulating solid waste management
64 systems and plans are transferred by type I transfer to the department of natural
65 resources.

66 [8. (1) The state interagency council for outdoor recreation, chapter 258,
67 is transferred to the department of natural resources by type II transfer. The

68 council shall consist of representatives of the following state agencies:
69 department of agriculture; department of conservation; office of administration;
70 department of natural resources; department of economic development;
71 department of social services; department of transportation; and the University
72 of Missouri.

73 (2) The council shall function as provided in chapter 258, except that the
74 department of natural resources shall provide all staff services as required by the
75 council notwithstanding the provisions of sections 258.030 and 258.040, and all
76 personnel and property of the council are hereby transferred by type I transfer
77 to the department of natural resources and the office of executive secretary to the
78 council is abolished.]

640.012. In all [matters] **contested case administrative appeals**
2 heard by the [department of natural resources in this chapter and chapters 260,
3 278, 444, 643, and 644, the hazardous waste management commission in chapter
4 260, the state soil and water districts commission in chapter 278, the land
5 reclamation commission in chapter 444, the safe drinking water commission in
6 this chapter, the air conservation commission in chapter 643, and the clean water
7 commission in chapter 644] **administrative hearing commission pursuant**
8 **to section 621.250**, the burden of proof shall be upon the department of natural
9 resources [or the commission that issued] **to demonstrate the lawfulness of**
10 the finding, order, decision or assessment being appealed, except that in matters
11 involving the denial of a permit, license or registration, the burden of proof shall
12 be on the applicant for such permit, license or registration.

640.017. 1. **Notwithstanding any other provision of law**, for
2 activities that may require multiple environmental state permits **or**
3 **certifications**, an applicant may [request to coordinate] **directly petition the**
4 **director for purposes of approving or denying such permits or**
5 **certifications, and for purposes of coordinating** a unified permit schedule
6 with the department which covers the timing and order to obtain such permits **in**
7 **a coordinated and streamlined process**. In determining the schedule, the
8 department and applicant shall consider which permits are most critical for the
9 regulated activity, the need for unified public participation for all of the regulated
10 aspects of the permitted activity, the applicant's anticipated staging of
11 construction and financing for the permitted activity, and the applicant's use of
12 innovative environmental approaches or strategies to minimize its environmental
13 impacts.

14 2. **In order to facilitate a unified and streamlined permitting**
15 **process, the director shall develop and implement a process to**
16 **coordinate the processing of multiple environmental permits,**
17 **certifications, or permit modifications from a single applicant.**

18 3. The department may initiate the unified permits process for a class of
19 similar activities by notifying any known applicants interested in those regulated
20 activities of the intent to use the unified process. To the extent practicable and
21 consistent with the purposes of this section, the department shall coordinate with
22 interested applicants on the unified permit schedule.

23 [3.] 4. The [department] **process developed and implemented by**
24 **the director shall include working with such applicants in an effort to**
25 **help** determine, **at the earliest stage**, all of the permits required for a specific
26 proposed activity based on information provided by the applicant; additional
27 information regarding the proposed activity may result in different permits being
28 required. The department shall [propose] **inform applicants that** a unified
29 permitting schedule [to interested applicants] **is available**. Any multiple-permit
30 applicant may decline at any time to have its permits processed in accordance
31 with the schedule and instead proceed [in] **on** a permit-by-permit approach. The
32 department shall publicize the order and tentative schedule on the department's
33 internet website.

34 [4.] 5. Following the establishment of a unified permit schedule, the
35 director shall notify the applicant in writing of the order in which the applicant
36 shall obtain permits. The department shall proceed to consider applications
37 accordingly and may only modify the schedule with the consent of the applicant
38 through the date of the public hearing. Each application shall be reviewed by the
39 department based solely on its own merits and compliance with the applicable
40 law.

41 [5.] 6. The department shall coordinate with the applicant, to the extent
42 possible, to align the unified permit process so that all public meetings or
43 hearings related to the permits are consolidated into one hearing in a location
44 near the facility.

45 [6.] 7. In furtherance of this section, the director may waive otherwise
46 applicable procedural requirements related to timing as set forth in state
47 environmental laws or rules found in this chapter and chapters **236, 259, 260,**
48 **444, 643,** and 644, so long as:

49 (1) The public comment periods related to each permit are not shortened;

50 and

51 (2) The unified permitting schedule does not impair the ability of the
52 applicant or the department to comply with substantive legal requirements
53 related to the permit application.

54 [7.] 8. The director shall promulgate rules to implement the provisions
55 of this section. Any rule or portion of a rule, as that term is defined in section
56 536.010, that is created under the authority delegated in this section shall
57 become effective only if it complies with and is subject to all of the provisions of
58 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
59 nonseverable and if any of the powers vested with the general assembly under
60 chapter 536 to review, to delay the effective date, or to disapprove and annul a
61 rule are subsequently held unconstitutional, then the grant of rulemaking
62 authority and any rule proposed or adopted after August 28, 2008, shall be
63 invalid and void.

[60.620. 1. There is hereby created the "Land Survey
2 Commission", within the department of natural resources. The
3 commission shall consist of seven members, six of whom shall be
4 appointed by the governor. Members shall reside in this
5 state. Members of the commission shall hold office for terms of
6 three years, but of the original appointments, two members shall
7 serve for one year, two members shall serve for two years, and two
8 members shall serve for three years. Members may serve only
9 three consecutive terms on the commission.

10 2. The land survey commission shall consist of the following
11 persons:

12 (1) Four members who shall be registered land surveyors,
13 one of which shall be a county surveyor;

14 (2) One member who shall represent the real estate or land
15 title industry;

16 (3) One member who shall represent the public and have an
17 interest in and knowledge of land surveying; and

18 (4) The director of the department of natural resources or
19 his or her designee.

20 The members in subdivisions (1) to (3) of this subsection shall be
21 appointed by the governor with advice and consent of the senate
22 and each shall serve until his or her successor is duly appointed.

23 3. The land survey commission shall elect a chairman
24 annually. The commission shall meet semiannually and at other
25 such times as called by the chairman of the commission and shall
26 have a quorum when at least four members are present.

27 4. The land survey commission members shall serve
28 without compensation but shall be reimbursed for actual and
29 necessary expenses incurred in the performance of their official
30 duties.

31 5. The land survey commission shall provide the director of
32 the department of natural resources and the state land surveyor
33 with recommendations on the operation and the planning and
34 prioritization of the land survey program and the design of
35 regulations needed to carry out the functions, duties, and
36 responsibilities of the department of natural resources in sections
37 60.510 to 60.620 and section 60.670.

38 6. The land survey commission shall recommend to the
39 department of natural resources:

40 (1) A person to be selected and appointed state land
41 surveyor, who shall be the chief administrative officer of the land
42 survey program. The state land surveyor shall be selected under
43 the state merit system on the basis of professional experience and
44 registration;

45 (2) Prioritization and execution of projects which are within
46 the scope and purpose of sections 60.510 to 60.620 and section
47 60.670;

48 (3) Prioritization and selection of public land survey corner
49 monuments to be reestablished through the county cooperative
50 contracts in accordance with sections 8.285 to 8.291; and

51 (4) Approval of all other contracts for the planning and
52 execution of projects which are within the scope and purpose of
53 sections 60.510 to 60.620 and section 60.670 and in accordance with
54 sections 8.285 to 8.291.

55 7. The commission shall, at least annually, prepare a
56 report, which shall be available to the general public, of the review
57 by the commission of the land survey program, stating its findings,
58 conclusions, and recommendations to the director.

59 8. By December 1, 2013, the commission shall provide a
60 report to the department of natural resources and general assembly
61 that recommends the appropriate administrative or overhead cost
62 rate that will be charged to the program, where such cost rate shall
63 include all indirect services provided by the division of geology and
64 land survey, department of natural resources, and office of
65 administration.]

 [194.409. 1. There is hereby created in the department of
2 natural resources, an "Unmarked Human Burial Consultation
3 Committee", which shall be composed of seven members to be
4 appointed by the governor with the advice and consent of the
5 senate. The members of the committee shall be appointed as
6 follows: the state historic preservation officer, two members who
7 are archaeologists or skeletal analysts, two native Americans who
8 are members of an Indian tribe recognized by the United States of
9 America, one member who is a non-Indian minority, and one
10 non-Indian, non-minority member who is neither a professional
11 archaeologist nor a skeletal analyst. Members of the committee
12 shall be residents of the state of Missouri.

13 2. The state historic preservation officer shall be chairman
14 of the committee and shall serve a term which is contemporaneous
15 with his employment as director of the department of natural
16 resources. The terms of all other members of the committee shall
17 be three years.

18 3. The committee shall meet at least once each calendar
19 year, but may meet more often at the request of the state historic
20 preservation officer.

21 4. The members of the committee shall serve voluntarily
22 and shall not receive compensation for membership on the
23 committee, except that they shall be eligible to receive
24 reimbursement for transportation expenses as provided for through
25 the budget approved for the office of the state historic preservation
26 officer.

27 5. All actions and decisions of the state historic
28 preservation officer and the unmarked human burial consultation
29 committee shall be in conformity with the provisions of the federal

30 National Historic Preservation Act of 1966, as amended.]

2 [236.410. 1. There is hereby created a "Dam and Reservoir
3 Safety Council", whose domicile for the purposes of sections
4 236.400 to 236.500 shall be the department of natural resources of
5 the state of Missouri, for the regulation of dam and reservoir
6 safety. The council shall consist of seven members, no more than
7 four of whom shall be members of the same political party,
8 appointed by the governor with the advice and consent of the
9 senate.

9 2. The members of the council shall have a background of
10 academic training or professional experience directly related to the
11 design of dams and reservoirs. At least two members of the council
12 shall be professional engineers registered in the state of Missouri,
13 one of whom shall represent the general public; at least one
14 member shall be an engineering geologist; at least one member, in
15 addition to the professional engineer, shall be a representative of
16 the general public; two members shall be from industry, one of
17 whom shall be earthmoving contractors; and one member shall be
18 the owner of a dam or reservoir. The members shall serve for a
19 term of two years; except, of the first appointments three shall be
20 appointed for one year. The governor shall fill any vacancy on the
21 council and may remove any appointed member for cause. The
22 council shall annually elect a chairman and vice chairman from
23 among its members. The council shall meet regularly but not less
24 than quarterly. Special meetings and hearings may be called upon
25 delivery of written notice to each member of the council signed by
26 the director, the chief engineer, the council chairman or four of the
27 council members. Four members of the council shall constitute a
28 quorum to transact the business of the council. The council shall
29 decide all questions by a majority vote of those present and
30 constituting a quorum. The members of this council shall not
31 receive any compensations other than for actual travel and
32 subsistence when acting officially as members of the council.]

2 [256.605. 1. The "Well Installation Board" is hereby
3 established which shall be composed of nine
members. Appointment to the board shall be made without regard

4 to race, creed, sex, religion, or national origin of the
5 appointees. Each member shall be a resident of the state and be
6 conversant in well drilling, completion, and plugging methods and
7 techniques.

8 2. Four members of the board shall hold valid permits
9 under sections 256.600 to 256.640. Two of these shall hold permits
10 as well installation contractors, one shall hold a permit as a heat
11 pump installation contractor and as a well installation contractor
12 and one shall hold a permit as a monitoring well installation
13 contractor and as a well installation contractor. Four shall be
14 public members, one of these shall be a public water supply district
15 user and one shall be a private well user. The director of the
16 department or his designee shall serve as a member of the
17 board. Board members shall serve four-year terms except that two
18 of the first appointed public members and two of the first appointed
19 members holding valid permits shall be appointed to two-year
20 terms. Members shall be appointed by the governor with the
21 advice and consent of the senate and each shall serve until his
22 successor is duly appointed and qualified. Vacancies shall be filled
23 by appointment for the unexpired term. Any member who fails to
24 attend at least seventy-five percent of the regular board meetings
25 in any one year, at the discretion of the board, shall be deemed to
26 have resigned. Members shall be reimbursed for actual and
27 necessary expenses incurred in the performance of their official
28 duties while in attendance at board meetings out of appropriations
29 made for that purpose.

30 3. A member shall not be employed by or own an interest
31 in a company, firm, or business association which employs another
32 member of the board or in which another member owns an interest,
33 if the company, firm, or business association is engaged in any
34 phase of the well drilling, pump installation, heat pump or
35 monitoring well business.

36 4. Except for industry members, no member shall receive,
37 or shall have received during the previous two years, income
38 derived directly or indirectly from any permittee or applicant under
39 sections 256.600 to 256.640.

40 5. The board shall meet on a quarterly basis, and special
41 meetings may be called when deemed necessary by the division. A
42 majority of the board is a quorum for conducting business. The
43 board shall elect a chairman by a majority vote at the first meeting
44 each year.]

 [256.710. 1. There is hereby created an advisory council to
2 the state geologist known as the "Industrial Minerals Advisory
3 Council". The council shall be composed of nine members as
4 follows:

5 (1) The director of the department of transportation or his
6 or her designee;

7 (2) Eight representatives of the following industries
8 appointed by the director of the department of natural resources:

9 (a) Three representing the limestone quarry operators;

10 (b) One representing the clay mining industry;

11 (c) One representing the sandstone mining industry;

12 (d) One representing the sand and gravel mining industry;

13 (e) One representing the barite mining industry; and

14 (f) One representing the granite mining industry.

15 The director of the department of natural resources or his or her
16 designee shall act as chairperson of the council and convene the
17 council as needed.

18 2. The advisory council shall:

19 (1) Meet at least once each year;

20 (2) Annually review with the state geologist the income
21 received and expenditures made under sections 256.700 and
22 256.705;

23 (3) Consider all information and advise the director of the
24 department of natural resources in determining the method and
25 amount of fees to be assessed;

26 (4) In performing its duties under this subsection, represent
27 the best interests of the Missouri mining industry;

28 (5) Serve in an advisory capacity in all matters pertaining
29 to the administration of this section and section 256.700;

30 (6) Serve in an advisory capacity in all other matters
31 brought before the council by the director of the department of

32 natural resources.

33 3. All members of the advisory council, with the exception
34 of the director of the department of transportation or his or her
35 designee who shall serve indefinitely, shall serve for terms of three
36 years and until their successors are duly appointed and qualified;
37 except that, of the members first appointed:

38 (1) One member who represents the limestone quarry
39 operators, the representative of the clay mining industry, and the
40 representative of the sandstone mining industry shall serve terms
41 of three years;

42 (2) One member who represents the limestone quarry
43 operators, the representative of the sand and gravel mining
44 industry, and the representative of the barite mining industry shall
45 serve terms of two years; and

46 (3) One member who represents the limestone quarry
47 operators, and the representative of the granite mining industry
48 shall serve a term of one year.

49 4. All members shall be residents of this state. Any
50 member may be reappointed.

51 5. All members shall be reimbursed for reasonable expenses
52 incurred in the performance of their official duties in accordance
53 with the reimbursement policy set by the director. All
54 reimbursements paid under this section shall be paid from fees
55 collected under section 256.700.

56 6. Every vacancy on the advisory council shall be filled by
57 the director of the department of natural resources. The person
58 selected to fill any such vacancy shall possess the same
59 qualifications required by this section as the member he or she
60 replaces and shall serve until the end of the unexpired term of his
61 or her predecessor.]

[258.020. The member agencies shall be represented on the
2 council by the executive head of the agency. The executive head of
3 any member agency may from time to time authorize any member
4 of the agency's staff to represent it on the council and to fully
5 exercise any of the powers and duties of an agency representative.]

[258.030. 1. The officers of the council shall be a chairman

2 and vice chairman appointed by the governor from the executive
3 heads of the agencies represented on the council. A chairman may
4 serve more than one term.

5 2. Duties of the chairman shall be to see that policies and
6 directives of the council are carried out by the executive secretary
7 and to preside at meetings of the council. If the chairman cannot
8 perform the duties, the vice chairman shall assume them.]

[259.010. There shall be a "State Oil and Gas Council"
2 composed of the following members in accordance with the
3 provisions of section 259.020:

4 (1) One member from the division of geology and land
5 survey;

6 (2) One member from the department of economic
7 development;

8 (3) One member from the Missouri public service
9 commission;

10 (4) One member from the clean water commission;

11 (5) One member from the Missouri University of Science
12 and Technology petroleum engineering program;

13 (6) One member from the Missouri Independent Oil and
14 Gas Association; and

15 (7) Two members from the public.]

[259.020. The member entities in section 259.010 shall be
2 represented on the council by the executive head of each respective
3 entity, except that:

4 (1) The Missouri University of Science and Technology shall
5 be represented by a professor of petroleum engineering employed
6 at the university;

7 (2) The Missouri Independent Oil and Gas Association shall
8 be represented by a designated member of the association; and

9 (3) The public members shall be appointed to the council by
10 the governor, with the advice and consent of the senate. Both
11 public members shall have an interest in and knowledge of the oil
12 and gas industry, both shall be residents of Missouri, and at least
13 one shall also be a resident of a county of the third or fourth
14 classification.

15 The executive head of any member state agency, the professor of
16 petroleum engineering at the Missouri University of Science and
17 Technology and the member from the Missouri Independent Oil
18 and Gas Association may from time to time authorize any member
19 of the state agency's staff, another professor of petroleum
20 engineering at the Missouri University of Science and Technology
21 or another member of the Missouri Independent Oil and Gas
22 Association, respectively, to represent it on the council and to fully
23 exercise any of the powers and duties of the member
24 representative.]

[259.040. Representatives of the member state agencies
2 shall not receive any additional compensation for their services as
3 representatives on the council and all expenses of the state agency
4 representatives shall be paid by their respective agency. The
5 professor of petroleum engineering, the member from the Missouri
6 Independent Oil and Gas Association and the public members shall
7 not receive any compensation for their services as representatives
8 on the council and all expenses of such representatives shall be
9 paid by their respective entities.]

[259.150. 1. Whenever either party to a contested matter
2 avers that there is a question or questions of fact involved, the
3 matter shall be submitted to the public service commission for
4 hearing on the question or questions of fact.

5 2. The rules and regulations governing practice before the
6 public service commission shall be in effect on such hearing to
7 determine a question or questions of fact.

8 3. Costs in said action may be set and taxed by the
9 commission as it may see fit.]

[260.345. A state "Solid Waste Advisory Board" is created
2 within the department of natural resources. The advisory board
3 shall be composed of the chairman of the executive board of each
4 of the solid waste management districts and other members as
5 provided in this section. Up to five additional members shall be
6 appointed by the director of which two members shall represent the
7 solid waste management industry and have an economic interest
8 in or activity with any solid waste facility or operation, one member

9 may represent the solid waste composting or recycling industry
10 businesses, and the remaining members shall be public members
11 who have demonstrated interest in solid waste management issues
12 and shall have no economic interest in or activity with any solid
13 waste facility or operation but may own stock in a publicly traded
14 corporation which may be involved in waste management as long
15 as such holdings are not substantial. The advisory board shall
16 advise the department regarding:

- 17 (1) The efficacy of its technical assistance program;
- 18 (2) Solid waste management problems experienced by solid
19 waste management districts;
- 20 (3) The effects of proposed rules and regulations upon solid
21 waste management within the districts;
- 22 (4) Criteria to be used in awarding grants pursuant to
23 section 260.335;
- 24 (5) Waste management issues pertinent to the districts;
- 25 (6) The development of improved methods of solid waste
26 minimization, recycling and resource recovery; and
- 27 (7) Such other matters as the advisory board may
28 determine.]

[640.430. 1. The department shall establish an interagency
2 task force consisting of the departments of health and senior
3 services, conservation, agriculture, the University of Missouri,
4 college of agriculture and such other departments and agencies as
5 may be necessary to effectuate the purposes and provisions of
6 sections 640.400 to 640.435.

7 2. The interagency task force shall meet at least
8 semiannually. The department shall be the lead agency in matters
9 related to surface and groundwater protection.]

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