

SENATE BILL NO. 769

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BRATTIN.

3170S.03I

KRISTINA MARTIN, Secretary

AN ACT

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

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

Section A. Section 260.205, RSMo, is repealed and one new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

260.205. 1. It shall be unlawful for any person to
2 operate a solid waste processing facility or solid waste
3 disposal area of a solid waste management system without
4 first obtaining an operating permit from the department. It
5 shall be unlawful for any person to construct a solid waste
6 processing facility or solid waste disposal area without
7 first obtaining a construction permit from the department
8 pursuant to this section. A current authorization to
9 operate issued by the department pursuant to sections
10 260.200 to 260.345 shall be considered to be a permit to
11 operate for purposes of this section for all solid waste
12 disposal areas and processing facilities existing on August
13 28, 1995. A permit shall not be issued for a sanitary
14 landfill to be located in a flood area, as determined by the
15 department, where flood waters are likely to significantly
16 erode final cover. A permit shall not be required to
17 operate a waste stabilization lagoon, settling pond or other
18 water treatment facility which has a valid permit from the

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

19 Missouri clean water commission even though the facility may
20 receive solid or semisolid waste materials.

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

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

34 (1) The applicant shall notify the public of the
35 preliminary site investigation approval within thirty days
36 after the receipt of such approval. Such public
37 notification shall be by certified mail to the governing
38 body of the county or city in which the proposed disposal
39 area is to be located and by certified mail to the solid
40 waste management district in which the proposed disposal
41 area is to be located;

42 (2) Within ninety days after the preliminary site
43 investigation approval, the department shall conduct a
44 public awareness session in the county in which the proposed
45 disposal area is to be located. The department shall
46 provide public notice of such session by both printed and
47 broadcast media at least thirty days prior to such session.
48 Printed notification shall include publication in at least
49 one newspaper having general circulation within the county
50 in which the proposed disposal area is to be located.

51 Broadcast notification shall include public service
52 announcements on radio stations that have broadcast coverage
53 within the county in which the proposed disposal area is to
54 be located. The intent of such public awareness session
55 shall be to provide general information to interested
56 citizens on the design and operation of solid waste disposal
57 areas;

58 (3) At least sixty days prior to the submission to the
59 department of a report on the results of a detailed site
60 investigation pursuant to subsection 4 of this section, the
61 applicant shall conduct a community involvement session in
62 the county in which the proposed disposal area is to be
63 located. Department staff shall attend any such session.
64 The applicant shall provide public notice of such session by
65 both printed and broadcast media at least thirty days prior
66 to such session. Printed notification shall include
67 publication in at least one newspaper having general
68 circulation within the county in which the proposed disposal
69 area is to be located. Broadcast notification shall include
70 public service announcements on radio stations that have
71 broadcast coverage within the county in which the proposed
72 disposal area is to be located. Such public notices shall
73 include the addresses of the applicant and the department
74 and information on a public comment period. Such public
75 comment period shall begin on the day of the community
76 involvement session and continue for at least thirty days
77 after such session. The applicant shall respond to all
78 persons submitting comments during the public comment period
79 no more than thirty days after the receipt of such comments;

80 (4) If a proposed solid waste disposal area is to be
81 located in a county or city that has local planning and
82 zoning requirements, the applicant shall not be required to

83 conduct a community involvement session if the following
84 conditions are met:

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

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

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

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

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

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

104 4. No person may apply for or obtain a permit to
105 construct a solid waste disposal area unless the person has
106 submitted to the department a plan for conducting a detailed
107 surface and subsurface geologic and hydrologic investigation
108 and has obtained geologic and hydrologic site approval from
109 the department. The department shall approve or disapprove
110 the plan within thirty days of receipt. The applicant shall
111 conduct the investigation pursuant to the plan and submit
112 the results to the department. The department shall provide
113 approval or disapproval within sixty days of receipt of the
114 investigation results.

115 5. (1) Every person desiring to construct a solid
116 waste processing facility or solid waste disposal area shall
117 make application for a permit on forms provided for this
118 purpose by the department. Every applicant shall submit
119 evidence of financial responsibility with the application.
120 Any applicant who relies in part upon a parent corporation
121 for this demonstration shall also submit evidence of
122 financial responsibility for that corporation and any other
123 subsidiary thereof.

124 (2) Every applicant shall provide a financial
125 assurance instrument or instruments to the department prior
126 to the granting of a construction permit for a solid waste
127 disposal area. The financial assurance instrument or
128 instruments shall be irrevocable, meet all requirements
129 established by the department and shall not be cancelled,
130 revoked, disbursed, released or allowed to terminate without
131 the approval of the department. After the cessation of
132 active operation of a sanitary landfill, or other solid
133 waste disposal area as designed by the department, neither
134 the guarantor nor the operator shall cancel, revoke or
135 disburse the financial assurance instrument or allow the
136 instrument to terminate until the operator is released from
137 postclosure monitoring and care responsibilities pursuant to
138 section 260.227.

139 (3) The applicant for a permit to construct a solid
140 waste disposal area shall provide the department with plans,
141 specifications, and such other data as may be necessary to
142 comply with the purpose of sections 260.200 to 260.345. The
143 application shall demonstrate compliance with all applicable
144 local planning and zoning requirements. The department
145 shall make an investigation of the solid waste disposal area
146 and determine whether it complies with the provisions of

147 sections 260.200 to 260.345 and the rules and regulations
148 adopted pursuant to sections 260.200 to 260.345. Within
149 twelve consecutive months of the receipt of an application
150 for a construction permit the department shall approve or
151 deny the application. The department shall issue rules and
152 regulations establishing time limits for permit
153 modifications and renewal of a permit for a solid waste
154 disposal area. The time limit shall be consistent with this
155 chapter.

156 (4) The applicant for a permit to construct a solid
157 waste processing facility shall provide the department with
158 plans, specifications and such other data as may be
159 necessary to comply with the purpose of sections 260.200 to
160 260.345. Within one hundred eighty days of receipt of the
161 application, the department shall determine whether it
162 complies with the provisions of sections 260.200 to
163 260.345. Within twelve consecutive months of the receipt of
164 an application for a permit to construct an incinerator as
165 described in the definition of solid waste processing
166 facility in section 260.200 or a material recovery facility
167 as described in the definition of solid waste processing
168 facility in section 260.200, and within six months for
169 permit modifications, the department shall approve or deny
170 the application. Permits issued for solid waste facilities
171 shall be for the anticipated life of the facility.

172 (5) If the department fails to approve or deny an
173 application for a permit or a permit modification within the
174 time limits specified in subdivisions (3) and (4) of this
175 subsection, the applicant may maintain an action in the
176 circuit court of Cole County or that of the county in which
177 the facility is located or is to be sited. The court shall
178 order the department to show cause why it has not acted on

179 the permit and the court may, upon the presentation of
180 evidence satisfactory to the court, order the department to
181 issue or deny such permit or permit modification. Permits
182 for solid waste disposal areas, whether issued by the
183 department or ordered to be issued by a court, shall be for
184 the anticipated life of the facility.

185 (6) The applicant for a permit to construct a solid
186 waste processing facility shall pay an application fee of
187 one thousand dollars. Upon completion of the department's
188 evaluation of the application, but before receiving a
189 permit, the applicant shall reimburse the department for all
190 reasonable costs incurred by the department up to a maximum
191 of four thousand dollars. The applicant for a permit to
192 construct a solid waste disposal area shall pay an
193 application fee of two thousand dollars. Upon completion of
194 the department's evaluations of the application, but before
195 receiving a permit, the applicant shall reimburse the
196 department for all reasonable costs incurred by the
197 department up to a maximum of eight thousand dollars.
198 Applicants who withdraw their application before the
199 department completes its evaluation shall be required to
200 reimburse the department for costs incurred in the
201 evaluation. The department shall not collect the fees
202 authorized in this subdivision unless it complies with the
203 time limits established in this section.

204 (7) When the review reveals that the facility or area
205 does conform with the provisions of sections 260.200 to
206 260.345 and the rules and regulations adopted pursuant to
207 sections 260.200 to 260.345, the department shall approve
208 the application and shall issue a permit for the
209 construction of each solid waste processing facility or
210 solid waste disposal area as set forth in the application

211 and with any permit terms and conditions which the
212 department deems appropriate. In the event that the
213 facility or area fails to meet the rules and regulations
214 adopted pursuant to sections 260.200 to 260.345, the
215 department shall issue a report to the applicant stating the
216 reason for denial of a permit.

217 6. Plans, designs, and relevant data for the
218 construction of solid waste processing facilities and solid
219 waste disposal areas shall be submitted to the department by
220 a registered professional engineer licensed by the state of
221 Missouri for approval prior to the construction, alteration
222 or operation of such a facility or area.

223 7. Any person or operator as defined in section
224 260.200 who intends to obtain a construction permit in a
225 solid waste management district with an approved solid waste
226 management plan shall request a recommendation in support of
227 the application from the executive board created in section
228 260.315. The executive board shall consider the impact of
229 the proposal on, and the extent to which the proposal
230 conforms to, the approved district solid waste management
231 plan prepared pursuant to section 260.325. The executive
232 board shall act upon the request for a recommendation within
233 sixty days of receipt and shall submit a resolution to the
234 department specifying its position and its recommendation
235 regarding conformity of the application to the solid waste
236 plan. The board's failure to submit a resolution
237 constitutes recommendation of the application. The
238 department may consider the application, regardless of the
239 board's action thereon and may deny the construction permit
240 if the application fails to meet the requirements of
241 sections 260.200 to 260.345, or if the application is
242 inconsistent with the district's solid waste management plan.

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

251 9. The department shall not issue a permit for the
252 operation of a solid waste disposal area designed to serve a
253 city with a population of greater than four hundred thousand
254 located in more than one county, if the site is located
255 within **[one-half]** **one** mile of an adjoining municipality,
256 without the approval of the governing body of such
257 municipality. The governing body shall conduct a public
258 hearing within fifteen days of notice, shall publicize the
259 hearing in at least one newspaper having general circulation
260 in the municipality, and shall vote to approve or disapprove
261 the land disposal facility within thirty days after the
262 close of the hearing.

263 10. (1) Upon receipt of an application for a permit
264 to construct a solid waste processing facility or disposal
265 area, the department shall notify the public of such receipt:

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

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

272 (c) By mail to the last known address of all record
273 owners of contiguous real property or real property located
274 within one thousand feet of the proposed disposal area and,

275 for a proposed processing facility, notice as provided in
276 section 64.875 or section 89.060, whichever is applicable.

277 (2) If an application for a construction permit meets
278 all statutory and regulatory requirements for issuance, a
279 public hearing on the draft permit shall be held by the
280 department in the county in which the proposed solid waste
281 disposal area is to be located prior to the issuance of the
282 permit. The department shall provide public notice of such
283 hearing by both printed and broadcast media at least thirty
284 days prior to such hearing. Printed notification shall
285 include publication in at least one newspaper having general
286 circulation within the county in which the proposed disposal
287 area is to be located. Broadcast notification shall include
288 public service announcements on radio stations that have
289 broadcast coverage within the county in which the proposed
290 disposal area is to be located.

291 11. After the issuance of a construction permit for a
292 solid waste disposal area, but prior to the beginning of
293 disposal operations, the owner and the department shall
294 execute an easement to allow the department, its agents or
295 its contractors to enter the premises to complete work
296 specified in the closure plan, or to monitor or maintain the
297 site or to take remedial action during the postclosure
298 period. After issuance of a construction permit for a solid
299 waste disposal area, but prior to the beginning of disposal
300 operations, the owner shall submit evidence that such owner
301 has recorded, in the office of the recorder of deeds in the
302 county where the disposal area is located, a notice and
303 covenant running with the land that the property has been
304 permitted as a solid waste disposal area and prohibits use
305 of the land in any manner which interferes with the closure

306 and, where appropriate, postclosure plans filed with the
307 department.

308 12. Every person desiring to obtain a permit to
309 operate a solid waste disposal area or processing facility
310 shall submit applicable information and apply for an
311 operating permit from the department. The department shall
312 review the information and determine, within sixty days of
313 receipt, whether it complies with the provisions of sections
314 260.200 to 260.345 and the rules and regulations adopted
315 pursuant to sections 260.200 to 260.345. When the review
316 reveals that the facility or area does conform with the
317 provisions of sections 260.200 to 260.345 and the rules and
318 regulations adopted pursuant to sections 260.200 to 260.345,
319 the department shall issue a permit for the operation of
320 each solid waste processing facility or solid waste disposal
321 area and with any permit terms and conditions which the
322 department deems appropriate. In the event that the
323 facility or area fails to meet the rules and regulations
324 adopted pursuant to sections 260.200 to 260.345, the
325 department shall issue a report to the applicant stating the
326 reason for denial of a permit.

327 13. Each solid waste disposal area, except utility
328 waste landfills unless otherwise and to the extent required
329 by the department, and those solid waste processing
330 facilities designated by rule, shall be operated under the
331 direction of a certified solid waste technician in
332 accordance with sections 260.200 to 260.345 and the rules
333 and regulations promulgated pursuant to sections 260.200 to
334 260.345.

335 14. Base data for the quality and quantity of
336 groundwater in the solid waste disposal area shall be
337 collected and submitted to the department prior to the

338 operation of a new or expansion of an existing solid waste
339 disposal area. Base data shall include a chemical analysis
340 of groundwater drawn from the proposed solid waste disposal
341 area.

342 15. Leachate collection and removal systems shall be
343 incorporated into new or expanded sanitary landfills which
344 are permitted after August 13, 1986. The department shall
345 assess the need for a leachate collection system for all
346 types of solid waste disposal areas, other than sanitary
347 landfills, and the need for monitoring wells when it
348 evaluates the application for all new or expanded solid
349 waste disposal areas. The department may require an
350 operator of a solid waste disposal area to install a
351 leachate collection system before the beginning of disposal
352 operations, at any time during disposal operations for
353 unfilled portions of the area, or for any portion of the
354 disposal area as a part of a remedial plan. The department
355 may require the operator to install monitoring wells before
356 the beginning of disposal operations or at any time during
357 the operational life or postclosure care period if it
358 concludes that conditions at the area warrant such
359 monitoring. The operator of a demolition landfill or
360 utility waste landfill shall not be required to install a
361 leachate collection and removal system or monitoring wells
362 unless otherwise and to the extent the department so
363 requires based on hazardous waste characteristic criteria or
364 site specific geohydrological characteristics or conditions.

365 16. Permits granted by the department, as provided in
366 sections 260.200 to 260.345, shall be subject to suspension
367 for a designated period of time, civil penalty or revocation
368 whenever the department determines that the solid waste
369 processing facility or solid waste disposal area is, or has

370 been, operated in violation of sections 260.200 to 260.345
371 or the rules or regulations adopted pursuant to sections
372 260.200 to 260.345, or has been operated in violation of any
373 permit terms and conditions, or is creating a public
374 nuisance, health hazard, or environmental pollution. In the
375 event a permit is suspended or revoked, the person named in
376 the permit shall be fully informed as to the reasons for
377 such action.

378 17. Each permit for operation of a facility or area
379 shall be issued only to the person named in the
380 application. Permits are transferable as a modification to
381 the permit. An application to transfer ownership shall
382 identify the proposed permittee. A disclosure statement for
383 the proposed permittee listing violations contained in the
384 definition of disclosure statement found in section 260.200
385 shall be submitted to the department. The operation and
386 design plans for the facility or area shall be updated to
387 provide compliance with the currently applicable law and
388 rules. A financial assurance instrument in such an amount
389 and form as prescribed by the department shall be provided
390 for solid waste disposal areas by the proposed permittee
391 prior to transfer of the permit. The financial assurance
392 instrument of the original permittee shall not be released
393 until the new permittee's financial assurance instrument has
394 been approved by the department and the transfer of
395 ownership is complete.

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

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

404 20. Every applicant for a permit shall file a
405 disclosure statement with the information required by and on
406 a form developed by the department of natural resources at
407 the same time the application for a permit is filed with the
408 department.

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

416 22. All persons required to file a disclosure
417 statement shall provide any assistance or information
418 requested by the director or by the Missouri state highway
419 patrol and shall cooperate in any inquiry or investigation
420 conducted by the department and any inquiry, investigation
421 or hearing conducted by the director. If, upon issuance of
422 a formal request to answer any inquiry or produce
423 information, evidence or testimony, any person required to
424 file a disclosure statement refuses to comply, the
425 application of an applicant or the permit of a permittee may
426 be denied or revoked by the director.

427 23. If any of the information required to be included
428 in the disclosure statement changes, or if any additional
429 information should be added after the filing of the
430 statement, the person required to file it shall provide that
431 information to the director in writing, within thirty days
432 after the change or addition. The failure to provide such

433 information within thirty days may constitute the basis for
434 the revocation of or denial of an application for any permit
435 issued or applied for in accordance with this section, but
436 only if, prior to any such denial or revocation, the
437 director notifies the applicant or permittee of the
438 director's intention to do so and gives the applicant or
439 permittee fourteen days from the date of the notice to
440 explain why the information was not provided within the
441 required thirty-day period. The director shall consider
442 this information when determining whether to revoke, deny or
443 conditionally grant the permit.

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

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

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

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

463 25. After permit issuance, each facility shall
464 annually file an update to the disclosure statement with the

465 department of natural resources on or before March thirty-
466 first of each year. Failure to provide such update may
467 result in penalties as provided for under section 260.240.

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

473 27. Any person seeking a permit to operate a solid
474 waste disposal area, a solid waste processing facility, or a
475 resource recovery facility shall, concurrently with the
476 filing of the application for a permit, disclose any
477 convictions in this state, county or county-equivalent
478 public health or land use ordinances related to the
479 management of solid waste. If the department finds that
480 there has been a continuing pattern of adjudicated
481 violations by the applicant, the department may deny the
482 application.

483 28. No permit to construct or permit to operate shall
484 be required pursuant to this section for any utility waste
485 landfill located in a county of the third classification
486 with a township form of government which has a population of
487 at least eleven thousand inhabitants and no more than twelve
488 thousand five hundred inhabitants according to the most
489 recent decennial census, if such utility waste landfill
490 complies with all design and operating standards and closure
491 requirements applicable to utility waste landfills pursuant
492 to sections 260.200 to 260.345 and provided that no waste
493 disposed of at such utility waste landfill is considered
494 hazardous waste pursuant to the Missouri hazardous waste law.

495 29. Advanced recycling facilities are not subject to
496 the requirements of this section as long as the feedstocks

497 received by such facility are source-separated or diverted
498 or recovered from municipal or other waste streams prior to
499 acceptance at the advanced recycling facility.

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