

SECOND REGULAR SESSION

# HOUSE BILL NO. 2371

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE FRANZ.

5408L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 260.205, RSMo, and to enact in lieu thereof one new section relating to solid waste processing facilities.

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

Section A. Section 260.205, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 260.205, to read as follows:

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

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

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

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

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

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

- 54 (a) The local planning and zoning requirements include a public meeting;
- 55 (b) The applicant notifies the department of intent to utilize such meeting in lieu of the  
56 community involvement session at least thirty days prior to such meeting;
- 57 (c) The requirements of such meeting include providing public notice by printed or  
58 broadcast media at least thirty days prior to such meeting;
- 59 (d) Such meeting is held at least thirty days prior to the submission to the department of  
60 a report on the results of a detailed site investigation pursuant to subsection 4 of this section;
- 61 (e) The applicant submits to the department a record of such meeting;
- 62 (f) A public comment period begins on the day of such meeting and continues for at least  
63 fourteen days after such meeting, and the applicant responds to all persons submitting comments  
64 during such public comment period no more than fourteen days after the receipt of such  
65 comments.
- 66 4. No person may apply for or obtain a permit to construct a solid waste disposal area  
67 unless the person has submitted to the department a plan for conducting a detailed surface and  
68 subsurface geologic and hydrologic investigation and has obtained geologic and hydrologic site  
69 approval from the department. The department shall approve or disapprove the plan within thirty  
70 days of receipt. The applicant shall conduct the investigation pursuant to the plan and submit  
71 the results to the department. The department shall provide approval or disapproval within sixty  
72 days of receipt of the investigation results.
- 73 5. (1) Every person desiring to construct a solid waste processing facility or solid waste  
74 disposal area shall make application for a permit on forms provided for this purpose by the  
75 department. Every applicant shall submit evidence of financial responsibility with the  
76 application. Any applicant who relies in part upon a parent corporation for this demonstration  
77 shall also submit evidence of financial responsibility for that corporation and any other  
78 subsidiary thereof.
- 79 (2) Every applicant shall provide a financial assurance instrument or instruments to the  
80 department prior to the granting of a construction permit for a solid waste disposal area. The  
81 financial assurance instrument or instruments shall be irrevocable, meet all requirements  
82 established by the department and shall not be canceled, revoked, disbursed, released or allowed  
83 to terminate without the approval of the department. After the cessation of active operation of  
84 a sanitary landfill, or other solid waste disposal area as designed by the department, neither the  
85 guarantor nor the operator shall cancel, revoke or disburse the financial assurance instrument or  
86 allow the instrument to terminate until the operator is released from postclosure monitoring and  
87 care responsibilities pursuant to section 260.227.

88           (3) The applicant for a permit to construct a solid waste disposal area shall provide the  
89 department with plans, specifications, and such other data as may be necessary to comply with  
90 the purpose of sections 260.200 to 260.345.

91 The application shall demonstrate compliance with all applicable local planning and zoning  
92 requirements. The department shall make an investigation of the solid waste disposal area and  
93 determine whether it complies with the provisions of sections 260.200 to 260.345 and the rules  
94 and regulations adopted pursuant to sections 260.200 to 260.345. Within twelve consecutive  
95 months of the receipt of an application for a construction permit the department shall approve  
96 or deny the application. The department shall issue rules and regulations establishing time limits  
97 for permit modifications and renewal of a permit for a solid waste disposal area. The time limit  
98 shall be consistent with this chapter.

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

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

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

124 application before the department completes its evaluation shall be required to reimburse the  
125 department for costs incurred in the evaluation. The department shall not collect the fees  
126 authorized in this subdivision unless it complies with the time limits established in this section.

127 (7) When the review reveals that the facility or area does conform with the provisions  
128 of sections 260.200 to 260.345 and the rules and regulations adopted pursuant to sections  
129 260.200 to 260.345, the department shall approve the application and shall issue a permit for the  
130 construction of each solid waste processing facility or solid waste disposal area as set forth in  
131 the application and with any permit terms and conditions which the department deems  
132 appropriate. In the event that the facility or area fails to meet the rules and regulations adopted  
133 pursuant to sections 260.200 to 260.345, the department shall issue a report to the applicant  
134 stating the reason for denial of a permit.

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

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

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

157 9. The department shall not issue a permit for the operation of a solid waste disposal area  
158 designed to serve a city with a population of greater than four hundred thousand located in more  
159 than one county, if the site is located within one-half mile of an adjoining municipality, without

160 the approval of the governing body of such municipality. The governing body shall conduct a  
161 public hearing within fifteen days of notice, shall publicize the hearing in at least one newspaper  
162 having general circulation in the municipality, and shall vote to approve or disapprove the land  
163 disposal facility within thirty days after the close of the hearing.

164 10. Upon receipt of an application for a permit to construct a solid waste processing  
165 facility or disposal area, the department shall notify the public of such receipt:

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

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

170 (3) By mail to the last known address of all record owners of contiguous real property  
171 or real property located within one thousand feet of the proposed disposal area and, for a  
172 proposed processing facility, notice as provided in section 64.875, RSMo, or section 89.060,  
173 RSMo, whichever is applicable.

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

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

193 12. Every person desiring to obtain a permit to operate a solid waste disposal area or  
194 processing facility shall submit applicable information and apply for an operating permit from  
195 the department. The department shall review the information and determine, within sixty days

196 of receipt, whether it complies with the provisions of sections 260.200 to 260.345 and the rules  
197 and regulations adopted pursuant to sections 260.200 to 260.345. When the review reveals that  
198 the facility or area does conform with the provisions of sections 260.200 to 260.345 and the rules  
199 and regulations adopted pursuant to sections 260.200 to 260.345, the department shall issue a  
200 permit for the operation of each solid waste processing facility or solid waste disposal area and  
201 with any permit terms and conditions which the department deems appropriate. In the event that  
202 the facility or area fails to meet the rules and regulations adopted pursuant to sections 260.200  
203 to 260.345, the department shall issue a report to the applicant stating the reason for denial of  
204 a permit.

205           13. Each solid waste disposal area, except utility waste landfills unless otherwise and to  
206 the extent required by the department, and those solid waste processing facilities designated by  
207 rule, shall be operated under the direction of a certified solid waste technician in accordance with  
208 sections 260.200 to 260.345 and the rules and regulations promulgated pursuant to sections  
209 260.200 to 260.345.

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

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

228           16. Permits granted by the department, as provided in sections 260.200 to 260.345, shall  
229 be subject to suspension for a designated period of time, civil penalty or revocation whenever  
230 the department determines that the solid waste processing facility or solid waste disposal area  
231 is, or has been, operated in violation of sections 260.200 to 260.345 or the rules or regulations

232 adopted pursuant to sections 260.200 to 260.345, or has been operated in violation of any permit  
233 terms and conditions, or is creating a public nuisance, health hazard, or environmental pollution.  
234 In the event a permit is suspended or revoked, the person named in the permit shall be fully  
235 informed as to the reasons for such action.

236 17. Each permit for operation of a facility or area shall be issued only to the person  
237 named in the application. Permits are transferable as a modification to the permit. An  
238 application to transfer ownership shall identify the proposed permittee. A disclosure statement  
239 for the proposed permittee listing violations contained in subsection 19 of this section shall be  
240 submitted to the department. The operation and design plans for the facility or area shall be  
241 updated to provide compliance with the currently applicable law and rules. A financial assurance  
242 instrument in such an amount and form as prescribed by the department shall be provided for  
243 solid waste disposal areas by the proposed permittee prior to transfer of the permit. The financial  
244 assurance instrument of the original permittee shall not be released until the new permittee's  
245 financial assurance instrument has been approved by the department and the transfer of  
246 ownership is complete.

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

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

252 20. Any person seeking a permit or renewal of a permit to operate a commercial solid  
253 waste processing facility, or a solid waste disposal area shall, concurrently with the filing of  
254 application for a permit, file a disclosure statement with the department of natural resources. The  
255 disclosure statement shall include, but not be limited to, a listing of any felony convictions by  
256 state or federal agencies, and a listing of other enforcement actions, sanctions, permit revocations  
257 or denials by any state or federal authority of every person seeking a permit, including officers,  
258 directors, partners and facility or location managers of each person seeking a permit, any  
259 violations of Missouri environmental statutes, violations of the environmental statutes of other  
260 states or federal statutes and a listing of convictions for any crimes or criminal acts, an element  
261 of which involves restraint of trade, price-fixing, intimidation of the customers of another person  
262 or for engaging in any other acts which may have the effect of restraining or limiting competition  
263 concerning activities regulated pursuant to this chapter or similar laws of other states or the  
264 federal government; except that convictions for violations by entities purchased or acquired by  
265 an applicant or permittee which occurred prior to the purchase or acquisition shall not be  
266 included. The department shall by rule, define those environmental violations which must be  
267 reported pursuant to this section. For purposes of this section, additional persons as required by

268 rule shall be named in the statement and violations or convictions of such persons shall be listed.  
269 The department or its representative shall verify the information provided on the disclosure  
270 statement prior to permit issuance. The disclosure statement shall be used by the department in  
271 determining whether a permit should be granted or denied on the basis of the applicant's status  
272 as a habitual violator; however, the department has the authority to make a habitual violator  
273 determination independent of the information contained in the disclosure statement. After permit  
274 issuance, each facility shall annually file an updated disclosure statement with the department  
275 of natural resources on or before March thirty-first of each year. Any county, district,  
276 municipality, authority or other political subdivision of this state which owns and operates a  
277 sanitary landfill shall be exempt from the provisions of this subsection.

278 21. Any person seeking a permit to operate a solid waste disposal area, a solid waste  
279 processing facility or a resource recovery facility shall, concurrently with the filing of the  
280 application for a permit, disclose any convictions in this state of municipal or county public  
281 health or land use ordinances related to the management of solid waste. If the department finds  
282 that there has been a continuing pattern of serious adjudicated violations by the applicant, the  
283 department may deny the application.

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

292 **23. The department shall by regulation establish minimum design, siting, operation,**  
293 **inspection, monitoring, financial assurance, and closure requirements for material**  
294 **recovery facilities. The department may establish different regulatory requirements**  
295 **depending on the nature and content of the solid waste streams processed by the facility,**  
296 **the degree of automation to be used in the processing and recovery activities, the amount**  
297 **and type of nonrecyclable wastes remaining after resource recovery, and other factors to**  
298 **be determined by the department. Until such time as the material recovery facility**  
299 **regulations required by this subsection become final and effective, no permit may be issued**  
300 **to construct or operate a material recovery facility unless such facility processes only solid**  
301 **wastes collected as part of a source-separated or single-stream residential, commercial, or**  
302 **industrial recycling program or programs.**

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