

FIRST REGULAR SESSION

HOUSE BILL NO. 881

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GUERNSEY.

1978H.011

D. ADAM CRUMBLISS, Chief Clerk

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.

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,
2 236.400, 236.405, 236.410, 236.415, 236.420, 236.425, 236.430, 236.435, 236.440, 236.445,
3 236.465, 236.470, 236.475, 236.480, 236.495, 236.500, 256.603, 256.605, 256.606, 256.614,
4 256.623, 256.626, 256.630, 256.637, 256.700, 256.705, 256.710, 258.010, 258.020, 258.030,
5 258.060, 258.070, 258.080, 259.010, 259.020, 259.030, 259.040, 259.050, 259.070, 259.080,
6 259.090, 259.100, 259.110, 259.120, 259.140, 259.150, 259.160, 259.170, 259.180, 259.190,
7 259.200, 259.210, 260.235, 260.249, 260.335, 260.345, 621.250, 640.010, 640.012, 640.017, and
8 640.430, RSMo, are repealed and fifty-five new sections enacted in lieu thereof, to be known as
9 sections 60.530, 60.560, 60.590, 194.400, 194.408, 236.400, 236.405, 236.415, 236.420,
10 236.425, 236.430, 236.435, 236.440, 236.445, 236.465, 236.470, 236.475, 236.480, 236.495,
11 236.500, 256.603, 256.606, 256.614, 256.623, 256.626, 256.630, 256.637, 256.700, 256.705,
12 258.010, 258.060, 258.070, 258.080, 259.030, 259.050, 259.070, 259.080, 259.090, 259.100,
13 259.110, 259.120, 259.140, 259.160, 259.170, 259.180, 259.190, 259.200, 259.210, 260.235,
14 260.249, 260.335, 621.250, 640.010, 640.012, and 640.017, to read as follows:

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.

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

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

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

2. The department of natural resources may produce, reproduce and sell maps, plats, reports, studies, and records, and [the commission shall recommend to] the department of natural resources [the charges] **may accept payment** therefor. All income received shall be promptly deposited in the state treasury 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 phrases mean:

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

(2) "Cultural items", shall include:

(a) "Associated funerary objects", objects that are reasonably believed to have been placed with individual human remains either at the time of death, or during the death rite or

8 ceremony, or later, and all other items exclusively made for burial purposes including items
9 made to contain human remains;

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (3) When the burial or remains cannot be related to any living peoples, the state historic
18 preservation officer[, in consultation with the unmarked human burial consultation committee,]
19 shall determine the proper disposition of the burial or remains. But, if the state historic
20 preservation officer determines the burial or remains are scientifically significant, no reinterment
21 shall occur until the burial or remains have been examined by a skeletal analyst designated by
22 the state historic preservation officer. In no event shall reinterment be delayed more than one
23 year unless otherwise and to the extent determined by the committee;

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

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

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

6 (2) "Alterations", "repairs", or either of them, such alterations or repairs as affect the
7 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 the department
9 of natural resources or his representative;

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

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

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

24 (7) "Director" or **"Department"**, the director of the department of natural resources of
25 the state of Missouri, **or his or her authorized representative**;

26 [(8)] (7) "Enlargement", any change in or addition to an existing dam or reservoir which
27 raises the height of a dam, increases the watershed for a reservoir, or raises the water storage
28 elevation of the water impounded by a dam or reservoir;

29 [(9)] (8) "Experienced professional engineer", an engineer registered in the state of
30 Missouri and experienced in hydraulics, hydrology and civil engineering as applied to dam
31 design and construction;

32 [(10)] (9) "Maintenance", the proper keeping of all aspects of a dam or reservoir and
33 appurtenances thereto, that pertain to safety, in a state of repair and working order as necessary
34 to comply with sections 236.400 to 236.500, any permit hereunder, and protect public safety, life
35 and property;

36 [(11)] (10) "Natural physical changes", those changes not directly or indirectly caused
37 by man which affect the safety of the dam or reservoir;

38 [(12)] (11) "Operation", the physical changes, natural or manmade that occur or are made
39 to a dam or reservoir, or operation of the mechanisms or appurtenances of the dam or reservoir,
40 which affect or may affect public safety, life or property;

41 [(13)] (12) "Owner", a person who owns, controls, operates, maintains, manages, or
42 proposes to construct a dam or reservoir including:

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

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

46 (c) A district;

47 (d) A public utility;

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

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

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

52 [(14)] (13) "Permit", a construction, safety or registration permit;

53 [(15)] (14) "Permit applicant", an owner who applies for a construction, safety or
54 registration permit;

55 [(16)] (15) "Reduction", any decrease in the height of a dam, watershed size, or water
56 storage elevation of the water impounded by a dam or reservoir;

57 [(17)] (16) "Registration permit", a permit issued for a period not to exceed five years
58 [by the council] to the owner of a dam or reservoir in existence on September 28, 1979, or which
59 becomes subject to the provisions of sections 236.400 to 236.500 for such dams and reservoirs
60 which are in a properly maintained condition or which have made and complied with
61 recommendations for corrections of observed defects of the dam or reservoir and have been
62 examined and approved in accordance with sections 236.400 to 236.500 and standards, rules and
63 regulations and guidelines issued pursuant to sections 236.400 to 236.500;

64 [(18)] (17) "Reservoir", any impoundment which results from a dam as defined in
65 sections 236.400 to 236.500;

66 [(19)] (18) "Safety permit", a permit issued to the owner for a period of five years, or less
67 if safety considerations so require, by the council indicating that the dam meets the requirements
68 of sections 236.400 to 236.500 and the guidelines, standards, rules and regulations issued
69 pursuant to sections 236.400 to 236.500, and containing such conditions as to operations,
70 maintenance and repair as are necessary to adequately protect public safety, life and the dam or
71 reservoir;

72 [(20)] (19) "Water", water, other liquid or tailings;

73 [(21)] (20) "Water storage elevation", that elevation of water surface at the principal
74 spillway which could be obtained by the dam or reservoir were there no outflow and were the
75 reservoir full of water;

76 [(22)] (21) "Watershed", the area, usually expressed in acres of square miles, that
77 contributes or may contribute surface water to a reservoir.

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

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

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

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

14 5. No rule or portion of a rule promulgated under the authority of sections 236.400 to
15 236.500 shall become effective unless it has been promulgated pursuant to the provisions of
16 section 536.024.

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

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

22 3. The [council upon hearing the recommendations of] **department, through** the chief
23 engineer [and] , **after** reviewing [the] **an** application for a construction or registration permit,
24 shall approve or deny the permit application. The [council] **department** may delegate authority
25 to approve or deny permit applications to the chief engineer, [whose] **and such** actions shall be
26 subject to appeal [to the council] as provided in subsection 2 of section 236.425 **and section**
27 **621.250.**

28 4. No standard, rule or regulation or guideline, or amendment or repeal thereof [, adopted
29 by the council] shall be in force and effect until it has been approved in writing by the director

30 and the requirements of chapter 536 are satisfied. [The affirmative vote of at least four members
31 of the council shall be required for adoption.]

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

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

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

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

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

23 (4) Entering, at any reasonable time, any private or public premises as necessary to make
24 an investigation or inspection of a dam or reservoir, or records kept, pertaining thereto, and such
25 inspection shall follow reasonable notice to the owner given prior to such investigation or
26 inspection except in the case of an emergency threatening public safety, life or property, in which
27 case such inspection or investigation may be made without prior notice. A suitably restricted
28 search warrant, upon a showing of probable cause in writing and upon oath, shall be issued by

29 any judge having jurisdiction, to [the chief engineer or his] **a representative of the department**
30 for the purpose of enabling [him to make] the inspection.

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

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

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

5 2. The application for a construction permit shall bear the seal and signature of an
6 experienced professional engineer registered in Missouri or employed by a qualified engineering
7 division of a state or federal agency regularly engaged in dam construction for soil and water
8 conservation, or irrigation or relating to wildlife conservation and shall be accompanied by the
9 design report and plans and specification of the proposed design, alteration, enlargement,
10 reduction, repair or removal of the dam or reservoir.

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

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

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

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

33 7. Dams or their construction, alterations, enlargements, reductions or removals designed
34 by, and their construction, alteration, enlargement, reduction or repair or removal monitored by,
35 a qualified engineer regularly engaged in dam construction for soil and water conservation or
36 irrigation or relating to wildlife conservation are for the purposes of such construction or other
37 listed actions exempt from the provisions of this section except that the plans for the dam shall
38 be filed with the chief engineer prior to construction, or other listed action. Amended plans shall
39 be filed at the completion of construction or other listed action if there have been significant
40 deviations from the previously filed plans.

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

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

23 3. Owners of dams and reservoirs in existence on September 28, 1979, shall obtain
24 registration permits for dams of fifty to seventy feet in height within four years, and for dams up
25 to fifty feet in height within six years of September 28, 1979, or as otherwise required by the

26 provisions of sections 236.400 to 236.500 and rules and regulations adopted hereunder. A
27 registration permit shall be issued by the [council upon the advice of] **department, through** the
28 chief engineer, for dams and reservoirs only after it is determined that the dam meets the
29 standards of sections 236.400 to 236.500 and rules and regulations hereunder, and any
30 recommendations made by the inspecting engineer pursuant thereto.

31 4. Upon complete and proper application for a registration permit, on forms provided by
32 the department of natural resources, by the owner of a dam in existence upon September 28,
33 1979, including a certification by an experienced professional engineer or an engineering
34 division of a state or federal agency regularly engaged in dam construction for soil or water
35 conservation, irrigation, or relating to wildlife conservation, that the dam has been inspected in
36 accordance with sections 236.400 to 236.500, standards, rules and regulations and guidelines
37 promulgated hereunder, and that the owner has complied with the inspecting engineer's or
38 agency's recommendations necessary to correct observed defects of the dam or reservoir, the
39 [council] **department, through the chief engineer**, shall, upon receipt of the application, issue
40 a registration permit. The [council upon hearing the recommendations of] **department, through**
41 the chief engineer, may deny the application if it determines that the owner has not complied
42 with the inspecting engineer's or agency's recommendations.

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

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

53 7. The [council] **department, through the chief engineer**, shall issue safety permits for
54 dams or their construction, alterations, enlargements, reductions or removals designed by, and
55 their construction or other listed actions monitored by, a state or federal agency engaged in dam
56 construction for soil and water conservation, irrigation or relating to wildlife conservation
57 provided the owners obtain from such agency and file with the chief engineer a statement upon
58 completion of the construction or other listed actions and at not greater than five year intervals,
59 and with every application for renewal of a safety permit, that the dam conforms to the plans on
60 file with the chief engineer and is in a safe, properly maintained condition.

61 8. The owner shall apply for renewal of a safety or registration permit not less than sixty
62 days prior to expiration of the previously issued permit. The chief engineer shall determine if
63 the dam and reservoir are essentially as described in the latest permit issued for that dam and

64 reservoir, whether they satisfy the requirements of sections 236.400 to 236.500 and any rules,
65 regulations, standards and guidelines adopted pursuant to sections 236.400 to 236.500 and
66 whether any inspection conducted in connection with the permit renewal reveals any defect in
67 the dam or reservoir which would threaten public safety, life or property. Unless the
68 **department, through the chief engineer**, determines that the dam and reservoir are not properly
69 maintained, do not satisfy the requirements of the permit, act or rules, regulations, standards and
70 guidelines promulgated hereunder, or that defects revealed by the inspection are not corrected,
71 the [council upon hearing the recommendations of] **department, through** the chief engineer,
72 shall issue or renew the safety or registration permit upon forty-five days of the receipt of a
73 complete and proper application. The [council] **department, through the chief engineer**, may
74 require the owner to furnish a certification, as a part of an application to renew a permit
75 hereunder, by an experienced professional engineer or a qualified engineering division of a state
76 or federal agency regularly engaged in dam construction for water conservation, irrigation or
77 relating to wildlife conservation that the dam is in a properly maintained condition and that any
78 recommendation for correction of defects which violate sections 236.400 to 236.500, guidelines,
79 rules, regulations and standards hereunder or which threaten public safety, life or property have
80 been complied with and that the engineer detected no other such defects which have not been
81 corrected.

82 9. If a barrier or water impoundment becomes a dam or reservoir through alteration or
83 enlargement as defined herein, it shall be subject to the provisions of sections 236.400 to
84 236.500.

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

236.445. 1. If it is found that a dam or reservoir presents a threat to public safety, life
2 or property, or that the safety of the dam or reservoir is threatened, the permit for the dam or
3 reservoir shall be suspended and shall be reinstated only when the owner at his expense has
4 completed the necessary alteration or has established such operational procedures as the [council
5 upon hearing the recommendations of] **department, through** the chief engineer, deems
6 necessary for protection of the public safety, life, property, the dam or reservoir. If necessary for
7 such protection, the [council] **department, through the chief engineer**, may require the owner
8 at his expense to remove the dam or reservoir, or if the owner refuses or neglects to act, the state
9 may alter or remove the dam or reservoir, and the [chief engineer] **department** may recover the
10 costs of such action as provided in section 236.450.

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

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

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

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

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

(4) It is not necessary to retain continuously a professional engineer after the initial stage of construction;

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

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

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

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

2. In any such hearing, [any member of the council or the hearing officer shall] **the department may** issue [in the name of the council] **a** notice of hearing and subpoenas.

7 Subpoenas shall be issued and enforced as provided in section 536.077. [The rules of discovery
8 that apply in any civil case apply to hearings held by the council.]

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

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

18 5. All final orders or determinations or other final actions by the council shall be
19 approved in writing by at least four members of the council. Any council member approving in
20 writing any final order or determination or other final action, who did not attend the hearing,
21 shall do so only after reviewing all exhibits and reading the entire transcript.]

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

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

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

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

236.495. 1. In carrying out the provisions of sections 236.400 to 236.500 and to the
2 extent not inconsistent with chapter 491, the **department, through the** chief engineer [or
3 council] , may subpoena witnesses and compel their attendance, and may also require the
4 submission of books, papers, documents or other pertinent data in any hearing or enforcement

5 proceedings hereunder or in any case wherein a violation of this chapter is alleged. Upon failure
6 or refusal to comply with such order or upon failure to honor a subpoena, as herein provided, the
7 [council] **department** may request the attorney general or a prosecuting attorney to apply to the
8 circuit court having jurisdiction to enforce compliance.

9 2. The [council] **department** may request the attorney general or a prosecuting attorney,
10 in the name of the state, to institute a suit for injunctive relief to stop or prevent violations of the
11 provisions of sections 236.400 to 236.500, permits, standards, orders and rules and regulations
12 promulgated hereunder, which shall be violations of sections 236.400 to 236.500, or to restrain
13 any violation thereof, or after written notification of violation by the [council] **department**, and
14 a reasonable time to correct such violation, for the assessment of a penalty of up to one thousand
15 dollars per day, for each day or part thereof the violation continues to occur after such notice.
16 Such action may be brought in any county where the defendant's principal place of business is
17 located, where the 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 sections 236.400
2 to 236.500 is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not
3 less than five hundred dollars nor more than ten thousand dollars, or by confinement in the
4 county jail for a term of not less than thirty days nor more than one year, or by both such fine and
5 confinement.

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

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

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

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

2 (1) "Abandoned well", a well shall be deemed abandoned which is in such a state of
3 disrepair that continued use for the purpose of thermal recovery or obtaining groundwater is
4 impractical and which has not been in use for a period of two years or more. The term
5 "abandoned well" includes a test hole or a monitoring well which was drilled in the exploration
6 for minerals, or for geological, water quality or hydrologic data from the time that it is no longer

7 used for exploratory purposes and that has not been plugged in accordance with rules and
8 regulations pursuant to sections 256.600 to 256.640;

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

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

13 [(4)] (3) "Division" or **"Department"**, **the department of natural resources, through**
14 **the state geologist and** the division of geology and land survey;

15 [(5)] (4) "Driller's log", a record accurately kept at the time of drilling showing the depth,
16 thickness, character of the different strata penetrated, location of water-bearing strata, depth, size
17 and character of casing installed, together with any other data or information required on the
18 certification report forms;

19 [(6)] (5) "Examination", an assessment of professional competency administered to
20 applicants;

21 [(7)] (6) "Heat pump installation contractor", any person, including owner, operator or
22 drilling supervisor who engages for compensation in the drilling, boring, coring, or construction
23 of any well in the state for extracting thermal energy;

24 [(8)] (7) "Monitoring well installation contractor", any person, including owner, operator,
25 or drilling supervisor who engages for compensation in the drilling, boring, coring, or
26 construction of any well in this state which is drilled for geologic data, water quality, or
27 hydrologic data;

28 [(9)] (8) "Permitted well driller", any person who holds a permit issued pursuant to the
29 provisions of sections 256.600 to 256.640;

30 [(10)] (9) "Person", any individual, whether or not connected with a firm, partnership,
31 association, corporation, or any other group or combination acting as a unit;

32 [(11)] (10) "Pump installation contractor", any person, firm or corporation engaged in
33 the business of installing or repairing pumps and pumping equipment;

34 [(12)] (11) "Registration report", a form to be sent to the [division] **department** upon
35 completion of plugging of an abandoned well, raising casings, lining wells, deepening of wells,
36 major repairs and alterations, and jetted wells;

37 [(13)] (12) "Well", an excavation that is drilled, cored, bored, washed, driven, dug,
38 jetted, trenched, or otherwise constructed when the intended use of such excavation is for the
39 acquisition of groundwater supply, for monitoring, thermal exchange or for exploration for
40 minerals or geologic or hydrologic data; but such term does not include a cistern, an excavation
41 made for the purpose of obtaining or for prospecting for oil or natural gas, or for construction
42 foundation data, dewatering of construction sites or dewatering of existing structures,
43 observation wells used as a part of an underground storage tank leak detection system of a

44 minimal depth, as determined by the [board] **department** by rule, or for inserting media to
45 repressure oil or natural-gas-bearing formations;

46 [(14)] (13) "Well installation contractor", any person, including owner, operator, and
47 drilling supervisor who engages for compensation in the drilling, boring, coring, or construction
48 of any well in this state. The term, however, shall not include any person who drills, bores,
49 cores, or constructs a water well on his own property for his own use or a person who assists in
50 the construction of a water well under the direct supervision of a permitted well installation
51 contractor and is not primarily responsible for drilling operations;

52 [(15)] (14) "Well owner", any person or corporation who is the party responsible for
53 having a well drilled and whose name appears on the well registration or certification form.

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

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

256.614. 1. The [division] **department** shall be notified, on certification or registration
2 forms to be provided by the [division] **department**, of the activities specified in this section
3 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 the
17 registration form shall be accompanied by the registration fee, however, on new well
18 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 a well owner
20 who converts a well from a water well to an oil or gas well shall notify the [division]
21 **department** and file for a permit [from the Missouri oil and gas council] **under chapter 259**,

22 and the well shall be completed in accordance with the regulations [of the council] **promulgated**
23 **under chapter 259.**

256.623. 1. The [board shall] **department may** by rules and regulations establish
2 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 handling);
- 10 (8)] Logging of wells;
- 11 [(9)] **(8)** Examinations; and
- 12 [(10)] **(9)** Late document submittals.

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

256.626. 1. The [board] **department** shall adopt, amend, and promulgate in the manner
2 provided by law, and enforce rules and regulations pertaining to the construction and
3 abandonment of wells, and the permitting of operators and contractors under sections 256.600
4 to 256.640.

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

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

2. The [division] **department** shall cause to have issued and served upon the permittee
6 a written notice of the order or revocation issued under section 256.619 or this section, which
7 notice shall include a copy of the order, shall specify the provision of sections 256.600 to
8 256.640, or the standard, rule or regulation, order or permit term or condition of which the
9 permittee is alleged to be in violation and a statement of the manner in which the person is
10 alleged to violate sections 256.600 to 256.640, or the standard, rule or regulation, order or permit

11 term or condition. Service may be made upon any person within or without the state by
12 registered or certified mail, return receipt requested. Any person against whom the [division]
13 **department** issues an order may appeal it [by filing a petition with the board within thirty days]
14 **under section 621.250**. The appeal shall stay the enforcement of the order until a final
15 determination is made.

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

22 4.] Any affected person aggrieved by an action of the [division may appeal to the board]
23 **department under the Water Well Drillers' Act may appeal under section 621.250, subject**
24 **to judicial review as provided by law for any person who has exhausted all administrative**
25 **remedies.** [At any public hearing all testimony taken before the board, or a hearing officer
26 appointed by the board, shall be under oath and recorded stenographically. The transcript so
27 recorded shall be made available to any person upon payment of a fee equal to the cost of
28 reproduction. All final orders and determinations of the board or the division made pursuant to
29 the provisions of sections 256.600 to 256.640 are subject to judicial review pursuant to the
30 provisions of section 536.100. Any person who has exhausted all administrative remedies
31 provided by chapter 536 and who is aggrieved by a final decision in a contested case, whether
32 such decision is affirmative or negative in form, shall be entitled to judicial review in the form
33 of a trial de novo in the circuit court of the county wherein the alleged impropriety occurred.]

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

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

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

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

14 5. Upon receipt of a complaint filed with the [division] **department** alleging that any
15 provision of sections 256.600 to 256.640, or any standard, rule or regulation promulgated thereto

16 was violated, the [division] **department** may institute a civil action in the jurisdiction where the
17 well is located for injunctive relief through the office of the **attorney general or the** prosecuting
18 attorney of the county wherein the alleged violation occurred to prevent such violation or further
19 violation, or for the assessment of a civil penalty not to exceed five hundred dollars per day for
20 each day, or part thereof, the violation occurred and continued to occur, or both, as the court
21 deems proper. For the purpose of this section, the filing of a well registration or certification
22 form containing false information shall constitute a violation for each day after notification that
23 such form is on file with the [division] **department**. Any moneys paid in civil penalties shall
24 be deposited in the groundwater protection fund.

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

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

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

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

23 5. The department of natural resources may promulgate rules to implement the
24 provisions of sections 256.700 to 256.710. Any rule or portion of a rule, as that term is defined
25 in section 536.010, that is created under the authority delegated in this section shall become
26 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if
27 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the
28 powers vested with the general assembly under chapter 536 to review, to delay the effective date,
29 or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of

30 rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid
31 and void.

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

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

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

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

258.010. 1. [There shall be a "State Interagency Council for Outdoor Recreation"
2 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 shall be responsible**
11 **for convening any committee, council, or board the department deems necessary or**
12 **advisable in order for the department to perform any functions or duties related to state**
13 **parks or historic sites, recreational trails, outdoor recreation, or any federal grant program**
14 **under chapter 253, chapter 258, any federal land and water conservation fund act, 28**
15 **U.S.C. 206, or any other law.**

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

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

- 3 (1) The official state agency for liaison with the federal bureau of outdoor recreation;
- 4 (2) The official state agency to receive and disburse federal funds available to this state
5 for overall outdoor recreation planning **and any recreational trails planning or programs**;
- 6 (3) The official state agency to receive and allocate to the appropriate agency, or political
7 subdivision, federal funds available for outdoor recreation **or recreational trails** programs; and
- 8 (4) Shall provide a forum for consideration of outdoor recreation problems affecting
9 member agencies and as an advisory and planning agency for overall outdoor recreational
10 programs. The [council] **department** may provide information and advisory services for any
11 political subdivision requesting its services.

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

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

2. Moneys deposited in the fund shall, upon appropriation by the general assembly to the [state inter-agency council for outdoor recreation] **department**, be received and expended or allocated by the [state inter-agency council] **department** for outdoor recreation for outdoor recreation planning, acquisition and development and for no other purposes; provided, however, that not less than fifty percent of the moneys appropriated shall be allocated by [said council] **the department** to political subdivisions of the state of Missouri, none of which moneys so allocated shall be expended for the improvement or operation of projects under the supervision or control of any state agency.

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

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

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

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

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

6 (2) ["Council", the state oil and gas council established by section 259.010]
7 **“Department” or “Director” or “State Geologist”, the director of the department of natural**
8 **resources, through the state geologist, and the division of geology and land survey;**

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

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

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

15 (6) "Illegal oil" [means] , oil which has been produced from any well within the state in
16 excess of the quantity permitted by any rule, regulation, or order [of the council] **under this**
17 **chapter;**

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

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

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

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

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

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

33 (13) "Product", any commodity made from oil or gas and includes refined crude oil,
34 crude tops, topped crude, processed crude, processed crude petroleum, residue from crude
35 petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil,

36 casinghead gasoline, natural-gas gasoline, kerosene, benzine, wash oil, waste oil, blended
37 gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or
38 by-products derived from oil or gas, and blends or mixtures of two or more liquid products or
39 by-products derived from oil or gas whether hereinabove enumerated or not;

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

44 (15) "Waste" means and includes:

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

47 (b) The inefficient, excessive, or improper use of, or the unnecessary dissipation of,
48 reservoir energy;

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

53 (d) The inefficient storing of oil;

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

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

58 (16) "Well", any hole drilled in the earth for or in connection with the exploration,
59 discovery, or recovery of oil or gas, or for or in connection with the underground storage of gas
60 in natural formation, or for or in connection with the disposal of salt water, nonusable gas or
61 other waste accompanying the production of oil or gas.

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

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

7 3. (1) The council shall have the power and duty to] **2. The department may** form an
8 advisory committee [to the council] for the purpose of reviewing the statutes and rules and
9 regulations under [subsection 2 of this section] **this chapter**. [The advisory committee shall
10 make recommendations to the council when necessary to amend current statutes and rules and
11 regulations under this chapter and shall review any proposed new or amended statute or
12 regulation before such proposed statute or regulation is considered by the council.

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

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

22 [4.] **3.** The [council] **department** has the duty and authority to make such investigations
23 as it deems proper to determine whether waste exists or is imminent or whether other facts exist
24 which justify action.

25 [5.] **4.** The [council acting through the office of the state geologist] **department** has the
26 authority:

27 (1) To require:

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

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

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

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

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

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

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

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

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

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

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

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

68 (c) The spacing of wells;

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

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

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

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

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

77 (6) To make rules, regulations, or orders for the classification of wells as oil wells or dry
78 natural gas wells; or wells drilled, or to be drilled, for geological information; or as wells for
79 secondary recovery projects; or wells for the disposal of highly mineralized water, brine, or other
80 oil field wastes; or wells for the storage of dry natural gas, or casinghead gas; or wells for the
81 development of reservoirs for the storage of liquid petroleum gas;

82 (7) To detail such personnel and equipment or enter into such contracts as it may deem
83 necessary for carrying out the plugging of or other remedial measures on wells which have been
84 abandoned and not plugged according to the standards for plugging set out in the rules and
85 regulations promulgated [by the council] pursuant to this chapter. Members of the [council]
86 **department** or authorized representatives may, with the consent of the owner or person in
87 possession, enter any property for the purpose of investigating, plugging, or performing remedial
88 measures on any well, or to supervise the investigation, plugging, or performance of remedial

89 measures on any well. A reasonable effort to contact the owner or the person in possession of
90 the property to seek his permission shall be made before members of the [council] **department**
91 or authorized representatives enter the property for the purposes described in this paragraph. If
92 the owner or person in possession of the property cannot be found or refuses entry or access to
93 any member of the [council] **department** or to any authorized representative presenting
94 appropriate credentials, the [council] **department** may request the attorney general to initiate in
95 any court of competent jurisdiction an action for injunctive relief to restrain any interference with
96 the exercise of powers and duties described in this subdivision. Any entry authorized under this
97 subdivision shall be construed as an exercise of the police power for the protection of public
98 health, safety and general welfare and shall not be construed as an act of condemnation of
99 property nor of trespass thereon. Members of the [council] **department** and authorized
100 representatives shall not be liable for any damages necessarily resulting from the entry upon land
101 for purposes of investigating, plugging, or performing remedial measures or the supervision of
102 such activity. However, if growing crops are present, arrangements for timing of such remedial
103 work may be agreed upon between the state and landowner in order to minimize damages;

104 (8) To develop such facts and make such investigations or inspections as are consistent
105 with the purposes of this chapter. Members of the [council] **department** or authorized
106 representatives may, with the consent of the owner or person in possession, enter upon any
107 property for the purposes of inspecting or investigating any condition which the [council]
108 **department** shall have probable cause to believe is subject to regulation under this chapter, the
109 rules and regulations promulgated pursuant thereto or any permit issued by the [council]
110 **department**. If the owner or person in possession of the property refuses entry or access for
111 purposes of the inspections or investigations described, the [council] **department** or authorized
112 representatives [shall] **may** make application for a search warrant. Upon a showing of probable
113 cause in writing and under oath, a suitable restricted search warrant shall be issued by any judge
114 having jurisdiction for purposes of enabling inspections authorized under this subdivision. The
115 results of any inspection or investigation pursuant to this subdivision shall be reduced to writing
116 with a copy furnished to the owner, person in possession, or operator;

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

124 [6.] **5.** No rule or portion of a rule promulgated under the authority of this chapter shall
125 become effective unless it has been promulgated pursuant to the provisions of section 536.024.

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

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

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

6 (2) Whenever the [council] **department** limits the total amount of oil or gas which may
7 be produced in the state or a marketing district, the [council] **department** shall allocate or
8 distribute the allowable production among the pools therein on a reasonable basis, giving, where
9 reasonable under the circumstances to each pool with small wells of settled production, an
10 allowable production which prevents the general premature abandonment of such wells in the
11 pool.

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

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

24 (5) The [council] **department** shall not be required to determine the reasonable market
25 demand applicable to any single pool, except in relation to all other pools within the same
26 marketing district, and in relation to the demand applicable to the marketing district. In
27 allocating allowables to pools, the [council] **department** may consider, but shall not be bound
28 by, nominations of purchasers to purchase from particular fields, pools, or portions thereof. The
29 [council] **department** shall allocate the total allowable for the state in such manner as prevents
30 undue discrimination between marketing districts, fields, pools, or portions thereof resulting
31 from selective buying or nomination by 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 wells, or to
3 protect correlative rights, the [council] **department** shall establish spacing units for a pool.
4 Spacing units when established shall be of uniform size and shape for the entire pool, except that
5 when found to be necessary for any of the purposes above mentioned, the [council] **department**
6 is authorized to divide any pool into zones and establish spacing units for each zone, which units
7 may differ in size and shape from those established in any other zone;

8 (2) The size and shape of spacing units are to be such as will result in the efficient and
9 economical development of the pool as a whole;

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

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

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

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

259.110. 1. When two or more separately owned tracts are embraced within a spacing
2 unit, or when there are separately owned interests in all or a part of the spacing unit, then the

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

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

259.120. 1. A voluntary agreement for the unit or cooperative development and
2 operation of a field or pool, in connection with the conduct of repressuring or pressure
3 maintenance operations, cycling or recycling operations, including the extraction and separation
4 of liquid hydrocarbons from natural gas in connection therewith, or any other method of
5 operation, including selective production methods, injection of water or other fluids, and
6 including but not limited to thermal or combustion processes, is authorized and may be
7 performed and shall not be held or construed to violate any of the statutes of this state relating
8 to trusts, monopolies, or contracts and combinations in restraint of trade, if the agreement is
9 approved by the [council] **department** as being in the public interest, protective of correlative
10 rights, and reasonably necessary to increase ultimate recovery or to prevent waste of oil or gas.
11 Such voluntary agreements bind only the persons who execute them, and their heirs, successors,
12 assigns, and legal representatives.

13 2. Where a unit or cooperative plan of development and operation has been submitted
14 to the owners of interests in a field or pool and one or more of such owners fails or refuses to
15 execute the applicable unit agreements for such plan, then, upon the filing of a petition as

16 hereinafter provided, the [council] **department**, after notice, shall hold a public hearing to
17 consider the need for the operation as a unit of an entire pool, or any portion thereof, to prevent
18 waste, to increase ultimate recovery of oil and gas and to protect correlative rights. The petition
19 shall contain the following:

20 (1) A description of the proposed unit area;

21 (2) A statement of the nature of the proposed unit operation;

22 (3) Conformed copies of the applicable unit agreements, which may be composites of
23 executed counterparts. The petition may be filed by any one or more of the owners who have
24 executed the applicable unit agreements.

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

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

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

36 (3) The value of the additional oil and gas to be recovered from the proposed unit area
37 as a result of the proposed unit operation will exceed the additional cost incident to conducting
38 such operation, [it] **the department** shall issue an order requiring unit operation in accordance
39 with the terms of the applicable unit operating agreements. Such order and the unit plan shall,
40 thereafter, be effective as to and binding upon each person owning an interest in the unit area,
41 or in oil and gas produced therefrom or the proceeds thereof.

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

44 (1) A description of the unit area;

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

50 (3) A provision for the credits and charges to be made in the adjustment among the
51 owners of the unit area for their respective investments in wells, tanks, pumps, machinery,
52 materials and equipment contributed to the unit operation. The net amount charged against the

53 owner or owners of a separately owned tract shall be considered expenses of unit operation
54 chargeable against such tract;

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

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

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

65 5. The obligation or liability of each owner in the several separately owned tracts for the
66 payment of unit expense shall at all times be several and not joint or collective and in no event
67 shall an owner of the oil and gas rights in the separately owned tract be chargeable with,
68 obligated or liable, directly or indirectly, for, more than the amount apportioned, assessed or
69 otherwise charged to his interest in such separately owned tract pursuant to the plan of
70 unitization.

71 6. The [council] **department**, upon the filing of a petition in a form complying with the
72 requirements of subsection 2 of this section, may, after notice and hearing, require unit operation
73 of a pool, or portion thereof, when the unit area newly established embraces a unit area within
74 the same pool established by a previous order of the [council] **department**. In each such case
75 the petition shall be accompanied by a copy of the proposed unit agreements with respect to the
76 operation of the unit as so enlarged, in the form meeting the requirements of subdivision (3) of
77 subsection 2 of this section. In each such instance the proposed unit agreements shall be
78 executed by persons owning interests in oil and gas in the entire unitized area so enlarged in
79 sufficient numbers to comply with the requirements of subdivision (1) of subsection 3 of this
80 section; provided that, if the unit agreements then in effect with respect to the unit area to which
81 an additional portion of a pool is to be added contain provisions, under the terms of which
82 additions to the unit area may be made, the application for such enlargement of the unitized area
83 need only be accompanied by an agreement, executed by persons owning interests in oil and gas
84 under the area to be added to the unit area in numbers sufficient to comply with the requirements
85 of subdivision (1) of subsection 3 of this section, for the inclusion, in accordance with the plan
86 provided in the unit agreements involved, of the additional area to the unit area then existing.
87 In either such case, such new order, in providing for allocation of unit production from the
88 enlarged unit area, shall first treat the unit area previously established as a single tract, and the
89 portion of unit production so allocated thereto shall then be allocated among the separately
90 owned tracts included in such previously established unit area in the same proportion as those

91 specified therefor in the previous order. In no event shall said new order alter the relative values
92 of tract factors of the previously established unit area, except by consent of all parties owning
93 interests in the tract affected.

94 7. An order of the [council] **department** entered under subsection 6 shall be effective
95 as to the enlarged unit area and to all persons owning interests in oil and gas therein to the same
96 extent as an order entered under subsection 3, shall contain provisions with respect to the
97 enlarged unit area to meet the requirements of subsection 4, and the provisions of subsections
98 5 and 6 shall be applicable to obligations incurred in the operation of the enlarged unit area.

99 8. The portion of oil and gas produced from the unit area and allocated to a separately
100 owned tract shall be deemed, for all purposes, to have been actually produced from such tract,
101 and operations for the production of oil and gas from any part of the unit area, conducted
102 pursuant to the order of the [council] **department**, shall be deemed, for all purposes, to be
103 operations for the production of oil and gas from each separately owned tract in the unit area.

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

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

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

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

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

22 courts of the state. Proof of the service by such agent shall be by the affidavit of the person
23 making personal service.

24 5. All orders issued by the [council] **department** shall be in writing, shall be entered in
25 full and indexed in books to be kept by the state geologist for that purpose, and shall be public
26 records open for inspection at all times during reasonable office hours. A copy of any rule,
27 regulation, or order certified by the state geologist or any officer of the [council] **department**
28 shall be received in evidence in all courts of this state with the same effect as the original.

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

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

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

14 2. Within ninety days after the filing of the [notice of appeal] **petition**, the [appellant]
15 **petitioner** must file in the circuit court the transcript of the proceedings before the [council,
16 together with a petition for review which states briefly the grounds for the appeal. An appeal
17 shall be perfected by filing the notice of appeal within the specified thirty day period]
18 **department**. The [appeal] **case** may be dismissed by the [circuit] court for failure of the

19 [appellant] **petitioner** to file the transcript and petition for review within the time specified,
20 unless for good cause shown the time is extended by order of the [circuit] court.

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

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

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

259.180. The sale, purchase, acquisition, transportation, refining, processing, or handling
2 of illegal oil, illegal gas, or illegal product is hereby prohibited. However, no penalty by way of
3 fine shall be imposed upon a person who sells, purchases, acquires, transports, refines, processes,
4 or handles illegal oil, illegal gas, or illegal product unless:

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

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

259.190. 1. Illegal oil, illegal gas, and illegal product are declared to be contraband and
2 are subject to seizure and sale as herein provided; seizure and sale to be in addition to any and
3 all other remedies and penalties provided in this chapter for violations relating to illegal oil,
4 illegal gas, or illegal product. Whenever the [council] **department** believes that any oil, gas or
5 product is illegal, the [council] **department**, acting by the attorney general, [shall] **may** bring
6 a civil action in rem in the circuit court of the county where such oil, gas, or product is found,

7 to seize and sell the same, or the [council] **department** may include such an action in rem for
8 the seizure and sale of illegal oil, illegal gas, or illegal product in any suit brought for an
9 injunction or penalty involving illegal oil, illegal gas, or illegal product. Any person claiming
10 an interest in oil, gas, or product affected by any such action shall have the right to intervene as
11 an interested party in such action.

12 2. Actions for the seizure and sale of illegal oil, illegal gas, or illegal product shall be
13 strictly in rem, and shall proceed in the name of the state as plaintiff against the illegal oil, illegal
14 gas, or illegal products as defendant. No bond or similar undertaking shall be required of the
15 plaintiff. Upon the filing of the petition for seizure and sale, the attorney general shall issue a
16 notice, with a copy of the complaint attached thereto, which shall be served in the manner
17 provided for service of original notices in civil actions, upon any and all persons having or
18 claiming any interest in the illegal oil, illegal gas, or illegal products described in the petition.
19 Service shall be completed by the filing of an affidavit by the person making the service, stating
20 the time and manner of making such service. Any person who fails to appear and answer within
21 the period of thirty days shall be forever barred by the judgment based on such service. If the
22 court, on a properly verified petition, or affidavits, or oral testimony, finds that grounds for
23 seizure and for sale exist, the court shall issue an immediate order of seizure, describing the oil,
24 gas, or product to be seized and directing the sheriff of the county to take such oil, gas, or
25 product into his custody, actual or constructive, and to hold the same subject to the further order
26 of the court. The court, in such order of seizure, may direct the sheriff to deliver the oil, gas, or
27 product seized by him under the order to an agent appointed by the court as the agent of the
28 court; such agent to give bond in an amount and with such surety as the court may direct,
29 conditioned upon his compliance with the orders of the court concerning the custody and
30 disposition of such oil, gas, or product.

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

39 4. If the court, after a hearing upon a petition for the seizure and sale of oil, gas, or
40 product, finds that such oil, gas, or product is contraband, the court shall order the sale thereof
41 by the sheriff in the same manner and upon the same notice of sale as provided by law for the
42 sale of personal property on execution of judgment entered in a civil action except that the court
43 may order that the illegal oil, illegal gas, or illegal product be sold in specified lots or portions
44 and at specified intervals. Upon such sale, title to the oil, gas, or product sold shall vest in the

45 purchaser free of the claims of any and all persons having any title thereto or interest therein at
46 or prior to the seizure thereof, and the same shall be legal oil, legal gas, or legal product, as the
47 case may be, in the hands of the purchaser.

48 5. All proceeds derived from the sale of illegal oil, illegal gas, or illegal product, as
49 above provided, after payment of costs of suit and expenses incident to the sale, all amounts
50 obtained by the [council] **department** from the forfeiture of surety or personal bonds required
51 under paragraph (d) of subdivision (1) of section 259.070, and any money recovered under
52 subsection 1 of section 259.200 shall be paid to the state treasurer and credited to the "Oil and
53 Gas Remedial Fund", which is hereby created. The money in the oil and gas remedial fund may
54 be used by the [council] **department** to pay for the plugging of, or other remedial measures on,
55 wells and to pay the expenses incurred by the [council] **department** in performing the duties
56 imposed on it by this chapter. Any unexpended balance in the fund at the end of the fiscal year
57 not exceeding fifty thousand dollars is exempt from the provisions of section 33.080 relating to
58 transfer of unexpended balances to the ordinary revenue funds.

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

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

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

19 4. The penalties provided in this section shall be recoverable by suit filed by the attorney
20 general in the name and on behalf of the [council] **department**, in the circuit court of the county
21 in which the defendant resides, or in which any defendant resides, if there be more than one
22 defendant, or in the circuit court of any county in which the violation occurred. The payment of
23 any such penalty shall not operate to legalize any illegal oil, illegal gas, or illegal product

24 involved in the violation for which the penalty is imposed, or to relieve a person on whom the
25 penalty is imposed from liability to any other person for damages arising out of such violation.

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

11 2. If the [council] **department** shall fail to bring suit to enjoin a violation or a threatened
12 violation of any provision of this chapter, or any rule, regulation, or order of the [council]
13 **department**, within ten days after receipt of written request to do so by any person who is or will
14 be adversely affected by such violation, the person making such request may bring suit in his
15 own behalf to restrain such violation or threatened violation in any court in which the [council]
16 **department** might have brought suit. The [council] **department** shall be made a party
17 defendant in such suit in addition to the person violating or threatening to violate a provision of
18 this chapter, or a rule, regulation, or order of the [council] **department**, and the action shall
19 proceed and injunctive relief may be granted to the [council] **department** or the petitioner
20 without bond in 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 assurance instrument,
2 civil or administrative penalty or denial, suspension or revocation of a permit required by section
3 260.205 or a modification to a permit issued under section 260.205 or any disapproval of the
4 plan required by section 260.220, may [within thirty days of notice of such action request a
5 hearing] **appeal such decision as provided in section 621.250, subject to judicial review as**
6 **provided by law**. The notice of the department shall be effected by certified mail and shall set
7 forth the reasons for such forfeiture, disapproval, denial, suspension, civil penalty or revocation.
8 The department may seek an injunction in the circuit court in which the facility is located
9 requiring the facility for which the transfer of ownership has been denied, or the permit or
10 modification of the permit has been denied, suspended or revoked, to cease operations from the
11 date ordered by the court until such time as the appeal is resolved or obtain a performance bond
12 in the amount and manner as prescribed by rule. The department's action seeking an injunction
13 shall be based on the seriousness of the threat to the environment which continued operation of
14 the facility poses. [The] **A bond may be required in order to stay the effect of the**
15 **department's action until the appeal is resolved, in which case such bond** shall remain in

16 place until the appeal is resolved. If the department's decision is upheld, the bond shall be
17 forfeited and placed in a separate subaccount of the solid waste management fund.

18 [2. The hearing shall be conducted by the director or his designated representative in
19 accordance with the procedures set forth in sections 536.070, 536.073, 536.077, 536.080, and
20 536.090. The decision of the department shall become final thirty days after delivery or certified
21 mailing of a copy of it to the person. Such decisions may be appealed to the administrative
22 hearing commission pursuant to sections 536.063 to 536.095 and shall be subject to judicial
23 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 determination by
2 the director that a provision of sections 260.200 to 260.281, or a standard, limitation, order, rule
3 or regulation promulgated pursuant thereto, or a term or condition of any permit has been
4 violated, the director may issue an order assessing an administrative penalty upon the violator
5 under this section. An administrative penalty shall not be imposed until the director has sought
6 to resolve the violations through conference, conciliation and persuasion and shall not be
7 imposed for minor violations of sections 260.200 to 260.281 or minor violation of any standard,
8 limitation, order, rule or regulation promulgated pursuant to sections 260.200 to 260.281 or
9 minor violations of any term or condition of a permit issued pursuant to sections 260.200 to
10 260.281 or any violations of sections 260.200 to 260.281 by any person resulting from
11 mismanagement of solid waste generated and managed on the property of the place of residence
12 of the person. If the violation is resolved through conference, conciliation and persuasion, no
13 administrative penalty shall be assessed unless the violation has caused, or has the potential to
14 cause, a risk to human health or to the environment, or has caused or has potential to cause
15 pollution, or was knowingly committed, or is defined by the United States Environmental
16 Protection Agency as other than minor. Any order assessing an administrative penalty shall state
17 that an administrative penalty is being assessed under this section and that the person subject to
18 the penalty may appeal as provided by [section] **sections 260.235 and 621.250**. Any such order
19 that fails to state the statute under which the penalty is being sought, the manner of collection
20 or rights of appeal shall result in the state's waiving any right to collection of the penalty.

21 2. The department shall promulgate rules and regulations for the assessment of
22 administrative penalties. The amount of the administrative penalty assessed per day of violation
23 for each violation under this section shall not exceed the amount of the civil penalty specified
24 in section 260.240. Such rules shall reflect the criteria used for the administrative penalty matrix
25 as provided for in the Resource Conservation and Recovery Act, 42 U.S.C. 6928(a), Section
26 3008(a), and the harm or potential harm which the violation causes, or may cause, the violator's
27 previous compliance record, and any other factors which the department may reasonably deem
28 relevant. An administrative penalty shall be paid within sixty days from the date of issuance of
29 the order assessing the penalty. Any person subject to an administrative penalty may appeal as
30 provided in [section] **sections 260.235 and 621.250**. Any appeal will stay the due date of such

31 administrative penalty until the appeal is resolved. Any person who fails to pay an
32 administrative penalty by the final due date shall be liable to the state for a surcharge of fifteen
33 percent of the penalty plus ten percent per annum on any amounts owed. Any administrative
34 penalty paid pursuant to this section shall be handled in accordance with section 7 of article IX
35 of the state constitution. An action may be brought in the appropriate circuit court to collect any
36 unpaid administrative penalty, and for attorney's fees and costs incurred directly in the collection
37 thereof.

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

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

46 5. Any final order imposing an administrative penalty [is subject to judicial review upon
47 the filing of a petition pursuant to section 536.100] **may be appealed** by any person subject to
48 the administrative penalty **as provided in sections 260.235 and 621.250, subject to judicial**
49 **review as provided by law. No judicial review shall be available until all administrative**
50 **remedies are exhausted.**

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

18 subsection and shall provide a report to the governor and general assembly by January fifteenth
19 of each year regarding the effectiveness of the program.

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

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

29 (2) Sixty-one percent of the revenues, except any annual increases in the charge under
30 section 260.330 during October 1, 2005, to October 1, 2014, which shall be used solely to fund
31 the operating costs of the department, shall be allocated through grants, upon appropriation, to
32 participating cities, counties, and districts. Revenues to be allocated under this subdivision shall
33 be divided as follows: forty percent shall be allocated based on the population of each district
34 in the latest decennial census, and sixty percent shall be allocated based on the amount of
35 revenue generated within each district. For the purposes of this subdivision, revenue generated
36 within each district shall be determined from the previous year's data. No more than fifty percent
37 of the revenue allocable under this subdivision may be allocated to the districts upon approval
38 of the department for implementation of a solid waste management plan and district operations,
39 and at least fifty percent of the revenue allocable to the districts under this subdivision shall be
40 allocated to the cities and counties of the district or to persons or entities providing solid waste
41 management, waste reduction, recycling and related services in these cities and counties. Each
42 district shall receive a minimum of seventy-five thousand dollars under this subdivision. After
43 August 28, 2005, each district shall receive a minimum of ninety-five thousand dollars under this
44 subdivision for district grants and district operations. Each district receiving moneys under this
45 subdivision shall expend such moneys pursuant to a solid waste management plan required under
46 section 260.325, and only in the case that the district is in compliance with planning
47 requirements established by the department. Moneys shall be awarded based upon grant
48 applications. Any moneys remaining in any fiscal year due to insufficient or inadequate
49 applications may be reallocated pursuant to this subdivision;

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

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

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

57 3. The [advisory board created in section 260.345 shall recommend] **department shall**
58 **establish** criteria to be used to allocate grant moneys to districts, cities and counties. These
59 criteria shall establish a priority for proposals which provide methods of solid waste reduction
60 and recycling. The department shall promulgate criteria for evaluating grants by rule and
61 regulation. Projects of cities and counties located within a district which are funded by grants
62 under this section shall conform to the district solid waste management plan.

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

67 5. The department[, in conjunction with the solid waste advisory board,] shall review the
68 performance of all grant recipients to ensure that grant moneys were appropriately and effectively
69 expended to further the purposes of the grant, as expressed in the recipient's grant application.
70 The grant application shall contain specific goals and implementation dates, and grant recipients
71 shall be contractually obligated to fulfill same. The department may require the recipient to
72 submit periodic reports and such other data as are necessary, both during the grant period and
73 up to five years thereafter, to ensure compliance with this section. The department may audit the
74 records of any recipient to ensure compliance with this section. Recipients of grants under
75 sections 260.300 to 260.345 shall maintain such records as required by the department. If a grant
76 recipient fails to maintain records or submit reports as required herein, refuses the department
77 access to the records, or fails to meet the department's performance standards, the department
78 may withhold subsequent grant payments, if any, and may compel the repayment of funds
79 provided to the recipient pursuant to a grant.

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

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

621.250. 1. All authority to hear **contested case administrative** appeals granted in
2 chapters **236, 256, 259, 260, 444, 640, 643, and 644**, and to the hazardous waste management
3 commission in chapter 260, the land reclamation commission in chapter 444, the safe drinking
4 water commission in chapter 640, the air conservation commission in chapter 643, and the clean
5 water commission in chapter 644 shall be transferred to the administrative hearing commission
6 under this chapter. The authority to render final decisions after hearing on appeals heard by the
7 administrative hearing commission shall remain with the commissions listed in this subsection.

8 **For appeals under chapter 236, chapter 256, section 260.235, or section 260.249, the**
9 **administrative hearing commission shall render a final decision rather than a**
10 **recommended decision.** The administrative hearing commission may render [a] its
11 recommended **or** final decision after hearing or through stipulation, consent order, agreed
12 settlement or by disposition in the nature of default judgment, judgment on the pleadings, or
13 summary determination, consistent with the requirements of this subsection and the rules and
14 procedures of the administrative hearing commission.

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

32 3. Any decision by the director of the department of natural resources that may be
33 appealed as provided in subsection 1 of this section shall contain a notice of the right of appeal
34 in substantially the following language: "If you were adversely affected by this decision, you
35 may **be entitled to pursue an** appeal [to have the matter heard by] **before** the administrative
36 hearing commission. To appeal, you must file a petition with the administrative hearing
37 commission within thirty days after the date this decision was mailed or the date it was delivered,
38 whichever date was earlier. If any such petition is sent by registered mail or certified mail, it will
39 be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or
40 certified mail, it will be deemed filed on the date it is received by the administrative hearing
41 commission.". Within fifteen days after the administrative hearing commission renders [its] a
42 recommended decision, it shall transmit the record and a transcript of the proceedings, together
43 with the administrative hearing commission's recommended decision, to the commission having
44 authority to issue a final decision. The final decision of the commission shall be issued within
45 one hundred eighty days of the date the notice of appeal in subsection 2 of this section is filed

46 and shall be based only on the facts and evidence in the hearing record; provided, however, that
47 the date by which the commission is required to issue a final decision may be extended at the
48 sole discretion of the permittee as either petitioner or intervenor in the appeal. The commission
49 may adopt the recommended decision as its final decision. The commission may change a
50 finding of fact or conclusion of law made by the administrative hearing commission, or may
51 vacate or modify the recommended decision issued by the administrative hearing commission,
52 only if the commission states in writing the specific reason for a change made under this
53 subsection.

54 4. In the event the person filing the appeal prevails in any dispute under this section,
55 interest shall be allowed upon any amount found to have been wrongfully collected or
56 erroneously paid at the rate established by the director of the department of revenue under section
57 32.065.

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

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

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

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

12 2. The director shall appoint directors of staff to service each of the policy making
13 boards or commissions assigned to the department. Each director of staff shall be qualified by
14 education, training and experience in the technical matters of the board to which he is assigned
15 and his appointment shall be approved by the board to which he is assigned and he shall be

16 removed or reassigned on their request in writing to the director of the department. All other
17 employees of the department and of each board and commission assigned to the department shall
18 be appointed by the director of the department in accord with chapter 36, and shall be assigned
19 and may be reassigned as required by the director of the department in such a manner as to
20 provide optimum service, efficiency and economy.

21 3. The air conservation commission, chapter 203 and others, the clean water
22 commission, chapter 204 and others, are transferred by type II transfer to the department of
23 natural resources. The governor shall appoint the members of these bodies in accord with the
24 laws establishing them, with the advice and consent of the senate. The bodies hereby transferred
25 shall retain all rulemaking and hearing powers allotted by law, as well as those of any bodies
26 transferred to their jurisdiction. All the powers, duties and functions of the state environmental
27 improvement authority, chapter 260 and others, are transferred by type III transfer to the air
28 conservation commission. All the powers, duties and functions of the water resources board,
29 chapter 256 and others, are transferred by type I transfer to the clean water commission and the
30 board is abolished. No member of the clean water commission shall receive or shall have
31 received, during the previous two years from the date of his appointment, a significant portion
32 of his income directly or indirectly from permit holders or applicants for a permit under the
33 jurisdiction of the clean water commission. The state park board, chapter 253, is transferred to
34 the department of natural resources by type I transfer.

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

37 5. All the powers, duties and functions of the state geologist, chapter 256 and others, are
38 transferred by type I transfer to the department of natural resources. All the powers, duties and
39 functions of the state land survey authority, chapter 60, are transferred to the department of
40 natural resources by type I transfer and the authority is abolished. All the powers, duties and
41 functions of the state oil and gas council, chapter 259 and others, are transferred to the
42 department of natural resources [by type II transfer] **and the council is abolished**. The director
43 of the department shall appoint a state geologist who shall have the duties to supervise and
44 coordinate the work formerly done by the [departments or authorities] **bodies** abolished by this
45 subsection[, and shall provide staff services for the state oil and gas council].

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

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

54 [8. (1) The state interagency council for outdoor recreation, chapter 258, is transferred
55 to the department of natural resources by type II transfer. The council shall consist of
56 representatives of the following state agencies: department of agriculture; department of
57 conservation; office of administration; department of natural resources; department of economic
58 development; department of social services; department of transportation; and the University of
59 Missouri.

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

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

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

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

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

18 [3.] 4. The [department] **process developed and implemented by the director** shall
19 **include working with such applicants in an effort to help** determine, **at the earliest stage**,
20 all of the permits required for a specific proposed activity based on information provided by the
21 applicant; additional information regarding the proposed activity may result in different permits
22 being required. The department shall [propose] **inform applicants that** a unified permitting
23 schedule [to interested applicants] **is available**. Any multiple-permit applicant may decline at
24 any time to have its permits processed in accordance with the schedule and instead proceed [in]
25 **on** a permit-by-permit approach. The department shall publicize the order and tentative schedule
26 on the department's internet website.

27 [4.] 5. Following the establishment of a unified permit schedule, the director shall notify
28 the applicant in writing of the order in which the applicant shall obtain permits. The department
29 shall proceed to consider applications accordingly and may only modify the schedule with the
30 consent of the applicant through the date of the public hearing. Each application shall be
31 reviewed by the department based solely on its own merits and compliance with the applicable
32 law.

33 [5.] 6. The department shall coordinate with the applicant, to the extent possible, to align
34 the unified permit process so that all public meetings or hearings related to the permits are
35 consolidated into one hearing in a location near the facility.

36 [6.] 7. In furtherance of this section, the director may waive otherwise applicable
37 procedural requirements related to timing as set forth in state environmental laws or rules found
38 in this chapter and chapters **236, 259, 260, 444, 643, and 644**, so long as:

- 39 (1) The public comment periods related to each permit are not shortened; and
40 (2) The unified permitting schedule does not impair the ability of the applicant or the
41 department to comply with substantive legal requirements related to the permit application.

42 [7.] 8. The director shall promulgate rules to implement the provisions of this section.
43 Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the
44 authority delegated in this section shall become effective only if it complies with and is subject
45 to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
46 chapter 536 are nonseverable and if any of the powers vested with the general assembly under
47 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
48 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
49 or adopted after August 28, 2008, shall be invalid and void.

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

7 three years. Members may serve only three consecutive terms on the
8 commission.

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

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

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

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

15 (4) The director of the department of natural resources or his or her
16 designee.

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

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

24 4. The land survey commission members shall serve without
25 compensation but shall be reimbursed for actual and necessary expenses incurred
26 in the performance of their official duties.

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

33 6. The land survey commission shall recommend to the department of
34 natural resources:

35 (1) A person to be selected and appointed state land surveyor, who shall
36 be the chief administrative officer of the land survey program. The state land
37 surveyor shall be selected under the state merit system on the basis of
38 professional experience and registration;

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

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

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

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

51 8. By December 1, 2013, the commission shall provide a report to the
52 department of natural resources and general assembly that recommends the

53 appropriate administrative or overhead cost rate that will be charged to the
54 program, where such cost rate shall include all indirect services provided by the
55 division of geology and land survey, department of natural resources, and office
56 of administration.]
57

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

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

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

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

22 5. All actions and decisions of the state historic preservation officer and
23 the unmarked human burial consultation committee shall be in conformity with
24 the provisions of the federal National Historic Preservation Act of 1966, as
25 amended.]
26

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

7 2. The members of the council shall have a background of academic
8 training or professional experience directly related to the design of dams and
9 reservoirs. At least two members of the council shall be professional engineers
10 registered in the state of Missouri, one of whom shall represent the general
11 public; at least one member shall be an engineering geologist; at least one
12 member, in addition to the professional engineer, shall be a representative of the
13 general public; two members shall be from industry, one of whom shall be
14 earthmoving contractors; and one member shall be the owner of a dam or
15 reservoir. The members shall serve for a term of two years; except, of the first

16 appointments three shall be appointed for one year. The governor shall fill any
17 vacancy on the council and may remove any appointed member for cause. The
18 council shall annually elect a chairman and vice chairman from among its
19 members. The council shall meet regularly but not less than quarterly. Special
20 meetings and hearings may be called upon delivery of written notice to each
21 member of the council signed by the director, the chief engineer, the council
22 chairman or four of the council members. Four members of the council shall
23 constitute a quorum to transact the business of the council. The council shall
24 decide all questions by a majority vote of those present and constituting a
25 quorum. The members of this council shall not receive any compensations other
26 than for actual travel and subsistence when acting officially as members of the
27 council.]
28

2 [256.605. 1. The "Well Installation Board" is hereby established which
3 shall be composed of nine members. Appointment to the board shall be made
4 without regard to race, creed, sex, religion, or national origin of the appointees.
5 Each member shall be a resident of the state and be conversant in well drilling,
6 completion, and plugging methods and techniques.

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

25 3. A member shall not be employed by or own an interest in a company,
26 firm, or business association which employs another member of the board or in
27 which another member owns an interest, if the company, firm, or business
28 association is engaged in any phase of the well drilling, pump installation, heat
29 pump or monitoring well business.

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

33 5. The board shall meet on a quarterly basis, and special meetings may
be called when deemed necessary by the division. A majority of the board is a

34 quorum for conducting business. The board shall elect a chairman by a majority
35 vote at the first meeting each year.]
36

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

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

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

8 (a) Three representing the limestone quarry operators;

9 (b) One representing the clay mining industry;

10 (c) One representing the sandstone mining industry;

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

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

13 (f) One representing the granite mining industry.

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

16 2. The advisory council shall:

17 (1) Meet at least once each year;

18 (2) Annually review with the state geologist the income received and
19 expenditures made under sections 256.700 and 256.705;

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

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

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

26 (6) Serve in an advisory capacity in all other matters brought before the
27 council by the director of the department of natural resources.

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

32 (1) One member who represents the limestone quarry operators, the
33 representative of the clay mining industry, and the representative of the sandstone
34 mining industry shall serve terms of three years;

35 (2) One member who represents the limestone quarry operators, the
36 representative of the sand and gravel mining industry, and the representative of
37 the barite mining industry shall serve terms of two years; and

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

40 4. All members shall be residents of this state. Any member may be
41 reappointed.

42 5. All members shall be reimbursed for reasonable expenses incurred in
43 the performance of their official duties in accordance with the reimbursement

44 policy set by the director. All reimbursements paid under this section shall be
45 paid from fees collected under section 256.700.

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

51

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

6

2 [258.030. 1. The officers of the council shall be a chairman and vice
3 chairman appointed by the governor from the executive heads of the agencies
4 represented on the council. A chairman may serve more than one term.

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

8

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

- 4 (1) One member from the division of geology and land survey;
5 (2) One member from the department of economic development;
6 (3) One member from the Missouri public service commission;
7 (4) One member from the clean water commission;
8 (5) One member from the Missouri University of Science and
9 Technology petroleum engineering program;
10 (6) One member from the Missouri Independent Oil and Gas
11 Association; and
12 (7) Two members from the public.]

12

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

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

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

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

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

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

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

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

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

2 [260.345. A state "Solid Waste Advisory Board" is created within the
3 department of natural resources. The advisory board shall be composed of the
4 chairman of the executive board of each of the solid waste management districts
5 and other members as provided in this section. Up to five additional members
6 shall be appointed by the director of which two members shall represent the solid
7 waste management industry and have an economic interest in or activity with any
8 solid waste facility or operation, one member may represent the solid waste
9 composting or recycling industry businesses, and the remaining members shall
10 be public members who have demonstrated interest in solid waste management
11 issues and shall have no economic interest in or activity with any solid waste
12 facility or operation but may own stock in a publicly traded corporation which
13 may be involved in waste management as long as such holdings are not
14 substantial. The advisory board shall advise the department regarding:

- 15 (1) The efficacy of its technical assistance program;
16 (2) Solid waste management problems experienced by solid waste
17 management districts;
18 (3) The effects of proposed rules and regulations upon solid waste
19 management within the districts;
20 (4) Criteria to be used in awarding grants pursuant to section 260.335;
(5) Waste management issues pertinent to the districts;

21 (6) The development of improved methods of solid waste minimization,
22 recycling and resource recovery; and

23 (7) Such other matters as the advisory board may determine.]
24

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

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

✓