

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 1058**  
98TH GENERAL ASSEMBLY

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Reported from the Committee on Commerce, Consumer Protection, Energy and the Environment, May 4, 2015, with recommendation that the Senate Committee Substitute do pass.

ADRIANE D. CROUSE, Secretary.

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**AN ACT**

To repeal sections 29.380, 260.200, 260.225, 260.250, 260.320, 260.325, 260.330, 260.335, 260.345, and 644.145, RSMo, and to enact in lieu thereof eleven new sections relating to the department of natural resources.

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

Section A. Sections 29.380, 260.200, 260.225, 260.250, 260.320, 260.325, 260.330, 260.335, 260.345, and 644.145, RSMo, are repealed and eleven new section enacted in lieu thereof, to be known as sections 29.380, 260.200, 260.225, 260.250, 260.320, 260.324, 260.325, 260.330, 260.335, 260.345, and 644.145, to read as follows:

29.380. 1. The state auditor shall have the authority to audit solid waste management districts created under section 260.305 in the same manner as the auditor may audit any agency of the state.

2. Beginning August 28, [2012] **2015**, the state auditor [shall conduct an audit of each solid waste management district created under section 260.305 and thereafter shall] **may** conduct audits of [each] solid waste management [district] **districts** as he or she deems necessary. The state auditor may request reimbursement from the district for the costs of conducting the audit. **If the auditor requests such reimbursement, the solid waste management district shall reimburse the auditor for the costs of conducting the audit and the moneys shall be deposited in the petition audit revolving trust fund created under section 29.230. Such reimbursement shall be limited to two percent of the solid waste management district's annual**

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

**14 monetary allocation.**

260.200. 1. The following words and phrases when used in sections  
2 260.200 to 260.345 shall mean:

3 (1) "Alkaline-manganese battery" or "alkaline battery", a battery having  
4 a manganese dioxide positive electrode, a zinc negative electrode, an alkaline  
5 electrolyte, including alkaline-manganese button cell batteries intended for use  
6 in watches, calculators, and other electronic products, and larger-sized  
7 alkaline-manganese batteries in general household use;

8 (2) "Applicant", a person or persons seeking or holding a facility permit;

9 (3) "Bioreactor", a municipal solid waste disposal area or portion of a  
10 municipal solid waste disposal area where the controlled addition of liquid waste  
11 or water accelerates both the decomposition of waste and landfill gas generation;

12 (4) "Button cell battery" or "button cell", any small alkaline-manganese  
13 or mercuric-oxide battery having the size and shape of a button;

14 (5) "City", any incorporated city, town, or village;

15 (6) "Clean fill", uncontaminated soil, rock, sand, gravel, concrete, asphaltic  
16 concrete, cinderblocks, brick, minimal amounts of wood and metal, and inert  
17 solids as approved by rule or policy of the department for fill, reclamation or  
18 other beneficial use;

19 (7) "Closure", the permanent cessation of active disposal operations,  
20 abandonment of the disposal area, revocation of the permit or filling with waste  
21 of all areas and volumes specified in the permit and preparing the area for  
22 long-term care;

23 (8) "Closure plan", plans, designs and relevant data which specify the  
24 methods and schedule by which the operator will complete or cease disposal  
25 operations, prepare the area for long-term care, and make the area suitable for  
26 other uses, to achieve the purposes of sections 260.200 to 260.345 and the  
27 regulations promulgated thereunder;

28 (9) "Conference, conciliation and persuasion", a process of verbal or  
29 written communications consisting of meetings, reports, correspondence or  
30 telephone conferences between authorized representatives of the department and  
31 the alleged violator. The process shall, at a minimum, consist of one offer to meet  
32 with the alleged violator tendered by the department. During any such meeting,  
33 the department and the alleged violator shall negotiate in good faith to eliminate  
34 the alleged violation and shall attempt to agree upon a plan to achieve  
35 compliance;

36 (10) "Construction and demolition waste", waste materials from the  
37 construction and demolition of residential, industrial, or commercial structures,  
38 but shall not include materials defined as clean fill under this section;

39 (11) "Demolition landfill", a solid waste disposal area used for the  
40 controlled disposal of demolition wastes, construction materials, brush, wood  
41 wastes, soil, rock, concrete and inert solids insoluble in water;

42 (12) "Department", the department of natural resources;

43 (13) "Director", the director of the department of natural resources;

44 (14) "Disclosure statement", a sworn statement or affirmation, in such  
45 form as may be required by the director of the department of natural resources,  
46 which includes:

47 (a) The full names and business address of key personnel;

48 (b) The full name and business address of any entity, other than a natural  
49 person, that collects, transfers, processes, treats, stores, or disposes of solid waste  
50 in which all key personnel holds an equity interest of seven percent or more;

51 (c) A description of the business experience of all key personnel listed in  
52 the disclosure statement;

53 (d) For the five-year period ending on the date the sworn disclosure  
54 statement or affirmation is signed by key personnel:

55 a. A listing organized by issuing federal, state, or county or  
56 county-equivalent regulatory body of all environmental permits or licenses for the  
57 collection, transfer, treatment, processing, storage, or disposal of solid waste  
58 issued to or held by any key personnel;

59 b. A listing and explanation of notices of violation which shall by rule be  
60 defined, prosecutions, or other administrative enforcement actions resulting in an  
61 adjudication or conviction;

62 c. A listing of license or permit suspensions, revocations, or denials issued  
63 by any state, the federal government or a county or county equivalent, which are  
64 pending or have concluded with a finding of violation or entry of a consent  
65 agreement regarding an allegation of civil or criminal violation of law, regulation  
66 or requirement relating to the collection, transfer, treatment, processing, storage,  
67 or disposal of solid waste or violation of the environmental statutes of other  
68 states or federal statutes;

69 d. An itemized list of all felony convictions under the laws of the state of  
70 Missouri or the equivalent thereof under the laws of any other jurisdiction; and  
71 a listing of any findings of guilt for any crimes or criminal acts an element of

72 which involves restraint of trade, price-fixing, intimidation of the customers of  
73 another person or for engaging in any other acts which may have the effect of  
74 restraining or limiting competition concerning activities regulated pursuant to  
75 this chapter or similar laws of other states or the federal government including,  
76 but not limited to, racketeering or violation of antitrust laws of any key  
77 personnel;

78 (15) "District", a solid waste management district established under  
79 section 260.305;

80 (16) "Financial assurance instrument", an instrument or instruments,  
81 including, but not limited to, cash or surety bond, letters of credit, corporate  
82 guarantee or secured trust fund, submitted by the applicant to ensure proper  
83 closure and postclosure care and corrective action of a solid waste disposal area  
84 in the event that the operator fails to correctly perform closure and postclosure  
85 care and corrective action requirements, except that the financial test for the  
86 corporate guarantee shall not exceed one and one-half times the estimated cost  
87 of closure and postclosure. The form and content of the financial assurance  
88 instrument shall meet or exceed the requirements of the department. The  
89 instrument shall be reviewed and approved or disapproved by the attorney  
90 general;

91 (17) "Flood area", any area inundated by the one hundred year flood  
92 event, or the flood event with a one percent chance of occurring in any given year;

93 (18) "Household consumer", an individual who generates used motor oil  
94 through the maintenance of the individual's personal motor vehicle, vessel,  
95 airplane, or other machinery powered by an internal combustion engine;

96 (19) "Household consumer used motor oil collection center", any site or  
97 facility that accepts or aggregates and stores used motor oil collected only from  
98 household consumers or farmers who generate an average of twenty-five gallons  
99 per month or less of used motor oil in a calendar year. This section shall not  
100 preclude a commercial generator from operating a household consumer used  
101 motor oil collection center;

102 (20) "Household consumer used motor oil collection system", any used  
103 motor oil collection center at publicly owned facilities or private locations, any  
104 curbside collection of household consumer used motor oil, or any other household  
105 consumer used motor oil collection program determined by the department to  
106 further the purposes of sections 260.200 to 260.345;

107 (21) "Infectious waste", waste in quantities and characteristics as

108 determined by the department by rule, including isolation wastes, cultures and  
109 stocks of etiologic agents, blood and blood products, pathological wastes, other  
110 wastes from surgery and autopsy, contaminated laboratory wastes, sharps,  
111 dialysis unit wastes, discarded biologicals known or suspected to be infectious;  
112 provided, however, that infectious waste does not mean waste treated to  
113 department specifications;

114 (22) "Key personnel", the applicant itself and any person employed by the  
115 applicant in a managerial capacity, or empowered to make discretionary decisions  
116 with respect to the solid waste operations of the applicant in Missouri, but shall  
117 not include employees exclusively engaged in the physical or mechanical  
118 collection, transfer, transportation, treatment, processing, storage, or disposal of  
119 solid waste and such other employees as the director of the department of natural  
120 resources may designate by regulation. If the applicant has not previously  
121 conducted solid waste operations in Missouri, the term also includes any officer,  
122 director, partner of the applicant, or any holder of seven percent or more of the  
123 equity or debt of the applicant. If any holder of seven percent or more of the  
124 equity or debt of the applicant or of any key personnel is not a natural person,  
125 the term includes all key personnel of that entity, provided that where such  
126 entity is a chartered lending institution or a reporting company under the federal  
127 Securities Exchange Act of 1934, the term does not include key personnel of such  
128 entity. Provided further that the term means the chief executive officer of any  
129 agency of the United States or of any agency or political subdivision of the state  
130 of Missouri, and all key personnel of any person, other than a natural person,  
131 that operates a landfill or other facility for the collection, transfer, treatment,  
132 processing, storage, or disposal of nonhazardous solid waste under contract with  
133 or for one of those governmental entities;

134 (23) "Lead-acid battery", a battery designed to contain lead and sulfuric  
135 acid with a nominal voltage of at least six volts and of the type intended for use  
136 in motor vehicles and watercraft;

137 (24) "Major appliance", clothes washers and dryers, water heaters, trash  
138 compactors, dishwashers, conventional ovens, ranges, stoves, woodstoves, air  
139 conditioners, refrigerators and freezers;

140 (25) "Mercuric-oxide battery" or "mercury battery", a battery having a  
141 mercuric-oxide positive electrode, a zinc negative electrode, and an alkaline  
142 electrolyte, including mercuric-oxide button cell batteries generally intended for  
143 use in hearing aids and larger size mercuric-oxide batteries used primarily in

144 medical equipment;

145 (26) "Minor violation", a violation which possesses a small potential to  
146 harm the environment or human health or cause pollution, was not knowingly  
147 committed, and is not defined by the United States Environmental Protection  
148 Agency as other than minor;

149 (27) "Motor oil", any oil intended for use in a motor vehicle, as defined in  
150 section 301.010, train, vessel, airplane, heavy equipment, or other machinery  
151 powered by an internal combustion engine;

152 (28) "Motor vehicle", as defined in section 301.010;

153 (29) "Operator" and "permittee", anyone so designated, and shall include  
154 cities, counties, other political subdivisions, authority, state agency or institution,  
155 or federal agency or institution;

156 (30) "Permit modification", any permit issued by the department which  
157 alters or modifies the provisions of an existing permit previously issued by the  
158 department;

159 (31) "Person", any individual, partnership, limited liability company,  
160 corporation, association, trust, institution, city, county, other political subdivision,  
161 authority, state agency or institution, or federal agency or institution, or any  
162 other legal entity;

163 (32) "Plasma arc technology", a process that converts electrical energy into  
164 thermal energy. This electric arc is created when an ionized gas transfers electric  
165 power between two or more electrodes;

166 (33) "Postclosure plan", plans, designs and relevant data which specify the  
167 methods and schedule by which the operator shall perform necessary monitoring  
168 and care for the area after closure to achieve the purposes of sections 260.200 to  
169 260.345 and the regulations promulgated thereunder;

170 (34) "Recovered materials", those materials which have been diverted or  
171 removed from the solid waste stream for sale, use, reuse or recycling, whether or  
172 not they require subsequent separation and processing;

173 (35) "Recycled content", the proportion of fiber in a newspaper which is  
174 derived from postconsumer waste;

175 (36) "Recycling", the separation and reuse of materials which might  
176 otherwise be disposed of as solid waste;

177 (37) "Resource recovery", a process by which recyclable and recoverable  
178 material is removed from the waste stream to the greatest extent possible, as  
179 determined by the department and pursuant to department standards, for reuse

180 or remanufacture;

181 (38) "Resource recovery facility", a facility in which recyclable and  
182 recoverable material is removed from the waste stream to the greatest extent  
183 possible, as determined by the department and pursuant to department  
184 standards, for reuse or remanufacture;

185 (39) "Sanitary landfill", a solid waste disposal area which accepts  
186 commercial and residential solid waste;

187 (40) "Scrap tire", a tire that is no longer suitable for its original intended  
188 purpose because of wear, damage, or defect;

189 (41) "Scrap tire collection center", a site where scrap tires are collected  
190 prior to being offered for recycling or processing and where fewer than five  
191 hundred tires are kept on site on any given day;

192 (42) "Scrap tire end-user facility", a site where scrap tires are used as a  
193 fuel or fuel supplement or converted into a usable product. Baled or compressed  
194 tires used in structures, or used at recreational facilities, or used for flood or  
195 erosion control shall be considered an end use;

196 (43) "Scrap tire generator", a person who sells tires at retail or any other  
197 person, firm, corporation, or government entity that generates scrap tires;

198 (44) "Scrap tire processing facility", a site where tires are reduced in  
199 volume by shredding, cutting, or chipping or otherwise altered to facilitate  
200 recycling, resource recovery, or disposal;

201 (45) "Scrap tire site", a site at which five hundred or more scrap tires are  
202 accumulated, but not including a site owned or operated by a scrap tire end-user  
203 that burns scrap tires for the generation of energy or converts scrap tires to a  
204 useful product;

205 (46) "Solid waste", garbage, refuse and other discarded materials  
206 including, but not limited to, solid and semisolid waste materials resulting from  
207 industrial, commercial, agricultural, governmental and domestic activities, but  
208 does not include hazardous waste as defined in sections 260.360 to 260.432,  
209 recovered materials, overburden, rock, tailings, matte, slag or other waste  
210 material resulting from mining, milling or smelting;

211 (47) "Solid waste disposal area", any area used for the disposal of solid  
212 waste from more than one residential premises, or one or more commercial,  
213 industrial, manufacturing, recreational, or governmental operations;

214 (48) "Solid waste fee", a fee imposed pursuant to sections 260.200 to  
215 260.345 and may be:

- 216 (a) A solid waste collection fee imposed at the point of waste collection; or  
217 (b) A solid waste disposal fee imposed at the disposal site;
- 218 (49) "Solid waste management area", a solid waste disposal area which  
219 also includes one or more of the functions contained in the definitions of  
220 recycling, resource recovery facility, waste tire collection center, waste tire  
221 processing facility, waste tire site or solid waste processing facility, excluding  
222 incineration;
- 223 (50) **"Solid waste management project", a targeted project that**  
224 **meets statewide waste reduction and recycling priorities, and for which**  
225 **no solid waste management district grant applicant has applied to**  
226 **perform, and for which no qualified applicants have applied to perform**  
227 **such project by a competitive bid issued by the solid waste management**  
228 **district for the completion of such project;**
- 229 (51) "Solid waste management system", the entire process of managing  
230 solid waste in a manner which minimizes the generation and subsequent disposal  
231 of solid waste, including waste reduction, source separation, collection, storage,  
232 transportation, recycling, resource recovery, volume minimization, processing,  
233 market development, and disposal of solid wastes;
- 234 [(51)] (52) "Solid waste processing facility", any facility where solid  
235 wastes are salvaged and processed, including:
- 236 (a) A transfer station; or  
237 (b) An incinerator which operates with or without energy recovery but  
238 excluding waste tire end-user facilities; or  
239 (c) A material recovery facility which operates with or without composting;  
240 (d) A plasma arc technology facility;
- 241 [(52)] (53) "Solid waste technician", an individual who has successfully  
242 completed training in the practical aspects of the design, operation and  
243 maintenance of a permitted solid waste processing facility or solid waste disposal  
244 area in accordance with sections 260.200 to 260.345;
- 245 [(53)] (54) "Tire", a continuous solid or pneumatic rubber covering  
246 encircling the wheel of any self-propelled vehicle not operated exclusively upon  
247 tracks, or a trailer as defined in chapter 301, except farm tractors and farm  
248 implements owned and operated by a family farm or family farm corporation as  
249 defined in section 350.010;
- 250 [(54)] (55) "Used motor oil", any motor oil which, as a result of use,  
251 becomes unsuitable for its original purpose due to loss of original properties or

252 the presence of impurities, but used motor oil shall not include ethylene glycol,  
253 oils used for solvent purposes, oil filters that have been drained of free flowing  
254 used oil, oily waste, oil recovered from oil tank cleaning operations, oil spilled to  
255 land or water, or industrial nonlube oils such as hydraulic oils, transmission oils,  
256 quenching oils, and transformer oils;

257 ~~[(55)]~~ **(56)** "Utility waste landfill", a solid waste disposal area used for  
258 fly ash waste, bottom ash waste, slag waste and flue gas emission control waste  
259 generated primarily from the combustion of coal or other fossil fuels;

260 ~~[(56)]~~ **(57)** "Yard waste", leaves, grass clippings, yard and garden  
261 vegetation and Christmas trees. The term does not include stumps, roots or  
262 shrubs with intact root balls.

263 2. For the purposes of this section and sections 260.270 to 260.279 and  
264 any rules in place as of August 28, 2005, or promulgated under said sections, the  
265 term "scrap" shall be used synonymously with and in place of waste, as it applies  
266 only to scrap tires.

260.225. 1. The department shall administer sections 260.200 to 260.345  
2 to maximize the amount of recovered materials and to minimize disposal of solid  
3 waste in sanitary landfills. The department shall, through its rules and  
4 regulations, policies and programs, encourage to the maximum extent practical,  
5 the use of alternatives to disposal. To accomplish these objectives, the  
6 department shall:

7 (1) Administer the state solid waste management program pursuant to the  
8 provisions of sections 260.200 to 260.345;

9 (2) Cooperate with appropriate federal, state, and local units of  
10 government of this or any other state, and with appropriate private organizations  
11 in carrying out its authority under sections 260.200 to 260.345;

12 (3) Promulgate and adopt, after public hearing, such rules and regulations  
13 relating to solid waste management systems as shall be necessary to carry out the  
14 purposes and provisions of sections 260.200 to 260.345;

15 (4) Develop a statewide solid waste management plan in cooperation with  
16 local governments, regional planning commissions, districts, and appropriate  
17 state agencies;

18 (5) Provide technical assistance to cities, counties, districts, and  
19 authorities;

20 (6) Develop and conduct a mandatory solid waste technician training  
21 course of study;

22 (7) Conduct and contract for research and investigations in the overall  
23 area of solid waste storage, collection, recycling, recovery, processing,  
24 transportation and disposal, including, but not limited to, new and novel  
25 procedures;

26 (8) Subject to appropriation by the general assembly, establish criteria for  
27 awarding state-funded solid waste management [planning] grants to cities,  
28 counties, and districts, allocate funds, and monitor the proper expenditure of  
29 funds;

30 (9) Issue such permits and orders and conduct such inspections as may  
31 be necessary to implement the provisions of sections 260.200 to 260.345 and the  
32 rules and regulations adopted pursuant to sections 260.200 to 260.345;

33 (10) Initiate, conduct and support research, demonstration projects, and  
34 investigations with applicable federal programs pertaining to solid waste  
35 management systems;

36 (11) Contract with cities, counties, districts and other persons to act as  
37 its agent in carrying out the provisions of sections 260.200 to 260.345 under  
38 procedures and conditions as the department shall prescribe.

39 2. The department shall prepare model solid waste management plans  
40 suitable for rural and urban areas which may be used by districts, counties and  
41 cities. In preparing the model plans, the department shall consider the findings  
42 and recommendations of the study of resource recovery conducted pursuant to  
43 section 260.038, and other relevant information. The plans shall conform with  
44 the requirements of section 260.220 and section 260.325 and shall:

45 (1) Emphasize waste reduction and recycling;

46 (2) Provide for economical waste management through regional **and**  
47 **district** cooperation;

48 (3) Be designed to achieve a reduction of forty percent in solid waste  
49 disposed, by weight, by January 1, 1998;

50 (4) Establish a means to measure the amount of reduction in solid waste  
51 disposal;

52 (5) Provide for the elimination of small quantities of hazardous waste,  
53 including household hazardous waste, from the solid waste stream; and

54 (6) Be designed to guide planning in districts, cities and counties  
55 including cities and counties not within a district.

56 3. The model plan shall be distributed to the executive board of each solid  
57 waste district and to counties and cities not within a district by December 1,

58 1991.

59 4. No rule or portion of a rule promulgated under the authority of sections  
60 260.200 to 260.345 shall become effective unless it has been promulgated  
61 pursuant to the provisions of section 536.024.

62 5. In coordination with other appropriate state agencies, including, but  
63 not limited to, the division of commerce and industrial development, the office of  
64 administration, the environmental improvement and energy resource authority,  
65 and the public service commission, the department shall perform the following  
66 duties in order to promote resource recovery in the state in ways which are  
67 economically feasible:

68 (1) Identify markets for recovered materials and for energy which could  
69 be produced from solid waste and household hazardous waste;

70 (2) Provide technical assistance pertaining to all aspects of resource  
71 recovery to cities, counties, districts, industries and other persons;

72 (3) Identify opportunities for resource recovery programs in state  
73 government and initiate actions to implement such programs;

74 (4) Expand state contracts for procurement of items made from recovered  
75 materials;

76 (5) Initiate recycling programs within state government;

77 (6) Provide a clearinghouse of consumer information regarding the need  
78 to support resource recovery, utilize and develop new resource recovery programs  
79 around existing enterprises, request and purchase recycled products, participate  
80 in resource conservation activities and other relevant issues;

81 (7) Identify barriers to resource recovery and resource conservation, and  
82 propose remedies to these barriers; and

83 (8) Initiate activities with appropriate state and local entities to develop  
84 markets for recovered materials.

260.250. 1. After January 1, 1991, major appliances, waste oil and  
2 lead-acid batteries shall not be disposed of in a solid waste disposal area. After  
3 January 1, 1992, yard waste shall not be disposed of in a solid waste disposal  
4 area, except as otherwise provided in this subsection. After August 28, 2007,  
5 yard waste may be disposed of in a municipal solid waste disposal area or portion  
6 of a municipal solid waste disposal area provided that:

7 (1) The department has approved the municipal solid waste disposal area  
8 or portion of a solid waste disposal area to operate as a bioreactor under 40 CFR  
9 Part 258.4; and

10           (2) The landfill gas produced by the bioreactor shall be used for the  
11 generation of electricity.

12           2. After January 1, 1991, waste oil shall not be incinerated without energy  
13 recovery.

14           3. Each **solid waste management** district[, county and city] shall  
15 address the recycling, reuse and handling of aluminum containers, glass  
16 containers, newspapers, **textiles**, whole tires, plastic beverage containers and  
17 steel containers in its solid waste management plan consistent with sections  
18 260.250 to 260.345.

          260.320. 1. The executive board shall meet within thirty days after the  
2 selection of the initial members. The time and place of the first meeting of the  
3 board shall be designated by the council. A majority of the members of the board  
4 shall constitute a quorum. At its first meeting the board shall elect a chairman  
5 from its members and select a secretary, treasurer and such officers or employees  
6 as it deems expedient or necessary for the accomplishment of its purposes. The  
7 secretary and treasurer need not be members of the board.

8           2. The executive board may adopt, alter or repeal its own bylaws, rules  
9 and regulations governing the manner in which its business may be transacted,  
10 including procedures for the replacement of persons who habitually fail to attend  
11 board meetings, and may establish its fiscal year, adopt an official seal, apply for  
12 and accept grants, gifts or appropriations from any public or private sector, make  
13 all expenditures which are incidental and necessary to carry out its purposes and  
14 powers, and take such action, enter into such agreements and exercise all other  
15 powers and functions necessary or appropriate to carry out the duties and  
16 purposes of sections 260.200 to 260.345.

17           3. The executive board shall:

18           (1) Review and comment upon applications for permits submitted  
19 pursuant to section 260.205, for solid waste processing facilities and solid waste  
20 disposal areas which are to be located within the region or, if located in an  
21 adjacent region, which will impact solid waste management practices within the  
22 region;

23           (2) Prepare and recommend to the council a solid waste management plan  
24 for the district;

25           (3) Identify illegal dump sites and provide all available information about  
26 such sites to the appropriate county prosecutor and to the department;

27           (4) Establish an education program to inform the public about responsible

28 **solid** waste management practices;

29 (5) Establish procedures to minimize the introduction of small quantities  
30 of hazardous waste, including household hazardous waste, into the solid waste  
31 stream;

32 (6) Assure adequate capacity to manage waste which is not otherwise  
33 removed from the solid waste stream; and

34 (7) Appoint one or more geographically balanced advisory committees  
35 composed of the representatives of commercial generators, representatives of the  
36 solid waste management industry, and two citizens unaffiliated with a solid waste  
37 facility or operation to assess and make recommendations on solid waste  
38 management.

39 4. The executive board may enter into contracts with any person **or**  
40 **entity** for services related to any component of the solid waste management  
41 system. Bid specifications for solid waste management services shall be designed  
42 to meet the objectives of sections 260.200 to 260.345, encourage small businesses  
43 to engage and compete in the delivery of **solid** waste management services and  
44 to minimize the long-run cost of managing solid waste. Bid specifications shall  
45 enumerate the minimum components and minimum quantities of waste products  
46 which shall be recycled by the successful bidder. The board shall divide the  
47 district into units to maximize access for small businesses when it requests bids  
48 for solid waste management services, **but in no case shall a district**  
49 **executive board perform solid waste management projects that compete**  
50 **with a qualified private enterprise.**

51 5. No person shall serve as a member of the council or of the executive  
52 board who is a stockholder, officer, agent, attorney or employee or who is in any  
53 way pecuniarily interested in any business which engages in any aspect of solid  
54 waste management regulated under sections 260.200 to 260.345; provided,  
55 however, that such member may own stock in a publicly traded corporation which  
56 may be involved in **solid** waste management as long as such holdings are not  
57 substantial.

**260.324. 1. Any person or entity that applies for a grant under**  
2 **section 260.335 shall not be disqualified from receiving such grant on**  
3 **the basis that there exists a familial relationship between the applicant**  
4 **and any member of the solid waste management district executive**  
5 **board within the fourth degree by consanguinity or affinity. For**  
6 **applicants with a familial relationship with any member of the solid**

7 waste management district executive board within the fourth degree by  
8 consanguinity or affinity, the solid waste management district  
9 executive board shall only approve such grant application if approved  
10 by a vote of two-thirds of the solid waste management district executive  
11 board.

12 **2. If a person, who by virtue of his or her membership on a solid**  
13 **waste management district executive board, does not abstain from a**  
14 **vote to award a solid waste management district grant to any person**  
15 **or entity providing solid waste management services who is a relative**  
16 **within the fourth degree by consanguinity or affinity, the person shall**  
17 **forfeit membership on the solid waste management district executive**  
18 **board and the solid waste management district council.**

260.325. 1. The executive board of each district shall submit to the  
2 department a plan which has been approved by the council for a solid waste  
3 management system serving areas within its jurisdiction and shall, from time to  
4 time, submit officially adopted revisions of its plan as it deems necessary or the  
5 department may require. In developing the district's solid waste management  
6 plan, the board shall consider the model plan distributed to the board pursuant  
7 to section 260.225. Districts may contract with a licensed professional engineer  
8 or as provided in chapter 70 for the development and submission of a joint plan.

9 2. The board shall hold at least one public hearing in each county in the  
10 district when it prepares a proposed plan or substantial revisions to a plan in  
11 order to solicit public comments on the plan.

12 3. The solid waste management plan shall be submitted to the department  
13 within eighteen months of the formation of the district. The plan shall be  
14 prepared and submitted according to the procedures specified in section 260.220  
15 and this section.

16 4. Each plan shall:

17 (1) Delineate areas within the district where solid waste management  
18 systems are in existence;

19 (2) Reasonably conform to the rules and regulations adopted by the  
20 department for implementation of sections 260.200 to 260.345;

21 (3) Delineate provisions for the collection of recyclable materials or  
22 collection points for recyclable materials;

23 (4) Delineate provisions for the collection of compostable materials or  
24 collection points for compostable materials;

25 (5) Delineate provisions for the separation of household waste and other  
26 small quantities of hazardous waste at the source or prior to disposal;

27 (6) Delineate provisions for the orderly extension of solid waste  
28 management services in a manner consistent with the needs of the district,  
29 including economic impact, and in a manner which will minimize degradation of  
30 the waters or air of the state, prevent public nuisances or health hazards,  
31 promote recycling and waste minimization and otherwise provide for the safe and  
32 sanitary management of solid waste;

33 (7) Take into consideration existing comprehensive plans, population  
34 trend projections, engineering and economics so as to delineate those portions of  
35 the district which may reasonably be expected to be served by a solid waste  
36 management system;

37 (8) Specify how the district will achieve a reduction in solid waste placed  
38 in sanitary landfills through waste minimization, reduction and recycling;

39 (9) Establish a timetable, with milestones, for the reduction of solid waste  
40 placed in a landfill through waste minimization, reduction and recycling;

41 (10) Establish an education program to inform the public about  
42 responsible waste management practices;

43 (11) Establish procedures to minimize the introduction of small quantities  
44 of hazardous waste, including household hazardous waste, into the solid waste  
45 stream;

46 (12) Establish a time schedule and proposed method of financing for the  
47 development, construction and operation of the planned solid waste management  
48 system together with the estimated cost thereof;

49 (13) Identify methods by which rural households that are not served by  
50 a regular solid waste collection service may participate in waste reduction,  
51 recycling and resource recovery efforts within the district; and

52 (14) Include such other reasonable information as the department shall  
53 require.

54 5. The board shall review the district's solid waste management plan at  
55 least every twenty-four months for the purpose of evaluating the district's  
56 progress in meeting the requirements and goals of the plan, and shall submit  
57 plan revisions to the department and council.

58 6. In the event any plan or part thereof is disapproved, the department  
59 shall furnish any and all reasons for such disapproval and shall offer assistance  
60 for correcting deficiencies. The executive board shall within sixty days revise and

61 resubmit the plan for approval or request a hearing in accordance with section  
62 260.235. Any plan submitted by a district shall stand approved one hundred  
63 twenty days after submission unless the department disapproves the plan or some  
64 provision thereof.

65 7. The director may institute appropriate action under section 260.240 to  
66 compel submission of plans in accordance with sections 260.200 to 260.345 and  
67 the rules and regulations adopted pursuant to sections 260.200 to 260.345.

68 8. [The provisions of section 260.215 to the contrary notwithstanding, any  
69 county within a region which on or after January 1, 1995, is not a member of a  
70 district shall by June 30, 1995, submit a solid waste management plan to the  
71 department of natural resources. Any county which withdraws from a district  
72 and all cities within the county with a population over five hundred shall submit  
73 a solid waste plan or a revision to an existing plan to the department of natural  
74 resources within one hundred eighty days of its decision not to participate. The  
75 plan shall meet the requirements of section 260.220 and this section.

76 9.] Funds may, upon appropriation, be made available to [cities, counties  
77 and] districts[,] under section 260.335, for the purpose of implementing the  
78 requirements of this section.

79 [10.] **9. Based upon the financial assistance amounts set forth in**  
80 **this section**, the district **executive** board shall arrange for **an** independent  
81 financial [audits] **statement audit** of the records and accounts of its operations  
82 by a certified public accountant or a firm of certified public accountants. Districts  
83 receiving [two] **more than eight** hundred thousand dollars [or more] of financial  
84 assistance **annually** shall have annual independent financial **statement** audits  
85 [and]; districts receiving [less than] **between** two hundred **fifty** thousand  
86 dollars **and eight hundred thousand dollars** of financial assistance **annually**  
87 shall have a **biennial** independent financial [audits at least once every two  
88 years. The state auditor may examine the findings of such audits and may  
89 conduct audits of the districts] **statement audit for the two-year period. All**  
90 **other districts shall be monitored biennially by the department and,**  
91 **based upon the findings within the monitoring report, may be required**  
92 **to arrange for an independent financial statement audit for the**  
93 **biennial monitoring period under review.** Subject to limitations caused by  
94 the availability **of** resources, the department shall conduct a performance audit  
95 of grants to each district at least once every [three] **five years, or as deemed**  
96 **necessary by the department based upon district grantee performance.**

260.330. 1. Except as otherwise provided in subsection 6 of this section, effective October 1, 1990, each operator of a solid waste sanitary landfill shall collect a charge equal to one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted and each operator of the solid waste demolition landfill shall collect a charge equal to one dollar per ton or its volumetric equivalent of solid waste accepted. Each operator shall submit the charge, less collection costs, to the department of natural resources for deposit in the "Solid Waste Management Fund" which is hereby created. On October 1, 1992, and thereafter, the charge imposed herein shall be adjusted annually by the same percentage as the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency. No annual adjustment shall be made to the charge imposed under this subsection during October 1, 2005, to October 1, [2017] **2027**, except an adjustment amount consistent with the need to fund the operating costs of the department and taking into account any annual percentage increase in the total of the volumetric equivalent of solid waste accepted in the prior year at solid waste sanitary landfills and demolition landfills and solid waste to be transported out of this state for disposal that is accepted at transfer stations. No annual increase during October 1, 2005, to October 1, [2017] **2027**, shall exceed the percentage increase measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency and calculated on the percentage of revenues dedicated under subdivision (1) of subsection 2 of section 260.335. Any such annual adjustment shall only be made at the discretion of the director, subject to appropriations. Collection costs shall be established by the department and shall not exceed two percent of the amount collected pursuant to this section.

2. The department shall, by rule and regulation, provide for the method and manner of collection.

3. The charges established in this section shall be enumerated separately from the disposal fee charged by the landfill and may be passed through to persons who generated the solid waste. Moneys [shall be] transmitted to the department shall be no less than the amount collected less collection costs and in a form, manner and frequency as the department shall prescribe. The provisions of section 33.080 to the contrary notwithstanding, moneys in the

37 account shall not lapse to general revenue at the end of each biennium. Failure  
38 to collect the charge does not relieve the operator from responsibility for  
39 transmitting an amount equal to the charge to the department.

40           4. The department may examine or audit financial records and landfill  
41 activity records and measure landfill usage to verify the collection and  
42 transmittal of the charges established in this section. The department may  
43 promulgate by rule and regulation procedures to ensure and to verify that the  
44 charges imposed herein are properly collected and transmitted to the department.

45           5. Effective October 1, 1990, any person who operates a transfer station  
46 in Missouri shall transmit a fee to the department for deposit in the solid waste  
47 management fund which is equal to one dollar and fifty cents per ton or its  
48 volumetric equivalent of solid waste accepted. Such fee shall be applicable to all  
49 solid waste to be transported out of the state for disposal. On October 1, 1992,  
50 and thereafter, the charge imposed herein shall be adjusted annually by the same  
51 percentage as the increase in the general price level as measured by the  
52 Consumer Price Index for All Urban Consumers for the United States, or its  
53 successor index, as defined and officially recorded by the United States  
54 Department of Labor or its successor agency. No annual adjustment shall be  
55 made to the charge imposed under this subsection during October 1, 2005, to  
56 October 1, [2017] **2027**, except an adjustment amount consistent with the need  
57 to fund the operating costs of the department and taking into account any annual  
58 percentage increase in the total of the volumetric equivalent of solid waste  
59 accepted in the prior year at solid waste sanitary landfills and demolition  
60 landfills and solid waste to be transported out of this state for disposal that is  
61 accepted at transfer stations. No annual increase during October 1, 2005, to  
62 October 1, [2017] **2027**, shall exceed the percentage increase measured by the  
63 Consumer Price Index for All Urban Consumers for the United States, or its  
64 successor index, as defined and officially recorded by the United States  
65 Department of Labor or its successor agency and calculated on the percentage of  
66 revenues dedicated under subdivision (1) of subsection 2 of section 260.335. Any  
67 such annual adjustment shall only be made at the discretion of the director,  
68 subject to appropriations. The department shall prescribe rules and regulations  
69 governing the transmittal of fees and verification of waste volumes transported  
70 out of state from transfer stations. Collection costs shall also be established by  
71 the department and shall not exceed two percent of the amount collected  
72 pursuant to this subsection. A transfer station with the sole function of

73 separating materials for recycling or resource recovery activities shall not be  
74 subject to the fee imposed in this subsection.

75           6. Each political subdivision which owns an operational solid waste  
76 disposal area may designate, pursuant to this section, up to two free disposal  
77 days during each calendar year. On any such free disposal day, the political  
78 subdivision shall allow residents of the political subdivision to dispose of any  
79 solid waste which may be lawfully disposed of at such solid waste disposal area  
80 free of any charge, and such waste shall not be subject to any state fee pursuant  
81 to this section. Notice of any free disposal day shall be posted at the solid waste  
82 disposal area site and in at least one newspaper of general circulation in the  
83 political subdivision no later than fourteen days prior to the free disposal day.

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

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

26 allocated as follows:

27 (1) Thirty-nine percent of the revenues shall be dedicated, upon  
28 appropriation, to the elimination of illegal solid waste disposal, to identify and  
29 prosecute persons disposing of solid waste illegally, to conduct solid waste  
30 permitting activities, to administer grants and perform other duties imposed in  
31 sections 260.200 to 260.345 and section 260.432. In addition to the thirty-nine  
32 percent of the revenues, the department may receive any annual increase in the  
33 charge during October 1, 2005, to October 1, [2014] **2027**, under section 260.330  
34 and such increases shall be used solely to fund the operating costs of the  
35 department;

36 (2) Sixty-one percent of the revenues, except any annual increases in the  
37 charge under section 260.330 during October 1, 2005, to October 1, [2014] **2027**,  
38 which shall be used solely to fund the operating costs of the department, shall be  
39 allocated [through grants, upon appropriation, to participating cities, counties,  
40 and] **to solid waste management** districts. Revenues to be allocated under  
41 this subdivision shall be divided as follows: forty percent shall be allocated based  
42 on the population of each district in the latest decennial census, and sixty percent  
43 shall be allocated based on the amount of revenue generated within each  
44 district. For the purposes of this subdivision, revenue generated within each  
45 district shall be determined from the previous year's data. No more than fifty  
46 percent of the revenue allocable under this subdivision may be allocated to the  
47 districts upon approval of the department for implementation of a solid waste  
48 management plan and district operations, and at least fifty percent of the revenue  
49 allocable to the districts under this subdivision shall be allocated to the cities and  
50 counties of the district or to persons or entities providing solid waste  
51 management, waste reduction, recycling and related services in these cities and  
52 counties. Each district shall receive a minimum of seventy-five thousand dollars  
53 under this subdivision. After August 28, [2005] **2015**, each district shall receive  
54 a minimum of ninety-five thousand dollars under this subdivision for district  
55 grants and district operations. Each district receiving moneys under this  
56 subdivision shall expend such moneys pursuant to a solid waste management  
57 plan required under section 260.325, and only in the case that the district is in  
58 compliance with planning requirements established by the department. Moneys  
59 shall be awarded based upon grant applications. **The following criteria may**  
60 **be considered to establish the order of district grant priority:**

61 (a) **Grants to facilities of organizations employing individuals**

62 **with disabilities under sections 178.900 to 178.960 or sections 205.968**  
63 **to 205.972;**

64 **(b) Grants for proposals that will promote and maximize the**  
65 **sharing of district resources;**

66 **(c) Grants for proposals which provide methods of recycling and**  
67 **solid waste reduction; and**

68 **(d) All other grants.**

69 Any **allocated district moneys** remaining in any fiscal year due to insufficient  
70 or inadequate **grant applications [may] shall** be reallocated [pursuant to this  
71 subdivision] **for grant applications in subsequent years or for solid waste**  
72 **management projects other than district operations, including a**  
73 **district's next request for solid waste management project**  
74 **proposals. Any allocated district moneys remaining after a period of**  
75 **five years shall revert to the credit of the solid waste management fund**  
76 **created under section 260.330;**

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

81 (4) Funds may be made available under this subsection for the  
82 administration and grants of the used motor oil program described in section  
83 260.253;

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

87 **3. In addition to the criteria listed in this section,** the advisory  
88 board created in section 260.345 shall recommend criteria to be used to allocate  
89 grant moneys to districts, cities and counties. These criteria shall establish a  
90 priority for proposals which provide methods of solid waste reduction and  
91 recycling. The department shall promulgate criteria for evaluating grants by rule  
92 and regulation. Projects of cities and counties located within a district which are  
93 funded by grants under this section shall conform to the district solid waste  
94 management plan.

95 **4. The funds awarded to the districts[, counties and cities] pursuant to**  
96 **this section shall be used for the purposes set forth in sections 260.300 to**  
97 **260.345, and shall be used in addition to existing funds appropriated by counties**

98 and cities for solid waste management and shall not supplant county or city  
99 appropriated funds.

100       **5. Once grants are approved by the solid waste management**  
101 **district, the district shall submit to the department the appropriate**  
102 **forms associated with the grant application and any supporting**  
103 **information to verify that appropriate public notice procedures were**  
104 **followed, that grant proposals were reviewed and ranked by the**  
105 **district, and that only eligible costs as set forth in regulations are to be**  
106 **funded. Within thirty days, the department shall review the grant**  
107 **application. If the department finds any deficiencies, or needs more**  
108 **information in order to evaluate the grant application, the department**  
109 **shall notify the district in writing. The district shall have an additional**  
110 **thirty days to respond to the department's request and to submit any**  
111 **additional information to the department. Within thirty days of**  
112 **receiving additional information, the department shall either approve**  
113 **or deny the grant application. If the department takes no action, the**  
114 **grant application shall be deemed approved.** The department, in  
115 conjunction with the solid waste advisory board, shall review the performance of  
116 all grant recipients to ensure that grant moneys were appropriately and  
117 effectively expended to further the purposes of the grant, as expressed in the  
118 recipient's grant application. The grant application shall contain specific goals  
119 and implementation dates, and grant recipients shall be contractually obligated  
120 to fulfill same. The department may require the recipient to submit periodic  
121 reports and such other data as are necessary, both during the grant period and  
122 up to five years thereafter, to ensure compliance with this section. The  
123 department may audit the records of any recipient to ensure compliance with this  
124 section. Recipients of grants under sections 260.300 to 260.345 shall maintain  
125 such records as required by the department. If a grant recipient fails to maintain  
126 records or submit reports as required herein, refuses the department access to the  
127 records, or fails to meet the department's performance standards, the department  
128 may withhold subsequent grant payments, if any, and may compel the repayment  
129 of funds provided to the recipient pursuant to a grant.

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

133       7. If the moneys are not transmitted to the department within the time

134 frame established by the rule promulgated, interest shall be imposed on the  
135 moneys due the department at the rate of ten percent per annum from the  
136 prescribed due date until payment is actually made. These interest amounts  
137 shall be deposited to the credit of the solid waste management fund.

260.345. 1. A state "Solid Waste Advisory Board" is created within the  
2 department of natural resources. The advisory board shall be composed of the  
3 chairman of the executive board of each of the solid waste management districts  
4 **or his or her designee**, and other members as provided in this section. Up to  
5 five additional members shall be appointed by the **program director of the solid**  
6 **waste management program** 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. **Beginning January 1, 2016**, the advisory board shall [advise]  
15 **prepare an annual report due on or before January first advising the**  
16 department regarding:

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

28 **2. The advisory board shall also prepare a report on the subjects**  
29 **listed in subdivisions (1) to (8) of subsection 1 of this section for any**  
30 **standing, statutory, interim, or select committee or task force of the**  
31 **general assembly having jurisdiction over solid waste. If a report is so**  
32 **prepared, it shall be delivered to the chair and vice-chair of each**

33 **committee or task force having such jurisdiction. Such a report shall**  
34 **not be generated and distributed on more than an annual basis.**

35 **3. The advisory board shall hold regular meetings on a quarterly**  
36 **basis. A special meeting of the advisory board may occur upon a**  
37 **majority vote of all advisory board members at a regular quarterly**  
38 **meeting. Reasonable written notice of all meetings shall be given by**  
39 **the director of the solid waste management program to all members of**  
40 **the advisory board. A majority of advisory board members shall**  
41 **constitute a quorum for the transaction of business. All actions of the**  
42 **advisory board shall be taken at regular quarterly meetings open to the**  
43 **public.**

644.145. 1. When issuing permits under this chapter that incorporate a  
2 new requirement for discharges from publicly owned combined or separate  
3 sanitary or storm sewer systems or **water or sewer** treatment works, or when  
4 enforcing provisions of this chapter or the Federal Water Pollution Control Act,  
5 33 U.S.C. Section 1251, et seq., pertaining to any portion of a publicly owned  
6 combined or separate sanitary or storm sewer system or **water or sewer**  
7 treatment works, the department of natural resources shall make a finding of  
8 affordability on the costs to be incurred and the impact of any rate changes on  
9 ratepayers upon which to base such permits and decisions, to the extent allowable  
10 under this chapter and the Federal Water Pollution Control Act.

11 2. (1) The department of natural resources shall not be required under  
12 this section to make a finding of affordability when:

13 (a) Issuing collection system extension permits;

14 (b) Issuing National Pollution Discharge Elimination System operating  
15 permit renewals which include no new environmental requirements; or

16 (c) The permit applicant certifies that the applicable requirements are  
17 affordable to implement or otherwise waives the requirement for an affordability  
18 finding; however, at no time shall the department require that any applicant  
19 certify, as a condition to approving any permit, administrative or civil action, that  
20 a requirement, condition, or penalty is affordable.

21 (2) The exceptions provided under paragraph (c) of subdivision (1) of this  
22 subsection do not apply when the community being served has less than three  
23 thousand three hundred residents.

24 3. When used in this chapter and in standards, rules and regulations  
25 promulgated pursuant to this chapter, the following words and phrases mean:

26 (1) "Affordability", with respect to payment of a utility bill, a measure of  
27 whether an individual customer or household with an income equal to **[the] or**  
28 lower **[of] than** the median household income for their community **[or the state**  
29 **of Missouri]** can pay the bill without undue hardship or unreasonable sacrifice  
30 in the essential lifestyle or spending patterns of the individual or household,  
31 taking into consideration the criteria described in subsection 4 of this section;

32 (2) "Financial capability", the financial capability of a community to make  
33 investments necessary to make water quality-related improvements;

34 (3) "Finding of affordability", a department statement as to whether an  
35 individual or a household receiving as income an amount equal to **[the] or** lower  
36 **[of] than** the median household income for the applicant community **[or the state**  
37 **of Missouri]** would be required to make unreasonable sacrifices in **[their] the**  
38 **individual's or the household's** essential lifestyle or spending patterns or  
39 undergo hardships in order to make the projected monthly payments for sewer  
40 services. The department shall make a statement that the proposed changes  
41 meet the definition of affordable, or fail to meet the definition of affordable, or are  
42 implemented as a federal mandate regardless of affordability.

43 4. The department of natural resources shall adopt procedures by which  
44 it will make affordability findings that evaluate the affordability of permit  
45 requirements and enforcement actions described in subsection 1 of this section,  
46 and may begin implementing such procedures prior to promulgating  
47 implementing regulations. The commission shall have the authority to  
48 promulgate rules to implement this section pursuant to chapters 536 and 644,  
49 and shall promulgate such rules as soon as practicable. Affordability findings  
50 shall be based upon reasonably verifiable data and shall include an assessment  
51 of affordability with respect to persons or entities affected. The department shall  
52 offer the permittee an opportunity to review a draft affordability finding, and the  
53 permittee may suggest changes and provide additional supporting information,  
54 subject to subsection 6 of this section. The finding shall be based upon the  
55 following criteria:

56 (1) A community's financial capability and ability to raise or secure  
57 necessary funding;

58 (2) Affordability of pollution control options for the individuals or  
59 households at or below the median household income level of the community;

60 (3) An evaluation of the overall costs and environmental benefits of the  
61 control technologies;

62 (4) Inclusion of ongoing costs of operating and maintaining the existing  
63 wastewater collection and treatment system, including payments on outstanding  
64 debts for wastewater collection and treatment systems when calculating projected  
65 rates;

66 (5) An inclusion of ways to reduce economic impacts on distressed  
67 populations in the community, including but not limited to low- and fixed-income  
68 populations. This requirement includes but is not limited to:

69 (a) Allowing adequate time in implementation schedules to mitigate  
70 potential adverse impacts on distressed populations resulting from the costs of  
71 the improvements and taking into consideration local community economic  
72 considerations; and

73 (b) Allowing for reasonable accommodations for regulated entities when  
74 inflexible standards and fines would impose a disproportionate financial hardship  
75 in light of the environmental benefits to be gained;

76 (6) An assessment of other community investments and operating costs  
77 relating to environmental improvements and public health protection;

78 (7) An assessment of factors set forth in the United States Environmental  
79 Protection Agency's guidance, including but not limited to the "Combined Sewer  
80 Overflow Guidance for Financial Capability Assessment and Schedule  
81 Development" that may ease the cost burdens of implementing wet weather  
82 control plans, including but not limited to small system considerations, the  
83 attainability of water quality standards, and the development of wet weather  
84 standards; and

85 (8) An assessment of any other relevant local community economic  
86 condition.

87 5. Prescriptive formulas and measures used in determining financial  
88 capability, affordability, and thresholds for expenditure, such as median  
89 household income, should not be considered to be the only indicator of a  
90 community's ability to implement control technology and shall be viewed in the  
91 context of other economic conditions rather than as a threshold to be achieved.

92 6. Reasonable time spent preparing draft affordability findings, allowing  
93 permittees to review draft affordability findings or draft permits, or revising draft  
94 affordability findings, shall be allowed in addition to the department's deadlines  
95 for making permitting decisions pursuant to section 644.051.

96 7. If the department of natural resources fails to make a finding of  
97 affordability where required by this section, then the resulting permit or decision

98 shall be null, void and unenforceable.

99           8. The department of natural resources' findings under this section may  
100 be appealed to the commission pursuant to subsection 6 of section 644.051.

101           9. The department shall file an annual report by the beginning of the  
102 fiscal year with the governor, the speaker of the house of representatives, the  
103 president pro tempore of the senate, and the chairs of the committees in both  
104 houses having primary jurisdiction over natural resource issues showing at least  
105 the following information on the findings of affordability completed in the  
106 previous calendar year:

107           (1) The total number of findings of affordability issued by the department,  
108 those categorized as affordable, those categorized as not meeting the definition  
109 of affordable, and those implemented as a federal mandate regardless of  
110 affordability;

111           (2) The average increase in sewer rates both in dollars and percentage for  
112 all findings found to be affordable;

113           (3) The average increase in sewer rates as a percentage of median house  
114 income in the communities for those findings determined to be affordable and a  
115 separate calculation of average increases in sewer rates for those found not to  
116 meet the definition of affordable;

117           (4) A list of all the permit holders receiving findings, and for each  
118 permittee the following data taken from the finding of affordability shall be listed:

119           (a) Current and projected monthly residential sewer rates in dollars;

120           (b) Projected monthly residential sewer rates as a percentage of median  
121 [house] **household** income;

122           (c) Percentage of households at or below the state poverty rate.

✓