

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE BILL NO. 476
98TH GENERAL ASSEMBLY

2217H.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 29.380, 259.010, 259.020, 259.030, 259.050, 259.070, 259.080, 259.100, 259.190, 259.210, 260.200, 260.225, 260.235, 260.250, 260.320, 260.325, 260.330, 260.335, 260.345, 260.395, 260.500, 444.600, 444.773, 621.250, 640.115, 643.075, 643.078, 644.011, 644.016, 644.051, 644.056, and 644.145, RSMo, and to enact in lieu thereof thirty-eight 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 29.380, 259.010, 259.020, 259.030, 259.050, 259.070, 259.080, 259.100, 259.190, 259.210, 260.200, 260.225, 260.235, 260.250, 260.320, 260.325, 260.330, 260.335, 260.345, 260.395, 260.500, 444.600, 444.773, 621.250, 640.115, 643.075, 643.078, 644.011, 644.016, 644.051, 644.056, and 644.145, RSMo, are repealed and thirty-eight new sections enacted in lieu thereof, to be known as sections 29.380, 67.5070, 259.010, 259.020, 259.030, 259.050, 259.052, 259.070, 259.080, 259.100, 259.190, 259.210, 260.200, 260.225, 260.235, 260.250, 260.320, 260.324, 260.325, 260.330, 260.335, 260.345, 260.395, 260.500, 444.600, 444.773, 444.980, 621.250, 640.115, 640.136, 643.075, 643.078, 643.650, 644.011, 644.016, 644.051, 644.056, 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.

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.

8 **If the auditor requests such reimbursement, the solid waste management district shall**
9 **reimburse the auditor for the costs of conducting the audit and the moneys shall be**
10 **deposited in the petition audit revolving trust fund created under section 29.230. Such**
11 **reimbursement shall be limited to two percent of the solid waste management district's**
12 **annual monetary allocation.**

2 **67.5070. 1. As used in this section, "specialty construction design" means any**
3 **contract that involves the provision of engineering and construction services either directly**
4 **by a party to the contract or through subcontractors retained by a party to the contract.**

5 **2. Any political subdivision may enter into a special construction design contract**
6 **for engineering, design, and construction of a wastewater or water treatment project.**

7 **3. In disbursing community development block grants under 42 U.S.C. Sections**
8 **5301 to 5321, the department of economic development shall not reject wastewater or water**
9 **treatment projects solely for utilizing specialty construction design contracts.**

10 **4. The department of natural resources shall not preclude specialty construction**
11 **design contracts from consideration for funding provided by the water and wastewater**
12 **loan fund under section 644.122.**

13 **5. A political subdivision planning a specialty construction design project shall**
14 **retain an engineer duly licensed in this state to assist in preparing any necessary bid**
15 **documents and specifications and evaluations of submissions and bids.**

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

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

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

- 3 (1) The Missouri University of Science and Technology shall be represented by a
4 professor of petroleum engineering employed at the university;
- 5 (2) The Missouri Independent Oil and Gas Association shall be represented by a
6 designated member of the association; and

7 (3) The public members shall be appointed to the council by the governor, with the
8 advice and consent of the senate. Both public members shall have an interest in and knowledge
9 of the oil and gas industry, **and** both shall be residents of Missouri[, and at least one shall also
10 be a resident of a county of the third or fourth classification]. The executive head of any member
11 state agency, the professor of petroleum engineering at the Missouri University of Science and
12 Technology and the member from the Missouri Independent Oil and Gas Association may from
13 time to time authorize any member of the state agency's staff, another professor of petroleum
14 engineering at the Missouri University of Science and Technology or another member of the
15 Missouri Independent Oil and Gas Association, respectively, to represent it on the council and
16 to fully exercise any of the powers and duties of the member representative.

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

5 2. The state geologist shall act as administrator for the council and shall be responsible
6 for enforcing the provisions of this chapter.

259.050. Unless the context otherwise requires, the following words mean:

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

5 (2) "Council", the state oil and gas council established by section 259.010;

6 (3) **"Department", the department of natural resources;**

7 (4) "Field", the general area underlaid by one or more pools;

8 [(4)] (5) "Gas", all natural gas and all other fluid hydrocarbons which are produced at
9 the wellhead and not hereinbelow defined as oil;

10 [(5)] (6) "Illegal gas" means gas which has been produced from any well within this
11 state in excess of the quantity permitted by any rule, regulation, or order of the council;

12 [(6)] (7) "Illegal oil" means oil which has been produced from any well within the state
13 in excess of the quantity permitted by any rule, regulation, or order of the council;

14 [(7)] (8) "Illegal product" means any product derived in whole or in part from illegal oil
15 or illegal gas;

16 [(8)] (9) "Noncommercial gas well", a gas well drilled for the sole purpose of furnishing
17 gas for private domestic consumption by the owner and not for resale or trade;

18 [(9)] (10) "Oil", crude petroleum oil and other hydrocarbons regardless of gravity which
19 are produced at the wellhead in liquid form and the liquid hydrocarbons known as distillate or
20 condensate recovered or extracted from gas, other than gas produced in association with oil and

21 commonly known as casinghead gas. **The term shall also include hydrocarbons that do not**
22 **flow to a wellhead but are produced by other means, including those contained in oil-shale**
23 **and oil-sand;**

24 [(10)] (11) "Owner", the person who has the right to drill into and produce from a pool
25 and to appropriate the oil or gas he produced therefrom either for himself or others or for himself
26 and others;

27 [(11)] (12) "Pool", an underground reservoir containing a common accumulation of oil
28 or gas or both; each zone of a structure which is completely separated from any other zone in the
29 same structure is a "pool", as that term is used in this chapter;

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

31 (13) "Product", any commodity made from oil or gas and includes refined crude oil,
32 crude tops, topped crude, processed crude, processed crude petroleum, residue from crude
33 petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil,
34 casinghead gasoline, natural-gas gasoline, kerosene, [benzine] **benzene**, wash oil, waste oil,
35 blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or
36 by-products derived from oil or gas, and blends or mixtures of two or more liquid products or
37 by-products derived from oil or gas whether [hereinabove] **herein** enumerated or not;

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

42 (15) "Waste" means and includes:

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

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

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

51 (d) The inefficient storing of oil;

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

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

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

**259.052. 1. There is hereby created in the state treasury the "Oil and Gas
2 Resources Fund" which shall consist of all gifts, donations, transfers, moneys appropriated
3 by the general assembly, permit application fees collected under section 259.080, operating
4 fees, closure fees, late fees, severance fees, and bequests to the fund. The fund shall be
5 administered by the department of natural resources.**

6 **2. The state treasurer shall be custodian of the fund and may approve
7 disbursements from the fund in accordance with sections 30.170 and 30.180.
8 Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining
9 in the fund at the end of the biennium shall not revert to the credit of the general revenue
10 fund. The state treasurer shall invest moneys in the fund in the same manner as other
11 funds are invested. Any interest and moneys on such investments shall be credited to the
12 fund.**

13 **3. After appropriation by the general assembly, the money in such fund shall be
14 expended by the department to administer the provisions of chapter 259, and to collect,
15 process, manage, interpret, and distribute geologic and hydrologic resource information
16 pertaining to oil and gas potential, and not for any other purpose.**

259.070. 1. The council has the duty of administering the provisions of this chapter.
2 The council shall meet at least once each calendar quarter of the year and upon the call of the
3 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 form an advisory committee to the
8 council for the purpose of reviewing the statutes and rules and regulations under subsection 2
9 of this section. The advisory committee shall make recommendations to the council when
10 necessary to amend current statutes and rules and regulations under this chapter and shall review
11 any proposed new or amended statute or regulation before such proposed statute or regulation
12 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] **department**, the oil and gas industry and any council member desiring
15 to be on such advisory committee. The advisory committee shall meet prior to each calendar
16 quarter meeting of the council, if necessary for the purposes set forth under this subsection, and

17 present any recommendations to the council at such calendar quarter meeting. The council shall
18 designate one of its members to serve as the chairperson of the advisory committee.

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

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

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

27 (1) To require **through the issuance of appropriate orders**:

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 to govern the production of oil and gas on state and private lands within the
43 state of Missouri; provided that, in lieu of a bond with a surety, an applicant may furnish to the
44 council his own personal bond, on conditions as described in this paragraph, secured by a
45 certificate of deposit or an irrevocable letter of credit in an amount equal to that of the required
46 surety bond or secured by some other financial instrument on conditions as above described or
47 as provided by council 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;

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 or its agents at all reasonable times and
62 that every such person file with the council such reports as it may prescribe with respect to such
63 oil or gas or the products thereof;

64 (2) To regulate pursuant to rules adopted by the council:

65 (a) **The release and forfeiture of bonds required under paragraph (d) of subdivision**
66 **(1) of subsection 5 of this section;**

67 (b) The drilling, producing, and plugging of wells, and all other operations for the
68 production of oil or gas;

69 [(b)] (c) The [shooting and chemical] treatment of wells;

70 [(c)] (d) The spacing of wells;

71 [(d)] (e) Operations to increase ultimate recovery such as cycling of gas, the
72 maintenance of pressure, and the introduction of gas, water, or other substances into producing
73 formations; and

74 [(e)] (f) Disposal of highly mineralized water and oil field wastes;

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

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

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

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

85 (7) To detail such personnel and equipment or enter into such contracts as it may deem
86 necessary for carrying out the plugging of or other remedial measures on wells which have been
87 abandoned and not plugged according to the standards for plugging set out in the rules and
88 regulations promulgated by the council pursuant to this chapter. Members of the council, **the**

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

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

121 (9) To cooperate with landowners with respect to the conversion of wells drilled for oil
122 and gas to alternative use as water wells as follows: the state geologist shall determine the
123 feasibility of the conversion of a well drilled under a permit for oil and gas for use as a water
124 well and shall advise the landowner of modifications required for conversion of the well in a

125 manner that is consistent with the requirements of this chapter. If such conversion is carried out,
126 release of the operator from legal liability or other responsibility shall be required and the
127 expense of the conversion shall be borne by the landowner.

128 6. No rule or portion of a rule promulgated under the authority of this chapter shall
129 become effective unless it has been promulgated pursuant to the provisions of section 536.024.

259.080. 1. 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, **or to**
3 **commence injection activities for enhanced recovery of oil or gas or for disposal of fluids,**
4 without first giving the state geologist notice of intention to drill **or intention to inject** and first
5 obtaining a permit from the state geologist under such rules and regulations as may be prescribed
6 by the council.

7 2. **The department of natural resources may conduct a comprehensive review, and**
8 **propose a new fee structure, or propose changes to the oil and gas fee structure, which may**
9 **include but need not be limited to permit application fees, operating fees, closure fees, and**
10 **late fees, and an extraction or severance fee. The comprehensive review shall include**
11 **stakeholder meetings in order to solicit stakeholder input from each of the following**
12 **groups: oil and gas industry representatives, the advisory committee, and any other**
13 **interested parties. Upon completion of the comprehensive review, the department shall**
14 **submit a proposed fee structure or changes to the oil and gas fee structure with stakeholder**
15 **agreement to the oil and gas council. The council shall review such recommendations at**
16 **the forthcoming regular or special meeting, but shall not vote on the fee structure until a**
17 **subsequent meeting. If the council approves, by vote of two-thirds majority, the fee**
18 **structure recommendations, the council shall authorize the department to file a notice of**
19 **proposed rulemaking containing the recommended fee structure, and after considering**
20 **public comments may authorize the department to file the final order of rulemaking for**
21 **such rule with the joint committee on administrative rules under sections 536.021 and**
22 **536.024 no later than December first of the same year. If such rules are not disapproved**
23 **by the general assembly in the manner set out in this section, they shall take effect on**
24 **January first of the following year, at which point the existing fee structure shall expire.**
25 **Any regulation promulgated under this subsection shall be deemed beyond the scope and**
26 **authority provided in this subsection, or detrimental to permit applicants, if the general**
27 **assembly, within the first sixty calendar days of the regular session immediately following**
28 **the filing of such regulation, disapproves the regulation by concurrent resolution. If the**
29 **general assembly so disapproved any regulation filed under this subsection, the department**
30 **and the council shall not implement the proposed fee structure and shall continue to use**

31 **the previous fee structure. The authority of the council to further revise the fee structure**
32 **as provided in this subsection shall expire on August 28, 2025.**

33 **3. Failure to pay the fees, or any portion thereof, established under this section or**
34 **to submit required reports, forms or information by the due date shall result in the**
35 **imposition of a late fee established by the council. The department may issue an**
36 **administrative order requiring payment of unpaid fees or may request that the attorney**
37 **general bring an action in the appropriate circuit court to collect any unpaid fee, late fee,**
38 **interest, or attorney's fees and costs incurred directly in fee collection. Such action may**
39 **be brought in the circuit court of Cole County, or, in the case of well fees, in the circuit**
40 **court of the county in which the well is located.**

259.100. 1. The council 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 shall establish spacing units for a pool. Spacing units when
4 established shall be of uniform size and shape for the entire pool, except that when found to be
5 necessary for any of the purposes above mentioned, the council is authorized to divide any pool
6 into zones and establish spacing units for each zone, which units may differ in size and shape
7 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 finds that a well drilled at the prescribed
13 location would not produce in paying quantities, or that surface conditions would substantially
14 add to the burden or hazard of drilling such well, the [state geologist] **department** is authorized
15 to enter an order permitting the well to be drilled at a location other than that prescribed by such
16 spacing order; however, the state geologist shall include in the order suitable provisions to
17 prevent the production from the spacing unit of more than its just and equitable share of the oil
18 and gas in the pool;

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

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

29 3.] Applicants seeking a permit for a noncommercial gas well shall file a bond [or other
30 instrument of credit acceptable to the council equal to the greater of three hundred dollars or one
31 dollar and fifty cents per well foot] **under paragraph (d) of subdivision (1) of subsection 5 of**
32 **section 259.070** and meet the following conditions and procedures: an owner of a
33 noncommercial gas well with drilling rights may apply for the establishment of a drilling unit
34 [containing no less than three acres,] with a well set back of one hundred sixty-five feet on which
35 a well no deeper than eight hundred feet in depth may be drilled. An owner **of a noncommercial**
36 **gas well** may apply to the [council] **department** for a variance to establish a [drilling] **spacing**
37 unit [of less than three acres and/or less than one hundred sixty-five feet] , **to set back distances,**
38 **or both.**

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 believes that any oil, gas or product is
5 illegal, the council, acting by the attorney general, shall bring a civil action in rem in the circuit
6 court of the county where such oil, gas, or product is found, to seize and sell the same, or the
7 council may include such an action in rem for the seizure and sale of illegal oil, illegal gas, or
8 illegal product in any suit brought for an injunction or penalty involving illegal oil, illegal gas,
9 or illegal product. Any person claiming an interest in oil, gas, or product affected by any such
10 action shall have the right to intervene as an interested party in such action.

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

25 of the court. The court, in such order of seizure, may direct the sheriff to deliver the oil, gas, or
26 product seized by him under the order to an agent appointed by the court as the agent of the
27 court; such agent to give bond in an amount and with such surety as the court may direct,
28 conditioned upon his compliance with the orders of the court concerning the custody and
29 disposition of such oil, gas, or product.

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

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

47 5. All proceeds derived from the sale of illegal oil, illegal gas, or illegal product, as
48 above provided, after payment of costs of suit and expenses incident to the sale, **and** all amounts
49 obtained by the council from the forfeiture of [surety or personal] bonds required under
50 paragraph (d) of subdivision (1) **of subsection 5** of section 259.070, [and any money recovered
51 under subsection 1 of section 259.200] shall be paid to the state treasurer and credited to the "Oil
52 and Gas Remedial Fund", which is hereby created. The money in the oil and gas remedial fund
53 may be used by the [council] **department** to pay for the plugging of, or other remedial measures
54 on, wells [and to pay the expenses incurred by the council in performing the duties imposed on
55 it by this chapter. Any unexpended balance in the fund at the end of the fiscal year not exceeding
56 fifty thousand dollars is exempt from the provisions of section 33.080 relating to transfer of
57 unexpended balances to the ordinary revenue funds]. **The state treasurer shall be custodian
58 of the fund and may approve disbursements from the fund in accordance with sections
59 30.170 and 30.180. Notwithstanding the provisions of section 33.080, to the contrary, any
60 moneys remaining in the fund at the end of the biennium shall not revert to the credit of**

61 **the general revenue fund. The state treasurer shall invest moneys in the fund in the same**
62 **manner as other funds are invested. Any interest and moneys earned on such investments**
63 **shall be credited to the fund.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

60 d. An itemized list of all felony convictions under the laws of the state of Missouri or
61 the equivalent thereof under the laws of any other jurisdiction; and a listing of any findings of
62 guilt for any crimes or criminal acts an element of which involves restraint of trade, price-fixing,
63 intimidation of the customers of another person or for engaging in any other acts which may have
64 the effect of restraining or limiting competition concerning activities regulated pursuant to this
65 chapter or similar laws of other states or the federal government including, but not limited to,
66 racketeering or violation of antitrust laws of any key personnel;

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

68 (16) "Financial assurance instrument", an instrument or instruments, including, but not
69 limited to, cash or surety bond, letters of credit, corporate guarantee or secured trust fund,
70 submitted by the applicant to ensure proper closure and postclosure care and corrective action
71 of a solid waste disposal area in the event that the operator fails to correctly perform closure and
72 postclosure care and corrective action requirements, except that the financial test for the
73 corporate guarantee shall not exceed one and one-half times the estimated cost of closure and
74 postclosure. The form and content of the financial assurance instrument shall meet or exceed
75 the requirements of the department. The instrument shall be reviewed and approved or
76 disapproved by the attorney general;

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

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

82 (19) "Household consumer used motor oil collection center", any site or facility that
83 accepts or aggregates and stores used motor oil collected only from household consumers or

84 farmers who generate an average of twenty-five gallons per month or less of used motor oil in
85 a calendar year. This section shall not preclude a commercial generator from operating a
86 household consumer used motor oil collection center;

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

91 (21) "Infectious waste", waste in quantities and characteristics as determined by the
92 department by rule, including isolation wastes, cultures and stocks of etiologic agents, blood and
93 blood products, pathological wastes, other wastes from surgery and autopsy, contaminated
94 laboratory wastes, sharps, dialysis unit wastes, discarded biologicals known or suspected to be
95 infectious; provided, however, that infectious waste does not mean waste treated to department
96 specifications;

97 (22) "Key personnel", the applicant itself and any person employed by the applicant in
98 a managerial capacity, or empowered to make discretionary decisions with respect to the solid
99 waste operations of the applicant in Missouri, but shall not include employees exclusively
100 engaged in the physical or mechanical collection, transfer, transportation, treatment, processing,
101 storage, or disposal of solid waste and such other employees as the director of the department
102 of natural resources may designate by regulation. If the applicant has not previously conducted
103 solid waste operations in Missouri, the term also includes any officer, director, partner of the
104 applicant, or any holder of seven percent or more of the equity or debt of the applicant. If any
105 holder of seven percent or more of the equity or debt of the applicant or of any key personnel is
106 not a natural person, the term includes all key personnel of that entity, provided that where such
107 entity is a chartered lending institution or a reporting company under the federal Securities
108 Exchange Act of 1934, the term does not include key personnel of such entity. Provided further
109 that the term means the chief executive officer of any agency of the United States or of any
110 agency or political subdivision of the state of Missouri, and all key personnel of any person,
111 other than a natural person, that operates a landfill or other facility for the collection, transfer,
112 treatment, processing, storage, or disposal of nonhazardous solid waste under contract with or
113 for one of those governmental entities;

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

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

120 (25) "Mercuric-oxide battery" or "mercury battery", a battery having a mercuric-oxide
121 positive electrode, a zinc negative electrode, and an alkaline electrolyte, including mercuric-
122 oxide button cell batteries generally intended for use in hearing aids and larger size mercuric-
123 oxide batteries used primarily in medical equipment;

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

127 (27) "Motor oil", any oil intended for use in a motor vehicle, as defined in section
128 301.010, train, vessel, airplane, heavy equipment, or other machinery powered by an internal
129 combustion engine;

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

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

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

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

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

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

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

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

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

152 (37) "Resource recovery", a process by which recyclable and recoverable material is
153 removed from the waste stream to the greatest extent possible, as determined by the department
154 and pursuant to department standards, for reuse or remanufacture;

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

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

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

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

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

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

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

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

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

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

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

186 (a) A solid waste collection fee imposed at the point of waste collection; or

187 (b) A solid waste disposal fee imposed at the disposal site;

188 (49) "Solid waste management area", a solid waste disposal area which also includes one
189 or more of the functions contained in the definitions of recycling, resource recovery facility,

190 waste tire collection center, waste tire processing facility, waste tire site or solid waste processing
191 facility, excluding incineration;

192 (50) **"Solid waste management project"**, a targeted project that meets statewide
193 waste reduction and recycling priorities, and for which no solid waste management district
194 grant applicant has applied to perform, and for which no qualified applicants have applied
195 to perform such project by a competitive bid issued by the solid waste management district
196 for the completion of such project;

197 (51) **"Solid waste management system"**, the entire process of managing solid waste in
198 a manner which minimizes the generation and subsequent disposal of solid waste, including
199 waste reduction, source separation, collection, storage, transportation, recycling, resource
200 recovery, volume minimization, processing, market development, and disposal of solid wastes;

201 [(51)] (52) **"Solid waste processing facility"**, any facility where solid wastes are salvaged
202 and processed, including:

203 (a) A transfer station; or

204 (b) An incinerator which operates with or without energy recovery but excluding waste
205 tire end-user facilities; or

206 (c) A material recovery facility which operates with or without composting;

207 (d) A plasma arc technology facility;

208 [(52)] (53) **"Solid waste technician"**, an individual who has successfully completed
209 training in the practical aspects of the design, operation and maintenance of a permitted solid
210 waste processing facility or solid waste disposal area in accordance with sections 260.200 to
211 260.345;

212 [(53)] (54) **"Tire"**, a continuous solid or pneumatic rubber covering encircling the wheel
213 of any self-propelled vehicle not operated exclusively upon tracks, or a trailer as defined in
214 chapter 301, except farm tractors and farm implements owned and operated by a family farm or
215 family farm corporation as defined in section 350.010;

216 [(54)] (55) **"Used motor oil"**, any motor oil which, as a result of use, becomes unsuitable
217 for its original purpose due to loss of original properties or the presence of impurities, but used
218 motor oil shall not include ethylene glycol, oils used for solvent purposes, oil filters that have
219 been drained of free flowing used oil, oily waste, oil recovered from oil tank cleaning operations,
220 oil spilled to land or water, or industrial nonlube oils such as hydraulic oils, transmission oils,
221 quenching oils, and transformer oils;

222 [(55)] (56) **"Utility waste landfill"**, a solid waste disposal area used for fly ash waste,
223 bottom ash waste, slag waste and flue gas emission control waste generated primarily from the
224 combustion of coal or other fossil fuels;

225 [(56)] (57) "Yard waste", leaves, grass clippings, yard and garden vegetation and
226 Christmas trees. The term does not include stumps, roots or shrubs with intact root balls.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (1) Emphasize waste reduction and recycling;

38 (2) Provide for economical waste management through regional **and district**
39 cooperation;

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

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

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

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

47 3. The model plan shall be distributed to the executive board of each solid waste district
48 and to counties and cities not within a district by December 1, 1991.

49 4. No rule or portion of a rule promulgated under the authority of sections 260.200 to
50 260.345 shall become effective unless it has been promulgated pursuant to the provisions of
51 section 536.024.

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

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

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

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

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

64 (5) Initiate recycling programs within state government;

65 (6) Provide a clearinghouse of consumer information regarding the need to support
66 resource recovery, utilize and develop new resource recovery programs around existing

67 enterprises, request and purchase recycled products, participate in resource conservation
68 activities and other relevant issues;

69 (7) Identify barriers to resource recovery and resource conservation, and propose
70 remedies to these barriers; and

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

260.235. 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 appeal such decision as provided in [section] **sections**
5 **621.250**[, subject to judicial review as provided by law] **and 640.013 by filing a petition with**
6 **the administrative hearing commission within thirty days of the decision.** The notice of the
7 department shall be effected by certified mail and shall set forth the reasons for such forfeiture,
8 disapproval, denial, suspension, civil penalty or revocation. The department may seek an
9 injunction in the circuit court in which the facility is located requiring the facility for which the
10 transfer of ownership has been denied, or the permit or modification of the permit has been
11 denied, suspended or revoked, to cease operations from the date ordered by the court until such
12 time as the appeal is resolved or obtain a performance bond in the amount and manner as
13 prescribed by rule. The department's action seeking an injunction shall be based on the
14 seriousness of the threat to the environment which continued operation of the facility poses. A
15 bond may be required in order to stay the effect of the department's action until the appeal is
16 resolved, in which case such bond shall remain in place until the appeal is resolved. If the
17 department's decision is upheld, the bond shall be forfeited and placed in a separate subaccount
18 of the solid waste management fund. **Once the administrative hearing commission has**
19 **reviewed the appeal, the administrative hearing commission shall make a final decision on**
20 **the forfeiture of any financial assurance instrument, civil or administrative penalty, denial,**
21 **suspension, revocation, or modification of a permit or disapproval of the plan required by**
22 **section 260.220. The administrative hearing commission shall mail copies of its final**
23 **decision to the parties to the appeal or their counsel of record. The commission's decision**
24 **shall be subject to judicial review pursuant to chapter 536, except that the court of appeals**
25 **district with territorial jurisdiction coextensive with the county where the solid waste**
26 **processing facility or disposal area is located or is to be located shall have original**
27 **jurisdiction. No judicial review shall be available until and unless all administrative**
28 **remedies are exhausted.**

260.250. 1. After January 1, 1991, major appliances, waste oil and lead-acid batteries
2 shall not be disposed of in a solid waste disposal area. After January 1, 1992, yard waste shall

3 not be disposed of in a solid waste disposal area, except as otherwise provided in this subsection.
4 After August 28, 2007, yard waste may be disposed of in a municipal solid waste disposal area
5 or portion of a municipal solid waste disposal area provided that:

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

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

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

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

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

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

15 3. The executive board shall:

16 (1) Review and comment upon applications for permits submitted pursuant to section
17 260.205, for solid waste processing facilities and solid waste disposal areas which are to be
18 located within the region or, if located in an adjacent region, which will impact solid waste
19 management practices within the region;

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

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

23 (4) Establish an education program to inform the public about responsible **solid** waste
24 management practices;

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

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

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

33 4. The executive board may enter into contracts with any person **or entity** for services
34 related to any component of the solid waste management system. Bid specifications for solid
35 waste management services shall be designed to meet the objectives of sections 260.200 to
36 260.345, encourage small businesses to engage and compete in the delivery of **solid** waste
37 management services and to minimize the long-run cost of managing solid waste. Bid
38 specifications shall enumerate the minimum components and minimum quantities of waste
39 products which shall be recycled by the successful bidder. The board shall divide the district into
40 units to maximize access for small businesses when it requests bids for solid waste management
41 services, **but in no case shall a district executive board perform solid waste management**
42 **projects that compete with a qualified private enterprise.**

43 5. No person shall serve as a member of the council or of the executive board who is a
44 stockholder, officer, agent, attorney or employee or who is in any way pecuniarily interested in
45 any business which engages in any aspect of solid waste management regulated under sections
46 260.200 to 260.345; provided, however, that such member may own stock in a publicly traded
47 corporation which may be involved in **solid** waste management as long as such holdings are not
48 substantial.

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

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

13 **membership on the solid waste management district executive board and the solid waste**
14 **management district council.**

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

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

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

14 4. Each plan shall:

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

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

19 (3) Delineate provisions for the collection of recyclable materials or collection points for
20 recyclable materials;

21 (4) Delineate provisions for the collection of compostable materials or collection points
22 for compostable materials;

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

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

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

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

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

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

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

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

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

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

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

52 6. In the event any plan or part thereof is disapproved, the department shall furnish any
53 and all reasons for such disapproval and shall offer assistance for correcting deficiencies. The
54 executive board shall within sixty days revise and resubmit the plan for approval or request a
55 hearing in accordance with section 260.235. Any plan submitted by a district shall stand
56 approved one hundred twenty days after submission unless the department disapproves the plan
57 or some provision thereof.

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

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

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

70 [10.] **9. Based upon the financial assistance amounts set forth in this section, the**
71 district **executive** board shall arrange for **an** independent financial [audits] **statement audit** of
72 the records and accounts of its operations by a certified public accountant or a firm of certified
73 public accountants. Districts receiving [two] **more than eight** hundred thousand dollars [or
74 more] of financial assistance **annually** shall have annual independent financial **statement** audits
75 [and] ; districts receiving [less than] **between** two hundred **fifty** thousand dollars **and eight**
76 **hundred thousand dollars** of financial assistance **annually** shall have a **biennial** independent
77 financial [audits at least once every two years. The state auditor may examine the findings of
78 such audits and may conduct audits of the districts] **statement audit for the two-year period.**
79 **All other districts shall be monitored biennially by the department and, based upon the**
80 **findings within the monitoring report, may be required to arrange for an independent**
81 **financial statement audit for the biennial monitoring period under review.** Subject to
82 limitations caused by the availability of resources, the department shall conduct a performance
83 audit of grants to each district at least once every [three] **five** years, **or as deemed necessary by**
84 **the department based upon district grantee performance.**

260.330. 1. Except as otherwise provided in subsection 6 of this section, effective
2 October 1, 1990, each operator of a solid waste sanitary landfill shall collect a charge equal to
3 one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted and each
4 operator of the solid waste demolition landfill shall collect a charge equal to one dollar per ton
5 or its volumetric equivalent of solid waste accepted. Each operator shall submit the charge, less
6 collection costs, to the department of natural resources for deposit in the "Solid Waste
7 Management Fund" which is hereby created. On October 1, 1992, and thereafter, the charge
8 imposed herein shall be adjusted annually by the same percentage as the increase in the general
9 price level as measured by the Consumer Price Index for All Urban Consumers for the United
10 States, or its successor index, as defined and officially recorded by the United States Department
11 of Labor or its successor agency. No annual adjustment shall be made to the charge imposed
12 under this subsection during October 1, 2005, to October 1, [2017] **2027**, except an adjustment
13 amount consistent with the need to fund the operating costs of the department and taking into
14 account any annual percentage increase in the total of the volumetric equivalent of solid waste
15 accepted in the prior year at solid waste sanitary landfills and demolition landfills and solid waste
16 to be transported out of this state for disposal that is accepted at transfer stations. No annual
17 increase during October 1, 2005, to October 1, [2017] **2027**, shall exceed the percentage increase
18 measured by the Consumer Price Index for All Urban Consumers for the United States, or its
19 successor index, as defined and officially recorded by the United States Department of Labor or
20 its successor agency and calculated on the percentage of revenues dedicated under subdivision
21 (1) of subsection 2 of section 260.335. Any such annual adjustment shall only be made at the

22 discretion of the director, subject to appropriations. Collection costs shall be established by the
23 department and shall not exceed two percent of the amount collected pursuant to this section.

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

26 3. The charges established in this section shall be enumerated separately from the
27 disposal fee charged by the landfill and may be passed through to persons who generated the
28 solid waste. Moneys [shall be] transmitted to the department shall be no less than the amount
29 collected less collection costs and in a form, manner and frequency as the department shall
30 prescribe. The provisions of section 33.080 to the contrary notwithstanding, moneys in the
31 account shall not lapse to general revenue at the end of each biennium. Failure to collect the
32 charge does not relieve the operator from responsibility for transmitting an amount equal to the
33 charge to the department.

34 4. The department may examine or audit financial records and landfill activity records
35 and measure landfill usage to verify the collection and transmittal of the charges established in
36 this section. The department may promulgate by rule and regulation procedures to ensure and
37 to verify that the charges imposed herein are properly collected and transmitted to the
38 department.

39 5. Effective October 1, 1990, any person who operates a transfer station in Missouri shall
40 transmit a fee to the department for deposit in the solid waste management fund which is equal
41 to one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted. Such
42 fee shall be applicable to all solid waste to be transported out of the state for disposal. On
43 October 1, 1992, and thereafter, the charge imposed herein shall be adjusted annually by the
44 same percentage as the increase in the general price level as measured by the Consumer Price
45 Index for All Urban Consumers for the United States, or its successor index, as defined and
46 officially recorded by the United States Department of Labor or its successor agency. No annual
47 adjustment shall be made to the charge imposed under this subsection during October 1, 2005,
48 to October 1, [2017] **2027**, except an adjustment amount consistent with the need to fund the
49 operating costs of the department and taking into account any annual percentage increase in the
50 total of the volumetric equivalent of solid waste accepted in the prior year at solid waste sanitary
51 landfills and demolition landfills and solid waste to be transported out of this state for disposal
52 that is accepted at transfer stations. No annual increase during October 1, 2005, to October 1,
53 [2017] **2027**, shall exceed the percentage increase measured by the Consumer Price Index for All
54 Urban Consumers for the United States, or its successor index, as defined and officially recorded
55 by the United States Department of Labor or its successor agency and calculated on the
56 percentage of revenues dedicated under subdivision (1) of subsection 2 of section 260.335. Any
57 such annual adjustment shall only be made at the discretion of the director, subject to

58 appropriations. The department shall prescribe rules and regulations governing the transmittal
59 of fees and verification of waste volumes transported out of state from transfer stations.
60 Collection costs shall also be established by the department and shall not exceed two percent of
61 the amount collected pursuant to this subsection. A transfer station with the sole function of
62 separating materials for recycling or resource recovery activities shall not be subject to the fee
63 imposed in this subsection.

64 6. Each political subdivision which owns an operational solid waste disposal area may
65 designate, pursuant to this section, up to two free disposal days during each calendar year. On
66 any such free disposal day, the political subdivision shall allow residents of the political
67 subdivision to dispose of any solid waste which may be lawfully disposed of at such solid waste
68 disposal area free of any charge, and such waste shall not be subject to any state fee pursuant to
69 this section. Notice of any free disposal day shall be posted at the solid waste disposal area site
70 and in at least one newspaper of general circulation in the political subdivision no later than
71 fourteen days prior to the free disposal day.

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

50 (a) **Grants to facilities of organizations employing individuals with disabilities**
51 **under sections 178.900 to 178.960 or sections 205.968 to 205.972;**

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

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

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

57

58 Any **allocated district** moneys remaining in any fiscal year due to insufficient or inadequate
59 **grant** applications [may] **shall** be reallocated [pursuant to this subdivision] **for solid waste**
60 **management projects other than district operations, including a district's next request for**
61 **solid waste management project proposals. Any allocated district moneys remaining after**
62 **a period of five years shall revert to the credit of the solid waste management fund created**
63 **under section 260.330;**

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

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

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

71 **3. In addition to the criteria listed in this section,** the advisory board created in section
72 260.345 shall recommend criteria to be used to allocate grant moneys to districts, cities and
73 counties. These criteria shall establish a priority for proposals which provide methods of solid
74 waste reduction and recycling. The department shall promulgate criteria for evaluating grants
75 by rule and regulation. Projects of cities and counties located within a district which are funded
76 by grants under this section shall conform to the district solid waste management plan.

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

81 **5. Once grants are approved by the solid waste management district, the district**
82 **shall submit to the department the appropriate forms associated with the grant application**
83 **and any supporting information to verify that appropriate public notice procedures were**
84 **followed, that grant proposals were reviewed and ranked by the district, and that only**
85 **eligible costs as set forth in regulations are to be funded. Within thirty days, the**
86 **department shall review the grant application. If the department finds any deficiencies,**
87 **or needs more information in order to evaluate the grant application, the department shall**
88 **notify the district in writing. The district shall have an additional thirty days to respond**
89 **to the department's request and to submit any additional information to the department.**
90 **Within thirty days of receiving additional information, the department shall either approve**
91 **or deny the grant application. If the department takes no action, the grant application**
92 **shall be deemed approved.** The department, in conjunction with the solid waste advisory
93 board, shall review the performance of all grant recipients to ensure that grant moneys were

94 appropriately and effectively expended to further the purposes of the grant, as expressed in the
95 recipient's grant application. The grant application shall contain specific goals and
96 implementation dates, and grant recipients shall be contractually obligated to fulfill same. The
97 department may require the recipient to submit periodic reports and such other data as are
98 necessary, both during the grant period and up to five years thereafter, to ensure compliance with
99 this section. The department may audit the records of any recipient to ensure compliance with
100 this section. Recipients of grants under sections 260.300 to 260.345 shall maintain such records
101 as required by the department. If a grant recipient fails to maintain records or submit reports as
102 required herein, refuses the department access to the records, or fails to meet the department's
103 performance standards, the department may withhold subsequent grant payments, if any, and may
104 compel the repayment of funds provided to the recipient pursuant to a grant.

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

107 7. If the moneys are not transmitted to the department within the time frame established
108 by the rule promulgated, interest shall be imposed on the moneys due the department at the rate
109 of ten percent per annum from the prescribed due date until payment is actually made. These
110 interest amounts 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 department of
2 natural resources. The advisory board shall be composed of the chairman of the executive board
3 of each of the solid waste management districts **or his or her designee**, and other members as
4 provided in this section. Up to five additional members shall be appointed by the **program**
5 **director of the solid waste management program** of which two members shall represent the
6 solid waste management industry and have an economic interest in or activity with any solid
7 waste facility or operation, one member may represent the solid waste composting or recycling
8 industry businesses, and the remaining members shall be public members who have
9 demonstrated interest in solid waste management issues and shall have no economic interest in
10 or activity with any solid waste facility or operation but may own stock in a publicly traded
11 corporation which may be involved in waste management as long as such holdings are not
12 substantial. **Beginning January 1, 2016**, the advisory board shall [advise] **prepare an annual**
13 **report due on or before January first advising** the department regarding:

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

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

22 (7) **Unfunded solid waste management projects; and**

23 (8) Such other matters as the advisory board may determine.

24 **2. The advisory board shall also prepare a report on the subjects listed in**
25 **subdivisions (1) to (8) of subsection 1 of this section for any standing, statutory, interim,**
26 **or select committee or task force of the general assembly having jurisdiction over solid**
27 **waste. If a report is so prepared, it shall be delivered to the chair and vice-chair of each**
28 **committee or task force having such jurisdiction. Such a report shall not be generated and**
29 **distributed on more than an annual basis.**

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

260.395. 1. After six months from the effective date of the standards, rules and
2 regulations adopted by the commission pursuant to section 260.370, it shall be unlawful for any
3 person to transport any hazardous waste in this state without first obtaining a hazardous waste
4 transporter license. Any person transporting hazardous waste in this state shall file an
5 application for a license pursuant to this subsection which shall:

6 (1) Be submitted on a form provided for this purpose by the department and shall furnish
7 the department with such equipment identification and data as may be necessary to demonstrate
8 to the satisfaction of the department that equipment engaged in such transportation of hazardous
9 waste, and other equipment as designated in rules and regulations pursuant to sections 260.350
10 to 260.430, is adequate to provide protection of the health of humans and the environment and
11 to comply with the provisions of any federal hazardous waste management act and sections
12 260.350 to 260.430 and the standards, rules and regulations adopted pursuant to sections 260.350
13 to 260.430. If approved by the department, this demonstration of protection may be satisfied by
14 providing certification that the equipment so identified meets and will be operated in accordance
15 with the rules and regulations of the Missouri public service commission and the federal
16 Department of Transportation for the transportation of the types of hazardous materials for which
17 it will be used;

18 (2) Include, as specified by rules and regulations, demonstration of financial
19 responsibility, including, but not limited to, guarantees, liability insurance, posting of bond or

20 any combination thereof which shall be related to the number of units, types and sizes of
21 equipment to be used in the transport of hazardous waste by the applicant;

22 (3) Include, as specified in rules and regulations, a fee payable to the state of Missouri
23 which shall consist of an annual application fee, plus an annual use fee based upon tonnage,
24 mileage or a combination of tonnage and mileage. The fees established pursuant to this
25 subdivision shall be set to generate, as nearly as is practicable, six hundred thousand dollars
26 annually. No fee shall be collected pursuant to this subdivision from railroads that pay a fee
27 pursuant to subsection 18 of this section. Fees collected pursuant to this subdivision shall be
28 deposited in the hazardous waste fund created pursuant to section 260.391.

29 2. If the department determines the application conforms to the provisions of any federal
30 hazardous waste management act and sections 260.350 to 260.430 and the standards, rules and
31 regulations adopted pursuant to sections 260.350 to 260.430, it shall issue the hazardous waste
32 transporter license with such terms and conditions as it deems necessary to protect the health of
33 humans and the environment. The department shall act within ninety days after receipt of the
34 application. If the department denies the license, it shall issue a report to the applicant stating
35 the reason for denial of the license.

36 3. A license may be suspended or revoked whenever the department determines that the
37 equipment is or has been operated in violation of any provision of sections 260.350 to 260.430
38 or any standard, rule or regulation, order, or license term or condition adopted or issued pursuant
39 to sections 260.350 to 260.430, poses a threat to the health of humans or the environment, or is
40 creating a public nuisance.

41 4. Whenever a license is issued, renewed, denied, suspended or revoked by the
42 department, any aggrieved person, by petition filed with the [department] **administrative**
43 **hearing commission** within thirty days of the decision, may appeal such decision [and shall be
44 entitled to a hearing as provided in section 260.400] **as provided by sections 621.250 and**
45 **640.013. Once the administrative hearing commission has reviewed the appeal, the**
46 **administrative hearing commission shall issue a recommended decision to the commission**
47 **on license issuance, renewal, denial, suspension, or revocation. The commission shall issue**
48 **its own decision, based on the appeal, for license issuance, renewal, denial, suspension, or**
49 **revocation. If the commission changes a finding of fact or conclusion of law made by the**
50 **administrative hearing commission, or modifies or vacates the decision recommended by**
51 **the administrative hearing commission, it shall issue its own decision, which shall include**
52 **findings of fact and conclusions of law. The commission shall mail copies of its final**
53 **decision to the parties to the appeal or their counsel of record. The commission's decision**
54 **shall be subject to judicial review pursuant to chapter 536. No judicial review shall be**
55 **available until and unless all administrative remedies are exhausted.**

56 5. A license shall be issued for a period of one year and shall be renewed upon proper
57 application by the holder and a determination by the department that the applicant is in
58 compliance with all provisions of sections 260.350 to 260.430 and all standards, rules and
59 regulations, orders and license terms and conditions adopted or issued pursuant to sections
60 260.350 to 260.430.

61 6. A license is not required for the transport of any hazardous waste on the premises
62 where it is generated or onto contiguous property owned by the generator thereof, or for those
63 persons exempted in section 260.380. Nothing in this subsection shall be interpreted to preclude
64 the department from inspecting unlicensed hazardous waste transporting equipment and to
65 require that it be adequate to provide protection for the health of humans and the environment.

66 7. After six months from the effective date of the standards, rules and regulations
67 adopted by the commission pursuant to section 260.370, it shall be unlawful for any person to
68 construct, substantially alter or operate, including operations specified in the rules and
69 regulations, a hazardous waste facility without first obtaining a hazardous waste facility permit
70 for such construction, alteration or operation from the department. Such person must submit to
71 the department at least ninety days prior to submitting a permit application a letter of intent to
72 construct, substantially alter or operate any hazardous waste disposal facility. The person must
73 file an application within one hundred eighty days of the filing of a letter of intent unless granted
74 an extension by the commission. The department shall publish such letter of intent as specified
75 in section 493.050 within ten days of receipt of such letter. The letter shall be published once
76 each week for four weeks in the county where the hazardous waste disposal facility is proposed.
77 Once such letter is submitted, all conditions for the permit application evaluation purposes in
78 existence as of the date of submission shall be deemed frozen, in that no subsequent action by
79 any person to change such conditions in an attempt to thwart a fair and impartial decision on the
80 application for a permit shall be allowed as grounds for denial of the permit. Any person before
81 constructing, substantially altering or operating a hazardous waste facility in this state shall file
82 an application for a permit which shall:

83 (1) Be submitted on a form provided for this purpose by the department and shall furnish
84 the department with plans, specifications and such other data as may be necessary to demonstrate
85 to the satisfaction of the department that such facility does or will provide adequate protection
86 of the health of humans and the environment and does or will comply with the provisions of any
87 federal hazardous waste management act and sections 260.350 to 260.430 and the standards,
88 rules and regulations adopted pursuant to sections 260.350 to 260.430;

89 (2) Include plans, designs, engineering reports and relevant data for construction,
90 alteration or operation of a hazardous waste facility, to be submitted to the department by a
91 registered professional engineer licensed by this state;

92 (3) Include, as specified by rules and regulations, demonstration of financial
93 responsibility, including, but not limited to, guarantees, liability insurance, posting of bond or
94 any combination thereof, which shall be related to type and size of facility;

95 (4) Include such environmental and geologic information, assessments and studies as
96 required by the rules and regulations of the commission;

97 (5) Include a fee payable to the state of Missouri which shall not exceed one thousand
98 dollars, which shall cover the first year of the permit, if issued, but which is not refundable. If
99 the permit is issued for more than one year, a fee equal in amount to the first year's fee shall be
100 paid to the state of Missouri prior to issuance of the permit for each year the permit is to be in
101 effect beyond the first year;

102 (6) The department shall supervise any field work undertaken to collect geologic and
103 engineering data for submission with the application. The state geologist and departmental
104 engineers shall review the geologic and engineering plans, respectively, and attest to their
105 accuracy and adequacy. The applicant shall pay all reasonable costs, as determined by the
106 commission, incurred by the department pursuant to this subsection.

107 8. (1) Prior to issuing or renewing a hazardous waste facility permit, the department
108 shall issue public notice by press release or advertisement and shall notify all record owners of
109 adjoining property by mail directed to the last known address, and the village, town or city, if
110 any, and the county in which the hazardous waste facility is located; and, upon request, shall hold
111 a public hearing after public notice as required in this subsection at a location convenient to the
112 area affected by the issuance of the permit.

113 (2) Prior to issuing or renewing a hazardous waste disposal facility permit the
114 department shall issue public notice by press release and advertisement and shall notify all record
115 owners of property, within one mile of the outer boundaries of the site, by mail directed to the
116 last known address; and shall hold a public hearing after public notice as required in this
117 subsection at a location convenient to the area affected by the issuance of the permit.

118 9. If the department determines that the application conforms to the provisions of any
119 federal hazardous waste management act and sections 260.350 to 260.430 and the standards,
120 rules and regulations adopted pursuant to sections 260.350 to 260.430, it shall issue the
121 hazardous waste facility permit, with such terms and conditions and require such testing and
122 construction supervision as it deems necessary to protect the health of humans or the
123 environment. The department shall act within one hundred and eighty days after receipt of the
124 application. If the department denies the permit, it shall issue a report to the applicant stating
125 the reason for denial of a permit.

126 10. A permit may be suspended or revoked whenever the department determines that the
127 hazardous waste facility is, or has been, operated in violation of any provision of sections

128 260.350 to 260.430 or any standard, rule or regulation, order or permit term or condition adopted
129 or issued pursuant to sections 260.350 to 260.430, poses a threat to the health of humans or the
130 environment or is creating a public nuisance.

131 11. Whenever a permit is issued, renewed, denied, suspended or revoked by the
132 department, any aggrieved person, by petition filed with the [department] **administrative**
133 **hearing commission** within thirty days of the decision, may appeal such decision [and shall be
134 entitled to a hearing as provided in section 260.400] **as provided by sections 621.250 and**
135 **640.013. Once the administrative hearing commission has reviewed the appeal, the**
136 **administrative hearing commission shall issue a recommended decision to the commission**
137 **on permit issuance, renewal, denial, suspension, or revocation. The commission shall issue**
138 **its own decision, based on the appeal, for permit issuance, renewal, denial, suspension, or**
139 **revocation. If the commission changes a finding of fact or conclusion of law made by the**
140 **administrative hearing commission, or modifies or vacates the decision recommended by**
141 **the administrative hearing commission, it shall issue its own decision, which shall include**
142 **findings of fact and conclusions of law. The commission shall mail copies of its final**
143 **decision to the parties to the appeal or their counsel of record. The commission's decision**
144 **shall be subject to judicial review pursuant to chapter 536, except that the court of appeals**
145 **district with territorial jurisdiction coextensive with the county where the hazardous waste**
146 **facility is to be located or is located, shall have original jurisdiction. No judicial review**
147 **shall be available until and unless all administrative remedies are exhausted.**

148 12. A permit shall be issued for a fixed term, which shall not exceed ten years in the case
149 of any land disposal facility, storage facility, incinerator, or other treatment facility. Nothing in
150 this subsection shall preclude the department from reviewing and modifying a permit at any time
151 during its term. Review of any application for a permit renewal shall consider improvements in
152 the state of control and measurement technology as well as changes in applicable regulations.
153 Each permit issued pursuant to this section shall contain such terms and conditions as the
154 department determines necessary to protect human health and the environment, and upon proper
155 application by the holder and a determination by the department that the applicant is in
156 compliance with all provisions of sections 260.350 to 260.430 and all standards, rules and
157 regulations, orders and permit terms and conditions adopted or issued pursuant to sections
158 260.350 to 260.430.

159 13. A hazardous waste facility permit is not required for:

160 (1) On-site storage of hazardous wastes where such storage is exempted by the
161 commission by rule or regulation; however, such storage must conform to the provisions of any
162 federal hazardous waste management act and sections 260.350 to 260.430 and the applicable

163 standards, rules and regulations adopted pursuant to sections 260.350 to 260.430 and any other
164 applicable hazardous materials storage and spill-prevention requirements provided by law;

165 (2) A publicly owned treatment works which has an operating permit pursuant to section
166 644.051 and is in compliance with that permit;

167 (3) A resource recovery facility which the department certifies uses hazardous waste as
168 a supplement to, or substitute for, nonwaste material, and that the sole purpose of the facility is
169 manufacture of a product rather than treatment or disposal of hazardous wastes;

170 (4) That portion of a facility engaged in hazardous waste resource recovery, when the
171 facility is engaged in both resource recovery and hazardous waste treatment or disposal, provided
172 the owner or operator can demonstrate to the department's satisfaction and the department finds
173 that such portion is not intended and is not used for hazardous waste treatment or disposal.

174 14. Facilities exempted pursuant to subsection 13 of this section must comply with the
175 provisions of subdivisions (3) to (7) of section 260.390 and such other requirements, to be
176 specified by rules and regulations, as are necessary to comply with any federal hazardous waste
177 management act or regulations hereunder. Generators who use such an exempted facility shall
178 keep records of hazardous wastes transported, except by legal flow through sewer lines, to the
179 facility and submit such records to the department in accordance with the provisions of section
180 260.380 and the standards, rules and regulations adopted pursuant to sections 260.350 to
181 260.430. Any person, before constructing, altering or operating a resource recovery facility in
182 this state shall file an application for a certification. Such application shall include:

183 (1) Plans, designs, engineering reports and other relevant information as specified by rule
184 that demonstrate that the facility is designed and will operate in a manner protective of human
185 health and the environment; and

186 (2) An application fee of not more than five hundred dollars for a facility that recovers
187 waste generated at the same facility or an application fee of not more than one thousand dollars
188 for a facility that recovers waste generated at off-site sources. Such fees shall be deposited in
189 the hazardous waste fund created in section 260.391. The department shall review such
190 application for conformance with applicable laws, rules and standard engineering principles and
191 practices. The applicant shall pay to the department all reasonable costs, as determined by the
192 commission, incurred by the department pursuant to this subsection. All such funds shall be
193 deposited in the hazardous waste fund created in section 260.391.

194 15. The owner or operator of any hazardous waste facility in existence on September 28,
195 1977, who has achieved federal interim status pursuant to 42 U.S.C. 6925(e), and who has
196 submitted to the department Part A of the federal facility permit application, may continue to
197 receive and manage hazardous wastes in the manner as specified in the Part A application, and
198 in accordance with federal interim status requirements, until completion of the administrative

199 disposition of a permit application submitted pursuant to sections 260.350 to 260.430. The
200 department may at any time require submission of, or the owner or operator may at any time
201 voluntarily submit, a complete application for a permit pursuant to sections 260.350 to 260.430
202 and commission regulations. The authority to operate pursuant to this subsection shall cease one
203 hundred eighty days after the department has notified an owner or operator that an application
204 for permit pursuant to sections 260.350 to 260.430 must be submitted, unless within such time
205 the owner or operator submits a completed application therefor. Upon submission of a complete
206 application, the authority to operate pursuant to this subsection shall continue for such reasonable
207 time as is required to complete the administrative disposition of the permit application. If a
208 facility loses its federal interim status, or the Environmental Protection Agency requires the
209 owner or operator to submit Part B of the federal application, the department shall notify the
210 owner or operator that an application for a permit must be submitted pursuant to this subsection.
211 In addition to compliance with the federal interim status requirements, the commission shall have
212 the authority to adopt regulations requiring persons operating pursuant to this subsection to meet
213 additional state interim status requirements.

214 16. No person, otherwise qualified pursuant to sections 260.350 to 260.430 for a license
215 to transport hazardous wastes or for a permit to construct, substantially alter or operate a
216 hazardous waste facility, shall be denied such license or permit on the basis of a lack of need for
217 such transport service or such facility because of the existence of other services or facilities
218 capable of meeting that need; except that permits for hazardous waste facilities may be denied
219 on determination made by the department that the financial resources of the persons applying are
220 such that the continued operation of the sites in accordance with sections 260.350 to 260.430
221 cannot be reasonably assured or on determination made by the department that the probable
222 volume of business is insufficient to ensure and maintain the solvency of then existing permitted
223 hazardous waste facilities.

224 17. All hazardous waste landfills constructed after October 31, 1980, shall have a
225 leachate collection system. The rules and regulations of the commission shall treat and protect
226 all aquifers to the same level of protection. The provisions of this subsection shall not apply to
227 the disposal of tailings and slag resulting from mining, milling and primary smelting operations.

228 18. Any railroad corporation as defined in section 388.010 that transports any hazardous
229 waste as defined in section 260.360 or any hazardous substance as defined in section 260.500
230 shall pay an annual fee of three hundred fifty dollars. Fees collected pursuant to this subsection
231 shall be deposited in the hazardous waste fund created in section 260.391.

260.500. As used in sections 260.500 to 260.550, unless the context clearly indicates
2 otherwise, the following terms mean:

- 3 (1) "Cleanup", all actions necessary to contain, collect, control, identify, analyze, clean
4 up, treat, disperse, remove, or dispose of a hazardous substance;
- 5 (2) "Cleanup costs", all costs incurred by the state or any of its political subdivisions, or
6 their agents, or by any other person participating with the approval of the department of natural
7 resources in the prevention or mitigation of damages from a hazardous substance emergency or
8 the cleanup of a hazardous substance involved in a hazardous substance emergency, including
9 a proportionate share of those costs necessary to maintain the services authorized in sections
10 260.500 to 260.550;
- 11 (3) "Department", the department of natural resources;
- 12 (4) "Director", the director of the department of natural resources;
- 13 (5) "Hazardous substance", any substance or mixture of substances that presents a danger
14 to the public health or safety or the environment and includes:
- 15 (a) Any hazardous waste identified or listed by the department pursuant to sections
16 260.350 to 260.430;
- 17 (b) Any element, compound, mixture, solution, or substance designated pursuant to
18 Sections 101(14) and 102 of the Comprehensive Environmental Response, Compensation and
19 Liability Act of 1980, as amended, and Section 302 of the Superfund Amendments and
20 Reauthorization Act of 1986, as amended; and
- 21 (c) Any hazardous material designated by the Secretary of the United States Department
22 of Transportation pursuant to the Hazardous Materials Transportation Act;
- 23 (d) "Hazardous substances" does not include radioactive materials, wastes, emissions or
24 discharges that are licensed or regulated by laws of the federal government or of this state.
25 However, such material released due to a transportation accident shall be considered a hazardous
26 substance;
- 27 (6) "Hazardous substance emergency":
- 28 (a) Any release of hazardous substances in quantities equal to or in excess of those
29 determined pursuant to Section 101(14) or 102 of the Comprehensive Environmental Response,
30 Compensation and Liability Act of 1980, as amended, and Section 304 of the Superfund
31 Amendments and Reauthorization Act of 1986, as amended;
- 32 (b) Any release of petroleum including crude oil or any fraction thereof, natural gas,
33 natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural
34 gas and such synthetic gas) in excess of fifty gallons for liquids or three hundred cubic feet for
35 gases, except that the notification and reporting of any release of natural gas or natural gas
36 mixtures by or from intrastate facilities, regardless of the quantity of such release, shall be as
37 specified by the public service commission rather than pursuant to the notification and reporting
38 requirements contained in, or authorized by, sections 260.500 to 260.550. Interstate natural gas

39 pipeline facilities shall report natural gas releases to the state and the National Response Center
40 in accordance with federal Department of Transportation regulatory requirements;

41 (c) Any release of a hazardous waste which is reportable pursuant to sections 260.350
42 to 260.430;

43 (d) Any release of a hazardous substance which requires immediate notice pursuant to
44 Part 171 of Title 49 of the Code of Federal Regulations;

45 (e) The department may promulgate rules and regulations identifying the substances and
46 the quantities thereof which, if released, constitute a hazardous substance emergency;

47 (7) "Person", any individual, partnership, copartnership, firm, company, public or private
48 corporation, association, joint stock company, trust, estate, political subdivision, or any agency,
49 board, department, or bureau of the state or federal government, or any other legal entity
50 whatever which is recognized by law as the subject of rights and duties;

51 (8) "Person having control over a hazardous substance", any person producing, handling,
52 storing, transporting, refining, or disposing of a hazardous substance when a hazardous substance
53 emergency occurs, including bailees, carriers, and any other person in control of a hazardous
54 substance when a hazardous substance emergency occurs, whether they own the hazardous
55 substance or are operating under a lease, contract, or other agreement with the legal owner
56 thereof;

57 (9) "Release", any threatened or real emission, discharge, spillage, leakage, pumping,
58 pouring, emptying or dumping of a substance into or onto the land, air or waters of the state
59 unless done in compliance with the conditions of a federal or state permit, unless the substance
60 is confined and is expected to stay confined to property owned, leased or otherwise controlled
61 by the person having control over the substance, or unless, in the case of pesticides, if application
62 is done in accordance with the product label;

63 (10) "State of Missouri basic emergency operations plan", the state plan, its annexes, and
64 appendices as developed or maintained by the state emergency management agency for response
65 to natural and man-made disasters in this state;

66 (11) "Waters of the state", **all waters within the jurisdiction of this state, including**
67 all rivers, streams, lakes and other bodies of surface and subsurface water lying within or
68 forming a part of the boundaries of the state which are not entirely confined and located
69 completely upon lands owned, leased or otherwise controlled by a single person or by two or
70 more persons jointly or as tenants in common [and includes waters of the United States lying
71 within the state].

444.600. 1. All applications for a permit shall be filed with the director who shall
2 promptly investigate the application and make a [recommendation to the commission] **decision**
3 within thirty days after the application is received as to whether the permit should be issued or

4 denied. If the director is not satisfied with the information supplied by the applicant, he **or she**
5 shall recommend denial of the permit. The director shall promptly notify the applicant of this
6 action and at the same time publish a notice of the [recommendation] **decision** in any newspaper
7 with general circulation in the counties where the land is located, and shall send notice to those
8 persons registered with the director pursuant to section 444.720. **The director's decision shall**
9 **be deemed to be the decision of the director of the department of natural resources and**
10 **shall be subject to appeal to the administrative hearing commission as provided by sections**
11 **621.250 and 640.013.**

12 2. [If the recommendation of the director is to deny the permit, a hearing as provided in
13 sections 444.500 to 444.755 shall be held by the commission if requested by the applicant within
14 thirty days of the date of notice of the recommendation of the director.

15 3. If the recommendation of the director is for issuance of the permit, the commission
16 may issue or deny the permit without a hearing provided the matter is passed upon at a public
17 meeting no sooner than thirty days from the date of notice of the recommendation of the director,
18 except that upon petition of any person aggrieved by the granting of the permit, a hearing shall
19 be held as provided in section 444.680.

20 4. If the commission denies a permit, the applicant may petition the commission, within
21 thirty days of notice of its action, for a hearing. If no petition is filed within the thirty day period,
22 the decision of the commission is final and the applicant shall have no right of court review.

23 5. In any hearing held pursuant to this section the burden of proof shall be on the
24 applicant for a permit. Any decision of the commission made pursuant to a hearing held under
25 this section is subject to judicial review as provided in section 444.700.] **Whenever a strip mine**
26 **operator permit provided under section 444.540 is issued, denied, suspended, or revoked**
27 **by the department of natural resources, any aggrieved person, by petition filed with the**
28 **administrative hearing commission within thirty days of the decision, may appeal such**
29 **decision as provided by sections 621.250 and 640.013. For purposes of an appeal, the**
30 **administrative hearing commission may consider, based on competent and substantial**
31 **scientific evidence on the record, whether an interested party's health, safety, or livelihood**
32 **will be unduly impaired by the issuance, denial, suspension, or revocation of the permit.**
33 **The administrative hearing commission may also consider, based on competent and**
34 **substantial scientific evidence on the record, whether the operator has demonstrated,**
35 **during the five-year period immediately preceding the date of the permit application, a**
36 **pattern of noncompliance at other locations in Missouri that suggests a reasonable**
37 **likelihood of future acts of noncompliance. In determining whether a reasonable likelihood**
38 **of noncompliance will exist in the future, the administrative hearing commission may look**
39 **to past acts of noncompliance in Missouri, but only to the extent they suggest a reasonable**

40 **likelihood of future acts of noncompliance. Such past acts of noncompliance in Missouri,**
41 **in and of themselves, are an insufficient basis to suggest a reasonable likelihood of future**
42 **acts of noncompliance. In addition, such past acts shall not be used as a basis to suggest**
43 **a reasonable likelihood of future acts of noncompliance unless the noncompliance has**
44 **caused or has the potential to cause, a risk to human health or to the environment, or has**
45 **caused or has potential to cause pollution, or was knowingly committed, or is defined by**
46 **the United States Environmental Protection Agency as other than minor. If a hearing**
47 **petitioner demonstrates or the administrative hearing commission finds either present acts**
48 **of noncompliance or a reasonable likelihood that the permit seeker or the operations of**
49 **associated persons or corporations in Missouri will be in noncompliance in the future, such**
50 **a showing will satisfy the noncompliance requirement in this subsection. In addition, such**
51 **basis must be developed by multiple noncompliances of any environmental law**
52 **administered by the Missouri department of natural resources at any single facility in**
53 **Missouri that resulted in harm to the environment or impaired the health, safety, or**
54 **livelihood of persons outside the facility. For any permit seeker that has not been in**
55 **business in Missouri for the past five years, the administrative hearing commission may**
56 **review the record of noncompliance in any state where the applicant has conducted**
57 **business during the past five years. Once the administrative hearing commission has**
58 **reviewed the appeal, the administrative hearing commission shall issue a recommended**
59 **decision to the commission on permit issuance, denial, suspension, or revocation. The**
60 **commission shall issue its own decision, based on the appeal, for permit issuance, denial,**
61 **suspension, or revocation. If the commission changes a finding of fact or conclusion of law**
62 **made by the administrative hearing commission, or modifies or vacates the decision**
63 **recommended by the administrative hearing commission, it shall issue its own decision,**
64 **which shall include findings of fact and conclusions of law. The commission shall mail**
65 **copies of its final decision to the parties to the appeal or their counsel of record. The**
66 **commission's decision shall be subject to judicial review pursuant to chapter 536, except**
67 **that the court of appeals district with territorial jurisdiction coextensive with the county**
68 **where the mine is located or is to be located shall have original jurisdiction. No judicial**
69 **review shall be available until and unless all administrative remedies are exhausted.**

444.773. 1. All applications for a permit shall be filed with the director, who shall
2 promptly investigate the application and make a decision within six weeks after completion of
3 the process provided in subsection 10 of section 444.772 to issue or deny the permit. If the
4 director determines that the application has not fully complied with the provisions of section
5 444.772 or any rule or regulation promulgated pursuant to that section, the director may seek
6 additional information from the applicant before making a decision to issue or deny the permit.

7 The director shall consider any public comments when making the decision to issue or deny the
8 permit. In issuing a permit, the director may impose reasonable conditions consistent with the
9 provisions of sections 444.760 to 444.790.

10 [2.] The director's decision shall be deemed to be the decision of the director of the
11 department of natural resources and shall be subject to appeal to the administrative hearing
12 commission as provided by sections 640.013 and 621.250.

13 [3.] **2. Whenever a surface mining operation permit provided under section**
14 **444.772 is issued, denied, suspended, or revoked by the department of natural resources,**
15 **any aggrieved person, by petition filed with the administrative hearing commission within**
16 **thirty days of the decision, may appeal such decision as provided by sections 621.250 and**
17 **640.013.** For purposes of an appeal, the administrative hearing commission may consider, based
18 on competent and substantial scientific evidence on the record, whether an interested party's
19 health, safety or livelihood will be unduly impaired by the issuance, **denial, suspension, or**
20 **revocation** of the permit. The administrative hearing commission may also consider, based on
21 competent and substantial scientific evidence on the record, whether the operator has
22 demonstrated, during the five-year period immediately preceding the date of the permit
23 application, a pattern of noncompliance at other locations in Missouri that suggests a reasonable
24 likelihood of future acts of noncompliance. In determining whether a reasonable likelihood of
25 noncompliance will exist in the future, the administrative hearing commission may look to past
26 acts of noncompliance in Missouri, but only to the extent they suggest a reasonable likelihood
27 of future acts of noncompliance. Such past acts of noncompliance in Missouri, in and of
28 themselves, are an insufficient basis to suggest a reasonable likelihood of future acts of
29 noncompliance. In addition, such past acts shall not be used as a basis to suggest a reasonable
30 likelihood of future acts of noncompliance unless the noncompliance has caused or has the
31 potential to cause, a risk to human health or to the environment, or has caused or has potential
32 to cause pollution, or was knowingly committed, or is defined by the United States
33 Environmental Protection Agency as other than minor. If a hearing petitioner **demonstrates** or
34 the administrative hearing commission [**demonstrates**] **finds** either present acts of noncompliance
35 or a reasonable likelihood that the permit seeker or the operations of associated persons or
36 corporations in Missouri will be in noncompliance in the future, such a showing will satisfy the
37 noncompliance requirement in this subsection. In addition, such basis must be developed by
38 multiple noncompliances of any environmental law administered by the Missouri department of
39 natural resources at any single facility in Missouri that resulted in harm to the environment or
40 impaired the health, safety or livelihood of persons outside the facility. For any permit seeker
41 that has not been in business in Missouri for the past five years, the administrative hearing
42 commission may review the record of noncompliance in any state where the applicant has

43 conducted business during the past five years. [Once] The administrative hearing commission
44 [has reviewed the appeal, the administrative hearing commission] shall [make a
45 recommendation] **issue a recommended decision** to the commission on permit issuance [or] ,
46 **denial, suspension, or revocation.**

47 [4.] The commission shall issue its own decision, based on the appeal, for permit
48 issuance [or] **denial, suspension, or revocation.** If the commission changes a finding of fact or
49 conclusion of law made by the administrative hearing commission, or modifies or vacates the
50 decision recommended by the administrative hearing commission, it shall issue its own decision,
51 which shall include findings of fact and conclusions of law. The commission shall mail copies
52 of its final decision to the parties to the appeal or their counsel of record. The commission's
53 decision shall be subject to judicial review pursuant to chapter 536, except that the court of
54 appeals district with territorial jurisdiction coextensive with the county where the mine **is located**
55 **or** is to be located shall have original jurisdiction. No judicial review shall be available until and
56 unless all administrative remedies are exhausted.

444.980. Whenever a surface coal mining operation permit provided under section
2 **444.815 or a coal exploration operation permit provided under section 444.845 is issued,**
3 **denied, suspended, or revoked by the department of natural resources, any aggrieved**
4 **person, by petition filed with the administrative hearing commission within thirty days of**
5 **the decision, may appeal such decision as provided by sections 621.250 and 640.013. For**
6 **purposes of an appeal, the administrative hearing commission may consider, based on**
7 **competent and substantial scientific evidence on the record, whether an interested party's**
8 **health, safety, or livelihood will be unduly impaired by the issuance, denial, suspension, or**
9 **revocation of the permit. The administrative hearing commission may also consider, based**
10 **on competent and substantial scientific evidence on the record, whether the operator has**
11 **demonstrated, during the five-year period immediately preceding the date of the permit**
12 **application, a pattern of noncompliance at other locations in Missouri that suggests a**
13 **reasonable likelihood of future acts of noncompliance. In determining whether a**
14 **reasonable likelihood of noncompliance will exist in the future, the administrative hearing**
15 **commission may look to past acts of noncompliance in Missouri, but only to the extent they**
16 **suggest a reasonable likelihood of future acts of noncompliance. Such past acts of**
17 **noncompliance in Missouri, in and of themselves, are an insufficient basis to suggest a**
18 **reasonable likelihood of future acts of noncompliance. In addition, such past acts shall not**
19 **be used as a basis to suggest a reasonable likelihood of future acts of noncompliance unless**
20 **the noncompliance has caused or has the potential to cause, a risk to human health or to**
21 **the environment, or has caused or has potential to cause pollution, or was knowingly**
22 **committed, or is defined by the United States Environmental Protection Agency as other**

23 **than minor. If a hearing petitioner demonstrates or the administrative hearing commission**
24 **finds either present acts of noncompliance or a reasonable likelihood that the permit seeker**
25 **or the operations of associated persons or corporations in Missouri will be in**
26 **noncompliance in the future, such a showing will satisfy the noncompliance requirement**
27 **in this subsection. In addition, such basis must be developed by multiple noncompliances**
28 **of any environmental law administered by the Missouri department of natural resources**
29 **at any single facility in Missouri that resulted in harm to the environment or impaired the**
30 **health, safety, or livelihood of persons outside the facility. For any permit seeker that has**
31 **not been in business in Missouri for the past five years, the administrative hearing**
32 **commission may review the record of noncompliance in any state where the applicant has**
33 **conducted business during the past five years. Once the administrative hearing**
34 **commission has reviewed the appeal, the administrative hearing commission shall issue a**
35 **recommended decision to the commission on permit issuance, denial, suspension, or**
36 **revocation. The commission shall issue its own decision, based on the appeal, for permit**
37 **issuance, denial, suspension, or revocation. If the commission changes a finding of fact or**
38 **conclusion of law made by the administrative hearing commission, or modifies or vacates**
39 **the decision recommended by the administrative hearing commission, it shall issue its own**
40 **decision, which shall include findings of fact and conclusions of law. The commission shall**
41 **mail copies of its final decision to the parties to the appeal or their counsel of record. The**
42 **commission's decision shall be subject to judicial review pursuant to chapter 536, except**
43 **that the court of appeals district with territorial jurisdiction coextensive with the county**
44 **where the mine is located or is to be located shall have original jurisdiction. No judicial**
45 **review shall be available until and unless all administrative remedies are exhausted.**

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

13 determination, consistent with the requirements of this subsection and the rules and procedures
14 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, or a final
24 decision where applicable, in accordance with the requirements of this section and the rules and
25 procedures of the administrative hearing commission; provided, however, that the dates by which
26 the administrative hearing commission is required to hold hearings and make a recommended
27 decision may be extended at the sole discretion of the permittee as either petitioner or intervenor
28 in the appeal.

29 3. Any decision by the director of the department of natural resources that may be
30 appealed as provided in subsection 1 of this section shall contain a notice of the right of appeal
31 in substantially the following language: "If you were adversely affected by this decision, you
32 may be entitled to pursue an appeal before the administrative hearing commission. To appeal,
33 you must file a petition with the administrative hearing commission within thirty days after the
34 date this decision was mailed or the date it was delivered, whichever date was earlier. If any
35 such petition is sent by registered mail or certified mail, it will be deemed filed on the date it is
36 mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed
37 filed on the date it is received by the administrative hearing commission.". Within fifteen days
38 after the administrative hearing commission renders a recommended decision, it shall transmit
39 the record and a transcript of the proceedings, together with the administrative hearing
40 commission's recommended decision to the commission having authority to issue a final
41 decision. The final decision of the commission shall be issued within one hundred eighty days
42 of the date the notice of appeal in subsection 2 of this section is filed and shall be based only on
43 the facts and evidence in the hearing record; provided, however, that the date by which the
44 commission is required to issue a final decision may be extended at the sole discretion of the
45 permittee as either petitioner or intervenor in the appeal. The commission may adopt the
46 recommended decision as its final decision. The commission may change a finding of fact or
47 conclusion of law made by the administrative hearing commission, or may vacate or modify the

48 recommended decision issued by the administrative hearing commission, only if the commission
49 states in writing the specific reason for a change made under this subsection.

50 4. In the event the person filing the appeal prevails in any dispute under this section,
51 interest shall be allowed upon any amount found to have been wrongfully collected or
52 erroneously paid at the rate established by the director of the department of revenue under section
53 32.065.

54 5. Appropriations shall be made from the respective funds of the department of natural
55 resources to cover the administrative hearing commission's costs associated with these appeals.

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

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

640.115. 1. Every municipal corporation, private corporation, company, partnership,
2 federal establishment, state establishment or individual supplying or authorized to supply
3 drinking water to the public within the state shall file with the department of natural resources
4 a certified copy of the plans and surveys of the waterworks with a description of the methods of
5 purification, treatment technology and source from which the supply of water is derived, and no
6 source of supply shall be used without a written permit of approval issued to the continuing
7 operating authority by the department of natural resources, or water dispensed to the public
8 without first obtaining such written permit of approval. Prior to a change of permittee, the
9 current permittee shall notify the department of the proposed change and the department shall
10 perform a permit review.

11 2. Construction, extension or alteration of a public water system shall be in accordance
12 with the rules and regulations of the safe drinking water commission.

13 3. Permit applicants shall show, as part of their application, that a permanent
14 organization exists which will serve as the continuing operating authority for the management,
15 operation, replacement, maintenance and modernization of the facility. Such continuing
16 operating authority for all community water systems and nontransient, noncommunity water
17 systems commencing operation after October 1, 1999, shall be required to have and maintain the
18 managerial, technical and financial capacity, as determined by the department, to comply with
19 sections 640.100 to 640.140.

20 4. Any community water system or nontransient, noncommunity water system against
21 which an administrative order has been issued for significant noncompliance with the federal
22 Safe Drinking Water Act, as amended, sections 640.100 to 640.140 or any rule or regulation
23 promulgated thereunder shall be required to show that a permanent organization exists that
24 serves as the continuing operating authority for the facility and that such continuing operating
25 authority has the managerial, technical and financial capacity to comply with sections 640.100
26 to 640.140 and regulations promulgated thereunder. If the water system cannot show to the
27 department's satisfaction that such continuing operating authority exists, or if the water system
28 is not making substantial progress toward compliance, the water system's permit may be revoked.
29 The continuing operating authority may [reapply for a permit in accordance with rules
30 promulgated by the commission] **appeal such decision to the administrative hearing**
31 **commission as provided by sections 621.250 and 640.013.**

32 5. **Whenever a permit is issued, denied, suspended, or revoked by the department,**
33 **any aggrieved person, by petition filed with the administrative hearing commission within**
34 **thirty days of the decision, may appeal such decision as provided by sections 621.250 and**
35 **640.013. Once the administrative hearing commission has reviewed the appeal, the**
36 **administrative hearing commission shall issue a recommended decision to the commission**
37 **on permit issuance, denial, suspension, or revocation. The commission shall issue its own**
38 **decision, based on the appeal, for permit issuance, denial, suspension, or revocation. If the**
39 **commission changes a finding of fact or conclusion of law made by the administrative**
40 **hearing commission, or modifies or vacates the decision recommended by the**
41 **administrative hearing commission, it shall issue its own decision, which shall include**
42 **findings of fact and conclusions of law. The commission shall mail copies of its final**
43 **decision to the parties to the appeal or their counsel of record. The commission's decision**
44 **shall be subject to judicial review pursuant to chapter 536, except that the court of appeals**
45 **district with territorial jurisdiction coextensive with the county where the waterworks is**
46 **located, or is to be located, shall have original jurisdiction. No judicial review shall be**
47 **available until and unless all administrative remedies are exhausted.**

640.136. 1. Any public water system, as defined in section 640.102, or public water
2 supply district, as defined in chapter 247, which intends to make modifications to
3 fluoridation of its water supply shall notify the department of natural resources, the
4 department of health and senior services, and its customers of its intentions at least ninety
5 days prior to any vote on the matter. The public water system or public water supply
6 district shall notify its customers via radio, television, newspaper, regular mail, electronic
7 means, or any combination of notification methods to most effectively notify customers at
8 least ninety days prior to any meeting at which the vote will occur. Any public water

9 **system or public water supply district that violates the notification requirements of this**
10 **section shall reinstate fluoridation of its water supply until proper notification is provided**
11 **under the provisions of this section.**

12 **2. In the case of an investor-owned water system, the entity calling for the**
13 **discussion of modifications to fluoridation shall be responsible for the provisions of this**
14 **section.**

643.075. 1. It shall be unlawful for any person to commence construction of any air
2 contaminant source in this state, without a permit [therefor], if such source is of a class fixed by
3 regulation of the commission which requires a permit [therefor].

4 2. Every source required to obtain a construction permit shall make application [therefor]
5 to the department [and shall submit therewith] **that includes** such plans and specifications as
6 prescribed by rule. The director shall promptly investigate each application, and if he **or she**
7 determines that the source meets and will meet the requirements of sections 643.010 to 643.190
8 and the rules promulgated pursuant thereto, he **or she** shall issue a construction permit with such
9 conditions as he deems necessary to ensure that the source will meet the requirements of sections
10 643.010 to 643.190 and the rules. An application submitted for the construction or modification
11 and operation of any regulated air contaminant source shall receive a unified construction and
12 operating permit review process under section 643.078, unless the applicant requests in writing
13 that the construction and operating permits be reviewed separately. If the director determines
14 that the source does not meet or will not meet the requirements of sections 643.010 to 643.190
15 and the rules promulgated pursuant thereto, he **or she** shall deny the construction permit.

16 3. Before issuing a construction permit to build or modify an air contaminant source the
17 director shall determine if the ambient air quality standards in the vicinity of the source are being
18 exceeded and shall determine the impact on the ambient air quality standards from the source.
19 The director, in order to effectuate the purposes of sections 643.010 to 643.190, may deny a
20 construction permit if the source will appreciably affect the air quality or the air quality standards
21 are being substantially exceeded.

22 4. The director may require the applicant as a condition to the issuance of the
23 construction permit to provide and maintain such facilities or to conduct such tests as are
24 necessary to determine the nature, extent, quantity or degree of air contaminants discharged into
25 the ambient air from the proposed source.

26 5. The director shall act within thirty days after a request for approval of an application
27 for a construction permit. The director shall render a decision to approve or deny a construction
28 permit within ninety days of receipt of a complete application for a class B source and within one
29 hundred eighty-four days of receipt of a complete application for a class A source. The director

30 shall promptly notify the applicant in writing of his action and if the construction permit is
31 denied state the reasons [therefor] **for such denial.**

32 **6. As provided by sections 621.250 and 640.013,** any aggrieved person may appeal any
33 permit decision made under this section, including failure to render a decision within the time
34 period established in this section. A notice of appeal shall be filed with the **administrative**
35 **hearing** commission within thirty days of the director's action or within thirty days from the date
36 by which the decision should have been rendered if the director has failed to act. **Once the**
37 **administrative hearing commission has reviewed the appeal, the administrative hearing**
38 **commission shall issue a recommended decision to the commission on permit issuance,**
39 **renewal, denial, suspension, or revocation, or any condition of the permit. The commission**
40 **shall issue its own decision, based on the appeal, for permit issuance, renewal, denial,**
41 **suspension, or revocation, or any condition of the permit. If the commission changes a**
42 **finding of fact or conclusion of law made by the administrative hearing commission, or**
43 **modifies or vacates the decision recommended by the administrative hearing commission,**
44 **it shall issue its own decision, which shall include findings of fact and conclusions of law.**
45 **The commission shall mail copies of its final decision to the parties to the appeal or their**
46 **counsel of record. The commission's decision shall be subject to judicial review pursuant**
47 **to chapter 536, except that the court of appeals district with territorial jurisdiction**
48 **coextensive with the county where the air contaminant source is located or is to be located,**
49 **shall have original jurisdiction. No judicial review shall be available until and unless all**
50 **administrative remedies are exhausted.**

51 7. (1) There shall be a one hundred-dollar filing fee payable to the state of Missouri with
52 each application before a construction permit shall be issued. No manufacturing or processing
53 plant or operating location or other air contaminant source shall be required to pay more than one
54 filing fee with a construction permit application. The provisions of this section shall not apply
55 nor require the issuance of a permit wherein the proposed construction is that of a private
56 residence.

57 (2) Upon completion of the department's evaluation of the application, but before
58 receiving a construction permit, the applicant shall reimburse the department for all reasonable
59 costs incurred by the department whether or not a construction permit is issued by the department
60 or withdrawn by the applicant. If the department fails to approve or deny a construction permit
61 within the time period specified in this section, the applicant shall not be required to reimburse
62 the department for the review of the construction permit application. The commission shall, by
63 rule, set the hourly charge, not to exceed the actual cost thereof and not to exceed fifty dollars
64 per hour, for review of each construction permit application. The commission may exempt any
65 person from payment of the hourly fees under this subdivision, or may reduce such fees, upon

66 an appeal filed with the commission by such person stating that the fee will create an
67 unreasonable economic hardship upon such person. The commission may conduct a closed
68 meeting and have closed records, as defined in section 610.010, for the purpose of gathering
69 information from the person filing an appeal for the exemption. Information obtained in this
70 meeting may be held confidential by the commission upon the request of the person filing the
71 appeal for exemption. If the fees or any portion of the fees imposed by this section are not paid
72 within ninety days from the date of billing there shall be imposed interest upon the unpaid
73 amount at the rate of ten percent per annum from the date of billing until payment is actually
74 made. A construction permit application for a portable facility may include any site at which the
75 portable facility is expected to be used; however, a separate site permit application shall be
76 required when the portable facility is used or expected to be used at any site which is not
77 included in a previously approved construction permit application. Upon receipt of the
78 application, the applicant shall be notified by the department of hourly fees and requirements put
79 forth in this subdivision.

80 (3) Applicants who withdraw their application before the department completes its
81 evaluation shall reimburse the department for costs incurred in the evaluation.

82 (4) All moneys received pursuant to this section and section 643.073 and any other
83 moneys so designated shall be placed in the state treasury and credited to the natural resources
84 protection fund air pollution permit fee subaccount, created in section 640.220, and shall be
85 expended for the administration of this section and sections 643.073 and 643.078 and for no
86 other purpose, and shall be used to supplement state general revenue and federal funds
87 appropriated to the department. After appropriation, the moneys received pursuant to this section
88 and in such fund subaccount shall be expended for the administration of this section and for no
89 other purpose. Any unexpended balance in such fund subaccount at the end of any appropriation
90 period shall not be transferred to the general revenue fund of the state treasury and shall be
91 exempt from the provisions of section 33.080. Any interest received on such deposits shall be
92 credited to the fund subaccount.

93 8. Any person who obtains a valid permit from a city or county pursuant to the authority
94 granted in section 643.140 shall be deemed to have met the requirements of this section and shall
95 not be liable to the department for construction permit fees imposed pursuant to subsection 7
96 of this section.

643.078. 1. It shall be unlawful for any person to operate any regulated air contaminant
2 source after August 28, 1992, without an operating permit except as otherwise provided in
3 sections 643.010 to 643.190.

4 2. At the option of the permit applicant, a single operating permit shall be issued for a
5 facility having multiple air contaminant sources located on one or more contiguous tracts of land,

6 excluding public roads, highways and railroads, under the control of or owned by the permit
7 holder and operated as a single enterprise.

8 3. Any person who wishes to construct or modify and operate any regulated air
9 contaminant source shall submit an application to the department for the unified review of a
10 construction permit application under section 643.075 and an operating permit application under
11 this section, unless the applicant requests in writing that the construction and operating permit
12 applications be reviewed separately. The director shall complete any unified review within one
13 hundred and eighty days of receipt of the request for a class B source. For a class A source, the
14 unified review shall be completed within the time period established in section 502 of the federal
15 Clean Air Act, as amended, 42 U.S.C. 7661.

16 4. As soon as the review process is completed for the construction and operating permits
17 and, if the applicant complies with all applicable requirements of sections 643.010 to 643.190
18 and all rules adopted thereunder, the construction permit shall be issued to the applicant. The
19 operating permit shall be retained by the department until validated.

20 5. Within one hundred and eighty days of commencing operations, the holder of a
21 construction permit shall submit to the director such information as is necessary to demonstrate
22 compliance with the provisions of sections 643.010 to 643.190 and the terms and conditions of
23 the construction permit. The operating permit retained by the department shall be validated and
24 forwarded to the applicant if the applicant is in compliance with the terms and conditions of the
25 construction permit and the terms and conditions of the operating permit. The holder of a
26 construction permit may request a waiver of the one hundred and eighty day time period and the
27 director may grant such request by mutual agreement.

28 6. If the director determines that an air contaminant source does not meet the terms and
29 conditions of the construction permit and that the operation of the source will result in emissions
30 which exceed the limits established in the construction permit, he shall not validate the operating
31 permit. If the source corrects the deficiency, the director shall then validate the operating permit.
32 If the source is unable to correct the deficiency, then the director and the applicant may, by
33 mutual agreement, add such terms and conditions to the operating permit which are deemed
34 appropriate, so long as the emissions from the air contaminant source do not exceed the limits
35 established in the construction permit, and the director shall validate the operating permit. The
36 director may add terms and conditions to the operating permit which allow the source to exceed
37 the emission limits established in the construction permit. In such a case, the director shall notify
38 the affected public and the commission shall, upon request by any affected person, hold a public
39 hearing upon the revised operating permit application.

40 7. Except as provided in subsection 8 of this section, an operating permit shall be valid
41 for five years from the date of issuance or validation, whichever is later, unless otherwise
42 revoked or terminated pursuant to sections 643.010 to 643.190.

43 8. An applicant for a construction permit for an air contaminant source with valid
44 operating permit may request that the air contaminant source be issued a new five-year operating
45 permit. The operating permit would be issued in the manner and under the conditions provided
46 in sections 643.010 to 643.190 and would supersede any existing operating permit for the source.

47 9. The director shall take action within thirty days after a request for validation of the
48 operating permit and shall render a decision within one hundred twenty days of receipt of a
49 request for issuance of an operating permit for a class B source. The director shall render a
50 decision within the time period established in section 502 of the federal Clean Air Act, as
51 amended, 42 U.S.C. 7661, for a class A source. Any affected person may appeal any permit
52 decision, including failure to render a decision within the time period established in this section,
53 to the **administrative hearing commission as provided by subsection 16 of this section,**
54 **section 621.250, and section 640.013.**

55 10. The director may suspend, revoke or modify an operating permit for cause.

56 11. The director shall not approve an operating permit if he receives an objection to
57 approval of the permit from the United States Environmental Protection Agency within the time
58 period specified under Title V of the Clean Air Act, as amended, 42 U.S.C. 7661, et seq.

59 12. The director shall enforce all applicable federal rules, standards and requirements
60 issued under the federal Clean Air Act, as amended, 42 U.S.C. 7661, et seq., and shall
61 incorporate such applicable standards and any limitations established pursuant to Title III into
62 operating permits as required under Title V of the federal Clean Air Act, as amended, 42 U.S.C.
63 7661, et seq.

64 13. Applicable standards promulgated by the commission by rule shall be incorporated
65 by the director into the operating permit of any air contaminant source which has, on the
66 effective date of the rule, at least three years remaining before renewal of its operating permit.
67 If less than three years remain before renewal of the source's operating permit, such applicable
68 standards shall be incorporated into the permit unless the permit contains a shield from such new
69 requirements consistent with Title V of the federal Clean Air Act, as amended, 42 U.S.C. 7661,
70 et seq.

71 14. The holder of a valid operating permit shall have operational flexibility to make
72 changes to any air contaminant source, if the changes will not result in air contaminant emissions
73 in excess of those established in the operating permit or result in the emissions of any air
74 contaminant not previously emitted without obtaining a modification of the operating permit

75 provided such changes are consistent with Section 502(b)(10) of the federal Clean Air Act, as
76 amended, 42 U.S.C. 7661.

77 15. An air contaminant source with a valid operating permit which submits a complete
78 application for a permit renewal at least six months prior to the expiration of the permit shall be
79 deemed to have a valid operating permit until the director acts upon its permit application. The
80 director shall promptly notify the applicant in writing of his action on the application and if the
81 operating permit is not issued state the reasons therefor.

82 16. The applicant may appeal to the **administrative hearing** commission if [an] a
83 **construction, modification, or** operating permit is not issued **or renewed**, or may appeal any
84 condition, suspension, modification or revocation of any permit by filing [notice of appeal] a
85 **petition** with the **administrative hearing** commission within thirty days of the notice of the
86 director's response to the request for issuance of the **construction, modification, or** operating
87 permit **as provided by sections 621.250 and 640.013. Once the administrative hearing**
88 **commission has reviewed the appeal, the administrative hearing commission shall issue a**
89 **recommended decision to the commission on the issuance, renewal, denial, suspension,**
90 **modification, revocation, or any condition of the permit. The commission shall issue its**
91 **own decision, based on the appeal, for the issuance, renewal, denial, suspension,**
92 **modification, revocation, or any condition of the permit. If the commission changes a**
93 **finding of fact or conclusion of law made by the administrative hearing commission, or**
94 **modifies or vacates the decision recommended by the administrative hearing commission,**
95 **it shall issue its own decision, which shall include findings of fact and conclusions of law.**
96 **The commission shall mail copies of its final decision to the parties to the appeal or their**
97 **counsel of record. The commission's decision shall be subject to judicial review pursuant**
98 **to chapter 536, except that the court of appeals district with territorial jurisdiction**
99 **coextensive with the county where the air contaminant source is located or is to be located**
100 **shall have original jurisdiction. No judicial review shall be available until and unless all**
101 **administrative remedies are exhausted.**

102 17. Any person who obtains a valid operating permit from a city or county pursuant to
103 the authority granted in section 643.140 shall be deemed to have met the requirements of this
104 section.

643.650. 1. Any owner of a coal-fired electric generating source in a National
2 **Ambient Air Quality Standards nonattainment area currently designated as of April 1,**
3 **2015, shall develop an ambient air quality monitoring or modeling network to characterize**
4 **the sulfur dioxide air quality surrounding the electric generating source. The network**
5 **shall adequately monitor the ambient air quality for sulfur dioxide surrounding the entire**
6 **electric generating source and shall operate for not less than twelve consecutive quarters.**

7 **The owner of such electric generating source shall notify the department of the manner in**
8 **which it intends to characterize by either modeling or monitoring the air quality around**
9 **such source. The location of any monitoring network installed by the owner of such**
10 **electric generating source within a one-hour sulfur dioxide National Ambient Air Quality**
11 **Standards nonattainment area shall be approved by the department.**

12 **2. Affected sources located in undesignated areas that elect to use monitoring to**
13 **evaluate ambient air quality shall be consulted by the department on the use of existing**
14 **monitors as well as the location of any new monitors intended to comprise the sulfur**
15 **dioxide monitoring network. The department shall not submit its recommendation to the**
16 **Environmental Protection Agency on the manner in which data will be gathered for the**
17 **designation process that is inconsistent with the elections made by affected sources under**
18 **this section. Where affected sources have elected to monitor under this section, the**
19 **department shall submit recommendations for the designation process by the date set by**
20 **a final, effective, and applicable Environmental Protection Agency requirement relating**
21 **to state attainment designations and not prior.**

22 **3. The department shall consider all ambient air quality monitoring network data**
23 **collected under subsection 1 of this section and under any agreement authorized under this**
24 **subsection prior to proposing to the commission any sulfur dioxide limitation, emission**
25 **reduction requirement, or other requirement for purposes of the one-hour sulfur dioxide**
26 **National Ambient Air Quality Standard for any electric generating source that has elected**
27 **to install a monitoring network under this section, except:**

28 **(1) The department may propose to the commission any sulfur dioxide limitations**
29 **or emission reduction requirements specifically agreed to in any voluntary agreement**
30 **entered into between the department and any owner of an electric generating source that**
31 **has elected to install a monitoring network under this section; and**

32 **(2) The department may propose to the commission any adjustments to the sulfur**
33 **dioxide limitations or emission reduction requirements applicable to any electric**
34 **generating source located in a sulfur dioxide nonattainment area and subject to an**
35 **agreement under subdivision (1) of this subsection, as justified by an ambient air quality**
36 **analysis relying on no fewer than two quarters of monitored data collected through the**
37 **monitoring network allowable under subsection 1 of this section and consistent with such**
38 **agreement.**

39 **4. Nothing in this section shall prohibit the department from entering into an**
40 **agreement with an owner of an electric generating source to limit or reduce sulfur dioxide**
41 **emissions at such affected source that is below the source's permitted sulfur dioxide**
42 **emission rate.**

644.011. Whereas the pollution of the waters of this state constitutes a menace to public health and welfare, creates a public nuisance, is harmful to wildlife, fish and aquatic life and impairs domestic, agricultural, industrial, recreational and other legitimate uses of water, and whereas the problem of water pollution in this state is closely related to the problem of water pollution in adjoining states, and whereas this state must possess the authority required of states in the Federal Water Pollution Control Act as amended if it is to retain control of its water pollution control programs, it is hereby declared to be the public policy of this state to conserve the waters of the state and to protect, maintain, and improve the quality thereof for public water supplies and for domestic, agricultural, industrial, recreational and other legitimate beneficial uses and for the propagation of wildlife, fish and aquatic life; to provide that no waste be discharged into any waters of the state without first receiving the necessary treatment or other corrective action to protect the legitimate beneficial uses of such waters and meet the requirements of the Federal Water Pollution Control Act as amended; to provide for the prevention, abatement and control of new or existing water pollution; and to cooperate with other agencies of the state, agencies of other states, the federal government and any other persons in carrying out these objectives. **It is also the policy of this state to strive to meet these objectives while maintaining maximum employment and full industrial development of the state. The commission shall seek the accomplishment of these objectives through the prevention, abatement, and control of water pollution by all practical and economically feasible methods.**

644.016. When used in sections 644.006 to 644.141 and in standards, rules and regulations promulgated pursuant to sections 644.006 to 644.141, the following words and phrases mean:

- (1) "Aquaculture facility", a hatchery, fish farm, or other facility used for the production of aquatic animals that is required to have a permit pursuant to the federal Clean Water Act, as amended, 33 U.S.C. 1251, et seq.;
- (2) "Commission", the clean water commission of the state of Missouri created in section 644.021;
- (3) "Conference, conciliation and persuasion", a process of verbal or written communications consisting of meetings, reports, correspondence or telephone conferences between authorized representatives of the department and the alleged violator. The process shall, at a minimum, consist of one offer to meet with the alleged violator tendered by the department. During any such meeting, the department and the alleged violator shall negotiate in good faith to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance;
- (4) "Department", the department of natural resources;
- (5) "Director", the director of the department of natural resources;

- 17 (6) "Discharge", the causing or permitting of one or more water contaminants to enter
18 the waters of the state;
- 19 (7) "Effluent control regulations", limitations on the discharge of water contaminants;
- 20 (8) "General permit", a permit written with a standard group of conditions and with
21 applicability intended for a designated category of water contaminant sources that have the same
22 or similar operations, discharges and geographical locations, and that require the same or similar
23 monitoring, and that would be more appropriately controlled pursuant to a general permit rather
24 than pursuant to a site-specific permit;
- 25 (9) "General permit template", a draft general permit that is being developed through a
26 public participation process;
- 27 (10) "Human sewage", human excreta and wastewater, including bath and toilet waste,
28 residential laundry waste, residential kitchen waste, and other similar waste from household or
29 establishment appurtenances;
- 30 (11) "Income" includes retirement benefits, consultant fees, and stock dividends;
- 31 (12) "Minor violation", a violation which possesses a small potential to harm the
32 environment or human health or cause pollution, was not knowingly committed, and is not
33 defined by the United States Environmental Protection Agency as other than minor;
- 34 (13) "Permit by rule", a permit granted by rule, not by a paper certificate, and
35 conditioned by the permit holder's compliance with commission rules;
- 36 (14) "Permit holders or applicants for a permit" shall not include officials or employees
37 who work full time for any department or agency of the state of Missouri;
- 38 (15) "Person", any individual, partnership, copartnership, firm, company, public or
39 private corporation, association, joint stock company, trust, estate, political subdivision, or any
40 agency, board, department, or bureau of the state or federal government, or any other legal entity
41 whatever which is recognized by law as the subject of rights and duties;
- 42 (16) "Point source", any discernible, confined and discrete conveyance, including but not
43 limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock,
44 concentrated animal feeding operation, or vessel or other floating craft, from which pollutants
45 are or may be discharged. Point source does not include agricultural storm water discharges and
46 return flows from irrigated agriculture;
- 47 (17) "Pollution", such contamination or other alteration of the physical, chemical or
48 biological properties of any waters of the state, including change in temperature, taste, color,
49 turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or
50 other substance into any waters of the state as will or is reasonably certain to create a nuisance
51 or render such waters harmful, detrimental or injurious to public health, safety or welfare, or to

52 domestic, industrial, agricultural, recreational, or other legitimate beneficial uses, or to wild
53 animals, birds, fish or other aquatic life;

54 (18) "Pretreatment regulations", limitations on the introduction of pollutants or water
55 contaminants into publicly owned treatment works or facilities which the commission determines
56 are not susceptible to treatment by such works or facilities or which would interfere with their
57 operation, except that wastes as determined compatible for treatment pursuant to any federal
58 water pollution control act or guidelines shall be limited or treated pursuant to this chapter only
59 as required by such act or guidelines;

60 (19) "Residential housing development", any land which is divided or proposed to be
61 divided into three or more lots, whether contiguous or not, for the purpose of sale or lease as part
62 of a common promotional plan for residential housing;

63 (20) "Sewer system", pipelines or conduits, pumping stations, and force mains, and all
64 other structures, devices, appurtenances and facilities used for collecting or conducting wastes
65 to an ultimate point for treatment or handling;

66 (21) "Significant portion of his or her income" shall mean ten percent of gross personal
67 income for a calendar year, except that it shall mean fifty percent of gross personal income for
68 a calendar year if the recipient is over sixty years of age, and is receiving such portion pursuant
69 to retirement, pension, or similar arrangement;

70 (22) "Site-specific permit", a permit written for discharges emitted from a single water
71 contaminant source and containing specific conditions, monitoring requirements and effluent
72 limits to control such discharges;

73 (23) "Treatment facilities", any method, process, or equipment which removes, reduces,
74 or renders less obnoxious water contaminants released from any source;

75 (24) "Water contaminant", any particulate matter or solid matter or liquid or any gas or
76 vapor or any combination thereof, or any temperature change which is in or enters any waters
77 of the state either directly or indirectly by surface runoff, by sewer, by subsurface seepage or
78 otherwise, which causes or would cause pollution upon entering waters of the state, or which
79 violates or exceeds any of the standards, regulations or limitations set forth in sections 644.006
80 to 644.141 or any federal water pollution control act, or is included in the definition of pollutant
81 in such federal act;

82 (25) "Water contaminant source", the point or points of discharge from a single tract of
83 property on which is located any installation, operation or condition which includes any point
84 source defined in sections 644.006 to 644.141 and nonpoint source pursuant to any federal water
85 pollution control act, which causes or permits a water contaminant therefrom to enter waters of
86 the state either directly or indirectly;

87 (26) "Water quality standards", specified concentrations and durations of water
88 contaminants which reflect the relationship of the intensity and composition of water
89 contaminants to potential undesirable effects;

90 (27) "Waters of the state", **all waters within the jurisdiction of this state, including**
91 all rivers, streams, lakes and other bodies of surface and subsurface water lying within or
92 forming a part of the boundaries of the state which are not entirely confined and located
93 completely upon lands owned, leased or otherwise controlled by a single person or by two or
94 more persons jointly or as tenants in common [and includes waters of the United States lying
95 within the state].

644.051. 1. It is unlawful for any person:

2 (1) To cause pollution of any waters of the state or to place or cause or permit to be
3 placed any water contaminant in a location where it is reasonably certain to cause pollution of
4 any waters of the state;

5 (2) To discharge any water contaminants into any waters of the state which reduce the
6 quality of such waters below the water quality standards established by the commission;

7 (3) To violate any pretreatment and toxic material control regulations, or to discharge
8 any water contaminants into any waters of the state which exceed effluent regulations or permit
9 provisions as established by the commission or required by any federal water pollution control
10 act;

11 (4) To discharge any radiological, chemical, or biological warfare agent or high-level
12 radioactive waste into the waters of the state.

13 2. It shall be unlawful for any person to operate, use or maintain any water contaminant
14 or point source in this state that is subject to standards, rules or regulations promulgated pursuant
15 to the provisions of sections 644.006 to 644.141 unless such person holds an operating permit
16 from the commission, subject to such exceptions as the commission may prescribe by rule or
17 regulation. However, no operating permit shall be required of any person for any emission into
18 publicly owned treatment facilities or into publicly owned sewer systems tributary to publicly
19 owned treatment works.

20 3. It shall be unlawful for any person to construct, build, replace or make major
21 modification to any point source or collection system that is principally designed to convey or
22 discharge human sewage to waters of the state, unless such person obtains a construction permit
23 from the commission, except as provided in this section. The following activities shall be
24 excluded from construction permit requirements:

25 (1) Facilities greater than one million gallons per day that are authorized through a local
26 supervised program, and are not receiving any department financial assistance;

27 (2) All sewer extensions or collection projects that are one thousand feet in length or less
28 with fewer than two lift stations;

29 (3) All sewer collection projects that are authorized through a local supervised program;
30 and

31 (4) Any other exclusions the commission may promulgate by rule.

32

33 A construction permit may be required by the department in the following circumstances:

34 (a) Substantial deviation from the commission's design standards;

35 (b) To address noncompliance;

36 (c) When an unauthorized discharge has occurred or has the potential to occur; or

37 (d) To correct a violation of water quality standards.

38 In addition, any point source that proposes to construct an earthen storage structure to hold,
39 convey, contain, store or treat domestic, agricultural, or industrial process wastewater also shall
40 be subject to the construction permit provisions of this subsection. All other construction-related
41 activities at point sources shall be exempt from the construction permit requirements. All
42 activities that are exempted from the construction permit requirement are subject to the following
43 conditions:

44 a. Any point source system designed to hold, convey, contain, store or treat domestic,
45 agricultural or industrial process wastewater shall be designed by a professional engineer
46 registered in Missouri in accordance with the commission's design rules;

47 b. Such point source system shall be constructed in accordance with the registered
48 professional engineer's design and plans; and

49 c. Such point source system may receive a post-construction site inspection by the
50 department prior to receiving operating permit approval. A site inspection may be performed
51 by the department, upon receipt of a complete operating permit application or submission of an
52 engineer's statement of work complete.

53

54 A governmental unit may apply to the department for authorization to operate a local supervised
55 program, and the department may authorize such a program. A local supervised program would
56 recognize the governmental unit's engineering capacity and ability to conduct engineering work,
57 supervise construction and maintain compliance with relevant operating permit requirements.

58 4. Before issuing any permit required by this section, the director shall issue such
59 notices, conduct such hearings, and consider such factors, comments and recommendations as
60 required by sections 644.006 to 644.141 or any federal water pollution control act. The director
61 shall determine if any state or any provisions of any federal water pollution control act the state
62 is required to enforce, any state or federal effluent limitations or regulations, water

63 quality-related effluent limitations, national standards of performance, toxic and pretreatment
64 standards, or water quality standards which apply to the source, or any such standards in the
65 vicinity of the source, are being exceeded, and shall determine the impact on such water quality
66 standards from the source. The director, in order to effectuate the purposes of sections 644.006
67 to 644.141, shall deny a permit if the source will violate any such acts, regulations, limitations
68 or standards or will appreciably affect the water quality standards or the water quality standards
69 are being substantially exceeded, unless the permit is issued with such conditions as to make the
70 source comply with such requirements within an acceptable time schedule.

71 5. The director shall grant or deny the permit within sixty days after all requirements of
72 the Federal Water Pollution Control Act concerning issuance of permits have been satisfied
73 unless the application does not require any permit pursuant to any federal water pollution control
74 act. The director or the commission may require the applicant to provide and maintain such
75 facilities or to conduct such tests and monitor effluents as necessary to determine the nature,
76 extent, quantity or degree of water contaminant discharged or released from the source, establish
77 and maintain records and make reports regarding such determination.

78 6. The director shall promptly notify the applicant in writing of his or her action and if
79 the permit is denied state the reasons [therefor] **for such denial. As provided by sections**
80 **621.250 and 640.013**, the applicant may appeal to the administrative hearing commission from
81 the denial of a permit or from any condition in any permit by filing [notice of appeal] **a petition**
82 with the **administrative hearing** commission within thirty days of the notice of denial or
83 issuance of the permit. After a final action is taken on a new or reissued general permit, a
84 potential applicant for the general permit who can demonstrate that he or she is or may be
85 adversely affected by any permit term or condition may appeal the terms and conditions of the
86 general permit within thirty days of the department's issuance of the general permit. In no event
87 shall a permit constitute permission to violate the law or any standard, rule or regulation
88 promulgated pursuant thereto. **Once the administrative hearing commission has reviewed**
89 **the appeal, the administrative hearing commission shall issue a recommended decision to**
90 **the commission on permit issuance, denial, or any condition of the permit. The commission**
91 **shall issue its own decision, based on the appeal, for permit issuance, denial, or any**
92 **condition of the permit. If the commission changes a finding of fact or conclusion of law**
93 **made by the administrative hearing commission, or modifies or vacates the decision**
94 **recommended by the administrative hearing commission, it shall issue its own decision,**
95 **which shall include findings of fact and conclusions of law. The commission shall mail**
96 **copies of its final decision to the parties to the appeal or their counsel of record. The**
97 **commission's decision shall be subject to judicial review pursuant to chapter 536, except**
98 **that the court of appeals district with territorial jurisdiction coextensive with the county**

99 **where the point source is to be located, shall have original jurisdiction. No judicial review**
100 **shall be available until and unless all administrative remedies are exhausted.**

101 7. In any hearing held pursuant to this section that involves a permit, license, or
102 registration, the burden of proof is on the party specified in section 640.012. Any decision of the
103 commission made pursuant to a hearing held pursuant to this section is subject to judicial review
104 as provided in section 644.071.

105 8. In any event, no permit issued pursuant to this section shall be issued if properly
106 objected to by the federal government or any agency authorized to object pursuant to any federal
107 water pollution control act unless the application does not require any permit pursuant to any
108 federal water pollution control act.

109 9. Permits may be modified, reissued, or terminated at the request of the permittee. All
110 requests shall be in writing and shall contain facts or reasons supporting the request.

111 10. No manufacturing or processing plant or operating location shall be required to pay
112 more than one operating fee. Operating permits shall be issued for a period not to exceed five
113 years after date of issuance, except that general permits shall be issued for a five-year period, and
114 also except that neither a construction nor an annual permit shall be required for a single
115 residence's waste treatment facilities. Applications for renewal of a site-specific operating permit
116 shall be filed at least one hundred eighty days prior to the expiration of the existing permit.
117 Applications seeking to renew coverage under a general permit shall be submitted at least thirty
118 days prior to the expiration of the general permit, unless the permittee has been notified by the
119 director that an earlier application must be made. General permits may be applied for and issued
120 electronically once made available by the director.

121 11. Every permit issued to municipal or any publicly owned treatment works or facility
122 shall require the permittee to provide the clean water commission with adequate notice of any
123 substantial new introductions of water contaminants or pollutants into such works or facility
124 from any source for which such notice is required by sections 644.006 to 644.141 or any federal
125 water pollution control act. Such permit shall also require the permittee to notify the clean water
126 commission of any substantial change in volume or character of water contaminants or pollutants
127 being introduced into its treatment works or facility by a source which was introducing water
128 contaminants or pollutants into its works at the time of issuance of the permit. Notice must
129 describe the quality and quantity of effluent being introduced or to be introduced into such works
130 or facility by a source which was introducing water contaminants or pollutants into its works at
131 the time of issuance of the permit. Notice must describe the quality and quantity of effluent
132 being introduced or to be introduced into such works or facility and the anticipated impact of
133 such introduction on the quality or quantity of effluent to be released from such works or facility
134 into waters of the state.

135 12. The director or the commission may require the filing or posting of a bond as a
136 condition for the issuance of permits for construction of temporary or future water treatment
137 facilities or facilities that utilize innovative technology for wastewater treatment in an amount
138 determined by the commission to be sufficient to ensure compliance with all provisions of
139 sections 644.006 to 644.141, and any rules or regulations of the commission and any condition
140 as to such construction in the permit. For the purposes of this section, "innovative technology
141 for wastewater treatment" shall mean a completely new and generally unproven technology in
142 the type or method of its application that bench testing or theory suggest has environmental,
143 efficiency, and cost benefits beyond the standard technologies. No bond shall be required for
144 designs approved by any federal agency or environmental regulatory agency of another state.
145 The bond shall be signed by the applicant as principal, and by a corporate surety licensed to do
146 business in the state of Missouri and approved by the commission. The bond shall remain in
147 effect until the terms and conditions of the permit are met and the provisions of sections 644.006
148 to 644.141 and rules and regulations promulgated pursuant thereto are complied with.

149 13. (1) The department shall issue or deny applications for construction and site-specific
150 operating permits received after January 1, 2001, within one hundred eighty days of the
151 department's receipt of an application. For general construction and operating permit
152 applications received after January 1, 2001, that do not require a public participation process, the
153 department shall issue or deny the permits within sixty days of the department's receipt of an
154 application. For an application seeking coverage under a renewed general permit that does not
155 require an individual public participation process, the director shall issue or deny the permit
156 within sixty days of the director's receipt of the application, or upon issuance of the general
157 permit, whichever is later. In regard to an application seeking coverage under an initial general
158 permit that does not require an individual public participation process, the director shall issue
159 or deny the permit within sixty days of the department's receipt of the application. For an
160 application seeking coverage under a renewed general permit that requires an individual public
161 participation process, the director shall issue or deny the permit within ninety days of the
162 director's receipt of the application, or upon issuance of the general permit, whichever is later.
163 In regard to an application for an initial general permit that requires an individual public
164 participation process, the director shall issue or deny the permit within ninety days of the
165 director's receipt of the application.

166 (2) If the department fails to issue or deny with good cause a construction or operating
167 permit application within the time frames established in subdivision (1) of this subsection, the
168 department shall refund the full amount of the initial application fee within forty-five days of
169 failure to meet the established time frame. If the department fails to refund the application fee

170 within forty-five days, the refund amount shall accrue interest at a rate established pursuant to
171 section 32.065.

172 (3) Permit fee disputes may be appealed to the commission within thirty days of the date
173 established in subdivision (2) of this subsection. If the applicant prevails in a permit fee dispute
174 appealed to the commission, the commission may order the director to refund the applicant's
175 permit fee plus interest and reasonable attorney's fees as provided in sections 536.085 and
176 536.087. A refund of the initial application or annual fee does not waive the applicant's
177 responsibility to pay any annual fees due each year following issuance of a permit.

178 (4) No later than December 31, 2001, the commission shall promulgate regulations
179 defining shorter review time periods than the time frames established in subdivision (1) of this
180 subsection, when appropriate, for different classes of construction and operating permits. In no
181 case shall commission regulations adopt permit review times that exceed the time frames
182 established in subdivision (1) of this subsection. The department's failure to comply with the
183 commission's permit review time periods shall result in a refund of said permit fees as set forth
184 in subdivision (2) of this subsection. On a semiannual basis, the department shall submit to the
185 commission a report which describes the different classes of permits and reports on the number
186 of days it took the department to issue each permit from the date of receipt of the application and
187 show averages for each different class of permits.

188 (5) During the department's technical review of the application, the department may
189 request the applicant submit supplemental or additional information necessary for adequate
190 permit review. The department's technical review letter shall contain a sufficient description of
191 the type of additional information needed to comply with the application requirements.

192 (6) Nothing in this subsection shall be interpreted to mean that inaction on a permit
193 application shall be grounds to violate any provisions of sections 644.006 to 644.141 or any rules
194 promulgated pursuant to sections 644.006 to 644.141.

195 14. The department shall respond to all requests for individual certification under Section
196 401 of the Federal Clean Water Act within the lesser of sixty days or the allowed response period
197 established pursuant to applicable federal regulations without request for an extension period
198 unless such extension is determined by the commission to be necessary to evaluate significant
199 impacts on water quality standards and the commission establishes a timetable for completion
200 of such evaluation in a period of no more than one hundred eighty days.

201 15. All permit fees generated pursuant to this chapter shall not be used for the
202 development or expansion of total maximum daily loads studies on either the Missouri or
203 Mississippi rivers.

204 16. The department shall implement permit shield provisions equivalent to the permit
205 shield provisions implemented by the U.S. Environmental Protection Agency pursuant to the

206 Clean Water Act, Section 402(k), 33 U.S.C. Section 1342(k), and its implementing regulations,
207 for permits issued pursuant to chapter 644.

208 17. Prior to the development of a new general permit or reissuance of a general permit
209 for aquaculture, land disturbance requiring a storm water permit, or reissuance of a general
210 permit under which fifty or more permits were issued under a general permit during the
211 immediately preceding five-year period for a designated category of water contaminant sources,
212 the director shall implement a public participation process complying with the following
213 minimum requirements:

214 (1) For a new general permit or reissuance of a general permit, a general permit template
215 shall be developed for which comments shall be sought from permittees and other interested
216 persons prior to issuance of the general permit;

217 (2) The director shall publish notice of his intent to issue a new general permit or reissue
218 a general permit by posting notice on the department's website at least one hundred eighty days
219 before the proposed effective date of the general permit;

220 (3) The director shall hold a public informational meeting to provide information on
221 anticipated permit conditions and requirements and to receive informal comments from
222 permittees and other interested persons. The director shall include notice of the public
223 informational meeting with the notice of intent to issue a new general permit or reissue a general
224 permit under subdivision (2) of this subsection. The notice of the public informational meeting,
225 including the date, time and location, shall be posted on the department's website at least thirty
226 days in advance of the public meeting. If the meeting is being held for reissuance of a general
227 permit, notice shall also be made by electronic mail to all permittees holding the current general
228 permit which is expiring. Notice to current permittees shall be made at least twenty days prior
229 to the public meeting;

230 (4) The director shall hold a thirty-day public comment period to receive comments on
231 the general permit template with the thirty-day comment period expiring at least sixty days prior
232 to the effective date of the general permit. Scanned copies of the comments received during the
233 public comment period shall be posted on the department's website within five business days
234 after close of the public comment period;

235 (5) A revised draft of a general permit template and the director's response to comments
236 submitted during the public comment period shall be posted on the department's website at least
237 forty-five days prior to issuance of the general permit. At least forty-five days prior to issuance
238 of the general permit the department shall notify all persons who submitted comments to the
239 department that these documents have been posted to the department's website;

240 (6) Upon issuance of a new or renewed general permit, the general permit shall be posted
241 to the department's website.

242 18. Notices required to be made by the department pursuant to subsection 17 of this
243 section may be made by electronic mail. The department shall not be required to make notice
244 to any permittee or other person who has not provided a current electronic mail address to the
245 department. In the event the department chooses to make material modifications to the general
246 permit before its expiration, the department shall follow the public participation process
247 described in subsection 17 of this section.

248 19. The provisions of subsection 17 of this section shall become effective beginning
249 January 1, 2013.

644.056. 1. The director shall cause investigations to be made upon the request of the
2 commission or upon receipt of information concerning alleged violations of sections 644.006 to
3 644.141 or any standard, limitation, order, rule or regulation promulgated pursuant thereto, or
4 any term or condition of any permit and may cause to be made any other investigations he or she
5 deems advisable. Violations shall include obtaining a permit by misrepresentation or failure to
6 fully disclose all relevant facts.

7 2. If, in the opinion of the director, the investigation discloses that a violation does exist,
8 the director may, by conference, conciliation or persuasion, endeavor to eliminate the violation.

9 3. In case of the failure by conference, conciliation or persuasion to correct or remedy
10 any claimed violation, or as required to immediately and effectively halt or eliminate any
11 imminent or substantial endangerments to the health or welfare of persons resulting from the
12 discharge of pollutants, the director [shall] **may** order abatement [or file an abatement complaint
13 with the commission if no permit has been issued, or in addition may file a complaint to revoke
14 a permit if such permit has been issued] **or request legal action by the attorney general**. When
15 the director files a complaint, the commission shall order a hearing. The director shall cause to
16 have issued and served upon the person complained against a written notice of the order or
17 complaint, together with a copy of the order or complaint, which shall specify the provision of
18 sections 644.006 to 644.141 or the standard, rule, limitation, or regulation adopted pursuant
19 thereto, or the condition of the permit of which the person is alleged to be in violation, and a
20 statement of the manner in which and the extent to which the person is alleged to violate sections
21 644.006 to 644.141 or the standard, rule, limitation, or regulation, or condition of the permit.
22 In any case involving a complaint, the commission shall require the person complained against
23 to answer the charges of the formal complaint at a hearing before the commission at a time not
24 less than thirty days after the date of notice. Service may be made upon any person within or
25 without the state by registered mail, return receipt requested. Any person against whom the
26 director issues an order may appeal the order to the commission within thirty days and the appeal
27 shall stay the enforcement of the order until final determination by the commission. The
28 commission shall set appeals for a hearing at a time not less than thirty days after the date of the

29 request. The commission may sustain, reverse, or modify the director's order or may make such
30 other orders as the commission deems appropriate under the circumstances. If any order issued
31 by the director is not appealed within the time provided in this section, the order becomes final
32 and may be enforced as provided in section 644.076. **When the commission schedules a**
33 **matter for hearing, the petitioner on appeal or the respondent to a formal complaint may**
34 **appear at the hearing in person or by counsel, and may make oral argument, offer**
35 **testimony and evidence, and cross-examine witnesses. After due consideration of the**
36 **record, or upon default in appearance of the respondent on the return day specified in the**
37 **notice given as provided in this subsection, the commission shall issue and enter such final**
38 **order, or make such final determination as it deems appropriate under the circumstances,**
39 **and it shall immediately notify the petitioner or respondent thereof in writing by certified**
40 **or registered mail.**

41 4. Permits may be **revoked**, terminated, or modified if obtained in violation of sections
42 644.006 to 644.141 or by misrepresentation or failing to fully disclose all relevant facts, or when
43 required to prevent violations of any provision of sections 644.006 to 644.141, or to protect the
44 waters of this state, when such action is required by a change in conditions or the existence of
45 a condition which requires either a temporary or permanent reduction or elimination of the
46 authorized discharge, subject to the right of appeal contained in [this section] **sections 621.250**
47 **and 640.013.**

48 5. [When the commission schedules a matter for hearing, the petitioner on appeal or the
49 respondent to a formal complaint may appear at the hearing in person or by counsel, and may
50 make oral argument, offer testimony and evidence, and cross-examine witnesses.

51 6. After due consideration of the record, or upon default in appearance of the respondent
52 on the return day specified in the notice given as provided in subsection 3, the commission shall
53 issue and enter such final order, or make such final determination as it deems appropriate under
54 the circumstances, and it shall immediately notify the petitioner or respondent thereof in writing
55 by certified or registered mail.] **Whenever a permit under this chapter is revoked,**
56 **terminated, or modified by the department of natural resources, the applicant, by petition**
57 **filed with the administrative hearing commission within thirty days of the decision, may**
58 **appeal such decision as provided by sections 621.250 and 640.013. Once the administrative**
59 **hearing commission has reviewed the appeal, the administrative hearing commission shall**
60 **issue a recommended decision to the commission on permit revocation, termination, or**
61 **modification. The commission shall issue its own decision, based on the appeal, for permit**
62 **revocation, termination, or modification. If the commission changes a finding of fact or**
63 **conclusion of law made by the administrative hearing commission, or modifies or vacates**
64 **the decision recommended by the administrative hearing commission, it shall issue its own**

65 **decision, which shall include findings of fact and conclusions of law. The commission shall**
66 **mail copies of its final decision to the parties to the appeal or their counsel of record. The**
67 **commission's decision shall be subject to judicial review pursuant to chapter 536, except**
68 **that the court of appeals district with territorial jurisdiction coextensive with the county**
69 **where the point source is located or is to be located shall have original jurisdiction. No**
70 **judicial review shall be available until and unless all administrative remedies are**
71 **exhausted.**

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

10 2. (1) The department of natural resources shall not be required under this section to
11 make a finding of affordability when:

12 (a) Issuing collection system extension permits;

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

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

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

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

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

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

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

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

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

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

52 (3) An evaluation of the overall costs and environmental benefits of the control
53 technologies;

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

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

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

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

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

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

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

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

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

84 7. If the department of natural resources fails to make a finding of affordability where
85 required by this section, then the resulting permit or decision shall be null, void and
86 unenforceable.

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

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

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

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

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

- 102 (4) A list of all the permit holders receiving findings, and for each permittee the
103 following data taken from the finding of affordability shall be listed:
- 104 (a) Current and projected monthly residential sewer rates in dollars;
 - 105 (b) Projected monthly residential sewer rates as a percentage of median [house]
106 **household** income;
 - 107 (c) Percentage of households at or below the state poverty rate.

✓