

# SENATE BILL NO. 1139

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BRATTIN.

4448S.01H

KRISTINA MARTIN, Secretary

## AN ACT

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

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

Section A. Section 260.205, RSMo, is repealed and one new  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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

✓