

CONFERENCE COMMITTEE SUBSTITUTE *NO. 2*

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 152

AN ACT

To repeal sections 29.380, 260.200, 260.225, 260.250, 260.320, 260.325, 260.330, 260.335, and 260.345, RSMo, and to enact in lieu thereof eleven new sections relating to environmental protection.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1           Section A. Sections 29.380, 260.200, 260.225, 260.250,  
2           260.320, 260.325, 260.330, 260.335, and 260.345, RSMo, are  
3           repealed and eleven new sections enacted in lieu thereof, to be  
4           known as sections 29.380, 260.200, 260.225, 260.250, 260.320,  
5           260.324, 260.325, 260.330, 260.335, 260.345, and 643.650, to read  
6           as follows:

7           29.380. 1. The state auditor shall have the authority to  
8           audit solid waste management districts created under section  
9           260.305 in the same manner as the auditor may audit any agency of  
10          the state.

11          2. Beginning August 28, [2012] 2015, the state auditor  
12          [shall conduct an audit of each solid waste management district  
13          created under section 260.305 and thereafter shall] may conduct

1 audits of [each] solid waste management [district] districts as  
2 he or she deems necessary. The state auditor may request  
3 reimbursement from the district for the costs of conducting the  
4 audit. If the auditor requests such reimbursement, the solid  
5 waste management district shall reimburse the auditor for the  
6 costs of conducting the audit and the moneys shall be deposited  
7 in the petition audit revolving trust fund created under section  
8 29.230. Such reimbursement shall be limited to two percent of  
9 the solid waste management district's annual monetary allocation.

10 260.200. 1. The following words and phrases when used in  
11 sections 260.200 to 260.345 shall mean:

12 (1) "Alkaline-manganese battery" or "alkaline battery", a  
13 battery having a manganese dioxide positive electrode, a zinc  
14 negative electrode, an alkaline electrolyte, including  
15 alkaline-manganese button cell batteries intended for use in  
16 watches, calculators, and other electronic products, and  
17 larger-sized alkaline-manganese batteries in general household  
18 use;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 c. A listing of license or permit suspensions, revocations,

1 or denials issued by any state, the federal government or a  
2 county or county equivalent, which are pending or have concluded  
3 with a finding of violation or entry of a consent agreement  
4 regarding an allegation of civil or criminal violation of law,  
5 regulation or requirement relating to the collection, transfer,  
6 treatment, processing, storage, or disposal of solid waste or  
7 violation of the environmental statutes of other states or  
8 federal statutes;

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

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

22 (16) "Financial assurance instrument", an instrument or  
23 instruments, including, but not limited to, cash or surety bond,  
24 letters of credit, corporate guarantee or secured trust fund,  
25 submitted by the applicant to ensure proper closure and  
26 postclosure care and corrective action of a solid waste disposal  
27 area in the event that the operator fails to correctly perform  
28 closure and postclosure care and corrective action requirements,

1 except that the financial test for the corporate guarantee shall  
2 not exceed one and one-half times the estimated cost of closure  
3 and postclosure. The form and content of the financial assurance  
4 instrument shall meet or exceed the requirements of the  
5 department. The instrument shall be reviewed and approved or  
6 disapproved by the attorney general;

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

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

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

21 (20) "Household consumer used motor oil collection system",  
22 any used motor oil collection center at publicly owned facilities  
23 or private locations, any curbside collection of household  
24 consumer used motor oil, or any other household consumer used  
25 motor oil collection program determined by the department to  
26 further the purposes of sections 260.200 to 260.345;

27 (21) "Infectious waste", waste in quantities and  
28 characteristics as determined by the department by rule,

1 including isolation wastes, cultures and stocks of etiologic  
2 agents, blood and blood products, pathological wastes, other  
3 wastes from surgery and autopsy, contaminated laboratory wastes,  
4 sharps, dialysis unit wastes, discarded biologicals known or  
5 suspected to be infectious; provided, however, that infectious  
6 waste does not mean waste treated to department specifications;

7 (22) "Key personnel", the applicant itself and any person  
8 employed by the applicant in a managerial capacity, or empowered  
9 to make discretionary decisions with respect to the solid waste  
10 operations of the applicant in Missouri, but shall not include  
11 employees exclusively engaged in the physical or mechanical  
12 collection, transfer, transportation, treatment, processing,  
13 storage, or disposal of solid waste and such other employees as  
14 the director of the department of natural resources may designate  
15 by regulation. If the applicant has not previously conducted  
16 solid waste operations in Missouri, the term also includes any  
17 officer, director, partner of the applicant, or any holder of  
18 seven percent or more of the equity or debt of the applicant. If  
19 any holder of seven percent or more of the equity or debt of the  
20 applicant or of any key personnel is not a natural person, the  
21 term includes all key personnel of that entity, provided that  
22 where such entity is a chartered lending institution or a  
23 reporting company under the federal Securities Exchange Act of  
24 1934, the term does not include key personnel of such entity.  
25 Provided further that the term means the chief executive officer  
26 of any agency of the United States or of any agency or political  
27 subdivision of the state of Missouri, and all key personnel of  
28 any person, other than a natural person, that operates a landfill

1 or other facility for the collection, transfer, treatment,  
2 processing, storage, or disposal of nonhazardous solid waste  
3 under contract with or for one of those governmental entities;

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

8 (24) "Major appliance", clothes washers and dryers, water  
9 heaters, trash compactors, dishwashers, conventional ovens,  
10 ranges, stoves, woodstoves, air conditioners, refrigerators and  
11 freezers;

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

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

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

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

28 (29) "Operator" and "permittee", anyone so designated, and



1 shall include cities, counties, other political subdivisions,  
2 authority, state agency or institution, or federal agency or  
3 institution;

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

7 (31) "Person", any individual, partnership, limited  
8 liability company, corporation, association, trust, institution,  
9 city, county, other political subdivision, authority, state  
10 agency or institution, or federal agency or institution, or any  
11 other legal entity;

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

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

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

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

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

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

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

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

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

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

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

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

26 (44) "Scrap tire processing facility", a site where tires  
27 are reduced in volume by shredding, cutting, or chipping or  
28 otherwise altered to facilitate recycling, resource recovery, or

1 disposal;

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

7 (46) "Solid waste", garbage, refuse and other discarded  
8 materials including, but not limited to, solid and semisolid  
9 waste materials resulting from industrial, commercial,  
10 agricultural, governmental and domestic activities, but does not  
11 include hazardous waste as defined in sections 260.360 to  
12 260.432, recovered materials, overburden, rock, tailings, matte,  
13 slag or other waste material resulting from mining, milling or  
14 smelting;

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

19 (48) "Solid waste fee", a fee imposed pursuant to sections  
20 260.200 to 260.345 and may be:

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

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

25 (49) "Solid waste management area", a solid waste disposal  
26 area which also includes one or more of the functions contained  
27 in the definitions of recycling, resource recovery facility,  
28 waste tire collection center, waste tire processing facility,

1 waste tire site or solid waste processing facility, excluding  
2 incineration;

3 (50) "Solid waste management project", a targeted project  
4 that meets statewide waste reduction and recycling priorities,  
5 and for which no solid waste management district grant applicant  
6 has applied to perform, and for which no qualified applicants  
7 have applied to perform such project by a competitive bid issued  
8 by the solid waste management district for the completion of such  
9 project;

10 (51) "Solid waste management system", the entire process of  
11 managing solid waste in a manner which minimizes the generation  
12 and subsequent disposal of solid waste, including waste  
13 reduction, source separation, collection, storage,  
14 transportation, recycling, resource recovery, volume  
15 minimization, processing, market development, and disposal of  
16 solid wastes;

17 [(51)] (52) "Solid waste processing facility", any  
18 facility where solid wastes are salvaged and processed,  
19 including:

20 (a) A transfer station; or

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

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

25 (d) A plasma arc technology facility;

26 [(52)] (53) "Solid waste technician", an individual who  
27 has successfully completed training in the practical aspects of  
28 the design, operation and maintenance of a permitted solid waste

1 processing facility or solid waste disposal area in accordance  
2 with sections 260.200 to 260.345;

3 [(53)] (54) "Tire", a continuous solid or pneumatic rubber  
4 covering encircling the wheel of any self-propelled vehicle not  
5 operated exclusively upon tracks, or a trailer as defined in  
6 chapter 301, except farm tractors and farm implements owned and  
7 operated by a family farm or family farm corporation as defined  
8 in section 350.010;

9 [(54)] (55) "Used motor oil", any motor oil which, as a  
10 result of use, becomes unsuitable for its original purpose due to  
11 loss of original properties or the presence of impurities, but  
12 used motor oil shall not include ethylene glycol, oils used for  
13 solvent purposes, oil filters that have been drained of free  
14 flowing used oil, oily waste, oil recovered from oil tank  
15 cleaning operations, oil spilled to land or water, or industrial  
16 nonlube oils such as hydraulic oils, transmission oils, quenching  
17 oils, and transformer oils;

18 [(55)] (56) "Utility waste landfill", a solid waste  
19 disposal area used for fly ash waste, bottom ash waste, slag  
20 waste and flue gas emission control waste generated primarily  
21 from the combustion of coal or other fossil fuels;

22 [(56)] (57) "Yard waste", leaves, grass clippings, yard  
23 and garden vegetation and Christmas trees. The term does not  
24 include stumps, roots or shrubs with intact root balls.

25 2. For the purposes of this section and sections 260.270 to  
26 260.279 and any rules in place as of August 28, 2005, or  
27 promulgated under said sections, the term "scrap" shall be used  
28 synonymously with and in place of waste, as it applies only to

1 scrap tires.

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

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

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

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

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

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

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

26 (7) Conduct and contract for research and investigations in  
27 the overall area of solid waste storage, collection, recycling,  
28 recovery, processing, transportation and disposal, including, but

1 not limited to, new and novel procedures;

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

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

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

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

17 2. The department shall prepare model solid waste  
18 management plans suitable for rural and urban areas which may be  
19 used by districts, counties and cities. In preparing the model  
20 plans, the department shall consider the findings and  
21 recommendations of the study of resource recovery conducted  
22 pursuant to section 260.038, and other relevant information. The  
23 plans shall conform with the requirements of section 260.220 and  
24 section 260.325 and shall:

25 (1) Emphasize waste reduction and recycling;

26 (2) Provide for economical waste management through  
27 regional and district cooperation;

28 (3) Be designed to achieve a reduction of forty percent in

1 solid waste disposed, by weight, by January 1, 1998;

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

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

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

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

12 4. No rule or portion of a rule promulgated under the  
13 authority of sections 260.200 to 260.345 shall become effective  
14 unless it has been promulgated pursuant to the provisions of  
15 section 536.024.

16 5. In coordination with other appropriate state agencies,  
17 including, but not limited to, the division of commerce and  
18 industrial development, the office of administration, the  
19 environmental improvement and energy resource authority, and the  
20 public service commission, the department shall perform the  
21 following duties in order to promote resource recovery in the  
22 state in ways which are economically feasible:

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

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



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

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

6           (5) Initiate recycling programs within state government;

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

12           (7) Identify barriers to resource recovery and resource  
13 conservation, and propose remedies to these barriers; and

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

16           260.250. 1. After January 1, 1991, major appliances, waste  
17 oil and lead-acid batteries shall not be disposed of in a solid  
18 waste disposal area. After January 1, 1992, yard waste shall not  
19 be disposed of in a solid waste disposal area, except as  
20 otherwise provided in this subsection. After August 28, 2007,  
21 yard waste may be disposed of in a municipal solid waste disposal  
22 area or portion of a municipal solid waste disposal area provided  
23 that:

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

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

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

3           3. Each solid waste management district[, county and city]  
4 shall address the recycling, reuse and handling of aluminum  
5 containers, glass containers, newspapers, textiles, whole tires,  
6 plastic beverage containers and steel containers in its solid  
7 waste management plan consistent with sections 260.250 to  
8 260.345.

9           260.320. 1. The executive board shall meet within thirty  
10 days after the selection of the initial members. The time and  
11 place of the first meeting of the board shall be designated by  
12 the council. A majority of the members of the board shall  
13 constitute a quorum. At its first meeting the board shall elect  
14 a chairman from its members and select a secretary, treasurer and  
15 such officers or employees as it deems expedient or necessary for  
16 the accomplishment of its purposes. The secretary and treasurer  
17 need not be members of the board.

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

1           3. The executive board shall:

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

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

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

12           (4) Establish an education program to inform the public  
13 about responsible solid waste management practices;

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

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

19           (7) Appoint one or more geographically balanced advisory  
20 committees composed of the representatives of commercial  
21 generators, representatives of the solid waste management  
22 industry, and two citizens unaffiliated with a solid waste  
23 facility or operation to assess and make recommendations on solid  
24 waste management.

25           4. The executive board may enter into contracts with any  
26 person or entity for services related to any component of the  
27 solid waste management system. Bid specifications for solid  
28 waste management services shall be designed to meet the

1 objectives of sections 260.200 to 260.345, encourage small  
2 businesses to engage and compete in the delivery of solid waste  
3 management services and to minimize the long-run cost of managing  
4 solid waste. Bid specifications shall enumerate the minimum  
5 components and minimum quantities of waste products which shall  
6 be recycled by the successful bidder. The board shall divide the  
7 district into units to maximize access for small businesses when  
8 it requests bids for solid waste management services, but in no  
9 case shall a district executive board perform solid waste  
10 management projects that compete with a qualified private  
11 enterprise.

12 5. No person shall serve as a member of the council or of  
13 the executive board who is a stockholder, officer, agent,  
14 attorney or employee or who is in any way pecuniarily interested  
15 in any business which engages in any aspect of solid waste  
16 management regulated under sections 260.200 to 260.345; provided,  
17 however, that such member may own stock in a publicly traded  
18 corporation which may be involved in solid waste management as  
19 long as such holdings are not substantial.

20 260.324. 1. Any person or entity that applies for a grant  
21 under section 260.335 shall not be disqualified from receiving  
22 such grant on the basis that there exists a familial relationship  
23 between the applicant and any member of the solid waste  
24 management district executive board within the fourth degree by  
25 consanguinity or affinity. For applicants with a familial  
26 relationship with any member of the solid waste management  
27 district executive board within the fourth degree by  
28 consanguinity or affinity, the solid waste management district

1 executive board shall only approve such grant application if  
2 approved by a vote of two-thirds of the solid waste management  
3 district executive board.

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

12 260.325. 1. The executive board of each district shall  
13 submit to the department a plan which has been approved by the  
14 council for a solid waste management system serving areas within  
15 its jurisdiction and shall, from time to time, submit officially  
16 adopted revisions of its plan as it deems necessary or the  
17 department may require. In developing the district's solid waste  
18 management plan, the board shall consider the model plan  
19 distributed to the board pursuant to section 260.225. Districts  
20 may contract with a licensed professional engineer or as provided  
21 in chapter 70 for the development and submission of a joint plan.

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

26 3. The solid waste management plan shall be submitted to  
27 the department within eighteen months of the formation of the  
28 district. The plan shall be prepared and submitted according to

1 the procedures specified in section 260.220 and this section.

2 4. Each plan shall:

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

5 (2) Reasonably conform to the rules and regulations adopted  
6 by the department for implementation of sections 260.200 to  
7 260.345;

8 (3) Delineate provisions for the collection of recyclable  
9 materials or collection points for recyclable materials;

10 (4) Delineate provisions for the collection of compostable  
11 materials or collection points for compostable materials;

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

15 (6) Delineate provisions for the orderly extension of solid  
16 waste management services in a manner consistent with the needs  
17 of the district, including economic impact, and in a manner which  
18 will minimize degradation of the waters or air of the state,  
19 prevent public nuisances or health hazards, promote recycling and  
20 waste minimization and otherwise provide for the safe and  
21 sanitary management of solid waste;

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

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

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

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

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

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

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

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

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

24           6. In the event any plan or part thereof is disapproved,  
25 the department shall furnish any and all reasons for such  
26 disapproval and shall offer assistance for correcting  
27 deficiencies. The executive board shall within sixty days revise  
28 and resubmit the plan for approval or request a hearing in

1 accordance with section 260.235. Any plan submitted by a  
2 district shall stand approved one hundred twenty days after  
3 submission unless the department disapproves the plan or some  
4 provision thereof.

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

9 8. [The provisions of section 260.215 to the contrary  
10 notwithstanding, any county within a region which on or after  
11 January 1, 1995, is not a member of a district shall by June 30,  
12 1995, submit a solid waste management plan to the department of  
13 natural resources. Any county which withdraws from a district  
14 and all cities within the county with a population over five  
15 hundred shall submit a solid waste plan or a revision to an  
16 existing plan to the department of natural resources within one  
17 hundred eighty days of its decision not to participate. The plan  
18 shall meet the requirements of section 260.220 and this section.

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

22 [10.] 9. Based upon the financial assistance amounts set  
23 forth in this section, the district executive board shall arrange  
24 for an independent financial [audits] statement audit of the  
25 records and accounts of its operations by a certified public  
26 accountant or a firm of certified public accountants. Districts  
27 receiving [two] more than eight hundred thousand dollars [or  
28 more] of financial assistance annually shall have annual



1 independent financial statement audits [and]; districts receiving  
2 [less than] between two hundred fifty thousand dollars and eight  
3 hundred thousand dollars of financial assistance annually shall  
4 have a biennial independent financial [audits at least once every  
5 two years. The state auditor may examine the findings of such  
6 audits and may conduct audits of the districts] statement audit  
7 for the two-year period. All other districts shall be monitored  
8 biennially by the department and, based upon the findings within  
9 the monitoring report, may be required to arrange for an  
10 independent financial statement audit for the biennial monitoring  
11 period under review. Subject to limitations caused by the  
12 availability of resources, the department shall conduct a  
13 performance audit of grants to each district at least once every  
14 [three] five years, or as deemed necessary by the department  
15 based upon district grantee performance.

16 260.330. 1. Except as otherwise provided in subsection 6  
17 of this section, effective October 1, 1990, each operator of a  
18 solid waste sanitary landfill shall collect a charge equal to one  
19 dollar and fifty cents per ton or its volumetric equivalent of  
20 solid waste accepted and each operator of the solid waste  
21 demolition landfill shall collect a charge equal to one dollar  
22 per ton or its volumetric equivalent of solid waste accepted.  
23 Each operator shall submit the charge, less collection costs, to  
24 the department of natural resources for deposit in the "Solid  
25 Waste Management Fund" which is hereby created. On October 1,  
26 1992, and thereafter, the charge imposed herein shall be adjusted  
27 annually by the same percentage as the increase in the general  
28 price level as measured by the Consumer Price Index for All Urban

1 Consumers for the United States, or its successor index, as  
2 defined and officially recorded by the United States Department  
3 of Labor or its successor agency. No annual adjustment shall be  
4 made to the charge imposed under this subsection during October  
5 1, 2005, to October 1, ~~[2017]~~ 2027, except an adjustment amount  
6 consistent with the need to fund the operating costs of the  
7 department and taking into account any annual percentage increase  
8 in the total of the volumetric equivalent of solid waste accepted  
9 in the prior year at solid waste sanitary landfills and  
10 demolition landfills and solid waste to be transported out of  
11 this state for disposal that is accepted at transfer stations.  
12 No annual increase during October 1, 2005, to October 1, ~~[2017]~~  
13 2027, shall exceed the percentage increase measured by the  
14 Consumer Price Index for All Urban Consumers for the United  
15 States, or its successor index, as defined and officially  
16 recorded by the United States Department of Labor or its  
17 successor agency and calculated on the percentage of revenues  
18 dedicated under subdivision (1) of subsection 2 of section  
19 260.335. Any such annual adjustment shall only be made at the  
20 discretion of the director, subject to appropriations.  
21 Collection costs shall be established by the department and shall  
22 not exceed two percent of the amount collected pursuant to this  
23 section.

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

26       3. The charges established in this section shall be  
27 enumerated separately from the disposal fee charged by the  
28 landfill and may be passed through to persons who generated the

1 solid waste. Moneys [shall be] transmitted to the department  
2 shall be no less than the amount collected less collection costs  
3 and in a form, manner and frequency as the department shall  
4 prescribe. The provisions of section 33.080 to the contrary  
5 notwithstanding, moneys in the account shall not lapse to general  
6 revenue at the end of each biennium. Failure to collect the  
7 charge does not relieve the operator from responsibility for  
8 transmitting an amount equal to the charge to the department.

9 4. The department may examine or audit financial records  
10 and landfill activity records and measure landfill usage to  
11 verify the collection and transmittal of the charges established  
12 in this section. The department may promulgate by rule and  
13 regulation procedures to ensure and to verify that the charges  
14 imposed herein are properly collected and transmitted to the  
15 department.

16 5. Effective October 1, 1990, any person who operates a  
17 transfer station in Missouri shall transmit a fee to the  
18 department for deposit in the solid waste management fund which  
19 is equal to one dollar and fifty cents per ton or its volumetric  
20 equivalent of solid waste accepted. Such fee shall be applicable  
21 to all solid waste to be transported out of the state for  
22 disposal. On October 1, 1992, and thereafter, the charge imposed  
23 herein shall be adjusted annually by the same percentage as the  
24 increase in the general price level as measured by the Consumer  
25 Price Index for All Urban Consumers for the United States, or its  
26 successor index, as defined and officially recorded by the United  
27 States Department of Labor or its successor agency. No annual  
28 adjustment shall be made to the charge imposed under this

1 subsection during October 1, 2005, to October 1, [2017] 2027,  
2 except an adjustment amount consistent with the need to fund the  
3 operating costs of the department and taking into account any  
4 annual percentage increase in the total of the volumetric  
5 equivalent of solid waste accepted in the prior year at solid  
6 waste sanitary landfills and demolition landfills and solid waste  
7 to be transported out of this state for disposal that is accepted  
8 at transfer stations. No annual increase during October 1, 2005,  
9 to October 1, [2017] 2027, shall exceed the percentage increase  
10 measured by the Consumer Price Index for All Urban Consumers for  
11 the United States, or its successor index, as defined and  
12 officially recorded by the United States Department of Labor or  
13 its successor agency and calculated on the percentage of revenues  
14 dedicated under subdivision (1) of subsection 2 of section  
15 260.335. Any such annual adjustment shall only be made at the  
16 discretion of the director, subject to appropriations. The  
17 department shall prescribe rules and regulations governing the  
18 transmittal of fees and verification of waste volumes transported  
19 out of state from transfer stations. Collection costs shall also  
20 be established by the department and shall not exceed two percent  
21 of the amount collected pursuant to this subsection. A transfer  
22 station with the sole function of separating materials for  
23 recycling or resource recovery activities shall not be subject to  
24 the fee imposed in this subsection.

25 6. Each political subdivision which owns an operational  
26 solid waste disposal area may designate, pursuant to this  
27 section, up to two free disposal days during each calendar year.  
28 On any such free disposal day, the political subdivision shall

1 allow residents of the political subdivision to dispose of any  
2 solid waste which may be lawfully disposed of at such solid waste  
3 disposal area free of any charge, and such waste shall not be  
4 subject to any state fee pursuant to this section. Notice of any  
5 free disposal day shall be posted at the solid waste disposal  
6 area site and in at least one newspaper of general circulation in  
7 the political subdivision no later than fourteen days prior to  
8 the free disposal day.

9 260.335. 1. Each fiscal year eight hundred thousand  
10 dollars from the solid waste management fund shall be made  
11 available, upon appropriation, to the department and the  
12 environmental improvement and energy resources authority to fund  
13 activities that promote the development and maintenance of  
14 markets for recovered materials. Each fiscal year up to two  
15 hundred thousand dollars from the solid waste management fund may  
16 be used by the department upon appropriation for grants to solid  
17 waste management districts for district grants and district  
18 operations. Only those solid waste management districts that are  
19 allocated fewer funds under subsection 2 of this section than if  
20 revenues had been allocated based on the criteria in effect in  
21 this section on August 27, 2004, are eligible for these grants.  
22 An eligible district shall receive a proportionate share of these  
23 grants based on that district's share of the total reduction in  
24 funds for eligible districts calculated by comparing the amount  
25 of funds allocated under subsection 2 of this section with the  
26 amount of funds that would have been allocated using the criteria  
27 in effect in this section on August 27, 2004. The department and  
28 the authority shall establish a joint interagency agreement with

1 the department of economic development to identify state  
2 priorities for market development and to develop the criteria to  
3 be used to judge proposed projects. Additional moneys may be  
4 appropriated in subsequent fiscal years if requested. The  
5 authority shall establish a procedure to measure the  
6 effectiveness of the grant program under this subsection and  
7 shall provide a report to the governor and general assembly by  
8 January fifteenth of each year regarding the effectiveness of the  
9 program.

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

13 (1) Thirty-nine percent of the revenues shall be dedicated,  
14 upon appropriation, to the elimination of illegal solid waste  
15 disposal, to identify and prosecute persons disposing of solid  
16 waste illegally, to conduct solid waste permitting activities, to  
17 administer grants and perform other duties imposed in sections  
18 260.200 to 260.345 and section 260.432. In addition to the  
19 thirty-nine percent of the revenues, the department may receive  
20 any annual increase in the charge during October 1, 2005, to  
21 October 1, [2014] 2027, under section 260.330 and such increases  
22 shall be used solely to fund the operating costs of the  
23 department;

24 (2) Sixty-one percent of the revenues, except any annual  
25 increases in the charge under section 260.330 during October 1,  
26 2005, to October 1, [2014] 2027, which shall be used solely to  
27 fund the operating costs of the department, shall be allocated  
28 [through grants, upon appropriation, to participating cities,

1 counties, and] to solid waste management districts. Revenues to  
2 be allocated under this subdivision shall be divided as follows:  
3 forty percent shall be allocated based on the population of each  
4 district in the latest decennial census, and sixty percent shall  
5 be allocated based on the amount of revenue generated within each  
6 district. For the purposes of this subdivision, revenue  
7 generated within each district shall be determined from the  
8 previous year's data. No more than fifty percent of the revenue  
9 allocable under this subdivision may be allocated to the  
10 districts upon approval of the department for implementation of a  
11 solid waste management plan and district operations, and at least  
12 fifty percent of the revenue allocable to the districts under  
13 this subdivision shall be allocated to the cities and counties of  
14 the district or to persons or entities providing solid waste  
15 management, waste reduction, recycling and related services in  
16 these cities and counties. Each district shall receive a minimum  
17 of seventy-five thousand dollars under this subdivision. After  
18 August 28, [2005] 2015, each district shall receive a minimum of  
19 ninety-five thousand dollars under this subdivision for district  
20 grants and district operations. Each district receiving moneys  
21 under this subdivision shall expend such moneys pursuant to a  
22 solid waste management plan required under section 260.325, and  
23 only in the case that the district is in compliance with planning  
24 requirements established by the department. Moneys shall be  
25 awarded based upon grant applications. The following criteria  
26 may be considered to establish the order of district grant  
27 priority:

28 (a) Grants to facilities of organizations employing

1 individuals with disabilities under sections 178.900 to 178.960  
2 or sections 205.968 to 205.972;

3 (b) Grants for proposals that will promote and maximize the  
4 sharing of district resources;

5 (c) Grants for proposals which provide methods of recycling  
6 and solid waste reduction; and

7 (d) All other grants.

8  
9 Any allocated district moneys remaining in any fiscal year due to  
10 insufficient or inadequate grant applications [may] shall be  
11 reallocated [pursuant to this subdivision] for grant applications  
12 in subsequent years or for solid waste management projects other  
13 than district operations, including a district's next request for  
14 solid waste management project proposals. Any allocated district  
15 moneys remaining after a period of five years shall revert to the  
16 credit of the solid waste management fund created under section  
17 260.330;

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

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

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



1           3. In addition to the criteria listed in this section, the  
2 advisory board created in section 260.345 shall recommend  
3 criteria to be used to allocate grant moneys to districts, cities  
4 and counties. These criteria shall establish a priority for  
5 proposals which provide methods of solid waste reduction and  
6 recycling. The department shall promulgate criteria for  
7 evaluating grants by rule and regulation. Projects of cities and  
8 counties located within a district which are funded by grants  
9 under this section shall conform to the district solid waste  
10 management plan.

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

17           5. Once grants are approved by the solid waste management  
18 district, the district shall submit to the department the  
19 appropriate forms associated with the grant application and any  
20 supporting information to verify that appropriate public notice  
21 procedures were followed, that grant proposals were reviewed and  
22 ranked by the district, and that only eligible costs as set forth  
23 in regulations are to be funded. Within thirty days, the  
24 department shall review the grant application. If the department  
25 finds any deficiencies, or needs more information in order to  
26 evaluate the grant application, the department shall notify the  
27 district in writing. The district shall have an additional  
28 thirty days to respond to the department's request and to submit

1 any additional information to the department. Within thirty days  
2 of receiving additional information, the department shall either  
3 approve or deny the grant application. If the department takes  
4 no action, the grant application shall be deemed approved. The  
5 department, in conjunction with the solid waste advisory board,  
6 shall review the performance of all grant recipients to ensure  
7 that grant moneys were appropriately and effectively expended to  
8 further the purposes of the grant, as expressed in the  
9 recipient's grant application. The grant application shall  
10 contain specific goals and implementation dates, and grant  
11 recipients shall be contractually obligated to fulfill same. The  
12 department may require the recipient to submit periodic reports  
13 and such other data as are necessary, both during the grant  
14 period and up to five years thereafter, to ensure compliance with  
15 this section. The department may audit the records of any  
16 recipient to ensure compliance with this section. Recipients of  
17 grants under sections 260.300 to 260.345 shall maintain such  
18 records as required by the department. If a grant recipient  
19 fails to maintain records or submit reports as required herein,  
20 refuses the department access to the records, or fails to meet  
21 the department's performance standards, the department may  
22 withhold subsequent grant payments, if any, and may compel the  
23 repayment of funds provided to the recipient pursuant to a grant.

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

27 7. If the moneys are not transmitted to the department  
28 within the time frame established by the rule promulgated,

1 interest shall be imposed on the moneys due the department at the  
2 rate of ten percent per annum from the prescribed due date until  
3 payment is actually made. These interest amounts shall be  
4 deposited to the credit of the solid waste management fund.

5 260.345. 1. A state "Solid Waste Advisory Board" is  
6 created within the department of natural resources. The advisory  
7 board shall be composed of the chairman of the executive board of  
8 each of the solid waste management districts or his or her  
9 designee, and other members as provided in this section. Up to  
10 five additional members shall be appointed by the program  
11 director of the solid waste management program of which two  
12 members shall represent the solid waste management industry and  
13 have an economic interest in or activity with any solid waste  
14 facility or operation, one member may represent the solid waste  
15 composting or recycling industry businesses, and the remaining  
16 members shall be public members who have demonstrated interest in  
17 solid waste management issues and shall have no economic interest  
18 in or activity with any solid waste facility or operation but may  
19 own stock in a publicly traded corporation which may be involved  
20 in waste management as long as such holdings are not substantial.  
21 Beginning January 1, 2016, the advisory board shall [advise]  
22 prepare an annual report due on or before January first advising  
23 the department regarding:

24 (1) The efficacy of its technical assistance program;

25 (2) Solid waste management problems experienced by solid  
26 waste management districts;

27 (3) The effects of proposed rules and regulations upon  
28 solid waste management within the districts;

1 (4) Criteria to be used in awarding grants pursuant to  
2 section 260.335;

3 (5) Waste management issues pertinent to the districts;

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

6 (7) Unfunded solid waste management projects; and

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

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

16 3. The advisory board shall hold regular meetings on a  
17 quarterly basis. A special meeting of the advisory board may  
18 occur upon a majority vote of all advisory board members at a  
19 regular quarterly meeting. Reasonable written notice of all  
20 meetings shall be given by the director of the solid waste  
21 management program to all members of the advisory board. A  
22 majority of advisory board members shall constitute a quorum for  
23 the transaction of business. All actions of the advisory board  
24 shall be taken at regular quarterly meetings open to the public.

25 643.650. 1. Any owner of a coal-fired electric generating  
26 source in a National Ambient Air Quality Standards nonattainment  
27 area currently designated as of April 1, 2015, shall develop an  
28 ambient air quality monitoring or modeling network to

1 characterize the sulfur dioxide air quality surrounding the  
2 electric generating source. The network shall adequately monitor  
3 the ambient air quality for sulfur dioxide surrounding the entire  
4 electric generating source and shall operate for not less than  
5 twelve consecutive quarters. The owner of such electric  
6 generating source shall notify the department of the manner in  
7 which it intends to characterize by either modeling or monitoring  
8 the air quality around such source. The location of any  
9 monitoring network installed by the owner of such electric  
10 generating source within a one-hour sulfur dioxide National  
11 Ambient Air Quality Standards nonattainment area shall be  
12 approved by the department.

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

27 3. The department shall consider all ambient air quality  
28 monitoring network data collected under subsection 1 of this

1 section and under any agreement authorized under this subsection  
2 prior to proposing to the commission any sulfur dioxide  
3 limitation, emission reduction requirement, or other requirement  
4 for purposes of the one-hour sulfur dioxide National Ambient Air  
5 Quality Standard for any electric generating source that has  
6 elected to install a monitoring network under this section,  
7 except:

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

14 (2) The department may propose to the commission any  
15 adjustments to the sulfur dioxide limitations or emission  
16 reduction requirements applicable to any electric generating  
17 source located in a sulfur dioxide nonattainment area and subject  
18 to an agreement under subdivision (1) of this subsection, as  
19 justified by an ambient air quality analysis relying on no fewer  
20 than two quarters of monitored data collected through the  
21 monitoring network allowable under subsection 1 of this section  
22 and consistent with such agreement.

23 4. Nothing in this section shall prohibit the department  
24 from entering into an agreement with an owner of an electric  
25 generating source to limit or reduce sulfur dioxide emissions at  
26 such affected source that is below the source's permitted sulfur  
27 dioxide emission rate.

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Wayne Wallingford

Rocky Miller