



A qualified groundwater scientist must determine the occurrence, thickness, depth and lateral extent of the uppermost confining unit beneath the proposed solid-waste disposal area. If the uppermost confining unit is more than 150 feet below the lowest anticipated sub-base grade, the GSP will determine the need for characterization of the unit. If the thickness of the confining unit is greater than 50 feet, the depth of drilling required will be determined by GSP. The hydraulic conductivity of the uppermost confining bed must be determined by *in situ* tests in at least one out of every two, but a minimum of five, borings that penetrate the confining unit.

For investigation of horizontal expansions and investigations near previously existing disposal areas, piezometers and borings must be located within 500 feet of the limits of the existing filled area such that there is a minimum of one piezometer per 400 lineal feet extending along the periphery of the existing filled area. As determined by the GSP, if geologic structures or features are present or suspected, one piezometer/boring must be installed per 200 lineal feet along the periphery of the existing filled area. Piezometers will not be installed within the boundary of the pre-existing waste.

Records (Field Notes)

The geologic materials in each boring, exploration pit, piezometer or well must be logged in detail during drilling or excavation by a qualified groundwater scientist. The qualified groundwater scientist must describe and record the physical and lithologic characteristics of each geologic material encountered as well as other information pertaining to drilling or excavation. Field logs and notes pertaining to the field investigation shall be retained by the applicant or owner/operator of a permitted solid waste disposal area until closure.

At a minimum, a qualified groundwater scientist must, in the field, note on a descriptive log the following:

1. Texture of geologic material
2. Color (qualitative descriptions - include mottling) of geologic material
3. Relative degree of saturation (description)
4. Voids
5. Geologic origin
6. Secondary permeability features
7. Zones of incomplete sample recovery
8. Depth at which water is encountered
9. Depth and rate of drilling fluid gain or loss
10. Type and size of drilling/excavation equipment
11. Drilling rate and penetration rate (blow counts), as appropriate
12. Packer tests (intervals tested and results), as appropriate
13. Start and stop times for drilling/excavation
14. Names of field personnel
15. Date, time, weather conditions
16. Depth to water upon completion

All borings or pits must be observed until the water level has stabilized for at least 24 hours following completion. This observation must determine if groundwater has entered the hole, the depth to water, and, if possible, the water bearing hydrostratigraphic units. During observation all borings and pits must be protected from rainfall and runoff.

Laboratory Analysis

All samples collected for laboratory analyses must be clearly labeled (sampling location - boring/pit number, depth, date of sample) and preserved. Soil samples not destroyed by testing and rock core must be stored, protected from the weather, and available for the GSP's inspection in Missouri until closure.



Laboratory Testing

A laboratory must be retained to conduct geotechnical analyses for each unconsolidated material encountered to verify field observations. The following must be recorded for each sample tested.

1. Texture
2. Color (based on a Munsell color chart - include mottling)
3. Grain size distribution (reported in percent)
4. Soil classification (reported in Unified Soil Classification System)
5. Moisture content (reported in percent)
6. Liquid Limit
7. Plasticity Index
8. Standard Proctor density
9. Names of lab personnel
10. Date

Monitoring Wells

While monitoring wells are not normally required as part of the detailed site investigation, background water quality data will be required prior to operation of a solid-waste disposal facility. The number of monitoring wells required will be dependent upon the presence and number of aquifers monitored and the presence and number of confining beds. Well construction standards and development must be in accordance with 10 CSR 23-4.

A minimum of one monitoring well must be located hydraulically upgradient and three monitoring wells located hydraulically downgradient for each aquifer monitored. These wells must be located outside of but not greater than 500 feet from the anticipated limit of the area. The screen and/or filter-pack must not extend through confining units.

Water Level Data Collection

Measurements of water level, to the nearest hundredth (0.01) of a foot, must be made every month for one year for all wells and piezometers. For sites that meet the conditions pursuant to 10 CSR 80-2.015(1)(A)3 the GSP may allow termination of water-level measurements after six (6) months. Water-level measurements in all wells and piezometers should be made within a 48-hour period, if possible. Additional measurements may be necessary as determined by the GSP.

PRESENTATION OF DATA AND INTERPRETATIONS

The following information must be provided in the order specified below. The report must be prepared under the direction of a qualified groundwater scientist who is a geologist registered in the State of Missouri per RSMo 256.450 through 256.483 and the rules promulgated pursuant thereto. This person must sign and seal the report.

1. Table of Contents
2. Introduction (general information about the site vicinity and the investigation)
 - A. Location:
A written narrative of the geographic setting with legal description (section, township, and range)
 - B. Regional Geology:
A written narrative describing the regional lithologic, stratigraphic, structural and hydrologic settings of the area
 - C. Historic Land Uses:
A written narrative describing previous land use such as mining or mineral exploration



The sections above must address geologic conditions that relate to the siting restrictions pertaining to sites adjacent to or in the vicinity of unstable areas, faults and seismic impact zones. Other siting restrictions listed in 10 CSR 80-3.010(4)(B), including proximity to airports, floodplains and wetlands, must be addressed in the permit application.

1. **Method of Study**

A written narrative must be provided which describes field and laboratory procedures used to characterize geologic and hydrologic conditions of the site. Standardized laboratory and field procedures may be referenced. All other procedures must be described in detail. Deviations from and amendments to the approved workplan during the detailed site investigation should be described.

2. **Results of Investigation**

A written detailed narrative must be provided that describes the site-specific geology and hydrology based on data collected. The narrative must include explanations of any anomalous data. Interpretations of results must be presented in a clear and concise manner.

3. **Conclusions**

A written narrative must be provided that details how the site-specific geology and hydrology will impact the design of the disposal area and groundwater monitoring system. The narrative must assess the inadequacies of the investigation and propose future investigations if needed. The narrative must describe the proposed monitoring system design.

4. **References**

All published information sources used in the compilation or research of the hydrogeologic investigation must be listed.

5. **Appendices**

The appendices of the site characterization report must include:

- Compiled logs of all borings, excavations, wells and piezometers.
- The raw data for any and all tests (e.g., pumping tests)
- All additional information that may facilitate the GSP's assessment of the acceptability of the proposed site.

A. **Logs**

Lithologic logs of all borings and excavations, including well construction diagrams, must be provided. Each log must include borehole identification, borehole grid location, soil and rock description, sample depths, methods of sampling, sampling date, land surface elevation, borehole total depth, moisture content, and test results such as: blow counts, vane shear, or pocket penetrometer measurements.

B. **Tables**

Presentations of tabular data that must be supplied include the following:

- (1) All borehole, well and piezometer construction data. Such data should include the borehole, well or piezometer identification, grid location, total depth, surface elevation and, if applicable, screened interval and hydrogeologic unit monitored.
- (2) Monthly groundwater elevation measurements for each piezometer or well. The table(s) should indicate the well or the piezometer identification, depth to water from measuring-point, groundwater elevation and date of measurement.
- (3) The results of all unconsolidated-material testing. The table(s) must include the sample location, depth, sampling date, and test results.
- (4) The results of all hydrologic testing. The table(s) must include the well or piezometer identification, method and date of test, depths of interval tested, hydrologic unit tested and results.
- (5) The daily precipitation data collected at the site.

**A. Maps**

All detailed site maps for the report must be drawn on a scale where one inch equals 400 feet or less. As appropriate, maps should be drawn on a consistent scale. All maps must include a scale, north arrow, and a clear and concise legend describing all of the symbols used on the map. More than one map will be required to include the following information:

- (1) A base map showing initial topography (on 5 foot contour intervals unless otherwise specified by the GSP), borrow area(s), and proposed disposal area boundary.
- (2) Map(s) showing land use, ownership, residences, septic systems, lateral lines, buildings, wells, cisterns, mined or quarried areas, mine shafts, spoil piles, and all other man-made features within 1/4 mile of the proposed disposal area boundary.
- (3) Map(s) showing springs, water courses, streams, lakes, caves, sinkholes, rock outcrops, and other significant geologic features within 1/4 mile of the proposed disposal area boundary.
- (4) Map(s) showing all borings, excavations, piezometers, and wells constructed for the study.
- (5) Monthly piezometric maps per aquifer to be monitored. The maps must include labels showing water elevations next to each well or piezometer and must indicate the date when the water elevation was measured.
- (6) Map(s) showing inferred results of geophysical explorations with survey tracks (if applicable).
- (7) Map(s) locating cross-sections showing borings used in cross-section representation.
- (8) Map(s) locating floodplains, wetlands and fault(s).
- (9) Map delineating seismic impact zones.
- (10) Bedrock contour map (where applicable).

B. Cross-sections

Geologic cross-sections must be constructed through all appropriate borings both perpendicular and parallel to the facility baseline as well as along and across all transects which include major geologic features such as faults, sinkholes, and buried valleys. At least one cross-section must be constructed parallel to groundwater flow. The subsurface conditions of the site must be illustrated in these cross-sections. Where more than one interpretation may be reasonably made, conservative assumptions must be used.

The following information must be included on the cross-sections:

- (1) A dashed line or question mark for inferred lithostratigraphic boundaries, a number or symbol to label major soil units (instead of extensive shading) and legend containing a description of the soil units.
- (2) The anticipated sub-base, and final grades for the proposed disposal area.
- (3) All boring logs, the Unified Soil Classification System soil classifications and the geologic origin for each soil unit. The results of all lab and field tests, and all well construction details including screen and seal length along with the stabilized water elevations should be shown on the logs beside the descriptions of the materials encountered.

C. Aerial Photographs

One or more vertical aerial photographs, representing the entire area of the proposed site plus the area within 1/4 mile of the site must be included in the report. The photos must be taken between November 1 and March 30, within two years of the submittal of the report unless significant excavation has occurred at the site. If significant excavation has occurred at the site during the previous two years, the photos must be taken between November 1 and March 30, within one year of the submittal of the report. The extent of the proposed disposal area, the anticipated limits of the proposed fill area and a north arrow must be added to the photos. Photocopies of the photographs will not be accepted.



MISSOURI DEPARTMENT OF NATURAL RESOURCES
 DIVISION OF GEOLOGY AND LAND SURVEY, GEOLOGICAL SURVEY PROGRAM
**REQUEST FOR PRELIMINARY INVESTIGATION OF
 PROPOSED SOLID-WASTE DISPOSAL AREA**

FOR OFFICE USE ONLY
PROJECT CODE _____
DATE RECEIVED _____

FACILITY OR PROJECT LOCATION						
FACILITY OR PROJECT NAME						
¼ ¼ SECTION	¼ ¼ SECTION	¼ SECTION	SECTION	TOWNSHIP	RANGE	QUADRANGLE NAME
				N.	E/W	
WRITTEN LOCATION IF LEGAL DESCRIPTION IS UNAVAILABLE					COUNTY	
OWNER INFORMATION						
OWNER NAME				TELEPHONE		
OWNER ADDRESS			CITY	STATE	ZIP CODE	
EVALUATION REQUESTED BY						
NAME AND COMPANY OF REQUESTOR				TELEPHONE		
ADDRESS			CITY	STATE	ZIP CODE	
FACILITY INFORMATION						
TYPE OF DISPOSAL AREA PROPOSED				ESTIMATED SIZE OF DISPOSAL AREA IN ACRES		
<input type="checkbox"/> SANITARY LANDFILL <input type="checkbox"/> DEMOLITION LANDFILL <input type="checkbox"/> UTILITY WASTE LANDFILL <input type="checkbox"/> **SPECIAL WASTE LANDFILL* *Please specify type of special waste _____				ESTIMATED ELEVATION OF THE SUB-BASE GRADE IN FEET ABOVE MEAN SEA LEVEL		
** A special waste is defined as "solid-waste requiring handling other than normally used for municipal waste".						
MAP MUST BE SUBMITTED WITH REQUEST!						
A topographic map must be provided with this request that contains the following information: all known wells, springs, sinkholes, caves, mines, roads, and dwellings within ¼ mile of the facility. Show the estimated boundaries of the disposal facility and any existing borings, test pits, or excavations which expose soil or bedrock. Include a scale and north arrow on the map.						
COMMENTS						
REQUESTOR'S SIGNATURE						DATE
OWNER'S SIGNATURE (INDICATES PERMISSION TO ACCESS PROPERTY)						DATE

MAIL COMPLETED COPY TO: DEPARTMENT OF NATURAL RESOURCES, ENVIRONMENTAL GEOLOGY SECTION, P.O. BOX 250, ROLLA, MO 65402-0250.
 Phone: (573) 368-2161 Fax: (573) 368-2111 E-MAIL ADDRESS: gspgeol@dnr.mo.gov



AUTHORITY: sections 260.205 and 260.225, RSMo 2000. Original rule filed Oct. 10, 1996, effective July 30, 1997. Amended: Filed June 30, 2006, effective Feb. 28, 2007.*

**Original authority: 260.205, RSMo 1972, amended 1975, 1986, 1988, 1990, 1991, 1995, 1999 and 260.225, RSMo 1972, amended 1975, 1986, 1988, 1990, 1993, 1995.*

10 CSR 80-2.020 Permit Issuance, Construction Permits, Operating Permits, Emergency Permits, and Exemptions.

PURPOSE: This rule describes the permitting requirements for solid waste disposal areas and solid waste processing facilities including the procedures and requirements for obtaining the appropriate permits. This rule also designates which solid waste disposal and processing activities are exempt from solid waste permitting requirements.

(1) General Requirements.

(A) Any disposal or processing of solid waste shall comply with the permitting requirements of this rule unless specifically exempted under section (9) of this rule.

(B) All solid waste disposal areas and solid waste processing facilities shall be located, designed and operated in conformity with the rules in 10 CSR 80, as authorized by section 260.225.1(3), RSMo.

(C) The owner/operator of any solid waste disposal area or solid waste processing facility also shall comply with any other applicable state and federal environmental rules, laws, regulations or other requirements.

(D) A construction and operating permit issued under this rule for a solid waste disposal area or solid waste processing facility shall be issued to the owner/operator, jointly.

(E) The department may, at any time during the life of a solid waste disposal area or solid waste processing facility, review the permit and require the solid waste disposal area or solid waste processing facility to comply with the currently applicable requirements of Chapter 260, RSMo and the corresponding rules.

(F) Each permit issued under this rule shall contain such terms and conditions as the department determines necessary to prevent or minimize potential health hazards, a public nuisance or environmental pollution. Construction and operation of the solid waste disposal area or solid waste processing facility shall be conducted in accordance with the terms and conditions of the permit—

1. The effective date of a permit is the date of issuance; and
2. The effective date of the denial of a

permit is the date the denial is issued.

(G) Each permit for operation of a solid waste processing facility or solid waste disposal area shall be issued only to the person named in the application. Construction and operating permits are transferrable as a permit modification pursuant to section 260.205, RSMo and 10 CSR 80-2.020(4)(B).

(H) After the effective date of this rule, subcontracting the operation of the facility without submitting a change of operator permit modification within thirty (30) days of such a change will be considered to be operating without a permit. The new operator will be allowed to operate the facility while the change of operator permit modification is being reviewed.

(I) The applicant shall request and hold a preapplication meeting with the department prior to submission of a construction permit application. This meeting shall include, at a minimum, discussion on the proposed application, review of the required fees and time frames, and a discussion of the departments requirements and regulations.

(2) Solid Waste Disposal Area Permits.

(A) Construction Permits.

1. Any person desiring to construct a solid waste disposal area or horizontally expand the acreage specifically designated for the placement of solid waste in an existing permitted solid waste disposal area shall make an application to the department for a construction permit. A construction permit shall be obtained prior to the beginning of any solid waste disposal area construction activities, including any clearing of vegetation, earth work or construction of appurtenances (such as lagoons, settling basins and monitoring wells) associated with the disposal area. This requirement does not apply to detailed site investigation activities or general site improvements.

2. An application shall consist of the following items:

A. A completed Application for Construction Permit form furnished by the department;

B. Detailed plans and specifications prepared or approved by a professional engineer containing the information necessary to comply with the requirements of the Missouri Solid Waste Law and rules;

C. Evidence of financial responsibility as required by section 260.205, RSMo and 10 CSR 80-2.020(7);

D. Closure and post-closure plans as required by 10 CSR 80-2.030(4);

E. Evidence of compliance with all applicable local planning and zoning requirements as per section (6) of this rule;

F. The names and addresses of all recorded owners of real property located either adjoining or within one thousand feet (1,000') of the (proposed) solid waste disposal area;

G. Nonreturnable application fee as specified in section 260.205, RSMo and paragraph (2)(A)5. of this rule;

H. The detailed site investigation report to characterize the subsurface geologic and hydrologic conditions that has been approved by the Division of Geology and Land Survey for disposal area applications submitted on and after January 1, 1996;

I. A completed violation history disclosure statement as required by 10 CSR 80-2.070; and

J. The applicant shall submit copies of applications for any applicable Water Pollution Control Program (WPCP) permits or approvals.

3. The applicant for a solid waste disposal area shall submit five (5) copies of the application to the department's Solid Waste Management Program.

4. The review, approval and denial of a construction permit application shall conform to the provisions of this paragraph—

A. Within twelve (12) consecutive months of the receipt of an application for a construction permit, the department shall approve or deny the application;

B. Within ninety (90) days of receipt of the initial application and within one hundred eighty (180) days of receipt of subsequent revisions, the department will complete a review of the application to determine compliance with the Missouri Solid Waste Management Law and rules and provide a written decision to the applicant.

(I) When the review reveals that the application complies with the Missouri Solid Waste Management Law and rules, the department shall, within the twelve (12)-month period, approve the application and issue a construction permit.

(II) When the review reveals that the application does not comply with the Missouri Solid Waste Management Law and rules, the department may either send—

(a) A comment letter to the applicant explaining why the application is deficient; or

(b) A denial of the application along with the reasons for denial; and

C. Should a comment letter be issued per 10 CSR 80-2.020(2)(A)4.B., the applicant shall, within ninety (90) days from receipt of the comment letter, submit to the department a complete response. If the department does not receive a complete response from the applicant within ninety



(90) days, the department may disapprove the application and deny the permit.

5. The applicant for a construction permit shall remit application and review fees to the department as specified in this paragraph.

A. The applicant shall remit to the department a nonreturnable application fee of two thousand dollars (\$2,000).

B. The applicant shall reimburse the department for review costs up to an amount of eight thousand dollars (\$8,000). The department will submit a statement to the applicant for review costs upon completion of its review of the application.

C. Payments authorized in paragraphs (2)(A)5.A. and B. of this rule shall be made by check or money order made payable to the Missouri Department of Natural Resources. No further action will be taken on an application until the department receives a check for outstanding fees or review costs. When a check used for payment is returned to the department as nonnegotiable, review of the application will cease, and the applicant will be so notified. No further action will be taken until payment has been resubmitted in the form of a cashier's check or money order made payable to the Missouri Department of Natural Resources.

D. The department shall not collect the review costs authorized in 10 CSR 80-2.020(2)(A)5.B. of this rule unless the department complies with the review time limits established in section 260.205, RSMo and 10 CSR 80-2.020(2)(A)4.

(B) Operating Permits.

1. Any person desiring to begin the operation of a solid waste disposal area or a horizontal expansion of an existing solid waste disposal area, shall make an application to the department for an operating permit. An operating permit shall be obtained prior to the receipt of waste in the initial area prepared to receive waste in the disposal area or the horizontal expansion area. Approval to accept waste in subsequent areas prepared to receive waste shall be handled in accordance with 10 CSR 80-2.020(4). If an application for an operating permit for the solid waste disposal area is not submitted to, and received by the department within sixty (60) months, the applicant, prior to submittal of an operating permit application, shall—

A. Hold a public awareness and community involvement session, solicit comments, and respond;

B. Submit to the department for approval any necessary changes to the design and operation of the facility so as to be in compliance with currently applicable law and rules; and

C. Submit to the department an updated violation history disclosure statement.

2. An application for an operating permit shall consist of the following items:

A. The owner shall execute an easement which allows the department, its agents or its contractors access to the permitted area to complete work specified in the closure plan, to monitor or maintain the solid waste disposal area or to take remedial action during the post-closure period;

B. The owner shall submit evidence to the department that a notice and covenant running with the land have been recorded with the recorder of deeds in the county where the solid waste disposal area is located. The notice and covenant shall specify the following:

(I) The property has been permitted as a solid waste disposal area; and

(II) Use of the land in any manner which interferes with closure plans, and where appropriate, post-closure plans filed with the department is prohibited;

C. The owner/operator shall submit base data for the quality of groundwater in accordance with the requirements of 10 CSR 80-3.010(11)(C)3. or 10 CSR 80-4.010(11)(C)3. as appropriate;

D. The owner/operator shall submit to the department, by certified mail or hand delivery, a letter signed by the owner/operator and a professional engineer stating that all construction required before initial operations of the solid waste disposal area have been completed in compliance with the construction permit and approved engineering plans;

E. The owner/operator shall submit evidence that the permanent monument and boundary markers required by 10 CSR 80-3.010(7)(B) have been placed by a registered land surveyor in accordance with the approved plans;

F. For sanitary landfills, and for demolition landfills permitted after the effective date of this rule, the owner/operator shall submit an approvable financial assurance instrument for post-closure cost in the amount and form required under 10 CSR 80-2.030(4);

G. The applicant shall submit copies of any applicable Water Pollution Control Program (WPCP) permits or approvals; and

H. The owner/operator shall submit copies of all quality assurance/quality control documentation per the requirements of 10 CSR 80-3.010(6).

3. The applicant for an operating permit shall submit three (3) copies of the application to the department.

4. The review, approval and denial of an

operating permit application shall conform to the provisions of this paragraph.

A. Within sixty (60) days from the date of receipt of an application for an operating permit, the department shall issue or deny the application.

(I) When the department's review reveals that the application complies with the Missouri Solid Waste Management Law and rules and approved plans and specifications, the department shall approve the application and issue an operating permit.

(II) When the department's review reveals that the application does not comply with the Missouri Solid Waste Management Law and rules, the construction permit and the approved plans and specification, the department shall issue a report stating reasons for denial.

B. An operating permit shall be issued for the life of the disposal area.

(3) Solid Waste Processing Facility Permits.

(A) Construction Permits.

1. Any person desiring to construct a solid waste processing facility shall apply to the department for a construction permit. A construction permit shall be obtained prior to the beginning of any solid waste processing facility construction activities, including any clearing of vegetation or earth work.

2. An application for a construction permit shall consist of the following items:

A. A completed Application for Construction Permit on a form furnished by the department;

B. Detailed plans and specifications prepared or approved by a professional engineer containing the information necessary to comply with the Missouri Solid Waste Law and rules;

C. Evidence of financial responsibility as required by section 260.205, RSMo and 10 CSR 80-2.020(7);

D. Evidence of compliance with all applicable local planning and zoning requirements as per section (6) of this rule;

E. A completed violation history disclosure statement as required in 10 CSR 80-2.070;

F. Nonreturnable application fee as specified in section 260.205, RSMo and in subparagraph (3)(A)5.A. of this rule; and

G. The applicant shall submit copies of applications for any applicable Water Pollution Control Program (WPCP) permits or approvals.

3. The applicant for a solid waste processing facility shall submit four (4) copies of the application to the department.



4. The review, approval and denial of a construction application shall conform to the provisions of this paragraph.

A. Within twelve (12) consecutive months of the receipt of an application for a construction permit for a solid waste incinerator, a municipal solid waste composting facility or a material recovery facility and within one hundred eighty (180) days of receipt of an application for any other solid waste processing facility, the department shall approve or deny the application.

B. Within ninety (90) days of receipt of the initial application and within one hundred eighty (180) days of subsequent revisions for an incinerator, a municipal solid waste composting facility or a material recovery facility, and within forty-five (45) days of receipt of the initial application and within ninety (90) days of receipt of subsequent revisions for any other solid waste processing facility, the department shall complete a review of the application to determine compliance with the Missouri Solid Waste Management Law and rules and provide a written decision to the applicant.

(I) When the review reveals that the application complies with the Missouri Solid Waste Management Law and rules, the department shall, within a twelve (12)-month period for an incinerator, a municipal solid waste composting facility or a material recovery facility or a one hundred eighty (180)-day period for any other processing facility, approve the application and issue a construction permit.

(II) When the review reveals that the application does not comply with the Missouri Solid Waste Management Law and rules, the department may either send—

(a) A comment letter to the applicant explaining why the application is deficient; or

(b) A denial of the application along with the reasons for denial.

C. Should a comment letter be issued per 10 CSR 80-2.020(3)(A)4.B. the applicant shall, within ninety (90) days for an incinerator, a municipal solid waste composting facility or a material recovery facility, or forty-five (45) days for any other solid waste processing facility from receipt of the comment letter, submit to the department a complete response. If the department does not receive a complete response from the applicant within ninety (90) days for an incinerator, a municipal solid waste composting facility or material recovery facility, or forty-five (45) days for any other solid waste processing facility, the department may deny the application.

5. The applicant for a construction permit shall remit application and review fees to the department as specified in section 260.205, RSMo and this paragraph.

A. The applicant shall remit to the department a nonreturnable application fee of one thousand dollars (\$1,000).

B. The applicant shall reimburse the department for review costs up to an amount of four thousand dollars (\$4,000). The department will submit a statement to the applicant for review costs upon completion of its review of the application.

C. Payments authorized in subparagraphs (3)(A)5.A. and B. of this rule shall be made by check or money order made payable to the Missouri Department of Natural Resources. No further action will be taken on an application until the department receives a check for outstanding fees or review costs. When a check used for payment is returned to the department as nonnegotiable, review of the application will cease, and the applicant will be so notified. No further action will be taken until payment has been resubmitted in the form of a cashier's check or money order made payable to the Missouri Department of Natural Resources.

D. The department will not collect the review costs authorized in 10 CSR 80-2.020(3)(A)5.B. of this rule unless the department complies with the review time limits established in section 260.205, RSMo and 10 CSR 80-2.020(3)(A)4.A.

(B) Operating Permits.

1. Any person desiring to begin the operation of a solid waste processing facility shall make an application to the department for an operating permit. An operating permit shall be obtained prior to the receipt of waste at the solid waste processing facility. If an application for an operating permit for the solid waste processing facility is not submitted to, and received by the department within sixty (60) months, the applicant, prior to submittal of an operating permit application, shall—

A. Hold a public awareness and community involvement session, solicit comments, and respond;

B. Submit to the department for approval any necessary changes to the design and operation of the facility so as to be in compliance with currently applicable law and rules; and

C. Submit to the department an updated violation history disclosure statement.

2. An application for an operating permit shall consist of the following items:

A. A letter signed by the owner/operator and a professional engineer stating that

all construction required before the initial operations of the facility have been completed in compliance with the construction permit and approved engineering plans;

B. A set of construction as-builts and specifications prepared or approved by a professional engineer; and

C. The applicant shall submit copies of any applicable Water Pollution Control Program (WPCP) permits or approvals.

3. The applicant for an operating permit shall submit three (3) copies of the application to the department.

4. The review, approval and denial of an operating permit application shall conform to the provisions of this paragraph.

A. Within sixty (60) days from date of application for an operating permit the department shall issue or deny the application.

(I) When the department's review reveals that the application complies with the Missouri Solid Waste Management Law and rules and approved plans and specifications, the department shall approve the application and issue an operating permit.

(II) When the department's review reveals that the application does not comply with the Missouri Solid Waste Management Law and rules, the permit and the approved plans and specifications, the department shall issue a denial of the application.

B. An operating permit shall be issued for the life of the processing facility.

(4) Permit Modifications.

(A) Any permittee desiring to make any change(s) to the approved engineering report or plans for the design, construction, operation, closure or post-closure of either a solid waste disposal area or a solid waste processing facility shall submit a permit modification request to the department. Prior to implementing any change(s), the permittee shall obtain a permit modification approval for the proposed change from the department. Permit modification requests shall consist of the following:

1. A letter signed by the permittee which both briefly describes and requests approval of the changes being proposed;

2. Detailed plans and specifications prepared by a professional engineer containing all necessary information reflecting the proposed changes to the currently approved engineering report and plans and complying with the Missouri Solid Waste Management Law and rules; and

3. For a proposed vertical expansion of an existing solid waste disposal area, evidence of compliance with local planning and



zoning requirements as required by 10 CSR 80-2.020(6).

(B) Construction and operating permits are transferrable as a permit modification. Request for permit modification to transfer ownership and/or operator of the permit shall consist of the following:

1. A letter requesting transfer of the owner/operator of the permit. The letter shall identify the proposed new owner/operator. The letter shall be signed by both the existing owner/operator and the proposed new owner/operator;

2. A disclosure statement for the proposed permittee listing violations contained in 10 CSR 80-2.070;

3. The operation and design plans for the facility or area shall be updated to comply with currently applicable law and rules; and

4. A financial assurance instrument in such amount and form as prescribed by the department shall be provided for solid waste disposal areas by the proposed permittee prior to transfer of the permit. The financial assurance instrument of the original permittee shall not be released until the new permittee's financial assurance instrument has been approved by the department, and the transfer of ownership is complete.

(C) For approval of subsequent sections or phases of disposal areas, prepared to receive waste, the permittee shall submit the following information:

1. Detailed as-built plans and specifications and quality control/quality assurance information showing that all pre-operational construction of the newly lined area have been completed in accordance with the approved engineering plans; and

2. A letter signed by the owner/operator and a professional engineer stating that the pre-operational construction of the newly lined area have been completed in compliance with the permit and approved engineering plans.

(D) The review, approval and denial of a permit modification request shall conform to the following requirements:

1. Within twelve (12) consecutive months of the receipt of a request for a permit modification for vertically expanding a solid waste disposal area, the department shall approve or deny the request. Within ninety (90) days of receipt of the initial request and within sixty (60) days of receipt of subsequent revisions, the department shall complete a review of the request to determine compliance with the Missouri Solid Waste Management Law and rules and provide a written decision to the permittee;

2. Within sixty (60) days of the receipt of a request for a permit modification for placement of waste on newly constructed lined areas as required by 10 CSR 80-2.020(4)(C), the department shall complete a review of the request and, when appropriate, complete an inspection of the area to determine compliance with the conditions of the permit and the approved engineering plans. If for any reason the department fails to complete a review within the time frame specified herein, the permittee may begin waste disposal in the new area in accordance with the approved operating plans. However, this does not represent or imply department approval of the liner. The permittee is still responsible, if necessary, to take whatever action is required by the department to either bring the liner into compliance, or demonstrate that the liner complies with requirements of the Missouri Solid Waste Management Law and rules and the approved plans;

3. Within six (6) consecutive months of the receipt of a request for a permit modification approval other than for modifications specified in (4)(D)1. and 2. of this rule, the department shall approve or deny the request;

4. When the review reveals that the request complies with the Missouri Solid Waste Management Law and rules, the department shall approve the request and issue a permit modification approval;

5. When the review reveals that the request does not comply with the Missouri Solid Waste Management Law and rules, the department may either issue—

A. A comment letter to the permittee explaining why the request is deficient; or

B. A denial of the request along with the reasons for denial; and

6. Should a comment letter be issued per 10 CSR 80-2.020(4)(D)5.A., the permittee shall, within sixty (60) days from receipt of the comment letter, submit to the department a complete response. If the department does not receive a complete response from the permittee within sixty (60) days, the department may deny the permit modification request.

(5) The department may issue emergency permits on a case-by-case basis. The applicant shall indicate that an emergency permit is necessary due to uncontrollable catastrophic events. The applicant shall provide general details on the operation of the facility and specify the length of time an emergency permit is requested.

(6) Evidence of Compliance with Local Requirements. An applicant for a solid waste disposal area or processing facility construction permit, as part of the application, shall

submit evidence of compliance with local planning and zoning requirements.

(A) Satisfactory demonstration of compliance shall include either:

1. A letter from the local governing authority(ies) stating that there are no local planning and zoning requirements applicable to the proposed solid waste facility; or

2. A letter from the local governing authority(ies) stating that the proposed facility is in compliance with applicable planning and zoning requirements; or

3. A court order indicating that the proposed facility is exempt from local planning and zoning requirements.

(B) Legal opinions provided by the applicant concerning the inapplicability of local planning and zoning requirements are not satisfactory evidence of compliance.

(C) In the event that an applicant fails to provide evidence of compliance with local planning and zoning, the department shall issue a denial of the application.

(7) Evidence of Financial Responsibility. An applicant for solid waste disposal area or solid waste processing facility permit, as a part of the application, shall submit evidence of financial responsibility.

(A) An applicant for a solid waste disposal area permit may satisfy this requirement by obtaining the financial assurance instrument(s) required by 10 CSR 80-2.030(4)(B) for closure or post-closure care, or both.

(B) An applicant for a solid waste processing facility permit or for a solid waste disposal area permit which is part of an area permitted under sections 444.500–444.905, RSMo, shall satisfy this requirement by submitting a financial statement. As applicable, the financial statement shall include:

1. For counties, cities or other political subdivisions of the state, a copy of their most recent budget or annual audit report;

2. For a public corporation, a copy of the most recent annual financial report; and

3. For a private corporation, partnership or individual ownership, a copy of an audit of the corporation, partnership or individual ownership, prepared by an independent certified public accountant within the last twelve (12) months.

(8) In the event a person desires to operate a solid waste disposal area or solid waste processing facility for the disposal or processing of only special wastes and desires to operate differently from the procedures specified in 10 CSR 80-2.010 through 10 CSR 80-5.010, that person shall submit a written request with an application for a construction permit to the department requesting that such area or



facility be allowed to operate differently from those procedures. The application shall explain in detail the characteristics of the special wastes. Special waste landfill and special waste processing facility as defined in 10 CSR 80-2.010(111) and (112), respectively, shall apply if the request is granted.

(A) The applications for construction and operating permits for special waste landfills or processing facilities shall include justification of any proposed design and operating procedures which differ from those provided in 10 CSR 80-2.010 through 10 CSR 80-5.010. Alternatives may only be proposed for design and operation requirements contained in Chapters 10 CSR 80-3 and 10 CSR 80-5. Special waste landfills are specifically prohibited from accepting those wastes listed at 10 CSR 80-3.010(3)(A).

(B) The department reserves the right to specify the time limit and any restrictions on the permit and at any time to require alternation in design and operation as it deems necessary to protect the public health, to minimize environmental damage and to prevent nuisances.

(9) Permit Exemptions.

(A) The following types of activities, solid waste disposal areas or solid waste processing facilities are not required to obtain a permit provided that pollution, a public nuisance or a health hazard is not created:

1. Any area receiving only uncontaminated soil, rock, sand, gravel, concrete, asphaltic concrete, cinderblocks and bricks for fill or reclamation;

2. Any on-site solid waste processing facility which processes solid waste from an individual household, single building or institution provided the facility is located on-site where the refuse originates;

3. Any properly managed disposal container of ten (10) cubic yards or less located in a rural area that receives residential solid waste from more than one (1) family unit as long as its contents are emptied and disposed of at a permitted solid waste disposal facility at least once per week;

4. The use of solid waste in normal farming operations;

5. The use of solid waste in the processing or manufacturing of products;

6. The disposal by an individual of solid waste resulting from his/her own residential activities on property owned or lawfully occupied by him/her;

7. The operation and/or closure of a waste stabilization lagoon, settling pond or other water or wastewater treatment facility which has a permit from the Missouri Clean Water Commission even though the facility

may receive solid or semisolid waste materials so long as the facility complies with the provisions of 10 CSR 80-2.030(2)(B) regarding filing of the survey plat upon closure. A solid waste disposal area construction and operating permit shall be required for settling ponds intended for the permanent disposal of utility waste and where the owner/operator applies for a construction permit or approval from the Missouri Clean Water Commission after the effective date of this rule;

8. A recycling center or drop-off collection point that accepts source-separated or commingled recyclable materials;

9. The composting or co-composting of waste materials, other than municipal solid waste, generated by agricultural and domestic activities on property owned or lawfully occupied by the generator; or the composting or co-composting of yard waste, wood waste, paper waste and/or poultry waste as long as such activity has a permit or approval from the Missouri Clean Water Commission. Composting or co-composting of municipal solid waste and/or sewage sludge is NOT exempted and requires a solid waste processing facility permit for construction and operation;

10. A hospital pursuant to section 260.203, RSMo;

11. The beneficial use of bottom ash or boiler slag generated primarily from the combustion of coal or other fossil fuels for snow and ice control; and

12. The beneficial use of fly ash generated primarily from the combustion of coal or other fossil fuels for concrete/flowable fill additive.

(B) The department may grant an exemption from having to obtain a solid waste disposal area permit for a proposal to beneficially reuse solid waste, provided that beneficial use and/or reclamation can be demonstrated and provided that pollution, a public nuisance or a health hazard will not be created. In the event a person desires to request an exemption from the requirement to obtain a permit, that person shall submit a detailed, written request to the department which includes the following information:

1. A detailed explanation of the beneficial use or reclamation that supports the request;

2. A detailed explanation with supporting documentation identifying the site location, surrounding land use, and site characteristics;

3. An estimate of the quantity of waste needed to complete the project, the length of time required for completing the project and documentation specifying the source of the waste;

4. A detailed description of the physical and chemical characteristics of the waste, background soils and water quality immediately within and/or adjacent to the project area. The description shall include supporting laboratory test data. The appropriate laboratory tests shall be determined in conjunction with the department, and shall include, at a minimum, Toxicity Characteristic Leaching Procedure (TCLP) testing analyses or modified TCLP testing analyses. Details regarding locations of samples and sampling and testing methods shall be provided. Testing analyses shall be performed on all applicable parameters (organic and/or inorganic substances) which comprise the waste. The detection limits for applicable constituents in the testing analyses shall be consistent with standard laboratory procedures. Sampling and analysis shall be conducted in accordance with U.S. EPA approved standard laboratory methods and procedures;

5. Verification that the placement of the waste will be kept above the seasonal high groundwater table, unless a variance is obtained from the Water Pollution Control Program (WPCP).

6. A detailed description of the proposed operational procedures for waste removal from the generator, transport, placement, compaction, dust control, erosion control and procedures for protecting the general aesthetics of the site;

7. Provisions for closing the area—

A. A description of the source, quality and quantity of cover required; and

B. A description of the type of vegetation to be established to prevent erosion; and

8. The exemption request must also include the following:

A. Name of the owner(s) of the property on which the proposed beneficial reuse operation will be located. If the owner differs from the person requesting the exemption, the permit exemption request shall include a statement signed by the owner stating his/her awareness of the beneficial use request and his/her approval of the operation;

B. Name of the operator(s) of the proposed operation;

C. A map showing land use within one thousand feet (1,000') of the proposed operation;

D. A management plan that describes and includes:

(I) Basic site design;

(II) Size of buffer zone;

(III) Site drainage control;

(IV) A list of the waste material to be beneficially reused;



(V) Quality and quantity of incoming waste material;

(VI) Type of technology to be used;

(VII) Odor and vector control and mitigation procedures; and

(VIII) Contingency plan (what steps will be taken to correct any problems that may occur as a result of the operation);

E. A copy of the application for any applicable Water Pollution Control Program permits or approvals;

F. A copy of the application for any applicable Air Pollution Control Program permits or approvals;

G. Evidence of compliance with local zoning and planning requirements;

H. Emergency contact phone number(s);

I. Final use or disposition of the material to be beneficially reused; and

J. A statement indicating what steps will be taken to ensure unacceptable waste is not received and verification that the unloading of waste will be supervised.

(C) The department may grant exemptions for small scale pilot projects or demonstration projects. Such projects must be for a beneficial use and not exceed a period of one (1) year. The pilot project may be exempt after receipt of prior written approval from the department. The applicant must include:

1. Location and size of the property on which the proposed pilot project or demonstration project will be located;

2. Name of the owner(s) of the property on which the proposed project will be located. If the owner differs from the person requesting the exemption, the permit exemption request shall include a statement signed by the owner stating his/her awareness of the beneficial use request and his/her approval of the operation;

3. Name of the operator(s) of the proposed project;

4. A map showing land use within one thousand feet (1,000') of the proposed project;

5. A management plan that describes and includes:

A. Basic site design;

B. Size of buffer zone;

C. Site drainage control;

D. A list of the waste material to be used;

E. Quality and quantity of incoming waste material to be used;

F. Type of technology to be used;

G. Odor and vector control and mitigation procedures;

H. Contingency plan (what steps will be taken to correct any problems that may occur as a result of the operation);

I. Frequency of testing;

J. Anticipated start date and length of project; and

K. A statement indicating what steps will be taken to ensure unacceptable waste is not received and verification that the unloading of waste will be supervised;

6. A copy of the application for any applicable Water Pollution Control Program (WPCP) permits or approvals;

7. A copy of the application for any applicable Air Pollution Control Program (APCP) permits or approvals;

8. Evidence of compliance with local zoning and planning requirements;

9. Emergency contact phone number(s); and

10. Final use or disposition of the product.

(D) The department may grant an exemption from having to obtain a solid waste processing facility permit for the composting or co-composting of solid waste not specifically addressed in 10 CSR 80-2.020(9)(A)9. (e.g., food waste) provided that beneficial use of the compost can be demonstrated and provided that the composting and beneficial use activities will not create pollution, a public nuisance or health hazard. In the event a person desires to request an exemption from the requirements to obtain a permit, that person shall submit a written request to the department which includes the following:

1. Location and size of the property on which the proposed composting or co-composting operation will be located;

2. Name of the owner(s) of the property on which the proposed composting or co-composting operation will be located. If the owner differs from the person requesting the exemption, the permit exemption request shall include a statement signed by the owner stating his/her awareness of the beneficial use request and his/her approval of the operation;

3. Name of the operator(s) of the proposed operation;

4. A map showing land use within one thousand feet (1,000') of the proposed operation;

5. A compost management plan that describes and includes:

A. Basic site design;

B. Size of buffer zone;

C. Compost pad surface material and slope;

D. Site drainage control;

E. A list of the waste material to be composted;

F. Quality and quantity of incoming waste material to be composted;

G. Type of compost technology to be used;

H. Odor and vector control and mitigation procedures;

I. Contingency plan (what steps will be taken to correct any problems that may occur as a result of the operation); and

J. A statement indicating what steps will be taken to ensure unacceptable waste is not received and verification that the unloading of waste will be supervised;

6. A copy of the application for any applicable Water Pollution Control Program (WPCP) permits or approvals;

7. A copy of the application for any applicable Air Pollution Control Program (APCP) permits or approvals;

8. Evidence of compliance with local zoning and planning requirements;

9. Emergency contact phone number(s); and

10. Final use or disposition of the compost.

(E) The department may grant an exemption from having to obtain a solid waste processing facility permit for the processing of construction and demolition waste provided that such activities will not create pollution, a public nuisance or health hazard. In the event a person desires to request an exemption from the requirements to obtain a permit, that person shall submit a written request to the department which includes the following:

1. Location and size of the property on which the proposed processing facility will be located;

2. Name of the owner(s) of the property on which the proposed processing facility will be located. If the owner differs from the person requesting the exemption, the permit exemption request shall include a statement signed by the owner stating his/her awareness of the beneficial use request and his/her approval of the operation;

3. Name of the operator(s) of the proposed operation;

4. A map showing land use within one thousand feet (1,000') of the proposed operation;

5. A management plan that describes and includes:

A. Basic site design;

B. Size of buffer zone;

C. A list of the waste materials to be processed;

D. Quality and quantity of incoming waste material;

E. Type of technology to be used;

F. Contingency plan (what steps will be taken to correct any problems that may occur as a result of the operation); and

G. A statement indicating what steps will be taken to ensure unacceptable waste is



not received and verification that the unloading of waste will be supervised;

6. A copy of the application for any applicable Water Pollution Control Program (WPCP) permits or approvals;

7. A copy of the application for any applicable Air Pollution Control Program (APCP) permits or approvals;

8. Evidence of compliance with local zoning and planning requirements;

9. Emergency contact phone number(s); and

10. Final use or disposition of recovered materials and residual waste.

(F) The department may grant a general exemption for the beneficial use of type C fly ash and associated bottom ash and boiler slag generated primarily from the combustion of coal or other fossil fuels for beneficial use as road base or structural fill. The beneficial use of type C fly ash and bottom ash or boiler slag for road base will be allowed if the total mixture of soil and ash beneath the road will not exceed two feet (2'). The beneficial use of type C fly ash and bottom ash or boiler slag for structural fill will be allowed provided the area to be disturbed is less than five (5) acres in size and the maximum depth of ash will not exceed two feet (2'). The applicant must renew the exemption when the source of coal is changed or there is a change in the processing of the coal which has an effect on the ash produced. The renewal must be submitted to the Solid Waste Management Program at least thirty (30) days prior to such a change.

(G) The department may grant a general exemption for the beneficial use of type C fly ash generated primarily from the combustion of coal or other fossil fuels for beneficial use as soil amendment or for soil stabilization. The beneficial use of type C fly ash for soil amendment will be allowed if the total mixture of soil and ash used will not exceed six inches (6"). The beneficial use of type C fly ash for soil stabilization will be allowed provided the area disturbed is less than five (5) acres in size and the maximum depth of ash will not exceed two feet (2'). The applicant must renew the exemption when the source of coal is changed or there is a change in the processing of the coal which has an effect on the ash produced. The renewal must be submitted to the Solid Waste Management Program at least thirty (30) days prior to such a change.

(H) The department may grant an exemption for the beneficial use of type C fly ash and associated bottom ash and boiler slag in amounts greater than those specified in subsections (9)(F) and (G) above, as long as the beneficial use activity has a permit or exemp-

tion from the Missouri Clean Water Commission.

(I) The department may grant a general exemption for the beneficial use of bottom ash or boiler slag for daily cover in a landfill.

(J) Any request for a general or specific exemption listed above shall be accompanied by information that describes why the use is beneficial and an explanation/evaluation of the environmental impact associated with the beneficial use.

AUTHORITY: sections 260.205 and 260.225, RSMo Supp. 1996. Original rule filed Dec. 11, 1973, effective Dec. 21, 1973. Amended: Filed July 14, 1986, effective Jan. 1, 1987. Amended: Filed Jan. 5, 1987, effective June 1, 1987. Amended: Filed Jan. 29, 1988, effective Aug. 1, 1988. Amended: Filed Aug. 16, 1988, effective Dec. 29, 1988. Emergency amendment filed Sept. 29, 1993, effective Oct. 9, 1993, expired Feb. 5, 1994. Amended: Filed May 3, 1993, effective Jan. 13, 1994. Amended: Filed March 17, 1992.** Emergency rescission of the 1992 amendment filed March 19, 1997, effective April 1, 1997, expired Sept. 27, 1997. Amended: Filed Oct. 10, 1996, effective July 30, 1997. Rescission of the 1992 amendment filed April 3, 1997, effective Aug. 30, 1997.*

**Original authority: 260.203, RSMo (1986), amended 1988, 1992 and 260.225, RSMo (1972), amended 1975, 1986, 1988, 1990.*

***The Missouri Supreme Court in Missouri Coalition for the Environment, et al., v. Joint Committee on Administrative Rules, et al., Case No. 78628, dated February 25, 1997, ordered the secretary of state to publish this amendment. The Missouri Department of Natural Resources subsequently filed an emergency rescission of this amendment as well as a proposed rescission of this amendment which became effective August 30, 1997. See the above authority section for filing dates.*



MISSOURI DEPARTMENT OF NATURAL RESOURCES
SOLID WASTE MANAGEMENT PROGRAM

P.O. BOX 176
JEFFERSON CITY, MISSOURI 65102

APPLICATION FOR SOLID WASTE DISPOSAL AREA OR PROCESSING FACILITY CONSTRUCTION PERMIT

NAME OF DISPOSAL AREA OR PROCESSING FACILITY TO APPEAR ON PERMIT _____			
GENERAL LEGAL DESCRIPTION _____ 1/4 _____ 1/4 _____ 1/4 _____ SECTION _____ TOWNSHIP _____ RANGE _____			
LATITUDE _____ LONGITUDE _____ COUNTY _____			
CHECK TYPE OF DISPOSAL AREA OR PROCESSING FACILITY PROPOSED	DISPOSAL AREA		PROCESSING FACILITY
	<input type="checkbox"/> SANITARY LANDFILL <input type="checkbox"/> DEMOLITION LANDFILL <input type="checkbox"/> SPECIAL WASTE LANDFILL (INDICATE TYPE BELOW) <input type="checkbox"/> UTILITY WASTE LANDFILL <input type="checkbox"/> OTHER (SPECIFY BELOW)		<input type="checkbox"/> INCINERATOR <input type="checkbox"/> TRANSFER STATION <input type="checkbox"/> COMPOST PLANT <input type="checkbox"/> RESOURCE RECOVERY FAC. <input type="checkbox"/> INFECTIOUS WASTE PROCESSING FACILITY (INDICATE TYPE BELOW) <input type="checkbox"/> OTHER (SPECIFY BELOW)
BRIEF DESCRIPTION OF FACILITY AND OPERATION:			
SIZE _____		PROPOSED OPERATING HOURS _____	
CAPACITY (TON/DAY) _____		OPERATING LIFE _____	
TYPE OF WASTE ACCEPTED _____			
DESCRIPTION OF PHYSICAL LOCATION (DIRECTIONS AND ADDRESS) _____ _____ _____			
REGISTERED ENGINEER OR CONSULTING ENGINEERING FIRM SUBMITTING PLANS Name of Engineer or Consulting Engineering Firm)			
NAME _____		COMPANY _____	TELEPHONE NO. _____
ADDRESS _____		CITY _____	STATE _____ ZIP CODE _____
<p>THE PERMIT WILL BE ISSUED TO THE "PERSON(S)" DESIGNATED BELOW AS THE "OWNER" AND THE "OPERATOR." "Person" is defined by 260.200, RSMo to mean; individual, partnership, corporation, association, institution, city, county, other political subdivision, authority, state agency or institution, or federal agency or institution.</p>			
OPERATOR ("Person" principally responsible for the day to day operation and management of disposal area or facility.)			
OPERATOR NAME _____		TELEPHONE NO. _____	
ADDRESS _____		CITY _____	STATE _____ ZIP CODE _____
OWNER ("Person" which appears on general warranty deed as property landowner.)			
OWNER NAME _____		TELEPHONE NO. _____	
ADDRESS _____		CITY _____	STATE _____ ZIP CODE _____
<p>If granted this permit, we the undersigned, agree to abide by state and federal laws, and the rules, orders and decisions of the Missouri Department of Natural Resources. We understand that in the event of any false or fraudulent information in the application, plans and data, or of failure to construct the area or facility in a proper and legal manner, the permit may be revoked after due notice from the Missouri Department of Natural Resources. We understand the permit is issued jointly to the owner and operator, as designated above.</p>			
SIGNATURE OF OPERATOR (OR AUTHORIZED REPRESENTATIVE) _____		DATE _____	
PRINT NAME AND TITLE OF THE INDIVIDUAL WHO SIGNED ABOVE FOR THE OPERATOR _____			
SIGNATURE OF OWNER (OR AUTHORIZED REPRESENTATIVE) _____		DATE _____	
PRINT NAME AND TITLE OF THE INDIVIDUAL WHO SIGNED ABOVE FOR THE OWNER _____			

MO 780-0393 (9-96)

**10 CSR 80-2.021 Permit Issuance, Special Operating Permits and Permit Exemptions**

Emergency rule filed Sept. 29, 1993, effective Oct. 9, 1993, expired Feb. 5, 1994. Emergency rule filed Jan. 28, 1994, effective Feb. 7, 1994, expired June 6, 1994.

10 CSR 80-2.030 Solid Waste Disposal Area Closure, Post-Closure Care and Corrective Action Plans and Procedures with Associated Financial Assurance Requirements

PURPOSE: This rule establishes procedures for obtaining approval from the department to close a solid waste disposal area or to excavate, disrupt or remove solid waste from a solid waste disposal area and specifies closure, post-closure care and corrective action financial assurance requirements for solid waste disposal areas.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) To prevent a solid waste disposal area from being a blight on the land, a hazard to health and safety and air pollution problem or a source of pollution to any water course, the owner/operator of any solid waste disposal area shall obtain approval of the method of closure from the department prior to closure.

(2) Closure of Unpermitted Facilities and Open Dumps.

(A) Any person found in violation of section 260.205.1 or 260.210.1, RSMo shall perform and complete any actions necessary to comply with these sections. These actions may include, but are not limited to, ceasing an act, action or operation, removing unlawfully deposited solid wastes, compacting or covering solid wastes with soil, or both, establishing vegetation and officially recording the existence of an open dump, unpermitted solid waste disposal area or unpermitted solid waste processing facility in the office of

the recorder of deeds in the county in which the property is located.

(B) When required by subsection (2)(A) of this rule, the person found in violation shall submit, for departmental approval, a survey plat or detailed description of the open dump, unpermitted solid waste disposal area or unpermitted solid waste processing facility prior to filing with the county recorder of deeds in the county where the open dump, unpermitted solid waste disposal area or unpermitted solid waste processing facility is located.

1. The survey and plat meeting the requirements of 10 CSR 30-2.010 Minimum Standards for Property Boundary Survey or detailed description shall also contain, as a minimum, the following information: the name of the property owner as it appears on the property deed, the legal description of the property, the location of the solid wastes within the property, types of solid waste disposed, depth of fill and any leachate or gas control or monitoring systems which are to be maintained and who is to maintain them.

2. After receiving approval from the department and before filing with the county recorder of deeds, the survey plat or detailed description shall be notarized by a notary public.

3. Filing the approved survey plat or detailed description with the county recorder of deeds shall be accomplished within thirty (30) days of departmental approval.

4. Two (2) copies of the properly recorded survey plat or detailed description showing the recorder of deeds' seal or stamp, the book and page numbers and the date of filing shall be submitted to the department within thirty (30) days of the date of filing.

(3) No person may excavate, disrupt or remove any deposited material from any active or discontinued solid waste disposal area without having received prior approval from the department. Requests for approval shall include:

(A) An operational plan identifying the area involved;

(B) Lines and grade defining limits of excavation;

(C) Estimated number of cubic yards and type of material to be excavated;

(D) Location where excavated material is to be deposited;

(E) Type equipment to be used to transport material;

(F) Estimated time required for excavation and disposal procedures; and

(G) Provisions for closing the excavated or disrupted area(s).

(4) Closure, Post-Closure Care and Corrective Action. Each application for a solid waste disposal area construction permit shall include a closure plan and a thirty (30)-year post-closure plan. Each application for a solid waste disposal area included as part of a permit issued under sections 444.500–444.905, RSMo is not required to include closure or post-closure plans as required by this section.

(A) Closure and Post-Closure Plans.

1. Requirement. Plans providing for closure and post-closure care of a solid waste disposal area shall be prepared and submitted with the application for a construction permit to the department for review and approval.

2. Satisfactory compliance—design. Closure and post-closure plans shall include all plans, designs, specifications and other relevant data which specify the methods and schedules necessary to provide for closure and post-closure care in order to prevent or minimize potential or existing health hazards, public nuisance or environmental pollution. The closure and post-closure plans shall incorporate all reasonable construction and maintenance activities, as determined by site specific conditions and the necessary engineering design. The post-closure plans are not required to incorporate construction and maintenance activities to correct environmental problems which are unanticipated at the time of closure and are the result of failure of the properly implemented engineering design and operating procedures. The plans shall also include cost estimates and proposed financial assurance instrument(s) providing for closure and post-closure care as required in subsection (4)(B) of this rule.

A. Closure plans shall include a description of the methods and time schedules for closure of the permitted area, an estimate of the maximum daily inventory of uncovered wastes ever on-site over the active life of the solid waste disposal area and, in the case of phased development, a description of the methods and time schedules for closure of each phase of the permitted area during the operational life of the permitted area. Closure plans shall also include the name, address and telephone number of the person or office to contact about the facility during the post-closure care period. The following shall be performed as a part of closure of a solid waste disposal area and shall be included in the plans:

(I) Placement of cover and establishment of vegetation in a manner to minimize erosion, control drainage and provide a pleasing appearance; and



(II) Installation of any of the following, if deemed necessary, by the department and if not already present at the site: methane control systems, leachate collection systems and groundwater monitoring wells.

B. Post-closure plans shall include maintenance and monitoring activities to be performed at a solid waste disposal area for the thirty (30)-year period after the approved completion of closure. In the case of phased development, the post-closure plan shall describe specific maintenance and monitoring activities which are related to each phase; distinct and separable activities shall be performed for a thirty (30)-year period following proper implementation of closure of each phase; inseparable activities shall be performed for a thirty (30)-year period following proper implementation of closure of the solid waste disposal area. Post-closure care shall include performance of the following, where applicable, except as otherwise specified by the department:

(I) Maintenance of cover integrity (for example, recovering, regrading), vegetative growth to protect cover material and surface water drainage systems;

(II) Operation and maintenance of the leachate collection system(s) and methane gas control system(s);

(III) Maintenance, sampling and testing of groundwater monitoring wells and methane gas monitoring systems; and

(IV) Necessary operation or maintenance, or both, of any other environmental control features which are included in the design and operation of the solid waste disposal area to protect the public health and environment.

3. Satisfactory compliance—operations.

A. The owner/operator of a solid waste disposal area shall notify the department in writing at least one hundred eighty (180) days prior to the date the owner/operator expects to begin closure.

B. The owner/operator shall begin implementation of the closure plan required in subsection (4)(A) of this rule within thirty (30) days after the date on which the phase or permitted area receives the final volume of waste. However, if the solid waste disposal area has remaining capacity and there is a reasonable likelihood that the solid waste disposal area will receive additional wastes, implementation of the closure plan shall proceed no later than one (1) year after the most recent receipt of wastes. Extensions beyond the one (1)-year deadline for beginning of closure may be granted by the director if the owner/operator demonstrates that the solid waste disposal area has the capacity to receive additional wastes and the owner/oper-

ator has taken and will continue to take all steps necessary to prevent threats to health and the environment from the unclosed solid waste disposal area.

C. Upon the closing of a solid waste disposal area, the appropriate documents shall be recorded with the county recorder of deeds as required by 10 CSR 80-3.010 and 10 CSR 80-4.010. The owner/operator may request permission from the director to remove the notation from the deed if all wastes are removed from the solid waste disposal area.

D. The owner/operator of any solid waste disposal area shall complete closure activities of each solid waste disposal area in accordance with the closure plan within one hundred eighty (180) days following the beginning of closure. Extensions of the closure period may be granted by the director if the owner/operator demonstrates that, of necessity, closure will take longer than one hundred eighty (180) days and the owner/operator has taken and will continue to take all steps to prevent threats to public health and the environment from the unclosed solid waste disposal area. Following completion of closure, the owner/operator shall submit to the department for approval a certification from an independent registered professional engineer verifying that closure activities have been completed in accordance with the closure plan.

E. The owner/operator shall begin implementing the post-closure plan required in subsection (4)(A) of this rule immediately after closure is complete and continue implementing the plan over the entire post-closure care time period.

(I) Post-closure care of a solid waste disposal area shall be for a period of thirty (30) years; provided, however, that the director may shorten or extend the post-closure care period on the basis of site-specific conditions and the need to protect public health or the environment.

(II) During the one hundred eighty (180)-day period before the owner/operator expects to receive the final volume of waste, or at any time after that, the owner/operator may petition the department to reduce the post-closure care period to less than thirty (30) years. In order to reduce the post-closure care period, the operator shall demonstrate that the site does not and, in all likelihood, will not present a threat to public health or the environment.

F. If changes in the design, operation, or both, of a disposal area make modifications in the closure or post-closure plans necessary, modified closure or post-closure plans shall be submitted to the department for

approval prior to implementation of the changes.

G. Following completion of the post-closure care period for each sanitary landfill, the owner/operator shall obtain a certification from an independent registered professional engineer verifying that post-closure care has been completed in accordance with the post-closure plan; the department shall review the certification for approval.

(B) Financial Assurance Requirements for Closure and Post-Closure Care.

1. Permit issuance requirements.

A. A construction permit shall not be issued for solid waste disposal area applications received after January 1, 1996, until approvable closure and post-closure care plans and financial assurance instrument(s) for closure as required by sections 260.200 through 260.345, RSMo, and subsection (4)(B) of this rule have been submitted.

B. An operating permit shall not be issued in response to sanitary landfill applications received after January 1, 1996, until an approvable post-closure care financial assurance instrument has been submitted as required by subsection (4)(B) of this rule.

2. Permit maintenance requirements.

A. Permitted operating sanitary landfills that accepted solid waste on or after April 9, 1994, shall provide and maintain approvable closure and post-closure care plans and financial assurance instruments according to the requirements of this rule.

B. Permitted closed sanitary landfills that stopped accepting solid waste prior to April 9, 1994, shall provide and maintain closure and post-closure care plans and financial assurance instruments according to the requirements of the Missouri Solid Waste Management Law and rules that were in effect at the time they ceased accepting solid waste.

C. Permitted operating demolition landfills shall provide and maintain approvable closure plans and financial assurance instrument(s). New demolition landfills permitted after the effective date of this rule shall provide and maintain approvable thirty (30)-year post-closure care plans.

D. Permitted operating utility waste and special waste landfills shall provide and maintain approvable closure plans and financial assurance instrument(s). New utility waste and special waste landfills permitted after the effective date of this rule shall provide and maintain approvable twenty (20)-year post-closure care plans.

3. Cost estimates. Closure and post-closure plans shall include estimates of the total



costs of completing both closure and post-closure care to the satisfaction of the department and in accordance with the approved closure and post-closure plans.

A. The closure cost estimate shall include an estimate, in current dollars, of the cost of hiring a third party to close the total permitted area and, in the case of phased development, an estimate of the cost of closing each phase of the permitted area during the operational life of the permitted area. The owner/operator shall demonstrate in the closure plan that the estimate represents the maximum closure costs at any time during the active operation of the solid waste disposal area. The estimate shall include the costs for the establishment of vegetation and for the control of erosion of the area. It shall also include, as applicable, costs for the installation of leachate collection systems, methane gas control or monitoring systems and groundwater monitoring systems, or any combination of these.

B. Post-closure care cost estimates shall include, but shall not be limited to, the total costs, in current dollars, of hiring a third party to maintain, monitor, or both, the following, as applicable: cover; leachate collection systems; methane gas control or monitoring systems and groundwater monitoring systems, or any combination of these. The cost estimate for post-closure care shall be based on the most expensive costs of post-closure care during the post-closure care period for the entire permitted area. In the case of phased development, the post-closure plan cost estimates shall itemize the estimated cost, in current dollars, of providing post-closure care for each phase of the disposal area. The cost estimates for specific maintenance and monitoring activities which are not distinct and separable from other phases shall be provided for thirty (30) years following closure of the disposal area.

C. The cost estimate(s) submitted with the application shall contain an estimate in current dollars. The adjusted cost estimate shall be used to determine the amount of the financial assurance instrument. The rate of inflation used for this purpose shall be the latest percent change in the implicit price deflator for the Gross Domestic Product as determined by the United States Department of Commerce.

D. The closure and post-closure care cost estimates shall be adjusted every year by the permittee based upon the actual rate of inflation for the preceding year. The adjusted cost estimates shall be submitted to the department for review every year after the date of permit issuance. The rate of inflation used for this purpose shall be the latest per-

cent change in the implicit price deflator for the Gross Domestic Product as determined by the United States Department of Commerce.

E. The permittee shall prepare and submit to the department new closure and post-closure care estimates whenever a substantial change in the closure or post-closure plans affect these cost estimates.

(C) Financial Assurance Requirements for Corrective Action.

1. An owner/operator of a sanitary or demolition landfill required to undertake a corrective action program under 10 CSR 80-3.010 or 10 CSR 80-4.010 shall have a detailed written bid or estimate, in current dollars, of the cost of hiring a third party to perform the corrective action in accordance with the program required under 10 CSR 80-3.010 or 10 CSR 80-4.010. The corrective action cost estimate shall account for the total costs of corrective action activities as described in the corrective action plan for the entire corrective action period. The owner/operator shall submit the estimate to the director and place a copy of the estimate in the facility operating record.

A. The owner/operator shall annually adjust the estimate for inflation until the corrective action program is completed in accordance with 10 CSR 80-3.010 or 10 CSR 80-4.010.

B. The owner/operator shall adjust the corrective action cost estimate and the amount of financial assurance if substantial changes in the corrective action program or landfill conditions change the costs of corrective action.

2. The owner/operator of each sanitary or demolition landfill required to undertake a corrective action program under 10 CSR 80-3.010 or 10 CSR 80-4.010 shall establish, in a manner in accordance with 10 CSR 80-2.030(4)(D) financial assurance for the most recent corrective action program within one hundred twenty (120) days of selection of a remedy. The owner/operator shall provide continuous coverage for corrective action until released from financial assurance requirements by the director for corrective action after demonstrating compliance with 10 CSR 80-3.010 or 10 CSR 80-4.010.

(D) Financial Assurance Instruments. The requirements of subsections (4)(B) and (4)(C) of this rule for financial assurance instrument(s) for corrective action, closure, post-closure care, or any combination of these, may be satisfied by establishing a trust fund (or escrow account, securing a financial guarantee bond or a performance bond), obtaining an irrevocable letter of credit, insurance (for closure or post-closure care only), or a combination of these as outlined

in this subsection. This requirement may also be satisfied by meeting a financial test and by using a corporate guarantee. A municipality or county may satisfy the requirements by signing a contract of obligation.

1. Trust fund or escrow account. The establishment of a trust fund or escrow account may be used to satisfy the requirement for a financial assurance instrument to provide for corrective action, closure, post-closure care, or any combination of these.

A. A bank or other financial institution which is authorized to administer trusts in Missouri and whose trust operations are regulated and examined by Missouri or a federal agency shall act as the trustee of the corrective action, closure or post-closure care trust fund(s), or both. An escrow account shall be established at a bank or financial institution which is located in Missouri and which is examined by Missouri or a federal agency.

B. The trust fund or escrow account shall consist of cash, certificates of deposit or United States government securities. United States government securities includes treasury bills, treasury bonds and treasury notes guaranteed by the federal government.

C. Wording of trust fund or escrow account agreements.

(I) The wording of the trust fund agreement shall be identical to the wording specified in the Appendix, Form 1a and the trust fund agreement shall be accompanied by a formal certification of acknowledgment (see the Appendix, Form 1b for an example). An originally signed duplicate of the trust fund agreement shall be submitted to the department.

(II) The wording of the escrow account agreement shall be identical to the wording in the Appendix, Form 2. An originally signed duplicate of the escrow account agreement shall be submitted to the department.

D. For a trust fund or escrow account used to demonstrate financial assurance for closure and/or post-closure care, the first payment into the fund shall be at least equal to the current cost estimate for closure or post-closure care divided by the number of years of the projected operating life of the solid waste disposal area plus the costs of the ongoing inseparable post-closure care as determined in 10 CSR 80-3.010, 10 CSR 80-4.010 and 10 CSR 80-11.010. Subsequent payments in the amount of the current cost estimate minus the current value of the fund divided by the remaining number of years of the projected operating life shall be made each year of the remaining operating life of the solid waste disposal area. For a trust fund



or escrow account used to demonstrate financial assurance for corrective action, the first payment into the fund or escrow account shall be at least equal to one-half (1/2) the estimated corrective action cost. The subsequent payments into the fund or escrow account shall equal the required balance of the corrective action cost estimate minus the current value of the trust fund or escrow account, the sum of which shall be divided by the number of remaining years of the corrective action pay-in period. The pay-in period for subsequent payments to the corrective action trust fund or escrow account equals one-half (1/2) of the number of years of the corrective action. If the owner/operator establishes a trust fund or escrow account after having used one (1) or more alternate mechanisms specified in subsection (4)(D) of this rule, the first payment shall be in at least the amount that the trust fund or escrow account would contain if the trust fund or escrow account were established initially and annual payments were made to the trust fund or escrow account.

E. If an owner/operator substitutes other financial assurance as specified in subsection (4)(D) of this rule for all or part of the trust fund or escrow account, s/he may submit a written request to the department for release of the amount in excess of the current closure, post-closure care or corrective action cost estimate, or any combination of these, covered by the trust fund or escrow account.

F. Within sixty (60) days after receiving a request from the owner/operator for release of funds as specified in subparagraph (4)(D)1.E. of this rule, the director will instruct the trustee or escrow agent to release to the owner/operator funds as the director specifies in writing.

G. If the owner/operator does not properly implement the corrective action plan or closure or post-closure plan and does not comply with an order by the department to do so, the department will order the forfeiture of all or part of the trust fund or escrow account as specified in subsection (4)(G) of this rule.

H. The director will agree to termination of the trust fund or escrow account when—

(I) An owner/operator substitutes alternate financial assurance as specified in subsection (4)(D) of this rule; or

(II) The director releases the owner/operator from the requirements of subsections (4)(B) and (C) of this rule.

2. Financial guarantee bond. The requirement for a financial assurance instrument may be satisfied by securing a financial guarantee bond in the full amount of the cost

estimate for closure, post-closure care, corrective action, or any combination of these.

A. The bond shall be executed by the permittee and a corporate surety licensed or approved as an excess and surplus lines carrier in Missouri. The surety company issuing the bond, at a minimum, shall be among those listed as acceptable sureties on federal bonds in Circular 570 of the United States Department of the Treasury.

B. The wording of the surety bond must be identical to the wording specified in the Appendix, Form 3.

C. The owner/operator who uses a surety bond to satisfy the requirements of subsections (4)(B) and (C) of this rule shall also establish a standby trust fund or escrow account. Under the terms of the bond, all payments made will be deposited by the surety directly into the standby trust fund or escrow account in accordance with instructions from the director. This standby trust fund or escrow account shall meet the requirements specified in paragraph (4)(D)1. of this rule except that—

(I) An originally signed duplicate of the standby trust fund or escrow account agreement shall be submitted to the department with the surety bond; and

(II) Unless the standby trust fund or escrow account is funded pursuant to the requirements of paragraph (4)(D)2. of this rule, the following are not required by these rules:

(a) Payments into the trust fund or escrow account as required by subparagraph (4)(D)1.B. of this rule;

(b) Annual valuations as required by the trust fund or escrow account agreement; and

(c) Notices of nonpayment as required by the trust fund or escrow account agreement.

D. The bond shall guarantee that the owner/operator will—

(I) Fund the standby trust fund or escrow account in an amount equal to the penal sum of the bond which shall be equal to the cost estimate for closure, post-closure care, corrective action, or any combination of these, before the beginning of corrective action or final closure of the disposal area;

(II) Fund the standby trust fund or escrow account in an amount equal to the penal sum within thirty (30) days after an order to begin corrective action or closure is issued by the department; or

(III) Provide alternate financial assurance as specified in subsection (4)(D) of this rule and obtain the director's written approval of the assurance provided, within ninety (90) days after receipt by both the

owner/operator and the department of a notice of cancellation of the bond from the surety.

E. Under the terms of the bond, the surety will become liable on the bond obligation when the owner/operator fails to perform as guaranteed by the bond.

F. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner/operator and to the department. Cancellation may not occur, however, during the one hundred twenty (120) days beginning on the date of receipt of the notice of cancellation by both the owner/operator and the director, as evidenced by the return receipts.

G. The owner/operator may cancel the bond if the director has given prior written consent based on receipt of evidence of alternate financial assurance as specified in subsection (4)(D) of this rule.

3. Performance bond. The requirement for a financial assurance instrument may be satisfied by securing a performance bond guaranteeing the full amount of the estimated costs of performing corrective action, closure, post-closure care, or any combination of these.

A. The bond shall be executed by the permittee and a corporate surety licensed or approved as an excess and surplus lines carrier in Missouri. The surety company issuing the bond, at a minimum, shall be among those listed as acceptable sureties on federal bonds in Circular 570 of the United States Department of the Treasury.

B. The wording of the surety bond shall be identical to the wording specified in the Appendix, Form 4.

C. The owner/operator who uses a surety bond to satisfy the requirements of subsections (4)(B) and (C) of this rule shall also establish a standby trust fund or escrow account. Under the terms of the bond, all payments made will be deposited by the surety directly into the standby trust fund or escrow account in accordance with instructions from the director. This standby trust fund or escrow account shall meet the requirements specified in paragraph (4)(D)1. of this rule, except that—

(I) An originally signed duplicate of the standby trust fund or escrow account agreement shall be submitted to the department with the surety bond; and

(II) Unless the standby trust fund or escrow account is funded pursuant to the requirements of paragraph (4)(D)3. of this rule, the following are not required by these rules:



(a) Payments into the trust fund or escrow account as specified in subparagraph (4)(D)1.B. of this rule;

(b) Annual valuations as required by the trust fund or escrow account agreement; and

(c) Notices of nonpayment as required by the trust fund or escrow account agreement.

D. The bond shall guarantee that the owner/operator will—

(I) Perform corrective action, final closure, post-closure care, or any combination of these, in accordance with the corrective action plan, closure or post-closure plan, or both, and other requirements of the solid waste disposal area permit whenever required to do so; or

(II) Provide alternate financial assurance as specified in subsection (4)(D) of this rule and obtain the director's written approval of the assurance provided, within ninety (90) days after receipt by both the owner/operator and the department of a notice of cancellation of the bond from the surety.

E. Under the terms of the bond, the surety will become liable on the bond obligation when the owner/operator fails to perform as guaranteed by the bond. Following a determination that the owner/operator has failed to perform corrective action, final closure, post-closure care, or any combination of these, in accordance with the corrective action plan, the closure plan, post-closure plan, or any combination of these, when required to do so under the terms of the bond, the surety will perform corrective action, final closure, post-closure care, or any combination of these, as guaranteed by the bond or will deposit the amount of the penal sum into the standby trust fund or escrow account.

F. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner/operator and to the department. Cancellation may not occur, however, during the one hundred twenty (120) days beginning on the date of receipt of the notice of cancellation by both the owner/operator and the department, as evidenced by the return receipts.

G. The owner/operator may cancel the bond if the director has given prior written consent. The director will provide written consent when—

(I) An owner/operator substitutes alternate financial assurance as specified in subsection (4)(D) of this rule; or

(II) The director releases the owner/operator from the requirements of subsections (4)(B) and (C) of this rule.

H. The surety will not be liable for deficiencies in the performance of corrective action, closure, post-closure care, or any combination of these, by the owner/operator after the director releases the owner/operator from the requirements of subsections (4)(B) and (C) of this rule.

4. Letter of credit. The requirement for a financial assurance instrument may be satisfied by obtaining an irrevocable standby letter of credit in the full amount of the cost estimate for closure, post-closure care or corrective action, or any combination of these.

A. The letter of credit shall be issued by a state- or federally-chartered and regulated bank or trust association. If the issuing institution is not located in Missouri, a bank or trust association located in Missouri shall confirm the letter of credit and the confirmation shall be filed with the department along with the letter of credit.

B. The wording of the letter of credit shall be identical to the wording specified in the Appendix, Form 5.

C. An owner/operator who uses a letter of credit to satisfy the requirements of subsections (4)(B) and (C) of this rule shall also establish a standby trust fund or escrow account. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the director will be deposited by the issuing institution directly into the standby trust fund or escrow account in accordance with instructions from the director. This standby trust fund or escrow account shall meet the requirements of the trust fund or escrow account specified in paragraph (4)(D)1. of this rule, except that—

(I) An originally signed duplicate of the standby trust fund or escrow account agreement shall be submitted to the department with the letter of credit; and

(II) Unless the standby trust fund or escrow account is funded pursuant to the requirements of paragraph (4)(D)4. of this rule, the following are not required by these rules:

(a) Payments into the trust fund or escrow account as specified in subparagraph (4)(D)1.B. of this rule; and

(b) Annual valuations as required by the trust fund or escrow account agreement; and

(c) Notices of nonpayment as required by the trust fund or escrow account agreement.

D. The letter of credit shall be accompanied by a letter from the owner/operator referring to the letter of credit by number, the issuing institution and date and providing the following information: the solid waste disposal area permit number, name and address of

the solid waste disposal area; and the amount of funds assured for corrective action, closure or post-closure care, or any combination of these, of the solid waste disposal area by the letter of credit.

E. The letter of credit shall be irrevocable and issued for a period of at least one (1) year. The letter of credit shall provide that the expiration date will be automatically extended for a period of at least one (1) year unless, at least one hundred twenty (120) days before the current expiration date, the issuing institution notifies both the owner/operator and the department by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the one hundred twenty (120) days will begin on the date when both the owner/operator and the department have received the notice, as evidenced by the return receipts.

F. If the owner/operator does not establish alternate financial assurance as specified in subsection (4)(D) of this rule and obtain written approval of alternate assurance from the director within ninety (90) days after receipt by both the owner/operator and the department of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the director will draw on the letter of credit. The director may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last thirty (30) days of any such extension the director will draw on the letter of credit if the owner/operator has failed to provide alternate financial assurance as specified in subsection (4)(D) of this rule and obtain written approval of assurance from the director.

G. Following a determination that the owner/operator has failed to perform corrective action, final closure, post-closure care, or any combination of these, in accordance with the corrective action plan, the closure, post-closure plan, or any combination of these, and other permit requirements when required to do so, the director may draw on the letter of credit.

H. The director will return the letter of credit to the issuing institution for termination when—

(I) An owner/operator substitutes alternate financial assurance as specified in subsection (4)(D) of this rule; or

(II) The director releases the owner/operator from the requirements of subsections (4)(B) and (C) of this rule.

5. Insurance. The requirement for a financial assurance instrument may be satisfied by obtaining insurance. The insurance



policy shall be irrevocable and without provisions to transfer, loan/borrow, withdraw, make premium payments from or otherwise extract or encumber funds from the face amount or cash surrender value of the policy, except upon written approval by the director or his/her designee.

A. The insurer, at a minimum, shall be licensed to transact the business of insurance or be eligible to provide insurance as an admitted or an excess or surplus lines insurer, in one (1) or more states, and authorized to transact business in Missouri by law and by the Missouri Department of Insurance.

B. The wording of the certificate of insurance shall be identical to the wording specified in the Appendix, Form 6.

C. A pollution liability or environmental impairment liability insurance policy shall be issued for a face amount equal to the amount of the full cost estimate for closure or post-closure care, or both, except as provided in paragraph (4)(D)8. of this rule. The term "face amount" for a pollution or environmental impairment liability policy shall mean the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

D. The insurance policy shall guarantee that funds will be available to hire a third party to close the disposal area whenever final closure occurs, or provide for post-closure care whenever the post-closure care period begins, or both. The policy shall also guarantee that once the final closure, or post-closure care period, or both, begins; the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the director, to the party(ies) as the director specifies. Release of funds will be authorized by the director according to subsection (4)(F) of this rule.

E. The owner/operator shall maintain the policy in full force and effect until the director consents to termination of the policy by the owner/operator as specified in subparagraph (4)(D)5.H. of this rule. Failure to pay the premium, without substitution of alternate financial assurance as specified in subsection (4)(D) of this rule, will constitute a significant violation of these rules, warranting such remedy as the director deems necessary. Violation will be deemed to begin upon receipt by the department of a notice of future cancellation, termination or failure to renew due to nonpayment of the premium rather than upon the date of expiration.

F. Each policy shall contain provisions—

(I) Allowing assignment of the policy to a successor owner/operator. The assignment may be conditional upon consent of the insurer, provided the consent is not unreasonably refused;

(II) Providing that a pollution or environmental impairment liability policy issued on a claims-made basis shall provide retroactive coverage from the date of issuance of the first environmental impairment or pollution liability policy covering the facility and shall contain an extended claims reporting period of at least twelve (12) months; and

(III) Designating the director, Missouri Department of Natural Resources as the irrevocable primary beneficiary without collateral assignment(s).

G. The policy shall provide that the insurer may not cancel, terminate or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy, at a minimum, shall provide the insured with the option of renewal at the face amount of the expiring pollution or environmental impairment liability policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate or fail to renew the policy by sending notice by certified mail to the owner/operator and the department. Cancellation, termination or failure to renew may not occur, however, during the one hundred twenty (120) days beginning with the date of receipt of the notice by both the director and the owner/operator, as evidenced by the return receipts. Cancellation, termination or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration—

(I) The director deems the disposal area abandoned;

(II) The permit is terminated or revoked or a new permit is denied;

(III) Closure is ordered by the director or a United States district court or other court of competent jurisdiction;

(IV) The owner/operator is named as debtor in a voluntary or involuntary proceeding under Title II (Bankruptcy), *United States Code*; or

(V) The premium due is paid.

H. The director will give written consent to the owner/operator that s/he may terminate the insurance policy when—

(I) An owner/operator substitutes alternate financial assurance as specified in subsection (4)(D) of this rule; or

(II) The director releases the owner/operator from the requirements of subsection (4)(B) of this rule.

6. Financial test and corporate guarantee. The requirements for a financial assur-

ance instrument may be satisfied by passing a financial test. A corporate guarantee submitted by the parent corporation of the owner/operator as specified in subparagraph (4)(D)6.J. of this rule may also be used to satisfy the requirement for a financial assurance instrument.

A. To pass the financial test, the owner/operator shall meet the criteria of either part (4)(D)6.A.(I) or (II) of this rule.

(I) The owner/operator shall have—

(a) Two (2) of the following three (3) ratios: a ratio of total liabilities to net worth less than two (2); a ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5;

(b) Tangible net worth at least two (2) times the cost estimate of corrective action or two (2) times the sum of the current closure plan and post-closure plan cost estimates covered by the test, or both; and

(c) Assets in the United States amounting to at least ninety percent (90%) of his/her total assets or at least two (2) times the cost estimate of corrective action or two (2) times the sum of the current closure plan and post-closure plan cost estimates covered by the test, or both.

(II) The owner/operator shall have—

(a) A current rating for his/her most recent bond issuance of AAA, AA, A or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's;

(b) Tangible net worth at least two (2) times the cost estimate of corrective action or two (2) times the sum of the current closure plan and post-closure plan cost estimates covered by the test, or both; and

(c) Assets located in the United States amounting to at least ninety percent (90%) of his/her total assets or at least two (2) times the cost estimate of corrective action or two (2) times the sum of the current closure plan and post-closure plan cost estimates covered by the test, or both.

B. The phrase current closure plan and post-closure plan cost estimates as used in subparagraph (4)(D)6.A. of this rule refers to the cost estimates required to be shown in paragraphs 1.-4. of the letter from the owner/operator's chief financial officer (Appendix, Form 7).

C. To demonstrate that s/he meets this test, the owner/operator shall submit the following items to the department:

(I) A letter signed by the owner/operator's chief financial officer and worded as specified in the Appendix, Form 7;



(II) A copy of the independent certified public accountant's report on examination of the owner/operator's financial statements for the latest completed fiscal year; and

(III) A special report from the owner/operator's independent certified public accountant to the owner/operator stating that—

(a) S/he has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in the financial statements; and

(b) S/he should report an appropriate description of the findings using a summary of findings in accordance with the requirements of the American Institute of Certified Public Accountants as promulgated in Statement on Auditing Standards #75.

D. After the initial submission of items specified in subparagraph (4)(D)6.C. of this rule, the owner/operator shall send updated information to the department within ninety (90) days after the close of each succeeding fiscal year. This information shall consist of all three (3) items specified in subparagraph (4)(D)6.C. of this rule.

E. If the owner/operator no longer meets the requirements of subparagraph (4)(D)6.A. of this rule, s/he shall send notice to the department of intent to establish alternate financial assurance. The notice shall be sent by certified mail within ninety (90) days after the end of the fiscal year for which the year-end financial data show that the owner/operator no longer meets the requirements. The owner/operator shall provide the alternate financial assurance within one hundred twenty (120) days after the end of the fiscal year.

F. The director, based on a reasonable belief that the owner/operator may no longer meet the requirements of subparagraph (4)(D)6.A. of this rule, may require reports of financial condition at any time from the owner/operator in addition to those specified in subparagraph (4)(D)6.A. of this rule. If the director finds, on the basis of the reports or other information, that the owner/operator no longer meets the requirements of subparagraph (4)(D)6.A. of this rule, the owner/operator shall provide alternate financial assurance as specified in subsection (4)(D) of this rule within thirty (30) days after notification of such a finding.

G. The department may require and evaluate additional information which relates to financial status, including present or potential environmental liabilities and may deny the use of the financial test based upon

the evaluation or the failure of an applicant to provide any additional information requested by the department within thirty (30) days from the date of the request. Pending approval of the use of the test by the director or pending appeal before any court of competent jurisdiction of the department's denial of the use of the test, the owner/operator shall comply with the financial assurance requirements through the use of an alternate financial assurance mechanism as described in subsection (4)(D) of this rule. The burden of proof shall be on the applicant in the event of any appeal of a denial. If the department rules that the firm's financial test is unacceptable, the firm shall have thirty (30) days from the date of notification of a decision to provide alternative financial assurances.

H. The department may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the report on examination of the owner/operator's financial statements. An adverse opinion or a disclaimer of opinion will be cause for disallowance. The department will evaluate other qualifications on an individual basis. The owner/operator shall provide alternate financial assurance as specified in subsection (4)(D) of this rule within thirty (30) days after notification of the disallowance.

I. The owner/operator is no longer required to submit the items specified in subparagraph (4)(D)6.C. of this rule when—

(I) An owner/operator substitutes alternate financial assurance as specified in subsection (4)(D) of this rule; or

(II) The director releases the owner/operator from the requirements of subsections (4)(B) and (C) of this rule.

J. An owner/operator may meet the requirements of subsections (4)(B) and (C) of this rule by obtaining a written guarantee, referred to in this rule as corporate guarantee. The guarantor shall be the parent corporation of the owner/operator. The guarantor shall meet the requirements for owner/operators in subparagraphs (4)(D)6.A.–H. of this rule and shall comply with the terms of the corporate guarantee. The wording of the corporate guarantee shall be identical to the wording specified in the Appendix, Form 8. The corporate guarantee shall accompany the items sent to the department as specified in subparagraph (4)(D)6.C. of this rule. The terms of the corporate guarantee shall provide that—

(I) If the owner/operator fails to perform corrective action, final closure, post-closure care, or any combination of these, of a disposal area covered by the corporate guarantee in accordance with the closure or post-

closure plan, or both, and other permit requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in paragraph (4)(D)1. of this rule in the name of the owner/operator;

(II) The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner/operator and to the department. Cancellation may not occur, however, during the one hundred twenty (120) days beginning on the date of receipt of the notice of cancellation by both the owner/operator and the department, as evidenced by the return receipts; and

(III) If the owner/operator fails to provide alternate financial assurance as specified in subsection (4)(D) of this rule and obtain the written approval of this alternate assurance from the director within ninety (90) days after receipt of both the owner/operator and the department of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide alternative financial assurance in the name of the owner/operator.

7. Contract of obligation. Municipalities or counties may satisfy the requirements for a financial assurance instrument by entering into a contract of obligation for the full amount of the approved closure cost estimates for a construction permit and for the full amount of approved thirty (30)-year post-closure care cost estimates for an operating permit.

A. The contract of obligation shall be a binding agreement on the municipality or county, allowing the department to collect the required amount from any funds being disbursed or to be disbursed by Missouri to the municipality or county. A municipality or county which uses the contract of obligation annually shall submit a letter to the department from the governing body reaffirming the amount of their financial obligation. The wording of the contract of obligation shall be identical to the wording specified in the Appendix, Form 9.

B. Resolution. The Contract of Obligation shall be submitted to the department by the owner/operator with an attached Resolution or Ordinance specifying the name of the Signatory Agent having the designated authority to sign the Contract of Obligation. The Resolution or Ordinance shall contain wording similar to the wording specified in the Appendix, Form 9b.

C. Local Government Financial Test. The Contract of Obligation shall be submitted to the department annually by the owner/operator with an attached, accurate and complete Local Government Financial



Test. The Local Government Financial Test shall contain—

(I) A letter signed by the owner/operator's chief financial officer using wording identical to the wording specified in the Appendix, Form 10;

(II) A copy of an independent certified public accountant's report on examination of the owner/operator's financial statements for the latest completed fiscal year;

(III) A special report from an independent certified public accountant to the owner/operator stating that—

(a) S/he has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in the financial statements;

(b) S/he should report an appropriate description of the findings using a summary of findings in accordance with the requirements of the American Institute of Certified Public Accountants Statement on Auditing Standards #75; and

(c) The special report procedure was performed in accordance with the definitions, standards and measurements specified in Statement Number 18 of the Government Accounting Standards Board (GASB), "Accounting for Municipal Solid Waste Landfill Closure and Postclosure Care Costs" and with Generally Accepted Accounting Principles (GAAP); and

(IV) The owner/operator shall include a copy of the most recent comprehensive annual financial report (CAFR) disclosing, for public notice, all of the estimated landfill closure, post-closure care and corrective action financial obligations. The report shall conform with the Government Accounting Standards Board Statement 18 and include:

(a) The nature and source of the closure and post-closure care requirements;

(b) The costs recognized to date;

(c) The costs remaining to be incurred;

(d) The percentage of the total landfill capacity used to date; and

(e) The remaining landfill capacity (life) in years.

D. Definitions. The financial terms used in this rule shall be consistent with Generally Accepted Accounting Principles (GAAP) and the definitions and standards specified in Statement Number 18 of the Government Accounting Standards Board (GASB), "Accounting for Municipal Solid Waste Landfill Closure and Postclosure Care Costs." A summary of those terms is refer-

enced in the worksheet of the Appendix, Form 10.

E. Qualifications.

(I) Local governments will not be qualified to utilize Contracts of Obligation and Local Government Financial Tests if they have been determined to—

(a) Be an enterprise fund, solid waste management district or organization other than a county or incorporated city, town or village, as classified in Article VI, Section 15, of the *Constitution of Missouri*. Two (2) or more qualified local governments may join in common to submit combined mechanisms;

(b) Currently be in default on any outstanding general obligation bonds;

(c) Have any outstanding general obligation bonds having a Standard and Poor's rating less than BBB or a Moody's rating less than Baa;

(d) Have operated at a deficit exceeding five percent (5%) of the total annual revenues in each of the past two (2) years, except as allowed in Article VI, Sections 26(a) through 26(g), of the *Constitution of Missouri*;

(e) Have a Relative Size Threshold in excess of forty-three percent (43%) of the local government's total annual revenues. This rule allows the annual guaranteed environmental financial assurances to subtotal up to forty-three percent (43%) of the total annual revenues with additional secured financial assurance mechanism(s) being demonstrated for the remaining balance;

(f) Have an adverse opinion or a disclaimer of opinion from an independent certified public accountant as reported under part (4)(D)7.C.(III) and subparagraph (4)(D)7.J. of this rule; and

(g) Fail the ratio test criteria of part (4)(D)7.E.(II) of this rule.

(II) An owner/operator qualified under part (4)(D)7.E.(I) of this rule shall pass the Local Government Financial Test by meeting the criteria of either subparts (4)(D)7.E.(II)(a), Alternative I, or (4)(D)7.E.(II)(b), Alternative II, of this rule as follows:

(a) Alternative I. The owner/operator shall have a Liquidity Ratio greater than or equal to 0.050 and a Debt Service Ratio less than or equal to 0.20; or

(b) Alternative II. The owner/operator shall have a current rating for all outstanding general obligation bonds of AAA, AA, A or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's. Ratings from agencies other than Standard and Poor's or Moody's and ratings on expired bonds, refunding bonds, revenue bonds, insured bonds or structured financing

(guaranteed or collateralized) are not acceptable.

F. Effective dates.

(I) All applicants and/or owners/operators of active permitted solid waste disposal areas, choosing to use a Contract of Obligation to guarantee landfill financial assurance, shall submit a Local Government Financial Test and a Comprehensive Annual Financial Report, using the most recent fiscal financial statements, with each Contract of Obligation and Resolution submitted on or after April 9, 1998. After initial approval, each owner/operator shall annually submit an updated Contract of Obligation and Resolution, Local Government Financial Test and Comprehensive Annual Financial Report within one hundred eighty (180) days following the end of their fiscal year.

(II) All owners/operators of officially closed facilities, having properly executed Contracts of Obligation that were approved prior to April 9, 1998, are not required to submit a Local Government Financial Test nor a Comprehensive Annual Financial Report as long as they are in compliance with 10 CSR 80-2.030 at the time of closure. The cost estimates of the Contracts of Obligation for officially closed facilities may be annually adjusted for inflation, as specified in subparagraph (4)(B)2.C. of this rule, by using a cover letter amendment to the contract signed by the designated signatory agent.

G. If the owner/operator no longer meets the requirements of subparagraph (4)(D)7.E. of this rule, they shall send notice to the department of their intent to establish an alternate financial assurance instrument. The notice shall be sent by certified mail within ninety (90) days after the end of the fiscal year for which the financial data demonstrates failure to meet the requirements of subparagraph (4)(D)7.E. of this rule, or within thirty (30) days of a bond default or unfavorable change in bond rating. The owner/operator shall provide the alternate financial assurance instrument within thirty (30) days of receipt of this notice by the department.

H. The director, based on a reasonable belief that the owner/operator may no longer meet the requirements of subparagraph (4)(D)7.E. of this rule, may require reports of financial condition at any time from the owner/operator in addition to those specified in subparagraph (4)(D)7.C. of this rule. If the director finds, on the basis of the reports or other information, that the owner/operator no longer meets the requirements of this rule, the owner/operator shall provide an alternate



financial assurance within thirty (30) days after notification of such a finding.

I. The department may require and evaluate additional information which relates to financial status, including present or potential environmental liabilities, and may deny the use of the Contract of Obligation or Local Government Financial Test based upon this evaluation or the failure of an applicant to provide any additional information requested by the department within thirty (30) days from the date of the request. Pending the appeal of this denial before the director or court of competent jurisdiction, the owner/operator shall provide an alternate financial assurance instrument within thirty (30) days of receipt of notification. The burden of proof shall be on the owner/operator in the event of any appeal of a denial.

J. The department may disallow use of the Contract of Obligation on the basis of qualifications in the opinion expressed by the independent certified public accountant in the report on examination of the owner/operator's financial statements. An adverse opinion or a disclaimer of opinion will be cause for disallowance. The department will evaluate other qualifications on an individual basis. The owner/operator shall provide an alternate financial assurance instrument as specified in subsection (4)(D) of this rule within thirty (30) days of receipt of notification of the disallowance.

K. The owner/operator will no longer be required to submit the items specified in subparagraph (4)(D)7.C. of this rule when—

(I) The owner/operator substitutes an approved alternate financial assurance instrument as specified in subsection (4)(D) of this rule; or

(II) The owner/operator is officially released from the closure and/or post-closure care obligations.

8. Use of multiple financial assurance instruments. An owner/operator may satisfy the requirements of subsections (4)(B) and (C) of this rule for financial assurance instruments by establishing more than one (1) financial instrument per disposal area for corrective action, closure or post-closure care, or any combination of these. These instruments are limited to trust funds, escrow accounts, financial guarantee bonds, letters of credit and insurance. Each instrument shall be as specified in subsection (4)(D) of this rule except that it is the combination of instruments, rather than the single instrument which shall provide financial assurance for an amount at least equal to the amount specified in subsection (4)(D) of this rule. If an owner/operator uses a trust fund or escrow account in combination with a surety bond or

a letter of credit, s/he may use the trust fund or escrow account as the standby trust fund or escrow account for the other instruments. A single standby trust fund or escrow account may be established for two (2) or more instruments. The director may use any of the instruments to provide for corrective action, closure or post-closure care, or any combination of these, of the disposal area.

(E) Filing, Increasing and Decreasing Financial Assurance Instruments. When increases in the financial assurance instrument are no longer being made and the estimated corrective action, closure, post-closure care cost, or any combination of these, increases the amount of the financial assurance instrument shall be adjusted to cover the increase in the cost estimate. The owner/operator shall increase the amount of the financial assurance instrument within sixty (60) days of the increase in the estimate and submit written evidence of the increase to the director or obtain other financial assurance as specified in subsection (4)(D) of this rule to cover the increase. If the current cost of corrective action, the current cost of closure or post-closure, or any combination of these, decreases and the owner/operator has received written approval from the director of a decrease, the owner/operator may decrease the amount of the corrective action, closure or post-closure care financial assurance instrument, or any combination of these.

(F) Release of Financial Assurance Instruments.

1. Closure. The department will inspect a permitted solid waste disposal area or a phase of a permitted solid waste disposal area when notified by the owner/operator that the closure plan has been implemented and certified by a professional engineer. If the inspection reveals that the approved closure plan has been properly effected, the director shall authorize the release or proportional release of, the financial assurance instrument submitted for closure and interest, if any.

2. Post-closure care.

A. After the sixth anniversary of the beginning of the post-closure care period, the department will annually allow the owner/operator to decrease the financial assurance instrument in an amount equal to the estimated post-closure care cost for the previous twelve (12) months, providing that the financial assurance instrument is sufficient to cover the costs for providing post-closure care for the remaining post-closure care period plus five (5) years. In the case of phased development, the amount potentially available for release by the department will only consist of the portion of the cost estimate designated for activities distinct and

separable from the other phases. All decreases in the financial assurance instrument would be dependent upon the department's completion of an inspection of the solid waste disposal area to evaluate post-closure care and monitoring in accordance with the approved plans. The inspections shall have been completed within the previous twelve (12) months or shall be completed sixty (60) days after the anniversary of the beginning of the post-closure care period. Failure of the department to complete the inspection shall result in the release of the financial assurance instrument in the amount equal to the estimated post-closure care cost for the previous twelve (12) months. If the inspection reveals that the approved post-closure plan has not been properly implemented, the department will issue a notice of violation to the permittee as to the noncompliance.

B. Within one (1) year of the end of the designated post-closure care period, and after receipt of a certification by a professional engineer, the department will make an inspection of the solid waste disposal area to determine if the approved post-closure plan has been properly implemented as well as assess the environmental and health impact of the solid waste disposal area. If the inspection reveals that the solid waste disposal area no longer poses a detrimental impact to either the environment or public health, the remaining amount of the financial assurance instrument will be released. If the inspection reveals that the post-closure plan has not been properly implemented or that the solid waste disposal area continues to pose a detrimental environmental or health impact, the department may retain all or part of the remaining financial assurance instrument or require an extension of the post-closure care period.

3. Corrective action. Within one (1) year of the completion of the corrective action plan, the department will inspect a permitted solid waste disposal area or a phase of a permitted area to determine if the approved corrective action plan has been properly implemented and completed, as well as assess the environmental and health impact of the solid waste disposal area. If the inspection reveals that the solid waste disposal area no longer poses a detrimental impact to either the environment or public health, the remaining amount of the financial assurance instrument will be released. If the inspection reveals that the corrective action plan has not been properly implemented or that the solid waste disposal area continues to pose a detrimental environmental or health impact, the department may retain all or part of the remaining financial assurance instrument or



require that additional corrective actions be taken by the owner/operator.

(G) Forfeiture of Financial Assurance Instruments. If the owner/operator fails to properly implement the corrective action, closure, post-closure plan(s), or any combination of these, the director will give written notice of the violation and order the owner/operator to implement the corrective action, closure, post-closure plan(s), or any combination of these. If corrective measures approved by the director are not commenced within a specified and reasonable time, the director will order forfeiture of all or that part of the owner/operator's financial assurance instrument necessary to implement corrective action, closure, post-closure plan(s), or any combination of these. Any owner/operator aggrieved by a forfeiture order may appeal as provided in section 260.235, RSMo.

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**Original authority 1972, amended 1975, 1986, 1988, 1990.*