

SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1277

AN ACT

To repeal sections 260.200, 260.270, 260.272, 260.273, 260.274, 260.275, 260.276, 260.278, 260.335, 260.342, 260.370, 260.375, 260.380, 260.475, 260.479, 444.762, 444.765, 444.767, 444.770, 444.787, and 621.015, RSMo, and to enact in lieu thereof twenty-three new sections relating to environmental regulation, with a penalty clause and an emergency clause.

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

1 Section A. Sections 260.200, 260.270, 260.272, 260.273,
2 260.274, 260.275, 260.276, 260.278, 260.335, 260.342, 260.370,
3 260.375, 260.380, 260.475, 260.479, 444.762, 444.765, 444.767,
4 444.770, 444.787, and 621.015, RSMo, are repealed and twenty-
5 three new sections enacted in lieu thereof, to be known as
6 sections 260.200, 260.270, 260.272, 260.273, 260.274, 260.275,
7 260.276, 260.278, 260.279, 260.335, 260.370, 260.375, 260.380,
8 260.475, 260.479, 444.762, 444.765, 444.767, 444.770, 444.787,
9 621.015, 621.250, and 640.013, to read as follows:

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

12 (1) "Alkaline-manganese battery" or "alkaline battery", a
13 battery having a manganese dioxide positive electrode, a zinc

1 negative electrode, an alkaline electrolyte, including
2 alkaline-manganese button cell batteries intended for use in
3 watches, calculators, and other electronic products, and
4 larger-sized alkaline-manganese batteries in general household
5 use;

6 (2) "Button cell battery" or "button cell", any small
7 alkaline-manganese or mercuric-oxide battery having the size and
8 shape of a button;

9 (3) "City", any incorporated city, town, or village;

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

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

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

25 (7) "Conference, conciliation and persuasion", a process of
26 verbal or written communications consisting of meetings, reports,
27 correspondence or telephone conferences between authorized
28 representatives of the department and the alleged violator. The

1 process shall, at a minimum, consist of one offer to meet with
2 the alleged violator tendered by the department. During any such
3 meeting, the department and the alleged violator shall negotiate
4 in good faith to eliminate the alleged violation and shall
5 attempt to agree upon a plan to achieve compliance;

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

10 (9) "Department", the department of natural resources;

11 (10) "Director", the director of the department of natural
12 resources;

13 (11) "District", a solid waste management district
14 established under section 260.305;

15 (12) "Financial assurance instrument", an instrument or
16 instruments, including, but not limited to, cash or surety bond,
17 letters of credit, corporate guarantee or secured trust fund,
18 submitted by the applicant to ensure proper closure and
19 postclosure care and corrective action of a solid waste disposal
20 area in the event that the operator fails to correctly perform
21 closure and postclosure care and corrective action requirements,
22 except that the financial test for the corporate guarantee shall
23 not exceed one and one-half times the estimated cost of closure
24 and postclosure. The form and content of the financial assurance
25 instrument shall meet or exceed the requirements of the
26 department. The instrument shall be reviewed and approved or
27 disapproved by the attorney general;

28 (13) "Flood area", any area inundated by the one hundred

1 year flood event, or the flood event with a one percent chance of
2 occurring in any given year;

3 (14) "Household consumer", an individual who generates used
4 motor oil through the maintenance of the individual's personal
5 motor vehicle, vessel, airplane, or other machinery powered by an
6 internal combustion engine;

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

14 (16) "Household consumer used motor oil collection system",
15 any used motor oil collection center at publicly owned facilities
16 or private locations, any curbside collection of household
17 consumer used motor oil, or any other household consumer used
18 motor oil collection program determined by the department to
19 further the purposes of sections 260.200 to 260.345;

20 (17) "Infectious waste", waste in quantities and
21 characteristics as determined by the department by rule,
22 including isolation wastes, cultures and stocks of etiologic
23 agents, blood and blood products, pathological wastes, other
24 wastes from surgery and autopsy, contaminated laboratory wastes,
25 sharps, dialysis unit wastes, discarded biologicals known or
26 suspected to be infectious; provided, however, that infectious
27 waste does not mean waste treated to department specifications;

28 (18) "Lead-acid battery", a battery designed to contain

1 lead and sulfuric acid with a nominal voltage of at least six
2 volts and of the type intended for use in motor vehicles and
3 watercraft;

4 (19) "Major appliance", clothes washers and dryers, water
5 heaters, trash compactors, dishwashers, conventional ovens,
6 ranges, stoves, woodstoves, air conditioners, refrigerators and
7 freezers;

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

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

19 (22) "Motor oil", any oil intended for use in a motor
20 vehicle, as defined in section 301.010, RSMo, train, vessel,
21 airplane, heavy equipment, or other machinery powered by an
22 internal combustion engine;

23 (23) "Motor vehicle", as defined in section 301.010, RSMo;

24 (24) "Operator" and "permittee", anyone so designated, and
25 shall include cities, counties, other political subdivisions,
26 authority, state agency or institution, or federal agency or
27 institution;

28 (25) "Permit modification", any permit issued by the

1 department which alters or modifies the provisions of an existing
2 permit previously issued by the department;

3 (26) "Person", any individual, partnership, corporation,
4 association, institution, city, county, other political
5 subdivision, authority, state agency or institution, or federal
6 agency or institution;

7 (27) "Postclosure plan", plans, designs and relevant data
8 which specify the methods and schedule by which the operator
9 shall perform necessary monitoring and care for the area after
10 closure to achieve the purposes of sections 260.200 to 260.345
11 and the regulations promulgated thereunder;

12 (28) "Recovered materials", those materials which have been
13 diverted or removed from the solid waste stream for sale, use,
14 reuse or recycling, whether or not they require subsequent
15 separation and processing;

16 (29) "Recycled content", the proportion of fiber in a
17 newspaper which is derived from postconsumer waste;

18 (30) "Recycling", the separation and reuse of materials
19 which might otherwise be disposed of as solid waste;

20 (31) "Resource recovery", a process by which recyclable and
21 recoverable material is removed from the waste stream to the
22 greatest extent possible, as determined by the department and
23 pursuant to department standards, for reuse or remanufacture;

24 (32) "Resource recovery facility", a facility in which
25 recyclable and recoverable material is removed from the waste
26 stream to the greatest extent possible, as determined by the
27 department and pursuant to department standards, for reuse or
28 remanufacture;

1 (33) "Sanitary landfill", a solid waste disposal area which
2 accepts commercial and residential solid waste;

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

5 (35) "Scrap tire collection center", a site where waste
6 tires are collected prior to being offered for recycling or
7 processing and where fewer than five hundred tires are kept on
8 site on any given day;

9 (36) "Scrap tire end-user facility", a site where waste
10 tires are used as a fuel or fuel supplement or converted into a
11 useable product. Baled or compressed tires used in structures,
12 or used at recreational facilities, or used for flood or erosion
13 control shall be considered an end use;

14 (37) "Scrap tire generator", a person who sells tires at
15 retail or any other person, firm, corporation, or government
16 entity that generates waste tires;

17 (38) "Scrap tire processing facility", a site where tires
18 are reduced in volume by shredding, cutting, chipping or
19 otherwise altered to facilitate recycling, resource recovery or
20 disposal;

21 (39) "Scrap tire site", a site at which five hundred or
22 more waste tires are accumulated, but not including a site owned
23 or operated by a waste tire end-user that burns waste tires for
24 the generation of energy or converts waste tires to a useful
25 product;

26 [(34)] (40) "Solid waste", garbage, refuse and other
27 discarded materials including, but not limited to, solid and
28 semisolid waste materials resulting from industrial, commercial,

1 agricultural, governmental and domestic activities, but does not
2 include hazardous waste as defined in sections 260.360 to
3 260.432, recovered materials, overburden, rock, tailings, matte,
4 slag or other waste material resulting from mining, milling or
5 smelting;

6 [(35)] (41) "Solid waste disposal area", any area used for
7 the disposal of solid waste from more than one residential
8 premises, or one or more commercial, industrial, manufacturing,
9 recreational, or governmental operations;

10 [(36)] (42) "Solid waste fee", a fee imposed pursuant to
11 sections 260.200 to 260.345 and may be:

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

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

16 [(37)] (43) "Solid waste management area", a solid waste
17 disposal area which also includes one or more of the functions
18 contained in the definitions of recycling, resource recovery
19 facility, waste tire collection center, waste tire processing
20 facility, waste tire site or solid waste processing facility,
21 excluding incineration;

22 [(38)] (44) "Solid waste management system", the entire
23 process of managing solid waste in a manner which minimizes the
24 generation and subsequent disposal of solid waste, including
25 waste reduction, source separation, collection, storage,
26 transportation, recycling, resource recovery, volume
27 minimization, processing, market development, and disposal of
28 solid wastes;

1 [(39)] (45) "Solid waste processing facility", any
2 facility where solid wastes are salvaged and processed,
3 including:

4 (a) A transfer station; or

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

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

9 [(40)] (46) "Solid waste technician", an individual who
10 has successfully completed training in the practical aspects of
11 the design, operation and maintenance of a permitted solid waste
12 processing facility or solid waste disposal area in accordance
13 with sections 260.200 to 260.345;

14 [(41)] (47) "Tire", a continuous solid or pneumatic rubber
15 covering encircling the wheel of any self-propelled vehicle not
16 operated exclusively upon tracks, or a trailer as defined in
17 chapter 301, RSMo, except farm tractors and farm implements owned
18 and operated by a family farm or family farm corporation as
19 defined in section 350.010, RSMo;

20 [(42)] (48) "Used motor oil", any motor oil which, as a
21 result of use, becomes unsuitable for its original purpose due to
22 loss of original properties or the presence of impurities, but
23 used motor oil shall not include ethylene glycol, oils used for
24 solvent purposes, oil filters that have been drained of free
25 flowing used oil, oily waste, oil recovered from oil tank
26 cleaning operations, oil spilled to land or water, or industrial
27 nonlube oils such as hydraulic oils, transmission oils, quenching
28 oils, and transformer oils;

1 [(43)] (49) "Utility waste landfill", a solid waste
2 disposal area used for fly ash waste, bottom ash waste, slag
3 waste and flue gas emission control waste generated primarily
4 from the combustion of coal or other fossil fuels;

5 [(44) "Waste tire", a tire that is no longer suitable for
6 its original intended purpose because of wear, damage, or defect;

7 (45) "Waste tire collection center", a site where waste
8 tires are collected prior to being offered for recycling or
9 processing and where fewer than five hundred tires are kept on
10 site on any given day;

11 (46) "Waste tire end-user facility", a site where waste
12 tires are used as a fuel or fuel supplement or converted into a
13 useable product. Baled or compressed tires used in structures,
14 or used at recreational facilities, or used for flood or erosion
15 control shall be considered an end use;

16 (47) "Waste tire generator", a person who sells tires at
17 retail or any other person, firm, corporation, or government
18 entity that generates waste tires;

19 (48) "Waste tire processing facility", a site where tires
20 are reduced in volume by shredding, cutting, chipping or
21 otherwise altered to facilitate recycling, resource recovery or
22 disposal;

23 (49) "Waste tire site", a site at which five hundred or
24 more waste tires are accumulated, but not including a site owned
25 or operated by a waste tire end-user that burns waste tires for
26 the generation of energy or converts waste tires to a useful
27 product;]

28 (50) "Yard waste", leaves, grass clippings, yard and garden

1 vegetation and Christmas trees. The term does not include
2 stumps, roots or shrubs with intact root balls.

3 2. For the purposes of section 260.200 and sections 260.270
4 to 260.278 and any rules in place as of the effective date of
5 this section or promulgated pursuant to said sections, the term
6 "scrap" shall be used synonymously with and in place of "waste",
7 as it applies only to scrap tires.

8 260.270. 1. (1) It shall be unlawful for any person to
9 haul for commercial profit, collect, process, or dispose of
10 [waste] scrap tires in the state except as provided in this
11 section. This section shall not be construed to prohibit [waste]
12 scrap tires from being hauled to a lawfully operated facility in
13 another state. [Waste] Scrap tires shall be collected at a
14 [waste] scrap tire site, [waste] scrap tire processing facility,
15 [waste] scrap tire end-user facility, or a [waste] scrap tire
16 collection center. A violation of this subdivision shall be a
17 class C misdemeanor for the first violation. A second and each
18 subsequent violation shall be a class A misdemeanor. A third and
19 each subsequent violation, in addition to other penalties
20 authorized by law, may be punishable by a fine not to exceed five
21 thousand dollars and restitution may be ordered by the court.

22 (2) A person shall not maintain a [waste] scrap tire site
23 unless the site is permitted by the department of natural
24 resources for the proper and temporary storage of [waste] scrap
25 tires or the site is an integral part of the person's permitted
26 [waste] scrap tire processing facility or registered [waste]
27 scrap tire end-user facility. No new [waste] scrap tire sites
28 shall be permitted by the department after August 28, 1997,

1 unless they are located at permitted [waste] scrap tire
2 processing facilities or registered [waste] scrap tire end-user
3 facilities. A person who maintained a [waste] scrap tire site on
4 or before August 28, 1997, shall not accept any quantity of
5 additional [waste] scrap tires at such site after August 28,
6 1997, unless the site is an integral part of the person's [waste]
7 scrap tire processing or end-user facility, or unless the person
8 who maintains such site can verify that a quantity of [waste]
9 scrap tires at least equal to the number of additional [waste]
10 scrap tires received was shipped to a [waste] scrap tire
11 processing or end-user facility within thirty days after receipt
12 of such additional [waste] scrap tires.

13 (3) A person shall not operate a [waste] scrap tire
14 processing facility unless the facility is permitted by the
15 department. A person shall not maintain a [waste] scrap tire
16 end-user facility unless the facility is registered by the
17 department. The inventory of unprocessed [waste] scrap tires on
18 the premises of a [waste] scrap tire processing or end-user
19 facility shall not exceed the estimated inventory that can be
20 processed or used in six months of normal and continuous
21 operation. This estimate shall be based on the volume of tires
22 processed or used by the facility in the last year or the
23 manufacturer's estimated capacity of the processing or end-user
24 equipment. This estimate may be increased from time to time when
25 new equipment is obtained by the owner of the facility, and shall
26 be reduced if equipment used previously is removed from active
27 use. The inventory of processed [waste] scrap tires on the
28 premises of a [waste] scrap tire processing or end-user facility

1 shall not exceed two times the permitted inventory of an
2 equivalent volume of unprocessed [waste] scrap tires.

3 (4) Any person selling new, used, or remanufactured tires
4 at retail shall accept, at the point of transfer, in a quantity
5 equal to the number of tires sold, [waste] scrap tires from
6 customers, if offered by such customers. Any person accepting
7 [waste] scrap tires may charge a reasonable fee reflecting the
8 cost of proper management of any [waste] scrap tires accepted[;
9 except that the fee shall not exceed two dollars per waste tire
10 for any tire designed for a wheel of a diameter of sixteen inches
11 or less] and which tire is required to be accepted on a
12 one-for-one basis at the time of a retail sale pursuant to this
13 subdivision. All tire retailers or other businesses that
14 generate [waste] scrap tires shall use a [waste] scrap tire
15 hauler permitted by the department, except that businesses that
16 generate or accept [waste] scrap tires in the normal course of
17 business may haul such [waste] scrap tires without a permit, if
18 such hauling is performed without any consideration and such
19 business maintains records on the [waste] scrap tires hauled as
20 required by sections 260.270 to 260.276. Retailers shall not be
21 liable for illegal disposal of [waste] scrap tires after such
22 [waste] scrap tires are delivered to a [waste] scrap tire hauler,
23 [waste] scrap tire collection center, [waste] scrap tire site,
24 [waste] scrap tire processing facility or [waste] scrap tire
25 end-user facility if such entity is permitted by the department
26 of natural resources.

27 (5) It shall be unlawful for any person to transport
28 [waste] scrap tires for consideration within the state without a

1 permit.

2 (6) [Waste] Scrap tires may not be deposited in a landfill
3 unless the tires have been cut, chipped or shredded.

4 2. Within six months after August 28, 1990, owners and
5 operators of any [waste] scrap tire site shall provide the
6 department of natural resources with information concerning the
7 site's location, size, and approximate number of [waste] scrap
8 tires that have been accumulated at the site and shall initiate
9 steps to comply with sections 260.270 to 260.276.

10 3. The department of natural resources shall promulgate
11 rules and regulations pertaining to collection, storage and
12 processing and transportation of [waste] scrap tires and such
13 rules and regulations shall include:

14 (1) Methods of collection, storage and processing of
15 [waste] scrap tires. Such methods shall consider the general
16 location of [waste] scrap tires being stored with regard to
17 property boundaries and buildings, pest control, accessibility by
18 fire-fighting equipment, and other considerations as they relate
19 to public health and safety;

20 (2) Procedures for permit application and permit fees for
21 [waste] scrap tire sites and commercial [waste] scrap tire
22 haulers, and by January 1, 1996, procedures for permitting of
23 [waste] scrap tire processing facilities and registration of
24 [waste] scrap tire end-user facilities. The only purpose of such
25 registration shall be to provide information for the
26 documentation of [waste] scrap tire handling as described in
27 subdivision (5) of this subsection, and registration shall not
28 impose any additional requirements on the owner of a [waste]

1 scrap tire end-user facility;

2 (3) Requirements for performance bonds or other forms of
3 financial assurance for [waste] scrap tire sites, scrap tire end-
4 user facilities, and scrap tire processing facilities;

5 (4) Exemptions from the requirements of sections 260.270 to
6 260.276; and

7 (5) By January 1, 1996, requirements for record-keeping
8 procedures for retailers and other businesses that generate
9 [waste] scrap tires, [waste] scrap tire haulers, [waste] scrap
10 tire collection centers, [waste] scrap tire sites, [waste] scrap
11 tire processing facilities, and [waste] scrap tire end-user
12 facilities. Required record keeping shall include the source and
13 number or weight of tires received and the destination and number
14 of tires or weight of tires or tire pieces shipped or otherwise
15 disposed of and such records shall be maintained for at least
16 three years following the end of the calendar year of such
17 activity. Detailed record keeping shall not be required where
18 any charitable, fraternal, or other nonprofit organization
19 conducts a program which results in the voluntary cleanup of land
20 or water resources or the turning in of [waste] scrap tires.

21 4. Permit fees for [waste] scrap tire sites and commercial
22 [waste] scrap tire haulers shall be established by rule and shall
23 not exceed the cost of administering sections 260.270 to 260.275.
24 Permit fees shall be deposited into an appropriate subaccount of
25 the solid waste management fund.

26 5. The department shall:

27 (1) Encourage the voluntary establishment of [waste] scrap
28 tire collection centers at retail tire selling businesses and

1 [waste] scrap tire processing facilities; and

2 (2) Investigate, locate and document existing sites where
3 tires have been or currently are being accumulated, and initiate
4 efforts to bring these sites into compliance with rules and
5 regulations promulgated pursuant to the provisions of sections
6 260.270 to 260.276.

7 6. Any person licensed as an auto dismantler and salvage
8 dealer under chapter 301, RSMo, may without further license,
9 permit or payment of fee, store but shall not bury on his
10 property, up to five hundred [waste] scrap tires that have been
11 chipped, cut or shredded, if such tires are only from vehicles
12 acquired by him, and such tires are stored in accordance with the
13 rules and regulations adopted by the department pursuant to this
14 section. Any tire retailer or wholesaler may hold more than five
15 hundred [waste] scrap tires for a period not to exceed thirty
16 days without being permitted as a [waste] scrap tire site, if
17 such tires are stored in a manner which protects human health and
18 the environment pursuant to regulations adopted by the
19 department.

20 7. Notwithstanding any other provisions of sections 260.270
21 to 260.276, a person who leases or owns real property may use
22 [waste] scrap tires for soil erosion abatement and drainage
23 purposes in accordance with procedures approved by the
24 department, or to secure covers over silage, hay, straw or
25 agricultural products.

26 8. The department of transportation shall, beginning July
27 1, 1991, undertake, as part of its currently scheduled highway
28 improvement projects, demonstration projects using recovered

1 rubber from [waste] scrap tires as surfacing material, structural
2 material, subbase material and fill, consistent with standard
3 engineering practices. The department shall evaluate the
4 efficacy of using recovered rubber in highway improvements, and
5 shall encourage the modification of road construction
6 specifications, when possible, for the use of recovered rubber in
7 highway improvement projects.

8 9. The director may request a prosecuting attorney to
9 institute a prosecution for any violation of this section. In
10 addition, the prosecutor of any county or circuit attorney of any
11 city not within a county may, by information or indictment,
12 institute a prosecution for any violation of this section.

13 260.272. Processed [waste] scrap tires and recycled rubber
14 chips may be used in the design and operation of sanitary
15 landfills, including use of such tires and rubber chips as daily
16 cover. The department of natural resources may promulgate rules
17 to implement this section. Any rule or portion of a rule, as
18 that term is defined in section 536.010, RSMo, that is created
19 under the authority delegated in this section shall become
20 effective only if it complies with and is subject to all of the
21 provisions of chapter 536, RSMo, and, if applicable, section
22 536.028, RSMo. This section and chapter 536, RSMo, are
23 nonseverable and if any of the powers vested with the general
24 assembly pursuant to chapter 536, RSMo, to review, to delay the
25 effective date or to disapprove and annul a rule are subsequently
26 held unconstitutional, then the grant of rulemaking authority and
27 any rule proposed or adopted after August 28, 1999, shall be
28 invalid and void.

1 260.273. 1. Any person purchasing a new tire may present
2 to the seller the used tire or remains of such used tire for
3 which the new tire purchased is to replace.

4 2. A fee for each new tire sold at retail shall be imposed
5 on any person engaging in the business of making retail sales of
6 new tires within this state. The fee shall be charged by the
7 retailer to the person who purchases a tire for use and not for
8 resale. Such fee shall be imposed at the rate of fifty cents for
9 each new tire sold. Such fee shall be added to the total cost to
10 the purchaser at retail after all applicable sales taxes on the
11 tires have been computed. The fee imposed, less six percent of
12 fees collected, which shall be retained by the tire retailer as
13 collection costs, shall be paid to the department of revenue in
14 the form and manner required by the department of revenue and
15 shall include the total number of new tires sold during the
16 preceding month. The department of revenue shall promulgate
17 rules and regulations necessary to administer the fee collection
18 and enforcement. The terms "sold at retail" and "retail sales"
19 do not include the sale of new tires to a person solely for the
20 purpose of resale, if the subsequent retail sale in this state is
21 to the ultimate consumer and is subject to the fee.

22 3. The department of revenue shall administer, collect and
23 enforce the fee authorized pursuant to this section pursuant to
24 the same procedures used in the administration, collection and
25 enforcement of the general state sales and use tax imposed
26 pursuant to chapter 144, RSMo, except as provided in this
27 section. The proceeds of the new tire fee, less [four] one
28 percent of the proceeds, which shall be retained by the

1 department of revenue as collection costs, shall be transferred
2 by the department of revenue into an appropriate subaccount of
3 the solid waste management fund, created pursuant to section
4 260.330.

5 4. [Up to five percent of the revenue available may be
6 allocated, upon appropriation, to the department of natural
7 resources to be used cooperatively with the department of
8 elementary and secondary education for the purposes of developing
9 educational programs and curriculum pursuant to section 260.342.

10 5. Up to twenty-five percent of the moneys received
11 pursuant to this section may, upon appropriation, be used to
12 administer the programs imposed by this section. Up to five
13 percent of the moneys received under this section may, upon
14 appropriation, be used for the grants authorized in subdivision
15 (2) of subsection 6 of this section and authorized in section
16 260.274. All remaining moneys shall be allocated, upon
17 appropriation, for the projects authorized in section 260.276.

18 6.] In any fiscal year, the department of natural resources
19 shall receive eighteen percent of the revenue transferred into
20 the subaccount of the solid waste management fund pursuant to
21 subsection 3 of this section and shall not spend more than such
22 amount on administrative costs related to the removal of scrap
23 tires from illegal dumps, permitting, and enforcement.

24 5. A portion of the revenue remaining following the
25 provisions of subsection 4 of this section shall be transferred
26 into the subaccount of the solid waste management fund pursuant
27 to subsection 3 of this section and shall be allocated, upon
28 appropriation, to the department of natural resources for the

1 purpose of removal of scrap tires from illegal tire dumps as
2 follows: for fiscal year 2005, up to seventy-five percent of the
3 revenue shall be allocated for such purpose; for fiscal year
4 2006, up to sixty percent of the revenue shall be allocated for
5 such purpose; for fiscal year 2007, up to fifty percent of the
6 revenue shall be allocated for such purpose; for fiscal year
7 2008, up to thirty percent of the revenue shall be allocated for
8 such purpose; and for fiscal year 2009, twenty percent of the
9 revenue shall be allocated to the department for such purpose.

10 6. In each fiscal year, the portion of revenue in the
11 subaccount of the solid waste management fund deposited pursuant
12 to subsection 3 of this section not appropriated to the
13 department of natural resources shall be equally allocated
14 between the department of economic development and the school
15 district safe surfacing trust fund to be used primarily for the
16 development, creation, and promotion of innovative products made
17 from recycled scrap tires.

18 7. There is hereby created within the solid waste
19 management fund created pursuant to section 260.330, a
20 subaccount, the "School District Safe Surfacing Trust Fund",
21 which shall consist of money deposited in the fund pursuant to
22 subsection 5 of this section. The fund shall be administered by
23 the department of economic development. Moneys in the fund shall
24 be appropriated to individual school districts to be used solely
25 for the construction of safe playground surfacing made from scrap
26 tires.

27 8. Notwithstanding the provisions of section 33.080, RSMo,
28 to the contrary, any moneys remaining in the fund at the end of

1 the biennium shall not revert to the credit of the general
2 revenue fund.

3 9. The state treasurer shall invest moneys in the fund in
4 the same manner as other funds are invested. Any interest and
5 moneys earned on such investments shall be credited to the fund.

6 10. The department of natural resources shall promulgate,
7 by rule, a statewide plan for the use of moneys received pursuant
8 to this section to accomplish the following:

9 (1) Removal of [waste] scrap tires from illegal tire dumps;
10 and

11 (2) [Providing grants to persons that will use products
12 derived from waste tires, or used waste tires as a fuel or fuel
13 supplement; and

14 (3)] Resource recovery activities conducted by the
15 department pursuant to section 260.276.

16 11. The department of natural resources shall prepare an
17 annual report on scrap tire removal efforts with information on,
18 but not limited to, total numbers of scrap tires removed from
19 illegal dumps throughout the state, costs of administering and
20 implementing the removal efforts, estimated numbers for future
21 removal efforts, and estimated costs related to those efforts.
22 The report shall be submitted by February first each year to the
23 governor and the general assembly.

24 [7.] 12. The fee imposed in subsection 2 of this section
25 shall terminate January 1, [2004] 2009.

26 260.274. 1. The department of economic development [and],
27 the environmental improvement and energy resources authority, and
28 the Missouri development finance board shall administer a program

1 to provide incentive grants [for capital expenditures to convert
2 existing facilities] and low-interest loans for the purpose of
3 using [waste] scrap tires [as a fuel or fuel supplement or
4 products from waste tires] for the development, creation, and
5 promotion of innovative products made from recycled scrap tires
6 including, but not limited to, highway improvement demonstration
7 projects as referred to in subsection 8 of section 260.270, RSMo.
8 Any person, other than a state agency, who meets eligibility
9 requirements established by the department of economic
10 development by rule may apply for such grants or low-interest
11 loans. No grant or loan may be awarded for an activity which
12 receives less than [forty] sixty percent of its tires from
13 Missouri [waste] scrap tire sites, retailers or residents. The
14 burden of proof shall be on the applicant to show that
15 eligibility requirements have been met.

16 2. [For the purpose of establishing eligibility
17 requirements and application priorities, the director shall
18 create an advisory council consisting of members of the tire
19 industry, the general public, the department and the department
20 of economic development.] The department of economic development
21 shall promulgate rules that establish the following criteria that
22 must be met in each grant or loan approved by the department:

23 (1) A minimum of five new jobs created with each proposed
24 project;

25 (2) A minimum investment by the company or individual with
26 each proposed project;

27 (3) An emphasis on hiring Missouri workers with each
28 proposed project;

1 (4) Wages for the workers involved with each proposed
2 project shall be consistent with the county average that the
3 proposed project is to be located in.

4
5 Any rule or portion of a rule, as that term is defined in section
6 536.010, RSMo, that is created under the authority delegated in
7 this section shall become effective only if it complies with and
8 is subject to all of the provisions of chapter 536, RSMo, and, if
9 applicable, section 536.028, RSMo. This section and chapter 536,
10 RSMo, are nonseverable and if any of the powers vested with the
11 general assembly pursuant to chapter 536, RSMo, to review, to
12 delay the effective date, or to disapprove and annul a rule are
13 subsequently held unconstitutional, then the grant of rulemaking
14 authority and any rule proposed or adopted after August 28, 2004,
15 shall be invalid and void.

16 3. The department of economic development shall prepare an
17 annual report on incentive grants and low-interest loans awarded
18 for the development, creation, and promotion of innovative
19 products made from recycled scrap tires, with information on, but
20 not limited to, number of grants and loans awarded, individual
21 grant and loan objectives and products, total moneys awarded in
22 grants and loans, duration of project time for grants and loans
23 awarded during that fiscal year, and compliance with the rules
24 and criteria established in subsection 2 of this section.
25 Administration costs for the department of economic development
26 shall be included in the annual report submitted by February
27 first each year to the governor and general assembly. In any
28 fiscal year, the department of economic development shall not

1 spend more than fifteen percent of revenue allocated on
2 administrative costs.

3 260.275. 1. Each operator of a [waste] scrap tire site
4 shall ensure that the area is properly closed upon cessation of
5 operations. The department of natural resources may require that
6 a closure plan be submitted with the application for a permit.
7 The closure plan, as approved by the department, shall include at
8 least the following:

9 (1) A description of how and when the area will be closed;

10 (2) The method of final disposition of any [waste] scrap
11 tires remaining on the site at the time notice of closure is
12 given to the department.

13 2. The operator shall notify the department at least ninety
14 days prior to the date he expects closure to begin. No [waste]
15 scrap tires may be received by the [waste] scrap tire site after
16 the date closure is to begin.

17 3. The permittee shall provide a financial assurance
18 instrument in such an amount and form as prescribed by the
19 department to ensure that, upon abandonment, cessation or
20 interruption of the operation of the site, an approved closure
21 plan is completed. The amount of the financial assurance
22 instrument shall be based upon the current costs of similar
23 cleanups using data from actual [waste] scrap tire cleanup
24 project bids received by the department to remediate [waste]
25 scrap tire sites of similar size. If [waste] scrap tires are
26 accumulated at a solid [waste] scrap management area, the
27 existing financial assurance instrument filed for the solid
28 [waste] scrap disposal area may be applied to the requirements of

1 this section. Any interest that accrues to any financial
2 assurance instrument established pursuant to this section shall
3 remain with that instrument and shall be applied against the
4 operator's obligation under this section until the instrument is
5 released by the department. The director shall authorize the
6 release of the financial assurance instrument after the
7 department has been notified by the operator that the site has
8 been closed, and after inspection, the department approves
9 closure of the [waste] scrap tire site.

10 4. If the operator of a [waste] scrap tire site fails to
11 properly implement the closure plan, the director shall order the
12 operator to implement such plan, and take other steps necessary
13 to assure the proper closure of the site pursuant to section
14 260.228 and this section.

15 260.276. 1. The department of natural resources shall,
16 subject to appropriation, conduct resource recovery or nuisance
17 abatement activities designed to reduce the volume of [waste]
18 scrap tires or alleviate any nuisance condition at any site if
19 the owner or operator of such a site fails to comply with the
20 rules and regulations authorized under section 260.270, or if the
21 site is in continued violation of such rules and regulations.
22 The department shall give first priority to cleanup of sites
23 owned by persons who present satisfactory evidence that such
24 persons were not responsible for the creation of the nuisance
25 conditions or any violations of section 260.270 at the site.

26 2. The department may ask the attorney general to initiate
27 a civil action to recover from any persons responsible the
28 reasonable and necessary costs incurred by the department for its

1 nuisance abatement activities and its legal expenses related to
2 the abatement; except that in no case shall the attorney general
3 seek to recover cleanup costs from the owner of the property if
4 such person presents satisfactory evidence that such person was
5 not responsible for the creation of the nuisance condition or any
6 violation of section 260.270 at the site.

7 3. The department shall allow any person, firm,
8 corporation, state agency, charitable, fraternal, or other
9 nonprofit organization to bid on a contract for each resource
10 recovery or nuisance abatement activity authorized under this
11 section. The contract shall specify the cost per tire for
12 delivery to a registered [waste] scrap tire processing or
13 end-user facility, and the cost per tire for processing. The
14 recipient or recipients of any contract shall not be compensated
15 by the department for the cost of delivery and the cost of
16 processing for each tire until such tire is delivered to a
17 registered [waste] scrap tire processing or end-user facility and
18 the contract recipient has provided proof of delivery to the
19 department. Any charitable, fraternal, or other nonprofit
20 organization which voluntarily cleans up land or water resources
21 may turn in [waste] scrap tires collected in the course of such
22 cleanup under the rules and regulations of the department.

23 260.278. 1. A person who has, within the preceding
24 twenty-four months, been found guilty or pleaded guilty to a
25 violation of section 260.270 which involves the transport of
26 [waste] scrap tires may not be granted a permit to transport
27 [waste] scrap tires unless the person seeking the permit has
28 provided to the department a performance bond or letter of credit

1 as provided under this section.

2 2. The bond or letter shall be conditioned upon faithful
3 compliance with the terms and conditions of the permit and
4 section 260.270 and shall be in the amount of ten thousand
5 dollars.

6 3. Such performance bond, placed on file with the
7 department, shall be in one of the following forms:

8 (1) A performance bond, payable to the department and
9 issued by an institution authorized to issue such bonds in this
10 state; or

11 (2) An irrevocable letter of credit issued in favor of and
12 payable to the department from a commercial bank or savings and
13 loan having an office in the state of Missouri.

14 4. Upon a determination by the department that a person has
15 violated the terms and conditions of the permit or section
16 260.270, the department shall notify the person that the bond or
17 letter of credit shall be forfeited and the moneys placed in an
18 appropriate subaccount of the solid waste management fund,
19 created under section 260.330, for remedial action.

20 5. The department shall expend whatever portion of the bond
21 or letter of credit necessary to conduct resource recovery or
22 nuisance abatement activities to alleviate any condition
23 resulting from a violation of section 260.270 or the terms and
24 conditions of a permit.

25 6. The requirement for a person to provide a performance
26 bond or a letter of credit under this section shall cease for
27 that person after two consecutive years in which the person has
28 not been found guilty or pleaded guilty to a violation of section

1 260.270.

2 260.279. In issuing contracts for the performance of any
3 job or service for the removal or clean up of scrap tires
4 pursuant to chapter 260, the department of natural resources
5 shall, in addition to the requirements of sections 34.073 and
6 34.076, RSMo, and any other points awarded during the evaluation
7 process, give to any vendor that meets one or more of the
8 following factors a five percent preference and ten bonus points
9 for each factor met:

10 (1) The bid is submitted by a vendor that has resided or
11 maintained its headquarters or principle place of business in
12 Missouri continuously for the four years immediately preceding
13 the date on which the bid is submitted;

14 (2) The bid is submitted by a nonresident corporation
15 vendor that has an affiliate or subsidiary that employs at least
16 twenty Missouri residents and has maintained its headquarters or
17 principle place of business in Missouri continuously for the four
18 years immediately preceding the date on which the bid is
19 submitted;

20 (3) The bid is submitted by a vendor that resides or
21 maintains its headquarters or principle place of business in
22 Missouri and, for the purposes of completing the bid project,
23 employs an average of at least seventy-five percent Missouri
24 residents continuously over the entire term of the project. Such
25 residents shall have resided in the state continuously for at
26 least two years immediately preceding the date on which the bid
27 is submitted. Such vendor shall provide reasonable and reliable
28 verification as to comply with the residency requirements

1 established in this section and shall submit a written claim for
2 preference at the time the bid is submitted;

3 (4) The bid is submitted by a nonresident vendor that has
4 an affiliate or subsidiary that employs at least twenty Missouri
5 residents and has maintained its headquarters or principle place
6 of business in Missouri, and for the purposes of completing the
7 bid project, employs an average of at least seventy-five percent
8 of Missouri residents continuously over the entire term of the
9 project. Such residents shall have resided in the state
10 continuously for at least two years immediately preceding the
11 date on which the bid is submitted. Such vendor shall provide
12 reasonable and reliable verification as to comply with the
13 residency requirements established in this section and shall
14 submit a written claim for preference at the time the bid is
15 submitted.

16 260.335. 1. For fiscal years 1992-1997, one million
17 dollars from the solid waste management fund shall be made
18 available, upon appropriation, to the department and the
19 environmental improvement and energy resources authority to fund
20 activities that promote the development and maintenance of
21 markets for recovered materials, and beginning in fiscal year
22 1998, ten percent of the moneys in the solid waste management
23 fund, from August 28, 2004, to August 28, 2005, not to exceed
24 [one million] eight hundred thousand dollars, shall be made
25 available for such purposes. Up to [fifteen] nineteen percent of
26 such moneys may be used, upon appropriation, to administer the
27 management of household hazardous waste and agricultural
28 hazardous waste from family farms and family farm corporations,

1 as defined in section 350.010, RSMo, to provide for establishment
2 of an education program and a plan for the collection of
3 household hazardous waste on a statewide basis by January 1,
4 2000. After August 28, 2005, an amount not to exceed one million
5 dollars shall be made available for such purposes. Up to fifteen
6 percent of such moneys may be used, upon appropriation, to
7 administer the management of household hazardous waste and
8 agricultural hazardous waste from family farms and family farm
9 corporations, as defined in section 350.010, RSMo, to provide for
10 establishment of an education program and a plan for the
11 collection of household hazardous waste on a statewide basis by
12 January 1, 2000. The department and the authority shall
13 establish a joint interagency agreement with the department of
14 economic development to identify state priorities for market
15 development and to develop the criteria to be used to judge
16 proposed projects. Additional moneys may be appropriated in
17 subsequent fiscal years if requested. The authority shall
18 establish a procedure to measure the effectiveness of the grant
19 program under this subsection and shall provide a report to the
20 governor and general assembly by January fifteenth of each year
21 regarding the effectiveness of the program.

22 2. All remaining [moneys in] revenues deposited into the
23 fund each fiscal year after moneys have been made available for
24 market development under subsection 1 of this section shall be
25 allocated as follows:

26 (1) From August 28, 2004, to August 28, 2005, up to [ten]
27 forty-two percent of the [moneys] revenues shall be dedicated,
28 upon appropriation, to the elimination of illegal solid waste

1 disposal, to identify and prosecute persons disposing of solid
2 waste illegally[;

3 (2) Up to fifteen percent of the moneys may, upon
4 appropriation, be used], to conduct solid waste permitting
5 activities, to administer grants and perform other duties imposed
6 in sections [260.255] 260.200 to 260.345 and section 260.432.
7 After August 28, 2005, up to twenty-five percent of the revenues
8 shall be dedicated, upon appropriation, to the activities and
9 duties authorized in this subdivision;

10 [(3)] (2) From August 28, 2004, to August 28, 2005, at
11 least [fifty] fifty-eight percent of the [moneys] revenues shall
12 be allocated through grants, upon appropriation, to participating
13 cities, counties, and districts [through grants or loans]. After
14 August 28, 2004, up to fifty percent of the revenues shall be
15 allocated through grants, upon appropriation, to participating
16 districts. Forty percent of the revenue generated within each
17 region and allocable under this subdivision may be allocated to
18 the district upon approval of the department for implementation
19 of a solid waste management plan and district operations, and
20 sixty percent of the revenue generated within each region and
21 allocable under this subdivision shall be allocated to the cities
22 and counties [within] of the district or to persons or entities
23 providing solid waste management, waste reduction, recycling, and
24 related services in these cities and counties. For the purposes
25 of this subdivision, revenue generated within each district shall
26 be determined from the previous year's data. From August 28,
27 2004, to August 28, 2005, each district shall receive a minimum
28 of [forty-five] seventy-five thousand dollars under this

1 subdivision. After August 28, 2005, each district shall receive
2 a minimum of forty-five thousand dollars under this subdivision.

3 Each district receiving moneys under this subdivision shall
4 expend such moneys pursuant to a solid waste management plan
5 required under section 260.325, and only in the case that the
6 district is in compliance with planning requirements established
7 by the department, and shall submit, within ninety days of the
8 end of the fiscal year, an audited report of the expenditure of
9 all funds received under this subsection. Moneys shall be
10 awarded based upon grant applications. Any moneys remaining in
11 any fiscal year due to insufficient or inadequate applications
12 may be reallocated pursuant to this subdivision [(4) of this
13 subsection]. [Moneys received from a region without a district
14 which are allocable under this subsection shall be accumulated
15 through September 30, 1993, and may be allocated to any district
16 which forms within the region before July 1, 1996, and to cities
17 and counties within the district to further the purposes of
18 sections 260.300 to 260.345. Moneys collected in and accumulated
19 for a region without a district on June 30, 1996, shall be
20 reallocated to existing districts after July 1, 1996, pursuant to
21 this section;]

22 [(4) The] (3) From August 28, 2004, to August 28, 2005,
23 any remaining moneys in the fund shall be used, upon
24 appropriation, to provide grants [or loans] for statewide solid
25 waste management planning or research projects to any district,
26 county or city of the state or to any other person or entity
27 involved in waste reduction or recycling or for contracted
28 services to further the purposes of section 260.225 and sections

1 260.255 to 260.345[. Solid waste management districts may apply
2 annually to the department for a three-to-one matching grant of
3 up to twenty thousand dollars per district per year to be used
4 for the purpose of district operations]. After August 28, 2005,
5 any remaining moneys in the fund shall be used, upon
6 appropriation, to provide grants or loans for statewide solid
7 waste management projects to any district, county, or city of the
8 state or to any other person or entity involved in waste
9 reduction or recycling to further the purposes of sections
10 260.255 to 260.345. Solid waste management districts may apply
11 annually to the department for a three-to-one matching grant of
12 up to twenty thousand dollars per district per year to be used
13 for the purpose of district operations;

14 [(5)] (4) Funds may be made available under this subsection
15 for the administration and grants of the used motor oil program
16 described in section 260.253;

17 [(6)] (5) The department and the environmental improvement
18 and energy resources authority shall conduct sample audits of
19 grants provided under this subsection.

20 3. The advisory board created in section 260.345 shall
21 recommend criteria to be used to allocate grant moneys to
22 districts, cities and counties. These criteria shall establish a
23 priority for proposals which provide methods of solid waste
24 reduction and recycling. The department shall promulgate
25 criteria for evaluating grants by rule and regulation. Projects
26 of cities and counties located within a district which are funded
27 by grants under this section shall conform to the district solid
28 waste management plan.

1 4. Beginning July 1, 2004, a joint committee appointed by
2 the speaker of the house of representatives and the president pro
3 tem of the senate shall consider proposals for fees,
4 restructuring the distribution of the fees between solid waste
5 districts, grant recipients, and the department. The committee
6 shall consider options for the distribution of the tipping fee to
7 the solid waste districts and any other matters it deems
8 appropriate. The committee shall prepare and submit a report
9 including its recommendation for changes to the governor, the
10 house of representatives, and the senate no later than December
11 31, 2004.

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

18 [5.] 6. The department, in conjunction with the solid waste
19 advisory board, shall review the performance of all grant
20 recipients to ensure that grant moneys were appropriately and
21 effectively expended to further the purposes of the grant, as
22 expressed in the recipient's grant application. The grant
23 application shall contain specific goals and implementation
24 dates, and grant recipients shall be contractually obligated to
25 fulfill same. The department may require the recipient to submit
26 periodic reports and such other data as are necessary, both
27 during the grant period and up to five years thereafter, to
28 ensure compliance with this section. The department may audit

1 the records of any recipient to ensure compliance with this
2 section. Recipients of grants under sections 260.300 to 260.345
3 shall maintain such records as required by the department. If a
4 grant recipient fails to maintain records or submit reports as
5 required herein, refuses the department access to the records, or
6 fails to meet the department's performance standards, the
7 department may withhold subsequent grant payments, if any, and
8 may compel the repayment of funds provided to the recipient
9 pursuant to a grant. The department shall make available all of
10 the unencumbered funds generated during prior fiscal years by the
11 fees established under section 260.330 through grants or loans to
12 solid waste management areas and processing facilities,
13 municipalities, counties, districts, and other appropriate
14 persons who demonstrate a need for assistance to comply with
15 section 260.250. Such grants or loans shall be used for
16 educational programs, transportation, low-interest or no-interest
17 loans to purchase property for composting or other solid waste
18 source reduction activities stated to facilitate compliance with
19 section 260.250.

20 [6.] 7. The department shall provide for a security
21 interest in any machinery or equipment purchased through grant
22 moneys distributed pursuant to this section.

23 8. If the moneys are not transmitted to the department
24 within the time frame established by the rule promulgated,
25 interest shall be imposed on the moneys due the department at the
26 rate of ten percent per annum from the prescribed due date until
27 payment is actually made. These interest amounts shall be
28 deposited to the credit of the solid waste management fund.

1 260.370. 1. Where proven technology is available and the
2 economic impact is reasonable, pursuant to rules and regulations
3 promulgated by the commission, the hazardous waste management
4 commission shall encourage that every effort is made to
5 effectively treat, recycle, detoxify, incinerate or otherwise
6 treat hazardous waste to be disposed of in the state of Missouri
7 in order that such wastes are not disposed of in a manner which
8 is hazardous to the public health and the environment. Where
9 proven technology is available with respect to a specific
10 hazardous waste and the economic impact is reasonable, pursuant
11 to rules and regulations promulgated by the commission, the
12 hazardous waste management commission shall direct that disposal
13 of the specific hazardous wastes using land filling as the
14 primary method is prohibited.

15 2. The hazardous waste management commission shall, by
16 rules and regulations, categorize hazardous waste by taking into
17 account toxicity, persistence and degradability in nature,
18 potential for accumulation in tissue, and other related factors
19 such as flammability, corrosiveness and other hazardous
20 characteristics. The commission shall by rules and regulations
21 further establish within each category the wastes which may or
22 may not be disposed of through alternative hazardous waste
23 management technologies including, but not limited to, treatment
24 facilities, incinerators, landfills, landfarms, storage
25 facilities, surface impoundments, recycling, reuse and reduction.
26 The commission shall specify, by rule and regulation, the
27 frequency of inspection for each method of hazardous waste
28 management and for the different waste categories at hazardous

1 waste management sites. The inspection may be daily when the
2 hazardous waste management commission deems it necessary. The
3 hazardous waste management commission shall specify, by rule,
4 fees to be paid to the department by owners or operators of
5 hazardous waste facilities who have obtained, or are required to
6 obtain, a hazardous waste facility permit and who accept, on a
7 commercial basis for remuneration, hazardous waste from off-site
8 sources, but not including wastes generated by the same person at
9 other sites located in Missouri or within a metropolitan
10 statistical area located partially in Missouri and owned or
11 operated by the same person and transferred to the hazardous
12 waste facility, for treatment, storage or disposal, for
13 inspections conducted by the department to determine compliance
14 with sections 260.350 to 260.430 and the regulations promulgated
15 thereunder. Funds derived from these inspection fees shall be
16 used for the purpose of funding the inspection of hazardous waste
17 facilities, as specified in subsection 3 of section 260.391.
18 Such fees shall not exceed twelve thousand dollars per year per
19 facility and the commission shall establish a graduated fee scale
20 based on the volume of hazardous waste accepted with reduced fees
21 for facilities accepting smaller volumes of hazardous waste. The
22 department shall furnish, upon request, to the person, firm or
23 corporation operating the hazardous waste facility a complete,
24 full and detailed accounting of the cost of the department's
25 inspections of the facility for the twelve-month period
26 immediately preceding the request within forty-five days after
27 receipt of the request. Failure to provide the accounting within
28 forty-five days shall require the department to refund the

1 inspection fee paid during the twelve-month-time period.

2 3. In addition to any other powers vested in it by law, the
3 commission shall have the following powers:

4 (1) From time to time adopt, amend or repeal, after due
5 notice and public hearing, standards, rules and regulations to
6 implement, enforce and carry out the provisions of sections
7 260.350 to 260.430 and any required of this state by any federal
8 hazardous waste management act and as the commission may deem
9 necessary to provide for the safe management of hazardous wastes
10 to protect the health of humans and the environment. In
11 implementing this subsection, the commission shall consider the
12 variations within this state in climate, geology, population
13 density, quantities and types of hazardous wastes generated,
14 availability of hazardous waste facilities and such other factors
15 as may be relevant to the safe management of hazardous wastes.
16 Within two years after September 28, 1977, the commission shall
17 adopt rules and regulations including the following:

18 (a) Rules and regulations establishing criteria and a
19 listing for the determination of whether any waste or combination
20 of wastes is hazardous for the purposes of sections 260.350 to
21 260.430, taking into account toxicity, persistence and
22 degradability in nature, potential for accumulation in tissue,
23 and other related factors such as flammability, corrosiveness and
24 other hazardous characteristics;

25 (b) Rules and regulations for the storage, treatment and
26 disposal of hazardous wastes;

27 (c) Rules and regulations for the transportation,
28 containerization and labeling of hazardous wastes, which shall be

1 consistent with those issued by the Missouri public service
2 commission;

3 (d) Rules and regulations establishing standards for the
4 issuance, modification, suspension, revocation or denial of such
5 licenses and permits as are consistent with the purposes of
6 sections 260.350 to 260.430;

7 (e) Rules and regulations establishing standards and
8 procedures for the safe operation and maintenance of hazardous
9 waste facilities in order to protect the health of humans and
10 other living organisms;

11 (f) Rules and regulations listing those wastes or
12 combinations of wastes, for which criteria have been established
13 under paragraph (a) of this subdivision and which are not
14 compatible and which may not be stored or disposed of together;

15 (g) Rules and regulations establishing procedures and
16 requirements for the reporting of the generation, storage,
17 transportation, treatment or disposal of hazardous wastes;

18 (2) Adopt and publish, after notice as required by the
19 provisions of chapter 536, RSMo, pertaining to administrative
20 rulemaking, and public hearing, a state hazardous waste
21 management plan to provide for the safe and effective management
22 of hazardous wastes within this state. This plan shall be
23 adopted within two years after September 28, 1977, and revised at
24 least once every five years thereafter;

25 (3) Hold hearings, issue notices of hearings and subpoenas
26 requiring the attendance of witnesses and the production of
27 evidence, administer oaths and take testimony as the commission
28 deems necessary to accomplish the purposes of sections 260.350 to

1 260.430 or as required by any federal hazardous waste management
2 act. Unless otherwise specified in sections 260.350 to 260.430,
3 any of these powers may be exercised on behalf of the commission
4 by any members thereof or a hearing officer designated by it;

5 (4) Grant individual variances in accordance with the
6 provisions of sections 260.350 to 260.430;

7 (5) Make such orders as are necessary to implement, enforce
8 and effectuate the powers, duties and purposes of sections
9 260.350 to 260.430.

10 4. No rule or portion of a rule promulgated under the
11 authority of sections 260.350 to 260.480 and sections 260.565 to
12 260.575 shall become effective unless it has been promulgated
13 pursuant to the provisions of section 536.024, RSMo.

14 5. Beginning July 1, 2004, a joint committee appointed by
15 the speaker of the house of representatives and the president pro
16 tem of the senate shall consider proposals for restructuring the
17 fees paid by hazardous waste generators and hazardous waste
18 facilities. The committee shall consider options for expanding
19 the fee structure to more fairly apportion the cost of services
20 provided among all those that benefit from those services. The
21 committee shall prepare and submit a report including its
22 recommendation for changes to the governor, the house of
23 representatives, and the senate no later than December 31, 2004.

24 260.375. The department shall:

25 (1) Exercise general supervision of the administration and
26 enforcement of sections 260.350 to 260.430 and all standards,
27 rules and regulations, orders or license and permit terms and
28 conditions adopted or issued pursuant to sections 260.350 to

1 260.430;

2 (2) Develop and implement programs to achieve goals and
3 objectives set by the state hazardous waste management plan;

4 (3) Retain, employ, provide for and compensate, within
5 appropriations available therefor, such consultants, assistants,
6 deputies, clerks and other employees on a full- or part-time
7 basis as may be necessary to carry out the provisions of sections
8 260.350 to 260.430 and prescribe the times at which they shall be
9 appointed and their powers and duties;

10 (4) Budget and receive duly appropriated moneys for
11 expenditures to carry out the provisions of sections 260.350 to
12 260.430;

13 (5) Accept, receive and administer grants or other funds or
14 gifts from public and private agencies including the federal
15 government for the purpose of carrying out any of the functions
16 of sections 260.350 to 260.430. Funds received by the department
17 pursuant to this section shall be deposited with the state
18 treasurer and held and disbursed by him or her in accordance with
19 the appropriations of the general assembly;

20 (6) Provide the commission all necessary support the
21 commission may require to carry out its powers and duties
22 including, but not limited to: keeping of records of all
23 meetings; notification, at the direction of the chairman of the
24 commission, of the members of the commission of the time, place
25 and purpose of each meeting by written notice; drafting, for
26 consideration of the commission, a state hazardous waste
27 management plan and standards, rules and regulations necessary to
28 carry out the purposes of sections 260.350 to 260.430; and

1 investigation of petitions for variances and complaints made to
2 the commission and submission of recommendations thereto;

3 (7) Collect and maintain, and require any person to collect
4 and maintain, such records and information of hazardous waste
5 generation, storage, transportation, resource recovery, treatment
6 and disposal in this state, including quantities and types
7 imported and exported across the borders of this state and
8 install, calibrate and maintain and require any person to
9 install, calibrate and maintain such monitoring equipment or
10 methods, and make reports consistent with the purposes of
11 sections 260.350 to 260.430;

12 (8) Secure necessary scientific, technical, administrative
13 and operational services, including laboratory facilities, by
14 contract or otherwise;

15 (9) Develop facts and make inspections and investigations,
16 including gathering of samples and performing of tests and
17 analyses, consistent with the purposes of sections 260.350 to
18 260.430, and in connection therewith, to enter or authorize any
19 representative of the department to enter, at all reasonable
20 times, in or upon any private or public property for any purpose
21 required by sections 260.350 to 260.430 or any federal hazardous
22 waste management act. Such entry may be for the purpose, without
23 limitation, of developing or implementing standards, rules and
24 regulations, orders or license or permit terms and conditions, of
25 inspecting or investigating any records required to be kept by
26 sections 260.350 to 260.430 or any license or permit issued
27 pursuant to sections 260.350 to 260.430 or any hazardous waste
28 management practice which the department or commission believes

1 violates sections 260.350 to 260.430, or any standard, rule or
2 regulation, order or license or permit term or condition adopted
3 or issued pursuant to sections 260.350 to 260.430, or otherwise
4 endangers the health of humans or the environment, or the site of
5 any suspected violation of sections 260.350 to 260.430, or any
6 standard, rule or regulation, order, or license or permit term or
7 condition adopted or issued pursuant to sections 260.350 to
8 260.430. The results of any such investigation shall be reduced
9 to writing and shall be furnished to the owner or operator of the
10 property. No person shall refuse entry or access requested for
11 the purpose of inspection pursuant to this subdivision to an
12 authorized representative of the department or commission who
13 presents appropriate credentials, nor obstruct or hamper the
14 representative in carrying out the inspection. A suitably
15 restricted search warrant, upon a showing of probable cause in
16 writing and upon oath, shall be issued by any judge or associate
17 circuit judge having jurisdiction to any such representative for
18 the purpose of enabling the representative to make such
19 inspection;

20 (10) Require each hazardous waste generator located within
21 this state and each hazardous waste generator located outside of
22 this state before utilizing any hazardous waste facility in this
23 state except as provided in subdivision (11) of this section to
24 file a registration report containing such information as the
25 commission by regulation may specify relating to types and
26 quantities of hazardous waste generated and methods of hazardous
27 waste management, and to meet all other requirements placed upon
28 hazardous waste generators by sections 260.350 to 260.430 and the

1 standards, rules and regulations and orders adopted or issued
2 pursuant to sections 260.350 to 260.430;

3 (11) Allow Missouri treatment, storage, and disposal
4 facilities receiving hazardous waste from out-of-state generators
5 to submit registration and reporting information to the
6 department in a format prescribed by the department describing
7 the types and quantities of hazardous waste received from the
8 out-of-state generator;

9 (12) Require each hazardous waste transporter operating in
10 this state to obtain a license and to meet all applicable
11 requirements of sections 260.350 to 260.430 and the standards,
12 rules and regulations, orders and license terms and conditions
13 adopted or issued pursuant to sections 260.350 to 260.430;

14 [(12)] (13) Require each hazardous waste facility owner and
15 operator to obtain a permit for each such facility and to meet
16 all applicable requirements of sections 260.350 to 260.430 and
17 the standards, rules and regulations, orders and permit terms and
18 conditions adopted or issued pursuant to sections 260.350 to
19 260.430;

20 [(13)] (14) Issue, continue in effect, revoke, modify or
21 deny in accordance with the standards, rules and regulations,
22 hazardous waste transporter licenses and hazardous waste facility
23 permits;

24 [(14)] (15) Encourage voluntary cooperation by persons or
25 affected groups to achieve the purposes of sections 260.350 to
26 260.430;

27 [(15)] (16) Enter such order or determination as may be
28 necessary to effectuate the provisions of sections 260.350 to

1 260.430 and the standards, rules and regulations, and license and
2 permit terms and conditions adopted or issued pursuant to
3 sections 260.350 to 260.430;

4 [(16)] (17) Enter such order or cause to be instituted in a
5 court of competent jurisdiction such legal proceedings as may be
6 necessary in a situation of imminent hazard, as prescribed in
7 section 260.420;

8 [(17)] (18) Settle or compromise as it may deem
9 advantageous to the state, with the approval of the commission,
10 any suit undertaken by the commission for recovery of any penalty
11 or for compelling compliance with any provision of sections
12 260.350 to 260.430 or any standard, rule or regulation, order, or
13 license or permit term or condition adopted or issued pursuant to
14 sections 260.350 to 260.430;

15 [(18)] (19) Advise, consult and cooperate with other
16 agencies of the state, the federal government, other states and
17 interstate agencies and with affected groups, political
18 subdivisions and industries in furtherance of the purposes of
19 sections 260.350 to 260.430 and, upon request, consult with
20 persons subject to sections 260.350 to 260.430 on the proper
21 measures necessary to comply with the requirements of sections
22 260.350 to 260.430 and rules and regulations adopted pursuant to
23 sections 260.350 to 260.430;

24 [(19)] (20) Encourage, coordinate, participate in or
25 conduct studies, investigations, research and demonstrations
26 relating to hazardous waste management as it may deem advisable
27 and necessary for the discharge of its duties pursuant to
28 sections 260.350 to 260.430;

1 [(20)] (21) Represent the state of Missouri in all matters
2 pertaining to interstate hazardous waste management including the
3 negotiation of interstate compacts or agreements;

4 [(21)] (22) Arrange for the establishment, staffing,
5 operation and maintenance of collection stations, within
6 appropriations or other funding available therefor, for
7 householders, farmers and other exempted persons as provided in
8 section 260.380;

9 [(22)] (23) Collect and disseminate information relating to
10 hazardous waste management;

11 [(23)] (24) Conduct education and training programs on
12 hazardous waste problems and management;

13 [(24)] (25) Encourage and facilitate public participation
14 in the development, revision and implementation of the state
15 hazardous waste program;

16 [(25)] (26) Encourage waste reduction, resource recovery,
17 exchange and energy conservation in hazardous waste management;

18 [(26)] (27) Exercise all powers necessary to carry out the
19 provisions of sections 260.350 to 260.430, assure that the state
20 of Missouri complies with any federal hazardous waste management
21 act and retains maximum control thereunder, and receives all
22 desired federal grants, aid and other benefits;

23 [(27)] (28) Present to the public, at a public meeting, and
24 to the governor and the members of the general assembly, an
25 annual report on the status of the state hazardous waste program;

26 [(28)] (29) Develop comprehensive plans and programs to aid
27 in the establishment of hazardous waste disposal sites as needed
28 within the various geographical areas of the state within a

1 reasonable period of time;

2 [(29)] (30) Control, abate or clean up any hazardous waste
3 placed into or on the land in a manner which endangers or is
4 reasonably likely to endanger the health of humans or the
5 environment and, in aid thereof, may cause to be filed by the
6 attorney general or a prosecuting attorney, a suit seeking
7 mandatory or prohibitory injunctive relief or such other relief
8 as may be appropriate. The department shall also take such action
9 as is necessary to recover all costs associated with the cleanup
10 of any hazardous waste from the person responsible for the waste.
11 All money received shall be deposited in the hazardous waste fund
12 created in section 260.391;

13 [(30)] (31) Oversee any corrective action work undertaken
14 pursuant to sections 260.350 to 260.430 and rules promulgated
15 pursuant to sections 260.350 to 260.430 to investigate, monitor,
16 or clean up releases of hazardous waste or hazardous constituents
17 to the environment at hazardous waste facilities. The department
18 shall review the technical and regulatory aspects of corrective
19 action plans, reports, documents, and associated field
20 activities, and attest to their accuracy and adequacy. Owners or
21 operators of hazardous waste facilities performing corrective
22 actions shall pay to the department all reasonable costs, as
23 determined by the commission, incurred by the department pursuant
24 to this subdivision. All such funds remitted by owners or
25 operators of hazardous waste facilities performing corrective
26 actions shall be deposited in the hazardous waste fund created in
27 section 260.391.

28 260.380. 1. After six months from the effective date of

1 the standards, rules and regulations adopted by the commission
2 pursuant to section 260.370, hazardous waste generators shall:

3 (1) Promptly file and maintain with the department, on
4 registration forms it provides for this purpose, information on
5 hazardous waste generation and management as specified by rules
6 and regulations[, and the hazardous waste generator may provide
7 such information in a single registration form for all hazardous
8 waste generation sites owned or operated by the hazardous waste
9 generator or may register each hazardous waste generation site
10 separately for the purposes of subdivision (10) of this
11 subsection]; except that generators located outside of Missouri
12 shall not be required to register with the department if the
13 Missouri treatment, storage, and disposal facilities provide this
14 information in accordance with subdivision (11) of section
15 260.375. Missouri treatment, storage, or disposal facilities
16 providing this information to the department for those out-of-
17 state generators shall do so and shall pay the applicable initial
18 registration fee within fifteen days of accepting any hazardous
19 waste from those out-of-state generators. Hazardous waste
20 generators shall pay a one hundred dollar registration fee upon
21 initial registration, and a one hundred dollar registration
22 renewal fee annually thereafter to maintain an active
23 registration; except that in accordance with subdivision (11) of
24 section 260.375, Missouri treatment, storage, or disposal
25 facilities receiving hazardous waste from out-of-state generators
26 that elect to provide this service for the out-of-state generator
27 shall pay this fee on behalf of those out-of-state generators.
28 For annual renewal fee payments, Missouri treatment, storage, or

1 disposal facilities that elect to provide this service to out-of-
2 state generators shall notify the department annually of those
3 generators at a time and in a manner prescribed by the
4 department. Such fees shall be deposited in the hazardous waste
5 fund created in section 260.391;

6 (2) Containerize and label all hazardous wastes as
7 specified by standards, rules and regulations;

8 (3) Segregate all hazardous wastes from all nonhazardous
9 wastes and from noncompatible wastes, materials and other
10 potential hazards as specified by standards, rules and
11 regulations;

12 (4) Provide safe storage and handling, including spill
13 protection, as specified by standards, rules and regulations, for
14 all hazardous wastes from the time of their generation to the
15 time of their removal from the site of generation;

16 (5) Unless provided otherwise in the rules and regulations,
17 utilize only a hazardous waste transporter holding a license
18 pursuant to sections 260.350 to 260.430 for the removal of all
19 hazardous wastes from the premises where they were generated;

20 (6) Unless provided otherwise in the rules and regulations,
21 provide a separate manifest to the transporter for each load of
22 hazardous waste transported from the premises where it was
23 generated. The generator shall specify the destination of such
24 load on the manifest. The manner in which the manifest shall be
25 completed, signed and filed with the department shall be in
26 accordance with rules and regulations;

27 (7) Utilize for treatment, resource recovery, disposal or
28 storage of all hazardous wastes, only a hazardous waste facility

1 authorized to operate pursuant to sections 260.350 to 260.430 or
2 the federal Resource Conservation and Recovery Act, or a state
3 hazardous waste management program authorized pursuant to the
4 federal Resource Conservation and Recovery Act, or any facility
5 exempted from the permit required pursuant to section 260.395;

6 (8) Collect and maintain such records, perform such
7 monitoring or analyses, and submit such reports on any hazardous
8 waste generated, its transportation and final disposition, as
9 specified in sections 260.350 to 260.430 and rules and
10 regulations adopted pursuant to sections 260.350 to 260.430;
11 except that generators located outside of Missouri shall not be
12 required to complete this reporting if the information is
13 provided by the Missouri treatment, storage, and disposal
14 facilities in accordance with subdivision (11) of section
15 260.375;

16 (9) Make available to the department upon request samples
17 of waste and all records relating to hazardous waste generation
18 and management for inspection and copying and allow the
19 department to make unhampered inspections at any reasonable time
20 of hazardous waste generation and management facilities located
21 on the generator's property and hazardous waste generation and
22 management practices carried out on the generator's property;

23 (10) Pay annually, on or before January first of each year,
24 effective January 1, 1982, a fee to the state of Missouri to be
25 placed in the hazardous waste fund to be used solely for the
26 administrative costs of the program. The fee shall not exceed
27 one dollar per ton of hazardous waste registered with the
28 department as specified in subdivision (1) of this subsection for

1 the twelve-month period ending June thirtieth of the previous
2 year. The amount of the fee shall be established annually by the
3 commission by rule or regulation. However, the fee shall not
4 exceed ten thousand dollars per generator per year and no fee
5 shall be imposed upon any generator who registers less than ten
6 tons of hazardous waste annually with the department;

7 (a) All moneys payable pursuant to the provisions of this
8 subdivision shall be promptly transmitted to the department of
9 revenue, which shall deposit the same in the state treasury to
10 the credit of the hazardous waste fund created in section
11 260.391;

12 (b) The hazardous waste management commission shall
13 establish and submit to the department of revenue procedures
14 relating to the collection of the fees authorized by this
15 subdivision. Such procedures shall include, but not be limited
16 to, necessary records identifying the quantities of hazardous
17 waste registered, the form and submission of reports to accompany
18 the payment of fees, the time and manner of payment of fees,
19 which shall not be more often than quarterly.

20 2. Exempted from the requirements of this section are
21 individual householders and farmers who generate only small
22 quantities of hazardous waste and any person the commission
23 determines generates only small quantities of hazardous waste on
24 an infrequent basis, except that:

25 (1) Householders, farmers and exempted persons shall manage
26 all hazardous wastes they may generate in a manner so as not to
27 adversely affect the health of humans, or pose a threat to the
28 environment, or create a public nuisance; and

1 (2) The department may determine that a specific quantity
2 of a specific hazardous waste requires special management. Upon
3 such determination and after public notice by press release or
4 advertisement thereof, including instructions for handling and
5 delivery, generators exempted pursuant to this subsection shall
6 deliver, but without a manifest or the requirement to use a
7 licensed hazardous waste transporter, such waste to:

8 (a) Any storage, treatment or disposal site authorized to
9 operate pursuant to sections 260.350 to 260.430 or the federal
10 Resource Conservation and Recovery Act, or a state hazardous
11 waste management program authorized pursuant to the federal
12 Resource Conservation and Recovery Act which the department
13 designates for this purpose; or

14 (b) A collection station or vehicle which the department
15 may arrange for and designate for this purpose.

16 260.475. 1. Every hazardous waste generator shall pay, in
17 addition to the fees imposed in section 260.380, a fee of
18 twenty-five dollars per ton annually on all hazardous waste which
19 is discharged, deposited, dumped or placed into or on the soil as
20 a final action, and two dollars per ton on all other hazardous
21 waste transported off site. No fee shall be imposed upon any
22 hazardous waste generator who registers less than ten tons of
23 hazardous waste annually pursuant to section 260.380, or upon:

24 (1) Hazardous waste which must be disposed of as provided
25 by a remedial plan for an abandoned or uncontrolled hazardous
26 waste site;

27 (2) Fly ash waste, bottom ash waste, slag waste and flue
28 gas emission control waste generated primarily from the

1 combustion of coal or other fossil fuels;

2 (3) Solid waste from the extraction, beneficiation and
3 processing of ores and minerals, including phosphate rock and
4 overburden from the mining of uranium ore and smelter slag waste
5 from the processing of materials into reclaimed metals;

6 (4) Cement kiln dust waste;

7 (5) Waste oil; or

8 (6) Hazardous waste that is:

9 (a) Reclaimed or reused for energy and materials;

10 (b) Transformed into new products which are not wastes;

11 (c) Destroyed or treated to render the hazardous waste
12 nonhazardous; or

13 (d) Waste discharged to a publicly owned treatment works.

14 2. The fees imposed in this section shall be reported and
15 paid to the department on an annual basis not later than the
16 first of January. The payment shall be accompanied by a return
17 in such form as the department may prescribe.

18 3. ~~Sixty~~ Forty percent of all moneys collected or
19 received by the department pursuant to this section shall be
20 transmitted to the department of revenue for deposit in the state
21 treasury to the credit of the hazardous waste remedial fund
22 created in section 260.480. ~~Forty~~ Sixty percent of all moneys
23 collected or received by the department pursuant to this section
24 shall be transmitted to the department of revenue for deposit in
25 the state treasury to the credit of the hazardous waste fund
26 created pursuant to section 260.391. Following each annual
27 reporting date, the state treasurer shall certify the amount
28 deposited in the fund to the commission.

1 4. If any generator or transporter fails or refuses to pay
2 the fees imposed by this section, or fails or refuses to furnish
3 any information reasonably requested by the department relating
4 to such fees, there shall be imposed, in addition to the fee
5 determined to be owed, a penalty of fifteen percent of the fee,
6 ~~[sixty]~~ forty percent of which shall be deposited in the
7 hazardous waste remedial fund, and ~~[forty]~~ sixty percent of which
8 shall be deposited in the hazardous waste fund.

9 5. If the fees or any portion of the fees imposed by this
10 section are not paid by the date prescribed for such payment,
11 there shall be imposed interest upon the unpaid amount at the
12 rate of ten percent per annum from the date prescribed for its
13 payment until payment is actually made, ~~[sixty]~~ forty percent of
14 which shall be deposited in the hazardous waste remedial fund,
15 ~~[forty]~~ sixty percent of which shall be deposited in the
16 hazardous waste fund.

17 6. The state treasurer is authorized to deposit all of the
18 moneys in the hazardous waste remedial fund in any of the
19 qualified depositories of the state. All such deposits shall be
20 secured in such a manner and shall be made upon such terms and
21 conditions as are now or may hereafter be provided for by law
22 relative to state deposits. Interest received on such deposits
23 shall be credited to the hazardous waste remedial fund.

24 7. ~~[No fee shall be collected pursuant to this section~~
25 ~~after January 1, 2005.] This fee shall expire June 30, 2006,~~
26 ~~except that the department shall levy and collect this fee for~~
27 ~~any hazardous waste generated prior to such date and reported to~~
28 ~~the department.~~

1 260.479. 1. The hazardous waste management commission
2 shall establish, by rule, two subdivisions of hazardous waste
3 based upon the management method. Subdivision A shall include
4 waste which is placed in a hazardous waste disposal facility or
5 which is stored for a period of more than one hundred eighty
6 days; provided, however, for the purposes of this section, the
7 commission may identify hazardous waste which shall be taxed
8 pursuant to subdivision A when stored for longer than ninety days
9 as well as waste which may be stored for up to one year and taxed
10 as provided in subdivision B below. Subdivision B shall include
11 all other hazardous waste produced. The director shall annually
12 request that a minimum of one million dollars be appropriated
13 from general revenue funds for deposit in the hazardous waste
14 remedial fund created pursuant to section 260.480.

15 2. Except as provided in this subsection and subsection 5
16 of this section, each hazardous waste generator registered with
17 the department of natural resources, except the state and any
18 political subdivision thereof, shall pay a fee based on the
19 volume of waste produced in each of the subdivisions A and B as
20 follows:

21 (1) For subdivision A waste, the fee shall be equal to
22 0.90785 times the amount of waste in short tons times the
23 following sum: twenty-one dollars and eighty cents plus the
24 product of 7.9890 cents times the amount of waste in short tons,
25 except that the fee for subdivision A waste shall not exceed
26 eighty thousand dollars; and

27 (2) For subdivision B waste, the fee shall be equal to
28 0.90785 times the amount of waste in short tons times the

1 following sum: ten dollars and ninety cents plus the product of
2 3.9945 cents times the amount of waste in short tons, except that
3 the fee for subdivision B waste shall not exceed forty thousand
4 dollars.

5
6 No company shall pay more than eighty thousand dollars annually
7 pursuant to this subsection; provided that all fee amounts
8 established pursuant to this subsection may be adjusted annually
9 by the commission by an amount not to exceed two and fifty-five
10 hundredths percent. No individual generator subject to a fee
11 pursuant to this section shall pay less than fifty dollars
12 annually.

13 3. No tax shall be imposed pursuant to this section upon
14 hazardous waste generators whose waste consists solely of waste
15 oil or facilities licensed pursuant to chapter 197, RSMo. The
16 commission may exempt intermittent generators or generators of
17 very small volumes of hazardous waste from payment of fees
18 required pursuant to this section, provided those generators
19 comply with all other applicable provisions of sections 260.360
20 to 260.430.

21 4. Any hazardous waste generator registered with the
22 department which discharges waste to a publicly owned treatment
23 works having an approved pretreatment program as required by
24 chapter 204, RSMo, shall not pay any fee required in sections
25 260.350 to 260.550 on such waste discharged which is in
26 compliance with pretreatment requirements. The hazardous waste
27 management commission may exempt such generators from the
28 provisions of sections 260.350 to 260.430 if such exemption will

1 not be in violation of the federal Resource Conservation and
2 Recovery Act.

3 5. No fee shall be imposed pursuant to this section upon
4 any hazardous waste which must be disposed of as provided by a
5 remedial plan for an abandoned or uncontrolled hazardous waste
6 site, or upon smelter slag waste from the processing of materials
7 into reclaimed metals. Fees on hazardous waste fuel produced
8 from hazardous waste by processing, blending or other off-site
9 treatment shall be assessed and collected only at the facility
10 where such hazardous waste fuel is utilized as a substitute for
11 other fuel. No facility using hazardous waste fuel shall pay
12 more than eighty thousand dollars annually pursuant to this
13 subsection for the first fiscal year fees are assessed pursuant
14 to this section, and such maximum amount may be adjusted annually
15 thereafter by the commission by an amount not to exceed two and
16 fifty-five hundredths percent. This subsection shall not be
17 construed to apply to hazardous waste used directly as a fuel
18 that has not been processed, blended, or otherwise treated off
19 site. Such waste shall be subject to the fees established in
20 subsection 2 of this section.

21 6. The department may establish by rule and regulation
22 categories of waste based upon waste characteristics pursuant to
23 subsection 2 of section 260.370. When the commission adopts
24 hazardous waste categories, it shall establish and annually
25 revise a fee schedule based upon waste characteristics. Each
26 generator shall annually pay a fee, in lieu of the fee required
27 in subsection 2 of this section, based upon the volume of waste
28 produced annually within each hazard category.

1 7. All fees within this section shall be based on hazardous
2 waste produced within the preceding state fiscal year beginning
3 with July first of the year this section goes into effect and
4 payable at the end of the calendar year on December thirty-first
5 and annually thereafter in the same manner; provided that no
6 liability for fees shall be accrued pursuant to subsection 5 of
7 this section for any waste used as a fuel prior to August 28,
8 2000.

9 8. The department shall promptly transmit [~~sixty~~] forty
10 percent of all funds collected pursuant to this section to the
11 director of revenue for deposit in the hazardous waste remedial
12 fund created pursuant to section 260.480. The department shall
13 promptly transmit [~~forty~~] sixty percent of all funds collected
14 pursuant to this section to the director of revenue for deposit
15 in the hazardous waste fund created pursuant to section 260.391.

16 9. Notwithstanding any other provision of law to the
17 contrary, no tax based on the number of employees employed by a
18 hazardous waste generator shall be collected. [No tax or fee
19 shall be levied pursuant to this section after January 1, 2005.]
20 This fee shall expire June 30, 2006, except that the department
21 shall levy and collect this fee for any hazardous waste generated
22 prior to such date and reported to the department.

23 444.762. It is hereby declared to be the policy of this
24 state to strike a balance between surface mining of minerals and
25 reclamation of land subjected to surface disturbance by surface
26 mining, as contemporaneously as possible, and for the
27 conservation of land, and thereby to preserve natural resources,
28 to encourage the planting of forests, to advance the seeding of

1 grasses and legumes for grazing purposes and crops for harvest,
2 to aid in the protection of wildlife and aquatic resources, to
3 establish recreational, home and industrial sites, to protect and
4 perpetuate the taxable value of property, and to protect and
5 promote the health, safety and general welfare of the people of
6 this state. Nothing in this policy shall be construed to declare
7 the purpose of the Land Reclamation Act to be the regulation of
8 the excavation of minerals or fill dirt for the purpose of
9 construction of recreational, home, commercial, and industrial
10 sites at the site of excavation as unrelated to surface mining or
11 reclamation of land subsequent to the surface mining of minerals.

12 444.765. Wherever used or referred to in sections 444.760
13 to 444.790, unless a different meaning clearly appears from the
14 context, the following terms mean:

15 (1) "Affected land", the pit area or area from which
16 overburden shall have been removed, or upon which overburden has
17 been deposited after September 28, 1971. When mining is
18 conducted underground, affected land means any excavation or
19 removal of overburden required to create access to mine openings,
20 except that areas of disturbance encompassed by the actual
21 underground openings for air shafts, portals, adits and haul
22 roads in addition to disturbances within fifty feet of any
23 openings for haul roads, portals or adits shall not be considered
24 affected land. Sites which exceed the excluded areas by more
25 than one acre for underground mining operations shall obtain a
26 permit for the total extent of affected lands with no exclusions
27 as required under sections 444.760 to 444.790;

28 (2) "Beneficiation", the dressing or processing of minerals

1 for the purpose of regulating the size of the desired produce,
2 removing unwanted constituents, and improving the quality or
3 purity of a desired product;

4 (3) "Commercial purpose", the purpose of extracting
5 minerals for their value in sales to other persons or for
6 incorporation into a product;

7 (4) "Commission", the land reclamation commission in the
8 department of natural resources;

9 (5) "Construction", construction, erection, alteration,
10 maintenance, or repair of any facility including but not limited
11 to any building, structure, highway, road, bridge, viaduct, water
12 or sewer line, pipeline or utility line, and demolition,
13 excavation, land clearance, and moving of minerals or fill dirt
14 in connection therewith;

15 [(3)] (6) "Director", the staff director of the land
16 reclamation commission;

17 (7) "Excavation", any operation in which earth, minerals,
18 or other material in or on the ground is moved, removed, or
19 otherwise displaced for purposes of construction at the site of
20 excavation by means of any tools, equipment, or explosives and
21 includes but is not limited to, backfilling, grading, trenching,
22 digging, ditching, drilling, well-drilling, auguring, boring,
23 tunneling, scraping, cable or pipe plowing, plowing-in, pulling-
24 in, ripping, driving, demolition of structures, and the use of
25 high-velocity air to disintegrate and suction to remove earth and
26 other materials. For purposes of this section, excavation or
27 removal of overburden for purposes of mining for a commercial
28 purpose or for purposes of reclamation of land subjected to

1 surface mining is not included in this definition. Neither shall
2 excavations of sand and gravel by political subdivisions or
3 private individuals be included in this definition;

4 (8) "Fill dirt", material removed from its natural location
5 through mining or construction activity, which is a mixture of
6 unconsolidated earthy material, which may include some minerals,
7 and which is used to fill, raise, or level the surface of the
8 ground at the site of disposition which may be at the site it was
9 removed or on other property, and which is not processed to
10 extract mineral components of the mixture. Backfill material for
11 use in completing reclamation is not included in this definition;

12 (9) "Land improvement", work performed by or for a public
13 or private owner or lessor of real property for purposes of
14 improving the suitability of the property for construction at an
15 undetermined future date where specific plans for construction do
16 not currently exist;

17 [(4)] (10) "Mineral", a constituent of the earth in a solid
18 state which, when extracted from the earth, is usable in its
19 natural form or is capable of conversion into a usable form as a
20 chemical, an energy source, or raw material for manufacturing or
21 construction material. For the purposes of this section, this
22 definition includes barite, tar sands, and oil shales, but does
23 not include iron, lead, zinc, gold, silver, coal, surface or
24 subsurface water, fill dirt, natural oil or gas together with
25 other chemicals recovered therewith;

26 (11) "Mining", the removal of overburden and extraction of
27 underlying minerals or the extraction of minerals from exposed
28 natural deposits for a commercial purpose, as defined by this

1 section;

2 [(5)] (12) "Operator", any person, firm or corporation
3 engaged in and controlling a surface mining operation;

4 [(6)] (13) "Overburden", all of the earth and other
5 materials which lie above natural deposits of minerals; and also
6 means such earth and other materials disturbed from their natural
7 state in the process of surface mining other than what is defined
8 in subdivision [(4)] (10) of this section;

9 [(7)] (14) "Peak", a projecting point of overburden created
10 in the surface mining process;

11 [(8)] (15) "Pit", the place where minerals are being or
12 have been mined by surface mining;

13 (16) "Public entity", the state or any officer, official,
14 authority, board, or commission of the state, and any county,
15 city, or other political subdivision of the state, or any
16 institution supported in whole or in part by public funds;

17 (17) "Quarry", any open pit or land disturbance whose
18 primary business purpose is the commercial surface mining of
19 minerals for purposes of being processed and sold to public
20 entities or private persons. A quarry operation includes but is
21 not limited to blasting, mining, screening, sorting, crushing,
22 milling, stockpiling, and weight scales or other means of
23 measuring the quantity of minerals sold;

24 [(9)] (18) "Refuse", all waste material directly connected
25 with the cleaning and preparation of substance mined by surface
26 mining;

27 [(10)] (19) "Ridge", a lengthened elevation of overburden
28 created in the surface mining process;

1 [(11)] (20) "Site" or "mining site", any location or group
2 of associated locations where minerals are being surface mined by
3 the same operator;

4 [(12)] (21) "Surface mining", the mining of minerals for
5 commercial purposes by removing the overburden lying above
6 natural deposits thereof, and mining directly from the natural
7 deposits thereby exposed, and shall include mining of exposed
8 natural deposits of such minerals over which no overburden lies
9 and, after August 28, 1990, the surface effects of underground
10 mining operations for such minerals. For the purposes of
11 sections 444.762 to 444.787, surface mining shall not be
12 construed to mean excavations to move minerals or fill dirt
13 within the confines of the real property where the excavation
14 occurs or to remove minerals or fill dirt from the real property
15 in preparation for construction at the site of excavation.

16 444.767. 1. The commission may:

17 (1) Adopt and promulgate rules and regulations pursuant to
18 section 444.530 and chapter 536, RSMo, respecting the
19 administration of sections 444.760 to 444.790 and in conformity
20 therewith;

21 (2) Encourage and conduct investigation, research,
22 experiments and demonstrations, and collect and disseminate
23 information relating to strip mining and reclamation and
24 conservation of lands and waters affected by strip mining;

25 (3) Examine and pass on all applications and plans and
26 specifications submitted by the operator for the method of
27 operation and for the reclamation and conservation of the area of
28 land affected by the operation;

1 (4) Make investigations and inspections which are necessary
2 to ensure compliance with the provisions of sections 444.760 to
3 444.790;

4 (5) Conduct hearings pursuant to sections 444.760 to
5 444.790 and may administer oaths or affirmations and subpoena
6 witnesses to the inquiry;

7 (6) Order, after hearing, the revocation of any permit and
8 to cease and desist operations for failure to comply with any of
9 the provisions of sections 444.760 to 444.790 or any corrective
10 order of the commission;

11 (7) Order forfeiture of any bond for failure to comply with
12 any provisions of sections 444.760 to 444.790 or any corrective
13 order of the commission or other order of the commission;

14 (8) Cause to be instituted in any court of competent
15 jurisdiction legal proceedings for injunction or other
16 appropriate relief to enforce the provisions of sections 444.760
17 to 444.790 and any order of the commission promulgated
18 thereunder;

19 (9) Retain, employ, provide for, and compensate, within the
20 limits of appropriations made for that purpose, such consultants,
21 assistants, deputies, clerks, and other employees on a full- or
22 part-time basis as may be necessary to carry out the provisions
23 of sections 444.760 to 444.790 and prescribe the times at which
24 they shall be appointed and their powers and duties;

25 (10) Study and develop plans for the reclamation of lands
26 that have been strip mined prior to September 28, 1971;

27 (11) Accept, receive and administer grants or other funds
28 or gifts from public and private agencies and individuals,

1 including the federal government, for the purpose of carrying out
2 any of the functions of sections 444.760 to 444.790, including
3 the reclamation of lands strip mined prior to August 28, 1990.
4 The commission may promulgate such rules and regulations or enter
5 into such contracts as it may deem necessary for carrying out the
6 provisions of this subdivision;

7 (12) Budget and receive duly appropriated moneys for
8 expenditures to carry out the provisions and purposes of sections
9 444.760 to 444.790;

10 (13) Prepare and file a biennial report with the governor
11 and members of the general assembly;

12 (14) Order, after hearing, an operator to adopt such
13 corrective measures as are necessary to comply with the
14 provisions of sections 444.760 to 444.790.

15 2. The commission shall have no authority under this act to
16 regulate the excavation of minerals or fill dirt for the purposes
17 of construction at the site of excavation, as unrelated to
18 reclamation of land subsequent to the surface mining of minerals.

19 3. The powers authorized by this section shall be utilized
20 to promote the reclamation of land subjected to disturbance by
21 surface mining for purposes of restoration of land for
22 recreational, residential, commercial, industrial, or other
23 beneficial use subsequent to mining and to promote and protect
24 the health, safety, and general welfare of the people of this
25 state in relation to surface mining.

26 444.770. 1. It shall be unlawful for any operator to
27 engage in surface mining without first obtaining from the
28 commission a permit to do so, in such form as is hereinafter

1 provided, including any operator involved in any gravel mining
2 operation where the annual tonnage of gravel mined by such
3 operator is less than five thousand tons. The commission may
4 establish excavation standards for operators of in-stream sand
5 and gravel mines that are exempt from permitting requirements
6 pursuant to this subsection, provided that, private landowners
7 who use or conduct in-stream sand and gravel mining and use such
8 excavated material for personal use shall be exempt from such
9 excavation standards. Such excavation standards shall not be
10 more stringent than standards required of operators required to
11 obtain permits. If an operator that is not required to obtain a
12 permit violates such excavation standards and results in an
13 impact on the stream, the operator shall take corrective actions
14 as directed by the commission and the commission shall require
15 the operator to apply for a permit to continue operating at the
16 site of such violation.

17 2. Any private landowner who is exempt from obtaining a
18 permit pursuant to subsection 1 of this section may contract for
19 in-stream sand and gravel operations and may either personally or
20 through their contractor sell up to two thousand tons of sand and
21 gravel material annually. Any contractor conducting in-stream
22 sand and gravel operations on behalf of a landowner shall not
23 remove more than a total of two thousand tons of sand and gravel
24 material per year from all sources without a permit.

25 [2.] 3. Sections 444.760 to 444.790 shall apply only to
26 those areas which are opened on or after January 1, 1972, or to
27 the extended portion of affected areas extended after that date.
28 The effective date of this section for minerals not previously

1 covered under the provisions of sections 444.760 to 444.790 shall
2 be August 28, 1990.

3 [3.] 4. All surface mining operations where land is
4 affected after September 28, 1971, which are under the control of
5 any government agency whose regulations are equal to or greater
6 than those imposed by section 444.774, are not subject to the
7 further provisions of sections 444.760 to 444.790, except that
8 such operations shall be registered with the land reclamation
9 commission.

10 [4.] 5. Any portion of a surface mining operation which is
11 subject to the provisions of sections 260.200 to 260.245, RSMo,
12 and the regulations promulgated thereunder, shall not be subject
13 to the provisions of sections 444.760 to 444.790, and any bonds
14 or portions thereof applicable to such operations shall be
15 promptly released by the commission, and the associated permits
16 canceled by the commission upon presentation to it of
17 satisfactory evidence that the operator has received a permit
18 pursuant to section 260.205, RSMo, and the regulations
19 promulgated thereunder. Any land reclamation bond associated
20 with such released permits shall be retained by the commission
21 until presentation to the commission of satisfactory evidence
22 that:

23 (1) The operator has complied with sections 260.226 and
24 260.227, RSMo, and the regulations promulgated thereunder,
25 pertaining to closure and postclosure plans and financial
26 assurance instruments; and

27 (2) The operator has commenced operation of the solid waste
28 disposal area or sanitary landfill as those terms are defined in

1 chapter 260, RSMo.

2 [5.] 6. Notwithstanding the provisions of subsection 1 of
3 this section, any political subdivision which uses its own
4 personnel and equipment or contracts for excavation to obtain
5 sand and gravel material solely for the use of such political
6 subdivision or any private individual for personal use may
7 conduct in-stream sand and gravel operations without obtaining
8 from the commission a permit to conduct such an activity.

9 7. The department shall provide information and educational
10 opportunities to educate the public regarding permit requirements
11 and best mining practices.

12 8. Notwithstanding any commission rule, policy, or
13 interpretation to the contrary, no public entity, private person
14 or contractor or subcontractor to such public entity or private
15 person shall be required to obtain a permit under this section
16 for the purpose of moving minerals or fill dirt within the
17 confines of real property where excavation occurs, for purposes
18 of construction, or to remove minerals or fill dirt from the real
19 property as incidental to the primary purpose of construction at
20 the site of excavation. It shall be a rebuttable presumption
21 that excavations are for the purposes of construction if:

22 _____ (1) Excavation, moving, or removing of minerals or fill
23 dirt is performed by the public entity, a private person or a
24 contractor to such public entity or private person or by a
25 subcontractor pursuant to engineering plans and specifications
26 for construction on the real property that were prepared by an
27 architect, professional engineer, or landscape architect licensed
28 under chapter 327 RSMo; or

1 (2) There is a written contract between a contractor and a
2 public entity or a private person or between a contractor and a
3 subcontractor requiring excavation for purposes of construction
4 that establishes dates for completion of the work or portions of
5 the work, specifies the terms of payment for work, and requires
6 the excavation, moving, or removing of minerals or fill dirt for
7 purposes of construction.

8 9. It shall be a rebuttable presumption that excavations
9 purported to be for the purposes of construction are surface
10 mining if minerals removed from the site are in quantities
11 greater than required to perform on engineering plans or
12 specifications or to comply with work required by a written
13 contract.

14 10. Any private person, leasor, public entity, contractor,
15 or subcontractor engaged in land improvement involving the
16 displacement, moving, or removal of minerals and fill dirt may or
17 may not be required to obtain a surface mining permit under a
18 determination by the director or commission as to whether
19 activity on the real property constitutes surface mining.

20 (1) It shall be a rebuttable presumption that land
21 improvement activities are for the purpose of mining if:

22 (a) The real property has been designated as a surface mine
23 by the federal Mine Safety and Health Administration; or

24 (b) Minerals from the property are sold to other persons on
25 a frequent on-going basis as demonstrated by financial records of
26 the property owner or purchasers of minerals; or

27 (c) A pit, peak, or ridge as defined in land reclamation
28 laws persists at the property without the property being leveled

1 or filled as consistent with plans, drawings, or maps for land
2 improvement and which endangers the health, safety, or welfare of
3 the general public or constitutes a public nuisance.

4 (2) It shall be rebuttable presumption that land
5 improvement activities are not for the purposes of mining and do
6 not require a permit if minerals removed from the site are excess
7 minerals that cannot be used on-site for any practical purpose
8 and at no time are subjected to crushing, screening, or other
9 means of beneficiation with the exception of removal of tree
10 limbs and stumps, and:

11 (a) The real property has been approved by a county, city,
12 or other recognized planning and zoning authority for designated
13 use other than as a quarry or surface mine; or

14 (b) Surety bonds or other financial assurances have been
15 provided by the owner of the property as required by a city or
16 county for purposes other than mining; or

17 (c) Performance or payment bonds have been provided by a
18 contractor as required by a public entity under section 107.170
19 RSMo; or

20 (d) The land improvement is for the purpose of preparing
21 the real property for tilling of the soil and planting of crops
22 or other agricultural purposes.

23 (3) The commission shall promulgate rules further defining
24 when land improvement requires or does not require a surface
25 mining permit. Any rule or portion of a rule, as that term is
26 defined in section 536.010, RSMo, that is created under the
27 authority delegated in this section shall become effective only
28 if it complies with and is subject to all of the provisions of

1 chapter 536, RSMo, and, if applicable, section 536.028, RSMo.
2 This section and chapter 536, RSMo, are nonseverable and if any
3 of the powers vested with the general assembly under chapter 536,
4 RSMo, to review, to delay the effective date, or to disapprove
5 and annul a rule are subsequently held unconstitutional, then the
6 grant of rulemaking authority and any rule proposed or adopted
7 after August 28, 2004, shall be invalid and void.

8 11. If the director or staff determines that a surface
9 mining permit is required for real property which is purported to
10 be for purposes of construction or land improvement not requiring
11 a surface mining permit under this section, such determination
12 shall be communicated to the owner of the property by letter
13 stating the reasons for such determination. Upon request of the
14 person receiving the letter, an informal conference shall be
15 scheduled with the director within fifteen calendar days to
16 discuss the determination. Following the informal conference,
17 the director shall issue a written determination regarding his or
18 her findings of fact no later than thirty calendar days after the
19 date of the conference. If the director agrees that a surface
20 mining permit is required and the person disagrees with that
21 decision upon written request the person may request a hearing
22 before the commission at its next regular meeting. Such written
23 request shall be filed within thirty calendar days of receipt of
24 the director's written determination, except when the thirtieth
25 day would be later than the date of the next regularly scheduled
26 commission meeting, the written request shall be filed at least
27 seven days prior to the commission meeting unless the director
28 and the person filing the request mutually agree to place the

1 matter on the commission's agenda for a later meeting. The
2 commission shall issue a written determination as to whether a
3 surface mining permit is required under Missouri law within
4 thirty calendar days after the hearing. The written determination
5 may be appealed as provided under this chapter.

6 12. Until a final determination has been issued under the
7 process established under subsection 11 of this section, the
8 person receiving a letter stating the reasons a mining permit is
9 required may continue activity at the site in dispute. If the
10 final written determination is that a permit is required, all
11 fees otherwise provided by statute or rules of the commission
12 shall apply. If the determination is that no permit is required,
13 no permit fees shall be required by the director or commission.

14 13. The burden of proof to establish that a permit is
15 required shall be on the director and the commission regarding
16 rebuttable presumptions created under subsections 8 to 9 of this
17 section and subdivision (2) of subsection 10 of this section.
18 The burden of proof to establish that a permit is not required
19 shall be on the person receiving a written determination that a
20 permit is required regarding the rebuttable presumption created
21 under subdivision (1) of subsection 10.

22 14. The process set out in subsections 11 to 13 of this
23 section for determining if a mining permit is required shall not
24 be subject to the hearing requirements of section 444.789.

25 444.787. 1. The commission shall investigate surface
26 mining operations in the state of Missouri. If the
27 investigations show that surface mining is being or is going to
28 be conducted without a permit in violation of sections 444.760 to

1 444.790 or in violation of any revocation order, and the
2 commission has not issued a variance, the commission shall
3 request the attorney general to file suit in the name of the
4 state of Missouri for an injunction and civil penalties not to
5 exceed one thousand dollars per day for each day, or part
6 thereof, the violation has occurred. Suit may be filed either in
7 the county where the violation occurs or in Cole County.

8 2. If the investigation shows that a surface mining
9 operation for which a permit has been issued is being conducted
10 contrary to or in violation of any provision of sections 444.760
11 to 444.790 or any rule or regulation promulgated by the
12 commission or any condition imposed on the permit or any
13 condition of the bond, the director may by conference,
14 conciliation and persuasion endeavor to eliminate the violation.
15 If the violation is not eliminated, the director shall provide to
16 the operator by registered mail a notice describing the nature of
17 the violation, corrective measures to be taken to abate the
18 violation, and the time period for abatement. Within fifteen
19 days of receipt of this notice the operator may request an
20 informal conference with the director to contest the notice. The
21 director may modify, vacate or enforce the notice and shall
22 provide notice to the operator of his action within thirty days
23 of the informal conference. If the operator fails to comply with
24 the notice, as amended by the director, in the time prescribed
25 within the notice, the director shall file a formal complaint
26 with the commission for suspension or revocation of the permit,
27 and for forfeiture of bond, or for appropriate corrective
28 measures. When the director files a formal complaint, the

1 commission shall cause to have issued and served upon the person
2 complained against a written notice together with a copy of the
3 formal complaint, which shall specify the provision of sections
4 444.760 to 444.790 or the rule or regulation or the condition of
5 the permit or of the bond of which the person is alleged to be in
6 violation, a statement of the manner in, and the extent to which,
7 the person is alleged to be in violation. The person complained
8 against may, within fifteen days of receipt of the complaint,
9 request a hearing before the commission. Such hearing shall be
10 conducted in accordance with the provisions of section 444.789.

11 3. After due consideration of the hearing record, or upon
12 failure of the operator to request a hearing by the date
13 specified in the complaint, the commission shall issue and enter
14 such final order and make such final determination as it shall
15 deem appropriate under the circumstances. Included in such order
16 and determination may be the revocation of any permit and to
17 cease and desist operations. The commission shall immediately
18 notify the respondent of its decision in writing by certified
19 mail.

20 4. Any final order or determination or other final action
21 by the commission shall be approved in writing by at least four
22 members of the commission. The commission shall not issue any
23 permit to any person who has had a permit revoked until the
24 violation that caused the revocation is corrected to the
25 satisfaction of the commission. Any final order of the
26 commission can be appealed in accordance with chapter 536, RSMo.

27 5. If the suit filed under subsection 1 of this section
28 alleges that the violation of operating without a permit

1 constitutes fraud in purporting to be exempted by the provisions
2 of section 444.770 for construction or land improvement and the
3 court imposes civil penalties for a violation, additional
4 penalties may be levied at the discretion of the court for up to
5 double the cumulative total of penalties authorized by subsection
6 1 of this section.

7 621.015. The "Administrative Hearing Commission" is
8 assigned to the office of administration. It shall consist of no
9 more than three commissioners. The commissioners shall be
10 appointed by the governor with the advice and consent of the
11 senate. The term of each commissioner shall be for six years and
12 until his successor is appointed, qualified and sworn. The
13 commissioners shall be attorneys at law admitted to practice
14 before the supreme court of Missouri, but shall not practice law
15 during their term of office. Each commissioner shall receive
16 annual compensation of fifty-one thousand dollars plus any salary
17 adjustment provided pursuant to section 105.005, RSMo. Each
18 commissioner shall also be entitled to actual and necessary
19 expenses in the performance of his duties. The office of the
20 administrative hearing commission shall be located in the City of
21 Jefferson and it may employ necessary clerical assistance,
22 compensation and expenses of the commissioners to be paid from
23 appropriations [from general revenue] made for that purpose.

24 621.250. 1. All authority to hear appeals granted in
25 chapters 260, 444, 640, 643, and 644, RSMo, the hazardous waste
26 management commission in chapter 260, RSMo, the land reclamation
27 commission in chapter 444, RSMo, the safe drinking water
28 commission in this chapter, the air conservation commission in

1 chapter 643, RSMo, and the clean water commission in chapter 644,
2 RSMo, shall be transferred to the administrative hearing
3 commission pursuant to chapter 621, RSMo. The authority to
4 render final decisions after hearing on appeals heard by the
5 administrative hearing commission shall remain with the
6 commissions listed in this subsection.

7 2. Except as otherwise provided by law, any person or
8 entity who is a party to, or who is affected by, any finding,
9 order, decision, or assessment for which the authority to hear
10 appeals was transferred to the administrative hearing commission
11 in subsection 1 of this section shall be entitled to a hearing
12 before the administrative hearing commission by the filing of a
13 petition with the administrative hearing commission within thirty
14 days after any such finding, order, decision, or assessment is
15 placed in the United States mail or within thirty days any such
16 finding, order, decision, or assessment is delivered, whichever
17 is earlier.

18 3. Any decision by the director of the department of
19 natural resources that may be appealed to the commissions listed
20 in subsection 1 of section 621.052 shall contain a notice of the
21 right of appeal in substantially the following language: "If you
22 were adversely affected by this decision, you may appeal to have
23 the matter heard by the administrative hearing commission. To
24 appeal, you must file a petition with the administrative hearing
25 commission within thirty days after the date this decision was
26 mailed or the date it was delivered, whichever date was earlier.
27 If any such petition is sent by registered mail or certified
28 mail, it will be deemed filed on the date it is mailed; if it is

1 sent by any method other than registered mail or certified mail,
2 it will be deemed filed on the date it is received by the
3 administrative hearing commission.". Within fifteen days after
4 the administrative hearing commission renders its recommended
5 decision, it shall transmit the record and a transcript of the
6 proceedings together with the administrative hearing commission's
7 recommended decision to the commission having authority to issue
8 a final decision. The commission shall hold a meeting within
9 thirty days to provide an opportunity for oral argument and
10 written briefs, if requested by any party. Within fifteen days
11 thereafter, the commission shall render a final decision on the
12 appeal. Failure to comply with the time requirements of this
13 subsection shall render the recommended decision of the
14 administrative hearing commission final. The decision of the
15 commission shall be based only on the facts and evidence in the
16 hearing record. The commission may adopt the recommended
17 decision as its final decision. The commission may change a
18 finding of fact or conclusion of law made by the administrative
19 hearing commission, or may vacate or modify the recommended
20 decision issued by the administrative hearing commission, only if
21 the commission determines: that the administrative hearing
22 commission did not properly apply or interpret applicable law or
23 commission rules or prior administrative decisions; or that a
24 technical error in a finding of fact should be changed. The
25 commission shall state in writing the specific reason and legal
26 basis for a change made under this subsection.

27 4. In the event the person filing the appeal prevails in
28 any dispute pursuant to this section, interest shall be allowed

1 upon any amount found to have been wrongfully collected or
2 erroneously paid at the rate established by the director of the
3 department of revenue pursuant to section 32.065, RSMo.

4 5. The costs for hearing appeals pursuant to this section
5 shall be paid as administrative costs from the respective funds
6 of the programs of the department of natural resources from which
7 the appeals are taken.

8 6. In all matters heard by the administrative hearing
9 commission pursuant to this section, the burden of proof shall be
10 upon the program of the department of natural resources that
11 issued the decision being appealed, except that in matters
12 involving the denial of a permit, license, or registration, the
13 burden of proof shall be on the applicant for such permit,
14 license, or registration.

15 640.013. All authority to hear appeals granted in chapters
16 260, 444, 640, 643, and 644, RSMo, the hazardous waste management
17 commission in chapter 260, RSMo, the land reclamation commission
18 in chapter 444, RSMo, the safe drinking water commission in this
19 chapter, the air conservation commission in chapter 643, RSMo,
20 and the clean water commission in chapter 644, RSMo, shall be
21 transferred to the administrative hearing commission pursuant to
22 chapter 621, RSMo. The authority to render final decisions after
23 hearing on appeals heard by the administrative hearing commission
24 shall remain with the commissions listed in this subsection.

25 [260.342. The department of natural resources
26 shall collect and disseminate information and conduct
27 educational and training programs that assist in the
28 implementation of sections 260.200 to 260.345. The
29 information and programs shall be designed to enhance
30 district, county and city solid waste management
31 systems and to inform the public of the relationship
32 between an individual's consumption of goods and

1 services, the generation of different types and
2 quantities of solid waste and the implementation of
3 solid waste management priorities under sections
4 260.200 to 260.345. Educational information shall also
5 address other environmental concerns associated with
6 solid waste management including energy consumption and
7 conservation; air and water pollution; and land use
8 planning. The department of natural resources may
9 cooperate with the department of elementary and
10 secondary education for the purpose of developing
11 specific educational curriculum and programs. The
12 information and programs shall be prepared for use on a
13 statewide basis for the following:

14 (1) Municipal, county and state officials and
15 employees;

16 (2) Kindergarten through post-baccalaureate
17 students and teachers;

18 (3) Private solid waste scrap brokers, dealers
19 and processors;

20 (4) Businesses which use or could use recycled
21 materials or which produce or could produce products
22 from recycled materials, and persons who support or
23 serve these businesses; and

24 (5) The general public.]

25 Section B. Because of the need to protect the state's
26 environment, section A of this act is deemed necessary for the
27 immediate preservation of the public health, welfare, peace and
28 safety, and is hereby declared to be an emergency act within the
29 meaning of the constitution, and section A of this act shall be
30 in full force and effect upon its passage and approval.