

FIRST REGULAR SESSION

# HOUSE BILL NO. 510

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES BRUNS (Sponsor), HOBBS, DETHROW,  
BRINGER AND DEEKEN (Co-sponsors).

Read 1<sup>st</sup> time February 10, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1543L.01I

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### AN ACT

To repeal sections 260.375, 260.380, 260.391, 260.420, 260.446, 260.475, 260.479, 260.480, 260.481, 260.546, and 260.569, RSMo, and to enact in lieu thereof nine new sections relating to hazardous waste.

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

Section A. Sections 260.375, 260.380, 260.391, 260.420, 260.446, 260.475, 260.479,  
2 260.480, 260.481, 260.546, and 260.569, RSMo, are repealed and nine new sections enacted in  
3 lieu thereof, to be known as sections 260.375, 260.380, 260.391, 260.420, 260.475, 260.480,  
4 260.481, 260.546, and 260.569, to read as follows:

260.375. The department shall:

- 2 (1) Exercise general supervision of the administration and enforcement of sections  
3 260.350 to 260.430 and all standards, rules and regulations, orders or license and permit terms  
4 and conditions adopted or issued pursuant to sections 260.350 to 260.430;
- 5 (2) Develop and implement programs to achieve goals and objectives set by the state  
6 hazardous waste management plan;
- 7 (3) Retain, employ, provide for and compensate, within appropriations available therefor,  
8 such consultants, assistants, deputies, clerks and other employees on a full- or part-time basis as  
9 may be necessary to carry out the provisions of sections 260.350 to 260.430 and prescribe the  
10 times at which they shall be appointed and their powers and duties;
- 11 (4) Budget and receive duly appropriated moneys for expenditures to carry out the  
12 provisions of sections 260.350 to 260.430;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

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

26           (7) Collect and maintain, and require any person to collect and maintain, such records  
27 and information of hazardous waste generation, storage, transportation, resource recovery,  
28 treatment and disposal in this state, including quantities and types imported and exported across  
29 the borders of this state and install, calibrate and maintain and require any person to install,  
30 calibrate and maintain such monitoring equipment or methods, and make reports consistent with  
31 the purposes of sections 260.350 to 260.430;

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

34           (9) Develop facts and make inspections and investigations, including gathering of  
35 samples and performing of tests and analyses, consistent with the purposes of sections 260.350  
36 to 260.430, and in connection therewith, to enter or authorize any representative of the  
37 department to enter, at all reasonable times, in or upon any private or public property for any  
38 purpose required by sections 260.350 to 260.430 or any federal hazardous waste management  
39 act. Such entry may be for the purpose, without limitation, of developing or implementing  
40 standards, rules and regulations, orders or license or permit terms and conditions, of inspecting  
41 or investigating any records required to be kept by sections 260.350 to 260.430 or any license  
42 or permit issued pursuant to sections 260.350 to 260.430 or any hazardous waste management  
43 practice which the department or commission believes violates sections 260.350 to 260.430, or  
44 any standard, rule or regulation, order or license or permit term or condition adopted or issued  
45 pursuant to sections 260.350 to 260.430, or otherwise endangers the health of humans or the  
46 environment, or the site of any suspected violation of sections 260.350 to 260.430, or any  
47 standard, rule or regulation, order, or license or permit term or condition adopted or issued  
48 pursuant to sections 260.350 to 260.430. The results of any such investigation shall be reduced

49 to writing and shall be furnished to the owner or operator of the property. No person shall refuse  
50 entry or access requested for the purpose of inspection pursuant to this subdivision to an  
51 authorized representative of the department or commission who presents appropriate credentials,  
52 nor obstruct or hamper the representative in carrying out the inspection. A suitably restricted  
53 search warrant, upon a showing of probable cause in writing and upon oath, shall be issued by  
54 any judge or associate circuit judge having jurisdiction to any such representative for the purpose  
55 of enabling the representative to make such inspection;

56 (10) Require each hazardous waste generator located within this state [and each  
57 hazardous waste generator located outside of this state before utilizing any hazardous waste  
58 facility in this state except as provided in subdivision (11) of this section] to file a registration  
59 report containing such information as the commission by regulation may specify relating to types  
60 and quantities of hazardous waste generated and methods of hazardous waste management, and  
61 to meet all other requirements placed upon hazardous waste generators by sections 260.350 to  
62 260.430 and the standards, rules and regulations and orders adopted or issued pursuant to  
63 sections 260.350 to 260.430;

64 (11) [Allow Missouri treatment, storage, and disposal facilities receiving hazardous  
65 waste from out-of-state generators to submit registration and reporting information to the  
66 department in a format prescribed by the department describing the types and quantities of  
67 hazardous waste received from the out-of-state generator;

68 (12)] Require each hazardous waste transporter operating in this state to obtain a license  
69 and to meet all applicable requirements of sections 260.350 to 260.430 and the standards, rules  
70 and regulations, orders and license terms and conditions adopted or issued pursuant to sections  
71 260.350 to 260.430;

72 [(13)] (12) Require each hazardous waste facility owner and operator to obtain a permit  
73 for each such facility and to meet all applicable requirements of sections 260.350 to 260.430 and  
74 the standards, rules and regulations, orders and permit terms and conditions adopted or issued  
75 pursuant to sections 260.350 to 260.430;

76 [(14)] (13) Issue, continue in effect, revoke, modify or deny in accordance with the  
77 standards, rules and regulations, hazardous waste transporter licenses and hazardous waste  
78 facility permits;

79 [(15)] (14) Encourage voluntary cooperation by persons or affected groups to achieve  
80 the purposes of sections 260.350 to 260.430;

81 [(16)] (15) Enter such order or determination as may be necessary to effectuate the  
82 provisions of sections 260.350 to 260.430 and the standards, rules and regulations, and license  
83 and permit terms and conditions adopted or issued pursuant to sections 260.350 to 260.430;

84 [(17)] (16) Enter such order or cause to be instituted in a court of competent jurisdiction

85 such legal proceedings as may be necessary in a situation of imminent hazard, as prescribed in  
86 section 260.420;

87 [(18)] (17) Settle or compromise as it may deem advantageous to the state, with the  
88 approval of the commission, any suit undertaken by the commission for recovery of any penalty  
89 or for compelling compliance with any provision of sections 260.350 to 260.430 or any standard,  
90 rule or regulation, order, or license or permit term or condition adopted or issued pursuant to  
91 sections 260.350 to 260.430;

92 [(19)] (18) Advise, consult and cooperate with other agencies of the state, the federal  
93 government, other states and interstate agencies and with affected groups, political subdivisions  
94 and industries in furtherance of the purposes of sections 260.350 to 260.430 and, upon request,  
95 consult with persons subject to sections 260.350 to 260.430 on the proper measures necessary  
96 to comply with the requirements of sections 260.350 to 260.430 and rules and regulations  
97 adopted pursuant to sections 260.350 to 260.430;

98 [(20)] (19) Encourage, coordinate, participate in or conduct studies, investigations,  
99 research and demonstrations relating to hazardous waste management as it may deem advisable  
100 and necessary for the discharge of its duties pursuant to sections 260.350 to 260.430;

101 [(21)] (20) Represent the state of Missouri in all matters pertaining to interstate  
102 hazardous waste management including the negotiation of interstate compacts or agreements;

103 [(22)] (21) Arrange for the establishment, staffing, operation and maintenance of  
104 collection stations, within appropriations or other funding available therefor, for householders,  
105 farmers and other exempted persons as provided in section 260.380;

106 [(23)] (22) Collect and disseminate information relating to hazardous waste  
107 management;

108 [(24)] (23) Conduct education and training programs on hazardous waste problems and  
109 management;

110 [(25)] (24) Encourage and facilitate public participation in the development, revision and  
111 implementation of the state hazardous waste program;

112 [(26)] (25) Encourage waste reduction, resource recovery, exchange and energy  
113 conservation in hazardous waste management;

114 [(27)] (26) Exercise all powers necessary to carry out the provisions of sections 260.350  
115 to 260.430, assure that the state of Missouri complies with any federal hazardous waste  
116 management act and retains maximum control thereunder, and receives all desired federal grants,  
117 aid and other benefits;

118 [(28)] (27) Present to the public, at a public meeting, and to the governor and the  
119 members of the general assembly, an annual report on the status of the state hazardous waste  
120 program;

121            [(29)] (28) Develop comprehensive plans and programs to aid in the establishment of  
122 hazardous waste disposal sites as needed within the various geographical areas of the state within  
123 a reasonable period of time;

124            [(30)] (29) Control, abate or clean up any hazardous waste placed into or on the land in  
125 a manner which endangers or is reasonably likely to endanger the health of humans or the  
126 environment and, in aid thereof, may cause to be filed by the attorney general or a prosecuting  
127 attorney, a suit seeking mandatory or prohibitory injunctive relief or such other relief as may be  
128 appropriate. The department shall also take such action as is necessary to recover all costs  
129 associated with the cleanup of any hazardous waste from the person responsible for the waste.  
130 All money received shall be deposited in the hazardous waste fund created in section 260.391;

131            [(31)] (30) Oversee any corrective action work undertaken pursuant to sections 260.350  
132 to 260.430 and rules promulgated pursuant to sections 260.350 to 260.430 to investigate,  
133 monitor, or clean up releases of hazardous waste or hazardous constituents to the environment  
134 at hazardous waste facilities. The department shall review the technical and regulatory aspects  
135 of corrective action plans, reports, documents, and associated field activities, and attest to their  
136 accuracy and adequacy. Owners or operators of hazardous waste facilities performing corrective  
137 actions shall pay to the department all reasonable costs, as determined by the commission,  
138 incurred by the department pursuant to this subdivision. All such funds remitted by owners or  
139 operators of hazardous waste facilities performing corrective actions shall be deposited in the  
140 hazardous waste fund created in section 260.391.

260.380. 1. After six months from the effective date of the standards, rules and  
2 regulations adopted by the commission pursuant to section 260.370, hazardous waste generators  
3 **located in Missouri** shall:

4            (1) Promptly file and maintain with the department, on registration forms it provides for  
5 this purpose, information on hazardous waste generation and management as specified by rules  
6 and regulations[; except that generators located outside of Missouri shall not be required to  
7 register with the department if the Missouri treatment, storage, and disposal facilities provide this  
8 information in accordance with subdivision (11) of section 260.375. Missouri treatment, storage,  
9 or disposal facilities providing this information to the department for those out-of- state  
10 generators shall do so and shall pay the applicable initial registration fee within fifteen days of  
11 accepting any hazardous waste from those out-of-state generators]. Hazardous waste generators  
12 shall pay a one hundred dollar registration fee upon initial registration, and a one hundred dollar  
13 registration renewal fee annually thereafter to maintain an active registration[; except that in  
14 accordance with subdivision (11) of section 260.375, Missouri treatment, storage, or disposal  
15 facilities receiving hazardous waste from out-of-state generators that elect to provide this service  
16 for the out-of-state generator shall pay this fee on behalf of those out-of-state generators. For

17 annual renewal fee payments, Missouri treatment, storage, or disposal facilities that elect to  
18 provide this service to out-of-state generators shall notify the department annually of those  
19 generators at a time and in a manner prescribed by the department]. Such fees shall be deposited  
20 in the hazardous waste fund created in section 260.391;

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

23 (3) Segregate all hazardous wastes from all nonhazardous wastes and from  
24 noncompatible wastes, materials and other potential hazards as specified by standards, rules and  
25 regulations;

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

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

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

37 (7) Utilize for treatment, resource recovery, disposal or storage of all hazardous wastes,  
38 only a hazardous waste facility authorized to operate pursuant to sections 260.350 to 260.430 or  
39 the federal Resource Conservation and Recovery Act, or a state hazardous waste management  
40 program authorized pursuant to the federal Resource Conservation and Recovery Act, or any  
41 facility exempted from the permit required pursuant to section 260.395;

42 (8) Collect and maintain such records, perform such monitoring or analyses, and submit  
43 such reports on any hazardous waste generated, its transportation and final disposition, as  
44 specified in sections 260.350 to 260.430 and rules and regulations adopted pursuant to sections  
45 260.350 to 260.430; except that generators located outside of Missouri shall not be required to  
46 complete this reporting if the information is provided by the Missouri treatment, storage, and  
47 disposal facilities in accordance with subdivision (11) of section 260.375;

48 (9) Make available to the department upon request samples of waste and all records  
49 relating to hazardous waste generation and management for inspection and copying and allow  
50 the department to make unhampered inspections at any reasonable time of hazardous waste  
51 generation and management facilities located on the generator's property and hazardous waste  
52 generation and management practices carried out on the generator's property;

53 (10) Pay annually, on or before January first of each year, effective January 1, 1982, a  
54 fee to the state of Missouri to be placed in the hazardous waste fund [to be used solely for the  
55 administrative costs of the program]. The fee shall [not exceed one dollar] **be two dollars** per  
56 ton **or portion thereof** of hazardous waste registered with the department as specified in  
57 subdivision (1) of this subsection for the twelve-month period ending June thirtieth of the  
58 previous year. [The amount of the fee shall be established annually by the commission by rule  
59 or regulation.] However, the fee shall not exceed [ten] **fifty-two** thousand dollars **per generator**  
60 **site per year nor be less than one hundred fifty dollars** per generator site per year [and no fee  
61 shall be imposed upon any generator who registers less than ten tons of hazardous waste annually  
62 with the department];

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

66 (b) The hazardous waste management commission shall establish and submit to the  
67 department of revenue procedures relating to the collection of the fees authorized by this  
68 subdivision. Such procedures shall include, but not be limited to, necessary records identifying  
69 the quantities of hazardous waste registered, the form and submission of reports to accompany  
70 the payment of fees, the time and manner of payment of fees, which shall not be more often than  
71 quarterly.

72 **2. Missouri treatment, storage, or disposal facilities shall pay annually, on or before**  
73 **January first of each year, a fee to the department equal to two dollars per ton or portion**  
74 **thereof for all hazardous waste received from outside the state. This fee shall be based on**  
75 **the hazardous waste received for the twelve-month period ending June thirtieth of the**  
76 **previous year. No fee shall be paid on hazardous waste shipped from a treatment, storage,**  
77 **or disposal facility on which fees have been paid on receipt of the waste.**

78 **3.** Exempted from the requirements of this section are individual householders and  
79 farmers who generate only small quantities of hazardous waste and any person the commission  
80 determines generates only small quantities of hazardous waste on an infrequent basis, except  
81 that:

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

85 (2) The department may determine that a specific quantity of a specific hazardous waste  
86 requires special management. Upon such determination and after public notice by press release  
87 or advertisement thereof, including instructions for handling and delivery, generators exempted  
88 pursuant to this subsection shall deliver, but without a manifest or the requirement to use a

89 licensed hazardous waste transporter, such waste to:

90 (a) Any storage, treatment or disposal site authorized to operate pursuant to sections  
91 260.350 to 260.430 or the federal Resource Conservation and Recovery Act, or a state hazardous  
92 waste management program authorized pursuant to the federal Resource Conservation and  
93 Recovery Act which the department designates for this purpose; or

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

96 **4. Failure to pay the fee, or any portion thereof, prescribed in this section by the**  
97 **due date shall result in the imposition of a penalty equal to fifteen percent of the original**  
98 **fee. The fee prescribed in this section shall expire December 31, 2011, except that the**  
99 **department shall levy and collect this fee for any hazardous waste generated prior to such**  
100 **date and reported to the department.**

260.391. 1. There is hereby created in the state treasury a fund to be known as the  
2 "Hazardous Waste Fund". All funds received from hazardous waste permit and license fees,  
3 generator fees **or taxes, penalties, or interest assessed on those fees or taxes**, taxes collected  
4 by contract hazardous waste landfill operators, general revenue, federal funds, gifts, bequests,  
5 donations, or any other moneys so designated shall be paid to the director of revenue and  
6 deposited in the state treasury to the credit of the hazardous waste fund. The hazardous waste  
7 fund, subject to appropriation by the general assembly, shall be used by the department as  
8 provided by appropriations and consistent with rules and regulations established by the  
9 hazardous waste management commission for the purpose of carrying out the provisions of  
10 sections 260.350 to 260.430 **and sections 319.100 to 319.139, RSMo**, for the management of  
11 hazardous waste, responses to hazardous substance releases as provided in sections 260.500 to  
12 260.550, corrective actions at regulated facilities and illegal hazardous waste sites, **prevention**  
13 **of leaks from underground storage tanks and response to petroleum releases from**  
14 **underground and aboveground storage tanks and other related activities required to carry**  
15 **out the provisions of sections 260.350 to 260.575 and sections 319.100 to 319.139, RSMo**,  
16 and for payments to other state agencies for such services consistent with sections 260.350 to  
17 [260.430] **260.575 and sections 319.100 to 319.139, RSMo**, upon proper warrant issued by the  
18 commissioner of administration, **and for any other expenditures which are not covered under**  
19 **the federal Comprehensive Environmental Response, Compensation and Liability Act of**  
20 **1980, including but not limited to the following purposes:**

21 (1) **Administrative services as appropriate and necessary for the identification,**  
22 **assessment, and cleanup of abandoned or uncontrolled sites under sections 260.435 to**  
23 **260.550;**

24 (2) **Payments to other state agencies for such services consistent with sections**



25 **260.435 to 260.550, upon proper warrant issued by the commissioner of administration,**  
26 **including, but not limited to, the department of health and senior services for the purpose**  
27 **of conducting health studies of persons exposed to waste from an uncontrolled or**  
28 **abandoned hazardous waste site or exposed to the release of any hazardous substance as**  
29 **defined in section 260.500;**

30 **(3) Acquisition of property as provided in section 260.420;**

31 **(4) The study of the development of a hazardous waste facility in Missouri as**  
32 **authorized in section 260.037;**

33 **(5) Financing the nonfederal share of the cost of cleanup and site remediation**  
34 **activities as well as postclosure operation and maintenance costs, under the federal**  
35 **Comprehensive Environmental Response, Compensation and Liability Act of 1980; and**

36 **(6) Reimbursement of owners or operators who accept waste under departmental**  
37 **orders under subdivision (2) of subsection 1 of section 260.420.**

38 2. The unexpended balance in the hazardous waste fund at the end of each fiscal year  
39 shall not be transferred to the general revenue fund of the state treasurer, except as directed by  
40 the general assembly by appropriation, and shall be invested to generate income to the fund. The  
41 provisions of section 33.080, RSMo, relating to the transfer of funds to the general revenue fund  
42 of the state by the state treasurer shall not apply to the hazardous waste fund.

43 3. There is hereby created within the hazardous waste fund a subaccount known as the  
44 "Hazardous Waste Facility Inspection Subaccount". All funds received from hazardous waste  
45 facility inspection fees shall be paid to the director of revenue and deposited in the state treasury  
46 to the credit of the hazardous waste facility inspection subaccount. Moneys from such  
47 subaccount shall be used by the department for conducting inspections at facilities that are  
48 permitted or are required to be permitted as hazardous waste facilities by the department.

49 **4. The fund balance remaining in the hazardous waste remedial fund shall be**  
50 **transferred to the hazardous waste fund created in this section.**

51 **5. No moneys shall be available from the fund for abandoned site cleanup unless**  
52 **the director has made all reasonable efforts to secure voluntary agreement to pay the costs**  
53 **of necessary remedial actions from owners or operators of abandoned or uncontrolled**  
54 **hazardous waste sites or other responsible persons.**

55 **6. The director shall make all reasonable efforts to recover the full amount of any**  
56 **funds expended from the fund through litigation or cooperative agreements with**  
57 **responsible persons. All moneys recovered or reimbursed under this section through**  
58 **voluntary agreements or court orders shall be deposited to the hazardous waste fund**  
59 **created herein.**

60 **7. In addition to revenue from all licenses, taxes, fees, penalties, and interest,**

61 **specified in subsection 1 of this section, the department shall request an annual**  
62 **appropriation of general revenue equal to any state match obligation to the United States**  
63 **Environmental Protection Agency for cleanup performed under the authority of the**  
64 **Comprehensive Environmental Response, Compensation and Liability Act of 1980.**

260.420. 1. From September 28, 1977, and notwithstanding any other provision of  
2 sections 260.350 to 260.430 or any other law to the contrary, upon receipt of information that  
3 any activity subject to sections 260.350 to 260.430 may present an imminent hazard, by placing  
4 or allowing escape of any hazardous waste into the environment or exposure of people to such  
5 waste which may be cause of death, disabling personal injury, serious acute or chronic disease,  
6 or serious environmental harm, the department director or the commission may take action  
7 necessary to protect the health of humans and the environment from such hazard. The action the  
8 department director, commission or the designee of the commission may take includes, but is not  
9 limited to:

10 (1) Issuing an order directing the hazardous waste generator, transporter, facility operator  
11 or any other person who is the custodian or has control of the waste, which constitutes such  
12 hazard, to eliminate such hazard. Such action may include, with respect to a site or facility,  
13 permanent or temporary cessation of operation;

14 (2) Issuing an order directing a permitted commercial hazardous waste facility to treat,  
15 store or dispose of any waste cleaned up in accordance with this section;

16 (3) Acquiring by purchase, donation, agreement or condemnation any lands, or rights in  
17 lands, sites, objects, or facilities necessary to protect the health of humans and the environment  
18 in accordance with sections 260.350 to 260.550 only after it is proven cost effective and all other  
19 options have been exhausted by the commission. In the event any property is condemned, then  
20 the procedures and assessment of damages shall be in accordance with chapter 523, RSMo;

21 (4) Selling or leasing any property that has been cleaned up in accordance with sections  
22 260.350 to 260.550 so as to no longer constitute a threat to the health of people or to the  
23 environment. The proceeds of such sales or leases shall be deposited in the hazardous waste  
24 [remedial] fund created in section [260.480] **260.391**; and

25 (5) Causing to be filed by the attorney general or a prosecuting attorney in the name of  
26 the people of the state of Missouri, suit for a temporary restraining order, temporary injunction  
27 or permanent injunction which action shall be given precedence over all other matters pending  
28 in the circuit courts.

29 2. In any civil action brought pursuant to this section in which a temporary restraining  
30 order or temporary injunction is sought, there must be allegations of the types of injury or harm  
31 specified in these imminent hazard provisions; it shall be necessary to allege and prove at the  
32 proceeding that irreparable damage will occur and that the remedy at law is inadequate, and the

33 temporary restraining order or temporary injunction shall not issue without such allegations and  
34 without such proof.

35 3. This section shall not apply to any alleged imminent hazard that is covered by the  
36 federal Occupational Safety and Health Act, so long as the hazardous waste is contained on the  
37 site so covered. This subsection shall not prevent the department from taking action necessary  
38 to prevent escape of the hazardous waste from such site.

260.475. 1. Every hazardous waste generator **located in Missouri** shall pay, in addition  
2 to the fees imposed in section 260.380, a fee of twenty-five dollars per ton annually on all  
3 hazardous waste which is discharged, deposited, dumped or placed into or on the soil as a final  
4 action, and two dollars per ton on all other hazardous waste transported off site. No fee shall be  
5 imposed upon any hazardous waste generator who registers less than ten tons of hazardous waste  
6 annually pursuant to section 260.380, or upon:

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

9 (2) Fly ash waste, bottom ash waste, slag waste and flue gas emission control waste  
10 generated primarily from the combustion of coal or other fossil fuels;

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

14 (4) Cement kiln dust waste;

15 (5) Waste oil; or

16 (6) Hazardous waste that is:

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

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

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

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

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

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

31 4. If any generator or transporter fails or refuses to pay the fees imposed by this section,  
32 or fails or refuses to furnish any information reasonably requested by the department relating to  
33 such fees, there shall be imposed, in addition to the fee determined to be owed, a penalty of  
34 fifteen percent of the fee[, forty percent of which shall be deposited in the hazardous waste  
35 remedial fund, and sixty percent of which] shall be deposited in the hazardous waste fund.

36 5. If the fees or any portion of the fees imposed by this section are not paid by the date  
37 prescribed for such payment, there shall be imposed interest upon the unpaid amount at the rate  
38 of ten percent per annum from the date prescribed for its payment until payment is actually made,  
39 [forty percent of which shall be deposited in the hazardous waste remedial fund, sixty percent]  
40 **all** of which shall be deposited in the hazardous waste fund.

41 6. The state treasurer is authorized to deposit all of the moneys in the hazardous waste  
42 [remedial] fund in any of the qualified depositories of the state. All such deposits shall be  
43 secured in such a manner and shall be made upon such terms and conditions as are now or may  
44 hereafter be provided for by law relative to state deposits. Interest received on such deposits  
45 shall be credited to the hazardous waste [remedial] fund.

46 7. This fee shall expire [June 30, 2006] **December 31, 2011**, except that the department  
47 shall levy and collect this fee for any hazardous waste generated prior to such date and reported  
48 to the department.

260.480. [1. There is hereby created within the state treasury a fund to be known as the  
2 "Hazardous Waste Remedial Fund". All moneys received from fees, penalties, general revenue,  
3 federal funds, gifts, bequests, donations, or any other moneys so designated shall be deposited  
4 in the state treasury to the credit of such fund, and shall be invested to generate income to the  
5 fund.

6

7 Notwithstanding the provisions of section 33.080, RSMo, the unexpended balance in the  
8 hazardous waste remedial fund at the end of each fiscal year shall not be transferred to the  
9 general revenue fund except as directed by the general assembly by appropriation to replace  
10 funds appropriated from the general revenue fund for the purposes for which expenditures from  
11 the hazardous waste remedial fund are allowed.

12 2. The department may use the fund, upon appropriation, for the nonfederal share and  
13 any other expenditures which are not covered pursuant to the federal Comprehensive  
14 Environmental Response, Compensation and Liability Act of 1980, for the following purposes:

15 (1) Administrative services as appropriate and necessary for the identification,  
16 assessment and cleanup of abandoned or uncontrolled sites pursuant to sections 260.435 to  
17 260.550;

18 (2) Payments to other state agencies for such services consistent with sections 260.435

19 to 260.550, upon proper warrant issued by the commissioner of administration, including, but  
20 not limited to, the department of health and senior services for the purpose of conducting health  
21 studies of persons exposed to waste from an uncontrolled or abandoned hazardous waste site or  
22 exposed to the release of any hazardous substance as defined in section 260.500;

23 (3) Acquisition of property as provided in section 260.420;

24 (4) The study of the development of a hazardous waste facility in Missouri as authorized  
25 in section 260.037;

26 (5) Financing the nonfederal share of the cost of cleanup and site remediation activities  
27 as well as postclosure operation and maintenance costs, pursuant to the federal Comprehensive  
28 Environmental Response, Compensation and Liability Act of 1980; and

29 (6) Reimbursement of owners or operators who accept waste pursuant to departmental  
30 orders pursuant to subdivision (2) of subsection 1 of section 260.420.

31 3. Neither the state of Missouri nor its officers, employees or agents shall be liable for  
32 any injury caused by a dangerous condition at any abandoned or uncontrolled site unless such  
33 condition is the result of an act or omission constituting gross negligence on the part of the state,  
34 its officers, employees or agents.

35 4. The department may contract with any person to perform the acts authorized in this  
36 section.

37 5. No moneys shall be available from the fund for abandoned site cleanup unless the  
38 director has made all reasonable efforts to secure voluntary agreement to pay the costs of  
39 necessary remedial actions from owners or operators of abandoned or uncontrolled hazardous  
40 waste sites or other responsible persons.

41 6. The director shall make all reasonable efforts to recover the full amount of any funds  
42 expended from the fund through litigation or cooperative agreements with responsible persons.  
43 All moneys recovered or reimbursed pursuant to this section through voluntary agreements or  
44 court orders shall be deposited with the state treasurer and credited to the account of the  
45 hazardous waste remedial fund.] **The fund balance remaining in the hazardous waste  
46 remedial fund is hereby transferred to the hazardous waste fund created in section  
47 260.491, and the moneys may be appropriated for any purpose previously authorized by  
48 this section as specified in subsection 1 of section 260.391.**

260.481. 1. Any fourth class city in any first class county with a charter form of  
2 government adjoining a city not within a county, which has contracted with the state of Missouri  
3 or the federal government, or both, for the acquisition of all real property by any federal or state  
4 agency because of the release of a hazardous substance that endangers the public health and  
5 welfare of such city and has resulted in a public calamity, and where a city ordinance effecting  
6 disincorporation has been submitted to the governor by the mayor of the city requesting

7 disincorporation, shall be disincorporated upon the issuance of a governor's executive order  
8 approving such disincorporation. Notice of such disincorporation shall be submitted to the  
9 secretary of state and the county commission of the county within which such city lies.

10         2. Upon the issuance of the executive order as required in subsection 1 of this section,  
11 the governor shall appoint a person to act as trustee for the city so disincorporated and shall  
12 appoint legal counsel to assist such trustee as necessary. Before entering upon the discharge of  
13 his duties, the trustee shall take and subscribe on oath that he will faithfully discharge the duties  
14 of his office. The trustee shall be empowered to condemn property as required, to take title to  
15 property as it is acquired, to take over all records of the city and to exercise other duties as  
16 specified in section 79.520, RSMo, except that the trustee shall not be empowered to institute  
17 suits in behalf of the city without the express authorization of the governor.

18         3. When the trustee shall have closed the affairs of the city, and shall have paid all debts  
19 due by the city, he shall, at the request of the governor, pay over to the state treasurer all money  
20 remaining in his hands and deliver to the agency designated by the governor all books, papers,  
21 records and deeds to acquired real property belonging to the disincorporated city.

22         4. Any expenditures incurred under this section will be paid first from excess city funds  
23 and then from the Missouri hazardous waste [remedial] fund under section [260.480] **260.391.**

260.546. 1. In the event that a hazardous substance release occurs for which a political  
2 subdivision or volunteer fire protection association as defined in section 320.300, RSMo,  
3 provides emergency services, the person having control over a hazardous substance shall be  
4 liable for such reasonable cleanup costs incurred by the political subdivision or volunteer fire  
5 protection association. Such liability includes the cost of materials, supplies and contractual  
6 services actually used to secure an emergency situation. The liability may also include the cost  
7 for contractual services which are not routinely provided by the department or political  
8 subdivision or volunteer fire protection association. Such liability shall not include the cost of  
9 normal services which otherwise would have been provided. Such liability shall not include  
10 budgeted administrative costs or the costs for duplicate services if multiple response teams are  
11 requested by the department or political subdivision unless, in the opinion of the department or  
12 political subdivision, duplication of service was required to protect the public health and  
13 environment. Such liability shall be established upon receipt by the person having control of the  
14 spilled hazardous substance of an itemized statement of costs provided by the political  
15 subdivision.

16         2. Full payment shall be made within thirty days of receipt of the cost statement unless  
17 the person having control over the hazardous substance contests the amount of the costs pursuant  
18 to this section. If the person having control over the hazardous substance elects to contest the  
19 payment of such costs, he shall file an appeal with the director within thirty days of receipt of the

20 cost statement.

21           3. Upon receipt of such an appeal, the director shall notify the parties involved of the  
22 appeal and collect such evidence from the parties involved as he deems necessary to make a  
23 determination of reasonable cleanup costs. Within thirty days of notification of the appeal, the  
24 director shall notify the parties of his decision. The director shall direct the person having  
25 control over a hazardous substance to pay those costs he finds to be reasonable and appropriate.  
26 The determination of the director shall become final thirty days after receipt of the notice by the  
27 parties involved unless prior to such date one of the involved parties files a petition for judicial  
28 review pursuant to chapter 536, RSMo.

29           4. The political subdivision or volunteer fire protection association may apply to the  
30 department for reimbursement from the hazardous waste fund created in section 260.391, for the  
31 costs for which the person having control over a hazardous substance shall be liable if the  
32 political subdivision or volunteer fire protection association is able to demonstrate a need for  
33 immediate relief for such costs and believes it will not receive prompt payment from the person  
34 having control over a hazardous substance. When the liability owed to the political subdivision  
35 or volunteer fire protection association by the person having control over a hazardous substance  
36 is paid, the political subdivision or volunteer fire protection association shall reimburse the  
37 department for any payment it has received from the hazardous waste [remedial] fund. Such  
38 reimbursement to a political subdivision or volunteer fire protection association by the  
39 department shall be paid back to the department by the political subdivision or volunteer fire  
40 protection association within that time limit imposed by the department notwithstanding failure  
41 of the person having control over a hazardous substance to reimburse the political subdivision  
42 or volunteer fire protection association within that time.

260.569. 1. The department shall be reimbursed for its site-specific costs incurred in  
2 administration and oversight of the voluntary cleanup. The department shall bill applicants who  
3 conduct the voluntary cleanup at rates established by rule by the hazardous waste management  
4 commission. Such rates shall not be more than the lesser of the costs to the department or one  
5 hundred dollars per hour. The department shall furnish to the applicant a complete, full and  
6 detailed accounting of the costs incurred by the department for which the applicant is charged.  
7 The applicant may appeal any charge to the commission within thirty days of receipt of the bill.  
8 Appeal to the commission shall stay the required payment date until thirty days following the  
9 rendering of the decision of the commission. The department of natural resources shall initially  
10 draw down its charges against the application fee. Timely remittance of reimbursements, as  
11 provided in subsection 3 of this section, to the department is a condition of continuing  
12 participation. If, after the conclusion of the remedial action, a balance remains, the department  
13 shall refund that amount within sixty days. If the department fails to render any decision or take

14 any action within the time period specified in sections 260.565 to 260.575, then the applicant  
15 shall not be required to reimburse the department for costs incurred for such review or action.

16 2. All funds remitted by the applicant conducting the voluntary cleanup shall be  
17 deposited into the hazardous waste [remedial] fund created in section [260.480] **260.391** and  
18 shall be used by the department upon appropriation for its administrative and oversight costs.

19 3. The department may terminate an applicant from further participation for cause.  
20 Grounds for termination include, but are not limited to:

21 (1) Discovery of conditions such as to warrant action pursuant to sections 260.350 to  
22 260.480, as amended, the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et  
23 seq., as amended, or the Comprehensive Environmental Response, Compensation and Liability  
24 Act, 42 U.S.C. Section 9601 et seq., as amended;

25 (2) Failure to submit cost reimbursements within sixty days following notice from the  
26 department that such reimbursements are due;

27 (3) Failure to submit required information within ninety days following notice from the  
28 department that such information is required;

29 (4) Failure to submit a remedial action plan within ninety days following notice from the  
30 department that such plan is due;

31 (5) Failure to properly implement the remedial action plan; and

32 (6) Continuing noncompliance with any of the provisions of sections 260.565 to 260.575  
33 or the rules and regulations promulgated pursuant to sections 260.565 to 260.575.

34 4. Upon termination pursuant to subdivision (1) of subsection 3 of this section or  
35 subsection 11 of section 260.567, if there is a balance in the applicant's application fee after  
36 deducting costs incurred by the department of natural resources, such balance shall be refunded  
37 within sixty days. Upon termination pursuant to subdivisions (2) to (6) of subsection 3 of this  
38 section, if a balance remains in the applicant's application fee, such balance shall be forfeited and  
39 deposited in the hazardous waste [remedial] fund.

2 [260.446. The department shall, on or before January 1, 1985, and  
3 annually thereafter on January first of each succeeding year, render a full  
4 accounting of moneys received, moneys expended, sources and recipients, and  
5 purposes for the preceding fiscal year in the hazardous waste remedial fund to the  
commission, the general assembly and the governor.]

2 [260.479. 1. The hazardous waste management commission shall  
3 establish, by rule, two subdivisions of hazardous waste based upon the  
4 management method. Subdivision A shall include waste which is placed in a  
5 hazardous waste disposal facility or which is stored for a period of more than one  
hundred eighty days; provided, however, for the purposes of this section, the



6 commission may identify hazardous waste which shall be taxed pursuant to  
7 subdivision A when stored for longer than ninety days as well as waste which  
8 may be stored for up to one year and taxed as provided in subdivision B below.  
9 Subdivision B shall include all other hazardous waste produced. The director  
10 shall annually request that a minimum of one million dollars be appropriated  
11 from general revenue funds for deposit in the hazardous waste remedial fund  
12 created pursuant to section 260.480.

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

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

23 (2) For subdivision B waste, the fee shall be equal to 0.90785 times the  
24 amount of waste in short tons times the following sum: ten dollars and ninety  
25 cents plus the product of 3.9945 cents times the amount of waste in short tons,  
26 except that the fee for subdivision B waste shall not exceed forty thousand  
27 dollars.

28  
29 No company shall pay more than eighty thousand dollars annually pursuant to  
30 this subsection; provided that all fee amounts established pursuant to this  
31 subsection may be adjusted annually by the commission by an amount not to  
32 exceed two and fifty-five hundredths percent. No individual generator subject  
33 to a fee pursuant to this section shall pay less than fifty dollars annually.

34 3. No tax shall be imposed pursuant to this section upon hazardous waste  
35 generators whose waste consists solely of waste oil or facilities licensed pursuant  
36 to chapter 197, RSMo. The commission may exempt intermittent generators or  
37 generators of very small volumes of hazardous waste from payment of fees  
38 required pursuant to this section, provided those generators comply with all other  
39 applicable provisions of sections 260.360 to 260.430.

40 4. Any hazardous waste generator registered with the department which  
41 discharges waste to a publicly owned treatment works having an approved  
42 pretreatment program as required by chapter 204, RSMo, shall not pay any fee  
43 required in sections 260.350 to 260.550 on such waste discharged which is in  
44 compliance with pretreatment requirements. The hazardous waste management  
45 commission may exempt such generators from the provisions of sections 260.350  
46 to 260.430 if such exemption will not be in violation of the federal Resource  
47 Conservation and Recovery Act.

48 5. No fee shall be imposed pursuant to this section upon any hazardous

49 waste which must be disposed of as provided by a remedial plan for an  
50 abandoned or uncontrolled hazardous waste site, or upon smelter slag waste from  
51 the processing of materials into reclaimed metals. Fees on hazardous waste fuel  
52 produced from hazardous waste by processing, blending or other off-site  
53 treatment shall be assessed and collected only at the facility where such  
54 hazardous waste fuel is utilized as a substitute for other fuel. No facility using  
55 hazardous waste fuel shall pay more than eighty thousand dollars annually  
56 pursuant to this subsection for the first fiscal year fees are assessed pursuant to  
57 this section, and such maximum amount may be adjusted annually thereafter by  
58 the commission by an amount not to exceed two and fifty-five hundredths  
59 percent. This subsection shall not be construed to apply to hazardous waste used  
60 directly as a fuel that has not been processed, blended, or otherwise treated off  
61 site. Such waste shall be subject to the fees established in subsection 2 of this  
62 section.

63 6. The department may establish by rule and regulation categories of  
64 waste based upon waste characteristics pursuant to subsection 2 of section  
65 260.370. When the commission adopts hazardous waste categories, it shall  
66 establish and annually revise a fee schedule based upon waste characteristics.  
67 Each generator shall annually pay a fee, in lieu of the fee required in subsection  
68 2 of this section, based upon the volume of waste produced annually within each  
69 hazard category.

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

76 8. The department shall promptly transmit forty percent of all funds  
77 collected pursuant to this section to the director of revenue for deposit in the  
78 hazardous waste remedial fund created pursuant to section 260.480. The  
79 department shall promptly transmit sixty percent of all funds collected pursuant  
80 to this section to the director of revenue for deposit in the hazardous waste fund  
81 created pursuant to section 260.391.

82 9. Notwithstanding any other provision of law to the contrary, no tax  
83 based on the number of employees employed by a hazardous waste generator  
84 shall be collected. This fee shall expire June 30, 2006, except that the department  
85 shall levy and collect this fee for any hazardous waste generated prior to such  
86 date and reported to the department.]