

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 192**  
93RD GENERAL ASSEMBLY

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Reported from the Committee on Governmental Accountability and Fiscal Oversight, May 9, 2005, with recommendation that the Senate Committee Substitute do pass.

0502S.05C

TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal sections 260.200, 260.262, 260.270, 260.272, 260.273, 260.274, 260.275, 260.276, 260.278, 260.325, 260.330, 260.335, 260.345, 260.342, 260.375, 260.380, 260.391, 260.420, 260.446, 260.475, 260.479, 260.480, 260.481, 260.546, 260.569, 260.900, 260.905, 260.925, 260.935, 260.940, and 260.960, RSMo, and to enact in lieu thereof thirty new sections relating to hazardous waste, with an expiration date, penalty provisions and an emergency clause for certain sections.

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

Section A. Sections 260.200, 260.262, 260.270, 260.272, 260.273, 260.274, 260.275, 260.276, 260.278, 260.325, 260.330, 260.335, 260.345, 260.342, 260.375, 260.380, 260.391, 260.420, 260.446, 260.475, 260.479, 260.480, 260.481, 260.546, 260.569, 260.900, 260.905, 260.925, 260.935, 260.940, and 260.960, RSMo, are repealed and thirty new sections enacted in lieu thereof, to be known as sections 260.200, 260.262, 260.270, 260.272, 260.273, 260.275, 260.276, 260.278, 260.279, 260.325, 260.330, 260.335, 260.345, 260.375, 260.380, 260.391, 260.420, 260.475, 260.480, 260.481, 260.546, 260.569, 260.900, 260.905, 260.925, 260.935, 260.940, 260.960, 260.965, and 304.184, to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

33           (11) "District", a solid waste management district established under section  
34 260.305;

35           (12) "Financial assurance instrument", an instrument or instruments, including,  
36 but not limited to, cash or surety bond, letters of credit, corporate guarantee or secured  
37 trust fund, submitted by the applicant to ensure proper closure and postclosure care and  
38 corrective action of a solid waste disposal area in the event that the operator fails to  
39 correctly perform closure and postclosure care and corrective action requirements, except  
40 that the financial test for the corporate guarantee shall not exceed one and one-half  
41 times the estimated cost of closure and postclosure. The form and content of the  
42 financial assurance instrument shall meet or exceed the requirements of the  
43 department. The instrument shall be reviewed and approved or disapproved by the

44 attorney general;

45 (13) "Flood area", any area inundated by the one hundred year flood event, or the  
46 flood event with a one percent chance of occurring in any given year;

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

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

55 (16) "Household consumer used motor oil collection system", any used motor oil  
56 collection center at publicly owned facilities or private locations, any curbside collection  
57 of household consumer used motor oil, or any other household consumer used motor oil  
58 collection program determined by the department to further the purposes of sections  
59 260.200 to 260.345;

60 (17) "Infectious waste", waste in quantities and characteristics as determined by  
61 the department by rule, including isolation wastes, cultures and stocks of etiologic  
62 agents, blood and blood products, pathological wastes, other wastes from surgery and  
63 autopsy, contaminated laboratory wastes, sharps, dialysis unit wastes, discarded  
64 biologicals known or suspected to be infectious; provided, however, that infectious waste  
65 does not mean waste treated to department specifications;

66 (18) "Lead-acid battery", a battery designed to contain lead and sulfuric acid with  
67 a nominal voltage of at least six volts and of the type intended for use in motor vehicles  
68 and watercraft;

69 (19) "Major appliance", clothes washers and dryers, water heaters, trash  
70 compactors, dishwashers, conventional ovens, ranges, stoves, woodstoves, air  
71 conditioners, refrigerators and freezers;

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

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

79 (22) "Motor oil", any oil intended for use in a motor vehicle, as defined in section

80 301.010, RSMo, train, vessel, airplane, heavy equipment, or other machinery powered  
81 by an internal combustion engine;

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

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

86 (25) "Permit modification", any permit issued by the department which alters or  
87 modifies the provisions of an existing permit previously issued by the department;

88 (26) "Person", any individual, partnership, corporation, association, institution,  
89 city, county, other political subdivision, authority, state agency or institution, or federal  
90 agency or institution;

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

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

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

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

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

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

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

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

112 (35) **"Scrap tire collection center", a site where scrap tires are collected**  
113 **prior to being offered for recycling or processing and where fewer than five**  
114 **hundred tires are kept on site on any given day;**

115 (36) **"Scrap tire end-user facility", a site where scrap tires are used as**

116 a fuel or fuel supplement or converted into a useable product. Baled or  
117 compressed tires used in structures, or used at recreational facilities, or used  
118 for flood or erosion control shall be considered an end use;

119 (37) "Scrap tire generator", a person who sells tires at retail or any  
120 other person, firm, corporation, or government entity that generates scrap  
121 tires;

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

125 (39) "Scrap tire site", a site at which five hundred or more scrap tires  
126 are accumulated, but not including a site owned or operated by a scrap tire  
127 end-user that burns scrap tires for the generation of energy or converts scrap  
128 tires to a useful product;

129 (40) "Solid waste", garbage, refuse and other discarded materials including, but  
130 not limited to, solid and semisolid waste materials resulting from industrial, commercial,  
131 agricultural, governmental and domestic activities, but does not include hazardous waste  
132 as defined in sections 260.360 to 260.432, recovered materials, overburden, rock, tailings,  
133 matte, slag or other waste material resulting from mining, milling or smelting;

134 [(35)] (41) "Solid waste disposal area", any area used for the disposal of solid  
135 waste from more than one residential premises, or one or more commercial, industrial,  
136 manufacturing, recreational, or governmental operations;

137 [(36)] (42) "Solid waste fee", a fee imposed pursuant to sections 260.200 to  
138 260.345 and may be:

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

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

141 [(37)] (43) "Solid waste management area", a solid waste disposal area which  
142 also includes one or more of the functions contained in the definitions of recycling,  
143 resource recovery facility, waste tire collection center, waste tire processing facility,  
144 waste tire site or solid waste processing facility, excluding incineration;

145 [(38)] (44) "Solid waste management system", the entire process of managing  
146 solid waste in a manner which minimizes the generation and subsequent disposal of solid  
147 waste, including waste reduction, source separation, collection, storage, transportation,  
148 recycling, resource recovery, volume minimization, processing, market development, and  
149 disposal of solid wastes;

150 [(39)] (45) "Solid waste processing facility", any facility where solid wastes are  
151 salvaged and processed, including:

152 (a) A transfer station; or

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

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

156 [(40)] **(46)** "Solid waste technician", an individual who has successfully  
157 completed training in the practical aspects of the design, operation and maintenance of  
158 a permitted solid waste processing facility or solid waste disposal area in accordance  
159 with sections 260.200 to 260.345;

160 [(41)] **(47)** "Tire", a continuous solid or pneumatic rubber covering encircling the  
161 wheel of any self-propelled vehicle not operated exclusively upon tracks, or a trailer as  
162 defined in chapter 301, RSMo, except farm tractors and farm implements owned and  
163 operated by a family farm or family farm corporation as defined in section 350.010,  
164 RSMo;

165 [(42)] **(48)** "Used motor oil", any motor oil which, as a result of use, becomes  
166 unsuitable for its original purpose due to loss of original properties or the presence of  
167 impurities, but used motor oil shall not include ethylene glycol, oils used for solvent  
168 purposes, oil filters that have been drained of free flowing used oil, oily waste, oil  
169 recovered from oil tank cleaning operations, oil spilled to land or water, or industrial  
170 nonlube oils such as hydraulic oils, transmission oils, quenching oils, and transformer  
171 oils;

172 [(43)] **(49)** "Utility waste landfill", a solid waste disposal area used for fly ash  
173 waste, bottom ash waste, slag waste and flue gas emission control waste generated  
174 primarily from the combustion of coal or other fossil fuels;

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

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

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

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

186 (48) "Waste tire processing facility", a site where tires are reduced in volume by  
187 shredding, cutting, chipping or otherwise altered to facilitate recycling, resource recovery

188 or disposal;

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

193 (50) "Yard waste", leaves, grass clippings, yard and garden vegetation and  
194 Christmas trees. The term does not include stumps, roots or shrubs with intact root  
195 balls.

196 **2. For the purposes of section 260.200 and sections 260.270 to 260.278**  
197 **and any rules in place as of the effective date of this section or promulgated**  
198 **under said sections, the term "scrap" shall be used synonymously with and in**  
199 **place of "waste", as it applies only to scrap tires.**

260.262. A person selling lead-acid batteries at retail or offering lead-acid  
2 batteries for retail sale in the state shall:

3 (1) Accept, at the point of transfer, in a quantity at least equal to the number of  
4 new lead-acid batteries purchased, used lead-acid batteries from customers, if offered by  
5 customers;

6 (2) Post written notice which must be at least four inches by six inches in size  
7 and must contain the universal recycling symbol and the following language:

8 (a) It is illegal to discard a motor vehicle battery or other lead-acid battery;

9 (b) Recycle your used batteries; and

10 (c) State law requires us to accept used motor vehicle batteries, or other lead-acid  
11 batteries for recycling, in exchange for new batteries purchased; and

12 (3) Manage used lead-acid batteries in a manner consistent with the  
13 requirements of the state hazardous waste law;

14 **(4) Collect at the time of sale a fee of fifty cents for each lead-acid**  
15 **battery sold. Such fee shall be added to the total cost to the purchaser at**  
16 **retail after all applicable sales taxes on the battery have been computed. The**  
17 **fee imposed, less six percent of fees collected, which shall be retained by the**  
18 **seller as collection costs, shall be paid to the department of revenue in the**  
19 **form and manner required by the department and shall include the total**  
20 **number of batteries sold during the preceding month. The department of**  
21 **revenue shall promulgate rules and regulations necessary to administer the**  
22 **fee collection and enforcement. The terms "sold at retail" and "retail sales" do**  
23 **not include the sale of batteries to a person solely for the purpose of resale,**  
24 **if the subsequent retail sale in this state is to the ultimate consumer and is**

25 **subject to the fee. However, this fee shall not be paid on batteries sold for use**  
26 **in agricultural operations upon written certification by the purchaser; and[.]**

27 **(5) The department of revenue shall administer, collect, and enforce**  
28 **the fee authorized pursuant to this section pursuant to the same procedures**  
29 **used in the administration, collection, and enforcement of the general state**  
30 **sales and use tax imposed pursuant to chapter 144, RSMo, except as provided**  
31 **in this section. The proceeds of the battery fee, less four percent of the**  
32 **proceeds, which shall be retained by the department of revenue as collection**  
33 **costs, shall be transferred by the department of revenue into the hazardous**  
34 **waste fund, created pursuant to section 260.391. The fee created in**  
35 **subdivision (4) and this subdivision shall be effective October 1, 2005. The**  
36 **provisions of subdivision (4) and this subdivision shall terminate June 30,**  
37 **2011.**

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

11 (2) A person shall not maintain a [waste] **scrap** tire site unless the site is  
12 permitted by the department of natural resources for the proper and temporary storage  
13 of [waste] **scrap** tires or the site is an integral part of the person's permitted [waste]  
14 **scrap** tire processing facility or registered [waste] **scrap** tire end-user facility. No new  
15 [waste] **scrap** tire sites shall be permitted by the department after August 28, 1997,  
16 unless they are located at permitted [waste] **scrap** tire processing facilities or registered  
17 [waste] **scrap** tire end-user facilities. A person who maintained a [waste] **scrap** tire  
18 site on or before August 28, 1997, shall not accept any quantity of additional [waste]  
19 **scrap** tires at such site after August 28, 1997, unless the site is an integral part of the  
20 person's [waste] **scrap** tire processing or end-user facility, or unless the person who  
21 maintains such site can verify that a quantity of [waste] **scrap** tires at least equal to  
22 the number of additional [waste] **scrap** tires received was shipped to a [waste] **scrap**  
23 tire processing or end-user facility within thirty days after receipt of such additional



24 [waste] **scrap** tires.

25 (3) A person shall not operate a [waste] **scrap** tire processing facility unless the  
26 facility is permitted by the department. A person shall not maintain a [waste] **scrap**  
27 tire end-user facility unless the facility is registered by the department. The inventory  
28 of unprocessed [waste] **scrap** tires on the premises of a [waste] **scrap** tire processing  
29 or end-user facility shall not exceed the estimated inventory that can be processed or  
30 used in six months of normal and continuous operation. This estimate shall be based on  
31 the volume of tires processed or used by the facility in the last year or the  
32 manufacturer's estimated capacity of the processing or end-user equipment. This  
33 estimate may be increased from time to time when new equipment is obtained by the  
34 owner of the facility, and shall be reduced if equipment used previously is removed from  
35 active use. The inventory of processed [waste] **scrap** tires on the premises of a [waste]  
36 **scrap** tire processing or end-user facility shall not exceed two times the permitted  
37 inventory of an equivalent volume of unprocessed [waste] **scrap** tires.

38 (4) Any person selling new, used, or remanufactured tires at retail shall accept,  
39 at the point of transfer, in a quantity equal to the number of tires sold, [waste] **scrap**  
40 tires from customers, if offered by such customers. Any person accepting [waste] **scrap**  
41 tires may charge a reasonable fee reflecting the cost of proper management of any  
42 [waste] **scrap** tires accepted; [except that the fee shall not exceed two dollars per waste  
43 tire for any tire designed for a wheel of a diameter of sixteen inches or less] and which  
44 tire is required to be accepted on a one-for-one basis at the time of a retail sale pursuant  
45 to this subdivision. All tire retailers or other businesses that generate [waste] **scrap**  
46 tires shall use a [waste] **scrap** tire hauler permitted by the department, except that  
47 businesses that generate or accept [waste] **scrap** tires in the normal course of business  
48 may haul such [waste] **scrap** tires without a permit, if such hauling is performed  
49 without any consideration and such business maintains records on the [waste] **scrap**  
50 tires hauled as required by sections 260.270 to 260.276. Retailers shall not be liable for  
51 illegal disposal of [waste] **scrap** tires after such [waste] **scrap** tires are delivered to a  
52 [waste] **scrap** tire hauler, [waste] **scrap** tire collection center, [waste] **scrap** tire site,  
53 [waste] **scrap** tire processing facility or [waste] **scrap** tire end-user facility if such  
54 entity is permitted by the department of natural resources.

55 (5) It shall be unlawful for any person to transport [waste] **scrap** tires for  
56 consideration within the state without a permit.

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

59 2. Within six months after August 28, 1990, owners and operators of any [waste]

60 **scrap** tire site shall provide the department of natural resources with information  
61 concerning the site's location, size, and approximate number of [waste] **scrap** tires that  
62 have been accumulated at the site and shall initiate steps to comply with sections  
63 260.270 to 260.276.

64 3. The department of natural resources shall promulgate rules and regulations  
65 pertaining to collection, storage and processing and transportation of [waste] **scrap** tires  
66 and such rules and regulations shall include:

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

71 (2) Procedures for permit application and permit fees for [waste] **scrap** tire sites  
72 and commercial [waste] **scrap** tire haulers, and by January 1, 1996, procedures for  
73 permitting of [waste] **scrap** tire processing facilities and registration of [waste] **scrap**  
74 tire end-user facilities. The only purpose of such registration shall be to provide  
75 information for the documentation of [waste] **scrap** tire handling as described in  
76 subdivision (5) of this subsection, and registration shall not impose any additional  
77 requirements on the owner of a [waste] **scrap** tire end-user facility;

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

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

82 (5) By January 1, 1996, requirements for record-keeping procedures for retailers  
83 and other businesses that generate [waste] **scrap** tires, [waste] **scrap** tire haulers,  
84 [waste] **scrap** tire collection centers, [waste] **scrap** tire sites, [waste] **scrap** tire  
85 processing facilities, and [waste] **scrap** tire end-user facilities. Required record keeping  
86 shall include the source and number or weight of tires received and the destination and  
87 number of tires or weight of tires or tire pieces shipped or otherwise disposed of and such  
88 records shall be maintained for at least three years following the end of the calendar  
89 year of such activity. Detailed record keeping shall not be required where any  
90 charitable, fraternal, or other nonprofit organization conducts a program which results  
91 in the voluntary cleanup of land or water resources or the turning in of [waste] **scrap**  
92 tires.

93 4. Permit fees for [waste] **scrap** tire sites and commercial [waste] **scrap** tire  
94 haulers shall be established by rule and shall not exceed the cost of administering  
95 sections 260.270 to 260.275. Permit fees shall be deposited into an appropriate

96 subaccount of the solid [waste] **scrap** management fund.

97 5. The department shall:

98 (1) Encourage the voluntary establishment of [waste] **scrap** tire collection  
99 centers at retail tire selling businesses and [waste] **scrap** tire processing facilities; and

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

104 6. Any person licensed as an auto dismantler and salvage dealer under chapter  
105 301, RSMo, may without further license, permit or payment of fee, store but shall not  
106 bury on his property, up to five hundred [waste] **scrap** tires that have been chipped, cut  
107 or shredded, if such tires are only from vehicles acquired by him, and such tires are  
108 stored in accordance with the rules and regulations adopted by the department pursuant  
109 to this section. Any tire retailer or wholesaler may hold more than five hundred [waste]  
110 **scrap** tires for a period not to exceed thirty days without being permitted as a [waste]  
111 **scrap** tire site, if such tires are stored in a manner which protects human health and  
112 the environment pursuant to regulations adopted by the department.

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

117 8. The department of transportation shall, beginning July 1, 1991, undertake, as  
118 part of its currently scheduled highway improvement projects, demonstration projects  
119 using recovered rubber from [waste] **scrap** tires as surfacing material, structural  
120 material, subbase material and fill, consistent with standard engineering practices. The  
121 department shall evaluate the efficacy of using recovered rubber in highway  
122 improvements, and shall encourage the modification of road construction specifications,  
123 when possible, for the use of recovered rubber in highway improvement projects.

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

260.272. Processed [waste] **scrap** tires and recycled rubber chips may be used  
2 in the design and operation of sanitary landfills, including use of such tires and rubber  
3 chips as daily cover. The department of natural resources may promulgate rules to  
4 implement this section. Any rule or portion of a rule, as that term is defined in section

5 536.010, RSMo, that is created under the authority delegated in this section shall become  
6 effective only if it complies with and is subject to all of the provisions of chapter 536,  
7 RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo,  
8 are nonseverable and if any of the powers vested with the general assembly pursuant to  
9 chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a  
10 rule are subsequently held unconstitutional, then the grant of rulemaking authority and  
11 any rule proposed or adopted after August 28, 1999, shall be invalid and void.

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

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

17 3. The department of revenue shall administer, collect and enforce the fee  
18 authorized pursuant to this section pursuant to the same procedures used in the  
19 administration, collection and enforcement of the general state sales and use tax imposed  
20 pursuant to chapter 144, RSMo, except as provided in this section. The proceeds of the  
21 new tire fee, less [four] **two** percent of the proceeds, which shall be retained by the  
22 department of revenue as collection costs, shall be transferred by the department of  
23 revenue into an appropriate subaccount of the solid [waste] **scrap** management fund,  
24 created pursuant to section 260.330.

25 4. Up to five percent of the revenue available may be allocated, upon  
26 appropriation, to the department of natural resources to be used cooperatively with the  
27 department of elementary and secondary education for the purposes of developing  
28 educational programs and curriculum pursuant to section 260.342.

29 5. Up to twenty-five percent of the moneys received pursuant to this section may,

30 upon appropriation, be used to administer the programs imposed by this section. Up to  
31 five percent of the moneys received under this section may, upon appropriation, be used  
32 for the grants authorized in subdivision (2) of subsection 6 of this section and authorized  
33 in section 260.274. All remaining moneys shall be allocated, upon appropriation, for the  
34 projects authorized in section 260.276, **except that any unencumbered moneys may**  
35 **be used for public health, environmental and safety projects in response to**  
36 **environmental emergencies as determined by the director.**

37 6. The department shall promulgate, by rule, a statewide plan for the use of  
38 moneys received pursuant to this section to accomplish the following:

39 (1) Removal of [waste] **scrap** tires from illegal tire dumps;

40 (2) Providing grants to persons that will use products derived from [waste] **scrap**  
41 tires, or used [waste] **scrap** tires as a fuel or fuel supplement; and

42 (3) Resource recovery activities conducted by the department pursuant to section  
43 260.276.

44 7. The fee imposed in subsection 2 of this section shall **begin the first day of**  
45 **the month which falls at least thirty days but no more than sixty days**  
46 **immediately following the effective date of this section and shall terminate**  
47 January 1, [2004] **2010.**

48 8. **By January 1, 2009, the department shall report to the general**  
49 **assembly a complete accounting of the tire cleanups completed or in progress,**  
50 **the costs of the cleanups, the number of tires remaining, the balance of the**  
51 **fund and enforcement actions completed or initiated to address scrap tires.**

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

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

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

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

11 3. The permittee shall provide a financial assurance instrument in such an  
12 amount and form as prescribed by the department to ensure that, upon abandonment,  
13 cessation or interruption of the operation of the site, an approved closure plan is  
14 completed. The amount of the financial assurance instrument shall be based upon the

15 current costs of similar cleanups using data from actual [waste] **scrap** tire cleanup  
16 project bids received by the department to remediate [waste] **scrap** tire sites of similar  
17 size. If [waste] **scrap** tires are accumulated at a solid [waste] **scrap** management area,  
18 the existing financial assurance instrument filed for the solid [waste] **scrap** disposal  
19 area may be applied to the requirements of this section. Any interest that accrues to any  
20 financial assurance instrument established pursuant to this section shall remain with  
21 that instrument and shall be applied against the operator's obligation under this section  
22 until the instrument is released by the department. The director shall authorize the  
23 release of the financial assurance instrument after the department has been notified by  
24 the operator that the site has been closed, and after inspection, the department approves  
25 closure of the [waste] **scrap** tire site.

26 4. If the operator of a [waste] **scrap** tire site fails to properly implement the  
27 closure plan, the director shall order the operator to implement such plan, and take  
28 other steps necessary to assure the proper closure of the site pursuant to section 260.228  
29 and this section.

260.276. 1. The department of natural resources shall, subject to appropriation,  
2 conduct resource recovery or nuisance abatement activities designed to reduce the  
3 volume of [waste] **scrap** tires or alleviate any nuisance condition at any site if the owner  
4 or operator of such a site fails to comply with the rules and regulations authorized under  
5 section 260.270, or if the site is in continued violation of such rules and regulations. The  
6 department shall give first priority to cleanup of sites owned by persons who present  
7 satisfactory evidence that such persons were not responsible for the creation of the  
8 nuisance conditions or any violations of section 260.270 at the site.

9 2. The department may ask the attorney general to initiate a civil action to  
10 recover from any persons responsible the reasonable and necessary costs incurred by the  
11 department for its nuisance abatement activities and its legal expenses related to the  
12 abatement; except that in no case shall the attorney general seek to recover cleanup  
13 costs from the owner of the property if such person presents satisfactory evidence that  
14 such person was not responsible for the creation of the nuisance condition or any  
15 violation of section 260.270 at the site.

16 3. The department shall allow any person, firm, corporation, state agency,  
17 charitable, fraternal, or other nonprofit organization to bid on a contract for each  
18 resource recovery or nuisance abatement activity authorized under this section. The  
19 contract shall specify the cost per tire for delivery to a registered [waste] **scrap** tire  
20 processing or end-user facility, and the cost per tire for processing. The recipient or  
21 recipients of any contract shall not be compensated by the department for the cost of

22 delivery and the cost of processing for each tire until such tire is delivered to a  
23 registered [waste] **scrap** tire processing or end-user facility and the contract recipient  
24 has provided proof of delivery to the department. Any charitable, fraternal, or other  
25 nonprofit organization which voluntarily cleans up land or water resources may turn in  
26 [waste] **scrap** tires collected in the course of such cleanup under the rules and  
27 regulations of the department.

260.278. 1. A person who has, within the preceding twenty-four months, been  
2 found guilty or pleaded guilty to a violation of section 260.270 which involves the  
3 transport of [waste] **scrap** tires may not be granted a permit to transport [waste] **scrap**  
4 tires unless the person seeking the permit has provided to the department a performance  
5 bond or letter of credit as provided under this section.

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

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

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

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

16 4. Upon a determination by the department that a person has violated the terms  
17 and conditions of the permit or section 260.270, the department shall notify the person  
18 that the bond or letter of credit shall be forfeited and the moneys placed in an  
19 appropriate subaccount of the solid waste management fund, created under section  
20 260.330, for remedial action.

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

25 6. The requirement for a person to provide a performance bond or a letter of  
26 credit under this section shall cease for that person after two consecutive years in which  
27 the person has not been found guilty or pleaded guilty to a violation of section 260.270.

**260.279. In letting contracts for the performance of any job or service  
2 for the removal or clean up of scrap tires under chapter 260, RSMo, the  
3 department of natural resources shall, in addition to the requirements of**

4 sections 34.073 and 34.076, RSMo, and any other points awarded during the  
5 evaluation process, give to any vendor that meets one or more of the  
6 following factors a five percent preference and ten bonus points for each  
7 factor met:

8 (1) The bid is submitted by a vendor that has resided or maintained its  
9 headquarters or principal place of business in Missouri continuously for the  
10 two years immediately preceding the date on which the bid is submitted;

11 (2) The bid is submitted by a nonresident corporation vendor that has  
12 an affiliate or subsidiary that employs at least twenty state residents and has  
13 maintained its headquarters or principal place of business in Missouri  
14 continuously for the two years immediately preceding the date on which the  
15 bid is submitted;

16 (3) The bid is submitted by a vendor that resides or maintains its  
17 headquarters or principal place of business in Missouri and, for the purposes  
18 of completing the bid project and continuously over the entire term of the  
19 project, an average of at least seventy-five percent of such vendor's employees  
20 are Missouri residents who have resided in the state continuously for at least  
21 two years immediately preceding the date on which the bid is  
22 submitted. Such vendor must certify the residency requirements of this  
23 subdivision and submit a written claim for preference at the time the bid is  
24 submitted;

25 (4) The bid is submitted by a nonresident vendor that has an affiliate  
26 or subsidiary that employs at least twenty state residents and has maintained  
27 its headquarters or principal place of business in Missouri and, for the  
28 purposes of completing the bid project and continuously over the entire term  
29 of the project, an average of at least seventy-five percent of such vendor's  
30 employees are Missouri residents who have resided in the state continuously  
31 for at least two years immediately preceding the date on which the bid is  
32 submitted. Such vendor must certify the residency requirements of this  
33 subdivision and submit a written claim for preference at the time the bid is  
34 submitted;

35 (5) The bid is submitted by any vendor that provides written  
36 certification that the end use of the tires collected during the project will be  
37 for fuel purposes or for the manufacture of a useable good or product. For  
38 the purposes of this subsection, the landfilling of scrap tires, May 9, 2005  
39 scrap tire chips, or scrap tire shreds in any manner, including landfill cover,  
40 shall not permit the vendor a preference.



260.325. 1. The executive board of each district shall submit to the department  
2 a plan which has been approved by the council for a solid waste management system  
3 serving areas within its jurisdiction and shall, from time to time, submit officially  
4 adopted revisions of its plan as it deems necessary or the department may require. In  
5 developing the district's solid waste management plan, the board shall consider the  
6 model plan distributed to the board pursuant to section 260.225. Districts may contract  
7 with a licensed professional engineer or as provided in chapter 70, RSMo, for the  
8 development and submission of a joint plan.

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

12 3. The solid waste management plan shall be submitted to the department within  
13 eighteen months of the formation of the district. The plan shall be prepared and  
14 submitted according to the procedures specified in section 260.220 and this section.

15 4. Each plan shall:

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

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

20 (3) Delineate provisions for the collection of recyclable materials or collection  
21 points for recyclable materials;

22 (4) Delineate provisions for the collection of compostable materials or collection  
23 points for compostable materials;

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

26 (6) Delineate provisions for the orderly extension of solid waste management  
27 services in a manner consistent with the needs of the district, including economic impact,  
28 and in a manner which will minimize degradation of the waters or air of the state,  
29 prevent public nuisances or health hazards, promote recycling and waste minimization  
30 and otherwise provide for the safe and sanitary management of solid waste;

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

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

36 (9) Establish a timetable, with milestones, for the reduction of solid waste placed

37 in a landfill through waste minimization, reduction and recycling;

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

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

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

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

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

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

53 6. In the event any plan or part thereof is disapproved, the department shall  
54 furnish any and all reasons for such disapproval and shall offer assistance for correcting  
55 deficiencies. The executive board shall within sixty days revise and resubmit the plan  
56 for approval or request a hearing in accordance with section 260.235. Any plan  
57 submitted by a district shall stand approved one hundred twenty days after submission  
58 unless the department disapproves the plan or some provision thereof.

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

62 8. The provisions of section 260.215 to the contrary notwithstanding, any county  
63 within a region which on or after January 1, 1995, is not a member of a district shall by  
64 June 30, 1995, submit a solid waste management plan to the department of natural  
65 resources. Any county which withdraws from a district and all cities within the county  
66 with a population over five hundred shall submit a solid waste plan or a revision to an  
67 existing plan to the department of natural resources within one hundred eighty days of  
68 its decision not to participate. The plan shall meet the requirements of section 260.220  
69 and this section.

70 9. Funds may, upon appropriation, be made available to cities, counties and  
71 districts, under section 260.335, for the purpose of implementing the requirements of this  
72 section.

73           **10. The district board shall arrange for independent financial audits**  
74 **of the records and accounts of its operations by a certified public accountant**  
75 **or a firm of certified public accountants. Districts receiving two hundred**  
76 **thousand dollars or more of financial assistance shall have annual**  
77 **independent financial audits and districts receiving less than two hundred**  
78 **thousand dollars of financial assistance shall have independent financial**  
79 **audits at least once every two years. The state auditor may examine the**  
80 **findings of such audits and may conduct audits of the districts. Subject to**  
81 **limitations caused by the availability resources, the department shall conduct**  
82 **a performance audit of grants to each district at least once every three years.**

          260.330. 1. Except as otherwise provided in subsection 6 of this section, effective  
2 October 1, 1990, each operator of a solid waste sanitary landfill shall collect a charge  
3 equal to one dollar and fifty cents per ton or its volumetric equivalent of solid waste  
4 accepted and each operator of the solid waste demolition landfill shall collect a charge  
5 equal to one dollar per ton or its volumetric equivalent of solid waste accepted. Each  
6 operator shall submit the charge, less collection costs, to the department of natural  
7 resources for deposit in the "Solid Waste Management Fund" which is hereby created. On  
8 October 1, 1992, and thereafter, the charge imposed herein shall be adjusted annually  
9 by the same percentage as the increase in the general price level as measured by the  
10 Consumer Price Index for All Urban Consumers for the United States, or its successor  
11 index, as defined and officially recorded by the United States Department of Labor or its  
12 successor agency. **No annual adjustment shall be made to the charge imposed**  
13 **under this subsection during October 1, 2005, to October 1, 2009, except an**  
14 **adjustment amount consistent with the need to fund the operating costs of the**  
15 **department and taking into account any annual percentage increase in the**  
16 **total of the volumetric equivalent of solid waste accepted in the prior year at**  
17 **solid waste sanitary landfills and demolition landfills and solid waste to be**  
18 **transported out of this state for disposal that is accepted at transfer stations.**  
19 **No annual increase during October 1, 2005, to October 1, 2009, shall exceed the**  
20 **percentage increase measured by the Consumer Price Index for All Urban**  
21 **Consumers for the United States, or its successor index, as defined and**  
22 **officially recorded by the United States Department of Labor or its successor**  
23 **agency and calculated on the percentage of revenues dedicated under**  
24 **subdivision (1) of subsection 2 of section 260.335. Any such annual adjustment**  
25 **shall only be made at the discretion of the director, subject to**  
26 **appropriations.** Collection costs shall be established by the department and shall not

27 exceed two percent of the amount collected pursuant to this section.

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

30           3. The charges established in this section shall be enumerated separately from  
31 the disposal fee charged by the landfill and may be passed through to persons who  
32 generated the solid waste. Moneys shall be transmitted to the department shall be no  
33 less than the amount collected less collection costs and in a form, manner and frequency  
34 as the department shall prescribe. The provisions of section 33.080, RSMo, to the  
35 contrary notwithstanding, moneys in the account shall not lapse to general revenue at  
36 the end of each biennium. Failure to collect the charge does not relieve the operator  
37 from responsibility for transmitting an amount equal to the charge to the department.

38           4. The department may examine or audit financial records and landfill activity  
39 records and measure landfill usage to verify the collection and transmittal of the charges  
40 established in this section. The department may promulgate by rule and regulation  
41 procedures to ensure and to verify that the charges imposed herein are properly collected  
42 and transmitted to the department.

43           5. Effective October 1, 1990, any person who operates a transfer station in  
44 Missouri shall transmit a fee to the department for deposit in the solid waste  
45 management fund which is equal to one dollar and fifty cents per ton or its volumetric  
46 equivalent of solid waste accepted. Such fee shall be applicable to all solid waste to be  
47 transported out of the state for disposal. On October 1, 1992, and thereafter, the charge  
48 imposed herein shall be adjusted annually by the same percentage as the increase in the  
49 general price level as measured by the Consumer Price Index for All Urban Consumers  
50 for the United States, or its successor index, as defined and officially recorded by the  
51 United States Department of Labor or its successor agency. **No annual adjustment**  
52 **shall be made to the charge imposed under this subsection during October 1,**  
53 **2005, to October 1, 2009, except an adjustment amount consistent with the**  
54 **need to fund the operating costs of the department and taking into account**  
55 **any annual percentage increase in the total of the volumetric equivalent of**  
56 **solid waste accepted in the prior year at solid waste sanitary landfills and**  
57 **demolition landfills and solid waste to be transported out of this state for**  
58 **disposal that is accepted at transfer stations. No annual increase during**  
59 **October 1, 2005, to October 1, 2009, shall exceed the percentage increase**  
60 **measured by the Consumer Price Index for All Urban Consumers for the**  
61 **United States, or its successor index, as defined and officially recorded by the**  
62 **United States Department of Labor or its successor agency and calculated on**

63 **the percentage of revenues dedicated under subdivision (1) of subsection 2 of**  
64 **section 260.335. Any such annual adjustment shall only be made at the**  
65 **discretion of the director, subject to appropriations.** The department shall  
66 prescribe rules and regulations governing the transmittal of fees and verification of  
67 waste volumes transported out of state from transfer stations. Collection costs shall also  
68 be established by the department and shall not exceed two percent of the amount  
69 collected pursuant to this subsection. A transfer station with the sole function of  
70 separating materials for recycling or resource recovery activities shall not be subject to  
71 the fee imposed in this subsection.

72         6. Each political subdivision which owns an operational solid waste disposal area  
73 may designate, pursuant to this section, up to two free disposal days during each  
74 calendar year. On any such free disposal day, the political subdivision shall allow  
75 residents of the political subdivision to dispose of any solid waste which may be lawfully  
76 disposed of at such solid waste disposal area free of any charge, and such waste shall not  
77 be subject to any state fee pursuant to this section. Notice of any free disposal day shall  
78 be posted at the solid waste disposal area site and in at least one newspaper of general  
79 circulation in the political subdivision no later than fourteen days prior to the free  
80 disposal day.

       260.335. 1. [For fiscal years 1992-1997, one million] **Each fiscal year eight**  
2 **hundred thousand** dollars from the solid waste management fund shall be made  
3 available, upon appropriation, to the department and the environmental improvement  
4 and energy resources authority to fund activities that promote the development and  
5 maintenance of markets for recovered materials[, and beginning in fiscal year 1998, ten  
6 percent of the moneys in the solid waste management fund, from August 28, 2004, to  
7 August 28, 2005, not to exceed eight hundred thousand dollars, shall be made available  
8 for such purposes. Up to nineteen percent of such moneys may be used, upon  
9 appropriation, to administer the management of household hazardous waste and  
10 agricultural hazardous waste from family farms and family farm corporations, as defined  
11 in section 350.010, RSMo, to provide for establishment of an education program and a  
12 plan for the collection of household hazardous waste on a statewide basis by January 1,  
13 2000. After August 28, 2005, no more than one million dollars shall be made available  
14 for such purposes]. **Each fiscal year up to [fifteen percent of such moneys may] two**  
15 **hundred thousand dollars from the solid waste management fund** be used by  
16 **the department** upon appropriation [to administer the management of household  
17 hazardous waste and agricultural hazardous waste from family farms and family farm  
18 corporations, as defined in section 350.010, RSMo, to provide for establishment of an

19 education program and a plan for the collection of household hazardous waste on a  
20 statewide basis by January 1, 2000.] **for grants to solid waste management**  
21 **districts for district grants and district operations. Only those solid waste**  
22 **management districts that are allocated fewer funds under subsection 2 of**  
23 **this section than if revenues had been allocated based on the criteria in effect**  
24 **in this section on August 27, 2004, are eligible for these grants. An eligible**  
25 **district shall receive a proportionate share of these grants based on that**  
26 **district's share of the total reduction in funds for eligible districts calculated**  
27 **by comparing the amount of funds allocated under subsection 2 of this section**  
28 **with the amount of funds that would have been allocated using the criteria**  
29 **in effect in this section on August 27, 2004.** The department and the authority  
30 shall establish a joint interagency agreement with the department of economic  
31 development to identify state priorities for market development and to develop the  
32 criteria to be used to judge proposed projects. Additional moneys may be appropriated  
33 in subsequent fiscal years if requested. The authority shall establish a procedure to  
34 measure the effectiveness of the grant program under this subsection and shall provide  
35 a report to the governor and general assembly by January fifteenth of each year  
36 regarding the effectiveness of the program.

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

40       (1) [From August 28, 2004, to August 28, 2005, up to forty-two] **Thirty-nine**  
41 percent of the revenues shall be dedicated, upon appropriation, to the elimination of  
42 illegal solid waste disposal, to identify and prosecute persons disposing of solid waste  
43 illegally, to conduct solid waste permitting activities, to administer grants and perform  
44 other duties imposed in sections 260.200 to 260.345 and section 260.432. [After August  
45 28, 2005, up to twenty-five percent of the revenues shall be dedicated, upon  
46 appropriation, to the activities and duties authorized in this subdivision] **In addition**  
47 **to the thirty-nine percent of the revenues, the department may receive any**  
48 **annual increase in the charge during October 1, 2005, to October 1, 2009,**  
49 **under section 260.330 and such increases shall be used solely to fund the**  
50 **operating costs of the department;**

51       (2) [From August 28, 2004, to August 28, 2005, at least fifty-eight] **Sixty-one**  
52 percent of the revenues, **except any annual increases in the charge under section**  
53 **260.330 during October 1, 2005, to October 1, 2009, which shall be used solely**  
54 **to fund the operating costs of the department,** shall be allocated through grants,

55 upon appropriation, to participating cities, counties, and districts. [After August 28,  
56 2005, up to fifty percent of the revenues shall be allocated through grants, upon  
57 appropriation, to participating districts. **Forty] Revenues to be allocated under this**  
58 **subdivision shall be divided as follows: forty percent shall be allocated based**  
59 **on the population of each district in the latest decennial census, and sixty**  
60 **percent shall be allocated based on the amount of revenue generated within**  
61 **each district. For the purposes of this subdivision, revenue generated within**  
62 **each district shall be determined from the previous year's data. No more than**  
63 **fifty percent of the revenue [generated within each region and] allocable under this**  
64 subdivision may be allocated to the [district] **districts** upon approval of the department  
65 for implementation of a solid waste management plan and district operations, and [sixty]  
66 **at least fifty** percent of the revenue [generated within each region and] allocable **to the**  
67 **districts** under this subdivision shall be allocated to the cities and counties of the  
68 district or to persons or entities providing solid waste management, waste reduction,  
69 recycling and related services in these cities and counties. [For the purposes of this  
70 subdivision, revenue generated within each district shall be determined from the  
71 previous year's data. From August 28, 2004, to August 28, 2005,] Each district shall  
72 receive a minimum of seventy-five thousand dollars under this subdivision. After August  
73 28, 2005, each district shall receive a minimum of [forty-five] **ninety-five** thousand  
74 dollars under this subdivision **for district grants and district operations**. Each  
75 district receiving moneys under this subdivision shall expend such moneys pursuant to  
76 a solid waste management plan required under section 260.325, and only in the case that  
77 the district is in compliance with planning requirements established by the department[,  
78 and shall submit, within ninety days of the end of the fiscal year, an audited report of  
79 the expenditure of all funds received under this subsection]. Moneys shall be awarded  
80 based upon grant applications. Any moneys remaining in any fiscal year due to  
81 insufficient or inadequate applications may be reallocated pursuant to this subdivision;  
82 (3) [From August 28, 2004, to August 28, 2005, any remaining moneys in the  
83 fund shall be used, upon appropriation, to provide grants for statewide solid waste  
84 management planning or research projects to any district, county or city of the state or  
85 to any other person or entity involved in waste reduction or recycling or for contracted  
86 services to further the purposes of section 260.225 and sections 260.255 to  
87 260.345. After August 28, 2005, any remaining moneys in the fund shall be used, upon  
88 appropriation, to provide grants or loans for statewide solid waste management projects  
89 to any district, county or city of the state or to any other person or entity involved in  
90 waste reduction or recycling to further the purposes of sections 260.255 to 260.345. Solid

91 waste management districts may apply annually to the department for a three-to-one  
92 matching grant of up to twenty thousand dollars per district per year to be used for the  
93 purpose of district operations;] **Except for the amount up to one-fourth of the**  
94 **department's previous fiscal year expense, any remaining unencumbered**  
95 **funds generated under subdivision (1) of subsection 2 of this section in prior**  
96 **fiscal years shall be reallocated under this section;**

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

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

101 3. The advisory board created in section 260.345 shall recommend criteria to be  
102 used to allocate grant moneys to districts, cities and counties. These criteria shall  
103 establish a priority for proposals which provide methods of solid waste reduction and  
104 recycling. The department shall promulgate criteria for evaluating grants by rule and  
105 regulation. Projects of cities and counties located within a district which are funded by  
106 grants under this section shall conform to the district solid waste management plan.

107 4. [Beginning July 1, 2004, a joint committee appointed by the speaker of the  
108 house of representatives and the president pro tem of the senate shall consider proposals  
109 for fees, restructuring the distribution of the fees between solid waste districts, grant  
110 recipients, and the department. The committee shall consider options for the  
111 distribution of the tipping fee to the solid waste districts and any other matters it deems  
112 appropriate. The committee shall prepare and submit a report including its  
113 recommendation for changes to the governor, the house of representatives, and the  
114 senate no later than December 31, 2004.

115 5.] The funds awarded to the districts, counties and cities pursuant to this  
116 section shall be used for the purposes set forth in sections 260.300 to 260.345, and shall  
117 be used in addition to existing funds appropriated by counties and cities for solid waste  
118 management and shall not supplant county or city appropriated funds.

119 [6.] 5. The department, in conjunction with the solid waste advisory board, shall  
120 review the performance of all grant recipients to ensure that grant moneys were  
121 appropriately and effectively expended to further the purposes of the grant, as expressed  
122 in the recipient's grant application. The grant application shall contain specific goals  
123 and implementation dates, and grant recipients shall be contractually obligated to fulfill  
124 same. The department may require the recipient to submit periodic reports and such  
125 other data as are necessary, both during the grant period and up to five years thereafter,  
126 to ensure compliance with this section. The department may audit the records of any



127 recipient to ensure compliance with this section. Recipients of grants under sections  
128 260.300 to 260.345 shall maintain such records as required by the department. If a  
129 grant recipient fails to maintain records or submit reports as required herein, refuses  
130 the department access to the records, or fails to meet the department's performance  
131 standards, the department may withhold subsequent grant payments, if any, and may  
132 compel the repayment of funds provided to the recipient pursuant to a grant. [The  
133 department shall make available all of the unencumbered funds generated during prior  
134 fiscal years by the fees established under section 260.330 through grants or loans to solid  
135 waste management areas and processing facilities, municipalities, counties, districts, and  
136 other appropriate persons who demonstrate a need for assistance to comply with section  
137 260.250. Such grants or loans shall be used for educational programs, transportation,  
138 low-interest or no-interest loans to purchase property for composting or other solid waste  
139 source reduction activities stated to facilitate compliance with section 260.250.

140       7.] 6. The department shall provide for a security interest in any machinery or  
141 equipment purchased through grant moneys distributed pursuant to this section.

142       [8.] 7. If the moneys are not transmitted to the department within the time  
143 frame established by the rule promulgated, interest shall be imposed on the moneys due  
144 the department at the rate of ten percent per annum from the prescribed due date until  
145 payment is actually made. These interest amounts shall be deposited to the credit of the  
146 solid waste management fund.

260.345. A state "Solid Waste Advisory Board" is created within the department  
2 of natural resources. The advisory board shall be composed of the chairman of the  
3 executive board of each of the solid waste management districts and other members as  
4 provided in this section. Up to five additional members shall be appointed by the  
5 director of which [up to] two [may] **members shall** represent the solid waste  
6 management industry and have an economic interest in or activity with any solid waste  
7 facility or operation, [and at least] one [such] member [shall] **may** represent [a locally  
8 owned] **the solid waste [management business] composting or recycling industry**  
9 **businesses**, and the remaining members shall be public members who have  
10 demonstrated interest in solid waste management issues and shall have no economic  
11 interest in or activity with any solid waste facility or operation but may own stock in a  
12 publicly traded corporation which may be involved in waste management as long as such  
13 holdings are not substantial. [The appointment of any member by the director shall be  
14 terminated if the member fails to attend at least fifty percent of the board meetings in  
15 any calendar year.] The advisory board shall advise the department regarding:

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

17 (2) Solid waste management problems experienced by solid waste management  
18 districts;

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

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

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

23 (6) The development of improved methods of solid waste minimization, recycling  
24 and resource recovery; and

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

260.375. The department shall:

2 (1) Exercise general supervision of the administration and enforcement of  
3 sections 260.350 to 260.430 and all standards, rules and regulations, orders or license  
4 and permit terms and conditions adopted or issued pursuant to sections 260.350 to  
5 260.430;

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

8 (3) Retain, employ, provide for and compensate, within appropriations available  
9 therefor, such consultants, assistants, deputies, clerks and other employees on a full- or  
10 part-time basis as may be necessary to carry out the provisions of sections 260.350 to  
11 260.430 and prescribe the times at which they shall be appointed and their powers and  
12 duties;

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

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

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

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

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

36           (9) Develop facts and make inspections and investigations, including gathering  
37 of samples and performing of tests and analyses, consistent with the purposes of sections  
38 260.350 to 260.430, and in connection therewith, to enter or authorize any representative  
39 of the department to enter, at all reasonable times, in or upon any private or public  
40 property for any purpose required by sections 260.350 to 260.430 or any federal  
41 hazardous waste management act. Such entry may be for the purpose, without  
42 limitation, of developing or implementing standards, rules and regulations, orders or  
43 license or permit terms and conditions, of inspecting or investigating any records  
44 required to be kept by sections 260.350 to 260.430 or any license or permit issued  
45 pursuant to sections 260.350 to 260.430 or any hazardous waste management practice  
46 which the department or commission believes violates sections 260.350 to 260.430, or any  
47 standard, rule or regulation, order or license or permit term or condition adopted or  
48 issued pursuant to sections 260.350 to 260.430, or otherwise endangers the health of  
49 humans or the environment, or the site of any suspected violation of sections 260.350 to  
50 260.430, or any standard, rule or regulation, order, or license or permit term or condition  
51 adopted or issued pursuant to sections 260.350 to 260.430. The results of any such  
52 investigation shall be reduced to writing and shall be furnished to the owner or operator  
53 of the property. No person shall refuse entry or access requested for the purpose of  
54 inspection pursuant to this subdivision to an authorized representative of the  
55 department or commission who presents appropriate credentials, nor obstruct or hamper  
56 the representative in carrying out the inspection. A suitably restricted search warrant,  
57 upon a showing of probable cause in writing and upon oath, shall be issued by any judge  
58 or associate circuit judge having jurisdiction to any such representative for the purpose  
59 of enabling the representative to make such inspection;

60           (10) Require each hazardous waste generator located within this state [and each  
61 hazardous waste generator located outside of this state before utilizing any hazardous  
62 waste facility in this state except as provided in subdivision (11) of this section] to file  
63 a registration report containing such information as the commission by regulation may

64 specify relating to types and quantities of hazardous waste generated and methods of  
65 hazardous waste management, and to meet all other requirements placed upon  
66 hazardous waste generators by sections 260.350 to 260.430 and the standards, rules and  
67 regulations and orders adopted or issued pursuant to sections 260.350 to 260.430;

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

72 (12) Require each hazardous waste transporter operating in this state to obtain  
73 a license and to meet all applicable requirements of sections 260.350 to 260.430 **and**  
74 **section 226.008, RSMo**, and the standards, rules and regulations, orders and license  
75 terms and conditions adopted or issued pursuant to sections 260.350 to 260.430 **and**  
76 **section 226.008, RSMo**;

77 [(13)] (12) Require each hazardous waste facility owner and operator to obtain  
78 a permit for each such facility and to meet all applicable requirements of sections  
79 260.350 to 260.430 and the standards, rules and regulations, orders and permit terms  
80 and conditions adopted or issued pursuant to sections 260.350 to 260.430;

81 [(14)] (13) Issue, continue in effect, revoke, modify or deny in accordance with  
82 the standards, rules and regulations, [hazardous waste transporter licenses] and  
83 hazardous waste facility permits;

84 [(15)] (14) Encourage voluntary cooperation by persons or affected groups to  
85 achieve the purposes of sections 260.350 to 260.430;

86 [(16)] (15) Enter such order or determination as may be necessary to effectuate  
87 the provisions of sections 260.350 to 260.430 and the standards, rules and regulations,  
88 and license and permit terms and conditions adopted or issued pursuant to sections  
89 260.350 to 260.430;

90 [(17)] (16) Enter such order or cause to be instituted in a court of competent  
91 jurisdiction such legal proceedings as may be necessary in a situation of imminent  
92 hazard, as prescribed in section 260.420;

93 [(18)] (17) Settle or compromise as it may deem advantageous to the state, with  
94 the approval of the commission, any suit undertaken by the commission for recovery of  
95 any penalty or for compelling compliance with any provision of sections 260.350 to  
96 260.430 or any standard, rule or regulation, order, or license or permit term or condition  
97 adopted or issued pursuant to sections 260.350 to 260.430;

98 [(19)] (18) Advise, consult and cooperate with other agencies of the state, the  
99 federal government, other states and interstate agencies and with affected groups,

100 political subdivisions and industries in furtherance of the purposes of sections 260.350  
101 to 260.430 and, upon request, consult with persons subject to sections 260.350 to 260.430  
102 on the proper measures necessary to comply with the requirements of sections 260.350  
103 to 260.430 and rules and regulations adopted pursuant to sections 260.350 to 260.430;

104       [(20)] **(19)** Encourage, coordinate, participate in or conduct studies,  
105 investigations, research and demonstrations relating to hazardous waste management  
106 as it may deem advisable and necessary for the discharge of its duties pursuant to  
107 sections 260.350 to 260.430;

108       [(21)] **(20)** Represent the state of Missouri in all matters pertaining to interstate  
109 hazardous waste management including the negotiation of interstate compacts or  
110 agreements;

111       [(22)] **(21)** Arrange for the establishment, staffing, operation and maintenance  
112 of collection stations, within appropriations or other funding available therefor, for  
113 householders, farmers and other exempted persons as provided in section 260.380;

114       [(23)] **(22)** Collect and disseminate information relating to hazardous waste  
115 management;

116       [(24)] **(23)** Conduct education and training programs on hazardous waste  
117 problems and management;

118       [(25)] **(24)** Encourage and facilitate public participation in the development,  
119 revision and implementation of the state hazardous waste program;

120       [(26)] **(25)** Encourage waste reduction, resource recovery, exchange and energy  
121 conservation in hazardous waste management;

122       [(27)] **(26)** Exercise all powers necessary to carry out the provisions of sections  
123 260.350 to 260.430, assure that the state of Missouri complies with any federal  
124 hazardous waste management act and retains maximum control thereunder, and receives  
125 all desired federal grants, aid and other benefits;

126       [(28)] **(27)** Present to the public, at a public meeting, and to the governor and  
127 the members of the general assembly, an annual report on the status of the state  
128 hazardous waste program;

129       [(29)] **(28)** Develop comprehensive plans and programs to aid in the  
130 establishment of hazardous waste disposal sites as needed within the various  
131 geographical areas of the state within a reasonable period of time;

132       [(30)] **(29)** Control, abate or clean up any hazardous waste placed into or on the  
133 land in a manner which endangers or is reasonably likely to endanger the health of  
134 humans or the environment and, in aid thereof, may cause to be filed by the attorney  
135 general or a prosecuting attorney, a suit seeking mandatory or prohibitory injunctive

136 relief or such other relief as may be appropriate. The department shall also take such  
137 action as is necessary to recover all costs associated with the cleanup of any hazardous  
138 waste from the person responsible for the waste. All money received shall be deposited  
139 in the hazardous waste fund created in section 260.391;

140        ~~[(31)]~~ **(30)** Oversee any corrective action work undertaken pursuant to sections  
141 260.350 to 260.430 and rules promulgated pursuant to sections 260.350 to 260.430 to  
142 investigate, monitor, or clean up releases of hazardous waste or hazardous constituents  
143 to the environment at hazardous waste facilities. The department shall review the  
144 technical and regulatory aspects of corrective action plans, reports, documents, and  
145 associated field activities, and attest to their accuracy and adequacy. Owners or  
146 operators of hazardous waste facilities performing corrective actions shall pay to the  
147 department all reasonable costs, as determined by the commission, incurred by the  
148 department pursuant to this subdivision. All such funds remitted by owners or operators  
149 of hazardous waste facilities performing corrective actions shall be deposited in the  
150 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  
3 generators **located in Missouri** shall:

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

22 in section 260.391;

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

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

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

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

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

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

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

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

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

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

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

78 **2. Missouri treatment, storage, or disposal facilities shall pay annually,**  
79 **on or before January 1 of each year, a fee to the department equal to two**  
80 **dollars per ton or portion thereof for all hazardous waste received from**  
81 **outside the state. This fee shall be based on the hazardous waste received for**  
82 **the twelve-month period ending June 30 of the previous year.**

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

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

90 (2) The department may determine that a specific quantity of a specific  
91 hazardous waste requires special management. Upon such determination and after  
92 public notice by press release or advertisement thereof, including instructions for  
93 handling and delivery, generators exempted pursuant to this subsection shall deliver,



94 but without a manifest or the requirement to use a licensed hazardous waste  
95 transporter, such waste to:

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

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

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

260.391. 1. There is hereby created in the state treasury a fund to be known as  
2 the "Hazardous Waste Fund". All funds received from hazardous waste permit and  
3 license fees, generator fees **or taxes, penalties, or interest assessed on those fees**  
4 **or taxes**, taxes collected by contract hazardous waste landfill operators, general  
5 revenue, federal funds, gifts, bequests, donations, or any other moneys so designated  
6 shall be paid to the director of revenue and deposited in the state treasury to the credit  
7 of the hazardous waste fund. The hazardous waste fund, subject to appropriation by the  
8 general assembly, shall be used by the department as provided by appropriations and  
9 consistent with rules and regulations established by the hazardous waste management  
10 commission for the purpose of carrying out the provisions of sections 260.350 to 260.430  
11 **and sections 319.100 to 319.127, and 319.137, and 319.139, RSMo**, for the  
12 management of hazardous waste, responses to hazardous substance releases as provided  
13 in sections 260.500 to 260.550, corrective actions at regulated facilities and illegal  
14 hazardous waste sites, **prevention of leaks from underground storage tanks and**  
15 **response to petroleum releases from underground and aboveground storage**  
16 **tanks and other related activities required to carry out provisions of sections**  
17 **260.350 to 260.575 and sections 319.100 to 319.127, RSMo**, and for payments to  
18 other state agencies for such services consistent with sections 260.350 to [260.430]  
19 **260.575 and sections 319.100 to 319.139, RSMo**, upon proper warrant issued by the  
20 commissioner of administration, **and for any other expenditures which are not**  
21 **covered pursuant to the federal Comprehensive Environmental Response,**

22 **Compensation and Liability Act of 1980, including but not limited to the**  
23 **following purposes:**

24 (1) **Administrative services as appropriate and necessary for the**  
25 **identification, assessment and cleanup of abandoned or uncontrolled sites**  
26 **pursuant to sections 260.435 to 260.550;**

27 (2) **Payments to other state agencies for such services consistent with**  
28 **sections 260.435 to 260.550, upon proper warrant issued by the commissioner**  
29 **of administration, including, but not limited to, the department of health and**  
30 **senior services for the purpose of conducting health studies of persons**  
31 **exposed to waste from an uncontrolled or abandoned hazardous waste site or**  
32 **exposed to the release of any hazardous substance as defined in section**  
33 **260.500;**

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

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

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

41 (6) **Reimbursement of owners or operators who accept waste pursuant**  
42 **to departmental orders pursuant to subdivision (2) of subsection 1 of section**  
43 **260.420.**

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

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

57 4. **The fund balance remaining in the hazardous waste remedial fund**

58 shall be transferred to the hazardous waste fund created in this section.

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

64           6. The director shall make all reasonable efforts to recover the full  
65 amount of any funds expended from the fund for cleanup through litigation  
66 or cooperative agreements with responsible persons. All moneys recovered  
67 or reimbursed pursuant to this section through voluntary agreements or court  
68 orders shall be deposited to the hazardous waste fund created herein.

69           7. In addition to revenue from all licenses, taxes, fees, penalties, and  
70 interest, specified in subsection 1 of this section, the department shall request  
71 an annual appropriation of general revenue equal to any state match  
72 obligation to the U.S. Environmental Protection Agency for cleanup  
73 performed pursuant to the authority of the Comprehensive Environmental  
74 Response, Compensation and Liability Act of 1980.

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

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

14           (2) Issuing an order directing a permitted commercial hazardous waste facility  
15 to treat, 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  
17 rights in lands, sites, objects, or facilities necessary to protect the health of humans and  
18 the environment in accordance with sections 260.350 to 260.550 only after it is proven  
19 cost effective and all other options have been exhausted by the commission. In the event

20 any property is condemned, then the procedures and assessment of damages shall be in  
21 accordance with chapter 523, RSMo;

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

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

30 2. In any civil action brought pursuant to this section in which a temporary  
31 restraining order or temporary injunction is sought, there must be allegations of the  
32 types of injury or harm specified in these imminent hazard provisions; it shall be  
33 necessary to allege and prove at the proceeding that irreparable damage will occur and  
34 that the remedy at law is inadequate, and the temporary restraining order or temporary  
35 injunction shall not issue without such allegations and without such proof.

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

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

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

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

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

15 (4) Cement kiln dust waste;

16 (5) Waste oil; or

17 (6) Hazardous waste that is:

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

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

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

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

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

25 3. [Forty percent of all moneys collected or received by the department pursuant  
26 to this section shall be transmitted to the department of revenue for deposit in the state  
27 treasury to the credit of the hazardous waste remedial fund created in section  
28 260.480. Sixty percent of] All moneys collected or received by the department pursuant  
29 to this section shall be transmitted to the department of revenue for deposit in the state  
30 treasury to the credit of the hazardous waste fund created pursuant to section  
31 260.391. Following each annual reporting date, the state treasurer shall certify the  
32 amount deposited in the fund to the commission.

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

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

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

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

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

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

11 2. The department may use the fund, upon appropriation, for the nonfederal  
12 share and any other expenditures which are not covered pursuant to the federal  
13 Comprehensive Environmental Response, Compensation and Liability Act of 1980, for  
14 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  
17 to 260.550;

18 (2) Payments to other state agencies for such services consistent with sections  
19 260.435 to 260.550, upon proper warrant issued by the commissioner of administration,  
20 including, but not limited to, the department of health and senior services for the  
21 purpose of conducting health studies of persons exposed to waste from an uncontrolled  
22 or abandoned hazardous waste site or exposed to the release of any hazardous substance  
23 as defined in section 260.500;

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

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

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

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

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

36 4. The department may contract with any person to perform the acts authorized

37 in this section.

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

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

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  
3 Missouri or the federal government, or both, for the acquisition of all real property by  
4 any federal or state agency because of the release of a hazardous substance that  
5 endangers the public health and welfare of such city and has resulted in a public  
6 calamity, and where a city ordinance effecting disincorporation has been submitted to  
7 the governor by the mayor of the city requesting disincorporation, shall be  
8 disincorporated upon the issuance of a governor's executive order approving such  
9 disincorporation. Notice of such disincorporation shall be submitted to the secretary of  
10 state and the county commission of the county within which such city lies.

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

20           3. When the trustee shall have closed the affairs of the city, and shall have paid  
21 all debts due by the city, he shall, at the request of the governor, pay over to the state  
22 treasurer all money remaining in his hands and deliver to the agency designated by the

23 governor all books, papers, records and deeds to acquired real property belonging to the  
24 disincorporated city.

25 4. Any expenditures incurred under this section will be paid first from excess city  
26 funds and then from the Missouri hazardous waste [remedial] fund under section  
27 [260.480] **260.391**.

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

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

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

31 4. The political subdivision or volunteer fire protection association may apply to



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

260.569. 1. The department shall be reimbursed for its site-specific costs  
2 incurred in administration and oversight of the voluntary cleanup. The department shall  
3 bill applicants who conduct the voluntary cleanup at rates established by rule by the  
4 hazardous waste management commission. Such rates shall not be more than the lesser  
5 of the costs to the department or one hundred dollars per hour. The department shall  
6 furnish to the applicant a complete, full and detailed accounting of the costs incurred by  
7 the department for which the applicant is charged. The applicant may appeal any  
8 charge to the commission within thirty days of receipt of the bill. Appeal to the  
9 commission shall stay the required payment date until thirty days following the  
10 rendering of the decision of the commission. The department of natural resources shall  
11 initially draw down its charges against the application fee. Timely remittance of  
12 reimbursements, as provided in subsection 3 of this section, to the department is a  
13 condition of continuing participation. If, after the conclusion of the remedial action, a  
14 balance remains, the department shall refund that amount within sixty days. If the  
15 department fails to render any decision or take any action within the time period  
16 specified in sections 260.565 to 260.575, then the applicant shall not be required to  
17 reimburse the department for costs incurred for such review or action.

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

22 3. The department may terminate an applicant from further participation for

23 cause. Grounds for termination include, but are not limited to:

24 (1) Discovery of conditions such as to warrant action pursuant to sections 260.350  
25 to 260.480, as amended, the Resource Conservation and Recovery Act, 42 U.S.C. Section  
26 6901 et seq., as amended, or the Comprehensive Environmental Response, Compensation  
27 and Liability Act, 42 U.S.C. Section 9601 et seq., as amended;

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

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

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

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

35 (6) Continuing noncompliance with any of the provisions of sections 260.565 to  
36 260.575 or the rules and regulations promulgated pursuant to sections 260.565 to  
37 260.575.

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

260.900. As used in sections 260.900 to 260.960, unless the context clearly  
2 indicates otherwise, the following terms mean:

3 (1) "Abandoned dry-cleaning facility", any real property premises or individual  
4 leasehold space in which a dry-cleaning facility formerly operated;

5 (2) "Active dry-cleaning facility", any real property premises or individual  
6 leasehold space in which a dry-cleaning facility currently operates;

7 (3) "Chlorinated dry-cleaning solvent", any dry-cleaning solvent which contains  
8 a compound which has a molecular structure containing the element chlorine;

9 (4) "Commission", the hazardous waste management commission created in  
10 section 260.365;

11 (5) "Corrective action", those activities described in subsection 1 of section  
12 260.925;

13 (6) "Corrective action plan", a plan approved by the director to perform corrective  
14 action at a dry-cleaning facility;

15 (7) "Department", the Missouri department of natural resources;

16 (8) "Director", the director of the Missouri department of natural resources;

17 (9) "Dry-cleaning facility", a commercial establishment that operates, or has  
18 operated in the past in whole or in part for the purpose of cleaning garments or other  
19 fabrics on site utilizing a process that involves any use of dry-cleaning  
20 solvents. Dry-cleaning facility includes all contiguous land, structures and other  
21 appurtenances and improvements on the land used in connection with a dry-cleaning  
22 facility but does not include prisons, governmental entities, hotels, motels or industrial  
23 laundries. Dry-cleaning facility does include coin-operated dry-cleaning facilities;

24 (10) "Dry-cleaning solvent", any and all nonaqueous solvents used or to be used  
25 in the cleaning of garments and other fabrics at a dry-cleaning facility and includes but  
26 is not limited to perchloroethylene, also known as tetrachloroethylene, [and  
27 petroleum-based solvents] **chlorinated dry-cleaning**, and the products into which such  
28 solvents degrade;

29 (11) "Dry-cleaning unit", a machine or device which utilizes dry-cleaning solvents  
30 to clean garments and other fabrics and includes any associated piping and ancillary  
31 equipment and any containment system;

32 (12) "Environmental response surcharge", either the active dry-cleaning facility  
33 registration surcharge or the dry-cleaning solvent surcharge;

34 (13) "Fund", the dry-cleaning environmental response trust fund created in  
35 section 260.920;

36 (14) "Immediate response to a release", containment and control of a known  
37 release in excess of a reportable quantity and notification to the department of any  
38 known release in excess of a reportable quantity;

39 (15) "Operator", any person who is or has been responsible for the operation of  
40 dry-cleaning operations at a dry-cleaning facility;

41 (16) "Owner", any person who owns the real property where a dry- cleaning  
42 facility is or has operated;

43 (17) "Person", an individual, trust, firm, joint venture, consortium, joint-stock  
44 company, corporation, partnership, association or limited liability company. Person does  
45 not include any governmental organization;

46 (18) "Release", any spill, leak, emission, discharge, escape, leak or disposal of  
47 dry-cleaning solvent from a dry-cleaning facility into the soils or waters of the state;

48 (19) "Reportable quantity", a known release of a dry-cleaning solvent deemed  
49 reportable by applicable federal or state law or regulation.

260.905. 1. The commission shall promulgate and adopt such initial rules and  
2 regulations, effective no later than July 1, [2002] **2007**, as shall be necessary to carry

3 out the purposes and provisions of sections 260.900 to 260.960. Prior to the  
4 promulgation of such rules, the commission shall meet with representatives of the  
5 dry-cleaning industry and other interested parties. The commission, thereafter, shall  
6 promulgate and adopt additional rules and regulations or change existing rules and  
7 regulations when necessary to carry out the purposes and provisions of sections 260.900  
8 to 260.960.

9           2. Any rule or regulation adopted pursuant to sections 260.900 to 260.960 shall  
10 be reasonably necessary to protect human health, to preserve, protect and maintain the  
11 water and other natural resources of this state and to provide for prompt corrective  
12 action of releases from dry-cleaning facilities. Consistent with these purposes, the  
13 commission shall adopt rules and regulations, effective no later than July 1, [2002] **2007**:

14           (1) Establishing requirements that owners who close dry-cleaning facilities  
15 remove dry-cleaning solvents and wastes from such facilities in order to prevent any  
16 future releases;

17           (2) Establishing criteria to prioritize the expenditure of funds from the  
18 dry-cleaning environmental response trust fund. The criteria shall include consideration  
19 of:

20           (a) The benefit to be derived from corrective action compared to the cost of  
21 conducting such corrective action;

22           (b) The degree to which human health and the environment are actually affected  
23 by exposure to contamination;

24           (c) The present and future use of an affected aquifer or surface water;

25           (d) The effect that interim or immediate remedial measures will have on future  
26 costs; and

27           (e) Such additional factors as the commission considers relevant;

28           (3) Establishing criteria under which a determination may be made by the  
29 department of the level at which corrective action shall be deemed completed. Criteria  
30 for determining completion of corrective action shall be based on the factors set forth in  
31 subdivision (2) of this subsection and:

32           (a) Individual site characteristics including natural remediation processes;

33           (b) Applicable state water quality standards;

34           (c) Whether deviation from state water quality standards or from established  
35 criteria is appropriate, based on the degree to which the desired remediation level is  
36 achievable and may be reasonably and cost effectively implemented, subject to the  
37 limitation that where a state water quality standard is applicable, a deviation may not  
38 result in the application of standards more stringent than that standard; and

39 (d) Such additional factors as the commission considers relevant.

260.925. 1. On and after July 1, 2002, moneys in the fund shall be utilized to  
2 address contamination resulting from releases of dry-cleaning solvents as provided in  
3 sections 260.900 to 260.960. Whenever a release poses a threat to human health or the  
4 environment, the department, consistent with rules and regulations adopted by the  
5 commission pursuant to subdivisions (2) and (3) of subsection 2 of section 260.905, shall  
6 expend moneys available in the fund to provide for:

7 (1) Investigation and assessment of a release from a dry-cleaning facility,  
8 including costs of investigations and assessments of contamination which may have  
9 moved off of the dry-cleaning facility;

10 (2) Necessary or appropriate emergency action, including but not limited to  
11 treatment, restoration or replacement of drinking water supplies, to assure that the  
12 human health or safety is not threatened by a release or potential release;

13 (3) Remediation of releases from dry-cleaning facilities, including contamination  
14 which may have moved off of the dry-cleaning facility, which remediation shall consist  
15 of the preparation of a corrective action plan and the cleanup of affected soil,  
16 groundwater and surface waters, using an alternative that is cost-effective,  
17 technologically feasible and reliable, provides adequate protection of human health and  
18 environment and to the extent practicable minimizes environmental damage;

19 (4) Operation and maintenance of corrective action;

20 (5) Monitoring of releases from dry-cleaning facilities including contamination  
21 which may have moved off of the dry-cleaning facility;

22 (6) Payment of reasonable costs incurred by the director in providing field and  
23 laboratory services;

24 (7) Reasonable costs of restoring property as nearly as practicable to the  
25 condition that existed prior to activities associated with the investigation of a release or  
26 cleanup or remediation activities;

27 (8) Removal and proper disposal of wastes generated by a release of a  
28 dry-cleaning solvent; and

29 (9) Payment of costs of corrective action conducted by the department or by  
30 entities other than the department but approved by the department, whether or not such  
31 corrective action is set out in a corrective action plan; except that, there shall be no  
32 reimbursement for corrective action costs incurred before August 28, 2000.

33 2. Nothing in subsection 1 of this section shall be construed to authorize the  
34 department to obligate moneys in the fund for payment of costs that are not integral to  
35 corrective action for a release of dry-cleaning solvents from a dry-cleaning

36 facility. Moneys from the fund shall not be used:

37 (1) For corrective action at sites that are contaminated by solvents normally used  
38 in dry-cleaning operations where the contamination did not result from the operation of  
39 a dry-cleaning facility;

40 (2) For corrective action at sites, other than dry-cleaning facilities, that are  
41 contaminated by dry-cleaning solvents which were released while being transported to  
42 or from a dry-cleaning facility;

43 (3) To pay any fine or penalty brought against a dry-cleaning facility operator  
44 under state or federal law;

45 (4) To pay any costs related to corrective action at a dry-cleaning facility that has  
46 been included by the United States Environmental Protection Agency on the national  
47 priorities list;

48 (5) For corrective action at sites with active dry-cleaning facilities where the  
49 owner or operator is not in compliance with sections 260.900 to 260.960, rules and  
50 regulations adopted pursuant to sections 260.900 to 260.960, orders of the director  
51 pursuant to sections 260.900 to 260.960, or any other applicable federal or state  
52 environmental statutes, rules or regulations; or

53 (6) For corrective action at sites with abandoned dry-cleaning facilities that have  
54 been taken out of operation prior to July 1, [2004] **2009**, and not documented by or  
55 reported to the department by July 1, [2004] **2009**. Any person reporting such a site to  
56 the department shall include any available evidence that the site once contained a  
57 dry-cleaning facility.

58 3. Nothing in sections 260.900 to 260.960 shall be construed to restrict the  
59 department from temporarily postponing completion of corrective action for which  
60 moneys from the fund are being expended whenever such postponement is deemed  
61 necessary in order to protect public health and the environment.

62 4. At any multisource site, the department shall utilize the moneys in the fund  
63 to pay for the proportionate share of the liability for corrective action costs which is  
64 attributable to a release from one or more dry-cleaning facilities and for that  
65 proportionate share of the liability only.

66 5. At any multisource site, the director is authorized to make a determination of  
67 the relative liability of the fund for costs of corrective action, expressed as a percentage  
68 of the total cost of corrective action at a site, whether known or unknown. The director  
69 shall issue an order establishing such percentage of liability. Such order shall be  
70 binding and shall control the obligation of the fund until or unless amended by the  
71 director. In the event of an appeal from such order, such percentage of liability shall be

72 controlling for costs incurred during the pendency of the appeal.

73           6. Any authorized officer, employee or agent of the department, or any person  
74 under order or contract with the department, may enter onto any property or premises,  
75 at reasonable times and with reasonable advance notice to the operator, to take  
76 corrective action where the director determines that such action is necessary to protect  
77 the public health or environment. If consent is not granted by the operator regarding  
78 any request made by any officer, employee or agent of the department, or any person  
79 under order or contract with the department, under the provisions of this section, the  
80 director may issue an order directing compliance with the request. The order may be  
81 issued after such notice and opportunity for consultation as is reasonably appropriate  
82 under the circumstances.

83           7. Notwithstanding any other provision of sections 260.900 to 260.960, in the  
84 discretion of the director, an operator may be responsible for up to one hundred percent  
85 of the costs of corrective action attributable to such operator if the director finds, after  
86 notice and an opportunity for a hearing in accordance with chapter 536, RSMo, that:

87           (1) Requiring the operator to bear such responsibility will not prejudice another  
88 owner, operator or person who is eligible, pursuant to the provisions of sections 260.900  
89 to 260.960, to have corrective action costs paid by the fund; and

90           (2) The operator:

91           (a) Caused a release in excess of a reportable quantity by willful or wanton  
92 actions and such release was caused by operating practices in violation of existing laws  
93 and regulations at the time of the release; or

94           (b) Is in arrears for moneys owed pursuant to sections 260.900 to 260.960, after  
95 notice and an opportunity to correct the arrearage; or

96           (c) Materially obstructs the efforts of the department to carry out its obligations  
97 pursuant to sections 260.900 to 260.960; except that, the exercise of legal rights shall not  
98 constitute a substantial obstruction; or

99           (d) Caused or allowed a release in excess of a reportable quantity because of a  
100 willful material violation of sections 260.900 to 260.960 or the rules and regulations  
101 adopted by the commission pursuant to sections 260.900 to 260.960.

102           8. For purposes of subsection 7 of this section, unless a transfer is made to take  
103 advantage of the provisions of subsection 7 of this section, purchasers of stock or other  
104 indicia of ownership and other successors in interest shall not be considered to be the  
105 same owner or operator as the seller or transferor of such stock or indicia of ownership  
106 even though there may be no change in the legal identity of the owner or operator. To  
107 the extent that an owner or operator is responsible for corrective action costs pursuant

108 to subsection 7 of this section, such owner or operator shall not be entitled to the  
109 exemption provided in subsection 5 of section 260.930.

110 9. The fund shall not be liable for the payment of costs in excess of one million  
111 dollars at any one contaminated dry-cleaning site. Additionally, the fund shall not be  
112 liable for the payment of costs for any one site in excess of twenty-five percent of the  
113 total moneys in the fund during any fiscal year. For purposes of this subsection,  
114 "contaminated dry-cleaning site" means the areal extent of soil or ground water  
115 contaminated with dry-cleaning solvents.

116 10. The owner or operator of an active dry-cleaning facility shall be liable for the  
117 first twenty-five thousand dollars of corrective action costs incurred because of a release  
118 from an active dry-cleaning facility. The owner of an abandoned dry-cleaning facility  
119 shall be liable for the first twenty-five thousand dollars of corrective action costs  
120 incurred because of a release from an abandoned dry-cleaning facility. Nothing in this  
121 subsection shall be construed to prohibit the department from taking corrective action  
122 because the department cannot obtain the deductible.

260.935. 1. Every active dry-cleaning facility shall pay, in addition to any other  
2 environmental response surcharges, an annual dry-cleaning facility registration  
3 surcharge as follows:

4 (1) Five hundred dollars for facilities which use no more than one hundred forty  
5 gallons of chlorinated solvents [and no more than one thousand four hundred gallons of  
6 petroleum, nonchlorinated solvents per year];

7 (2) One thousand dollars for facilities which use more than one hundred forty  
8 gallons of chlorinated solvents [or more than one thousand four hundred gallons of  
9 petroleum, nonchlorinated solvents per year] and less than three hundred sixty gallons  
10 of chlorinated solvents [and less than three thousand six hundred gallons of petroleum,  
11 nonchlorinated solvents] per year; and

12 (3) Fifteen hundred dollars for facilities which use at least three hundred sixty  
13 gallons of chlorinated solvents [or at least three thousand six hundred gallons of  
14 petroleum, nonchlorinated solvents] per year.

15 2. The active dry-cleaning facility registration surcharge imposed by this section  
16 shall be reported and paid to the department on an annual basis. The commission shall  
17 prescribe by administrative rule the procedure for the report and payment required by  
18 this section.

19 3. The department shall provide each person who pays a dry-cleaning facility  
20 registration surcharge pursuant to this section with a receipt. The receipt or the copy  
21 of the receipt shall be produced for inspection at the request of any authorized



22 representative of the department.

23           4. All moneys collected or received by the department pursuant to this section  
24 shall be transmitted to the department of revenue for deposit in the state treasury to the  
25 credit of the dry-cleaning environmental response trust fund created in section  
26 260.920. Following each annual reporting date, the state treasurer shall certify the  
27 amount deposited in the fund to the department.

28           5. If any person does not pay the active dry-cleaning facility registration  
29 surcharge or any portion of the active dry-cleaning facility registration surcharge  
30 imposed by this section by the date prescribed for such payment, the department shall  
31 impose and such person shall pay, in addition to the active dry-cleaning facility  
32 registration surcharge owed by such person, a penalty of fifteen percent of the active  
33 dry-cleaning facility registration surcharge. Such penalty shall be deposited in the  
34 dry-cleaning environmental response trust fund.

35           6. If any person does not pay the active dry-cleaning facility registration  
36 surcharge or any portion of the active dry-cleaning facility registration surcharge  
37 imposed by this section by the date prescribed for such payment, the department shall  
38 also impose interest upon the unpaid amount at the rate of ten percent per annum from  
39 the date prescribed for the payment of such surcharge and penalties until payment is  
40 actually made. Such interest shall be deposited in the dry-cleaning environmental  
41 response trust fund.

          260.940. 1. Every seller or provider of dry-cleaning solvent for use in this state  
2 shall pay, in addition to any other environmental response surcharges, a dry-cleaning  
3 solvent surcharge on the sale or provision of dry-cleaning solvent.

4           2. The amount of the dry-cleaning solvent surcharge imposed by this section on  
5 each gallon of dry-cleaning solvent shall be an amount equal to the product of the solvent  
6 factor for the dry-cleaning solvent and the rate of eight dollars per gallon.

7           3. The solvent factor for each dry-cleaning solvent is as follows:

8           (1) For perchloroethylene, the solvent factor is 1.00;

9           (2) For 1,1,1-trichloroethane, the solvent factor is 1.00; **and**

10           (3) For other chlorinated dry-cleaning solvents, the solvent factor is 1.00[; and

11           (4) For any nonchlorinated dry-cleaning solvent, the solvent factor is 0.05].

12           4. In the case of a fraction of a gallon, the dry-cleaning solvent surcharge  
13 imposed by this section shall be the same fraction of the fee imposed on a whole gallon.

14           5. The dry-cleaning solvent surcharge required in this section shall be paid to the  
15 department by the seller or provider of the dry-cleaning solvent, regardless of the  
16 location of such seller or provider.

17           6. The dry-cleaning solvent surcharge required in this section shall be paid by  
18 the seller or provider on a quarterly basis and shall be paid to the department for the  
19 previous quarter. The commission shall prescribe by administrative rule the procedure  
20 for the payment required by this section.

21           7. The department shall provide each person who pays a dry-cleaning solvent  
22 surcharge pursuant to this section with a receipt. The receipt or the copy of the receipt  
23 shall be produced for inspection at the request of any authorized representative of the  
24 department.

25           8. All moneys collected or received by the department pursuant to this section  
26 shall be transmitted to the department of revenue for deposit in the state treasury to the  
27 credit of the dry-cleaning environmental response trust fund created in section  
28 260.920. Following each annual or quarterly reporting date, the state treasurer shall  
29 certify the amount deposited to the department.

30           9. If any seller or provider of dry-cleaning solvent fails or refuses to pay the  
31 dry-cleaning solvent surcharge imposed by this section, the department shall impose and  
32 such seller or provider shall pay, in addition to the dry-cleaning solvent surcharge owed  
33 by the seller or provider, a penalty of fifteen percent of the dry-cleaning solvent  
34 surcharge. Such penalty shall be deposited in the dry-cleaning environmental response  
35 trust fund.

36           10. If any person does not pay the dry-cleaning solvent surcharge or any portion  
37 of the dry-cleaning solvent surcharge imposed by this section by the date prescribed for  
38 such payment, the department shall impose and such person shall pay interest upon the  
39 unpaid amount at the rate of ten percent per annum from the date prescribed for the  
40 payment of such surcharge and penalties until payment is actually made. Such interest  
41 shall be deposited in the dry-cleaning environmental response trust fund.

42           11. An operator of a dry-cleaning facility shall not purchase or obtain solvent  
43 from a seller or provider who does not pay the dry-cleaning solvent charge, as provided  
44 in this section. Any operator of a dry-cleaning facility who fails to obey the provisions  
45 of this section shall be required to pay the dry-cleaning solvent surcharge as provided  
46 in subsections 2, 3 and 4 of this section for any dry-cleaning solvent purchased or  
47 obtained from a seller or provider who fails to pay the proper dry-cleaning solvent  
48 surcharge as determined by the department. Any operator of a dry-cleaning facility who  
49 fails to follow the provisions of this subsection shall also be charged a penalty of fifteen  
50 percent of the dry-cleaning solvent surcharge owed. Any operator of a dry-cleaning  
51 facility who fails to obey the provisions of this subsection shall also be subject to the  
52 interest provisions of subsection 10 of this section. If a seller or provider of dry-cleaning

53 solvent charges the operator of a dry-cleaning facility the dry-cleaning solvent surcharge  
54 provided for in this section when the solvent is purchased or obtained by the operator  
55 and the operator can prove that the operator made full payment of the surcharge to the  
56 seller or provider but the seller or provider fails to pay the surcharge to the department  
57 as required by this section, then the operator shall not be liable pursuant to this  
58 subsection for interest, penalties or the seller's or provider's unpaid surcharge. Such  
59 surcharges, penalties and interest shall be collected by the department, and all moneys  
60 collected pursuant to this subsection shall be deposited in the dry-cleaning  
61 environmental response trust fund.

260.960. Any rule or portion of a rule, as that term is defined in section 536.010,  
2 RSMo, that is created under the authority delegated in this section shall become effective  
3 only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and,  
4 if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are  
5 nonseverable and if any of the powers vested with the general assembly pursuant to  
6 chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a  
7 rule are subsequently held unconstitutional, then the grant of rulemaking authority and  
8 any rule proposed or adopted after [August 28, 2000,] **the effective date of this act**  
9 shall be invalid and void.

**260.965. The provisions of sections 260.900 to 260.965 shall expire**  
2 **August 28, 2012.**

**304.184. Notwithstanding any other provision of law to the contrary,**  
2 **any truck, tractor-trailer or other combination engaged in transporting solid**  
3 **waste, as defined by section 260.200, RSMo, between any city and a solid**  
4 **waste disposal area or solid waste processing facility approved by the**  
5 **department of natural resources or department of health and senior services,**  
6 **may operate with a weight not to exceed twenty-two thousand four hundred**  
7 **pounds on one axle or a weight not to exceed forty-four thousand eight**  
8 **hundred pounds on any tandem axle; but nothing in this section shall be**  
9 **construed to permit the operation of any motor vehicle on the interstate**  
10 **highway system in excess of the weight limits imposed by federal statute; and**  
11 **no such truck, tractor-trailer or other combination shall exceed the width and**  
12 **length limitations provided in section 304.190.**

[260.274. 1. The department and the environmental improvement  
2 and energy resources authority shall administer a program to provide  
3 incentive grants for capital expenditures to convert existing facilities for  
4 the purpose of using waste tires as a fuel or fuel supplement or products

5 from waste tires. Any person, other than a state agency, who meets  
6 eligibility requirements established by the department by rule may apply  
7 for such grants. No grant may be awarded for an activity which receives  
8 less than forty percent of its tires from Missouri waste tire sites, retailers  
9 or residents. The burden of proof shall be on the applicant to show that  
10 eligibility requirements have been met.

11 2. For the purpose of establishing eligibility requirements and  
12 application priorities, the director shall create an advisory council  
13 consisting of members of the tire industry, the general public, the  
14 department, and the department of economic development.]

[260.342. The department of natural resources shall collect and  
2 disseminate information and conduct educational and training programs  
3 that assist in the implementation of sections 260.200 to 260.345. The  
4 information and programs shall be designed to enhance district, county  
5 and city solid waste management systems and to inform the public of the  
6 relationship between an individual's consumption of goods and services,  
7 the generation of different types and quantities of solid waste and the  
8 implementation of solid waste management priorities under sections  
9 260.200 to 260.345. Educational information shall also address other  
10 environmental concerns associated with solid waste management including  
11 energy consumption and conservation; air and water pollution; and land  
12 use planning. The department of natural resources may cooperate with  
13 the department of elementary and secondary education for the purpose of  
14 developing specific educational curriculum and programs. The information  
15 and programs shall be prepared for use on a statewide basis for the  
16 following:

- 17 (1) Municipal, county and state officials and employees;
- 18 (2) Kindergarten through post-baccalaureate students and  
19 teachers;
- 20 (3) Private solid waste scrap brokers, dealers and processors;
- 21 (4) Businesses which use or could use recycled materials or which  
22 produce or could produce products from recycled materials, and persons  
23 who support or serve these businesses; and
- 24 (5) The general public.]

[260.446. The department shall, on or before January 1, 1985, and  
2 annually thereafter on January first of each succeeding year, render a full

3 accounting of moneys received, moneys expended, sources and recipients,  
4 and purposes for the preceding fiscal year in the hazardous waste  
5 remedial fund to the commission, the general assembly and the governor.]

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

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

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

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

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

34 than fifty dollars annually.

35 3. No tax shall be imposed pursuant to this section upon hazardous  
36 waste generators whose waste consists solely of waste oil or facilities  
37 licensed pursuant to chapter 197, RSMo. The commission may exempt  
38 intermittent generators or generators of very small volumes of hazardous  
39 waste from payment of fees required pursuant to this section, provided  
40 those generators comply with all other applicable provisions of sections  
41 260.360 to 260.430.

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

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

66 6. The department may establish by rule and regulation categories  
67 of waste based upon waste characteristics pursuant to subsection 2 of  
68 section 260.370. When the commission adopts hazardous waste categories,  
69 it shall establish and annually revise a fee schedule based upon waste

70 characteristics. Each generator shall annually pay a fee, in lieu of the fee  
71 required in subsection 2 of this section, based upon the volume of waste  
72 produced annually within each hazard category.

73 7. All fees within this section shall be based on hazardous waste  
74 produced within the preceding state fiscal year beginning with July first  
75 of the year this section goes into effect and payable at the end of the  
76 calendar year on December thirty-first and annually thereafter in the  
77 same manner; provided that no liability for fees shall be accrued pursuant  
78 to subsection 5 of this section for any waste used as a fuel prior to August  
79 28, 2000.

80 8. The department shall promptly transmit forty percent of all  
81 funds collected pursuant to this section to the director of revenue for  
82 deposit in the hazardous waste remedial fund created pursuant to section  
83 260.480. The department shall promptly transmit sixty percent of all  
84 funds collected pursuant to this section to the director of revenue for  
85 deposit in the hazardous waste fund created pursuant to section 260.391.

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

Section B. Because immediate action is necessary to clean up scrap tires, the  
2 repeal and reenactment of sections 260.273, 260.900, 260.905, 260.925, 260.935, 260.940,  
3 260.960, and 260.965 of this act and the enactment of sections 260.279 and 260.965 of  
4 section A of this act is deemed necessary for the immediate preservation of the public  
5 health, welfare, peace, and safety, and is hereby declared to be an emergency act within  
6 the meaning of the constitution, and the repeal and reenactment of sections 260.273,  
7 260.900, 260.905, 260.925, 260.935, 260.940, 260.960, and 260.965 of this act and the  
8 enactment of sections 260.279 and 260.965 of this act shall be in full force and effect  
9 upon its passage and approval.

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