

FIRST REGULAR SESSION

HOUSE BILL NO. 1162

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FITZWATER (49).

2311H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 260.370, RSMo, and to enact in lieu thereof two new sections relating to the hazardous waste commission.

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

Section A. Section 260.370, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 260.370 and 260.374, to read as follows:

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

2. The hazardous waste management commission shall, by rules and regulations, categorize hazardous waste by taking into account toxicity, persistence and degradability in nature, potential for accumulation in tissue, and other related factors such as flammability, corrosiveness and other hazardous characteristics. The commission shall by rules and regulations further establish within each category the wastes which may or may not be disposed of through alternative hazardous waste management technologies including, but not limited to, treatment facilities, incinerators, landfills, landfarms, storage facilities, surface impoundments,

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

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

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

42 (1) From time to time adopt, amend or repeal, after due notice and public hearing,
43 standards, rules and regulations to implement, enforce and carry out the provisions of sections
44 260.350 to 260.430 and any required of this state by any federal hazardous waste management
45 act and as the commission may deem necessary to provide for the safe management of hazardous
46 wastes to protect the health of humans and the environment. In implementing this subsection,
47 the commission shall consider the variations within this state in climate, geology, population
48 density, quantities and types of hazardous wastes generated, availability of hazardous waste
49 facilities and such other factors as may be relevant to the safe management of hazardous wastes.
50 Within two years after September 28, 1977, the commission shall adopt rules and regulations
51 including the following:

52 (a) Rules and regulations establishing criteria and a listing for the determination of
53 whether any waste or combination of wastes is hazardous for the purposes of sections 260.350

54 to 260.430, taking into account toxicity, persistence and degradability in nature, potential for
55 accumulation in tissue, and other related factors such as flammability, corrosiveness and other
56 hazardous characteristics;

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

58 (c) Rules and regulations for the transportation, containerization and labeling of
59 hazardous wastes, which shall be consistent with those issued by the Missouri public service
60 commission;

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

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

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

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

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

77 (3) Hold hearings, issue notices of hearings and subpoenas requiring the attendance of
78 witnesses and the production of evidence, administer oaths and take testimony as the commission
79 deems necessary to accomplish the purposes of sections 260.350 to 260.430 or as required by
80 any federal hazardous waste management act. Unless otherwise specified in sections 260.350
81 to 260.430, any of these powers may be exercised on behalf of the commission by any members
82 thereof or a hearing officer designated by it;

83 (4) Grant individual variances in accordance with the provisions of sections 260.350 to
84 260.430;

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

87 4. No rule or portion of a rule promulgated under the authority of sections 260.350 to
88 260.480 and sections 260.565 to 260.575 shall become effective unless it has been promulgated
89 pursuant to the provisions of section 536.024.

90 5. To the extent there is a conflict concerning authority for risk-based remediation rules
91 between this section and section 644.143 or subdivision (8) of section 644.026, this section shall
92 prevail.

93 **6. The hazardous waste commission shall have the authority to promulgate rules**
94 **for the management and risk-based closure of coal combustion residual units in accordance**
95 **with the provisions of section 260.374.**

260.374. 1. No later than December 31, 2017, the hazardous waste commission shall
2 **draft rules consistent with subdivisions (1) to (4) of this subsection. The hazardous waste**
3 **commission shall thereafter file with the secretary of state a rulemaking to establish the**
4 **system of prior approval and conditions to be promulgated no later than June 1, 2018, and**
5 **shall be in such form to meet any requirements for federal approval that may be imposed**
6 **by the Administrator of the Environmental Protection Agency but shall not be in the form**
7 **of a permit program. Notwithstanding any provision of law to the contrary, the system of**
8 **prior approval and conditions shall include the following technical standards and**
9 **procedures and is deemed to be at least as protective as 40 CFR 257, or successor**
10 **regulations promulgated under sections 1008(a)(3) and 4004(a) of the Resource**
11 **Conservation and Recovery Act and consistent with this section:**

12 **(1) Technical standards and procedures for closure of coal combustion residual**
13 **surface impoundments shall be subject to the Missouri risk-based corrective action**
14 **(MRBCA) framework established under section 260.370 and shall include technical**
15 **standards for capping and closure in place, use of engineering or institutional controls, and**
16 **site-specific groundwater standards and monitoring standards that shall be applicable at**
17 **the site, as the term “site” is defined in 10 CSR 25-18.010;**

18 **(2) Location restriction requirements for coal combustion residual landfills shall**
19 **conform to the location restriction requirements in 40 CFR 257, or successor regulations**
20 **promulgated under sections 1008(a)(3) and 4004(a) of the Resource Conservation and**
21 **Recovery Act;**

22 **(3) A process for the owner or operator of a coal combustion residual unit to seek**
23 **approval of alternate groundwater effluent limitations under 10 CSR 20-7.031(6)(D) based**
24 **on a demonstration conducted under MRBCA that impact on groundwater quality will not**
25 **result in an unreasonable risk to human health or the environment and that existing and**
26 **potential uses are not impaired; and**

27 **(4) Technical standards and closure criteria promulgated under this section shall**
28 **apply to coal combustion residual units on a statewide basis and not be more restrictive**
29 **than the technical standards and procedures of 40 CFR 257, or successor regulations**

30 promulgated under sections 1008(a)(3) and 4004(a) of the Resource Conservation and
31 Recovery Act.

32 2. Nothing in this section shall restrict the authority of the department to issue
33 guidance or enter into enforceable agreements with site owners or operators to close coal
34 combustion residual units not subject to 40 CFR 257, or successor regulations promulgated
35 under sections 1008(a)(3) and 4004(a) of the Resource Conservation and Recovery Act, or
36 to otherwise develop a closure plan for any coal combustion residual unit or interim system
37 of prior approval and conditions as may be allowed under federal law.

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