

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 909, Page 10, Section 260.205, Line 321,
2 by inserting after all of said section and line the following:

3
4 "260.395. 1. After six months from the effective date of the standards, rules and regulations
5 adopted by the commission pursuant to section 260.370, it shall be unlawful for any person to
6 transport any hazardous waste in this state without first obtaining a hazardous waste transporter
7 license. Any person transporting hazardous waste in this state shall file an application for a license
8 pursuant to this subsection which shall:

9 (1) Be submitted on a form provided for this purpose by the department and shall furnish the
10 department with such equipment identification and data as may be necessary to demonstrate to the
11 satisfaction of the department that equipment engaged in such transportation of hazardous waste,
12 and other equipment as designated in rules and regulations pursuant to sections 260.350 to 260.430,
13 is adequate to provide protection of the health of humans and the environment and to comply with
14 the provisions of any federal hazardous waste management act and sections 260.350 to 260.430 and
15 the standards, rules and regulations adopted pursuant to sections 260.350 to 260.430. If approved
16 by the department, this demonstration of protection may be satisfied by providing certification that
17 the equipment so identified meets and will be operated in accordance with the rules and regulations
18 of the Missouri public service commission and the federal Department of Transportation for the
19 transportation of the types of hazardous materials for which it will be used;

20 (2) Include, as specified by rules and regulations, demonstration of financial responsibility,
21 including, but not limited to, guarantees, liability insurance, posting of bond or any combination
22 thereof which shall be related to the number of units, types and sizes of equipment to be used in the
23 transport of hazardous waste by the applicant;

24 (3) Include, as specified in rules and regulations, a fee payable to the state of Missouri
25 which shall consist of an annual application fee, plus an annual use fee based upon tonnage, mileage
26 or a combination of tonnage and mileage. The fees established pursuant to this subdivision shall be
27 set to generate, as nearly as is practicable, six hundred thousand dollars annually. No fee shall be
28 collected pursuant to this subdivision from railroads that pay a fee pursuant to subsection 18 of this
29 section. Fees collected pursuant to this subdivision shall be deposited in the hazardous waste fund
30 created pursuant to section 260.391.

Action Taken _____ Date _____

1 2. If the department determines the application conforms to the provisions of any federal
2 hazardous waste management act and sections 260.350 to 260.430 and the standards, rules and
3 regulations adopted pursuant to sections 260.350 to 260.430, it shall issue the hazardous waste
4 transporter license with such terms and conditions as it deems necessary to protect the health of
5 humans and the environment. The department shall act within ninety days after receipt of the
6 application. If the department denies the license, it shall issue a report to the applicant stating the
7 reason for denial of the license.

8 3. A license may be suspended or revoked whenever the department determines that the
9 equipment is or has been operated in violation of any provision of sections 260.350 to 260.430 or
10 any standard, rule or regulation, order, or license term or condition adopted or issued pursuant to
11 sections 260.350 to 260.430, poses a threat to the health of humans or the environment, or is
12 creating a public nuisance.

13 4. Whenever a license is issued, renewed, denied, suspended or revoked by the department,
14 any aggrieved person, by petition filed with the administrative hearing commission within thirty
15 days of the decision, may appeal such decision as provided by sections 621.250 and 640.013. Once
16 the administrative hearing commission has reviewed the appeal, the administrative hearing
17 commission shall issue a recommended decision to the commission on license issuance, renewal,
18 denial, suspension, or revocation. The commission shall issue its own decision, based on the appeal,
19 for license issuance, renewal, denial, suspension, or revocation. If the commission changes a
20 finding of fact or conclusion of law made by the administrative hearing commission, or modifies or
21 vacates the decision recommended by the administrative hearing commission, it shall issue its own
22 decision, which shall include findings of fact and conclusions of law. The commission shall mail
23 copies of its final decision to the parties to the appeal or their counsel of record. The commission's
24 decision shall be subject to judicial review pursuant to chapter 536. No judicial review shall be
25 available until and unless all administrative remedies are exhausted.

26 5. A license shall be issued for a period of one year and shall be renewed upon proper
27 application by the holder and a determination by the department that the applicant is in compliance
28 with all provisions of sections 260.350 to 260.430 and all standards, rules and regulations, orders
29 and license terms and conditions adopted or issued pursuant to sections 260.350 to 260.430.

30 6. A license is not required for the transport of any hazardous waste on the premises where
31 it is generated or onto contiguous property owned by the generator thereof, or for those persons
32 exempted in section 260.380. Nothing in this subsection shall be interpreted to preclude the
33 department from inspecting unlicensed hazardous waste transporting equipment and to require that
34 it be adequate to provide protection for the health of humans and the environment.

35 7. After six months from the effective date of the standards, rules and regulations adopted
36 by the commission pursuant to section 260.370, it shall be unlawful for any person to construct,
37 substantially alter or operate, including operations specified in the rules and regulations, a hazardous
38 waste facility without first obtaining a hazardous waste facility permit for such construction,
39 alteration or operation from the department. Such person must submit to the department at least

1 ninety days prior to submitting a permit application a letter of intent to construct, substantially alter
2 or operate any hazardous waste disposal facility. The person must file an application within one
3 hundred eighty days of the filing of a letter of intent unless granted an extension by the commission.
4 The department shall publish such letter of intent as specified in section 493.050 within ten days of
5 receipt of such letter. The letter shall be published once each week for four weeks in the county
6 where the hazardous waste disposal facility is proposed. Once such letter is submitted, all
7 conditions for the permit application evaluation purposes in existence as of the date of submission
8 shall be deemed frozen, in that no subsequent action by any person to change such conditions in an
9 attempt to thwart a fair and impartial decision on the application for a permit shall be allowed as
10 grounds for denial of the permit. Any person before constructing, substantially altering or operating
11 a hazardous waste facility in this state shall file an application for a permit which shall:

12 (1) Be submitted on a form provided for this purpose by the department and shall furnish the
13 department with plans, specifications and such other data as may be necessary to demonstrate to the
14 satisfaction of the department that such facility does or will provide adequate protection of the
15 health of humans and the environment and does or will comply with the provisions of any federal
16 hazardous waste management act and sections 260.350 to 260.430 and the standards, rules and
17 regulations adopted pursuant to sections 260.350 to 260.430;

18 (2) Include plans, designs, engineering reports and relevant data for construction, alteration
19 or operation of a hazardous waste facility, to be submitted to the department by a registered
20 professional engineer licensed by this state;

21 (3) Include, as specified by rules and regulations, demonstration of financial responsibility,
22 including, but not limited to, guarantees, liability insurance, posting of bond or any combination
23 thereof, which shall be related to type and size of facility;

24 (4) Include such environmental and geologic information, assessments and studies as
25 required by the rules and regulations of the commission;

26 (5) Include a fee payable to the state of Missouri which shall not exceed one thousand
27 dollars, which shall cover the first year of the permit, if issued, but which is not refundable. If the
28 permit is issued for more than one year, a fee equal in amount to the first year's fee shall be paid to
29 the state of Missouri prior to issuance of the permit for each year the permit is to be in effect beyond
30 the first year;

31 (6) The department shall supervise any field work undertaken to collect geologic and
32 engineering data for submission with the application. The state geologist and departmental
33 engineers shall review the geologic and engineering plans, respectively, and attest to their accuracy
34 and adequacy. The applicant shall pay all reasonable costs, as determined by the commission,
35 incurred by the department pursuant to this subsection.

36 8. (1) Prior to issuing or renewing a hazardous waste facility permit, the department shall
37 issue public notice by press release or advertisement and shall notify all record owners of adjoining
38 property by mail directed to the last known address, and the village, town or city, if any, and the
39 county in which the hazardous waste facility is located; and, upon request, shall hold a public

1 hearing after public notice as required in this subsection at a location convenient to the area affected
2 by the issuance of the permit.

3 (2) Prior to issuing or renewing a hazardous waste disposal facility permit the department
4 shall issue public notice by press release and advertisement and shall notify all record owners of
5 property, within one mile of the outer boundaries of the site, by mail directed to the last known
6 address; and shall hold a public hearing after public notice as required in this subsection at a
7 location convenient to the area affected by the issuance of the permit.

8 9. If the department determines that the application conforms to the provisions of any
9 federal hazardous waste management act and sections 260.350 to 260.430 and the standards, rules
10 and regulations adopted pursuant to sections 260.350 to 260.430, it shall issue the hazardous waste
11 facility permit, with such terms and conditions and require such testing and construction supervision
12 as it deems necessary to protect the health of humans or the environment. The department shall act
13 within one hundred eighty days after receipt of the application. If the department denies the permit,
14 it shall issue a report to the applicant stating the reason for denial of a permit.

15 10. A permit may be suspended or revoked whenever the department determines that the
16 hazardous waste facility is, or has been, operated in violation of any provision of sections 260.350 to
17 260.430 or any standard, rule or regulation, order or permit term or condition adopted or issued
18 pursuant to sections 260.350 to 260.430, poses a threat to the health of humans or the environment
19 or is creating a public nuisance.

20 11. Whenever a permit is issued, renewed, denied, suspended or revoked by the department,
21 any aggrieved person, by petition filed with the administrative hearing commission within thirty
22 days of the decision, may appeal such decision as provided by sections 621.250 and 640.013. Once
23 the administrative hearing commission has reviewed the appeal, the administrative hearing
24 commission shall issue a recommended decision to the commission on permit issuance, renewal,
25 denial, suspension, or revocation. The commission shall issue its own decision, based on the appeal,
26 for permit issuance, renewal, denial, suspension, or revocation. If the commission changes a finding
27 of fact or conclusion of law made by the administrative hearing commission, or modifies or vacates
28 the decision recommended by the administrative hearing commission, it shall issue its own decision,
29 which shall include findings of fact and conclusions of law. The commission shall mail copies of its
30 final decision to the parties to the appeal or their counsel of record. The commission's decision shall
31 be subject to judicial review pursuant to chapter 536, except that the court of appeals district with
32 territorial jurisdiction coextensive with the county where the hazardous waste facility is to be
33 located or is located shall have original jurisdiction. No judicial review shall be available until and
34 unless all administrative remedies are exhausted.

35 12. A permit shall be issued for a fixed term, which shall not exceed ten years in the case of
36 any land disposal facility, storage facility, incinerator, or other treatment facility. Nothing in this
37 subsection shall preclude the department from reviewing and modifying a permit at any time during
38 its term. Review of any application for a permit renewal shall consider improvements in the state of
39 control and measurement technology as well as changes in applicable regulations. Each permit

1 issued pursuant to this section shall contain such terms and conditions as the department determines
 2 necessary to protect human health and the environment, and upon proper application by the holder
 3 and a determination by the department that the applicant is in compliance with all provisions of
 4 sections 260.350 to 260.430 and all standards, rules and regulations, orders and permit terms and
 5 conditions adopted or issued pursuant to sections 260.350 to 260.430.

6 13. A hazardous waste facility permit is not required for:

7 (1) On-site storage of hazardous wastes where such storage is exempted by the commission
 8 by rule or regulation; however, such storage must conform to the provisions of any federal
 9 hazardous waste management act and sections 260.350 to 260.430 and the applicable standards,
 10 rules and regulations adopted pursuant to sections 260.350 to 260.430 and any other applicable
 11 hazardous materials storage and spill-prevention requirements provided by law; or

12 (2) A publicly owned treatment works which has an operating permit pursuant to section
 13 644.051 and is in compliance with that permit];

14 ~~(3) A resource recovery facility which the department certifies uses hazardous waste as a~~
 15 ~~supplement to, or substitute for, nonwaste material, and that the sole purpose of the facility is~~
 16 ~~manufacture of a product rather than treatment or disposal of hazardous wastes;~~

17 ~~(4) That portion of a facility engaged in hazardous waste resource recovery, when the~~
 18 ~~facility is engaged in both resource recovery and hazardous waste treatment or disposal, provided~~
 19 ~~the owner or operator can demonstrate to the department's satisfaction and the department finds that~~
 20 ~~such portion is not intended and is not used for hazardous waste treatment or disposal].~~

21 14. Facilities exempted pursuant to subsection 13 of this section must comply with the
 22 provisions of subdivisions (3) to (7) of subsection 1 of section 260.390 and such other requirements,
 23 to be specified by rules and regulations, as are necessary to comply with any federal hazardous
 24 waste management act or regulations hereunder. Generators who use such an exempted facility
 25 shall keep records of hazardous wastes transported, except by legal flow through sewer lines, to the
 26 facility and submit such records to the department in accordance with the provisions of section
 27 260.380 and the standards, rules and regulations adopted pursuant to sections 260.350 to 260.430.

28 ~~[Any person, before constructing, altering or operating a resource recovery facility in this state shall~~
 29 ~~file an application for a certification. Such application shall include:~~

30 ~~(1) Plans, designs, engineering reports and other relevant information as specified by rule that~~
 31 ~~demonstrate that the facility is designed and will operate in a manner protective of human health and~~
 32 ~~the environment; and~~

33 ~~(2) An application fee of not more than five hundred dollars for a facility that recovers waste~~
 34 ~~generated at the same facility or an application fee of not more than one thousand dollars for a~~
 35 ~~facility that recovers waste generated at off-site sources. Such fees shall be deposited in the~~
 36 ~~hazardous waste fund created in section 260.391. The department shall review such application for~~
 37 ~~conformance with applicable laws, rules and standard engineering principles and practices. The~~
 38 ~~applicant shall pay to the department all reasonable costs, as determined by the commission,~~

1 ~~incurred by the department pursuant to this subsection. All such funds shall be deposited in the~~
2 ~~hazardous waste fund created in section 260.391.]~~

3 15. The owner or operator of any hazardous waste facility in existence on September 28,
4 1977, who has achieved federal interim status pursuant to 42 U.S.C. Section 6925(e), and who has
5 submitted to the department Part A of the federal facility permit application, may continue to
6 receive and manage hazardous wastes in the manner as specified in the Part A application, and in
7 accordance with federal interim status requirements, until completion of the administrative
8 disposition of a permit application submitted pursuant to sections 260.350 to 260.430. The
9 department may at any time require submission of, or the owner or operator may at any time
10 voluntarily submit, a complete application for a permit pursuant to sections 260.350 to 260.430 and
11 commission regulations. The authority to operate pursuant to this subsection shall cease one
12 hundred eighty days after the department has notified an owner or operator that an application for
13 permit pursuant to sections 260.350 to 260.430 must be submitted, unless within such time the
14 owner or operator submits a completed application therefor. Upon submission of a complete
15 application, the authority to operate pursuant to this subsection shall continue for such reasonable
16 time as is required to complete the administrative disposition of the permit application. If a facility
17 loses its federal interim status, or the Environmental Protection Agency requires the owner or
18 operator to submit Part B of the federal application, the department shall notify the owner or
19 operator that an application for a permit must be submitted pursuant to this subsection. In addition
20 to compliance with the federal interim status requirements, the commission shall have the authority
21 to adopt regulations requiring persons operating pursuant to this subsection to meet additional state
22 interim status requirements.

23 16. No person, otherwise qualified pursuant to sections 260.350 to 260.430 for a license to
24 transport hazardous wastes or for a permit to construct, substantially alter or operate a hazardous
25 waste facility, shall be denied such license or permit on the basis of a lack of need for such transport
26 service or such facility because of the existence of other services or facilities capable of meeting that
27 need; except that permits for hazardous waste facilities may be denied on determination made by the
28 department that the financial resources of the persons applying are such that the continued operation
29 of the sites in accordance with sections 260.350 to 260.430 cannot be reasonably assured or on
30 determination made by the department that the probable volume of business is insufficient to ensure
31 and maintain the solvency of then existing permitted hazardous waste facilities.

32 17. All hazardous waste landfills constructed after October 31, 1980, shall have a leachate
33 collection system. The rules and regulations of the commission shall treat and protect all aquifers to
34 the same level of protection. The provisions of this subsection shall not apply to the disposal of
35 tailings and slag resulting from mining, milling and primary smelting operations.

36 18. Any railroad corporation as defined in section 388.010 that transports any hazardous
37 waste as defined in section 260.360 or any hazardous substance as defined in section 260.500 shall
38 pay an annual fee of three hundred fifty dollars. Fees collected pursuant to this subsection shall be
39 deposited in the hazardous waste fund created in section 260.391."; and
40

- 1 Further amend said bill by amending the title, enacting clause, and intersectional references
- 2 accordingly.