FIRST REGULAR SESSION

[P E R F E C T E D**]**

SENATE SUBSTITUTE NO. 2 FOR

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 225

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CAUTHORN.

Offered February 21, 2005.

Senate Substitute No. 2 adopted, April 7, 2005.

Taken up for Perfection April 7, 2005. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

1138S.09P

AN ACT

To repeal sections 260.200, 260.262, 260.270, 260.272, 260.274, 260.275, 260.276, 260.278, 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, 260.945, 260.960, and 260.965, RSMo, and to enact in lieu thereof twenty-four new sections relating to hazardous waste, with penalty provisions and an emergency clause.

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, 260.274, 260.275, 260.276, 260.278, 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260.481, 260.546, 260.569, 260.900, 260.905, 260.925, 260.935, 260.940, 260.945, 260.960, and 260.965, RSMo, are repealed and twenty-four new sections enacted in lieu thereof, to be known as sections 260.200, 260.262, 260.270, 260.272, 260.275, 260.276, 260.278, 260.375, 260.380,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, 260.945, 260.960, and 260.965 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

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

electronic products, and larger-sized alkaline-manganese batteries in general household use;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

or institution;

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

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

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

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

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

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

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

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

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

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

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

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

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

(38) "Scrap tire processing facility", a site where tires are reduced in volume by shredding, cutting, or chipping or otherwise altered to facilitate recycling,

resource recovery, or disposal;

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

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

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

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

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

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

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

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

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

(a) A transfer station; or

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

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

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

[(41)**]** **(47)** "Tire", a continuous solid or pneumatic rubber covering encircling the wheel of any self-propelled vehicle not operated exclusively upon tracks, or a trailer as

defined in chapter 301, RSMo, except farm tractors and farm implements owned and operated by a family farm or family farm corporation as defined in section 350.010, RSMo;

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

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

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

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

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

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

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

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

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

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

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

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

customers;

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

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

(b) Recycle your used batteries; and

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

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

(4) Collect at the time of sale a fee of fifty cents for each lead-acid battery sold. Such fee shall be added to the total cost to the purchaser at retail after all applicable sales taxes on the battery have been computed. The fee imposed, less six percent of fees collected, which shall be retained by the seller as collection costs, shall be paid to the department of revenue in the form and manner required by the department and shall include the total number of batteries sold during the preceding month. The department of revenue shall promulgate rules and regulations necessary to administer the fee collection and enforcement. The terms "sold at retail" and "retail sales" do not include the sale of batteries to a person solely for the purpose of resale, if the subsequent retail sale in this state is to the ultimate consumer and is subject to the fee. However, this fee shall not be paid on batteries sold for use in agricultural operations upon written certification by the purchaser[.]; and

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

260.270. 1. (1) It shall be unlawful for any person to haul for commercial profit, collect, process, or dispose of **[**waste**]** **scrap** tires in the state except as provided in this section. This section shall not be construed to prohibit **[**waste**]** **scrap** tires from being hauled to a lawfully operated facility in another state. **[**Waste**]** **Scrap** tires shall be collected at a **[**waste**]** **scrap** tire site, **[**waste**]** **scrap** tire processing facility, **[**waste**]** **scrap** tire end-user facility, or a **[**waste**]** **scrap** tire collection center. A violation of this subdivision shall be a

class C misdemeanor for the first violation. A second and each subsequent violation shall be a class A misdemeanor. A third and each subsequent violation, in addition to other penalties authorized by law, may be punishable by a fine not to exceed five thousand dollars and restitution may be ordered by the court.

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

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

(4) Any person selling new, used, or remanufactured tires at retail shall accept, at the point of transfer, in a quantity equal to the number of tires sold, **[**waste**]** **scrap** tires from customers, if offered by such customers. Any person accepting **[**waste**]** **scrap** tires may charge a reasonable fee reflecting the cost of proper management of any **[**waste**]** **scrap** tires accepted; **[**except that the fee shall not exceed two dollars per waste tire for any tire designed for a wheel of a diameter of sixteen inches or less**]** and which tire is required to be accepted on a one-for-one basis at the time of a retail sale pursuant to this subdivision. All tire retailers or other businesses that generate **[**waste**]** **scrap** tires shall use a **[**waste**]** **scrap** tire

hauler permitted by the department, except that businesses that generate or accept **[**waste**]** **scrap** tires in the normal course of business may haul such **[**waste**]** **scrap** tires without a permit, if such hauling is performed without any consideration and such business maintains records on the **[**waste**]** **scrap** tires hauled as required by sections 260.270 to 260.276. Retailers shall not be liable for illegal disposal of **[**waste**]** **scrap** tires after such **[**waste**]** **scrap** tires are delivered to a **[**waste**]** **scrap** tire hauler, **[**waste**]** **scrap** tire collection center, **[**waste**]** **scrap** tire site, **[**waste**]** **scrap** tire processing facility or **[**waste**]** **scrap** tire end-user facility if such entity is permitted by the department of natural resources.

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

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

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

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

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

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

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

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

(5) By January 1, 1996, requirements for record-keeping procedures for retailers and other businesses that generate **[**waste**]** **scrap** tires, **[**waste**]** **scrap** tire haulers, **[**waste**]** **scrap** tire collection centers, **[**waste**]** **scrap** tire sites, **[**waste**]** **scrap** tire processing facilities, and **[**waste**]** **scrap** tire end-user facilities. Required record keeping shall include the source

and number or weight of tires received and the destination and number of tires or weight of tires or tire pieces shipped or otherwise disposed of and such records shall be maintained for at least three years following the end of the calendar year of such activity. Detailed record keeping shall not be required where any charitable, fraternal, or other nonprofit organization conducts a program which results in the voluntary cleanup of land or water resources or the turning in of **[**waste**]** **scrap** tires.

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

5. The department shall:

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

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

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

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

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

9. The director may request a prosecuting attorney to institute a prosecution for any violation of this section. In addition, the prosecutor of any county or circuit attorney of any

city not within a county may, by information or indictment, institute a prosecution for any violation of this section.

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

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

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

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

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

3. The permittee shall provide a financial assurance instrument in such an amount and form as prescribed by the department to ensure that, upon abandonment, cessation or interruption of the operation of the site, an approved closure plan is completed. The amount of the financial assurance instrument shall be based upon the current costs of similar cleanups using data from actual **[**waste**]** **scrap** tire cleanup project bids received by the department to remediate **[**waste**]** **scrap** tire sites of similar size. If **[**waste**]** **scrap** tires are accumulated at a solid **[**waste**]** **scrap** management area, the existing financial assurance instrument filed for the solid **[**waste**]** **scrap** disposal area may be applied to the requirements of this section. Any interest that accrues to any financial assurance instrument established pursuant to this section shall remain with that instrument and shall be applied against the operator's obligation under this section until the instrument is released by the department. The director shall authorize the release of the financial assurance instrument after the department has been notified by the operator that the site has been closed, and after inspection, the department approves closure of the **[**waste**]** **scrap** tire site.

4. If the operator of a **[**waste**]** **scrap** tire site fails to properly implement the closure

plan, the director shall order the operator to implement such plan, and take other steps necessary to assure the proper closure of the site pursuant to section 260.228 and this section.

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

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

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

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

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

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

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

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

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

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

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

260.375. The department shall:

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

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

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

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

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

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

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

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

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

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

(10) Require each hazardous waste generator located within this state **[**and each hazardous waste generator located outside of this state before utilizing any hazardous waste facility in this state except as provided in subdivision (11) of this section**]** to file a registration report containing such information as the commission by regulation may specify relating to types and quantities of hazardous waste generated and methods of hazardous

waste management, and to meet all other requirements placed upon hazardous waste generators by sections 260.350 to 260.430 and the standards, rules and regulations and orders adopted or issued pursuant to sections 260.350 to 260.430;

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

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

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

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

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

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

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

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

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

and regulations adopted pursuant to sections 260.350 to 260.430;

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

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

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

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

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

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

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

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

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

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

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

[(31)**]** **(30)** Oversee any corrective action work undertaken pursuant to sections 260.350 to 260.430 and rules promulgated pursuant to sections 260.350 to 260.430 to

investigate, monitor, or clean up releases of hazardous waste or hazardous constituents to the environment at hazardous waste facilities. The department shall review the technical and regulatory aspects of corrective action plans, reports, documents, and associated field activities, and attest to their accuracy and adequacy. Owners or operators of hazardous waste facilities performing corrective actions shall pay to the department all reasonable costs, as determined by the commission, incurred by the department pursuant to this subdivision. All such funds remitted by owners or operators of hazardous waste facilities performing corrective actions shall be deposited in the hazardous waste fund created in section 260.391.

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

(1) Promptly file and maintain with the department, on registration forms it provides for this purpose, information on hazardous waste generation and management as specified by rules and regulations**[**; except that generators located outside of Missouri shall not be required to register with the department if the Missouri treatment, storage, and disposal facilities provide this information in accordance with subdivision (11) of section 260.375. Missouri treatment, storage, or disposal facilities providing this information to the department for those out-of- state generators shall do so and shall pay the applicable initial registration fee within fifteen days of accepting any hazardous waste from those out-of-state generators**]**. Hazardous waste generators shall pay a one hundred dollar registration fee upon initial registration, and a one hundred dollar registration renewal fee annually thereafter to maintain an active registration**[**; except that in accordance with subdivision (11) of section 260.375, Missouri treatment, storage, or disposal facilities receiving hazardous waste from out-of-state generators that elect to provide this service for the out-of-state generator shall pay this fee on behalf of those out-of-state generators. For annual renewal fee payments, Missouri treatment, storage, or disposal facilities that elect to provide this service to out-of-state generators shall notify the department annually of those generators at a time and in a manner prescribed by the department**]**. Such fees shall be deposited in the hazardous waste fund created in section 260.391;

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

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

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

(5) Unless provided otherwise in the rules and regulations, utilize only a hazardous

waste transporter holding a license pursuant to sections 260.350 to 260.430 for the removal of all hazardous wastes from the premises where they were generated;

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

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

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

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

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

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

(b) The hazardous waste management commission shall establish and submit to the

department of revenue procedures relating to the collection of the fees authorized by this subdivision. Such procedures shall include, but not be limited to, necessary records identifying the quantities of hazardous waste registered, the form and submission of reports to accompany the payment of fees, the time and manner of payment of fees, which shall not be more often than quarterly.

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

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

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

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

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

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

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

260.391. 1. There is hereby created in the state treasury a fund to be known as the "Hazardous Waste Fund". All funds received from hazardous waste permit and license fees, generator fees **or taxes, penalties, or interest assessed on those fees or taxes**, taxes collected by contract hazardous waste landfill operators, general revenue, federal funds, gifts, bequests, donations, or any other moneys so designated shall be paid to the director of

revenue and deposited in the state treasury to the credit of the hazardous waste fund. The hazardous waste fund, subject to appropriation by the general assembly, shall be used by the department as provided by appropriations and consistent with rules and regulations established by the hazardous waste management commission for the purpose of carrying out the provisions of sections 260.350 to 260.430 **and sections 319.100 to 319.127, and 319.137, and 319.139, RSMo**, for the management of hazardous waste, responses to hazardous substance releases as provided in sections 260.500 to 260.550, corrective actions at regulated facilities and illegal hazardous waste sites**, prevention of leaks from underground storage tanks and response to petroleum releases from underground and aboveground storage tanks and other related activities required to carry out provisions of sections 260.350 to 260.575 and sections 319.100 to 319.127, RSMo,** and for payments to other state agencies for such services consistent with sections 260.350 to **[**260.430**] 260.575 and sections 319.100 to 319.139, RSMo**, upon proper warrant issued by the commissioner of administration**, and for any other expenditures which are not covered pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, including but not limited to the following purposes:**

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

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

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

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

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

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

2. The unexpended balance in the hazardous waste fund at the end of each fiscal year shall not be transferred to the general revenue fund of the state treasurer, except as directed by the general assembly by appropriation, and shall be invested to generate income to the

fund. The provisions of section 33.080, RSMo, relating to the transfer of funds to the general revenue fund of the state by the state treasurer shall not apply to the hazardous waste fund.

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

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

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

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

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

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

(1) Issuing an order directing the hazardous waste generator, transporter, facility operator or any other person who is the custodian or has control of the waste, which constitutes such hazard, to eliminate such hazard. Such action may include, with respect to

a site or facility, permanent or temporary cessation of operation;

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

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

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

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

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

3. This section shall not apply to any alleged imminent hazard that is covered by the federal Occupational Safety and Health Act, so long as the hazardous waste is contained on the site so covered. This subsection shall not prevent the department from 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, in addition to the fees imposed in section 260.380, a fee of twenty-five dollars per ton annually on all hazardous waste which is discharged, deposited, dumped or placed into or on the soil as a final action, and two dollars per ton on all other hazardous waste transported off site.No fee shall be imposed upon any hazardous waste generator who registers less than ten tons of hazardous waste annually pursuant to section 260.380, or upon:

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

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

(3) Solid waste from the extraction, beneficiation and processing of ores and minerals,

including phosphate rock and overburden from the mining of uranium ore and smelter slag waste from the processing of materials into reclaimed metals;

(4) Cement kiln dust waste;

(5) Waste oil; or

(6) Hazardous waste that is:

(a) Reclaimed or reused for energy and materials;

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

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

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

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

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

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

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

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

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

date and reported to the department.

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

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

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

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

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

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

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

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

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

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

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

5. No moneys shall be available from the fund for abandoned site cleanup unless the director has made all reasonable efforts to secure voluntary agreement to pay the costs of

necessary remedial actions from owners or operators of abandoned or uncontrolled hazardous waste sites or other responsible persons.

6. The director shall make all reasonable efforts to recover the full amount of any funds expended from the fund through litigation or cooperative agreements with responsible persons. All moneys recovered or reimbursed pursuant to this section through voluntary agreements or court orders shall be deposited with the state treasurer and credited to the account of the hazardous waste remedial fund.**] The fund balance remaining in the hazardous waste remedial fund is hereby transferred to the hazardous waste fund created in section 260.491, RSMo, and the monies may be appropriated for any purpose previously authorized by this section as 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 government adjoining a city not within a county, which has contracted with the state of Missouri or the federal government, or both, for the acquisition of all real property by any federal or state agency because of the release of a hazardous substance that endangers the public health and welfare of such city and has resulted in a public calamity, and where a city ordinance effecting disincorporation has been submitted to the governor by the mayor of the city requesting disincorporation, shall be disincorporated upon the issuance of a governor's executive order approving such disincorporation. Notice of such disincorporation shall be submitted to the secretary of state and the county commission of the county within which such city lies.

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

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

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

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

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

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

4. The political subdivision or volunteer fire protection association may apply to the department for reimbursement from the hazardous waste fund created in section 260.391, for the costs for which the person having control over a hazardous substance shall be liable if the political subdivision or volunteer fire protection association is able to demonstrate a need for immediate relief for such costs and believes it will not receive prompt payment from the person having control over a hazardous substance. When the liability owed to the political subdivision or volunteer fire protection association by the person having control over a hazardous substance is paid, the political subdivision or volunteer fire protection association shall reimburse the department for any payment it has received from the hazardous waste **[**remedial**]** fund. Such reimbursement to a political subdivision or volunteer fire protection

association by the department shall be paid back to the department by the political subdivision or volunteer fire protection association within that time limit imposed by the department notwithstanding failure of the person having control over a hazardous substance to reimburse the political subdivision or volunteer fire protection association within that time.

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

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

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

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

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

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

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

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

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

4. Upon termination pursuant to subdivision (1) of subsection 3 of this section or subsection 11 of section 260.567, if there is a balance in the applicant's application fee after deducting costs incurred by the department of natural resources, such balance shall be refunded within sixty days. Upon termination pursuant to subdivisions (2) to (6) of subsection 3 of this section, if a balance remains in the applicant's application fee, 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 indicates otherwise, the following terms mean:

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

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

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

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

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

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

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

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

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

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

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

(12) "Environmental response surcharge", either the active dry-cleaning facility

registration surcharge or the dry-cleaning solvent surcharge;

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

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

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

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

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

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

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

260.905. 1. The commission shall promulgate and adopt such initial rules and regulations, effective no later than July 1, **[**2002**]** **2007**, as shall be necessary to carry out the purposes and provisions of sections 260.900 to 260.960. Prior to the promulgation of such rules, the commission shall meet with representatives of the dry-cleaning industry and other interested parties. The commission, thereafter, shall promulgate and adopt additional rules and regulations or change existing rules and regulations when necessary to carry out the purposes and provisions of sections 260.900 to 260.960.

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

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

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

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

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

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

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

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

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

(a) Individual site characteristics including natural remediation processes;

(b) Applicable state water quality standards;

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

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

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

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

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

(4) Operation and maintenance of corrective action;

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

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

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

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

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

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

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

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

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

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

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

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

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

4. At any multisource site, the department shall utilize the moneys in the fund to pay

for the proportionate share of the liability for corrective action costs which is attributable to a release from one or more dry-cleaning facilities and for that proportionate share of the liability only.

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

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

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

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

(2) The operator:

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

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

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

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

8. For purposes of subsection 7 of this section, unless a transfer is made to take advantage of the provisions of subsection 7 of this section, purchasers of stock or other indicia of ownership and other successors in interest shall not be considered to be the same owner or operator as the seller or transferor of such stock or indicia of ownership even though there may be no change in the legal identity of the owner or operator. To the extent that an owner or operator is responsible for corrective action costs pursuant to subsection 7 of this section, such owner or operator shall not be entitled to the exemption provided in subsection 5 of section 260.930.

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

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

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

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

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

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

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

3. The department shall provide each person who pays a dry-cleaning facility

registration surcharge pursuant to this section with a receipt. The receipt or the copy of the receipt shall be produced for inspection at the request of any authorized representative of the department.

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

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

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

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

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

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

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

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

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

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

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

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

6. The dry-cleaning solvent surcharge required in this section shall be paid by the

seller or provider on a quarterly basis and shall be paid to the department for the previous quarter. The commission shall prescribe by administrative rule the procedure for the payment required by this section.

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

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

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

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

11. An operator of a dry-cleaning facility shall not purchase or obtain solvent from a seller or provider who does not pay the dry-cleaning solvent charge, as provided in this section. Any operator of a dry-cleaning facility who fails to obey the provisions of this section shall be required to pay the dry-cleaning solvent surcharge as provided in subsections 2, 3 and 4 of this section for any dry-cleaning solvent purchased or obtained from a seller or provider who fails to pay the proper dry-cleaning solvent surcharge as determined by the department. Any operator of a dry-cleaning facility who fails to follow the provisions of this subsection shall also be charged a penalty of fifteen percent of the dry-cleaning solvent surcharge owed. Any operator of a dry-cleaning facility who fails to obey the provisions of this subsection shall also be subject to the interest provisions of subsection 10 of this section. If a seller or provider of dry-cleaning solvent charges the operator of a dry-cleaning facility the dry-cleaning solvent surcharge provided for in this section when the solvent is purchased or obtained by the operator and the operator can prove that the operator made full payment of the surcharge to the seller or provider but the seller or provider fails to pay the surcharge to the department as required by this section, then the operator shall not be liable pursuant to this subsection for interest, penalties or the seller's or provider's unpaid surcharge. Such

surcharges, penalties and interest shall be collected by the department, and all moneys collected pursuant to this subsection shall be deposited in the dry-cleaning environmental response trust fund.

260.945. 1. If the unobligated principal of the fund equals or exceeds five million dollars on April first of any year, the active dry-cleaning facility registration surcharge imposed by section 260.935 and the dry-cleaning solvent surcharge imposed by section 260.940 shall not be collected on or after the next July first until such time as on April first of any year thereafter the unobligated principal balance of the fund equals two million dollars or less, then the active dry-cleaning facility registration surcharge imposed by section 260.935 and the dry-cleaning solvent surcharge imposed by section 260.940 shall again be collected on and after the next July first.

2. Not later than April fifth of each year, the state treasurer shall notify the department of the amount of the unobligated balance of the fund on April first of such year. Upon receipt of the notice, the department shall notify the public if the active dry-cleaning facility registration surcharge imposed by section 260.935 and the dry-cleaning solvent surcharge imposed by section 260.940 will terminate or be payable on the following July first.

3. Moneys in the fund shall not be expended pursuant to sections 260.900 to 260.960 prior to July 1, 2002.

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

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

[260.274. 1. The department and the environmental improvement and energy resources authority shall administer a program to provide incentive grants for capital expenditures to convert existing facilities for the purpose of using waste tires as a fuel or fuel supplement or products from waste tires. Any person, other than a state agency, who meets eligibility requirements established by the department by rule may apply for such grants. No grant may be awarded for an activity which receives less than forty percent of its tires from Missouri waste tire sites, retailers or residents. The burden of proof shall be on the applicant to show that eligibility requirements have been

met.

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

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

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

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

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

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

(5) The general public.**]**

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

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

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

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

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

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

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

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

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

sections 260.350 to 260.430 if such exemption will not be in violation of the federal Resource Conservation and Recovery Act.

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

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

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

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

9. Notwithstanding any other provision of law to the contrary, no tax based on the number of employees employed by a hazardous waste generator

shall be collected. This fee shall expire June 30, 2006, except that the department shall levy and collect this fee for any hazardous waste generated prior to such date and reported to the department.**]**

Section B. Because immediate action is necessary to enable the promulgation of regulations to implement this act and to preserve the environment, sections 260.900, 260.905, 260.925, 260.935, 260.940, 260.945, 260.960 and 260.965 of this act are deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and are hereby declared to be an emergency act within the meaning of the constitution, and sections 260.900, 260.905, 260.925, 260.935, 260.940, 260.945, 260.960 and 260.965 of this act shall be in full force and effect upon its passage and approval.