

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 328
94TH GENERAL ASSEMBLY

Reported from the Special Committee on Energy and Environment April 26, 2007 with recommendation that House Committee Substitute for Senate Committee Substitute for Senate Bill No. 328 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

1407L.05C

AN ACT

To repeal sections 142.028, 142.031, 260.200, 260.211, 260.212, 260.240, 260.247, 260.249, 260.250, 260.330, 260.335, 260.360, and 260.800, RSMo, and to enact in lieu thereof thirteen new sections relating to environmental regulations, with penalty provisions.

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

Section A. Sections 142.028, 142.031, 260.200, 260.211, 260.212, 260.240, 260.247, 260.249, 260.250, 260.330, 260.335, 260.360, and 260.800, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 142.028, 142.031, 260.200, 260.211, 260.212, 260.240, 260.247, 260.249, 260.250, 260.330, 260.335, 260.360, and 260.800, to read as follows:

142.028. 1. As used in this section, the following terms mean:

(1) "Fuel ethanol", [one hundred ninety-eight proof ethanol denatured in conformity with the United States Bureau of Alcohol, Tobacco and Firearms' regulations and fermented and distilled in a facility whose principal (over fifty percent) feed stock is cereal grain or cereal grain by-products] **a fuel which meets ASTM International specification number D 4806 or subsequent specifications for blending with gasoline for use as automotive spark-ignition engine fuel and where the ethanol is made from cereal grains, cereal grain by-products, or qualified biomass;**

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

9 (2) "Fuel ethanol blends", a mixture of ninety percent gasoline and ten percent fuel
10 ethanol in which the gasoline portion of the blend or the finished blend meets the [American
11 Society for Testing and Materials -] **ASTM International** specification number [D-439] **D 4814**;

12 (3) "Missouri qualified fuel ethanol producer", any producer of fuel ethanol whose
13 principal place of business and facility for the fermentation and distillation of fuel ethanol is
14 located within the state of Missouri and is at least fifty-one percent owned by agricultural
15 producers actively engaged in agricultural production for commercial purposes, and which has
16 made formal application, posted a bond, and conformed to the requirements of this section;

17 (4) "**Professional forester**", any individual who holds a bachelor of science degree
18 **in forestry from a regionally accredited college or university with a minimum of two years**
19 **of professional forest management experience**;

20 (5) "**Qualified biomass**", any agriculture-derived organic material or any wood-
21 **derived organic material harvested in accordance with a site specific forest management**
22 **plan focused for long-term forest sustainability developed by a professional forester and**
23 **qualified, in consultation with the conservation commission, by the agriculture and small**
24 **business development authority**.

25 2. The "Missouri Qualified Fuel Ethanol Producer Incentive Fund" is hereby created and
26 subject to appropriations shall be used to provide economic subsidies to Missouri qualified fuel
27 ethanol producers pursuant to this section. The director of the department of agriculture shall
28 administer the fund pursuant to this section.

29 3. A Missouri qualified fuel ethanol producer shall be eligible for a monthly grant from
30 the fund, except that a Missouri qualified fuel ethanol producer shall only be eligible for the
31 grant for a total of sixty months unless such producer during those sixty months failed, due to
32 a lack of appropriations, to receive the full amount from the fund for which they were eligible,
33 in which case such producers shall continue to be eligible for up to twenty-four additional
34 months or until they have received the maximum amount of funding for which they were eligible
35 during the original sixty-month time period. The amount of the grant is determined by
36 calculating the estimated gallons of qualified fuel ethanol production to be produced from
37 Missouri agricultural products **or qualified biomass** for the succeeding calendar month, as
38 certified by the department of agriculture, and applying such figure to the per-gallon incentive
39 credit established in this subsection. Each Missouri qualified fuel ethanol producer shall be
40 eligible for a total grant in any fiscal year equal to twenty cents per gallon for the first twelve and
41 one-half million gallons of qualified fuel ethanol produced from Missouri agricultural products
42 **or qualified biomass** in the fiscal year plus five cents per gallon for the next twelve and one-half
43 million gallons of qualified fuel ethanol produced from Missouri agricultural products **or**
44 **qualified biomass** in the fiscal year. All such qualified fuel ethanol produced by a Missouri

45 qualified fuel ethanol producer in excess of twenty-five million gallons shall not be applied to
46 the computation of a grant pursuant to this subsection. The department of agriculture shall pay
47 all grants for a particular month by the fifteenth day after receipt and approval of the application
48 described in subsection 4 of this section. If actual production of qualified fuel ethanol during a
49 particular month either exceeds or is less than that estimated by a Missouri qualified fuel ethanol
50 producer, the department of agriculture shall adjust the subsequent monthly grant by paying
51 additional amount or subtracting the amount in deficiency by using the calculation described in
52 this subsection.

53 4. In order for a Missouri qualified fuel ethanol producer to obtain a grant from the fund
54 for a particular month, an application for such funds shall be received no later than fifteen days
55 prior to the first day of the month for which the grant is sought. The application shall include:

56 (1) The location of the Missouri qualified fuel ethanol producer;

57 (2) The average number of citizens of Missouri employed by the Missouri qualified fuel
58 ethanol producer in the preceding quarter, if applicable;

59 (3) The number of bushels of Missouri agricultural commodities **or green weight tons**
60 **of qualified biomass** used by the Missouri qualified fuel ethanol producer in the production of
61 fuel ethanol in the preceding quarter;

62 (4) The number of gallons of qualified fuel ethanol the producer expects to manufacture
63 during the month for which the grant is applied;

64 (5) A copy of the qualified fuel ethanol producer license required pursuant to subsection
65 5 of this section, name and address of surety company, and amount of bond to be posted pursuant
66 to subsection 5 of this section; and

67 (6) Any other information deemed necessary by the department of agriculture to
68 adequately ensure that such grants shall be made only to Missouri qualified fuel ethanol
69 producers.

70 5. The director of the department of agriculture, in consultation with the department of
71 revenue **and the department of conservation**, shall promulgate rules and regulations necessary
72 for the administration of the provisions of this section. The director shall also establish
73 procedures for bonding Missouri qualified fuel ethanol producers. Each Missouri qualified fuel
74 ethanol producer who attempts to obtain moneys pursuant to this section shall be bonded in an
75 amount not to exceed the estimated maximum monthly grant to be issued to such Missouri
76 qualified fuel ethanol producer.

77 6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
78 is created under the authority delegated in this section shall become effective only if it complies
79 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
80 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers

81 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
82 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the
83 grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be
84 invalid and void.

85 **7. Beginning January 1, 2008, through December 31, 2018, the economic subsidies**
86 **provided under this section to Missouri qualified fuel ethanol producers of fuel ethanol**
87 **made from qualified biomass shall not exceed ten million dollars per year. Prior to**
88 **January 1, 2008, and after January 1, 2019, Missouri qualified fuel ethanol producers of**
89 **fuel ethanol made from qualified biomass shall be ineligible for economic subsidies under**
90 **this section.**

142.031. 1. As used in this section the following terms shall mean:

2 (1) "Biodiesel", fuel as defined in ASTM Standard D-6751 or its subsequent standard
3 specifications for biodiesel fuel (B100) blend stock for distillate fuels;

4 (2) "Missouri qualified biodiesel producer", a facility that produces biodiesel, is
5 registered with the United States Environmental Protection Agency according to the
6 requirements of 40 CFR 79, and:

7 (a) Is at least fifty-one percent owned by agricultural producers who are residents of this
8 state and who are actively engaged in agricultural production for commercial purposes; or

9 (b) At least eighty percent of the feedstock used by the facility originates in the state of
10 Missouri. For purposes of this section, "feedstock" means [a Missouri agricultural product as
11 defined in section 348.400, RSMo] **an agricultural, horticultural, viticultural, vegetable,**
12 **aqua cultural livestock, forestry, or poultry product either in its natural or processed state.**

13 2. The "Missouri Qualified Biodiesel Producer Incentive Fund" is hereby created and
14 subject to appropriations shall be used to provide economic subsidies to Missouri qualified
15 biodiesel producers pursuant to this section. The director of the department of agriculture shall
16 administer the fund pursuant to this section.

17 3. A Missouri qualified biodiesel producer shall be eligible for a monthly grant from the
18 fund provided that one hundred percent of the feedstock originates in the United States.
19 However, the director may waive the feedstock requirements on a month-to-month basis if the
20 facility provides verification that adequate feedstock is not available. A Missouri qualified
21 biodiesel producer shall only be eligible for the grant for a total of sixty months unless such
22 producers during the sixty months fail, due to a lack of appropriations, to receive the full amount
23 from the fund for which the producers were eligible, in which case such producers shall continue
24 to be eligible for up to twenty-four additional months or until they have received the maximum
25 amount of funding for which such producers were eligible during the original sixty-month time
26 period. The amount of the grant is determined by calculating the estimated gallons of qualified

27 biodiesel produced during the preceding month from [Missouri agricultural products] **feedstock**,
28 as certified by the department of agriculture, and applying such figure to the per-gallon incentive
29 credit established in this subsection. Each Missouri qualified biodiesel producer shall be eligible
30 for a total grant in any fiscal year equal to thirty cents per gallon for the first fifteen million
31 gallons of qualified biodiesel produced from [Missouri agricultural products] **feedstock** in the
32 fiscal year plus ten cents per gallon for the next fifteen million gallons of qualified biodiesel
33 produced from [Missouri agricultural products] **feedstock** in the fiscal year. All such qualified
34 biodiesel produced by a Missouri qualified biodiesel producer in excess of thirty million gallons
35 shall not be applied to the computation of a grant pursuant to this subsection. The department
36 of agriculture shall pay all grants for a particular month by the fifteenth day after receipt and
37 approval of the application described in subsection 4 of this section.

38 4. In order for a Missouri qualified biodiesel producer to obtain a grant from the fund,
39 an application for such funds shall be received no later than fifteen days following the last day
40 of the month for which the grant is sought. The application shall include:

41 (1) The location of the Missouri qualified biodiesel producer;

42 (2) The average number of citizens of Missouri employed by the Missouri qualified
43 biodiesel producer in the preceding month, if applicable;

44 (3) The number of bushel equivalents of Missouri [agricultural commodities] **feedstock**
45 **and out-of-state feedstock** used by the Missouri qualified biodiesel producer in the production
46 of biodiesel in the preceding month;

47 (4) The number of gallons of qualified biodiesel the producer manufactures during the
48 month for which the grant is applied;

49 (5) A copy of the qualified biodiesel producer license required pursuant to subsection
50 5 of this section, name and address of surety company, and amount of bond to be posted pursuant
51 to subsection 5 of this section; and

52 (6) Any other information deemed necessary by the department of agriculture to
53 adequately ensure that such grants shall be made only to Missouri qualified biodiesel producers.

54 5. The director of the department of agriculture, in consultation with the department of
55 revenue, shall promulgate rules and regulations necessary for the administration of the provisions
56 of this section.

57 6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
58 is created under the authority delegated in this section shall become effective only if it complies
59 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
60 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers
61 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
62 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the

63 grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be
64 invalid and void.

65 7. This section shall expire on December 31, 2009. However, Missouri qualified
66 biodiesel producers receiving any grants awarded prior to December 31, 2009, shall continue to
67 be eligible for the remainder of the original sixty-month time period under the same terms and
68 conditions of this section unless such producer during such sixty months failed, due to a lack of
69 appropriations, to receive the full amount from the fund for which he or she was eligible. In such
70 case, such producers shall continue to be eligible for up to twenty-four additional months or until
71 they have received the maximum amount of funding for which they were eligible during the
72 original sixty-month time period.

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

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

7 (2) **"Bioreactor", a municipal solid waste disposal area or portion of a municipal**
8 **solid waste disposal area where the controlled addition of liquid waste or water accelerates**
9 **both the decomposition of waste and landfill gas generation;**

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

12 [(3)] (4) "City", any incorporated city, town, or village;

13 [(4)] (5) "Clean fill", uncontaminated soil, rock, sand, gravel, concrete, asphaltic
14 concrete, cinderblocks, brick, minimal amounts of wood and metal, and inert solids as approved
15 by rule or policy of the department for fill, reclamation or other beneficial use;

16 [(5)] (6) "Closure", the permanent cessation of active disposal operations, abandonment
17 of the disposal area, revocation of the permit or filling with waste of all areas and volumes
18 specified in the permit and preparing the area for long-term care;

19 [(6)] (7) "Closure plan", plans, designs and relevant data which specify the methods and
20 schedule by which the operator will complete or cease disposal operations, prepare the area for
21 long-term care, and make the area suitable for other uses, to achieve the purposes of sections
22 260.200 to 260.345 and the regulations promulgated thereunder;

23 [(7)] (8) "Conference, conciliation and persuasion", a process of verbal or written
24 communications consisting of meetings, reports, correspondence or telephone conferences
25 between authorized representatives of the department and the alleged violator. The process shall,
26 at a minimum, consist of one offer to meet with the alleged violator tendered by the department.

27 During any such meeting, the department and the alleged violator shall negotiate in good faith
28 to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance;

29 **(9) "Construction and demolition waste", waste materials from the construction**
30 **and demolition of residential, industrial, or commercial structures, but does not include**
31 **materials defined as clean fill under this section;**

32 [(8)] **(10) "Demolition landfill", a solid waste disposal area used for the controlled**
33 **disposal of demolition wastes, construction materials, brush, wood wastes, soil, rock, concrete**
34 **and inert solids insoluble in water;**

35 [(9)] **(11) "Department", the department of natural resources;**

36 [(10)] **(12) "Director", the director of the department of natural resources;**

37 [(11)] **(13) "District", a solid waste management district established under section**
38 **260.305;**

39 [(12)] **(14) "Financial assurance instrument", an instrument or instruments, including,**
40 **but not limited to, cash or surety bond, letters of credit, corporate guarantee or secured trust fund,**
41 **submitted by the applicant to ensure proper closure and postclosure care and corrective action**
42 **of a solid waste disposal area in the event that the operator fails to correctly perform closure and**
43 **postclosure care and corrective action requirements, except that the financial test for the**
44 **corporate guarantee shall not exceed one and one-half times the estimated cost of closure and**
45 **postclosure. The form and content of the financial assurance instrument shall meet or exceed**
46 **the requirements of the department. The instrument shall be reviewed and approved or**
47 **disapproved by the attorney general;**

48 [(13)] **(15) "Flood area", any area inundated by the one hundred year flood event, or the**
49 **flood event with a one percent chance of occurring in any given year;**

50 [(14)] **(16) "Household consumer", an individual who generates used motor oil through**
51 **the maintenance of the individual's personal motor vehicle, vessel, airplane, or other machinery**
52 **powered by an internal combustion engine;**

53 [(15)] **(17) "Household consumer used motor oil collection center", any site or facility**
54 **that accepts or aggregates and stores used motor oil collected only from household consumers**
55 **or farmers who generate an average of twenty-five gallons per month or less of used motor oil**
56 **in a calendar year. This section shall not preclude a commercial generator from operating a**
57 **household consumer used motor oil collection center;**

58 [(16)] **(18) "Household consumer used motor oil collection system", any used motor oil**
59 **collection center at publicly owned facilities or private locations, any curbside collection of**
60 **household consumer used motor oil, or any other household consumer used motor oil collection**
61 **program determined by the department to further the purposes of sections 260.200 to 260.345;**

62 [(17)] (19) "Infectious waste", waste in quantities and characteristics as determined by
63 the department by rule, including isolation wastes, cultures and stocks of etiologic agents, blood
64 and blood products, pathological wastes, other wastes from surgery and autopsy, contaminated
65 laboratory wastes, sharps, dialysis unit wastes, discarded biologicals known or suspected to be
66 infectious; provided, however, that infectious waste does not mean waste treated to department
67 specifications;

68 [(18)] (20) "Lead-acid battery", a battery designed to contain lead and sulfuric acid with
69 a nominal voltage of at least six volts and of the type intended for use in motor vehicles and
70 watercraft;

71 [(19)] (21) "Major appliance", clothes washers and dryers, water heaters, trash
72 compactors, dishwashers, conventional ovens, ranges, stoves, woodstoves, air conditioners,
73 refrigerators and freezers;

74 [(20)] (22) "Mercuric-oxide battery" or "mercury battery", a battery having a
75 mercuric-oxide positive electrode, a zinc negative electrode, and an alkaline electrolyte,
76 including mercuric-oxide button cell batteries generally intended for use in hearing aids and
77 larger size mercuric-oxide batteries used primarily in medical equipment;

78 [(21)] (23) "Minor violation", a violation which possesses a small potential to harm the
79 environment or human health or cause pollution, was not knowingly committed, and is not
80 defined by the United States Environmental Protection Agency as other than minor;

81 [(22)] (24) "Motor oil", any oil intended for use in a motor vehicle, as defined in section
82 301.010, RSMo, train, vessel, airplane, heavy equipment, or other machinery powered by an
83 internal combustion engine;

84 [(23)] (25) "Motor vehicle", as defined in section 301.010, RSMo;

85 [(24)] (26) "Operator" and "permittee", anyone so designated, and shall include cities,
86 counties, other political subdivisions, authority, state agency or institution, or federal agency or
87 institution;

88 [(25)] (27) "Permit modification", any permit issued by the department which alters or
89 modifies the provisions of an existing permit previously issued by the department;

90 [(26)] (28) "Person", any individual, partnership, corporation, association, institution,
91 city, county, other political subdivision, authority, state agency or institution, or federal agency
92 or institution;

93 [(27)] (29) "Postclosure plan", plans, designs and relevant data which specify the
94 methods and schedule by which the operator shall perform necessary monitoring and care for the
95 area after closure to achieve the purposes of sections 260.200 to 260.345 and the regulations
96 promulgated thereunder;

97 [(28)] **(30)** "Recovered materials", those materials which have been diverted or removed
98 from the solid waste stream for sale, use, reuse or recycling, whether or not they require
99 subsequent separation and processing;

100 [(29)] **(31)** "Recycled content", the proportion of fiber in a newspaper which is derived
101 from postconsumer waste;

102 [(30)] **(32)** "Recycling", the separation and reuse of materials which might otherwise
103 be disposed of as solid waste;

104 [(31)] **(33)** "Resource recovery", a process by which recyclable and recoverable material
105 is removed from the waste stream to the greatest extent possible, as determined by the
106 department and pursuant to department standards, for reuse or remanufacture;

107 [(32)] **(34)** "Resource recovery facility", a facility in which recyclable and recoverable
108 material is removed from the waste stream to the greatest extent possible, as determined by the
109 department and pursuant to department standards, for reuse or remanufacture;

110 [(33)] **(35)** "Sanitary landfill", a solid waste disposal area which accepts commercial and
111 residential solid waste;

112 [(34)] **(36)** "Scrap tire", a tire that is no longer suitable for its original intended purpose
113 because of wear, damage, or defect;

114 [(35)] **(37)** "Scrap tire collection center", a site where scrap tires are collected prior to
115 being offered for recycling or processing and where fewer than five hundred tires are kept on site
116 on any given day;

117 [(36)] **(38)** "Scrap tire end-user facility", a site where scrap tires are used as a fuel or fuel
118 supplement or converted into a useable product. Baled or compressed tires used in structures,
119 or used at recreational facilities, or used for flood or erosion control shall be considered an end
120 use;

121 [(37)] **(39)** "Scrap tire generator", a person who sells tires at retail or any other person,
122 firm, corporation, or government entity that generates scrap tires;

123 [(38)] **(40)** "Scrap tire processing facility", a site where tires are reduced in volume by
124 shredding, cutting, or chipping or otherwise altered to facilitate recycling, resource recovery, or
125 disposal;

126 [(39)] **(41)** "Scrap tire site", a site at which five hundred or more scrap tires are
127 accumulated, but not including a site owned or operated by a scrap tire end-user that burns scrap
128 tires for the generation of energy or converts scrap tires to a useful product;

129 [(40)] **(42)** "Solid waste", garbage, refuse and other discarded materials including, but
130 not limited to, solid and semisolid waste materials resulting from industrial, commercial,
131 agricultural, governmental and domestic activities, but does not include hazardous waste as

132 defined in sections 260.360 to 260.432, recovered materials, overburden, rock, tailings, matte,
133 slag or other waste material resulting from mining, milling or smelting;

134 [(41)] **(43)** "Solid waste disposal area", any area used for the disposal of solid waste
135 from more than one residential premises, or one or more commercial, industrial, manufacturing,
136 recreational, or governmental operations;

137 [(42)] **(44)** "Solid waste fee", a fee imposed pursuant to sections 260.200 to 260.345 and
138 may be:

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

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

141 [(43)] **(45)** "Solid waste management area", a solid waste disposal area which also
142 includes one or more of the functions contained in the definitions of recycling, resource recovery
143 facility, waste tire collection center, waste tire processing facility, waste tire site or solid waste
144 processing facility, excluding incineration;

145 [(44)] **(46)** "Solid waste management system", the entire process of managing solid
146 waste in a manner which minimizes the generation and subsequent disposal of solid waste,
147 including waste reduction, source separation, collection, storage, transportation, recycling,
148 resource recovery, volume minimization, processing, market development, and disposal of solid
149 wastes;

150 [(45)] **(47)** "Solid waste processing facility", any facility where solid wastes are salvaged
151 and processed, including:

152 (a) A transfer station; or

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

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

156 [(46)] **(48)** "Solid waste technician", an individual who has successfully completed
157 training in the practical aspects of the design, operation and maintenance of a permitted solid
158 waste processing facility or solid waste disposal area in accordance with sections 260.200 to
159 260.345;

160 [(47)] **(49)** "Tire", a continuous solid or pneumatic rubber covering encircling the wheel
161 of any self-propelled vehicle not operated exclusively upon tracks, or a trailer as defined in
162 chapter 301, RSMo, except farm tractors and farm implements owned and operated by a family
163 farm or family farm corporation as defined in section 350.010, RSMo;

164 [(48)] **(50)** "Used motor oil", any motor oil which, as a result of use, becomes unsuitable
165 for its original purpose due to loss of original properties or the presence of impurities, but used
166 motor oil shall not include ethylene glycol, oils used for solvent purposes, oil filters that have
167 been drained of free flowing used oil, oily waste, oil recovered from oil tank cleaning operations,

168 oil spilled to land or water, or industrial nonlube oils such as hydraulic oils, transmission oils,
169 quenching oils, and transformer oils;

170 [(49)] **(51)** "Utility waste landfill", a solid waste disposal area used for fly ash waste,
171 bottom ash waste, slag waste and flue gas emission control waste generated primarily from the
172 combustion of coal or other fossil fuels;

173 [(50)] **(52)** "Yard waste", leaves, grass clippings, yard and garden vegetation and
174 Christmas trees. The term does not include stumps, roots or shrubs with intact root balls.

175 2. For the purposes of this section and sections 260.270 to [260.278] **260.279** and any
176 rules in place as of August 28, 2005, or promulgated under said sections, the term "scrap" shall
177 be used synonymously with and in place of "waste", as it applies only to scrap tires.

260.211. 1. A person commits the offense of criminal disposition of demolition waste
2 [in the first degree] if he purposely or knowingly disposes of or causes the disposal of more than
3 two thousand pounds or four hundred cubic feet of such waste [in violation of section 260.210]
4 **on property in this state other than in a solid waste processing facility or solid waste**
5 **disposal area having a permit as required by section 260.205, except as provided by**
6 **subsection 2 of this section; provided that, this subsection shall not prohibit the use or**
7 **require a solid waste permit for the use of solid wastes in normal farming operations or in**
8 **the processing or manufacturing of other products in a manner that will not create a public**
9 **nuisance or adversely affect public health and shall not prohibit the disposal of or require**
10 **a solid waste permit for the disposal by an individual of solid wastes resulting from his or**
11 **her own residential activities on property owned or lawfully occupied by him or her when**
12 **such wastes do not thereby create a public nuisance or adversely affect the public health.**
13 Demolition waste shall not include clean fill or vegetation. Criminal disposition of demolition
14 waste [in the first degree] is a class [A misdemeanor] **D felony**. In addition to other penalties
15 prescribed by law, a person convicted of criminal disposition of demolition waste [in the first
16 degree] is subject to a fine not to exceed twenty thousand dollars, except as provided below. The
17 magnitude of the fine shall reflect the seriousness or potential seriousness of the threat to human
18 health and the environment posed by the violation, but shall not exceed twenty thousand dollars,
19 except that if a court of competent jurisdiction determines that the person responsible for illegal
20 disposal of demolition waste under this subsection did so for remuneration as a part of an
21 ongoing commercial activity, the court shall set a fine which reflects the seriousness or potential
22 threat to human health and the environment which at least equals the economic gain obtained by
23 the person, and such fine may exceed the maximum established herein.

24 2. **Any person who purposely or knowingly disposes of or causes the disposal of**
25 **more than two thousand pounds or four hundred cubic feet of his or her personal**
26 **construction or demolition waste on his or her own property shall be guilty of a class C**

27 **misdemeanor. If such person receives any amount of money, goods, or services in**
28 **connection with permitting any other person to dispose of construction or demolition waste**
29 **on his or her property, such person will be guilty of a class D felony.**

30 **3.** The court shall order any person convicted of illegally disposing of demolition waste
31 upon his own property for remuneration to clean up such waste and, if he fails to clean up the
32 waste or if he is unable to clean up the waste, the court may notify the county recorder of the
33 county containing the illegal disposal site. The notice shall be designed to be recorded on the
34 record.

35 [3. Any person who pleads guilty or is convicted of criminal disposition of demolition
36 waste in the first degree a second or subsequent time shall be guilty of a class D felony, and
37 subject to the penalties provided in subsection 1 of this section in addition to those penalties
38 prescribed by law.

39 **4.** A person commits the offense of criminal disposition of demolition waste in the
40 second degree if he purposely or knowingly disposes of or causes the disposal of less than the
41 amount of demolition waste specified in subsection 1 of this section in violation of section
42 260.210. Criminal disposition of demolition waste in the second degree is a class C
43 misdemeanor.

44 **5.** In addition to other penalties prescribed by law, a person convicted of criminal
45 disposition of demolition waste in the second degree is subject to a fine, and the magnitude of
46 the fine shall reflect the seriousness or potential seriousness of the threat to human health and
47 the environment posed by the violation, but shall not exceed two thousand dollars.

48 **6.** Any person who pleads guilty or is convicted of criminal disposition of demolition
49 waste in the second degree a second or subsequent time shall be guilty of a class D felony, and
50 subject to the penalties provided in subsection 5 of this section in addition to those penalties
51 prescribed by law.

52 **7.] 4.** The court may order restitution by requiring any person convicted under this
53 section to clean up any demolition waste he illegally dumped and the court may require any such
54 person to perform additional community service by cleaning up and properly disposing of
55 demolition waste illegally dumped by other persons.

56 **[8.] 5.** The prosecutor of any county or circuit attorney of any city not within a county
57 may, by information or indictment, institute a prosecution for any violation of the provisions of
58 this section.

59 **6. Any person shall be guilty of conspiracy as defined in section 564.016, RSMo, if**
60 **he or she knows or should have known that his agent or employee has committed the acts**
61 **described in sections 260.210 to 260.212 while engaged in the course of employment.**

260.212. 1. A person commits the offense of criminal disposition of solid waste [in the
2 first degree] if he purposely or knowingly disposes of or causes the disposal of more than five
3 hundred pounds or one hundred cubic feet of commercial or residential solid waste [on any
4 property in this state other than a sanitary landfill in violation of section 260.210] **on any
5 property in this state other than a solid waste processing facility or solid waste disposal
6 area having a permit as required by section 260.205; provided that, this subsection shall
7 not prohibit the use or require a solid waste permit for the use of solid wastes in normal
8 farming operations or in the processing or manufacturing of other products in a manner
9 that will not create a public nuisance or adversely affect the public health and shall not
10 prohibit the disposal of or require a solid waste permit for the disposal by an individual
11 of solid wastes resulting from his or her own residential activities on property owned or
12 lawfully occupied by him or her when such wastes do not thereby create a public nuisance
13 or adversely affect the public health.** Criminal disposition of solid waste [in the first degree]
14 is a class [A misdemeanor] **D felony**. In addition to other penalties prescribed by law, a person
15 convicted of criminal disposition of solid waste [in the first degree] is subject to a fine, and the
16 magnitude of the fine shall reflect the seriousness or potential seriousness of the threat to human
17 health and the environment posed by the violation, but shall not exceed twenty thousand dollars,
18 except that if a court of competent jurisdiction determines that the person responsible for illegal
19 disposal of solid waste under this subsection did so for remuneration as a part of an ongoing
20 commercial activity, the court shall set a fine which reflects the seriousness or potential threat
21 to human health and the environment which at least equals the economic gain obtained by the
22 person, and such fine may exceed the maximum established herein.

23 2. The court shall order any person convicted of illegally disposing of solid waste upon
24 his own property for remuneration to clean up such waste and, if he fails to clean up the waste
25 or if he is unable to clean up the waste, the court may notify the county recorder of the county
26 containing the illegal disposal site. The notice shall be designed to be recorded on the record.

27 3. [Any person who pleads guilty or is convicted of criminal disposition of solid waste
28 in the first degree a second or subsequent time shall be guilty of a class D felony. If a court of
29 competent jurisdiction determines that the person responsible for illegal disposal of solid waste
30 under this subsection did so for remuneration as a part of an ongoing commercial activity, the
31 court shall set a fine which reflects the seriousness or potential threat to human health and the
32 environment which equals at least three times the economic gain obtained by the person, and
33 such fine may exceed the maximum established in this section.

34 4. A person commits the offense of criminal disposition of solid waste in the second
35 degree if he purposely or knowingly disposes of or causes the disposal of less than the amount
36 of commercial or residential solid waste specified in subsection 1 of this section on any property

37 in this state other than a permitted sanitary landfill in violation of section 260.210. Criminal
38 disposition of solid waste in the second degree is a class C misdemeanor.

39 5. In addition to other penalties prescribed by law, a person convicted of criminal
40 disposition of solid waste in the second degree is subject to a fine, and the magnitude of the fine
41 shall reflect the seriousness or potential seriousness of the threat to human health and the
42 environment posed by the violation, but shall not exceed two thousand dollars.

43 6. Any person who pleads guilty or is convicted of criminal disposition of solid waste
44 in the second degree a second or subsequent time shall be guilty of a class D felony. If a court
45 of competent jurisdiction determines that the person responsible for illegal disposal of solid
46 waste under this subsection did so for remuneration as a part of an ongoing commercial activity,
47 the court shall set a fine which reflects the seriousness or potential threat to human health and
48 the environment which equals at least three times the economic gain obtained by the person, and
49 such fine may exceed the maximum established in this subsection.

50 7.] The court may order restitution by requiring any person convicted under this section
51 to clean up any commercial or residential solid waste he illegally dumped and the court may
52 require any such person to perform additional community service by cleaning up commercial or
53 residential solid waste illegally dumped by other persons.

54 [8.] 4. The prosecutor of any county or circuit attorney of any city not within a county
55 may, by information or indictment, institute a prosecution for any violation of the provisions of
56 this section.

57 [9.] 5. Any person shall be guilty of conspiracy as defined in section 564.016, RSMo,
58 if he knows or should have known that his agent or employee has committed the acts described
59 in sections 260.210 to 260.212 while engaged in the course of employment.

260.240. 1. In the event the director determines that any provision of sections 260.200
2 to 260.245 **and 260.330** or any standard, rule, regulation, final order or approved plan
3 promulgated pursuant thereto is being, was, or is in imminent danger of being violated, the
4 director may, in addition to those remedies provided in section 260.230, cause to have instituted
5 a civil action in any court of competent jurisdiction for injunctive relief to prevent any such
6 violation or further violation or in the case of violations concerning a solid waste disposal area
7 or a solid waste processing facility, for the assessment of a penalty not to exceed one thousand
8 dollars per day for each day, or part thereof, the violation occurred and continues to occur, or
9 both, as the court deems proper **or in the case of violations concerning a solid waste disposal**
10 **area and in the case of a violation of section 260.330 by a solid waste processing facility, for**
11 **the assessment of a penalty not to exceed five thousand dollars per day, or part thereof, the**
12 **violation occurred and continues to occur, or both, as the court deems proper.** A civil
13 monetary penalty under this section shall not be assessed for a violation where an administrative

14 penalty was assessed under section 260.249. The director may request either the attorney general
15 or a prosecuting attorney to bring any action authorized in this section in the name of the people
16 of the state of Missouri. Suit can be brought in any county where the defendant's principal place
17 of business is located or where the violation occurred. Any offer of settlement to resolve a civil
18 penalty under this section shall be in writing, shall state that an action for imposition of a civil
19 penalty may be initiated by the attorney general or a prosecuting attorney representing the
20 department under authority of this section, and shall identify any dollar amount as an offer of
21 settlement which shall be negotiated in good faith through conference, conciliation and
22 persuasion.

23 2. Any rule, regulation, standard or order of a county commission, adopted pursuant to
24 the provisions of sections 260.200 to 260.245, may be enforced in a civil action for mandatory
25 or prohibitory injunctive relief or for the assessment of a penalty not to exceed [one] **five**
26 hundred dollars per day for each day, or part thereof, that a violation of such rule, regulation,
27 standard or order of a county commission occurred and continues to occur, or both, as the
28 commission deems proper. The county commission may request the prosecuting attorney or
29 other attorney to bring any action authorized in this section in the name of the people of the state
30 of Missouri.

31 3. The liabilities imposed by this section shall not be imposed due to any violation
32 caused by an act of God, war, strike, riot or other catastrophe.

260.247. 1. Any city **or political subdivision** which annexes an area or enters into or
2 expands solid waste collection services into an area where the collection of solid waste is
3 presently being provided by one or more private entities, **for commercial or residential**
4 **services**, shall notify the private entity or entities of its intent to provide solid waste collection
5 services in the area by certified mail.

6 2. A city **or political subdivision** shall not commence solid waste collection in such area
7 for at least two years from the effective date of the annexation or at least two years from the
8 effective date of the notice that the city **or political subdivision** intends to enter into the business
9 of solid waste collection or to expand existing solid waste collection services into the area, unless
10 the city **or political subdivision** contracts with the private entity or entities to continue such
11 services for that period. **If for any reason the city or political subdivision does not exercise**
12 **its option to provide for or contract for the provision of services within an affected area**
13 **within three years from the effective date of the notice, then the city or political subdivision**
14 **shall renotify under subsection 1 of this section.**

15 3. If the services to be provided under a contract with the city **or political subdivision**
16 pursuant to subsection 2 of this section are substantially the same as the services rendered in the
17 area prior to the decision of the city to annex the area or to enter into or expand its solid waste

18 collection services into the area, the amount paid by the city shall be at least equal to the amount
19 the private entity or entities would have received for providing such services during that period.

20 4. Any private entity or entities which provide collection service in the area which the
21 city or **political subdivision** has decided to annex or enter into or expand its solid waste
22 collection services into shall make available upon written request by the city not later than thirty
23 days following such request, all information in its possession or control which pertains to its
24 activity in the area necessary for the city to determine the nature and scope of the potential
25 contract.

26 5. The provisions of this section shall apply to private entities that service fifty or more
27 residential accounts or [fifteen or more] **any** commercial accounts in the area in question.

260.249. 1. In addition to any other remedy provided by law, upon a determination by
2 the director that a provision of sections 260.200 to 260.281, or a standard, limitation, order, rule
3 or regulation promulgated pursuant thereto, or a term or condition of any permit has been
4 violated, the director may issue an order assessing an administrative penalty upon the violator
5 under this section. An administrative penalty shall not be imposed until the director has sought
6 to resolve the violations through conference, conciliation and persuasion and shall not be
7 imposed for minor violations of sections 260.200 to 260.281 or minor violation of any standard,
8 limitation, order, rule or regulation promulgated pursuant to sections 260.200 to 260.281 or
9 minor violations of any term or condition of a permit issued pursuant to sections 260.200 to
10 260.281 or any violations of sections 260.200 to 260.281 by any person resulting from
11 mismanagement of solid waste generated and managed on the property of the place of residence
12 of the person. If the violation is resolved through conference, conciliation and persuasion, no
13 administrative penalty shall be assessed unless the violation has caused, or has the potential to
14 cause, a risk to human health or to the environment, or has caused or has potential to cause
15 pollution, or was knowingly committed, or is defined by the United States Environmental
16 Protection Agency as other than minor. Any order assessing an administrative penalty shall state
17 that an administrative penalty is being assessed under this section and that the person subject to
18 the penalty may appeal as provided by section 260.235. Any such order that fails to state the
19 statute under which the penalty is being sought, the manner of collection or rights of appeal shall
20 result in the state's waiving any right to collection of the penalty.

21 2. The department shall promulgate rules and regulations for the assessment of
22 administrative penalties. The amount of the administrative penalty assessed per day of violation
23 for each violation under this section shall not exceed the amount of the civil penalty specified
24 in section [260.230] **260.240**. Such rules shall reflect the criteria used for the administrative
25 penalty matrix as provided for in the Resource Conservation and Recovery Act, 42 U.S.C.
26 6928(a), Section 3008(a), and the harm or potential harm which the violation causes, or may

27 cause, the violator's previous compliance record, and any other factors which the department may
28 reasonably deem relevant. An administrative penalty shall be paid within sixty days from the
29 date of issuance of the order assessing the penalty. Any person subject to an administrative
30 penalty may appeal as provided in section 260.235. Any appeal will stay the due date of such
31 administrative penalty until the appeal is resolved. Any person who fails to pay an
32 administrative penalty by the final due date shall be liable to the state for a surcharge of fifteen
33 percent of the penalty plus ten percent per annum on any amounts owed. Any administrative
34 penalty paid pursuant to this section shall be handled in accordance with section 7 of article IX
35 of the state constitution. An action may be brought in the appropriate circuit court to collect any
36 unpaid administrative penalty, and for attorney's fees and costs incurred directly in the collection
37 thereof.

38 3. An administrative penalty shall not be increased in those instances where department
39 action, or failure to act, has caused a continuation of the violation that was a basis for the penalty.
40 Any administrative penalty must be assessed within two years following the department's initial
41 discovery of such alleged violation, or from the date the department in the exercise of ordinary
42 diligence should have discovered such alleged violation.

43 4. The state may elect to assess an administrative penalty, or, in lieu thereof, to request
44 that the attorney general or prosecutor file an appropriate legal action seeking a civil penalty in
45 the appropriate circuit court.

46 5. Any final order imposing an administrative penalty is subject to judicial review upon
47 the filing of a petition pursuant to section 536.100, RSMo, by any person subject to the
48 administrative penalty.

260.250. 1. After January 1, 1991, major appliances, waste oil and lead-acid batteries
2 shall not be disposed of in a solid waste disposal area. After January 1, 1992, yard waste shall
3 not be disposed of in a solid waste disposal area, **except as otherwise provided in this**
4 **subsection. After August 28, 2007, yard waste may be disposed of in a municipal solid**
5 **waste disposal area or portion of a municipal solid waste disposal area provided that:**

6 (1) **The department has approved the municipal solid waste disposal area or**
7 **portion of a solid waste disposal area to operate as a bioreactor under 40 CFR Part 258.4;**
8 **and**

9 (2) **The landfill gas produced by the bioreactor shall be used for the generation of**
10 **electricity.**

11 2. After January 1, 1991, waste oil shall not be incinerated without energy recovery.

12 3. Each district, county and city shall address the recycling, reuse and handling of
13 aluminum containers, glass containers, newspapers, whole tires, plastic beverage containers and
14 steel containers in its solid waste management plan consistent with sections 260.250 to 260.345.

260.330. 1. Except as otherwise provided in subsection 6 of this section, effective
2 October 1, 1990, each operator of a solid waste sanitary landfill shall collect a charge equal to
3 one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted and each
4 operator of the solid waste demolition landfill shall collect a charge equal to one dollar per ton
5 or its volumetric equivalent of solid waste accepted. Each operator shall submit the charge, less
6 collection costs, to the department of natural resources for deposit in the "Solid Waste
7 Management Fund" which is hereby created. On October 1, 1992, and thereafter, the charge
8 imposed herein shall be adjusted annually by the same percentage as the increase in the general
9 price level as measured by the Consumer Price Index for All Urban Consumers for the United
10 States, or its successor index, as defined and officially recorded by the United States Department
11 of Labor or its successor agency. No annual adjustment shall be made to the charge imposed
12 under this subsection during October 1, 2005, to October 1, [2009] **2014**, except an adjustment
13 amount consistent with the need to fund the operating costs of the department and taking into
14 account any annual percentage increase in the total of the volumetric equivalent of solid waste
15 accepted in the prior year at solid waste sanitary landfills and demolition landfills and solid waste
16 to be transported out of this state for disposal that is accepted at transfer stations. No annual
17 increase during October 1, 2005, to October 1, [2009] **2014**, shall exceed the percentage increase
18 measured by the Consumer Price Index for All Urban Consumers for the United States, or its
19 successor index, as defined and officially recorded by the United States Department of Labor or
20 its successor agency and calculated on the percentage of revenues dedicated under subdivision
21 (1) of subsection 2 of section 260.335. Any such annual adjustment shall only be made at the
22 discretion of the director, subject to appropriations. Collection costs shall be established by the
23 department and shall not exceed two percent of the amount collected pursuant to this section.

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

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

34 4. The department may examine or audit financial records and landfill activity records
35 and measure landfill usage to verify the collection and transmittal of the charges established in
36 this section. The department may promulgate by rule and regulation procedures to ensure and

37 to verify that the charges imposed herein are properly collected and transmitted to the
38 department.

39 5. Effective October 1, 1990, any person who operates a transfer station in Missouri shall
40 transmit a fee to the department for deposit in the solid waste management fund which is equal
41 to one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted. Such
42 fee shall be applicable to all solid waste to be transported out of the state for disposal. On
43 October 1, 1992, and thereafter, the charge imposed herein shall be adjusted annually by the
44 same percentage as the increase in the general price level as measured by the Consumer Price
45 Index for All Urban Consumers for the United States, or its successor index, as defined and
46 officially recorded by the United States Department of Labor or its successor agency. No annual
47 adjustment shall be made to the charge imposed under this subsection during October 1, 2005,
48 to October 1, [2009] **2014**, except an adjustment amount consistent with the need to fund the
49 operating costs of the department and taking into account any annual percentage increase in the
50 total of the volumetric equivalent of solid waste accepted in the prior year at solid waste sanitary
51 landfills and demolition landfills and solid waste to be transported out of this state for disposal
52 that is accepted at transfer stations. No annual increase during October 1, 2005, to October 1,
53 [2009] **2014**, shall exceed the percentage increase measured by the Consumer Price Index for All
54 Urban Consumers for the United States, or its successor index, as defined and officially recorded
55 by the United States Department of Labor or its successor agency and calculated on the
56 percentage of revenues dedicated under subdivision (1) of subsection 2 of section 260.335. Any
57 such annual adjustment shall only be made at the discretion of the director, subject to
58 appropriations. The department shall prescribe rules and regulations governing the transmittal
59 of fees and verification of waste volumes transported out of state from transfer stations.
60 Collection costs shall also be established by the department and shall not exceed two percent of
61 the amount collected pursuant to this subsection. A transfer station with the sole function of
62 separating materials for recycling or resource recovery activities shall not be subject to the fee
63 imposed in this subsection.

64 6. Each political subdivision which owns an operational solid waste disposal area may
65 designate, pursuant to this section, up to two free disposal days during each calendar year. On
66 any such free disposal day, the political subdivision shall allow residents of the political
67 subdivision to dispose of any solid waste which may be lawfully disposed of at such solid waste
68 disposal area free of any charge, and such waste shall not be subject to any state fee pursuant to
69 this section. Notice of any free disposal day shall be posted at the solid waste disposal area site
70 and in at least one newspaper of general circulation in the political subdivision no later than
71 fourteen days prior to the free disposal day.

260.335. 1. Each fiscal year eight hundred thousand dollars from the solid waste management fund shall be made available, upon appropriation, to the department and the environmental improvement and energy resources authority to fund activities that promote the development and maintenance of markets for recovered materials. Each fiscal year up to two hundred thousand dollars from the solid waste management fund be used by the department upon appropriation for grants to solid waste management districts for district grants and district operations. Only those solid waste management districts that are allocated fewer funds under subsection 2 of this section than if revenues had been allocated based on the criteria in effect in this section on August 27, 2004, are eligible for these grants. An eligible district shall receive a proportionate share of these grants based on that district's share of the total reduction in funds for eligible districts calculated by comparing the amount of funds allocated under subsection 2 of this section with the amount of funds that would have been allocated using the criteria in effect in this section on August 27, 2004. The department and the authority shall establish a joint interagency agreement with the department of economic development to identify state priorities for market development and to develop the criteria to be used to judge proposed projects. Additional moneys may be appropriated in subsequent fiscal years if requested. The authority shall establish a procedure to measure the effectiveness of the grant program under this subsection and shall provide a report to the governor and general assembly by January fifteenth of each year regarding the effectiveness of the program.

2. All remaining revenues deposited into the fund each fiscal year after moneys have been made available under subsection 1 of this section shall be allocated as follows:

(1) Thirty-nine percent of the revenues shall be dedicated, upon appropriation, to the elimination of illegal solid waste disposal, to identify and prosecute persons disposing of solid waste illegally, to conduct solid waste permitting activities, to administer grants and perform other duties imposed in sections 260.200 to 260.345 and section 260.432. In addition to the thirty-nine percent of the revenues, the department may receive any annual increase in the charge during October 1, 2005, to October 1, [2009] **2014**, under section 260.330 and such increases shall be used solely to fund the operating costs of the department;

(2) Sixty-one percent of the revenues, except any annual increases in the charge under section 260.330 during October 1, 2005, to October 1, [2009] **2014**, which shall be used solely to fund the operating costs of the department, shall be allocated through grants, upon appropriation, to participating cities, counties, and districts. Revenues to be allocated under this subdivision shall be divided as follows: forty percent shall be allocated based on the population of each district in the latest decennial census, and sixty percent shall be allocated based on the amount of revenue generated within each district. For the purposes of this subdivision, revenue generated within each district shall be determined from the previous year's data. No more than

37 fifty percent of the revenue allocable under this subdivision may be allocated to the districts upon
38 approval of the department for implementation of a solid waste management plan and district
39 operations, and at least fifty percent of the revenue allocable to the districts under this
40 subdivision shall be allocated to the cities and counties of the district or to persons or entities
41 providing solid waste management, waste reduction, recycling and related services in these cities
42 and counties. Each district shall receive a minimum of seventy-five thousand dollars under this
43 subdivision. After August 28, 2005, each district shall receive a minimum of ninety-five
44 thousand dollars under this subdivision for district grants and district operations. Each district
45 receiving moneys under this subdivision shall expend such moneys pursuant to a solid waste
46 management plan required under section 260.325, and only in the case that the district is in
47 compliance with planning requirements established by the department. Moneys shall be awarded
48 based upon grant applications. Any moneys remaining in any fiscal year due to insufficient or
49 inadequate applications may be reallocated pursuant to this subdivision;

50 (3) Except for the amount up to one-fourth of the department's previous fiscal year
51 expense, any remaining unencumbered funds generated under subdivision (1) of this subsection
52 in prior fiscal years shall be reallocated under this section;

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

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

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

63 4. The funds awarded to the districts, counties and cities pursuant to this section shall
64 be used for the purposes set forth in sections 260.300 to 260.345, and shall be used in addition
65 to existing funds appropriated by counties and cities for solid waste management and shall not
66 supplant county or city appropriated funds.

67 5. The department, in conjunction with the solid waste advisory board, shall review the
68 performance of all grant recipients to ensure that grant moneys were appropriately and effectively
69 expended to further the purposes of the grant, as expressed in the recipient's grant application.
70 The grant application shall contain specific goals and implementation dates, and grant recipients
71 shall be contractually obligated to fulfill same. The department may require the recipient to
72 submit periodic reports and such other data as are necessary, both during the grant period and

73 up to five years thereafter, to ensure compliance with this section. The department may audit the
74 records of any recipient to ensure compliance with this section. Recipients of grants under
75 sections 260.300 to 260.345 shall maintain such records as required by the department. If a grant
76 recipient fails to maintain records or submit reports as required herein, refuses the department
77 access to the records, or fails to meet the department's performance standards, the department
78 may withhold subsequent grant payments, if any, and may compel the repayment of funds
79 provided to the recipient pursuant to a grant.

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

82 7. If the moneys are not transmitted to the department within the time frame established
83 by the rule promulgated, interest shall be imposed on the moneys due the department at the rate
84 of ten percent per annum from the prescribed due date until payment is actually made. These
85 interest amounts shall be deposited to the credit of the solid waste management fund.

260.360. When used in sections 260.350 to 260.430 and in standards, rules and
2 regulations adopted pursuant to sections 260.350 to 260.430, the following words and phrases
3 mean:

4 (1) "Cleanup", all actions necessary to contain, collect, control, treat, disburse, remove
5 or dispose of a hazardous waste;

6 (2) "Commission", the hazardous waste management commission of the state of
7 Missouri created by sections 260.350 to 260.430;

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

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

15 (5) "Detonation", an explosion in which chemical transformation passes through the
16 material faster than the speed of sound, which is 0.33 kilometers per second at sea level;

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

18 (7) "Disposal", the discharge, deposit, injection, dumping, spilling, leaking, or placing
19 of any waste into or on any land or water so that such waste, or any constituent thereof, may enter
20 the environment or be emitted into the air or be discharged into the waters, including
21 groundwaters;

22 (8) "Final disposition", the location, time and method by which hazardous waste loses
23 its identity or enters the environment, including, but not limited to, disposal, resource recovery
24 and treatment;

25 (9) "Generation", the act or process of producing waste;

26 (10) "Generator", any person who produces waste;

27 (11) "Hazardous waste", any waste or combination of wastes, as determined by the
28 commission by rules and regulations, which, because of its quantity, concentration, or physical,
29 chemical or infectious characteristics, may cause or significantly contribute to an increase in
30 mortality or an increase in serious irreversible, or incapacitating reversible, illness, or pose a
31 present or potential threat to the health of humans or the environment;

32 (12) "Hazardous waste facility", any property that is intended or used for hazardous
33 waste management including, but not limited to, storage, treatment and disposal sites;

34 (13) "Hazardous waste management", the systematic recognition and control of
35 hazardous waste from generation to final disposition including, but not limited to, its
36 identification, containerization, labeling, storage, collection, transfer or transportation, treatment,
37 resource recovery or disposal;

38 (14) "Infectious waste", waste in quantities and characteristics as determined by the
39 department by rule and regulation, including the following wastes known or suspected to be
40 infectious: isolation wastes, cultures and stocks of etiologic agents, contaminated blood and
41 blood products, other contaminated surgical wastes, wastes from autopsy, contaminated
42 laboratory wastes, sharps, dialysis unit wastes, discarded biologicals and antineoplastic
43 chemotherapeutic materials; provided, however, that infectious waste does not mean waste
44 treated to department specifications;

45 (15) "Manifest", a department form accompanying hazardous waste from point of
46 generation, through transport, to final disposition;

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

50 (17) "Person", an individual, partnership, copartnership, firm, company, public or private
51 corporation, association, joint stock company, trust, estate, political subdivision or any agency,
52 board, department or bureau of the state or federal government or any other legal entity whatever
53 which is recognized by law as the subject of rights and duties;

54 (18) **"Plasma arc technology", a process that converts electrical energy into thermal**
55 **energy. The plasma arc is created when a voltage is established between two points;**

56 (19) "Resource recovery", the reclamation of energy or materials from waste, its reuse
57 or its transformation into new products which are not wastes;

58 [(19)] (20) "Storage", the containment or holding of waste at a designated location in
59 such manner or for such a period of time, as determined in regulations adopted hereunder, so as
60 not to constitute disposal of such waste;

61 [(20)] (21) "Treatment", the processing of waste to remove or reduce its harmful
62 properties or to contribute to more efficient or less costly management or to enhance its potential
63 for resource recovery including, but not limited to, existing or future procedures for
64 biodegradation, concentration, reduction in volume, detoxification, fixation, incineration, **plasma**
65 **arc technology**, or neutralization;

66 [(21)] (22) "Waste", any material for which no use or sale is intended and which will be
67 discarded or any material which has been or is being discarded. "Waste" shall also include
68 certain residual materials, to be specified by the rules and regulations, which may be sold for
69 purposes of energy or materials reclamation, reuse or transformation into new products which
70 are not wastes;

71 [(22)] (23) "Waste explosives", any waste which has the potential to detonate, or any
72 bulk military propellant which cannot be safely disposed of through other modes of treatment.

260.800. As used in sections 260.800 to 260.815, the following terms shall mean:

2 (1) "Governing body", any city, municipality, county or combination thereof, or an
3 authority or agency created by intergovernmental compact;

4 (2) "Solid waste", garbage, refuse and other discarded materials including, but not
5 limited to, solid and semisolid waste materials resulting from industrial, commercial,
6 agricultural, governmental and domestic activities, but does not include overburden, rock,
7 tailings, matte, slag or other waste material resulting from mining, milling or smelting;

8 (3) "Waste to energy facility", any facility, **including plasma arc technology**, with the
9 electric generating capacity of up to eighty megawatts which is fueled by solid waste.

✓