

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 419
94TH GENERAL ASSEMBLY

Reported from the Committee on Conservation and Natural Resources April 19, 2007 with recommendation that House Committee Substitute for Senate Bill No. 419 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

1890L.03C

AN ACT

To repeal sections 247.050, 247.060, 247.110, 250.231, 250.233, 253.095, 260.200, 260.211, 260.212, 260.240, 260.247, 260.249, 260.250, 260.330, 260.335, 260.360, 260.800, 444.765, 444.766, 444.770, 444.772, and 444.774, RSMo, and to enact in lieu thereof forty-five new sections relating to natural resources, with penalty provisions.

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

Section A. Sections 247.050, 247.060, 247.110, 250.231, 250.233, 253.095, 260.200, 260.211, 260.212, 260.240, 260.247, 260.249, 260.250, 260.330, 260.335, 260.360, 260.800, 444.765, 444.766, 444.770, 444.772, and 444.774, RSMo, are repealed and forty-five new sections enacted in lieu thereof, to be known as sections 135.633, 247.050, 247.060, 247.110, 250.231, 250.233, 253.095, 256.700, 256.705, 256.710, 260.200, 260.211, 260.212, 260.240, 260.247, 260.249, 260.250, 260.330, 260.335, 260.360, 260.800, 444.765, 444.766, 444.770, 444.772, 444.774, 640.300, 640.305, 640.310, 640.315, 640.320, 640.325, 640.330, 640.335, 640.340, 640.800, 640.803, 640.806, 640.809, 640.812, 640.815, 640.818, 640.821, 640.824, and 640.827, to read as follows:

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

- (1) **"Authority", the Missouri agriculture and small business development authority;**
- (2) **"Eligible expenses", the actual cost to a producer of implementing odor abatement best management practices and systems necessary to achieve MELO**

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.

6 accreditation from the department of agriculture. Eligible expenses includes the actual
7 cost of implementing odor abatement best management practices and systems necessary
8 to meet preferred environmental practices. All eligible expenses shall be less any federal
9 or other state incentives;

10 (3) "MELO", managed environment livestock operation;

11 (4) "Odor abatement best management practices", best management practices as
12 established by the department of natural resources and the department of agriculture;

13 (5) "Preferred environmental practice", those odor abatement best management
14 practices which exceed the criteria for MELO accreditation;

15 (6) "Producer", a person, partnership, corporation, trust, or limited liability
16 company who is a Missouri resident and whose primary purpose is agriculture production;

17 (7) "Tax credit", a credit against the tax otherwise due under chapter 143, RSMo,
18 excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or otherwise due
19 under chapter 147, 148, or 153, RSMo;

20 (8) "Taxpayer", any individual or entity subject to the tax imposed in chapter 143,
21 RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the
22 tax imposed in chapter 147, 148, or 153, RSMo.

23 2. For all taxable years beginning on or after January 1, 2007, a taxpayer shall be
24 allowed a tax credit for the eligible costs of implementing odor abatement best management
25 practices and systems. The authority shall establish a managed environment livestock
26 operation odor abatement tax credit program for producers. The maximum cumulative
27 tax credit amount per taxpayer shall be equal to:

28 (1) The lesser of fifty percent of such eligible expense of implementing odor
29 abatement best management practices and systems necessary to achieve MELO
30 accreditation from the department of agriculture, or fifty thousand dollars; or

31 (2) The lesser of seventy-five percent of such eligible expense of implementing odor
32 abatement best management practices and systems necessary to meet preferred
33 environmental practices, or seventy-five thousand dollars.

34 3. If the amount of the tax credit issued exceeds the amount of the taxpayer's state
35 tax liability for the tax year for which the credit is claimed, the difference shall not be
36 refundable but may be carried back to any of the taxpayer's three prior taxable years and
37 carried forward to any of the taxpayer's five subsequent taxable years regardless of the
38 type of tax liability to which such credits are applied as authorized under subsection 4 of
39 this section. Tax credits granted under this section may be transferred, sold, or assigned.
40 Whenever a certificate of tax credit is assigned, transferred, sold, or otherwise conveyed,
41 a notarized endorsement shall be filed with the authority specifying the name and address

42 of the new owner of the tax credit or the value of the credit. The cumulative amount of tax
43 credits which may be issued under this section in any one fiscal year shall not exceed three
44 million dollars.

45 4. Producers may receive a credit against the tax or estimated quarterly tax
46 otherwise due under chapter 143, RSMo, other than taxes withheld under sections 143.191
47 to 143.265, RSMo, or chapter 147 or 148, RSMo.

48 5. Tax credits claimed in a taxable year may be done so on a quarterly basis and
49 applied to the estimated quarterly tax otherwise due under subsection 4 of this section. If
50 a quarterly tax credit claim or series of claims contributes to causing an overpayment of
51 taxes for a taxable year, such overpayment shall not be refunded but shall be applied to the
52 next taxable year.

53 6. A producer shall submit to the authority an application for tax credit allocation
54 before any eligible expenses are expended. The authority may promulgate rules
55 establishing eligibility under this section, taking into consideration:

56 (1) The potential for significant odor reduction;

57 (2) The producers ability to provide funding for the implementation of best
58 management odor abatement projects;

59 (3) The implementation of proven odor abatement technologies; and

60 (4) Such other factors as the authority may establish.

61 7. The authority may impose a one-time application fee of one-fourth of one percent
62 which shall be collected at the time of the tax credit issuance.

63 8. Ninety percent of the tax credits authorized under this section shall initially be
64 issued to producers for MELO accreditation projects in any fiscal year. If any portion of
65 the ninety percent of tax credits offered to producers for MELO accreditation projects is
66 unused as of March first in any fiscal year, the unused portion of tax credits may be
67 offered to producers for preferred environmental practices.

68 9. If any portion of the ten percent of tax credits offered to producers for preferred
69 environmental practices projects is unused as of March first in any fiscal year, the unused
70 portion of tax credits may be offered to approved MELO accreditation projects.

71 10. Any odor abatement tax credit not issued by June thirtieth of each fiscal year
72 shall expire.

73 11. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
74 that is created under the authority delegated in this section shall become effective only if
75 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
76 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
77 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,

78 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
79 held unconstitutional, then the grant of rulemaking authority and any rule proposed or
80 adopted after August 28, 2007, shall be invalid and void.

81 **12. The provisions of this section shall expire on June 30, 2012.**

247.050. The following powers are hereby conferred upon public water supply districts
2 organized under the provisions of sections 247.010 to 247.220:

- 3 (1) To sue and be sued;
- 4 (2) To purchase or otherwise acquire water for the necessities of the district;
- 5 (3) To accept by gift any funds or property for the uses and purposes of the district;
- 6 (4) To dispose of property belonging to the district, under the conditions expressed in
7 sections 247.010 to 247.220;
- 8 (5) To build, acquire by purchase or otherwise, enlarge, improve, extend and maintain
9 a system of waterworks, including fire hydrants;
- 10 (6) To contract and be contracted with;
- 11 (7) To condemn private property within or without the district, needed for the uses and
12 purposes in sections 247.010 to 247.220 provided for;
- 13 (8) To lease, acquire and own any and all property, equipment and supplies needed
14 within or without the district in the successful operation of a waterworks system;
- 15 (9) To contract indebtedness and issue general or special obligation bonds, or both, of
16 the district therefor, as herein provided;
- 17 (10) To acquire by purchase or otherwise, a system of waterworks, and to build, enlarge,
18 improve, extend and equip such system for the uses and purposes of the district;
- 19 (11) To certify to the county commission or county commissions of the county or
20 counties within which such district is situate, the amount or amounts to be provided by the levy
21 of a tax upon all taxable property within the district to create an interest and sinking fund for the
22 payment of general obligation bonds of the district and the interest thereon; and also
- 23 (12) To create an incidental fund to take care of all costs and expenses incurred in
24 incorporating the district, and all obligations contracted prior thereto and connected therewith;
25 and
- 26 (13) To purchase equipment and supplies needed in the operation of the water system
27 of the district; provided, however, that the power to create an incidental fund by the levy of a
28 general property tax shall cease after two annual levies therefor shall have been made, and such
29 levy shall not exceed fifteen cents per annum on each one hundred dollars assessed valuation of
30 taxable property within the district;

31 (14) To provide for the collection of taxes and rates or charges for water and water
32 service **or sewer service and to establish, make, and collect fees and charges for the**
33 **construction of water or sewerage systems;**

34 (15) To sell and distribute water to the inhabitants of the district and to consumers
35 outside the district, delivered within or at the boundaries of the district;

36 (16) To fix rates for the sale of water; and

37 (17) To make general rules and regulations in relation to the management of the affairs
38 of the district.

247.060. 1. The management of the business and affairs of the district is hereby vested
2 in a board of directors, who shall have all the powers conferred upon the district except as herein
3 otherwise provided, who shall serve without pay. It shall be composed of five members, each
4 of whom shall be a voter of the district and shall have resided in said district one whole year
5 immediately prior to his election. A member shall be at least twenty-five years of age and shall
6 not be delinquent in the payment of taxes at the time of his election. Except as provided in
7 subsection 2 of this section, the term of office of a member of the board shall be three years. The
8 remaining members of the board shall appoint a qualified person to fill any vacancy on the board.
9 If no qualified person who lives in the subdistrict for which there is a vacancy is willing to serve
10 on the board, the board may appoint an otherwise qualified person, who lives in the district but
11 not in the subdistrict in which the vacancy exists to fill such vacancy.

12 2. After notification by certified mail that he or she has two consecutive unexcused
13 absences, any member of the board failing to attend the meetings of the board for three
14 consecutive regular meetings, unless excused by the board for reasons satisfactory to the board,
15 shall be deemed to have vacated the seat, and the secretary of the board shall certify that fact to
16 the board. The vacancy shall be filled as other vacancies occurring in the board.

17 3. The initial members of the board shall be appointed by the circuit court and one shall
18 serve until the immediately following first Tuesday after the first Monday in June, two shall
19 serve until the first Tuesday after the first Monday in June on the second year following their
20 appointment and the remaining appointees shall serve until the first Tuesday after the first
21 Monday in June on the third year following their appointment. On the expiration of such terms
22 and on the expiration of any subsequent term, elections shall be held as otherwise provided by
23 law, and such elections shall be held in April pursuant to section 247.180.

24 **4. Directors elected in 2008, 2009, and 2010 shall serve from the first Tuesday after**
25 **the first Monday in June until the first Tuesday in April of the third year following the**
26 **year of their election. All directors elected thereafter shall serve from the first Tuesday in**
27 **April until the first Tuesday in April of the third year following the year of their election.**

247.110. 1. Subject to such regulation and control as may now exist in or may hereafter be conferred upon the public service commission of the state of Missouri, the fixing of rates, fees, or charges for **the construction of water systems or sewer systems of the provision of** water or water service **or sewer service** furnished by a district incorporated under sections 247.010 to 247.220 is hereby vested in its board of directors. The rates, fees, or charges to be so fixed **may be determined by any reasonable plan or reasonable method of calculation established by the board of directors of the district and** shall, at all times, be reasonable, but in determining the reasonableness of rates, fees, or charges, the board shall take into consideration the sum or sums required to retire outstanding special obligation bonded indebtedness of the district and the interest accruing thereon, the need for extensions of mains, repairs, depreciation, enlargement of plant, adequate service, obsolescence, overhead charges, operating expenses, and the need of an operating fund out of which the district may protect itself in emergencies and out of which the incidental expenses of the district may readily be met.

2. Any fee or charge for **the construction of water systems or sewer systems or the provision of** water or water services **or sewer services** levied by the board of directors of a water district shall be due at such time or times as specified by the board and may be considered delinquent if not paid by the due date. The board may assess penalties on delinquent payments owed to the district. These penalties shall not exceed a reasonable amount.

3. Upon ten days prior notice to the person **delinquent in paying any fee or charge or** to whom water service **or sewer service** was delivered, the board of directors of a water district may cause to be filed with the recorder of deeds in the county where the land is located a legal description of the property on which water **or sewer fees or** charges are thirty days or more delinquent, the names and addresses of the title owners and the amount due, provided the person who owns the property is the same person who owes for the water **or sewer** service delivered **or who is delinquent in paying the fees or charges**, which shall constitute a lien upon the land so charged. The board shall file with the recorder of deeds a notice of satisfaction when the delinquent amounts, any interest on the delinquent amounts and any recording fees or attorney fees have been paid in full.

4. The lien authorized in this section may be enforced by an action filed in the circuit court having jurisdiction in the county where water services are delivered. The pleadings, practice, process, and other proceedings in cases arising under this section shall be the same as in ordinary civil actions and proceedings in circuit courts.

250.231. Any city, town [or], village, **or sewer district** operating a waterworks or sewer system shall have all of the powers necessary and convenient to provide for the **construction**, operation, maintenance, administration and regulation, including the adoption of rules and regulations, of any individual home or business sewerage systems within its jurisdiction.

250.233. Any city, town [or] , village, **or sewer district** operating a sewerage system or
2 waterworks may establish, make and collect charges **and fees for the construction of water**
3 **systems or sewerage systems and the provision of water and water services or** sewerage
4 services, including **connection fees and** tap-on fees. The charges may be set as a flat fee [or]
5 , **may be** based upon the amount of water supplied to the premises, **or may be determined by**
6 **any other reasonable plan or reasonable method of calculation established by the**
7 **governing body of the city, town, village, or sewer district**, and shall be in addition to those
8 charges which may be levied and collected for maintenance, repair and administration, including
9 debt service expenses. Any private water company or public water supply district supplying
10 water to the premises located within said city, town or village shall, at reasonable charge upon
11 reasonable request, make available to such city, town or village its records and books so that such
12 city, town or village may obtain therefrom such data as may be necessary to calculate the charges
13 for sewer service. Prior to establishing any such **water or** sewer charges, public hearings shall
14 be held thereon and at least thirty days' notice shall be given thereof.

253.095. In order to further the interpretive or educational functions of Missouri state
2 parks, the director of the Missouri department of natural resources is authorized to enter into
3 agreements with private, not-for-profit organizations that are organized [solely] to provide
4 cooperative, interpretive, **facility enhancement** or educational services to any [one] Missouri
5 state park. The director may provide state park facility space **and incidental staff support** to
6 such an organization under a cooperative agreement, **which reimburses the department for the**
7 **actual costs of such space and incidental staff support and clearly demonstrates the fiscal,**
8 **interpretive, educational, and facility enhancement benefits to the state.** Net proceeds
9 received from the sale of publications or other materials **and services** provided by an
10 organization pursuant to such an agreement entered into under this section shall be retained by
11 the organization for use in the interpretive or educational services provided [to such park that the
12 organization is designated to serve] **in state parks.**

256.700. 1. Any operator desiring to engage in surface mining who applies for a
2 **permit under section 444.772, RSMo, shall in addition to all other fees authorized under**
3 **such section, annually submit a geologic resources fee. Such fee shall be deposited in the**
4 **geologic resources fund established under section 256.705. For any operator of a gravel**
5 **mining operation where the annual tonnage of gravel mined by such operator is less than**
6 **five thousand tons, there shall be no fee under this section.**
7
8 **2. The director of the department of natural resources may require a geologic**
9 **resources fee for each permit not to exceed one hundred dollars. The director may also**
10 **require a geologic resources fee for each site listed on a permit not to exceed one hundred**
11 **dollars for each site. The director may also require a geologic resources fee for each acre**

11 permitted by the operator under section 444.772, RSMo, not to exceed ten dollars per acre.
12 If such fee is assessed, the fee per acre on all acres bonded by a single operator that exceeds
13 a total of three hundred acres shall be reduced by fifty percent. In no case shall the
14 geologic resources fee portion for any permit issued under section 444.772, RSMo, be more
15 than three thousand five hundred dollars.

16 3. Beginning August 28, 2007, the geologic resources fee shall be set at a permit fee
17 of fifty dollars, a site fee of fifty dollars, and an acre fee of six dollars. Fees may be raised
18 as allowed in this subsection by a regulation change promulgated by the director of the
19 department of natural resources. Prior to such a regulation change, the director shall
20 consult the industrial minerals advisory council created under section 256.710 in order to
21 determine the need for such an increase in fees.

22 4. Fees imposed under this section shall become effective August 28, 2007, and shall
23 expire on December 31, 2020. No other provisions of sections 256.700 to 256.710 shall
24 expire.

256.705. 1. All sums received through the payment of fees under section 256.700
2 shall be placed in the state treasury and credited to the "Geologic Resources Fund" which
3 is hereby created.

4 2. After appropriation by the general assembly, the money in such fund shall be
5 expended to collect, process, manage, and distribute geologic and hydrologic resource
6 information pertaining to mineral resource potential in order to assist the mineral industry
7 and for no other purpose. Such funds shall be utilized by the division of geology and land
8 survey within the department of natural resources.

9 3. Any portion of the fund not immediately needed for the purposes authorized
10 shall be invested by the state treasurer as provided by the constitution and laws of this
11 state. All income from such investments shall, unless otherwise prohibited by the
12 constitution of this state, be deposited in the geologic resources fund. The provisions of
13 section 33.080, RSMo, relating to the transfer of unexpended balances in various funds to
14 the general revenue fund at the end of each biennium shall not apply to funds in the
15 geologic resources fund.

16 4. General revenue of the state or other state funds may be appropriated or
17 expended for the administration of sections 256.700 to 256.710. The state geologist may
18 enter into a memorandum of understanding or other agreement that allows for state or
19 federal funds to supplement the geologic resources fund.

256.710. 1. There is hereby created an advisory council to the state geologist known
2 as the "Industrial Minerals Advisory Council". The council shall be composed of nine
3 members, eight of whom shall be appointed by the director of the department of natural

4 resources. The eight appointed members shall consist of three representatives of the
5 limestone quarry operators, one representative of the clay mining industry, one
6 representative of the sandstone industry, one representative of the sand and gravel mining
7 industry, one representative of the barite mining industry and one representative of the
8 granite mining industry. The director of the department of transportation, or his or her
9 designee, shall also serve as a member of the council. The director of the department of
10 natural resources or his or her designee shall serve as a nonvoting, ex officio member of the
11 council in addition to the nine members provided by this subsection and shall act as
12 chairperson of the council. As chairperson, the director of the department of natural
13 resources, or his or her designee, shall convene the council as needed and preside over all
14 council meetings.

15 **2. The advisory council shall:**

16 **(1) Meet at least once each year;**

17 **(2) Annually review with the state geologist the income received and expenditures**
18 **made under sections 256.700 and 256.705;**

19 **(3) Consider all information and advise the director of the department of natural**
20 **resources in determining the method and amount of fees to be assessed;**

21 **(4) In performing its duties under this subsection, represent the best interests of the**
22 **Missouri mining industry;**

23 **(5) Serve in an advisory capacity in all matters pertaining to the administration of**
24 **this section and section 256.700;**

25 **(6) Serve in an advisory capacity in all other matters brought before the council by**
26 **the director of the department of natural resources.**

27 **3. All members of the advisory council, with the exception of the director of the**
28 **department of transportation or his or her designee who shall serve indefinitely, shall serve**
29 **for terms of three years and until their successors are duly appointed and qualified; except**
30 **that, of the members first appointed:**

31 **(1) One member who represents the limestone quarry operators, the representative**
32 **of the clay mining industry, and the representative of the sandstone mining industry shall**
33 **serve terms of three years;**

34 **(2) One member who represents the limestone quarry operators, the representative**
35 **of the sand and gravel mining industry, and the representative of the barite mining**
36 **industry shall serve terms of two years; and**

37 **(3) One member who represents the limestone quarry operators, and the**
38 **representative of the granite mining industry shall serve a term of one year.**

39 **4. All members shall be residents of this state. Any member may be reappointed.**

40 **5. All members shall be reimbursed for reasonable expenses incurred in the**
41 **performance of their official duties in accordance with the reimbursement policy set by the**
42 **director. All reimbursements paid under this section shall be paid from fees collected**
43 **under section 256.700.**

44 **6. Every vacancy on the advisory council shall be filled by the director of the**
45 **department of natural resources. The person selected to fill any such vacancy shall possess**
46 **the same qualifications required by this section as the member he or she replaces and shall**
47 **serve until the end of the unexpired term of his or her predecessor.**

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 (29) **"Plasma arc technology", a process that converts electrical energy into thermal**
94 **energy. This electric arc is created when an ionized gas transfers electric power between**
95 **two or more electrodes;**

96 [(27)] (30) "Postclosure plan", plans, designs and relevant data which specify the
97 methods and schedule by which the operator shall perform necessary monitoring and care for the
98 area after closure to achieve the purposes of sections 260.200 to 260.345 and the regulations
99 promulgated thereunder;

100 [(28)] **(31)** "Recovered materials", those materials which have been diverted or removed
101 from the solid waste stream for sale, use, reuse or recycling, whether or not they require
102 subsequent separation and processing;

103 [(29)] **(32)** "Recycled content", the proportion of fiber in a newspaper which is derived
104 from postconsumer waste;

105 [(30)] **(33)** "Recycling", the separation and reuse of materials which might otherwise be
106 disposed of as solid waste;

107 [(31)] **(34)** "Resource recovery", a process by which recyclable and recoverable material
108 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 [(32)] **(35)** "Resource recovery facility", a facility in which recyclable and recoverable
111 material is removed from the waste stream to the greatest extent possible, as determined by the
112 department and pursuant to department standards, for reuse or remanufacture;

113 [(33)] **(36)** "Sanitary landfill", a solid waste disposal area which accepts commercial and
114 residential solid waste;

115 [(34)] **(37)** "Scrap tire", a tire that is no longer suitable for its original intended purpose
116 because of wear, damage, or defect;

117 [(35)] **(38)** "Scrap tire collection center", a site where scrap tires are collected prior to
118 being offered for recycling or processing and where fewer than five hundred tires are kept on site
119 on any given day;

120 [(36)] **(39)** "Scrap tire end-user facility", a site where scrap tires are used as a fuel or fuel
121 supplement or converted into a useable product. Baled or compressed tires used in structures,
122 or used at recreational facilities, or used for flood or erosion control shall be considered an end
123 use;

124 [(37)] **(40)** "Scrap tire generator", a person who sells tires at retail or any other person,
125 firm, corporation, or government entity that generates scrap tires;

126 [(38)] **(41)** "Scrap tire processing facility", a site where tires are reduced in volume by
127 shredding, cutting, or chipping or otherwise altered to facilitate recycling, resource recovery, or
128 disposal;

129 [(39)] **(42)** "Scrap tire site", a site at which five hundred or more scrap tires are
130 accumulated, but not including a site owned or operated by a scrap tire end-user that burns scrap
131 tires for the generation of energy or converts scrap tires to a useful product;

132 [(40)] **(43)** "Solid waste", garbage, refuse and other discarded materials including, but
133 not limited to, solid and semisolid waste materials resulting from industrial, commercial,
134 agricultural, governmental and domestic activities, but does not include hazardous waste as

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

137 [(41)] **(44)** "Solid waste disposal area", any area used for the disposal of solid waste from
138 more than one residential premises, or one or more commercial, industrial, manufacturing,
139 recreational, or governmental operations;

140 [(42)] **(45)** "Solid waste fee", a fee imposed pursuant to sections 260.200 to 260.345 and
141 may be:

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

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

144 [(43)] **(46)** "Solid waste management area", a solid waste disposal area which also
145 includes one or more of the functions contained in the definitions of recycling, resource recovery
146 facility, waste tire collection center, waste tire processing facility, waste tire site or solid waste
147 processing facility, excluding incineration;

148 [(44)] **(47)** "Solid waste management system", the entire process of managing solid waste
149 in a manner which minimizes the generation and subsequent disposal of solid waste, including
150 waste reduction, source separation, collection, storage, transportation, recycling, resource
151 recovery, volume minimization, processing, market development, and disposal of solid wastes;

152 [(45)] **(48)** "Solid waste processing facility", any facility where solid wastes are salvaged
153 and processed, including:

154 (a) A transfer station; or

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

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

158 **(d) A plasma arc technology facility;**

159 [(46)] **(49)** "Solid waste technician", an individual who has successfully completed
160 training in the practical aspects of the design, operation and maintenance of a permitted solid
161 waste processing facility or solid waste disposal area in accordance with sections 260.200 to
162 260.345;

163 [(47)] **(50)** "Tire", a continuous solid or pneumatic rubber covering encircling the wheel
164 of any self-propelled vehicle not operated exclusively upon tracks, or a trailer as defined in
165 chapter 301, RSMo, except farm tractors and farm implements owned and operated by a family
166 farm or family farm corporation as defined in section 350.010, RSMo;

167 [(48)] **(51)** "Used motor oil", any motor oil which, as a result of use, becomes unsuitable
168 for its original purpose due to loss of original properties or the presence of impurities, but used
169 motor oil shall not include ethylene glycol, oils used for solvent purposes, oil filters that have
170 been drained of free flowing used oil, oily waste, oil recovered from oil tank cleaning operations,

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

173 [(49)] (52) "Utility waste landfill", a solid waste disposal area used for fly ash waste,
174 bottom ash waste, slag waste and flue gas emission control waste generated primarily from the
175 combustion of coal or other fossil fuels;

176 [(50)] (53) "Yard waste", leaves, grass clippings, yard and garden vegetation and
177 Christmas trees. The term does not include stumps, roots or shrubs with intact root balls.

178 2. For the purposes of this section and sections 260.270 to [260.278] **260.279** and any
179 rules in place as of August 28, 2005, or promulgated under said sections, the term "scrap" shall
180 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 first degree] if he purposely or knowingly disposes of or causes the disposal of more than five hundred pounds or one hundred cubic feet of commercial or residential solid waste [on any property in this state other than a sanitary landfill in violation of section 260.210] **on any property in this state other than a solid waste processing facility or solid waste disposal area having a permit as required by section 260.205; provided that, this subsection shall not prohibit the use or require a solid waste permit for the use of solid wastes in normal farming operations or in the processing or manufacturing of other products in a manner that will not create a public nuisance or adversely affect the public health and shall not prohibit the disposal of or require a solid waste permit for the disposal by an individual of solid wastes resulting from his or her own residential activities on property owned or lawfully occupied by him or her when such wastes do not thereby create a public nuisance or adversely affect the public health.** Criminal disposition of solid waste [in the first degree] is a class [A misdemeanor] **D felony**. In addition to other penalties prescribed by law, a person convicted of criminal disposition of solid waste [in the first degree] is subject to a fine, and the magnitude of the fine shall reflect the seriousness or potential seriousness of the threat to human health and the environment posed by the violation, but shall not exceed twenty thousand dollars, except that if a court of competent jurisdiction determines that the person responsible for illegal disposal of solid waste under this subsection did so for remuneration as a part of an ongoing commercial activity, the court shall set a fine which reflects the seriousness or potential threat to human health and the environment which at least equals the economic gain obtained by the person, and such fine may exceed the maximum established herein.

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

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

4. A person commits the offense of criminal disposition of solid waste in the second degree if he purposely or knowingly disposes of or causes the disposal of less than the amount 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 will 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.

444.765. Wherever used or referred to in sections 444.760 to 444.790, unless a different
2 meaning clearly appears from the context, the following terms mean:

3 (1) "Affected land", the pit area or area from which overburden shall have been removed,
4 or upon which overburden has been deposited after September 28, 1971. When mining is
5 conducted underground, affected land means any excavation or removal of overburden required
6 to create access to mine openings, except that areas of disturbance encompassed by the actual
7 underground openings for air shafts, portals, adits and haul roads in addition to disturbances
8 within fifty feet of any openings for haul roads, portals or adits shall not be considered affected
9 land. Sites which exceed the excluded areas by more than one acre for underground mining
10 operations shall obtain a permit for the total extent of affected lands with no exclusions as
11 required under sections 444.760 to 444.790;

12 (2) "Beneficiation", the dressing or processing of minerals for the purpose of regulating
13 the size of the desired product, removing unwanted constituents, and improving the quality or
14 purity of a desired product;

15 (3) "Commercial purpose", the purpose of extracting minerals for their value in sales to
16 other persons or for incorporation into a product;

17 (4) "Commission", the land reclamation commission in the department of natural
18 resources;

19 (5) "Construction", construction, erection, alteration, maintenance, or repair of any
20 facility including but not limited to any building, structure, highway, road, bridge, viaduct, water
21 or sewer line, pipeline or utility line, and demolition, excavation, land clearance, and moving of
22 minerals or fill dirt in connection therewith;

23 (6) "Director", the staff director of the land reclamation commission;

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

25 (8) "Excavation", any operation in which earth, minerals, or other material in or on the
26 ground is moved, removed, or otherwise displaced for purposes of construction at the site of
27 excavation, by means of any tools, equipment, or explosives and includes, but is not limited to,
28 backfilling, grading, trenching, digging, ditching, drilling, well-drilling, auguring, boring,
29 tunneling, scraping, cable or pipe plowing, plowing-in, pulling-in, ripping, driving, demolition
30 of structures, and the use of high-velocity air to disintegrate and suction to remove earth and
31 other materials. For purposes of this section, excavation or removal of overburden for purposes
32 of mining for a commercial purpose or for purposes of reclamation of land subjected to surface
33 mining is not included in this definition. Neither shall excavations of sand and gravel by
34 political subdivisions using their own personnel and equipment or private individuals for
35 personal use be included in this definition;

36 [(8)] (9) "Fill dirt", material removed from its natural location through mining or
37 construction activity, which is a mixture of unconsolidated earthy material, which may include
38 some minerals, and which is used to fill, raise, or level the surface of the ground at the site of
39 disposition, which may be at the site it was removed or on other property, and which is not
40 processed to extract mineral components of the mixture. Backfill material for use in completing
41 reclamation is not included in this definition;

42 [(9)] (10) "Land improvement", work performed by or for a public or private owner or
43 lessor of real property for purposes of improving the suitability of the property for construction
44 at an undetermined future date, where specific plans for construction do not currently exist;

45 [(10)] (11) "Mineral", a constituent of the earth in a solid state which, when extracted
46 from the earth, is usable in its natural form or is capable of conversion into a usable form as a
47 chemical, an energy source, or raw material for manufacturing or construction material. For the

48 purposes of this section, this definition includes barite, tar sands, and oil shales, but does not
49 include iron, lead, zinc, gold, silver, coal, surface or subsurface water, fill dirt, natural oil or gas
50 together with other chemicals recovered therewith;

51 [(11)] (12) "Mining", the removal of overburden and extraction of underlying minerals
52 or the extraction of minerals from exposed natural deposits for a commercial purpose, as defined
53 by this section;

54 [(12)] (13) "Operator", any person, firm or corporation engaged in and controlling a
55 surface mining operation;

56 [(13)] (14) "Overburden", all of the earth and other materials which lie above natural
57 deposits of minerals; and also means such earth and other materials disturbed from their natural
58 state in the process of surface mining other than what is defined in subdivision (10) of this
59 section;

60 [(14)] (15) "Peak", a projecting point of overburden created in the surface mining
61 process;

62 [(15)] (16) "Pit", the place where minerals are being or have been mined by surface
63 mining;

64 [(16)] (17) "Public entity", the state or any officer, official, authority, board, or
65 commission of the state and any county, city, or other political subdivision of the state, or any
66 institution supported in whole or in part by public funds;

67 [(17)] (18) "Refuse", all waste material directly connected with the cleaning and
68 preparation of substance mined by surface mining;

69 [(18)] (19) "Ridge", a lengthened elevation of overburden created in the surface mining
70 process;

71 [(19)] (20) "Site" or "mining site", any location or group of associated locations where
72 minerals are being surface mined by the same operator;

73 [(20)] (21) "Surface mining", the mining of minerals for commercial purposes by
74 removing the overburden lying above natural deposits thereof, and mining directly from the
75 natural deposits thereby exposed, and shall include mining of exposed natural deposits of such
76 minerals over which no overburden lies and, after August 28, 1990, the surface effects of
77 underground mining operations for such minerals. For purposes of the provisions of sections
78 444.760 to 444.790, surface mining shall not include excavations to move minerals or fill dirt
79 within the confines of the real property where excavation occurs or to remove minerals or fill dirt
80 from the real property in preparation for construction at the site of excavation. No excavation
81 of fill dirt shall be deemed surface mining regardless of the site of disposition or whether
82 construction occurs at the site of excavation.

444.766. 1. No provision of sections 444.760 to 444.790 shall apply to the excavation of minerals or fill dirt for the purposes of construction or land improvement as unrelated to the mining of minerals for a commercial purpose or reclamation of land subsequent to the surface mining of minerals.

2. No permit is required under sections 444.760 to 444.790 for the purpose of moving minerals or fill dirt within the confines of real property where excavation occurs, or for purposes of removing minerals or fill dirt from the real property as provided in this section.

(1) Excavations for construction pursuant to engineering plans and specifications prepared by an architect, professional engineer, or landscape architect licensed pursuant to chapter 327, RSMo, or any excavation for construction performed under a written contract that requires excavation of minerals or fill dirt and establishes dates for completion of work and specifies the terms of payment for work, shall be presumed to be for the purposes of construction and shall not require a permit for surface mining.

(2) Excavations for purposes of land improvement where minerals removed from the site are excess minerals that cannot be used on-site for any practical purpose and at no time are subjected to crushing, screening, or other means of beneficiation with the exception of removal of **dead trees, decaying vegetation**, tree limbs, and stumps shall be presumed to be for the purposes of land improvement and shall not require a permit for surface mining, provided that:

(a) The site has not been designated as a surface mine by the federal Mine Safety and Health Administration;

(b) Minerals from the property are not used for commercial purposes on a frequent or ongoing basis; and

(c) A pit, peak, or ridge does not persist at the site as inconsistent with the purposes of land improvement.

(3) Permits shall not be required for the excavation of fill dirt, regardless of the site of disposition or whether construction occurs at the site of excavation.

3. (1) If the director or his or her designee determines that a surface mining permit is required for real property which is purported to be for purposes of construction or land improvement not requiring a surface mining permit under this section, such determination shall be sent in writing to the owner of the property by certified mail stating the reasons for such determination. Upon request of the person receiving the letter, an informal conference shall be scheduled with the director within fifteen calendar days to discuss the determination. Following the informal conference, the director shall issue a written determination regarding his or her findings of fact no later than thirty calendar days after the date of the conference. If the director agrees that a surface mining permit is required and the person disagrees with that decision, the person may make a written request for a hearing before the commission at its next regular

37 meeting. Such written request shall be filed within thirty calendar days after receipt of the
38 director's written determination, except when the thirtieth day would be later than the date of the
39 next regularly scheduled commission meeting, the written request shall be filed at least seven
40 days prior to the commission meeting unless the director and the person filing the request
41 mutually agree to place the matter on the commission's agenda for a later meeting. The
42 commission shall issue a written determination as to whether a surface mining permit is required
43 under this state's law within thirty calendar days after the hearing. The written determination
44 may be appealed as provided under this chapter.

45 (2) Until a final written determination has been issued under the process established
46 under subdivision (1) of this subsection, the person receiving a letter stating the reasons a mining
47 permit is required may continue activity at the site in dispute. The commission may stay the
48 director's determination. If the final written determination is that a permit is required, all fees
49 otherwise provided by statute or rules of the commission shall apply. If the determination is that
50 no permit is required, no permit fees shall be required by the director or the commission.

51 (3) The process set out in this subsection for determining whether a mining permit is
52 required shall not be subject to the hearing requirements of section 444.789.

444.770. 1. It shall be unlawful for any operator to engage in surface mining without
2 first obtaining from the commission a permit to do so, in such form as is hereinafter provided,
3 including any operator involved in any gravel mining operation where the annual tonnage of
4 gravel mined by such operator is less than five thousand tons, **except as provided in subsection**
5 **2 of this section.**

6 2. (1) **A property owner or operator conducting gravel removal at the request of**
7 **a property owner for the primary purpose of managing seasonal gravel accretion on**
8 **property not used primarily for gravel mining, or a political subdivision who contracts**
9 **with an operator for excavation to obtain sand and gravel material solely for the use of**
10 **such political subdivision shall be exempt from obtaining a permit as required in**
11 **subsection 1 of this section. Such gravel removal shall be conducted solely on the property**
12 **owner's or political subdivision's property and shall be in accordance with department**
13 **guidelines, rules, and regulations. The property owner shall notify the department before**
14 **any person or operator conducts gravel removal from the property owner's property if the**
15 **gravel is sold or intended to be sold commercially. Notification shall include the nature of**
16 **the activity, name of the county and stream in which the site is located and the property**
17 **owner's name. The property owner shall not be required to notify the department**
18 **regarding any gravel removal at each site location for up to one year from the original**
19 **notification regarding that site. The property owner shall renotify the department before**
20 **any person or operator conducts gravel removal at any site after the expiration of one year**

21 from the previous notification regarding that site. At the time of each notification to the
22 department, the department shall provide the property owner with a copy of the
23 department's guidelines, rules, and regulations relevant to the activity reported. Said
24 guidelines, rules and regulations may be transmitted either by mail or via the Internet.

25 (2) The annual tonnage of gravel mined by such property owner or operator
26 conducting gravel removal at the request of a property owner shall be less than five
27 thousand tons, with a site limitation of fifteen hundred tons annually. Any operator
28 conducting gravel removal at the request of a property owner that has removed five
29 thousand tons of sand and gravel material within one calendar year shall have a watershed
30 management practice plan approved by the commission in order to remove any future sand
31 or gravel material the remainder of the calendar year. The application for approval shall
32 be accompanied by a three hundred dollar application fee and shall contain the name of
33 the watershed from which the operator will be conducting sand and gravel removal, the
34 location within the watershed district that the sand and gravel will be removed, and the
35 description of the vehicles and equipment used for removal. Upon approval of the
36 watershed management practice plan, the department shall provide a copy of the relevant
37 commission regulations to the operator.

38 (3) No property owner or operator conducting gravel removal at the request of a
39 property owner for the primary purpose of managing seasonal gravel accretion on
40 property not used primarily for gravel mining, or a political subdivision who contracts
41 with an operator for excavation to obtain sand and gravel material solely for the use of
42 such political subdivision shall conduct gravel removal annually from March fifteenth to
43 June first.

44 (4) No property owner or operator conducting gravel removal at the request of a
45 property owner for the primary purpose of managing seasonal gravel accretion on
46 property not used primarily for gravel mining shall conduct gravel removal from any site
47 located within a distance, to be determined by the commission and included in the
48 guidelines, rules, and regulations given to the property owner at the time of notification,
49 of any building, structure, highway, road, bridge, viaduct, water or sewer line, and pipeline
50 or utility line.

51 3. Sections 444.760 to 444.790 shall apply only to those areas which are opened on or
52 after January 1, 1972, or to the extended portion of affected areas extended after that date. The
53 effective date of this section for minerals not previously covered under the provisions of sections
54 444.760 to 444.790 shall be August 28, 1990.

55 [3.] 4. All surface mining operations where land is affected after September 28, 1971,
56 which are under the control of any government agency whose regulations are equal to or greater

57 than those imposed by section 444.774, are not subject to the further provisions of sections
58 444.760 to 444.790, except that such operations shall be registered with the land reclamation
59 commission.

60 [4.] 5. Any portion of a surface mining operation which is subject to the provisions of
61 sections 260.200 to 260.245, RSMo, and the regulations promulgated thereunder, shall not be
62 subject to the provisions of sections 444.760 to 444.790, and any bonds or portions thereof
63 applicable to such operations shall be promptly released by the commission, and the associated
64 permits canceled by the commission upon presentation to it of satisfactory evidence that the
65 operator has received a permit pursuant to section 260.205, RSMo, and the regulations
66 promulgated thereunder. Any land reclamation bond associated with such released permits shall
67 be retained by the commission until presentation to the commission of satisfactory evidence that:

68 (1) The operator has complied with sections 260.226 and 260.227, RSMo, and the
69 regulations promulgated thereunder, pertaining to closure and postclosure plans and financial
70 assurance instruments; and

71 (2) The operator has commenced operation of the solid waste disposal area or sanitary
72 landfill as those terms are defined in chapter 260, RSMo.

73 [5.] 6. Notwithstanding the provisions of subsection 1 of this section, any political
74 subdivision which uses its own personnel and equipment or any private individual for personal
75 use may conduct in-stream gravel operations without obtaining from the commission a permit
76 to conduct such an activity.

77 **7. Any person filing a complaint of an alleged violation of this section, with the**
78 **department, shall identify himself by name and telephone number, provide the date and**
79 **location of the violation, and provide adequate information, as determined by the**
80 **department, that there has been a violation. Any records, statements, or communications**
81 **submitted by any person to the department relevant to the complaint shall remain**
82 **confidential and used solely by the department to investigate such alleged violation.**

444.772. 1. Any operator desiring to engage in surface mining shall make written
2 application to the director for a permit.

3 2. Application for permit shall be made on a form prescribed by the commission and
4 shall include:

5 (1) The name of all persons with any interest in the land to be mined;

6 (2) The source of the applicant's legal right to mine the land affected by the permit;

7 (3) The permanent and temporary post office address of the applicant;

8 (4) Whether the applicant or any person associated with the applicant holds or has held
9 any other permits pursuant to sections 444.500 to 444.790, and an identification of such permits;

10 (5) The written consent of the applicant and any other persons necessary to grant access
11 to the commission or the director to the area of land affected under application from the date of
12 application until the expiration of any permit granted under the application and thereafter for
13 such time as is necessary to assure compliance with all provisions of sections 444.500 to 444.790
14 or any rule or regulation promulgated pursuant to them. Permit applications submitted by
15 operators who mine an annual tonnage of less than ten thousand tons shall be required to include
16 written consent from the operator to grant access to the commission or the director to the area
17 of land affected;

18 (6) A description of the tract or tracts of land and the estimated number of acres thereof
19 to be affected by the surface mining of the applicant for the next succeeding twelve months; and

20 (7) Such other information that the commission may require as such information applies
21 to land reclamation.

22 3. The application for a permit shall be accompanied by a map in a scale and form
23 specified by the commission by regulation.

24 4. The application shall be accompanied by a bond, security or certificate meeting the
25 requirements of section 444.778, **a geologic resources fee authorized under section 256.700,**
26 **RSMo**, and a permit fee approved by the commission not to exceed [six hundred] **one thousand**
27 dollars. The commission may also require a fee for each site listed on a permit not to exceed
28 [three] **four** hundred dollars for each site. If mining operations are not conducted at a site for
29 six months or more during any year, the fee for such site for that year shall be reduced by fifty
30 percent. The commission may also require a fee for each acre bonded by the operator pursuant
31 to section 444.778 not to exceed [ten] **twenty** dollars per acre. If such fee is assessed, the
32 per-acre fee on all acres bonded by a single operator that exceed a total of [one] **two** hundred
33 acres shall be reduced by fifty percent. In no case shall the total fee for any permit be more than
34 [two] **three** thousand [five hundred] dollars. Permit and renewal fees shall be established by
35 rule, **except for the initial fees established in this subsection**, and shall be set at levels that
36 recover the cost of administering and enforcing sections 444.760 to 444.790, making allowances
37 for grants and other sources of funds. The director shall submit a report to the commission and
38 the public each year that describes the number of employees and the activities performed the
39 previous calendar year to administer sections 444.760 to 444.790. For any operator of a gravel
40 mining operation where the annual tonnage of gravel mined by such operator is less than five
41 thousand tons, the total cost of submitting an application shall be three hundred dollars. The
42 issued permit shall be valid from the date of its issuance until the date specified in the mine plan
43 unless sooner revoked or suspended as provided in sections 444.760 to 444.790. **Beginning**
44 **August 28, 2007, the initial fees shall be a permit fee of eight hundred dollars, a site fee of**
45 **four hundred dollars, and an acre fee of ten dollars, with a maximum fee of three thousand**

46 **dollars. Fees may increase as allowed in this subsection after a regulation change that**
47 **demonstrates the need for increased fees.**

48 5. An operator desiring to have his or her permit amended to cover additional land may
49 file an amended application with the commission. Upon receipt of the amended application, and
50 such additional fee and bond as may be required pursuant to the provisions of sections 444.760
51 to 444.790, the director shall, if the applicant complies with all applicable regulatory
52 requirements, issue an amendment to the original permit covering the additional land described
53 in the amended application.

54 6. An operation may withdraw any land covered by a permit, excepting affected land,
55 by notifying the commission thereof, in which case the penalty of the bond or security filed by
56 the operator pursuant to the provisions of sections 444.760 to 444.790 shall be reduced
57 proportionately.

58 7. Where mining or reclamation operations on acreage for which a permit has been
59 issued have not been completed, the permit shall be renewed. The operator shall submit a permit
60 renewal form furnished by the director for an additional permit year and pay a fee equal to an
61 application fee calculated pursuant to subsection 4 of this section, but in no case shall the
62 renewal fee for any operator be more than [two] ~~three~~ thousand [five hundred] dollars. For any
63 operator involved in any gravel mining operation where the annual tonnage of gravel mined by
64 such operator is less than five thousand tons, the permit as to such acreage shall be renewed by
65 applying on a permit renewal form furnished by the director for an additional permit year and
66 payment of a fee of three hundred dollars. Upon receipt of the completed permit renewal form
67 and fee from the operator, the director shall approve the renewal. With approval of the director
68 and operator, the permit renewal may be extended for a portion of an additional year with a
69 corresponding prorating of the renewal fee.

70 8. Where one operator succeeds another at any uncompleted operation, either by sale,
71 assignment, lease or otherwise, the commission may release the first operator from all liability
72 pursuant to sections 444.760 to 444.790 as to that particular operation if both operators have
73 been issued a permit and have otherwise complied with the requirements of sections 444.760 to
74 444.790 and the successor operator assumes as part of his or her obligation pursuant to sections
75 444.760 to 444.790 all liability for the reclamation of the area of land affected by the former
76 operator.

77 9. The application for a permit shall be accompanied by a plan of reclamation that meets
78 the requirements of sections 444.760 to 444.790 and the rules and regulations promulgated
79 pursuant thereto, and shall contain a verified statement by the operator setting forth the proposed
80 method of operation, reclamation, and a conservation plan for the affected area including
81 approximate dates and time of completion, and stating that the operation will meet the

82 requirements of sections 444.760 to 444.790, and any rule or regulation promulgated pursuant
83 to them.

84 10. At the time that a permit application is deemed complete by the director, the operator
85 shall publish a notice of intent to operate a surface mine in any newspaper qualified pursuant to
86 section 493.050, RSMo, to publish legal notices in any county where the land is located. If the
87 director does not respond to a permit application within forty-five calendar days, the application
88 shall be deemed to be complete. Notice in the newspaper shall be posted once a week for four
89 consecutive weeks beginning no more than ten days after the application is deemed complete.
90 The operator shall also send notice of intent to operate a surface mine by certified mail to the
91 governing body of the counties or cities in which the proposed area is located, and to the last
92 known addresses of all record landowners of contiguous real property or real property located
93 adjacent to the proposed mine plan area. The notices shall include the name and address of the
94 operator, a legal description consisting of county, section, township and range, the number of
95 acres involved, a statement that the operator plans to mine a specified mineral during a specified
96 time, and the address of the commission. The notices shall also contain a statement that any
97 person with a direct, personal interest in one or more of the factors the commission may consider
98 in issuing a permit may request a public meeting, a public hearing or file written comments to
99 the director no later than fifteen days following the final public notice publication date.

100 11. The commission may approve a permit application or permit amendment whose
101 operation or reclamation plan deviates from the requirements of sections 444.760 to 444.790 if
102 it can be demonstrated by the operator that the conditions present at the surface mining location
103 warrant an exception. The criteria accepted for consideration when evaluating the merits of an
104 exception or variance to the requirements of sections 444.760 to 444.790 shall be established by
105 regulations.

106 12. Fees imposed pursuant to this section shall become effective August 28, [2001]
107 **2007**, and shall expire on December 31, [2007] **2013**. No other provisions of this section shall
108 expire.

444.774. 1. Every operator to whom a permit is issued pursuant to the provisions of
2 sections 444.760 to 444.790 may engage in surface mining upon the lands described in the
3 permit upon the performance of and subject to the following requirements with respect to such
4 lands:

5 (1) All ridges and peaks of overburden created by surface mining, except areas meeting
6 the qualifications of subdivision (4) of this subsection, or where washing, cleaning or retaining
7 ponds and reservoirs may be formed under subdivision (2) of this subsection, shall be graded to
8 a rolling topography traversable by farm machinery, but such slopes need not be reduced to less
9 than the original grade of that area prior to mining, and the slope of the ridge of overburden

10 resulting from a box cut need not be reduced to less than twenty-five degrees from horizontal
11 whenever the same cannot be practically incorporated into the land reclaimed for wildlife
12 purposes pursuant to subdivision (4) of this subsection. In surface mining the operator shall
13 remove all debris and materials not allowed by the reclamation plan before the bond or any
14 portion thereof may be released;

15 (2) As a means of controlling damaging erosion, the director may require the operator
16 to construct terraces or use such other measures and techniques as are necessary to control soil
17 erosion and siltation on reclaimed land. Such erosion control measures and techniques may also
18 be required on overburden stockpiles if the erosion is causing environmental damage outside the
19 permit area. In determining the grading requirements to restore barite pit areas, the sidewalls of
20 the excavation shall be graded to a point where it blends with the surrounding countryside, but
21 in no case should the contour be such that erosion and siltation be increased;

22 (3) In the surface mining of tar sands, the operator shall recover and collect all spent
23 sands and other refuse yielded from the processing of tar sands, whether such spent sands and
24 refuse are produced at the surface mine or elsewhere, in the manner prescribed by the
25 commission as conditions of the permit, and shall finally dispose of such spent sands and refuse
26 in the manner prescribed by the commission as conditions of the permit and in accordance with
27 the provisions of sections 444.760 to 444.790;

28 (4) Up to and including twenty-five percent of the total acreage to be reclaimed each year
29 need not be graded to a rolling topography if the land is reclaimed for wildlife purposes as
30 required by the commission, except that all peaks and ridges shall be leveled off to a minimum
31 width of thirty feet or one-half the diameter of the base of the pile at the original ground surface
32 whichever is less;

33 (5) Surface mining operations that remove and do not replace the lateral support shall
34 not, unless mutually agreed upon by the operator and the adjacent property owner, remove the
35 lateral support in the vicinity of any established right-of-way line of any public road, street or
36 highway closer than a distance equal to twenty-five feet plus one and one-half times the depth
37 of the unconsolidated material from such right-of-way line to the beginning of the excavation;
38 except that, unless granted a variance by the commission, the minimum distance is fifty feet.
39 The provisions of this subdivision shall apply to all existing surface mining operations beginning
40 August 28, 1990, except as provided in subsection [2] 3 of section 444.770;

41 (6) If surface mining is or has been conducted up to the minimum distance as defined
42 in subdivision (5) of this subsection along an established right-of-way line of any public road,
43 street or highway, a barrier or berm of adequate height shall be placed or constructed along the
44 perimeter of the excavation. Adequate height shall mean a height of no less than three feet.
45 Such barriers or berms shall not be required if barriers, berms or guardrails already exist on the

46 adjoining right-of-way. Barriers or berms of adequate height may also be required by the
47 commission when surface mining is or has been conducted up to the minimum distance as
48 defined in subdivision (5) of this subsection along other property lines, but only as necessary to
49 mitigate serious and obvious threats to public safety;

50 (7) The operator may construct earth dams to form lakes in pits resulting from the final
51 cut in a mining area; except that, the formation of the lakes shall not interfere with underground
52 or other mining operations or damage adjoining property and shall comply with the requirements
53 of subdivision (8) of this subsection;

54 (8) The operator shall cover the exposed face of a mineral seam where acid-forming
55 materials are present, to a depth of not less than two feet with earth that will support plant life
56 or with a permanent water impoundment, terraced or otherwise so constructed as to prevent a
57 constant inflow of water from any stream and to prevent surface water from flowing into such
58 impoundment in such amounts as will cause runoff or spillage from said impoundment in a
59 volume which will cause kills of fish or animals downstream. The operator shall cover an
60 exposed deposit of tar sands, including an exposed face thereof, to a depth of not less than two
61 feet with earth that will support plant life, and in addition may cover such deposit or face with
62 a permanent water impoundment as provided above; however, no water impoundment shall be
63 so constructed as to allow a permanent layer of oil or other hydrocarbon to collect on the surface
64 of such impoundment in an amount which will adversely affect fish, wildfowl and other wildlife
65 in or upon such impoundment;

66 (9) The operator shall reclaim all affected lands except as otherwise provided in sections
67 444.760 to 444.790. The operator shall determine on company-owned land, and with the
68 landowners on leased land for leases that are entered into after August 28, 1990, which parts of
69 the affected land shall be reclaimed for forest, pasture, crop, horticultural, homesite, recreational,
70 industrial or other use including food, shelter, and ground cover for wildlife;

71 (10) The operator, with the approval of the commission, shall sow, set out or plant upon
72 the affected land, seeds, plants, cuttings of trees, shrubs, grasses or legumes. The plantings or
73 seedlings shall be appropriate to the type of reclamation designated by the operator on
74 company-owned land and with the owner on leased land for leases entered into after August 28,
75 1990, and shall be based upon sound agronomic and forestry principles;

76 (11) Surface mining operations conducted in the flood plains of streams and rivers, and
77 subject to periodic flooding, may be exempt from the grading requirements contained in this
78 section if it can be demonstrated to the commission that such operations will be unsafe to pursue
79 or ineffective in achieving reclamation required in this section because of the periodic flooding;

80 (12) Such other requirements as the commission may prescribe by rule or regulation to
81 conform with the purposes and requirements of sections 444.760 to 444.790.

82 2. An operator shall commence the reclamation of the area of land affected by its
83 operation as soon as possible after the completion of surface mining of viable mineral reserves
84 in any portion of the permit area in accordance with the plan of reclamation required by
85 subsection 9 of section 444.772, the rules and regulations of the commission, and the conditions
86 of the permit. Grading shall be completed within twelve months after mining of viable mineral
87 reserves is complete in that portion of the permit area based on the operator's prior mining
88 practices at that site. Mining shall not be deemed complete if the operator can provide credible
89 evidence to the director that viable mineral reserves are present. The seeding and planting of
90 supporting vegetation, as provided in the reclamation plan, shall be completed within twenty-four
91 months after with mining has been completed survival of such supporting vegetation by the
92 second growing season.

93 3. With the approval of the director, the operator may substitute for all or any part of the
94 affected land to be reclaimed, an equal number of acres of land previously mined and not
95 reclaimed. If any area is so substituted the operator shall submit a map and reclamation plan of
96 the substituted area, and this map and reclamation plan shall conform to all requirements with
97 respect to other maps and reclamation plan required by section 444.772. The operator shall be
98 relieved of all obligations pursuant to sections 444.760 to 444.790 with respect to the land for
99 which substitution has been permitted. On leased land, the landowner shall grant written
100 approval to the operator for substitutions made pursuant to this subsection.

101 4. The operator shall file a report with the commission within sixty days after the date
102 of expiration of a permit stating the exact number of acres of land affected by the operation, the
103 extent of the reclamation already accomplished, and such other information as may be required
104 by the commission.

105 5. The operator shall ensure that all affected land where vegetation is to be reestablished
106 is covered with enough topsoil or other approved material in order to provide a proper rooting
107 medium. No topsoil or other approved material is required to be placed on areas described in
108 subdivision (4) of subsection 1 of this section or on any areas to be reclaimed for industrial uses
109 as specified in the reclamation plan.

110 6. The commission may grant such additional time for meeting with the completion dates
111 required by sections 444.760 to 444.790 as are necessary due to an act of God, war, strike, riot,
112 catastrophe, or other good cause shown.

**640.300. Nothing in sections 640.300 to 640.340 shall be interpreted to impede or
2 excuse the disclosure of normal regulatory reporting requirements for environmental
3 compliance, however, no environmental audit shall be disclosed except by lawful subpoena
4 or court order as provided in sections 640.300 to 640.340, in order to encourage owners and
5 operators of facilities regulated under state, federal, regional, or local laws, ordinances,**

6 regulations, permits, or orders to conduct voluntary internal environmental audits of their
7 compliance with those laws, and to promote the prompt disclosure to the department of
8 natural resources in order to correct any deficiencies discovered.

640.305. As used in sections 640.300 to 640.340, the following terms shall mean:

2 (1) "Compliance management system" or "environmental management system",
3 a regulated entity's documented systematic efforts, appropriate to the size and nature of
4 its business, to prevent, detect, and correct noncompliance through all of the following:

5 (a) Compliance policies, standards, and procedures that identify how employees
6 and agents are to meet the requirements of laws, regulations, permits, enforceable
7 agreements, and other sources of authority for environmental requirements;

8 (b) Assignment of overall responsibility for overseeing compliance with policies,
9 standards, and procedures, and assignment of specific responsibility for assuring
10 compliance at each facility or operation;

11 (c) Mechanisms for systematically assuring that compliance policies, standards, and
12 procedures are being carried out, including monitoring and auditing systems reasonably
13 designed to detect and correct noncompliance, periodic evaluation of the overall
14 performance of the compliance management system, or environmental management
15 system, and a means for employees or agents to report noncompliance of environmental
16 requirements without fear of retaliation;

17 (d) Efforts to communicate effectively the regulated entity's standards and
18 procedures to all employees and other agents;

19 (e) Appropriate incentives to managers and employees to perform in accordance
20 with the compliance policies, standards, and procedures, including consistent enforcement
21 through appropriate disciplinary mechanisms; and

22 (f) Procedures for the prompt and appropriate correction of any noncompliance,
23 and any necessary modifications to the regulated entity's compliance management system
24 or environmental management system to prevent future noncompliance;

25 (2) "Department", the department of natural resources;

26 (3) "Environmental audit", a systematic, documented, periodic, and objective
27 review by regulated entities of facility operations and practices related to meeting
28 environmental requirements;

29 (4) "Environmental audit report", the documented analysis, conclusions, and
30 recommendations resulting from an environmental audit, but not including data obtained
31 in or testimonial evidence concerning such audit;

32 (5) "Regulated entity", any entity, including a federal, state, or municipal
33 department or facility, which is regulated under federal or state environmental laws.

640.310. If a regulated entity satisfies all of the conditions of section 640.330, neither the department nor the attorney general may seek penalties, other than the recovery of the economic benefits gained through noncompliance with environmental requirements, for noncompliance of state, federal, or local laws, regulations, permits, or orders relating to environmental requirements discovered and disclosed by the entity. If a regulated entity satisfies all of the conditions of section 640.330, except for the periodic routine assessment through an environmental audit or compliance management system, the department may recover as penalties the economic benefits gained through noncompliance, and reduce any other penalties up to seventy-five percent for noncompliance of state or federal laws, regulations, permits, or orders relating to environmental requirements discovered and disclosed by the entity.

640.315. If a regulated entity establishes that it satisfies subdivisions (1) to (9) of section 640.330, the department shall not recommend to the attorney general or other prosecuting authority that criminal charges be brought against the disclosing entity, as long as the department determines that the noncompliance is not part of a pattern or practice that demonstrates or involves:

(1) A prevalent management philosophy or practice that conceals or condones environmental noncompliance; or

(2) High-level corporate officials' or managers' conscious involvement in, or willful blindness to, noncompliance of federal environmental law.

640.320. Regardless of whether the department recommends the regulated entity for criminal prosecution, the department may recommend for prosecution the criminal acts of individual managers or employees under existing policies guiding the exercise of enforcement discretion.

640.325. 1. The department, the attorney general, and any prosecuting attorney shall not request or use an environmental audit report to initiate a civil or criminal investigation of an entity, including but not limited to the use of such report in routine inspections. If the department has an independent reason to believe that noncompliance has occurred, the department may seek any information relevant to identifying noncompliance or determining liability or extent of harm.

2. The department shall not disclose from any audit report information relating to scientific and technological innovations in which the owner has a proprietary interest or any information which is otherwise protected from disclosure by law.

640.330. In order to receive the benefits of sections 640.310 to 640.325, owners and operators of facilities regulated under state, federal, regional, or local laws, ordinances, regulations, permits, or orders shall comply with the following:

4 **(1) The noncompliance was discovered through:**

5 **(a) An environmental audit; or**

6 **(b) A compliance management system, reflecting the regulated entity's due**
7 **diligence in preventing, detecting, and correcting noncompliance. The regulated entity**
8 **shall provide accurate and complete documentation to the department as to how its**
9 **compliance management system meets the criteria or due diligence and how the regulated**
10 **entity discovered the noncompliance through its compliance management system. The**
11 **department may require the registered entity to make available to the public a description**
12 **of its compliance management system;**

13 **(2) The noncompliance was discovered voluntarily and not through a legally**
14 **mandated monitoring or sampling requirement prescribed by statute, regulation, permit,**
15 **judicial, or administrative order, or consent agreement. For example, sections 640.310 to**
16 **640.325, do not apply to:**

17 **(a) Emissions noncompliance detected through a continuous emissions monitor, or**
18 **alternative monitor established in a permit, regulation, order, or other instrument, in**
19 **which any such monitoring is required;**

20 **(b) Noncompliance of National Pollutant Discharge Elimination System discharge**
21 **limits detected through required sampling or monitoring; and**

22 **(c) Noncompliance discovered through a compliance audit required to be**
23 **performed by the terms of a consent order or settlement agreement, unless the audit is a**
24 **component of agreement terms to implement a comprehensive environmental management**
25 **system;**

26 **(3) The regulated entity fully discloses the specific noncompliance in writing to the**
27 **department within twenty-one days, or such shorter time period as may be required by**
28 **law, after the entity discovers that the noncompliance has, or may have, occurred. The**
29 **time at which the entity discovers that a noncompliance has, or may have, occurred begins**
30 **when any officer, director, employee, or agent of the facility has an objectively reasonable**
31 **basis for believing that a noncompliance has, or may have, occurred;**

32 **(4) The regulated entity discovers and discloses the potential noncompliance to the**
33 **department prior to:**

34 **(a) The commencement of a federal, state, or local department inspection or**
35 **investigation, or the issuance by such department of an information request to the**
36 **registered entity, in which the department determines that the facility did not know that**
37 **it was under civil investigation, and the department determines that the entity is otherwise**
38 **acting in good faith, in which case the department is authorized to reduce or waive civil**
39 **penalties in accordance with section 640.310;**

- 40 (b) Notice of a citizen suit;
- 41 (c) The filing of a complaint by a third party;
- 42 (d) The reporting of the noncompliance to the department or other governmental
- 43 agency by a whistle-blower employee and not be authorized to speak on behalf of the
- 44 regulated entity; or
- 45 (e) Imminent discovery of the noncompliance by a regulatory department or
- 46 agency;
- 47 (5) The regulated entity shall correct the noncompliance within sixty calendar days
- 48 from the date of discovery, or such shorter time period as may be required by law,
- 49 certifying in writing that the noncompliance has occurred and taking appropriate
- 50 measures as determined by the department to remedy any environmental or human harm
- 51 due to the noncompliance. The department retains the authority to order an entity to
- 52 correct a noncompliance within a specific time period shorter than sixty days whenever
- 53 correction in such shorter time period is necessary to protect public health and the
- 54 environment. If more than sixty days is needed to correct the noncompliance, the regulated
- 55 entity shall so request additional time from the department in writing prior to the
- 56 expiration of the sixty-day period. The Missouri department of natural resources will
- 57 approve or deny the request before the expiration of the sixty-day period. If the
- 58 department approves additional time, the department may require a regulated entity to
- 59 enter into a publicly available written agreement, administrative consent order, or judicial
- 60 consent decree as a condition for obtaining relief under sections 640.310 to 640.325, in
- 61 particular where compliance or remedial measures are complex or a lengthy schedule for
- 62 attaining and maintaining compliance or remediating harm is required;
- 63 (6) The regulated entity shall agree in writing or other appropriate order to take
- 64 steps acceptable to the director to prevent a recurrence of the noncompliance, including
- 65 improvements to its environmental auditing or compliance management system;
- 66 (7) The specific noncompliance, or a closely related noncompliance, has not
- 67 occurred within the previous three years at the same facility and has not occurred within
- 68 the past five years as part of a pattern at multiple facilities owned or operated by the same
- 69 entity. For the purposes of this section, noncompliance includes:
- 70 (a) Failure to comply with any federal, state, or local environmental law identified
- 71 in a judicial or administrative order, consent agreement or order, complaint, or notice of
- 72 noncompliance, conviction, or plea agreement; or
- 73 (b) Any act or omission for which the regulated entity has previously received
- 74 penalty mitigation from the department or another state or local department;
- 75 (8) The noncompliance is not one which:

76 (a) Resulted in serious actual harm, or may have presented an imminent and
77 substantial endangerment, to human health or the environment; or

78 (b) Violates the specific terms of any judicial or administrative order or consent
79 agreement; and

80 (9) The regulated entity cooperates as requested by the department and provides
81 such information as is necessary and requested by the department to determine
82 applicability of sections 640.310 to 640.325.

640.335. The department shall make available to the public the terms and
2 conditions of and supporting documentation demonstrating any compliance agreement
3 reached under sections 640.310 to 640.325, including the nature of the noncompliance, the
4 remedy, and the schedule for returning to compliance; provided, however, the department
5 shall not disclose from any audit report information relating to scientific and technological
6 innovations in which the owner has a proprietary interest or any information which is
7 otherwise protected from disclosure by law.

640.340. Nothing in sections 640.300 to 640.335 shall prevent a private party from
2 bringing a cause of action, where otherwise permitted under the law, against an entity
3 whose noncompliance with any relevant environmental law has caused damage to such
4 private party.

640.800. As used in sections 640.800 to 640.824 the following terms shall mean:

2 (1) "Alternative fuel", any of the following:

3 (a) Biodiesel used separately or in mixtures of twenty percent known as B-20 or up
4 to B-100;

5 (b) Electric;

6 (c) Ethanol used separately or in mixtures of seventy percent or more by volume
7 mixed with gasoline;

8 (d) Fuels derived from biological materials such as ethanol, biodiesel, or other
9 recognized additives;

10 (e) Hydrogen;

11 (f) Natural gas either as compressed natural or liquefied natural gas;

12 (g) Propane liquefied petroleum gas;

13 (2) "Alternative fuel infrastructure project", fueling stations or sites, fueling tanks
14 and trucks, charging stations, and other equipment used to fuel alternative fuel vehicles
15 or produce alternative fuels;

16 (3) "Alternative fuel vehicle", a vehicle that has been developed for, and is intended
17 to be operated using one or more alternative fuel;

- 18 (4) "Alternative fuel provider", a person or organization that produces or sells
19 alternative fuel;
- 20 (5) "Bi-fuel vehicle", an alternative fuel vehicle capable of running on either an
21 alternative fuel or gasoline;
- 22 (6) "Board", the clean American fuel board created under section 640.803;
- 23 (7) "Conventional vehicle", a vehicle running only on gasoline, reformulated
24 gasoline, or diesel fuel;
- 25 (8) "Dedicated vehicle", an alternative fuel vehicle that can only be operated using
26 an alternative fuel;
- 27 (9) "Department", the department of natural resources;
- 28 (10) "Director", the director of the department of natural resources;
- 29 (11) "Dual-fuel vehicle", an alternative fuel vehicle capable of running on an
30 alternative fuel and either gasoline or diesel during some portion of its operations;
- 31 (12) "Flex-fuel vehicle", an alternative fuel vehicle capable of operating on gasoline
32 fuel with an alternative fuel in various combinations;
- 33 (13) "Fund", the alternative fuel vehicle revolving fund created under section
34 640.812;
- 35 (14) "Hybrid vehicle", a vehicle that is powered by an electric motor and an engine
36 combusting an alternative fuel, gasoline, or diesel fuel;
- 37 (15) "Incremental cost" or "differential cost", the difference in price between an
38 alternative fuel vehicle and a conventional vehicle of the same make and model as provided
39 by the original equipment manufacturer or the difference in price between conventional
40 fuels such as gasoline and diesel or an alternative fuel;
- 41 (16) "Person", an individual, a business, a corporation, unit of municipal or county
42 government, but does not mean any unit of the federal government.

2 640.803. There is hereby established "The Clean American Fuel Board". The
3 board shall consist of seven members. The governor shall appoint six members to the
4 board, one member from the ethanol industry, one member from the natural gas industry,
5 one member from the liquefied petroleum gas industry, one member from the biodiesel
6 industry, one member from the Kansas City Regional Clean City Coalition and one from
7 the St. Louis Clean City Coalition. The director shall be an ex officio member of the board
as well as its chairperson.

2 640.806. Members of the board shall not be compensated for their services, but they
3 shall be reimbursed for actual and necessary expenses incurred in the performance of their
4 duties. The members of the board shall elect one member as vice chairperson, such
member shall serve as chairperson in the absence of the director. Each member appointed

5 by the governor shall serve for a term of two years and may be reappointed by the
6 governor for an additional term of two years. The department of natural resources shall
7 provide staff to the board and aid it in the performance of its duties.

2 **640.809.** The specific duties of the board shall include, but not be limited to, the
3 following:

4 (1) Establishing and administering policies determined in consultation with other
5 state agencies, including the departments of transportation, environment, and natural
6 resources as well as interested organizations and businesses to comply with environmental
7 and energy regulations of the United States Department of Energy and the Environmental
8 Protection Agency;

9 (2) Preparing a report, including, but not limited to, a calculation of fuel cost
10 differential rebates and designation of certified conversion and original equipment
11 manufacturer technologies. Such report shall be prepared by January 1, 2008, and
12 updated every year thereafter. Such report shall be made available to the governor, the
13 general assembly, the department of natural resources, and the department of
14 transportation;

15 (3) Preparing a report on the number of alternative fuel vehicles registered in
16 Missouri and of the expenditure of funds under sections 640.800 to 640.824. Such report
17 shall be prepared by January 1, 2008, and updated every year thereafter. Such report
18 shall be made available to the governor, the general assembly, the department of natural
19 resources, and the department of transportation;

20 (4) Establishing a procedure for persons to apply for grants from the fund under
21 sections 640.815, and selecting persons who shall receive such grants;

22 (5) Establishing a procedure, consistent with the requirements under section
23 640.821, for persons to apply for rebates from the fund under section 640.818, and selecting
persons who shall receive such rebates.

2 **640.812. 1.** There is hereby created in the state treasury the "Alternative Fuel
3 Vehicle Revolving Fund", which shall consist of moneys appropriated to the fund by the
4 general assembly, and any other moneys donated to or accepted by the board. The state
5 treasurer shall be custodian of the fund and may approve disbursements from the fund in
6 accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the
7 fund shall be used solely for the administration of sections 640.800 to 640.824.

8 **2.** Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any
9 moneys remaining in the fund at the end of the biennium shall not revert to the credit of
the general revenue fund.

10 **3. The state treasurer shall invest moneys in the fund in the same manner as other**
11 **funds are invested. Any interest and moneys earned on such investments shall be credited**
12 **to the fund.**

640.815. 1. A person may be eligible for a grant from the fund in an amount of up
2 **to twenty-five percent of the cost of an alternative fuel vehicle infrastructure project that**
3 **is selected by the board. Such grant shall not exceed one hundred thousand dollars per**
4 **project.**

5 **2. A person may be eligible for a grant from the fund in an amount of up to**
6 **twenty-five percent of the total cost of installing a public access American fuels**
7 **infrastructure project. Such grant shall not exceed one hundred thousand dollars per**
8 **project, and no person shall receive more than two hundred thousand annually.**

9 **3. Any funds not used by a grantee under this section shall be returned to the**
10 **treasurer and deposited into the fund.**

11 **4. To qualify for a grant under this section, the infrastructure shall be accessible**
12 **to the public or serve vehicles used by the public, or for the public benefit by reducing**
13 **harmful air emissions. Priority shall be given to projects serving ten or more vehicles in**
14 **counties at risk for nonattainment penalties under federal Environmental Protection**
15 **Agency regulations.**

16 **5. Up to ten percent of the grants from the fund may be used for education**
17 **awareness and outreach activities such as the "Clean Cities", Missouri Green Fleets.**

640.818. 1. A person who has purchased an alternative fuel vehicle weighing less
2 **than eight thousand five hundred pounds gross weight, either from an original equipment**
3 **manufacturer dealer or that has been retrofitted with a kit certified by the board may be**
4 **eligible for up to eighteen thousand dollars in rebates, in a year, to be made from the fund.**
5 **Such rebates shall be:**

6 **(1) Up to eighty percent of the incremental cost for an original equipment**
7 **manufacturer dedicated vehicle, with a maximum of three thousand dollars per vehicle;**

8 **(2) Up to eighty percent of the incremental cost for an original equipment**
9 **manufacturer bi-fuel vehicle, with a maximum of two thousand dollars per vehicle;**

10 **(3) Up to ten percent of the incremental cost for a hybrid vehicle, with a maximum**
11 **of five hundred dollars per vehicle;**

12 **(4) Up to ten percent of the total purchase price for all other dedicated alternative**
13 **fuel vehicles and hybrid vehicles that have no comparable conventional model on which**
14 **to base incremental cost calculations, with a maximum of one thousand dollars per vehicle.**

15 **2. A person who has purchased an alternative fuel vehicle weighing more than eight**
16 **thousand five hundred pounds gross weight, either through an original equipment**

17 manufacturer or that has been retrofitted with a kit certified by the board, may be eligible
18 for the following rebates from the fund:

19 (1) Up to fifty percent of the incremental cost for a dedicated vehicle, with a
20 maximum of ten thousand dollars per vehicle;

21 (2) Up to fifty percent of the incremental cost for a bi-fuel, flex-fuel, or hybrid
22 vehicle, with a maximum of ten thousand dollars per vehicle;

23 (3) Up to ten percent of the total purchase price for all other dedicated alternative
24 fuel vehicles and hybrid vehicles designated as eligible by the administering agency that
25 have no comparable conventional model on which to base incremental cost calculations,
26 with a maximum of ten thousand dollars per vehicle.

27 3. A person who leases for at least three years an alternative fuel vehicle shall be
28 eligible for the rebate in subsections 1 and 2 of this section in the same manner as those
29 persons who purchase an alternative fuel vehicle.

30 4. A person may be eligible for a yearly rebate, to be made from the fund, in the
31 amount equal to ten percent of the person's cost of alternative fuel with a maximum of five
32 thousand dollars a year. To be eligible for such rebate, fuel shall be purchased from a
33 Missouri fuel provider.

640.821. 1. An application for a rebate under subsection 1 or 2 of section 640.818
2 shall be made upon a form furnished by the department. Such form shall include:

3 (1) Evidence of the ownership and license registration of the alternative fuel
4 vehicle;

5 (2) A signed statement that the evidence of ownership and license registration and
6 all other representations in the application are made under oath or affirmation and are
7 true and correct to the best knowledge and belief of the person applying, subject to the
8 penalties of making a false affidavit or declaration;

9 (3) Any other information the board deems necessary to determine eligibility for
10 rebate under subsection 1 or 2 of section 640.818.

11 2. An application for a rebate under subsection 3 of section 640.818 shall be made
12 upon a form furnished by the department. Such form shall include:

13 (1) Evidence that the person applying for the rebate is the lessee of the alternative
14 fuel vehicle;

15 (2) A signed statement that the evidence of lessee status and all other
16 representations in the application are made under oath or affirmation and are true and
17 correct to the best knowledge and belief of the person applying, subject to the penalties of
18 making a false affidavit or declaration;

19 (3) Any other information the board deems necessary to determine eligibility for
20 rebate under subsection 3 of section 640.818.

21 3. An application for a rebate under subsection 4 of section 640.818 shall be made
22 upon a form furnished by the department. Such form shall include:

23 (1) Evidence of the person's purchase of alternative fuel, including copies of or
24 original fuel receipts;

25 (2) A signed statement that the evidence of purchase of alternative fuel and all other
26 representations in the application are made under oath or affirmation and are true and
27 correct to the best knowledge and belief of the person applying, subject to the penalties of
28 making a false affidavit or declaration;

29 (3) Any other information the board deems necessary to determine eligibility for
30 rebate under subsection 4 of section 640.818.

 640.824. 1. The department shall promulgate rules necessary for the
2 administration of sections 640.800 to 640.824 and necessary to aid the board in its functions
3 under sections 640.800 to 640.824.

4 2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
5 that is created under the authority delegated in this section shall become effective only if
6 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
7 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
8 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,
9 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
10 held unconstitutional, then the grant of rulemaking authority and any rule proposed or
11 adopted after August 28, 2007, shall be invalid and void.

 640.827. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:

2 (1) The provisions of the new program authorized under sections 640.800 to
3 640.824 shall automatically sunset six years after the effective date of sections 640.800 to
4 640.824 unless reauthorized by an act of the general assembly; and

5 (2) If such program is reauthorized, the program authorized under sections 640.800
6 to 640.824 shall automatically sunset twelve years after the effective date of the
7 reauthorization of sections 640.800 to 640.824; and

8 (3) This section shall terminate on September first of the calendar year immediately
9 following the calendar year in which the program authorized under sections 640.800 to
10 640.824 is sunset.

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