

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 917
99TH GENERAL ASSEMBLY

5851H.04C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 260.242, RSMo, and to enact in lieu thereof one new section relating to coal ash.

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

Section A. Section 260.242, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 260.242, to read as follows:

260.242. ~~[All fly ash produced by coal combustion generating facilities shall be exempt from all solid waste permitting requirements of this chapter, if such ash is constructively reused or disposed of by a grout technique in any active or inactive noncoal, non-open-pit mining operation located in a city having a population of at least three hundred fifty thousand located in more than one county and is also located in a county of the first class without a charter form of government with a population of greater than one hundred fifty thousand and less than one hundred sixty thousand, provided said ash is not considered hazardous waste under the Missouri hazardous waste law.]~~ **1. The department shall have the authority to promulgate rules for the management, closure, and post-closure of coal combustion residual (CCR) units in accordance with Sections 1008(a)(3) and 4004(a) of the Resource Conservation and Recovery Act (RCRA) and to approve site-specific groundwater criteria. At the discretion of the department, the Missouri risk-based corrective action (MRBCA) rules, 10 CSR 25-18.010, and accompanying guidance may be used to establish site-specific targets for soil and groundwater impacted by CCR constituents. As used in this section, a "coal combustion residual (CCR) unit" means a surface impoundment, utility waste landfill, or a CCR landfill. To the extent there is a conflict between this section and section 644.026 or 644.143, this section shall prevail.**

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

18 **2. Prior to federal approval of a state CCR program under 4004(a) of the RCRA,**
19 **nothing in this section shall prohibit the department from issuing guidance or entering into**
20 **enforceable agreements with CCR unit owners or operators to establish risk-based target**
21 **levels, using all or part of the MRBCA rules and guidance, for closure and corrective**
22 **action at CCR units. Nothing in this section shall prohibit the department, owners, or**
23 **operators of CCR units not otherwise covered by 40 CFR 257 from utilizing the MRBCA**
24 **rules and guidance.**

25 **3. Effective January 1, 2019, and in order to implement the state CCR program,**
26 **the department shall have the authority to assess one-time enrollment and annual fees on**
27 **each owner, operator, or permittee of a CCR unit subject to 40 CFR 257, only as follows:**

28 **(1) For units that have not closed, an enrollment fee in the amount of sixty-two**
29 **thousand dollars per CCR unit, except no fee shall apply to CCR units permitted as a**
30 **utility waste landfill;**

31 **(2) For CCR units that have completed closure in place under 40 CFR 257 prior to**
32 **December 31, 2018, an enrollment fee of forty-eight thousand dollars per CCR unit;**

33 **(3) An annual fee of fifteen thousand dollars per CCR unit. Annual fees shall not**
34 **be assessed on CCR units that have closed prior to December 31, 2018. The obligation to**
35 **pay annual fees under this section shall terminate at the end of the CCR unit's post-closure**
36 **period, so long as the CCR unit is not under a requirement to complete a corrective action,**
37 **or sooner, if authorized by the department.**

38 **4. No later than December 31, 2018, the department shall propose for promulgation**
39 **a state CCR program, including procedures regarding payment, submission of fees,**
40 **reimbursement of excess fee collection, inspection, and record keeping.**

41 **5. All fees under this section shall be paid by check or money order made payable**
42 **to the department and, unless otherwise required by this section, shall be due on January**
43 **first of each calendar year and be accompanied by a form provided by the department.**

44 **6. All fees received under this section shall be deposited into the "Coal Combustion**
45 **Residuals Subaccount" of the solid waste management fund created under section 260.330.**
46 **Fees collected under this section are dedicated, upon appropriation, to the department for**
47 **conducting activities required by this section and rules adopted under this section. Fees**
48 **established by this section shall not yield revenue greater than the cost of administering**
49 **this section and the rules adopted under this section, but shall be adequate to ensure**
50 **sustained operation of the state CCR program. The department shall prepare an annual**
51 **report detailing costs incurred in connection with the management and closure of CCR**
52 **units.**

53 **7. The provisions of section 33.080 to the contrary notwithstanding, moneys and**
54 **interest earned on moneys in the subaccount shall not revert to the general revenue fund**
55 **at the end of each biennium.**

56 **8. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
57 **created under the authority delegated in this section shall become effective only if it**
58 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
59 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**
60 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
61 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
62 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2018,**
63 **shall be invalid and void.**

64 **9. Interest shall be imposed on the moneys due to the department at the rate of ten**
65 **percent per annum from the prescribed due date until payment is actually made. These**
66 **interest amounts shall be deposited to the credit of the applicable subaccount of the solid**
67 **waste management fund.**

68 **10. The department may pursue penalties under section 260.240 for failure to**
69 **timely submit the fees imposed in this section.**

70 **11. The department shall not apply standards to any existing landfill or new**
71 **landfills constructed contiguous to existing power station facilities located on municipally**
72 **owned land that was purchased by the municipality prior to December 31, 2018, that are**
73 **in conflict with 40 CFR 257, unless sound and reasonably proven scientific data confirm**
74 **an imminent threat to human health and the environment.**

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