

SECOND REGULAR SESSION

SENATE BILL NO. 892

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BURLISON.

Read 1st time January 15, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4626S.02I

AN ACT

To repeal sections 260.373, 260.437, and 260.520, RSMo, and to enact in lieu thereof three new sections relating to the management of hazardous waste.

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

Section A. Sections 260.373, 260.437, and 260.520, RSMo, are repealed
2 and three new sections enacted in lieu thereof, to be known as sections 260.373,
3 260.437, and 260.520, to read as follows:

260.373. 1. After August 28, 2012, the authority of the commission to
2 promulgate rules under sections 260.350 to 260.391 and 260.393 to 260.433 is
3 subject to the following:

4 (1) The commission shall not promulgate rules that are stricter than or
5 [implement requirements prior to] **apply in any subject area not addressed**
6 **by** the requirements of Title 40, U.S. Code of Federal Regulations, Parts 260, 261,
7 262, 264, 265, 268, and 270, as promulgated pursuant to Subtitle C of the
8 Resource Conservation and Recovery Act, as amended;

9 (2) Notwithstanding the limitations of subdivision (1) of this subsection,
10 where state statutes expressly prescribe standards or requirements that are
11 stricter than or implement requirements prior to any federal requirements, or
12 where state statutes allow the establishment or collection of fees, costs, or taxes,
13 the commission may promulgate rules as necessary to implement such statutes;

14 (3) Notwithstanding the limitations of subdivision (1) of this subsection,
15 the commission may retain, modify, or repeal any current rules pertaining to the
16 following:

17 (a) [Thresholds for determining whether a hazardous waste generator is
18 a large quantity generator, small quantity generator, or conditionally exempt

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

19 small quantity generator;

20 (b)] Descriptions of applicable registration requirements; **and**

21 [(c)] **(b)** The reporting of hazardous waste activities to the department;
22 provided, however, that the commission shall promulgate rules, effective
23 beginning with the reporting period July 1, [2015] **2017** - June 30, [2016] **2018**,
24 that allow for the submittal of reporting data in [an electronic] **any** format on an
25 annual basis by large quantity generators and treatment storage and disposal
26 facilities[;

27 (d) Rules requiring hazardous waste generators to display hazard labels
28 (e.g., Department of Transportation (DOT) labels) on containers and tanks during
29 the time hazardous waste is stored on-site;

30 (e) The exclusion for hazardous secondary materials used to make zinc
31 fertilizers in 40 CFR 261.4; and

32 (f) The exclusions for hazardous secondary materials that are burned for
33 fuel or that are recycled].

34 2. Nothing in this section shall be construed to repeal any other provision
35 of law, and the commission and the department shall continue to have the
36 authority to implement and enforce other statutes, and the rules promulgated
37 pursuant to their authority.

38 3. [No later than December 31, 2013, the department shall identify rules
39 in Title 10, Missouri Code of State Regulations, Division 25, Chapters 3, 4, 5, and
40 7 that are inconsistent with the provisions of subsection 1 of this section. The
41 department shall thereafter file with the Missouri secretary of state any
42 amendments necessary to ensure that such rules are not inconsistent with the
43 provisions of subsection 1 of this section.] On December 31, [2015] **2017**, any rule
44 contained in Title 10, Missouri Code of State Regulations, Division 25, Chapters
45 3, 4, 5, [or] **7, 9, and 11**, that [remains] is inconsistent with the provisions of
46 subsection 1 above shall be null and void to the extent that it is inconsistent, **and**
47 **the least stringent rule shall control. Any such rule that applies in any**
48 **subject area not addressed by the requirements of Title 40, U.S. Code**
49 **of Federal Regulations, Parts 260, 261, 262, 264, 265, 268, and 270, as**
50 **promulgated pursuant to Subtitle C of the Resource Conservation and**
51 **Recovery Act, as amended, shall be null and void. The department shall**
52 **file with the Missouri secretary of state any amendments necessary to**
53 **ensure that rules are not inconsistent with the provisions of subsection**
54 **1 of this section.**

55 4. Nothing in this section shall be construed to effectuate a modification
56 of any permit. Upon request, the department shall modify as appropriate any
57 permit containing requirements no longer in effect due to this section.

58 5. The department is prohibited from selectively excluding any rule or
59 portion of a rule promulgated by the commission from any authorization
60 application package, or program revision, submitted to the U.S. Environmental
61 Protection Agency under Title 40, U.S. Code of Federal Regulations, Sections
62 271.5 or 271.21.

63 6. Any rule or portion of a rule, as that term is defined in section 536.010,
64 that is created under the authority delegated in this section shall become effective
65 only if it complies with and is subject to all of the provisions of chapter 536 and,
66 if applicable, section 536.028. This section and chapter 536 are nonseverable and
67 if any of the powers vested with the general assembly under chapter 536 to
68 review, to delay the effective date, or to disapprove and annul a rule are
69 subsequently held unconstitutional, then the grant of rulemaking authority and
70 any rule proposed or adopted after August 28, 2012, shall be invalid and void.

260.437. 1. In addition to any other powers vested in it by law, the
2 commission shall have the power to adopt, amend or repeal, after due notice and
3 public hearing, standards, rules and regulations to implement sections 260.435
4 to [260.480] **260.482**.

5 **2. The commission shall not promulgate rules that are stricter**
6 **than or apply in any subject area not addressed by the requirements of**
7 **Title 40, U.S. Code of Federal Regulations, Part 300, as promulgated**
8 **pursuant to the Comprehensive Environmental Response,**
9 **Compensation, and Liability Act, as amended.**

10 **3. The commission shall file with the Missouri secretary of state**
11 **any amendments necessary to ensure that rules are not inconsistent**
12 **with the provisions of this section. Any rule contained in the Missouri**
13 **code of state regulations that is inconsistent with the provisions of this**
14 **section shall be null and void to the extent that it is inconsistent, and**
15 **the least stringent rule shall control. Any such rule that applies in any**
16 **subject area not addressed by the requirements of Title 40, U.S. Code**
17 **of Federal Regulations, Part 300, as promulgated pursuant to the**
18 **Comprehensive Environmental Response, Compensation, and Liability**
19 **Act, as amended, shall be null and void.**

20 4. Any rule or portion of a rule, as that term is defined in section

21 **536.010**, that is created under the authority delegated in sections
22 **260.435 to 260.482** shall become effective only if it complies with and is
23 subject to all of the provisions of chapter 536 and, if applicable, section
24 **536.028**. This section and chapter 536 are nonseverable and if any of
25 the powers vested with the general assembly pursuant to chapter 536
26 to review, to delay the effective date, or to disapprove and annul a rule
27 are subsequently held unconstitutional, then the grant of rulemaking
28 authority and any rule proposed or adopted after August 28, 2020, shall
29 be invalid and void.

260.520. 1. The director may adopt, amend, promulgate or repeal, after
2 due notice and hearing, rules and regulations to implement sections 260.500 to
3 [260.550] **260.552** pursuant to this section and chapter 536. No rule or portion
4 of a rule promulgated under the authority of sections 260.500 to [260.550]
5 **260.552** shall become effective unless it has been promulgated pursuant to the
6 provisions of section 536.024.

7 **2. The director shall not promulgate rules that are stricter than**
8 **or apply in any subject area not addressed by the requirements of Title**
9 **40, U.S. Code of Federal Regulations, as promulgated pursuant to the**
10 **Comprehensive Environmental Response, Compensation, and Liability**
11 **Act, as amended.**

12 **3. The director shall file with the Missouri secretary of state any**
13 **amendments necessary to ensure that rules are not inconsistent with**
14 **the provisions of this section. Any rule contained in the Missouri code**
15 **of state regulations that is inconsistent with the provisions of this**
16 **section shall be null and void to the extent that it is inconsistent, and**
17 **the least stringent rule shall control. Any such rule that applies in any**
18 **subject area not addressed by the requirements of Title 40, U.S. Code**
19 **of Federal Regulations, Part 300, as promulgated pursuant to the**
20 **Comprehensive Environmental Response, Compensation, and Liability**
21 **Act, as amended, shall be null and void.**

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