

FIRST REGULAR SESSION
[CORRECTED]
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 40
101ST GENERAL ASSEMBLY

0155H.12C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 204.569, 260.373, 260.380, 260.437, 260.475, 260.520, 266.355, 643.050, 643.079, 643.245, 643.310, 644.057, and 644.079, RSMo, and to enact in lieu thereof fifteen new sections relating to natural resources.

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

Section A. Sections 204.569, 260.373, 260.380, 260.437, 260.475, 260.520, 266.355, 2 643.050, 643.079, 643.245, 643.310, 644.057, and 644.079, RSMo, are repealed and fifteen new 3 sections enacted in lieu thereof, to be known as sections 204.569, 253.387, 260.373, 260.380, 4 260.437, 260.475, 260.520, 386.895, 640.095, 643.050, 643.079, 643.245, 643.310, 644.057, and 5 644.079, to read as follows:

204.569. When an unincorporated sewer subdistrict of a common sewer district has been 2 formed pursuant to sections 204.565 to 204.573, the board of trustees of the common sewer 3 district shall have the same powers with regard to the subdistrict as for the common sewer 4 district as a whole, plus the following additional powers:

5 (1) To enter into agreements to accept, take title to, or otherwise acquire, and to operate 6 such sewers, sewer systems, treatment and disposal facilities, and other property, both real and 7 personal, of the political subdivisions included in the subdistrict as the board determines to be 8 in the interest of the common sewer district to acquire or operate, according to such terms and 9 conditions as the board finds reasonable, provided that such authority shall be in addition to the 10 powers of the board of trustees pursuant to section 204.340;

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.

11 (2) To provide for the construction, extension, improvement, and operation of such
12 sewers, sewer systems, and treatment and disposal facilities, as the board determines necessary
13 for the preservation of public health and maintenance of sanitary conditions in the subdistrict;

14 (3) For the purpose of meeting the costs of activities undertaken pursuant to the authority
15 granted in this section, to issue bonds in anticipation of revenues of the subdistrict in the same
16 manner as set out in sections 204.360 to 204.450, for other bonds of the common sewer district.
17 Issuance of such bonds for the subdistrict shall require the assent only of four-sevenths of the
18 voters of the subdistrict voting on the question~~[, and]~~ **except that, as an alternative to such a**
19 **vote, if the subdistrict is a part of a common sewer district located in whole or in part in**
20 **any county of the first classification without a charter form of government adjacent to a**
21 **county of the first classification with a charter form of government and a population of at**
22 **least six hundred thousand and not more than seven hundred fifty thousand, bonds may**
23 **be issued for such subdistrict if the question receives the written assent of three-quarters**
24 **of the customers of the subdistrict in a manner consistent with section 204.370, where**
25 **"customer", as used in this subdivision, means any political subdivision within the**
26 **subdistrict that has a service or user agreement with the common sewer district. The**
27 principal and interest of such bonds shall be payable only from the revenues of the subdistrict
28 and not from any revenues of the common sewer district as a whole;

29 (4) To charge the costs of the common sewer district for operation and maintenance
30 attributable to the subdistrict, plus a proportionate share of the common sewer district's costs of
31 administration to revenues of the subdistrict and to consider such costs in determining reasonable
32 charges to impose within the subdistrict under section 204.440;

33 (5) With prior concurrence of the subdistrict's advisory board, to provide for the
34 treatment and disposal of sewage from the subdistrict in or by means of facilities of the common
35 sewer district not located within the subdistrict, in which case the board of trustees shall also
36 have authority to charge a proportionate share of the costs of the common sewer district for
37 operation and maintenance to revenues of the subdistrict and to consider such costs in
38 determining reasonable charges to impose within the subdistrict under section 204.440.

253.387. 1. As provided in Article III, Section 48 of the Constitution of Missouri,
2 **the department of natural resources is hereby authorized to acquire by purchase, from**
3 **funds appropriated or otherwise available to the department, or to acquire by gift, if such**
4 **gift is unencumbered by any lien or mortgage, the Antioch Cemetery located at 2300**
5 **Antioch Road, Clinton, Missouri, to be operated and maintained by the division of state**
6 **parks within the department of natural resources.**

7 **2. In acquiring this cemetery, which may include both real and personal property,**
8 **the department shall make adequate provisions for the proper care, maintenance, and**

9 safekeeping of the property. The department may contract for maintenance of the
10 property.

11 3. The attorney general shall approve the form of the instrument of conveyance.

12 4. Upon acquisition of the property, the department shall allow for burials to
13 continue in the same manner as they had been conducted prior to acquisition until all
14 burial plots have been purchased. The department shall charge no more than one hundred
15 dollars per burial credited to the Antioch cemetery fund established in this section and
16 shall not be liable for any additional costs associated with any burial.

17 5. (1) There is hereby created in the state treasury the "Antioch Cemetery Fund",
18 which shall consist of gifts, bequests, and moneys donated or collected under this section.
19 The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and
20 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund
21 and, upon appropriation, moneys in the fund shall be used solely for the administration of
22 this section.

23 (2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys
24 remaining in the fund at the end of the biennium shall not revert to the credit of the
25 general revenue fund.

26 (3) The state treasurer shall invest moneys in the fund in the same manner as other
27 funds are invested. Any interest and moneys earned on such investments shall be credited
28 to the fund.

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

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

8 (2) **The commission shall not implement requirements prior to the requirements**
9 **of Title 40, U.S. Code of Federal Regulations, Parts 260, 261, 262, 264, 265, 268, and 270,**
10 **as promulgated pursuant to Subtitle C of the Resource Conservation and Recovery Act,**
11 **as amended;**

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

17 ~~[(3)]~~ **(4)** Notwithstanding the limitations of subdivision (1) of this subsection, the
18 commission may retain, modify, or repeal any current rules pertaining to the following:

19 ~~(a) [Thresholds for determining whether a hazardous waste generator is a large quantity~~
20 ~~generator, small quantity generator, or conditionally exempt small quantity generator];~~

21 ~~——(b)] Descriptions of applicable registration requirements; and~~

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

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

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

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

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

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

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

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

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

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

4 (1) Promptly file and maintain with the department, on registration forms it provides for
5 this purpose, information on hazardous waste generation and management as specified by rules
6 and regulations. Hazardous waste generators shall pay a one hundred dollar registration fee upon
7 initial registration, and a one hundred dollar registration renewal fee annually thereafter to
8 maintain an active registration. Such fees shall be deposited in the hazardous waste fund created
9 in section 260.391;

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

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

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

18 (5) Unless provided otherwise in the rules and regulations, utilize only a hazardous waste
19 transporter holding a license pursuant to sections 260.350 to 260.430 for the removal of all
20 hazardous wastes from the premises where they were generated;

21 (6) Unless provided otherwise in the rules and regulations, provide a separate manifest
22 to the transporter for each load of hazardous waste transported from the premises where it was

23 generated. The generator shall specify the destination of such load on the manifest. The manner
24 in which the manifest shall be completed, signed and filed with the department shall be in
25 accordance with rules and regulations;

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

31 (8) Collect and maintain such records, perform such monitoring or analyses, and submit
32 such reports on any hazardous waste generated, its transportation and final disposition, as
33 specified in sections 260.350 to 260.430 and rules and regulations adopted pursuant to sections
34 260.350 to 260.430;

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

40 (10) (a) Pay annually, on or before January first of each year, effective January 1, 1982,
41 a fee to the state of Missouri to be placed in the hazardous waste fund. The fee shall be five
42 dollars per ton or portion thereof of hazardous waste registered with the department as specified
43 in subdivision (1) of this subsection for the twelve-month period ending June thirtieth of the
44 previous year. However, the fee shall not exceed fifty-two thousand dollars per generator site
45 per year nor be less than one hundred fifty dollars per generator site per year.

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

49 (c) The hazardous waste management commission shall establish and submit to the
50 department of revenue procedures relating to the collection of the fees authorized by this
51 subdivision. Such procedures shall include, but not be limited to, necessary records identifying
52 the quantities of hazardous waste registered, the form and submission of reports to accompany
53 the payment of fees, the time and manner of payment of fees, which shall not be more often than
54 quarterly.

55 (d) Notwithstanding any statutory fee amounts or maximums to the contrary, the director
56 of the department of natural resources may conduct a comprehensive review and propose
57 changes to the fee structure set forth in this section. The comprehensive review shall include
58 stakeholder meetings in order to solicit stakeholder input from each of the following groups:

59 cement kiln representatives, chemical companies, large and small hazardous waste generators,
60 and any other interested parties. Upon completion of the comprehensive review, the department
61 shall submit a proposed fee structure with stakeholder agreement to the hazardous waste
62 management commission. The commission shall review such recommendations at the
63 forthcoming regular or special meeting, but shall not vote on the fee structure until a subsequent
64 meeting. If the commission approves, by vote of two-thirds majority or five of seven
65 commissioners, the fee structure recommendations, the commission shall authorize the
66 department to file a notice of proposed rulemaking containing the recommended fee structure,
67 and after considering public comments may authorize the department to file the order of
68 rulemaking for such rule with the joint committee on administrative rules pursuant to sections
69 536.021 and 536.024 no later than December first of the same year. If such rules are not
70 disapproved by the general assembly in the manner set out below, they shall take effect on
71 January first of the following calendar year and the fee structure set out in this section shall
72 expire upon the effective date of the commission-adopted fee structure, contrary to subsection
73 4 of this section. Any regulation promulgated under this subsection shall be deemed to be
74 beyond the scope and authority provided in this subsection, or detrimental to permit applicants,
75 if the general assembly, within the first sixty calendar days of the regular session immediately
76 following the filing of such regulation disapproves the regulation by concurrent resolution. If
77 the general assembly so disapproves any regulation filed under this subsection, the department
78 and the commission shall not implement the proposed fee structure and shall continue to use the
79 previous fee structure. The authority of the commission to further revise the fee structure as
80 provided by this subsection shall expire on August 28, ~~2024~~ **2021**. Any fee, bond, or
81 assessment structure established pursuant to the process in this section shall expire on August
82 28, 2024.

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

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

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

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

99 (a) Any storage, treatment or disposal site authorized to operate pursuant to sections
100 260.350 to 260.430 or the federal Resource Conservation and Recovery Act, or a state hazardous
101 waste management program authorized pursuant to the federal Resource Conservation and
102 Recovery Act which the department designates for this purpose; or

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

105 4. Failure to pay the fee, or any portion thereof, prescribed in this section by the due date
106 shall result in the imposition of a penalty equal to fifteen percent of the original fee. The fee
107 prescribed in this section shall expire December 31, 2018, except that the department shall levy
108 and collect this fee for any hazardous waste generated prior to such date and reported to the
109 department.

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

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

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

16 **4. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
17 **created under the authority delegated in sections 260.435 to 260.482 shall become effective**
18 **only if it complies with and is subject to all of the provisions of chapter 536 and, if**
19 **applicable, section 536.028. This section and chapter 536 are nonseverable and if any of**
20 **the powers vested with the general assembly pursuant to chapter 536 to review, to delay**

21 **the effective date, or to disapprove and annul a rule are subsequently held**
22 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
23 **after August 28, 2021, shall be invalid and void.**

260.475. 1. Every hazardous waste generator located in Missouri shall pay, in addition
2 to the fees imposed in section 260.380, a fee of twenty-five dollars per ton annually on all
3 hazardous waste which is discharged, deposited, dumped or placed into or on the soil as a final
4 action, and two dollars per ton on all other hazardous waste transported off site. No fee shall be
5 imposed upon any hazardous waste generator who registers less than ten tons of hazardous waste
6 annually pursuant to section 260.380, or upon:

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

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

11 (3) Solid waste from the extraction, beneficiation and processing of ores and minerals,
12 including phosphate rock and overburden from the mining of uranium ore and smelter slag waste
13 from the processing of materials into reclaimed metals;

14 (4) Cement kiln dust waste;

15 (5) Waste oil; or

16 (6) Hazardous waste that is:

17 (a) Reclaimed or reused for energy and materials;

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

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

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

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

24 3. All moneys collected or received by the department pursuant to this section shall be
25 transmitted to the department of revenue for deposit in the state treasury to the credit of the
26 hazardous waste fund created pursuant to section 260.391. Following each annual reporting date,
27 the state treasurer shall certify the amount deposited in the fund to the commission.

28 4. If any generator or transporter fails or refuses to pay the fees imposed by this section,
29 or fails or refuses to furnish any information reasonably requested by the department relating to
30 such fees, there shall be imposed, in addition to the fee determined to be owed, a penalty of
31 fifteen percent of the fee shall be deposited in the hazardous waste fund.

32 5. If the fees or any portion of the fees imposed by this section are not paid by the date
33 prescribed for such payment, there shall be imposed interest upon the unpaid amount at the rate

34 of ten percent per annum from the date prescribed for its payment until payment is actually made,
35 all of which shall be deposited in the hazardous waste fund.

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

41 7. This fee shall expire December 31, 2018, except that the department shall levy and
42 collect this fee for any hazardous waste generated prior to such date and reported to the
43 department.

44 8. Notwithstanding any statutory fee amounts or maximums to the contrary, the director
45 of the department of natural resources may conduct a comprehensive review and propose
46 changes to the fee structure set forth in this section. The comprehensive review shall include
47 stakeholder meetings in order to solicit stakeholder input from each of the following groups:
48 cement kiln representatives, chemical companies, large and small hazardous waste generators,
49 and any other interested parties. Upon completion of the comprehensive review, the department
50 shall submit a proposed fee structure with stakeholder agreement to the hazardous waste
51 management commission. The commission shall review such recommendations at the
52 forthcoming regular or special meeting, but shall not vote on the fee structure until a subsequent
53 meeting. If the commission approves, by vote of two-thirds majority or five of seven
54 commissioners, the fee structure recommendations, the commission shall authorize the
55 department to file a notice of proposed rulemaking containing the recommended fee structure,
56 and after considering public comments may authorize the department to file the order of
57 rulemaking for such rule with the joint committee on administrative rules pursuant to sections
58 536.021 and 536.024 no later than December first of the same year. If such rules are not
59 disapproved by the general assembly in the manner set out below, they shall take effect on
60 January first of the following calendar year and the fee structure set out in this section shall
61 expire upon the effective date of the commission-adopted fee structure, contrary to subsection
62 7 of this section. Any regulation promulgated under this subsection shall be deemed to be
63 beyond the scope and authority provided in this subsection, or detrimental to permit applicants,
64 if the general assembly, within the first sixty calendar days of the regular session immediately
65 following the filing of such regulation disapproves the regulation by concurrent resolution. If
66 the general assembly so disapproves any regulation filed under this subsection, the department
67 and the commission shall not implement the proposed fee structure and shall continue to use the
68 previous fee structure. The authority of the commission to further revise the fee structure as
69 provided by this subsection shall expire on August 28, [2024] 2021. Any fee, bond, or

70 assessment structure established pursuant to the process in this section shall expire on August
71 28, 2024.

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

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

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

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

2 **(1) "Biogas", a mixture of carbon dioxide and hydrocarbons, primarily methane**
3 **gas, released from the biological decomposition of organic materials;**

4 **(2) "Biomass", has the meaning given the term "qualified biomass" in section**
5 **142.028;**

6 **(3) "Gas corporation", the same as defined in section 386.020;**

7 **(4) "Qualified investment", any capital investment in renewable natural gas**
8 **infrastructure incurred by a gas corporation for the purpose of providing natural gas**
9 **service under a renewable natural gas program;**

10 **(5) "Renewable energy sources", hydroelectric, geothermal, solar photovoltaic,**
11 **wind, tidal, wave, biomass, or biogas energy sources;**

12 **(6) "Renewable natural gas", any of the following products processed to meet**
13 **pipeline quality standards or transportation fuel grade requirements:**

14 **(a) Biogas that is upgraded to meet natural gas pipeline quality standards such that**
15 **it may blend with, or substitute for, geologic natural gas;**

16 **(b) Hydrogen gas; or**

17 **(c) Methane gas derived from any combination of:**

- 18 **a. Biogas;**
19 **b. Hydrogen gas or carbon oxides derived from renewable energy sources; or**
20 **c. Waste carbon dioxide;**

21 **(7) "Renewable natural gas infrastructure", all equipment and facilities for the**
22 **production, processing, pipeline interconnection, and distribution of renewable natural gas**
23 **to be furnished to Missouri customers.**

24 **2. The commission shall adopt rules for gas corporations to offer a voluntary**
25 **renewable natural gas program. Rules adopted by the commission under this section shall**
26 **include:**

27 **(1) Rules for reporting requirements; and**

28 **(2) Rules for establishing a process for gas corporations to fully recover incurred**
29 **costs that are prudent, just, and reasonable associated with a renewable natural gas**
30 **program. Such recovery shall not be permitted until the project is operational and**
31 **produces renewable natural gas for customer use.**

32 **3. A filing by a gas corporation pursuant to the renewable natural gas program**
33 **created in subsection 2 of this section shall include, but is not limited to:**

34 **(1) A proposal to procure a total volume of renewable natural gas over a specific**
35 **period; and**

36 **(2) Identification of the qualified investments that the gas corporation may make**
37 **in renewable natural gas infrastructure.**

38 **4. A gas corporation may from time to time revise the filing submitted to the**
39 **commission under this section no more than one time per year.**

40 **5. Any costs incurred by a gas corporation for a qualified investment that are**
41 **prudent, just, and reasonable may be recovered by means of an automatic rate adjustment**
42 **clause.**

43 **6. When a gas corporation makes a qualified investment in the production of**
44 **renewable natural gas, the costs associated with such qualified investment shall include the**
45 **cost of capital established by the commission in the gas corporation's most recent general**
46 **rate case.**

47 **7. On or before January 1, 2023, the division of energy within the department of**
48 **natural resources shall provide to the chair of the public service commission, the speaker**
49 **of the house of representatives, the president pro tempore of the senate, the chair of the**
50 **senate committee on commerce, consumer protection, energy, and the environment, and**
51 **the chair of the house of representatives utility committee, a report on the renewable**
52 **natural gas program established under this section. Such report shall include, but not be**
53 **limited to, the following:**

54 (1) The number of projects submitted for the renewable natural gas program and
55 the number of projects approved for the renewable natural gas program;

56 (2) The number of projects that are operational, and the costs, projected and
57 actual, of such projects and other key metrics the division of energy deems important;

58 (3) The volume of renewable natural gas produced in the state through projects
59 that were approved by the renewable natural gas program as well as the percentage of
60 renewable natural gas produced in relation to the total volume of natural gas sold in the
61 state;

62 (4) The environmental benefits of renewable natural gas, including but not limited
63 to greenhouse gas reduction as a result of the production of renewable natural gas;

64 (5) The economic benefits of the renewable natural gas program, including but not
65 limited to local employment, value-added production for the agricultural sector, and other
66 economic development; and

67 (6) Any economic benefits or other costs to ratepayers.

68 8. Rules adopted by the commission under this section shall not prohibit an
69 affiliate of a gas corporation from making a capital investment in a biogas production
70 project if the affiliate is not a public utility as defined in section 386.020.

71 9. The public service commission may promulgate rules to implement the provisions
72 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that
73 is created under the authority delegated in this section shall become effective only if it
74 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
75 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
76 vested with the general assembly pursuant to chapter 536 to review, to delay the effective
77 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
78 grant of rulemaking authority and any rule proposed or adopted after August 28, 2021,
79 shall be invalid and void.

80 10. Pursuant to section 23.253 of the Missouri sunset act, this section and any rules
81 enacted under this section shall expire nine years from the date the renewable natural gas
82 program is established, unless reauthorized by the general assembly; provided that any
83 rate adjustment authorized by this section shall continue so long as the renewable natural
84 gas program remains in operation and produces renewable natural gas for customer use.

640.095. In all instances where the department of natural resources has authority
2 to issue fines or penalties and determines that a fine or penalty should be levied, the
3 department shall provide in writing to the alleged violator, together with any claim or
4 demand for a fine or penalty, the factual basis for the violation and a copy of the rules or
5 statutory provisions upon which the department relies for alleging a violation has occurred

6 **and determining the appropriate fine or penalty, along with a statement of facts specifying**
7 **each element of the violation and basis for the fine or penalty, including how the**
8 **department calculated the fine or penalty, with particularity. This information shall be**
9 **a complete record so that an alleged violator can understand the alleged violation, the**
10 **applicability of the rules or statutory provisions, appropriateness of the fine or penalty,**
11 **and the accuracy of the calculation so that the alleged violator can respond properly to the**
12 **department. Any statement provided by the department in compliance with this section**
13 **shall be treated as confidential information and shall not be disclosed to any party except**
14 **the alleged violator.**

643.050. 1. In addition to any other powers vested in it by law the commission shall
2 have the following powers:

3 (1) Adopt, promulgate, amend and repeal rules and regulations consistent with the
4 general intent and purposes of sections 643.010 to 643.355, chapter 536, [~~and~~] Titles V and VI
5 of the federal Clean Air Act, as amended, 42 U.S.C. 7661, et seq., **and 42 U.S.C. 7412(r) for**
6 **covered processes of agricultural stationary sources that use, store, or sell anhydrous**
7 **ammonia**, including but not limited to:

8 (a) Regulation of use of equipment known to be a source of air contamination;

9 (b) Establishment of maximum quantities of air contaminants that may be emitted from
10 any air contaminant source; [~~and~~]

11 (c) Regulations necessary to enforce the provisions of Title VI of the Clean Air Act, as
12 amended, 42 U.S.C. 7671, et seq., regarding any Class I or Class II substances as defined therein;
13 **and**

14 **(d) Regulations necessary to implement and enforce the risk management plans**
15 **under 42 U.S.C. 7412(r) for agricultural facilities that use, store, or sell anhydrous**
16 **ammonia;**

17 (2) After holding public hearings in accordance with section 643.070, establish areas of
18 the state and prescribe air quality standards for such areas giving due recognition to variations,
19 if any, in the characteristics of different areas of the state which may be deemed by the
20 commission to be relevant;

21 (3) (a) To require persons engaged in operations which result in air pollution to monitor
22 or test emissions and to file reports containing information relating to rate, period of emission
23 and composition of effluent;

24 (b) Require submission to the director for approval of plans and specifications for any
25 article, machine, equipment, device, or other contrivance specified by regulation the use of which
26 may cause or control the issuance of air contaminants; but any person responsible for complying
27 with the standards established under sections 643.010 to 643.355 shall determine, unless found

28 by the director to be inadequate, the means, methods, processes, equipment and operation to meet
29 the established standards;

30 (4) Hold hearings upon appeals from orders of the director or from any other actions or
31 determinations of the director hereunder for which provision is made for appeal, and in
32 connection therewith, issue subpoenas requiring the attendance of witnesses and the production
33 of evidence reasonably relating to the hearing;

34 (5) Enter such order or determination as may be necessary to effectuate the purposes of
35 sections 643.010 to 643.355. In making its orders and determinations hereunder, the commission
36 shall exercise a sound discretion in weighing the equities involved and the advantages and
37 disadvantages to the person involved and to those affected by air contaminants emitted by such
38 person as set out in section 643.030. If any small business, as defined by section 643.020,
39 requests information on what would constitute compliance with the requirements of sections
40 643.010 to 643.355 or any order or determination of the department or commission, the
41 department shall respond with written criteria to inform the small business of the actions
42 necessary for compliance. No enforcement action shall be undertaken by the department or
43 commission until the small business has had a period of time, negotiated with the department,
44 to achieve compliance;

45 (6) Cause to be instituted in a court of competent jurisdiction legal proceedings to
46 compel compliance with any final order or determination entered by the commission or the
47 director;

48 (7) Settle or compromise in its discretion, as it may deem advantageous to the state, any
49 suit for recovery of any penalty or for compelling compliance with the provisions of any rule;

50 (8) Develop such facts and make such investigations as are consistent with the purposes
51 of sections 643.010 to 643.355, and, in connection therewith, to enter or authorize any
52 representative of the department to enter at all reasonable times and upon reasonable notice in
53 or upon any private or public property for the purpose of inspecting or investigating any
54 condition which the commission or director shall have probable cause to believe to be an air
55 contaminant source or upon any private or public property having material information relevant
56 to said air contaminant source. The results of any such investigation shall be reduced to writing,
57 and a copy thereof shall be furnished to the owner or operator of the property. No person shall
58 refuse entry or access, requested for purposes of inspection under this provision, to an authorized
59 representative of the department who presents appropriate credentials, nor obstruct or hamper
60 the representative in carrying out the inspection. A suitably restricted search warrant, upon a
61 showing of probable cause in writing and upon oath, shall be issued by any judge having
62 jurisdiction to any such representative for the purpose of enabling him to make such inspection;

63 (9) Secure necessary scientific, technical, administrative and operational services,
64 including laboratory facilities, by contract or otherwise, with any educational institution,
65 experiment station, or any board, department, or other agency of any political subdivision or state
66 or the federal government;

67 (10) Classify and identify air contaminants; and

68 (11) Hold public hearings as required by sections 643.010 to 643.355.

69 2. No rule or portion of a rule promulgated under the authority of this chapter shall
70 become effective unless it has been promulgated pursuant to the provisions of section 536.024.

71 3. The commission shall have the following duties with respect to the prevention,
72 abatement and control of air pollution:

73 (1) Prepare and develop a general comprehensive plan for the prevention, abatement and
74 control of air pollution;

75 (2) Encourage voluntary cooperation by persons or affected groups to achieve the
76 purposes of sections 643.010 to 643.355;

77 (3) Encourage political subdivisions to handle air pollution problems within their
78 respective jurisdictions to the extent possible and practicable and provide assistance to political
79 subdivisions;

80 (4) Encourage and conduct studies, investigations and research;

81 (5) Collect and disseminate information and conduct education and training programs;

82 (6) Advise, consult and cooperate with other agencies of the state, political subdivisions,
83 industries, other states and the federal government, and with interested persons or groups;

84 (7) Represent the state of Missouri in all matters pertaining to interstate air pollution
85 including the negotiations of interstate compacts or agreements.

86 4. Nothing contained in sections 643.010 to 643.355 shall be deemed to grant to the
87 commission or department any jurisdiction or authority with respect to air pollution existing
88 solely within commercial and industrial plants, works, or shops or to affect any aspect of
89 employer-employee relationships as to health and safety hazards.

90 5. Any information relating to secret processes or methods of manufacture or production
91 discovered through any communication required under this section shall be kept confidential.

643.079. 1. Any air contaminant source required to obtain a permit issued under sections
2 643.010 to 643.355 shall pay annually beginning April 1, 1993, a fee as provided herein. For the
3 first year the fee shall be twenty-five dollars per ton of each regulated air contaminant emitted.
4 Thereafter, the fee shall be set every three years by the commission by rule and shall be at least
5 twenty-five dollars per ton of regulated air contaminant emitted but not more than forty dollars
6 per ton of regulated air contaminant emitted in the previous calendar year. If necessary, the
7 commission may make annual adjustments to the fee by rule. The fee shall be set at an amount

8 consistent with the need to fund the reasonable cost of administering sections 643.010 to
9 643.355, taking into account other moneys received pursuant to sections 643.010 to 643.355.
10 For the purpose of determining the amount of air contaminant emissions on which the fees
11 authorized under this section are assessed, a facility shall be considered one source under the
12 definition of subsection 2 of section 643.078, except that a facility with multiple operating
13 permits shall pay the emission fees authorized under this section separately for air contaminants
14 emitted under each individual permit.

15 2. A source which produces charcoal from wood shall pay an annual emission fee under
16 this subsection in lieu of the fee established in subsection 1 of this section. The fee shall be
17 based upon a maximum fee of twenty-five dollars per ton and applied upon each ton of regulated
18 air contaminant emitted for the first four thousand tons of each contaminant emitted in the
19 amount established by the commission pursuant to subsection 1 of this section, reduced
20 according to the following schedule:

21 (1) For fees payable under this subsection in the years 1993 and 1994, the fee shall be
22 reduced by one hundred percent;

23 (2) For fees payable under this subsection in the years 1995, 1996 and 1997, the fee shall
24 be reduced by eighty percent;

25 (3) For fees payable under this subsection in the years 1998, 1999 and 2000, the fee shall
26 be reduced by sixty percent.

27 3. The fees imposed in subsection 2 of this section shall not be imposed or collected after
28 the year 2000 unless the general assembly reimposes the fee.

29 4. Each air contaminant source with a permit issued under sections 643.010 to 643.355
30 shall pay the fee for the first four thousand tons of each regulated air contaminant emitted each
31 year but no air contaminant source shall pay fees on total emissions of regulated air contaminants
32 in excess of twelve thousand tons in any calendar year. A permitted air contaminant source
33 which emitted less than one ton of all regulated pollutants shall pay a fee equal to the amount per
34 ton set by the commission. An air contaminant source which pays emission fees to a holder of
35 a certificate of authority issued pursuant to section 643.140 may deduct such fees from any
36 amount due under this section. The fees imposed in this section shall not be applied to carbon
37 oxide emissions. The fees imposed in subsection 1 and this subsection shall not be applied to
38 sulfur dioxide emissions from any Phase I affected unit subject to the requirements of Title IV,
39 Section 404, of the federal Clean Air Act, as amended, 42 U.S.C. Section 7651, et seq., any
40 sooner than January 1, 2000. The fees imposed on emissions from Phase I affected units shall
41 be consistent with and shall not exceed the provisions of the federal Clean Air Act, as amended,
42 and the regulations promulgated thereunder. Any such fee on emissions from any Phase I
43 affected unit shall be reduced by the amount of the service fee paid by that Phase I affected unit

44 pursuant to subsection 8 of this section in that year. Any fees that may be imposed on Phase I
45 sources shall follow the procedures set forth in subsection 1 and this subsection and shall not be
46 applied retroactively.

47 5. Moneys collected under this section shall be transmitted to the director of revenue for
48 deposit in appropriate subaccounts of the natural resources protection fund created in section
49 640.220. A subaccount shall be maintained for fees paid by air contaminant sources which are
50 required to be permitted under Title V of the federal Clean Air Act, as amended, 42 U.S.C.
51 Section 7661, et seq., and used, upon appropriation, to fund activities by the department to
52 implement the operating permits program authorized by Title V of the federal Clean Air Act, as
53 amended. Another subaccount shall be maintained for fees paid by air contaminant sources
54 which are not required to be permitted under Title V of the federal Clean Air Act as amended,
55 and used, upon appropriation, to fund other air pollution control program activities. Another
56 subaccount shall be maintained for service fees paid under subsection 8 of this section by Phase
57 I affected units which are subject to the requirements of Title IV, Section 404, of the federal
58 Clean Air Act Amendments of 1990, as amended, 42 U.S.C. Section 7651, and used, upon
59 appropriation, to fund air pollution control program activities. The provisions of section 33.080
60 to the contrary notwithstanding, moneys in the fund shall not revert to general revenue at the end
61 of each biennium. Interest earned by moneys in the subaccounts shall be retained in the
62 subaccounts. The per-ton fees established under subsection 1 of this section may be adjusted
63 annually, consistent with the need to fund the reasonable costs of the program, but shall not be
64 less than twenty-five dollars per ton of regulated air contaminant nor more than forty dollars per
65 ton of regulated air contaminant. The first adjustment shall apply to moneys payable on April
66 1, 1994, and shall be based upon the general price level for the twelve-month period ending on
67 August thirty-first of the previous calendar year.

68 6. The department may initiate a civil action in circuit court against any air contaminant
69 source which has not remitted the appropriate fees within thirty days. In any judgment against
70 the source, the department shall be awarded interest at a rate determined pursuant to section
71 408.030 and reasonable attorney's fees. In any judgment against the department, the source shall
72 be awarded reasonable attorney's fees.

73 7. The department shall not suspend or revoke a permit for an air contaminant source
74 solely because the source has not submitted the fees pursuant to this section.

75 8. Any Phase I affected unit which is subject to the requirements of Title IV, Section
76 404, of the federal Clean Air Act, as amended, 42 U.S.C. Section 7651, shall pay annually
77 beginning April 1, 1993, and terminating December 31, 1999, a service fee for the previous
78 calendar year as provided herein. For the first year, the service fee shall be twenty-five thousand
79 dollars for each Phase I affected generating unit to help fund the administration of sections

80 643.010 to 643.355. Thereafter, the service fee shall be annually set by the commission by rule,
81 following public hearing, based on an annual allocation prepared by the department showing the
82 details of all costs and expenses upon which such fees are based consistent with the department's
83 reasonable needs to administer and implement sections 643.010 to 643.355 and to fulfill its
84 responsibilities with respect to Phase I affected units, but such service fee shall not exceed
85 twenty-five thousand dollars per generating unit. Any such Phase I affected unit which is located
86 on one or more contiguous tracts of land with any Phase II generating unit that pays fees under
87 subsection 1 or subsection 2 of this section shall be exempt from paying service fees under this
88 subsection. A "contiguous tract of land" shall be defined to mean adjacent land, excluding public
89 roads, highways and railroads, which is under the control of or owned by the permit holder and
90 operated as a single enterprise.

91 9. The department of natural resources shall determine the fees due pursuant to this
92 section by the state of Missouri and its departments, agencies and institutions, including two- and
93 four-year institutions of higher education. The director of the department of natural resources
94 shall forward the various totals due to the joint committee on capital improvements and the
95 directors of the individual departments, agencies and institutions. The departments, as part of
96 the budget process, shall annually request by specific line item appropriation funds to pay said
97 fees and capital funding for projects determined to significantly improve air quality. If the
98 general assembly fails to appropriate funds for emissions fees as specifically requested, the
99 departments, agencies and institutions shall pay said fees from other sources of revenue or funds
100 available. The state of Missouri and its departments, agencies and institutions may receive
101 assistance from the small business technical assistance program established pursuant to section
102 643.173.

103 **10. Each retail agricultural facility that uses, stores, or sells anhydrous ammonia**
104 **that is an air contaminant source subject to the risk management plan under 42 U.S.C.**
105 **7412(r) shall pay an annual registration fee of two hundred dollars. In addition, each retail**
106 **agricultural facility that uses, stores, or sells anhydrous ammonia shall pay an annual**
107 **tonnage fee calculated on the number of tons of anhydrous ammonia sold. The initial retail**
108 **tonnage fee is set at one dollar and twenty-five cents per ton of anhydrous ammonia used**
109 **or sold. Each distributor or terminal agricultural facility that uses, stores, or sells**
110 **anhydrous ammonia that is an air contaminant source subject to the risk management plan**
111 **program 3 under 40 CFR Part 68 shall pay an annual registration fee of five thousand**
112 **dollars and shall not pay a tonnage fee. The annual registration fees and tonnage fee may**
113 **be periodically revised pursuant to subsection 11 of this section. However, the fees**
114 **collected shall be used exclusively for the purposes of administering the provisions of 42**
115 **U.S.C. 7412(r) for such agricultural facilities. Fees paid by agricultural air contaminant**

116 **sources that use, store, or sell anhydrous ammonia for the purposes of implementing the**
117 **requirements of 42 U.S.C. 7412(r) shall be deposited into the anhydrous ammonia risk**
118 **management plan subaccount within the natural resources protection fund created in**
119 **section 643.245. If the funding exceeds the reasonable costs to administer the programs as**
120 **set forth in this section, the department of natural resources shall reduce fees for all**
121 **registrants if the fees derived exceed the reasonable cost of administering the risk**
122 **management plan under 42 U.S.C. 7412(r).**

123 **11.** Notwithstanding any statutory fee amounts or maximums to the contrary, the
124 department of natural resources may conduct a comprehensive review and propose changes to
125 the fee structure authorized by sections 643.073, 643.075, 643.079, 643.225, 643.228, 643.232,
126 643.237, and 643.242 after holding stakeholder meetings in order to solicit stakeholder input
127 from each of the following groups: the asbestos industry, electric utilities, mineral and metallic
128 mining and processing facilities, cement kiln representatives, and any other interested industrial
129 or business entities or interested parties. The department shall submit a proposed fee structure
130 with stakeholder agreement to the air conservation commission. The commission shall review
131 such recommendations at the forthcoming regular or special meeting, but shall not vote on the
132 fee structure until a subsequent meeting. If the commission approves, by vote of two-thirds
133 majority or five of seven commissioners, the fee structure recommendations, the commission
134 shall authorize the department to file a notice of proposed rulemaking containing the
135 recommended fee structure, and after considering public comments, may authorize the
136 department to file the order of rulemaking for such rule with the joint committee on
137 administrative rules pursuant to sections 536.021 and 536.024 no later than December first of
138 the same year. If such rules are not disapproved by the general assembly in the manner set out
139 below, they shall take effect on January first of the following calendar year and the previous fee
140 structure shall expire upon the effective date of the commission-adopted fee structure. Any
141 regulation promulgated under this subsection shall be deemed to be beyond the scope and
142 authority provided in this subsection, or detrimental to permit applicants, if the general assembly,
143 within the first sixty calendar days of the regular session immediately following the filing of such
144 regulation, by concurrent resolution disapproves the regulation by concurrent resolution. If the
145 general assembly so disapproves any regulation filed under this subsection, the commission shall
146 continue to use the previous fee structure. The authority of the commission to further revise the
147 fee structure as provided by this subsection shall expire on August 28, [2024] 2021.

643.245. 1. All moneys received pursuant to sections 643.225 to 643.245 and any other
2 moneys so designated shall be placed in the state treasury and credited to the "Natural Resources
3 Protection Fund — Air Pollution Asbestos Fee Subaccount", which is hereby created. Such
4 moneys received pursuant to sections 643.225 to 643.245 shall, subject to appropriation, be used

5 solely for the purpose of administering this chapter. Any unexpended balance in such fund at
6 the end of any appropriation period shall not be transferred to the general revenue fund of the
7 state treasury and shall be exempt from the provisions of section 33.080.

8 2. **All moneys received pursuant to subsection 10 of section 643.079 and any other**
9 **moneys so designated shall be placed in the "Natural Resources Protection Fund -**
10 **Anhydrous Ammonia Risk Management Plan Subaccount", which is hereby created. Such**
11 **moneys received pursuant to subsection 10 of section 643.079 shall, subject to**
12 **appropriation, be used solely for the purpose of administering the provisions of section**
13 **643.079. Any unexpended balance in such fund at the end of any appropriation period**
14 **shall not be transferred to the general revenue fund of the state treasury and shall be**
15 **exempt from the provisions of section 33.080.**

16 3. The state treasurer, with the approval of the board of fund commissioners, is
17 authorized to deposit all of the moneys in any of the qualified state depositories. All such
18 deposits shall be secured in such manner and shall be made upon such terms and conditions as
19 are now and may hereafter be approved by law relative to state deposits. Any interest received
20 on such deposits shall be credited to the natural resources protection fund — air pollution
21 asbestos fee subaccount.

643.310. 1. The commission may, by rule, establish a decentralized motor vehicle
2 emissions inspection program pursuant to sections 643.300 to 643.355 for any portion of a
3 nonattainment area located within the area described in subsection 1 of section 643.305, **except**
4 **that no decentralized motor vehicle emissions inspection program shall be established in**
5 **any county with a charter form of government and with more than three hundred**
6 **thousand but fewer than four hundred fifty thousand inhabitants or any county of the first**
7 **classification with more than one hundred one thousand but fewer than one hundred**
8 **fifteen thousand inhabitants or any county with a charter form of government and with**
9 **more than two hundred thousand but fewer than three hundred fifty thousand inhabitants.**
10 The decentralized motor vehicle emissions inspection program shall be implemented and applied
11 in the same manner throughout every portion of a nonattainment area located within the area
12 described in subsection 1 of section 643.305 **except any county with a charter form of**
13 **government and with more than three hundred thousand but fewer than four hundred fifty**
14 **thousand inhabitants or any county of the first classification with more than one hundred**
15 **one thousand but fewer than one hundred fifteen thousand inhabitants or any county with**
16 **a charter form of government and with more than two hundred thousand but fewer than**
17 **three hundred fifty thousand inhabitants.** The commission shall ensure that, for each
18 nonattainment area, the state implementation plan established pursuant to subsection 1 of section
19 643.305 incorporates and receives all applicable credits allowed by the United States

20 Environmental Protection Agency for emission reduction programs in other nonattainment areas
21 of like designation in other states. The commission shall ensure that emission reduction amounts
22 established pursuant to subsection 2 of section 643.305 shall be consistent with and not exceed
23 the emissions reduction amounts required by the United States Environmental Protection Agency
24 for other nonattainment areas of like designation in other states. No motor vehicle emissions
25 inspection program shall be required to comply with subsection 1 of section 643.305 unless the
26 plan established thereunder takes full advantage of any changes in requirements or any
27 agreements made or entered into by the United States Environmental Protection Agency and any
28 entity or entities on behalf of a nonattainment area concerning compliance with National
29 Ambient Air Quality Standards of the federal Clean Air Act, as amended, 42 U.S.C. Section
30 7401, et seq., and the regulations promulgated thereunder.

31 2. (1) The department, with the cooperation and approval of the commissioner of
32 administration, shall select a person or persons to operate an inspection facility or inspection
33 program pursuant to sections 643.300 to 643.355, under a bid procedure or under a negotiated
34 process or a combination thereof based on criteria and expectations established by the
35 department. This process may use either a licensing arrangement or contractual arrangement
36 with the selected party or parties. The selection of persons to operate inspection facilities or
37 inspection programs shall be exempt from the provisions of all site procurement laws. Each
38 person who is authorized to operate a station pursuant to this section shall be capable of
39 providing adequate and cost-effective service to customers.

40 (2) Service management, coordination and data processing may be provided by the
41 department or by another person, including a contractor or licensee, based upon the most cost-
42 effective proposal for service.

43 (3) A license or contract shall be for a period of up to seven years, consistent with the
44 provisions of Article IV, Section 28 of the Missouri Constitution, and licenses or contracts shall
45 be annually reviewed. A license or contract may be suspended or revoked if the licensee or
46 contractor is not meeting the conditions of sections 643.300 to 643.355, all applicable rules, the
47 license agreement or contract as determined by the department. A licensee or contractor found
48 to have violated sections 643.300 to 643.355, applicable rules or the conditions of the license
49 agreement or contract shall be in violation of section 643.151 and subject to the penalties
50 provided thereunder.

51 3. The commission, the department of economic development and the office of
52 administration shall, in cooperation with the minority business advocacy commission, select the
53 contractor or contractors to provide an inspection program which satisfies the minimum
54 requirements of this section in accordance with the requirements of section 37.014 and chapter
55 34. The commission, the office of administration and the department of economic development,

56 in cooperation with the minority business advocacy commission, shall ensure adequate minority
57 business participation in the selection of the contractor or contractors to provide an inspection
58 program pursuant to this section. The commission, the office of administration and the
59 department of economic development shall ensure adequate participation of Missouri businesses
60 in the selection of the contractor or contractors to provide an inspection program pursuant to this
61 section.

62 4. With approval of the commission and pursuant to rules adopted by the commission,
63 an organization whose members are motor vehicle dealers or leasing companies may establish
64 one or more additional emissions inspection facilities, which may be either mobile or stationary,
65 to be used solely to inspect motor vehicles owned and held for sale or lease by the members of
66 the organization. With approval of the commission and pursuant to rules adopted by the
67 commission, any person operating a fleet of motor vehicles may establish one or more additional
68 emissions inspection facilities, which may be either mobile or stationary, to be used solely to
69 inspect motor vehicles owned or leased and operated by the person establishing the facility. The
70 inspections performed in facilities established pursuant to this subsection shall be performed by
71 a contractor selected by the commission pursuant to this section and the contractor performing
72 such inspections shall be responsible solely to the department and shall satisfy all applicable
73 requirements of sections 643.300 to 643.355.

74 5. If the governor applies to the administrator of the Environmental Protection Agency
75 to require federal reformulated gasoline in nonattainment areas, nothing in sections 643.300 to
76 643.355 shall prevent the storage of conventional gasoline in nonattainment areas which is
77 intended for sale to agricultural, commercial or retail customers outside said nonattainment areas
78 subject to reformulated gasoline.

644.057. Notwithstanding any statutory fee amounts or maximums to the contrary, the
2 director of the department of natural resources may conduct a comprehensive review and propose
3 changes to the clean water fee structure set forth in sections 644.052, 644.053, and 644.061. The
4 comprehensive review shall include stakeholder meetings in order to solicit stakeholder input
5 from each of the following groups: agriculture, industry, municipalities, public and private
6 wastewater facilities, and the development community. Upon completion of the comprehensive
7 review, the department shall submit a proposed fee structure with stakeholder agreement to the
8 clean water commission. The commission shall review such recommendations at the
9 forthcoming regular or special meeting, but shall not vote on the fee structure until a subsequent
10 meeting. In no case shall the clean water commission adopt or recommend any clean water fee
11 in excess of five thousand dollars. If the commission approves, by vote of two-thirds majority
12 or five of seven commissioners, the fee structure recommendations, the commission shall
13 authorize the department to file a notice of proposed rulemaking containing the recommended

14 fee structure, and after considering public comments, may authorize the department to file the
15 order of rulemaking for such rule with the joint committee on administrative rules pursuant to
16 sections 536.021 and 536.024 no later than December first of the same year. If such rules are not
17 disapproved by the general assembly in the manner set out below, they shall take effect on
18 January first of the following calendar year and the fee structures set forth in sections 644.052,
19 644.053, and 644.061 shall expire upon the effective date of the commission-adopted fee
20 structure, contrary to section 644.054. Any regulation promulgated under this subsection shall
21 be deemed to be beyond the scope and authority provided in this subsection, or detrimental to
22 permit applicants, if the general assembly, within the first sixty calendar days of the regular
23 session immediately following the filing of such regulation disapproves the regulation by
24 concurrent resolution. If the general assembly so disapproves any regulation filed under this
25 subsection, the department and the commission shall not implement the proposed fee structure
26 and shall continue to use the previous fee structure. The authority of the commission to further
27 revise the fee structure provided by this section shall expire on August 28, [2024] 2021. Any fee,
28 bond, or assessment structure established pursuant to the process in this section shall expire on
29 August 28, 2024.

644.079. 1. In addition to any other remedy provided by law, upon a determination by
2 the director that a provision of sections 644.006 to 644.141 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 644.006 to 644.141 or minor violations of any standard,
8 limitation, order, rule or regulation promulgated pursuant to sections 644.006 to 644.141 or
9 minor violations of any term or condition of a permit issued pursuant to sections 644.006 to
10 644.141. **Any administrative penalty sought to resolve violations through conference,
11 conciliation, and persuasion shall be communicated to the alleged violator in writing
12 together with any penalty calculation prepared in accordance with any commission
13 administrative penalty rule. Any statement provided by the department in compliance
14 with this section shall be treated as confidential information and shall not be disclosed to
15 any party except the alleged violator.** If the violation is resolved through conference,
16 conciliation and persuasion, no administrative penalty shall be assessed unless the violation has
17 caused, or has the potential to cause, a risk to human health or to the environment, or has caused
18 or has potential to cause pollution, or was knowingly committed, or is defined by the United
19 States Environmental Protection Agency as other than minor. Any order assessing an
20 administrative penalty shall state that an administrative penalty is being assessed under this

21 section and that the person subject to the penalty may appeal as provided by this section. Any
22 such order that fails to state the statute under which the penalty is being sought, the manner of
23 collection or rights of appeal shall result in the state's waiving any right to collection of the
24 penalty.

25 2. The commission shall promulgate rules and regulations for the assessment of
26 administrative penalties. **Such rules and regulations shall require the department to**
27 **document how any administrative penalty sought to resolve the violations through**
28 **conference, conciliation, and persuasion was calculated and provide such calculation and**
29 **justification in writing to the alleged violator. Any statement provided by the department**
30 **in compliance with this section shall be treated as confidential information and shall not**
31 **be disclosed to any party except the alleged violator.** The amount of the administrative
32 penalty assessed per day of violation for each violation under this section shall not exceed the
33 amount of the civil penalty specified in section 644.076. Such rules shall reflect the criteria used
34 for the administrative penalty matrix as provided for in the Resource Conservation and Recovery
35 Act, 42 U.S.C. 6928(a), Section 3008(a), and the harm or potential harm which the violation
36 causes, or may cause, the violator's previous compliance record, and any other factors which the
37 department may reasonably deem relevant. An administrative penalty shall be paid within sixty
38 days from the date of issuance of the order assessing the penalty. Any person subject to an
39 administrative penalty may appeal to the commission. Any appeal will stay the due date of such
40 administrative penalty until the appeal is resolved. Any person who fails to pay an
41 administrative penalty by the final due date shall be liable to the state for a surcharge of fifteen
42 percent of the penalty plus ten percent per annum on any amounts owed. Any administrative or
43 civil penalty paid pursuant to sections 644.006 to 644.141 shall be handled in accordance with
44 Section 7 of Article IX of the State Constitution. An action may be brought in the appropriate
45 circuit court to collect any unpaid administrative penalty, and for attorney's fees and costs
46 incurred directly in the collection thereof.

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

52 4. Any final order imposing an administrative penalty is subject to judicial review upon
53 the filing of a petition pursuant to section 536.100 by any person subject to the administrative
54 penalty.

55 5. The state may elect to assess an administrative penalty, or, in lieu thereof, to request
56 that the attorney general or prosecutor file an appropriate legal action seeking a civil penalty in
57 the appropriate circuit court.

2 ~~[266.355. Unless provided for by federal law, rule or regulation, the~~
3 ~~director of the department of agriculture shall promulgate, pursuant to chapter~~
4 ~~536, and enforce regulations setting forth minimum general standards covering~~
5 ~~the design, construction, location, installation, and operation of equipment for~~
6 ~~storing, handling, transporting by tank truck, tank trailer, tank car and utilizing~~
7 ~~anhydrous ammonia. The provisions of this section shall not apply to equipment~~
8 ~~which is in use for storing anhydrous ammonia as of August 28, 2010, and which~~
9 ~~is found by the department to be in substantial compliance with generally~~
10 ~~accepted standards of safety regarding life and property. The department shall~~
11 ~~adopt the minimum general safety standards for the storage and handling of~~
12 ~~anhydrous ammonia set forth in ANSI Standard K61.1-1999, Safety~~
13 ~~Requirements for the Storage and Handling of Anhydrous Ammonia; except that,~~
14 ~~ANSI Standard K61.1-1999 shall not be adopted by the department prior to~~
15 ~~December 1, 2012. For purposes of this section, "ANSI" means the American~~
 ~~National Standards Institute.]~~

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