

## SENATE COMMITTEE SUBSTITUTE

FOR

## HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 2485

AN ACT

To repeal sections 260.200, 260.205, 260.373, 260.437, and 260.520, RSMo, and to enact in lieu thereof eight new sections relating to environmental regulation.

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

Section A. Sections 260.200, 260.205, 260.373, 260.437, and 260.520, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 260.200, 260.205, 260.221, 260.373, 260.437, 260.520, 640.095, and 644.060, to read as follows:

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

(1) "Advanced recycling", a set of manufacturing processes for the conversion of recovered post-use polymers such as plastics into plastic and chemical feedstocks, raw materials, and recycled plastics for reuse through processes that include pyrolysis, gasification, depolymerization, catalytic cracking, reforming, hydrogenation, solvolysis, and other similar technologies. "Advanced recycling" does not include solid waste disposal, solid waste processing, solid waste management, or incineration;

(2) "Advanced recycling facility", a manufacturing facility that receives, stores, and converts recovered post-use polymers using advanced recycling to produce plastics and chemical feedstocks, raw materials, and recycled plastics. "Advanced recycling facility" does not include

solid waste disposal areas, solid waste processing facilities, solid waste management facilities, or incinerators. Advanced recycling facilities are subject to all applicable laws and regulations for manufacturers;

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

[(2)] (4) "Applicant", a person or persons seeking or holding a facility permit;

[(3)] (5) "Bioreactor", a municipal solid waste disposal area or portion of a municipal solid waste disposal area where the controlled addition of liquid waste or water accelerates both the decomposition of waste and landfill gas generation;

[(4)] (6) "Button cell battery" or "button cell", any small alkaline-manganese or mercuric-oxide battery having the size and shape of a button;

[(5)] (7) "City", any incorporated city, town, or village;

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

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

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

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

[(10)] (12) "Construction and demolition waste", waste materials from the construction and demolition of residential, industrial, or commercial structures, but shall not include materials defined as clean fill under this section;

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

[(12)] (14) "Department", the department of natural resources;

[(13)] (15) "Depolymerization", a manufacturing process in which post-use polymers are broken into smaller molecules such as monomers and plastic and chemical feedstocks or products;

(16) "Director", the director of the department of natural resources;

[(14)] (17) "Disclosure statement", a sworn statement or affirmation, in such form as may be required by the director of the department of natural resources, which includes:

(a) The full names and business address of key personnel;

(b) The full name and business address of any entity, other than a natural person, that collects, transfers, processes, treats, stores, or disposes of solid waste in which all key personnel holds an equity interest of seven percent or more;

(c) A description of the business experience of all key personnel listed in the disclosure statement;

(d) For the five-year period ending on the date the sworn disclosure statement or affirmation is signed by key personnel:

a. A listing organized by issuing federal, state, or county or county-equivalent regulatory body of all environmental permits or licenses for the collection, transfer, treatment, processing, storage, or disposal of solid waste issued to or held by any key personnel;

b. A listing and explanation of notices of violation which shall by rule be defined, prosecutions, or other administrative enforcement actions resulting in an adjudication or conviction;

c. A listing of license or permit suspensions, revocations, or denials issued by any state, the federal government or a county or county equivalent, which are pending or have concluded with a finding of violation or entry of a consent agreement regarding an allegation of civil or criminal violation of law, regulation or requirement relating to the collection, transfer, treatment, processing, storage, or disposal of solid waste or violation

of the environmental statutes of other states or federal statutes;

d. An itemized list of all felony convictions under the laws of the state of Missouri or the equivalent thereof under the laws of any other jurisdiction; and a listing of any findings of guilt for any crimes or criminal acts an element of which involves restraint of trade, price-fixing, intimidation of the customers of another person or for engaging in any other acts which may have the effect of restraining or limiting competition concerning activities regulated pursuant to this chapter or similar laws of other states or the federal government including, but not limited to, racketeering or violation of antitrust laws of any key personnel;

[(15)] (18) "District", a solid waste management district established under section 260.305;

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

[(17)] (20) "Flood area", any area inundated by the one hundred year flood event, or the flood event with a one percent chance of occurring in any given year;

**[(18)]** (21) "Gasification", a manufacturing process through which recovered feedstocks are heated and converted into a fuel-gas mixture in an oxygen-deficient atmosphere and the mixture is converted into reuseable plastic and chemical feedstocks or products;

(22) "Household consumer", an individual who generates used motor oil through the maintenance of the individual's personal motor vehicle, vessel, airplane, or other machinery powered by an internal combustion engine;

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

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

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

[(22)] (26) "Key personnel", the applicant itself and any person employed by the applicant in a managerial capacity, or empowered to make discretionary decisions with respect to the solid waste operations of the applicant in Missouri, but shall not include employees exclusively engaged in the physical or mechanical collection, transfer, transportation, treatment, processing, storage, or disposal of solid waste and such other employees as the director of the department of natural resources may designate by regulation. If the applicant has not previously conducted solid waste operations in Missouri, the term also includes any officer, director, partner of the applicant, or any holder of seven percent or more of the equity or debt of the applicant. If any holder of seven percent or more of the equity or debt of the applicant or of any key personnel is not a natural person, the term includes all key personnel of that entity, provided that where such entity is a chartered lending institution or a reporting company under the federal Securities Exchange Act of 1934, the term does not include key personnel of such entity. Provided further that the term means the chief executive officer of any agency of the United States or of any agency or political subdivision of the state of Missouri, and all key personnel of any person, other than a natural person, that operates a landfill or other facility for the collection, transfer, treatment, processing, storage, or disposal of nonhazardous solid waste under contract with or for one of those governmental entities;

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

[(24)] (28) "Major appliance", clothes washers and dryers, water heaters, trash compactors, dishwashers, conventional ovens, ranges, stoves, woodstoves, air conditioners, refrigerators and freezers;

(29) "Mechanical processing", any mechanical, manual, or other method that transforms a recoverable material into a specification-grade commodity. Mechanical processing is often multi-step with different steps at different locations and involves recycling that is a series of activities that may include collection, processing, or brokering and shall result in subsequent consumption by a materials manufacturer;

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

(31) "Mill scale and slag", coproducts of the steel manufacturing process that are managed, used, or placed as items of value in a controlled manner but do not include by-products that are a result of the steel manufacturing process that would otherwise qualify as hazardous waste;

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

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

[(28)] (34) "Motor vehicle", as defined in section 301.010;



[(29)] (35) "Operator" and "permittee", anyone so designated, and shall include cities, counties, other political subdivisions, authority, state agency or institution, or federal agency or institution;

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

[(31)] (37) "Person", any individual, partnership, limited liability company, corporation, association, trust, institution, city, county, other political subdivision, authority, state agency or institution, or federal agency or institution, or any other legal entity;

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

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

(40) "Post-use polymer", a plastic polymer to which all of the following apply:

(a) It is derived from any industrial, commercial, agricultural, or household activities;

(b) The plastic's use or intended use is as a feedstock for the manufacturing of other feedstocks, raw materials, recycled plastics, or intermediate products or final products using advanced recycling;

(c) The plastic has been presorted or diverted from solid waste and other regulated waste but may contain residual amounts of solid waste such as organic material and

incidental contaminants or impurities such as paper labels and metal rings; and

(d) The plastic is converted at an advanced recycling facility or held at such facility prior to conversion;

(41) "Pyrolysis", a manufacturing process through which post-use polymers are heated in the absence of oxygen until melted and thermally decomposed and are then cooled, condensed, and converted into reuseable plastic and chemical feedstocks or raw constituents to be used for manufacturing of new products;

(42) "Recovered feedstock", one or more of the following materials that has been processed so that it may be used as input feedstock in an advanced recycling facility, excluding municipal solid waste or feedstocks mixed with solid waste or hazardous waste:

(a) Post-use polymers that are source-separated or have been recovered or diverted from a waste stream for reuse; or

(b) Materials for which the United States Environmental Protection Agency has made a nonwaste determination or has otherwise determined are feedstocks and not solid waste;

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

[(35)] (44) "Recycled content", [the proportion of fiber in a newspaper which is derived from postconsumer waste] any raw product used as a constituent for the manufacturing of new products that is generated as a result from mechanical processing or advanced recycling shall be considered recycled content. "Recycled content" includes, but is not limited to, the proportion of fiber in a

newspaper that is derived from postconsumer waste and recycled plastics as defined in this section;

(45) "Recycled plastics", plastics produced from mechanical recycling using preconsumer recovered materials and postconsumer materials or from advanced recycling feedstocks or advanced recycling products via mass balance attribution certified under an approved certification system. "Recycled plastics" shall be considered "recycled content" as defined in this section;

[(36)] (46) "Recycling", the separation and reuse of materials which might otherwise be disposed of as solid waste;

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

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

[(39)] (49) "Sanitary landfill", a solid waste disposal area which accepts commercial and residential solid waste;

[(40)] (50) "Scrap tire", a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect;

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

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

[(43)] (53) "Scrap tire generator", a person who sells tires at retail or any other person, firm, corporation, or government entity that generates scrap tires;

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

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

[(46)] (56) "Solid waste", garbage, refuse and other discarded materials including, but not limited to, solid and semisolid waste materials resulting from industrial, commercial, agricultural, governmental and domestic activities, but does not include hazardous waste as defined in sections 260.360 to 260.432, recovered materials, post-use polymers, recovered feedstocks, overburden, rock, tailings, matte, mill scale and slag or other waste material resulting from mining, milling or smelting;

[(47)] (57) "Solid waste disposal area", any area used for the disposal of solid waste from more than one residential premises, or one or more commercial, industrial, manufacturing, recreational, or governmental operations;

[(48)] (58) "Solid waste fee", a fee imposed pursuant to sections 260.200 to 260.345 and may be:

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

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

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

[(50)] (60) "Solid waste management project", a targeted project that meets statewide waste reduction and recycling priorities, and for which no solid waste management district grant applicant has applied to perform, and for which no qualified applicants have applied to perform such project by a competitive bid issued by the solid waste management district for the completion of such project;

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

[(52)] (62) "Solid waste processing facility", any facility where solid wastes are salvaged and processed, including:

(a) A transfer station; or

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

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

(d) A plasma arc technology facility;

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

[(54)] (64) "Solvolysis", a manufacturing process through which post-use polymers are purified with the aid of solvents while heated at low temperatures or pressurized, or both, to make reusable plastic and chemical feedstocks or products, allowing additives and contaminants to be removed. The process includes, but is not limited to, hydrolysis, aminolysis, ammonolysis, methanolysis, and glycolysis;

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

[(55)] (66) "Used motor oil", any motor oil which, as a result of use, becomes unsuitable for its original purpose due to loss of original properties or the presence of impurities, but used motor oil shall not include ethylene glycol, oils used for solvent purposes, oil filters that have been drained of free flowing used oil, oily waste, oil recovered from oil tank cleaning operations, oil spilled to land or water, or industrial nonlube oils such as hydraulic oils, transmission oils, quenching oils, and transformer oils;

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

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

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

260.205. 1. It shall be unlawful for any person to operate a solid waste processing facility or solid waste disposal area of a solid waste management system without first obtaining an operating permit from the department. It shall be unlawful for any person to construct a solid waste processing facility or solid waste disposal area without first obtaining a construction permit from the department pursuant to this section. A current authorization to operate issued by the department pursuant to sections 260.200 to 260.345 shall be considered to be a permit to operate for purposes of this section for all solid waste disposal areas and processing facilities existing on August 28, 1995. A permit shall not be issued for a sanitary landfill to be located in a flood area, as determined by the department, where flood waters are likely to significantly erode final cover. A permit shall not be required to operate a waste stabilization lagoon, settling pond or other water treatment facility which has a valid permit from the Missouri clean water commission even though the facility may receive solid or semisolid waste materials.

2. No person or operator may apply for or obtain a permit to construct a solid waste disposal area unless the person has requested the department to conduct a preliminary site investigation and obtained preliminary approval from the department. The department shall, within sixty days of such request, conduct a preliminary investigation and approve or disapprove the site.

3. All proposed solid waste disposal areas for which a preliminary site investigation request pursuant to subsection 2 of this section is received by the department on or after August 28, 1999, shall be subject to a public involvement activity as part of the permit application process. The activity shall consist of the following:

(1) The applicant shall notify the public of the preliminary site investigation approval within thirty days after the receipt of such approval. Such public notification shall be by certified mail to the governing body of the county or city in which the proposed disposal area is to be located and by certified mail to the solid waste management district in which the proposed disposal area is to be located;

(2) Within ninety days after the preliminary site investigation approval, the department shall conduct a public awareness session in the county in which the proposed disposal area is to be located. The department shall provide public notice of such session by both printed and broadcast media at least thirty days prior to such session. Printed notification shall include publication in at least one newspaper having general circulation within the county in which the proposed disposal area is to be located. Broadcast notification shall include public service announcements on radio stations that have broadcast coverage within the county in which the proposed disposal area is to



be located. The intent of such public awareness session shall be to provide general information to interested citizens on the design and operation of solid waste disposal areas;

(3) At least sixty days prior to the submission to the department of a report on the results of a detailed site investigation pursuant to subsection 4 of this section, the applicant shall conduct a community involvement session in the county in which the proposed disposal area is to be located. Department staff shall attend any such session. The applicant shall provide public notice of such session by both printed and broadcast media at least thirty days prior to such session. Printed notification shall include publication in at least one newspaper having general circulation within the county in which the proposed disposal area is to be located. Broadcast notification shall include public service announcements on radio stations that have broadcast coverage within the county in which the proposed disposal area is to be located. Such public notices shall include the addresses of the applicant and the department and information on a public comment period. Such public comment period shall begin on the day of the community involvement session and continue for at least thirty days after such session. The applicant shall respond to all persons submitting comments during the public comment period no more than thirty days after the receipt of such comments;

(4) If a proposed solid waste disposal area is to be located in a county or city that has local planning and zoning requirements, the applicant shall not be required to conduct a community involvement session if the following conditions are met:

(a) The local planning and zoning requirements include a public meeting;

(b) The applicant notifies the department of intent to utilize such meeting in lieu of the community involvement session at least thirty days prior to such meeting;

(c) The requirements of such meeting include providing public notice by printed or broadcast media at least thirty days prior to such meeting;

(d) Such meeting is held at least thirty days prior to the submission to the department of a report on the results of a detailed site investigation pursuant to subsection 4 of this section;

(e) The applicant submits to the department a record of such meeting;

(f) A public comment period begins on the day of such meeting and continues for at least fourteen days after such meeting, and the applicant responds to all persons submitting comments during such public comment period no more than fourteen days after the receipt of such comments.

4. No person may apply for or obtain a permit to construct a solid waste disposal area unless the person has submitted to the department a plan for conducting a detailed surface and subsurface geologic and hydrologic investigation and has obtained geologic and hydrologic site approval from the department. The department shall approve or disapprove the plan within thirty days of receipt. The applicant shall conduct the investigation pursuant to the plan and submit the results to the department. The department shall provide approval or disapproval within sixty days of receipt of the investigation results.

5. (1) Every person desiring to construct a solid waste processing facility or solid waste disposal area shall make application for a permit on forms provided for this purpose by the department. Every applicant shall submit evidence of financial responsibility with the application.

Any applicant who relies in part upon a parent corporation for this demonstration shall also submit evidence of financial responsibility for that corporation and any other subsidiary thereof.

(2) Every applicant shall provide a financial assurance instrument or instruments to the department prior to the granting of a construction permit for a solid waste disposal area. The financial assurance instrument or instruments shall be irrevocable, meet all requirements established by the department and shall not be cancelled, revoked, disbursed, released or allowed to terminate without the approval of the department. After the cessation of active operation of a sanitary landfill, or other solid waste disposal area as designed by the department, neither the guarantor nor the operator shall cancel, revoke or disburse the financial assurance instrument or allow the instrument to terminate until the operator is released from postclosure monitoring and care responsibilities pursuant to section 260.227.

(3) The applicant for a permit to construct a solid waste disposal area shall provide the department with plans, specifications, and such other data as may be necessary to comply with the purpose of sections 260.200 to 260.345. The application shall demonstrate compliance with all applicable local planning and zoning requirements. The department shall make an investigation of the solid waste disposal area and determine whether it complies with the provisions of sections 260.200 to 260.345 and the rules and regulations adopted pursuant to sections 260.200 to 260.345. Within twelve consecutive months of the receipt of an application for a construction permit the department shall approve or deny the application. The department shall issue rules and regulations establishing time limits for permit

modifications and renewal of a permit for a solid waste disposal area. The time limit shall be consistent with this chapter.

(4) The applicant for a permit to construct a solid waste processing facility shall provide the department with plans, specifications and such other data as may be necessary to comply with the purpose of sections 260.200 to 260.345. Within one hundred eighty days of receipt of the application, the department shall determine whether it complies with the provisions of sections 260.200 to 260.345. Within twelve consecutive months of the receipt of an application for a permit to construct an incinerator as [defined] described in the definition of "solid waste processing facility" in section 260.200 or a material recovery facility as [defined] described in the definition of "solid waste processing facility" in section 260.200, and within six months for permit modifications, the department shall approve or deny the application. Permits issued for solid waste facilities shall be for the anticipated life of the facility.

(5) If the department fails to approve or deny an application for a permit or a permit modification within the time limits specified in subdivisions (3) and (4) of this subsection, the applicant may maintain an action in the circuit court of Cole County or that of the county in which the facility is located or is to be sited. The court shall order the department to show cause why it has not acted on the permit and the court may, upon the presentation of evidence satisfactory to the court, order the department to issue or deny such permit or permit modification. Permits for solid waste disposal areas, whether issued by the department or ordered to be issued by a court, shall be for the anticipated life of the facility.

(6) The applicant for a permit to construct a solid waste processing facility shall pay an application fee of one thousand dollars. Upon completion of the department's evaluation of the application, but before receiving a permit, the applicant shall reimburse the department for all reasonable costs incurred by the department up to a maximum of four thousand dollars. The applicant for a permit to construct a solid waste disposal area shall pay an application fee of two thousand dollars. Upon completion of the department's evaluations of the application, but before receiving a permit, the applicant shall reimburse the department for all reasonable costs incurred by the department up to a maximum of eight thousand dollars. Applicants who withdraw their application before the department completes its evaluation shall be required to reimburse the department for costs incurred in the evaluation. The department shall not collect the fees authorized in this subdivision unless it complies with the time limits established in this section.

(7) When the review reveals that the facility or area does conform with the provisions of sections 260.200 to 260.345 and the rules and regulations adopted pursuant to sections 260.200 to 260.345, the department shall approve the application and shall issue a permit for the construction of each solid waste processing facility or solid waste disposal area as set forth in the application and with any permit terms and conditions which the department deems appropriate. In the event that the facility or area fails to meet the rules and regulations adopted pursuant to sections 260.200 to 260.345, the department shall issue a report to the applicant stating the reason for denial of a permit.

6. Plans, designs, and relevant data for the construction of solid waste processing facilities and solid waste disposal areas shall be submitted to the department by a registered professional engineer licensed by the state of Missouri for approval prior to the construction, alteration or operation of such a facility or area.

7. Any person or operator as defined in section 260.200 who intends to obtain a construction permit in a solid waste management district with an approved solid waste management plan shall request a recommendation in support of the application from the executive board created in section 260.315. The executive board shall consider the impact of the proposal on, and the extent to which the proposal conforms to, the approved district solid waste management plan prepared pursuant to section 260.325. The executive board shall act upon the request for a recommendation within sixty days of receipt and shall submit a resolution to the department specifying its position and its recommendation regarding conformity of the application to the solid waste plan. The board's failure to submit a resolution constitutes recommendation of the application. The department may consider the application, regardless of the board's action thereon and may deny the construction permit if the application fails to meet the requirements of sections 260.200 to 260.345, or if the application is inconsistent with the district's solid waste management plan.

8. If the site proposed for a solid waste disposal area is not owned by the applicant, the owner or owners of the site shall acknowledge that an application pursuant to sections 260.200 to 260.345 is to be submitted by signature or signatures thereon. The department shall provide the owner with copies of all communication with the operator,

including inspection reports and orders issued pursuant to section 260.230.

9. The department shall not issue a permit for the operation of a solid waste disposal area designed to serve a city with a population of greater than four hundred thousand located in more than one county, if the site is located within one-half mile of an adjoining municipality, without the approval of the governing body of such municipality. The governing body shall conduct a public hearing within fifteen days of notice, shall publicize the hearing in at least one newspaper having general circulation in the municipality, and shall vote to approve or disapprove the land disposal facility within thirty days after the close of the hearing.

10. (1) Upon receipt of an application for a permit to construct a solid waste processing facility or disposal area, the department shall notify the public of such receipt:

**[(1)]** (a) By legal notice published in a newspaper of general circulation in the area of the proposed disposal area or processing facility;

**[(2)]** (b) By certified mail to the governing body of the county or city in which the proposed disposal area or processing facility is to be located; and

**[(3)]** (c) By mail to the last known address of all record owners of contiguous real property or real property located within one thousand feet of the proposed disposal area and, for a proposed processing facility, notice as provided in section 64.875 or section 89.060, whichever is applicable.

(2) If an application for a construction permit meets all statutory and regulatory requirements for issuance, a public hearing on the draft permit shall be held by the department in the county in which the proposed solid waste

disposal area is to be located prior to the issuance of the permit. The department shall provide public notice of such hearing by both printed and broadcast media at least thirty days prior to such hearing. Printed notification shall include publication in at least one newspaper having general circulation within the county in which the proposed disposal area is to be located. Broadcast notification shall include public service announcements on radio stations that have broadcast coverage within the county in which the proposed disposal area is to be located.

11. After the issuance of a construction permit for a solid waste disposal area, but prior to the beginning of disposal operations, the owner and the department shall execute an easement to allow the department, its agents or its contractors to enter the premises to complete work specified in the closure plan, or to monitor or maintain the site or to take remedial action during the postclosure period. After issuance of a construction permit for a solid waste disposal area, but prior to the beginning of disposal operations, the owner shall submit evidence that **[he or she]** such owner has recorded, in the office of the recorder of deeds in the county where the disposal area is located, a notice and covenant running with the land that the property has been permitted as a solid waste disposal area and prohibits use of the land in any manner which interferes with the closure and, where appropriate, postclosure plans filed with the department.

12. Every person desiring to obtain a permit to operate a solid waste disposal area or processing facility shall submit applicable information and apply for an operating permit from the department. The department shall review the information and determine, within sixty days of receipt, whether it complies with the provisions of sections



260.200 to 260.345 and the rules and regulations adopted pursuant to sections 260.200 to 260.345. When the review reveals that the facility or area does conform with the provisions of sections 260.200 to 260.345 and the rules and regulations adopted pursuant to sections 260.200 to 260.345, the department shall issue a permit for the operation of each solid waste processing facility or solid waste disposal area and with any permit terms and conditions which the department deems appropriate. In the event that the facility or area fails to meet the rules and regulations adopted pursuant to sections 260.200 to 260.345, the department shall issue a report to the applicant stating the reason for denial of a permit.

13. Each solid waste disposal area, except utility waste landfills unless otherwise and to the extent required by the department, and those solid waste processing facilities designated by rule, shall be operated under the direction of a certified solid waste technician in accordance with sections 260.200 to 260.345 and the rules and regulations promulgated pursuant to sections 260.200 to 260.345.

14. Base data for the quality and quantity of groundwater in the solid waste disposal area shall be collected and submitted to the department prior to the operation of a new or expansion of an existing solid waste disposal area. Base data shall include a chemical analysis of groundwater drawn from the proposed solid waste disposal area.

15. Leachate collection and removal systems shall be incorporated into new or expanded sanitary landfills which are permitted after August 13, 1986. The department shall assess the need for a leachate collection system for all types of solid waste disposal areas, other than sanitary

landfills, and the need for monitoring wells when it evaluates the application for all new or expanded solid waste disposal areas. The department may require an operator of a solid waste disposal area to install a leachate collection system before the beginning of disposal operations, at any time during disposal operations for unfilled portions of the area, or for any portion of the disposal area as a part of a remedial plan. The department may require the operator to install monitoring wells before the beginning of disposal operations or at any time during the operational life or postclosure care period if it concludes that conditions at the area warrant such monitoring. The operator of a demolition landfill or utility waste landfill shall not be required to install a leachate collection and removal system or monitoring wells unless otherwise and to the extent the department so requires based on hazardous waste characteristic criteria or site specific geohydrological characteristics or conditions.

16. Permits granted by the department, as provided in sections 260.200 to 260.345, shall be subject to suspension for a designated period of time, civil penalty or revocation whenever the department determines that the solid waste processing facility or solid waste disposal area is, or has been, operated in violation of sections 260.200 to 260.345 or the rules or regulations adopted pursuant to sections 260.200 to 260.345, or has been operated in violation of any permit terms and conditions, or is creating a public nuisance, health hazard, or environmental pollution. In the event a permit is suspended or revoked, the person named in the permit shall be fully informed as to the reasons for such action.

17. Each permit for operation of a facility or area shall be issued only to the person named in the

application. Permits are transferable as a modification to the permit. An application to transfer ownership shall identify the proposed permittee. A disclosure statement for the proposed permittee listing violations contained in the definition of disclosure statement found in section 260.200 shall be submitted to the department. The operation and design plans for the facility or area shall be updated to provide compliance with the currently applicable law and rules. A financial assurance instrument in such an amount and form as prescribed by the department shall be provided for solid waste disposal areas by the proposed permittee prior to transfer of the permit. The financial assurance instrument of the original permittee shall not be released until the new permittee's financial assurance instrument has been approved by the department and the transfer of ownership is complete.

18. Those solid waste disposal areas permitted on January 1, 1996, shall, upon submission of a request for permit modification, be granted a solid waste management area operating permit if the request meets reasonable requirements set out by the department.

19. In case a permit required pursuant to this section is denied or revoked, the person may request a hearing in accordance with section 260.235.

20. Every applicant for a permit shall file a disclosure statement with the information required by and on a form developed by the department of natural resources at the same time the application for a permit is filed with the department.

21. Upon request of the director of the department of natural resources, the applicant for a permit, any person that could reasonably be expected to be involved in management activities of the solid waste disposal area or

solid waste processing facility, or any person who has a controlling interest in any permittee shall be required to submit to a criminal background check under section 43.543.

22. All persons required to file a disclosure statement shall provide any assistance or information requested by the director or by the Missouri state highway patrol and shall cooperate in any inquiry or investigation conducted by the department and any inquiry, investigation or hearing conducted by the director. If, upon issuance of a formal request to answer any inquiry or produce information, evidence or testimony, any person required to file a disclosure statement refuses to comply, the application of an applicant or the permit of a permittee may be denied or revoked by the director.

23. If any of the information required to be included in the disclosure statement changes, or if any additional information should be added after the filing of the statement, the person required to file it shall provide that information to the director in writing, within thirty days after the change or addition. The failure to provide such information within thirty days may constitute the basis for the revocation of or denial of an application for any permit issued or applied for in accordance with this section, but only if, prior to any such denial or revocation, the director notifies the applicant or permittee of the director's intention to do so and gives the applicant or permittee fourteen days from the date of the notice to explain why the information was not provided within the required thirty-day period. The director shall consider this information when determining whether to revoke, deny or conditionally grant the permit.

24. No person shall be required to submit the disclosure statement required by this section if the person

is a corporation or an officer, director or shareholder of that corporation or any subsidiary thereof, and that corporation:

(1) Has on file and in effect with the federal Securities and Exchange Commission a registration statement required under Section 5, Chapter 38, Title 1 of the Securities Act of 1933, as amended, 15 U.S.C. Section 77e(c);

(2) Submits to the director with the application for a permit evidence of the registration described in subdivision (1) of this subsection and a copy of the corporation's most recent annual form 10-K or an equivalent report; and

(3) Submits to the director on the anniversary date of the issuance of any permit it holds under the Missouri solid waste management law evidence of registration described in subdivision (1) of this subsection and a copy of the corporation's most recent annual form 10-K or an equivalent report.

25. After permit issuance, each facility shall annually file an update to the disclosure statement with the department of natural resources on or before March thirty-first of each year. Failure to provide such update may result in penalties as provided for under section 260.240.

26. Any county, district, municipality, authority, or other political subdivision of this state which owns and operates a sanitary landfill shall be exempt from the requirement for the filing of the disclosure statement and annual update to the disclosure statement.

27. Any person seeking a permit to operate a solid waste disposal area, a solid waste processing facility, or a resource recovery facility shall, concurrently with the filing of the application for a permit, disclose any convictions in this state, county or county-equivalent public health or land use ordinances related to the

management of solid waste. If the department finds that there has been a continuing pattern of adjudicated violations by the applicant, the department may deny the application.

28. No permit to construct or permit to operate shall be required pursuant to this section for any utility waste landfill located in a county of the third classification with a township form of government which has a population of at least eleven thousand inhabitants and no more than twelve thousand five hundred inhabitants according to the most recent decennial census, if such utility waste landfill complies with all design and operating standards and closure requirements applicable to utility waste landfills pursuant to sections 260.200 to 260.345 and provided that no waste disposed of at such utility waste landfill is considered hazardous waste pursuant to the Missouri hazardous waste law.

29. Advanced recycling facilities are not subject to the requirements of this section as long as the feedstocks received by such facility are source-separated or diverted or recovered from municipal or other waste streams prior to acceptance at the advanced recycling facility.

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

(1) "Processed recycled asphalt shingles", recycled asphalt shingles that do not contain extraneous metals, glass, rubber, nails, soil, brick, tars, paper, wood, and plastics and that have been reduced in size to produce a commercially reasonable usable product. "Processed recycled asphalt shingles" shall also be considered clean fill, as such term is defined in section 260.200;

(2) "Recycled asphalt shingles", manufacture waste scrap shingles and post-consumer, tear-off scrap shingles that are accumulated as products for commercial purposes

related to recycling or reuse as processed recycled asphalt shingles.

2. Processed recycled asphalt shingles may be used for fill, reclamation, and other beneficial purposes without a permit under sections 260.200 to 260.345 if such processed recycled asphalt shingles are inspected for toxic and hazardous substances in accordance with requirements established by the department of natural resources, provided that processed recycled asphalt shingles shall not be used for such purposes within one hundred feet of any lake, river, sink hole, perennial stream, or ephemeral stream.

3. This section shall not be construed to authorize the abandonment, accumulation, placement, or storage of recycled asphalt shingles or processed recycled asphalt shingles on any real property without the consent of the real property owner.

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

(1) The commission shall not promulgate rules that are stricter than [or implement requirements], apply prior to, or apply mandatory obligations outside of the requirements of Title 40, U.S. Code of Federal Regulations, Parts 260, 261, 262, 264, 265, 268, and 270, as promulgated pursuant to Subtitle C of the Resource Conservation and Recovery Act, as amended;

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

(3) Notwithstanding the limitations of [subdivision] subdivisions (1) and (2) of this subsection, where state

statutes expressly prescribe standards or requirements that are stricter than or implement requirements prior to any federal requirements, or where state statutes allow the establishment or collection of fees, costs, or taxes, the commission may promulgate rules as necessary to implement such statutes;

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

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

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

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

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

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

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

2. Nothing in this section shall be construed to repeal any other provision of law, and the commission and



the department shall continue to have the authority to implement and enforce other statutes, and the rules promulgated pursuant to their authority.

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

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

5. The department is prohibited from selectively excluding any rule or portion of a rule promulgated by the commission from any authorization application package, or program revision, submitted to the U.S. Environmental

Protection Agency under Title 40, U.S. Code of Federal Regulations, Sections 271.5 or 271.21.

6. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and 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 commission shall have the power to adopt, amend or repeal, after due notice and public hearing, standards, rules and regulations to implement sections 260.435 to ~~260.480~~ 260.482.

2. Except as provided in sections 260.565 to 260.573, the commission shall not promulgate rules that are stricter than, apply prior to, or apply mandatory obligations outside of the requirements of Title 40, U.S. Code of Federal Regulations, Part 300, as promulgated pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended.

3. The commission shall file with the Missouri secretary of state any amendments necessary to ensure that rules are not inconsistent with the provisions of this section. Any rule contained in the Missouri code of state regulations that is inconsistent with the provisions of this section shall be null and void to the extent that it is inconsistent, and the least stringent rule shall control.

Any such rule that applies mandatory obligations outside of the requirements of Title 40, U.S. Code of Federal Regulations, Part 300, as promulgated pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, shall be null and void.

4. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in sections 260.435 to 260.482 shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2022, shall be invalid and void.

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

2. Except as provided in sections 260.565 to 260.573, the director shall not promulgate rules that are stricter than, apply prior to, or apply mandatory obligations outside of the requirements of Title 40, U.S. Code of Federal Regulations, as promulgated pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended.

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

640.095. In all instances where the department of natural resources has authority to issue penalties and determines that a penalty should be levied, the department shall provide in writing to the alleged violator, together with any claim or demand for a penalty, the factual basis for the violation and a copy of the rules or statutory provisions upon which the department relies for alleging a violation has occurred and determining the appropriate penalty, along with a statement of facts specifying each element of the violation and basis for the penalty, including how the department calculated the penalty, with particularity. This information shall be a complete record so that an alleged violator can understand the alleged violation, the applicability of the rules or statutory provisions, appropriateness of the penalty, and the accuracy of the calculation so that the alleged violator can respond properly to the department. Any statement provided by the department in compliance with this section shall be treated as confidential information and shall not be disclosed to any party except the alleged violator.

644.060. 1. Processed recycled asphalt shingles, as defined in section 260.221, may be used for fill, reclamation, and other beneficial purposes without a permit under sections 644.006 to 644.141 if such processed recycled asphalt shingles are inspected for toxic and hazardous substances in accordance with requirements established by the department of natural resources, provided that processed recycled asphalt shingles shall not be used for such purposes within one hundred feet of any lake, river, sink hole, perennial stream, or ephemeral stream.

2. This section shall not be construed to authorize the abandonment, accumulation, placement, or storage of recycled asphalt shingles or processed recycled asphalt shingles on any real property without the consent of the real property owner.