

SECOND REGULAR SESSION

# HOUSE BILL NO. 2888

## 102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE SMITH (155).

5975H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal sections 260.200 and 260.243, RSMo, and to enact in lieu thereof two new sections relating to solid waste management.

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

Section A. Sections 260.200 and 260.243, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 260.200 and 260.243, to read as follows:

260.200. 1. The following words and phrases when used in sections 260.200 to  
2 260.345 shall mean:

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

9 (2) "Advanced recycling facility", a manufacturing facility that receives, stores, and  
10 converts recovered post-use polymers using advanced recycling to produce plastics and  
11 chemical feedstocks, raw materials, and recycled plastics. Advanced recycling facility does  
12 not include solid waste disposal areas, solid waste processing facilities, solid waste  
13 management facilities, or incinerators. Advanced recycling facilities are subject to all  
14 applicable laws and regulations for manufacturers;

15 (3) "Alkaline-manganese battery" or "alkaline battery", a battery having a manganese  
16 dioxide positive electrode, a zinc negative electrode, an alkaline electrolyte, including

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.

17 alkaline-manganese button cell batteries intended for use in watches, calculators, and other  
18 electronic products, and larger-sized alkaline-manganese batteries in general household use;

19 (4) "Applicant", a person or persons seeking or holding a facility permit;

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

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

25 (7) "City", any incorporated city, town, or village;

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

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

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

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

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

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

49 (14) "Department", the department of natural resources;

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

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

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

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

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

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

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

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

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

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

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

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

84 (19) "Financial assurance instrument", an instrument or instruments, including, but  
85 not limited to, cash or surety bond, letters of credit, corporate guarantee or secured trust fund,  
86 submitted by the applicant to ensure proper closure and postclosure care and corrective action  
87 of a solid waste disposal area in the event that the operator fails to correctly perform closure  
88 and postclosure care and corrective action requirements, except that the financial test for the  
89 corporate guarantee shall not exceed one and one-half times the estimated cost of closure and  
90 postclosure. The form and content of the financial assurance instrument shall meet or exceed

91 the requirements of the department. The instrument shall be reviewed and approved or  
92 disapproved by the attorney general;

93 (20) "Flood area", any area inundated by the ~~[one-hundred-year]~~ **five-hundred-year**  
94 flood event, or the flood event with a **one-fifth of** one percent chance of occurring in any  
95 given year;

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

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

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

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

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

118 (26) "Key personnel", the applicant itself and any person employed by the applicant  
119 in a managerial capacity, or empowered to make discretionary decisions with respect to the  
120 solid waste operations of the applicant in Missouri, but shall not include employees  
121 exclusively engaged in the physical or mechanical collection, transfer, transportation,  
122 treatment, processing, storage, or disposal of solid waste and such other employees as the  
123 director of the department of natural resources may designate by regulation. If the applicant  
124 has not previously conducted solid waste operations in Missouri, the term also includes any  
125 officer, director, partner of the applicant, or any holder of seven percent or more of the equity  
126 or debt of the applicant. If any holder of seven percent or more of the equity or debt of the  
127 applicant or of any key personnel is not a natural person, the term includes all key personnel

128 of that entity, provided that where such entity is a chartered lending institution or a reporting  
129 company under the federal Securities Exchange Act of 1934, the term does not include key  
130 personnel of such entity. Provided further that the term means the chief executive officer of  
131 any agency of the United States or of any agency or political subdivision of the state of  
132 Missouri, and all key personnel of any person, other than a natural person, that operates a  
133 landfill or other facility for the collection, transfer, treatment, processing, storage, or disposal  
134 of nonhazardous solid waste under contract with or for one of those governmental entities;

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

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

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

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

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

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

157 (33) "Motor oil", any oil intended for use in a motor vehicle, as defined in section  
158 301.010, train, vessel, airplane, heavy equipment, or other machinery powered by an internal  
159 combustion engine;

160 (34) "Motor vehicle", as defined in section 301.010;

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

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

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

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

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

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

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

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

181 (c) The plastic has been presorted or diverted from solid waste and other regulated  
182 waste but may contain residual amounts of solid waste such as organic material and incidental  
183 contaminants or impurities such as paper labels and metal rings; and

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

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

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

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

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

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

200 (44) "Recycled content", any raw product used as a constituent for the manufacturing  
201 of new products that is generated as a result from mechanical processing or advanced  
202 recycling shall be considered recycled content. Recycled content includes, but is not limited  
203 to, the proportion of fiber in a newspaper that is derived from postconsumer waste and  
204 recycled plastics as defined in this section;

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

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

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

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

218 (49) "Sanitary landfill", a solid waste disposal area which accepts commercial and  
219 residential solid waste;

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

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

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

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

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

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

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

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

246 (58) "Solid waste fee", a fee imposed pursuant to sections 260.200 to 260.345 and  
247 may be:

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

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

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

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

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

264 (62) "Solid waste processing facility", any facility where solid wastes are salvaged  
265 and processed, including:

266 (a) A transfer station; or

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

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

270 (d) A plasma arc technology facility;

271 (63) "Solid waste technician", an individual who has successfully completed training  
272 in the practical aspects of the design, operation and maintenance of a permitted solid waste



273 processing facility or solid waste disposal area in accordance with sections 260.200 to  
274 260.345;

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

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

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

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

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

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

260.243. The department of natural resources shall not issue a permit to an applicant  
2 for a commercial solid waste processing facility [~~designed to incinerate solid waste~~] in any  
3 county unless such facility meets the conditions established in this section. For the purposes  
4 of this section, a commercial solid waste processing facility is a facility [~~designed to~~  
5 ~~incinerate waste which accepts solid waste for a fee regardless of where such waste is~~  
6 ~~generated~~] **as defined in subdivision (62) of subsection 1 of section 260.200.** Any  
7 commercial solid waste processing facility [~~which incinerates solid waste~~] shall be located so  
8 as to provide a health and safety buffer zone to protect citizens living or working nearby. The  
9 size of the buffer zone shall be determined by the department but shall extend at least fifty  
10 feet from a facility located in a nonresidential area in a city not within a county or at least  
11 [~~three~~] **five** hundred feet from a facility located elsewhere. The department shall consider the  
12 proximity of schools, businesses and houses, the prevailing winds and other factors which it

13 deems relevant when establishing the buffer zone. Any facility located within a city not  
14 within a county shall be required to strictly adhere to the terms, conditions and provisions of  
15 its permit.

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