

FIRST REGULAR SESSION

# SENATE BILL NO. 489

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHATZ.

Read 1st time February 28, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

2202S.011

## AN ACT

To repeal section 260.370, RSMo, and to enact in lieu thereof two new sections relating to the regulation of coal combustion residual units.

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

Section A. Section 260.370, RSMo, is repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 260.255 and 260.370, to read as  
3 follows:

**260.255. 1. The general assembly finds that it is in the best  
2 interest of the state of Missouri to adopt a system of prior approval and  
3 conditions under state law to regulate coal combustion residual units  
4 in Missouri in lieu of application of 40 CFR 257, or successor  
5 regulations promulgated under section 1008 (a)(3) and 4004(a) of the  
6 Resource Conservation and Recovery Act. No later than December 31,  
7 2017, the hazardous waste commission shall draft rules consistent with  
8 subdivisions (1) to (4) of this subsection. The hazardous waste  
9 commission shall thereafter file with the Missouri secretary of state an  
10 order of rulemaking to establish the system of prior approval and  
11 conditions to be promulgated no later than June 1, 2018, and shall be  
12 in such form to meet any requirements for federal approval that may  
13 be imposed by the Administrator of the U.S. Environmental Protection  
14 Agency, but shall not be in the form of a permit program. Notwithstanding  
15 any provision of law to the contrary, the system of prior approval and  
16 conditions shall include the following technical standards and  
17 procedures and is deemed to be at least as protective as 40 CFR 257, or  
18 successor regulations promulgated under section 1008 (a)(3) and 4004(a)**

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

19 of the Resource Conservation and Recovery Act, as promulgated  
20 consistent with this section:

21 (1) Technical standards and procedures for closure of coal  
22 combustion residual surface impoundments shall be subject to the  
23 Missouri risk-based corrective action (MRBCA) framework established  
24 under section 260.370, and shall include technical standards for  
25 capping and closure in place, use of engineering or institutional  
26 controls, and site specific groundwater standards and monitoring  
27 standards that shall be applicable at the site, as the term "site" is  
28 defined in 10 CSR 25-18.010;

29 (2) Location restriction requirements for coal combustion  
30 residual landfills shall conform to the location restriction requirements  
31 in 40 CFR 257, or successor regulations promulgated under section 1008  
32 (a)(3) and 4004(a) of the Resource Conservation and Recovery Act;

33 (3) A process for the owner or operator of a coal combustion  
34 residual unit to seek approval of alternate groundwater effluent  
35 limitations under 10 CSR 20-7.031(6)(D) based on a demonstration  
36 conducted under MRBCA that impact on groundwater quality will not  
37 result in an unreasonable risk to human health or the environment and  
38 that existing and potential uses are not impaired; and

39 (4) Technical standards and closure criteria promulgated under  
40 this section shall apply to coal combustion residual units on a statewide  
41 basis and not be more restrictive than the technical standards and  
42 procedures of 40 CFR 257, or successor regulations promulgated under  
43 section 1008 (a)(3) and 4004(a) of the Resource Conservation and  
44 Recovery Act.

45 2. Nothing in this section shall restrict the authority of the  
46 department to issue guidance or enter into enforceable agreements  
47 with site owners or operators to close coal combustion residual units  
48 not subject to 40 CFR 257, or successor regulations promulgated under  
49 section 1008 (a)(3) and 4004(a) of the Resource Conservation and  
50 Recovery Act, or to otherwise develop a closure plan for any coal  
51 combustion residual unit, or interim system of prior approval and  
52 conditions, as may be allowed under federal law.

260.370. 1. Where proven technology is available and the economic  
2 impact is reasonable, pursuant to rules and regulations promulgated by the  
3 commission, the hazardous waste management commission shall encourage that

4 every effort is made to effectively treat, recycle, detoxify, incinerate or otherwise  
5 treat hazardous waste to be disposed of in the state of Missouri in order that such  
6 wastes are not disposed of in a manner which is hazardous to the public health  
7 and the environment. Where proven technology is available with respect to a  
8 specific hazardous waste and the economic impact is reasonable, pursuant to  
9 rules and regulations promulgated by the commission, the hazardous waste  
10 management commission shall direct that disposal of the specific hazardous  
11 wastes using land filling as the primary method is prohibited.

12 2. The hazardous waste management commission shall, by rules and  
13 regulations, categorize hazardous waste by taking into account toxicity,  
14 persistence and degradability in nature, potential for accumulation in tissue, and  
15 other related factors such as flammability, corrosiveness and other hazardous  
16 characteristics. The commission shall by rules and regulations further establish  
17 within each category the wastes which may or may not be disposed of through  
18 alternative hazardous waste management technologies including, but not limited  
19 to, treatment facilities, incinerators, landfills, landfarms, storage facilities,  
20 surface impoundments, recycling, reuse and reduction. The commission shall  
21 specify, by rule and regulation, the frequency of inspection for each method of  
22 hazardous waste management and for the different waste categories at hazardous  
23 waste management sites. The inspection may be daily when the hazardous waste  
24 management commission deems it necessary. The hazardous waste management  
25 commission shall specify, by rule, fees to be paid to the department by owners or  
26 operators of hazardous waste facilities who have obtained, or are required to  
27 obtain, a hazardous waste facility permit and who accept, on a commercial basis  
28 for remuneration, hazardous waste from off-site sources, but not including wastes  
29 generated by the same person at other sites located in Missouri or within a  
30 metropolitan statistical area located partially in Missouri and owned or operated  
31 by the same person and transferred to the hazardous waste facility, for treatment,  
32 storage or disposal, for inspections conducted by the department to determine  
33 compliance with sections 260.350 to 260.430 and the regulations promulgated  
34 thereunder. Funds derived from these inspection fees shall be used for the  
35 purpose of funding the inspection of hazardous waste facilities, as specified in  
36 subsection 3 of section 260.391. Such fees shall not exceed twelve thousand  
37 dollars per year per facility and the commission shall establish a graduated fee  
38 scale based on the volume of hazardous waste accepted with reduced fees for  
39 facilities accepting smaller volumes of hazardous waste. The department shall

40 furnish, upon request, to the person, firm or corporation operating the hazardous  
41 waste facility a complete, full and detailed accounting of the cost of the  
42 department's inspections of the facility for the twelve-month period immediately  
43 preceding the request within forty-five days after receipt of the request. Failure  
44 to provide the accounting within forty-five days shall require the department to  
45 refund the inspection fee paid during the twelve-month-time period.

46 3. In addition to any other powers vested in it by law, the commission  
47 shall have the following powers:

48 (1) From time to time adopt, amend or repeal, after due notice and public  
49 hearing, standards, rules and regulations to implement, enforce and carry out the  
50 provisions of sections 260.350 to 260.430, **section 260.255**, and any required of  
51 this state by any federal hazardous waste management act and as the commission  
52 may deem necessary to provide for the safe management of hazardous wastes to  
53 protect the health of humans and the environment. In implementing this  
54 subsection, the commission shall consider the variations within this state in  
55 climate, geology, population density, quantities and types of hazardous wastes  
56 generated, availability of hazardous waste facilities and such other factors as may  
57 be relevant to the safe management of hazardous wastes. [Within two years after  
58 September 28, 1977,] The commission shall adopt rules and regulations including  
59 the following:

60 (a) Rules and regulations establishing criteria and a listing for the  
61 determination of whether any waste or combination of wastes is hazardous for the  
62 purposes of sections 260.350 to 260.430, taking into account toxicity, persistence  
63 and degradability in nature, potential for accumulation in tissue, and other  
64 related factors such as flammability, corrosiveness and other hazardous  
65 characteristics;

66 (b) Rules and regulations for the storage, treatment and disposal of  
67 hazardous wastes;

68 (c) Rules and regulations for the transportation, containerization and  
69 labeling of hazardous wastes, which shall be consistent with those issued by the  
70 Missouri public service commission;

71 (d) Rules and regulations establishing standards for the issuance,  
72 modification, suspension, revocation or denial of such licenses and permits as are  
73 consistent with the purposes of sections 260.350 to 260.430;

74 (e) Rules and regulations establishing standards and procedures for the  
75 safe operation and maintenance of hazardous waste facilities in order to protect

76 the health of humans and other living organisms;

77 (f) Rules and regulations listing those wastes or combinations of wastes,  
78 for which criteria have been established under paragraph (a) of this subdivision  
79 and which are not compatible and which may not be stored or disposed of  
80 together;

81 (g) Rules and regulations establishing procedures and requirements for  
82 the reporting of the generation, storage, transportation, treatment or disposal of  
83 hazardous wastes;

84 **(h) Rules and regulations for the management and risk-based**  
85 **closure of coal combustion residual units under 260.255;**

86 (2) Adopt and publish, after notice as required by the provisions of  
87 chapter 536 pertaining to administrative rulemaking, and public hearing, a state  
88 hazardous waste management plan to provide for the safe and effective  
89 management of hazardous wastes within this state. This plan shall be adopted  
90 within two years after September 28, 1977, and revised at least once every five  
91 years thereafter;

92 (3) Hold hearings, issue notices of hearings and subpoenas requiring the  
93 attendance of witnesses and the production of evidence, administer oaths and  
94 take testimony as the commission deems necessary to accomplish the purposes  
95 of sections 260.350 to 260.430 or as required by any federal hazardous waste  
96 management act. Unless otherwise specified in sections 260.350 to 260.430, any  
97 of these powers may be exercised on behalf of the commission by any members  
98 thereof or a hearing officer designated by it;

99 (4) Grant individual variances in accordance with the provisions of  
100 sections 260.350 to 260.430;

101 (5) Make such orders as are necessary to implement, enforce and  
102 effectuate the powers, duties and purposes of sections 260.350 to 260.430.

103 4. No rule or portion of a rule promulgated under the authority of sections  
104 260.350 to 260.480 and sections 260.565 to 260.575 shall become effective unless  
105 it has been promulgated pursuant to the provisions of section 536.024.

106 5. To the extent there is a conflict concerning authority for risk-based  
107 remediation rules between this section and section 644.143 or subdivision (8) of  
108 section 644.026, this section shall prevail.

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