

SECOND REGULAR SESSION

# SENATE BILL NO. 669

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN.

Pre-filed December 1, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4912S.011

## AN ACT

To repeal sections 253.040, 253.090, 253.402, 256.465, 256.616, 256.635, 256.637, 256.700, 256.705, 259.052, 259.080, 259.190, 260.115, 260.203, 260.205, 260.262, 260.270, 260.273, 260.330, 260.380, 260.390, 260.391, 260.392, 260.395, 260.475, 260.569, 260.750, 260.900, 260.905, 260.920, 260.925, 260.935, 260.940, 260.945, 260.955, 444.370, 444.540, 444.580, 444.650, 444.730, 444.740, 444.768, 444.770, 444.772, 444.775, 444.782, 444.820, 444.870, 444.960, 444.965, 444.970, 640.220, 640.740, 640.745, and 640.747, RSMo, and to enact in lieu thereof fifty-four new sections relating to the transfer of certain funds administered by the department of natural resources to general revenue, with existing penalty provisions.

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

Section A. Sections 253.040, 253.090, 253.402, 256.465, 256.616, 256.635, 256.637, 256.700, 256.705, 259.052, 259.080, 259.190, 260.115, 260.203, 260.205, 260.262, 260.270, 260.273, 260.330, 260.380, 260.390, 260.391, 260.392, 260.395, 260.475, 260.569, 260.750, 260.900, 260.905, 260.920, 260.925, 260.935, 260.940, 260.945, 260.955, 444.370, 444.540, 444.580, 444.650, 444.730, 444.740, 444.768, 444.770, 444.772, 444.775, 444.782, 444.820, 444.870, 444.960, 444.965, 444.970, 640.220, 640.740, 640.745, and 640.747, RSMo, are repealed and fifty-four new sections enacted in lieu thereof, to be known as sections 253.040, 253.090, 253.402, 256.465, 256.616, 256.635, 256.637, 256.700, 256.705, 259.080, 259.190, 260.115, 260.203, 260.205, 260.262, 260.270, 260.273, 260.330, 260.380, 260.390, 260.391, 260.392, 260.395, 260.475, 260.569, 260.750, 260.900, 260.905, 260.920, 260.925, 260.935, 260.940, 260.945, 260.955, 444.370, 444.540, 444.580, 444.650, 444.730, 444.740, 444.768, 444.770, 444.772, 444.775, 444.782, 444.820, 444.870,

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

14 444.960, 444.965, 444.970, 640.220, 640.740, 640.745, and 640.747, to read as  
15 follows:

253.040. 1. The department of natural resources is hereby authorized to  
2 accept or acquire by purchase, lease, donation, agreement or eminent domain, any  
3 lands, or rights in lands, sites, objects or facilities which in its opinion should be  
4 held, preserved, improved and maintained for park or parkway purposes. The  
5 department of natural resources is authorized to improve, maintain, operate and  
6 regulate any such lands, sites, objects or facilities when such action would  
7 promote the park program and the general welfare. The department of natural  
8 resources is further authorized to accept gifts, bequests or contributions of money  
9 or other real or personal property to be expended for any of the purposes of  
10 sections 253.010 to 253.100; except that any contributions of money to the  
11 department of natural resources shall be deposited with the state treasurer to the  
12 credit of [the state park earnings fund and expended upon authorization of the  
13 department of natural resources for the purposes of sections 253.010 to 253.100  
14 and for no other purposes] **general revenue**.

15 2. In the event the right of eminent domain be exercised, it shall be  
16 exercised in the same manner as now or hereafter provided for the exercise of  
17 eminent domain by the state highways and transportation commission.

253.090. 1. All revenue derived from privileges, conveniences, contracts  
2 or otherwise, all moneys received by gifts, bequests or contributions or from  
3 county or municipal sources and all moneys received from the operation of  
4 concessions, projects or facilities and from resale items shall be paid into the  
5 state treasury to the credit of [the "State Park Earnings Fund", which is hereby  
6 created. The state treasurer shall invest moneys in the fund in the same manner  
7 as other funds are invested. All interest and moneys earned on such investments  
8 shall be credited to the fund] **general revenue**. In the event any state park or  
9 any part thereof is taken under the power of eminent domain by the federal  
10 government the moneys paid for the taking shall be deposited in the [state park  
11 earnings fund. The fund shall be used solely for the payment of the expenditures  
12 of the department of natural resources in the administration of this law, except  
13 that in any fiscal year the department may expend a sum not to exceed fifty  
14 percent of the preceding fiscal year's deposits to the state park earnings fund for  
15 the purpose of:

- 16 (1) Paying the principal and interest of revenue bonds issued;  
17 (2) Providing an interest and sinking fund;

18 (3) Providing a reasonable reserve fund;  
19 (4) Providing a reasonable fund for depreciation; and  
20 (5) Paying for feasibility reports necessary for the issuing of revenue  
21 bonds.

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

26 3. A good and sufficient bond conditioned upon the faithful performance  
27 of the contract and compliance with this law shall be required of all contractors.

28 4. Any person who contracts pursuant to this section with the state shall  
29 keep true and accurate records of his or her receipts and disbursements arising  
30 out of the performance of the contract and shall permit the department of natural  
31 resources and the state auditor to audit such records.

253.402. [For the purpose of protecting and preserving the historic  
2 properties of this state, there is hereby created a "Historic Preservation Revolving  
3 Fund" to be administered by the department of natural resources.] All expenses  
4 incurred in the acquisition of and all revenues received from the disposition of  
5 property as provided in sections 253.400 to 253.407 shall be paid for out of [and]  
6 **or deposited [in the historic preservation revolving fund] into the state**  
7 **treasury's general revenue.** Any moneys appropriated and any other moneys  
8 made available by gift, grant, bequest, contribution or otherwise to the  
9 department to carry out the purpose of sections 253.400 to 253.407, and all  
10 interest earned on, and income generated from, moneys in the fund shall be paid  
11 to, and deposited in, the historic preservation revolving fund.

256.465. [1. There is hereby created in the state treasury "The Board of  
2 Geologist Registration Fund".

3 2.] The board shall establish, by rule, fees to be charged for applications,  
4 examinations, certification and certification renewal. The fees shall be set at an  
5 amount which shall not be more than that required to administer sections  
6 256.450 to 256.483. The [provisions of section 33.080 to the contrary  
7 notwithstanding, money in this fund shall not] **fees collected shall be**  
8 **[transferred and placed] deposited in the state treasury** to the credit of  
9 general revenue [until the amount in the fund at the end of the biennium exceeds  
10 two times the amount of the appropriation from the board's funds for the  
11 preceding fiscal year or, if the board requires by rule permit renewal less

12 frequently than yearly, then three times the appropriation from the board's funds  
13 for the preceding fiscal year. The amount, if any, in the fund which shall lapse  
14 is that amount in the fund which exceeds the appropriate multiple of the  
15 appropriations from the board's funds for the preceding fiscal year].

256.616. A well installation contractor or pump installation contractor  
2 who has had a permit revoked or a person found guilty of a class A misdemeanor  
3 in accordance with section 256.637 shall provide to the division a performance  
4 bond or letter of credit in order to obtain a permit.

5 (1) The bond or letter of credit required by this section shall be:

6 (a) Conditioned upon faithful compliance with the conditions and terms  
7 of sections 256.600 to 256.640; and

8 (b) In such amount as determined by the division to ensure compliance  
9 with the procedures, rules and regulations, and standards established pursuant  
10 to sections 256.600 to 256.640, but shall not exceed ten thousand dollars or be  
11 less than one thousand dollars. When setting the amount, the division shall  
12 consider the total number of wells drilled or pumps installed and the average cost  
13 of each well drilled or serviced by the applicant;

14 (2) Such performance bond, placed on file with the director, shall be in one  
15 of the following forms:

16 (a) A performance bond, payable to the [director] **state treasurer** and  
17 issued by an institution authorized to issue such bonds in this state; or

18 (b) An irrevocable letter of credit issued in favor of and payable to the  
19 director from a commercial bank or savings and loan having offices in the state  
20 of Missouri;

21 (3) The requirement for a performance bond or a letter of credit by a well  
22 installation contractor or pump installation contractor who has had a permit  
23 revoked, or a person who has been found guilty of a class A misdemeanor in  
24 accordance with section 256.637 shall cease after two consecutive years of well  
25 drilling or pump installation in accordance with the provisions of sections 256.600  
26 to 256.640, and any rules or regulations promulgated pursuant to sections  
27 256.600 to 256.640;

28 (4) Upon a determination by the division that a well contractor or pump  
29 installation contractor has failed to meet standards as set out in sections 256.600  
30 to 256.640 and the rules and regulations promulgated thereunder, the division  
31 shall notify the well installation contractor or pump installation contractor that  
32 the bond or letter of credit will be forfeited and the moneys [placed in the

33 groundwater protection fund for remedial action] **deposited in the state**  
34 **treasury to the credit of general revenue**, if that person does not bring the  
35 well or borehole up to the standards established pursuant to sections 256.600 to  
36 256.640 within sixty days after notification of such determination has been given;

37 (5) If a well is not brought up to the standards established pursuant to  
38 sections 256.600 to 256.640 within the sixty-day notification period the division  
39 may, upon expiration of the notification period, expend whatever portion of the  
40 bond or letter of credit is necessary to hire another contractor to bring the well  
41 or borehole up to standards or to construct a new well.

256.635. 1. The state auditor shall audit the financial transactions of the  
2 division in connection with the administration of sections 256.600 to 256.640.

3 2. All money collected by the division under the provisions of sections  
4 256.600 to 256.640 shall be deposited in the state treasury to the credit of [a  
5 special fund hereby established to be known as the "Groundwater Protection  
6 Fund". Moneys in the fund shall be expended only for the purposes of  
7 administering sections 256.600 to 256.640. Notwithstanding the provisions of  
8 section 33.080, any balance remaining in the fund at the end of an appropriation  
9 period shall not be transferred to general revenue, except that should there be a  
10 balance remaining in the fund at the end of an appropriation period exceeding  
11 one-half of the next year's projected operating budget for administration of  
12 sections 256.600 to 256.640, the amount exceeding one-half of the next year's  
13 projected budget shall be transferred to the general revenue fund] **general**  
14 **revenue**.

15 [3. Any balance in the water well drillers' fund on August 28, 1997, shall  
16 be transferred to the groundwater protection fund on that date, and following  
17 such transfer, the water well drillers' fund shall be abolished.]

256.637. 1. Any person who willfully violates any of the provisions of  
2 sections 256.600 to 256.640 is guilty of a class A misdemeanor.

3 2. In the event of a continuing violation, each day that the violation  
4 continues shall constitute a separate and distinct offense.

5 3. Any person who willfully obstructs, hinders or prevents agents of the  
6 division in the performance of the duties imposed on them by sections 256.600 to  
7 256.640 is guilty of a class A misdemeanor.

8 4. Any well owner who knowingly causes or permits a hazardous or  
9 potentially hazardous condition to exist which could cause deterioration of  
10 groundwater quality in the system, even in a local area, shall forfeit his right to

11 an approved, certified well. He shall also be liable to legal action by the state  
12 and any neighboring well owners should the condition endanger the groundwater  
13 in surrounding areas. If the division finds that such conditions exist, it shall  
14 order the well owner to plug the well.

15 5. Upon receipt of a complaint filed with the division alleging that any  
16 provision of sections 256.600 to 256.640, or any standard, rule or regulation  
17 promulgated thereto was violated, the division may institute a civil action in the  
18 jurisdiction where the well is located for injunctive relief through the office of the  
19 prosecuting attorney of the county wherein the alleged violation occurred to  
20 prevent such violation or further violation, or for the assessment of a civil penalty  
21 not to exceed five hundred dollars per day for each day, or part thereof, the  
22 violation occurred and continued to occur, or both, as the court deems proper. For  
23 the purpose of this section, the filing of a well registration or certification form  
24 containing false information shall constitute a violation for each day after  
25 notification that such form is on file with the division. Any moneys paid in civil  
26 penalties shall be deposited in the [groundwater protection fund] **state treasury**  
27 **to the credit of general revenue.**

256.700. 1. Any operator desiring to engage in surface mining who  
2 applies for a permit under section 444.772 shall, in addition to all other fees  
3 authorized under such section, annually submit a geologic resources fee. Such fee  
4 shall be deposited in the [geologic resources fund established and expended under  
5 section 256.705] **state treasury to the credit of general revenue.** For any  
6 operator of a gravel mining operation where the annual tonnage of gravel mined  
7 by such operator is less than five thousand tons, there shall be no fee under this  
8 section.

9 2. The director of the department of natural resources may require a  
10 geologic resources fee for each permit not to exceed one hundred dollars. The  
11 director may also require a geologic resources fee for each site listed on a permit  
12 not to exceed one hundred dollars for each site. The director may also require a  
13 geologic resources fee for each acre permitted by the operator under section  
14 444.772 not to exceed ten dollars per acre. If such fee is assessed, the fee per  
15 acre on all acres bonded by a single operator that exceeds a total of three hundred  
16 acres shall be reduced by fifty percent. In no case shall the geologic resources fee  
17 portion for any permit issued under section 444.772 be more than three thousand  
18 five hundred dollars.

19 3. Beginning August 28, 2007, the geologic resources fee shall be set at a

20 permit fee of fifty dollars, a site fee of fifty dollars, and an acre fee of six  
21 dollars. Fees may be raised as allowed in this subsection by a regulation change  
22 promulgated by the director of the department of natural resources. Prior to such  
23 a regulation change, the director shall consult the industrial minerals advisory  
24 council created under section 256.710 in order to determine the need for such an  
25 increase in fees.

26 4. Fees imposed under this section shall become effective August 28, 2007,  
27 and shall expire on December 31, 2020. No other provisions of sections 256.700  
28 to 256.710 shall expire.

29 5. The department of natural resources may promulgate rules to  
30 implement the provisions of sections 256.700 to 256.710. Any rule or portion of  
31 a rule, as that term is defined in section 536.010, that is created under the  
32 authority delegated in this section shall become effective only if it complies with  
33 and is subject to all of the provisions of chapter 536 and, if applicable, section  
34 536.028. This section and chapter 536 are nonseverable and if any of the powers  
35 vested with the general assembly under chapter 536 to review, to delay the  
36 effective date, or to disapprove and annul a rule are subsequently held  
37 unconstitutional, then the grant of rulemaking authority and any rule proposed  
38 or adopted after August 28, 2007, shall be invalid and void.

256.705. 1. All sums received through the payment of fees under section  
2 256.700 shall be [placed in the state treasury and credited to the "Geologic  
3 Resources Fund" which is hereby created] **deposited in the state treasury to  
4 the credit of general revenue.**

5 2. [After appropriation by the general assembly, the money in such fund  
6 shall be expended to collect, process, manage, and distribute geologic and  
7 hydrologic resource information pertaining to mineral resource potential in order  
8 to assist the mineral industry and for no other purpose. Such funds shall be  
9 utilized by the division of geology and land survey within the department of  
10 natural resources.

11 3. Any portion of the fund not immediately needed for the purposes  
12 authorized shall be invested by the state treasurer as provided by the constitution  
13 and laws of this state. All income from such investments shall, unless otherwise  
14 prohibited by the constitution of this state, be deposited in the geologic resources  
15 fund. The provisions of section 33.080 relating to the transfer of unexpended  
16 balances in various funds to the general revenue fund at the end of each  
17 biennium shall not apply to funds in the geologic resources fund.

18           4.] General revenue of the state or other state funds may be appropriated  
19 or expended for the administration of sections 256.700 to 256.710. [The state  
20 geologist may enter into a memorandum of understanding or other agreement  
21 that allows for state or federal funds to supplement the geologic resources fund].

          259.080. 1. It shall be unlawful to commence operations for the drilling  
2 of a well for oil or gas, or to commence operations to deepen any well to a  
3 different geological formation, or to commence injection activities for enhanced  
4 recovery of oil or gas or for disposal of fluids, without first giving the state  
5 geologist notice of intention to drill or intention to inject and first obtaining a  
6 permit from the state geologist under such rules and regulations as may be  
7 prescribed by the council.

8           2. The department of natural resources may conduct a comprehensive  
9 review, and propose a new fee structure, or propose changes to the oil and gas fee  
10 structure, which may include but need not be limited to permit application fees,  
11 operating fees, closure fees, and late fees, and an extraction or severance fee. The  
12 comprehensive review shall include stakeholder meetings in order to solicit  
13 stakeholder input from each of the following groups: oil and gas industry  
14 representatives, the advisory committee, and any other interested parties. Upon  
15 completion of the comprehensive review, the department shall submit a proposed  
16 fee structure or changes to the oil and gas fee structure with stakeholder  
17 agreement to the oil and gas council. The council shall review such  
18 recommendations at the forthcoming regular or special meeting, but shall not vote  
19 on the fee structure until a subsequent meeting. If the council approves, by vote  
20 of two-thirds majority, the fee structure recommendations, the council shall  
21 authorize the department to file a notice of proposed rulemaking containing the  
22 recommended fee structure, and after considering public comments may authorize  
23 the department to file the final order of rulemaking for such rule with the joint  
24 committee on administrative rules under sections 536.021 and 536.024 no later  
25 than December first of the same year. If such rules are not disapproved by the  
26 general assembly in the manner set out in this section, they shall take effect on  
27 January first of the following year, at which point the existing fee structure shall  
28 expire. Any regulation promulgated under this subsection shall be deemed  
29 beyond the scope and authority provided in this subsection, or detrimental to  
30 permit applicants, if the general assembly, within the first sixty calendar days  
31 of the regular session immediately following the filing of such regulation,  
32 disapproves the regulation by concurrent resolution. If the general assembly so



33 disapproved any regulation filed under this subsection, the department and the  
34 council shall not implement the proposed fee structure and shall continue to use  
35 the previous fee structure. The authority of the council to further revise the fee  
36 structure as provided in this subsection shall expire on August 28, 2025.

37 3. Failure to pay the fees, or any portion thereof, established under this  
38 section or to submit required reports, forms or information by the due date shall  
39 result in the imposition of a late fee established by the council. The department  
40 may issue an administrative order requiring payment of unpaid fees or may  
41 request that the attorney general bring an action in the appropriate circuit court  
42 to collect any unpaid fee, late fee, interest, or attorney's fees and costs incurred  
43 directly in fee collection. Such action may be brought in the circuit court of Cole  
44 County, or, in the case of well fees, in the circuit court of the county in which the  
45 well is located.

46 **4. All fees collected by the department for administering this**  
47 **chapter shall be deposited in the state treasury to the credit of general**  
48 **revenue.**

259.190. 1. Illegal oil, illegal gas, and illegal product are declared to be  
2 contraband and are subject to seizure and sale as herein provided; seizure and  
3 sale to be in addition to any and all other remedies and penalties provided in this  
4 chapter for violations relating to illegal oil, illegal gas, or illegal  
5 product. Whenever the council believes that any oil, gas or product is illegal, the  
6 council, acting by the attorney general, shall bring a civil action in rem in the  
7 circuit court of the county where such oil, gas, or product is found, to seize and  
8 sell the same, or the council may include such an action in rem for the seizure  
9 and sale of illegal oil, illegal gas, or illegal product in any suit brought for an  
10 injunction or penalty involving illegal oil, illegal gas, or illegal product. Any  
11 person claiming an interest in oil, gas, or product affected by any such action  
12 shall have the right to intervene as an interested party in such action.

13 2. Actions for the seizure and sale of illegal oil, illegal gas, or illegal  
14 product shall be strictly in rem, and shall proceed in the name of the state as  
15 plaintiff against the illegal oil, illegal gas, or illegal products as defendant. No  
16 bond or similar undertaking shall be required of the plaintiff. Upon the filing of  
17 the petition for seizure and sale, the attorney general shall issue a notice, with  
18 a copy of the complaint attached thereto, which shall be served in the manner  
19 provided for service of original notices in civil actions, upon any and all persons  
20 having or claiming any interest in the illegal oil, illegal gas, or illegal products

21 described in the petition. Service shall be completed by the filing of an affidavit  
22 by the person making the service, stating the time and manner of making such  
23 service. Any person who fails to appear and answer within the period of thirty  
24 days shall be forever barred by the judgment based on such service. If the court,  
25 on a properly verified petition, or affidavits, or oral testimony, finds that grounds  
26 for seizure and for sale exist, the court shall issue an immediate order of seizure,  
27 describing the oil, gas, or product to be seized and directing the sheriff of the  
28 county to take such oil, gas, or product into his custody, actual or constructive,  
29 and to hold the same subject to the further order of the court. The court, in such  
30 order of seizure, may direct the sheriff to deliver the oil, gas, or product seized by  
31 him under the order to an agent appointed by the court as the agent of the court;  
32 such agent to give bond in an amount and with such surety as the court may  
33 direct, conditioned upon his compliance with the orders of the court concerning  
34 the custody and disposition of such oil, gas, or product.

35         3. Any person having an interest in oil, gas, or product described in an  
36 order of seizure and contesting the right of the state to the seizure and sale  
37 thereof may, prior to the sale thereof as herein provided, obtain the release  
38 thereof, upon furnishing bond to the sheriff, approved by the court, in an amount  
39 equal to one hundred fifty percent of the market value of the oil, gas, or product  
40 to be released, and conditioned as the court may direct upon redelivery to the  
41 sheriff of such product released or upon payment to the sheriff of the market  
42 value thereof as the court may direct, if and when ordered by the court, and upon  
43 full compliance with the further orders of the court.

44         4. If the court, after a hearing upon a petition for the seizure and sale of  
45 oil, gas, or product, finds that such oil, gas, or product is contraband, the court  
46 shall order the sale thereof by the sheriff in the same manner and upon the same  
47 notice of sale as provided by law for the sale of personal property on execution of  
48 judgment entered in a civil action except that the court may order that the illegal  
49 oil, illegal gas, or illegal product be sold in specified lots or portions and at  
50 specified intervals. Upon such sale, title to the oil, gas, or product sold shall vest  
51 in the purchaser free of the claims of any and all persons having any title thereto  
52 or interest therein at or prior to the seizure thereof, and the same shall be legal  
53 oil, legal gas, or legal product, as the case may be, in the hands of the purchaser.

54         5. All proceeds derived from the sale of illegal oil, illegal gas, or illegal  
55 product, as above provided, after payment of costs of suit and expenses incident  
56 to the sale, and all amounts obtained by the council from the forfeiture of bonds

57 required under paragraph (d) of subdivision (1) of subsection 5 of section 259.070,  
58 shall be [paid to the state treasurer and credited to the "Oil and Gas Remedial  
59 Fund", which is hereby created. The money in the oil and gas remedial fund may  
60 be used by the department to pay for the plugging of, or other remedial measures  
61 on, wells. The state treasurer shall be custodian of the fund and may approve  
62 disbursements from the fund in accordance with sections 30.170 and  
63 30.180. Notwithstanding the provisions of section 33.080, to the contrary, any  
64 moneys remaining in the fund at the end of the biennium shall not revert to the  
65 credit of the general revenue fund. The state treasurer shall invest moneys in the  
66 fund in the same manner as other funds are invested. Any interest and moneys  
67 earned on such investments shall be credited to the fund] **deposited in the**  
68 **state treasury to the credit of general revenue.**

260.115. 1. All loans authorized under section 260.035 for the  
2 development of energy resources shall be made only upon determination by the  
3 authority that loans are not otherwise available, either wholly or in part, from  
4 private lenders upon reasonably equivalent terms and conditions. No  
5 commitment for a loan shall be made unless all plans for development have been  
6 completed and submitted to and found to be satisfactory by the authority.

7 2. The authority shall charge a reasonable fee on all loans not federally  
8 insured to insure such loans. The proceeds of such fees shall be deposited in [a  
9 separate fund to be known as the "Energy Resources Insured Loan Fund". The  
10 provisions of section 33.080 to the contrary notwithstanding, money in this fund  
11 shall not be transferred and placed to the credit of general revenue. This fund  
12 shall be deposited when received in a bank approved for deposit of state funds. No  
13 moneys shall be withdrawn from the fund unless it is to be used for the purchase  
14 of loan insurance or to pay for any losses on such loans] **the state treasury to**  
15 **the credit of general revenue.**

260.203. 1. Any infectious waste transferred from the premises of the  
2 generator shall be taken to an infectious waste processing facility that holds a  
3 valid permit issued by the department, or a hospital as defined in section  
4 197.020.

5 2. No infectious waste shall be placed into a solid waste disposal area  
6 except as otherwise provided for in sections 260.200 to 260.245 unless it has been  
7 treated or rendered innocuous by a permitted infectious waste processing facility  
8 as provided in sections 260.200 to 260.245, or by a hospital as defined in section  
9 197.020, by autoclaving, incineration, chemical disinfection, or other methods of

10 treatment approved by the department. The department of health and senior  
11 services shall promulgate rules covering the handling and treatment of infectious  
12 waste by hospitals as defined in section 197.020 and such rules shall be  
13 consistent with the rules of the department under sections 260.200 to 260.245,  
14 and shall be effective no later than January 1, 1989.

15 3. All such wastes, when transported off the premises of the generator  
16 shall be packaged and transported as provided by rule under sections 260.200 to  
17 260.245, except that hospitals and small quantity generators as defined by the  
18 department under this section may transport infectious waste to a hospital for  
19 treatment, an infectious waste processing facility for treatment or to a central  
20 collection point using their employees and vehicles as long as they meet all other  
21 requirements of sections 260.200 to 260.245 and the rules and regulations  
22 promulgated under sections 260.200 to 260.245.

23 4. The department of health and senior services shall provide for a  
24 registration process for all hospitals pursuant to the provisions of sections  
25 260.200 to 260.245 and section 192.005. The process shall include a completed  
26 and signed application on forms provided by the department of health and senior  
27 services. The forms shall contain the following:

28 (1) A statement certifying that the applicant understands and will comply  
29 with the applicable requirements of sections 260.200 to 260.245; and

30 (2) Other requirements established by the department of health and  
31 senior services.

32 5. Registrations shall be renewed annually.

33 6. Unless otherwise provided for in sections 260.200 to 260.245, any  
34 person who treats infectious waste to the specifications of the department of  
35 natural resources or the department of health and senior services, and who  
36 proposes to dispose of the residue thereof in a sanitary landfill shall properly  
37 identify the waste and shall certify to the transporter and the sanitary landfill  
38 operator that the waste has been rendered innocuous and may be legally placed  
39 in a sanitary landfill pursuant to the provisions of this section. Persons found to  
40 be in violation of this subsection shall be guilty of a class A misdemeanor.

41 7. Facilities permitted to treat infectious waste shall adhere to an  
42 operation plan for the handling and treatment of infectious waste approved by the  
43 department of natural resources as provided by rule, and hospitals, as defined in  
44 section 197.020, allowed to treat infectious waste shall adhere to an operation  
45 plan for the handling and treatment of infectious waste approved by the

46 department of health and senior services as provided by rule. The plan shall  
47 include, but not be limited to, methods of handling and treating the waste,  
48 protection of employees and the public and the maximum amount of waste which  
49 may be handled per month. Approval for acceptance of infectious waste may be  
50 withdrawn for noncompliance with the operation plan. No permitted infectious  
51 waste treatment facility shall operate unless it has a solid waste technician  
52 trained in the handling of infectious waste on site during any treatment  
53 process. Such operator shall meet the requirements established by the  
54 department pursuant to section 260.205.

55         8. Any transporter or generator who delivers infectious waste to an  
56 infectious waste processing facility, except small quantity generators and  
57 hospitals located in Missouri and defined in section 197.020, shall pay a fee of  
58 two dollars for each ton of infectious waste so delivered. Such fees shall be  
59 collected by the infectious waste processing facility accepting the waste and  
60 transmitted to the department. The department shall promptly transmit funds  
61 collected under this section to the director of the department of revenue for  
62 deposit in the [solid waste management fund. Moneys, upon appropriation, shall  
63 be used to help pay for the administrative costs associated with infectious waste  
64 management] **state treasury to the credit of general revenue.** Any  
65 transporter or generator who transports infectious waste for more than three  
66 hundred miles for management in Missouri shall pay, in addition to the charges  
67 above, an additional charge equal to ten percent of the gross charge charged by  
68 the processing facility for the management of such waste. Such fees shall be  
69 collected by the infectious waste processing facility accepting the waste and  
70 transmitted to the department which shall promptly transmit such fees to the  
71 department of revenue for deposit in the general revenue fund.

72         9. Hospitals defined in chapter 197, and located in Missouri, may manage  
73 infectious waste generated on the premises by autoclaving, incineration, chemical  
74 disinfection or other methods of treatment approved by the department of health  
75 and senior services. Such hospitals may also treat infectious waste produced by  
76 small quantity generators and other hospitals located in Missouri upon the  
77 approval of the department of natural resources and the department of health  
78 and senior services. Failure of either department to respond by issuing a  
79 certification to accept infectious waste in writing to a hospital which has filed in  
80 writing to both departments a notice of intent to treat waste from another  
81 hospital within ninety days constitutes approval of the treatment. All hospitals

82 licensed by the state of Missouri pursuant to chapter 197 are exempt from all  
83 taxes or fees imposed pursuant to sections 260.350 to 260.480, provided that no  
84 more than twenty-five percent, by weight, of the infectious waste managed by  
85 such hospitals is produced by other generators which are not owned or operated  
86 by the hospital.

87         10. Persons generating one hundred kilograms or less of infectious waste  
88 per month are exempt from the provisions of this section except that the  
89 department of health and senior services shall specify by rule, in accordance with  
90 section 192.005, infectious waste that shall be rendered innocuous regardless of  
91 quantity. Any person who disposes of waste exempt from the provisions of this  
92 act in a sanitary landfill shall certify to the transporter or the sanitary landfill  
93 operator that the waste has been handled in a manner consistent with the law  
94 and may be legally placed in a sanitary landfill. Rules promulgated by the  
95 department of natural resources and the department of health and senior services  
96 pursuant to this subsection shall be effective no later than July 1, 1989. Persons  
97 found to be in violation of this subsection shall be guilty of a class A  
98 misdemeanor.

99         11. A generator of infectious waste who operates single or multiple site  
100 research facilities for research and experimental activities as defined in section  
101 174 of the 1986 Internal Revenue Code, who generates such waste as a part of  
102 research and experimentation activities, and who manages such waste on site,  
103 shall not be required to obtain an infectious waste processing facility permit  
104 under this section to manage infectious waste. The generator may accept  
105 infectious waste from other sites of the parent research company located in  
106 Missouri but shall not accept infectious waste from other sources and shall  
107 comply with all other requirements and provisions of sections 260.200 to 260.245,  
108 and the rules and regulations promulgated thereunder. The University of  
109 Missouri Ellis Fischel Cancer Center and the other facilities of the University of  
110 Missouri-Columbia shall be considered a multiple site research facility for the  
111 purposes of this section.

112         12. Nothing in this section shall prohibit the transportation of infectious  
113 or hazardous waste from the state of Missouri for management in another state.

114         13. The department of natural resources shall establish, by rule,  
115 inspection fees to be paid to the department by owners or operators of commercial  
116 infectious waste incinerators. The fees shall not exceed the costs of the  
117 inspections and shall not exceed ten thousand dollars per year for a

118 facility. Funds derived from these inspection fees shall be used, **subject to**  
119 **appropriation**, for the purpose of funding the inspection of commercial  
120 infectious waste incinerators.

121 14. All owners or operators of commercial infectious waste incinerators  
122 shall pay the fees, established by the department by rule, for inspections  
123 conducted by the department pursuant to this section.

124 15. [There is hereby created the "Infectious Waste Incinerator Inspection  
125 Fund".] All funds received from infectious waste incinerator inspection fees shall  
126 be paid to the director of the department of revenue and deposited in the state  
127 treasury to the credit of [the infectious waste incinerator inspection  
128 fund. Moneys from such fund shall be used by the department of natural  
129 resources for conducting inspections at commercial infectious waste incinerators]  
130 **general revenue**.

131 16. The department shall furnish to the person, firm or corporation  
132 operating the commercial infectious waste facility a complete, full and detailed  
133 accounting of the cost of the department's inspection of the facility each time the  
134 facility is inspected within thirty days after the inspection is commenced. Failure  
135 to do so shall require the department to refund the inspection fee.

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

16 2. No person or operator may apply for or obtain a permit to construct a  
17 solid waste disposal area unless the person has requested the department to  
18 conduct a preliminary site investigation and obtained preliminary approval from

19 the department. The department shall, within sixty days of such request, conduct  
20 a preliminary investigation and approve or disapprove the site.

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

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

32 (2) Within ninety days after the preliminary site investigation approval,  
33 the department shall conduct a public awareness session in the county in which  
34 the proposed disposal area is to be located. The department shall provide public  
35 notice of such session by both printed and broadcast media at least thirty days  
36 prior to such session. Printed notification shall include publication in at least one  
37 newspaper having general circulation within the county in which the proposed  
38 disposal area is to be located. Broadcast notification shall include public service  
39 announcements on radio stations that have broadcast coverage within the county  
40 in which the proposed disposal area is to be located. The intent of such public  
41 awareness session shall be to provide general information to interested citizens  
42 on the design and operation of solid waste disposal areas;

43 (3) At least sixty days prior to the submission to the department of a  
44 report on the results of a detailed site investigation pursuant to subsection 4 of  
45 this section, the applicant shall conduct a community involvement session in the  
46 county in which the proposed disposal area is to be located. Department staff  
47 shall attend any such session. The applicant shall provide public notice of such  
48 session by both printed and broadcast media at least thirty days prior to such  
49 session. Printed notification shall include publication in at least one newspaper  
50 having general circulation within the county in which the proposed disposal area  
51 is to be located. Broadcast notification shall include public service  
52 announcements on radio stations that have broadcast coverage within the county  
53 in which the proposed disposal area is to be located. Such public notices shall  
54 include the addresses of the applicant and the department and information on a



55 public comment period. Such public comment period shall begin on the day of the  
56 community involvement session and continue for at least thirty days after such  
57 session. The applicant shall respond to all persons submitting comments during  
58 the public comment period no more than thirty days after the receipt of such  
59 comments;

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

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

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

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

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

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

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

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

86 5. (1) Every person desiring to construct a solid waste processing facility  
87 or solid waste disposal area shall make application for a permit on forms provided  
88 for this purpose by the department. Every applicant shall submit evidence of  
89 financial responsibility with the application. Any applicant who relies in part  
90 upon a parent corporation for this demonstration shall also submit evidence of

91 financial responsibility for that corporation and any other subsidiary thereof.

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

103 (3) The applicant for a permit to construct a solid waste disposal area  
104 shall provide the department with plans, specifications, and such other data as  
105 may be necessary to comply with the purpose of sections 260.200 to 260.345. The  
106 application shall demonstrate compliance with all applicable local planning and  
107 zoning requirements. The department shall make an investigation of the solid  
108 waste disposal area and determine whether it complies with the provisions of  
109 sections 260.200 to 260.345 and the rules and regulations adopted pursuant to  
110 sections 260.200 to 260.345. Within twelve consecutive months of the receipt of  
111 an application for a construction permit the department shall approve or deny the  
112 application. The department shall issue rules and regulations establishing time  
113 limits for permit modifications and renewal of a permit for a solid waste disposal  
114 area. The time limit shall be consistent with this chapter.

115 (4) The applicant for a permit to construct a solid waste processing facility  
116 shall provide the department with plans, specifications and such other data as  
117 may be necessary to comply with the purpose of sections 260.200 to  
118 260.345. Within one hundred eighty days of receipt of the application, the  
119 department shall determine whether it complies with the provisions of sections  
120 260.200 to 260.345. Within twelve consecutive months of the receipt of an  
121 application for a permit to construct an incinerator as defined in section 260.200  
122 or a material recovery facility as defined in section 260.200, and within six  
123 months for permit modifications, the department shall approve or deny the  
124 application. Permits issued for solid waste facilities shall be for the anticipated  
125 life of the facility.

126 (5) If the department fails to approve or deny an application for a permit

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

136 (6) The applicant for a permit to construct a solid waste processing facility  
137 shall pay an application fee of one thousand dollars. Upon completion of the  
138 department's evaluation of the application, but before receiving a permit, the  
139 applicant shall reimburse the department for all reasonable costs incurred by the  
140 department up to a maximum of four thousand dollars. The applicant for a  
141 permit to construct a solid waste disposal area shall pay an application fee of two  
142 thousand dollars. Upon completion of the department's evaluations of the  
143 application, but before receiving a permit, the applicant shall reimburse the  
144 department for all reasonable costs incurred by the department up to a maximum  
145 of eight thousand dollars. Applicants who withdraw their application before the  
146 department completes its evaluation shall be required to reimburse the  
147 department for costs incurred in the evaluation. The department shall not collect  
148 the fees authorized in this subdivision unless it complies with the time limits  
149 established in this section. **All fees collected under this section shall be**  
150 **deposited in the state treasury to the credit of general revenue.**

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

160 6. Plans, designs, and relevant data for the construction of solid waste  
161 processing facilities and solid waste disposal areas shall be submitted to the  
162 department by a registered professional engineer licensed by the state of Missouri

163 for approval prior to the construction, alteration or operation of such a facility or  
164 area.

165           7. Any person or operator as defined in section 260.200 who intends to  
166 obtain a construction permit in a solid waste management district with an  
167 approved solid waste management plan shall request a recommendation in  
168 support of the application from the executive board created in section  
169 260.315. The executive board shall consider the impact of the proposal on, and  
170 the extent to which the proposal conforms to, the approved district solid waste  
171 management plan prepared pursuant to section 260.325. The executive board  
172 shall act upon the request for a recommendation within sixty days of receipt and  
173 shall submit a resolution to the department specifying its position and its  
174 recommendation regarding conformity of the application to the solid waste  
175 plan. The board's failure to submit a resolution constitutes recommendation of  
176 the application. The department may consider the application, regardless of the  
177 board's action thereon and may deny the construction permit if the application  
178 fails to meet the requirements of sections 260.200 to 260.345, or if the application  
179 is inconsistent with the district's solid waste management plan.

180           8. If the site proposed for a solid waste disposal area is not owned by the  
181 applicant, the owner or owners of the site shall acknowledge that an application  
182 pursuant to sections 260.200 to 260.345 is to be submitted by signature or  
183 signatures thereon. The department shall provide the owner with copies of all  
184 communication with the operator, including inspection reports and orders issued  
185 pursuant to section 260.230.

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

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

198           (1) By legal notice published in a newspaper of general circulation in the

199 area of the proposed disposal area or processing facility;

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

202 (3) By mail to the last known address of all record owners of contiguous  
203 real property or real property located within one thousand feet of the proposed  
204 disposal area and, for a proposed processing facility, notice as provided in section  
205 64.875 or section 89.060, whichever is applicable.

206 If an application for a construction permit meets all statutory and regulatory  
207 requirements for issuance, a public hearing on the draft permit shall be held by  
208 the department in the county in which the proposed solid waste disposal area is  
209 to be located prior to the issuance of the permit. The department shall provide  
210 public notice of such hearing by both printed and broadcast media at least thirty  
211 days prior to such hearing. Printed notification shall include publication in at  
212 least one newspaper having general circulation within the county in which the  
213 proposed disposal area is to be located. Broadcast notification shall include  
214 public service announcements on radio stations that have broadcast coverage  
215 within the county in which the proposed disposal area is to be located.

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

228 12. Every person desiring to obtain a permit to operate a solid waste  
229 disposal area or processing facility shall submit applicable information and apply  
230 for an operating permit from the department. The department shall review the  
231 information and determine, within sixty days of receipt, whether it complies with  
232 the provisions of sections 260.200 to 260.345 and the rules and regulations  
233 adopted pursuant to sections 260.200 to 260.345. When the review reveals that  
234 the facility or area does conform with the provisions of sections 260.200 to

235 260.345 and the rules and regulations adopted pursuant to sections 260.200 to  
236 260.345, the department shall issue a permit for the operation of each solid waste  
237 processing facility or solid waste disposal area and with any permit terms and  
238 conditions which the department deems appropriate. In the event that the  
239 facility or area fails to meet the rules and regulations adopted pursuant to  
240 sections 260.200 to 260.345, the department shall issue a report to the applicant  
241 stating the reason for denial of a permit.

242 13. Each solid waste disposal area, except utility waste landfills unless  
243 otherwise and to the extent required by the department, and those solid waste  
244 processing facilities designated by rule, shall be operated under the direction of  
245 a certified solid waste technician in accordance with sections 260.200 to 260.345  
246 and the rules and regulations promulgated pursuant to sections 260.200 to  
247 260.345.

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

253 15. Leachate collection and removal systems shall be incorporated into  
254 new or expanded sanitary landfills which are permitted after August 13,  
255 1986. The department shall assess the need for a leachate collection system for  
256 all types of solid waste disposal areas, other than sanitary landfills, and the need  
257 for monitoring wells when it evaluates the application for all new or expanded  
258 solid waste disposal areas. The department may require an operator of a solid  
259 waste disposal area to install a leachate collection system before the beginning  
260 of disposal operations, at any time during disposal operations for unfilled portions  
261 of the area, or for any portion of the disposal area as a part of a remedial  
262 plan. The department may require the operator to install monitoring wells before  
263 the beginning of disposal operations or at any time during the operational life or  
264 postclosure care period if it concludes that conditions at the area warrant such  
265 monitoring. The operator of a demolition landfill or utility waste landfill shall  
266 not be required to install a leachate collection and removal system or monitoring  
267 wells unless otherwise and to the extent the department so requires based on  
268 hazardous waste characteristic criteria or site specific geohydrological  
269 characteristics or conditions.

270 16. Permits granted by the department, as provided in sections 260.200

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

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

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

297           19. In case a permit required pursuant to this section is denied or  
298 revoked, the person may [request a hearing] **appeal such decision** in  
299 accordance with section 260.235.

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

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

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

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

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

330         24. No person shall be required to submit the disclosure statement  
331 required by this section if the person is a corporation or an officer, director or  
332 shareholder of that corporation or any subsidiary thereof, and that corporation:

333             (1) Has on file and in effect with the federal Securities and Exchange  
334 Commission a registration statement required under Section 5, Chapter 38, Title  
335 1 of the Securities Act of 1933, as amended, 15 U.S.C. Section 77e(c);

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

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



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

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

351           27. Any person seeking a permit to operate a solid waste disposal area,  
352 a solid waste processing facility, or a resource recovery facility shall, concurrently  
353 with the filing of the application for a permit, disclose any convictions in this  
354 state, county or county-equivalent public health or land use ordinances related  
355 to the management of solid waste. If the department finds that there has been  
356 a continuing pattern of adjudicated violations by the applicant, the department  
357 may deny the application.

358           28. No permit to construct or permit to operate shall be required pursuant  
359 to this section for any utility waste landfill located in a county of the third  
360 classification with a township form of government which has a population of at  
361 least eleven thousand inhabitants and no more than twelve thousand five  
362 hundred inhabitants according to the most recent decennial census, if such utility  
363 waste landfill complies with all design and operating standards and closure  
364 requirements applicable to utility waste landfills pursuant to sections 260.200 to  
365 260.345 and provided that no waste disposed of at such utility waste landfill is  
366 considered hazardous waste pursuant to the Missouri hazardous waste law.

          260.262. A person selling lead-acid batteries at retail or offering lead-acid  
2 batteries for retail sale in the state shall:

3           (1) Accept, at the point of transfer, in a quantity at least equal to the  
4 number of new lead-acid batteries purchased, used lead-acid batteries from  
5 customers, if offered by customers;

6           (2) Post written notice which must be at least four inches by six inches in  
7 size and must contain the universal recycling symbol and the following language:

8           (a) It is illegal to discard a motor vehicle battery or other lead-acid  
9 battery;

10           (b) Recycle your used batteries; and

11           (c) State law requires us to accept used motor vehicle batteries, or other  
12 lead-acid batteries for recycling, in exchange for new batteries purchased; and

13 (3) Manage used lead-acid batteries in a manner consistent with the  
14 requirements of the state hazardous waste law;

15 (4) Collect at the time of sale a fee of fifty cents for each lead-acid battery  
16 sold. Such fee shall be added to the total cost to the purchaser at retail after all  
17 applicable sales taxes on the battery have been computed. The fee imposed, less  
18 six percent of fees collected, which shall be retained by the seller as collection  
19 costs, shall be paid to the department of revenue in the form and manner  
20 required by the department and shall include the total number of batteries sold  
21 during the preceding month. The department of revenue shall promulgate rules  
22 and regulations necessary to administer the fee collection and enforcement. The  
23 terms "sold at retail" and "retail sales" do not include the sale of batteries to a  
24 person solely for the purpose of resale, if the subsequent retail sale in this state  
25 is to the ultimate consumer and is subject to the fee. However, this fee shall not  
26 be paid on batteries sold for use in agricultural operations upon written  
27 certification by the purchaser; and

28 (5) The department of revenue shall administer, collect, and enforce the  
29 fee authorized pursuant to this section pursuant to the same procedures used in  
30 the administration, collection, and enforcement of the general state sales and use  
31 tax imposed pursuant to chapter 144 except as provided in this section. The  
32 proceeds of the battery fee, less four percent of the proceeds, which shall be  
33 retained by the department of revenue as collection costs, shall be transferred by  
34 the department of revenue [into the hazardous waste fund, created pursuant to  
35 section 260.391] **to the state treasury to the credit of general**  
36 **revenue.** The fee created in subdivision (4) and this subdivision shall be  
37 effective October 1, 2005. The provisions of subdivision (4) and this subdivision  
38 shall terminate December 31, 2018.

260.270. 1. (1) It shall be unlawful for any person to haul for commercial  
2 profit, collect, process, or dispose of scrap tires in the state except as provided in  
3 this section. This section shall not be construed to prohibit scrap tires from being  
4 hauled to a lawfully operated facility in another state. Scrap tires shall be  
5 collected at a scrap tire site, scrap tire processing facility, scrap tire end-user  
6 facility, or a scrap tire collection center. A violation of this subdivision shall be  
7 a class C misdemeanor for the first violation. A second and each subsequent  
8 violation shall be a class A misdemeanor. A third and each subsequent violation,  
9 in addition to other penalties authorized by law, may be punishable by a fine not  
10 to exceed five thousand dollars and restitution may be ordered by the court.

11 (2) A person shall not maintain a scrap tire site unless the site is  
12 permitted by the department of natural resources for the proper and temporary  
13 storage of scrap tires or the site is an integral part of the person's permitted  
14 scrap tire processing facility or registered scrap tire end-user facility. No new  
15 scrap tire sites shall be permitted by the department after August 28, 1997,  
16 unless they are located at permitted scrap tire processing facilities or registered  
17 scrap tire end-user facilities. A person who maintained a scrap tire site on or  
18 before August 28, 1997, shall not accept any quantity of additional scrap tires at  
19 such site after August 28, 1997, unless the site is an integral part of the person's  
20 scrap tire processing or end-user facility, or unless the person who maintains  
21 such site can verify that a quantity of scrap tires at least equal to the number of  
22 additional scrap tires received was shipped to a scrap tire processing or end-user  
23 facility within thirty days after receipt of such additional scrap tires.

24 (3) A person shall not operate a scrap tire processing facility unless the  
25 facility is permitted by the department. A person shall not maintain a scrap tire  
26 end-user facility unless the facility is registered by the department. The  
27 inventory of unprocessed scrap tires on the premises of a scrap tire processing or  
28 end-user facility shall not exceed the estimated inventory that can be processed  
29 or used in six months of normal and continuous operation. This estimate shall  
30 be based on the volume of tires processed or used by the facility in the last year  
31 or the manufacturer's estimated capacity of the processing or end-user  
32 equipment. This estimate may be increased from time to time when new  
33 equipment is obtained by the owner of the facility, and shall be reduced if  
34 equipment used previously is removed from active use. The inventory of  
35 processed scrap tires on the premises of a scrap tire processing or end-user  
36 facility shall not exceed two times the permitted inventory of an equivalent  
37 volume of unprocessed scrap tires.

38 (4) Any person selling new, used, or remanufactured tires at retail shall  
39 accept, at the point of transfer, in a quantity equal to the number of tires sold,  
40 scrap tires from customers, if offered by such customers. Any person accepting  
41 scrap tires may charge a reasonable fee reflecting the cost of proper management  
42 of any scrap tires accepted; and which tire is required to be accepted on a one-for-  
43 one basis at the time of a retail sale pursuant to this subdivision. All tire  
44 retailers or other businesses that generate scrap tires shall use a scrap tire  
45 hauler permitted by the department, except that businesses that generate or  
46 accept scrap tires in the normal course of business may haul such scrap tires

47 without a permit, if such hauling is performed without any consideration and  
48 such business maintains records on the scrap tires hauled as required by sections  
49 260.270 to 260.276. Retailers shall not be liable for illegal disposal of scrap tires  
50 after such scrap tires are delivered to a scrap tire hauler, scrap tire collection  
51 center, scrap tire site, scrap tire processing facility or scrap tire end-user facility  
52 if such entity is permitted by the department of natural resources.

53 (5) It shall be unlawful for any person to transport scrap tires for  
54 consideration within the state without a permit.

55 (6) Scrap tires may not be deposited in a landfill unless the tires have  
56 been cut, chipped or shredded.

57 2. Within six months after August 28, 1990, owners and operators of any  
58 scrap tire site shall provide the department of natural resources with information  
59 concerning the site's location, size, and approximate number of scrap tires that  
60 have been accumulated at the site and shall initiate steps to comply with sections  
61 260.270 to 260.276.

62 3. The department of natural resources shall promulgate rules and  
63 regulations pertaining to collection, storage and processing and transportation of  
64 scrap tires and such rules and regulations shall include:

65 (1) Methods of collection, storage and processing of scrap tires. Such  
66 methods shall consider the general location of scrap tires being stored with regard  
67 to property boundaries and buildings, pest control, accessibility by fire-fighting  
68 equipment, and other considerations as they relate to public health and safety;

69 (2) Procedures for permit application and permit fees for scrap tire sites  
70 and commercial scrap tire haulers, and by January 1, 1996, procedures for  
71 permitting of scrap tire processing facilities and registration of scrap tire end-  
72 user facilities. The only purpose of such registration shall be to provide  
73 information for the documentation of scrap tire handling as described in  
74 subdivision (5) of this subsection, and registration shall not impose any additional  
75 requirements on the owner of a scrap tire end-user facility;

76 (3) Requirements for performance bonds or other forms of financial  
77 assurance for scrap tire sites, scrap tire end-user facilities, and scrap tire  
78 processing facilities;

79 (4) Exemptions from the requirements of sections 260.270 to 260.276; and

80 (5) By January 1, 1996, requirements for record-keeping procedures for  
81 retailers and other businesses that generate scrap tires, scrap tire haulers, scrap  
82 tire collection centers, scrap tire sites, scrap tire processing facilities, and scrap

83 tire end-user facilities. Required record keeping shall include the source and  
84 number or weight of tires received and the destination and number of tires or  
85 weight of tires or tire pieces shipped or otherwise disposed of and such records  
86 shall be maintained for at least three years following the end of the calendar year  
87 of such activity. Detailed record keeping shall not be required where any  
88 charitable, fraternal, or other nonprofit organization conducts a program which  
89 results in the voluntary cleanup of land or water resources or the turning in of  
90 scrap tires.

91 4. Permit fees for scrap tire sites and commercial scrap tire haulers shall  
92 be established by rule and shall not exceed the cost of administering sections  
93 260.270 to 260.275. Permit fees shall be deposited [into an appropriate  
94 subaccount of the solid scrap management fund] **in the state treasury to the**  
95 **credit of general revenue.**

96 5. The department shall:

97 (1) Encourage the voluntary establishment of scrap tire collection centers  
98 at retail tire selling businesses and scrap tire processing facilities; and

99 (2) Investigate, locate and document existing sites where tires have been  
100 or currently are being accumulated, and initiate efforts to bring these sites into  
101 compliance with rules and regulations promulgated pursuant to the provisions of  
102 sections 260.270 to 260.276.

103 6. Any person licensed as an auto dismantler and salvage dealer under  
104 chapter 301 may without further license, permit or payment of fee, store but shall  
105 not bury on his property, up to five hundred scrap tires that have been chipped,  
106 cut or shredded, if such tires are only from vehicles acquired by him, and such  
107 tires are stored in accordance with the rules and regulations adopted by the  
108 department pursuant to this section. Any tire retailer or wholesaler may hold  
109 more than five hundred scrap tires for a period not to exceed thirty days without  
110 being permitted as a scrap tire site, if such tires are stored in a manner which  
111 protects human health and the environment pursuant to regulations adopted by  
112 the department.

113 7. Notwithstanding any other provisions of sections 260.270 to 260.276,  
114 a person who leases or owns real property may use scrap tires for soil erosion  
115 abatement and drainage purposes in accordance with procedures approved by the  
116 department, or to secure covers over silage, hay, straw or agricultural products.

117 8. The department of transportation shall, beginning July 1, 1991,  
118 undertake, as part of its currently scheduled highway improvement projects,

119 demonstration projects using recovered rubber from scrap tires as surfacing  
120 material, structural material, subbase material and fill, consistent with standard  
121 engineering practices. The department shall evaluate the efficacy of using  
122 recovered rubber in highway improvements, and shall encourage the modification  
123 of road construction specifications, when possible, for the use of recovered rubber  
124 in highway improvement projects.

125 9. The director may request a prosecuting attorney to institute a  
126 prosecution for any violation of this section. In addition, the prosecutor of any  
127 county or circuit attorney of any city not within a county may, by information or  
128 indictment, institute a prosecution for any violation of this section.

260.273. 1. Any person purchasing a new tire may present to the seller  
2 the used tire or remains of such used tire for which the new tire purchased is to  
3 replace.

4 2. A fee for each new tire sold at retail shall be imposed on any person  
5 engaging in the business of making retail sales of new tires within this  
6 state. The fee shall be charged by the retailer to the person who purchases a tire  
7 for use and not for resale. Such fee shall be imposed at the rate of fifty cents for  
8 each new tire sold. Such fee shall be added to the total cost to the purchaser at  
9 retail after all applicable sales taxes on the tires have been computed. The fee  
10 imposed, less six percent of fees collected, which shall be retained by the tire  
11 retailer as collection costs, shall be paid to the department of revenue in the form  
12 and manner required by the department of revenue and shall include the total  
13 number of new tires sold during the preceding month. The department of revenue  
14 shall promulgate rules and regulations necessary to administer the fee collection  
15 and enforcement. The terms "sold at retail" and "retail sales" do not include the  
16 sale of new tires to a person solely for the purpose of resale, if the subsequent  
17 retail sale in this state is to the ultimate consumer and is subject to the fee.

18 3. The department of revenue shall administer, collect and enforce the fee  
19 authorized pursuant to this section pursuant to the same procedures used in the  
20 administration, collection and enforcement of the general state sales and use tax  
21 imposed pursuant to chapter 144 except as provided in this section. The proceeds  
22 of the new tire fee, less four percent of the proceeds, which shall be retained by  
23 the department of revenue as collection costs, shall be transferred by the  
24 department of revenue [into an appropriate subaccount of the solid waste  
25 management fund, created pursuant to section 260.330] **to the state treasury**  
26 **to the credit of general revenue.**

27           4. Up to five percent of the revenue available may be allocated, upon  
28 appropriation, to the department of natural resources to be used cooperatively  
29 with the department of elementary and secondary education for the purposes of  
30 developing environmental educational materials, programs, and curriculum that  
31 assist in the department's implementation of sections 260.200 to 260.345.

32           5. Up to fifty percent of the moneys received pursuant to this section may,  
33 upon appropriation, be used to administer the programs imposed by this section.  
34 Up to forty-five percent of the moneys received under this section may, upon  
35 appropriation, be used for the grants authorized in subdivision (2) of subsection  
36 6 of this section. All remaining moneys shall be allocated, upon appropriation,  
37 for the projects authorized in section 260.276, except that any unencumbered  
38 moneys may be used for public health, environmental, and safety projects in  
39 response to environmental or public health emergencies and threats as  
40 determined by the director.

41           6. The department shall promulgate, by rule, a statewide plan for the use  
42 of moneys received pursuant to this section to accomplish the following:

43           (1) Removal of scrap tires from illegal tire dumps;

44           (2) Providing grants to persons that will use products derived from scrap  
45 tires, or use scrap tires as a fuel or fuel supplement; and

46           (3) Resource recovery activities conducted by the department pursuant to  
47 section 260.276.

48           7. The fee imposed in subsection 2 of this section shall begin the first day  
49 of the month which falls at least thirty days but no more than sixty days  
50 immediately following August 28, 2005, and shall terminate January 1, 2020.

260.330. 1. Except as otherwise provided in subsection 6 of this section,  
2 effective October 1, 1990, each operator of a solid waste sanitary landfill shall  
3 collect a charge equal to one dollar and fifty cents per ton or its volumetric  
4 equivalent of solid waste accepted and each operator of the solid waste demolition  
5 landfill shall collect a charge equal to one dollar per ton or its volumetric  
6 equivalent of solid waste accepted. Each operator shall submit the charge, less  
7 collection costs, to the department of [natural resources for deposit in the "Solid  
8 Waste Management Fund" which is hereby created] **revenue. The department  
9 of revenue shall transfer the funds collected, less four percent of the  
10 proceeds which shall be retained by the department of revenue as  
11 collection costs, to the state treasury to the credit of general revenue.**  
12 On October 1, 1992, and thereafter, the charge imposed herein shall be adjusted

13 annually by the same percentage as the increase in the general price level as  
14 measured by the Consumer Price Index for All Urban Consumers for the United  
15 States, or its successor index, as defined and officially recorded by the United  
16 States Department of Labor or its successor agency. No annual adjustment shall  
17 be made to the charge imposed under this subsection during October 1, 2005, to  
18 October 1, 2027, except an adjustment amount consistent with the need to fund  
19 the operating costs of the department and taking into account any annual  
20 percentage increase in the total of the volumetric equivalent of solid waste  
21 accepted in the prior year at solid waste sanitary landfills and demolition  
22 landfills and solid waste to be transported out of this state for disposal that is  
23 accepted at transfer stations. No annual increase during October 1, 2005, to  
24 October 1, 2027, shall exceed the percentage increase measured by the Consumer  
25 Price Index for All Urban Consumers for the United States, or its successor index,  
26 as defined and officially recorded by the United States Department of Labor or  
27 its successor agency and calculated on the percentage of revenues dedicated under  
28 subdivision (1) of subsection 2 of section 260.335. Any such annual adjustment  
29 shall only be made at the discretion of the director, subject to  
30 appropriations. Collection costs shall be established by the department and shall  
31 not exceed two percent of the amount collected pursuant to this section.

32 2. The department shall, by rule and regulation, provide for the method  
33 and manner of collection.

34 3. The charges established in this section shall be enumerated separately  
35 from the disposal fee charged by the landfill and may be passed through to  
36 persons who generated the solid waste. Moneys transmitted to the department  
37 **of revenue** shall be no less than the amount collected less collection costs and  
38 in a form, manner and frequency as the department shall prescribe. [The  
39 provisions of section 33.080 to the contrary notwithstanding, moneys in the  
40 account shall not lapse to general revenue at the end of each biennium.] Failure  
41 to collect the charge does not relieve the operator from responsibility for  
42 transmitting an amount equal to the charge to the department **of revenue**.

43 4. The department may examine or audit financial records and landfill  
44 activity records and measure landfill usage to verify the collection and  
45 transmittal of the charges established in this section. The department may  
46 promulgate by rule and regulation procedures to ensure and to verify that the  
47 charges imposed herein are properly collected and transmitted to the department  
48 **of revenue**.



49           5. Effective October 1, 1990, any person who operates a transfer station  
50 in Missouri shall transmit a fee to the department [for deposit in the solid waste  
51 management fund] **of revenue** which is equal to one dollar and fifty cents per  
52 ton or its volumetric equivalent of solid waste accepted. **The department of**  
53 **revenue shall transfer the funds collected, less four percent of the**  
54 **proceeds which shall be retained by the department of revenue as**  
55 **collection costs, to the state treasury to the credit of general**  
56 **revenue.** Such fee shall be applicable to all solid waste to be transported out of  
57 the state for disposal. On October 1, 1992, and thereafter, the charge imposed  
58 herein shall be adjusted annually by the same percentage as the increase in the  
59 general price level as measured by the Consumer Price Index for All Urban  
60 Consumers for the United States, or its successor index, as defined and officially  
61 recorded by the United States Department of Labor or its successor agency. No  
62 annual adjustment shall be made to the charge imposed under this subsection  
63 during October 1, 2005, to October 1, 2027, except an adjustment amount  
64 consistent with the need to fund the operating costs of the department and taking  
65 into account any annual percentage increase in the total of the volumetric  
66 equivalent of solid waste accepted in the prior year at solid waste sanitary  
67 landfills and demolition landfills and solid waste to be transported out of this  
68 state for disposal that is accepted at transfer stations. No annual increase during  
69 October 1, 2005, to October 1, 2027, shall exceed the percentage increase  
70 measured by the Consumer Price Index for All Urban Consumers for the United  
71 States, or its successor index, as defined and officially recorded by the United  
72 States Department of Labor or its successor agency and calculated on the  
73 percentage of revenues dedicated under subdivision (1) of subsection 2 of section  
74 260.335. Any such annual adjustment shall only be made at the discretion of the  
75 director, subject to appropriations. The department shall prescribe rules and  
76 regulations governing the transmittal of fees and verification of waste volumes  
77 transported out of state from transfer stations. Collection costs shall also be  
78 established by the department and shall not exceed two percent of the amount  
79 collected pursuant to this subsection. A transfer station with the sole function  
80 of separating materials for recycling or resource recovery activities shall not be  
81 subject to the fee imposed in this subsection.

82           6. Each political subdivision which owns an operational solid waste  
83 disposal area may designate, pursuant to this section, up to two free disposal  
84 days during each calendar year. On any such free disposal day, the political

85 subdivision shall allow residents of the political subdivision to dispose of any  
86 solid waste which may be lawfully disposed of at such solid waste disposal area  
87 free of any charge, and such waste shall not be subject to any state fee pursuant  
88 to this section. Notice of any free disposal day shall be posted at the solid waste  
89 disposal area site and in at least one newspaper of general circulation in the  
90 political subdivision no later than fourteen days prior to the free disposal day.

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

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

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

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

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

19 (5) Unless provided otherwise in the rules and regulations, utilize only a  
20 hazardous waste transporter holding a license pursuant to sections 260.350 to  
21 260.430 for the removal of all hazardous wastes from the premises where they  
22 were generated;

23 (6) Unless provided otherwise in the rules and regulations, provide a  
24 separate manifest to the transporter for each load of hazardous waste transported  
25 from the premises where it was generated. The generator shall specify the  
26 destination of such load on the manifest. The manner in which the manifest shall  
27 be completed, signed and filed with the department shall be in accordance with  
28 rules and regulations;

29 (7) Utilize for treatment, resource recovery, disposal or storage of all  
30 hazardous wastes, only a hazardous waste facility authorized to operate pursuant

31 to sections 260.350 to 260.430 or the federal Resource Conservation and Recovery  
32 Act, or a state hazardous waste management program authorized pursuant to the  
33 federal Resource Conservation and Recovery Act, or any facility exempted from  
34 the permit required pursuant to section 260.395;

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

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

45 (10) (a) Pay annually, on or before January first of each year, effective  
46 January 1, 1982, a fee to the state of Missouri to be [placed in the hazardous  
47 waste fund] **deposited in the state treasury to the credit of general**  
48 **revenue**. The fee shall be five dollars per ton or portion thereof of hazardous  
49 waste registered with the department as specified in subdivision (1) of this  
50 subsection for the twelve-month period ending June thirtieth of the previous  
51 year. However, the fee shall not exceed fifty-two thousand dollars per generator  
52 site per year nor be less than one hundred fifty dollars per generator site per  
53 year.

54 (b) All moneys payable pursuant to the provisions of this subdivision shall  
55 be promptly transmitted to the department of revenue, which shall deposit the  
56 same in the state treasury to the credit of [the hazardous waste fund created in  
57 section 260.391] **general revenue**.

58 (c) The hazardous waste management commission shall establish and  
59 submit to the department of revenue procedures relating to the collection of the  
60 fees authorized by this subdivision. Such procedures shall include, but not be  
61 limited to, necessary records identifying the quantities of hazardous waste  
62 registered, the form and submission of reports to accompany the payment of fees,  
63 the time and manner of payment of fees, which shall not be more often than  
64 quarterly.

65 (d) Notwithstanding any statutory fee amounts or maximums to the  
66 contrary, the director of the department of natural resources may conduct a

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

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

101         3. Exempted from the requirements of this section are individual  
102 householders and farmers who generate only small quantities of hazardous waste

103 and any person the commission determines generates only small quantities of  
104 hazardous waste on an infrequent basis, except that:

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

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

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

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

122 4. Failure to pay the fee, or any portion thereof, prescribed in this section  
123 by the due date shall result in the imposition of a penalty equal to fifteen percent  
124 of the original fee. The fee prescribed in this section shall expire December 31,  
125 2018, except that the department shall levy and collect this fee for any hazardous  
126 waste generated prior to such date and reported to the department. **Any**  
127 **penalty assessed under this subsection shall be deposited in the state**  
128 **treasury to the credit of general revenue.**

260.390. 1. After six months from the effective date of the standards,  
2 rules and regulations adopted by the commission pursuant to section 260.370,  
3 hazardous waste facility owners or operators shall:

4 (1) Not construct, substantially alter or operate a hazardous waste facility  
5 without first obtaining a hazardous waste facility permit from the department as  
6 specified in section 260.395;

7 (2) Operate the facility according to the standards, rules and regulations  
8 adopted under sections 260.350 to 260.430 and all terms and conditions of the  
9 permit;

10 (3) Unless otherwise provided in sections 260.350 to 260.430 or the rules

11 and regulations adopted hereunder, accept delivery of hazardous waste only if  
12 delivery is by a hazardous waste transporter holding a license under sections  
13 260.350 to 260.430, the shipment is accompanied by a manifest properly  
14 completed by both the generator and transporter and their facility is the  
15 destination indicated by the generator on the manifest. Exempted from the  
16 requirements of this subsection are deliveries, when directed by the department,  
17 from householders, farmers and other persons exempted from generator  
18 responsibilities under provisions of section 260.380 and deliveries made in  
19 emergency situations as specified in sections 260.350 to 260.550 or the rules and  
20 regulations adopted hereunder. For such exempted deliveries they shall make a  
21 record of any waste accepted, its type, quantity, origin and the identity of the  
22 person making the delivery and promptly report this information to the  
23 department;

24 (4) Complete, sign and file the facility operator portion of the manifest as  
25 specified in rules and regulations adopted under sections 260.350 to 260.430;

26 (5) Whenever final disposition is to be achieved at another hazardous  
27 waste or exempted facility, initiate a new manifest and comply with the other  
28 responsibilities of generators specified in sections 260.350 to 260.430 and in rules  
29 and regulations and terms and conditions of their permit adopted or issued  
30 hereunder;

31 (6) Collect and maintain such records, submit such reports and perform  
32 such monitoring as specified in sections 260.350 to 260.430 and in rules and  
33 regulations and terms and conditions of their permit adopted or issued hereunder;

34 (7) Make available to the department, upon request, samples of wastes  
35 received and all records, for inspection and copying, relating to hazardous waste  
36 management and allow the department to make unhampered inspections at any  
37 reasonable time of all facilities and equipment.

38 2. All hazardous waste landfills shall collect, on behalf of the state from  
39 each hazardous waste generator or transporter, a tax equal to two percent of the  
40 gross charges and fees charged such generator for disposal at the landfill site to  
41 be [placed in the hazardous waste fund to be used solely for the administration  
42 of sections 260.350 to 260.430] **deposited in the state treasury to the credit**  
43 **of general revenue.** The tax shall be accounted for separately on the statement  
44 of charges and fees made to the hazardous waste generator and shall be collected  
45 at the time of the collection of such charges and fees. All moneys payable under  
46 the provisions of this subsection shall be promptly transmitted to the department

47 of revenue, which shall daily deposit the same in the state treasury to the credit  
48 of [the hazardous waste fund] **general revenue**. The hazardous waste  
49 management commission shall establish and submit to the department of revenue  
50 procedures relating to the collection of the taxes authorized by this  
51 subsection. Such procedures shall include, but not be limited to, necessary  
52 records identifying the quantities of hazardous waste received, the form and  
53 submission of reports to accompany the payment of taxes, the time and manner  
54 of payment of taxes, which shall not be more often than quarterly.

55 3. The owner or operator of a hazardous waste disposal facility must close  
56 that facility upon termination of its operation, and shall after closure of the  
57 facility provide for protection during a postclosure care period, in accordance with  
58 the requirements of the commission, including the funds necessary for  
59 same. Protection shall include, but not be limited to, monitoring and  
60 maintenance subject to the rules and regulations of the hazardous waste  
61 management commission. The owner or operator shall maintain a hazardous  
62 waste facility permit for the postclosure care period. The operator and the state  
63 may enter into an agreement consistent with the rules and regulations of the  
64 hazardous waste management commission where the state may accept deed to,  
65 and monitor and maintain the site.

66 4. All owners or operators of hazardous waste facilities who have  
67 obtained, or are required to obtain, a hazardous waste facility permit from the  
68 department and who accept, on a commercial basis for remuneration, hazardous  
69 waste from off-site sources, but not including wastes generated by the same  
70 person at other sites located in Missouri or within a metropolitan statistical area  
71 located partially in Missouri and owned or operated by the same person and  
72 transferred to the hazardous waste facility, for treatment, storage or disposal,  
73 shall pay fees for inspections conducted by the department to determine  
74 compliance with sections 260.350 to 260.430 and the rules promulgated  
75 thereunder. Hazardous waste facility inspection fees shall be specified by the  
76 hazardous waste management commission by rule. The inspection fees shall be  
77 [used by the department as specified in subsection 3 of section 260.391]  
78 **deposited in the state treasury to the credit of general revenue.**

260.391. 1. There is hereby created in the state treasury a fund to be  
2 known as the "Hazardous Waste Fund". All **federal** funds received [from  
3 hazardous waste permit and license fees, generator fees or taxes, penalties, or  
4 interest assessed on those fees or taxes, taxes collected by contract hazardous

5 waste landfill operators, general revenue, federal funds, gifts, bequests,  
6 donations, or any other moneys so designated] shall be paid to the director of  
7 revenue and deposited in the state treasury to the credit of the hazardous waste  
8 fund. The hazardous waste fund, subject to appropriation by the general  
9 assembly, shall be used by the department as provided by appropriations and  
10 consistent with rules and regulations established by the hazardous waste  
11 management commission for the purpose of carrying out the provisions of sections  
12 260.350 to 260.430 and sections 319.100 to 319.127, and 319.137, and 319.139 for  
13 the management of hazardous waste, responses to hazardous substance releases  
14 as provided in sections 260.500 to 260.550, corrective actions at regulated  
15 facilities and illegal hazardous waste sites, prevention of leaks from underground  
16 storage tanks and response to petroleum releases from underground and  
17 aboveground storage tanks and other related activities required to carry out  
18 provisions of sections 260.350 to 260.575 and sections 319.100 to 319.127, and for  
19 payments to other state agencies for such services consistent with sections  
20 260.350 to 260.575 and sections 319.100 to 319.139 upon proper warrant issued  
21 by the commissioner of administration, and for any other expenditures which are  
22 not covered pursuant to the federal Comprehensive Environmental Response,  
23 Compensation and Liability Act of 1980, including but not limited to the following  
24 purposes:

25 (1) Administrative services as appropriate and necessary for the  
26 identification, assessment and cleanup of abandoned or uncontrolled sites  
27 pursuant to sections 260.435 to 260.550;

28 (2) Payments to other state agencies for such services consistent with  
29 sections 260.435 to 260.550, upon proper warrant issued by the commissioner of  
30 administration, including, but not limited to, the department of health and senior  
31 services for the purpose of conducting health studies of persons exposed to waste  
32 from an uncontrolled or abandoned hazardous waste site or exposed to the release  
33 of any hazardous substance as defined in section 260.500;

34 (3) Acquisition of property as provided in section 260.420;

35 (4) The study of the development of a hazardous waste facility in Missouri  
36 as authorized in section 260.037;

37 (5) Financing the nonfederal share of the cost of cleanup and site  
38 remediation activities as well as postclosure operation and maintenance costs,  
39 pursuant to the federal Comprehensive Environmental Response, Compensation  
40 and Liability Act of 1980; and



41 (6) Reimbursement of owners or operators who accept waste pursuant to  
42 departmental orders pursuant to subdivision (2) of subsection 1 of section  
43 260.420.

44 2. The unexpended balance in the hazardous waste fund at the end of  
45 each fiscal year shall not be transferred to the general revenue fund of the state  
46 treasurer, except as directed by the general assembly by appropriation, and shall  
47 be invested to generate income to the fund. The provisions of section 33.080  
48 relating to the transfer of funds to the general revenue fund of the state by the  
49 state treasurer shall not apply to the hazardous waste fund.

50 3. [There is hereby created within the hazardous waste fund a subaccount  
51 known as the "Hazardous Waste Facility Inspection Subaccount".] All funds  
52 received from hazardous waste facility inspection fees shall be paid to the director  
53 of revenue and deposited in the state treasury to the credit of [the hazardous  
54 waste facility inspection subaccount. Moneys from such subaccount shall be used  
55 by the department for conducting inspections at facilities that are permitted or  
56 are required to be permitted as hazardous waste facilities by the department]  
57 **general revenue.**

58 4. [The fund balance remaining in the hazardous waste remedial fund  
59 shall be transferred to the hazardous waste fund created in this section.

60 5.] No moneys shall be available from the fund for abandoned site cleanup  
61 unless the director has made all reasonable efforts to secure voluntary agreement  
62 to pay the costs of necessary remedial actions from owners or operators of  
63 abandoned or uncontrolled hazardous waste sites or other responsible persons.

64 [6.] 5. The director shall make all reasonable efforts to recover the full  
65 amount of any funds expended from the fund for cleanup through litigation or  
66 cooperative agreements with responsible persons. All moneys recovered or  
67 reimbursed pursuant to this section through voluntary agreements or court orders  
68 shall be deposited to the hazardous waste fund created herein.

69 [7. In addition to revenue from all licenses, taxes, fees, penalties, and  
70 interest, specified in subsection 1 of this section, the]

71 6. The department shall request an annual appropriation of general  
72 revenue equal to any state match obligation to the U.S. Environmental Protection  
73 Agency for cleanup performed pursuant to the authority of the Comprehensive  
74 Environmental Response, Compensation and Liability Act of 1980.

260.392. 1. As used in sections 260.392 to 260.399, the following terms  
2 mean:

3 (1) "Cask", all the components and systems associated with the container  
4 in which spent fuel, high-level radioactive waste, highway route controlled  
5 quantity, or transuranic radioactive waste are stored;

6 (2) "High-level radioactive waste", the highly radioactive material  
7 resulting from the reprocessing of spent nuclear fuel including liquid waste  
8 produced directly in reprocessing and any solid material derived from such liquid  
9 waste that contains fission products in sufficient concentrations, and other highly  
10 radioactive material that the United States Nuclear Regulatory Commission has  
11 determined to be high-level radioactive waste requiring permanent isolation;

12 (3) "Highway route controlled quantity", as defined in 49 CFR Part  
13 173.403, as amended, a quantity of radioactive material within a single  
14 package. Highway route controlled quantity shipments of thirty miles or less  
15 within the state are exempt from the provisions of this section;

16 (4) "Low-level radioactive waste", any radioactive waste not classified as  
17 high-level radioactive waste, transuranic radioactive waste, or spent nuclear fuel  
18 by the United States Nuclear Regulatory Commission, consistent with existing  
19 law. Shipment of all sealed sources meeting the definition of low-level radioactive  
20 waste, shipments of low-level radioactive waste that are within a radius of no  
21 more than fifty miles from the point of origin, and all naturally occurring  
22 radioactive material given written approval for landfill disposal by the Missouri  
23 department of natural resources under 10 CSR 80-3.010 are exempt from the  
24 provisions of this section. Any low-level radioactive waste that has a radioactive  
25 half-life equal to or less than one hundred twenty days is exempt from the  
26 provisions of this section;

27 (5) "Shipper", the generator, owner, or company contracting for  
28 transportation by truck or rail of the spent fuel, high-level radioactive waste,  
29 highway route controlled quantity shipments, transuranic radioactive waste, or  
30 low-level radioactive waste;

31 (6) "Spent nuclear fuel", fuel that has been withdrawn from a nuclear  
32 reactor following irradiation, the constituent elements of which have not been  
33 separated by reprocessing;

34 (7) "State-funded institutions of higher education", any campus of any  
35 university within the state of Missouri that receives state funding and has a  
36 nuclear research reactor;

37 (8) "Transuranic radioactive waste", defined in 40 CFR Part 191.02, as  
38 amended, as waste containing more than one hundred nanocuries of alpha-

39 emitting transuranic isotopes with half-lives greater than twenty years, per gram  
40 of waste. For the purposes of this section, transuranic waste shall not include:

- 41 (a) High-level radioactive wastes;
- 42 (b) Any waste determined by the Environmental Protection Agency with  
43 the concurrence of the Environmental Protection Agency administrator that does  
44 not need the degree of isolation required by this section; or
- 45 (c) Any waste that the United States Nuclear Regulatory Commission has  
46 approved for disposal on a case-by-case basis in accordance with 10 CFR Part 61,  
47 as amended.

48 2. Any shipper that ships high-level radioactive waste, transuranic  
49 radioactive waste, highway route controlled quantity shipments, spent nuclear  
50 fuel, or low-level radioactive waste through or within the state shall be subject  
51 to the fees established in this subsection, provided that no state-funded  
52 institution of higher education that ships nuclear waste shall pay any such  
53 fee. These higher education institutions shall reimburse the Missouri state  
54 highway patrol directly for all costs related to shipment escorts. The fees for all  
55 other shipments shall be:

56 (1) One thousand eight hundred dollars for each truck transporting  
57 through or within the state high-level radioactive waste, transuranic radioactive  
58 waste, spent nuclear fuel or highway route controlled quantity shipments. All  
59 truck shipments of high-level radioactive waste, transuranic radioactive waste,  
60 spent nuclear fuel, or highway route controlled quantity shipments are subject to  
61 a surcharge of twenty-five dollars per mile for every mile over two hundred miles  
62 traveled within the state;

63 (2) One thousand three hundred dollars for the first cask and one hundred  
64 twenty-five dollars for each additional cask for each rail shipment through or  
65 within the state of high-level radioactive waste, transuranic radioactive waste,  
66 or spent nuclear fuel;

67 (3) One hundred twenty-five dollars for each truck or train transporting  
68 low-level radioactive waste through or within the state.

69 The department of natural resources may accept an annual shipment fee as  
70 negotiated with a shipper or accept payment per shipment.

71 3. All revenue generated from the fees established in subsection 2 of this  
72 section shall be deposited [into the environmental radiation monitoring fund  
73 established in section 260.750 and shall be used by the department of natural  
74 resources to achieve the following objectives and for purposes related to the

75 shipment of high-level radioactive waste, transuranic radioactive waste, highway  
76 route controlled quantity shipments, spent nuclear fuel, or low-level radioactive  
77 waste, including, but not limited to:

- 78 (1) Inspections, escorts, and security for waste shipment and planning;
- 79 (2) Coordination of emergency response capability;
- 80 (3) Education and training of state, county, and local emergency  
81 responders;
- 82 (4) Purchase and maintenance of necessary equipment and supplies for  
83 state, county, and local emergency responders through grants or other funding  
84 mechanisms;
- 85 (5) Emergency responses to any transportation incident involving the  
86 high-level radioactive waste, transuranic radioactive waste, highway route  
87 controlled quantity shipments, spent nuclear fuel, or low-level radioactive waste;
- 88 (6) Oversight of any environmental remediation necessary resulting from  
89 an incident involving a shipment of high-level radioactive waste, transuranic  
90 radioactive waste, highway route controlled quantity shipments, spent nuclear  
91 fuel, or low-level radioactive waste. Reimbursement for oversight of any such  
92 incident shall not reduce or eliminate the liability of any party responsible for the  
93 incident; such party may be liable for full reimbursement to the state or payment  
94 of any other costs associated with the cleanup of contamination related to a  
95 transportation incident;
- 96 (7) Administrative costs attributable to the state agencies which are  
97 incurred through their involvement as it relates to the shipment of high-level  
98 radioactive waste, transuranic radioactive waste, highway route controlled  
99 quantity shipments, spent nuclear fuel, or low-level radioactive waste through or  
100 within the state.

101 4. Nothing in this section shall preclude any other state agency from  
102 receiving reimbursement from the department of natural resources and the  
103 environmental radiation monitoring fund for services rendered that achieve the  
104 objectives and comply with the provisions of this section.

105 5. Any unencumbered balance in the environmental radiation monitoring  
106 fund that exceeds three hundred thousand dollars in any given fiscal year shall  
107 be returned to shippers on a pro rata basis, based on the shipper's contribution  
108 into the environmental radiation monitoring fund for that fiscal year] **in the**  
109 **state treasury to the credit of general revenue.**

110 [6.] 4. The department of natural resources, in coordination with the

111 department of health and senior services and the department of public safety,  
112 may promulgate rules necessary to carry out the provisions of this section. Any  
113 rule or portion of a rule, as that term is defined in section 536.010, that is created  
114 under the authority delegated in this section shall become effective only if it  
115 complies with and is subject to all of the provisions of chapter 536 and, if  
116 applicable, section 536.028. This section and chapter 536 are nonseverable and  
117 if any of the powers vested with the general assembly pursuant to chapter 536 to  
118 review, to delay the effective date, or to disapprove and annul a rule are  
119 subsequently held unconstitutional, then the grant of rulemaking authority and  
120 any rule proposed or adopted after August 28, 2009, shall be invalid and void.

121 [7. All funds deposited in the environmental radiation monitoring fund  
122 through fees established in subsection 2 of this section shall be utilized, subject  
123 to appropriation by the general assembly, for the administration and enforcement  
124 of this section by the department of natural resources. All interest earned by the  
125 moneys in the fund shall accrue to the fund.

126 8.] 5. All fees shall be paid [to the department of natural resources] prior  
127 to shipment.

128 [9.] 6. Notice of any shipment of high-level radioactive waste, transuranic  
129 radioactive waste, highway route controlled quantity shipments, or spent nuclear  
130 fuel through or within the state shall be provided by the shipper to the governor's  
131 designee for advanced notification, as described in 10 CFR Parts 71 and 73, as  
132 amended, prior to such shipment entering the state. Notice of any shipment of  
133 low-level radioactive waste through or within the state shall be provided by the  
134 shipper to the Missouri department of natural resources before such shipment  
135 enters the state.

136 [10.] 7. Any shipper who fails to pay a fee assessed under this section,  
137 or fails to provide notice of a shipment, shall be liable in a civil action for an  
138 amount not to exceed ten times the amount assessed and not paid. The action  
139 shall be brought by the attorney general at the request of the department of  
140 natural resources. If the action involves a facility domiciled in the state, the  
141 action shall be brought in the circuit court of the county in which the facility is  
142 located. If the action does not involve a facility domiciled in the state, the action  
143 shall be brought in the circuit court of Cole County.

144 [11.] 8. Beginning on December 31, 2009, and every two years thereafter,  
145 the department of natural resources shall prepare and submit a report on  
146 activities of [the] environmental radiation monitoring [fund] **program** to the

147 general assembly. This report shall include information on fee income received  
148 and expenditures made by the state to enforce and administer the provisions of  
149 this section.

150 [12.] 9. The provisions of this section shall not apply to high-level  
151 radioactive waste, transuranic radioactive waste, highway route controlled  
152 quantity shipments, spent nuclear fuel, or low-level radioactive waste shipped by  
153 or for the federal government for military or national defense purposes.

154 [13.] 10. The program authorized under this section shall automatically  
155 sunset on August 28, 2024.

260.395. 1. After six months from the effective date of the standards,  
2 rules and regulations adopted by the commission pursuant to section 260.370, it  
3 shall be unlawful for any person to transport any hazardous waste in this state  
4 without first obtaining a hazardous waste transporter license. Any person  
5 transporting hazardous waste in this state shall file an application for a license  
6 pursuant to this subsection which shall:

7 (1) Be submitted on a form provided for this purpose by the department  
8 and shall furnish the department with such equipment identification and data as  
9 may be necessary to demonstrate to the satisfaction of the department that  
10 equipment engaged in such transportation of hazardous waste, and other  
11 equipment as designated in rules and regulations pursuant to sections 260.350  
12 to 260.430, is adequate to provide protection of the health of humans and the  
13 environment and to comply with the provisions of any federal hazardous waste  
14 management act and sections 260.350 to 260.430 and the standards, rules and  
15 regulations adopted pursuant to sections 260.350 to 260.430. If approved by the  
16 department, this demonstration of protection may be satisfied by providing  
17 certification that the equipment so identified meets and will be operated in  
18 accordance with the rules and regulations of the Missouri public service  
19 commission and the federal Department of Transportation for the transportation  
20 of the types of hazardous materials for which it will be used;

21 (2) Include, as specified by rules and regulations, demonstration of  
22 financial responsibility, including, but not limited to, guarantees, liability  
23 insurance, posting of bond or any combination thereof which shall be related to  
24 the number of units, types and sizes of equipment to be used in the transport of  
25 hazardous waste by the applicant;

26 (3) Include, as specified in rules and regulations, a fee payable to the  
27 state of Missouri which shall consist of an annual application fee, plus an annual

28 use fee based upon tonnage, mileage or a combination of tonnage and  
29 mileage. The fees established pursuant to this subdivision shall be set to  
30 generate, as nearly as is practicable, six hundred thousand dollars annually. No  
31 fee shall be collected pursuant to this subdivision from railroads that pay a fee  
32 pursuant to subsection 18 of this section. Fees collected pursuant to this  
33 subdivision shall be deposited in the [hazardous waste fund created pursuant to  
34 section 260.391] **state treasury to the credit of general revenue.**

35         2. If the department determines the application conforms to the provisions  
36 of any federal hazardous waste management act and sections 260.350 to 260.430  
37 and the standards, rules and regulations adopted pursuant to sections 260.350  
38 to 260.430, it shall issue the hazardous waste transporter license with such terms  
39 and conditions as it deems necessary to protect the health of humans and the  
40 environment. The department shall act within ninety days after receipt of the  
41 application. If the department denies the license, it shall issue a report to the  
42 applicant stating the reason for denial of the license.

43         3. A license may be suspended or revoked whenever the department  
44 determines that the equipment is or has been operated in violation of any  
45 provision of sections 260.350 to 260.430 or any standard, rule or regulation, order,  
46 or license term or condition adopted or issued pursuant to sections 260.350 to  
47 260.430, poses a threat to the health of humans or the environment, or is creating  
48 a public nuisance.

49         4. Whenever a license is issued, renewed, denied, suspended or revoked  
50 by the department, any aggrieved person, by petition filed with the  
51 administrative hearing commission within thirty days of the decision, may appeal  
52 such decision as provided by sections 621.250 and 640.013. Once the  
53 administrative hearing commission has reviewed the appeal, the administrative  
54 hearing commission shall issue a recommended decision to the commission on  
55 license issuance, renewal, denial, suspension, or revocation. The commission  
56 shall issue its own decision, based on the appeal, for license issuance, renewal,  
57 denial, suspension, or revocation. If the commission changes a finding of fact or  
58 conclusion of law made by the administrative hearing commission, or modifies or  
59 vacates the decision recommended by the administrative hearing commission, it  
60 shall issue its own decision, which shall include findings of fact and conclusions  
61 of law. The commission shall mail copies of its final decision to the parties to the  
62 appeal or their counsel of record. The commission's decision shall be subject to  
63 judicial review pursuant to chapter 536. No judicial review shall be available

64 until and unless all administrative remedies are exhausted.

65           5. A license shall be issued for a period of one year and shall be renewed  
66 upon proper application by the holder and a determination by the department  
67 that the applicant is in compliance with all provisions of sections 260.350 to  
68 260.430 and all standards, rules and regulations, orders and license terms and  
69 conditions adopted or issued pursuant to sections 260.350 to 260.430.

70           6. A license is not required for the transport of any hazardous waste on  
71 the premises where it is generated or onto contiguous property owned by the  
72 generator thereof, or for those persons exempted in section 260.380. Nothing in  
73 this subsection shall be interpreted to preclude the department from inspecting  
74 unlicensed hazardous waste transporting equipment and to require that it be  
75 adequate to provide protection for the health of humans and the environment.

76           7. After six months from the effective date of the standards, rules and  
77 regulations adopted by the commission pursuant to section 260.370, it shall be  
78 unlawful for any person to construct, substantially alter or operate, including  
79 operations specified in the rules and regulations, a hazardous waste facility  
80 without first obtaining a hazardous waste facility permit for such construction,  
81 alteration or operation from the department. Such person must submit to the  
82 department at least ninety days prior to submitting a permit application a letter  
83 of intent to construct, substantially alter or operate any hazardous waste disposal  
84 facility. The person must file an application within one hundred eighty days of  
85 the filing of a letter of intent unless granted an extension by the  
86 commission. The department shall publish such letter of intent as specified in  
87 section 493.050 within ten days of receipt of such letter. The letter shall be  
88 published once each week for four weeks in the county where the hazardous waste  
89 disposal facility is proposed. Once such letter is submitted, all conditions for the  
90 permit application evaluation purposes in existence as of the date of submission  
91 shall be deemed frozen, in that no subsequent action by any person to change  
92 such conditions in an attempt to thwart a fair and impartial decision on the  
93 application for a permit shall be allowed as grounds for denial of the permit. Any  
94 person before constructing, substantially altering or operating a hazardous waste  
95 facility in this state shall file an application for a permit which shall:

96           (1) Be submitted on a form provided for this purpose by the department  
97 and shall furnish the department with plans, specifications and such other data  
98 as may be necessary to demonstrate to the satisfaction of the department that  
99 such facility does or will provide adequate protection of the health of humans and



100 the environment and does or will comply with the provisions of any federal  
101 hazardous waste management act and sections 260.350 to 260.430 and the  
102 standards, rules and regulations adopted pursuant to sections 260.350 to 260.430;

103 (2) Include plans, designs, engineering reports and relevant data for  
104 construction, alteration or operation of a hazardous waste facility, to be submitted  
105 to the department by a registered professional engineer licensed by this state;

106 (3) Include, as specified by rules and regulations, demonstration of  
107 financial responsibility, including, but not limited to, guarantees, liability  
108 insurance, posting of bond or any combination thereof, which shall be related to  
109 type and size of facility;

110 (4) Include such environmental and geologic information, assessments and  
111 studies as required by the rules and regulations of the commission;

112 (5) Include a fee payable to the state of Missouri which shall not exceed  
113 one thousand dollars, which shall cover the first year of the permit, if issued, but  
114 which is not refundable. If the permit is issued for more than one year, a fee  
115 equal in amount to the first year's fee shall be paid to the state of Missouri prior  
116 to issuance of the permit for each year the permit is to be in effect beyond the  
117 first year;

118 (6) The department shall supervise any field work undertaken to collect  
119 geologic and engineering data for submission with the application. The state  
120 geologist and departmental engineers shall review the geologic and engineering  
121 plans, respectively, and attest to their accuracy and adequacy. The applicant  
122 shall pay all reasonable costs, as determined by the commission, incurred by the  
123 department pursuant to this subsection.

124 8. (1) Prior to issuing or renewing a hazardous waste facility permit, the  
125 department shall issue public notice by press release or advertisement and shall  
126 notify all record owners of adjoining property by mail directed to the last known  
127 address, and the village, town or city, if any, and the county in which the  
128 hazardous waste facility is located; and, upon request, shall hold a public hearing  
129 after public notice as required in this subsection at a location convenient to the  
130 area affected by the issuance of the permit.

131 (2) Prior to issuing or renewing a hazardous waste disposal facility permit  
132 the department shall issue public notice by press release and advertisement and  
133 shall notify all record owners of property, within one mile of the outer boundaries  
134 of the site, by mail directed to the last known address; and shall hold a public  
135 hearing after public notice as required in this subsection at a location convenient

136 to the area affected by the issuance of the permit.

137           9. If the department determines that the application conforms to the  
138 provisions of any federal hazardous waste management act and sections 260.350  
139 to 260.430 and the standards, rules and regulations adopted pursuant to sections  
140 260.350 to 260.430, it shall issue the hazardous waste facility permit, with such  
141 terms and conditions and require such testing and construction supervision as it  
142 deems necessary to protect the health of humans or the environment. The  
143 department shall act within one hundred eighty days after receipt of the  
144 application. If the department denies the permit, it shall issue a report to the  
145 applicant stating the reason for denial of a permit.

146           10. A permit may be suspended or revoked whenever the department  
147 determines that the hazardous waste facility is, or has been, operated in violation  
148 of any provision of sections 260.350 to 260.430 or any standard, rule or  
149 regulation, order or permit term or condition adopted or issued pursuant to  
150 sections 260.350 to 260.430, poses a threat to the health of humans or the  
151 environment or is creating a public nuisance.

152           11. Whenever a permit is issued, renewed, denied, suspended or revoked  
153 by the department, any aggrieved person, by petition filed with the  
154 administrative hearing commission within thirty days of the decision, may appeal  
155 such decision as provided by sections 621.250 and 640.013. Once the  
156 administrative hearing commission has reviewed the appeal, the administrative  
157 hearing commission shall issue a recommended decision to the commission on  
158 permit issuance, renewal, denial, suspension, or revocation. The commission  
159 shall issue its own decision, based on the appeal, for permit issuance, renewal,  
160 denial, suspension, or revocation. If the commission changes a finding of fact or  
161 conclusion of law made by the administrative hearing commission, or modifies or  
162 vacates the decision recommended by the administrative hearing commission, it  
163 shall issue its own decision, which shall include findings of fact and conclusions  
164 of law. The commission shall mail copies of its final decision to the parties to the  
165 appeal or their counsel of record. The commission's decision shall be subject to  
166 judicial review pursuant to chapter 536, except that the court of appeals district  
167 with territorial jurisdiction coextensive with the county where the hazardous  
168 waste facility is to be located or is located shall have original jurisdiction. No  
169 judicial review shall be available until and unless all administrative remedies are  
170 exhausted.

171           12. A permit shall be issued for a fixed term, which shall not exceed ten

172 years in the case of any land disposal facility, storage facility, incinerator, or  
173 other treatment facility. Nothing in this subsection shall preclude the  
174 department from reviewing and modifying a permit at any time during its  
175 term. Review of any application for a permit renewal shall consider  
176 improvements in the state of control and measurement technology as well as  
177 changes in applicable regulations. Each permit issued pursuant to this section  
178 shall contain such terms and conditions as the department determines necessary  
179 to protect human health and the environment, and upon proper application by the  
180 holder and a determination by the department that the applicant is in compliance  
181 with all provisions of sections 260.350 to 260.430 and all standards, rules and  
182 regulations, orders and permit terms and conditions adopted or issued pursuant  
183 to sections 260.350 to 260.430.

184 13. A hazardous waste facility permit is not required for:

185 (1) On-site storage of hazardous wastes where such storage is exempted  
186 by the commission by rule or regulation; however, such storage must conform to  
187 the provisions of any federal hazardous waste management act and sections  
188 260.350 to 260.430 and the applicable standards, rules and regulations adopted  
189 pursuant to sections 260.350 to 260.430 and any other applicable hazardous  
190 materials storage and spill-prevention requirements provided by law;

191 (2) A publicly owned treatment works which has an operating permit  
192 pursuant to section 644.051 and is in compliance with that permit;

193 (3) A resource recovery facility which the department certifies uses  
194 hazardous waste as a supplement to, or substitute for, nonwaste material, and  
195 that the sole purpose of the facility is manufacture of a product rather than  
196 treatment or disposal of hazardous wastes;

197 (4) That portion of a facility engaged in hazardous waste resource  
198 recovery, when the facility is engaged in both resource recovery and hazardous  
199 waste treatment or disposal, provided the owner or operator can demonstrate to  
200 the department's satisfaction and the department finds that such portion is not  
201 intended and is not used for hazardous waste treatment or disposal.

202 14. Facilities exempted pursuant to subsection 13 of this section must  
203 comply with the provisions of subdivisions (3) to (7) of **subsection 1 of** section  
204 260.390 and such other requirements, to be specified by rules and regulations, as  
205 are necessary to comply with any federal hazardous waste management act or  
206 regulations hereunder. Generators who use such an exempted facility shall keep  
207 records of hazardous wastes transported, except by legal flow through sewer lines,

208 to the facility and submit such records to the department in accordance with the  
209 provisions of section 260.380 and the standards, rules and regulations adopted  
210 pursuant to sections 260.350 to 260.430. Any person, before constructing,  
211 altering or operating a resource recovery facility in this state shall file an  
212 application for a certification. Such application shall include:

213 (1) Plans, designs, engineering reports and other relevant information as  
214 specified by rule that demonstrate that the facility is designed and will operate  
215 in a manner protective of human health and the environment; and

216 (2) An application fee of not more than five hundred dollars for a facility  
217 that recovers waste generated at the same facility or an application fee of not  
218 more than one thousand dollars for a facility that recovers waste generated at off-  
219 site sources. Such fees shall be deposited in the [hazardous waste fund created  
220 in section 260.391] **state treasury to the credit of general revenue**. The  
221 department shall review such application for conformance with applicable laws,  
222 rules and standard engineering principles and practices. The applicant shall pay  
223 to the department all reasonable costs, as determined by the commission,  
224 incurred by the department pursuant to this subsection. All such funds shall be  
225 deposited in the [hazardous waste fund created in section 260.391] **state**  
226 **treasury to the credit of general revenue**.

227 15. The owner or operator of any hazardous waste facility in existence on  
228 September 28, 1977, who has achieved federal interim status pursuant to 42  
229 U.S.C. Section 6925(e), and who has submitted to the department Part A of the  
230 federal facility permit application, may continue to receive and manage hazardous  
231 wastes in the manner as specified in the Part A application, and in accordance  
232 with federal interim status requirements, until completion of the administrative  
233 disposition of a permit application submitted pursuant to sections 260.350 to  
234 260.430. The department may at any time require submission of, or the owner  
235 or operator may at any time voluntarily submit, a complete application for a  
236 permit pursuant to sections 260.350 to 260.430 and commission regulations. The  
237 authority to operate pursuant to this subsection shall cease one hundred eighty  
238 days after the department has notified an owner or operator that an application  
239 for permit pursuant to sections 260.350 to 260.430 must be submitted, unless  
240 within such time the owner or operator submits a completed application  
241 therefor. Upon submission of a complete application, the authority to operate  
242 pursuant to this subsection shall continue for such reasonable time as is required  
243 to complete the administrative disposition of the permit application. If a facility

244 loses its federal interim status, or the Environmental Protection Agency requires  
245 the owner or operator to submit Part B of the federal application, the department  
246 shall notify the owner or operator that an application for a permit must be  
247 submitted pursuant to this subsection. In addition to compliance with the federal  
248 interim status requirements, the commission shall have the authority to adopt  
249 regulations requiring persons operating pursuant to this subsection to meet  
250 additional state interim status requirements.

251         16. No person, otherwise qualified pursuant to sections 260.350 to 260.430  
252 for a license to transport hazardous wastes or for a permit to construct,  
253 substantially alter or operate a hazardous waste facility, shall be denied such  
254 license or permit on the basis of a lack of need for such transport service or such  
255 facility because of the existence of other services or facilities capable of meeting  
256 that need; except that permits for hazardous waste facilities may be denied on  
257 determination made by the department that the financial resources of the persons  
258 applying are such that the continued operation of the sites in accordance with  
259 sections 260.350 to 260.430 cannot be reasonably assured or on determination  
260 made by the department that the probable volume of business is insufficient to  
261 ensure and maintain the solvency of then existing permitted hazardous waste  
262 facilities.

263         17. All hazardous waste landfills constructed after October 31, 1980, shall  
264 have a leachate collection system. The rules and regulations of the commission  
265 shall treat and protect all aquifers to the same level of protection. The provisions  
266 of this subsection shall not apply to the disposal of tailings and slag resulting  
267 from mining, milling and primary smelting operations.

268         18. Any railroad corporation as defined in section 388.010 that transports  
269 any hazardous waste as defined in section 260.360 or any hazardous substance  
270 as defined in section 260.500 shall pay an annual fee of three hundred fifty  
271 dollars. Fees collected pursuant to this subsection shall be deposited in the  
272 [hazardous waste fund created in section 260.391] **state treasury to the credit**  
273 **of general revenue.**

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

7 annually pursuant to section 260.380, or upon:

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

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

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

17 (4) Cement kiln dust waste;

18 (5) Waste oil; or

19 (6) Hazardous waste that is:

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

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

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

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

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

27 3. All moneys collected or received by the department pursuant to this  
28 section shall be transmitted to the department of revenue for deposit in the state  
29 treasury to the credit of [the hazardous waste fund created pursuant to section  
30 260.391] **general revenue**. Following each annual reporting date, the state  
31 treasurer shall certify the amount deposited [in the fund] to the commission.

32 4. If any generator or transporter fails or refuses to pay the fees imposed  
33 by this section, or fails or refuses to furnish any information reasonably requested  
34 by the department relating to such fees, there shall be imposed, in addition to the  
35 fee determined to be owed, a penalty of fifteen percent of the fee shall be  
36 deposited in the [hazardous waste fund] **state treasury to the credit of**  
37 **general revenue**.

38 5. If the fees or any portion of the fees imposed by this section are not  
39 paid by the date prescribed for such payment, there shall be imposed interest  
40 upon the unpaid amount at the rate of ten percent per annum from the date  
41 prescribed for its payment until payment is actually made, all of which shall be  
42 deposited in the [hazardous waste fund] **state treasury to the credit of**

43 **general revenue.**

44           6. The state treasurer is authorized to deposit all of the moneys [in the  
45 hazardous waste fund] **to the credit of the general revenue fund** in any of  
46 the qualified depositories of the state. All such deposits shall be secured in such  
47 a manner and shall be made upon such terms and conditions as are now or may  
48 hereafter be provided for by law relative to state deposits. Interest received on  
49 such deposits shall be credited to [the hazardous waste fund] **general revenue.**

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

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

79 resolution. If the general assembly so disapproves any regulation filed under this  
80 subsection, the department and the commission shall not implement the proposed  
81 fee structure and shall continue to use the previous fee structure. The authority  
82 of the commission to further revise the fee structure as provided by this  
83 subsection shall expire on August 28, 2024.

260.569. 1. The department shall be reimbursed for its site-specific costs  
2 incurred in administration and oversight of the voluntary cleanup. The  
3 department shall bill applicants who conduct the voluntary cleanup at rates  
4 established by rule by the hazardous waste management commission. Such rates  
5 shall not be more than the lesser of the costs to the department or one hundred  
6 dollars per hour. The department shall furnish to the applicant a complete, full  
7 and detailed accounting of the costs incurred by the department for which the  
8 applicant is charged. The applicant may appeal any charge to the commission  
9 within thirty days of receipt of the bill. Appeal to the commission shall stay the  
10 required payment date until thirty days following the rendering of the decision  
11 of the commission. The department of natural resources shall initially draw down  
12 its charges against the application fee. Timely remittance of reimbursements, as  
13 provided in subsection 3 of this section, to the department is a condition of  
14 continuing participation. If, after the conclusion of the remedial action, a balance  
15 remains, the department shall refund that amount within sixty days. If the  
16 department fails to render any decision or take any action within the time period  
17 specified in sections 260.565 to 260.575, then the applicant shall not be required  
18 to reimburse the department for costs incurred for such review or action.

19 2. All funds remitted by the applicant conducting the voluntary cleanup  
20 shall be deposited into the [hazardous waste fund created in section 260.391]  
21 **state treasury to the credit of general revenue** and shall be used [by the  
22 department], upon appropriation, for its administrative and oversight costs.

23 3. The department may terminate an applicant from further participation  
24 for cause. Grounds for termination include, but are not limited to:

25 (1) Discovery of conditions such as to warrant action pursuant to sections  
26 260.350 to 260.480, as amended, the Resource Conservation and Recovery Act, 42  
27 U.S.C. Section 6901 et seq., as amended, or the Comprehensive Environmental  
28 Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., as  
29 amended;

30 (2) Failure to submit cost reimbursements within sixty days following  
31 notice from the department that such reimbursements are due;



32 (3) Failure to submit required information within ninety days following  
33 notice from the department that such information is required;

34 (4) Failure to submit a remedial action plan within ninety days following  
35 notice from the department that such plan is due;

36 (5) Failure to properly implement the remedial action plan; and

37 (6) Continuing noncompliance with any of the provisions of sections  
38 260.565 to 260.575 or the rules and regulations promulgated pursuant to sections  
39 260.565 to 260.575.

40 4. Upon termination pursuant to subdivision (1) of subsection 3 of this  
41 section or subsection 11 of section 260.567, if there is a balance in the applicant's  
42 application fee after deducting costs incurred by the department of natural  
43 resources, such balance shall be refunded within sixty days. Upon termination  
44 pursuant to subdivisions (2) to (6) of subsection 3 of this section, if a balance  
45 remains in the applicant's application fee, such balance shall be forfeited and  
46 deposited in the [hazardous waste fund] **state treasury to the credit of**  
47 **general revenue.**

260.750. [1.] The department of natural resources shall develop an  
2 environmental radiation monitoring program for the purpose of monitoring  
3 radioactivity in air, water, soil, plant and animal life as necessary to insure the  
4 protection of the public health and safety of the environment from radiation  
5 hazards.

6 [2. There is hereby created within the state treasury an "Environmental  
7 Radiation Monitoring Fund". In addition to general revenue, the department of  
8 natural resources is authorized to accept and shall deposit in said fund all gifts,  
9 bequests, donations, or other moneys, equipment, supplies, or services from any  
10 state, interstate or federal agency, or from any institution, person, firm, or  
11 corporation, public or private as well as fees collected under subsection 2 of  
12 section 260.392. This fund shall be used for the environmental radiation  
13 monitoring program established in this section and to administer and enforce the  
14 provisions of section 260.392.]

260.900. As used in sections 260.900 to 260.960, unless the context clearly  
2 indicates otherwise, the following terms mean:

3 (1) "Abandoned dry-cleaning facility", any real property premises or  
4 individual leasehold space in which a dry-cleaning facility formerly operated;

5 (2) "Active dry-cleaning facility", any real property premises or individual  
6 leasehold space in which a dry-cleaning facility currently operates;

- 7           (3) "Chlorinated dry-cleaning solvent", any dry-cleaning solvent which  
8 contains a compound which has a molecular structure containing the element  
9 chlorine;
- 10          (4) "Commission", the hazardous waste management commission created  
11 in section 260.365;
- 12          (5) "Corrective action", those activities described in subsection 1 of section  
13 260.925;
- 14          (6) "Corrective action plan", a plan approved by the director to perform  
15 corrective action at a dry-cleaning facility;
- 16          (7) "Department", the Missouri department of natural resources;
- 17          (8) "Director", the director of the Missouri department of natural  
18 resources;
- 19          (9) "Dry-cleaning facility", a commercial establishment that operates, or  
20 has operated in the past in whole or in part for the purpose of cleaning garments  
21 or other fabrics on site utilizing a process that involves any use of dry-cleaning  
22 solvents. Dry-cleaning facility includes all contiguous land, structures and other  
23 appurtenances and improvements on the land used in connection with a dry-  
24 cleaning facility but does not include prisons, governmental entities, hotels,  
25 motels or industrial laundries. Dry-cleaning facility does include coin-operated  
26 dry-cleaning facilities;
- 27          (10) "Dry-cleaning solvent", any and all nonaqueous solvents used or to  
28 be used in the cleaning of garments and other fabrics at a dry-cleaning facility  
29 and includes but is not limited to perchloroethylene, also known as  
30 tetrachloroethylene, chlorinated dry-cleaning, and the products into which such  
31 solvents degrade;
- 32          (11) "Dry-cleaning unit", a machine or device which utilizes dry-cleaning  
33 solvents to clean garments and other fabrics and includes any associated piping  
34 and ancillary equipment and any containment system;
- 35          (12) "Environmental response surcharge", either the active dry-cleaning  
36 facility registration surcharge or the dry-cleaning solvent surcharge;
- 37          (13) ["Fund", the dry-cleaning environmental response trust fund created  
38 in section 260.920;
- 39          (14)] "Immediate response to a release", containment and control of a  
40 known release in excess of a reportable quantity and notification to the  
41 department of any known release in excess of a reportable quantity;
- 42          [(15)] (14) "Operator", any person who is or has been responsible for the

43 operation of dry-cleaning operations at a dry-cleaning facility;

44 [(16)] (15) "Owner", any person who owns the real property where a dry-  
45 cleaning facility is or has operated;

46 [(17)] (16) "Person", an individual, trust, firm, joint venture, consortium,  
47 joint-stock company, corporation, partnership, association or limited liability  
48 company. Person does not include any governmental organization;

49 [(18)] (17) "Release", any spill, leak, emission, discharge, escape, leak or  
50 disposal of dry-cleaning solvent from a dry-cleaning facility into the soils or  
51 waters of the state;

52 [(19)] (18) "Reportable quantity", a known release of a dry-cleaning  
53 solvent deemed reportable by applicable federal or state law or regulation.

260.905. 1. The commission shall promulgate and adopt such initial rules  
2 and regulations, effective no later than July 1, 2007, as shall be necessary to  
3 carry out the purposes and provisions of sections 260.900 to 260.960. Prior to the  
4 promulgation of such rules, the commission shall meet with representatives of the  
5 dry-cleaning industry and other interested parties. The commission, thereafter,  
6 shall promulgate and adopt additional rules and regulations or change existing  
7 rules and regulations when necessary to carry out the purposes and provisions  
8 of sections 260.900 to 260.960.

9 2. Any rule or regulation adopted pursuant to sections 260.900 to 260.960  
10 shall be reasonably necessary to protect human health, to preserve, protect and  
11 maintain the water and other natural resources of this state and to provide for  
12 prompt corrective action of releases from dry-cleaning facilities. Consistent with  
13 these purposes, the commission shall adopt rules and regulations, effective no  
14 later than July 1, 2007:

15 (1) Establishing requirements that owners who close dry-cleaning  
16 facilities remove dry-cleaning solvents and wastes from such facilities in order to  
17 prevent any future releases; **and**

18 (2) Establishing criteria to prioritize the expenditure of funds [from the]  
19 **appropriated for** dry-cleaning environmental response [trust fund]. The  
20 criteria shall include consideration of:

21 (a) The benefit to be derived from corrective action compared to the cost  
22 of conducting such corrective action;

23 (b) The degree to which human health and the environment are actually  
24 affected by exposure to contamination;

25 (c) The present and future use of an affected aquifer or surface water;

26 (d) The effect that interim or immediate remedial measures will have on  
27 future costs; and

28 (e) Such additional factors as the commission considers relevant;

29 (3) Establishing criteria under which a determination may be made by the  
30 department of the level at which corrective action shall be deemed completed.

31 Criteria for determining completion of corrective action shall be based on the  
32 factors set forth in subdivision (2) of this subsection and:

33 (a) Individual site characteristics including natural remediation processes;

34 (b) Applicable state water quality standards;

35 (c) Whether deviation from state water quality standards or from  
36 established criteria is appropriate, based on the degree to which the desired  
37 remediation level is achievable and may be reasonably and cost effectively  
38 implemented, subject to the limitation that where a state water quality standard  
39 is applicable, a deviation may not result in the application of standards more  
40 stringent than that standard; and

41 (d) Such additional factors as the commission considers relevant.

260.920. 1. [There is hereby created within the state treasury a fund to  
2 be known as the "Dry-cleaning Environmental Response Trust Fund".] All moneys  
3 received from the environmental response surcharges, fees, gifts, bequests,  
4 donations and moneys recovered by the state pursuant to sections 260.900 to  
5 260.960, except for any moneys paid under an agreement with the director or as  
6 civil damages, or any other money so designated shall be deposited in the state  
7 treasury to the credit of [the dry-cleaning environmental response trust fund, and  
8 shall be invested to generate income to the fund. Notwithstanding the provisions  
9 of section 33.080, the unexpended balance in the dry-cleaning environmental  
10 response trust fund at the end of each fiscal year shall not be transferred to the  
11 general revenue fund] **general revenue**.

12 2. Moneys [in the fund] **appropriated for dry-cleaning**  
13 **environmental response** may be expended for only the following purposes and  
14 for no other governmental purpose:

15 (1) The direct costs of administration and enforcement of sections 260.900  
16 to 260.960; and

17 (2) The costs of corrective action as provided in section 260.925.

18 3. The state treasurer is authorized to deposit all of the moneys [in the  
19 dry-cleaning environmental response trust fund] in any of the qualified  
20 depositories of the state. All such deposits shall be secured in such a manner and

21 shall be made upon such terms and conditions as are now or may hereafter be  
22 provided by law relative to state deposits. Interest received on such deposits  
23 shall be credited to [the dry-cleaning environmental response trust fund] **general**  
24 **revenue**.

25 [4. Any funds received pursuant to sections 260.900 to 260.960 and  
26 deposited in the dry-cleaning environmental response trust fund shall not be  
27 considered a part of "total state revenue" as provided in Sections 17 and 18 of  
28 Article X of the Missouri Constitution.]

260.925. 1. [On and after July 1, 2002] **Upon appropriation to the**  
2 **department for dry-cleaning environmental response**, moneys [in the  
3 fund] shall be utilized to address contamination resulting from releases of dry-  
4 cleaning solvents as provided in sections 260.900 to 260.960. Whenever a release  
5 poses a threat to human health or the environment, the department, consistent  
6 with rules and regulations adopted by the commission pursuant to subdivisions  
7 (2) and (3) of subsection 2 of section 260.905, shall expend moneys available in  
8 the fund to provide for:

9 (1) Investigation and assessment of a release from a dry-cleaning facility,  
10 including costs of investigations and assessments of contamination which may  
11 have moved off of the dry-cleaning facility;

12 (2) Necessary or appropriate emergency action, including but not limited  
13 to treatment, restoration or replacement of drinking water supplies, to assure  
14 that the human health or safety is not threatened by a release or potential  
15 release;

16 (3) Remediation of releases from dry-cleaning facilities, including  
17 contamination which may have moved off of the dry-cleaning facility, which  
18 remediation shall consist of the preparation of a corrective action plan and the  
19 cleanup of affected soil, groundwater and surface waters, using an alternative  
20 that is cost-effective, technologically feasible and reliable, provides adequate  
21 protection of human health and environment and to the extent practicable  
22 minimizes environmental damage;

23 (4) Operation and maintenance of corrective action;

24 (5) Monitoring of releases from dry-cleaning facilities including  
25 contamination which may have moved off of the dry-cleaning facility;

26 (6) Payment of reasonable costs incurred by the director in providing field  
27 and laboratory services;

28 (7) Reasonable costs of restoring property as nearly as practicable to the

29 condition that existed prior to activities associated with the investigation of a  
30 release or cleanup or remediation activities;

31 (8) Removal and proper disposal of wastes generated by a release of a dry-  
32 cleaning solvent; and

33 (9) Payment of costs of corrective action conducted by the department or  
34 by entities other than the department but approved by the department, whether  
35 or not such corrective action is set out in a corrective action plan; except that,  
36 there shall be no reimbursement for corrective action costs incurred before August  
37 28, 2000.

38 2. [Nothing in subsection 1 of this section shall be construed to authorize  
39 the department to obligate moneys in the fund for payment of costs that are not  
40 integral to corrective action for a release of dry-cleaning solvents from a dry-  
41 cleaning facility. Moneys from the fund] **Upon appropriation to the**  
42 **department for dry-cleaning environmental response, such moneys** shall  
43 not be used:

44 (1) For corrective action at sites that are contaminated by solvents  
45 normally used in dry-cleaning operations where the contamination did not result  
46 from the operation of a dry-cleaning facility;

47 (2) For corrective action at sites, other than dry-cleaning facilities, that  
48 are contaminated by dry-cleaning solvents which were released while being  
49 transported to or from a dry-cleaning facility;

50 (3) To pay any fine or penalty brought against a dry-cleaning facility  
51 operator under state or federal law;

52 (4) To pay any costs related to corrective action at a dry-cleaning facility  
53 that has been included by the United States Environmental Protection Agency on  
54 the national priorities list;

55 (5) For corrective action at sites with active dry-cleaning facilities where  
56 the owner or operator is not in compliance with sections 260.900 to 260.960, rules  
57 and regulations adopted pursuant to sections 260.900 to 260.960, orders of the  
58 director pursuant to sections 260.900 to 260.960, or any other applicable federal  
59 or state environmental statutes, rules or regulations; or

60 (6) For corrective action at sites with abandoned dry-cleaning facilities  
61 that have been taken out of operation prior to July 1, 2009, and not documented  
62 by or reported to the department by July 1, 2009. Any person reporting such a  
63 site to the department shall include any available evidence that the site once  
64 contained a dry-cleaning facility.

65           3. Nothing in sections 260.900 to 260.960 shall be construed to restrict the  
66 department from temporarily postponing completion of corrective action for which  
67 moneys [from the fund] **appropriated to the department for dry-cleaning**  
68 **environmental response** are being expended whenever such postponement is  
69 deemed necessary in order to protect public health and the environment.

70           4. At any multisource site, the department shall utilize the moneys [in the  
71 fund] **appropriated to the department for dry-cleaning environmental**  
72 **response** to pay for the proportionate share of the liability for corrective action  
73 costs which is attributable to a release from one or more dry-cleaning facilities  
74 and for that proportionate share of the liability only.

75           5. At any multisource site, the director is authorized to make a  
76 determination of the relative liability [of the fund] for costs of corrective action,  
77 expressed as a percentage of the total cost of corrective action at a site, whether  
78 known or unknown. The director shall issue an order establishing such  
79 percentage of liability. Such order shall be binding and shall control the  
80 obligation of the [fund] **department** until or unless amended by the director. In  
81 the event of an appeal from such order, such percentage of liability shall be  
82 controlling for costs incurred during the pendency of the appeal.

83           6. Any authorized officer, employee or agent of the department, or any  
84 person under order or contract with the department, may enter onto any property  
85 or premises, at reasonable times and with reasonable advance notice to the  
86 operator, to take corrective action where the director determines that such action  
87 is necessary to protect the public health or environment. If consent is not  
88 granted by the operator regarding any request made by any officer, employee or  
89 agent of the department, or any person under order or contract with the  
90 department, under the provisions of this section, the director may issue an order  
91 directing compliance with the request. The order may be issued after such notice  
92 and opportunity for consultation as is reasonably appropriate under the  
93 circumstances.

94           7. Notwithstanding any other provision of sections 260.900 to 260.960, in  
95 the discretion of the director, an operator may be responsible for up to one  
96 hundred percent of the costs of corrective action attributable to such operator if  
97 the director finds, after notice and an opportunity for a hearing in accordance  
98 with chapter 536 that:

99           (1) Requiring the operator to bear such responsibility will not prejudice  
100 another owner, operator or person who is eligible, pursuant to the provisions of

101 sections 260.900 to 260.960, to have corrective action costs paid by the [fund]  
102 **department**; and

103 (2) The operator:

104 (a) Caused a release in excess of a reportable quantity by willful or  
105 wanton actions and such release was caused by operating practices in violation  
106 of existing laws and regulations at the time of the release; or

107 (b) Is in arrears for moneys owed pursuant to sections 260.900 to 260.960,  
108 after notice and an opportunity to correct the arrearage; or

109 (c) Materially obstructs the efforts of the department to carry out its  
110 obligations pursuant to sections 260.900 to 260.960; except that, the exercise of  
111 legal rights shall not constitute a substantial obstruction; or

112 (d) Caused or allowed a release in excess of a reportable quantity because  
113 of a willful material violation of sections 260.900 to 260.960 or the rules and  
114 regulations adopted by the commission pursuant to sections 260.900 to 260.960.

115 8. For purposes of subsection 7 of this section, unless a transfer is made  
116 to take advantage of the provisions of subsection 7 of this section, purchasers of  
117 stock or other indicia of ownership and other successors in interest shall not be  
118 considered to be the same owner or operator as the seller or transferor of such  
119 stock or indicia of ownership even though there may be no change in the legal  
120 identity of the owner or operator. To the extent that an owner or operator is  
121 responsible for corrective action costs pursuant to subsection 7 of this section,  
122 such owner or operator shall not be entitled to the exemption provided in  
123 subsection 5 of section 260.930.

124 9. The [fund] **department** shall not be liable for the payment of costs in  
125 excess of one million dollars at any one contaminated dry-cleaning  
126 site. Additionally, the [fund] **department** shall not be liable for the payment of  
127 costs for any one site in excess of twenty-five percent of the total moneys [in the  
128 fund] **appropriated to the department for dry-cleaning environmental**  
129 **response** during any fiscal year. For purposes of this subsection, "contaminated  
130 dry-cleaning site" means the areal extent of soil or ground water contaminated  
131 with dry-cleaning solvents.

132 10. The owner or operator of an active dry-cleaning facility shall be liable  
133 for the first twenty-five thousand dollars of corrective action costs incurred  
134 because of a release from an active dry-cleaning facility. The owner of an  
135 abandoned dry-cleaning facility shall be liable for the first twenty-five thousand  
136 dollars of corrective action costs incurred because of a release from an abandoned



137 dry-cleaning facility. Nothing in this subsection shall be construed to prohibit the  
138 department from taking corrective action because the department cannot obtain  
139 the deductible.

260.935. 1. Every active dry-cleaning facility shall pay, in addition to any  
2 other environmental response surcharges, an annual dry-cleaning facility  
3 registration surcharge as follows:

4 (1) Five hundred dollars for facilities which use no more than one hundred  
5 forty gallons of chlorinated solvents;

6 (2) One thousand dollars for facilities which use more than one hundred  
7 forty gallons of chlorinated solvents and less than three hundred sixty gallons of  
8 chlorinated solvents per year; and

9 (3) Fifteen hundred dollars for facilities which use at least three hundred  
10 sixty gallons of chlorinated solvents per year.

11 2. The active dry-cleaning facility registration surcharge imposed by this  
12 section shall be reported and paid to the department on an annual basis. The  
13 commission shall prescribe by administrative rule the procedure for the report  
14 and payment required by this section.

15 3. The department shall provide each person who pays a dry-cleaning  
16 facility registration surcharge pursuant to this section with a receipt. The receipt  
17 or the copy of the receipt shall be produced for inspection at the request of any  
18 authorized representative of the department.

19 4. All moneys collected or received by the department pursuant to this  
20 section shall be transmitted to the department of revenue for deposit in the state  
21 treasury to the credit of [the dry-cleaning environmental response trust fund  
22 created in section 260.920] **general revenue**. Following each annual reporting  
23 date, the state treasurer shall certify the amount deposited in the fund to the  
24 department.

25 5. If any person does not pay the active dry-cleaning facility registration  
26 surcharge or any portion of the active dry-cleaning facility registration surcharge  
27 imposed by this section by the date prescribed for such payment, the department  
28 shall impose and such person shall pay, in addition to the active dry-cleaning  
29 facility registration surcharge owed by such person, a penalty of fifteen percent  
30 of the active dry-cleaning facility registration surcharge. Such penalty shall be  
31 deposited in the [dry-cleaning environmental response trust fund] **state**  
32 **treasury to the credit of general revenue**.

33 6. If any person does not pay the active dry-cleaning facility registration

34 surcharge or any portion of the active dry-cleaning facility registration surcharge  
35 imposed by this section by the date prescribed for such payment, the department  
36 shall also impose interest upon the unpaid amount at the rate of ten percent per  
37 annum from the date prescribed for the payment of such surcharge and penalties  
38 until payment is actually made. Such interest shall be deposited in the [dry-  
39 cleaning environmental response trust fund] **state treasury to the credit of**  
40 **general revenue.**

260.940. 1. Every seller or provider of dry-cleaning solvent for use in this  
2 state shall pay, in addition to any other environmental response surcharges, a  
3 dry-cleaning solvent surcharge on the sale or provision of dry-cleaning solvent.

4 2. The amount of the dry-cleaning solvent surcharge imposed by this  
5 section on each gallon of dry-cleaning solvent shall be an amount equal to the  
6 product of the solvent factor for the dry-cleaning solvent and the rate of eight  
7 dollars per gallon.

8 3. The solvent factor for each dry-cleaning solvent is as follows:

9 (1) For perchloroethylene, the solvent factor is 1.00;

10 (2) For 1,1,1-trichloroethane, the solvent factor is 1.00; and

11 (3) For other chlorinated dry-cleaning solvents, the solvent factor is 1.00.

12 4. In the case of a fraction of a gallon, the dry-cleaning solvent surcharge  
13 imposed by this section shall be the same fraction of the fee imposed on a whole  
14 gallon.

15 5. The dry-cleaning solvent surcharge required in this section shall be  
16 paid to the department by the seller or provider of the dry-cleaning solvent,  
17 regardless of the location of such seller or provider.

18 6. The dry-cleaning solvent surcharge required in this section shall be  
19 paid by the seller or provider on a quarterly basis and shall be paid to the  
20 department for the previous quarter. The commission shall prescribe by  
21 administrative rule the procedure for the payment required by this section.

22 7. The department shall provide each person who pays a dry-cleaning  
23 solvent surcharge pursuant to this section with a receipt. The receipt or the copy  
24 of the receipt shall be produced for inspection at the request of any authorized  
25 representative of the department.

26 8. All moneys collected or received by the department pursuant to this  
27 section shall be transmitted to the department of revenue for deposit in the state  
28 treasury to the credit of [the dry-cleaning environmental response trust fund  
29 created in section 260.920] **general revenue.** Following each annual or

30 quarterly reporting date, the state treasurer shall certify the amount deposited  
31 to the department.

32           9. If any seller or provider of dry-cleaning solvent fails or refuses to pay  
33 the dry-cleaning solvent surcharge imposed by this section, the department shall  
34 impose and such seller or provider shall pay, in addition to the dry-cleaning  
35 solvent surcharge owed by the seller or provider, a penalty of fifteen percent of  
36 the dry-cleaning solvent surcharge. Such penalty shall be deposited in the [dry-  
37 cleaning environmental response trust fund] **state treasury to the credit of**  
38 **general revenue.**

39           10. If any person does not pay the dry-cleaning solvent surcharge or any  
40 portion of the dry-cleaning solvent surcharge imposed by this section by the date  
41 prescribed for such payment, the department shall impose and such person shall  
42 pay interest upon the unpaid amount at the rate of ten percent per annum from  
43 the date prescribed for the payment of such surcharge and penalties until  
44 payment is actually made. Such interest shall be deposited in the [dry-cleaning  
45 environmental response trust fund] **state treasury to the credit of general**  
46 **revenue.**

47           11. An operator of a dry-cleaning facility shall not purchase or obtain  
48 solvent from a seller or provider who does not pay the dry-cleaning solvent  
49 charge, as provided in this section. Any operator of a dry-cleaning facility who  
50 fails to obey the provisions of this section shall be required to pay the dry-  
51 cleaning solvent surcharge as provided in subsections 2, 3 and 4 of this section  
52 for any dry-cleaning solvent purchased or obtained from a seller or provider who  
53 fails to pay the proper dry-cleaning solvent surcharge as determined by the  
54 department. Any operator of a dry-cleaning facility who fails to follow the  
55 provisions of this subsection shall also be charged a penalty of fifteen percent of  
56 the dry-cleaning solvent surcharge owed. Any operator of a dry-cleaning facility  
57 who fails to obey the provisions of this subsection shall also be subject to the  
58 interest provisions of subsection 10 of this section. If a seller or provider of dry-  
59 cleaning solvent charges the operator of a dry-cleaning facility the dry-cleaning  
60 solvent surcharge provided for in this section when the solvent is purchased or  
61 obtained by the operator and the operator can prove that the operator made full  
62 payment of the surcharge to the seller or provider but the seller or provider fails  
63 to pay the surcharge to the department as required by this section, then the  
64 operator shall not be liable pursuant to this subsection for interest, penalties or  
65 the seller's or provider's unpaid surcharge. Such surcharges, penalties and

66 interest shall be collected by the department, and all moneys collected pursuant  
67 to this subsection shall be deposited in the [dry-cleaning environmental response  
68 trust fund] **state treasury to the credit of general revenue.**

260.945. 1. [If the unobligated principal of the fund] **If, following an**  
2 **annual reporting date, the state treasurer certifies that the amount**  
3 **contributed to the general revenue fund under sections 260.900 to**  
4 **260.965** equals or exceeds five million dollars on April first of any year, the active  
5 dry-cleaning facility registration surcharge imposed by section 260.935 and the  
6 dry-cleaning solvent surcharge imposed by section 260.940 shall not be collected  
7 on or after the next July first [until such time as on April first of any year  
8 thereafter the unobligated principal balance of the fund equals two million dollars  
9 or less], then the active dry-cleaning facility registration surcharge imposed by  
10 section 260.935 and the dry-cleaning solvent surcharge imposed by section  
11 260.940 shall again be collected on and after the next July first.

12 2. Not later than April fifth of each year, the state treasurer shall notify  
13 the department of the amount [of the unobligated balance of the fund on April  
14 first of such year] **contributed to the state treasury to the credit of**  
15 **general revenue under sections 260.900 to 260.965.** Upon receipt of the  
16 notice, the department shall notify the public if the active dry-cleaning facility  
17 registration surcharge imposed by section 260.935 and the dry-cleaning solvent  
18 surcharge imposed by section 260.940 will terminate or be payable on the  
19 following July first.

20 3. Moneys [in the fund] **appropriated to the department for dry-**  
21 **cleaning environmental response** shall not be expended pursuant to sections  
22 260.900 to 260.960 prior to July 1, 2002.

260.955. The department shall annually transmit a report to the general  
2 assembly and the governor regarding:

3 (1) Receipts [of the fund] **contributed to the state treasury to the**  
4 **credit of general revenue under sections 260.900 to 260.965** during the  
5 preceding calendar year and the sources of the receipts;

6 (2) Disbursements from the [fund] **department** during the preceding  
7 calendar year and the purposes of the disbursements;

8 (3) The extent of corrective action taken pursuant to sections 260.900 to  
9 260.960 during the preceding calendar year; and

10 (4) The prioritization of sites for expenditures from the [fund]  
11 **department.**

444.370. 1. A processing fee of ten thousand dollars shall accompany the  
2 filing of the application for a facility or metallic minerals waste management  
3 area. An annual fee of seven thousand five hundred dollars per facility or  
4 metallic minerals waste management area shall be paid when the permit is  
5 approved and on each anniversary date thereafter until the determination is  
6 made that inspection-maintenance is no longer required.

7 2. All sums received through the payment of fees or the forfeiture of bonds  
8 pursuant to sections 444.352 to 444.380 shall be placed in the state treasury [and  
9 credited to the "Metallic Minerals Waste Management Fund" which is hereby  
10 created] **to the credit of general revenue.**

11 3. [After appropriations by the general assembly, the money in this fund  
12 shall be expended for the administration and enforcement of sections 444.352 to  
13 444.380 and for any other purpose directly related to effective management of  
14 remediation of a metallic minerals waste management area. Any portion of the  
15 fund not immediately needed for the purposes authorized shall be invested by the  
16 state treasurer as provided by the constitution and laws of this state. All income  
17 from such investments shall be deposited in the metallic minerals waste  
18 management fund. The provisions of section 33.080 to the contrary  
19 notwithstanding, moneys in the fund shall not lapse to general revenue until the  
20 amount in the fund is in excess of three million dollars, exclusive of the interest  
21 and security forfeiture proceeds.

22 4.] The moneys collected from any forfeiture of a financial assurance  
23 instrument shall be expended upon the area for which the permit was issued and  
24 for which the instrument was given.

25 [5.] 4. General revenue of the state may be appropriated for or expended  
26 only for the administration and enforcement of sections 444.352 to 444.380.

444.540. 1. No person shall engage in strip mining unless such person  
2 possesses a valid permit issued by the commission designating the area of land  
3 affected by the operation. The permit shall authorize the operator to engage in  
4 strip mining upon the area of land described in the permit under conditions  
5 specified by sections 444.500 to 444.755, and regulations promulgated pursuant  
6 to sections 444.500 to 444.755. The permit shall be valid for a period of one year  
7 from the date of its issuance unless sooner revoked as provided in sections  
8 444.500 to 444.755; except that, any permit which becomes effective on a date  
9 later than January first of any year shall be valid only until December thirty-first  
10 of that year. A separate permit shall be required for each separate mine and all

11 permits shall be on a calendar year basis.

12           2. A basic fee of three hundred fifty dollars, plus an acreage fee of thirty-  
13 five dollars for each acre or fraction thereof of the area of land to be affected by  
14 strip mining, shall be paid to the commission before the permit shall be issued.

15           3. Where mining or reclamation operations on acreage for which a permit  
16 has been issued have not been completed during the permit year, the permit as  
17 to such acreage shall be renewed by applying on a permit renewal form furnished  
18 by the commission for an additional permit year and payment of a fee of three  
19 hundred fifty dollars and filing of a bond as provided in section 444.570. Upon  
20 receipt of the permit renewal application, fee, and filing of the bond from the  
21 operator, the commission shall issue a renewal permit, if the operator meets the  
22 requirements of sections 444.500 to 444.755 and the rules and regulations of the  
23 commission.

24           **4. All fees collected under this section shall be deposited in the**  
25 **state treasury to the credit of general revenue.**

          444.580. 1. An operator desiring to have his permit amended to cover  
2 additional land may file an amended application with the commission. Upon  
3 receipt of the amended application, and such additional fee and bond as may be  
4 required under the provisions of sections 444.500 to 444.755, the commission  
5 shall issue an amendment to the original permit covering the additional land  
6 described in the amended application, if the operator meets the requirements of  
7 this law and the rules and regulations of the commission. **The additional fee**  
8 **required under this section shall be deposited in the state treasury to**  
9 **the credit of general revenue.**

10           2. An operator may withdraw any land covered by a permit, except  
11 affected land, by notifying the commission thereof, in which case the penalty of  
12 the bond or security filed by the operator pursuant to the provisions of sections  
13 444.500 to 444.755 shall be reduced proportionately.

          444.650. 1. Prior to release of the bond or any portion thereof, application  
2 shall be made by the operator to the commission, either with the completion  
3 reports or subsequent to such reports, for release of the bond.

4           2. If the commission determines that the bond, or any portion thereof,  
5 should be released, an order may be so issued without hearing, unless there is  
6 filed with the commission within thirty days of the date the application for  
7 release is filed, by an aggrieved party, a petition in opposition to release of the  
8 bond. In such case the commission shall hold a hearing as provided in section

9 444.680 and enter such order as shall be appropriate.

10 3. If the commission determines that the bond, or any portion thereof,  
11 should not be released, the commission shall issue an order to that effect with the  
12 reasons for the order and shall give notice to the operator. A hearing shall be  
13 held by the commission as provided in section 444.680 if requested by the  
14 operator within thirty days of the date of notice of the order. At such hearing  
15 burden of proof shall be on the operator. After hearing, the commission shall  
16 enter such order as shall be appropriate and shall give notice to the  
17 operator. **Any bond forfeited under this section shall be deposited in the**  
18 **state treasury to the credit of general revenue.**

19 4. Appeal may be taken as provided in section 444.700, by any party to  
20 the proceeding, from any order issued pursuant to this section.

444.730. 1. [All sums received through the payment of fees or the  
2 forfeiture of bonds pursuant to sections 444.500 to 444.970 shall be placed in the  
3 state treasury and credited to the "Mined Land Reclamation Fund" which is  
4 hereby created] **There is hereby created a "Mined Land Reclamation**  
5 **Fund".**

6 2. After appropriation by the general assembly, the money in this fund  
7 shall be expended for the administration and enforcement of sections 444.500 to  
8 444.970 and for reclamation of land affected by strip mine and surface mine and  
9 for no other purpose. Any portion of the fund not immediately needed for the  
10 purposes authorized shall be invested by the state treasurer as provided by the  
11 constitution and laws of this state. All income from such investments shall,  
12 unless otherwise prohibited by the constitution of this state, be deposited in the  
13 mined land reclamation fund. The provisions of section 33.080 relating to the  
14 transfer of unexpended balances in various funds to the general revenue fund at  
15 the end of each biennium shall not apply to funds in the mined land reclamation  
16 fund. However, any amount in the fund in excess of three million dollars,  
17 exclusive of interest and security forfeiture proceeds, shall lapse to general  
18 revenue at the end of each biennium.

19 3. [The moneys collected from any bond forfeiture shall be expended upon  
20 the lands for which the permit was issued and for which the bond was given.

21 4.] General revenue of the state may **also** be appropriated or expended for  
22 the administration or enforcement of sections 444.500 to 444.970.

444.740. 1. In the reclamation of land affected by strip mining for which  
2 it has funds available, the commission may avail itself of any services which may

3 be provided by other state agencies or by agencies of the federal government, and  
4 may compensate them for such services.

5         2. The commission may receive any federal funds, state funds or any other  
6 funds for the reclamation of land affected by strip mining. The commission may  
7 cause the reclamation work to be done by its own employees or by the employees  
8 of other governmental agencies, soil conservation districts, or through contracts  
9 with qualified persons. The contracts shall be awarded to the lowest responsible  
10 bidder upon competitive bids after reasonable advertisement. The commission  
11 and any other agency and any contractor under a contract with the board shall  
12 have reasonable right of access to the land affected to carry out such reclamation.

13         3. When funds or any public works program are available to the  
14 commission, both funds and services may be used and expended to reclaim and  
15 rehabilitate any lands that have been subjected to strip mining that have not  
16 been reclaimed and rehabilitated in accordance with standards set by sections  
17 444.500 to 444.755 [and which are not covered by bond to guarantee such  
18 reclamation].

19         4. A person or organization having qualifications acceptable to the  
20 commission may post bond or a cash deposit in a sum determined by the  
21 commission and assume the liability for carrying out the reclamation plan  
22 approved by the commission in areas where the mining operation and any  
23 necessary grading have been completed. The commission shall then release the  
24 bond posted by the operator for such area.

444.768. 1. Notwithstanding any statutory fee amounts or maximums to  
2 the contrary, the director of the department of natural resources may conduct a  
3 comprehensive review and propose changes to the fee, bond, or assessment  
4 structure as set forth in this chapter. The comprehensive review shall include  
5 stakeholder meetings in order to solicit stakeholder input from regulated entities  
6 and any other interested parties. Upon completion of the comprehensive review,  
7 the department shall submit a proposed fee, bond, or assessment structure with  
8 stakeholder agreement to the Missouri mining commission. The commission shall  
9 review such recommendations at a forthcoming regular or special meeting, but  
10 shall not vote on the proposed structure until a subsequent meeting. If the  
11 commission approves, by vote of two-thirds majority, the fee, bond, or assessment  
12 structure recommendations, the commission shall authorize the department to file  
13 a notice of proposed rulemaking containing the recommended structure, and after  
14 considering public comments may authorize the department to file the final order



15 of rulemaking for such rule with the joint committee on administrative rules  
16 pursuant to sections 536.021 and 536.024 no later than December first of the  
17 same year. If such rules are not disapproved by the general assembly in the  
18 manner set out below, they shall take effect on January first of the following  
19 calendar year, at which point the existing fee, bond, or assessment structure shall  
20 expire. Any regulation promulgated under this subsection shall be deemed to be  
21 beyond the scope and authority provided in this subsection, or detrimental to  
22 permit applicants, if the general assembly within the first sixty days of the  
23 regular session immediately following the filing of such regulation disapproves  
24 the regulation by concurrent resolution. If the general assembly so disapproves  
25 any regulation filed under this subsection, the department and the commission  
26 shall not implement the proposed fee, bond, or assessment structure and shall  
27 continue to use the previous fee, bond, or assessment structure. The authority  
28 for the commission to further revise the fee, bond, or assessment structure as  
29 provided in this subsection shall expire on August 28, 2024.

30         2. Failure to pay any fee, bond, or assessment, or any portion thereof,  
31 referenced in this section by the due date may result in the imposition of a late  
32 fee equal to fifteen percent of the unpaid amount, plus ten percent interest per  
33 annum. Any order issued by the department under this chapter may require  
34 payment of such amounts. The department may bring an action in the  
35 appropriate circuit court to collect any unpaid fee, late fee, interest, or attorney's  
36 fees and costs incurred directly in fee collection. Such action may be brought in  
37 the circuit court of the county in which the facility is located, or in the circuit  
38 court of Cole County. **Any late fee assessed under this section shall be**  
39 **deposited in the state treasury to the credit of general revenue.**

444.770. 1. It shall be unlawful for any operator to engage in surface  
2 mining without first obtaining from the commission a permit to do so, in such  
3 form as is hereinafter provided, including any operator involved in any gravel  
4 mining operation where the annual tonnage of gravel mined by such operator is  
5 less than five thousand tons, except as provided in subsection 2 of this section.

6         2. (1) A property owner or operator conducting gravel removal at the  
7 request of a property owner for the primary purpose of managing seasonal gravel  
8 accretion on property not used primarily for gravel mining, or a political  
9 subdivision who contracts with an operator for excavation to obtain sand and  
10 gravel material solely for the use of such political subdivision shall be exempt  
11 from obtaining a permit as required in subsection 1 of this section. Such gravel

12 removal shall be conducted solely on the property owner's or political  
13 subdivision's property and shall be in accordance with department guidelines,  
14 rules, and regulations. The property owner shall notify the department before  
15 any person or operator conducts gravel removal from the property owner's  
16 property if the gravel is sold. Notification shall include the nature of the activity,  
17 name of the county and stream in which the site is located and the property  
18 owner's name. The property owner shall not be required to notify the department  
19 regarding any gravel removal at each site location for up to one year from the  
20 original notification regarding that site. The property owner shall renotify the  
21 department before any person or operator conducts gravel removal at any site  
22 after the expiration of one year from the previous notification regarding that site.  
23 At the time of each notification to the department, the department shall provide  
24 the property owner with a copy of the department's guidelines, rules, and  
25 regulations relevant to the activity reported. Said guidelines, rules and  
26 regulations may be transmitted either by mail or via the internet.

27 (2) The annual tonnage of gravel mined by such property owner or  
28 operator conducting gravel removal at the request of a property owner shall be  
29 less than two thousand tons, with a site limitation of one thousand tons  
30 annually. Any operator conducting gravel removal at the request of a property  
31 owner that has removed two thousand tons of sand and gravel material within  
32 one calendar year shall have a watershed management practice plan approved by  
33 the commission in order to remove any future sand or gravel material the  
34 remainder of the calendar year. The application for approval shall be  
35 accompanied by an application fee equivalent to the fee paid under section  
36 444.772 **to be deposited in the state treasury to the credit of general**  
37 **revenue**, and shall contain the name of the watershed from which the operator  
38 will be conducting sand and gravel removal, the location within the watershed  
39 district that the sand and gravel will be removed, and the description of the  
40 vehicles and equipment used for removal. Upon approval of the watershed  
41 management practice plan, the department shall provide a copy of the relevant  
42 commission regulations to the operator.

43 (3) No property owner or operator conducting gravel removal at the  
44 request of a property owner for the primary purpose of managing seasonal gravel  
45 accretion on property not used primarily for gravel mining shall conduct gravel  
46 removal from any site located within a distance, to be determined by the  
47 commission and included in the guidelines, rules, and regulations given to the

48 property owner at the time of notification, of any building, structure, highway,  
49 road, bridge, viaduct, water or sewer line, and pipeline or utility line.

50 3. Sections 444.760 to 444.790 shall apply only to those areas which are  
51 opened on or after January 1, 1972, or to the extended portion of affected areas  
52 extended after that date. The effective date of this section for minerals not  
53 previously covered under the provisions of sections 444.760 to 444.790 shall be  
54 August 28, 1990.

55 4. All surface mining operations where land is affected after September  
56 28, 1971, which are under the control of any government agency whose  
57 regulations are equal to or greater than those imposed by section 444.774, are not  
58 subject to the further provisions of sections 444.760 to 444.790, except that such  
59 operations shall be registered with the Missouri mining commission.

60 5. Any portion of a surface mining operation which is subject to the  
61 provisions of sections 260.200 to 260.245 and the regulations promulgated  
62 thereunder, shall not be subject to the provisions of sections 444.760 to 444.790,  
63 and any bonds or portions thereof applicable to such operations shall be promptly  
64 released by the commission, and the associated permits cancelled by the  
65 commission upon presentation to it of satisfactory evidence that the operator has  
66 received a permit pursuant to section 260.205 and the regulations promulgated  
67 thereunder. Any land reclamation bond associated with such released permits  
68 shall be retained by the commission until presentation to the commission of  
69 satisfactory evidence that:

70 (1) The operator has complied with sections 260.226 and 260.227, and the  
71 regulations promulgated thereunder, pertaining to closure and postclosure plans  
72 and financial assurance instruments; and

73 (2) The operator has commenced operation of the solid waste disposal area  
74 or sanitary landfill as those terms are defined in chapter 260.

75 6. Notwithstanding the provisions of subsection 1 of this section, any  
76 political subdivision which uses its own personnel and equipment or any private  
77 individual for personal use may conduct in-stream gravel operations without  
78 obtaining from the commission a permit to conduct such an activity.

79 7. Any person filing a complaint of an alleged violation of this section with  
80 the department shall identify themselves by name and telephone number, provide  
81 the date and location of the violation, and provide adequate information, as  
82 determined by the department, that there has been a violation. Any records,  
83 statements, or communications submitted by any person to the department

84 relevant to the complaint shall remain confidential and used solely by the  
85 department to investigate such alleged violation.

444.772. 1. Any operator desiring to engage in surface mining shall make  
2 written application to the director for a permit.

3 2. Application for permit shall be made on a form prescribed by the  
4 commission and shall include:

5 (1) The name of all persons with any interest in the land to be mined;

6 (2) The source of the applicant's legal right to mine the land affected by  
7 the permit;

8 (3) The permanent and temporary post office address of the applicant;

9 (4) Whether the applicant or any person associated with the applicant  
10 holds or has held any other permits pursuant to sections 444.500 to 444.790, and  
11 an identification of such permits;

12 (5) The written consent of the applicant and any other persons necessary  
13 to grant access to the commission or the director to the area of land affected  
14 under application from the date of application until the expiration of any permit  
15 granted under the application and thereafter for such time as is necessary to  
16 assure compliance with all provisions of sections 444.500 to 444.790 or any rule  
17 or regulation promulgated pursuant to them. Permit applications submitted by  
18 operators who mine an annual tonnage of less than ten thousand tons shall be  
19 required to include written consent from the operator to grant access to the  
20 commission or the director to the area of land affected;

21 (6) A description of the tract or tracts of land and the estimated number  
22 of acres thereof to be affected by the surface mining of the applicant for the next  
23 succeeding twelve months; and

24 (7) Such other information that the commission may require as such  
25 information applies to land reclamation.

26 3. The application for a permit shall be accompanied by a map in a scale  
27 and form specified by the commission by regulation.

28 4. The application shall be accompanied by a bond, security or certificate  
29 meeting the requirements of section 444.778, a geologic resources fee authorized  
30 under section 256.700, and a permit fee approved by the commission not to exceed  
31 one thousand dollars. The commission may also require a fee for each site listed  
32 on a permit not to exceed four hundred dollars for each site. If mining operations  
33 are not conducted at a site for six months or more during any year, the fee for  
34 such site for that year shall be reduced by fifty percent. The commission may

35 also require a fee for each acre bonded by the operator pursuant to section  
36 444.778 not to exceed twenty dollars per acre. If such fee is assessed, the per-  
37 acre fee on all acres bonded by a single operator that exceed a total of two  
38 hundred acres shall be reduced by fifty percent. In no case shall the total fee for  
39 any permit be more than three thousand dollars. Permit and renewal fees shall  
40 be established by rule, except for the initial fees as set forth in this subsection,  
41 and shall be set at levels that recover the cost of administering and enforcing  
42 sections 444.760 to 444.790, making allowances for grants and other sources of  
43 funds. The director shall submit a report to the commission and the public each  
44 year that describes the number of employees and the activities performed the  
45 previous calendar year to administer sections 444.760 to 444.790. For any  
46 operator of a gravel mining operation where the annual tonnage of gravel mined  
47 by such operator is less than five thousand tons, the total cost of submitting an  
48 application shall be three hundred dollars. The issued permit shall be valid from  
49 the date of its issuance until the date specified in the mine plan unless sooner  
50 revoked or suspended as provided in sections 444.760 to 444.790. Beginning  
51 August 28, 2007, the fees shall be set at a permit fee of eight hundred dollars, a  
52 site fee of four hundred dollars, and an acre fee of ten dollars, with a maximum  
53 fee of three thousand dollars. Fees may be raised as allowed in this subsection  
54 after a regulation change that demonstrates the need for increased fees.

55         5. An operator desiring to have his or her permit amended to cover  
56 additional land may file an amended application with the commission. Upon  
57 receipt of the amended application, and such additional fee and bond as may be  
58 required pursuant to the provisions of sections 444.760 to 444.790, the director  
59 shall, if the applicant complies with all applicable regulatory requirements, issue  
60 an amendment to the original permit covering the additional land described in  
61 the amended application.

62         6. An operation may withdraw any land covered by a permit, excepting  
63 affected land, by notifying the commission thereof, in which case the penalty of  
64 the bond or security filed by the operator pursuant to the provisions of sections  
65 444.760 to 444.790 shall be reduced proportionately.

66         7. Where mining or reclamation operations on acreage for which a permit  
67 has been issued have not been completed, the permit shall be renewed. The  
68 operator shall submit a permit renewal form furnished by the director for an  
69 additional permit year and pay a fee equal to an application fee calculated  
70 pursuant to subsection 4 of this section, but in no case shall the renewal fee for

71 any operator be more than three thousand dollars. For any operator involved in  
72 any gravel mining operation where the annual tonnage of gravel mined by such  
73 operator is less than five thousand tons, the permit as to such acreage shall be  
74 renewed by applying on a permit renewal form furnished by the director for an  
75 additional permit year and payment of a fee of three hundred dollars. Upon  
76 receipt of the completed permit renewal form and fee from the operator, the  
77 director shall approve the renewal. With approval of the director and operator,  
78 the permit renewal may be extended for a portion of an additional year with a  
79 corresponding prorating of the renewal fee.

80 8. Where one operator succeeds another at any uncompleted operation,  
81 either by sale, assignment, lease or otherwise, the commission may release the  
82 first operator from all liability pursuant to sections 444.760 to 444.790 as to that  
83 particular operation if both operators have been issued a permit and have  
84 otherwise complied with the requirements of sections 444.760 to 444.790 and the  
85 successor operator assumes as part of his or her obligation pursuant to sections  
86 444.760 to 444.790 all liability for the reclamation of the area of land affected by  
87 the former operator.

88 9. The application for a permit shall be accompanied by a plan of  
89 reclamation that meets the requirements of sections 444.760 to 444.790 and the  
90 rules and regulations promulgated pursuant thereto, and shall contain a verified  
91 statement by the operator setting forth the proposed method of operation,  
92 reclamation, and a conservation plan for the affected area including approximate  
93 dates and time of completion, and stating that the operation will meet the  
94 requirements of sections 444.760 to 444.790, and any rule or regulation  
95 promulgated pursuant to them.

96 10. At the time that a permit application is deemed complete by the  
97 director, the operator shall publish a notice of intent to operate a surface mine  
98 in any newspaper qualified pursuant to section 493.050 to publish legal notices  
99 in any county where the land is located. If the director does not respond to a  
100 permit application within forty-five calendar days, the application shall be  
101 deemed to be complete. Notice in the newspaper shall be posted once a week for  
102 four consecutive weeks beginning no more than ten days after the application is  
103 deemed complete. The operator shall also send notice of intent to operate a  
104 surface mine by certified mail to the governing body of the counties or cities in  
105 which the proposed area is located, and to the last known addresses of all record  
106 landowners whose property is:

107 (1) Within two thousand six hundred forty feet, or one-half mile from the  
108 border of the proposed mine plan area; and

109 (2) Adjacent to the proposed mine plan area, land upon which the mine  
110 plan area is located, or adjacent land having a legal relationship with either the  
111 applicant or the owner of the land upon which the mine plan area is located.

112 The notices shall include the name and address of the operator, a legal  
113 description consisting of county, section, township and range, the number of acres  
114 involved, a statement that the operator plans to mine a specified mineral during  
115 a specified time, and the address of the commission. The notices shall also  
116 contain a statement that any person with a direct, personal interest in one or  
117 more of the factors the director may consider in issuing a permit may request a  
118 public meeting or file written comments to the director no later than fifteen days  
119 following the final public notice publication date. If any person requests a public  
120 meeting, the applicant shall cooperate with the director in making all necessary  
121 arrangements for the public meeting to be held in a reasonably convenient  
122 location and at a reasonable time for interested participants, and the applicant  
123 shall bear the expenses.

124 11. The director may approve a permit application or permit amendment  
125 whose operation or reclamation plan deviates from the requirements of sections  
126 444.760 to 444.790 if it can be demonstrated by the operator that the conditions  
127 present at the surface mining location warrant an exception. The criteria  
128 accepted for consideration when evaluating the merits of an exception or variance  
129 to the requirements of sections 444.760 to 444.790 shall be established by  
130 regulations.

131 12. Fees imposed pursuant to this section shall become effective August  
132 28, 2007, and shall expire on December 31, 2018. No other provisions of this  
133 section shall expire.

134 **13. All fees collected under this section shall be deposited in the**  
135 **state treasury to the credit of general revenue.**

444.775. 1. Prior to release of the bond or any portion thereof, application  
2 shall be made by the operator to the commission, either with the completion of  
3 the report referred to in section 444.774 or subsequent to such report, for release  
4 of the bond.

5 2. The commission shall cause to have investigated the status of  
6 reclamation on land for which a release application has been filed.

7 3. If the director or the commission determines that the bond, or any

8 portion thereof, should be released, an order may be so issued without hearing.  
9 If an owner of the land that has been affected by surface mining files a petition  
10 in opposition to the release of the bond within thirty days of the receipt date of  
11 the application for release, a hearing may be held, if the bond release criteria  
12 does not meet permit standards. A hearing may also be held if the director,  
13 within thirty days of the receipt date of the application for release, recommends  
14 denial of the application following its investigation. In such cases, the  
15 commission may hold a hearing as provided in section 444.789 and enter such  
16 order as shall be appropriate.

17 4. If the commission determines that the bond or any portion thereof  
18 should not be released, the commission shall issue an order to that effect with the  
19 reasons for the order and shall give notice to the operator. A hearing shall be  
20 held by the commission as provided in section 444.789 if requested by the  
21 operator within thirty days of the date of notice of the order. At such hearing  
22 burden of proof shall be on the operator. After hearing, the commission shall  
23 enter such order as shall be appropriate and shall give notice to the  
24 operator. **Any bond forfeited under this section shall be deposited in the**  
25 **state treasury to the credit of general revenue.**

26 5. All final decisions or orders of the commission shall be subject to  
27 judicial review as provided for in chapter 536. No judicial review shall be  
28 available, however, until and unless all administrative remedies are exhausted.

444.782. The attorney general, upon request of the commission, shall  
2 institute proceedings to have the bond of the operator forfeited for violation by  
3 the operator of any of the provisions of sections 444.760 to 444.790. Before  
4 making such request of the attorney general, the commission shall notify the  
5 operator in writing of the alleged violation or noncompliance and shall afford the  
6 operator the right to appear before the commission at a hearing to be held not  
7 less than thirty days after the receipt of such notice by the operator. At the  
8 hearing the operator may present for the consideration of the commission,  
9 statements, documents and other information with respect to the alleged  
10 violation. After the conclusion of the hearing, the commission shall either  
11 withdraw the notice of violation or shall request the attorney general to institute  
12 proceedings to have the bond of the operator forfeited as to the land  
13 involved. **Any bond forfeited under this section shall be deposited in the**  
14 **state treasury to the credit of general revenue.**

444.820. 1. Each application for a permit shall be accompanied by a fee:



2 (1) For new surface coal mining permits there shall be an initial fee of one  
3 hundred dollars, plus an acreage fee of either thirty-five dollars or such different  
4 amount as determined by regulation of the commission, for each acre or fraction  
5 thereof of the permit area. Any acreage fee determined by the commission shall  
6 reflect the costs of administering and enforcing this law and the regulations  
7 adopted hereunder, making allowance for federal grants and other sources of  
8 funds, surplus moneys in the mined land conservation fund credited to this law,  
9 and contingencies. For multiple-year permits, the acreage fee shall be paid  
10 annually by dividing the total acres in the permit area by the number of years  
11 covered by the permit and multiplying that number by that year's acreage fee,  
12 and, after the first year, there shall be an annual fee of one hundred dollars. For  
13 the first year of any new permit, the first year's fees shall be paid with the permit  
14 application. Thereafter, through the term of the permit, the annual fee and  
15 acreage fee shall be paid as a condition to and prior to operating for that permit  
16 year. The acreage fee shall be paid only once on any given acre, except in the  
17 case of a revocation; and an allowance shall be given for any acreage fee  
18 previously paid for a permit under sections 444.500 to 444.755 when the land was  
19 not disturbed under said permit;

20 (2) For permit renewal there shall be a basic fee of one hundred dollars  
21 for each year of renewal, to be paid annually;

22 (3) For permit revision there shall be a basic application fee of one  
23 hundred dollars;

24 (4) For application of a successor to a permit there shall be a basic fee of  
25 one hundred dollars;

26 (5) For coal exploration permits there shall be an application fee of one  
27 hundred dollars;

28 (6) For surface effects of underground mining there shall be a fee  
29 determined as in subdivision (1) of this subsection;

30 (7) For reinstatement of a permit after suspension there shall be a fee of  
31 one hundred dollars;

32 (8) Any land disturbed subsequent to revocation of a permit which  
33 included such land, shall require a new permit application and fees paid as  
34 determined in subdivision (1) of this subsection, whether such land is to be  
35 disturbed by the same operator or a different operator.

36 **Any fee collected under this section shall be deposited in the state**  
37 **treasury to the credit of general revenue.**

38           2. The permit application shall be submitted in a manner satisfactory to  
39 the commission or the director and shall contain among other things:

40           (1) The names and addresses of:

41           (a) The permit applicant;

42           (b) Every legal owner of record of the property (surface and mineral) to  
43 be mined;

44           (c) The holders of record of any leasehold interest in the property;

45           (d) Any purchaser of record of the property under a real estate contract;

46           (e) The operator if he is a person different from the applicant; and

47           (f) If any of these are business entities other than a single proprietor, the  
48 names and addresses of the principals, officers, and resident agent;

49           (2) The names and addresses of the owners of record of all surface and  
50 subsurface areas adjacent to any part of the permit area;

51           (3) A statement of any current or previous surface coal mining permits in  
52 the United States held by the applicant and the permit identification and each  
53 pending application;

54           (4) If the applicant is a partnership, corporation, association, or other  
55 business entity, the following where applicable: The names and addresses of  
56 every officer, partner, director, or person performing a function similar to a  
57 director, of the applicant, together with the name and address of any person  
58 owning, of record, 10 percentum or more of any class of voting stock of the  
59 applicant and a list of all names under which the applicant, partner, or principal  
60 shareholder previously operated a surface mining operation within the United  
61 States within the five-year period preceding the date of submission of the  
62 application;

63           (5) A statement of whether the applicant, any subsidiary, affiliate, or  
64 persons controlled by or under common control with the applicant, has ever held  
65 a federal or state mining permit which in the five-year period prior to the date  
66 of submission of the application has been suspended or revoked or has had a  
67 mining bond or similar security deposited in lieu of bond forfeited and, if so, an  
68 explanation of the facts involved;

69           (6) A copy of the applicant's advertisement to be published in a newspaper  
70 of general circulation in the locality of the proposed site at least once a week for  
71 four successive weeks, and which includes the ownership, a description of the  
72 exact location and boundaries of the proposed site sufficient so that the proposed  
73 operation is readily locatable by local residents, and the location of where the

74 application is available for public inspection;

75 (7) A description of the type and method of coal mining operation that  
76 exists or is proposed, the engineering techniques proposed or used, and the  
77 equipment used or proposed to be used;

78 (8) The anticipated or actual starting and termination dates of each phase  
79 of the mining operation and number of acres of land to be affected;

80 (9) An accurate map or plan, to an appropriate scale, clearly showing the  
81 land to be affected as of the date of the application, the area of land within the  
82 permit area upon which the applicant has the legal right to enter and commence  
83 surface mining operations and a statement of those documents upon which the  
84 applicant bases his legal right to enter and commence surface mining operations  
85 on the area affected, and whether that right is the subject of pending court  
86 litigation; provided, that nothing in this law shall be construed as vesting in the  
87 commission the jurisdiction to adjudicate property title disputes;

88 (10) The name of the watershed and location of the surface stream or  
89 tributary into which surface and pit drainage will be discharged;

90 (11) A determination of the probable hydrologic consequences of the  
91 mining and reclamation operations, both on and off the mine site, with respect  
92 to the hydrologic regime, quantity and quality of water in surface and ground  
93 water systems including the dissolved and suspended solids under seasonal flow  
94 conditions and the collection of sufficient data for the mine site and surrounding  
95 areas so that an assessment can be made by the commission of the probable  
96 cumulative impacts of all anticipated mining in the area upon the hydrology of  
97 the area and particularly upon water availability; provided, however, that this  
98 determination shall not be required until such time as hydrologic information on  
99 the general area prior to mining is made available from an appropriate federal  
100 or state agency or person qualified by training or experience to develop such  
101 information; provided further, that the permit shall not be approved until such  
102 information is available and is incorporated into the application;

103 (12) When requested by the commission, the climatological factors that are  
104 peculiar to the locality of the land to be affected, including the average seasonal  
105 precipitation, the average direction and velocity of prevailing winds, and the  
106 seasonal temperature ranges;

107 (13) Accurate maps to an appropriate scale clearly showing (a) the land  
108 to be affected as of the date of application and (b) all types of information set  
109 forth on topographical maps of the United States Geological Survey of a scale of

110 1:24,000 or 1:25,000 or larger, including all manmade features and significant  
111 known archeological sites existing on the date of application. Such a map or plan  
112 shall, among other things specified by the commission, show all boundaries of the  
113 land to be affected, the boundary lines and names of present owners of record of  
114 all surface areas abutting the permit area, and the location of all buildings within  
115 one thousand feet of the permit area;

116 (14) Cross-section maps or plans of the land to be affected, including the  
117 actual area to be mined, prepared by or under the direction of and certified by a  
118 qualified registered professional engineer, or qualified registered land surveyor,  
119 or professional geologist with assistance from experts in related fields such as  
120 land surveying and landscape architecture, showing pertinent elevation and  
121 location of test borings or core samplings and depicting the following information:  
122 The nature and depth of the various strata of overburden; the location of  
123 subsurface water, if encountered, and its quality; the nature and thickness of any  
124 coal or rider seam above the coal seam to be mined; the nature of the stratum  
125 immediately beneath the coal seam to be mined; all mineral crop lines and the  
126 strike and dip of the coal to be mined, within the area of land to be affected;  
127 existing or previous surface mining limits; the location and extent of known  
128 workings of any underground mines, including mine openings to the surface; the  
129 location of aquifers; the estimated elevation of the water table; the location of  
130 spoil, waste, or refuse areas and topsoil preservation areas; the location of all  
131 impoundments for waste or erosion control; any settling or water treatment  
132 facility; constructed or natural drainways and the location of any discharges to  
133 any surface body of water on the area of land to be affected or adjacent thereto;  
134 and profiles at appropriate cross-sections of the anticipated final surface  
135 configuration that will be achieved pursuant to the operator's proposed  
136 reclamation plan;

137 (15) A statement of the result of test borings or core samplings from the  
138 permit area, including logs of the drill holes; the thickness of the coal seam found,  
139 an analysis of the chemical properties of such coal; the sulfur content of any coal  
140 seam; chemical analysis of potentially acid or toxic forming sections of the  
141 overburden; and chemical analysis of the stratum lying immediately underneath  
142 the coal to be mined except that the provisions of this subdivision may be waived  
143 by the commission with respect to the specific application by a written  
144 determination that such requirements are unnecessary;

145 (16) For those lands in the permit application which a reconnaissance

146 inspection suggests may be prime farm lands, a soil survey shall be made or  
147 obtained according to standards established by the United States Secretary of  
148 Agriculture in order to confirm the exact location of such prime farm lands, if  
149 any;

150 (17) The written consent of the applicant and any other persons necessary  
151 to grant access to the commission or the director to the area of land affected  
152 under application from the date of application until the expiration of any permit  
153 granted under the application and thereafter for such time as is necessary to  
154 assure compliance with all provisions of this law or any rule or regulation  
155 promulgated under them.

156 3. Information pertaining to coal seams, test borings, core samplings, or  
157 soil samples as required by this section shall be made available to any person  
158 with an interest which is or may be adversely affected; provided, that information  
159 which pertains only to the analysis of the chemical and physical properties of the  
160 coal (excepting information regarding such mineral or elemental content which  
161 is potentially toxic in the environment) shall be kept confidential and not made  
162 a matter of public record.

163 4. If the commission finds that the probable total annual production at all  
164 locations of any coal surface mining operator will not exceed one hundred  
165 thousand tons, the determination of probable hydrologic consequences required  
166 by subdivision (11) of subsection 2 and the statement of the result of test borings  
167 or core samplings required by subdivision (15) of subsection 2 of this section shall,  
168 upon the written request of the operator, be performed by a qualified public or  
169 private laboratory designated by the commission, and the cost of the preparation  
170 of such determination and statement shall be assumed by the commission.

171 5. Each applicant for a permit shall be required to submit to the  
172 commission as part of the permit application a reclamation plan which shall meet  
173 the requirements of this law.

174 6. Each applicant for a permit shall, simultaneous to filing with the  
175 commission, file a copy of his application for public inspection with the recorder  
176 of deeds at the courthouse of the county where the mining is proposed to occur,  
177 except for that information pertaining to the coal seam itself.

178 7. Each applicant for a permit shall be required to submit to the  
179 commission as part of the permit application a certificate issued by an insurance  
180 company authorized to do business in the state certifying that the applicant has  
181 a public liability insurance policy in force for the surface mining and reclamation

182 operations for which such permit is sought. Such policy shall provide for personal  
183 injury and property damage protection in an amount adequate to compensate any  
184 persons damaged as a result of surface coal mining and reclamation operations  
185 including use of explosives. Such policy shall be maintained in full force and  
186 effect during the terms of the permit or any renewal, including the length of all  
187 reclamation operations.

188 8. Each applicant for a permit shall submit to the commission as part of  
189 the permit application a blasting plan which shall outline the procedures and  
190 standards by which the operator will meet the provisions of subdivision (15) of  
191 subsection 2 of section 444.855.

444.870. 1. Any permittee who violates any permit condition or any  
2 provision of the reclamation plan or who violates any provision of this law or  
3 rules and regulations may be assessed an administrative penalty by the  
4 commission, except that if such violation leads to the issuance of a cessation order  
5 under section 444.885 the penalty shall be assessed. Such penalty shall not  
6 exceed five thousand dollars for each violation. Each day of continuing violation  
7 may be deemed a separate violation for purposes of penalty assessments. In  
8 determining the amount of the penalty, consideration shall be given to the  
9 permittee's history of previous violations at the particular surface coal mining  
10 operation; the seriousness of the violation, including any irreparable harm to the  
11 environment and any hazard to the health or safety of the public; whether the  
12 permittee was negligent; and the demonstrated good faith of the permittee  
13 charged in attempting to achieve rapid compliance after notification of the  
14 violation.

15 2. An administrative penalty shall be assessed by the commission only  
16 after the person charged has been given an opportunity for a public  
17 hearing. When such a public hearing has been held, the commission shall make  
18 findings of fact and conclusions of law, and shall issue a written decision as to the  
19 occurrence of the violation and the amount of the penalty which is warranted,  
20 incorporating, when appropriate, an order therein requiring that the penalty be  
21 paid. When appropriate, the commission shall consolidate such hearings with  
22 other proceedings under section 444.885. Any hearing under this section shall  
23 be of record and shall be a contested case. The chairman may designate one  
24 commission member as hearing officer, or may appoint a member in good  
25 standing of the Missouri bar as hearing officer to hold the hearing and make  
26 recommendations to the commission, but the commission shall make the final

27 decision therein and any member participating in the decision shall review the  
28 record before making decision. Where the person charged with such a violation  
29 fails to avail himself of the opportunity for a public hearing, an administrative  
30 penalty shall be assessed and ordered paid only after the commission has  
31 determined that a violation did occur and the amount of the penalty which is  
32 warranted.

33           3. When the director believes that a violation has occurred he may, or if  
34 a cessation order has resulted he shall, file with the commission and serve the  
35 operator by registered mail a notice charging a violation has occurred and setting  
36 forth the proposed amount of said penalty. The operator, if he wishes to contest  
37 either the amount of the penalty or the fact of the violation, may within thirty  
38 days of receipt of the notice request a hearing before the commission. The  
39 operator shall, with such request, file with the commission a penalty bond in the  
40 amount of the proposed penalty, in a form prescribed by the commission, with  
41 security attached in the form of a certificate of deposit, conditioned upon  
42 forfeiture upon a final nonappealable decision. If through administrative or  
43 judicial review, it is determined that no violation occurred, or that the amount of  
44 the penalty should be reduced, the commission shall within thirty days of such  
45 determination release said bond and remit the appropriate amount to the person,  
46 with interest at the rate of six percent, or at the prevailing United States  
47 Department of the Treasury rate, whichever is greater. Failure to file the bond  
48 with the request for hearing shall result in a waiver of all legal rights to contest  
49 the violation or the amount of the penalty.

50           4. Administrative penalties, plus interest at the rate of six percent, or at  
51 the prevailing United States Department of the Treasury rate, whichever is  
52 greater, plus attorney's fees, may be recovered in a civil action brought by the  
53 attorney general at the request of the commission in the county where the  
54 violation occurred or in Cole County.

55           5. Any person who willfully and knowingly violates a condition of a permit  
56 or fails or refuses to comply with any order issued under section 444.885 or  
57 section 444.900, or any order incorporated in a final decision issued by the  
58 commission, except an order incorporated in a decision issued under subsection  
59 2 of this section shall, upon conviction, be punished by a fine of not more than ten  
60 thousand dollars, or by imprisonment for not more than one year, or both.

61           6. Whenever a corporate permittee violates a condition of a permit or fails  
62 or refuses to comply with any order issued under section 444.885, or any order

63 incorporated in a final decision issued by the commission, except an order  
64 incorporated in a decision issued under subsection 2 of this section, any director,  
65 officer, or agent of such corporation who willfully and knowingly authorized,  
66 ordered, or carried out such violation, failure, or refusal shall be subject to the  
67 same administrative penalties, fines and imprisonment that may be imposed upon  
68 a person under subsections 1 and 5 of this section.

69           7. Whoever knowingly makes any false statement, representation, or  
70 certification, or knowingly fails to make any statement, representation, or  
71 certification in any application, record, report, plan, or other document filed or  
72 required to be maintained shall, upon conviction, be punished by a fine of not  
73 more than ten thousand dollars, or by imprisonment for not more than one year,  
74 or both.

75           8. Any operator who fails to correct a violation for which a citation has  
76 been issued under subsection 1 of section 444.885 within the period permitted for  
77 its correction (which period shall not end until the entry of a final order by the  
78 commission, in the case of any review proceedings under section 444.895 initiated  
79 by the operator wherein the commission orders, after an expedited hearing, the  
80 suspension of the abatement requirements of the citation after determining that  
81 the operator will suffer irreparable loss or damage from the application of those  
82 requirements, or until the entry of an order of the court, in the case of any review  
83 proceedings under section 444.900 initiated by the operator wherein the court  
84 orders the suspension of the abatement requirements of the citation) shall be  
85 assessed an administrative penalty by the commission of not less than seven  
86 hundred fifty dollars, nor more than five thousand dollars for each day during  
87 which such failure or violation continues.

88           **9. Any fee or administrative penalty assessed or bond forfeited**  
89 **under sections 444.800 to 444.940 shall be deposited in the state**  
90 **treasury to the credit of general revenue.**

444.960. 1. A "Coal Mine Land Reclamation Fund" is hereby established  
2 in the state treasury. [Assessments paid pursuant to the provisions of section  
3 444.965 shall be placed in this fund.] If a permittee has filed a phase I  
4 reclamation bond pursuant to section 444.950, and then fails to complete the  
5 reclamation plan for any land for which he has received a permit, moneys within  
6 the fund shall be used by the commission to complete the reclamation [after the  
7 proceeds from any applicable performance bond for such reclamation have been  
8 exhausted. Any penalty levied by the commission under section 444.970 shall be



9 paid into the fund].

10 2. Any portion of the fund not immediately needed to pay for reclamation  
11 work shall be deposited by the state treasurer in interest-bearing accounts in the  
12 same manner as other state funds are so deposited, and the interest earned  
13 thereon shall be credited to the fund.

14 3. The fund shall be allowed to accumulate until it reaches the greater of  
15 seven million dollars or two thousand five hundred dollars times the number of  
16 acres within the state that have been mined but which have not been released by  
17 the commission as having been reclaimed. Moneys which accumulate above this  
18 ceiling shall be distributed to the contributing companies on an equitable basis  
19 as determined by the commission.

20 4. Notwithstanding other provisions of law, the fund shall not lapse at the  
21 end of any fiscal year, but shall be held separate and apart from other state funds  
22 and shall be used solely for the purposes authorized by the provisions of this  
23 section.

24 5. All moneys assessed for the coal mine land reclamation fund after  
25 September 1, 1988, shall be allocated such that forty percent of such assessments  
26 shall be applied to the reclamation of those permits that have been revoked by  
27 the commission prior to September 1, 1988, and sixty percent of such assessments  
28 shall be applied to the reclamation of those permits that have been revoked by  
29 the commission after September 1, 1988. All moneys within the coal mine land  
30 reclamation fund as of September 1, 1988, shall be allocated to the forty percent  
31 portion of the fund. After enough moneys have accumulated in the forty percent  
32 pool to complete reclamation of those permits that have been revoked by the  
33 commission prior to September 1, 1988, all moneys assessed to the coal mine land  
34 reclamation fund shall be allocated to the sixty percent fund. The moneys within  
35 the respective funds may be utilized by the commission on any aspect of  
36 reclamation.

444.965. 1. Beginning on September 1, 1988, every permittee that files  
2 a phase I reclamation bond pursuant to section 444.950 shall pay an assessment,  
3 in addition to all other taxes and fees which may be due, to the commission for  
4 deposit in the [coal mine land reclamation fund] **state treasury to the credit**  
5 **of general revenue.**

6 2. For permittees who file phase I reclamation bonds, the assessment  
7 shall be paid monthly by each permittee based on coal sold, shipped, or otherwise  
8 disposed of. The assessment shall be paid at the rate of forty-five cents per ton

9 for the first fifty thousand tons sold, shipped or otherwise disposed of in a  
10 calendar year, and thirty cents per ton for the next fifty thousand tons sold,  
11 shipped or otherwise disposed of in such calendar year. Thereafter, during any  
12 calendar year, no further assessment shall be due for that permittee.

13 3. Whenever the total [balance in the fund] **amount contributed to**  
14 **general revenue** exceeds seven million dollars as of the close of the state's fiscal  
15 year, no assessments shall be required during the state's next fiscal year except  
16 that each new permittee filing a phase I reclamation bond pursuant to section  
17 444.950 shall pay assessments pursuant to section 444.960 and this section until  
18 the permittee's payments equal those made by an existing permittee of  
19 comparable size. Whenever the [fund balance] **amount contributed to**  
20 **general revenue** is less than seven million dollars at the close of the state's  
21 fiscal year, all permittees who have elected to file phase I reclamation bonds  
22 pursuant to section 444.950 shall pay assessments [to the fund] as provided for  
23 in subsection 2 of this section.

24 4. After the date when enough moneys have accumulated in the forty  
25 percent pool to complete reclamation on sites revoked prior to September 1, 1988,  
26 whenever the [fund balance] **amount contributed to general revenue** falls  
27 below seven million dollars **at the close of the state's fiscal year**, the tonnage  
28 assessments provided for in subsection 2 of this section shall resume at the rate  
29 of twenty-five cents per ton for the first fifty thousand tons and fifteen cents per  
30 ton for the second fifty thousand tons of coal sold, shipped or otherwise disposed  
31 of in a calendar year by a permittee. The tonnage assessment shall remain in  
32 effect until the [fund balance] **amount contributed to general revenue** is at  
33 least seven million dollars at the close of the state's fiscal year.

34 5. After September 1, 1998, whenever the [fund balance] **amount**  
35 **contributed to general revenue** falls below two million dollars **at the close**  
36 **of the state's fiscal year**, the assessment rate established in subsection 2 of  
37 this section shall increase to a per ton rate of thirty cents per ton for the first  
38 fifty thousand tons and twenty cents per ton for the second fifty thousand tons  
39 of coal sold, shipped or otherwise disposed of in a calendar year by a  
40 permittee. The increased tonnage assessment shall remain in effect until the  
41 [fund balance] **amount contributed to general revenue** is at least three  
42 million dollars at the close of the state's fiscal year, at which time the assessment  
43 will revert to the rate established pursuant to subsection 4 of this section.

444.970. 1. The commission may impose a penalty of twenty-five cents per

2 ton upon any permittee who is more than thirty days delinquent in paying the  
3 assessment due under the provisions of section 444.965. Such penalty shall  
4 remain in effect until the delinquency is eliminated. The commission may also  
5 require prepayment of any subsequent assessments.

6         2. If a permittee fails to complete a reclamation plan and the completion  
7 must be made by or on behalf of the commission, the permittee or any principal  
8 of the permittee or any entity in which a principal of the permittee is a principal  
9 or any entity controlled by or under common control with the permittee shall not  
10 operate in this state until the costs of such completion have been fully paid by the  
11 permittee. The commission may sue to recover from the permittee the cost of  
12 such completion.

13         3. In addition, if any permittee becomes substantially delinquent in  
14 completing his reclamation plan, a penalty of twenty-five cents per ton may be  
15 imposed by the commission. Such penalty shall remain in force until the  
16 delinquency is corrected. The commission may also require bonding, in addition  
17 to that of section 444.950, to fully insure the delinquent reclamation.

18         4. The general assembly is under no obligation to appropriate general  
19 revenue moneys to reclaim land mined under sections 444.805 to 444.970.

20         **5. Any penalty assessed under this section shall be deposited in**  
21 **the state treasury to the credit of general revenue.**

640.220. 1. For the purpose of protecting the air, water and land  
2 resources of the state, there is hereby created in the state treasury a fund to be  
3 known as the "Natural Resources Protection Fund". All funds received from [air  
4 pollution permit fees,] gifts, bequests, donations, or any other moneys so  
5 designated shall be paid to the director of the department of natural resources,  
6 transmitted to the director of revenue and deposited in the state treasury to the  
7 credit of an appropriate subaccount of the natural resources protection fund and  
8 shall be used for the purposes specified by law. The air pollution permit fee  
9 revenues shall be deposited [in an appropriate subaccount of the natural  
10 resources protection fund] **in the state treasury to the credit of general**  
11 **revenue**, and, subject to appropriation by the general assembly, shall be used by  
12 the department to carry out the general administration of section 643.075. The  
13 water pollution permit fee revenues generated through sections 644.052, 644.053,  
14 644.054 and 644.061 shall be paid to the director of the department of natural  
15 resources, transmitted to the director of the department of revenue and deposited  
16 [to the credit of the water pollution permit fee subaccount of the natural

17 resources protection fund] **in the state treasury to the credit of general**  
18 **revenue**, and, subject to appropriation by the general assembly, shall be used by  
19 the department to carry out the administration of sections 644.006 to 644.141.

20 2. Effective July 1, 1991, the provisions of section 33.080 to the contrary  
21 notwithstanding, any unexpended balance in the subaccounts of the natural  
22 resources protection fund that exceeds the preceding biennium's collections shall  
23 revert to the general revenue fund of the state at the end of each biennium. All  
24 interest earned on the natural resources protection funds shall accrue to  
25 appropriate subaccounts.

640.740. There is hereby established in the state treasury the  
2 "Concentrated Animal Feeding Operation Indemnity Fund", to be known as the  
3 "fund" for the purposes of sections 640.740 to 640.747. All [fees or other moneys  
4 payable pursuant to the provisions of section 640.745 or other] moneys received  
5 including gifts, grants, appropriations, and bequests from federal, private or other  
6 sources made for the purpose of the provisions of this act shall be payable to and  
7 collected by the director of the department of natural resources and deposited in  
8 this fund. The money in this fund, upon appropriation, shall be expended to close  
9 class IA, class IB, class IC and class II concentrated animal feeding operations  
10 as defined in the department's rules, that have been placed in the control of the  
11 government due to bankruptcy or failure to pay property taxes, or if the class IA,  
12 class IB, class IC or class II concentrated animal feeding operation is abandoned  
13 property. "Abandoned property", for the purposes of this section, means real  
14 property previously used for, or which has the potential to be used for,  
15 agricultural purposes which has been placed in the control of the state, a county,  
16 or municipal government, or an agency thereof, through donation, purchase, tax  
17 delinquency, foreclosure, default or settlement, including conveyance by deed in  
18 lieu of foreclosure, and has been vacant for a period of not less than three  
19 years. Any portion of the fund not immediately needed for the purposes  
20 authorized shall be invested by the state treasurer as provided by the  
21 Constitution and laws of this state. All income from such investments shall be  
22 deposited in the fund. Any unexpended balance in the fund at the end of any  
23 appropriation period shall not be transferred to the general revenue fund and,  
24 accordingly, shall be exempt from the provisions of section 33.080 relating to the  
25 transfer of funds to the general revenue funds of the state by the state treasurer.

640.745. 1. The owner or operator of each class IA concentrated animal  
2 feeding operation utilizing flush systems shall remit to the department of natural

3 resources a fee of ten cents per animal unit permitted to be deposited in the  
4 **[fund] state treasury to the credit of general revenue.** The fee is due and  
5 payable to the department on the first anniversary of issuance of each owner or  
6 operator permit to operate such a facility and for nine years thereafter on the  
7 same date. The department of natural resources shall provide forms which such  
8 owner or operator shall use to file and pay this fee.

9         2. The fund shall be administered by the department for the purpose of  
10 carrying out the provisions of sections 640.700 to 640.755, relating to closure of  
11 class IA, class IB, class IC and class II concentrated animal feeding operation  
12 wastewater lagoons.

13         3. The fund administrators may only expend moneys for animal waste  
14 lagoon closure activities on real property which:

15             (1) Has been placed in the control of the state, a county, or municipal  
16 government, or an agency thereof, through donation, purchase, tax delinquency,  
17 foreclosure, default or settlement, including conveyance by deed in lieu of  
18 foreclosure, and pose a threat to human health, the environment, or a threat to  
19 groundwater; and

20             (2) The state, county, or municipal government, or an agency thereof, has  
21 made reasonable and prudent efforts to sell said property to a qualifying  
22 purchaser.

23         4. The fund administrators shall expend no more than one hundred  
24 thousand dollars per lagoon for animal waste lagoon closure activities. The fund  
25 administrators shall only expend those moneys necessary to achieve a minimum  
26 level of closure and still protect human health and the environment. Closure  
27 activities shall include lagoon dewatering and removal of animal waste sludge,  
28 if any, both of which shall be land applied at a nutrient management application  
29 rate based on the most limiting nutrient as determined by Missouri clean water  
30 commission regulation. After dewatering, lagoons which are located in a drainage  
31 basin and are capable of meeting all applicable pond requirements of the Natural  
32 Resources Conservation Service (NRCS) with minimal additional expense should  
33 be maintained as a pond. Otherwise, the lagoon berms should be breached and  
34 graded in such a manner to reasonably conform to the surrounding land contours.

640.747. In the event the department determines that a class IA, class IB,  
2 class IC or class II concentrated animal feeding operation has been successfully  
3 closed by the owner or operator, all moneys paid by such operation into the  
4 **[concentrated animal feeding operation indemnity fund] state treasury to the**

5 **credit of general revenue** shall be returned to such operation.

2 [259.052. 1. There is hereby created in the state treasury  
3 the "Oil and Gas Resources Fund" which shall consist of all gifts,  
4 donations, transfers, moneys appropriated by the general assembly,  
5 permit application fees collected under section 259.080, operating  
6 fees, closure fees, late fees, severance fees, and bequests to the  
7 fund. The fund shall be administered by the department of natural  
8 resources.

9 2. The state treasurer shall be custodian of the fund and  
10 may approve disbursements from the fund in accordance with  
11 sections 30.170 and 30.180. Notwithstanding the provisions of  
12 section 33.080 to the contrary, any moneys remaining in the fund  
13 at the end of the biennium shall not revert to the credit of the  
14 general revenue fund. The state treasurer shall invest moneys in  
15 the fund in the same manner as other funds are invested. Any  
16 interest and moneys on such investments shall be credited to the  
17 fund.

18 3. After appropriation by the general assembly, the money  
19 in such fund shall be expended by the department to administer  
20 the provisions of chapter 259, and to collect, process, manage,  
21 interpret, and distribute geologic and hydrologic resource  
22 information pertaining to oil and gas potential, and not for any  
other purpose.]

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