

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 660
93RD GENERAL ASSEMBLY

Reported from the Committee on Conservation and Natural Resources, April 14, 2005 with recommendation that House Committee Substitute for House Bill No. 660 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

1858L.06C

AN ACT

To repeal sections 260.218, 260.273, 260.325, 260.330, 260.335, 260.345, 260.375, 260.380, 260.391, 260.420, 260.446, 260.475, 260.479, 260.480, 260.481, 260.546, 260.569, 260.900, 260.905, 260.925, 260.935, 260.940, and 260.945, RSMo, and to enact in lieu thereof twenty-three new sections relating to solid waste, with an emergency clause for a certain section.

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

Section A. Sections 260.218, 260.273, 260.325, 260.330, 260.335, 260.345, 260.375, 260.380, 260.391, 260.420, 260.446, 260.475, 260.479, 260.480, 260.481, 260.546, 260.569, 260.900, 260.905, 260.925, 260.935, 260.940, and 260.945, RSMo, are repealed and twenty-three new sections enacted in lieu thereof, to be known as sections 260.273, 260.279, 260.325, 260.330, 260.335, 260.345, 260.375, 260.380, 260.391, 260.420, 260.475, 260.480, 260.481, 260.546, 260.569, 260.900, 260.905, 260.925, 260.935, 260.940, 260.945, 260.965, and 304.184, to read as follows:

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

2. A fee for each new tire sold at retail shall be imposed on any person engaging in the business of making retail sales of new tires within this state. The fee shall be charged by the retailer to the person who purchases a tire for use and not for resale. Such fee shall be imposed at the rate of fifty cents for each new tire sold. Such fee shall be added to the total cost to the purchaser at retail after all applicable sales taxes on the tires have been computed. The fee

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

8 imposed, less six percent of fees collected, which shall be retained by the tire retailer as
9 collection costs, shall be paid to the department of revenue in the form and manner required by
10 the department of revenue and shall include the total number of new tires sold during the
11 preceding month. The department of revenue shall promulgate rules and regulations necessary
12 to administer the fee collection and enforcement. The terms "sold at retail" and "retail sales" do
13 not include the sale of new tires to a person solely for the purpose of resale, if the subsequent
14 retail sale in this state is to the ultimate consumer and is subject to the fee.

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

22 4. Up to five percent of the revenue available may be allocated, upon appropriation, to
23 the department of natural resources to be used cooperatively with the department of elementary
24 and secondary education for the purposes of developing educational programs and curriculum
25 pursuant to section 260.342.

26 5. Up to twenty-five percent of the moneys received pursuant to this section may, upon
27 appropriation, be used to administer the programs imposed by this section. Up to five percent
28 of the moneys received under this section may, upon appropriation, be used for the grants
29 authorized in subdivision (2) of subsection 6 of this section and authorized in section 260.274.
30 All remaining moneys shall be allocated, upon appropriation, for the projects authorized in
31 section 260.276, **except that any unencumbered moneys may be used for public health,**
32 **environmental, and safety projects in response to environmental emergencies as**
33 **determined by the director.**

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

36 (1) Removal of waste tires from illegal tire dumps;

37 (2) Providing grants to persons that will use products derived from waste tires, or used
38 waste tires as a fuel or fuel supplement; and

39 (3) Resource recovery activities conducted by the department pursuant to section
40 260.276.

41 7. The fee imposed in subsection 2 of this section shall **begin the first day of the month**
42 **which falls at least thirty days but no more than sixty days immediately following the**
43 **effective date of this section and shall terminate January 1, [2004] 2010.**

44 **8. By January 1, 2009, the department shall report to the general assembly a**
45 **complete accounting of the tire cleanups completed or in progress, the cost of the cleanups,**
46 **the number of tires remaining, the balance of the fund, and enforcement actions completed**
47 **or initiated to address waste tires.**

260.279. In letting contracts for the performance of any job or service for the
2 **removal or clean up of waste tires under chapter 260, RSMo, the department of natural**
3 **resources shall, in addition to the requirements of sections 34.073 and 34.076, RSMo, and**
4 **any other points awarded during the evaluation process, give to any vendor that meets one**
5 **or more of the following factors a five percent preference and ten bonus points for each**
6 **factor met:**

7 **(1) The bid is submitted by a vendor that has resided or maintained its**
8 **headquarters or principal place of business in Missouri continuously for the two years**
9 **immediately preceding the date on which the bid is submitted;**

10 **(2) The bid is submitted by a nonresident corporation vendor that has an affiliate**
11 **or subsidiary that employs at least twenty state residents and has maintained its**
12 **headquarters or principal place of business in Missouri continuously for the two years**
13 **immediately preceding the date on which the bid is submitted;**

14 **(3) The bid is submitted by a vendor that resides or maintains its headquarters or**
15 **principal place of business in Missouri and, for the purposes of completing the bid project**
16 **and continuously over the entire term of the project, an average of at least seventy-five**
17 **percent of such vendor's employees are Missouri residents who have resided in the state**
18 **continuously for at least two years immediately preceding the date on which the bid is**
19 **submitted. Such vendor must certify the residency requirements of this subdivision and**
20 **submit a written claim for preference at the time the bid is submitted;**

21 **(4) The bid is submitted by a nonresident vendor that has an affiliate or subsidiary**
22 **that employs at least twenty state residents and has maintained its headquarters or**
23 **principal place of business in Missouri and, for the purposes of completing the bid project**
24 **and continuously over the entire term of the project, an average of at least seventy-five**
25 **percent of such vendor's employees are Missouri residents who have resided in the state**
26 **continuously for at least two years immediately preceding the date on which the bid is**
27 **submitted. Such vendor must certify the residency requirements of this subdivision and**
28 **submit a written claim for preference at the time the bid is submitted;**

29 **(5) The bid is submitted by any vendor that provides written certification that the**
30 **end use of the tires collected during the project will be for fuel purposes or for the**
31 **manufacture of a useable good or product. For the purposes of this subsection, the**
32 **landfilling of waste tires, waste tire chips, or waste tire shreds in any manner, including**

33 landfill cover, shall not permit the vendor a preference.

260.325. 1. The executive board of each district shall submit to the department a plan which has been approved by the council for a solid waste management system serving areas within its jurisdiction and shall, from time to time, submit officially adopted revisions of its plan as it deems necessary or the department may require. In developing the district's solid waste management plan, the board shall consider the model plan distributed to the board pursuant to section 260.225. Districts may contract with a licensed professional engineer or as provided in chapter 70, RSMo, for the development and submission of a joint plan.

2. The board shall hold at least one public hearing in each county in the district when it prepares a proposed plan or substantial revisions to a plan in order to solicit public comments on the plan.

3. The solid waste management plan shall be submitted to the department within eighteen months of the formation of the district. The plan shall be prepared and submitted according to the procedures specified in section 260.220 and this section.

4. Each plan shall:

(1) Delineate areas within the district where solid waste management systems are in existence;

(2) Reasonably conform to the rules and regulations adopted by the department for implementation of sections 260.200 to 260.345;

(3) Delineate provisions for the collection of recyclable materials or collection points for recyclable materials;

(4) Delineate provisions for the collection of compostable materials or collection points for compostable materials;

(5) Delineate provisions for the separation of household waste and other small quantities of hazardous waste at the source or prior to disposal;

(6) Delineate provisions for the orderly extension of solid waste management services in a manner consistent with the needs of the district, including economic impact, and in a manner which will minimize degradation of the waters or air of the state, prevent public nuisances or health hazards, promote recycling and waste minimization and otherwise provide for the safe and sanitary management of solid waste;

(7) Take into consideration existing comprehensive plans, population trend projections, engineering and economics so as to delineate those portions of the district which may reasonably be expected to be served by a solid waste management system;

(8) Specify how the district will achieve a reduction in solid waste placed in sanitary landfills through waste minimization, reduction and recycling;

(9) Establish a timetable, with milestones, for the reduction of solid waste placed in a

36 landfill through waste minimization, reduction and recycling;

37 (10) Establish an education program to inform the public about responsible waste
38 management practices;

39 (11) Establish procedures to minimize the introduction of small quantities of hazardous
40 waste, including household hazardous waste, into the solid waste stream;

41 (12) Establish a time schedule and proposed method of financing for the development,
42 construction and operation of the planned solid waste management system together with the
43 estimated cost thereof;

44 (13) Identify methods by which rural households that are not served by a regular solid
45 waste collection service may participate in waste reduction, recycling and resource recovery
46 efforts within the district; and

47 (14) Include such other reasonable information as the department shall require.

48 5. The board shall review the district's solid waste management plan at least every
49 twenty-four months for the purpose of evaluating the district's progress in meeting the
50 requirements and goals of the plan, and shall submit plan revisions to the department and
51 council.

52 6. In the event any plan or part thereof is disapproved, the department shall furnish any
53 and all reasons for such disapproval and shall offer assistance for correcting deficiencies. The
54 executive board shall within sixty days revise and resubmit the plan for approval or request a
55 hearing in accordance with section 260.235. Any plan submitted by a district shall stand
56 approved one hundred twenty days after submission unless the department disapproves the plan
57 or some provision thereof.

58 7. The director may institute appropriate action under section 260.240 to compel
59 submission of plans in accordance with sections 260.200 to 260.345 and the rules and regulations
60 adopted pursuant to sections 260.200 to 260.345.

61 8. The provisions of section 260.215 to the contrary notwithstanding, any county within
62 a region which on or after January 1, 1995, is not a member of a district shall by June 30, 1995,
63 submit a solid waste management plan to the department of natural resources. Any county which
64 withdraws from a district and all cities within the county with a population over five hundred
65 shall submit a solid waste plan or a revision to an existing plan to the department of natural
66 resources within one hundred eighty days of its decision not to participate. The plan shall meet
67 the requirements of section 260.220 and this section.

68 9. Funds may, upon appropriation, be made available to cities, counties and districts,
69 under section 260.335, for the purpose of implementing the requirements of this section.

70 **10. The district board shall arrange for independent financial audits of the records**
71 **and accounts of its operations by a certified public accountant or a firm of certified public**

72 **accountants. Districts receiving two hundred thousand dollars or more of financial**
73 **assistance shall have annual independent financial audits and districts receiving less than**
74 **two hundred thousand dollars of financial assistance shall have independent financial**
75 **audits at least once every two years. The state auditor may examine the findings of such**
76 **audits and may conduct audits of the districts. Subject to limitations caused by the**
77 **availability resources, the department shall conduct a performance audit of grants to each**
78 **district at least once every three years.**

260.330. 1. Except as otherwise provided in subsection 6 of this section, effective
2 October 1, 1990, each operator of a solid waste sanitary landfill shall collect a charge equal to
3 one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted and each
4 operator of the solid waste demolition landfill shall collect a charge equal to one dollar per ton
5 or its volumetric equivalent of solid waste accepted. Each operator shall submit the charge, less
6 collection costs, to the department of natural resources for deposit in the "Solid Waste
7 Management Fund" which is hereby created. On October 1, 1992, and thereafter, the charge
8 imposed herein shall be adjusted annually by the same percentage as the increase in the general
9 price level as measured by the Consumer Price Index for All Urban Consumers for the United
10 States, or its successor index, as defined and officially recorded by the United States Department
11 of Labor or its successor agency. **No annual adjustment shall be made to the charge imposed**
12 **under this subsection during October 1, 2005, to October 1, 2009, except an adjustment**
13 **amount consistent with the need to fund the operating costs of the department and taking**
14 **into account any annual percentage increase in the total of the volumetric equivalent of**
15 **solid waste accepted in the prior year at solid waste sanitary landfills and demolition**
16 **landfills and solid waste to be transported out of this state for disposal that is accepted at**
17 **transfer stations. No annual increase during October 1, 2005, to October 1, 2009, shall**
18 **exceed the percentage increase measured by the Consumer Price Index for All Urban**
19 **Consumers for the United States, or its successor index, as defined and officially recorded**
20 **by the United States Department of Labor or its successor agency.** Collection costs shall be
21 established by the department and shall not exceed two percent of the amount collected pursuant
22 to this section.

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

25 3. The charges established in this section shall be enumerated separately from the
26 disposal fee charged by the landfill and may be passed through to persons who generated the
27 solid waste. Moneys shall be transmitted to the department shall be no less than the amount
28 collected less collection costs and in a form, manner and frequency as the department shall
29 prescribe. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in

30 the account shall not lapse to general revenue at the end of each biennium. Failure to collect the
31 charge does not relieve the operator from responsibility for transmitting an amount equal to the
32 charge to the department.

33 4. The department may examine or audit financial records and landfill activity records
34 and measure landfill usage to verify the collection and transmittal of the charges established in
35 this section. The department may promulgate by rule and regulation procedures to ensure and
36 to verify that the charges imposed herein are properly collected and transmitted to the
37 department.

38 5. Effective October 1, 1990, any person who operates a transfer station in Missouri shall
39 transmit a fee to the department for deposit in the solid waste management fund which is equal
40 to one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted. Such
41 fee shall be applicable to all solid waste to be transported out of the state for disposal. On
42 October 1, 1992, and thereafter, the charge imposed herein shall be adjusted annually by the
43 same percentage as the increase in the general price level as measured by the Consumer Price
44 Index for All Urban Consumers for the United States, or its successor index, as defined and
45 officially recorded by the United States Department of Labor or its successor agency. **No annual
46 adjustment shall be made to the charge imposed under this subsection during October 1,
47 2005, to October 1, 2009, except an adjustment amount consistent with the need to fund the
48 operating costs of the department and taking into account any annual percentage increase
49 in the total of the volumetric equivalent of solid waste accepted in the prior year at solid
50 waste sanitary landfills and demolition landfills and solid waste to be transported out of
51 this state for disposal that is accepted at transfer stations. No annual increase during
52 October 1, 2005, to October 1, 2009, shall exceed the percentage increase measured by the
53 Consumer Price Index for All Urban Consumers for the United States, or its successor
54 index, as defined and officially recorded by the United States Department of Labor or its
55 successor agency.** The department shall prescribe rules and regulations governing the
56 transmittal of fees and verification of waste volumes transported out of state from transfer
57 stations. Collection costs shall also be established by the department and shall not exceed two
58 percent of the amount collected pursuant to this subsection. A transfer station with the sole
59 function of separating materials for recycling or resource recovery activities shall not be subject
60 to the fee imposed in this subsection.

61 6. Each political subdivision which owns an operational solid waste disposal area may
62 designate, pursuant to this section, up to two free disposal days during each calendar year. On
63 any such free disposal day, the political subdivision shall allow residents of the political
64 subdivision to dispose of any solid waste which may be lawfully disposed of at such solid waste
65 disposal area free of any charge, and such waste shall not be subject to any state fee pursuant to

66 this section. Notice of any free disposal day shall be posted at the solid waste disposal area site
67 and in at least one newspaper of general circulation in the political subdivision no later than
68 fourteen days prior to the free disposal day.

260.335. 1. [For fiscal years 1992-1997, one million] **Each fiscal year eight hundred**
2 **thousand** dollars from the solid waste management fund shall be made available, upon
3 appropriation, to the department and the environmental improvement and energy resources
4 authority to fund activities that promote the development and maintenance of markets for
5 recovered materials[, and beginning in fiscal year 1998, ten percent of the moneys in the solid
6 waste management fund, from August 28, 2004, to August 28, 2005, not to exceed eight hundred
7 thousand dollars, shall be made available for such purposes. Up to nineteen percent of such
8 moneys may be used, upon appropriation, to administer the management of household hazardous
9 waste and agricultural hazardous waste from family farms and family farm corporations, as
10 defined in section 350.010, RSMo, to provide for establishment of an education program and a
11 plan for the collection of household hazardous waste on a statewide basis by January 1, 2000.
12 After August 28, 2005, no more than one million dollars shall be made available for such
13 purposes]. **Each fiscal year up to [fifteen percent of such moneys may] two hundred thousand**
14 **dollars from the solid waste management fund be used by the department** upon
15 appropriation [to administer the management of household hazardous waste and agricultural
16 hazardous waste from family farms and family farm corporations, as defined in section 350.010,
17 RSMo, to provide for establishment of an education program and a plan for the collection of
18 household hazardous waste on a statewide basis by January 1, 2000.] **for grants to solid waste**
19 **management districts for district grants and district operations. Only those solid waste**
20 **management districts that are allocated fewer funds under subsection 2 of this section than**
21 **if revenues had been allocated based on the criteria in effect in this section on August 27,**
22 **2004, are eligible for these grants. An eligible district shall receive a proportionate share**
23 **of these grants based on that district's share of the total reduction in funds for eligible**
24 **districts calculated by comparing the amount of funds allocated under subsection 2 of this**
25 **section with the amount of funds that would have been allocated using the criteria in effect**
26 **in this section on August 27, 2004.** The department and the authority shall establish a joint
27 interagency agreement with the department of economic development to identify state priorities
28 for market development and to develop the criteria to be used to judge proposed projects.
29 Additional moneys may be appropriated in subsequent fiscal years if requested. The authority
30 shall establish a procedure to measure the effectiveness of the grant program under this
31 subsection and shall provide a report to the governor and general assembly by January fifteenth
32 of each year regarding the effectiveness of the program.

33 2. All remaining revenues deposited into the fund each fiscal year after moneys have

34 been made available [for market development] under subsection 1 of this section shall be
35 allocated as follows:

36 (1) [From August 28, 2004, to August 28, 2005, up to forty-two] **Thirty-nine** percent
37 of the revenues shall be dedicated, upon appropriation, to the elimination of illegal solid waste
38 disposal, to identify and prosecute persons disposing of solid waste illegally, to conduct solid
39 waste permitting activities, to administer grants and perform other duties imposed in sections
40 260.200 to 260.345 and section 260.432. [After August 28, 2005, up to twenty-five percent of
41 the revenues shall be dedicated, upon appropriation, to the activities and duties authorized in this
42 subdivision] **In addition to the thirty-nine percent of the revenues, the department may**
43 **receive any annual increase in the charge during October 1, 2005, to October 1, 2009,**
44 **under section 260.330 and such increases shall be used solely to fund the operating costs**
45 **of the department;**

46 (2) [From August 28, 2004, to August 28, 2005, at least fifty-eight] **Sixty-one** percent
47 of the revenues, **except any annual increases in the charge under section 260.330 during**
48 **October 1, 2005, to October 1, 2009, which shall be used solely to fund the operating costs**
49 **of the department,** shall be allocated through grants, upon appropriation, to participating cities,
50 counties, and districts. [After August 28, 2005, up to fifty percent of the revenues shall be
51 allocated through grants, upon appropriation, to participating districts. **Forty**] **Revenues to be**
52 **allocated under this subdivision shall be divided as follows: forty percent shall be allocated**
53 **based on the population of each district in the latest decennial census, and sixty percent**
54 **shall be allocated based on the amount of revenue generated within each district. For the**
55 **purposes of this subdivision, revenue generated within each district shall be determined**
56 **from the previous year's data. No more than fifty** percent of the revenue [generated within
57 each region and] allocable under this subdivision may be allocated to the [district] **districts** upon
58 approval of the department for implementation of a solid waste management plan and district
59 operations, and [sixty] **at least fifty** percent of the revenue [generated within each region and]
60 allocable **to the districts** under this subdivision shall be allocated to the cities and counties of
61 the district or to persons or entities providing solid waste management, waste reduction,
62 recycling and related services in these cities and counties. [For the purposes of this subdivision,
63 revenue generated within each district shall be determined from the previous year's data. From
64 August 28, 2004, to August 28, 2005,] Each district shall receive a minimum of seventy-five
65 thousand dollars under this subdivision. After August 28, 2005, each district shall receive a
66 minimum of [forty-five] **ninety-five** thousand dollars under this subdivision **for district grants**
67 **and district operations.** Each district receiving moneys under this subdivision shall expend
68 such moneys pursuant to a solid waste management plan required under section 260.325, and
69 only in the case that the district is in compliance with planning requirements established by the

70 department[, and shall submit, within ninety days of the end of the fiscal year, an audited report
71 of the expenditure of all funds received under this subsection]. Moneys shall be awarded based
72 upon grant applications. Any moneys remaining in any fiscal year due to insufficient or
73 inadequate applications may be reallocated pursuant to this subdivision;

74 (3) [From August 28, 2004, to August 28, 2005, any remaining moneys in the fund shall
75 be used, upon appropriation, to provide grants for statewide solid waste management planning
76 or research projects to any district, county or city of the state or to any other person or entity
77 involved in waste reduction or recycling or for contracted services to further the purposes of
78 section 260.225 and sections 260.255 to 260.345. After August 28, 2005, any remaining moneys
79 in the fund shall be used, upon appropriation, to provide grants or loans for statewide solid waste
80 management projects to any district, county or city of the state or to any other person or entity
81 involved in waste reduction or recycling to further the purposes of sections 260.255 to 260.345.
82 Solid waste management districts may apply annually to the department for a three-to-one
83 matching grant of up to twenty thousand dollars per district per year to be used for the purpose
84 of district operations;] **Except for the amount up to one-fourth of the department's previous**
85 **fiscal year expense, any remaining unencumbered funds generated under subdivision (1)**
86 **of subsection 2 of this section in prior fiscal years shall be reallocated under this section;**

87 (4) Funds may be made available under this subsection for the administration and grants
88 of the used motor oil program described in section 260.253;

89 (5) The department and the environmental improvement and energy resources authority
90 shall conduct sample audits of grants provided under this subsection.

91 3. The advisory board created in section 260.345 shall recommend criteria to be used to
92 allocate grant moneys to districts, cities and counties. These criteria shall establish a priority for
93 proposals which provide methods of solid waste reduction and recycling. The department shall
94 promulgate criteria for evaluating grants by rule and regulation. Projects of cities and counties
95 located within a district which are funded by grants under this section shall conform to the
96 district solid waste management plan.

97 4. [Beginning July 1, 2004, a joint committee appointed by the speaker of the house of
98 representatives and the president pro tem of the senate shall consider proposals for fees,
99 restructuring the distribution of the fees between solid waste districts, grant recipients, and the
100 department. The committee shall consider options for the distribution of the tipping fee to the
101 solid waste districts and any other matters it deems appropriate. The committee shall prepare
102 and submit a report including its recommendation for changes to the governor, the house of
103 representatives, and the senate no later than December 31, 2004.

104 5.] The funds awarded to the districts, counties and cities pursuant to this section shall
105 be used for the purposes set forth in sections 260.300 to 260.345, and shall be used in addition

106 to existing funds appropriated by counties and cities for solid waste management and shall not
107 supplant county or city appropriated funds.

108 [6.] 5. The department, in conjunction with the solid waste advisory board, shall review
109 the performance of all grant recipients to ensure that grant moneys were appropriately and
110 effectively expended to further the purposes of the grant, as expressed in the recipient's grant
111 application. The grant application shall contain specific goals and implementation dates, and
112 grant recipients shall be contractually obligated to fulfill same. The department may require the
113 recipient to submit periodic reports and such other data as are necessary, both during the grant
114 period and up to five years thereafter, to ensure compliance with this section. The department
115 may audit the records of any recipient to ensure compliance with this section. Recipients of
116 grants under sections 260.300 to 260.345 shall maintain such records as required by the
117 department. If a grant recipient fails to maintain records or submit reports as required herein,
118 refuses the department access to the records, or fails to meet the department's performance
119 standards, the department may withhold subsequent grant payments, if any, and may compel the
120 repayment of funds provided to the recipient pursuant to a grant. [The department shall make
121 available all of the unencumbered funds generated during prior fiscal years by the fees
122 established under section 260.330 through grants or loans to solid waste management areas and
123 processing facilities, municipalities, counties, districts, and other appropriate persons who
124 demonstrate a need for assistance to comply with section 260.250. Such grants or loans shall be
125 used for educational programs, transportation, low-interest or no-interest loans to purchase
126 property for composting or other solid waste source reduction activities stated to facilitate
127 compliance with section 260.250.]

128 [7.] 6. The department shall provide for a security interest in any machinery or
129 equipment purchased through grant moneys distributed pursuant to this section.

130 [8.] 7. If the moneys are not transmitted to the department within the time frame
131 established by the rule promulgated, interest shall be imposed on the moneys due the department
132 at the rate of ten percent per annum from the prescribed due date until payment is actually made.
133 These interest amounts shall be deposited to the credit of the solid waste management fund.

260.345. A state "Solid Waste Advisory Board" is created within the department of
2 natural resources. The advisory board shall be composed of the chairman of the executive board
3 of each of the solid waste management districts and other members as provided in this section.
4 Up to five additional members shall be appointed by the director of which [up to] two [may]
5 **members shall** represent the solid waste management industry and have an economic interest
6 in or activity with any solid waste facility or operation, [and at least] one [such] member [shall]
7 **may** represent [a locally owned] **the** solid waste [management business] **composting or**
8 **recycling industry businesses**, and the remaining members shall be public members who have

9 demonstrated interest in solid waste management issues and shall have no economic interest in
10 or activity with any solid waste facility or operation but may own stock in a publicly traded
11 corporation which may be involved in waste management as long as such holdings are not
12 substantial. [The appointment of any member by the director shall be terminated if the member
13 fails to attend at least fifty percent of the board meetings in any calendar year.] The advisory
14 board shall advise the department regarding:

- 15 (1) The efficacy of its technical assistance program;
- 16 (2) Solid waste management problems experienced by solid waste management districts;
- 17 (3) The effects of proposed rules and regulations upon solid waste management within
18 the districts;
- 19 (4) Criteria to be used in awarding grants pursuant to section 260.335;
- 20 (5) Waste management issues pertinent to the districts;
- 21 (6) The development of improved methods of solid waste minimization, recycling and
22 resource recovery; and
- 23 (7) Such other matters as the advisory board may determine.

260.375. The department shall:

- 2 (1) Exercise general supervision of the administration and enforcement of sections
3 260.350 to 260.430 and all standards, rules and regulations, orders or license and permit terms
4 and conditions adopted or issued pursuant to sections 260.350 to 260.430;
- 5 (2) Develop and implement programs to achieve goals and objectives set by the state
6 hazardous waste management plan;
- 7 (3) Retain, employ, provide for and compensate, within appropriations available therefor,
8 such consultants, assistants, deputies, clerks and other employees on a full- or part-time basis as
9 may be necessary to carry out the provisions of sections 260.350 to 260.430 and prescribe the
10 times at which they shall be appointed and their powers and duties;
- 11 (4) Budget and receive duly appropriated moneys for expenditures to carry out the
12 provisions of sections 260.350 to 260.430;
- 13 (5) Accept, receive and administer grants or other funds or gifts from public and private
14 agencies including the federal government for the purpose of carrying out any of the functions
15 of sections 260.350 to 260.430. Funds received by the department pursuant to this section shall
16 be deposited with the state treasurer and held and disbursed by him or her in accordance with the
17 appropriations of the general assembly;
- 18 (6) Provide the commission all necessary support the commission may require to carry
19 out its powers and duties including, but not limited to: keeping of records of all meetings;
20 notification, at the direction of the chairman of the commission, of the members of the
21 commission of the time, place and purpose of each meeting by written notice; drafting, for

22 consideration of the commission, a state hazardous waste management plan and standards, rules
23 and regulations necessary to carry out the purposes of sections 260.350 to 260.430; and
24 investigation of petitions for variances and complaints made to the commission and submission
25 of recommendations thereto;

26 (7) Collect and maintain, and require any person to collect and maintain, such records
27 and information of hazardous waste generation, storage, transportation, resource recovery,
28 treatment and disposal in this state, including quantities and types imported and exported across
29 the borders of this state and install, calibrate and maintain and require any person to install,
30 calibrate and maintain such monitoring equipment or methods, and make reports consistent with
31 the purposes of sections 260.350 to 260.430;

32 (8) Secure necessary scientific, technical, administrative and operational services,
33 including laboratory facilities, by contract or otherwise;

34 (9) Develop facts and make inspections and investigations, including gathering of
35 samples and performing of tests and analyses, consistent with the purposes of sections 260.350
36 to 260.430, and in connection therewith, to enter or authorize any representative of the
37 department to enter, at all reasonable times, in or upon any private or public property for any
38 purpose required by sections 260.350 to 260.430 or any federal hazardous waste management
39 act. Such entry may be for the purpose, without limitation, of developing or implementing
40 standards, rules and regulations, orders or license or permit terms and conditions, of inspecting
41 or investigating any records required to be kept by sections 260.350 to 260.430 or any license
42 or permit issued pursuant to sections 260.350 to 260.430 or any hazardous waste management
43 practice which the department or commission believes violates sections 260.350 to 260.430, or
44 any standard, rule or regulation, order or license or permit term or condition adopted or issued
45 pursuant to sections 260.350 to 260.430, or otherwise endangers the health of humans or the
46 environment, or the site of any suspected violation of sections 260.350 to 260.430, or any
47 standard, rule or regulation, order, or license or permit term or condition adopted or issued
48 pursuant to sections 260.350 to 260.430. The results of any such investigation shall be reduced
49 to writing and shall be furnished to the owner or operator of the property. No person shall refuse
50 entry or access requested for the purpose of inspection pursuant to this subdivision to an
51 authorized representative of the department or commission who presents appropriate credentials,
52 nor obstruct or hamper the representative in carrying out the inspection. A suitably restricted
53 search warrant, upon a showing of probable cause in writing and upon oath, shall be issued by
54 any judge or associate circuit judge having jurisdiction to any such representative for the purpose
55 of enabling the representative to make such inspection;

56 (10) Require each hazardous waste generator located within this state [and each
57 hazardous waste generator located outside of this state before utilizing any hazardous waste

58 facility in this state except as provided in subdivision (11) of this section] to file a registration
59 report containing such information as the commission by regulation may specify relating to types
60 and quantities of hazardous waste generated and methods of hazardous waste management, and
61 to meet all other requirements placed upon hazardous waste generators by sections 260.350 to
62 260.430 and the standards, rules and regulations and orders adopted or issued pursuant to
63 sections 260.350 to 260.430;

64 (11) [Allow Missouri treatment, storage, and disposal facilities receiving hazardous waste
65 from out-of-state generators to submit registration and reporting information to the department
66 in a format prescribed by the department describing the types and quantities of hazardous waste
67 received from the out-of-state generator;

68 (12)] Require each hazardous waste transporter operating in this state to obtain a license
69 and to meet all applicable requirements of sections 260.350 to 260.430 and the standards, rules
70 and regulations, orders and license terms and conditions adopted or issued pursuant to sections
71 260.350 to 260.430;

72 [(13)] (12) Require each hazardous waste facility owner and operator to obtain a permit
73 for each such facility and to meet all applicable requirements of sections 260.350 to 260.430 and
74 the standards, rules and regulations, orders and permit terms and conditions adopted or issued
75 pursuant to sections 260.350 to 260.430;

76 [(14)] (13) Issue, continue in effect, revoke, modify or deny in accordance with the
77 standards, rules and regulations, hazardous waste transporter licenses and hazardous waste
78 facility permits;

79 [(15)] (14) Encourage voluntary cooperation by persons or affected groups to achieve
80 the purposes of sections 260.350 to 260.430;

81 [(16)] (15) Enter such order or determination as may be necessary to effectuate the
82 provisions of sections 260.350 to 260.430 and the standards, rules and regulations, and license
83 and permit terms and conditions adopted or issued pursuant to sections 260.350 to 260.430;

84 [(17)] (16) Enter such order or cause to be instituted in a court of competent jurisdiction
85 such legal proceedings as may be necessary in a situation of imminent hazard, as prescribed in
86 section 260.420;

87 [(18)] (17) Settle or compromise as it may deem advantageous to the state, with the
88 approval of the commission, any suit undertaken by the commission for recovery of any penalty
89 or for compelling compliance with any provision of sections 260.350 to 260.430 or any standard,
90 rule or regulation, order, or license or permit term or condition adopted or issued pursuant to
91 sections 260.350 to 260.430;

92 [(19)] (18) Advise, consult and cooperate with other agencies of the state, the federal
93 government, other states and interstate agencies and with affected groups, political subdivisions

94 and industries in furtherance of the purposes of sections 260.350 to 260.430 and, upon request,
95 consult with persons subject to sections 260.350 to 260.430 on the proper measures necessary
96 to comply with the requirements of sections 260.350 to 260.430 and rules and regulations
97 adopted pursuant to sections 260.350 to 260.430;

98 [(20)] **(19)** Encourage, coordinate, participate in or conduct studies, investigations,
99 research and demonstrations relating to hazardous waste management as it may deem advisable
100 and necessary for the discharge of its duties pursuant to sections 260.350 to 260.430;

101 [(21)] **(20)** Represent the state of Missouri in all matters pertaining to interstate
102 hazardous waste management including the negotiation of interstate compacts or agreements;

103 [(22)] **(21)** Arrange for the establishment, staffing, operation and maintenance of
104 collection stations, within appropriations or other funding available therefor, for householders,
105 farmers and other exempted persons as provided in section 260.380;

106 [(23)] **(22)** Collect and disseminate information relating to hazardous waste
107 management;

108 [(24)] **(23)** Conduct education and training programs on hazardous waste problems and
109 management;

110 [(25)] **(24)** Encourage and facilitate public participation in the development, revision and
111 implementation of the state hazardous waste program;

112 [(26)] **(25)** Encourage waste reduction, resource recovery, exchange and energy
113 conservation in hazardous waste management;

114 [(27)] **(26)** Exercise all powers necessary to carry out the provisions of sections 260.350
115 to 260.430, assure that the state of Missouri complies with any federal hazardous waste
116 management act and retains maximum control thereunder, and receives all desired federal grants,
117 aid and other benefits;

118 [(28)] **(27)** Present to the public, at a public meeting, and to the governor and the
119 members of the general assembly, an annual report on the status of the state hazardous waste
120 program;

121 [(29)] **(28)** Develop comprehensive plans and programs to aid in the establishment of
122 hazardous waste disposal sites as needed within the various geographical areas of the state within
123 a reasonable period of time;

124 [(30)] **(29)** Control, abate or clean up any hazardous waste placed into or on the land in
125 a manner which endangers or is reasonably likely to endanger the health of humans or the
126 environment and, in aid thereof, may cause to be filed by the attorney general or a prosecuting
127 attorney, a suit seeking mandatory or prohibitory injunctive relief or such other relief as may be
128 appropriate. The department shall also take such action as is necessary to recover all costs
129 associated with the cleanup of any hazardous waste from the person responsible for the waste.

130 All money received shall be deposited in the hazardous waste fund created in section 260.391;
131 [(31)] (30) Oversee any corrective action work undertaken pursuant to sections 260.350
132 to 260.430 and rules promulgated pursuant to sections 260.350 to 260.430 to investigate,
133 monitor, or clean up releases of hazardous waste or hazardous constituents to the environment
134 at hazardous waste facilities. The department shall review the technical and regulatory aspects
135 of corrective action plans, reports, documents, and associated field activities, and attest to their
136 accuracy and adequacy. Owners or operators of hazardous waste facilities performing corrective
137 actions shall pay to the department all reasonable costs, as determined by the commission,
138 incurred by the department pursuant to this subdivision. All such funds remitted by owners or
139 operators of hazardous waste facilities performing corrective actions shall be deposited in the
140 hazardous waste fund created in section 260.391.

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

4 (1) Promptly file and maintain with the department, on registration forms it provides for
5 this purpose, information on hazardous waste generation and management as specified by rules
6 and regulations[; except that generators located outside of Missouri shall not be required to
7 register with the department if the Missouri treatment, storage, and disposal facilities provide this
8 information in accordance with subdivision (11) of section 260.375. Missouri treatment, storage,
9 or disposal facilities providing this information to the department for those out-of- state
10 generators shall do so and shall pay the applicable initial registration fee within fifteen days of
11 accepting any hazardous waste from those out-of-state generators]. Hazardous waste generators
12 shall pay a one hundred dollar registration fee upon initial registration, and a one hundred dollar
13 registration renewal fee annually thereafter to maintain an active registration[; except that in
14 accordance with subdivision (11) of section 260.375, Missouri treatment, storage, or disposal
15 facilities receiving hazardous waste from out-of-state generators that elect to provide this service
16 for the out-of-state generator shall pay this fee on behalf of those out-of-state generators. For
17 annual renewal fee payments, Missouri treatment, storage, or disposal facilities that elect to
18 provide this service to out-of-state generators shall notify the department annually of those
19 generators at a time and in a manner prescribed by the department]. Such fees shall be deposited
20 in the hazardous waste fund created in section 260.391;

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

23 (3) Segregate all hazardous wastes from all nonhazardous wastes and from
24 noncompatible wastes, materials and other potential hazards as specified by standards, rules and
25 regulations;

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

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

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

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

42 (8) Collect and maintain such records, perform such monitoring or analyses, and submit
43 such reports on any hazardous waste generated, its transportation and final disposition, as
44 specified in sections 260.350 to 260.430 and rules and regulations adopted pursuant to sections
45 260.350 to 260.430; except that generators located outside of Missouri shall not be required to
46 complete this reporting if the information is provided by the Missouri treatment, storage, and
47 disposal facilities in accordance with subdivision (11) of section 260.375;

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

53 (10) Pay annually, on or before January first of each year, effective January 1, 1982, a
54 fee to the state of Missouri to be placed in the hazardous waste fund [to be used solely for the
55 administrative costs of the program]. The fee shall [not exceed one dollar] **be five dollars** per
56 ton **or portion thereof** of hazardous waste registered with the department as specified in
57 subdivision (1) of this subsection for the twelve-month period ending June thirtieth of the
58 previous year. [The amount of the fee shall be established annually by the commission by rule
59 or regulation.] However, the fee shall not exceed [ten] **fifty-two thousand dollars per generator**
60 **site per year nor be less than one hundred fifty dollars** per generator **site** per year [and no fee
61 shall be imposed upon any generator who registers less than ten tons of hazardous waste annually

62 with the department];

63 (a) All moneys payable pursuant to the provisions of this subdivision shall be promptly
64 transmitted to the department of revenue, which shall deposit the same in the state treasury to the
65 credit of the hazardous waste fund created in section 260.391;

66 (b) The hazardous waste management commission shall establish and submit to the
67 department of revenue procedures relating to the collection of the fees authorized by this
68 subdivision. Such procedures shall include, but not be limited to, necessary records identifying
69 the quantities of hazardous waste registered, the form and submission of reports to accompany
70 the payment of fees, the time and manner of payment of fees, which shall not be more often than
71 quarterly.

72 **2. Missouri treatment, storage, or disposal facilities shall pay annually, on or before**
73 **January first of each year, a fee to the department equal to two dollars per ton or portion**
74 **thereof for all hazardous waste received from outside the state. This fee shall be based on**
75 **the hazardous waste received for the twelve-month period ending June thirtieth of the**
76 **previous year. No fee shall be paid on hazardous waste shipped from a treatment, storage,**
77 **or disposal facility on which fees have been paid on receipt of the waste.**

78 **3.** Exempted from the requirements of this section are individual householders and
79 farmers who generate only small quantities of hazardous waste and any person the commission
80 determines generates only small quantities of hazardous waste on an infrequent basis, except
81 that:

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

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

90 (a) Any storage, treatment or disposal site authorized to operate pursuant to sections
91 260.350 to 260.430 or the federal Resource Conservation and Recovery Act, or a state hazardous
92 waste management program authorized pursuant to the federal Resource Conservation and
93 Recovery Act which the department designates for this purpose; or

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

96 **4. Failure to pay the fee, or any portion thereof, prescribed in this section by the**
97 **due date shall result in the imposition of a penalty equal to fifteen percent of the original**

98 **fee. The fee prescribed in this section shall expire December 31, 2011, except that the**
99 **department shall levy and collect this fee for any hazardous waste generated prior to such**
100 **date and reported to the department.**

260.391. 1. There is hereby created in the state treasury a fund to be known as the
2 "Hazardous Waste Fund". All funds received from hazardous waste permit and license fees,
3 generator fees **or taxes, penalties, or interest assessed on those fees or taxes**, taxes collected
4 by contract hazardous waste landfill operators, general revenue, federal funds, gifts, bequests,
5 donations, or any other moneys so designated shall be paid to the director of revenue and
6 deposited in the state treasury to the credit of the hazardous waste fund. The hazardous waste
7 fund, subject to appropriation by the general assembly, shall be used by the department as
8 provided by appropriations and consistent with rules and regulations established by the
9 hazardous waste management commission for the purpose of carrying out the provisions of
10 sections 260.350 to 260.430 **and sections 319.100 to 319.139, RSMo**, for the management of
11 hazardous waste, responses to hazardous substance releases as provided in sections 260.500 to
12 260.550, corrective actions at regulated facilities and illegal hazardous waste sites, **prevention**
13 **of leaks from underground storage tanks and response to petroleum releases from**
14 **underground and aboveground storage tanks and other related activities required to carry**
15 **out the provisions of sections 260.350 to 260.575 and sections 319.100 to 319.139, RSMo**,
16 and for payments to other state agencies for such services consistent with sections 260.350 to
17 [260.430] **260.575 and sections 319.100 to 319.139, RSMo**, upon proper warrant issued by the
18 commissioner of administration, **and for any other expenditures which are not covered under**
19 **the federal Comprehensive Environmental Response, Compensation and Liability Act of**
20 **1980, including but not limited to the following purposes:**

21 (1) **Administrative services as appropriate and necessary for the identification,**
22 **assessment, and cleanup of abandoned or uncontrolled sites under sections 260.435 to**
23 **260.550;**

24 (2) **Payments to other state agencies for such services consistent with sections**
25 **260.435 to 260.550, upon proper warrant issued by the commissioner of administration,**
26 **including, but not limited to, the department of health and senior services for the purpose**
27 **of conducting health studies of persons exposed to waste from an uncontrolled or**
28 **abandoned hazardous waste site or exposed to the release of any hazardous substance as**
29 **defined in section 260.500;**

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

31 (4) **The study of the development of a hazardous waste facility in Missouri as**
32 **authorized in section 260.037;**

33 (5) **Financing the nonfederal share of the cost of cleanup and site remediation**

34 **activities as well as postclosure operation and maintenance costs, under the federal**
35 **Comprehensive Environmental Response, Compensation and Liability Act of 1980; and**
36 **(6) Reimbursement of owners or operators who accept waste under departmental**
37 **orders under subdivision (2) of subsection 1 of section 260.420.**

38 2. The unexpended balance in the hazardous waste fund at the end of each fiscal year
39 shall not be transferred to the general revenue fund of the state treasurer, except as directed by
40 the general assembly by appropriation, and shall be invested to generate income to the fund. The
41 provisions of section 33.080, RSMo, relating to the transfer of funds to the general revenue fund
42 of the state by the state treasurer shall not apply to the hazardous waste fund.

43 3. There is hereby created within the hazardous waste fund a subaccount known as the
44 "Hazardous Waste Facility Inspection Subaccount". All funds received from hazardous waste
45 facility inspection fees shall be paid to the director of revenue and deposited in the state treasury
46 to the credit of the hazardous waste facility inspection subaccount. Moneys from such
47 subaccount shall be used by the department for conducting inspections at facilities that are
48 permitted or are required to be permitted as hazardous waste facilities by the department.

49 **4. The fund balance remaining in the hazardous waste remedial fund shall be**
50 **transferred to the hazardous waste fund created in this section.**

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

55 **6. The director shall make all reasonable efforts to recover the full amount of any**
56 **funds expended from the fund through litigation or cooperative agreements with**
57 **responsible persons. All moneys recovered or reimbursed under this section through**
58 **voluntary agreements or court orders shall be deposited to the hazardous waste fund**
59 **created herein.**

60 **7. In addition to revenue from all licenses, taxes, fees, penalties, and interest,**
61 **specified in subsection 1 of this section, the department shall request an annual**
62 **appropriation of general revenue equal to any state match obligation to the United States**
63 **Environmental Protection Agency for cleanup performed under the authority of the**
64 **Comprehensive Environmental Response, Compensation and Liability Act of 1980.**

260.420. 1. From September 28, 1977, and notwithstanding any other provision of
2 sections 260.350 to 260.430 or any other law to the contrary, upon receipt of information that
3 any activity subject to sections 260.350 to 260.430 may present an imminent hazard, by placing
4 or allowing escape of any hazardous waste into the environment or exposure of people to such
5 waste which may be cause of death, disabling personal injury, serious acute or chronic disease,

6 or serious environmental harm, the department director or the commission may take action
7 necessary to protect the health of humans and the environment from such hazard. The action the
8 department director, commission or the designee of the commission may take includes, but is not
9 limited to:

10 (1) Issuing an order directing the hazardous waste generator, transporter, facility operator
11 or any other person who is the custodian or has control of the waste, which constitutes such
12 hazard, to eliminate such hazard. Such action may include, with respect to a site or facility,
13 permanent or temporary cessation of operation;

14 (2) Issuing an order directing a permitted commercial hazardous waste facility to treat,
15 store or dispose of any waste cleaned up in accordance with this section;

16 (3) Acquiring by purchase, donation, agreement or condemnation any lands, or rights in
17 lands, sites, objects, or facilities necessary to protect the health of humans and the environment
18 in accordance with sections 260.350 to 260.550 only after it is proven cost effective and all other
19 options have been exhausted by the commission. In the event any property is condemned, then
20 the procedures and assessment of damages shall be in accordance with chapter 523, RSMo;

21 (4) Selling or leasing any property that has been cleaned up in accordance with sections
22 260.350 to 260.550 so as to no longer constitute a threat to the health of people or to the
23 environment. The proceeds of such sales or leases shall be deposited in the hazardous waste
24 [remedial] fund created in section [260.480] **260.391**; and

25 (5) Causing to be filed by the attorney general or a prosecuting attorney in the name of
26 the people of the state of Missouri, suit for a temporary restraining order, temporary injunction
27 or permanent injunction which action shall be given precedence over all other matters pending
28 in the circuit courts.

29 2. In any civil action brought pursuant to this section in which a temporary restraining
30 order or temporary injunction is sought, there must be allegations of the types of injury or harm
31 specified in these imminent hazard provisions; it shall be necessary to allege and prove at the
32 proceeding that irreparable damage will occur and that the remedy at law is inadequate, and the
33 temporary restraining order or temporary injunction shall not issue without such allegations and
34 without such proof.

35 3. This section shall not apply to any alleged imminent hazard that is covered by the
36 federal Occupational Safety and Health Act, so long as the hazardous waste is contained on the
37 site so covered. This subsection shall not prevent the department from taking action necessary
38 to prevent escape of the hazardous waste from such site.

260.475. 1. Every hazardous waste generator **located in Missouri** shall pay, in addition
2 to the fees imposed in section 260.380, a fee of twenty-five dollars per ton annually on all
3 hazardous waste which is discharged, deposited, dumped or placed into or on the soil as a final

4 action, and two dollars per ton on all other hazardous waste transported off site. No fee shall be
5 imposed upon any hazardous waste generator who registers less than ten tons of hazardous waste
6 annually pursuant to section 260.380, or upon:

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

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

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

14 (4) Cement kiln dust waste;

15 (5) Waste oil; or

16 (6) Hazardous waste that is:

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

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

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

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

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

24 3. [Forty percent of all moneys collected or received by the department pursuant to this
25 section shall be transmitted to the department of revenue for deposit in the state treasury to the
26 credit of the hazardous waste remedial fund created in section 260.480. Sixty percent of] All
27 moneys collected or received by the department pursuant to this section shall be transmitted to
28 the department of revenue for deposit in the state treasury to the credit of the hazardous waste
29 fund created pursuant to section 260.391. Following each annual reporting date, the state
30 treasurer shall certify the amount deposited in the fund to the commission.

31 4. If any generator or transporter fails or refuses to pay the fees imposed by this section,
32 or fails or refuses to furnish any information reasonably requested by the department relating to
33 such fees, there shall be imposed, in addition to the fee determined to be owed, a penalty of
34 fifteen percent of the fee[, forty percent of which shall be deposited in the hazardous waste
35 remedial fund, and sixty percent of which] shall be deposited in the hazardous waste fund.

36 5. If the fees or any portion of the fees imposed by this section are not paid by the date
37 prescribed for such payment, there shall be imposed interest upon the unpaid amount at the rate
38 of ten percent per annum from the date prescribed for its payment until payment is actually made,
39 [forty percent of which shall be deposited in the hazardous waste remedial fund, sixty percent]

40 **all** of which shall be deposited in the hazardous waste fund.

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

46 7. This fee shall expire [June 30, 2006] **December 31, 2011**, except that the department
47 shall levy and collect this fee for any hazardous waste generated prior to such date and reported
48 to the department.

 260.480. [1. There is hereby created within the state treasury a fund to be known as the
2 "Hazardous Waste Remedial Fund". All moneys received from fees, penalties, general revenue,
3 federal funds, gifts, bequests, donations, or any other moneys so designated shall be deposited
4 in the state treasury to the credit of such fund, and shall be invested to generate income to the
5 fund.

6
7 Notwithstanding the provisions of section 33.080, RSMo, the unexpended balance in the
8 hazardous waste remedial fund at the end of each fiscal year shall not be transferred to the
9 general revenue fund except as directed by the general assembly by appropriation to replace
10 funds appropriated from the general revenue fund for the purposes for which expenditures from
11 the hazardous waste remedial fund are allowed.

12 2. The department may use the fund, upon appropriation, for the nonfederal share and
13 any other expenditures which are not covered pursuant to the federal Comprehensive
14 Environmental Response, Compensation and Liability Act of 1980, for the following purposes:

15 (1) Administrative services as appropriate and necessary for the identification,
16 assessment and cleanup of abandoned or uncontrolled sites pursuant to sections 260.435 to
17 260.550;

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

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

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

26 (5) Financing the nonfederal share of the cost of cleanup and site remediation activities
27 as well as postclosure operation and maintenance costs, pursuant to the federal Comprehensive

28 Environmental Response, Compensation and Liability Act of 1980; and

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

31 3. Neither the state of Missouri nor its officers, employees or agents shall be liable for
32 any injury caused by a dangerous condition at any abandoned or uncontrolled site unless such
33 condition is the result of an act or omission constituting gross negligence on the part of the state,
34 its officers, employees or agents.

35 4. The department may contract with any person to perform the acts authorized in this
36 section.

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

41 6. The director shall make all reasonable efforts to recover the full amount of any funds
42 expended from the fund through litigation or cooperative agreements with responsible persons.
43 All moneys recovered or reimbursed pursuant to this section through voluntary agreements or
44 court orders shall be deposited with the state treasurer and credited to the account of the
45 hazardous waste remedial fund.] **The fund balance remaining in the hazardous waste
46 remedial fund is hereby transferred to the hazardous waste fund created in section
47 260.491, and the moneys may be appropriated for any purpose previously authorized by
48 this section as specified in subsection 1 of section 260.391.**

260.481. 1. Any fourth class city in any first class county with a charter form of
2 government adjoining a city not within a county, which has contracted with the state of Missouri
3 or the federal government, or both, for the acquisition of all real property by any federal or state
4 agency because of the release of a hazardous substance that endangers the public health and
5 welfare of such city and has resulted in a public calamity, and where a city ordinance effecting
6 disincorporation has been submitted to the governor by the mayor of the city requesting
7 disincorporation, shall be disincorporated upon the issuance of a governor's executive order
8 approving such disincorporation. Notice of such disincorporation shall be submitted to the
9 secretary of state and the county commission of the county within which such city lies.

10 2. Upon the issuance of the executive order as required in subsection 1 of this section,
11 the governor shall appoint a person to act as trustee for the city so disincorporated and shall
12 appoint legal counsel to assist such trustee as necessary. Before entering upon the discharge of
13 his duties, the trustee shall take and subscribe on oath that he will faithfully discharge the duties
14 of his office. The trustee shall be empowered to condemn property as required, to take title to
15 property as it is acquired, to take over all records of the city and to exercise other duties as

16 specified in section 79.520, RSMo, except that the trustee shall not be empowered to institute
17 suits in behalf of the city without the express authorization of the governor.

18 3. When the trustee shall have closed the affairs of the city, and shall have paid all debts
19 due by the city, he shall, at the request of the governor, pay over to the state treasurer all money
20 remaining in his hands and deliver to the agency designated by the governor all books, papers,
21 records and deeds to acquired real property belonging to the disincorporated city.

22 4. Any expenditures incurred under this section will be paid first from excess city funds
23 and then from the Missouri hazardous waste [remedial] fund under section [260.480] **260.391.**

260.546. 1. In the event that a hazardous substance release occurs for which a political
2 subdivision or volunteer fire protection association as defined in section 320.300, RSMo,
3 provides emergency services, the person having control over a hazardous substance shall be
4 liable for such reasonable cleanup costs incurred by the political subdivision or volunteer fire
5 protection association. Such liability includes the cost of materials, supplies and contractual
6 services actually used to secure an emergency situation. The liability may also include the cost
7 for contractual services which are not routinely provided by the department or political
8 subdivision or volunteer fire protection association. Such liability shall not include the cost of
9 normal services which otherwise would have been provided. Such liability shall not include
10 budgeted administrative costs or the costs for duplicate services if multiple response teams are
11 requested by the department or political subdivision unless, in the opinion of the department or
12 political subdivision, duplication of service was required to protect the public health and
13 environment. Such liability shall be established upon receipt by the person having control of the
14 spilled hazardous substance of an itemized statement of costs provided by the political
15 subdivision.

16 2. Full payment shall be made within thirty days of receipt of the cost statement unless
17 the person having control over the hazardous substance contests the amount of the costs pursuant
18 to this section. If the person having control over the hazardous substance elects to contest the
19 payment of such costs, he shall file an appeal with the director within thirty days of receipt of the
20 cost statement.

21 3. Upon receipt of such an appeal, the director shall notify the parties involved of the
22 appeal and collect such evidence from the parties involved as he deems necessary to make a
23 determination of reasonable cleanup costs. Within thirty days of notification of the appeal, the
24 director shall notify the parties of his decision. The director shall direct the person having
25 control over a hazardous substance to pay those costs he finds to be reasonable and appropriate.
26 The determination of the director shall become final thirty days after receipt of the notice by the
27 parties involved unless prior to such date one of the involved parties files a petition for judicial
28 review pursuant to chapter 536, RSMo.

29 4. The political subdivision or volunteer fire protection association may apply to the
30 department for reimbursement from the hazardous waste fund created in section 260.391, for the
31 costs for which the person having control over a hazardous substance shall be liable if the
32 political subdivision or volunteer fire protection association is able to demonstrate a need for
33 immediate relief for such costs and believes it will not receive prompt payment from the person
34 having control over a hazardous substance. When the liability owed to the political subdivision
35 or volunteer fire protection association by the person having control over a hazardous substance
36 is paid, the political subdivision or volunteer fire protection association shall reimburse the
37 department for any payment it has received from the hazardous waste [remedial] fund. Such
38 reimbursement to a political subdivision or volunteer fire protection association by the
39 department shall be paid back to the department by the political subdivision or volunteer fire
40 protection association within that time limit imposed by the department notwithstanding failure
41 of the person having control over a hazardous substance to reimburse the political subdivision
42 or volunteer fire protection association within that time.

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

16 2. All funds remitted by the applicant conducting the voluntary cleanup shall be
17 deposited into the hazardous waste [remedial] fund created in section [260.480] **260.391** and
18 shall be used by the department upon appropriation for its administrative and oversight costs.

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

21 (1) Discovery of conditions such as to warrant action pursuant to sections 260.350 to
22 260.480, as amended, the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et

23 seq., as amended, or the Comprehensive Environmental Response, Compensation and Liability
24 Act, 42 U.S.C. Section 9601 et seq., as amended;

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

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

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

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

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

34 4. Upon termination pursuant to subdivision (1) of subsection 3 of this section or
35 subsection 11 of section 260.567, if there is a balance in the applicant's application fee after
36 deducting costs incurred by the department of natural resources, such balance shall be refunded
37 within sixty days. Upon termination pursuant to subdivisions (2) to (6) of subsection 3 of this
38 section, if a balance remains in the applicant's application fee, such balance shall be forfeited and
39 deposited in the hazardous waste [remedial] fund.

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

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

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

7 (3) "Chlorinated dry-cleaning solvent", any dry-cleaning solvent which contains a
8 compound which has a molecular structure containing the element chlorine;

9 (4) "Commission", the hazardous waste management commission created in section
10 260.365;

11 (5) "Corrective action", those activities described in subsection 1 of section 260.925;

12 (6) "Corrective action plan", a plan approved by the director to perform corrective action
13 at a dry-cleaning facility;

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

15 (8) "Director", the director of the Missouri department of natural resources;

16 (9) "Dry-cleaning facility", a commercial establishment that operates, or has operated
17 in the past in whole or in part for the purpose of cleaning garments or other fabrics on site
18 utilizing a process that involves any use of dry-cleaning solvents. Dry-cleaning facility includes
19 all contiguous land, structures and other appurtenances and improvements on the land used in

20 connection with a dry-cleaning facility but does not include prisons, governmental entities,
21 hotels, motels or industrial laundries. Dry-cleaning facility does include coin-operated
22 dry-cleaning facilities;

23 (10) "Dry-cleaning solvent", any and all nonaqueous solvents used or to be used in the
24 cleaning of garments and other fabrics at a dry-cleaning facility and includes but is not limited
25 to perchloroethylene, also known as tetrachloroethylene, [and petroleum-based solvents]
26 **chlorinated dry-cleaning**, and the products into which such solvents degrade;

27 (11) "Dry-cleaning unit", a machine or device which utilizes dry-cleaning solvents to
28 clean garments and other fabrics and includes any associated piping and ancillary equipment and
29 any containment system;

30 (12) "Environmental response surcharge", either the active dry-cleaning facility
31 registration surcharge or the dry-cleaning solvent surcharge;

32 (13) "Fund", the dry-cleaning environmental response trust fund created in section
33 260.920;

34 (14) "Immediate response to a release", containment and control of a known release in
35 excess of a reportable quantity and notification to the department of any known release in excess
36 of a reportable quantity;

37 (15) "Operator", any person who is or has been responsible for the operation of
38 dry-cleaning operations at a dry-cleaning facility;

39 (16) "Owner", any person who owns the real property where a dry-cleaning facility is or
40 has operated;

41 (17) "Person", an individual, trust, firm, joint venture, consortium, joint-stock company,
42 corporation, partnership, association or limited liability company. Person does not include any
43 governmental organization;

44 (18) "Release", any spill, leak, emission, discharge, escape, leak or disposal of
45 dry-cleaning solvent from a dry-cleaning facility into the soils or waters of the state;

46 (19) "Reportable quantity", a known release of a dry-cleaning solvent deemed reportable
47 by applicable federal or state law or regulation.

260.905. 1. The commission shall promulgate and adopt such initial rules and
2 regulations, effective no later than July 1, [2002] **2007**, as shall be necessary to carry out the
3 purposes and provisions of sections 260.900 to 260.960. Prior to the promulgation of such rules,
4 the commission shall meet with representatives of the dry-cleaning industry and other interested
5 parties. The commission, thereafter, shall promulgate and adopt additional rules and regulations
6 or change existing rules and regulations when necessary to carry out the purposes and provisions
7 of sections 260.900 to 260.960.

8 2. Any rule or regulation adopted pursuant to sections 260.900 to 260.960 shall be

9 reasonably necessary to protect human health, to preserve, protect and maintain the water and
10 other natural resources of this state and to provide for prompt corrective action of releases from
11 dry-cleaning facilities. Consistent with these purposes, the commission shall adopt rules and
12 regulations, effective no later than July 1, [2002] **2007**:

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

15 (2) Establishing criteria to prioritize the expenditure of funds from the dry-cleaning
16 environmental response trust fund. The criteria shall include consideration of:

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

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

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

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

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

24 (3) Establishing criteria under which a determination may be made by the department
25 of the level at which corrective action shall be deemed completed. Criteria for determining
26 completion of corrective action shall be based on the factors set forth in subdivision (2) of this
27 subsection and:

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

29 (b) Applicable state water quality standards;

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

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

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

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

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

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

19 (4) Operation and maintenance of corrective action;

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

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

24 (7) Reasonable costs of restoring property as nearly as practicable to the condition that
25 existed prior to activities associated with the investigation of a release or cleanup or remediation
26 activities;

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

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

33 2. Nothing in subsection 1 of this section shall be construed to authorize the department
34 to obligate moneys in the fund for payment of costs that are not integral to corrective action for
35 a release of dry-cleaning solvents from a dry-cleaning facility. Moneys from the fund shall not
36 be used:

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

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

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

45 (4) To pay any costs related to corrective action at a dry-cleaning facility that has been

46 included by the United States Environmental Protection Agency on the national priorities list;

47 (5) For corrective action at sites with active dry-cleaning facilities where the owner or
48 operator is not in compliance with sections 260.900 to 260.960, rules and regulations adopted
49 pursuant to sections 260.900 to 260.960, orders of the director pursuant to sections 260.900 to
50 260.960, or any other applicable federal or state environmental statutes, rules or regulations; or

51 (6) For corrective action at sites with abandoned dry-cleaning facilities that have been
52 taken out of operation prior to July 1, [2004] **2009**, and not documented by or reported to the
53 department by July 1, [2004] **2009**. Any person reporting such a site to the department shall
54 include any available evidence that the site once contained a dry-cleaning facility.

55 3. Nothing in sections 260.900 to 260.960 shall be construed to restrict the department
56 from temporarily postponing completion of corrective action for which moneys from the fund
57 are being expended whenever such postponement is deemed necessary in order to protect public
58 health and the environment.

59 4. At any multisource site, the department shall utilize the moneys in the fund to pay for
60 the proportionate share of the liability for corrective action costs which is attributable to a release
61 from one or more dry-cleaning facilities and for that proportionate share of the liability only.

62 5. At any multisource site, the director is authorized to make a determination of the
63 relative liability of the fund for costs of corrective action, expressed as a percentage of the total
64 cost of corrective action at a site, whether known or unknown. The director shall issue an order
65 establishing such percentage of liability. Such order shall be binding and shall control the
66 obligation of the fund until or unless amended by the director. In the event of an appeal from
67 such order, such percentage of liability shall be controlling for costs incurred during the
68 pendency of the appeal.

69 6. Any authorized officer, employee or agent of the department, or any person under
70 order or contract with the department, may enter onto any property or premises, at reasonable
71 times and with reasonable advance notice to the operator, to take corrective action where the
72 director determines that such action is necessary to protect the public health or environment. If
73 consent is not granted by the operator regarding any request made by any officer, employee or
74 agent of the department, or any person under order or contract with the department, under the
75 provisions of this section, the director may issue an order directing compliance with the request.
76 The order may be issued after such notice and opportunity for consultation as is reasonably
77 appropriate under the circumstances.

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

82 (1) Requiring the operator to bear such responsibility will not prejudice another owner,
83 operator or person who is eligible, pursuant to the provisions of sections 260.900 to 260.960, to
84 have corrective action costs paid by the fund; and

85 (2) The operator:

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

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

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

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

97 8. For purposes of subsection 7 of this section, unless a transfer is made to take
98 advantage of the provisions of subsection 7 of this section, purchasers of stock or other indicia
99 of ownership and other successors in interest shall not be considered to be the same owner or
100 operator as the seller or transferor of such stock or indicia of ownership even though there may
101 be no change in the legal identity of the owner or operator. To the extent that an owner or
102 operator is responsible for corrective action costs pursuant to subsection 7 of this section, such
103 owner or operator shall not be entitled to the exemption provided in subsection 5 of section
104 260.930.

105 9. The fund shall not be liable for the payment of costs in excess of one million dollars
106 at any one contaminated dry-cleaning site. Additionally, the fund shall not be liable for the
107 payment of costs for any one site in excess of twenty-five percent of the total moneys in the fund
108 during any fiscal year. For purposes of this subsection, "contaminated dry-cleaning site" means
109 the areal extent of soil or ground water contaminated with dry-cleaning solvents.

110 10. The owner or operator of an active dry-cleaning facility shall be liable for the first
111 twenty-five thousand dollars of corrective action costs incurred because of a release from an
112 active dry-cleaning facility. The owner of an abandoned dry-cleaning facility shall be liable for
113 the first twenty-five thousand dollars of corrective action costs incurred because of a release from
114 an abandoned dry-cleaning facility. Nothing in this subsection shall be construed to prohibit the
115 department from taking corrective action because the department cannot obtain the deductible.

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

3 follows:

4 (1) Five hundred dollars for facilities which use no more than one hundred forty gallons
5 of chlorinated solvents [and no more than one thousand four hundred gallons of petroleum,
6 nonchlorinated solvents per year];

7 (2) One thousand dollars for facilities which use more than one hundred forty gallons
8 of chlorinated solvents [or more than one thousand four hundred gallons of petroleum,
9 nonchlorinated solvents per year] and less than three hundred sixty gallons of chlorinated
10 solvents [and less than three thousand six hundred gallons of petroleum, nonchlorinated solvents]
11 per year; and

12 (3) Fifteen hundred dollars for facilities which use at least three hundred sixty gallons
13 of chlorinated solvents [or at least three thousand six hundred gallons of petroleum,
14 nonchlorinated solvents] per year.

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

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

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

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

32 6. If any person does not pay the active dry-cleaning facility registration surcharge or any
33 portion of the active dry-cleaning facility registration surcharge imposed by this section by the
34 date prescribed for such payment, the department shall also impose interest upon the unpaid
35 amount at the rate of ten percent per annum from the date prescribed for the payment of such
36 surcharge and penalties until payment is actually made. Such interest shall be deposited in the
37 dry-cleaning environmental response trust fund.

260.940. 1. Every seller or provider of dry-cleaning solvent for use in this state shall

2 pay, in addition to any other environmental response surcharges, a dry-cleaning solvent surcharge
3 on the sale or provision of dry-cleaning solvent.

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

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

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

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

10 (3) For other chlorinated dry-cleaning solvents, the solvent factor is 1.00[; and

11 (4) For any nonchlorinated dry-cleaning solvent, the solvent factor is 0.05].

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

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

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

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

24 8. All moneys collected or received by the department pursuant to this section shall be
25 transmitted to the department of revenue for deposit in the state treasury to the credit of the
26 dry-cleaning environmental response trust fund created in section 260.920. Following each
27 annual or quarterly reporting date, the state treasurer shall certify the amount deposited to the
28 department.

29 9. If any seller or provider of dry-cleaning solvent fails or refuses to pay the dry-cleaning
30 solvent surcharge imposed by this section, the department shall impose and such seller or
31 provider shall pay, in addition to the dry-cleaning solvent surcharge owed by the seller or
32 provider, a penalty of fifteen percent of the dry-cleaning solvent surcharge. Such penalty shall
33 be deposited in the dry-cleaning environmental response trust fund.

34 10. If any person does not pay the dry-cleaning solvent surcharge or any portion of the
35 dry-cleaning solvent surcharge imposed by this section by the date prescribed for such payment,
36 the department shall impose and such person shall pay interest upon the unpaid amount at the
37 rate of ten percent per annum from the date prescribed for the payment of such surcharge and

38 penalties until payment is actually made. Such interest shall be deposited in the dry-cleaning
39 environmental response trust fund.

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

260.945. 1. If the unobligated principal of the fund equals or exceeds five million dollars
2 on April first of any year, the active dry-cleaning facility registration surcharge imposed by
3 section 260.935 and the dry-cleaning solvent surcharge imposed by section 260.940 shall not be
4 collected on or after the next July first until such time as on April first of any year thereafter the
5 unobligated principal balance of the fund equals two million dollars or less, then the active
6 dry-cleaning facility registration surcharge imposed by section 260.935 and the dry-cleaning
7 solvent surcharge imposed by section 260.940 shall again be collected on and after the next July
8 first.

9 2. Not later than April fifth of each year, the state treasurer shall notify the department
10 of the amount of the unobligated balance of the fund on April first of such year. Upon receipt
11 of the notice, the department shall notify the public if the active dry-cleaning facility registration
12 surcharge imposed by section 260.935 and the dry-cleaning solvent surcharge imposed by section
13 260.940 will terminate or be payable on the following July first.

14 3. Moneys in the fund shall not be expended pursuant to sections 260.900 to 260.960
15 prior to July 1, 2002.

260.965. The provisions of sections 260.900 to 260.965 shall expire August 28, 2012.

304.184. Notwithstanding any other provision of law to the contrary, any truck, tractor-trailer or other combination engaged in transporting solid waste, as defined by section 260.200, between any city and a solid waste disposal area or solid waste processing facility approved by the department of natural resources or department of health and senior services, may operate with a weight not to exceed twenty-two thousand four hundred pounds on one axle or a weight not to exceed forty-four thousand eight hundred pounds on any tandem axle; but nothing in this section shall be construed to permit the operation of any motor vehicle on the interstate highway system in excess of the weight limits imposed by federal statute; and no such truck, tractor-trailer or other combination shall exceed the width and length limitations provided in section 304.190, RSMo.

[260.218. Notwithstanding any other provision of law to the contrary, any truck, tractor-trailer or other combination engaged in transporting solid waste, as defined by section 260.200, between any city and a solid waste disposal area or solid waste processing facility approved by the department of natural resources or department of health and senior services, may operate with a weight not to exceed twenty-two thousand four hundred pounds on one axle or a weight not to exceed forty-four thousand eight hundred pounds on any tandem axle; but nothing in this section shall be construed to permit the operation of any motor vehicle on the interstate highway system in excess of the weight limits imposed by federal statute; and no such truck, tractor-trailer or other combination shall exceed the width and length limitations provided in section 304.190, RSMo.]

[260.446. The department shall, on or before January 1, 1985, and annually thereafter on January first of each succeeding year, render a full accounting of moneys received, moneys expended, sources and recipients, and purposes for the preceding fiscal year in the hazardous waste remedial fund to the commission, the general assembly and the governor.]

[260.479. 1. The hazardous waste management commission shall establish, by rule, two subdivisions of hazardous waste based upon the management method. Subdivision A shall include waste which is placed in a hazardous waste disposal facility or which is stored for a period of more than one hundred eighty days; provided, however, for the purposes of this section, the commission may identify hazardous waste which shall be taxed pursuant to subdivision A when stored for longer than ninety days as well as waste which may be stored for up to one year and taxed as provided in subdivision B below. Subdivision B shall include all other hazardous waste produced. The director shall annually request that a minimum of one million dollars be appropriated from general revenue funds for deposit in the hazardous waste remedial fund created pursuant to section 260.480.

13 2. Except as provided in this subsection and subsection 5 of this section,
14 each hazardous waste generator registered with the department of natural
15 resources, except the state and any political subdivision thereof, shall pay a fee
16 based on the volume of waste produced in each of the subdivisions A and B as
17 follows:

18 (1) For subdivision A waste, the fee shall be equal to 0.90785 times the
19 amount of waste in short tons times the following sum: twenty-one dollars and
20 eighty cents plus the product of 7.9890 cents times the amount of waste in short
21 tons, except that the fee for subdivision A waste shall not exceed eighty thousand
22 dollars; and

23 (2) For subdivision B waste, the fee shall be equal to 0.90785 times the
24 amount of waste in short tons times the following sum: ten dollars and ninety
25 cents plus the product of 3.9945 cents times the amount of waste in short tons,
26 except that the fee for subdivision B waste shall not exceed forty thousand
27 dollars.

28
29 No company shall pay more than eighty thousand dollars annually pursuant to
30 this subsection; provided that all fee amounts established pursuant to this
31 subsection may be adjusted annually by the commission by an amount not to
32 exceed two and fifty-five hundredths percent. No individual generator subject
33 to a fee pursuant to this section shall pay less than fifty dollars annually.

34 3. No tax shall be imposed pursuant to this section upon hazardous waste
35 generators whose waste consists solely of waste oil or facilities licensed pursuant
36 to chapter 197, RSMo. The commission may exempt intermittent generators or
37 generators of very small volumes of hazardous waste from payment of fees
38 required pursuant to this section, provided those generators comply with all other
39 applicable provisions of sections 260.360 to 260.430.

40 4. Any hazardous waste generator registered with the department which
41 discharges waste to a publicly owned treatment works having an approved
42 pretreatment program as required by chapter 204, RSMo, shall not pay any fee
43 required in sections 260.350 to 260.550 on such waste discharged which is in
44 compliance with pretreatment requirements. The hazardous waste management
45 commission may exempt such generators from the provisions of sections 260.350
46 to 260.430 if such exemption will not be in violation of the federal Resource
47 Conservation and Recovery Act.

48 5. No fee shall be imposed pursuant to this section upon any hazardous
49 waste which must be disposed of as provided by a remedial plan for an
50 abandoned or uncontrolled hazardous waste site, or upon smelter slag waste from
51 the processing of materials into reclaimed metals. Fees on hazardous waste fuel
52 produced from hazardous waste by processing, blending or other off-site
53 treatment shall be assessed and collected only at the facility where such
54 hazardous waste fuel is utilized as a substitute for other fuel. No facility using
55 hazardous waste fuel shall pay more than eighty thousand dollars annually

56 pursuant to this subsection for the first fiscal year fees are assessed pursuant to
57 this section, and such maximum amount may be adjusted annually thereafter by
58 the commission by an amount not to exceed two and fifty-five hundredths
59 percent. This subsection shall not be construed to apply to hazardous waste used
60 directly as a fuel that has not been processed, blended, or otherwise treated off
61 site. Such waste shall be subject to the fees established in subsection 2 of this
62 section.

63 6. The department may establish by rule and regulation categories of
64 waste based upon waste characteristics pursuant to subsection 2 of section
65 260.370. When the commission adopts hazardous waste categories, it shall
66 establish and annually revise a fee schedule based upon waste characteristics.
67 Each generator shall annually pay a fee, in lieu of the fee required in subsection
68 2 of this section, based upon the volume of waste produced annually within each
69 hazard category.

70 7. All fees within this section shall be based on hazardous waste
71 produced within the preceding state fiscal year beginning with July first of the
72 year this section goes into effect and payable at the end of the calendar year on
73 December thirty-first and annually thereafter in the same manner; provided that
74 no liability for fees shall be accrued pursuant to subsection 5 of this section for
75 any waste used as a fuel prior to August 28, 2000.

76 8. The department shall promptly transmit forty percent of all funds
77 collected pursuant to this section to the director of revenue for deposit in the
78 hazardous waste remedial fund created pursuant to section 260.480. The
79 department shall promptly transmit sixty percent of all funds collected pursuant
80 to this section to the director of revenue for deposit in the hazardous waste fund
81 created pursuant to section 260.391.

82 9. Notwithstanding any other provision of law to the contrary, no tax
83 based on the number of employees employed by a hazardous waste generator
84 shall be collected. This fee shall expire June 30, 2006, except that the department
85 shall levy and collect this fee for any hazardous waste generated prior to such
86 date and reported to the department.]

87

Section B. Because immediate action is necessary to clean up waste tires, the enactment
2 of section 260.279 of section A of this act is deemed necessary for the immediate preservation
3 of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act
4 within the meaning of the constitution, and the enactment of section 260.279 of section A of this
5 act shall be in full force and effect upon its passage and approval.