

HOUSE _____ AMENDMENT NO. ____

Offered By

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 54,
2 Page 1, Section A, Line 3, by inserting after all of said line the following:

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

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

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

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

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

8 5. The department of natural resources may promulgate rules to implement the provisions
9 of sections 256.700 to 256.710. Any rule or portion of a rule, as that term is defined in section
10 536.010, RSMo, that is created under the authority delegated in this section shall become effective
11 only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
12 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if
13 any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay
14 the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then
15 the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be
16 invalid and void.

17 256.705. 1. All sums received through the payment of fees under section 256.700 shall be
18 placed in the state treasury and credited to the "Geologic Resources Fund" which is hereby
19 created.

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

25 3. Any portion of the fund not immediately needed for the purposes authorized shall be
26 invested by the state treasurer as provided by the constitution and laws of this state. All income
27 from such investments shall, unless otherwise prohibited by the constitution of this state, be
28 deposited in the geologic resources fund. The provisions of section 33.080, RSMo, relating to the

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1 transfer of unexpended balances in various funds to the general revenue fund at the end of each
2 biennium shall not apply to funds in the geologic resources fund.

3 4. General revenue of the state or other state funds may be appropriated or expended for
4 the administration of sections 256.700 to 256.710. The state geologist may enter into a
5 memorandum of understanding or other agreement that allows for state or federal funds to
6 supplement the geologic resources fund.

7 256.710. 1. There is hereby created an advisory council to the state geologist known as
8 the "Industrial Minerals Advisory Council". The council shall be composed of nine members as
9 follows:

- 10 (1) The director of the department of transportation or his or her designee;
11 (2) Eight representatives of the following industries appointed by the director of the
12 department of natural resources:
13 (a) Three representing the limestone quarry operators;
14 (b) One representing the clay mining industry;
15 (c) One representing the sandstone mining industry;
16 (d) One representing the sand and gravel mining industry;
17 (e) One representing the barite mining industry; and
18 (f) One representing the granite mining industry.

19
20 The director of the department of natural resources or his or her designee shall act as chairperson
21 of the council and convene the council as needed.

- 22 2. The advisory council shall:
23 (1) Meet at least once each year;
24 (2) Annually review with the state geologist the income received and expenditures made
25 under sections 256.700 and 256.705;
26 (3) Consider all information and advise the director of the department of natural resources
27 in determining the method and amount of fees to be assessed;
28 (4) In performing its duties under this subsection, represent the best interests of the

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1 Missouri mining industry;

2 (5) Serve in an advisory capacity in all matters pertaining to the administration of this
3 section and section 256.700;

4 (6) Serve in an advisory capacity in all other matters brought before the council by the
5 director of the department of natural resources.

6 3. All members of the advisory council, with the exception of the director of the
7 department of transportation or his or her designee who shall serve indefinitely, shall serve for
8 terms of three years and until their successors are duly appointed and qualified; except that, of the
9 members first appointed:

10 (1) One member who represents the limestone quarry operators, the representative of the
11 clay mining industry, and the representative of the sandstone mining industry shall serve terms of
12 three years;

13 (2) One member who represents the limestone quarry operators, the representative of the
14 sand and gravel mining industry, and the representative of the barite mining industry shall serve
15 terms of two years; and

16 (3) One member who represents the limestone quarry operators, and the representative of
17 the granite mining industry shall serve a term of one year.

18 4. All members shall be residents of this state. Any member may be reappointed.

19 5. All members shall be reimbursed for reasonable expenses
20 incurred in the performance of their official duties in accordance with the reimbursement policy
21 set by the director. All reimbursements paid under this section shall be paid from fees collected
22 under section 256.700.

23 6. Every vacancy on the advisory council shall be filled by the director of the department
24 of natural resources. The person selected to fill any such vacancy shall possess the same
25 qualifications required by this section as the member he or she replaces and shall serve until the
26 end of the unexpired term of his or her predecessor."; and

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1 Further amend said bill, Page 2, Section 260.200, Line 28, by inserting after all of said line
2 the following:

3
4 "9. "Construction and demolition waste", waste materials from the construction and
5 demolition of residential, industrial, or commercial structures, but shall not include materials
6 defined as clean fill under this section;"; and

7
8 Further amend said section, Page 4, Line 89 by inserting after all of said line the following:

9
10 "(28) "Plasma arc technology", a process that converts electrical energy into thermal energy. This
11 electric arc is created when an ionized gas transfers electric power between two or more
12 electrodes;"; and

13
14 Further amend said section, Page 5, Line 151 by inserting after all of said Line the following:

15
16 "(d) A plasma arc technology facility;"; and

17
18 Further amend said section, Pages 1 through 6 by changing all numerical references as necessary;
19 and

20
21 Further amend said bill, Page 6, Section 260.200, Line 173, by inserting after all of said line the
22 following:

23
24 "260.211. 1. A person commits the offense of criminal disposition of demolition waste
25 [in the first degree] if he purposely or knowingly disposes of or causes the disposal of more than
26 two thousand pounds or four hundred cubic feet of such waste [in violation of section 260.210] on
27 property in this state other than in a solid waste processing facility or solid waste disposal area
28 having a permit as required by section 260.205; provided that, this subsection shall not prohibit

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1 the use or require a solid waste permit for the use of solid wastes in normal farming operations or
2 in the processing or manufacturing of other products in a manner that will not create a public
3 nuisance or adversely affect public health and shall not prohibit the disposal of or require a solid
4 waste permit for the disposal by an individual of solid wastes resulting from his or her own
5 residential activities on property owned or lawfully occupied by him or her when such wastes do
6 not thereby create a public nuisance or adversely affect the public health. Demolition waste shall
7 not include clean fill or vegetation. Criminal disposition of demolition waste [in the first degree]
8 is a class [A misdemeanor] D felony. In addition to other penalties prescribed by law, a person
9 convicted of criminal disposition of demolition waste [in the first degree] is subject to a fine not to
10 exceed twenty thousand dollars, except as provided below. The magnitude of the fine shall reflect
11 the seriousness or potential seriousness of the threat to human health and the environment posed
12 by the violation, but shall not exceed twenty thousand dollars, except that if a court of competent
13 jurisdiction determines that the person responsible for illegal disposal of demolition waste under
14 this subsection did so for remuneration as a part of an ongoing commercial activity, the court shall
15 set a fine which reflects the seriousness or potential threat to human health and the environment
16 which at least equals the economic gain obtained by the person, and such fine may exceed the
17 maximum established herein.

18 2. Any person who purposely or knowingly disposes of or causes the disposal of more
19 than two thousand pounds or four hundred cubic feet of his or her personal construction or
20 demolition waste on his or her own property shall be guilty of a class C misdemeanor. If such
21 person receives any amount of money, goods, or services in connection with permitting any other
22 person to dispose of construction or demolition waste on his or her property, such person shall be
23 guilty of a class D felony.

24 3. The court shall order any person convicted of illegally disposing of demolition waste
25 upon his own property for remuneration to clean up such waste and, if he fails to clean up the
26 waste or if he is unable to clean up the waste, the court may notify the county recorder of the
27 county containing the illegal disposal site. The notice shall be designed to be recorded on the
28 record.

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1 [3. Any person who pleads guilty or is convicted of criminal disposition of demolition
2 waste in the first degree a second or subsequent time shall be guilty of a class D felony, and
3 subject to the penalties provided in subsection 1 of this section in addition to those penalties
4 prescribed by law.

5 4. A person commits the offense of criminal disposition of demolition waste in the second
6 degree if he purposely or knowingly disposes of or causes the disposal of less than the amount of
7 demolition waste specified in subsection 1 of this section in violation of section 260.210.
8 Criminal disposition of demolition waste in the second degree is a class C misdemeanor.

9 5. In addition to other penalties prescribed by law, a person convicted of criminal
10 disposition of demolition waste in the second degree is subject to a fine, and the magnitude of the
11 fine shall reflect the seriousness or potential seriousness of the threat to human health and the
12 environment posed by the violation, but shall not exceed two thousand dollars.

13 6. Any person who pleads guilty or is convicted of criminal disposition of demolition
14 waste in the second degree a second or subsequent time shall be guilty of a class D felony, and
15 subject to the penalties provided in subsection 5 of this section in addition to those penalties
16 prescribed by law.

17 7.] 4. The court may order restitution by requiring any person convicted under this section
18 to clean up any demolition waste he illegally dumped and the court may require any such person
19 to perform additional community service by cleaning up and properly disposing of demolition
20 waste illegally dumped by other persons.

21 [8.] 5. The prosecutor of any county or circuit attorney of any city not within a county
22 may, by information or indictment, institute a prosecution for any violation of the provisions of
23 this section.

24 6. Any person shall be guilty of conspiracy as defined in section 564.016, RSMo, if he or
25 she knows or should have known that his or her agent or employee has committed the acts
26 described in sections 260.210 to 260.212 while engaged in the course of employment.

27 260.212. 1. A person commits the offense of criminal disposition of solid waste [in the
28 first degree] if he purposely or knowingly disposes of or causes the disposal of more than five

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1 hundred pounds or one hundred cubic feet of commercial or residential solid waste [on any
2 property in this state other than a sanitary landfill in violation of section 260.210] on property in
3 this state other than a solid waste processing facility or solid waste disposal area having a permit
4 as required by section 260.205; provided that, this subsection shall not prohibit the use or require
5 a solid waste permit for the use of solid wastes in normal farming operations or in the processing
6 or manufacturing of other products in a manner that will not create a public nuisance or adversely
7 affect public health and shall not prohibit the disposal of or require a solid waste permit for the
8 disposal by an individual of solid wastes resulting from his or her own residential activities on
9 property owned or lawfully occupied by him or her when such wastes do not thereby create a
10 public nuisance or adversely affect the public health. Criminal disposition of solid waste [in the
11 first degree] is a class [A misdemeanor] D felony. In addition to other penalties prescribed by
12 law, a person convicted of criminal disposition of solid waste [in the first degree] is subject to a
13 fine, and the magnitude of the fine shall reflect the seriousness or potential seriousness of the
14 threat to human health and the environment posed by the violation, but shall not exceed twenty
15 thousand dollars, except that if a court of competent jurisdiction determines that the person
16 responsible for illegal disposal of solid waste under this subsection did so for remuneration as a
17 part of an ongoing commercial activity, the court shall set a fine which reflects the seriousness or
18 potential threat to human health and the environment which at least equals the economic gain
19 obtained by the person, and such fine may exceed the maximum established herein.

20 2. The court shall order any person convicted of illegally disposing of solid waste upon
21 his own property for remuneration to clean up such waste and, if he fails to clean up the waste or
22 if he is unable to clean up the waste, the court may notify the county recorder of the county
23 containing the illegal disposal site. The notice shall be designed to be recorded on the record.

24 3. [Any person who pleads guilty or is convicted of criminal disposition of solid waste in
25 the first degree a second or subsequent time shall be guilty of a class D felony. If a court of
26 competent jurisdiction determines that the person responsible for illegal disposal of solid waste
27 under this subsection did so for remuneration as a part of an ongoing commercial activity, the
28 court shall set a fine which reflects the seriousness or potential threat to human health and the

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1 environment which equals at least three times the economic gain obtained by the person, and such
2 fine may exceed the maximum established in this section.

3 4. A person commits the offense of criminal disposition of solid waste in the second
4 degree if he purposely or knowingly disposes of or causes the disposal of less than the amount of
5 commercial or residential solid waste specified in subsection 1 of this section on any property in
6 this state other than a permitted sanitary landfill in violation of section 260.210. Criminal
7 disposition of solid waste in the second degree is a class C misdemeanor.

8 5. In addition to other penalties prescribed by law, a person convicted of criminal
9 disposition of solid waste in the second degree is subject to a fine, and the magnitude of the fine
10 shall reflect the seriousness or potential seriousness of the threat to human health and the
11 environment posed by the violation, but shall not exceed two thousand dollars.

12 6. Any person who pleads guilty or is convicted of criminal disposition of solid waste in
13 the second degree a second or subsequent time shall be guilty of a class D felony. If a court of
14 competent jurisdiction determines that the person responsible for illegal disposal of solid waste
15 under this subsection did so for remuneration as a part of an ongoing commercial activity, the
16 court shall set a fine which reflects the seriousness or potential threat to human health and the
17 environment which equals at least three times the economic gain obtained by the person, and such
18 fine may exceed the maximum established in this subsection.

19 7.] The court may order restitution by requiring any person convicted under this section to
20 clean up any commercial or residential solid waste he illegally dumped and the court may require
21 any such person to perform additional community service by cleaning up commercial or
22 residential solid waste illegally dumped by other persons.

23 [8.] 4. The prosecutor of any county or circuit attorney of any city not within a county
24 may, by information or indictment, institute a prosecution for any violation of the provisions of
25 this section.

26 [9.] 5. Any person shall be guilty of conspiracy as defined in section 564.016, RSMo, if he
27 knows or should have known that his agent or employee has committed the acts described in
28 sections 260.210 to 260.212 while engaged in the course of employment.

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1 260.240. 1. In the event the director determines that any provision of sections 260.200 to
2 260.245 and 260.330 or any standard, rule, regulation, final order or approved plan promulgated
3 pursuant thereto is being, was, or is in imminent danger of being violated, the director may, in
4 addition to those remedies provided in section 260.230, cause to have instituted a civil action in
5 any court of competent jurisdiction for injunctive relief to prevent any such violation or further
6 violation or in the case of violations concerning a solid waste disposal area or a solid waste
7 processing facility, for the assessment of a penalty not to exceed one thousand dollars per day for
8 each day, or part thereof, the violation occurred and continues to occur, or both, as the court
9 deems proper or in the case of violations concerning a solid waste disposal area and in the case of
10 a violation of section 260.330 by a solid waste processing facility, for the assessment of a penalty
11 not to exceed five thousand dollars per day, or part thereof, the violation occurred and continues
12 to occur, or both, as the court deems proper. A civil monetary penalty under this section shall not
13 be assessed for a violation where an administrative penalty was assessed under section 260.249.
14 The director may request either the attorney general or a prosecuting attorney to bring any action
15 authorized in this section in the name of the people of the state of Missouri. Suit can be brought
16 in any county where the defendant's principal place of business is located or where the violation
17 occurred. Any offer of settlement to resolve a civil penalty under this section shall be in writing,
18 shall state that an action for imposition of a civil penalty may be initiated by the attorney general
19 or a prosecuting attorney representing the department under authority of this section, and shall
20 identify any dollar amount as an offer of settlement which shall be negotiated in good faith
21 through conference, conciliation and persuasion.

22 2. Any rule, regulation, standard or order of a county commission, adopted pursuant to the
23 provisions of sections 260.200 to 260.245, may be enforced in a civil action for mandatory or
24 prohibitory injunctive relief or for the assessment of a penalty not to exceed [one] five hundred
25 dollars per day for each day, or part thereof, that a violation of such rule, regulation, standard or
26 order of a county commission occurred and continues to occur, or both, as the commission deems
27 proper. The county commission may request the prosecuting attorney or other attorney to bring
28 any action authorized in this section in the name of the people of the state of Missouri.

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1 3. The liabilities imposed by this section shall not be imposed due to any violation caused
2 by an act of God, war, strike, riot or other catastrophe.

3 260.247. 1. Any city or political subdivision which annexes an area or enters into or
4 expands solid waste collection services into an area where the collection of solid waste is
5 presently being provided by one or more private entities, for commercial or residential services,
6 shall notify the private entity or entities of its intent to provide solid waste collection services in
7 the area by certified mail.

8 2. A city or political subdivision shall not commence solid waste collection in such area
9 for at least two years from the effective date of the annexation or at least two years from the
10 effective date of the notice that the city or political subdivision intends to enter into the business
11 of solid waste collection or to expand existing solid waste collection services into the area, unless
12 the city or political subdivision contracts with the private entity or entities to continue such
13 services for that period. If for any reason the city or political subdivision does not exercise its
14 option to provide for or contract for the provision of services within an affected area within three
15 years from the effective date of the notice, then the city or political subdivision shall renotify
16 under subsection 1 of this section.

17 3. If the services to be provided under a contract with the city or political subdivision
18 pursuant to subsection 2 of this section are substantially the same as the services rendered in the
19 area prior to the decision of the city to annex the area or to enter into or expand its solid waste
20 collection services into the area, the amount paid by the city shall be at least equal to the amount
21 the private entity or entities would have received for providing such services during that period.

22 4. Any private entity or entities which provide collection service in the area which the city
23 or political subdivision has decided to annex or enter into or expand its solid waste collection
24 services into shall make available upon written request by the city not later than thirty days
25 following such request, all information in its possession or control which pertains to its activity in
26 the area necessary for the city to determine the nature and scope of the potential contract.

27 5. The provisions of this section shall apply to private entities that service fifty or more
28 residential accounts or [fifteen or more] any commercial accounts in the area in question.

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1 260.249. 1. In addition to any other remedy provided by law, upon a determination by the
2 director that a provision of sections 260.200 to 260.281, or a standard, limitation, order, rule or
3 regulation promulgated pursuant thereto, or a term or condition of any permit has been violated,
4 the director may issue an order assessing an administrative penalty upon the violator under this
5 section. An administrative penalty shall not be imposed until the director has sought to resolve
6 the violations through conference, conciliation and persuasion and shall not be imposed for minor
7 violations of sections 260.200 to 260.281 or minor violation of any standard, limitation, order,
8 rule or regulation promulgated pursuant to sections 260.200 to 260.281 or minor violations of any
9 term or condition of a permit issued pursuant to sections 260.200 to 260.281 or any violations of
10 sections 260.200 to 260.281 by any person resulting from mismanagement of solid waste
11 generated and managed on the property of the place of residence of the person. If the violation is
12 resolved through conference, conciliation and persuasion, no administrative penalty shall be
13 assessed unless the violation has caused, or has the potential to cause, a risk to human health or to
14 the environment, or has caused or has potential to cause pollution, or was knowingly committed,
15 or is defined by the United States Environmental Protection Agency as other than minor. Any
16 order assessing an administrative penalty shall state that an administrative penalty is being
17 assessed under this section and that the person subject to the penalty may appeal as provided by
18 section 260.235. Any such order that fails to state the statute under which the penalty is being
19 sought, the manner of collection or rights of appeal shall result in the state's waiving any right to
20 collection of the penalty.

21 2. The department shall promulgate rules and regulations for the assessment of
22 administrative penalties. The amount of the administrative penalty assessed per day of violation
23 for each violation under this section shall not exceed the amount of the civil penalty specified in
24 section [260.230] 260.240. Such rules shall reflect the criteria used for the administrative penalty
25 matrix as provided for in the Resource Conservation and Recovery Act, 42 U.S.C. 6928(a),
26 Section 3008(a), and the harm or potential harm which the violation causes, or may cause, the
27 violator's previous compliance record, and any other factors which the department may reasonably
28 deem relevant. An administrative penalty shall be paid within sixty days from the date of issuance

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1 of the order assessing the penalty. Any person subject to an administrative penalty may appeal as
2 provided in section 260.235. Any appeal will stay the due date of such administrative penalty
3 until the appeal is resolved. Any person who fails to pay an administrative penalty by the final
4 due date shall be liable to the state for a surcharge of fifteen percent of the penalty plus ten percent
5 per annum on any amounts owed. Any administrative penalty paid pursuant to this section shall
6 be handled in accordance with section 7 of article IX of the state constitution. An action may be
7 brought in the appropriate circuit court to collect any unpaid administrative penalty, and for
8 attorney's fees and costs incurred directly in the collection thereof.

9 3. An administrative penalty shall not be increased in those instances where department
10 action, or failure to act, has caused a continuation of the violation that was a basis for the penalty.
11 Any administrative penalty must be assessed within two years following the department's initial
12 discovery of such alleged violation, or from the date the department in the exercise of ordinary
13 diligence should have discovered such alleged violation.

14 4. The state may elect to assess an administrative penalty, or, in lieu thereof, to request
15 that the attorney general or prosecutor file an appropriate legal action seeking a civil penalty in the
16 appropriate circuit court.

17 5. Any final order imposing an administrative penalty is subject to judicial review upon
18 the filing of a petition pursuant to section 536.100, RSMo, by any person subject to the
19 administrative penalty."; and

20
21 Further amend said bill, Section 260.250 by inserting after all of said section the following:

22
23 "260.330. 1. Except as otherwise provided in subsection 6 of this section, effective October 1,
24 1990, each operator of a solid waste sanitary landfill shall collect a charge equal to one dollar and
25 fifty cents per ton or its volumetric equivalent of solid waste accepted and each operator of the
26 solid waste demolition landfill shall collect a charge equal to one dollar per ton or its volumetric
27 equivalent of solid waste accepted. Each operator shall submit the charge, less collection costs, to
28 the department of natural resources for deposit in the "Solid Waste Management Fund" which is

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1 hereby created. On October 1, 1992, and thereafter, the charge imposed herein shall be adjusted
2 annually by the same percentage as the increase in the general price level as measured by the
3 Consumer Price Index for All Urban Consumers for the United States, or its successor index, as
4 defined and officially recorded by the United States Department of Labor or its successor agency.
5 No annual adjustment shall be made to the charge imposed under this subsection during October
6 1, 2005, to October 1, [2009] 2014, except an adjustment amount consistent with the need to fund
7 the operating costs of the department and taking into account any annual percentage increase in
8 the total of the volumetric equivalent of solid waste accepted in the prior year at solid waste
9 sanitary landfills and demolition landfills and solid waste to be transported out of this state for
10 disposal that is accepted at transfer stations. No annual increase during October 1, 2005, to
11 October 1, [2009] 2014, shall exceed the percentage increase measured by the Consumer Price
12 Index for All Urban Consumers for the United States, or its successor index, as defined and
13 officially recorded by the United States Department of Labor or its successor agency and
14 calculated on the percentage of revenues dedicated under subdivision (1) of subsection 2 of
15 section 260.335. Any such annual adjustment shall only be made at the discretion of the director,
16 subject to appropriations. Collection costs shall be established by the department and shall not
17 exceed two percent of the amount collected pursuant to this section.

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

20 3. The charges established in this section shall be enumerated separately from the disposal
21 fee charged by the landfill and may be passed through to persons who generated the solid waste.
22 Moneys shall be transmitted to the department shall be no less than the amount collected less
23 collection costs and in a form, manner and frequency as the department shall prescribe. The
24 provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in the account shall
25 not lapse to general revenue at the end of each biennium. Failure to collect the charge does not
26 relieve the operator from responsibility for transmitting an amount equal to the charge to the
27 department.

28 4. The department may examine or audit financial records and landfill activity records and

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1 measure landfill usage to verify the collection and transmittal of the charges established in this
2 section. The department may promulgate by rule and regulation procedures to ensure and to
3 verify that the charges imposed herein are properly collected and transmitted to the department.

4 5. Effective October 1, 1990, any person who operates a transfer station in Missouri shall
5 transmit a fee to the department for deposit in the solid waste management fund which is equal to
6 one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted. Such fee
7 shall be applicable to all solid waste to be transported out of the state for disposal. On October 1,
8 1992, and thereafter, the charge imposed herein shall be adjusted annually by the same percentage
9 as the increase in the general price level as measured by the Consumer Price Index for All Urban
10 Consumers for the United States, or its successor index, as defined and officially recorded by the
11 United States Department of Labor or its successor agency. No annual adjustment shall be made
12 to the charge imposed under this subsection during October 1, 2005, to October 1, [2009] 2014,
13 except an adjustment amount consistent with the need to fund the operating costs of the
14 department and taking into account any annual percentage increase in the total of the volumetric
15 equivalent of 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 transfer
17 stations. No annual increase during October 1, 2005, to October 1, [2009] 2014, shall exceed the
18 percentage increase measured by the Consumer Price Index for All Urban Consumers for the
19 United States, or its successor index, as defined and officially recorded by the United States
20 Department of Labor or its successor agency and calculated on the percentage of revenues
21 dedicated under subdivision (1) of subsection 2 of section 260.335. Any such annual adjustment
22 shall only be made at the discretion of the director, subject to appropriations. The department
23 shall prescribe rules and regulations governing the transmittal of fees and verification of waste
24 volumes transported out of state from transfer stations. Collection costs shall also be established
25 by the department and shall not exceed two percent of the amount collected pursuant to this
26 subsection. A transfer station with the sole function of separating materials for recycling or
27 resource recovery activities shall not be subject to the fee imposed in this subsection.

28 6. Each political subdivision which owns an operational solid waste disposal area may

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1 designate, pursuant to this section, up to two free disposal days during each calendar year. On any
2 such free disposal day, the political subdivision shall allow residents of the political subdivision to
3 dispose of any solid waste which may be lawfully disposed of at such solid waste disposal area
4 free of any charge, and such waste shall not be subject to any state fee pursuant to this section.
5 Notice of any free disposal day shall be posted at the solid waste disposal area site and in at least
6 one newspaper of general circulation in the political subdivision no later than fourteen days prior
7 to the free disposal day.

8 260.335. 1. Each fiscal year eight hundred thousand dollars from the solid waste
9 management fund shall be made available, upon appropriation, to the department and the
10 environmental improvement and energy resources authority to fund activities that promote the
11 development and maintenance of markets for recovered materials. Each fiscal year up to two
12 hundred thousand dollars from the solid waste management fund be used by the department upon
13 appropriation for grants to solid waste management districts for district grants and district
14 operations. Only those solid waste management districts that are allocated fewer funds under
15 subsection 2 of this section than if revenues had been allocated based on the criteria in effect in
16 this section on August 27, 2004, are eligible for these grants. An eligible district shall receive a
17 proportionate share of these grants based on that district's share of the total reduction in funds for
18 eligible districts calculated by comparing the amount of funds allocated under subsection 2 of this
19 section with the amount of funds that would have been allocated using the criteria in effect in this
20 section on August 27, 2004. The department and the authority shall establish a joint interagency
21 agreement with the department of economic development to identify state priorities for market
22 development and to develop the criteria to be used to judge proposed projects. Additional moneys
23 may be appropriated in subsequent fiscal years if requested. The authority shall establish a
24 procedure to measure the effectiveness of the grant program under this subsection and shall
25 provide a report to the governor and general assembly by January fifteenth of each year regarding
26 the effectiveness of the program.

27 2. All remaining revenues deposited into the fund each fiscal year after moneys have been
28 made available under subsection 1 of this section shall be allocated as follows:

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1 (1) Thirty-nine percent of the revenues shall be dedicated, upon appropriation, to the
2 elimination of illegal solid waste disposal, to identify and prosecute persons disposing of solid
3 waste illegally, to conduct solid waste permitting activities, to administer grants and perform other
4 duties imposed in sections 260.200 to 260.345 and section 260.432. In addition to the thirty-nine
5 percent of the revenues, the department may receive any annual increase in the charge during
6 October 1, 2005, to October 1, [2009] 2014, under section 260.330 and such increases shall be
7 used solely to fund the operating costs of the department;

8 (2) Sixty-one percent of the revenues, except any annual increases in the charge under
9 section 260.330 during October 1, 2005, to October 1, [2009] 2014, which shall be used solely to
10 fund the operating costs of the department, shall be allocated through grants, upon appropriation,
11 to participating cities, counties, and districts. Revenues to be allocated under this subdivision
12 shall be divided as follows: forty percent shall be allocated based on the population of each
13 district in the latest decennial census, and sixty percent shall be allocated based on the amount of
14 revenue generated within each district. For the purposes of this subdivision, revenue generated
15 within each district shall be determined from the previous year's data. No more than fifty percent
16 of the revenue allocable under this subdivision may be allocated to the districts upon approval of
17 the department for implementation of a solid waste management plan and district operations, and
18 at least fifty percent of the revenue allocable to the districts under this subdivision shall be
19 allocated to the cities and counties of the district or to persons or entities providing solid waste
20 management, waste reduction, recycling and related services in these cities and counties. Each
21 district shall receive a minimum of seventy-five thousand dollars under this subdivision. After
22 August 28, 2005, each district shall receive a minimum of ninety-five thousand dollars under this
23 subdivision for district grants and district operations. Each district receiving moneys under this
24 subdivision shall expend such moneys pursuant to a solid waste management plan required under
25 section 260.325, and only in the case that the district is in compliance with planning requirements
26 established by the department. Moneys shall be awarded based upon grant applications. Any
27 moneys remaining in any fiscal year due to insufficient or inadequate applications may be
28 reallocated pursuant to this subdivision;

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1 (3) Except for the amount up to one-fourth of the department's previous fiscal year
2 expense, any remaining unencumbered funds generated under subdivision (1) of this subsection in
3 prior fiscal years shall be reallocated under this section;

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

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

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

14 4. The funds awarded to the districts, counties and cities pursuant to this section shall be
15 used for the purposes set forth in sections 260.300 to 260.345, and shall be used in addition to
16 existing funds appropriated by counties and cities for solid waste management and shall not
17 supplant county or city appropriated funds.

18 5. The department, in conjunction with the solid waste advisory board, shall review the
19 performance of all grant recipients to ensure that grant moneys were appropriately and effectively
20 expended to further the purposes of the grant, as expressed in the recipient's grant application.
21 The grant application shall contain specific goals and implementation dates, and grant recipients
22 shall be contractually obligated to fulfill same. The department may require the recipient to
23 submit periodic reports and such other data as are necessary, both during the grant period and up
24 to five years thereafter, to ensure compliance with this section. The department may audit the
25 records of any recipient to ensure compliance with this section. Recipients of grants under
26 sections 260.300 to 260.345 shall maintain such records as required by the department. If a grant
27 recipient fails to maintain records or submit reports as required herein, refuses the department
28 access to the records, or fails to meet the department's performance standards, the department may

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1 withhold subsequent grant payments, if any, and may compel the repayment of funds provided to
2 the recipient pursuant to a grant.

3 6. The department shall provide for a security interest in any machinery or equipment
4 purchased through grant moneys distributed pursuant to this section.

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

9 260.360. When used in sections 260.350 to 260.430 and in standards, rules and
10 regulations adopted pursuant to sections 260.350 to 260.430, the following words and phrases
11 mean:

12 (1) "Cleanup", all actions necessary to contain, collect, control, treat, disburse, remove or
13 dispose of a hazardous waste;

14 (2) "Commission", the hazardous waste management commission of the state of Missouri
15 created by sections 260.350 to 260.430;

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

22 (4) "Department", the Missouri department of natural resources;

23 (5) "Detonation", an explosion in which chemical transformation passes through the
24 material faster than the speed of sound, which is 0.33 kilometers per second at sea level;

25 (6) "Director", the director of the Missouri department of natural resources;

26 (7) "Disposal", the discharge, deposit, injection, dumping, spilling, leaking, or placing of
27 any waste into or on any land or water so that such waste, or any constituent thereof, may enter the
28 environment or be emitted into the air or be discharged into the waters, including groundwaters;

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1 (8) "Final disposition", the location, time and method by which hazardous waste loses its
2 identity or enters the environment, including, but not limited to, disposal, resource recovery and
3 treatment;

4 (9) "Generation", the act or process of producing waste;

5 (10) "Generator", any person who produces waste;

6 (11) "Hazardous waste", any waste or combination of wastes, as determined by the
7 commission by rules and regulations, which, because of its quantity, concentration, or physical,
8 chemical or infectious characteristics, may cause or significantly contribute to an increase in
9 mortality or an increase in serious irreversible, or incapacitating reversible, illness, or pose a
10 present or potential threat to the health of humans or the environment;

11 (12) "Hazardous waste facility", any property that is intended or used for hazardous waste
12 management including, but not limited to, storage, treatment and disposal sites;

13 (13) "Hazardous waste management", the systematic recognition and control of hazardous
14 waste from generation to final disposition including, but not limited to, its identification,
15 containerization, labeling, storage, collection, transfer or transportation, treatment, resource
16 recovery or disposal;

17 (14) "Infectious waste", waste in quantities and characteristics as determined by the
18 department by rule and regulation, including the following wastes known or suspected to be
19 infectious: isolation wastes, cultures and stocks of etiologic agents, contaminated blood and
20 blood products, other contaminated surgical wastes, wastes from autopsy, contaminated laboratory
21 wastes, sharps, dialysis unit wastes, discarded biologicals and antineoplastic chemotherapeutic
22 materials; provided, however, that infectious waste does not mean waste treated to department
23 specifications;

24 (15) "Manifest", a department form accompanying hazardous waste from point of
25 generation, through transport, to final disposition;

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

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1 (17) "Person", an individual, partnership, copartnership, firm, company, public or private
2 corporation, association, joint stock company, trust, estate, political subdivision or any agency,
3 board, department or bureau of the state or federal government or any other legal entity whatever
4 which is recognized by law as the subject of rights and duties;

5 (18) "Plasma arc technology", a process that converts electrical energy into thermal
6 energy. The plasma arc is created when a voltage is established between two points;

7 (19) "Resource recovery", the reclamation of energy or materials from waste, its reuse or
8 its transformation into new products which are not wastes;

9 [(19)] (20) "Storage", the containment or holding of waste at a designated location in such
10 manner or for such a period of time, as determined in regulations adopted hereunder, so as not to
11 constitute disposal of such waste;

12 [(20)] (21) "Treatment", the processing of waste to remove or reduce its harmful
13 properties or to contribute to more efficient or less costly management or to enhance its potential
14 for resource recovery including, but not limited to, existing or future procedures for
15 biodegradation, concentration, reduction in volume, detoxification, fixation, incineration, plasma
16 arc technology, or neutralization;

17 [(21)] (22) "Waste", any material for which no use or sale is intended and which will be
18 discarded or any material which has been or is being discarded. "Waste" shall also include certain
19 residual materials, to be specified by the rules and regulations, which may be sold for purposes of
20 energy or materials reclamation, reuse or transformation into new products which are not wastes;

21 [(22)] (23) "Waste explosives", any waste which has the potential to detonate, or any bulk
22 military propellant which cannot be safely disposed of through other modes of treatment.

23
24 "260.470. 1. When the director places a site on the registry as provided in section
25 260.440, and after the resolution of any appeal under section 260.455, he shall file with the county
26 recorder of deeds the period during which the site was used as a hazardous waste disposal area.
27 When the director finds that a site on the registry has been properly closed under subdivision (5)
28 of subsection 3 of section 260.445 with no evidence of potential adverse impact, he shall file this
29 finding with the county recorder of deeds. The county recorder of deeds shall file this information

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1 so that any purchaser will be given notice that the site has been placed on, or removed from, the
2 registry.

3 2. Any owner of a registry site may petition the department to remove the site from the
4 registry provided that:

5 (1) Corrective actions have addressed the contamination at the site in accordance with a
6 department-approved risk-based corrective action plan;

7 (2) The department has issued a letter indicating that no further actions are required to
8 address current risk from contaminants for the site; and

9 (3) An environmental covenant for the property that meets the requirements of sections
10 260.1000 to 260.1039 has been filed with the county recorder of deeds.

11 3. The department shall approve such a request unless the department determines that
12 removal from the registry would result in significant current or future risk of harm to human
13 health, public welfare, or the environment. In making such a determination, the department shall
14 provide a written justification that considers the amount, toxicity, and persistence of any
15 contaminants left in place and the stability of current site conditions. Any denial under this
16 subsection may be appealed to the commission in the manner provided in section 260.460.

17 260.800. As used in sections 260.800 to 260.815, the following terms shall mean:

18 (1) "Governing body", any city, municipality, county or combination thereof, or an
19 authority or agency created by intergovernmental compact;

20 (2) "Solid waste", garbage, refuse and other discarded materials including, but not limited
21 to, solid and semisolid waste materials resulting from industrial, commercial, agricultural,
22 governmental and domestic activities, but does not include overburden, rock, tailings, matte, slag
23 or other waste material resulting from mining, milling or smelting;

24 (3) "Waste to energy facility", any facility, including plasma arc technology, with the
25 electric generating capacity of up to eighty megawatts which is fueled by solid waste.

26 260.1000. Sections 260.1000 to 260.1039 shall be cited as the "Missouri Environmental
27 Covenants Act".

28 260.1003. As used in sections 260.1000 to 260.1039, the following terms shall mean:

29 (1) "Activity and use limitations", restrictions or obligations with respect to real property

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1 created under sections 260.1000 to 260.1039;

2 (2) "Department", the Missouri department of natural resources or any other state or
3 federal department that determines or approves the environmental response project under which
4 the environmental covenant is created;

5 (3) "Common interest community", a condominium, cooperative, or other real property
6 with respect to which a person, by virtue of the person's ownership of a parcel of real property, is
7 obligated to pay property taxes, insurance premiums, maintenance, or improvement of other real
8 property described in a recorded covenant that creates the common interest community;

9 (4) "Environmental covenant", a servitude arising under an environmental response
10 project that imposes activity and use limitations;

11 (5) "Environmental response project", a plan or work performed for environmental
12 remediation of real property and conducted:

13 (a) Under a federal or state program governing environmental remediation of real
14 property, including but not limited to the Missouri hazardous waste management law as specified
15 in this chapter;

16 (b) Incident to closure of a solid or hazardous waste management unit, if the closure is
17 conducted with approval of the department; or

18 (c) Under a state voluntary cleanup program authorized in the Missouri hazardous waste
19 management law as specified in this chapter;

20 (6) "Holder", the grantee of an environmental covenant as specified in section 260.1006;

21 (7) "Person", an individual, corporation, business trust, estate, trust, partnership, limited
22 liability company, association, joint venture, public corporation, government, governmental
23 subdivision, department, or instrumentality, or any other legal or commercial entity;

24 (8) "Record", information that is inscribed on a tangible medium or that is stored in an
25 electronic or other medium and is retrievable in perceivable form;

26 (9) "State", a state of the United States, the District of Columbia, Puerto Rico, the United
27 States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United
28 States.

29 260.1006. 1. Any person, including a person that owns an interest in the real property, the

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1 department, or a municipality or other unit of local government, may be a holder. An
2 environmental covenant may identify more than one holder. The interest of a holder is an interest
3 in real property.

4 2. The rights of a department under sections 260.1000 to 260.1039 or under an
5 environmental covenant, other than a right as a holder, is not an interest in real property.

6 3. A department is bound by any obligation it assumes in an environmental covenant, but
7 a department does not assume obligations merely by signing an environmental covenant. Any
8 other person that signs an environmental covenant is bound by the obligations the person assumes
9 in the covenant, but signing the covenant does not change obligations, rights, or protections
10 granted or imposed under law other than sections 260.1000 to 260.1039 except as provided in the
11 covenant.

12 4. The following rules apply to interests in real property in existence at the time an
13 environmental covenant is created or amended:

14 (1) An interest that has priority under other law is not affected by an environmental
15 covenant unless the person that owns the interest subordinates that interest to the covenant;

16 (2) Sections 260.1000 to 260.1039 do not require a person that owns a prior interest to
17 subordinate that interest to an environmental covenant or to agree to be bound by the covenant;

18 (3) A subordination agreement may be contained in an environmental covenant covering
19 real property or in a separate record. If the environmental covenant covers commonly owned
20 property in a common interest community, the record may be signed by any person authorized by
21 the governing board of the owners association;

22 (4) An agreement by a person to subordinate a prior interest to an environmental covenant
23 affects the priority of that person's interest but shall not by itself impose any affirmative obligation
24 on the person with respect to the environmental covenant.

25 260.1009. 1. An environmental covenant shall:

26 (1) State that the instrument is an environmental covenant executed under sections
27 260.1000 to 260.1039;

28 (2) Contain a legally sufficient description of the real property subject to the covenant;

29 (3) Describe the activity and use limitations on the real property;

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1 (4) Identify every holder;
2 (5) Be signed by the department, every holder, and unless waived by the department,
3 every owner of the fee simple of the real property subject to the covenant; and
4 (6) Identify the name and location of any administrative record for the environmental
5 response project reflected in the environmental covenant.

6 2. In addition to the information required by subsection 1 of this section, an
7 environmental covenant may contain other information, restrictions, and requirements agreed to
8 by the persons who signed it, including any:

9 (1) Requirements for notice following transfer of a specified interest in, or concerning
10 proposed changes in use of, applications for building permits for, or proposals for any site work
11 affecting the contamination on, the property subject to the covenant;

12 (2) Requirements for periodic reporting describing compliance with the covenant;

13 (3) Rights of access to the property granted in connection with implementation or
14 enforcement of the covenant;

15 (4) A brief narrative description of the contamination and remedy, including the
16 contaminants of concern, the pathways of exposure, limits on exposure, and the location and
17 extent of the contamination;

18 (5) Limitation on amendment or termination of the covenant in addition to those
19 contained in sections 260.1024 and 260.1027; and

20 (6) Rights of the holder in addition to its right to enforce the covenant under section
21 260.1030.

22 3. In addition to other conditions for its approval of an environmental covenant, the
23 department may require those persons specified by the department who have interests in the real
24 property to sign the covenant.

25 260.1012. 1. An environmental covenant that complies with sections 260.1000 to
26 260.1039 runs with the land.

27 2. An environmental covenant that is otherwise effective is valid and enforceable even if:

28 (1) It is not appurtenant to an interest in real property;

29 (2) It can be or has been assigned to a person other than the original holder;

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- 1 (3) It is not of a character that has been recognized traditionally at common law;
2 (4) It imposes a negative burden;
3 (5) It imposes an affirmative obligation on a person having an interest in the real property
4 or on the holder;
5 (6) The benefit or burden does not touch or concern real property;
6 (7) There is no privity of estate or contract;
7 (8) The holder dies, ceases to exist, resigns, or is replaced; or
8 (9) The owner of an interest subject to the environmental covenant and the holder are the
9 same person.

10 3. An instrument that creates restrictions or obligations with respect to real property that
11 would qualify as activity and use limitations except for the fact that the instrument was recorded
12 before the effective date of sections 260.1000 to 260.1039 is not invalid or unenforceable because
13 of any of the limitations on enforcement of interests described in subsection 2 of this section or
14 because it was identified as an easement, servitude, deed restriction, or other interest. Sections
15 260.1000 to 260.1039 shall not apply in any other respect to such an instrument.

16 4. Sections 260.1000 to 260.1039 shall not invalidate or render unenforceable any
17 interest, whether designated as an environmental covenant or other interest, that is otherwise
18 enforceable under the laws of this state.

19 260.1015. Sections 260.1000 to 260.1039 shall not authorize a use of real property that is
20 otherwise prohibited by zoning, by law other than sections 260.1000 to 260.1039 regulating use of
21 real property, or by a recorded instrument that has priority over the environmental covenant. An
22 environmental covenant may prohibit or restrict uses of real property which are authorized by
23 zoning or by laws other than sections 260.1000 to 260.1039.

24 260.1018. 1. A copy of an environmental covenant shall be provided by the persons and
25 in the manner required by the department to:

- 26 (1) Each person that signed the covenant;
27 (2) Each person holding a recorded interest in the real property subject to the covenant;
28 (3) Each person in possession of the real property subject to the covenant;
29 (4) Each municipality or other unit of local government in which real property subject to
-

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1 the covenant is located; and

2 (5) Any other person the department requires.

3 2. The validity of a covenant is not affected by failure to provide a copy of the covenant as
4 required under this section.

5 260.1021. 1. An environmental covenant and any amendment or termination of the
6 covenant shall be recorded in every county or city not within a county in which any portion of the
7 real property subject to the covenant is located. For purposes of indexing, a holder shall be treated
8 as a grantee.

9 2. Except as otherwise provided in section 260.1024, an environmental covenant is
10 subject to the laws of this state governing recording and priority of interests in real property.

11 260.1024. 1. An environmental covenant is perpetual unless it is:

12 (1) By its terms, limited to a specific duration or terminated by the occurrence of a
13 specific event;

14 (2) Terminated by consent under section 260.1027;

15 (3) Terminated by subsection 2 of this section;

16 (4) Terminated by foreclosure of an interest that has priority over the environmental
17 covenant; or

18 (5) Terminated or modified in an eminent domain proceeding, but only if:

19 (a) The department that signed the covenant is a party to the proceeding;

20 (b) All persons identified in section 260.1027 are given notice of the pendency of the
21 proceeding; and

22 (c) The court determines, after hearing, that the termination or modification will not
23 adversely affect human health, public welfare, or the environment.

24 2. If the department that signed an environmental covenant has determined that the
25 intended benefits of the covenant can no longer be realized, a court, under the doctrine of changed
26 circumstances, in an action in which all persons identified in section 260.1027 have been given
27 notice, may terminate the covenant or reduce its burden on the real property subject to the
28 covenant. The department's determination or its failure to make a determination upon request is
29 subject to review under chapter 536, RSMo.

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1 3. Except as otherwise provided in subsections 1 and 2 of this section, an environmental
2 covenant may not be extinguished, limited, or impaired through issuance of a tax deed,
3 foreclosure of a tax lien, or application of the doctrine of adverse possession, prescription,
4 abandonment, waiver, lack of enforcement, or acquiescence, or any similar doctrine.

5 4. An environmental covenant may not be extinguished, limited, or impaired by the
6 application of chapter 442, RSMo, or chapter 444, RSMo.

7 260.1027. 1. An environmental covenant may be amended or terminated by consent only
8 if the amendment or termination is signed by:

9 (1) The department;

10 (2) Unless this requirement is waived by the department, the current owner of the fee
11 simple of the real property subject to the covenant;

12 (3) Each person that originally signed the covenant, unless the person waived in a signed
13 record the right to consent or a court finds that the person no longer exists or cannot be located or
14 identified with the exercise of reasonable diligence; and

15 (4) The holder, except as otherwise provided in subsection 4 of this section.

16 2. If an interest in real property is subject to an environmental covenant, the interest is not
17 affected by an amendment of the covenant unless the current owner of the interest consents to the
18 amendment or has waived in a signed record the right to consent to amendments.

19 3. Except for an assignment undertaken under a governmental reorganization, assignment
20 of an environmental covenant to a new holder is an amendment.

21 4. Except as otherwise provided in an environmental covenant:

22 (1) A holder may not assign its interest without consent of the other parties;

23 (2) A holder may be removed and replaced by agreement of the other parties specified in
24 subsection 1 of this section.

25 5. A court of competent jurisdiction may fill a vacancy in the position of holder.

26 260.1030. 1. A civil action for injunctive or other equitable relief for violation of an
27 environmental covenant may be maintained by:

28 (1) A party to the covenant;

29 (2) The department;

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1 (3) Any person to whom the covenant expressly grants power to enforce;

2 (4) A person whose interest in the real property or whose collateral or liability may be
3 affected by the alleged violation of the covenant; or

4 (5) A municipality or other unit of local government in which the real property subject to
5 the covenant is located.

6 2. Sections 260.1000 to 260.1039 do not limit the regulatory authority of the department
7 under law other than sections 260.1000 to 260.1039 with respect to an environmental response
8 project.

9 3. A person is not responsible for or subject to liability for environmental remediation
10 solely because it has the right to enforce an environmental covenant.

11 260.1033. 1. The department shall establish an activity and use limitation information
12 system and ensure that it is maintained, that provides readily accessible information on sites with
13 known contamination, and records the creation, amendment, and termination of covenants. The
14 activity and use limitation information system shall distinguish clearly between three categories of
15 sites contaminated with hazardous substance contamination:

16 (1) Sites where no investigation or remedial action has been performed, or where remedial
17 actions are in progress but are not complete;

18 (2) Sites where remedial action has been taken to address known risks to human health,
19 public welfare, and the environment and the site is suitable for certain land uses and the
20 department has issued a letter indicating that the site is suitable for certain land uses and that
21 further investigation and remedial action is not required;

22 (3) Sites where previous concerns about contamination should no longer be an issue
23 because of removal of waste and contamination or investigation results that demonstrate that
24 contamination is now below levels considered suitable for unrestricted use.

25 2. After an environmental covenant or an amendment or termination of a covenant is filed
26 in the information system established under subsection 1 of this section, a notice of the covenant,
27 amendment, or termination that complies with this section may be recorded in the land records in
28 lieu of recording the entire covenant. Any such notice shall contain:

29 (1) A legally sufficient description and any available street address of the real property

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1 subject to the covenant;

2 (2) The name and address of the owner of the fee simple interest in the real property, the
3 department, and the holder if other than the department;

4 (3) A statement that the covenant, amendment, or termination is available in an
5 information system at the department, which discloses the method of any electronic access; and

6 (4) A statement that the notice is notification of an environmental covenant executed
7 under sections 260.1000 to 260.1039.

8 3. A statement in substantially the following form, executed with the same formalities as a
9 deed in this state, satisfies the requirements of subsection 2 of this section:

10 "1. This notice is filed in the land records of the (political subdivision) of
11 (insert name of jurisdiction in which the real property is located) under
12 Sections 260.1000 to 260.1039, RSMo.

13 2. This notice and the covenant, amendment or termination to which it refers may
14 impose significant obligations with respect to the property described below.

15 3. A legal description of the property is attached as Exhibit A to this notice. The
16 address of the property that is subject to the environmental covenant is (insert
17 address of property) (not available).

18 4. The name and address of the owner of the fee simple interest in the real
19 property on the date of this notice is (insert name of current owner of the
20 property and the owner's current address as shown on the tax records of the
21 jurisdiction in which the property is located).

22 5. The environmental covenant, amendment or termination was signed by
23 (insert name and address of the department).

24 6. The environmental covenant, amendment, or termination was filed in the
25 information system on (insert date of filing).

26 7. The full text of the covenant, amendment or termination and any other
27 information required by the department is on file and available for inspection and
28 copying in the information system maintained for that purpose by the department at
29 (insert address and room of building in which the information system is

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1 maintained). The covenant, amendment or termination may be found
2 electronically at (insert Internet address for covenant)."

3
4 260.1036. Sections 260.1000 to 260.1039 shall not apply to aboveground or underground
5 storage tanks as defined in section 319.100, RSMo.

6 260.1039. As authorized in 15 U.S.C. 7002, as amended, sections 260.1000 to 260.1039
7 modifies, limits, or supersedes the federal Electronic Signatures in Global and National
8 Commerce Act, 15 U.S.C. Section 7001, et seq., but do not modify, limit, or supersede 15 U.S.C.
9 Section 7001(a), or authorize electronic delivery of any of the notices described in 15 U.S.C.
10 Section 7003(b)."; and

11 Further amend said bill, Page 11, Section 414.420, Line 38, by inserting after all of said
12 line the following:

13 "444.772. 1. Any operator desiring to engage in surface mining shall make written
14 application to the director for a permit.

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

- 17 (1) The name of all persons with any interest in the land to be mined;
18 (2) The source of the applicant's legal right to mine the land affected by the permit;
19 (3) The permanent and temporary post office address of the applicant;
20 (4) Whether the applicant or any person associated with the applicant holds or has held
21 any other permits pursuant to sections 444.500 to 444.790, and an identification of such permits;
22 (5) The written consent of the applicant and any other persons necessary to grant access to
23 the commission or the director to the area of land affected under application from the date of
24 application until the expiration of any permit granted under the application and thereafter for such
25 time as is necessary to assure compliance with all provisions of sections 444.500 to 444.790 or

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1 any rule or regulation promulgated pursuant to them. Permit applications submitted by operators
2 who mine an annual tonnage of less than ten thousand tons shall be required to include written
3 consent from the operator to grant access to the commission or the director to the area of land
4 affected;

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

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

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

11 4. The application shall be accompanied by a bond, security or certificate meeting the
12 requirements of section 444.778, a geologic resources fee authorized under section 256.700,
13 RSMo, and a permit fee approved by the commission not to exceed [six hundred] one thousand
14 dollars. The commission may also require a fee for each site listed on a permit not to exceed
15 [three] four hundred dollars for each site. If mining operations are not conducted at a site for six
16 months or more during any year, the fee for such site for that year shall be reduced by fifty
17 percent. The commission may also require a fee for each acre bonded by the operator pursuant to
18 section 444.778 not to exceed [ten] twenty dollars per acre. If such fee is assessed, the per-acre
19 fee on all acres bonded by a single operator that exceed a total of [one] two hundred acres shall be
20 reduced by fifty percent. In no case shall the total fee for any permit be more than [two] three
21 thousand [five hundred] dollars. Permit and renewal fees shall be established by rule, except for
22 the initial fees as set forth in this subsection, and shall be set at levels that recover the cost of
23 administering and enforcing sections 444.760 to 444.790, making allowances for grants and other
24 sources of funds. The director shall submit a report to the commission and the public each year

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1 that describes the number of employees and the activities performed the previous calendar year to
2 administer sections 444.760 to 444.790. For any operator of a gravel mining operation where the
3 annual tonnage of gravel mined by such operator is less than five thousand tons, the total cost of
4 submitting an application shall be three hundred dollars. The issued permit shall be valid from the
5 date of its issuance until the date specified in the mine plan unless sooner revoked or suspended as
6 provided in sections 444.760 to 444.790. Beginning August 28, 2007, the fees shall be set at a
7 permit fee of eight hundred dollars, a site fee of four hundred dollars, and an acre fee of ten
8 dollars, with a maximum fee of three thousand dollars. Fees may be raised as allowed in this
9 subsection after a regulation change that demonstrates the need for increased fees.

10 5. An operator desiring to have his or her permit amended to cover additional land may
11 file an amended application with the commission. Upon receipt of the amended application, and
12 such additional fee and bond as may be required pursuant to the provisions of sections 444.760 to
13 444.790, the director shall, if the applicant complies with all applicable regulatory requirements,
14 issue an amendment to the original permit covering the additional land described in the amended
15 application.

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

20 7. Where mining or reclamation operations on acreage for which a permit has been issued
21 have not been completed, the permit shall be renewed. The operator shall submit a permit
22 renewal form furnished by the director for an additional permit year and pay a fee equal to an
23 application fee calculated pursuant to subsection 4 of this section, but in no case shall the renewal
24 fee for any operator be more than [two] three thousand [five hundred] dollars. For any operator

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1 involved in any gravel mining operation where the annual tonnage of gravel mined by such
2 operator is less than five thousand tons, the permit as to such acreage shall be renewed by
3 applying on a permit renewal form furnished by the director for an additional permit year and
4 payment of a fee of three hundred dollars. Upon receipt of the completed permit renewal form
5 and fee from the operator, the director shall approve the renewal. With approval of the director
6 and operator, the permit renewal may be extended for a portion of an additional year with a
7 corresponding prorating of the renewal fee.

8 8. Where one operator succeeds another at any uncompleted operation, either by sale,
9 assignment, lease or otherwise, the commission may release the first operator from all liability
10 pursuant to sections 444.760 to 444.790 as to that particular operation if both operators have been
11 issued a permit and have otherwise complied with the requirements of sections 444.760 to
12 444.790 and the successor operator assumes as part of his or her obligation pursuant to sections
13 444.760 to 444.790 all liability for the reclamation of the area of land affected by the former
14 operator.

15 9. The application for a permit shall be accompanied by a plan of reclamation that meets
16 the requirements of sections 444.760 to 444.790 and the rules and regulations promulgated
17 pursuant thereto, and shall contain a verified statement by the operator setting forth the proposed
18 method of operation, reclamation, and a conservation plan for the affected area including
19 approximate dates and time of completion, and stating that the operation will meet the
20 requirements of sections 444.760 to 444.790, and any rule or regulation promulgated pursuant to
21 them.

22 10. At the time that a permit application is deemed complete by the director, the operator
23 shall publish a notice of intent to operate a surface mine in any newspaper qualified pursuant to
24 section 493.050, RSMo, to publish legal notices in any county where the land is located. If the

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1 director does not respond to a permit application within forty-five calendar days, the application
2 shall be deemed to be complete. Notice in the newspaper shall be posted once a week for four
3 consecutive weeks beginning no more than ten days after the application is deemed complete.
4 The operator shall also send notice of intent to operate a surface mine by certified mail to the
5 governing body of the counties or cities in which the proposed area is located, and to the last
6 known addresses of all record landowners of contiguous real property or real property located
7 adjacent to the proposed mine plan area. The notices shall include the name and address of the
8 operator, a legal description consisting of county, section, township and range, the number of
9 acres involved, a statement that the operator plans to mine a specified mineral during a specified
10 time, and the address of the commission. The notices shall also contain a statement that any
11 person with a direct, personal interest in one or more of the factors the commission may consider
12 in issuing a permit may request a public meeting, a public hearing or file written comments to the
13 director no later than fifteen days following the final public notice publication date.

14 11. The commission may approve a permit application or permit amendment whose
15 operation or reclamation plan deviates from the requirements of sections 444.760 to 444.790 if it
16 can be demonstrated by the operator that the conditions present at the surface mining location
17 warrant an exception. The criteria accepted for consideration when evaluating the merits of an
18 exception or variance to the requirements of sections 444.760 to 444.790 shall be established by
19 regulations.

20 12. Fees imposed pursuant to this section shall become effective August 28, [2001] 2007,
21 and shall expire on December 31, [2007] 2013. No other provisions of this section shall expire.";
22 and
23 Further amend said bill by amending the title, enacting clause, and intersectional references
24 accordingly.

Action Taken _____

Date _____

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Date _____