

SENATE BILL NO. 1164

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR EIGEL.

5751S.01I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 260.200, RSMo, and to enact in lieu thereof one new section relating to solid waste management.

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

Section A. Section 260.200, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 260.200,
3 to read as follows:

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

3 (1) "Alkaline-manganese battery" or "alkaline
4 battery", a battery having a manganese dioxide positive
5 electrode, a zinc negative electrode, an alkaline
6 electrolyte, including alkaline-manganese button cell
7 batteries intended for use in watches, calculators, and
8 other electronic products, and larger-sized alkaline-
9 manganese batteries in general household use;

10 (2) "Applicant", a person or persons seeking or
11 holding a facility permit;

12 (3) "Bioreactor", a municipal solid waste disposal
13 area or portion of a municipal solid waste disposal area
14 where the controlled addition of liquid waste or water
15 accelerates both the decomposition of waste and landfill gas
16 generation;

17 (4) "Button cell battery" or "button cell", any small
18 alkaline-manganese or mercuric-oxide battery having the size
19 and shape of a button;

20 (5) "City", any incorporated city, town, or village;

21 (6) "Clean fill", uncontaminated soil, rock, sand,
22 gravel, concrete, asphaltic concrete, cinderblocks, brick,
23 minimal amounts of wood and metal, and inert solids as
24 approved by rule or policy of the department for fill,
25 reclamation, or other beneficial use;

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

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

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

47 (10) "Construction and demolition waste", waste
48 materials from the construction and demolition of
49 residential, industrial, or commercial structures, but shall
50 not include materials defined as clean fill under this
51 section;

52 (11) "Demolition landfill", a solid waste disposal
53 area used for the controlled disposal of demolition wastes,
54 construction materials, brush, wood wastes, soil, rock,
55 concrete and inert solids insoluble in water;

56 (12) "Department", the department of natural resources;

57 (13) "Director", the director of the department of
58 natural resources;

59 (14) "Disclosure statement", a sworn statement or
60 affirmation, in such form as may be required by the director
61 of the department of natural resources, which includes:

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

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

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

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

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

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

83 c. A listing of license or permit suspensions,
84 revocations, or denials issued by any state, the federal
85 government or a county or county equivalent, which are
86 pending or have concluded with a finding of violation or
87 entry of a consent agreement regarding an allegation of
88 civil or criminal violation of law, regulation or
89 requirement relating to the collection, transfer, treatment,
90 processing, storage, or disposal of solid waste or violation
91 of the environmental statutes of other states or federal
92 statutes;

93 d. An itemized list of all felony convictions under
94 the laws of the state of Missouri or the equivalent thereof
95 under the laws of any other jurisdiction; and a listing of
96 any findings of guilt for any crimes or criminal acts an
97 element of which involves restraint of trade, price-fixing,
98 intimidation of the customers of another person or for
99 engaging in any other acts which may have the effect of
100 restraining or limiting competition concerning activities
101 regulated pursuant to this chapter or similar laws of other
102 states or the federal government including, but not limited
103 to, racketeering or violation of antitrust laws of any key
104 personnel;

105 (15) "District", a solid waste management district
106 established under section 260.305;

107 (16) "Financial assurance instrument", an instrument
108 or instruments, including, but not limited to, cash or
109 surety bond, letters of credit, corporate guarantee or
110 secured trust fund, submitted by the applicant to ensure

111 proper closure and postclosure care and corrective action of
112 a solid waste disposal area in the event that the operator
113 fails to correctly perform closure and postclosure care and
114 corrective action requirements, except that the financial
115 test for the corporate guarantee shall not exceed one and
116 one-half times the estimated cost of closure and
117 postclosure. The form and content of the financial
118 assurance instrument shall meet or exceed the requirements
119 of the department. The instrument shall be reviewed and
120 approved or disapproved by the attorney general;

121 (17) "Flood area", any area inundated by the one
122 hundred year flood event, or the flood event with a one
123 percent chance of occurring in any given year;

124 (18) "Household consumer", an individual who generates
125 used motor oil through the maintenance of the individual's
126 personal motor vehicle, vessel, airplane, or other machinery
127 powered by an internal combustion engine;

128 (19) "Household consumer used motor oil collection
129 center", any site or facility that accepts or aggregates and
130 stores used motor oil collected only from household
131 consumers or farmers who generate an average of twenty-five
132 gallons per month or less of used motor oil in a calendar
133 year. This section shall not preclude a commercial
134 generator from operating a household consumer used motor oil
135 collection center;

136 (20) "Household consumer used motor oil collection
137 system", any used motor oil collection center at publicly
138 owned facilities or private locations, any curbside
139 collection of household consumer used motor oil, or any
140 other household consumer used motor oil collection program
141 determined by the department to further the purposes of
142 sections 260.200 to 260.345;

143 (21) "Infectious waste", waste in quantities and
144 characteristics as determined by the department by rule,
145 including isolation wastes, cultures and stocks of etiologic
146 agents, blood and blood products, pathological wastes, other
147 wastes from surgery and autopsy, contaminated laboratory
148 wastes, sharps, dialysis unit wastes, discarded biologicals
149 known or suspected to be infectious; provided, however, that
150 infectious waste does not mean waste treated to department
151 specifications;

152 (22) "Key personnel", the applicant itself and any
153 person employed by the applicant in a managerial capacity,
154 or empowered to make discretionary decisions with respect to
155 the solid waste operations of the applicant in Missouri, but
156 shall not include employees exclusively engaged in the
157 physical or mechanical collection, transfer, transportation,
158 treatment, processing, storage, or disposal of solid waste
159 and such other employees as the director of the department
160 of natural resources may designate by regulation. If the
161 applicant has not previously conducted solid waste
162 operations in Missouri, the term also includes any officer,
163 director, partner of the applicant, or any holder of seven
164 percent or more of the equity or debt of the applicant. If
165 any holder of seven percent or more of the equity or debt of
166 the applicant or of any key personnel is not a natural
167 person, the term includes all key personnel of that entity,
168 provided that where such entity is a chartered lending
169 institution or a reporting company under the federal
170 Securities Exchange Act of 1934, the term does not include
171 key personnel of such entity. Provided further that the
172 term means the chief executive officer of any agency of the
173 United States or of any agency or political subdivision of
174 the state of Missouri, and all key personnel of any person,

175 other than a natural person, that operates a landfill or
176 other facility for the collection, transfer, treatment,
177 processing, storage, or disposal of nonhazardous solid waste
178 under contract with or for one of those governmental
179 entities;

180 (23) "Lead-acid battery", a battery designed to
181 contain lead and sulfuric acid with a nominal voltage of at
182 least six volts and of the type intended for use in motor
183 vehicles and watercraft;

184 (24) "Major appliance", clothes washers and dryers,
185 water heaters, trash compactors, dishwashers, conventional
186 ovens, ranges, stoves, woodstoves, air conditioners,
187 refrigerators and freezers;

188 (25) "Mercuric-oxide battery" or "mercury battery", a
189 battery having a mercuric-oxide positive electrode, a zinc
190 negative electrode, and an alkaline electrolyte, including
191 mercuric-oxide button cell batteries generally intended for
192 use in hearing aids and larger size mercuric-oxide batteries
193 used primarily in medical equipment;

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

199 (27) "Motor oil", any oil intended for use in a motor
200 vehicle, as defined in section 301.010, train, vessel,
201 airplane, heavy equipment, or other machinery powered by an
202 internal combustion engine;

203 (28) "Motor vehicle", as defined in section 301.010;

204 (29) "Operator" and "permittee", anyone so designated,
205 and shall include cities, counties, other political

206 subdivisions, authority, state agency or institution, or
207 federal agency or institution;

208 (30) "Permit modification", any permit issued by the
209 department which alters or modifies the provisions of an
210 existing permit previously issued by the department;

211 (31) "Person", any individual, partnership, limited
212 liability company, corporation, association, trust,
213 institution, city, county, other political subdivision,
214 authority, state agency or institution, or federal agency or
215 institution, or any other legal entity;

216 (32) "Plasma arc technology", a process that converts
217 electrical energy into thermal energy. This electric arc is
218 created when an ionized gas transfers electric power between
219 two or more electrodes;

220 (33) "Postclosure plan", plans, designs and relevant
221 data which specify the methods and schedule by which the
222 operator shall perform necessary monitoring and care for the
223 area after closure to achieve the purposes of sections
224 260.200 to 260.345 and the regulations promulgated
225 thereunder;

226 (34) "Recovered materials", those materials which have
227 been diverted or removed from the solid waste stream for
228 sale, use, reuse or recycling, whether or not they require
229 subsequent separation and processing;

230 (35) "Recycled content", the proportion of fiber in a
231 newspaper which is derived from postconsumer waste;

232 (36) "Recycling", the separation and reuse of
233 materials which might otherwise be disposed of as solid
234 waste;

235 (37) "Resource recovery", a process by which
236 recyclable and recoverable material is removed from the
237 waste stream to the greatest extent possible, as determined

238 by the department and pursuant to department standards, for
239 reuse or remanufacture;

240 (38) "Resource recovery facility", a facility in which
241 recyclable and recoverable material is removed from the
242 waste stream to the greatest extent possible, as determined
243 by the department and pursuant to department standards, for
244 reuse or remanufacture;

245 (39) "Sanitary landfill", a solid waste disposal area
246 which accepts commercial and residential solid waste;

247 (40) "Scrap tire", a tire that is no longer suitable
248 for its original intended purpose because of wear, damage,
249 or defect;

250 (41) "Scrap tire collection center", a site where
251 scrap tires are collected prior to being offered for
252 recycling or processing and where fewer than five hundred
253 tires are kept on site on any given day;

254 (42) "Scrap tire end-user facility", a site where
255 scrap tires are used as a fuel or fuel supplement or
256 converted into a usable product. Baled or compressed tires
257 used in structures, or used at recreational facilities, or
258 used for flood or erosion control shall be considered an end
259 use;

260 (43) "Scrap tire generator", a person who sells tires
261 at retail or any other person, firm, corporation, or
262 government entity that generates scrap tires;

263 (44) "Scrap tire processing facility", a site where
264 tires are reduced in volume by shredding, cutting, or
265 chipping or otherwise altered to facilitate recycling,
266 resource recovery, or disposal;

267 (45) "Scrap tire site", a site at which five hundred
268 or more scrap tires are accumulated, but not including a
269 site owned or operated by a scrap tire end-user that burns

270 scrap tires for the generation of energy or converts scrap
271 tires to a useful product;

272 (46) "Solid waste", garbage, refuse and other
273 discarded materials including, but not limited to, solid and
274 semisolid waste materials resulting from industrial,
275 commercial, agricultural, governmental and domestic
276 activities, but does not include hazardous waste as defined
277 in sections 260.360 to 260.432, recovered materials,
278 overburden, rock, tailings, matte, slag or other waste
279 material resulting from mining, milling or smelting;

280 (47) "Solid waste disposal area", any area used for
281 the disposal of solid waste from more than one residential
282 premises, or one or more commercial, industrial,
283 manufacturing, recreational, or governmental operations;

284 (48) "Solid waste fee", a fee imposed pursuant to
285 sections 260.200 to 260.345 and may be:

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

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

290 (49) "Solid waste management area", a solid waste
291 disposal area which also includes one or more of the
292 functions contained in the definitions of recycling,
293 resource recovery facility, waste tire collection center,
294 waste tire processing facility, waste tire site or solid
295 waste processing facility, excluding incineration;

296 (50) "Solid waste management project", a targeted
297 project that meets statewide waste reduction and recycling
298 priorities, and for which no solid waste management district
299 grant applicant has applied to perform, and for which no
300 qualified applicants have applied to perform such project by

301 a competitive bid issued by the solid waste management
302 district for the completion of such project;

303 (51) "Solid waste management system", the entire
304 process of managing solid waste in a manner which minimizes
305 the generation and subsequent disposal of solid waste,
306 including waste reduction, source separation, collection,
307 storage, transportation, recycling, resource recovery,
308 volume minimization, processing, market development, and
309 disposal of solid wastes;

310 (52) "Solid waste processing facility", any facility
311 where solid wastes are salvaged and processed, including:

312 (a) A transfer station; or

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

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

318 (d) A plasma arc technology facility;

319 (53) "Solid waste technician", an individual who has
320 successfully completed training in the practical aspects of
321 the design, operation and maintenance of a permitted solid
322 waste processing facility or solid waste disposal area in
323 accordance with sections 260.200 to 260.345;

324 (54) "Tire", a continuous solid or pneumatic rubber
325 covering encircling the wheel of any self-propelled vehicle
326 not operated exclusively upon tracks, or a trailer as
327 defined in chapter 301, except farm tractors and farm
328 implements owned and operated by a family farm or family
329 farm corporation as defined in section 350.010;

330 (55) "Used motor oil", any motor oil which, as a
331 result of use, becomes unsuitable for its original purpose
332 due to loss of original properties or the presence of

333 impurities, but used motor oil shall not include ethylene
334 glycol, oils used for solvent purposes, oil filters that
335 have been drained of free flowing used oil, oily waste, oil
336 recovered from oil tank cleaning operations, oil spilled to
337 land or water, or industrial nonlube oils such as hydraulic
338 oils, transmission oils, quenching oils, and transformer
339 oils;

340 (56) "Utility waste landfill", a solid waste disposal
341 area used for fly ash waste, bottom ash waste, slag waste
342 and flue gas emission control waste generated primarily from
343 the combustion of coal or other fossil fuels;

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

347 2. For the purposes of this section and sections
348 260.270 to 260.279 and any rules in place as of August 28,
349 2005, or promulgated under said sections, the term "scrap"
350 shall be used synonymously with and in place of waste, as it
351 applies only to scrap tires.

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