

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 2513-01  
Bill No.: HB 980  
Subject: Administrative Rules; Environmental Protection; Natural Resources Dept.  
Type: Original  
Date: January 15, 2004

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
General Revenue*	\$0	\$0 to (Unknown)	\$0 to (Unknown)
<b>Total Estimated Net Effect on General Revenue Fund*</b>	<b>\$0</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

\*Could exceed \$100,000 per year

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
DNR Dedicated Funds	\$0	\$0 to (Unknown)	\$0 to (Unknown)
<b>Total Estimated Net Effect on Other State Funds</b>	<b>\$0</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Federal Funds	\$0	\$0 to (Unknown)	\$0 to (Unknown)
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

### FISCAL ANALYSIS

#### ASSUMPTION

Officials from the **Office of the Secretary of State** assume this bill requires a regulatory impact report for certain rulemaking processes when the Department of Natural Resources files rulemakings with the Administrative Rules Division. Since the Administrative Rules Division's costs are in publication of the Missouri Register and the report has no requirement to be published, it should not impact this agency.

Officials from the **Department of Conservation** assume this proposal would have no fiscal impact on their organization.

Officials from the **Department of Natural Resources** assumes the proposal states that a regulatory impact report must be done for all rules promulgated that prescribe environmental conditions and standards. However, this provision does not apply if the department adopts environmental protection agency rules and rules from other applicable federal agencies without variance.

It is very difficult to convert risks to public welfare and the environment into economic terms. Placing a dollar value on human life and health is even more problematic. However, in order to compare the regulatory costs with the risk reduction benefits, this would be required.

ASSUMPTION (continued)

Risks are cumulative. It would be very difficult to estimate the risk or the risk reduction benefits of one rule in isolation.

Further, there is very little data available on the combined risk of exposure to a number of contaminants, such as atmospheric ozone and a pesticide contaminated water system might have if an individual had those combined exposures. For example, the exponential risks associated with pollutants in an urban setting where multiple industrial smokestacks are in close proximity to residential areas cannot be quantified.

Generally, the department has relied upon the EPA, the Department of Health (DOH) and the Agency for Toxic Substances and Disease Registry to conduct risk assessment when needed. In addition, even when the federal statute does not explicitly set a risk-based standard, EPA frequently engages in some sort of risk analysis at the national level prior to promulgating a federal rule.

The cost to complete a rule-specific regulatory impact report would vary widely from rule to rule, depending upon the number of pollutants to be regulated, the number of affected facilities, the extent to which data already exists, etc.

The department assumes there would be 4 state-initiated rules at a cost of approximately \$42,440 per rule. Therefore the estimated annual cost for implementing this portion of the proposal would be \$169,760, or the equivalent of about 3 new FTEs (assuming \$58,000 annual expenditures, including personal service, fringe benefits, and expense and equipment.) This cost estimate assumes that the regulatory impact report would not need to contain all the elements of a risk assessment.

**Oversight** assumes that the cost of compliance with this proposal is unknown. Some administrative rules would not require the cost-benefit analysis contemplated in this proposal. Further, Oversight assumes it is not possible to predict the number of rules which would be adopted or the number of rules adopted which would require the scientific review proposed in this legislation, let alone the number which might be challenged. Oversight assumes that any costs resulting from this proposal would be paid from the state General Revenue Fund since program funds would not be available for such costs.

Officials from the **Department of Transportation (MoDOT)** assume this proposal could have a negative fiscal impact on MoDOT at least in part, as it states it applies to authorities over environmental standards promulgated pursuant to chapter 260, RSMo, which is the authority that

ASSUMPTION (continued)

MoDOT's Motor Carrier Services (MCS) unit uses to issue hazardous waste and waste tire permits to motor carriers.

Beyond the MCS unit, the overall effect on MoDOT is unclear. The phrase in Section 640.015 that state "...all rules that prescribe environmental conditions....promulgated by....a commission....pursuant to authorities granted in this chapter and ...(others)... shall cite the specific section of law ...the rule shall be based on the regulatory impact report.....", and the later section 640.015.3 which states the "department, board or commission" shows that the sponsor intends to cover other state agencies than DNR in this bill. Since it specifically mentions a commission, MoDOT could be included as well.

The costs associated with the rulemaking process, primarily employee time and supplies associated with preparing the required regulatory impact reports, could increase as a result of the legislation. However, the amount of the negative fiscal impact is unknown.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
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# **GENERAL REVENUE FUND**

## Cost - Department of Natural Resources

	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Risk Assessment			
	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Cost-Risk Analysis			
	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Publication Costs			

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND*</b>	<b><u>\$0 to</u> <u>(Unknown)</u></b>	<b><u>\$0 to</u> <u>(Unknown)</u></b>	<b><u>\$0 to</u> <u>(Unknown)</u></b>
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\*Could exceed \$100,000 per year

<u>FISCAL IMPACT - Local Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
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<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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## FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

## DESCRIPTION

This bill requires that all rules that prescribe environmental conditions or standards promulgated by the Department of Natural Resources and certain related boards and commissions cite the specific section of law or legal authority for the rule. The rule must also be based on a regulatory impact report. The bill outlines the criteria for the report. The report must be published in a qualified newspaper and posted on the agency, board, or commission's web site. Sixty days must be allowed for public comment before promulgating the rule. The report must be filed with the Joint Committee on Administrative Rules. Rules may be adopted within certain limitations without a regulatory impact report if immediate action is necessary to protect human health, public welfare, or the environment. Rules may also be adopted that are equivalent to federal rules.

DESCRIPTION (continued)

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Natural Resources  
Department of Conservation  
Secretary of State  
Department of Transportation



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Director  
January 15, 2004