

## SENATE SUBSTITUTE

FOR

## HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 980

AN ACT

To amend chapter 640, RSMo, by adding thereto three new sections relating to environmental regulation.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
AS FOLLOWS:

1           Section A. Chapter 640, RSMo, is amended by adding thereto  
2 three new sections, to be known as sections 640.015, 640.018, and  
3 1, to read as follows:

4           640.015. 1. All provisions of the law to the contrary  
5 notwithstanding, all rules that prescribe environmental  
6 conditions or standards promulgated by the department of natural  
7 resources, a board or a commission, pursuant to authorities  
8 granted in this chapter and chapters 260, 278, 319, 444, 643, and  
9 644, RSMo, the hazardous waste management commission in chapter  
10 260, RSMo, the state soil and water districts commission in  
11 chapter 278, RSMo, the land reclamation commission in chapter  
12 444, RSMo, the safe drinking water commission in this chapter,  
13 the air conservation commission in chapter 643, RSMo, and the  
14 clean water commission in chapter 644, RSMo, shall cite the  
15 specific section of law or legal authority. The rule shall also  
16 be based on the regulatory impact report provided in this  
17 section.

18           2. The regulatory impact report required by this section

1 shall include:

2 (1) A report on the peer-reviewed scientific data used to  
3 commence the rulemaking process;

4 (2) A description of persons who will most likely be  
5 affected by the proposed rule, including persons that will bear  
6 the costs of the proposed rule and persons that will benefit from  
7 the proposed rule;

8 (3) A description of the probable qualitative and  
9 quantitative impact of the proposed rule, including environmental  
10 and economic costs and benefits;

11 (4) The probable costs to the agency and to any other  
12 agency of the implementation and enforcement of the proposed rule  
13 and any anticipated effect on state revenue;

14 (5) A comparison of the probable costs and benefits of the  
15 proposed rule to the probable costs and benefits of inaction,  
16 which includes both economic and environmental costs and  
17 benefits;

18 (6) A determination of whether there are less costly or  
19 less intrusive methods for achieving the proposed rule;

20 (7) A description of any alternative method for achieving  
21 the purpose of the proposed rule that were seriously considered  
22 by the department and the reasons why they were rejected in favor  
23 of the proposed rule;

24 (8) An analysis of both short-term and long-term  
25 consequences of the proposed rule;

26 (9) An explanation of the risks to human health, public  
27 welfare, or the environment, addressed by the proposed rule,  
28 including an estimate of the impact of risk;

1       (10) The identification of the sources of scientific  
2 information used in evaluating the risk and a summary of such  
3 information;

4       (11) A description and impact statement of any  
5 uncertainties and assumptions made in conducting the analysis on  
6 the resulting risk estimate;

7       (12) A description of any significant countervailing risks  
8 that may be caused by the proposed rule; and

9       (13) The identification of alternative regulatory  
10 approaches that will produce comparable human health, public  
11 welfare, or the environmental outcomes and an estimate of their  
12 relative benefits and costs.

13       3. The department, board, or commission shall develop the  
14 regulatory impact report required by this section using peer  
15 reviewed and published data or when the peer-reviewed data is not  
16 reasonably available, a written explanation shall be filed at the  
17 time of the rule promulgation notice explaining why the peer-  
18 reviewed data was not available to support the regulation. If  
19 the peer-reviewed data is not available, the department must  
20 provide all scientific references and the types, amount, and  
21 sources of scientific information that was used to develop the  
22 rule at the time of the rule promulgation notice.

23       4. The department, board, or commission shall publish in at  
24 least one newspaper of general circulation, qualified pursuant to  
25 chapter 493, RSMo, with an average circulation of twenty thousand  
26 or more and on the department, board, or commission website a  
27 notice of availability of any regulatory impact report conducted  
28 pursuant to this section and shall make such assessments and

1 analyses available to the public by posting them on the  
2 department, board, or commission website. The department, board,  
3 or commission shall allow at least sixty days for the public to  
4 submit comments and shall post all comments and respond to all  
5 significant comments prior to promulgating the rule.

6 5. The department, board, or commission shall file a copy  
7 of the regulatory impact report with the joint committee on  
8 administrative rules concurrently with the filing of the proposed  
9 rule pursuant to section 536.024, RSMo.

10 6. If the department, board, or commission fails to conduct  
11 the regulatory impact report as required for each proposed rule  
12 pursuant to this section, such rule shall be void unless the  
13 written explanation delineating why the peer-reviewed data was  
14 not available has been filed at the time of the rule promulgation  
15 notice.

16 7. Any other provision of this section to the contrary  
17 notwithstanding, the department, board, or commission referenced  
18 in subsection 1 of this section may adopt a rule, without  
19 conducting a regulatory impact report if the director of the  
20 department determines that immediate action is necessary to  
21 protect human health, public welfare, or the environment;  
22 provided, however, in doing so, the department, board, or  
23 commission shall be required to provide written justification as  
24 to why it deviated from conducting a regulatory impact report and  
25 shall complete the regulatory impact report within one hundred  
26 eighty days of the adoption of the rule.

27 8. The provisions of this section shall not apply if the  
28 department adopts environmental protection agency rules and rules

1 from other applicable federal agencies without variance.

2 640.018. 1. The department of natural resources may not  
3 place in any permit any requirement, provision, stipulation, or  
4 any other restriction which is not prescribed or authorized by  
5 regulation or statute. If the department finds reason to issue a  
6 permit with any requirement, provision, stipulation, or any other  
7 restriction which is not authorized by regulation or statute,  
8 they shall provide written notification to both the permit  
9 applicant and the permit applicant's state legislators thirty  
10 days prior to the issuance of such permit. The written  
11 notification shall include the department's reasons for the  
12 requirement, provision, stipulation, or any other restriction  
13 which is included in the permit but is not authorized by  
14 regulation or statute.

15 2. Prior to submitting a permit to public comment the  
16 department of natural resources shall deliver such permit to the  
17 permit applicant at the contact address on the permit application  
18 for final review. In the interest of expediting permit issuance,  
19 permit applicants may waive the opportunity to review draft  
20 permits prior to public notice. The permit applicant shall have  
21 ten days to review the permit for errors. Upon receipt of the  
22 applicant's review of the permit, the department of natural  
23 resources shall correct the permit where nonsubstantive drafting  
24 errors exist. The department of natural resources shall make  
25 such changes within ten days and submit the permit for public  
26 comment. If the permit applicant is not provided the opportunity  
27 to review permits prior to submission for public comment, the  
28 permit applicant shall have the authority to correct drafting

1 errors in their permits after they are issued without paying any  
2 fee for such changes or modifications.

3 3. In any matter where a permit is denied by the department  
4 of natural resources pursuant to authorities granted in this  
5 chapter and chapters 260, 278, 319, 444, 643, and 644, RSMo, the  
6 hazardous waste management commission in chapter 260, RSMo, the  
7 state soil and water districts commission in chapter 278, RSMo,  
8 the land reclamation commission in chapter 444, RSMo, the safe  
9 drinking water commission in this chapter, the air conservation  
10 commission in chapter 643, RSMo, and the clean water commission  
11 in chapter 644, RSMo, such denial shall clearly state the basis  
12 for such denial.

13 4. Once a permit or action has been approved by the  
14 department, the department shall not revoke or change, without  
15 written permission from the permittee, the decision for a period  
16 of one year or unless the department determines that immediate  
17 action is necessary to protect human health, public welfare, or  
18 the environment.

19 Section 1. 1. If a refund mandated under article X,  
20 section 18, of the Missouri Constitution from the following  
21 funds:

22 (1) The water and wastewater loan fund established pursuant  
23 to section 644.122, RSMo;

24 (2) The water pollution permit fee subaccount of the  
25 natural resources protection fund established in section 640.220;

26 (3) The water and wastewater loan revolving funds; or

27 (4) Any fund established by the office of administration  
28 for the sole purpose of receiving and distributing state match

1 bond proceeds for the department of natural resources' state  
2 revolving fund programs established pursuant to the federal Clean  
3 Water Act, the federal Safe Drinking Water Act, or any federal  
4 regulation authorized under either federal act,  
5 would violate the federal Clean Water Act, the federal Safe  
6 Drinking Water Act, or any federal regulation authorized under  
7 either federal act, the department of natural resources shall  
8 identify and equal amount from other funds appropriated to the  
9 department.

10 2. The commissioner of administration shall transfer the  
11 funds identified by the department, that would otherwise be  
12 transferred from the funds identified in subsection 1 of this  
13 section, to the state general revenue fund for any refund that  
14 occurs after August 28, 2004.