

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 739
92ND GENERAL ASSEMBLY

Reported from the Committee on Agriculture March 11, 2004, with recommendation that the House Committee Substitute for Senate Bill No. 739 Do Pass.

STEPHEN S. DAVIS, Chief Clerk

2973L.03C

AN ACT

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

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

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

640.015. 1. All provisions of the law to the contrary notwithstanding, all rules that prescribe environmental conditions or standards promulgated by the department of natural resources, a board or a commission, pursuant to authorities granted in this chapter and chapters 260, 278, 319, 444, 643, and 644, RSMo, the hazardous waste management commission in chapter 260, RSMo, the state soil and water districts commission in chapter 278, RSMo, the petroleum storage tank insurance fund board in chapter 319, RSMo, the land reclamation commission in chapter 444, RSMo, the safe drinking water commission in this chapter, the air conservation commission in chapter 643, RSMo, and the clean water commission in chapter 644, RSMo, shall cite the specific section of law or legal authority. The rule shall also be based on the regulatory impact report provided in this section.

2. The regulatory impact report required by this section shall include:

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

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

(3) A description of the probable qualitative and quantitative impact of the

- 18 proposed rule, including environmental and economic costs and benefits;
- 19 (4) The probable costs to the agency and to any other agency of the implementation
- 20 and enforcement of the proposed rule and any anticipated effect on state revenue;
- 21 (5) A comparison of the probable costs and benefits of the proposed rule to the
- 22 probable costs and benefits of inaction, which includes both economic and environmental
- 23 costs and benefits;
- 24 (6) A determination of whether there are less costly or less intrusive methods for
- 25 achieving the proposed rule;
- 26 (7) A description of any alternative method for achieving the purpose of the
- 27 proposed rule that were seriously considered by the department and the reasons why they
- 28 were rejected in favor of the proposed rule;
- 29 (8) An analysis of both short-term and long-term consequences of the proposed
- 30 rule;
- 31 (9) An explanation of the risks to human health, public welfare, or the
- 32 environment, addressed by the proposed rule, including an estimate of the impact of risk;
- 33 (10) The identification of the sources of scientific information used in evaluating
- 34 the risk and a summary of such information;
- 35 (11) A description and impact statement of any uncertainties and assumptions
- 36 made in conducting the analysis on the resulting risk estimate;
- 37 (12) A description of any significant countervailing risks that may be caused by the
- 38 proposed rule; and
- 39 (13) The identification of alternative regulatory approaches that will produce
- 40 comparable human health, public welfare, or the environmental outcomes and an estimate
- 41 of their relative benefits and costs.
- 42 3. The department, board, or commission shall develop the regulatory impact
- 43 report required by this section using peer reviewed and published data or when the peer-
- 44 reviewed data is not reasonably available, a written explanation shall be filed at the time
- 45 of the rule promulgation notice explaining why the peer-reviewed data was not available
- 46 to support the regulation. If the peer-reviewed data is not available, the department must
- 47 provide all scientific references and the types, amount, and sources of scientific information
- 48 that was used to develop the rule at the time of the rule promulgation notice.
- 49 4. The department, board, or commission shall publish in at least one newspaper
- 50 of general circulation, qualified pursuant to chapter 493, RSMo, with an average
- 51 circulation of twenty thousand or more and on the department, board, or commission
- 52 website a notice of availability of any regulatory impact report conducted pursuant to this
- 53 section and shall make such assessments and analyses available to the public by posting

54 them on the department, board, or commission website. The department, board, or
55 commission shall allow at least sixty days for the public to submit comments and shall post
56 all comments and respond to all significant comments prior to promulgating the rule.

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

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

64 7. Any other provision of this section to the contrary notwithstanding, the
65 department, board, or commission referenced in subsection 1 of this section may adopt a
66 rule, without conducting a regulatory impact report if the director of the department
67 determines that immediate action is necessary to protect human health, public welfare, or
68 the environment; provided, however, in doing so, the department, board, or commission
69 shall be required to provide written justification as to why it deviated from conducting a
70 regulatory impact report and shall complete the regulatory impact report within one
71 hundred eighty days of the adoption of the rule.

72 8. The provisions of this section shall not apply if the department adopts
73 environmental protection agency rules and rules from other applicable federal agencies
74 without variance.

640.018. 1. The department of natural resources shall not place in any permit any
2 requirement, provision, stipulation, or any other restriction which is not prescribed or
3 authorized by regulation or statute.

4 2. Prior to submitting a permit to public comment the department of natural
5 resources shall deliver such permit to the permit applicant at the contact address on the
6 permit application for final review. In the interest of expediting permit issuance, permit
7 applicants may waive the opportunity to review draft permits prior to public notice. The
8 permit applicant shall have ten days to review the permit for errors. Upon receipt of the
9 applicant's review of the permit, the department of natural resources shall correct the
10 permit where nonsubstantive drafting errors exist. The department of natural resources
11 shall make such changes within ten days and submit the permit for public comment. If the
12 permit applicant is not provided the opportunity to review permits prior to submission for
13 public comment, the permit applicant shall have the authority to correct drafting errors
14 in their permits after they are issued without paying any fee for such changes or
15 modifications.

16 **3. In any matter where a permit is denied by the department of natural resources**
17 **pursuant to authorities granted in this chapter and chapters 260, 278, 319, 444, 643, and**
18 **644, RSMo, the hazardous waste management commission in chapter 260, RSMo, the state**
19 **soil and water districts commission in chapter 278, RSMo, the petroleum storage tank**
20 **insurance fund board in chapter 319, RSMo, the land reclamation commission in chapter**
21 **444, RSMo, the safe drinking water commission in this chapter, the air conservation**
22 **commission in chapter 643, RSMo, and the clean water commission in chapter 644, RSMo,**
23 **such denial shall clearly state the basis for such denial.**

24 **4. Once a permit or action has been approved by the department, the department**
25 **shall not revoke or change, without written permission from the permittee, the decision for**
26 **a period of one year or unless the department determines that immediate action is**
27 **necessary to protect human health, public welfare, or the environment.**