

SECOND REGULAR SESSION

HOUSE BILL NO. 1720

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BIVINS (Sponsor), WILDBERGER,
FRASER AND MUNZLINGER (Co-sponsors).

Read 1st time February 9, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4833L.01I

AN ACT

To amend chapter 640, RSMo, by adding thereto one new section relating to registered environmental professionals.

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

Section A. Chapter 640, RSMo, is amended by adding thereto one new section, to be
2 known as section 640.077, to read as follows:

640.077. 1. As used in this section, the following terms mean:

2 **(1) "Applicant", a person applying for registration as a registered environmental**
3 **professional;**

4 **(2) "Closure report", a final report documenting that surfaces or subsurface**
5 **conditions related to a site have been investigated, that all remedial action was conducted**
6 **in accordance with all applicable department requirements, that any applicable**
7 **institutional controls are in full, force, and effect, and that the site does not present a threat**
8 **to public health, safety, or the environment. A closure report involving geological**
9 **conditions shall be sealed by a registered geologist. A closure report involving engineered**
10 **structures shall be sealed by a professional engineer;**

11 **(3) "Department", the Missouri department of natural resources;**

12 **(4) "Permit", a construction permit or operating permit issued by the Missouri**
13 **clean air commission under chapter 643, RSMo, or a construction permit or Missouri state**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 operating permit issued by the Missouri clean water commission under chapter 644, RSMo;
15 (5) "Professional engineer", a person certified as a professional by the division of
16 professional registration, Missouri board of architects, professional engineers, professional
17 land surveyors, and landscape architects, in accordance with the requirements in chapter
18 327, RSMo;

19 (6) "Registered environmental professional", a person registered by the
20 department as meeting the professional qualifications in subsection 2 of this section;

21 (7) "Registered geologist", a person certified as a registered geologist by the board
22 of geologist registration within the division of professional registration, in accordance with
23 the requirements in chapter 256, RSMo;

24 (8) "Remedial action", any action taken to remediate surface or subsurface
25 environmental conditions at a site, whether conducted by a party enrolled in the voluntary
26 cleanup program or directed by the department under its authority under chapter 260,
27 319, 643, or 644, RSMo;

28 (9) "Work plan", a proposed scope of work to conduct any surface or subsurface
29 investigation of environmental conditions at a site, or to implement a remedial action of
30 surface or subsurface environmental conditions at a site.

31 2. A person possessing certification as a professional engineer or registered
32 geologist in this state may apply to the department to be registered as a registered
33 environmental professional. In one or more of the substantive areas, the applicant shall
34 demonstrate at least ten years of experience and proficiency in designing the scope of work
35 for a surface or subsurface investigation of environmental conditions at a site, designing
36 the scope of work for a remedial action at a site, implementing a site investigation or
37 remedial action at a site, or designing, drafting, preparing, and implementing the terms,
38 conditions, or other relevant provisions in permits. The department shall not impose any
39 requirements, including, but not limited to, professional qualification or professional
40 education requirements, on any applicant or any registered environmental professional.

41 3. If the applicant demonstrates compliance with the requirements in subsection
42 2 of this section, the department shall issue to the applicant the registration as a registered
43 environmental professional within thirty days of receipt. If the application is denied, the
44 department shall advise the applicant in writing of the deficiencies in the application and
45 shall provide all reasons for such denial. An applicant whose application is denied may
46 appeal such denial to the administrative hearing commission as a contested case under
47 sections 536.100 to 536.140, RSMo. The burden shall be on the department to show that
48 the applicant failed to comply with the requirements of subsection 2 of this section.

49 **4. A registered environmental professional shall demonstrate financial**
50 **responsibility, either by maintaining, in effect, an errors and omissions professional**
51 **liability insurance policy in an amount of at least one million dollars per occurrence or**
52 **demonstrating that the employer of the registered environmental professional has a net**
53 **financial worth of at least five million dollars. A registered environmental professional**
54 **shall maintain his or her professional certification as either a professional engineer or**
55 **registered geologist for the period of such registration. If any registered environmental**
56 **professional fails to maintain the requirements in this subsection, such failure shall be**
57 **grounds for the department to revoke such registration.**

58 **5. A registered environmental professional may prepare and submit to the**
59 **department for review a proposed permit, work plan, or closure report. Any proposed**
60 **permit, work plan, or closure report shall be submitted to the department via certified**
61 **United States mail, return receipt requested. The registered environmental professional**
62 **shall demonstrate financial responsibility by either including his or her client and the**
63 **department as additional insureds on the declarations in the registered environmental**
64 **professional's errors and omissions professional liability insurance, or providing a**
65 **declaration that the employer of the registered environmental professional will indemnify**
66 **the client and the department for any willful or negligent acts or omissions of the registered**
67 **environmental professional. A copy of the relevant declaration shall be included in any**
68 **submission to the department under this subsection.**

69 **6. The department may review the proposed permit, work plan, or closure report**
70 **for forty-five days, and may, in the department's discretion, provide comments or request**
71 **that additional information be submitted. Notwithstanding any other provision of law to**
72 **the contrary, at the end of the forty-fifth day after the date the department received the**
73 **submission, if the department has not provided any comments or requested any additional**
74 **information, the proposed permit, work plan, or closure report shall be approved by**
75 **operation of law. After a registered environmental professional submits responses to**
76 **comments or provides additional information, the department may review such responses**
77 **or additional information for twenty days, at which time the proposed permit, work plan,**
78 **or closure report shall be approved by operation of law, unless the department makes**
79 **additional comments or requests additional information.**

80 **7. The department may revoke registration as a registered environmental**
81 **professional for good cause, may notify the division of professional registration of such**
82 **revocation proceeding, and may bring an action for damages and injunctive relief against**
83 **the registered environmental professional, the employer, or his or her professional liability**

84 insurance carrier arising from or connected with any willful or negligent acts or omissions
85 of the registered environmental professional.

86 8. The department shall maintain a listing of all persons who have been approved
87 as a registered environmental professional and shall make such listing available to the
88 public for no charge.

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