

SECOND REGULAR SESSION

# HOUSE BILL NO. 2437

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES SCHOELLER (Sponsor), MUNZLINGER, BIVINS, RICHARD, STEVENSON, KASTEN, COX, JONES (89), SCHARNHORST, FAITH, JETTON, STREAM, WASSON, GRILL, COOPER (120), HUNTER, FUNDERBURK, SCHLOTTACH, EMERY AND SMITH (150) (Co-sponsors).

Read 1st time March 13, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

5121L.02I

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### AN ACT

To repeal section 640.015, RSMo, and to enact in lieu thereof one new section relating to environmental standards.

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

Section A. Section 640.015, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 640.015, to read as follows: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 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 **relating to environmental conditions or standards** shall include:

(1) **A detailed explanation of the purpose of the proposed rule;**

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.

13           (2) A [report on] **description of the [peer-reviewed] scientific reports, studies, or data**  
14 **used to commence the rulemaking process. The description shall explain how the scientific**  
15 **reports, studies, or data was used, relied upon, or rejected to develop the rule including**  
16 **whether each scientific report, study, or data was peer-reviewed;**

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

20           (3) A description of the environmental and economic costs and benefits of the proposed  
21 rule. **Such description of costs and benefits shall address both short-term and long-term**  
22 **consequences of the proposed rule. Such description shall also discuss the risks to human**  
23 **health, public welfare, or the environment addressed by the proposed rule including the**  
24 **sources of scientific information used in evaluating the risk and a summary of such**  
25 **information;**

26           [(4) The probable costs to the agency and to any other agency of the implementation and  
27 enforcement of the proposed rule and any anticipated effect on state revenue;

28           (5) A comparison of the probable costs and benefits of the proposed rule to the probable  
29 costs and benefits of inaction, which includes both economic and environmental costs and  
30 benefits;

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

33           (7)] (4) A description of any alternative [method] **methods, if any,** for achieving the  
34 purpose of the proposed rule [that were seriously considered by the department] **including less**  
35 **costly or less intrusive methods** and the reasons why they were rejected in favor of the proposed  
36 rule;

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

38           (9) An explanation of the risks to human health, public welfare, or the environment  
39 addressed by the proposed rule;

40           (10) The identification of the sources of scientific information used in evaluating the risk  
41 and a summary of such information;

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

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

46           (13) The identification of at least one, if any, alternative regulatory approaches that will  
47 produce comparable human health, public welfare, or environmental outcomes.]

48           **(5) A draft fiscal note describing those costs to public agencies as prescribed by**  
49 **subsection 1 of section 536.200, RSMo;**

50           **(6) A draft fiscal note describing those costs to any person, firm, corporation,**  
51 **association, partnership, proprietorship, or business entity of any kind or character as**  
52 **prescribed by subsection 1 of section 536.205, RSMo.**

53           3. [The department, board, or commission shall develop the regulatory impact report  
54 required by this section using peer-reviewed and published data or when the peer-reviewed data  
55 is not reasonably available, a written explanation shall be filed at the time of the rule  
56 promulgation notice explaining why the peer-reviewed data was not available to support the  
57 regulation. If the peer-reviewed data is not available, the department must provide all scientific  
58 references and the types, amount, and sources of scientific information that was used to develop  
59 the rule at the time of the rule promulgation notice.] **Any regulatory impact report required**  
60 **by this section relating to permit and application fees shall include a discussion of proposed**  
61 **fees or other charges, a description of projected revenues, and a description of proposed**  
62 **expenditures.**

63           **4. Any regulatory impact report required by this section relating to procedural**  
64 **rules shall include a description of the procedure, justification for the new or modified**  
65 **procedure, and how the procedure is expected to enhance productivity and services**  
66 **provided to the public.**

67           [4.] **5.** The department, board, or commission shall publish [in at least one newspaper  
68 of general circulation, qualified pursuant to chapter 493, RSMo, with an average circulation of  
69 twenty thousand or more and] on the department, board, or commission web site [a notice of  
70 availability of any] **all regulatory impact [report] reports** conducted pursuant to this section [and  
71 shall make such assessments and analyses available to the public by posting them on the  
72 department, board, or commission web site]. **The department, board, or commission shall**  
73 **publish notice of availability of the regulatory impact report to an e-mail notification**  
74 **service to which any person may subscribe.** The department, board, or commission shall  
75 allow at least [sixty] **thirty** days for the public to submit comments and shall post all comments  
76 and respond to all significant **or material** comments prior to promulgating the rule.

77           **6. Should the department, board, or commission proceed to publish the proposed**  
78 **rule in the Missouri register, the department, board, or commission shall amend the**  
79 **regulatory impact report and include a response to all significant or material comments.**  
80 **The revised regulatory impact report shall be referred to in the Missouri register notice of**  
81 **proposed rulemaking and shall be published on the department, board, or commission web**  
82 **site. The notice of the revised regulatory impact report shall also be published to an e-mail**  
83 **notification service to which any person may subscribe.**

84 [5.] 7. The department, board, or commission shall file a copy of the regulatory impact  
85 report with the joint committee on administrative rules concurrently with the filing of the  
86 proposed rule pursuant to section 536.024, RSMo.

87 [6.] 8. If the department, board, or commission fails to conduct the regulatory impact  
88 report as required for each proposed rule pursuant to this section, such rule shall be void [unless  
89 the written explanation delineating why the peer-reviewed data was not available has been filed  
90 at the time of the rule promulgation notice].

91 [7.] 9. Any other provision of this section to the contrary notwithstanding, the  
92 department, board, or commission referenced in subsection 1 of this section may adopt a rule  
93 without conducting a regulatory impact report if the director of the department determines that  
94 immediate action is necessary to protect human health, public welfare, or the environment;  
95 provided, however, in doing so, the department, board, or commission shall be required to  
96 provide written justification as to why it deviated from conducting a regulatory impact report and  
97 shall complete the regulatory impact report within one hundred eighty days of the adoption of  
98 the rule.

99 [8.] 10. The provisions of this section shall not apply if the department adopts  
100 environmental protection agency rules and rules from other applicable federal agencies without  
101 variance. **For environmental protection agency rules and rules from other applicable**  
102 **federal agencies that are adopted with variance, the requirements of this rule shall only**  
103 **apply to those portions excepted, modified, or expanded.**

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