

CONFERENCE COMMITTEE SUBSTITUTE NO. 2

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 739

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

1 section.

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

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

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

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

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

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

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

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

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

28 (9) An explanation of the risks to human health, public

1 welfare, or the environment, addressed by the proposed rule,  
2 including an estimate of the impact of risk;

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

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

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

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

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

25 4. The department, board, or commission shall publish in at  
26 least one newspaper of general circulation, qualified pursuant to  
27 chapter 493, RSMo, with an average circulation of twenty thousand  
28 or more and on the department, board, or commission website a

1 notice of availability of any regulatory impact report conducted  
2 pursuant to this section and shall make such assessments and  
3 analyses available to the public by posting them on the  
4 department, board, or commission website. The department, board,  
5 or commission shall allow at least sixty days for the public to  
6 submit comments and shall post all comments and respond to all  
7 significant comments prior to promulgating the rule.

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

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

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

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

4 640.018. 1. The department of natural resources shall not  
5 place in any permit any requirement, provision, stipulation, or  
6 any other restriction which is not prescribed or authorized by  
7 regulation or statute.

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

24 3. In any matter where a permit is denied by the department  
25 of natural resources pursuant to authorities granted in this  
26 chapter and chapters 260, 278, 319, 444, 643, and 644, RSMo, the  
27 hazardous waste management commission in chapter 260, RSMo, the  
28 state soil and water districts commission in chapter 278, RSMo,

1 the petroleum storage tank insurance fund board in chapter 319,  
2 RSMo, the land reclamation commission in chapter 444, RSMo, the  
3 safe drinking water commission in this chapter, the air  
4 conservation commission in chapter 643, RSMo, and the clean water  
5 commission in chapter 644, RSMo, such denial shall clearly state  
6 the basis for such denial.

7 4. Once a permit or action has been approved by the  
8 department, the department shall not revoke or change, without  
9 written permission from the permittee, the decision for a period  
10 of one year or unless the department determines that immediate  
11 action is necessary to protect human health, public welfare, or  
12 the environment.

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Peter Myers