

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 971

91ST GENERAL ASSEMBLY

Reported from the Committee on Commerce and Environment, March 21, 2002, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

3771S.04C

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 640.012 and 640.014, to read as follows:

640.012. 1. All provisions of the law to the contrary notwithstanding, all regulations promulgated by the department of natural resources pursuant to authorities granted in chapters 260, 278, 319, 444, 640, 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 be based on sound scientific evidence.

2. The department shall prepare a risk assessment and a cost-benefit analysis for any rule promulgated by the department of natural resources pursuant to authorities granted in chapters 260, 278, 319, 444, 640, 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.

3. The risk assessment and the cost-benefit analysis required by this section shall include the following components:

(1) An explanation of the risks to public health or the environment, or both, addressed by the proposed environmental regulation or covered action, including an estimate of the risk;

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

(3) A description of any uncertainties and the assumptions made in conducting the analysis, including the impact of such uncertainties and assumptions on the resulting risk estimate;

(4) A description of the expected benefits of the proposed covered action, including the expected reduction in the risks to public health or the environment, or both, identified in subdivision (1) of subsection 2 of this section;

(5) Details pertaining to the relevant costs of the proposed covered action and the costs of not adopting such environmental regulation or taking such covered action, including an analysis of the incidence of such costs;

(6) A description of any significant countervailing risks that may be caused by the proposed environmental regulation or covered action; and

(7) The identification of alternative regulatory approaches that will produce comparable environmental or health outcomes and an estimate of their relative benefits and costs.

4. The department shall develop the risk assessments and cost-benefit analyses required by this section using scientifically objective and unbiased standards relying on the best reasonably available scientific information.

5. The department shall publish in at least one major newspaper of general circulation in this state and on the Internet a notice of availability of any risk assessment or cost-benefit analysis conducted pursuant to this section and shall make such assessments and analyses available to the public by posting them on the Internet. The department shall allow at least sixty days for the public to submit comments and shall respond on the Internet to all significant comments prior to promulgating the rule or regulation.

6. The department shall file a copy of the risk assessment and cost benefit analysis with the joint committee on administrative rules concurrently with the filing of the proposed rule pursuant to section 536.024, RSMo.

7. Any person who conducts an independent risk assessment or cost-benefit analysis of a proposed environmental regulation or a covered action may submit such

assessment or analysis to the appropriate commission or the department for inclusion in its record. The commission or the department promulgating the rule shall consider such assessment or analysis, together with all other comments, evidence, and testimony, written or oral, submitted regarding the proposed environmental regulation or covered action in promulgating the regulation.

8. If the department fails to conduct the risk assessment and cost-benefit analysis as required for each promulgated rule pursuant to this section, such rule shall be invalid and void.

9. Any other provision of this article to the contrary notwithstanding, the commissions referenced in subsection 1 of this section or the department may adopt an environmental regulation, without conducting a risk assessment and a cost-benefit analysis if the director of the department determines that immediate action is necessary to protect the public health and welfare; provided, however, in doing so, the department shall be required to provide written justification as to why it deviated from conducting a risk assessment and cost-benefit analysis and shall complete the risk assessment and cost-benefit analysis within forty-five days of the adoption of the environmental regulation.

640.014. In all matters where a rule has been promulgated by the department of natural resources pursuant to authorities granted in chapters 260, 278, 319, 444, 640, 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, and the clean water commission in chapter 644, RSMo, is challenged pursuant to section 536.050, RSMo, the burden or proof shall be on the department or commission promulgating the rule to prove that the rule is necessary to prevent specific circumstances or conditions causing harm to human health and the environment.