

SB 36 – CURRENT BILL SUMMARY CONSIDERED BY THE HOUSE AGRICULTURE, CONSERVATION, PARKS & NATURAL RESOURCES COMMITTEE. Several additional amendments were added to this bill just prior to passage.

HCS/SS/SCS/SB 36 -This act changes several aspects of environmental regulation.

SOLID WASTE PROCESSING FACILITIES - This act mandates that solid waste processing facilities shall not store solid waste for longer than 48 hours on-site over any weekend, or more than 72 hours with a state-observed holiday weekend.

GARBAGE COLLECTION - This act prohibits local government or political subdivisions from providing waste or garbage collection services outside its boundaries.

WASTE TIRE FEE - This act extends the waste tire fee to January 1, 2009.

HAZARDOUS WASTE FEE - This act extends the levy and collection of the hazardous waste management fee to January 1, 2010.

JOHNSON COUNTY - This act also permits Johnson County to hold an election to impose a landfill fee for the benefit of the county. The fees, which may not exceed \$1.50 per ton will be collected by the landfill operation.

SAND AND GRAVEL - This act exempts in-stream sand and gravel miners from obtaining permits if they remove less than 5,000 tons annually. The Department of Natural Resources may establish excavation standards. Political subdivisions may hire contractors for excavation of in-stream sand and gravel without obtaining a permit.

ENVIRONMENTAL RULES - This act requires all rules that prescribe environmental conditions or standards promulgated by the Department of Natural Resources, Hazardous Waste Management Commission, State Soil and Water Districts Commission, Petroleum Storage Tank Insurance Fund Board, Land Reclamation Commission, Safe Drinking Water Commission, Air Conservation Commission, and Clean Water Commission to cite the specific section of law the rule is to be based upon. The Department of Natural Resources is required to prepare a regulatory impact report for all rules promulgated by the referenced agencies.

The regulatory impact statement shall contain specific components which are covered in the act and must be developed using peer reviewed and published data. The regulatory impact report must be made available to the public via posting on the DNR website and in a newspaper of general circulation and DNR must allow for and respond to comments from the public. The Department is required to post all comments, both positive and negative. The regulatory impact report, testimony and comments must be considered by the Department or the Commission in promulgating the regulation. The failure of the Department to conduct the regulatory impact report will be considered grounds for vacating the regulation. The regulatory impact report is also required to be filed with the Joint Committee on Administrative Rules at the time the proposed rules are filed pursuant to Chapter 536, RSMo.

A provision is included to allow for the promulgation of regulations without conducting a regulatory impact report if the Director believes that the action is immediately necessary to protect the public health and welfare. However, the Director must justify these actions in writing and the Department would then have the responsibility to complete the risk assessment and cost-benefit analysis within 180 days of adopting the rule.

In proceedings challenging rules promulgated by the Department of Natural Resources, hazardous Waste Management Commission, State Soil and Water Districts Commission, Petroleum Storage Tank Insurance Fund Board, Land Reclamation Commission, Safe Drinking Water Commission, and Clean Water Commission the burden of proof shifts to the department or commission promulgating the rule to prove that the rule is necessary to prevent specific circumstances of conditions causing harm to human health, public welfare or the environment.

The act requires the Department of Natural Resources, Hazardous Waste Management Commission, State Soil and Water Districts Commission, Petroleum Storage Tank Insurance Fund Board, Land Reclamation Commission, Safe Drinking Water Commission, Air Conservation Commission and Clean Water Commission to state specific reasons for denials of permits.

ENVIRONMENTAL REGULATION CONSISTENCY ACT - This act also gives the authority to the Department of Natural Resources to adopt and promulgate rules to be in compliance with federal regulations. The rules shall be no stricter than the scope or subject matter of existing state regulations. This act sets out for adopting rules that are stricter than the scope of the existing state regulation if the rulemaking body finds that specific circumstances or conditions are causing specific harm to human health or the environment, or the regulations do not exist or are inadequate to protect human health or the environment. The rules adopted pursuant to this section must go through the rulemaking process.

VIOLATION OF PERMIT - Any person holding a permit issued by the Department of Natural Resources and fails to file any required report by the date specified by the permit will not be in violation until: (1) the Department has made a reasonable attempt to notify the person that the report has not been received; and (2) the permit holder does not file the report within 30 days of notice.

OPERATING WITHOUT PERMIT - This act prohibits any person to operate any regulated air contaminant class A source without an operating permit.

This act is similar to SCS/SB 971 (2002) and contains provisions from SB 546 (2003), SB 360 (2003), SB 392 (2003) and HCS/HB 215 et. al. (2003).
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HB 519 creating environmental audit privilege was attached to SB36 on 5-1-03 which adds to the environmental problems created by this bill.