

SECOND REGULAR SESSION

HOUSE BILL NO. 2746

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FREDERICK.

6841H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 260.373, RSMo, and to enact in lieu thereof one new section relating to zinc fertilizers.

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

Section A. Section 260.373, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 260.373, to read as follows:

260.373. 1. After August 28, 2012, the authority of the commission to promulgate rules under sections 260.350 to 260.391 and 260.393 to 260.433 is subject to the following:

(1) The commission shall not promulgate rules that are stricter than or implement requirements prior to the requirements of Title 40, U.S. Code of Federal Regulations, Parts 260, 261, 262, 264, 265, 268, and 270, as promulgated pursuant to Subtitle C of the Resource Conservation and Recovery Act, as amended;

(2) Notwithstanding the limitations of subdivision (1) of this subsection, where state statutes expressly prescribe standards or requirements that are stricter than or implement requirements prior to any federal requirements, or where state statutes allow the establishment or collection of fees, costs, or taxes, the commission may promulgate rules as necessary to implement such statutes;

(3) Notwithstanding the limitations of subdivision (1) of this subsection, the commission may retain, modify, or repeal any current rules pertaining to the following:

(a) Thresholds for determining whether a hazardous waste generator is a large quantity generator, small quantity generator, or conditionally exempt small quantity generator;

(b) Descriptions of applicable registration requirements;

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.

17 (c) The reporting of hazardous waste activities to the department; provided, however,
18 that the commission shall promulgate rules, effective beginning with the reporting period July
19 1, 2015 [-] to June 30, 2016, that allow for the submittal of reporting data in an electronic format
20 on an annual basis by large quantity generators and treatment storage and disposal facilities;

21 (d) Rules requiring hazardous waste generators to display hazard labels (e.g., Department
22 of Transportation (DOT) labels) on containers and tanks during the time hazardous waste is
23 stored on-site; **and**

24 (e) [The exclusion for hazardous secondary materials used to make zinc fertilizers in 40
25 CFR 261.4; and

26 (f)] The exclusions for hazardous secondary materials that are burned for fuel or that are
27 recycled.

28 2. Nothing in this section shall be construed to repeal any other provision of law, and the
29 commission and the department shall continue to have the authority to implement and enforce
30 other statutes, and the rules promulgated pursuant to their authority.

31 3. No later than December 31, 2013, the department shall identify rules in Title 10,
32 Missouri Code of State Regulations, Division 25, Chapters 3, 4, 5, and 7 that are inconsistent
33 with the provisions of subsection 1 of this section. The department shall thereafter file with the
34 Missouri secretary of state any amendments necessary to ensure that such rules are not
35 inconsistent with the provisions of subsection 1 of this section. On December 31, 2015, any rule
36 contained in Title 10, Missouri Code of State Regulations, Division 25, Chapters 3, 4, 5, or 7 that
37 remains inconsistent with the provisions of subsection 1 above shall be null and void to the
38 extent that it is inconsistent.

39 4. Nothing in this section shall be construed to effectuate a modification of any permit.
40 Upon request, the department shall modify as appropriate any permit containing requirements
41 no longer in effect due to this section.

42 5. The department is prohibited from selectively excluding any rule or portion of a rule
43 promulgated by the commission from any authorization application package, or program
44 revision, submitted to the U.S. Environmental Protection Agency under Title 40, U.S. Code of
45 Federal Regulations, Sections 271.5 or 271.21.

46 6. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
47 under the authority delegated in this section shall become effective only if it complies with and
48 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section
49 and chapter 536 are nonseverable and if any of the powers vested with the general assembly
50 under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
51 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
52 or adopted after August 28, 2012, shall be invalid and void.

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