

Chapter 95-295

Committee Substitute for House Bill No. 855

An act relating to the Environmental Regulation Commission; amending s. 20.255, F.S.; clarifying membership requirements of commissioners; responsibility: amending 110.205, F.S., providing career service exemptions for certain positions; amending s. 403.804, F.S.; authorizing the commission to exercise specified standard-setting authority of the Department of Environmental Protection; prohibiting the commission from establishing department policies, priorities, plans, or directives; amending s. 403.805, F.S.; granting the Secretary of the Department of Environmental Protection rulemaking authority; requiring the secretary to submit proposed rules to the commission for certain action; providing legislative findings and intent; providing a definition; creating the Risk-Based Priority Council; providing mechanism for selecting the council; providing the length of life of the council; providing issues to be reviewed by the council; requiring a report; providing for a pilot project; requiring agencies to cooperate to fullest extent possible; housing the council in the Joint Legislative Management Committee for certain purposes; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 6. Subsection (18) is added to section 120.54, Florida Statutes, to read:

120.54 Rulemaking; adoption procedures. --

(18) Effective October 1, 1995, the Department of Environmental Protection shall prepare a risk impact statement for any rule that is proposed for approval by the Environmental Regulation Commission and that establishes or changes standards or criteria based on impacts to or effects upon human health. Effective October 1, 1996, the Department of Agriculture and Consumer Services shall prepare a risk impact statement for any rule that is proposed for adoption that establishes standards or criteria based on impacts to or effects upon human health

a) This subsection does not apply to rules adopted pursuant to federally delegated or mandated programs where such rules are identical or substantially identical to the federal regulations or laws being adopted or implemented by the Department of Environmental Protection or Department of Agriculture and Consumer Services, as applicable. However, the Department of Environmental Protection and the Department of Agriculture and Consumer Services shall identify any risk analysis information available to them from the federal government that has formed the basis of such rule

b) This subsection does not apply to emergency rules adopted pursuant to this chapter

c) The Department of Environmental Protection and the Department of Agriculture and Consumer Services shall prepare and publish notice of the availability of a clear and concise risk impact statement for all applicable rules. The risk impact statement must explain the risk to the public health addressed by the rule and shall identify and summarize the source of the scientific information used in evaluating that risk

d) Nothing in this section shall be construed to create a new cause of action or basis for challenging a rule nor diminish any existing cause of action or basis for challenging a rule

Section 7. In order to initiate and develop interim guidance for conducting the risk-impact statement process, the Department of Environmental Protection shall, in Fiscal Year 1995-1996, initiate at least one model risk- impact statement project for an applicable rule. The department shall contract with the state university system for assistance in the technical aspects of preparing the impact statement. The sum of \$50,000 is hereby appropriated to the Department of Environmental Protection from the Solid Waste Management Trust Fund for these purposes.

Section 8. Sections 4 and 5 of this act shall stand repealed on October 1, 1998, and shall be reviewed by the Legislature prior to that date.

Section 9. This act shall take effect upon becoming a law.

Became a law without the Governor's approval June 15, 1995.

Filed in Office Secretary of State June 14, 1995.