



March 23, 2023

Administrator Meg McCollister  
U.S. Environmental Protection Agency  
Region 7  
11201 Renner Boulevard  
Lenexa, KS 66219

Dear Administrator McCollister,

Missouri Coalition for the Environment (MCE) is a statewide, member-based advocacy organization that works to empower Missourians to protect their environment and health. We write to you today to ensure you are aware of actions by the Missouri Legislature to deregulate activities that could impact human health and the environment statewide.

Missouri House Bill 268 and Missouri Senate Bills 3 and 69 reflect the culmination of a trend in the Missouri Legislature over the last decade and more: a deregulation frenzy.<sup>1</sup> These Bills, otherwise referred to as The Sandbox Act Bills, would create a new executive agency, the “Regulatory Relief Office” in the Missouri Department of Economic Development, to waive or suspend state laws and regulations for participating businesses during a demonstration period of at least two years subject to indefinite one-year suspensions.<sup>2</sup> These proposed exemptions are intended to assist a business in providing an “innovative product or service”<sup>3</sup> and we are concerned about the vast potential of environmental harms that could come from exempting various new businesses that offer an “innovative product or service” given the vague language for these innovations.

Most importantly, we write to alert EPA Region 7 that Missouri HB 268, Missouri SB 3, and Missouri SB69 state that “[a] participant is deemed to possess an appropriate license under the laws of the state for the purposes of any provision of federal law requiring state licensure or authorization”<sup>4</sup> and “the sandbox participant shall have twenty-four months after the day on which the application was approved to demonstrate the innovative offering described in the sandbox participant's application.”<sup>5</sup> Together these two provisions suggest the Missouri Legislature is seeking to allow businesses to evade federal requirements for two years without any federal review, which would violate the terms of the various Memorandums of Understanding between the United States Environmental Protection Agency and the Missouri Department of Natural Resources (DNR) concerning the DNR's

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<sup>1</sup> H.B. 268, 102nd Gen. Assemb., Reg. Sess. (Mo. 2023), available at <https://www.house.mo.gov/billtracking/bills231/hlrbillspdf/0551H.03P.pdf>.

<sup>2</sup> *Id.* at § 620.3900(2)(11).

<sup>3</sup> *Id.* at § 620.3905(1)-(2); see also § 620.3900(2) (defining “Innovative offering” and “Innovation”).

<sup>4</sup> *Id.* at § 620.3920(4).

<sup>5</sup> *Id.* at § 620.3920(1).

delegated authority to enforce environmental laws and regulations,<sup>6</sup> leading to the possible withdrawal of that authority by the EPA.

In December 2011, the Inspector General of the EPA issued a report concluding EPA needs to provide greater oversight of states with delegated authority and concluded that Missouri was in the lowest quartile and second lowest quartile for enforcement of the Clean Water Act and the Resource Conservation and Recovery Act, respectively.<sup>7</sup> In March 2012, EPA Deputy Director and Assistant Director of the Office of Enforcement and Compliance Assurance responded to this report, agreeing that more oversight is needed, specifically agreeing with “the recommendations in this Report that seek to update enforcement guidance and policy, clarify expectations, develop an escalation policy to address inadequate state performance, and develop state performance dashboards to make information about state enforcement activities easy-to-understand and thus more available to the public.”<sup>8</sup> Can you tell us where things stand today with improving EPA oversight of states, including Missouri?

Furthermore, we strongly urge you to communicate with the sponsors of Missouri HB 268, Missouri SB 3, Missouri SB69, and the leadership in the Missouri Legislature about the consequences of legislation like this on DNR overseeing our state’s environment and public health. We also welcome a conversation about the work of EPA Region 7 to ensure the Missouri DNR is upholding its responsibilities from its delegated authority. Thank you for your time and consideration.

Sincerely,



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<sup>6</sup> E.g., Memorandum of Agreement - National Pollutant Discharge Elimination System and Pretreatment Programs, Mo. Dep’t Natural Res. & Env’tl Prot. Agency, Dec. 14, 2016, available at <https://www.epa.gov/sites/default/files/2013-09/documents/mo-moa-npdes.pdf>; see also *Delegation of Authority in Missouri for New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants*, Env’tl Prot. Agency, <https://www.epa.gov/mo/delegation-authority-missouri-new-source-performance-standards-and-national-emission-standards> (last updated March 20, 2023) (outlining the concept of delegation authority from EPA to Missouri DNR for air quality standards); see also Mo. Dep’t Natural Res., 4.2 Application & Review Process/ Roles of DNR & EPA, available at <https://dnr.mo.gov/document-search/4.2-roles-dnr-epa> (last modified July 25, 2007) (outlining the roles of EPA and Missouri DNR regarding clean water standards).

<sup>7</sup> Office of Inspector Gen., Env’tl Prot. Agency, *EPA Must Improve Oversight of State Enforcement*, Report No. 12-P-0113 (December 9, 2011), available at <https://www.epa.gov/sites/default/files/2015-10/documents/20111209-12-p-0113.pdf>.

<sup>8</sup> Memorandum from Robert Perciasepe, Deputy Adm’r, Env’tl Prot. Agency & Cynthia Giles, Assistant Adm’r, Office of Env’t & Compliance Assurance, Env’tl Prot. Agency, to Arthur A. Elkins, Jr., Inspector Gen. (March 12, 2012), available at [https://www.epa.gov/sites/default/files/2015-10/documents/12-p-0113-agency\\_response.pdf](https://www.epa.gov/sites/default/files/2015-10/documents/12-p-0113-agency_response.pdf).