

HCS HB 215, 218, 115 & 83 -- ENVIRONMENTAL REGULATION

SPONSOR: Townley (Myers)

COMMITTEE ACTION: Voted "do pass" by the Committee on Conservation and Natural Resources by a vote of 17 to 3.

The waste tire fee will expire on January 1, 2004. This substitute extends the fee to January 1, 2009.

The substitute also prohibits most rules of the Department of Natural Resources on clean air, clean water, underground storage tanks, hazardous waste management, surface mining, land reclamation, safe drinking water, and solid waste management from being stricter than the scope of state requirements as of August 28, 2003.

In cases where there are either insufficient or no existing state guidelines, the department may develop more restrictive rules if there is substantial evidence that an activity will have an adverse impact on public health or the environment and that a rule is necessary to prevent or alleviate the impact. Specific findings on the impact and a justification for the proposed rule must be published in the Missouri Register. The rule's fiscal note must also include an assessment of the effectiveness and cost of any reasonably available pollution control methods required by the rule. The department may adopt emergency rules if there is an immediate threat to human health or the environment, but must provide the required findings and justification within 180 days. To promulgate a rule that pertains only to a specific defined area of the state, the department must hold a hearing within the local area.

The substitute also allows only directly affected parties to appeal decisions of the director of the department to the appropriate board or commission. Current law allows appeals by any affected parties.

Further, the substitute prohibits the department from issuing a notice of violation or imposing a fine for failure to file a required permit report on time until the department has made a reasonable attempt to notify the permit holder about the delinquent report by registered mail and allowed 30 days for the report to be filed. Notification is not required for permit holders who have previously failed to file two or more reports on time within the past year or four or more reports on time in the last five years. The substitute also limits fines for failure to file reports on time to \$500 for first violations.

FISCAL NOTE: Estimated Net Effect on General Revenue Fund of

\$139,626 to Unknown in FY 2004, \$151,626 to Unknown in FY 2005, and \$155,526 to Unknown in FY 2006. Cost to Department of Natural Resources Dedicated Funds is Unknown in FY 2004, FY 2005, and FY 2006. Income to Solid Waste Management Fund of \$1,038,052 in FY 2004, \$2,076,104 in FY 2005, and \$2,076,104 in FY 2006.

PROPONENTS: Supporters of HB 215 say that the bill requires reasonable justification for new rules. These procedures will allow for adequate environmental protection while preventing the proliferation of unnecessary and costly pollution control standards. The bill will also ensure that environmental standards are applied consistently.

Supporters of HB 218 say that currently, business owners may be harshly penalized if they fail to file a required report, even if the failure is unintentional. The bill requires the Department of Natural Resources to notify the owner about the overdue report and places reasonable limits on fines if the owner fails to respond.

Supporters of HB 115 and HB 83 say that waste tires are an environmental and health hazard, and the waste tire fee has been successfully used to clean up illegal waste tire sites, prevent further illegal dumping, and develop markets for products made from waste tires. The fee is nominal and should be continued.

Testifying for HB 215 were Representative Myers; Associated Industries of Missouri; Missouri Farm Bureau; Missouri Chamber of Commerce; Missouri Egg Council; St. Louis Regional Commerce and Growth Association; Missouri Concrete Association; Missouri Mining Council; Chemical Council of Missouri; Missouri Pork Producers Association; and City of Mountain View.

Testifying for HB 218 were Representative Myers; and Missouri Chamber of Commerce.

Testifying for HB 115 and HB 83 were Representatives Myers and Bland; Department of Natural Resources; M.A. Associates; Missouri Retailers Association; Rod Thomas; and Sierra Club.

OPPONENTS: Those who oppose HB 215 say that the bill sets a justification standard that is nearly impossible to reach and makes environmental rules subject to a different standard than other rules. The required procedures will increase litigation and severely restrict progress in addressing increasing environmental problems.

Testifying against HB 215 were Table Rock Lake Water Quality, Inc.; Land, Water, and Home Preservation Association; Terry Spence; James Godfrey; Missouri Coalition for the Environment;

Diocese of Jefferson City; Missouri Farmers Union; Department of Natural Resources; Office of the Attorney General; Representative Harris (110); Missouri Votes Conservation; and Sierra Club.

There was no opposition voiced to the committee on HB 218, HB 115, or HB 83.

Other witnesses testifying on 215 was Upper White River Basin Foundation.

Other witnesses testifying on HB 218 was Department of Natural Resources.

Terry Finger, Senior Legislative Analyst