

HCS HB 2041 -- COAL COMBUSTION RESIDUALS

SPONSOR: Fitzwater

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Utilities by a vote of 11 to 2. Voted "Return to the Committee of Origin" by the Rules- Administrative Oversight Committee by a vote of 8 to 1.

This bill authorizes the Department of Natural Resources to promulgate rules and approve site-specific target levels for the management, closure, and post-closure of coal combustion residual (CCR) units. With some exceptions, the rules must be as protective as 40 CFR 257. The rules must allow the use of risk-based decision making and establish target levels for soil and groundwater impacted by CCR constituents. The Missouri risk-based corrective action (MRBCA) rule and accompanying guidance should be used for establishing target levels for all CCR constituents to be left in place after closure and post-closure of a CCR unit. Target levels established using the MRBCA rule and contained in plans approved by the department apply in lieu of any other standard for the specified contaminants of concern.

The department must promulgate the rules by December 31, 2018, for CCR surface impoundments. The department is not authorized to promulgate rules requiring a construction or operating permit for CCR impoundment closure or corrective action, or post-closure ground water monitoring for certain CCR surface impoundments.

No later than December 31, 2018, the department must amend or promulgate rules applicable to utility waste and CCR landfills. The rules, including location restrictions and design standards cannot be more restrictive than federal regulations, with a few exceptions set out in the bill.

Until the department has an approved and effective state program, the department is authorized to issue guidance or enter into enforceable agreements with site owners or operators to establish risk-based target levels using MRBCA.

As of January 1, 2019, the department must require each owner, operator, or permittee of a CCR unit that is not permitted as a utility waste landfill to pay a one-time enrollment fee of \$62,000 per CCR unit for the implementation of the state program, and an annual fee of \$15,000 per unit thereafter. The department must convene a task force at least once every five years beginning in January of 2024 to evaluate the sufficiency of the fee structure. The bill specifies requirements for the submittal of the fees.

All fees received under these provisions must be deposited into the "coal combustion residuals subaccount" of the solid waste management fund, and are dedicated solely to the department for conducting activities required by the bill. The fees shall not yield revenue greater than the cost of administering the program and the department must prepare an annual report detailing the costs incurred in connection with the management and closure of CCR units.

The department may pursue penalties for failure to pay the required fees and has the right to examine or audit financial resources, CCR unit activity records, and other applicable records to verify the collection and transmittal of the charges. All required records must be maintained by the operator or permittee of a CCR unit for at least three years unless extended by the department.

The bill repeals the provisions exempting certain coal combustion generating facilities from solid waste permitting activities.

PROPONENTS: Supporters say that the bill mirrors federal regulation, and puts Missouri into compliance with federal policy enabling states to create their own CCR containment facility standards.

Testifying for the bill were Representative Fitzwater; Russell A. Weatherly, Associated Electric Coops; Missouri Energy Development Association; City Utilities of Springfield; Missouri Association of Municipal Utilities; and Missouri Chamber of Commerce and Industry.

OPPONENTS: Those who oppose the bill say that the bill does not properly address potential groundwater contamination issues that could occur due to Missouri's unique karst geology. Since Missouri is one of the largest CCR producers and disposal sites in the country, state law should have the ability to be more expansive than federal levels.

Testifying against the bill was Patricia Schuba, Labadie Environmental Organization and Missouri Sierra Club.

OTHERS: Others testifying on the bill say that the department does not currently monitor CCR containment site contamination, and that the bill's fiscal note represents the funds needed to establish a CCR monitoring program.

Testifying on the bill were Missouri Department of Natural Resources.