

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0155S.05C
 Bill No.: SCS for SB 40
 Subject: Air Quality; Boards, Commissions, Committees, Councils; Fees; Natural Resources, Department of; Waste - Hazardous; Water Resources and Water Districts
 Type: Original
 Date: February 26, 2021

Bill Summary: This proposal modifies provisions relating to the Department of Natural Resources.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Hazardous Waste Fund (0676)	(\$251,978)	(\$292,215)	(\$287,347)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$251,978)	(\$292,215)	(\$287,347)

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Hazardous Waste Fund	(3.41 FTE)	(3.41 FTE)	(3.41 FTE)
Total Estimated Net Effect on FTE	(3.41 FTE)	(3.41 FTE)	(3.41 FTE)

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Natural Resources (DNR)** assume the following regarding this proposal:

Sections 260.373, 260.437, 260.520

The Department assumes that the proposed legislation will not impact the state's ability to require generator reporting or to assess and collect fees.

§260.373.1(3)(a)

Removes the thresholds for determining generator status.

The Environmental Protection Agency (EPA) has different thresholds than Missouri for generator status. Negotiations took place that exempted the thresholds of generator status from the implemented "no stricter than" provision in a previous amendment to this statute. Removing this exemption will require the Department to remove the "or accumulate" portion of generator status from 10 CSR 25-3.260 Definitions, Modifications to Incorporations and confidential Business Information. This will change the structure of how Hazardous Waste Fees are calculated and the total amount collected.

In-State Waste Fee

Impact on the In-State Waste Fee: Approximately **\$140,000 per year**

Basis for calculation:

Any generator that reported generating 1.32 tons of hazardous waste in a reporting year or less is exempted out. Any generator that exceeds that amount will have met the federal definition of being a Small Quantity Generator (SQG). Since many generators currently registered as SQGs due to the "or accumulate" provision do not ship waste every year, the numbers for the last two reporting years were considered.

FY2019 Reporting Year:

87 sites paid \$206.10 = \$ 17,930.70
664 sites paid \$200.00 = \$132,800.00
Total 2019 reduction = \$150,730.70

FY2020 Reporting Year*:

68 sites paid \$206.10 = \$14,014.80
538 sites paid \$200.00 = \$107,600.00
Total 2020 reduction = \$121,614.80

Total 2 year reduction = \$272,345.50
Average Annual Reduction = \$136,172.75 Round to **\$140,000**

*Due to the 2020 pandemic, there are a greater than normal number of generators that have not yet filed reports. These revenue estimates will increase once reporting is final.

The impact to the Registration Renewal Fee will be a reduction of **\$42,350**.

Registration Renewal Fee
Sites Moving from LQG to SQG or CESQG
121 sites
LQG 121 sites @ \$500 = \$60,500
SQG or CESQG 121 sites @ \$150 = \$18,150
Resulting Reduction = \$42,350

Total Fiscal Impact = \$182,350

Please note that conditionally exempt small quantity generators (CESQGs) are invoiced for the renewal fee and are not required to pay it. The number of new CESQGs that will take advantage of that cannot be determined. This calculation assumes that all CESQGs that are invoiced for a renewal fee will pay it. Therefore, the impact on the renewal fee will be at least \$42,350, but will potentially be much higher.

Total Fiscal Impact: Approximately \$182,350

Other considerations:

There will also be an additional unquantifiable cost to the Department for the rulemaking process to amend or rescind the regulation to remove inconsistencies in the state regulation from the federal regulations such as, accumulation versus generation regulations, the use of Missouri Risk Based Corrective Action (MRBCA), the Brownfields/Voluntary Cleanup Program and certain aspects in the cleanup portion of the Underground Storage Tanks Program.

§260.437.2

Removes the authority for the Department to promulgate rules that are stricter than or apply in any subject area not addressed by federal regulations.

The Department is concerned that with the strict application of this section, the Department would not be able to operate state programs that do not have equivalent federal statutory or regulatory authority such as the Brownfields/Voluntary Cleanup Program (BVCP). The BVCP offers entities an option to enter the program to conduct a risk-based cleanup. The entities pay an application fee, oversight costs, and a long-term monitoring fee. Loss of the program would remove these revenue streams.

The Department's three year average from FY 2018 through FY 2020 for revenues from these revenue streams is **\$462,339** per year. These do not tie directly to cost recovery of expenditures due to timing of applications, receipt of long-term monitoring fees, and timing of invoices and related payments, and the allocation of program administrative costs. This amount was used consistently across the fiscal years (first year is pro-rated to calculate the fiscal impact).

Without the BVCP, the Department is assuming that it would not be eligible to apply for federal Brownfields cooperative agreements. The current 128A Brownfield grant application totaled \$1,000,000. The Department also assumes it would not be able to apply for future competitive grants under the federal 104k Brownfields funding. In FY 2021, the Department received \$300,000 in competitive grant funding.

A portion of the federal funding supports the Department's work related to sites that have been remediated but require oversight to monitor contamination left in place, including updating and operating of the ESTART online mapper. ESTART provides information on sites in the state where hazardous substances have been reported or released.

If the public information mapper is required by statute, some of the work funded under the federal funding will need to continue under state funding. The federal grant does include pass through funding used to conduct free assessments on suspected brownfield sites.

- Federal – The **\$1,000,000** and an estimated **9.59** FTE is based on the Department's most recent grant application under EPA's 128a Brownfields grant program for FY 2021. The federal impacts of loss of grant funding and cost avoidance were netted to \$0.
- Since funding under EPA's 104K Brownfields program is competitive and not available every year, the Department did not include this as an estimated revenue loss, but noted the amount received in FY 2021 for informational purposes.
- State VCP cost avoidance amounts are based on current program staff planning excluding federal funds utilizing current midpoint salary amounts. The Long- Term Stewardship activities, including federal portions, were retained in the HWF. The impact was estimated based on 3.41 FTE. The first year Hazardous Waste Fund (HWF) impacts were prorated for 10 months and total \$342,316.
- The federal 128A Brownfields grant is capped at \$1,000,000 so any COLA or inflationary impacts were added to the impact for the HWF.
- The federal 128A Brownfields grant impact is not prorated in the first year since the grant work plan commitments could not be met and the grant runs on the state fiscal year.

Oversight does not have information to the contrary and therefore, Oversight will reflect the estimates as provided by DNR. For simplicity, Oversight will not reflect the potential loss of federal grant funding as DNR has indicated the net effect will be \$0 after cost avoidance of FTE.

Oversight notes the Hazardous Waste Fund (0676) had a balance of \$10,830,151 as of January 31, 2021.

Officials from the **Department of Revenue** and **Department of Economic Development** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State** notes many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to Secretary of State's office for Administrative Rules is less than \$5,000. The Secretary of State's office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
HAZARDOUS WASTE FUND (0676)			
<u>Savings</u> – DNR – 3.41 FTE no longer funded through the Voluntary Cleanup Program	\$285,263	\$352,474	\$357,342
<u>Loss</u> – DNR – reduced fees for voluntary cleanup program	(\$385,283)	(\$462,339)	(\$462,339)
<u>Loss</u> – DNR – reduced fees for hazardous waste generators	(\$151,958)	(\$182,350)	(\$182,350)
ESTIMATED NET EFFECT ON THE HAZARDOUS WASTE FUND	<u>(\$251,978)</u>	<u>(\$292,215)</u>	<u>(\$287,347)</u>
Estimated Net FTE Change to the Hazardous Waste Fund	(3.41 FTE)	(3.41 FTE)	(3.41 FTE)

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

Small businesses that pay these fees issued by DNR could have a positive fiscal impact as a result of this proposal.

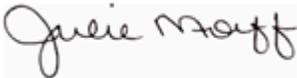
FISCAL DESCRIPTION

This act modifies provisions relating to the Department of Natural Resources.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Natural Resources
Department of Revenue
Office of the Secretary of State
Joint Committee on Administrative Rules
Department of Economic Development



Julie Morff
Director
February 26, 2021



Ross Strope
Assistant Director
February 26, 2021