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State needs ability to issue environmental regulations



Several weeks ago, a Tribune article described the ongoing legal battle between the Department of Natural Resources and operators of infectious waste incinerators. The need to regulate these incinerators is clear; their emissions contain heavy metals and many other harmful compounds that are released when plastics are burned. This issue, however, runs deeper.

Missouri has a clean air law to regulate pollution. About a year ago, the DNR issued rules on the construction and operation of infectious waste incinerators under this law, but it turns

out the law contains a unique provision stating that no Missouri restriction can be stricter than federal rules for the same type of emission. This provision was used by Associated Industries of Missouri and the Missouri Hospital Association to challenge the DNR rules in court.

"The court said we didn't have legal authority to pursue incinerator rules ... even though the United States of America has not pursued rule making on incinerators of those types and will not pursue such rule making for the next five years," DNR director David Shorr said. "Our ar-

gument was that we have the right to protect the citizens of Missouri."

The court in essence said that because there are no federal regulations restricting emissions from infectious-waste incinerators, any state regulation would be more strict and therefore illegal. That left Missouri with no restrictions on the operation and construction of infectious waste incinerators.

The DNR adopted a different strategy and issued regulations under Missouri's solid waste law, which includes no provisions that prevent regulations that exceed federal standards. Once again, AIM and the Missouri Hospital Association took DNR to court.

As an outgrowth of this controversy, two bills have been filed in the General Assembly that would bar all state agencies, unless specifically instructed by the legislature, from issuing any environmental regulations stricter than federal standards. This is a blatant attempt by a few industries to escape rules designed to protect Missourians.

Most folks find it impossible to take off several days each week to attend hearings at the Capitol and participate directly in the process of making rules and laws, but we can be sure the interests of industry are well-represented by lobbyists. It has fallen to the DNR to represent the public interest.

Federal rules often are minimal because they incorporate compromise between many states. Missouri must be able to issue more stringent regulations. Our health, air quality, water quality and the state's natural beauty and resources depend on it.

If you have a suggestion for a column, a gripe, a success story or whatever, write it down and send it to me, care of the Columbia Daily Tribune, PO Box 798, Columbia, Mo., 65205.