Approved 2/7/84
Date

MINUTES OF THE House COMMITTEE ON Energy and Natural Resources.

The meeting was called to order by Rep. David J. Heinemann at
Chairperson

3:30 ~~a.m.~~/p.m. on January 25, 1984 in room 519-S of the Capitol.

All members were present except: Representative Ben Foster (excused)

Committee staff present:
Ramon Powers, Legislative Research
Theresa Kiernan, Revisor of Statutes' Office
Pam Somerville, Committee Secretary

Conferees appearing before the committee:

Barbara Sabol, Secretary, Kansas Department of Health and Environment

The minutes of January 12th and 16th were distributed for the committee's review and approval.

Secretary Sabol appeared before the committee to address the Governor's legislative package on hazardous waste. She started her presentation by addressing KDHE's and EPA's continued efforts to work together to comply with federal and state regulations. (See attachment 1).

Secretary Sabol then addressed the hazardous waste bills in committee, the first being, HB 2727, which eliminates the $20 fee set in the statute and would authorize the Secretary of the Department and Health and Environment to determine the fee sufficient to recover the actual cost associated with the administration of the course. (See attachment 2).

The next bill addressed was HB 2760. The Secretary said, under current statutes, it provides for developing a program of regulation of radiation for the protection of public health and safety and assuring that the program is compatible with the standards and regulatory programs of the federal government. She said that HB 2760 would bring the statute into conformance with the federal changes. (See attachment 3).

The next bill discussed was HB 2725. Secretary Sabol stated that since the implementation of the Resource Recovery and Conservation Act (RCRA) in 1980, the state-of-the-art in hazardous waste management has been evolving such that alternatives to landfills are available for hazardous wastes. HB 2725 addresses the issue of protecting Kansas groundwaters by prohibiting land burial of hazardous wastes. (See Attachment 4).

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Energy and Natural Resources,

room 519-S, Statehouse, at 3:30 ~~a.m.~~/p.m. on January 25, 1984, 19__.

The final bill discussed was HB 2728. Secretary Sabol stated HB 2728 set forth provisions to allow the secretary to establish fees and set regulations applicable to the issuance of permits for the discharge of sewage. Permit fees could be assessed and collected on an annual basis, and failure to pay the assessed fee would be cause for revocation of the permit.

A brief discussion followed the presentation by Secretary Sabol.

There being no further business before the committee the meeting was adjourned at 4:45 p.m.

The next meeting of the House Energy and Natural Resources Committee will be held January 26, 1984 at 3:30 p.m.

David J. Heinemann, Chairman

Date January 25, 1984

GUESTS

HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE

NAME	ADDRESS	ORGANIZATION
B.E. Reinert	Topeka	Ks L.W. Voters
Charles V. Hamm	Topeka	KDH+E
Barbara Sabol	Topeka	KDH+E
C.W. Allen	Topeka	KDH&E
Robin Somerville	Topeka	Gt. Plains Fuels
Louis Knieper	Liberty Mo.	Environmental Inspection Inc.
DAN McGEE	GREAT BEND	WESTERN POWER
Ray D. Shanks	Shawnee	K.C.P.L.
Dick Compton	Hays	Midwest Energy, Inc.
Jerry Coonrod	Topeka	KG+E
Vinod Bhatia	Topeka	KPL
Rob Hodges	"	KACI
Dennis Woolman	Ottawa	Builder Inc
W. R. MACKIE	LEAWOOD	MACKIE-CLEMENS
Robert A. Curtis	BOX 7	Attorney
PAT SCHAFER	TOPEKA	BUDGET
Ron Smith	✓	NIES
Nancy Kantola	Topeka	Ks Co-op Council
ROSS MARTIN	"	KPC
Rudy Vave	Topeka	Ks Limestone Assn.

SUBJECT: The State/Federal Relationship on Hazardous Waste Management Activities

PRESENTED TO: House Committee on Energy and Natural Resources

PRESENTED BY: Kansas Department of Health and Environment

DATE: 25 January 1984

The KDHE/EPA relationship on hazardous waste management activities operates through programs under two federal statutes -- the Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA/"Superfund").

RCRA provides for federal regulation of hazardous waste from the point of generation, through transportation, to storage, treatment and disposal. Under provisions of the RCRA, the Administrator of the EPA may fully authorize a state to operate its hazardous waste program in lieu of the federal program if the state program meets the following statutory standards:

- equivalency with the federal program
- at least as stringent as the federal program
- consistency with the federal program and other state programs
- inclusion of public notice and hearing in the permit process
- adequate enforcement

Prior to being fully authorized, a state may participate in the implementation of the federal hazardous waste program by two means:

1. Interim authorization of a state program which is substantially equivalent with the federal program may occur in two phases.

   - Phase I allows a state to administer its program for identification and listing of hazardous waste, regulation of generators and transporters, and preliminary standards for hazardous waste treatment, storage and disposal facilities, including manifests and reporting.

   - Phase II allows a state to administer its permit program for hazardous waste storage, treatment, and disposal facilities.

2. A Cooperative Agreement (CA) with a state program may be executed between the state and EPA for state participation in implementing those portions of the federal program not covered by interim authorization. The state is limited to a review, comment and recommend action role for CA activities.

Attachment 1

OVER

RCRA provides for an annual program grant to each state and requires a 25% state match. The grant provides funds for the purpose of state participation in implementing the federal program under interim authorization or a CA. The grant allocation formula includes a bonus to authorized states. The bonus is a percentage of the previous year's grant (5% to 15%) depending on the extent to which this state program is authorized.

The authorization to conduct the federal program places the state in the lead on all activities with the regulated community. The federal role is one of oversight and overview with participation in state actions as requested or federal action if the state fails to act.

The Kansas Department of Health and Environment is fully participating in the implementation of the federal program as follows:

- Requested and received approval for Interim Authorization Phase I.
- Entered into a CA for the permit portion of the program.
- Expressed in the CA and Phase I application its intention to apply for final authorization.
- Awarded RCRA program grant funds ($365,100 in fiscal year 1984).

CERCLA provides for the clean up of abandoned and/or inactive hazardous waste disposal sites.

The Act allows the federal government to work with states and local governments as well as private industry and citizens to provide for remedial actions under the Superfund. The National Contingency Plan defines response actions that EPA can take.

The state has the opportunity to participate in the following activities with the federal government:

- site identification, preliminary assessment and on-site inspection under the RCRA 3012 grant program which requires no state match.
- nomination of sites for the National Priority List for remedial action which will include the state's highest priority site.
- cooperation or lead on enforcement actions to require response actions by private parties through informal agreement with EPA.

Remedial actions require state participation and assurances as follows:

- state matching funds of 10% for private site response or at least 50% for state or publicly owned site response.
- state provision of off-site disposal if necessary.

- state agreement to assume long-term operation and maintenance of a site after the response is completed.

Kansas has participated in implementing CERCLA as follows:

- awarded a Section 3012 grant for $167,500 for preliminary assessments, on-site inspection, responsible party searches, and follow-up site investigations.

- nominated four sites to the National Priority List.

- entered into a Cooperative Agreement as the lead agency for investigative action and feasibility study on Arkansas City.

- any future planned removal and remedial actions can be done as state lead under a Cooperative Agreement.

KDHE and EPA have established a cooperative relationship in addressing the issue of hazardous waste management in Kansas. When final authorization for RCRA is granted to Kansas, this cooperative relationship will continue, although KDHE's administrative role in the overall program will be substantially greater.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

Testimony on H. B. 2727

By

Barbara J. Sabol, Secretary

Before

House Energy and Natural Resources Committee
January 25, 1984

Mr. Chairman, Members of the Committee: I am pleased to present testimony on H. B. 2727.

The 1975 Legislature passed the law (K.S.A. 65-4501 through 65-4517) establishing a statewide water and wastewater certification program. The law made provisions to promote training school short courses, including correspondence courses. The statute (K.S.A. 65-4506) specifically requires the establishment of correspondence courses in lieu of classroom instruction and sets the fee for this course at $20. The Kansas Department of Health and Environment implemented the law, set up the operators' certification system, enacted necessary regulations (K.A.R. 28-16-29) and maintained the operators' certification process.

The $20 fee limit for the correspondence course was adequate to cover the actual cost for the course in early years of the program (1975-1980). Since then, the cost has risen and the actual cost per operator taking the correspondence course in FY 1983 was $30.

House Bill 2727 would eliminate the $20 as set in the statute and would authorize the Secretary of the Department of Health and Environment to determine the fee sufficient to recover the actual cost associated with the administration of the course. Such costs include: textbooks, xeroxing, mailing, grading, evaluating the material, and other administrative expenses. House Bill 2727 would not set in dollar limits; rather it makes provisions that the Secretary of the Department of Health and Environment establishes the fee sufficient to cover the actual cost for providing this service based on the previous year's actual cost figures.

Past records indicate that approximately 210 persons take the correspondence course annually.

In summary, the Department of Health and Environment supports H. B. 2727 which establishes fair methods to recover service costs through user fee.

Attachment 2

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

Testimony on H.B. 2760

By

Barbara J. Sabol, Secretary

To

Committee on Energy and Natural Resources

January 25, 1984

Mr. Chairman, Members of the Committee, I am pleased to discuss House Bill 2760:

KDH & E has conducted a radiation control program since before 1964. In 1964 the Governor signed an agreement with the Atomic Energy Commission (now the Nuclear Regulatory Commission) transferring authority for control of certain radioactive materials from AEC to Kansas. The current statute K.S.A. 48-1601 through 1619 was developed at the same time and has had only one minor amendment since. In that same period several changes to both state and federal law have occurred which relate to increased interest in low level radioactive waste management as well as the structure of the state agencies repsonsible for carrying out the program.

The current statute provides for developing a program of regulation of radiation for the protection of public health and safety and assuring that program is compatible with the standards and regulatory programs of the federal government and so far as possible other state programs. House Bill 2760 will bring the statute into conformance with federal changes which have occurred since the mid 1960's. This we believe will permit the state to more easily accomplish those tasks requiring state federal interaction such as the low level radioactive waste compact currently awaiting approval by the Congress.

The second reason for this proposal has been mentioned in previous testimony on H.B. 2740 and that is to remove the references to radioactive waste disposal from the hazardous waste statutes and place them in this act which relates specifically to radioactive materials.

If KDH & E fails to achieve a compatible program containing the elements necessary to continue the program, certain parts would revert back to NRC control. Regulation of uranium mines and mills or licensing of low level radioactive waste sites for example. This we believe would limit Kansas citizens access to decisions to develop such facilities as well as the Department's ability to maintain the remaining programs which involve radioactive materials not regulated by NRC and other radiation producing devices.

It would be to the states advantage to retain a comprehensive radiation control program with as few exceptions or references to other statutes and unusual requirements as possible. This program then becomes the appropriate focus for the citizen concerned with radiation control.

Attachment #3

Bill Discussion:

Changes in H.B. 2760 are necessary for the following general reasons.

(a) Changes made in response to changes in NRC regulations or the Atomic Energy Act of 1954 (the statute authorizing agreement status)

(b) Changes initiated to seperate the radioactive waste statutory references from the hazardous waste act and place them in this act.

(c) Changes to recognize changes in structures or name of Kansas agencies since the statutes were prepared.

(d) Changes made to accomplish specific goals which will be discussed in the following summary.

Changes are summarized by section and subsection since at the time this was proposed the proposed bill has not been printed.

033-038	This paragraph acknowledges the passage of P.L. 96-573 which contains the statement that the states shall be responsible for assuring the capacity does exist for disposal of non-federal low-level waste generated in the state.	(a)
0120-0123	a second category of "by-product material" has been added.	(a)
0124-0125	department is defined	(c)
0126-0129	civil penalty is defined	(a)
0130-0135	closure is defined	(a)
0136-0140	Decommissioning is defined	(a)
0141-0142	Disposal of low-level waste is defined	(a)
0164-0170	High level waste is defined to permit the definition of low-level waste.	(d)
0171-0174	Low level waste is defined	(a)
0191-0194	Radioactive material is defined	(a)
0206-0212	Source material mill tailings are defined	(a)
0213-0219	Source material milling is defined	(a)
0218-0219	Sources of radiation is defined	(d)
0233-0238	Spent nuclear fuel is defined to permit definition of low level waste	(d)
0239-0242	Transuranic waste is defined to permit definition of low level waste	(a)
0249-346	changes in name or form	(c)
0350-0374	adds new requirements for permitting public hearings, cross examination and preparing an environmental impact analysis before using licenses for commercial disposal of low level radioactive waste or uranium mines or mill.	(a) & (b)
0376 through 00513	changes in name or form	(c)
0514-0556	adds civil penalty provisions	(a)
0557-0564	name change	(c)
0565-0569	includes the hazardous waste disposal facility board review and approval for commercial low level waste disposal site.	(d)

1/25/84

0570-636	Establishes rules for decontamination, decommissioning, and reclaiming, and ownership of tailings, title to property, monitoring and transfer to United States of uranium mills or tailings.	(a)
0637-0670	Authorizes the secretary to negotiate for a compact, the state to accept sites for low level waste disposal, describes the type of title to be held and authorizes the state to enter into a contract for operation of a site and finally limits such disposal sites to land owned by the state or federal government	(a) & (b)
0671-0742	requires all licenses operating commercial low level waste disposal sites or uranium mines or mills to provide surety that funds will be available to complete decommissioning if the license should default. The secretary is permitted to require similar surety any other license found to have similar problems. In addition commercial low level waste disposal facility operators and mine and mill operators are required to contribute to a long term monitoring fund by this section.	(a) (b)
0743-756	Permits agreements to conduct joint inspections with other state and federal agencies and to train department staff.	(a)

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
Testimony on H.B. 2725
By
Barbara J. Sabol, Secretary
To
House Energy and Natural Resources Committee
January 25, 1984

BACKGROUND:

In the past few years, particularly since the implementation of the Resource Recovery and Conservation Act (RCRA) in 1980, the state-of-the-art in hazardous waste management has been evolving such that alternatives to landfills are available for hazardous wastes. At the same time, a growing body of information has indicated significant problems with the process of landfilling hazardous wastes. The Environmental Protection Agency (EPA) recognized these problems when the agency proposed regulations concerning land disposal in the February 5, 1981 Federal Register. The register states, "There is good theoretical and empirical evidence that the hazardous constituents which are placed in land disposal facilities very likely will migrate from the facility into the broader environment. This may occur several years, even many decades, after placement of the waste in the facility, but data and scientific prediction indicate that, in most cases, even with the application of best available land disposal technology, it will occur eventually." The Office of Technology Assessment (OTA), a branch of the U.S. Congress, also recognized the peril inherent in land disposal of hazardous wastes. In a 1983 summary, Technologies and Management Strategies for Hazardous Waste Control, OTA stated, "even well intentioned and presently accepted waste management practices, particularly the use of landfills....., might still constitute substantial threats. These threats arise from the potential slow leakage of waste constituents or leachate through the soil and into the groundwater."

The State of Kansas cannot afford to risk the contamination of its groundwater by the land burial of hazardous wastes. Groundwater must be treated as a valuable resource to be protected by any means available to us. For example, 772 cities in Kansas presently rely upon groundwater as their sole water supply. Large quantities of groundwater are also utilized for agricultural purposes in the state. The costs for restoring or containing groundwaters contaminated by the land burial of hazardous wastes will far outweigh the expense which will be borne by Kansas industry required to use alternative methods of disposal. The State of Kansas and the nation as a whole has learned a great deal about the management of solid and hazardous wastes in the seventeen years since the passage of the Federal Solid Waste Management Act. We still have much more to learn, however, and protecting such a valuable resource as the groundwater of the State of Kansas requires us to be prudent in our regulatory program.

Attachment 4

The Kansas Legislature recognized the danger we face when it enacted K.S.A. 65-3443 in 1981. Under K.S.A. 65-3443, the Secretary of KDHE has the authority to study alternatives to land burial for specific types of hazardous waste. If alternatives are available for a specific type of hazardous waste, the Secretary may order that the use of land burial for that waste be discontinued. However, conducting such studies for every specific category of hazardous waste generated in Kansas would require a tremendous commitment of time and financial resources. K.S.A. 65-3443, along with the 100 kilogram small quantity exemption limit, established Kansas as a leader in the management of hazardous wastes. We cannot sit back and wait for the federal government to act.

It appears that the legislature's intent in K.S.A. 65-3443 was to allow the Secretary to prohibit land burial on a case-by-case basis only. Now that it is deemed prudent public policy to impose an asbolute ban on hazardous waste land burial, the legislature is the appropriate forum for such a decision.

ALTERNATIVES:

There are several alternatives to land burial of hazardous waste. They include:

- source reduction or waste elimination to reduce production of hazardous wastes
- recycling or reuse either in-house or through industrial waste exchanges
- treatment processes to render wastes less hazardous or completely innocuous
- incineration to destroy the hazardous constituents or significantly reduce their volume.
- above-ground storage either through long-term warehousing or above-ground landfills

IMPACTS:

I. Environmental

Since no commercial hazardous waste landfills are currently operating in Kansas, the immediate impact would be the environmental benefits of the use of sanitary landfills for hazardous waste disposal by small quantity generators (less than 100 kg/month). This impact would lessen the potential of current sanitary landfills becoming future problem sites.

The long-term impact is to prevent the construction and operation of any hazardous waste land burial site. This provides long-term protection for groundwater.

II. Other (administrative, fiscal, operational)

1. KDHE -- The prohibition on land burial would eliminate the need for the state to provide costly long-term monitoring and surveillance of such facilities.

   This initiative will cause the department to take a more active role in aiding industries to find suitable alternatives for disposing of their hazardous wastes. The department will work with trade associations, Chambers of commerce and other entities to develop educational materials and presentations to minimize the impact on industries affected by the proposal. The initiative will also increase activity at existing transportation and alternate treatment and disposal facilities and may provide the impetus for establishment of new ones. This increased activity will call for additional monitoring of such facilities to ensure they are operated in an environmentally sound manner.

2. Business Impact -- Currently KDHE regulates three classes of hazardous waste generators:

   Small Quantity Generator - Generate less than 100 kg/month. Must dispose of waste in permitted sanitary landfills or hazardous waste disposal facilities.

   Kansas Generator - Generates more than 100 kg/month but less than 1000 kg/month. Must dispose of waste in permitted hazardous waste disposal facilities. Exempt from implementation of certain planning and training regulations.

   Federal Generator - Generates more than 1000 kg/month. Must dispose of waste in permitted hazardous waste disposal facilities. No exemption from any regulation.

   If the practice of allowing small generators of hazardous waste to dispose of such materials in the sanitary landfills is continued, we run the risk of thereby creating a major environmental problem for the next generation. The immediate response anticipated from the small generators is the implementation of interim on-site storage to accumulate a sufficient quantity of waste material to make more cost efficient use of similar methods to those utilized by larger generators. The department could grant permits to sites such as sanitary landfills for storage of hazardous wastes.

   Small generators generating heavy metal sludges will be able to ship their wastes out-of-state for disposal or they can individually or collectively store their wastes on a long-term basis.

   It is presumed that other hazardous waste generators would continue their present practices whether that entails source reduction, recycling, incineration, treatment, or out-of-state disposal/deep well injection.

The specific impact upon generators of various categories of waste are summarized below:

a. Organic Solvents - dry cleaners, print shops, auto body shops, metal fabricators, fiberglass shops.

   The same alternatives can be utilized by the small generators as are presently employed by the large generators. The problem for the small generator is to develop cost-efficient storage and collection systems. Recycling offers the best alternative with incineration a last resort. Recycling includes such procedures as allowing the solvents to accumulate in barrels or tanks; this allows solids to settle. The liquid portion can be pumped and reused while the solids can be incinerated.

b. Laboratory Wastes - schools, government agencies, private laboratories - Small quantities of various chemicals will continue to be discharged into the sanitary sewer systems. Certain categories of materials could be addressed - 1) collection of organic solvents for recycle or incineration, 2) treatment of acids/bases prior to discharge, 3) collection of waste mercury (from broken thermometers and various types of scientific instruments and equipment) for recycle. These activities could be coordinated in the school laboratories through the Department of Education.

c. Paint Sludges/Filters - metal fabricators - There are three identifiable alternatives for generators of hazardous paint sludges and filters. The first involves source reduction which usually includes a change from lead or chrome based paints to coatings free of these heavy metals. Such paints are widely available at a slightly higher cost. The second alternative is to warehouse these materials for some possible future reclamation of the heavy metals. The third alternative is shipment out-of-state to a permitted disposal site.

d. Other Heavy Metal Solutions and Sludges - radiator shops, chrome platers, engine rebuilders and gasoline stations - Generators of heavy metal solutions and sludges have two options available for handling their wastes streams. Heavy metal solutions can be treated to precipitate the metals, thereby greatly reducing the quantity of hazardous waste to be disposed. The liquid can then be reused or discharged to the sanitary sewer. The heavy metal sludges can be warehoused for potential future reclamation or shipped out-of-state to a permitted disposal site.

Over the long-term, it is anticipated that a major impact upon the business community as a whole is the incentive for innovation in development of new and environmentally viable alternatives to land burial and the greater use of financial resources for the purchase of existing technology for treatment and disposal of hazardous waste.

SUMMARY:

All available technical information confirms our belief that the land burial of hazardous waste is not a viable and secure long-term disposal alternative. No landfill, utilizing the state-of-the-art technology, have been in existence long enough to determine the effectiveness of control features such as liners, leachate collection systems and long-term monitoring systems.

There is no persuasive reason to take the risks associated with waiting to determine the ultimate effectiveness of these control features when alternatives to land disposal of hazardous waste exist today.

While these alternatives may have a greater short-term cost to industry, the long-term cost to society is tremendous. The Office of Technology and Assessment estimates that the average cost for cleaning up and containing contaminated groundwaters ranges from 5 to 10 million dollars a site. So long as land burial of hazardous waste exists as a cheaper alternative to other disposal methods, a significant number of industries will avail themselves of that option. For these reasons, it is in the best interests of the citizens of Kansas to institute a prohibition on further land burial of hazardous wastes in the state.