

Approved April 3, 1984
Date

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources

The meeting was called to order by Senator Charlie L. Angell at
Chairperson

8:00 a.m. ~~XXX~~ on Monday, April 2, 1984 in room 123-S of the Capitol.

All members were present except:

Senator Paul Hess
Senator Ed Roitz

Committee staff present:

Ramon Powers, Research Department
Raney Gilliland, Research Department
Don Hayward, Revisor's Office
LaVonne Mumert, Secretary to the Committee

Conferees appearing before the committee: None

Senator Gordon moved that the minutes of the March 30, 1984 meeting be approved. Senator Werts seconded the motion, and the motion carried.

H.B. 2740 - Hazardous and solid waste; amendments to the acts

Staff reviewed the bill, section-by-section, explaining the proposed changes from the present law (Attachment 1).

The meeting was adjourned at 9:02 a.m. by the Chairman. The next meeting of the Committee will be at 8:00 a.m. on Tuesday, April 3, 1984.

Senate Energy & Natural Resources

April 2, 1984

Name

Organization

Jossey Coonrod

KGIE

Orte McNeil

CWM

Ed Reinert

KS L W V's

PAT SCHAFER

BUDGET

John Paul Roth

KDHE

Dennis Murphy

KDHE

Bill Henry

KS Engineering Society

Rob Hodgen

KCCI

Harmon Dale J.

KCC

Chip Wheelen

Waste Mgmt, Inc.

Helen Stephead

LWV - Jo. Cty.

Myrna Stringer

LWV - Jo. Cty.

Richard D. Keady

KPL / Gas Service Co.

Robert C. Anderson

Mid-Cent Oil & Gas

Crossman

KPC

Joe Starb

NWG

[As Amended by House Committee of the Whole]

As Further Amended by House Committee

As Amended by House Committee

Session of 1984

HOUSE BILL No. 2740

By Committee on Energy and Natural Resources

1-23

0024 AN ACT relating to hazardous wastes; amending K.S.A. 1983
0025 Supp. 65-3430, 65-3431, 65-3432, 65-3433, 65-3435, 65-3436,
0026 65-3437, 65-3439, 65-3441, 65-3442, 65-3443, 65-3444, 65-3445
0027 and 65-3446 and repealing the existing sections; also repeal-
0028 ing K.S.A. 1983 Supp. 65-3448.

0029 *Be it enacted by the Legislature of the State of Kansas:*

0030 Section 1. K.S.A. 1983 Supp. 65-3430 is hereby amended to
0031 read as follows: 65-3430. As used in K.S.A. ~~1982 Supp.~~ 65-3430 to
0032 ~~65-3448~~ 65-3447, and amendments thereto:

0033 (a) "Board" means the hazardous waste disposal facility ap-
0034 proval board.

0035 (b) "Department" means the Kansas department of health
0036 and environment.

0037 (c) "Disposal" means the discharge, deposit, injection,
0038 dumping, spilling, leaking or placing of any hazardous waste into
0039 or on any land or water so that such hazardous waste or any
0040 constituent thereof may enter the environment or be emitted in
0041 into the air or discharged into any water in the state waters,
0042 including groundwater.

0043 (d) "Facility" means all contiguous land, structures and other
0044 appurtenances and improvements on the land utilized for the
0045 purpose of treating, storing, or disposing of hazardous waste. A
0046 facility may consist of several treatment, storage, or disposal
0047 operational units such as (1) one or more landfills; (2) surface
0048 impoundments; (3) treatment units or (4) combinations of (1), (2)
0049 or (3).

H.B. 2740 would amend various sections of the hazardous waste statutes and adds one new section to the law. The hazardous waste statutes provide for the regulation of hazardous waste management in the state within the framework of the federal Resource Conservation and Recovery Act of 1976 (RCRA).

lines 40-42 d. To achieve equivalent definitions with those of the federal program (recommended by EPA, but not explicitly required).

Section 1 of the bill amends various definitions in K.S.A. 1983 Supp. 65-3430. The definition of "disposal" specifically relates to discharge of hazardous waste "into any water in the state" and the amendment includes groundwater. The definition of "facility" is amended to exclude various examples in the definition in order to avoid confusion. The definition of "generator" is amended to make it equivalent with the definition in the federal regulations.

lines 47-49

d. To achieve equivalent definitions with those of the federal program (recommended by EPA, but not explicitly required).

Atch. 1

0050 (c) "Generator" means any person producing or bringing into
0051 existence hazardous waste, by site, whose act or process pro-
0052 duces hazardous waste or whose act first causes a hazardous
0053 waste to become subject to regulation.

0054 (l) "Hazardous waste" means waste or combination of wastes
0055 which because of its quantity, concentration or physical, chemi-
0056 cal, biological or infectious characteristics or is as otherwise
0057 determined by the secretary to be dangerous to human health or
0058 present a substantial existing or potential hazard to the environ-
0059 ment when improperly managed. Such term shall include radio-
0060 active hazardous waste. Such term shall not include: (1) House-
0061 hold waste; or (2) agricultural waste returned to the soil as
0062 fertilizer; or (3) mining waste and overburden from the extrac-
0063 tion, beneficiation and processing of ores and minerals, if re-
0064 turned to the mine site; or (4) drilling fluids, produced waters
0065 and other wastes associated with the exploration, development
0066 and production of crude oil, natural gas or geothermal energy; or
0067 (5) fly ash, bottom ash, slag and flue gas emission control wastes
0068 generated primarily from the combustion of coal or other fossil
0069 fuels; or (6) cement kiln dust cause, or significantly contribute to
0070 an increase in mortality or an increase in serious irreversible or
0071 incapacitating reversible illness; or pose a substantial present
0072 or potential hazard to human health or the environment when
0073 improperly treated, stored, transported or disposed of or other-
0074 wise managed. Hazardous waste shall not include: (1) House-
0075 hold waste; (2) agricultural waste returned to the soil as fertil-
0076 izer; (3) mining waste and overburden from the extraction,
0077 beneficiation and processing of ores and minerals, if returned to
0078 the mine site; (4) drilling fluids, produced waters and other
0079 wastes associated with the exploration, development and pro-
0080 duction of crude oil, natural gas or geothermal energy; (5) fly ash,
0081 bottom ash, slag and flue gas emission control wastes generated
0082 primarily from the combustion of coal or other fossil fuels; (6)
0083 cement kiln dust; or (7) materials listed in 40 CFR 261.4.

0084 (g) "Hazardous waste disposal facility" means all contiguous
0085 land, structures and other appurtenances, and improvements on
0086 the land utilized for the disposal of hazardous waste a facility or

The definition of "hazardous waste" is amended to cor-
respond with the definition in the regulations, but the Secre-
tary of Health and Environment continues to have authority to
identify such wastes. The House Committee amended the
definition to specifically retain the exemptions from the
definition that had been stricken in the original version of the
bill to make it perfectly clear that those wastes were to be
excluded from the definition of "hazardous waste."

The definition of "hazardous waste disposal facility" is
amended to include facilities at which hazardous waste is
treated, stored, or disposed and "at which waste will remain
after closure." This change makes it unnecessary to have
separate definitions of "hazardous waste storage facility" and
"hazardous waste treatment facility."

lines 50-53d.

To achieve equivalent definitions with those of the federal program (recommended by EPA, but not explicitly required).

line 56
c.

Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

lines 57-74

- b. Separate the radioactive waste statutory references for consolidation with other state radioactive statutes.
- d. To achieve equivalent definitions with those of the federal program (recommended by EPA, but not explicitly required).

lines 121-122

- d. To achieve equivalent definitions with those of the federal program (recommended by EPA, but not explicitly required).

part of a facility at which hazardous waste is treated, stored or disposed and at which waste will remain after closure.

0080 (h) "Hazardous waste storage facility" means a location
0090 where hazardous waste is held for a temporary period at the end
0001 of which the hazardous waste is treated, stored or disposed of at
0002 another location. Such term shall not include (1) a location at the
0003 place of waste generation where hazardous waste is accumulated
0004 for a period of 90 days or less in accordance with rules and
0005 regulations adopted by the secretary or (2) a transfer facility
0006 where a transporter is storing manifested shipments of hazardous
0007 waste in containers approved by the secretary for a period of 10
0008 days or less.

0009 (i) "Hazardous waste treatment facility" means any location,
0100 except a publicly owned treatment works holding a permit is-
0101 sued under K.S.A. 65-165, where any method, technique or
0102 process is applied to hazardous waste to change its physical,
0103 biological or chemical characteristics or to render such waste
0104 nonhazardous, safer for transport or disposal, amenable for re-
0105 covery or storage or reduced in volume.

0106 (j) (h) "Hazardous waste management system" means the
0107 systematic control of the collection, source separation, storage,
0108 transportation, processing, treatment, recovery and disposal of
0109 hazardous waste by any person.

0110 (k) "License" means the document issued to a person by the
0111 secretary under the authority of K.S.A. 48-1607 and amendments
0112 thereto, which allows such person to construct and operate a
0113 radioactive hazardous waste storage or disposal facility in the
0114 state.

0115 (l) (i) "Manifest" means the form prescribed by the secretary
0116 to be used for identifying the quantity, composition, origin and
0117 the, routing and destination of hazardous waste during its trans-
0118 portation from the point of generation to the point of disposal,
0119 treatment or storage or at any point in between.

0120 (m) (j) "Modification" means the expansion or enlargement
0121 of a facility beyond the permitted boundaries established by an
0122 existing permit issued by the secretary or any material or sub-
0123 stantial alteration or addition to an existing permitted facility

lines 89-105

- d. To achieve equivalent definitions with those of the federal program (recommended by EPA, but not explicitly required).

lines 106-109

- d. To achieve equivalent definitions with those of the federal program (recommended by EPA, but not explicitly required).

The definition of "license" is deleted from the bill which would have the effect of removing the regulation under the hazardous waste statutes of those persons involved in the construction and operation of radioactive hazardous waste storage or disposal facilities. Various other amendments throughout the bill delete references to persons licensed under K.S.A. 48-1607, a section of the Kansas Nuclear Energy Development and Radiation Control Act. (1984 H.B. 2760 would incorporate the radioactive waste management provisions in the present hazardous waste law into the Nuclear Energy Development and Radiation Control Act.)

lines 110-114

- b. Separate the radioactive waste statutory references for consolidation with other state radioactive statutes.

lines 115-119

- d. To achieve equivalent definitions with those of the federal program (recommended by EPA, but not explicitly required).

lines 121-122

- c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

which would justify the application of permit conditions that would be materially or substantially different from the conditions of the existing permit or are absent from the existing permit.

(n) (k) "Monitoring" means all procedures used to (1) systematically inspect and collect samples or require information and copy records or data on the operational parameters of a facility, generator or a transporter; or (2) to systematically collect and analyze data on the quality of the air, groundwater, surface water or soil on or in the vicinity of a hazardous waste disposal, storage or treatment generator, transporter or facility.

(l) "Off-site facility" means a facility where treatment, storage or disposal activities are conducted by a person or other than the hazardous waste generator.

(m) "On-site facility" means a facility which is located on property contiguous to or divided only by a public or private way from the source of generation and which is solely owned and operated by the generator exclusively for the treatment, storage or disposal of wastes which have been generated on the contiguous property and includes the same or geographically contiguous property which may be divided by public or private right of way, provided the entrance and exit between the properties is at a crossroads intersection and access is by crossing and not going along the right-of-way or noncontiguous properties owned by the same person but connected by a right-of-way which the person controls and to which the public does not have access.

(p) (n) "Permit" means the document issued to a person by the secretary which allows such person to construct and operate a hazardous waste treatment, storage or disposal facility in the state.

(o) "Person" means an individual, partnership, firm, trust, company, association, corporation, institution, political subdivision or state or federal agency trust, firm, joint stock company, federal agency, corporation, including a government corporation, partnership, state, municipality, commission, political subdivision of a state or any interstate body.

(r) "Radioactive hazardous waste" means discarded by prod-

The definition of "monitoring" is amended to make certain that it includes collecting "samples or require information and copy records" and includes generators and transporters among those who are to be monitored. "Off-site facility" is included as a new definition, and the definition of "on-site facility" is amended to more clearly identify contiguous property that could be considered part of an on-site facility.

The definition of "person" is amended to make it equivalent with the definition in the federal regulations. The definition of "radioactive hazardous waste" is deleted. The definition of "short term storage" is deleted, and the definition of "storage" is amended so as to include "short term storage." The definitions of "transporter" and "treatment" are amended to make them equivalent to the definitions in the federal regulations.

lines 129-134

a. EPA's requirement for certain statutory changes which are necessary in order to receive full authorization.

lines 135-137

c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

lines 138-149

d. To achieve equivalent definitions with those of the federal program (recommended by EPA, but not explicitly required).

lines 154-159

d. To achieve equivalent definitions with those of the federal program (recommended by EPA, but not explicitly required).

lines 160-162

b. Separate the radioactive waste statutory references for consolidation with other state radioactive statutes.

0162 t uct material, source material, or special nuclear material as
0163 defined by K.S.A. 48-1603.

0164 (s) (p) "Secretary" means the secretary of the department of
0165 health and environment.

0166 (t) "Short-term storage" means (1) the accumulation of haz-
0167 ardous waste for a period of 90 days or less at an "on-site facility"
0168 in accordance with rules and regulations adopted by the secre-
0169 tary or (2) the temporary storing of manifested shipments of
0170 hazardous wastes in containers approved by the secretary on or
0171 in the property of the transporter for a period of 10 days or less.

0172 (u) (q) "Storage" means the containment holding of hazard-
0173 ous waste, either on a temporary basis or for a period of years, in
0174 such a manner as not to constitute disposal of the hazardous
0175 waste. "Short-term storage" as defined in subsection (t), does not
0176 constitute "storage" for a temporary period at the end of which
0177 the hazardous waste is treated, disposed of or stored elsewhere.

0178 (v) (r) "Transporter" means any person who conveys or
0179 moves hazardous waste from the point of its generation or any
0180 other point to a treatment, storage or disposal facility or any point
0181 in between is engaged in the off-site transportation of hazard-
0182 ous waste by air, rail, land, highway or water.

0183 (w) (s) "Treatment" means any method, technique, or
0184 process, including neutralization, designed to change the phys-
0185 ical, chemical or biological characteristics character or composi-
0186 tion of any hazardous waste so as to neutralize such waste or as to
0187 render such waste nonhazardous, safer for transport, amenable
0188 for recovery or storage, convertible to another usable material or
0189 reduced in volume and suitable for ultimate disposal so as to
0190 recover energy or material resources from the waste, to render
0191 such waste nonhazardous, or less hazardous, safer to transport,
0192 store or dispose of or amendable for recovery, amendable for
0193 storage or reduced in volume.

0194 (x) (t) "Waste" means any garbage, refuse, sludge or other
0195 discarded material which is abandoned or committed to treat-
0196 ment, storage or disposal, including solid, liquid, semisolid, or
0197 contained gaseous materials resulting from industrial, commer-

lines 165-170 d. To achieve equivalent definitions with those of the federal program (recommended by EPA, but not explicitly required).

lines 171-176 d. To achieve equivalent definitions with those of the federal program (recommended by EPA, but not explicitly required).

lines 177-181 d. To achieve equivalent definitions with those of the federal program (recommended by EPA, but not explicitly required).

lines 182-193 d. To achieve equivalent definitions with those of the federal program (recommended by EPA, but not explicitly required).

0198 cial, mining, *community* and agricultural activities; and includ-
 0199 ing discarded by-product material, source material, or special
 0200 nuclear material as defined in K.S.A. 48-1603. Waste does not
 0201 include solid or dissolved materials in domestic sewage, in
 0202 irrigation return flows, or solid or dissolved materials or indus-
 0203 trial discharges which are point sources subject to permits under
 0204 K.S.A. 65-165. Waste does not include solid or dissolved materi-
 0205 als in domestic sewage, in irrigation return flows, or solid or
 0206 dissolved materials or industrial discharges which are point
 0207 sources subject to permits under K.S.A. 65-165, and amendments
 0208 thereto.

0209 Sec. 2. K.S.A. 1983 Supp. 65-3431 is hereby amended to read
 0210 as follows: 65-3431. The secretary is authorized and directed to:

0211 (a) Adopt such rules and regulations, standards and procedures
 0212 relative to hazardous waste management as shall be necessary to
 0213 protect the public health and environment and enable the sec-
 0214 retary to carry out the purposes and provisions of this act.

0215 (b) Report to the legislature on further assistance needed to
 0216 administer the hazardous waste management program.

0217 (c) Administer the hazardous waste management program
 0218 pursuant to provisions of this act.

0219 (d) Cooperate with appropriate federal, state, interstate and
 0220 local units of government and with appropriate private organi-
 0221 zations in carrying out the duties under this act.

0222 (e) Develop a statewide hazardous waste management plan.

0223 (f) Provide technical assistance, including the training of
 0224 personnel, to industry, local units of government and the haz-
 0225 ardous waste management industry to meet the requirements of
 0226 this act.

0227 (g) Initiate, conduct and support research, demonstration
 0228 projects, and investigations and coordinate all state agency re-
 0229 search programs with applicable federal programs pertaining to
 0230 hazardous waste management *systems*.

0231 (h) Establish policies for effective hazardous waste manage-
 0232 ment *systems*.

0233 (i) Authorize issuance of such permits and orders and, con-
 0234 duct such inspections and collect samples or request require

The definition of "waste" was originally amended in the bill to make it equivalent to the definition in RCRA. The House Committee reinserted the exemption from the definition of "waste" in the bill but retained the deletion of reference to radioactive materials.

line 198 a.

EPA's requirement for certain statutory changes which are necessary in order to receive full authorization.

lines 198-200

b.

Separate the radioactive waste statutory references for consolidation with other state radioactive statutes.

lines 230, 232

c.

Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

lines 233-235

a.

EPA's requirement for certain statutory changes which are necessary in order to receive full authorization.

0235 information and copy records or data as may be necessary to
0236 implement the provisions of this act and the rules and regula-
0237 tions and standards adopted pursuant to this act.

0238 (j) Conduct and contract for research and investigations in
0239 the overall area of hazardous waste storage, collection, transpor-
0240 tation, treatment, recovery and disposal including, but not lim-
0241 ited to, new and novel procedures.

0242 (k) Adopt rules and regulations establishing criteria ~~and~~
0243 ~~characteristics~~ for identifying the characteristics of hazardous
0244 waste and for listing hazardous waste. The criteria shall take into
0245 account ~~toxicity, persistence in nature and degradability in na-~~
0246 ~~ture, potential for accumulation in tissue, potential to cause~~
0247 ~~irreversible physical harm and other related factors such as~~
0248 ~~reactivity, ignitibility, corrosiveness and other hazardous~~
0249 ~~characteristics.~~ The secretary shall prepare and keep current a
0250 listing of hazardous wastes ~~and set of characteristics~~ based on
0251 the rules and regulations adopted pursuant to this subsection.
0252 The listing shall identify, but ~~shall need~~ not be inclusive of, ~~all~~
0253 the hazardous waste subject to the provisions of this act. The
0254 ~~criteria for identification and listing shall be consistent with the~~
0255 ~~criteria for identification and listing adopted by the administrator~~
0256 ~~of the United States environmental protection agency under the~~
0257 ~~authority vested in the administrator by the Resource Conserva-~~
0258 ~~tion and Recovery Act of 1976 (42 USC 6921) as amended by the~~
0259 ~~Solid Waste Disposal Act of 1980 (P.L. 94-482, October 21, 1980).~~

0260 (l) Adopt rules and regulations establishing: (1) Appropriate
0261 measures for monitoring the transportation of hazardous waste
0262 and hazardous waste storage, treatment and disposal generators,
0263 transporters and facilities during operation, closure, and after
0264 closure of such facilities to insure compliance with the rules and
0265 regulations adopted under this act and any permit issued under
0266 this act; (2) procedures to suspend operation of such generators,
0267 transporters or facilities or transportation as may be required to
0268 protect the public health and safety or the environment; and (3)
0269 appropriate measures to insure that any use of a hazardous waste
0270 disposal facility after closure will not endanger the public health
0271 or safety or the environment.

Section 2 amends K.S.A. 1983 Supp. 65-3431 subsection (i), to expressly provide authority for the Secretary of the Kansas Department of Health and Environment (KDHE) to obtain samples and request information and copy records as specified in federal law. The amendment to subsection (k) provides that the Secretary of KDHE prepare and keep current the "set of characteristics" of hazardous wastes which is necessary for final authorization for state operation of the hazardous waste program under RCRA. Language is deleted from this subsection that would require that the criteria for identification and listing be consistent with that adopted by the Environmental Protection Agency (EPA).

lines 242-249

c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

line 250

a. EPA's requirement for certain statutory changes which are necessary in order to receive full authorization.

lines 252-259

c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

lines 260-267

c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

The amendments to subsection (l) bring generators under monitoring requirements of the statutes. Other amendments to this subsection and subsections (m) and (n) clarify language in those subsections and broaden application by addition of the wording "but not limited to." The amendment to (o) deletes language requiring concurrence of the Kansas Department of Transportation in establishing standards and routes for transporting hazardous waste within Kansas.

0273 (m) Adopt rules and regulations establishing standards for
 0274 hazardous waste generators including, *but not limited to*, notifi-
 0275 cation of hazardous waste activity generation, reporting, record
 0276 keeping, labeling, containerization, source separation, storage,
 0277 ~~short term storage~~, manifests, monitoring, sampling and analysis
 0278 and manner of filing notifications, reports and manifests.

0279 (n) Adopt rules and regulations prescribing the form of the
 0280 manifest and requiring such manifest to accompany any hazard-
 0281 ous waste collected, transported, treated, recovered or disposed
 0282 of, and proscribing the contents of the manifest which shall
 0283 include, *but not be limited to* the quantity and composition of
 0284 the hazardous waste, *generator*, transporter and, destination,
 0285 *facility* and the manner of signing and filing of the manifest by
 0286 ~~generators, transporters and operators of treatment, disposal and~~
 0287 ~~storage facilities~~, and for the maintenance of records of all haz-
 0288 ardous waste stored, collected, transported, treated or disposed
 0289 in the state.

0289 (o) Adopt rules and regulations establishing standards for
 0290 routes and equipment used for transporting hazardous waste
 0291 within the state and requiring the ~~secretary's~~ approval of such
 0292 routes, with the concurrence of the Kansas department of trans-
 0293 portation as to the structural adequacy of the roads, highways and
 0294 structures making up such routes. Such standards shall be con-
 0295 sistent with those of the United States and Kansas departments of
 0296 transportation, with respect to transportation of hazardous mate-
 0297 rials. Motor vehicles which are used for the transportation of
 0298 hazardous waste in accordance with this act shall be exempt from
 0299 the requirements of K.S.A. 66-1,108 *et seq.*, and amendments
 0300 *thereto*, and any rules and regulations adopted thereunder per-
 0301 taining to routes and the motor vehicle equipment used for the
 0302 containment of hazardous waste which both shall be under the
 0303 jurisdiction of the secretary as provided in this act including any
 0304 rules and regulations adopted thereunder. Otherwise such motor
 0305 vehicles shall be subject to the requirements of K.S.A. 66-1,108
 0306 *et seq.*, and amendments *thereto*, and any rules and regulations
 0307 adopted thereunder.

0308 (p) Adopt rules and regulations establishing standards for

lines 273-277 c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

lines 282-288 a. EPA's requirement for certain statutory changes which are necessary in order to receive full authorization.

c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

lines 291-294 c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

transporters of hazardous waste including registration, but not
 0310 limited to, notification of hazardous waste transport, manifests,
 0311 labeling, record keeping and the filing of reports; and requiring
 0312 any person transporting hazardous waste in the state to submit to
 0313 the secretary satisfactory evidence of liability insurance cover-
 0314 age in such amount as the secretary shall specify to insure the
 0315 financial responsibility of such person for any liability incurred
 0316 in transporting such waste.

0317 (q) Adopt rules and regulations establishing standards and
 0318 procedures to protect public health and the environment from
 0319 any accidental release of hazardous waste into the environment
 0320 and to insure the prompt correction of any such release and
 0321 damage resulting therefrom by the person transporting, handling
 0322 or managing such hazardous waste.

0323 (r) Adopt rules and regulations requiring that, for such period
 0324 of time as the secretary shall specify, any assignment, sale,
 0325 conveyance or transfer of all or any part of the real property upon
 0326 which a hazardous waste treatment, storage or disposal facility is
 0327 or has been located shall be subject to such terms and conditions
 0328 as to the use of such property as the secretary shall specify to
 0329 protect human health and the environment.

0330 (s) Adopt rules and regulations establishing a permit system
 0331 equivalent to the permit system established by Sec. 3005 of P.L.
 0332 94-580, as in effect on the effective date of this act, which
 0333 includes standards for facilities and procedures for implemen-
 0334 tation of a permit system for the construction, alteration, or
 0335 operation of a hazardous waste treatment, storage or disposal
 0336 facility including, but not limited to, content of applications,
 0337 evidence of financial responsibility, existing hydrogeological
 0338 characteristics, environmental assessment, training of personnel,
 0339 maintenance of operations, qualifications of ownership, conti-
 0340 nuity of operation, public notification and participation and
 0341 compliance with those standards established pursuant to sub-
 section (t).

0343 (t) Adopt rules and regulations establishing minimum stan-
 0344 dards for the design, location, construction, alteration, opera-
 0345 tion, termination, closing and long-term care of facilities for the

The amendments to subsection (p) provide that the
 Secretary adopt rules and regulations to allow transporters to
 transport waste only if the waste is properly labeled. Lan-
 guage requiring evidence of liability insurance coverage for
 transporters of hazardous waste is deleted because such re-
 quirements are in federal regulations which KDHE has adopted
 by reference.

lines 309-316

- c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

Amendments to subsection (s) concern authority for the
 Secretary to adopt rules and regulations on "standards" for
 hazardous waste treatment, storage, and disposal facilities and
 authority to provide public participation in the permitting
 process as required under RCRA.

lines 331-332

- c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

lines 332-342

- a. EPA's requirement for certain statutory changes which are necessary in order to receive full authorization.

lines 342-353

The amendments to subsection (t) clarify language concerning establishing minimum standards for "design, location, construction, alteration, [and] operation" of facilities. Reference to radioactive wastes is deleted from the subsection, and certain requirements for regulation are identified.

- a. EPA's requirement for certain statutory changes which are necessary in order to receive full authorization.
- b. Separate the radioactive waste statutory references for consolidation with other state radioactive statutes.

treatment, storage or disposal of hazardous waste or for storage or
 0347 disposal of radioactive hazardous waste for which a permit or
 0348 license has been issued by the secretary including, but not
 0349 limited to, notification of hazardous waste treatment, storage or
 0350 disposal, general facility standards, contingency plans, emer-
 0351 gency procedures, manifest system, recordkeeping, inspections,
 0352 monitoring, reporting, closure and post-closure plans and fi-
 0353 nancial requirements. The operator of the facility shall be re-
 0354 sponsible for long-term care of the facility for 30 years after
 0355 closure of the facility except that the secretary may modify the
 0356 long-term care requirements for any facility when all hazardous
 0357 waste is removed from the facility at closure. The secretary may
 0358 extend the long-term care responsibility of any operator of a
 0359 facility as the secretary may deem necessary to protect the public
 0360 health and safety or the environment. Any person acquiring
 0361 rights of possession or operation of any facility permitted or
 0362 licensed by the secretary for the treatment, storage or disposal of
 0363 hazardous waste or radioactive hazardous waste at any time after
 0364 the facility has begun to accept waste and prior to the end of the
 0365 required period of long-term care shall be subject to all of the
 0366 requirements, terms and conditions of the permit for the facility
 0367 or of a license issued under the authority of K.S.A. 48-1607 and
 0368 amendments thereto, including all requirements relating to
 0369 long-term care of the facility. The sale or acquisition of a haz-
 0370 ardous waste disposal facility during the long-term care period
 0371 shall be subject to the assignment of long-term care responsibil-
 0372 ities as determined by the secretary.

0373 (u) Adopt rules and regulations establishing a schedule of
 0374 fees to be paid to the secretary by: (1) Permittees operating
 0375 hazardous waste treatment, storage or disposal facilities under
 0376 permits issued by the secretary; (2) licensees storing or disposing
 0377 of radioactive hazardous wastes with a license issued under the
 0378 authority of K.S.A. 48-1607 and amendments thereto; (3); (2)
 0379 hazardous waste transporters transporting hazardous wastes
 0380 generated in Kansas to hazardous waste treatment, storage or
 0381 disposal facilities located in Kansas, in other states or outside the
 0382 continental United States; and (4) who notified the department

Amendments to subsection (u) delete references to
 radioactive waste regulations and clarify language in this
 subsection.

lines 362, 363, 367-368

- b. Separate the radioactive waste statutory references for consolidation with other state radioactive statutes.
- b. Separate the radioactive waste statutory references for consolidation with other state radioactive statutes.

lines 375-383

- b. Separate the radioactive waste statutory references for consolidation with other state radioactive statutes.
- c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

3 of their hazardous waste activity; or (3) hazardous waste genera-
 0384 tors producing or bringing into existence hazardous waste in
 0385 Kansas. The fees shall be for monitoring facilities both during
 0386 and after operation, for monitoring generators of hazardous waste
 0387 in Kansas and for monitoring the transportation of hazardous
 0388 wastes generated in Kansas to hazardous waste facilities for
 0389 storage, treatment and disposal. The fees shall be sufficient to
 0390 reimburse the cost of the state in performing these monitoring
 0391 responsibilities, except that the fee established under this sub-
 0392 section (u) for each hazardous waste disposal facility or for each
 0393 radioactive hazardous waste disposal facility [for each hazardous
 0394 waste disposal facility] shall be not less than \$1,500 annually. In
 0395 setting fees, the secretary may exempt those fees which would
 0396 be payable on treatment processes which recover substantial
 0397 amounts of either energy or materials from hazardous wastes.
 0398 The secretary shall remit any moneys collected from such fees to
 0399 the state treasurer. Upon receipt of any such remittance, the state
 0400 treasurer shall deposit the entire amount thereof in the state
 0401 general fund. Nothing in this subsection shall be construed to
 0402 relieve a permit holder, licensee or other person responsible for
 0403 the operation or long-term care of a facility of any monitoring
 0404 duty or requirement in effect on the effective date of this act or
 0405 any such duty which may be imposed as a condition of any future
 0406 permit or license issued under authority of this act or K.S.A.
 0407 48-1607 and amendments thereto.

0408 (v) (1) Adopt rules and regulations establishing a schedule of
 0409 fees to be paid to the secretary by licensees operating radioactive
 0410 hazardous waste storage or disposal facilities under a license
 0411 issued by the secretary under the authority of K.S.A. 48-1607 and
 0412 amendments thereto. In establishing fees, the secretary shall
 0413 give consideration for contamination, cost of storage or disposal,
 0414 estimate future receipts and estimated future expenses to the
 0415 state for maintenance, monitoring and supervision for such fa-
 0416 cilities. Fees shall be in an amount not to exceed \$1 per cubic
 0417 foot of radioactive hazardous waste or material. Fees shall be
 0418 collected from each licensee who operates a radioactive hazard-
 0419 ous waste storage or disposal facility licensed under the author-

lines 388-389

c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

lines 392-393

b. Separate the radioactive waste statutory references for consolidation with other state radioactive statutes.

lines 401-407

b. Separate the radioactive waste statutory references for consolidation with other state radioactive statutes.
 c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

lines 408-482

b. Separate the radioactive waste statutory references for consolidation with other state radioactive statutes.

ity of K.S.A. 48-1607 and amendments thereto. No educational
institution shall be required to pay any such fee. Each licensee
as an advance payment of the fees authorized under this subsection,
shall remit to the secretary an amount to be established by
the secretary not to exceed \$25,000 upon request and notification
by the secretary that its initial application for a license or initial
renewal thereof has been approved, subject to receipt of the
advance payment. Commencing with the second renewal, no
advance payment shall be required. The advance payment shall
constitute a credit against any fee which may be assessed pursuant
to this subsection.

(2) The secretary shall remit any moneys collected to the
state treasurer to be deposited in the state treasury and credited
to the radioactive hazardous waste perpetual care trust fund,
which fund is hereby created and from which expenditures shall
be limited to the following uses: (A) Payment of extraordinary
costs of monitoring a licensed radioactive waste storage or disposal
facility after the responsibility of the operator has terminated;
(B) payment of costs of repairing a licensed radioactive hazardous
waste storage or disposal facility and costs of repairing environmental
damages caused by a licensed radioactive hazardous waste storage or
disposal facility, as a result of a post-closure occurrence which
poses a substantial radiation hazard to public health and safety or
to the environment. If an expenditure made under this subsection
would not have been necessary had the person responsible for the
operation or long-term care of the licensed radioactive hazardous
waste storage or disposal facility had complied with the requirements
of a plan of operation approved by the secretary when the license
was issued, a cause of action in favor of the fund shall be accrued
to the state of Kansas against such person and the secretary shall
take such action as is appropriate to enforce this cause of action
by recovering any amounts so expended. The net proceeds of any
such recovery shall be paid into the fund; and (C) on an emergency
basis up to 20% of the balance in the radioactive hazardous waste
perpetual care trust fund may be allocated for investigation,
engineering equipment and construction related to the removal;

- b. Separate the radioactive waste statutory references for consolidation with other state radioactive statutes.

0457 treatment and disposal of radioactive hazardous wastes stored or
 0458 disposed of in any radioactive hazardous waste storage or dis-
 0459 posal facility closed prior to the effective date of this act when
 0460 such radioactive hazardous waste is found to pose an imminent
 0461 and substantial risk to the public health and safety or to the
 0462 environment.

0463 (3) The pooled money investment board may invest and
 0464 reinvest moneys in the radioactive hazardous waste perpetual
 0465 care trust fund established under this subsection in obligations
 0466 of the United States or obligations the principal and interest of
 0467 which are guaranteed by the United States or in interest-bearing
 0468 time deposits in any commercial bank or trust company located
 0469 in Kansas or, if the board determines that it is impossible to
 0470 deposit such moneys in such time deposits, in repurchase
 0471 agreements of less than 30 days' duration with a Kansas bank for
 0472 direct obligations of, or obligations that are insured as to princi-
 0473 pal and interest by the United States government or any agency
 0474 thereof. Any income or interest earned by such investments shall
 0475 be credited to the radioactive hazardous waste perpetual care
 0476 trust fund.

0477 (4) All expenditures from the radioactive hazardous waste
 0478 perpetual care trust fund shall be made in accordance with
 0479 appropriation acts upon warrants of the director of accounts and
 0480 reports issued pursuant to vouchers approved by the secretary
 0481 and shall be expended for the purposes set forth in this subsec-
 0482 tion.

0483 (w) (v) (1) Adopt rules and regulations establishing a sched-
 0484 ule of fees to be paid to the secretary by permittees operating
 0485 hazardous waste disposal facilities under a permit issued by the
 0486 secretary under this act and amendments thereto. In establishing
 0487 fees, the secretary shall give consideration to degree of hazard,
 0488 costs of treatment and disposal, estimated future receipts and
 0489 estimated future expenses to the state for monitoring, mainte-
 0490 nance and supervision of the facilities after closure. Fees shall be
 0491 in an amount not to exceed \$.25 per cubic foot of hazardous waste
 0492 disposed of. Fees shall be collected from each permittee who
 0493 operates a hazardous waste disposal facility under a permit

b. Separate the radioactive waste statutory references for consolidation with other state radioactive statutes.

lines 485-486

c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

lines 492-494

c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

0495 issued by the secretary under this act. Each permittee, as an
0496 advance payment of the fees authorized under this subsection,
0497 shall remit to the secretary an amount to be established by the
0498 secretary not to exceed \$25,000 upon request and notification by
0499 the secretary that an initial application for a permit or initial
0500 renewal thereof has been approved, subject to receipt of the
0501 advance payment. Commencing with the second renewal, no
0502 advance payment shall be required. The advance payment shall
0503 constitute a credit against any fee which may be assessed pursu-

0504 (2) The secretary shall remit any money collected pursuant to
0505 this subsection to the state treasurer to be deposited in the state
0506 treasury and credited to the hazardous waste perpetual care trust
0507 fund, which fund is hereby limited to the following uses: (A)
0508 Payment of extraordinary costs of monitoring a permitted haz-
0509 ardous waste disposal facility after the responsibility of the
0510 operator has terminated; (B) payment of costs of repairing a
0511 hazardous waste and hazardous waste disposal facility, as a result
0512 of a post-closure occurrence which poses a substantial hazard to
0513 public health or safety or to the environment. If an expenditure
0514 made under this subsection would not have been necessary had
0515 the person responsible for the operation or long-term care of the
0516 permitted hazardous waste disposal facility complied with the
0517 requirements of a plan of operation approved by the secretary
0518 when the permit was issued, a cause of action in favor of the fund
0519 shall be accrued to the state of Kansas against such person, and
0520 the secretary shall take such action as is appropriate to enforce
0521 this cause of action by recovering any amounts so expended. The
0522 net proceeds of any such recovery shall be paid into the fund;
0523 and (C) on an emergency basis up to 20% of the balance in the
0524 hazardous waste perpetual care trust fund may be allocated for
0525 investigation, engineering and construction related to the re-
0526 moval, treatment and disposal of hazardous waste disposed of in
0527 any hazardous waste disposal facility closed prior to the date of
0528 this act, when such hazardous waste is found to pose an immi-
0529 nent and substantial risk to the public health or safety or the
0530 environment.

line 511

c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

(3) Effective September 30, 1983, or when the tax on hazardous waste imposed by subtitle C of public law 96-510 becomes applicable, whichever date is later, the secretary shall revise the fee schedule to provide funds for the purchase or repositioning of hazardous substance response equipment or other preparations reasonably necessary for the response to a release of hazardous substances which affects the state and the fee collected after the effective date shall not be used for the payment of any costs or damages or claims which may be compensated under the comprehensive environmental response, compensation and liability act of 1980, public law 96-510 as in effect on the effective date of this act.

(4) The pooled money investment board may invest and reinvest moneys in the perpetual care trust fund established under this subsection in obligations of the United States or obligations the principal and interest of which are guaranteed by the United States or in interest-bearing time deposits in any commercial bank or trust company located in Kansas or, if the board determines that it is impossible to deposit such moneys in such time deposits, in repurchase agreements of less than 30 days' duration with a Kansas bank for direct obligations of, or obligations that are insured as to principal and interest by the United States government or any agency thereof. Any income or interest earned by such investments shall be credited to the hazardous waste perpetual care trust fund.

(5) All expenditures from the hazardous waste perpetual care trust fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary for the purposes set forth in this subsection.

~~(w)~~ (w) Encourage, coordinate or participate in one or more waste exchange clearing houses for the purpose of promoting reuse and recycling of industrial wastes.

~~(x)~~ (x) Adopt rules and regulations establishing the criteria to specify when a change of principal owners or management of a hazardous waste treatment, storage or disposal facility occurs and under what circumstances and procedures a new permit shall be

lines 534-537 c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

required to be issued to the transferees of a facility which was permitted to the transferor.

(y) Adopt rules and regulations concerning the types of hazardous waste for which any method, technique or process to recover energy will be considered hazardous waste treatment. Such rules and regulations should specify a minimum heat value of the waste so as to ensure that a legitimate energy recovery will occur and should consider other characteristics of the waste which are appropriate to ensure that such method, technique or process for energy recovery will not pose a threat to the public health or environment.

Sec. 3. K.S.A. 1983 Supp. 65-3432 is hereby amended to read as follows: 65-3432. (a) The hazardous waste disposal facility approval board is hereby established to review and grant or deny final approval for each application for a radioactive hazardous waste disposal facility license or any off-site hazardous waste disposal facility permit recommended for approval by the secretary.

(b) The board shall consist of five members as follows: The secretary of health and environment, the secretary of transportation, the state geologist and two members from and representing the general public appointed by the governor. Persons appointed on or after July 1, 1982, to represent the general public on the board shall be appointed subject to confirmation by the senate as provided in K.S.A. 1982 Supp. 75-4315b, and amendments thereto.

(c) The term of office of the general public members of the board shall be three years, except that, of the general public members first appointed to the board, one shall be appointed for a term of two years and one for a term of three years as designated by the governor at the time of appointment. Upon the expiration of the term of office of a general public member, the governor shall appoint a qualified successor. Each general public member shall serve until a successor is appointed and qualified. Whenever a vacancy occurs among the general public members of the board for any reason other than the expiration of a member's term of office, the governor shall appoint a qualified

The House Committee inserted a new subsection (y) to amend K.S.A. 1983 Supp. 65-3431 which would direct the Secretary to adopt rules and regulations concerning the types of hazardous waste for which a technique or process to recover energy will be considered hazardous waste treatment.

Section 3 amendments to K.S.A. 1983 Supp. 65-3432 delete references to radioactive hazardous waste disposal.

Lines 582-583

- b. Separate the radioactive waste statutory references for consolidation with other state radioactive statutes.

0606 successor to fill the unexpired term. The secretary of health and
0607 environment shall serve as chairperson of the board.

0608 (d) All budgeting, purchasing and related management func-
0609 tions of the board shall be administered under the direction and
0610 supervision of the secretary of administration. All vouchers shall
0611 be approved by the chairperson of the board and secretary of
0612 administration.

0613 (e) Three members of the board shall constitute a quorum for
0614 the transaction of business by the board.

0615 (f) The state agencies which have officers or employees
0616 serving on the board shall provide such staff assistance to the
0617 board as requested by the board.

0618 (g) Appointed members of the board attending regular or
0619 special meetings of the board shall be paid compensation, sub-
0620 sistence allowance, mileage and other expenses as provided in
0621 K.S.A. 75-3223, and amendments thereto.

0622 Sec. 4. K.S.A. 1983 Supp. 65-3433 is hereby amended to read
0623 as follows: 65-3433. (a) After the effective date of this act, no
0624 person shall modify or construct a ~~hazardous waste treatment,~~
0625 ~~storage an off-site hazardous waste or~~ disposal facility without a
0626 permit issued by the secretary under this act. The secretary shall
0627 not issue any ~~license under K.S.A. 48-1607 for any radioactive~~
0628 ~~hazardous waste disposal facility or~~ a permit under this act for
0629 any off-site hazardous waste disposal facility unless the board
0630 has first approved the application for such a facility.

0631 (b) Upon receipt of an application for a ~~license or~~ permit to
0632 construct a facility which requires the approval of the board,
0633 which complies with the requirements of this section, the secre-
0634 tary shall:

0635 (1) Publish a notice once per week for three consecutive
0636 weeks in a newspaper having major circulation in the county in
0637 which the facility is proposed to be located. The required pub-
0638 lished notice shall contain a map indicating the location of the
0639 proposed facility and shall contain a description of the proposed
0640 action and the location where the ~~license or~~ permit application
0641 and related documents may be reviewed and where copies may
0642 be obtained. The notice shall describe the procedure by which

Section 4 amendments to K.S.A. 1983 Supp. 65-3433
makes similar deletions along with clarifying language con-
cerning the permitting of an off-site hazardous waste disposal
facility by the Hazardous Waste Disposal Facility Approval
Board.

Lines 623-624

c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

Lines 626-627 b.

Separate the radioactive waste statutory references for consolidation with other state radioactive statutes.

Lines 630, 639 b.

Separate the radioactive waste statutory references for consolidation with other state radioactive statutes.

the license or permit may be granted. The secretary shall transmit a copy of the notice to the clerk of any city which is located within three miles of the proposed facility.

(2) Review the plans of the proposed facility to determine if the proposed operation complies with this act and the rules and regulations promulgated under this act. The review shall include but not be limited to air quality, water quality, waste management and hydrogeology. If the facility review, plan review, and the application meet the requirements of this act and the rules and regulations promulgated under this act, the secretary shall recommend approval for construction or modification of the facility which may contain conditions specifically applicable to the facility and operation. An expansion, enlargement or modification of a radioactive hazardous waste disposal facility or a hazardous waste disposal facility beyond the specified areas indicated in the existing license or permit constitutes a new proposal for which a new construction permit or license application is required.

(c) The secretary shall recommend approval or shall deny a construction permit application within 240 days after the secretary receives an application meeting the requirements of this section except such time period shall not apply to an application for a license to be issued under the authority of K.S.A. 48-1607, and amendments thereto. If the secretary recommends approval, the secretary immediately shall notify the applicant. If the secretary recommends denial, the secretary shall notify the applicant in writing of the reasons for the denial.

Sec. 5. K.S.A. 1983 Supp. 65-3435 is hereby amended to read as follows: 65-3435. The board shall not approve any application for a hazardous waste disposal facility permit unless the applicant has a deed fee simple title to the property where the facility is to be located, in fee simple absolute, free of any liens, easements, covenants, or any other encumbrances on the title; or, if the application is for a radioactive hazardous waste disposal facility license, the requirements of K.S.A. 1982 Supp. 65-3440 have been met and the state has entered into and enacted an interstate compact which regulates the management of low-level

Line 642

- b. Separate the radioactive waste statutory references for consolidation with other state radioactive statutes.

Lines 655-658

- b. Separate the radioactive waste statutory references for consolidation with other state radioactive statutes.
- c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

Lines 671-673

Section 5 amendments to K.S.A. 1983 Supp. 65-3435 clarify language in the section and delete references to radioactive hazardous waste disposal facilities.

- c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

Lines 674-682

- b. Separate the radioactive waste statutory references for consolidation with other state radioactive statutes.

9 radioactive waste:

0680 For the purposes of this section, the state has not entered into
0681 an interstate compact until such compact becomes effective by
0682 its own terms.

0683 Sec. 6. K.S.A. 1983 Supp. 65-3436 is hereby amended to read
0684 as follows: 65-3436. (a) The board either shall approve or reject
0685 the application, and the secretary shall issue the license or
0686 permit or deny the application accordingly. A local ordinance,
0687 permit requirement or other requirement shall not prohibit the
0688 construction or modification of such a facility or restrict trans-
0689 portation to the facility.

0690 (b) If the board denies the application, the board shall state
0691 its reason in writing and indicate the necessary changes to make
0692 the application acceptable, if a new application is to be made.

0693 (c) Any person aggrieved by a final decision of the board may
0694 make an appeal to the district court within 30 days of notice of
0695 that decision.

0696 Sec. 7. K.S.A. 1983 Supp. 65-3437 is hereby amended to read
0697 as follows: 65-3437. (a) No person shall construct, modify or
0698 operate a hazardous waste facility or otherwise dispose of haz-
0699 ardous waste within this state without a permit from the secre-
0700 tary.

0701 (b) The application for a permit shall contain the name and
0702 address of the applicant, the location of the proposed facility and
0703 other information considered necessary by the secretary, in-
0704 cluding proof of financial capability.

0705 (c) Before reviewing any application for permit, the secretary
0706 shall conduct a background investigation of the applicant. The
0707 secretary shall consider the financial, technical and management
0708 capabilities of the applicant as conditions for issuance of a
0709 permit. The secretary may reject the application without con-
0710 ducting an investigation into the merits of the application if the
0711 secretary finds that:

0712 (1) The applicant currently holds, or in the past has held, a
0713 permit under this section and that while the applicant held a
0714 permit under this section the applicant violated a provision of
0715 subsection (a) of K.S.A. 1981 Supp. 65-3441, and amendments

Line 685

Section 6 amendments to K.S.A. 1983 Supp. 65-3436 delete the requirement that the Board indicate the necessary changes to make acceptable an application that has been denied.

b. Separate the radioactive waste statutory references for consolidation with other state radioactive statutes.

Lines 691-692

c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

Lines 698-699

Section 7 amendments to K.S.A. 1983 Supp. 65-3437 broaden the authority of the Secretary in the permitting process by prohibiting anyone from constructing, modifying, or operating a hazardous waste facility "or otherwise dispose of hazardous waste" without a permit.

c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

6 thereto; or

0717 (2) the applicant previously held a permit under this section
0718 and that permit was revoked by the secretary; or

0719 (3) the applicant has a history of repeated violations of fed-
0720 eral or state law.

0721 (d) Upon receipt of a permit application meeting the re-
0722 quirements of this section, the secretary or an authorized repre-
0723 sentative of the secretary shall inspect the location of the pro-
0724 posed facility and determine if the same complies with this act
0725 and the rules and regulations promulgated under this act. An
0726 inspection report shall be filed in writing by the secretary before
0727 issuing a permit and shall be made available for public review.

0728 Sec. 8. K.S.A. 1983 Supp. 65-3439 is hereby amended to read
0729 as follows: 65-3439. (a) Permits for hazardous waste treatment,
0730 storage and disposal facilities shall be issued for fixed terms not
0731 to exceed 10 years and shall be subject to an annual permit fee.
0732 The annual fee for a hazardous waste treatment, storage or
0733 disposal facility permit shall be \$50 and no refund shall be made
0734 in case of revocation. All fees shall be deposited in the state
0735 general fund. A city, county, other political subdivision or state
0736 agency shall be exempt from payment of the fee but shall meet
0737 all other provisions of this act.

0738 (b) Plans, designs and relevant data for the construction of
0739 hazardous waste treatment, storage and disposal facilities shall
0740 be prepared by a professional engineer licensed to practice in
0741 Kansas and shall be submitted to the department for approval
0742 prior to the construction, modification or operation of such a
0743 facility. In adopting rules and regulations, the secretary may
0744 specify sites, areas or facilities where the environmental impact
0745 is minimal and may waive the requirement that plans and de-
0746 signs for on-site storage or treatment facilities be prepared by a
0747 professional engineer.

0748 (c) Each permit granted by the secretary, as provided in this
0749 act, shall be subject to such conditions as the secretary deems
0750 necessary to protect human health and the environment and to
0751 conserve the sites. Such conditions shall include approval by the
0752 secretary of the types and quantities of hazardous waste allow-

In Section 8 an amendment to subsection (a) of K.S.A. 1983 Supp. 65-3439 deletes the annual permit fee, and old subsection (d) is deleted. Federal rule and regulation bonding procedures are adopted by reference in place of old subsection (d).

Lines 731-737

- c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

able for storage, treatment or disposal at the permitted location.

0754 (d) As a condition of granting a permit to operate any treat-
 0755 ment, storage or disposal facility for hazardous waste, the secre-
 0756 tary shall require the permittee to provide surety bond or cash
 0757 bond or cash deposits to a secured trust fund and liability
 0758 insurance, including coverage against nonsudden occurrences,
 0759 or any combination thereof, or provide annual cash deposits to a
 0760 trust fund which is hereby created in the state treasury in
 0761 amounts to be determined by the secretary or any combination of
 0762 such bonds, insurance or cash deposits or such other financial
 0763 commitments as the secretary may require, in such amounts or
 0764 arrangements as determined necessary by the secretary to insure
 0765 the financial responsibility of the permittee for any liability
 0766 incurred in the operation of the facility or area and to insure that,
 0767 upon abandonment, cessation or interruption of the operation of
 0768 the facility or area, all appropriate measures are taken to prevent
 0769 present or future damage to public health and the environment
 0770 and to provide the post-closure care required by subsection (t) of
 0771 K.S.A. 1082 Supp. 65-3431. Any such liability insurance as may
 0772 be required pursuant to this subsection or pursuant to the rules
 0773 and regulations of the secretary shall be issued by an insurance
 0774 company authorized to do business in Kansas or by a licensed
 0775 insurance agent operating under authority of K.S.A. 40-246b and
 0776 amendments thereto and shall be subject to the insurer's policy
 0777 provisions filed with and approved by the commissioner of
 0778 insurance pursuant to K.S.A. 40-216 and amendments thereto
 0779 except as authorized by K.S.A. 40-246b and amendments thereto.
 0780 The pooled money investment board may invest and reinvest
 0781 moneys credited to the trust fund created under this subsection
 0782 in obligations of the United States or obligations the principal
 0783 and interest of which are guaranteed by the United States or in
 0784 interest bearing time deposits in any commercial bank or trust
 0785 company located in Kansas; or, if the pooled money investment
 0786 board determines that it is impossible to deposit such moneys in
 0787 such time deposits, in repurchase agreements of less than 30
 0788 days' duration with a Kansas bank for direct obligations of, or
 0789 obligations that are insured as to principal and interest by, the

Line 753

c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

Lines 754-809

c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

United States government or any agency thereof. All moneys
 0701 received as interest earned by the investment of the moneys in
 0702 the trust fund created under this subsection shall be credited to
 0703 such trust fund and prorated according to procedures approved
 0704 by the director of accounts and reports and credited to the
 0705 account of each permittee who has deposited money in the trust
 0706 fund in proportion that the total amount of money deposited by
 0707 the permittee in the trust fund bears to the total amount of money
 0708 in the trust fund. Money in the trust fund created under this
 0709 subsection shall be expended in accordance with the purposes
 0800 for the deposit of moneys by a permittee into the trust fund
 0801 created under this subsection. Upon the cessation of operation of
 0802 the facility, the secretary shall return any unused portion of the
 0803 money deposited by a permittee in the trust fund created under
 0804 this subsection, including interest on the unused portion, to the
 0805 permittee. All expenditures from the trust fund created under
 0806 this subsection shall be made in accordance with appropriation
 0807 acts upon warrants of the director of accounts and reports issued
 0808 pursuant to vouchers approved by the secretary of health and
 0809 environment or a person or persons designated by the secretary.

0810 (e) (d) Permits granted by the secretary, as provided in this
 0811 act, shall be revocable or subject to suspension whenever the
 0812 secretary shall determine that the hazardous waste treatment,
 0813 storage or disposal facility is, or has been constructed or con-
 0814 ducted in violation of this act or the rules and regulations or
 0815 standards adopted pursuant to the act, or is creating a hazard to
 0816 the public health or safety or to the environment, or for failure to
 0817 make payment of any fee to any funds created under this act.

0818 (f) (e) In case any permit is denied, suspended or revoked
 0819 any person aggrieved by such decision may request a hearing
 0820 before the secretary in accordance with K.S.A. 1982 Supp. 65-
 0821 3440, and amendments thereto.

0822 Sec. 9. K.S.A. 1983 Supp. 65-3441 is hereby amended to read
 as follows: 65-3441. (a) It shall be unlawful for any person to: (1)
 0824 Dump or deposit, or permit the dumping or depositing of any
 0825 hazardous waste regulated by this act into any facility except
 0826 short-term storage which does not have a permit issued by

c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

Section 9 amends K.S.A. 1983 Supp. 65-3441, the statute providing for criminal penalties to the hazardous waste statutes, to provide for a criminal fine in at least the amount of \$10,000 for each violation to meet the requirements of the federal regulations under RCRA. That change is accomplished by changing the penalty in subsection (c) from a class "D" to a class "C" felony. Other amendments clarify language in the section, and add certain unlawful acts (articles 6 through 10). The House Committee amended this section by inserting a new illegal act under this statute which would be to "Add, mix, or blend any hazardous waste with fuel oil or any other fuel intended for use by residential consumers."

Lines 825-828

c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

comply with the provisions of this act or rules or regulations,
 0828 standards or orders of the secretary, but this provision shall not
 0829 prohibit: (A) The use of hazardous wastes in normal farming
 0830 operations or in the processing or manufacturing of other prod-
 0831 ucts in a manner that will not adversely affect the public health
 0832 or environment, or (B) a generator who periodically produces a
 0833 quantity of hazardous waste less than the quantity regulated
 0834 under subsection (k) of K.S.A. 1982 Supp. 65-3431, and amend-
 0835 ments thereto, from disposing such quantity of hazardous waste
 0836 into a facility approved by the department which has a permit
 0837 issued under K.S.A. 1982 Supp. 65-3407, and amendments
 0838 thereto.

0839 (2) Construct, modify or operate a hazardous waste storage,
 0840 treatment or disposal facility without a permit, license or other
 0841 required written approval from the secretary or to be in violation
 0842 of the rules and regulations, standards or orders of the secretary.

0843 (3) Violate any condition of any permit or license issued by
 0844 the secretary.

0845 (4) ~~Generate, store~~ Store, collect, treat or dispose of hazard-
 0846 ous waste contrary to the rules and regulations, standards or
 0847 orders of the secretary.

0848 (5) Refuse or hinder entry, inspection, sampling and the
 0849 examination or copying of records related to the purposes of this
 0850 act by an agent or employee of the secretary after such agent or
 0851 employee identifies and gives notice of their purpose at any time
 0852 when the facility is in operation or receiving or treating or
 0853 disposing of hazardous wastes.

0854 (6) Perform or fail to perform any act in violation of the
 0855 rules and regulations, standards or orders of the secretary.

0856 (7) Knowingly make any false material statement or repre-
 0857 sentation in any application, label, manifest, record, report,
 0858 permit or other document filed, maintained or used for purposes
 0859 of compliance with this act.

0860 (8) Knowingly generate, store, treat, transport, dispose of or
 0861 otherwise handle any hazardous waste or knowingly destroy,
 0862 alter or conceal any record required to be maintained under
 0863 rules and regulations promulgated by the secretary pursuant to

Lines 840, 843

- b. Separate the radioactive waste statutory references for consolidation with other state radioactive statutes.

Lines 852-853

- c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

Lines 854-874

- a. EPA's requirement for certain statutory changes which are necessary in order to receive full authorization.

1 this act.

0865 (9) Fail to designate on a manifest a facility which is autho-
0866 rized to operate under the federal hazardous waste program or
0867 under a state hazardous waste program which has received
0868 approval to operate in lieu of the federal hazardous waste
0869 program.

0870 (10) Transport hazardous waste to a facility which is not
0871 authorized to operate under the federal hazardous waste pro-
0872 gram or under a state hazardous waste program which has
0873 received approval to operate in lieu of the federal hazardous
0874 waste program.

0875 (11) Add, mix or blend any hazardous waste with fuel oil or
0876 any other fuel intended for use by residential consumers.

0877 (6) ~~(11)~~ (12) Transport and dispose of, or cause the transpor-
0878 tation and disposition of, hazardous waste in a manner contrary
0879 to the rules and regulations, standards or orders of the secretary.
0880 It shall not constitute a defense to the generator that the genera-
0881 tor acted through an independent contractor in the transportation
0882 or disposition of the hazardous waste.

0883 (b) Any person who violates any provision of paragraphs (1)
0884 to ~~(5)~~ ~~(11)~~, inclusive, of subsection (a) of this section shall be
0885 guilty of a class A misdemeanor and, upon conviction thereof,
0886 shall be punished as provided by law. Any person who violates
0887 any provision of paragraph ~~(6)~~ ~~(11)~~ (12) of subsection (a) of this
0888 section shall be guilty of a class E felony and, upon conviction
0889 thereof, shall be punished as provided by law.

0890 (c) Any person who ~~willfully, wantonly or recklessly know-~~
0891 ~~ingly~~ violates any provisions of paragraphs (1) to ~~(6)~~ ~~(11)~~ (12),
0892 inclusive, of subsection (a) shall be guilty of a class ~~D~~ C felony
0893 and, upon conviction thereof, shall be punished as provided by
0894 law.

0895 (d) Any individual who violates any of the provisions of
0896 paragraphs (1) to ~~(6)~~ ~~(11)~~ (12), inclusive, of subsection (a) shall be
0897 legally responsible to the same extent as if such acts were in the
0898 individual's own name or on the individual's own behalf.

0899 (e) The county or district attorney of every county shall file
0900 appropriate actions for enforcement of this section upon request

Lines 890-892

a. EPA's requirement for certain statutory changes which are necessary in order to receive full authorization.

of the secretary or upon the county or district attorney's own motion after consultation with the secretary.

(f) No person shall be held responsible for failure to secure a permit under the provisions of this section for the dumping or depositing of any hazardous waste on land owned or leased by such person without their expressed or implied consent, permission or knowledge.

Sec. 10. K.S.A. 1983 Supp. 65-3442 is hereby amended to read as follows: 65-3442. (a) Title to hazardous waste transported, stored, treated or disposed of in accordance with the provisions of this act and the rules and regulations and standards adopted thereunder, shall vest in ~~with the generator, transporter or~~ with the owner of the hazardous waste management facility in which the waste is located, ~~treated or disposed of~~ unless specific contractual arrangements are otherwise provided with the generator or contractor. Hazardous waste disposed of in ways other than in accordance with the provisions of this act remain the property of the generator and the generator is liable for removal of the waste, restoration of the area in which the wastes were disposed and the disposal of the waste in accordance with this act.

(b) A generator who transfers hazardous waste to a registered hazardous waste transporter for transport to an approved hazardous waste facility shall be relieved of liability for cleanup or disposal for such waste, except as otherwise provided in this act. This subsection shall not operate to relieve any contractual obligation owing to the operator of the approved hazardous waste facility or to the transporter by the generator.

(c) If a generator utilizes ~~an unregistered transporter or~~ arranges for ~~an unapproved transportation, storage,~~ disposal or treatment, the generator and any person aiding or abetting the generator shall be liable for all costs resulting from cleanup, disposal or treatment of the waste.

(d) The duties, responsibilities and liabilities of this section shall apply to both intrastate and interstate shipments of hazardous waste by a generator located in the state of Kansas.

Sec. 11. K.S.A. 1983 Supp. 65-3443 is hereby amended to read as follows: 65-3443. (a) If the secretary finds that the

Lines 912-929 c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

Sections 10 and 11 amend K.S.A. 1983 Supp. 65-3442 and 65-3443 by clarifying language in those statutes.

generation, accumulation, management or discharge disposal of
 0939 a hazardous waste by any person is or threatens to cause pollu-
 0940 tion of the land, air, or waters of the state or is or threatens to
 0941 become a hazard to persons, property or public health or safety or
 0942 that the provisions of this act or any rule or regulation adopted
 0943 pursuant thereto have been otherwise violated, the secretary
 0944 may order the person to modify the generation, accumulation or
 0945 management of the hazardous waste or to provide and imple-
 0946 ment such hazardous waste management systems procedures as
 0947 will prevent or remove the pollution or hazard or take any other
 0948 action deemed necessary. The secretary may order any person
 0949 having a permit issued under this act, and who operates a public
 0950 or commercial hazardous waste management system or any part
 0951 thereof facility, which the secretary finds suitable to manage the
 0952 hazardous waste, to provide and implement a hazardous waste
 0953 management system or part thereof procedure procedures to
 0954 prevent or remove such pollution or hazard. Such order shall
 0955 specify a fair compensation to the owner or permittee for prop-
 0956 erty taken or used and shall specify the terms and conditions
 0957 under which the permittee shall provide the hazardous waste
 0958 management services. Any order issued shall specify the length
 0959 of time after receipt of the order during which the person or
 0960 permittee shall provide or implement the hazardous waste man-
 0961 agement system procedures or modify the generation, accumu-
 0962 lation or management of the hazardous waste.

0963 (b) If the secretary after consideration of the economic im-
 0964 pact on the generator finds that there is an environmentally more
 0965 desirable procedure available other than ground burial for the
 0966 disposal of a particular type of hazardous waste, the secretary
 0967 shall order that the use of ground burial for the disposal of that
 0968 type of hazardous waste be discontinued. The secretary in de-
 0969 veloping such consideration may require the generator to pro-
 0970 vide information and plans for potential environmentally more
 desirable procedures.

0972 (c) Any party aggrieved by an order under this section shall
 0973 have the right of appeal in accordance with the provisions of
 0974 K.S.A. 1981 Supp. 65-3440, and amendments thereto.

Lines 938-943 a. EPA's requirement for certain
 statutory changes which are neces-
 sary in order to receive full
 authorization.

Lines 946-961 c. Clarify and cleanup hazardous
 waste statutes due to program
 changes at both the state and
 federal level.

0976 Sec. 12. K.S.A. 1983 Supp. 65-3444 is hereby amended to
0977 read as follows: 65-3444. (a) A person who violates any provi-
0978 sions of this act, shall incur, in addition to any other penalty
0979 provided by law, a civil penalty in an amount not to exceed
0980 \$25,000 for every such violation and, in the case of a continuing
0981 violation, every day such violation continues shall be deemed a
0982 separate violation.

0982 (b) In assessing the civil penalty under this section, the
0983 district court shall consider, when applicable, the following
0984 factors:

0985 (1) The extent to which the violation presents a substantial
0986 hazard to the health of individuals;

0987 (2) the extent to which the violation has or may have an
0988 adverse effect upon the environment to be determined by the
0989 court according to the toxicity, degradability and dispersal
0990 characteristics of the ~~substance discharged~~ *hazardous waste*
0991 *disposed of* or the potential for such damage if no ~~substance~~
0992 *hazardous waste* has been ~~discharged~~ *disposed*, the sensitivity of
0993 the receiving environment and the degree to which the ~~dis-~~
0994 *charge disposal* degrades existing environmental quality or the
0995 potential for such degradation if no ~~discharge~~ *disposal* has oc-
0996 curred;

0997 (3) the amount of the reasonable costs incurred by the state in
0998 detection, investigation and attempted correction of the viola-
0999 tion;

1000 (4) the economic savings realized by the person in not com-
1001 plying with the provision for which a violation is charged in-
1002 cluding, but not limited to, that sum which a person would be
1003 required to expend for the planning, acquisition, siting, con-
1004 struction, installation and operation of facilities necessary to
1005 comply with the provision violated;

1006 (5) the quantity of the ~~substance discharged~~ *or hazardous*
1007 *waste* disposed of, if any, in a manner which constitutes a
violation; and

1009 (6) the amount which would constitute an actual and sub-
1010 stantial economic deterrent to the violation for which it is as-
1011 sessed.

Section 12 amendments to K.S.A. 1983 Supp. 65-3444 clarify language in this statute by replacing the word "discharged" with "disposed" and deleting reference to "substance" and replacing it with "hazardous waste." One amendment would authorize the Secretary to commence civil action under this section in the imposition of a civil penalty.

Lines 990-995

a. EPA's requirement for certain statutory changes which are necessary in order to receive full authorization.

Lines 1006-1007

a. EPA's requirement for certain statutory changes which are necessary in order to receive full authorization.

1012 A civil action under this section may be commenced in
 1013 the name of the state by *the secretary* or the county or district
 1014 attorney of the county in which the violation is alleged to have
 1015 occurred, or at the request of the secretary of health and envi-
 1016 ronment, by the attorney general.

1017 (d) Any sum assessed under this section shall be deposited as
 1018 ordered by the district court judge: (1) In the state general fund,
 1019 or (2) in a perpetual care trust fund established under K.S.A. 1982
 1020 Supp. 65-3431, and amendments thereto, or (3) part in a [the] the
 1021 state general fund and the balance in a perpetual care trust fund.
 1022 Moneys deposited in a perpetual care trust fund under this
 1023 subsection (d) shall be to reimburse such fund, to the extent
 1024 practicable as determined by the district court judge, for ex-
 1025 penditures from such fund, if any, in the matter which gave rise
 1026 to the civil action.

1027 Sec. 13. K.S.A. 1983 Supp. 65-3445 is hereby amended to
 1028 read as follows: 65-3445. (a) Notwithstanding any other provision
 1029 of this act, upon receipt of information that the storage, trans-
 1030 portation, treatment or disposal of any hazardous waste may
 1031 present a substantial hazard to the health of persons or to the
 1032 environment *or for a threatened or actual violation of this act or*
 1033 *any rules or regulations adopted pursuant thereto or any orders*
 1034 *issued pursuant thereto or any permit conditions required*
 1035 *thereby*, the secretary may take such action as may be necessary
 1036 to protect the health of persons or the environment. The action
 1037 the secretary may take shall include, but not be limited to:

1038 (1) Issuing an order directing the *owner, generator, trans-*
 1039 *porter or operator of the generator, transporter, storage, treat-*
 1040 *ment or disposal facility or site, or the custodian of the waste,*
 1041 *which constitutes the hazard, to take such steps as are necessary*
 1042 *to prevent the act or eliminate the practice which constitutes the*
 1043 *hazard. The action may include, with respect to a facility or site,*
 1044 *permanent or temporary cessation of operation.*

1045 (2) Commencing an action to enjoin acts or practices speci-
 1046 fied in paragraph (1) of this subsection or requesting that the
 1047 attorney general or appropriate district or county attorney com-
 1048 mence an action to enjoin those acts or practices. Upon a show-

Lines 1013-1016 c. Clarify and cleanup hazardous
 waste statutes due to program
 changes at both the state and
 federal level.

Section 13 amendments to K.S.A. 1983 Supp. 65-3445,
 which authorizes the Secretary to take such action as may be
 necessary to protect the health of persons or the environment,
 would include "a threatened or actual violation of this act or
 any rules and regulations adopted pursuant thereto or any
 orders issued pursuant thereto or any permit conditions
 required thereby." An amendment also provides that the
 Secretary can issue an order or injunction to an owner,
 generator, or transporter, as well as an operator of a treat-
 ment, storage, or disposal facility. The House Committee
 amended this section by inserting a new subsection (c) which
 merely clarifies the appeal procedure by referencing the
 existing appeal procedures in the statutes (K.S.A. 1983 Supp.
 65-3440).

Lines 1032-1035

- a. EPA's requirement for certain
 statutory changes which are neces-
 sary in order to receive full
 authorization.

Lines 1038-1039

- a. EPA's requirement for certain
 statutory changes which are neces-
 sary in order to receive full
 authorization.

ing by the secretary that a person has engaged in those acts or
 1050 practices, a permanent or temporary injunction, restraining order
 1051 or other order may be granted by any court of competent juris-
 1052 diction. An action for injunction under this paragraph (2) of this
 1053 subsection shall have precedence over other cases in respect to
 1054 order of trial.

1055 (3) Applying to the district court in the county in which an
 1056 order of the secretary under paragraph (1) of this subsection will
 1057 take effect, in whole or in part, for an order of that court directing
 1058 compliance with the order of the secretary. Failure to obey the
 1059 court order shall be punishable as contempt of the court issuing
 1060 the order. The application under this paragraph (3) of this sub-
 1061 section for a court order shall have precedence over other cases
 1062 in respect to order of trial.

1063 (b) In any civil action brought pursuant to this section in
 1064 which a temporary restraining order, preliminary injunction or
 1065 permanent injunction is sought, it shall not be necessary to
 1066 allege or prove at any stage of the proceeding that irreparable
 1067 damage will occur should the temporary restraining order, pre-
 1068 liminary injunction or permanent injunction not be issued or that
 1069 the remedy at law is inadequate, and the temporary restraining
 1070 order, preliminary injunction or permanent injunction shall issue
 1071 without such allegations and without such proof.

1072 (e) Any person aggrieved by an order of the secretary made
 1073 pursuant to this section may appeal such order in the manner
 1074 provided by law, within 30 days of notice of such order.

1075 (c) Any party aggrieved by an order under this section shall
 1076 have the right of appeal in accordance with the provisions of
 1077 K.S.A. 65-3440, and amendments thereto.

1078 Sec. 14. K.S.A. 1983 Supp. 65-3446 is hereby amended to
 1079 read as follows: 65-3446. (a) The *secretary of the department of*
 1080 *health and environment or the director of the division of envi-*
 1081 *ronment, if designated by the secretary,* upon a finding that a
 1083 *person has violated any provision of K.S.A. 1981 Supp. 65-3441,*
 1084 *and amendments thereto,* may impose a penalty not to exceed
 1085 \$10,000 which shall constitute an actual and substantial eco-
 nomic deterrent to the violation for which it is assessed and, in

Section 14 amendments to K.S.A. Supp. 65-3446 provide that the Secretary make the finding that a person had violated any provision of K.S.A. 65-3441 and would also provide that the Secretary impose the penalty under the statute. The House Committee amended this section by inserting a new subsection (c) which specifies that the appeal procedures under this section would be those set out in K.S.A. 1983 Supp. 65-3440.

Lines 1079-1083

- c. Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

1087 In the case of a continuing violation, every day such violation
1088 continues shall be deemed a separate violation.

1089 (b) No penalty shall be imposed pursuant to this section
1090 except upon the written order of the *secretary of the department*
1091 *of health and environment, or the director of the division of*
1092 *environment, if designated by the secretary* to the person who
1093 committed the violation. The order shall state the violation, the
1094 penalty to be imposed and the right of appeal to the secretary of
1095 health and environment. Any such person may, within 30 days
1096 after notification, make written request to the secretary for a
1097 hearing thereon. The secretary shall hear the person within 30
1098 days after receipt of such request and shall give not less than 10
1099 days' written notice of the time and place of the hearing. Within
1100 15 days after such hearing, the secretary shall affirm, reverse or
1101 modify the order of the director and shall specify the reasons
1102 therefor. Nothing in this act shall require the observance at any
1103 hearing of formal rules of pleading or evidence.

1104 (c) Any person aggrieved by an order of the secretary made
1105 pursuant to subsection (b) of this section may appeal the order in
1106 the manner provided by law, within 30 days of notice of the
1107 order.

1108 (e) Any party aggrieved by an order under this section shall
1109 have the right of appeal in accordance with the provisions of
1110 K.S.A. 65-3440, and amendments thereto.

1111 New Sec. 15. If the secretary brings a civil enforcement
1112 action pursuant to this act, any citizen person who has an interest
1113 which is or may be adversely affected, upon timely application,
1114 shall be allowed to intervene in such action pursuant to K.S.A.
1115 60-224, and amendments thereto.

1116 Sec. 16. K.S.A. 1983 Supp. 65-3430, 65-3431, 65-3432, 65-
1117 3333, 65-3435, 65-3436, 65-3437, 65-3439, 65-3441, 65-3442, 65-
1118 3443, 65-3444, 65-3445, 65-3446 and 65-3448 are hereby re-
1119 pealed.

1120 Sec. 17. This act shall take effect and be in force from and
after its publication in the statute book.

Lines 1089-1091 c.

Clarify and cleanup hazardous waste statutes due to program changes at both the state and federal level.

New Section 15 provides that if the Secretary brings a civil enforcement action to the Act, any person who has an interest which is or may be adversely affected, would be allowed to intervene.