

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources

The meeting was called to order by Senator Merrill Werts at
Chairperson

8:05 a.m./~~p.m.~~ on January 16, 1985, 19 in room 123-S of the Capitol.

All members were present except:

Committee staff present:

Ramon Powers, Research Department
Raney Gilliland, Research Department
Don Hayward, Revisor of Statutes
Nancy Jones, Secretary to the Committee

Conferees appearing before the committee:

Ramon Powers, Research Department
Don Hayward, Revisor of Statutes

Senator Vidricksen moved that the minutes of the January 15, 1985 meeting be approved. Senator Daniels seconded the motion.

Chairman Werts introduced Dennis Dehn, who will be his intern during the 1985 session. Dennis is a Political Science Major from the University of Kansas.

Copies of Proposal NO. 20-Regulation of Hazardous and Solid Waste Generation and Disposal along with copies of S.B. 1, were passed out to Committee members by Ramon Powers who gave a review of Proposal NO. 20. He pointed out the report has three major elements: Solid Waste Management, Hazardous Waste Program and Committee Conclusions and Recommendations. The Solid Waste Management program regulates the disposal of solid wastes and encourages the reclamation and recycling of solid wastes. Land fills and other solid waste facilities are regulated by the state which reviews and approves the 105 county solid waste management plans and 7 individual city plants. The solid waste program was established in 1970 and brought to an end the open dump and introduced the sanitary landfill, which has become a focus of concern. New resource recovery methods of handling solid wastes are under consideration by certain communities. Some methods include the conversion of waste materials into useful forms of energy such as the production of steam, electricity, hot air, hot liquids, and other fuels. In the 1984 Session, the Legislature enacted H.B. 3095 which is designed to facilitate the implementation of resource recovery facilities in Kansas. Among Kansas local units of government, Sedgwick County has studied resource recovery in the greatest depth. (Attachment A).

In regard to hazardous waste, the management program regulates the generation, transportation, storage, treatment, and disposal of hazardous waste in Kansas. It also provides for the investigation and cleanup of potential problem sites associated with past hazardous waste management practices. Kansas has regulated the disposal of hazardous waste since 1977. In 1981 major amendments to the statutes provided for the Perpetual Care Trust Fund, the Hazardous Waste Facility Approval Board, and the regulation of generators. The 1984 Legislature enacted H.B. 2740 and H.B. 2726 to establish standards for underground injection, land treatment, ground storage of hazardous waste, and providing that money received by the Secretary of Health and Environment be deposited in the Hazardous Waste Cleanup Fund.

The Committee concluded that a total ban on the underground burial of Hazardous Waste is in the best interest of the people of Kansas. However, they recognized that technically and economically this may not be feasible. Also they concluded technically we are not able to avoid eventual land burial of hazardous wastes or residues, although a lot of technology is being looked into. With the passage of S.B. 1 the burden of this would be on generators.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources,
room 123-S, Statehouse, at 8:05 a.m./~~p.m.~~ on January 16, 1985

Senator Kerr said that serving on the interim committee was a good learning experience and the resource people were excellent. Senator Feleciano agreed with Senator Kerr regarding the conferees but strongly supports the position that land burial of waste should be banned forever. If it is banned, then more industry should develop as it becomes aware of the several alternatives available for disposal. Senator Feleciano also suggested that additional hearings might be desirable for the committee.

Senator Werts then asked Don Hayward to review S.B. 1 (Attachment "B") for the committee. Mr. Hayward emphasized that the bill would create an underground hazardous waste disposal review board which would supercede some of the authority of the Secretary of Health and Environment.

Senator Hayden inquired if local units of government were taking advantage as developing units yet and Mr. Powers replied in the negative.

Chairman Werts reminded the committee that the Resource Conservation and Recovery Act would be discussed at the meeting on January 17.

The meeting was adjourned at 8:50 a.m.

Guest List

1-16-85

Rob Hodges	Topeka	KCC 1
Boyd D. Shenkel	Shawnee	K.C.P.L.
LON STANTON	TOPEKA	NORTHEEN NATURAL GAS
Richard D. Kready	"	KPL/Gas Service
Kevin Robertson	"	"
Brenda Stockman	—	Sen. Winter
B. J. SABOL	"	KDH+E
Nancy Ingle	"	Budget
Shawn J. McRath	Lawrence	KWRC
Dennis Murphy	Topeka	KDHE
JAMES L. YOUNG	OAKBROOK, IL.	CHEM WASTE
JERRY COANOD	TOPEKA	KG S+E
Ed Reinert		League Women Voters
Pat Schaper	Topeka	Budget
CHARLES BELT	WICHITA	WICHITA AREA CHAMBER OF COMMERCE
Chip Wheeler	Topeka	Waste Management, Inc.
Jim Burke	Topeka	Pittsburg State / ASK
MaryAnn Bumgarner	Lawrence	Senator Burke - interim

COMMITTEE REPORT

TO: Legislative Coordinating Council
FROM: Special Committee on Energy and Natural Resources
RE: PROPOSAL NO. 20 — REGULATION OF HAZARDOUS
AND SOLID WASTE GENERATION AND DISPOSAL*

The Special Committee was directed to study and make recommendations concerning the regulation of small generators of hazardous waste, alternative methods of hazardous waste disposal, and resource recovery as an alternative to the landfilling of solid waste by Kansas communities.

Waste management programs in Kansas consist of two areas of state activity: hazardous waste management and solid waste management.

Solid Waste Management

The solid waste management program regulates the disposal of solid wastes and encourages the reclamation and recycling of solid wastes. There are 120 sanitary landfills and 300 other solid waste management facilities (demolition-construction landfills and tree-brush burn sites) regulated by the state. The state reviews and approves the 105 county solid waste management plans and 7 individual city plans. According to the Department of Health and Environment, every Kansan produces approximately 1,400 pounds of solid waste

* S. Bill 1 accompanies this report.

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Attachment "A"

per year. This means that annually approximately 1,650,000 tons of solid wastes are generated, transported, and disposed of in Kansas.

The solid waste management program was established in 1970 by enactment of the Solid Waste Management Act. That enactment brought an end to the open dump and the introduction of the sanitary landfill. The sanitary landfill has become a focus of concern as communities are forced to either expand existing facilities, acquire a new landfill, or consider alternative ways of disposing of the solid wastes. Also, new laws restrict what can be buried in a solid waste landfill.

New resource recovery methods of handling solid wastes are under consideration by certain communities. Solid waste resource recovery encompasses a variety of techniques, activities, and technologies designed to extract useful materials or energy from waste. Some resource recovery alternatives recycle materials in the waste stream including the reuse of paper, metals, and glass. Other methods include the conversion of waste materials into useful forms of energy such as the production of steam, electricity, hot air, hot liquids, and other fuels.

In the 1984 Session, the Legislature enacted H.B. 3095 which will facilitate the implementation of resource recovery facilities in Kansas. Among the various provisions in the bill is authority granted to local governments or any combination of these local governments to provide for resource recovery facilities either directly or by contract with a private entity for recovery of materials or energy from solid waste as part of an approved solid waste management plan. The governmental unit or units may require the use of these facilities by all persons except persons owning or leasing and occupying a single family dwelling and surrounding land which is zoned for

agricultural purposes. Cities and counties may create separate legal entities to govern this activity.

The resource recovery facility will have sole ownership, utilization, and disbursement control of all waste collected by it or delivered to it. Private waste collectors may extract from the waste any materials they desire prior to delivery to the resource recovery facility.

The Kansas community that has studied resource recovery in the greatest depth has been Sedgwick County. In 1980, the Board of Sedgwick County Commissioners and the Wichita City Commissioners authorized the Sedgwick County Department of Environmental Services to study alternatives for solid waste disposal in the area. A Resource Recovery Task Force was created which produced a 2,000 page, three volume study entitled Sedgwick County, Kansas Resource Recovery Feasibility Study, 1982. The two principal recommendations of the report were that the community should install a network of modular waste-to-incinerator facilities in Sedgwick County and that such facilities be privately owned and operated whenever possible in order to provide the most cost effective waste disposal system for the general public.

Committee Activity

At the hearing on this portion of the proposal, the Committee heard from representatives of the Kansas Department of Health and Environment (KDHE), the Sedgwick County Department of Environmental Resources, the city of Emporia, and the Topeka-Shawnee County Health Department.

The KDHE representative described the technological, marketing, and institutional barriers to resource recovery. He also reviewed alternative state resource recovery program

approaches to create an institutional environment conducive to resource recovery. Those alternatives are as follows: (1) creation of a statewide authority empowered to issue bonds, acquire property, plan and operate facilities, and charge users for services; (2) a state public works approach whereby a state agency could issue bonds pledging the credit of the state; (3) a state encouraged or mandated regional approach providing for regional authorities or interlocal agreements or incentives for regionalization; (4) a state grant or loan program to assist local governments in implementing resource recovery; (5) a system of incentives for resource recovery and disincentives to the land disposal of solid waste; and (6) a state program to encourage waste reduction such as banning nonreturnable bottles, use taxes on certain materials, direct packaging controls, or voluntary standards for conserving resources or utilizing recycled materials.

The representatives of the Sedgwick County Department of Environmental Resources and the city of Emporia encouraged the Legislature to consider providing financing assistance for resource recovery facilities to help communities make the initial capital investment in such facilities. The representative of the Topeka-Shawnee County Health Department stated that resource recovery in his community will probably not be economically feasible in the foreseeable future.

Hazardous Waste Program

The hazardous waste management program regulates the generation, transportation, storage, treatment, and disposal of hazardous waste in Kansas. There are 380 regulated generators of hazardous waste; 140 transporters; and 42 treatment,

storage, and disposal facilities in the state. The state program also provides for the investigation and cleanup of potential problem sites associated with past hazardous waste management practices.

Kansas has regulated the disposal of hazardous wastes since 1977. In that year the owners of the Furley site, Kansas Industrial Environmental Services, Inc. (KIES), secured a permit from KDHE to operate the facility in accord with provisions in the permit. The Legislature enacted statutes providing for regulation of hazardous waste facilities comparable to standards incorporated in the KIES permit.

The Legislature amended the 1977 hazardous waste statutes in 1979. In 1981 major amendments to the statutes provided for the Perpetual Care Trust Fund, the Hazardous Waste Facility Approval Board, and the regulation of generators. That bill also provided that if the Secretary of KDHE finds, after consideration of the economic impact on the generator, that there is an environmentally more desirable procedure available other than ground burial, the Secretary shall order the discontinuance of the ground burial of such hazardous wastes.

The Governor proposed a hazardous waste cleanup fund and a ban on the below ground burial of hazardous waste to the 1984 Legislature. H.B. 2725, which contained the Governor's recommendation for a ban on below ground burial, died on General Orders in the Senate.

The 1984 Legislature enacted H.B. 2740 which amended various sections of the hazardous waste law thereby providing the statutory changes necessary for KDHE to receive full authorization to implement the hazardous waste program in Kansas.

H.B. 2740 also amended the provision in the present hazardous waste law which provides that if the Secretary of KDHE, after consideration of the economic impact on the generator, finds that there is an environmentally more desirable procedure available other than ground burial of a particular type of waste, the Secretary can order the discontinuance of ground burial of such waste. The language requiring the Secretary to consider the economic impact on the generator before discontinuing ground burial was deleted. Also, the Secretary was required to adopt rules and regulations providing for approval of closure and post-closure plans, establishing standards for underground injection, land treatment, and above ground storage of hazardous waste.

The 1984 Legislature provided for the creation of a Hazardous Waste Cleanup Fund with enactment of H.B. 2726. The bill provides that all moneys received by the Secretary of Health and Environment as grants, gifts, bequests, or state or federal appropriations to carry out the provisions of the Act be deposited in the Fund. All expenditures from the Fund are to be made in accordance with appropriations acts.

In 1984 the state of Kansas joined the Midwest Industrial Exchange which provides services to its member states and commercial and industrial organizations within those states. Services include preparing a list of hazardous waste generators, the kinds and quantities of wastes they generate, and the availability of these wastes for reuse by other industries within the membership organization. The service will provide an outlet to the industrial sector within Kansas for alternative disposition of some of the hazardous wastes presently generated.

Also, the Secretary of Health and Environment created a deep well injection task force to study the issue of hazardous

waste disposal using deep well injection processes. This task force was directed to evaluate a number of areas:

1. determine the appropriateness of prohibition of liquid hazardous waste injection;
2. determine if injection to certain geological formations would be environmentally suitable;
3. review existing requirements and develop new hazardous waste criteria, if necessary, by which future applications for hazardous waste injection will be judged; and
4. develop a document outlining the findings of the task force and recommendations for statutory changes, changes in the regulations, or policy changes.

The Secretary of KDHE adopted, with certain modifications, the recommendations of the Hazardous Waste Injection Well Task Force. The recommendations include the permitting of hazardous waste injection wells only if injection is deemed the most reasonable method of disposal after consideration of all other options. Prior to injection, the fluids must meet minimum pretreatment requirements set by the Secretary. In setting these requirements, the Secretary must consider values 100 times the applicable drinking water standards and values 100 times the applicable 10^{-5} cancer risk levels, or other values necessary to prevent contamination of underground drinking water supplies to protect the public health and the environment.

Application requirements are adopted and an application fee of \$25,000 will be required; the fee for an additional well

is not to exceed \$10,000. Permit conditions including insurance requirements, closure and post-closure requirements, monitoring, permit review, and permit renewal are specified in the report. A monitoring fee, which is set by statute, would be increased from an amount not to exceed \$10,000 to an amount not to exceed \$25,000 annually. The exact fee would be set by the Secretary.

Finally, there is provision for the Hazardous Waste Injection Well Task Force to reconvene annually to evaluate policies and program implementation and make recommendations to the Secretary. Changes required in statute and rule and regulations are specified in the Task Force report.

Concerning the regulation of small generators of hazardous waste, the U.S. Environmental Protection Agency (EPA) exempted from regulation all generators of hazardous waste that generate or accumulate in any given calendar month less than 1,000 kilograms (about 2,200 pounds) per site (40 CFR 261.5). Under the Resource Conservation and Recovery Act (RCRA) reauthorization, by March 31, 1986, EPA must promulgate standards for waste generated in quantities greater than 100 and less than 1,000 kilograms per month of hazardous wastes.

Kansas regulates all generators of 100 kilograms or more per month of hazardous waste. These have been called the "Kansas generator" class which are not regulated as stringently as those which generate 1,000 kilograms or more per month.

A section in 1984 H.B. 2740 phases in the regulation of small generators of hazardous waste based on the quantity of waste generated as follows:

1. all persons generating 165 pounds (75 kilograms) or more per month, on or after July 1, 1984;
2. all persons generating 110 pounds (50 kilograms) or more per month, on or after July 1, 1985; and
3. all persons generating 55 pounds (25 kilograms) or more per month, on or after July 1, 1986.

Any person generating a total of 2.2 pounds (one kilogram) or more of acutely hazardous waste is also subject to regulation under H.B. 2740.

Committee Activities

The Committee was briefed by the Secretary of KDHE at the June meeting and briefed by a representative of the National Conference of State Legislatures (NCSL) at the August meeting. The NCSL representative informed the Committee on the status of the legislation reauthorizing RCRA and described various state programs providing for alternatives to land disposal of hazardous waste, including financial incentives and bond financing to encourage alternatives to land disposal, legal approaches to promote alternatives to land disposal, and institutional strategies to reduce the volume of hazardous waste or promote alternative technologies.

In the hearings during the August meeting, representatives of the following organizations and companies presented testimony: the Kansas Department of Health and Environment; the Midwest Industrial Waste Exchange, Inc., St. Louis, Missouri; Reid Supply Company, Wichita, Kansas; Systech

Corporation, Xenia, Ohio; Chemical Waste Management, Oak Brook, Illinois; New Materials Technology, Wichita, Kansas; Boeing Military Airplane Company, Wichita, Kansas; ILWD, Indianapolis, Indiana; McKesson Envirosystems, Fort Wayne, Indiana; Chem-Technics, Inc., Atlanta, Georgia; Vulcan Materials Company, Wichita, Kansas; the Kansas Geological Survey; and J. C. Butler Associates, Inc., Salina, Kansas, and the Kansas Engineering Society.

The Committee was told that there are many technologies available as alternatives to the current use of land burial in the disposal of hazardous waste. These technologies fall into two major areas: (1) waste reduction which includes source segregation, process modification, end product substitution, recovery, and recycling; and (2) hazard reduction which includes incineration, biological treatment, and chemical fixation.

Representatives of a number of companies described to the Committee how they collected hazardous wastes from generators and recovered such waste materials for reuse, particularly for the use as a fuel. One company operates a supplemental fuel facility in Fredonia, Kansas, which supplies fuel to General Portland, Inc., where hazardous waste fluids are burned in two cement kilns. The firm is responsible for marketing, waste analysis, blending, and quality control in preparation of the supplemental fuel for the kilns. The particular company has handled over 20 million gallons of hazardous waste during the past five years without any environmental or safety problem.

A major aircraft company in Kansas has been treating its wastes since 1947. The company uses its paint wastes for fuels, and it is installing solvent recovery equipment at a cost of \$2.5 million. All of the company's hazardous wastes, which are not handled on site, are sent out for recycling, and a ban

on burial would not create a problem for the company at the present time.

An Indiana firm told how it recovers hazardous wastes used in metal cleaning, paint and coatings, electronics, automotive, and pharmaceuticals. The spent organic solvents are recycled, and the refined solvents are resold in the marketplace. Waste materials are recovered for reuse, and valuable natural resources are conserved. The representative of the company stated that facilities exist for handling 95 percent of all hazardous wastes generated without sending those wastes to landfills.

The representative of another company headquartered in Indiana, with offices in Kansas City, described to the Committee how its chemical/physical treatment plant routinely treats waste acids, caustics, metal contaminated streams, metal hydroxide sludges, refinery wastes, cyanides, and oil wastes. Treatment, resource recovery, recycling, waste exchanges, changed production methods, and incineration are alternatives to land burial, the Committee was told.

The out-of-state companies pointed out that they are doing business in Kansas, and they can make a profit even if they have to transport wastes to plants 300 miles away. Because many wastes have a value in reuse or as a fuel, companies cannot afford to send such wastes to land disposal sites.

A conferee stated that industry will develop the necessary technologies if landfills are not a disposal alternative. Another conferee argued that alternative technologies for hazardous waste management are costly, however, the risks involved in utilizing hazardous waste landfills outweigh the lower front-end cost of landfilling wastes. The representative of the state professional engineering society told the

Committee that most hazardous wastes can be managed so that the residue that remains for land disposal after treatment is not hazardous.

The Committee also heard from a firm that manufactures and sells custom-blended chemicals that detoxify, immobilize, insolubilize, and otherwise renders liquid wastes, sludges, and solids less hazardous or less capable of introducing themselves into the environment. Another firm described a new Japanese-developed polymer technology that solidifies hazardous wastes.

Tax incentives to encourage companies to adopt alternatives to land burial were supported by some conferees; however, other conferees expressed little interest in tax incentives.

One conferee supported placing hazardous wastes destined for disposal in engineered retrievable storage in earth mounds at the ground surface rather than burying them underground. Another conferee advocated creation of a comprehensive hazardous waste treatment center for Kansas operated by a hazardous waste disposal authority.

The company that owns the hazardous waste disposal facility at Furley told the Committee that although the physical and chemical character of hazardous wastes can be altered, waste residues must be landfilled. He argued that landfills can be designed, constructed, and operated to insure that near-term environmental damage is nonexistent and the threat of long-term environmental damage is negligible.

Concerning the phasing in of small quantity generators, a conferee stated that if Kansas is serious in regulating small generators of hazardous wastes, companies will enter the market to handle their wastes. He insisted that the free

enterprise system will take care of the waste problem as soon as there is enforcement.

At the urging of the Committee, KDHE developed an agreement with the State Fire Marshal to help the Department identify and educate small generators of hazardous wastes in the management and disposal of their wastes.

Committee Conclusions and
Recommendations

The Committee concludes that a total ban on the underground burial of hazardous waste is in the best interest of the people of the state of Kansas. However, it is also recognized by the Committee that there may be no technologically feasible or economically reasonable alternative method of disposal of certain hazardous wastes other than by underground disposal.

To implement a policy of banning the underground burial of hazardous waste, the Committee recommends introduction of S. Bill 1 which provides that, except for the hazardous wastes regulated under K.S.A. 65-3451 (i.e., the statute that phases-in the regulation of small generators of hazardous waste) the underground burial of hazardous waste be prohibited except as provided by order of the Secretary of KDHE. The prohibition would not affect the mound landfill, aboveground storage, land treatment, or underground injection of hazardous waste. Any existing hazardous waste disposal facility that utilized underground burial would be required to cease such practice and implement closure and post-closure plans.

The bill provides for creation of an underground hazardous waste disposal review board to decide whether an exception to the prohibition against underground burial of hazardous waste would be granted for a particular hazardous waste. No decision to grant an exception would be rendered until it was demonstrated that no technologically feasible or economically reasonable method other than underground burial exists for the disposal of a particular hazardous waste.

The issues of the impact of hazardous waste on water quality in Kansas are complex, and, from the testimony received by the Committee, it is clear that no one discipline or governmental or private entity has all the answers. Elimination of below ground burial of hazardous waste in the future is an important step forward; however, such action does not take care of problems created by past practices or provide for alternative methods of treating wastes that are being produced now. The Committee encourages KDHE and the Regents' institutions to cooperate in the development of an institute responsible for examining alternatives to land burial of hazardous wastes. Such an institute would also investigate the problems created by hazardous wastes and how those problems could be minimized or eliminated.

In its study of the proposal, the Committee found that more communication is necessary between state agencies on the subject of hazardous waste as it pertains to groundwater. Because of the precious nature of our groundwater resources and the limited knowledge we have concerning these resources, particularly the Dakota aquifer, it is necessary that KDHE work closely with the Kansas Water Office and the State Geologist so that the impact of hazardous waste on our groundwater can be continually monitored and all relevant information presented to the Legislature.

The Committee commends the Hazardous Waste Injection Well Task Force in its study of deepwell injection, which was completed near the end of the interim, and it recommends that the standing committees of both houses in the next legislative session study the issue in more detail.

Finally, the Committee recommends that KDHE continue to assist small generators in the management and disposal of their hazardous wastes as those generators come under the regulation.

Respectfully submitted,

November 20, 1984

Sen. Fred Kerr, Chairperson
Special Committee on Energy
and Natural Resources

Rep. Ron Fox,
Vice-Chairperson
Sen. Bert Chaney
Sen. Paul Feleciano, Jr.
Sen. Francis Gordon
Sen. Ben Vidricksen

Rep. Ginger Barr
Rep. LeRoy Fry
Rep. Ken Grotewiel
Rep. Kent Ott

SENATE BILL NO. 1

By Special Committee on Energy and Natural Resources

Re Proposal No. 20

AN ACT concerning hazardous waste; prohibiting the underground burial of hazardous waste; providing for exceptions to such prohibition; amending K.S.A. 1984 Supp. 65-3443 and repealing the existing section.

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

New Section 1. (a) The underground burial of hazardous waste produced by persons generating quantities of such waste greater than those specified in K.S.A. 1984 Supp. 65-3451 is prohibited except as provided by order of the secretary of health and environment issued pursuant to this act. Such prohibition shall not be construed as prohibiting mound landfill, aboveground storage, land treatment or underground injection of hazardous waste. Any existing hazardous waste disposal facility which utilizes underground burial shall cease such practice and, with the approval of the secretary, shall implement closure and post-closure plans for all hazardous wastes which have been disposed of underground.

(b) (1) There is established the underground hazardous waste disposal review board which shall be composed of seven members as follows: The secretary of health and environment, the state geologist, a member appointed by the president of the senate, a member appointed by the minority leader of the senate, a member appointed by the speaker of the house of representatives, a member appointed by the minority leader of the house of representatives and a member appointed by the governor. The term of office of the appointed members shall be three years. Upon the expiration of the term of office of the appointed members, the appointing authorities shall each appoint a successor. If a vacancy occurs among the appointed members for

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Attachment "B"

any reason other than the expiration of a member's term of office, the appointing authority making the original appointment shall appoint a successor to fill the unexpired term of office. The secretary of health and environment shall serve as chairperson of the board. All budgeting, purchasing and related management functions of the board shall be administered under the direction of the secretary of administration. All vouchers shall be approved by the chairperson of the board and the secretary of administration. Three members of the board shall constitute a quorum for the transaction of business by the board. The state agencies which have officers serving on the board shall provide such staff assistance to the board as may be requested by the board. Appointed members of the board attending regular or special meetings of the board shall be paid compensation, subsistence allowance, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(2) The duty of the underground hazardous waste disposal review board shall be to decide whether or not an exception to the prohibition against underground burial of hazardous waste shall be granted for a particular hazardous waste. No decision to grant an exception shall be rendered unless it is demonstrated to the board that, except for underground burial, no economically reasonable or technologically feasible methodology exists for the disposal of a particular hazardous waste. The procedures for obtaining an exception to the prohibition against underground burial of hazardous waste shall be as established and prescribed by the board.

(3) Whenever the underground hazardous waste disposal review board decides to grant an exception to the prohibition against underground burial of hazardous waste, the secretary of health and environment shall issue an order so providing. Any party aggrieved by the failure to issue an order under this section shall have the right to appeal in the manner provided by K.S.A. 1985 Supp. 65-3440, and amendments thereto.

Sec. 2. K.S.A. 1984 Supp. 65-3443 is hereby amended to read

as follows: 65-3443. (a) If the secretary finds that the generation, accumulation, management or disposal of a hazardous waste by any person is or threatens to cause pollution of the land, air, or waters of the state or is or threatens to become a hazard to persons, property or public health or safety or that the provisions of this act or any rule or regulation adopted pursuant thereto have been otherwise violated, the secretary may order the person to modify the generation, accumulation or management of the hazardous waste or to provide and implement such hazardous waste management procedures as will prevent or remove the pollution or hazard or take any other action deemed necessary. The secretary may order any person having a permit issued under this act, and who operates a public or commercial hazardous waste management facility, which the secretary finds suitable to manage the hazardous waste, to provide and implement hazardous waste management procedures to prevent or remove such pollution or hazard. Such order shall specify a fair compensation to the owner or permittee for property taken or used and shall specify the terms and conditions under which the permittee shall provide the hazardous waste management services. Any order issued shall specify the length of time after receipt of the order during which the person or permittee shall provide or implement hazardous waste management procedures or modify the generation, accumulation or management of the hazardous waste.

~~(b) --if the secretary finds that there is an environmentally more desirable procedure available other than ground burial for the disposal of a particular type of hazardous waste, the secretary shall order that the use of ground burial for the disposal of that type of hazardous waste be discontinued. The secretary in developing such finding may require the generator to provide information and plans for potential environmentally more desirable procedures.~~

(c) (b) The secretary shall adopt rules and regulations providing for approval of closure and post-closure plans, establishing standards for underground injection, land treatment

and above ground storage of hazardous waste.

†d† (c) Any party aggrieved by an order under this section shall have the right of appeal in accordance with the provisions of K.S.A. 1985 Supp. 65-3440, and amendments thereto.

Sec. 3. K.S.A. 1984 Supp. 65-3443 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.