

Approved 4-10-86
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES

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

8:00 a.m./~~p.m.~~ on April 8, 1986 in room 123-S of the Capitol.

All members were present except:
Senator Hayden - Excused

Committee staff present:

Ramon Powers - Research
Don Hayward - Revisor
Nancy Jones - Secretary

Conferees appearing before the committee:

Representative Ed Bideau
Sharad Bhatia, Kansas Department of Health & Environment

Motion was made by Senator Langworthy to approve minutes of the April 2 and 3, 1986 meetings, seconded by Senator Gordon. Motion carried.

Sub HB 3112 - Concerning certain toxic substances.

Chairman Werts introduced Representative Bideau to explain the purpose of the bill. Representative Bideau stated this proposal places the state of Kansas in the regulation of PCB's, a toxic waste, which is a coolant device in large electrical insulators. Presently there is no advance site location regulation by the state, and provision for this is contained in HB 3112. The problem needing to be addressed is that technology to destroy PCB's is moving toward incineration and siting regulations are lacking. Present non-regulation allows facilities in place to incinerate substances with a greater toxicity without any control or penalty. State regulations need to be authorized to control establishment of proposed incinerators, develop a "stand alone system" that tracks the same procedures used for the hazardous waste code and to use the same review board and personnel already in place. Regulations relating to closure are not addressed in this bill, but should be considered next year. EPA mandates closure of incinerators within 5 to 7 years after establishment. Representative Bideau discussed the chemicals being incinerated, use of portable incinerator units and sites located in Kansas.

Sharad Bhatia testified Sub HB 3112 provides state regulation only of off-site commercial PCB facilities which treat, store and dispose of PCB's and the Department supports this concept. It is recommended that sites to be regulated by the Department be clearly defined. Consideration should be given to duplication of EPA and TSCA programs, the exemption from state permits for expansion of existing incinerators and exemption of mobile treatment facilities from regulation under this bill. He estimated a fiscal note of \$143,000 for F/Y 87, with five new positions if all PCB facilities are regulated. (Attachment A).

During Committee discussion, Mr. Bhatia commented that there is some gray area regarding regulative authority of PCB's between the state and the EPA. So far studies are inconclusive regarding the carcinogenic dangers of this toxic waste. He stated the intent of this proposal is to parallel established RCRA standards to restrict additional sites.

Representative Bideau added that his intention in requesting introduction of the bill was only to propose regulation of off-site waste and there is a need for a penalty section that would track the existing hazardous waste code. Secretary Sabol added that expansion of a facility is regulated by RCRA with a siting process. With accelerated operator interest in Kansas for PCB facilities, responsibility for siting is delegated to the state as EPA has taken the position not to deal with it.

Motion was made to adopt the amendments recommended by the Department of Health & Environment by Senator Martin, seconded by Senator Langworthy. Motion carried. (Attachment B).

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES,
room 123-S, Statehouse, at 8:00 a.m./~~pm~~^{XX} on April 8, 19⁸⁶.

Following discussion, it was the wish of the committee to include a penalty section into Sub. HB 3112 to be drafted in the form of a floor amendment so that it may be studied before floor discussion.

Motion was made by Senator Martin to recommend Sub. HB 3112 favorably as amended, seconded by Senator Feleciano. Motion carried.

Meeting adjourned.

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Guest List

~~Sharon~~ Pope

Sharon Ghata

Dennis Murphy

Barbara Sabol

Mike Peters

P Sabol

KEC

KDH+S

Topeka

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

Testimony on House Bill No. 3112

Presented to the
Senate Energy and Natural Resources Committee
April 8, 1986

By
Sharad V. Bhatia, Director
Division of Environment

Thank you, Mr. Chairman, members of the Committee for the opportunity to appear before this committee. It appears to us from reviewing House Bill 3112, that the intent of the bill is to provide state regulation of only off-site commercial PCB facilities, which store, treat, or dispose of PCB. The department supports the concept contained in the bill, namely, that the state should have a role in the regulation of these PCB facilities.

Over the past ten years, PCBs have been regulated by the U.S. Environmental Protection Agency under the Toxic Substances Control Act (TSCA). Under this Act, EPA currently monitors and regulates all PCB generators and treatment, storage, and disposal facilities in Kansas. This authority has not been delegated to the states.

A potential problem in this proposed legislation is that it does not clearly define whether or not only off-site PCB facilities are to be regulated. Thus, we recommend a careful review of the definitions of "on-site" and "off-site" to assure all types of activities are included in one or the other of these definitions.

Since the resources necessary to carry out this legislation are based upon the scope it must be clear whether we are regulating hundreds or a handful of facilities. In order to remedy this problem, we have proposed a number of changes which are attached. These changes are intended to clearly define that only "PCB Disposal Facilities" as defined by the law are regulated.

Another potential problem involves duplication of EPA's TSCA program. Recent court challenges to states who are regulating PCBs could result in rulings preempting state PCB programs.

I would recommend that the committee evaluate Section 10 and determine if facilities which qualify for the exemption should also be exempt from state permits for future expansions or modifications to the facility. The attached listing of suggested changes also address other issues such as the authority to specify PCB concentration that are regulated and to exempt mobile

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treatment facilities that change the physical or chemical composition of any PCB. I would be glad to explain each of these proposed changes with you further.

As a department, we would prefer that such legislation include specific penalties and enforcement provisions for the secretary. We would ask that the committee consider providing this specific authority in this bill.

Finally the fiscal impact of such legislation depends upon the intent. If all PCB facilities are regulated we estimate that a total of five new positions at a cost of \$143,000 would be required for FY 1987. If only off-site commercial PCB facilities are regulated only one position requiring \$35,000 is necessary.

In conclusion, Mr. Chairman, members of the Committee, the department supports the concept of H.B. 3112 but believes that some minor changes are necessary to clearly define its intent and to assure only very specific types of operations are regulated.

KDHE RECOMMENDED CHANGES TO H.B. 3112
April 8, 1986

<u>Line Number</u>	<u>Change</u>
72	Add the following "chemical substance which contains the biphenyl molecule <u>at concentrations as established by the secretary.</u> "
95-96	Strike the words "treatment, storage or".
236	Strike the words "the maximum" and "possible" since this would be impossible to define.
246	Strike the words "treatment or".
364 and 367	Strike the words "treatment, storage and ".
370-375	Strike entire sentence "In adopting rules and regulations by a professional engineer."
378	Strike the words "treatment, storage or".
390	Add the word "disposal" between PCB and facility.
391	Add the following words "or to any mobile PCB treatment process excluding incineration which is designed to change the physical or chemical character or composition of any PCB".

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