Approved February 23, 1989
Date

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Representative Carl Holmes at
Chairperson

3:30 a~~m~~/p.m. on February 14, 1989 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Raney Gilliland, Legislative Research
Mary Torrence, Revisor of Statutes' Office
Betty Ellison, Committee Secretary

Conferees appearing before the committee:

Gary Hulett, Under Secretary, Department of Health and Environment
Margaret Ahrens, Kansas Chapter, Sierra Club and The Rural Center
Jan Garten, Kansas Audubon Council
Charlene Stinard, Kansas Natural Resource Council and Kansas Wildlife Federation
Bev Bradley, Legislative Coordinator, Kansas Association of Counties
David Corliss, Attorney, League of Kansas Municipalities

Vice Chairman Carl Holmes called the meeting to order, calling attention to the minutes of February 7, 9 and 13, which had been distributed.

He also called attention to a request for bill introduction by the Kansas Corporation Commission relative to natural gas pipeline safety. A motion was made by Representative Sutter, seconded by Representative Lucas, to introduce it as a committee bill. The motion passed. Attachment 1.

Senate Bill 6 - Programs for collection of small amounts of hazardous waste.

Gary Hulett, speaking in support of the concept of this bill on behalf of the Department of Health and Environment, explained the need for this legislation. He also discussed different types of hazardous waste programs which have been conducted to date. Mr. Hulett commented on the forms of liability which are relevant to such programs and the role which must be played by local government. Attachment 2.

Committee discussion relative to funding these programs followed.

Margaret Ahrens represented the Sierra Club and The Rural Center in support of Senate Bill 6. She displayed several samples of household hazardous waste such as antifreeze, old paint, drain cleaners, furniture polish, and chlordane. She felt that the cost of these programs was small compared with the cost of clean-up following accumulations of inappropriate disposal of hazardous materials. Attachment 3.

Jan Garten appeared on behalf of the Kansas Audubon Council, speaking in favor of Senate Bill 6. Her group felt that this was a step in the right direction, but recommended development of a system of labels for containers of household hazardous materials and emphasized education as a vital component in dealing with this problem. Attachment 4.

Brief discussion followed.

Charlene Stinard, representing the Kansas Natural Resource Council and the Kansas Wildlife Federation, spoke in support of Senate Bill 6. She cited the opportunity for education of citizens and incentives to local governments as important aspects of this legislation. Attachment 5.

Bev Bradley appeared as a proponent of Senate Bill 6 on behalf of the Kansas Association of Counties. Her organization agreed with the purpose of this bill, but had concerns relative to funding. Since counties may not have money available to develop hazardous waste collection programs immediately, she urged state funding of such programs. Attachment 6.

David Corliss, an attorney with the League of Kansas Municipalities, spoke in favor of Senate Bill 6. He pointed out that he had been an advocate of the bill last session and through the interim. He emphasized that the focus of a hazardous waste collection program should be on small quantities of waste in order to keep the cost down. Attachment 7.

Brief discussion relative to enforcement followed.

Responding to a question of the Chairman, staff noted that a synopsis could be found in a background memorandum that was made available to the interim committee as well as the interim committee report. Also, a final report by the Department of Health and Environment containing a summary and cost analysis of the pilot project was available.

A motion was made by Representative Webb, seconded by Representative Mollenkamp, to report Senate Bill 6 favorably for passage. The motion carried.

There were no objections to the minutes which had been distributed and they were approved.

The meeting was adjourned at 4:20 p.m.

The next meeting of the House Energy and Natural Resources Committee will be held at 3:30 p.m. on February 16, 1989 in Room 526-S.

Date: Feb. 14, 1989

GUEST REGISTER

HOUSE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

NAME	ORGANIZATION	ADDRESS	PHONE
JAN GARTON	KANSAS AUDUBON COUNCIL	219 WESTWOOD MANHATTAN, KS 66502	(913) 539-3004
Charlene Stenaid	Ks Natural Resource Council	1516 Topeka	233-6707
Margaret Ahrens	Ks Chap Sierra Club	Topeka	273-7346
DAVE CORLISS	LKM	112 W 7th	354-9565
Tom Whitaker	Leg. Post Audit	Topeka	296-3792
Kathleen Warren	DOB		
ED SCHAUB	WMI	TOPEKA	233-4512
Kathy Duncan	League of Women Voters-Ks.	Topeka	234-5152
Debbie McCaskill	K. Dept. of Commerce	Topeka	6022

KANSAS CORPORATION COMMISSION

Requests for Legislation/1989 Legislature

Pipeline Safety-Damage Prevention Act

The U.S. Department of Transportation has repeatedly cited the KCC's pipeline safety program as deficient because Kansas lacks a damage prevention act. Various pieces of legislation have been introduced in recent years addressing this issue, none of which have secured passage. The issue was also the topic of a 1986 legislative interim study. Enactment of a damage prevention act would serve to enhance the protection of life and property, impacted by third party damage to underground facilities. A bill draft (marked as Exhibit A) is attached for your review. Passage of this legislation would have no fiscal implications with respect to Commission operations.

Gas Pipeline Safety-Accident Investigation

The KCC proposes the introduction of legislation which would give its pipeline safety personnel the authority to seize both company-owned and customer-owned property. This authority would ensure that tests required by the KCC to determine the cause of a natural gas accident are conducted prior to other tests. Similar legislation was requested by the KCC during the 1988 Session; while the Senate Committee on Transportation and Utilities failed to act affirmatively on our request, the Committee raised no concerns regarding the accident investigation authority afforded by this bill. A bill draft (marked Exhibit B) is attached for your review. Passage of this legislation would have no fiscal implications with respect to Commission operations.

Gas Pipeline Safety-Resolution of Statutory Conflict

The KCC proposes the introduction of legislation which would resolve a technical conflict between K.S.A. 55-112 and 66-1,150. Specifically, K.S.A. 55-112 does not recognize plastic pipe as being acceptable for transporting natural gas. However, because of plastic pipe's approved use under K.S.A. 66-1,150, it has become widely used in both Kansas and throughout the United States. The pressure test requirements for the two statutes are also different. Two options are available: (1) repeal K.S.A. 55-0112 in its entirety, or (2) amend K.S.A. 55-112 to more closely parallel 66-1,150. Repealing K.S.A. 55-112 has undesirable effects because it is the only Kansas statute which establishes minimum pipeline safety standards for gas gathering companies. Gas gathering companies have not been made jurisdictional to the KCC Pipeline Safety program under K.S.A. 66-1,150. Amending K.S.A. 55-112, on the other hand, to utilize performance language similar to that used in 49 CFR Part 192 (i.e., K.S.A. 66-1,150) would eliminate this conflict, but impose new safety requirements on some gas gathering companies. A bill draft (marked as Exhibit C) is attached for your review. Passage

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of this legislation would have no fiscal implications with respect to Commission operations.

Pipeline Safety Legislation

Congress has passed the Pipeline Safety Reauthorization Act of 1988 which impacts the Commission's pipeline safety program in a few areas and necessitates statutory changes.

(a) Increase Civil Penalties. Congress has increased the civil penalties from "$1,000 per day ....not to exceed $200,000 for any related series of violations" to $10,000 per day...not to exceed $500,000. Proposed changes to K.S.A. 66-1,151 are attached as Exhibit D.

(b) Destruction of Signs or Markers-Penalties. Legislative action may be required to bring Kansas into compliance with federal requirements. Section 107 of the Pipeline Safety Act established penalties associated with the destruction of any pipeline sign or right-of-way marker. Draft legislation is attached as Exhibit E.

Operator License Fee-Conservation Division

The Commission proposes an amendment to K.S.A. 55-155 which would allow the Commission to charge a $25 license fee to applicants who operate a single gas well to heat their homes. The statutes presently require that all operators, those responsible for the physical operation and control of a well (K.S.A 1987 Supp. 55-150), be licensed. As such homeowners operating a gas well for home heating purposes are required to be licensed and subject to the $100 fee. Draft legislation is attached as Exhibit F.

Session of 1989

HOUSE BILL _____

Energy and Natural Resources

AN ACT to enhance the protection of life and property impacted by third-party damage to underground facilities.

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

Sec. 1. As used in this act:

(a) "Damage" means any impact or contact with any underground facility, its appurtenances or its protective coating, or any weakening of the support for the facility or protective housing which requires repair;

(b) "emergency" means any condition constituting a clear and present danger to life, health or property, or a customer service outage;

(c) "excavation" means any operation in which earth, rock or other material on or below the ground is moved or otherwise displaced by any means, except tilling the soil, or railroad or road and ditch maintenance that does not change the existing railroad grade, road grade or ditch flowline, or operations related to exploration and drilling of crude oil or natural gas, or both;

(d) "excavator" means any person who engages directly in

excavation acti ties within the state of K nsas;

(e) "facility" means any underground line, system or structure used for producing, gathering, storing, conveying, transmitting or distributing gas, electricity, communication, petroleum, petroleum products, or hazardous liquids, ~~water~~, ~~steam~~, ~~sewage or any other similar commodities~~;

(f) "marking" means the use of stakes, paint or other clearly identifiable materials to show the field location of underground facilities, in accordance with the resolution adopted August, 1984, by the utility location coordination council of the American public work association;

(g) "notification center" means a center operated by an organization which has a minimum of five underground operators participating, and has as one of its purposes to receive notification of planned excavation in a specified area from excavators and to disseminate such notification of planned excavation to operators who are members and participants;

(h) "operator" means any person who owns or operates an undergound facility, except for any person who is the owner of real property wherein is located undergound facilities for the purpose of furnishing services or materials only to such person or occupants of such property;

(i) "preengineered project" means a public project or a project which is approved by a public agency wherein the public agency responsible for the project, as part of its engineering and contract procedures, holds a meeting prior to the commencement of any construction work on such project in which

all persons, determined by the public agency to have underg facilities located within the construction area of the project, are invited to attend and given an opportunity to verify or inform the public agency of the location of their undergound facilities, if any, within the construction area and where the location of all known and undergound facilities are duly located or noted on the engineering drawing as specifications for the project;

(j) "permitted project" means a project where a permit for the work to be performed must be issued by a state or federal agency and, as a prerequisite to receiving such permit, the applicant must locate all undergound facilities in the area of the work and in the vicinity of the excavation and notify each owner of such underground facilities;

(k) "person" means any individual, partnership, corporation, association, franchise holder, state, city, county or any governmental subdivision or instrumentality of a state and its employees, agents or legal representatives;

(l) "tolerance zone" means the area within 24 inches of the outside dimensions in all horizontal directions of an undergound facility;

(m) "working day" means every day, except Saturday, Sunday or a legally proclaimed local, state or federal holiday.

Sec. 2. An excavator shall not engage in excavation near the location of any underground facility without first having ascertained, in the manner prescribed in this act, a location of

all undergound facilities in the proposed area of the excavation.

Sec. 3. (a) An excavator shall serve notice of intent of excavation at least two full working days, but not more than ten working days before commencing the excavation activity, on each operator having undergound facilities located in the proposed area of excavation.

(b) The notice of intent of excavation shall contain the name, address and telephone number of the person filing the notice of intent, the name of the excavator, the date the excavation activity is to commence and the type of excavation being planned. The notice shall also contain the specific location of the excavation if it is to take place within the city limits or the specific quarter sections in all other areas within the state.

(c) The provisions of this section shall not apply to a preengineered project or a permitted project, except that the excavators shall be required to give notification in accordance with this section prior to starting such project.

Sec. 4. (a) This act recognizes the value of and encourages and authorizes the establishment of notification centers. All operators who have underground facilities shall become a member of a notification center.

(b) Upon the establishment of a notification center in compliance with this act, notification, as required by section 3, to operators who are members of the notification center shall be given by notifying the notification center by telephone the content of such notification as required by section 3.

(c) All operators who have underground facilities within the defined geographical boundary of the notification center shall be afforded the opportunity to become a member of the notification center on the same terms as the original members.

(d) A suitable record shall be maintained by the notification centers to document the receipt of notices from excavators as required by this act.

Sec. 5. (a) An operator served with notice shall, in advance of the proposed excavation, unless otherwise agreed between the parties, inform the excavator of the tolerance zone of the undergound facilities of the operator in the area of the planned excavation by marking, flagging or other acceptable method.

(b) If the operator notifies the excavator that it has no underground facilities in the area of the planned excavation, or if the operator fails to respond, or improperly marks the tolerance zone for the facilites, the excavator may proceed and shall not be liable for any direct or indirect damages resulting from contact with the operator's facilities; however, nothing in this act is meant to hold any excavator harmless from liability in those cases of gross negligence of willful and wanton conduct.

Sec. 6. In the case of an emergency involving danger to life, health or property, or which requires immediate correction in order to continue the operation of an industrial plant, or to assure the continuity of public utility service, excavation, maintenance or repairs may be made without using explosives, if

notice and advic thereof, whether in writing or otherwise, i- given to the operator or notification center as soon as reasonably possible.

Sec 7. This act shall not be construed to authorize, affect or impair local ordinances, charters or other provisions of law concerning excavating or tunneling in a public street or highway or private or public easement.

Sec 8. Upon receiving the information, as provided in section 5, an excavator shall exercise reasonable care as may be necessary for the protection of any underground facility in and near the construction area when working in close proximity to any such underground facillity.

Sec. 9. When any contact with or damage to any underground facility occurs, the operator shall be informed immediately by the excavator. Upon receiving such notice, the operator shall immediately dispatch personnel to the location to provide necessary temporary or permanent repairs of the damage. If a serious electrical short is occurring, or dangerous gases or fluids are escaping from a broken line, the excavator shall immediately inform emergency personnel.

Sec. 10. (a) In a civil action in a court of this state when it is shown by competent evidence that damage to the underground facilities of an operator resulted from excavation activities and that the excavator responsible for giving notice of intent to excavate failed to give such notice, there shall be a rebuttable presumption that the excavator was negligent for failing to give such notice.

(b) The provisions of subsection (a) shall not apply if the operator whose undergound facilities are damaged fails to participate in a notification center.

(c) In no event shall the excavator be responsible for any damage to underground facilities if said damage was caused by the failure of the operator to correctly and properly mark the location of the tolerance zone of the damaged facility.

Sec. 11. This act shall be known and may be cited as the Kansas Underground Utility damage prevention act.

Sec. 12. If any provision of this act or the application thereof to any person or circumstance is held invalid, the remainder of the act and the application of such provision to other persons or circumstances shall not be affected thereby.

Sec. 13. This act shall take effect and be in force from and after its publication in the statute book.

Exhibit B

Sesssion of 1989

House Bill No.
By Committee on Energy & Natural Resources

AN ACT relating to gas pipeline safety; authorizing investigation of natural gas-caused accidents.

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

Section 1. Personnel of the state corporation commission pipeline safety program are hereby authorized to be onsite and conduct an investigation as to the cause or origin of any suspected natural gas-caused accident and fire. Such personnel of the state corporation commission pipeline safety program are hereby given authority to receive or take possession of any and all property which constitutes evidence of the cause or origin of the suspected natural gas-caused accident or fire pursuant to their investigation.

Section 2. This act shall take effect and be in force from and after its publication in the statute book.

Exhibit C

Session of 1989

House Bill No.

By Committee on Energy & Natural Resources

AN ACT relating to transportation of gas; amending K.S.A. 55-112 and repealing the existing section.

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

Sec. 1. K.S.A. 55-112 is hereby amended to read as follows: 55-112. Any person or persons, firm, company or corporation engaged in drilling for, piping, transporting, using or selling natural gas ~~may transport or conduct the same through sound wrought or cast-iron or steel casings and pipes tested to at least four hundred pounds pressure to the square inch.~~ shall transport or conduct the same through materials listed under Appendix B of 49 CFR Part 192 and pressure test the pipe according to the criteria provided in Subpart J of 49 CFR Part 192.

Sec. 2. K.S.A. 55-112 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

66-1,151 Same; penalty for violation; limitation. Any person who violates any rule or regulation adopted pursuant to this act, or any regulation adopted by the commission and in effect on July 1, 1969, shall be subject to a civil penalty not to exceed ~~one thousand dollars ($1,000)~~ ten thousand dollars ($10,000) for each violation for each day that the violation persists. However, the maximum civil penalty shall not exceed ~~two hundred thousand dollars ($200,000)~~ five hundred thousand dollars ($500,000) for any related series of violations.

History: L 1970, ch. 271, 2; July 1

66-1,151a Destruction of Signs or Markers.

Destruction of signs or markers is willfully and knowingly defacing, damaging, removing, or destroying any pipeline sign or right-of-way marker required by Federal law or regulation.

Destruction of Signs of markers is a class A misdemeanor.

One Hundredth Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday, the twenty-fifth day of January, one thousand nine hundred and eighty-eight

An Act

To amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal years 1988 and 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Pipeline Safety Reauthorization Act of 1988".

(b) TABLE OF CONTENTS.—

TITLE I—NATURAL GAS PIPELINE SAFETY

SEC. 101. CERTIFICATION AUTHORITY.

Section 3(a)(1) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(a)(1)) is amended by inserting after the second sentence the following: "Such standards may include a requirement that all individuals responsible for the operation and maintenance of pipeline facilities be tested for qualifications and certified to perform such functions.".

SEC. 102. STATE NOTIFICATION AND PIPELINE INVENTORY.

Section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672) is amended by adding at the end the following new subsections:

"(e) NOTIFICATION STANDARDS.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall establish by regulation minimum Federal standards requiring operators of pipeline facilities subject to this Act (to the extent practicable) to provide, and revise as necessary, information relating to the operation of such facilities. Such information shall be completed and maintained and be provided, upon request, to the Secretary and an appropriate official of a State, as the case may be. Such information shall include the following:

"(1) The business name, address, and telephone number, including an operations emergency telephone number, of the operator.

"(2) An accurate map or maps, along with an appropriate supplementary geographic description, showing the location of major pipeline facilities, including all transmission lines and significant distribution lines, of such operator in the State.

"(3) A description of the characteristics of the operator's pipelines within the State.

"(4) A description of all products transported through the operator's pipelines within the State.

"(5) The manual which governs operations and maintenance of the pipeline facilities located in the State.

"(6) An emergency response plan describing the operator's procedures for responding to and containing releases, including—

"(A) an identification of specific actions which will be taken by the operator on discovery of a release;

"(B) liaison procedures with State and local government agencies for emergency response; and

"(C) communication and alert procedures for immediate notification of State and local officials at the time of any release.

"(7) Any other information the Secretary considers useful and necessary to inform the States of the presence of pipeline facilities and operations within their boundaries.

"(f) PIPELINE INVENTORY STANDARDS.—The Secretary shall, by regulation, establish minimum Federal standards to require, not later than 1 year after the date of the enactment of this subsection, operators of pipeline facilities subject to this Act, to the extent practicable, to complete and maintain for the Secretary, and to

revise as appropriate thereafter, an inventory with appropriate information with respect to all types of pipe used for the transmission of gas in such operator's system, along with additional information such as the material history and the leak history of such pipe. Such inventory shall exclude equipment used with the compression of gas.".

SEC. 103. STATE ENFORCEMENT.

Section 5(a)(3) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1674(a)(3)) is amended by inserting "through means which include inspections conducted by State employees who meet qualifications established by the Secretary under subsection (d)" after "each such standard".

SEC. 104. QUALIFICATIONS FOR STATE GRANT PROGRAMS.

Section 5(d) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1674(d)) is amended by adding at the end the following new paragraph:

"(5) QUALIFICATIONS FOR STATE GRANT PROGRAMS.—The Secretary may establish by regulation qualifications for States to meet in order to participate in the pipeline safety grant program under this subsection, including qualifications for State employees who perform inspection activities pursuant to either an annual certification by a State agency or an agreement relating to inspection between a State agency and the Secretary. Such regulations may take into account the experience and training of the State employee, may mandate training or other requirements, and may provide for conditional approval of qualifications pending satisfaction of specified requirements.".

SEC. 105. FEDERAL-STATE COOPERATION IN CASE OF ACCIDENT.

Section 9 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1676) is amended—

(1) by inserting "(a) GENERAL RULE.—" before "Whenever"; and

(2) by adding at the end the following new subsection:

"(b) COORDINATION PROCEDURES.—Not later than 1 year after the date of the enactment of this subsection, the Secretary, after consultation with appropriate State officials, shall establish procedures to promote more effective coordination between the agencies of the United States and of the States with regulatory authority over pipeline facilities with respect to responses to pipeline accidents.".

SEC. 106. INCREASED CIVIL PENALTIES.

Section 11(a)(1) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1679a(a)(1)) is amended—

(1) by inserting ", after notice and an opportunity for a hearing," after "Secretary";

(2) by striking out "$1,000" and inserting in lieu thereof "$10,000"; and

(3) by striking out "$200,000" and inserting in lieu thereof "$500,000".

SEC. 107. DESTRUCTION OF SIGNS OR MARKERS.

Section 11(c) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1679a(c)) is amended by adding at the end the following new paragraph:

"(3) DESTRUCTION OF SIGNS OR MARKERS.—Any person who willfully and knowingly defaces, damages, removes, or destroys any pipeline sign or right-of-way marker required by Federal law or regulation shall, upon conviction, be subject, for each offense, to a fine of not more than $5,000, imprisonment for a term not to exceed 1 year, or both.".

SEC. 108. ADDITIONAL INSPECTION AND TESTING.

(a) INSPECTION AND TESTING.—Section 13 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1680) is amended—

(1) by inserting "(a) PIPELINE OPERATOR'S RESPONSIBILITIES.—" before "Each person who engages"; and

(2) by adding at the end the following new subsection:

"(b) SECRETARY'S RESPONSIBILITIES.—

"(1) IN GENERAL.—The Secretary shall inspect and, as appropriate, shall require testing of pipeline facilities subject to this Act and not covered by an agreement or certification under section 5 to ensure the safety of such pipeline facilities. To the extent and in such amounts as are provided in advance by appropriation Acts, such inspections shall be at intervals determined under paragraph (2) but no less frequently than once every 2 years thereafter; except that the Secretary may reduce the frequency of such inspections with respect to master meter systems. Such inspections shall begin as soon as feasible, but in no event more than 1 year after the date of the enactment of this subsection. Such testing shall be performed using the most appropriate technology practicable.

"(2) CRITERIA FOR FREQUENCY AND TYPE.—The frequency and type of inspection and testing under this subsection shall be determined by the Secretary on a case-by-case basis after consideration of the following factors:

"(A) The location of the pipeline facilities.

"(B) The type, size, age, manufacturer, method of construction, and condition of the pipeline facilities.

"(C) The nature and volume of the materials transported through the pipeline facilities and the pressure at which they are transported.

"(D) The climatic, geologic, and seismic characteristics of, and conditions (including soil characteristics) associated with the areas in which the pipeline facilities are located, and the existing and projected population and demographic characteristics associated with such areas.

"(E) The frequency of leaks, if any.

"(F) Any other factors determined by the Secretary to be relevant to the safety of pipeline facilities.".

(b) INSTRUMENTED INTERNAL INSPECTION DEVICES.—Section 3 of such Act (49 U.S.C. App. 1672) is amended by adding at the end the following new subsection:

"(g) INSTRUMENTED INTERNAL INSPECTION DEVICES.—The Secretary shall, by regulation, establish minimum Federal safety standards requiring that—

"(1) the design and construction of new transmission facilities, and

"(2) when replacement of existing transmission facilities or equipment is required, the replacement of such existing facilities,

55-155. Licensure of operators and contractors; procedure; fees; duration of license; disposition of moneys. (a) Operators and contractors shall be licensed by the commission pursuant to this section.

(b) Every operator and contractor shall file an application or a renewal application with the commission. Application and renewal application forms shall be prescribed, prepared and furnished by the commission.

(c) No application or renewal application shall be approved until the applicant has:

(1) Provided sufficient information, as required by the commission, for purposes of identification;

(2) submitted evidence that all current and prior years' taxes for property associated with the drilling or servicing of wells have been paid; ~~and~~

(3) paid an annual license fee of $100 ~~and an annual license fee of $25 for each rig operated by the applicant~~ except that the applicant for a license who is operating one gas well used strictly for the purpose of heating a residential dwelling shall pay an annual license fee of $25; and ~~The commission shall issue an identification tag for each such rig which shall be displayed on such rig at all times.~~

(4) paid an annual license fee of $25 for each rig operated by the applicant. The commission shall issue an identification tag for each such rig which shall be displayed on such rig at all times.

(d) Upon the approval of the application or renewal application, the commission shall issue to such applicant a license which shall be in full force and effect until one year from the date of issuance or until surrendered, suspended or revoked as provided in K.S.A. 55-162, and amendments thereto. No new license shall be issued to any applicant who has had a license revoked until the expiration of one year from the date of such revocation.

(e) The commission shall remit all moneys received from fees assessed pursuant to this section to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury. Twenty percent of each such deposit shall be credited to the state general fund and balance shall be credited to the conservation fee fund created by K.S.A. 55-143, and amendments thereto.

History: L. 1982, ch. 228, Section 8; L. 1986, ch. 201, Section 10; July 1.

STATE OF KANSAS

DEPARTMENT OF HEALTH AND ENVIRONMENT
Forbes Field
Topeka, Kansas 66620-0001
Phone (913) 296-1500

Mike Hayden, *Governor*

Stanley C. Grant, Ph.D., *Secretary*
Gary K. Hulett, Ph.D., *Under Secretary*

Testimony presented to
House Energy and Natural Resources Committee
by
The Kansas Department of Health and Environment
Senate Bill No. 6

Virtually every home in this country contains chemicals that, if not used and disposed of properly, can be dangerous to a person's health or the environment. These products become household hazardous wastes once they have been discarded. While most such wastes get thrown in with the rest of the daily trash, some are poured down sinks and drains, some are burned, others are poured onto the ground or dumped in roadside ditches. Household hazardous wastes therefore end up in landfills, wastewater treatment plants, rivers, lakes and streams. The end result may be damage to our valuable natural resources as well as an increased risk to public health. Although household hazardous wastes are specifically exempted from regulation under state and federal regulations, they may be defined as discarded household materials exhibiting one or more of the characteristics of corrosivity, toxicity, ignitability, and reactivity.

Many common household products contain chemicals that meet the above definition of hazardous waste. They may be grouped into four general categories: household cleaners, yard and garden products, automotive products and paint and solvent products. Household cleaners which contain hazardous materials include drain openers, oven cleaners, furniture polish and rug shampoos. Yard and garden products with hazardous ingredients include insecticides and herbicides. Automotive products of concern include gasoline, antifreeze, car batteries and fuel additives. Paint and solvent products of concern include strippers, varnishes, removers and oil-based paints.

Household hazardous wastes typically present two types of hazards, the first of these is an acute hazard, that is the potential for a substance to cause immediate harm in a single exposure over a short period of time to either human health or the environment. A human health example would be that of a sanitation worker having

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a container of caustic drain cleaning solution splashed into his face when a packing truck compacts a load. Sanitation workers have one of the highest rates of job related injuries of any profession in this country. Household hazardous wastes may also present a chronic hazard. Chronic hazards are those where harm to human health or the environment is caused through repeated exposure over an extended period of time. Environmental examples include creation of contaminated leachate from sanitary landfills and the contamination of lakes and streams from improper disposal of household hazardous wastes.

The department receives many requests for assistance in properly disposing of hazardous wastes in the hands of farmers or homeowners. In some instances, all that can be done is pick up the pieces after the fact. Some examples follow:

> An elderly Wyandotte County couple who applied four to five gallons of concentrated DDT solution to their yard to the point that it required the removal of several inches of contaminated soil from the entire yard. The DDT, which was banned from use in the 1960's, was purchased by the couple at a garage sale.
>
> A Shawnee County woman who was using a 100-lb. canister of red phosphorous, a chemical used in incendiary explosives, as a footstool on her front porch.
>
> The Sedgewick County homeowner who contaminated groundwater in his neighborhood by dumping a chemical into his septic tank.
>
> The farmer in Western Kansas who killed 100 head of holstein dairy cows by inadvertently mixing a small quantity of a left-over bag of organophosphate pesticide with a feed mixture.

The number of such calls the department receives has increased dramatically over the last several years. Numerous city and county government officials also receive calls from homeowners or farmers requesting assistance in the proper disposal of household hazardous wastes. If the chemical is still in good condition and can be used, the best answer is to use the chemical for its intended purpose in accordance with the labeled directions. The department has on occasion arranged to ship unwanted chemicals back to the manufacturer for proper disposal or for re-packaging and resale. In cases where only small quantities are involved, the answer may be to securely package the material so it presents no danger to children or sanitation workers and take the material to the sanitary landfill. In many cases, however, there are no easy answers. Collection programs can be that answer. These programs can serve several purposes:

The removal of household hazardous wastes from homes and farms thus reducing the potential exposure to residents and sanitation workers.

A reduction of the impact of household hazardous waste on the environment.

The prevention of contamination of wastewater treatment systems and lateral field systems by disposal of hazardous waste down sewers.

The education of citizens to assist them in identifying household substitutes that are less hazardous and do not present disposal problems.

An increase in general public awareness of hazardous materials found in homes and an understanding of how consumers contribute to the generation of hazardous waste in the country.

Hazardous waste collection programs have been in existence since 1981. A total of 33 states have either sponsored or given approval for local sponsorship of household hazardous waste collection programs. Kansas conducted two pilot programs in November of 1986, in Great Bend and Wichita. There are four main types of collection and disposal programs for household hazardous waste that have been used in this country. The first and most common is a temporary collection site such as occurred in Wichita and Great Bend. Such programs, where larger quantities of waste are handled in a short period of time justify bringing in experienced hazardous waste contractors to sort and package the materials received. The primary disadvantage of such programs is that the service may not be available to people when they need it. This can be partially overcome by a strong advertising campaign prior to the program.

A second type of household hazardous waste program is the establishment of a permanent collection center. Such centers are usually established at an existing city or county facility such as the landfill or the wastewater treatment plant. They are often operated by staff persons from the fire department, county weed department or other city or county officials who may have experience in management of hazardous materials. The primary advantage of such programs is that they are more accessible to the public. They also provide a greater opportunity to reuse or recycle wastes because time is not a restraining factor. A problem with such programs is that it may be difficult in many smaller communities to find city or county personnel who are experienced

in dealing with the wide range of hazardous chemicals which may show up at such collection centers. A permanent collection center for pesticide wastes is presently in the planning stages as a joint venture between Riley County and Kansas State University.

A third type of program is door-to-door collection service. Persons with wastes are requested to call a telephone line to notify program personnel that they have household hazardous wastes which they would like to have collected. The participants are instructed as to what types of waste can be collected and given a time for pickup to take place. Door-to-door programs provide the ultimate in accessibility to the public, however, this additional service does increase the operational cost of the program substantially.

A final type of hazardous waste program is a telephone advice and referral service program. Program sponsors arrange for users of certain products prior to the initiation of the program so that household products such as uncontaminated paint can be donated for use by persons in need of such products. Unless provisions are made for a means to handle all types of hazardous wastes which may be encountered, such programs cannot be completely effective. On an informal basis, this type of service is what the department of Health and Environment is presently providing the citizens of Kansas.

Many of the programs conducted to date have been completely or partially funded by federal or state government. In instances where permanent collection centers or an annual collection day have been established by local governments, these programs are financed through increases in refuse collection bills, tipping fees at landfills, general tax revenues and tax revenues from sewer and stormwater utilities. Private companies have also funded or subsidized collection programs. This has been in the form of cash donations, provision of services or the donation of materials needed to conduct the program. The department's program in Wichita received both a cash donation and a donation of drums for overpacking wastes.

The pilot program sponsored by the state collected a total of 45,220 lbs. of household hazardous waste packaged in 282 drums. There were 535 participants from the two locations and from waste received at the Topeka office. The total cost of the program was $111,778.00. The cost of the program for households living in the area served by the program was 71 cents per household. The cost per household served in other programs across the nation has varied from 14 cents per household served to $1.88 per household depending upon the degree of participation and the quantity of waste received by each program.

The proper disposal of hazardous wastes is expensive whether done

by the state or private industry. The department utilized a wide variety of hazardous waste management options in handling the waste from the pilot collection days program. These included incineration, secure landfill, blending waste for fuels and recycling. The average cost per drum for transportation and disposal was $396.00. Although this price may seem high, it is competitive with present market prices. What this figure does not take into consideration are the hidden positive impacts of such programs. Perhaps the most beneficial aspect of a collection program is the education of the community as a result of the extensive publicity associated with these programs. When an individual citizen has concern over the proper disposal of a chemical and makes the effort to contact a state or local agency requesting information or assistance in proper disposal, assistance should be available.

For any collection program to be effective, local government must play the lead role in providing for the safe disposal of household hazardous wastes. Continuously operated collection sites with a strong emphasis on recycling offer the best opportunity for larger cities or counties to operate a program on a cost-effective basis. In sparsely populated areas of the state, counties may have to join together to form regional collection centers with each county contributing to disposal costs based upon the quantity of wastes delivered to the site. In cities where regents institutions are present, joint ventures such as that being considered in Riley County may provide additional cost savings.

One issue which frequently arises when collection programs are discussed is that of liability. Two forms of liability are relevant in regard to such programs. The first is the general liability local governments face when sponsoring any gathering or event, that of damages or injuries to persons or property. If planned and carried out by persons experienced in hazardous materials management, collection programs do not present an unreasonable risk. There have been no reports of serious injuries or damages as a result of collection programs. The second liability issue is that associated with the disposal of collected wastes at a hazardous waste disposal facility. In a recent policy memorandum, EPA has stated that if wastes are only collected from households, the wastes are unconditionally exempt from Resource Conservation and Recovery Act (RCRA) provisions. If, however, wastes from small businesses are collected along with household wastes, the resulting mixture of wastes is subject to portions of RCRA. Local officials must recognize that potential liability for household hazardous wastes under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) exists regardless of whether the wastes are disposed of at a local landfill or at a hazardous waste facility. Wastes disposed of at a hazardous waste facility should reduce the potential environmental impact and

therefore reduce the potential CERCLA liability.

The Department supports the concept embodied in Senate Bill No. 6 and we feel that local units of government are the appropriate entities to develop and operate household hazardous waste programs in Kansas. The provisions of Senate Bill No. 6 would, however, require additional resources at the Department. These resources are not in the Governor's recommended FY 90 budget for the Department. We anticipate requesting funding for a household hazardous wastes program in FY 91.

Testimony presented by:

Gary Hulett,
Under Secretary
Department of Health and Environment
February 14, 1989

SIERRA CLUB

Kansas Chapter

Testimony Before House Committee on Energy and Natural Resources
SB 6: Collection of Small Quantities of Hazardous Waste

Margaret Post Ahrens, Kansas Chapter of the Sierra Club
February 14, 1989

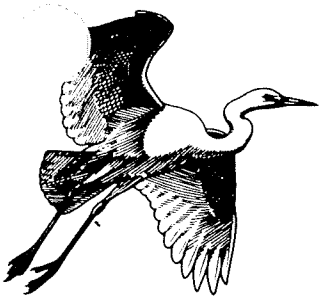
I am Margaret Ahrens, representing the 2200 members of the Kansas Chapter of the Sierra Club. Today I am appearing also on behalf of The Rural Center. Our organizations work for the protection of Kansas' natural resources and the health of our citizens, and have long-standing concerns about the appropriate management of hazardous wastes. In the 1988 Legislative Session we testified in support of HB 2870, which encouraged local collection programs for small quantities of hazardous wastes from households, farms, and small businesses. During the interim session, we testified before the Special Committee on Energy and Natural Resources on Proposal No. 13, supporting local collection programs.

Since the last legislative session we have become more acutely aware of the value of plentiful clean water for Kansas. The inappropriate disposal of hazardous wastes because of ignorance and/or unavailability of safe disposal threatens that precious water with long-term contamination.

Few Kansans have been exposed to information about the nature of hazardous waste contamination. When we pour furniture polish, solvents or pesticides down a drain, into sewers or drain fields, and landfill the same products, we do not intend to poison our soil and the water we and our children need to live. Most of us are unaware of the hazardous nature of substances we use every day. While 39 states have programs regulating small quantities of hazardous wastes, few Kansans have the opportunity to take our wastes anywhere for appropriate disposal.

The price we pay for clean-up following accumulations of inappropriate disposal of hazardous materials is staggering: $300 per cubic yard for contaminated soil..new wells, treatment systems and bottled water for drinking water supplies. In contrast, the small quantities of hazardous waste pilot project cost Kansans $2.47 per pound. We urge you to support SB 6 because of its potential for educating Kansans in regard to one aspect of our contamination problems and for offering incentives to local units of government to begin appropriate disposal of these hazardous materials.

H Energy and NR
2-14-89
Attachment 3



Kansas Audubon Council

February 14, 1989
House Energy and Natural Resources Committee

My name is Jan Garton; I am here today as chairman of the legislative subcommittee of the Kansas Audubon Council. One of the position papers which our committee formulated addressed our concerns for the need for proper disposal of household hazardous wastes. We believe that Senate Bill 63 is a step in the right direction; however, as pointed out in our position paper, we believe additional measures should be taken to completely address the problem.

Instead of giving a few communities the opportunity to set up collection days for household hazardous wastes, we believe an ongoing system of collections would result in more participation. It would also lessen the likelihood that persons who missed the collection day would send the wastes to their landfill (because they would be more aware of the dangers that such materials pose in home storage).

We also recommend development of a system of labels for containers of household hazardous materials. We believe a small, easily recognizable logo could be developed which would indicate that the item must not be disposed of with ordinary trash. We envision the label would be small enough to be applied with the tool that retailers use to affix price stickers to products. This system of labeling would have at least two benefits: it would educate the public about what actually constitutes household hazardous materials and it could provide the public with an impetus to choose less hazardous products which do not present disposal problems.

As with all programs similar to the one that SB 3 institutes, finding a reliable source of funding oftentimes becomes problematic. For that reason we believe that merchants who sell household hazardous materials should be required to purchase a license. The cost of the license could either be nominal, perhaps $25 annually, or incorporate the principle of "the more sold, the more the business would pay." The monies generated from the sale of those licenses would be added to the fund that the bill under consideration establishes. Because of the large number of retail stores this would affect: grocery stores (cleaning products), hardware stores (paints and solvents), gas stations (motor oil), garden supply stores (fertilizers, herbicides, pesticides), and large discount stores, etc., we believe a significant amount of money could be collected and the cost of the license would be passed on to the consumer of the hazardous material.

In conclusion, we want to emphasize that education of the public is a vital component of a successful withdrawal of household hazardous wastes from the total waste stream. We also strongly believe that much of the costs of proper disposal should be borne by the users of the products; however, these costs must be such that they not become an impediment to participation in a collection system.

H Energy and NR
2-14-89
Attachment 4

Testimony before the House Committee on Energy & Natural Resources
SB 6: small quantities of hazardous waste collections

Charlene A. Stinard, Kansas Natural Resource Council

February 14, 1989

My name is Charlene Stinard, and I represent the Kansas Natural Resource Council whose members support sustainable natural resource policies for the state of Kansas. I appear also today on behalf of the members of the Kansas Wildlife Federation, whose members share our concerns for the state's water resources.

Extensive media coverage has heightened public awareness of industrial hazardous waste issues. Most citizens, however, do not reflect on the contribution households make to the hazardous waste problem by uninformed disposal of hazardous products used in and around our homes.

Surveys indicate that the average home contains from 3 to 10 gallons of hazardous materials. Hazardous products become hazardous wastes; these wastes, when thrown in the trash, end up in landfills where the chemicals seep into the groundwater. The cost of cleaning up our water, once polluted, is astronomical.

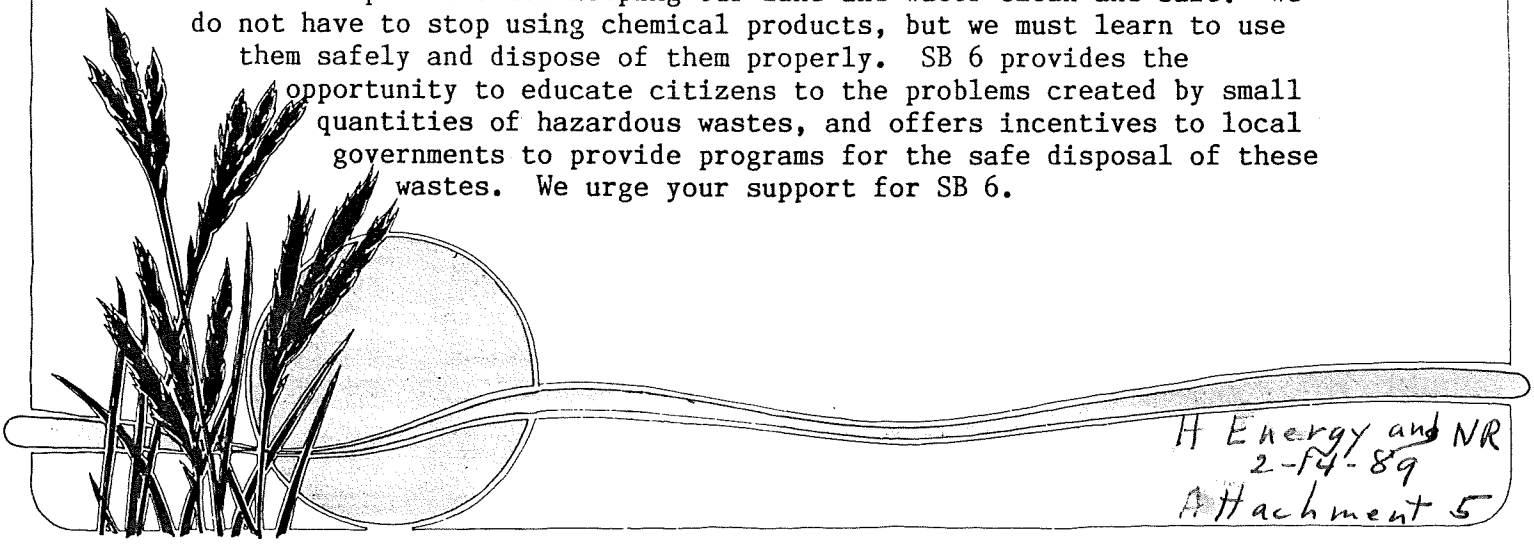
In 1986, KDHE's pilot project to collect household hazardous waste gathered an impressive 42,000 pounds at sites in Great Bend and Wichita. Twenty-one tons of hazardous materials were kept out of local landfills, where they pose a threat to our groundwater resources.

Today we are considering SB 6, which has three primary goals:

1) to educate the public to the dangers posed by household hazardous wastes,
2) to provide for the safe disposal of small quantities of hazardous wastes, and
3) to create incentives for local governments to organize collection programs.

We applaud the efforts of the Interim Study Committee and the Senate in creating and bringing forward a good bill.

We are all responsible for keeping our land and water clean and safe. We do not have to stop using chemical products, but we must learn to use them safely and dispose of them properly. SB 6 provides the opportunity to educate citizens to the problems created by small quantities of hazardous wastes, and offers incentives to local governments to provide programs for the safe disposal of these wastes. We urge your support for SB 6.



H Energy and NR
2-14-89
Attachment 5

KANSAS ASSOCIATION OF COUNTIES

"Service to County Government"

212 S. W. 7th Street
Topeka, Kansas 66603
(913) 233-2271
FAX (913) 233-4830

February 14, 1989

To: Representative Dennis Spaniol, Chairman and Members
House Committee on Energy & Natural Resources

From: Bev Bradley, Legislative Coordinator, KAC

RE: SB-6 Certain hazardous waste collection programs

The Kansas Association of Counties supports the concept in SB-6 as amended by the Senate committee, which is a statewide, volunteer program for the collection and disposition of small quantities of hazardous waste. Reasons for needing such a program were brought out in testimony during the special committee hearings this summer and the Senate hearings earlier this year. They include: older landfills constructed without liners or covers and many times in low areas near rivers; householders and farmers with "left-over" hazardous waste products such as drain cleaner, chlorine bleach, oven cleaner, insecticides and herbicides with no safe place in which to dispose of them; costs of correction of condemned sights being far more dollars than preventing such problems.

Counties do however have concerns about funding. As I am sure the committee members are aware, counties in Kansas are in the midst of a two year budget freeze, imposed by the Kansas legislature, until reappraisal has been completed and implemented. With this being the case, there may not be money available to develop hazardous waste collection programs immediately. Therefore, in our legislative policy statement our members and our board have requested State funding of such programs. We respectfully request whatever help the state can give.

H Energy and NR
2-14-89
Attachment 6

League
of Kansas
Municipalities

Municipal
Legislative
Testimony

An Instrumentality of its Member Kansas Cities. 112 West Seventh Street, Topeka, Kansas 66603 Area 913-354-9565

TO: House Committee on Energy and Natural Resources
RE: Senate Bill 6 -- Collection of Small Quantities of Hazardous Waste
FROM: David Corliss
DATE: February 14, 1989

The League of Kansas Municipalities supports efforts to establish a state-sponsored small-quantities hazardous waste collection program. Whether the public task is solid waste collection, landfill operation, nuisance abatement, water supply, or sewage disposal, elected and appointed city officials are concerned about the proper collection and disposition of hazardous waste.

At the 78th annual city conference of the League held on October 4, 1988, city voting delegates adopted the Statement of Municipal Policy, which included the following position: J-5(c). We support efforts to establish a state-sponsored small-quantities hazardous waste collection program.

Senate Bill 6 would authorize the Kansas Department of Health and Environment (KDHE) to provide grants for up to 50 percent of the cost of a voluntary collection program for certain hazardous wastes to local units of government. Senate Bill 6 would permanently establish a program of hazardous waste collection modeled after the successful one-year pilot program introduced by the 1986 Legislature (K.S.A. 1988 Supp. 65-3459).

The focus of a hazardous waste collection program with matching state assistance should be on the collection and disposal of <u>small</u> quantities of waste. A collection program which allows generators of large amounts of hazardous waste to benefit from government subsidized collection will probably increase the local share of program costs beyond the financial ability of local taxpayers. Additionally, there is a policy argument to be made that the disposal of large amounts of hazardous waste from profit-making activities (even though they are a "small business or farmer") should not be paid for by taxpayers but by the generators who can include disposal costs into the costs of the products and services they provide.

As members of this Committee are aware, the improper disposal of hazardous waste creates serious environmental consequences with accompanying financial burdens. City officials--with many responsibilities that bring them in contact with this problem--are concerned with the environmental and fiscal impact of this issue.

While most landfills in Kansas are operated by counties, a number of cities manage landfills or share the responsibility with counties. An even larger number of Kansas cities are involved in providing refuse collection services to their residents. The improper disposal of hazardous wastes in landfills has created a potent environmental problem.

H Energy and NR
2-14-89
Attachment 7

About 20 percent of the 951 sites on the federal Superfund National Priorities List (NPL) are municipal landfills. The NPL identifies the specific universe of the nation's worst sites, which will qualify for federal clean-up funding. Under the federal Superfund law, local governments face potential liability at sites located on land they own, at sites where they sent wastes that they generated, and at sites they operated.

An increasing number of Kansas cities with refuse collection responsibilities have responded to the hazardous waste problem by adopting ordinances which prohibit the disposal of hazardous waste in trash containers for collection by refuse haulers. This local legislation is intended as a safety protection for refuse collectors and as a preventive measure from environmental contamination at landfills. While most citizens will obey a prohibition from disposing hazardous waste along with the rest of the garbage, there are detection and enforcement problems. Additionally, such ordinances create a need for a voluntary hazardous waste collection program in which small quantities of waste that are prohibited from disposal through normal methods can be properly disposed.

Other contacts Kansas city officials have with the hazardous waste problem include nuisance abatement and the removal of dangerous structures in which hazardous wastes have been improperly disposed. The lack of a proper and accessible disposal method also occasionally means that city sewage disposal facilities are faced with untreated hazardous wastes which are unacceptable for normal treatment.

City officials are also concerned about the quality of our environment and the effect improper disposal of hazardous waste has on public water supplies. A voluntary small-quantities hazardous waste program will be an important tool in efforts to ensure the environmental health and safety of Kansas communities.