

Approved March 16, 1989

Date

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources

The meeting was called to order by Senator Ross Doyen at
Chairperson

8:07 a.m./p.m. on February 28, 1989 in room 423-S of the Capitol.

All members were present except: quorum was present.

Committee staff present:

Don Hayward, Revisor
Raney Gilliland, Research
Lila McClaflin, Committee Secretary

Conferees appearing before the committee:

Joe Lieber, Kansas Cooperative Council
Senator Frank Gaines
Van Stephans, Texaco
Dave Kuttler, Texaco
Rob Hodges, Kansas Chamber of Commerce & Industry
Chris Wilson, Kansas Fertilizer and Chemical Association
Wilbur Leonard, Committee of Kansas Farm Organizations
Fred Pierce, National Cooperative Refinery Association, McPherson, KS.
Steve Cohrs, Farmland Industries, Inc.
Dennis Murphey, Department of Health & Environment

List of others present is on file.

Chairman Doyen opened the hearing on (proposed) Substitute for S.B. 94 regulating underground storage tanks and creating the storage tank release trust fund. He called on Joe Lieber.

Mr. Lieber's written testimony states they would support S.B. 94 if section 13 (f) was amended to include "due process" (Attachment I).

Senator Gaines stated the Texaco Refinery in his district had expressed concern that refineries were included as the legislation was now drafted. He introduced Dave Kuttler from Texaco's Refinery and Petrochemical facility at El Dorado, Kansas.

Mr. Kuttler offered several amendments in written form (Attachment II).

Rob Hodges proposed three amendments (Attachment III).

Chris Wilson offered amendments to the bill (Attachment IV).

Wilbur Leonard offered amendments. He stated the KDH&E told him they had no problem with his amendments. His amendments are (Attachment V).

Fred Pierce presented written testimony requesting refineries be exempt from the bill (Attachment VI).

Steve Cohrs testimony recommends that refineries be exempt (Attachment VII).

A short discussion time followed. Some concern was voiced in regard to the inclusion of heating oil tanks owned by hospitals. The amendments proposed by Chris Wilson were accepted.

Staff was instructed to review with the Department the other proposed amendments and bring them to committee on March 1 in balloon form.

The minutes of 2/21, 2/22 and 2/23 were adopted.

The meeting adjourned. The next meeting will be on March 1, 1989.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

1989 SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

Date February 28, 1989

PLEASE PRINT

GUEST LIST

<u>NAME</u>	<u>REPRESENTING</u>
Ken Baker	KCMB
Kathleen Warren	DOB
David Corliss	LKM
Cindy Kelly	KASB
Chuck Hiesley	KOMA
Kathy Taylor	Kans Bankers Assn
Chuck Stokes	KSBAA
Kenneth Wilke	KWB
Dalton Sh Jain	Kans. Hospital Assn.
Bob Corkins	State Fire Marshal
John Earhart	RS 77A
J.A. Sodd	

Testimony on SB 94
Committee on Energy and Natural Resources
February 28, 1989
Prepared by Joe Lieber
Kansas Cooperative Council

Mr. Chairman and members of the Committee: I'm Joe Lieber, Executive Vice President of the Kansas Cooperative Council. The Council has a membership of nearly 200 cooperatives that have as their members nearly 200,000 Kansas farmers and ranchers.

It is the Council's understanding that Kansas needs to adopt regulations for its storage tanks. We believe it would be better for these regulations to be established by a state agency, such as the Department of Health and Environment, than it would be by a federal agency. SB 94 does this.

We also support the concept of the storage tank release trust fund. Federal regulations required an owner of a storage tank to either have a net worth of \$10,000,000 or have clean up insurance. Of course some small owners do not have a net worth of \$10 million and cannot buy insurance because it would be cost prohibitive. It is our understanding that the release trust fund enables these small owners to stay in business.

Since SB 94 allows a state agency to regulate and because the trust fund will allow small owners to stay in business, we support the bill.

One clarification - we would like to see a change in Section 13(f) which begins at the end of page 15 with line 74 and ends on page 16 on line 81. It is our understanding that this section may be unconstitutional because of the lack of "due process."

SE+NR
2/28/89 (OVER)
Attachment I

If it is unconstitutional I'm sure it could be constructed in such a way that it would include due process.

Thank you for your time and I will attempt to answer any questions.

Comments to the Senate
Committee on Energy and Natural
Resources on Substitute for Senate Bill 94

Good morning Mr. Chairman, my name is Dave Kuttler, I am the Supervisor-Environment, Health and Safety at Texaco's refinery and Petrochemical facility at El Dorado, Kansas. Texaco appreciates having the opportunity to appear before you today. While Texaco recognizes the need for the State of Kansas to address the problems associated with underground and certain above ground storage tanks, we do have some serious concerns with Senate Bill 94, if this bill includes refineries.

When SB 94 was first introduced, we were told that the framers of this bill, the Kansas Department of Health and Environment, did not intend to include refineries. However, we cannot see where these facilities are excluded.

We believe that existing Federal and State environmental regulations already provide regulatory agencies with the authority to protect the public health and environment from spills or releases from facilities such as ours. We also believe that the proposed bill penalizes Kansas refineries by making them uncompetitive with refineries located outside the State who do not have to pay additional fees for registration, permitting and inspection and who can thereby manufacture and store petroleum products for shipments to markets at lower cost than Kansas refiners. Placing Kansas refiners in an uncompetitive position may ultimately result in the loss of one of the states basic industries and related jobs.

In addition, we would like to comment on the following specific Sections of the Bill:

Section 2

Item (r) the definition of release should be clarified to specify what quantity of release must be reported. Also in Section 2, Item (w) the definition of tank, should be clarified to specify that only tanks larger than a certain minimum volume would have to be registered. We would suggest tanks larger than 5,000 gallons.

Section 4

Item (a), requires owners to notify the KDHE of tanks, their size, use, etc. For refineries, this is already being done under the State Air Laws (65-3007) which requires an annual emissions inventory. Perhaps KDHE has this existing requirement in mind when they indicated that refineries were to be exempted

Section 5

SE&NR
2/28/89
Attachment II

The American Petroleum Institute (API) Standards, to which we adhere, establish a high level of technical and professional performance. Our tanks are built and maintained in accordance with the API No. 650, Welded Steel Tanks for Oil Storage and API Guide for Inspection of Refinery Equipment, Chapter XIII - Atmospheric and Low-Pressure Storage Tanks.

Refinery storage tanks and related facilities are routinely inspected and repaired as necessary, by engineers and professionally trained inspectors and mechanical crafts. Therefore, there is no need to establish performance standards for refinery petroleum storage facilities as proposed in Section 5 (a) (2).

The requirements for clean-up criteria, geological assessment and other items proposed under Section 5 (a) (9) are already in place and are administered under the KDHE Bureau of Environmental Remediation. KSA 65-159, 65-161 et seq, 65-171d, 65-171v.

Section 6

This section requires additional permitting requirements for construction modification, or operation of above ground tanks after January 1, 1990.

Current Kansas Air Laws (KAR 28-19-14) already require that permits be obtained, and fees paid to construct refinery storage tanks.

Also the requirement of this section that provides for permits to be obtained prior to modifying (repairing) tanks causes us considerable concern. It would be impossible to conduct the normal day-to-day business of operating and maintaining a refinery if a permit had to be obtained before each minor piping repair or modification associated with a storage tank.

Since our tanks are designed, constructed, inspected and maintained in accordance with the universally accepted API standards and since we perform work on a routine basis consistent with these standards, as discussed above, we see no need to place the additional burden on refiners to obtain permits as proposed in Section 6.

Sections 8 and 9

Engineering and inspection records and the physical facilities are already available for review by appropriate State officials; therefore, there is no need to legislate these requirements for refineries.

SUMMARY

We believe that KDHE did mean to exempt refineries because it included in SB94 standards already being adhered to by refiners.

Texaco Refining and Marketing Inc. recommends that refineries and petrochemical Plants be exempted under Section 3 of SB. 94. Therefore,

we recommend that Section 3 be modified to add Item "j" to read as follows:

"j" petrochemical or petroleum refining facilities.

This type of exemption is not unprecedented by state laws. Under the Kansas Statutes governing boiler inspections (KAR Article 9 - Boiler Inspection, paragraph 44-195 Section b and 44-916) there is an exemption for "...any establishment in which petroleum products are refined or processed in which all boiler and pressure equipment is inspected and rated... by an inspection service regularly maintained within such establishment..."

We also recommend that Section 5 be amended at 5a (13) at line 246 by striking subsection (i) and inserting "subsections (i) and (j)". This would be consistent with our above recommendation.

Thank you very much for allowing Texaco to present these comments to the committee. If you have any questions we will try to answer them at this time.



**Kansas
Chamber of
Commerce
and Industry**

A consolidation of the
Kansas State Chamber
of Commerce,
Associated Industries
of Kansas,
Kansas Retail Council

February 28, 1989

To: Chairman and Members,
Senate Committee on Energy and
Natural Resources

From: Rob Hodges

Re: Proposed Substitute for SB 94

As you begin your consideration of the proposed Substitute for SB 94, KCCI encourages you to make three amendments:

1. Eliminate from the bill regulation of above ground storage tanks. Kansas should wait for the federal program before implementing an above ground storage tank regulation program. During the review of the proposed Sub. for SB 94, it was stressed that the underground tank regulations were restricted to requirements of the federal law. Identical treatment should be given to above ground tanks.
2. Permit waiver of the requirement for three bids prior to approval of a cleanup plan if the Secretary finds that bidders are not willing to provide bids. In areas of the state where cleanup contractors would have to drive several hours to visit a site, a tank owner may not find three contractors willing to bid. The Secretary is granted wide authority in the bill to implement the overall program. It seems appropriate, therefore, to permit the Secretary to recognize those instances where the three bid requirement could be counterproductive and to act accordingly.
3. Expand the proposed exemption for heating oil to include all users. Federal law excludes heating oil stored for use on premise regardless of whether the user is a family or a business. Kansas law should be the same.

The Kansas Chamber of Commerce and Industry supports the consolidation of SB 94 and SB 122 into a single bill. Further, we support the concept of state regulation of underground storage tanks in line with the federal law. We believe the amendments outlined above would create a good, workable state program.

Thank you for your consideration of our suggestions.

Sec. 3 (i) - ~~above ground~~ agricultural materials
storage tanks ~~registered with~~
~~and~~ regulated by the state board
of agriculture.

Fertilizer tanks KSA 2-1201 et seq
(H.B. 2422 brings tanks under ↑)

Ammonia tanks KSA 2-1212 et seq
tank regs KAR 4-10-1 et seq

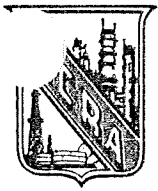
Pesticide tanks KAR 4-13-25

SE+NR
2/28/89
Attachment IV

Substitute for SENATE BILL NO. 94: To amend Section (f), beginning at line 74, page 15, and striking all of Section 15 (f) as printed.

(f) In any civil action brought pursuant to this section in which a temporary restraining order, preliminary injunction or permanent injunction is sought it shall be sufficient to show that a violation of the provisions of this act, or the rules and regulations adopted thereunder has occurred or is imminent. It shall not be necessary to allege or prove at any stage of the proceeding that irreparable damage will occur should the temporary restraining order, preliminary injunction or permanent injunction not be issued or that the remedy at law is inadequate.

SE+NR
2/28/89
Attachment V



National Cooperative Refinery Association

2000 SOUTH MAIN ST. • P.O. BOX 1404 • McPHERSON, KANSAS 67460 • 316/241-2340

FRED J. PIERCE
Vice President
Refining

STATEMENT TO THE SENATE ENERGY COMMITTEE REGARDING SENATE BILL NUMBER 94

My name is Fred Pierce. I am Vice President of Refining at National Cooperative Refinery Association in McPherson, Kansas. We operate a 75,000 barrel per day crude oil refinery at that location. This company is owned by five regional cooperatives who distribute our petroleum products to farmers in the central United States that are the ultimate owners of this manufacturing and distributing operation.

In conjunction with the refinery, we operate a major tank farm which stores crude oil and all of the products which are manufactured from this including distillate fuels, gasolines, and liquified petroleum gas. This tank farm has about 75 tanks which range from floating roof through cone roof and pressure storage. This totals about 2,000,000 barrels of storage. It covers an area of approximately 140 acres and has literally miles of interconnecting piping which enables us to perform its functions. The tanks themselves are built to conform with API and ASME codes applicable at the time of construction.

The tank farm is operated 24 hours a day, 365 days per year, by a crew of three people and are supervised 24 hours a day by an area or shift supervisor. The people are highly skilled and trained to perform the proper functions. These people, in turn, are backed by a strong engineering staff which includes many State of Kansas registered professional engineers for the various disciplines such as civil, chemical, and mechanical engineering. Changes, improvements, additions, and deletions go on constantly. Nothing remains static as the needs of the operation dictate changes.

In the bill under consideration, Senate #94, severe regulation of this sort of facility is implied. It would appear, if our interpretation is correct, that we might have to go through the Kansas Department of Health and Environment bureaucracy to make any sort of a move to change, or even simply to maintain the facility. Such maintenance is on-going.

My company and myself have had contacts with KDHE over the years and have worked successfully with them. Our lines of communication are open both ways on all environmental matters. They know us and we know them personally. We do not believe that the situation can be improved by a permitting procedure that is imposed by this legislation which will certainly add constrictive, inefficient, and delaying procedures to our operations. This can only add cost to our customer-owners who can ill afford it.

We respectfully submit that the professional staff which is constantly monitoring this operation has the qualifications from education, training, and experience to properly maintain and operate this facility without the necessity of going through a bureaucracy which in itself may not have the expertise to make good judgment of situations that arise. We request that installations such as ours, operating refineries, be exempted from this bill.

SE & NR
2/28/89
Attachment VI



FARMLAND INDUSTRIES, INC.

post office box 7305/kansas city, missouri 64116

STATEMENT
TO THE
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
REGARDING SENATE BILL 94

Thank you Mr. Chairman and members of the Committee. My name is Steve Cohrs and I am the Coordinator of Engineering and Economic Analysis for the Farmland Industries Coffeyville Refinery. I am testifying on behalf of the Farmland Cooperative System. Farmland is a regional cooperative owned by nearly 250,000 farmers and ranchers through approximately 2200 local cooperatives. Of these, approximately 224 cooperatives are within Kansas. Farmland owns and operates refineries at Coffeyville and Phillipsburg, Kansas, and is one-third owner of a refinery at McPherson, Kansas.

We would like to offer the following comments on Substitute SB 94.

In conjunction with Farmland's refineries, we have tank farms storing crude oil, refined fuels, LPG and inprocess materials. The Coffeyville facility alone has over 400 above ground storage tanks. The refineries are already under K.D.H.E. jurisdiction through NSPS and their SPCC plans. The tanks were originally built to conform with API and ASME codes. The refineries are staffed by highly trained technical and operating personnel.

The bill implies that any modification to this tankage would require permitting. Minor modifications as described later in the bill are part of our day-to-day operations. We would submit that petroleum refineries should be exempted from these regulations.

The Farmland cooperative system also believes that the burden of funding for the petroleum release fund should be imposed more proportionally among all participants in the petroleum industry rather than as the proposed legislation states.

SENR
2/28/89
Attachment VII