

Approved April 5, 1990  
Date

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

The meeting was called to order by Representative Dennis Spaniol at  
Chairperson

12:15 ~~xam~~/p.m. on March 28, 1990 in room 521-S of the Capitol.

All members were present except:

Committee staff present:

Raney Gilliland, Principal Analyst, Legislative Research  
Mary Torrence, Revisor of Statutes' Office  
Pat Mah, Legislative Research  
Maggie French, Committee Secretary

Conferees appearing before the committee:

Chairman Dennis Spaniol called the meeting to order.

Senate Bill No. 569 -- An act concerning waters; relating to requests for extension of time to complete diversion works or perfect the water right; concerning the reinstatement of water rights or permits to appropriate.

The chairman called for discussion on Senate Bill No. 569. There were no questions on the bill. Representative Grotewiel moved to report Senate Bill No. 569 favorably for passage. Representative Holmes seconded the motion. Motion passed.

Senate Bill No. 570 -- An act concerning water; relating to fees charged for applications to change place of use.

The chairman called for discussion on Senate Bill No. 570. Representative Shore moved to reduce the fees by 50%. Motion seconded by Representative Roenbaugh. Discussion followed regarding fees. Upon the request of the chairman, Mr. Raney Gilliland, Principal Analyst, Legislative Research, informed the committee that all fees had been \$50 and this bill would separate them into categories. Representative Roenbaugh withdrew her second and Representative Shore withdrew his motion. Motion was made by Representative Shore to lower the \$150 fee on lines 42 and 43 by 50% and the \$250 fee on line 2, page 2, by 50%. Discussion continued regarding reduced fees if there is more than one application submitted. Representative Shore withdrew his motion. Representative Roenbaugh moved that the fees remain \$50 on line 37; \$50 on lines 38 and 39; \$50 on line 40 and \$100 on lines 41, 42 and 43. Representative Shore seconded the motion. A substitute motion by Representative Patrick to report the bill favorably out of committee was seconded by Representative Lucas. Representative Patrick closed. Motion passed.

Senate Bill No. 585 -- An act relating to watershed districts; authorizing the establishment of structure maintenance funds.

Discussion was called for by the chairman on Senate Bill No. 585. Representative Freeman motioned the bill be passed favorably out of committee. Motion was seconded by Representative Lacey. There were no questions on the bill. Motion passed.

Senate Bill No. 595 -- An act relating to fish and game; concerning big game permits.

The chairman called for discussion on Senate Bill No. 595. Representative Freeman moved to amend the bill to reinsert the stricken language.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES,  
room 521-S Statehouse, at 12:15 ~~xxx~~ p.m. on March 28, 1990

on page 4, lines 26 through 31. Motion seconded by Representative Lacey. Discussion followed on the hunter safety course; age limits and percentage of permits for out-of-state deer hunters. Representative Freeman closed on his motion. Motion passed. Representative Patrick moved that the stricken language on lines 11 through 23, page 4, be reinserted. Discussion followed. Representative Lucas seconded. Representative Patrick closed on his motion. Motion passed. The chairman announced a motion on the bill as amended was in order. Representative Lucas moved to pass out favorably on Senate Bill No. 595 as amended. Motion seconded by Representative Lacey. Motion passed.

Senate Bill No. 642 -- An act relating to intensive groundwater use control areas; concerning the enforcement of corrective control measures.

Discussion was called for by the chairman on Senate Bill No. 642. Representative Freeman moved to pass out favorably on Senate Bill No. 642 and the motion was seconded by Representative Sughrue. Following discussion, Representative Sughrue withdrew her second and Representative Freeman withdrew his motion. Representative Holmes moved to remove "qualified political subdivision" from line 42, page 1, and "municipality" be reinserted. Representative Lucas seconded the motion. Discussion followed regarding definition of "municipality" and the word "cities" was suggested. Representative Lucas agreed to substitute the word "cities" for "municipality" in the second and Representative Holmes also agreed to the substitution of the word in his motion to amend. Representative Holmes closed on the motion. Motion passed. Representative Freeman moved to report Senate Bill No. 642 as amended favorably out of committee. Motion seconded by Representative Sughrue. Motion passed.

Senate Bill No. 740 -- An act relating to the Kansas department of wildlife and parks; authorizing the department to assist and cooperate with citizen support organizations.

The chairman called for discussion on Senate Bill No. 740. Representative Patrick moved to adopt an amendment to Senate Bill No. 740 to include addition of a new sub-section (6) (a) that the citizen support organization groups could not be engaged in any form of lobbying activities as defined by KSA 46.225. Motion seconded by Representative Krehbiel. Discussion followed on lobbying by cities, groups, private groups, the legal definition of lobbying; rights of groups to be heard and prohibition of tax exempt organizations from lobbying. Representative Patrick closed. Division was requested and the vote was 12 to nine in favor of passage. Motion passed. Representative Patrick moved to adopt an amendment to add "and who is registered with the Internal Revenue Service" to line 21, page 1. Motion was seconded by Representative Barr. Discussion followed. Representative Grotewiel expressed opposition to the amendment. Representative Patrick commented the state will be supporting private groups who are not registered with Internal Revenue Service. Representative Lacey mentioned some groups who are not organized would not be permitted to donate money. No further discussion forthcoming, Representative Patrick closed on his motion saying if this bill permits out-of-state money to help private groups registration should be required. Motion failed. Representative Lacey made a motion to report the bill favorably out of committee as previously amended. Motion seconded by Representative McClure. Motion passed.

Senate Bill No. 310 -- An act concerning vehicle tires; relating to disposal thereof; imposing taxes on retail sales of new vehicle tires and providing for disposition thereof; prohibiting certain acts and providing penalties for violations.

Discussion was called for by the chairman on Senate Bill No. 310. Representative Freeman moved to amend the bill on line 24, Section 7, page 5,

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES,

room 521-S Statehouse, at 12:15 ~~am~~ p.m. on March 28, 1990

to insert the words "and/or cities" after the word "counties." Motion seconded by Representative Sughrue. No discussion. Representative Freeman closed. Motion passed. Representative McClure distributed a balloon amendment to Senate Bill No. 310 (Attachment 1) and moved the amendment be adopted. Motion seconded by Representative Patrick. Discussion followed on the intent of the bill; how the fund is to be administered; programs of this type in other states; concern that a system is being set up without funding; permits and fees paid by waste tire sites; whether or not the offered amendment will take care of the problem and control of illegally dumped tires. At the chairman's request, Mr. Raney Gilliland reported there were no specific recommendations resulting from the interim study which took place in the summer of 1989. Representative Patrick stated he would not support the bill unless it was amended because there are no standards on how the permit funds will be disbursed. After further discussion, Representative McClure closed on his motion. Motion passed. Representative Holmes moved for an exemption for the Kansas Department of Wildlife and Parks on line 2, page 3 for breeding or nesting purposes. Motion seconded by Representative Lacey. Discussion followed regarding use of "habitat" in lieu of "breeding or nesting" in the motion. Representative Lacey agreed to accept the terminology "for use by wildlife and parks for habitat purposes" to be inserted in the motion in lieu of "breeding or nesting" in the motion he seconded. Representative Holmes agreed to accept the replacement terminology in his motion. No further discussion. Representative Holmes closed on his motion to amend. Motion passed. Representative Patrick moved to add "local zoning ordinances are not being overridden in the disposal of tires" to lines 6 and 7, page 2. Representative Webb seconded the motion. Representative Patrick closed discussing farm-ranch exemptions and local zoning ordinances in the state. Motion to amend passed. Representative Lucas moved to pass the bill out favorably from committee as amended. Representative McClure seconded the motion. Division was called on show of hands. Motion passed 10 to five.

Senate Bill No. 554 -- An act amending the Kansas storage tank act; providing for the administration and disbursement of moneys from the petroleum storage tank release trust fund.

The chairman called for committee discussion and reminded the committee that a balloon amendment to Senate Bill No. 554 had been adopted at the meeting of the House Energy and Natural Resources Committee on March 27, 1990, for the sake of committee discussion. Representative McClure moved to adopt an amendment to Senate Bill No. 554 to insert language on page 7, line 33, that would cover the three local cooperative associations in the state that have over 10 million dollars worth of net assets (Attachment 2). Motion seconded by Representative Sughrue. Discussion followed. Representative Gatlin made a motion to substitute the original Senate Bill No. 554 in place of the balloon amendment adopted on March 27, 1990. Division was called on a show of hands. Motion failed 10 to five. Discussion on the original amendment continued including whether or not all cooperatives registered under the Cooperative Marketing Act would be included. Chairman Spaniol stated for clarification that last year there were over 200 cooperatives in the State of Kansas and all of them but three were covered. Representative McClure commented that the language in his balloon amendment after the statute is cited states that if any tanks are owned by an association they are not using or operating themselves that all tanks would be excluded. Discussion continued on automatic exclusion if operators reach 10 million dollars in net equity. Representative McClure commented that if two local cooperative associations decided to merge with net assets in excess of 10 million dollars they would be included as this bill is written. Chairman Spaniol suggested language be worked out prior to the time the bill would be offered on the floor with the intent to add the three cooperatives that were left

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES,  
room 521-S, Statehouse, at 12:15 ~~xxx~~ p.m. on March 28, 1990

out last year. Representative McClure offered a conceptual motion that the three cooperatives be included and Representative Fry seconded the motion. No discussion on the conceptual motion. Representative McClure closed and urged the committee to adopt his amendment to Senate Bill No. 554. Motion passed. Representative Lucas moved Senate Bill No. 554 be passed favorably out of committee as amended. Motion seconded by Representative Guldner. No questions. Motion passed.

Chairman Spaniol announced he has had requests from several committee members to hold House Bill No. 3095 and refer it on the interim. Representative Patrick moved to table House Bill No. 3095 and recommended this bill be the subject of an interim study. Motion seconded by Representative Lucas. No discussion. Representative Patrick closed on his motion. Motion passed.

The meeting adjourned at 1:43 p.m.

Date: 3-28-90

## GUEST REGISTER

## HOUSE

## COMMITTEE ON ENERGY AND NATURAL RESOURCES

NAME	ORGANIZATION	ADDRESS	PHONE
Terry Leatherman	KCCI	Topeka	357-6321
Charlene Stinard	Ks Natural Resource Council	Topeka	233-6707
Bob Meinert	Dept Wildlife & Parks	Topeka	2281
Darrell Monteil	" " "	PRATT	"
DAN BAILEY	KOMA	Topeka	232-0753
Joe Lieber	Ks Coop Council	Topeka	233-4085
Kathy Taylor	Ks Bankers Ass'n	Topeka	232-3444
Diane Gruver	Ks Co-op Council	Topeka	233-4085
Nancy Kantola	CKFO	Topeka	
Chris Wilson	Ks Grain & Food Ass'n	Topeka	234-0461
Steve Kenney	CWM OF KS & CANADA	"	233-4512
John Peterson	Beach Amcwt	"	233-1903
DAVID M. TRASTER	KDHE	"	1291
LARRY KNOCHE	KDHE	"	1662
Ron Hammerschmidt	KDHE	Topeka	6170
Cindy Kelly	KASB	Topeka	273-3600
Tom Whitaker	Ks Motor Carriers Ass'n	Topeka	—
Woody Moses	KAPA	Topeka	235-1188
Charles Nicolay	KOMA	Topeka	233-9655
Tom Day	KCC	Topeka	296-3533
Tom Sawyer	LEU		7669

SENATE BILL No. 310

By Committee on Energy and Natural Resources

2-21

10 AN ACT concerning vehicle tires; relating to disposal thereof; ~~im-~~  
11 ~~posing taxes on retail sales of new vehicle tires and providing for~~  
12 ~~disposition thereof~~, prohibiting certain acts and providing penalties  
13 for violations.  
14

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

16 Section 1. As used in this act, unless the context otherwise  
17 requires:

18 (a) "Person" means any individual, association, partnership, lim-  
19 ited partnership, corporation or other entity.

20 (b) "Secretary" means the secretary of health and environment.

21 (c) "Tire" means a continuous solid or pneumatic rubber covering  
22 encircling the wheel of a vehicle.

23 (d) "Vehicle" means any motor vehicle, as defined by K.S.A. 8-  
24 1437 and amendments thereto, other than a traction engine, road  
25 roller or farm tractor or trailer.

26 (e) "Waste tire" means a whole tire that is no longer suitable for  
27 its original intended purpose because of wear, damage or defect.

28 (f) "Waste tire collection center" means a site where used or  
29 waste tires are collected from the public prior to being offered for  
30 recycling and where fewer than 1,000 tires are kept on the site on  
31 any given day.

32 (g) "Waste tire processing facility" means a site where equipment  
33 is used to cut, burn or otherwise alter whole waste tires so that  
34 they are no longer whole.

35 (h) "Waste tire site" means a site at which 1,000 or more whole  
36 tires are accumulated.

37 Sec. 2. (a) The owner or operator of any waste tire site, within  
38 six months after the effective date of this act, shall provide the  
39 department with information concerning the site's location and size  
40 and the approximate number of waste tires that are accumulated at  
41 the site and shall initiate steps to comply with subsection (b).

42 (b) On or after July 1, 1990, no person shall: : (A)

43 (1) Maintain a waste tire site unless such site is an integral part

ATTACHMENT 1  
H ENERGY AND NATURAL RESOURCES  
3-28-90

of the person's permitted waste tire processing facility; \_\_\_\_\_; or (B) the tires accumulated at such site are for use in the person's business of retreading tires

(2) dispose of waste tires in the state unless the waste tires are disposed of for processing, or collected for processing, at a permitted solid waste processing facility, a waste tire site which is an integral part of a permitted waste tire processing facility, a permitted waste tire processing facility or a waste tire collection center *or are made available to a person engaged in a farming or ranching activity including the operation of a feedlot as defined by K.S.A. 14-5701, and amendments thereto*; or

(3) deposit waste tires in a landfill as a method of ultimate disposal, except that the secretary, by rules and regulations, may: (A) Authorize the final disposal of waste tires at a permitted solid waste disposal facility provided the tires have been cut into sufficiently small parts to assure their proper disposal *or are utilized as part of a proven and approved leachate collection system in their original state*; and (B) allow waste tire material which has been cut into sufficiently small parts to be used as daily cover material for a landfill.

(c) Violation of subsection (b) is a class C misdemeanor.

Sec. 3. (a) The secretary shall establish a system of permits for waste tire processing facilities and permits for waste tire collectors and collection centers. Such permits shall be issued for a period of one year and shall require an application fee established by the secretary in an amount not exceeding \$250 per year.

(b) The secretary shall establish standards for waste tire processing facilities and associated waste tire sites, waste tire collection centers and waste tire collectors.

(c) On and after July 1, 1990 no person shall:

(1) Own or operate a waste tire processing facility or waste tire collection center or act as a waste tire collector unless such person holds a valid permit issued therefor pursuant to subsection (a); or

(2) own or operate a waste tire processing facility or waste tire collection center or act as a waste tire collector except in compliance with the standards established by the secretary pursuant to subsection (b).

(d) The provisions of subsection (c)(1) shall not apply to:

(1) A tire retreading business where fewer than 1,000 waste tires are kept on the business premises;

(2) a business that, in the ordinary course of business, removes tires from motor vehicles if fewer than 1,000 of these tires are kept on the business premises; or

(3) a retail tire-selling business which is serving as a waste tire collection center if fewer than 1,000 waste tires are kept on the business premises; or

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1 (4) *a person engaged in a farming or ranching activity including*  
2 *the operation of a feedlot as defined by K.S.A. 14-5701, and amend-*  
3 *ments thereto.*

4 (c) Violation of subsection (c) is a class C misdemeanor.

5 Sec. 4. (a) The secretary shall encourage the voluntary estab-  
6 lishment of waste tire collection centers at retail tire-selling busi-  
7 nesses, waste tire processing facilities and solid waste disposal  
8 facilities, to be open to the public for the deposit of used and waste  
9 tires.

10 (b) The secretary is authorized to establish an incentives program  
11 for individuals to encourage them to return their used or waste tires  
12 to a waste tire collection center. The incentives established by the  
13 secretary may involve the use of discount or prize coupons, prize  
14 drawings, promotional giveaways or other activities the secretary  
15 determines will promote collection, reuse, volume reduction and  
16 proper disposal of used or waste tires.

17 (c) The secretary may contract with a promotion company to  
18 administer the incentives program.

19 ~~Sec. 5. (a) In addition to any other tax imposed upon the retail~~  
20 ~~sale of new tires, there is hereby imposed an excise tax on the retail~~  
21 ~~sales of new tires at the rate of \$1 per tire sold. Such tax shall be~~  
22 ~~paid by the purchaser of such tires and collected by the retailer~~  
23 ~~thereof.~~

24 ~~(b) The tax imposed by this section collected by the retailer shall~~  
25 ~~become due and payable monthly, or on or before the last day of~~  
26 ~~the month immediately succeeding the month in which the tire is~~  
27 ~~sold, but any person filing an annual or quarterly return under the~~  
28 ~~Kansas retailers' sales tax act, as prescribed in K.S.A. 79-3607 and~~  
29 ~~amendments thereto, shall, upon such conditions as the secretary of~~  
30 ~~revenue may prescribe, pay the tax imposed by this act on the same~~  
31 ~~basis and at the same time the person pays such retailers' sales tax.~~  
32 ~~Each person collecting the tax imposed pursuant to this section shall~~  
33 ~~make a true report to the department of revenue, on a form pre-~~  
34 ~~scribed by the secretary of revenue, providing such information as~~  
35 ~~may be necessary to determine the amounts of taxes due and payable~~  
36 ~~hereunder for the applicable month or months, which report shall~~  
37 ~~be accompanied by the tax disclosed thereby. Records of sales of~~  
38 ~~new tires shall be kept separate and apart from the records of other~~  
39 ~~retail sales made by the person charged to collect the tax imposed~~  
40 ~~pursuant to this section in order to facilitate the examination of books~~  
41 ~~and records as provided herein.~~

42 ~~(c) The secretary of revenue or the secretary's authorized rep-~~  
43 ~~resentative shall have the right at all reasonable times during business~~



1 hours to make such examination and inspection of the books and  
2 records of the person required to collect the tax imposed pursuant  
3 to this section as may be necessary to determine the accuracy of  
4 such reports required hereunder.

5 (d) The secretary of revenue is hereby authorized to administer  
6 and collect the fees imposed hereunder and to adopt such rules and  
7 regulations as may be necessary for the efficient and effective admin-  
8 istration and enforcement of the collection thereof. Whenever any  
9 person liable to collect the taxes imposed hereunder refuses or ne-  
10 glects to pay them, the amount, including any penalty, shall be  
11 collected in the manner prescribed for the collection of the retailers'  
12 sales tax by K.S.A. 79-3617 and amendments thereto.

13 (e) The secretary of revenue shall remit daily to the state treas-  
14 urer all revenue collected under the provisions of this act. The state  
15 treasurer shall deposit the entire amount of each remittance in the  
16 state treasury and credit it to the waste tire management fund.

17 (f) Whenever, in the judgment of the secretary of revenue, it is  
18 necessary, in order to secure the collection of any taxes, penalties  
19 or interest due, or to become due, under the provisions of this act,  
20 the secretary may require any person charged with the collection of  
21 such tax to file a bond with the director of taxation under conditions  
22 established by and in such form and amount as prescribed by rules  
23 and regulations adopted by the secretary.

24 Sec. 6. (a) If any person fails to pay taxes when required by  
25 section 5, there shall be added to the unpaid balance of the fees  
26 interest at the rate per month prescribed by subsection (a) of K.S.A.  
27 79-2968 and amendments thereto from the date taxes were due until  
28 paid.

29 (b) If any person due to negligence or intentional disregard fails  
30 to file a report or pay the taxes due at the time required by or  
31 under the provisions of section 5, there shall be added to the tax a  
32 penalty in an amount equal to 10% of the unpaid balance of taxes  
33 due.

34 (c) If any person fails to make a report, or to pay any taxes,  
35 within 60 days from the date the report or taxes were due, except  
36 in the case of an extension of time granted by the secretary of  
37 revenue, there shall be added to the taxes due a penalty equal to  
38 25% of the amount of such tax.

39 (d) If any person, with fraudulent intent, fails to pay any tax or  
40 make, render or sign any report, or to supply any information, within  
41 the time required by or under the provisions of section 5, there  
42 shall be added to the tax a penalty in an amount equal to 50% of  
43 the unpaid balance of the tax due.

4-1

1 (e) Penalty or interest applied under the provisions of subsections  
2 (a) and (d) shall be in addition to the penalty added under any other  
3 provisions of this section, but the provisions of subsections (b) and  
4 (c) shall be mutually exclusive of each other.

5 (f) Whenever, in the judgment of the secretary of revenue, the  
6 failure of a person to comply with the provisions of subsections (b)  
7 and (c) was due to reasonable causes and not willful neglect, the  
8 secretary of revenue may waive or reduce any of the penalties upon  
9 making a record of the reasons therefor.

10 (g) In addition to all other penalties provided by this section,  
11 any person who willfully fails to make a report or to pay over any  
12 tax imposed under section 5, who makes a false or fraudulent report,  
13 who fails to keep any books or records necessary to determine the  
14 accuracy of the person's reports, who willfully violates any rules and  
15 regulations of the secretary of revenue for the enforcement and  
16 administration of the provisions of section 5 or this section, who aids  
17 and abets another in attempting to evade the payment of any tax  
18 imposed by section 5 or who violates any other provision of section  
19 5 or this section shall, upon conviction thereof, be fined not less  
20 than \$100 nor more than \$1,000, or be imprisoned in the county  
21 jail not less than one month nor more than six months, or be both  
22 so fined and imprisoned, in the discretion of the court.

23 Sec. 7. (a) On or before July 1, 1990, the secretary shall establish  
24 a program to make grants to counties which desire, individually or  
25 collectively, to:

26 (1) Construct or operate, or contract for the construction or op-  
27 eration of, a waste tire processing facility and equipment purchases  
28 therefor;

29 (2) contract for a waste tire processing facility service within or  
30 outside the county or state;

31 (3) remove or contract for the removal of waste tires from the  
32 county, region or state;

33 (4) perform or contract for the performance of research designed  
34 to facilitate waste tire recycling;

35 (5) establishing waste tire collection centers at solid waste disposal  
36 facilities or waste tire processing facilities; or

37 (6) provide incentives for establishing privately operated waste  
38 tire collection centers for the public.

39 (b) Each county shall be eligible for a pro-rata share, based on  
40 population of the moneys available for grants pursuant to this section.  
41 Counties may join together, pooling their financial resources, when  
42 utilizing their grants for the purposes described in subsection (a).

43 (c) The secretary shall provide technical assistance, upon request,

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1 to a county or groups of counties desiring assistance in applying for  
2 waste tire grants or choosing a method of waste tire management  
3 which would be an eligible use of the grant funds.

4 Sec. 8. (a) There is hereby established in the state treasury the  
5 waste tire management fund.

6 (b) Moneys in the waste tire management fund shall be used  
7 only for the purpose of making grants as provided by section 7.

8 (c) All expenditures from the waste tire management fund shall  
9 be made in accordance with appropriations acts upon warrants of  
10 the director of accounts and reports issued pursuant to vouchers  
11 approved by the secretary.

12 Sec. 9. The secretary shall adopt such rules and regulations as  
13 necessary to administer and enforce the provisions of this act.

14 Sec. 10. This act shall take effect and be in force from and after  
15 its publication in the statute book.

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9-1

determine the owner or operator is ineligible, the secretary shall include in the written notice an explanation setting forth in detail the reasons for the determination;

(9) the owner or operator shall submit to the secretary a written notice that corrective action has been completed within 30 days of completing corrective action;

(10) no later than 30 days from the submission of the notice as required by subsection (a)(9), the owner or operator must submit an application for reimbursement of corrective action costs in accordance with criteria established by the secretary, and the application for reimbursement must include the total amount of the corrective action costs and the amount of reimbursement sought. In no case shall the total amount of reimbursement exceed the lesser of the actual costs of the corrective action or the amount of the lowest bid submitted pursuant to K.S.A. 1989 Supp. 65-34,118 less the appropriate deductible amount;

(11) interim payments shall be made to an owner or operator in accordance with the plan approved by the secretary pursuant to K.S.A. 1989 Supp. 65-34,118, except that the secretary, for good cause shown, may refuse to make interim payments or withhold the final payment until completion of the corrective action;

(12) the owner or operator shall be fully responsible for removal, replacement or retrofitting of underground petroleum storage tanks and the cost thereof shall not be reimbursable from the fund;

(13) the owner or operator shall provide evidence satisfactory to the secretary that corrective action costs equal to the appropriate deductible amount have been paid by the owner or operator, and such costs shall not be reimbursed to the owner or operator; ~~and~~

~~(14) the owner or operator submits to the secretary proof, satisfactory to the secretary, that such owner or operator is unable to satisfy the criteria for self-insurance under the federal act; and~~

(15) (14) the owner or operator shall be liable for all costs which are paid by or for which the owner or operator is entitled to reimbursement from insurance coverage, warranty coverage or any other source.

(b) For the purpose of determining an owner's or operator's eligibility for reimbursement pursuant to subsection (a) and the applicable deductible of such owner or operator, the secretary shall consider all owners and operators owned or controlled by the same interests to be a single owner or operator.

(c) Notwithstanding the provisions of subsection (c) of K.S.A. 1989 Supp. 65-34,118, should the secretary find that any of the

the owner or operator submits to the secretary proof, satisfactory to the secretary, that such owner or operator is unable to satisfy the criteria for self-insurance under the federal act, except that this requirement shall not apply to any association organized under the cooperative marketing act (K.S.A. 17-1601 et seq. and amendments thereto) if all businesses in which such association's underground petroleum storage tanks are used are owned and operated by such association;

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ATTACHMENT 2