

Approved 4-12-91  
Date

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources

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

8:08 a.m. ~~p.m.~~ on April 4, 1991 in room 423-S of the Capitol.

All members were present except: All members were present.

Committee staff present:

Pat Mah, Legislative Research Department  
Raney Gilliland, Legislative Research Department  
Don Hayward, Revisor of Statutes  
Lila McClaflin, Committee Secretary

Conferees appearing before the committee:

Theresa Hodges, Kansas Department of Health and Environment  
John Irwin, Kansas Department of Health and Environment  
Scott Andrews, Sierra Club  
Shaun McGarth, Kansas Natural Resource Council  
Ed Moses, Kansas Aggregate Producers' Association  
Vic DeJong, APTUS  
Paul Peters, Systech Inc, Fredonia  
Horace Compton, Plant Manager, LaFarge Corporation  
David Pope, Division of Water Resources

The Chairman opened the hearing on HB 2409 - concerning hazardous waste permits and fees.

Theresa Hodges said this bill would put all environmental laboratory certification programs in one statute and that explicate authority would be granted to maintain this fee (Attachment 1).

No one appeared in opposition to HB 2409, and the hearing was closed. The Chairman asked for action on the bill.

Senator Hayden moved to report HB 2409 for passage. Senator Daniels seconded the motion. The motion carried.

The Chairman opened the hearing on HB 2021 - concerning health and environment; hazardous wastes; fees.

John Irwin support HB 2021 as amended. It would be a partial solution to the increasing demands for funding placed on our states hazardous waste management program (Attachment 2).

Scott Andrews believes HB 2021 is needed to provide funding for better management of hazardous waste in Kansas (Attachment 3).

Shaun McGrath supported the bill as amended. He believes it is an important mechanism to provide funds to the Department of Health and Environment for monitoring hazardous waste. He suggested several amendments (Attachment 4).

Edward Moses said with reservations that they support HB 2021. He urged KDHE to consider the affects this legislation and future legislation might have on the Kansas Cement Industries ability to continue to burn hazardous waste (Attachment 5). On file in the Energy and Natural Resources Office is a pamphlet on The Process of Burning Hazardous Waste.

Vic DeJong supported the bill as it left the House Committee. They disagree with the amendment that provided for a fee difference between cement kilns and hazardous waste incenerators (Attachment 6).

Paul Peters supported HB 2021 as amended by the House Committee of the Whole (Attachment 7).

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.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources,  
room 423-S, Statehouse, at 8:08 a.m./~~p.m.~~ on April 4, 1991

Horace Compton supported the bill in its present form (Attachment 8).

The hearing on HB 2021 was closed, and the Chairman called for action on HB 2021.

Senator Martin moved to amend the bill on page 8, line 21, from \$.001 to \$.01. Senator Walker seconded the motion. The motion carried.

Senator Martin moved to increase the cap to \$300,000. The motion died for lack of a second.

Senator Lee moved the bill be recommended for passage as amended. Senator Langworthy seconded the motion. The motion carried.

The Chairman called for action on HB 2037. He called on David Pope to brief the Committee regarding the proposed amendments. A copy of the balloon draft was distributed (Attachment 9).

Senator Martin moved to adopt the amendments as presented in the balloon draft. Senator Sallee seconded the motion. The motion carried. Senator Frahm moved HB 2037 as amended be recommended for passage. Senator Martin seconded the motion. The motion carried.

Senator Sallee moved to adopt the minutes of the April 2, 1991 meeting. Senator Daniels seconded the motion. Motion carried.

The Chairman adjourned the meeting at 9:04. The next meeting will be on April 9, 1991, at 8:00 a.m.

1991 SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

Date April 4, 1991

PLEASE PRINT

GUEST LIST

NAME

REPRESENTING

Sheresa Hodges

KDHE

Ron Hammer schmidt

KDHE

John Travn

KDHE

Jake Neit

Artus

Scott Andrews

Sierra Club

David Wore

DWR, KSBA

Rich McKee

KLA

Clark Ruff

BWO

Shaun McGrath

KVRC

Steve Kearney

WMI / CWM of KS.

Paula Freerksen

League of KS Municipalities

DAVID M. TRASTER

ADHE



# State of Kansas

Joan Finney, Governor

Department of Health and Environment  
Kansas Health and Environmental Laboratory

Forbes Field, Bldg. 740, Topeka, KS 66620-0002

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Stanley C. Grant, Ph.D.,  
Acting Secretary

## Testimony presented to Senate Committee on Energy and Natural Resources

by

The Kansas Department of Health and Environment

House Bill 2409

Timely and accurate laboratory test results are of vital importance in our effort to protect the Kansas environment. These test results are only as good as the laboratory that produced them.

In order to insure dependable laboratory data, the KDHE has operated a certification program for environmental laboratories since 1978. K.S.A. 65-171k provides the statutory authority for the water/wastewater certification program. In 1980 laboratory certification was expanded to include solid and hazardous waste analyses as required by RCRA and Kansas Administrative Regulation 28-31-5. In view of an increase in litigation dealing with hazardous waste violations, we believe that explicit statutory authority should be granted.

This bill repeals K.S.A. 65-171k and places all environmental laboratory certification programs in one statute. The statutory citations indicated under (a) (1), and beginning on line 16, are all inclusive of environmental programs which may require reporting of analytical data to the KDHE.

The KDHE operates the environmental laboratory certification program on a fee-supported basis with all moneys transferred to the state general fund. The statutory authority for fees has been somewhat indirect and we would recommend that explicit authority be granted to maintain this fee-supported program.

Testimony presented by: Theresa L. Hodges, Senior Laboratory Scientist  
Laboratory Improvement Program Office  
Kansas Health and Environmental Laboratory  
April 4, 1991

*E & NR*  
*4-4-91*  
*attachment 1*



# State of Kansas

Joan Finney, Governor  
Department of Health and Environment  
Division of Environment

Acting  
Stanley C. Grant, Ph.D., Secretary

Forbes Field, Bldg. 740, Topeka, KS 66620-0002

Respond to:  
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Testimony presented to  
The Senate Committee on Energy and Natural Resources  
by  
The Kansas Department of Health and Environment  
House Bill 2021 (As Amended)

## SUMMARY OF MAJOR ISSUES

The Department of Health and Environment is pleased to provide testimony in support of House Bill 2021 as amended relating to hazardous waste disposal and treatment fees. As the committee is aware, this bill follows the referral of Proposal No. 41 which was the subject of an interim study this summer by the Special Committee on Ways and Means/Appropriations.

House Bill 2021 responds to two problems that have become sources of growing concern to KDHE and others during the past several years. The first problem involves the continuing inability of the agency to complete timely technical reviews of complex permit applications for new or modified hazardous waste facilities. The receipt of permit applications for major new facilities cannot be anticipated by the Department and the necessary resources cannot be provided through the traditional budget planning process. The solution to this problem proposed in H.B. 2021 provides for the assessment of an application fee to be submitted by applicants at the time that the permit application is initially submitted. The Department strongly supports this concept because it would allow the Department to temporarily supplement the technical staff resources normally used for routine program demands with contract resources at the time applications are received. If no applications are received, no fees are assessed. The concept of a permit application fee is not new and is currently used by many states for reasons identical to those discussed here. It is a fee that is, in general, also supported by applicants for permits, particularly those in the private sector, because it provides a mechanism to reduce the significant economic impact that can result from extended delays in completing the permit process.

The second problem that House Bill 2021 addresses has been only recently recognized and concerns the lack of provisions in the current Kansas hazardous waste statutes for establishing and implementing a schedule of fees directed specifically toward off-site commercial hazardous waste treatment and disposal facilities. To date, this situation has not been a concern because the state has not had commercial facilities of this type;

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Lorne Phillips, Ph.D.,  
Director of Information  
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Roger Carlson, Ph.D., *Attachment 2*  
Director of the Kansas Health  
and Environmental Laboratory *1-10*  
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*Ed NR*  
*4-4-1991*

however, the Department currently has under review a permit application submitted by the Aptus corporation for a commercial hazardous waste treatment facility to be located in Coffeyville at the site of this firm's existing PCB management and treatment plant. If the permit process for this facility is successfully completed, the state's first commercial hazardous waste treatment facility will begin operation this year. This will be the only Kansas industry at that time subject to the treatment fees addressed in House Bill 2021. Recently promulgated federal regulations applicable to boilers and industrial furnaces burning hazardous wastes may eventually result in additional Kansas facilities such as cement kilns being subject to regulation as off-site treatment facilities. House Bill 2021 (as amended) contains separate provisions for these facilities that would apply at any future time that they became commercial treatment facilities.

Establishing a commercial facility fee program is important to the Department and the State of Kansas, overall, for several reasons. First, commercial hazardous waste treatment and disposal fees are commonly used nationwide as a source of revenue to support various segments of state waste management programs. It is important to note that the hazardous waste which will be processed and treated at any commercial facility in Kansas will originate predominantly from outside Kansas. These fee programs are, therefore, recognized as an appropriate and effective way of providing the opportunity for out-of-state generators of hazardous waste that choose to ship waste to commercial Kansas facilities to contribute to the implementation of the Kansas hazardous waste program. Further, this will assure that the Kansas commercial hazardous waste fee program is consistent with those of other states with similar facilities.

The second reason the Department believes this fee program is of great importance to Kansas involves the need to provide for an adequate and permanent source of funding for the state's developing hazardous waste minimization program. This program is currently being implemented through cooperative agreements between KDHE, Kansas State University, and Kansas University. It is being made possible through a federal grant received by KDHE in 1988 that provided \$325,000 in federal grant funds to be spent over a three-year period to establish a demonstration waste minimization program for Kansas. The project emphasizes the importance of providing technical assistance to small Kansas firms in a non-regulatory environment. The continuation of this project beyond the federal grant period is considered by the Department to be a critical need for Kansas. Assuring that every effort is made to minimize the generation of hazardous wastes is indicative of the future direction of the Kansas hazardous waste program.

As is also discussed in the Department's detailed testimony, the use of some of these revenues for additional support for the state's household hazardous waste program and for completing specialized, non-routine surveillance activities by KDHE at the new commercial facility is also believed to be appropriate and House Bill 2021 contains such provisions.

Following the enactment of statutory authority for the Secretary to establish these new fee schedules, the Department will begin a rule-making process whereby the detailed fee schedules would be proposed, evaluated and adopted only after public hearing and opportunity for comment by all interested parties. In arriving at the appropriate schedule of fees, the Department must assure that the fees are reasonable in their economic impact, consistent with those of nearby states, and appropriate for the type and quantity of wastes involved, and that they properly consider the origin of the waste and the treatment and disposal technologies being regulated.

House Bill 2021 provides that the revenues collected as commercial treatment and disposal fees be deposited into the same fund as the permit application fees; however, with the exceptions noted below, the statute effectively defines the authorized uses for these funds and the need to account separately for their use.

In summary, the Department strongly encourages the enactment of H.B. 2021 as a partial solution to the increasing resource demands being placed upon our state's hazardous waste management program. The fees proposed are believed to represent an innovative approach to financing these needs in a time of growing concern over taxes and public demands for fiscal restraint. The Department believes that the changes proposed provide the framework for arriving at an acceptable balance between the resource needs of a complex regulatory and technical assistance program and the resulting economic impacts upon the commercial hazardous waste industry in Kansas.

Testimony presented by: John C. Irwin  
Director  
Bureau of Air and Waste Management  
Kansas Department of Health and Environment

Attachments:

1. Economic Impact - Aptus
2. Summary of Fees

DETAILED TESTIMONY (FOCUSING ON 1991 H.B. 2021 AS AMENDED)

Background

K.S.A. 65-3431, enacted in 1981, authorizes and directs the Secretary of Health and Environment to implement a comprehensive hazardous waste management program for the State of Kansas. Specific authorities include adopting rules and regulations as necessary to protect the public health

and environment and establishing fee schedules to offset the costs of implementing the program and for other purposes as described in the law. Under current statutes, two hazardous waste fee schedules are authorized and established.

The first fee schedule is authorized by K.S.A. 65-3431 (u) and established in K.A.R. 28-31-10, and provides for the payment of fees by hazardous waste treatment, storage, and disposal facilities in Kansas, as well as hazardous waste transporters and generators for the purpose of reimbursing the State of Kansas for the costs incurred by the Secretary in monitoring the operation of these facilities. These funds are deposited into the State General Fund and replace the direct and indirect state funds appropriated by the Kansas Legislature for the Department's routine inspection and evaluation activities.

The second existing fee schedule is authorized by K.S.A. 65-3431 (v) and is established in K.A.R. 28-31-11 and provides for the payment of fees specifically by hazardous waste disposal facilities into a Perpetual Care Trust Fund. This fund was established to provide for the monitoring of disposal facilities after closure.

There are two substantive amendments to K.S.A. 65-3431 proposed in House Bill 2021. The first of these provides for the addition of a new subsection (w) which establishes authority for a new schedule of fees to be paid by applicants for permits for new or modified hazardous waste facilities. This new subsection also establishes a new revenue fund named the Environmental Permit Fund, and requires that the monies collected from this new schedule of fees be deposited into this fund.

The Department strongly supports the concept of an application fee because it provides for resources to evaluate new permits immediately at the time that applications are received. This procedure allows the Department to supplement their staff resources, temporarily, during periods of increased workloads. By providing the Secretary access to a separate fund established for this purpose, the Department's response to major new applications can be timely and comprehensive. This procedure also places the burden for many of the expenses associated with the permit review process upon the applicant. If no new applications are received, no revenue will be generated by this fee schedule. The proposed amendment provides for an application fee not to exceed \$175,000. However, the actual fee will be assessed based upon the actual costs incurred by the Department and will be determined through a formal rule-making process. The following listed criteria are recommended as the minimum necessary in order to assure a fair and effective fee program:

1. The application fee should be submitted with the application.
2. The fee should be deposited into a dedicated revenue fund.



3. The uses for these specific fee revenues should be limited to permit-related review activities.
4. The fee schedule should be based upon the size and nature of the proposed facility and the complexity of the facility and the technologies proposed in the application.
5. The Secretary should be authorized to contract with private firms for additional technical resources to complete the require evaluations.
6. The revenues in the designated fund should carry-over into subsequent fiscal years in order to accommodate applications received near the end of the year.

The second major amendment to K.S.A. 65-3431 involves the addition of a new subsection (x) which provides for a second new schedule of fees specifically applicable to off-site hazardous waste treatment and disposal facilities. The term "off-site facility" is defined under existing Kansas law (K.S.A. 65-3430) as a facility where treatment, storage, or disposal activities are conducted by a person other than the hazardous waste generator. The term "off-site hazardous waste treatment and disposal facility" will, therefore, include hazardous waste incineration facilities, disposal facilities at which hazardous waste will remain after closure, and underground injection wells; provided that these facilities receive wastes that are not generated on-site. In practice, these new fees will apply to any new commercial hazardous waste treatment or disposal facilities that would begin operation in the state, as there are currently no facilities in Kansas to which this proposed fee schedule would apply. The Department has under review, however, an application from the Aptus Corporation for a commercial hazardous waste incineration facility in Coffeyville and when issued a permit this facility would become the first to fall under this new fee schedule.

The new subsection (x) also provided that the fees to be collected not exceed five cents per pound (\$100 per ton) of hazardous waste disposed of or one cent per pound (\$20 per ton) of hazardous waste treated (provided that no facility pays fees in aggregate greater than \$200,000) and that this money be deposited into two different funds as follows: 75% - Environmental Permit Fund; and 25% - Hazardous Waste Collection Fund. The revenue from these fees that is deposited into the Environmental Permit Fund is limited in its use by the Department as described in the new subsection (w). These uses include enhancing the state's hazardous waste minimization efforts, conducting extra-ordinary facility surveillance activities such as specialized air monitoring, groundwater sampling and analysis, and assuring compliance with special operating conditions established during the permit evaluation process. This subsection as amended also provides that facilities burning hazardous wastes for energy recovery pay a lesser fee of \$.001 pound (\$2 per ton) not to exceed \$50,000 per facility per year.

The Department strongly supports the provisions that allocate a share of the fee revenues to supporting the state's waste minimization activities. Assuring that every effort is made to minimize the generation of hazardous waste is indicative of the future direction of the hazardous waste program in Kansas. In 1988, the Department competed for and received \$325,000 in federal grant funds to be spent over a three-year period to establish a demonstration waste minimization program for Kansas. The Department is currently implementing this project through a cooperative agreement with Kansas State University and Kansas University that is providing technical assistance and educational services to hazardous waste generators in Kansas to encourage waste minimization. The emphasis of this project is making technical information available to small Kansas firms in a non-regulatory environment. The Department is hopeful that in the near future the scope of this project can be broadened to include the addition of applied research activities related to innovative waste reduction technologies that focus specifically on the industrial processes common to Kansas industries. While still developing, this project has already been recognized by KDHE and Kansas industry as highly successful and the continuation of this project beyond the federal grant period is believed to be a critical need for Kansas.

The Department also supports the concept of setting aside a portion of these fees for deposit into the state's Household Hazardous Waste Fund (established under K.S.A. 65-3460) to provide a supplemental source of funding for this program. This fund was established to provide a 50/50 grant program to assist local communities in starting household hazardous waste programs in order to eliminate to the greatest extent possible the disposal of household chemical wastes into Kansas landfills. The program has also been a very successful one at KDHE and is expected to continue to receive the enthusiastic support of many Kansas communities. During FY 1990, all authorized grant funds were committed along with the required community matching funds. Eight projects were funded that included the City of Olathe, Wichita-Sedgwick County, and the counties of Reno, Barton, Ellis, Rooks, Phillips, and Riley. A total of six permanent community-operated collection sites resulted from the 1990 demonstration projects which is the ultimate objective of this program.

Following the enactment of the new subsection (x), the Department will promulgate a regulation that details a new off-site treatment and disposal facility fee schedule after comprehensive evaluation, public hearing, and opportunity for comment by all affected parties. In arriving at the appropriate schedule of fees, the Department will evaluate the chemical nature of the wastes involved, the economic impact upon the facilities affected, the costs of treatment and disposal, and the fees established by other states for similar facilities.

In addition to the amendments discussed above, House Bill 2021 also contains several other statutory changes that have been included to clarify existing language in the affected statutes in response to the Department's

experience, to date, in its hazardous waste program. A very brief discussion of these minor changes is presented below.

1. K.S.A. 65-3431 (u) is amended to clarify that all persons owning or operating hazardous waste facilities are subject to the appropriate fees. There has been past confusion on this issue where regulated facilities that do not have "permits" were involved.
2. The fee cap established in K.S.A. 65-3431 (u) is clarified so as to apply to all treatment, storage, and disposal facilities and not just storage facilities and is increased from \$25,000 to \$50,000. There will be no immediate impact of this change. However, the Department does intend to review the existing fee structure established under K.A.R. 28-31-10 that pertains to continuous on-site witnessing of operations.
3. K.S.A. 65-3431 (v) (1) is amended to convert the fees being deposited into the Hazardous Waste Perpetual Care Trust Fund from units of cubic feet to pounds. Difficulties have arisen in calculating these fees because private industries do not normally measure wastes in cubic feet.
4. K.S.A. 65-3431 (v) (2) is amended to clarify the intent of the Perpetual Care Trust Fund to apply to hazardous waste disposal facilities closed after 1981 and any unlawful facilities.
5. K.S.A. 65-3437 is amended to delete the provisions for application fees for hazardous waste injection wells as these fees will become a part of the new schedule established under the new subsection K.S.A. 65-3431 (w) and these provisions would be duplicative.

ATTACHMENT 1

Estimate of Economic Impact of  
Commercial Hazardous Waste  
Treatment Fee at the Proposed APTUS  
Coffeyville Incineration Facility

Assumptions:

1. The operating permit is issued for a maximum capacity of 15,000 lb/hr and 50% of this waste will be subject to the treatment fee.
2. The facility operates 7000 hours/year at 70% of capacity.
3. The treatment fee is established at the maximum of \$200,000 per facility or \$.01 per pound as authorized by H.B. 2021.

Analysis:

$\$.01 \times 15,000 \text{ lbs} \times .50 \text{ (regulated waste)} \times 7000 \text{ hrs} \times .70 \text{ (capacity)}$   
\$367,500 year (Since this exceeds the maximum of \$200,000/facility authorized the fee would be \$200,000).

Funds Affected:

a.	Hazardous Waste Collection Fund	
	(\$200,000 x .25 = \$50,000)	+ \$ 50,000
b.	Newly-established environmental permit fund (\$200,000 - \$50,000 = \$150,000)	+ \$ 150,000

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Total Fee Revenues \$ 200,000

ATTACHMENT 2

SUMMARY OF EXISTING AND NEW HAZARDOUS WASTE FEES PROPOSED IN H.B. 2021

Fee Name	Statutory/Regulatory Authority	Who Pays	Fees	Disposition of Fees	Specific Uses of Fees
<u>CURRENT FEES</u>					
Hazardous Waste Monitoring Fee	K.S.A. 65-3431(u) K.A.R. 28-31-10	1. Hazardous waste treatment storage and disposal facilities 2. Hazardous waste transporters 3. Hazardous waste generators	\$15,00/year storage facilities \$2,500/year treatment facilities \$5,000/year disposal facilities except landfills and injection wells \$10,000/year other disposal facilities \$250/year transporters \$100-5,000/year generators	State General Fund	Routine facility Monitoring
Perpetual Care Trust Fund Fee	K.S.A. 65-3431(v) K.A.R. 28-31-11	Hazardous waste disposal facilities	\$0.25/cubic feet for landfilling \$0.02/wet cubic foot for deep well injection \$0.05/cubic foot for other disposal methods	Perpetual Care Trust Fund	Extraordinary costs of monitoring or repairing closed disposal facilities
<u>NEW FEES</u>					
Proposed Application Fee	H.B. 2021 Section 1 K.S.A. 65-3431(w)	Hazardous waste treatment, storage and disposal facilities	To be established by regulation with a maximum of \$175,000 for permit applications, modifications and renewals	Environmental Permit Fund	Reviewing new applications

9-10

ATTACHMENT 2

## SUMMARY OF EXISTING AND NEW HAZARDOUS WASTE FEES PROPOSED IN H.B. 2021

Fee Name	Statutory/Regulatory Authority	Who Pays	Fees	Disposition of Fees	Specific Uses of Fees
Proposed Off-Site Treatment and Disposal Fee	H.B. 2021 Section 1 K.S.A. 65-3431(x)	Offsite (commercial) hazardous waste treatment and disposal facilities	To be established by regulation with a maximum of \$0.05 per pound for disposal and \$0.01 per pound for treatment (not to exceed \$200,000 per facility). Energy recovery fee schedule set at \$0.001 per pound (not to exceed \$50,000) per facility.	75% Environmental Permit Fund and 25% Hazardous Waste Collection Fund	Waste minimization, household hazardous waste, and extraordinary costs of monitoring permit conditions during operation

10-10



# SIERRA CLUB

## Kansas Chapter

Testimony to Senate Energy and Natural Resources

H.B. 2021 - Hazardous Waste Fees Bill

I am Scott Andrews representing the Kansas Chapter of the Sierra Club. We support passage of H.B. 2021 and believe it is needed to provide funding for better management of hazardous waste in Kansas. The various fees set by this bill would provide funding for the following:

- KDHE technical review of permits,
- evaluation of site and permittee,
- evaluation of hazardous waste minimization options,
- creation of a "perpetual care" fund to help clean-up after a disposal site is closed (and the operator is gone).

It is critical that enough funding is available to enable Health and Environment to perform the functions of review and oversight of disposal and incineration facilities. We are concerned that amendments to the bill have seriously reduced that funding by lowering the fees on cement kilns which burn hazardous waste for energy and placing a cap of \$50,000 on fees for each of these facilities.

The Sierra Club feels that all facilities that burn hazardous waste should be treated equally in terms of fees because all of them will have to be monitored equally to assure public health and safety. We are concerned that if the fees generated are not enough for proper review and management, KDHE will do what they often have done when there is not enough money in other programs -- skimp on monitoring and enforcement.

We urge you to amend H.B. 2021 to raise the fees on kilns so all hazardous waste incinerators are treated equally and enough funds are provided for review and oversight of these facilities. Finally, the Sierra Club strongly urges you to support passage of this legislation and, if possible, move it through the Senate this session.

*ENR*  
*4-4-91*  
*attachment 3*

# Kansas Natural Resource Council

April 4, 1991

Testimony before the Senate Energy and Natural Resources Committee

Re: HB2021 Concerning Hazardous Waste Disposal Fees

From: Shaun McGrath, Program Director

My name is Shaun McGrath, and I represent the Kansas Natural Resource Council, a private, non-profit, organization which advocates sustainable resource policies for the state. Our membership is over 850 statewide.

HB2021 establishes fees for facilities which treat or dispose of hazardous wastes. The general intent of the bill effects specifically the APTUS facility in Coffeyville which could become the state's first "off-site" commercial hazardous waste incinerator. Although KNRC maintains skepticism toward the incineration of hazardous wastes, we acknowledge the reality of incineration in Kansas, and thus the importance to adequately monitor these incinerators.

KNRC supports passage of HB2021 as an important mechanism to provide funds to the Department of Health and Environment for monitoring hazardous waste incinerators in Kansas.

We would like to offer amendments which will allow the bill to better accomplish its objective.

First, on page 8, line 18, the House Energy and Natural Resources Committee lowered the cap on the per pound fee from \$400,000 to \$200,000. The rationale for this amendment was that the Committee had eliminated the original exemption for cement kilns from this fee. Because the four cement kilns would now also be contributing to the fund, with a \$200,000 cap there would be \$1 million available. (4 kilns x \$200,000 + Aptus \$200,000 = \$1 million)

Because the House Committee of the Whole further amended the bill, though, lowering the cap for cement kilns to \$50,000, the argument for a \$200,000 cap for APTUS no longer holds up. Indeed, during the Special Committee on Ways and Means hearings which produced HB2021, APTUS had recommended in their testimony a cap of \$300,000. The cap now is thus \$100,000 lower than the amount APTUS is willing to pay. KNRC recommends that the cap be raised to the original \$400,000.

Secondly, the House Committee of the Whole amended the per pound fee for cement kilns from \$.01 to \$.001. Because cement kilns are already limited to a \$50,000 cap, there is no logic in limiting the per pound fee. The objective of



this fee should be to collect adequate funds for monitoring, and if the \$50,000 cap remains, then the per pound fee should be restored to \$.01 to insure that the \$50,000 will be collected.

### Cement Kilns

The policy of the state toward cement kilns has been to offer incentives for their incineration of hazardous wastes for energy recovery, or so-called 'recycling'. KNRC is concerned that we are promoting such incineration at the risk of sufficient funds available for adequate monitoring. Consider the following facts:

- \* In 1985, EPA published a list of 83 damage incidents resulting from hazardous waste 'recycling.'
- \* At least 112 toxic waste sites on the federal Superfund list involved 'recycling' as a site activity.
- \* A 1987 EPA study reported that air emissions of lead, chromium and zinc were 82%, 167%, and 662% higher at an Illinois cement kiln when hazardous wastes were burned.
- \* Estimated fugitive emissions from the storage and handling of toxic chemicals and wastes at the Systech/LaFarge cement kiln in Kansas amounted to 20,074 pounds in 1987.

Recently, the EPA took steps to more strictly regulate cement kilns. On February 21, 1991, regulations for the burning of hazardous waste in boilers and industrial furnaces were promulgated. The new 'BIF' rules subject cement kilns to the general facility standards, but also allow cement kilns to incinerate hazardous wastes which are not 'recyclable' fuels.

The state will need to make a policy decision of whether to maintain restrictions on the types of wastes kilns will be allowed to incinerate, or to subject kilns to the same type of rules, including monitoring, as APTUS. If the state allows cement kilns to operate as commercial incinerators, then they should be treated no differently than APTUS.

KNRC appreciates the opportunity to testify today, and we hope you will consider our recommendations.

*E+NR  
4-4  
attachment 4  
242*

TESTIMONY

by

Kansas Cement Coalition

Before the

**SENATE ENERGY AND NATURAL RESOURCES COMMITTEE**

Regarding HB 2021 - Hazardous Waste  
April 4, 1991

Good morning Mr. Chairman and members of the committee. Thank you for the opportunity to appear before you today with our comments on House Bill 2021

My name is Edward Moses. I represent the Kansas Cement Coalition. The Kansas Cement Coalition is a group of Kansas cement plants comprised of the Heartland Cement Company, Independence, Ash Grove Cement Company, Chanute and Lafarge, Inc., Fredonia. All of these plants are currently engaged in the burning of hazardous waste material as a substitute fuel source in the manufacture of cement. This technology is extensively used as a primary fuel source at all three locations. The advantage of this energy saving system are several fold:

- (1) It is a resource recovery system that almost totally combusts flammable, hazardous wastes liquid and solid in the normal cement making process thereby reducing the need for alternate fuels such as coal.
- (2) By using these waste materials as a substitute for coal it saves burning several thousand tons of coal per year, reducing the resulting carbon dioxide (CO<sub>2</sub>) emissions from the burning of this fossil fuel.
- (3) During the heating process the limestone product absorbs the majority of sulfur dioxide (SO<sub>2</sub>) emissions.
- (4) As the process combusts the waste materials they need not be permanently landfilled, injected into deep wells, or commercially incinerated.
- (5) It makes our Kansas cement industry a profitable operation, which otherwise it

*E & N R*  
*4-4-91*

*attachment 5*  
*1 of 2*

presently would not be. The Kansas cement industry generates substantial tax flow into the state and employs several hundred people in Southeast Kansas and provides quality construction materials for the people of Kansas.

Our technology is recognized nationally and by the state of Kansas. Development and installation of this new resource recovery method represents a major investment for our companies and their business partners. Over a million dollars has been invested in Kansas alone.

Our coalition has no problem with the Kansas Department of Health & Environment (KDHE) requiring reasonable regulations and fees to defray the cost of their permitting, review, and monitoring of hazardous waste disposal. Accordingly, we have reluctantly supported the passage of House Bill 2021 and the fee authority as provided therein.

The Kansas cement industry is not in the commercial waste incineration business. The industry has no interest in these fuel wastes unless they can be acquired and burned at less cost than the price of fossil fuels. Fuel expense for the rotary cement kilns represent about 1/3 of the cost of manufacturing portland cement. As one way of remaining competitive in a seriously depressed cement market, the industry has focused on the reduction of fuel cost through the use of alternate fuels, such as those derived from hazardous waste. The use of these waste fuels has become one of the rare events when good environmental practice also produces positive economic benefits. Fees, based on quantities disposed, of course increase our cost of fuel. At some point the Kansas cement industry will no longer be able to burn hazardous waste in their kilns. Its also certain that the jobs of our employees in Southeastern Kansas will then also become less secure. Unfortunately, with the increased importation of environmentally unregulated cement from Mexico there is no economically viable alternative. The ultimate result could then be rather than providing a method for disposal of hazardous waste the capacity to burn waste in Kansas would actually be reduced.

As an industry, we also understand the need for the state of Kansas through the KDHE to monitor and regulate the disposal of waste as required by RCRA and EPA regulatory action. Therefore, we have not opposed this bill. We strongly urge, however, that this committee and the KDHE consider the affects of this legislation and future legislation on the capacity of the Kansas cement industry to continue the burning of this waste.

Thank you for the opportunity to appear before you this morning. I will attempt to answer any questions you may have.

*E+NR  
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attachment 5  
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Aptus  
Environmental Services  
P.O. Box 1328  
Coffeyville, KS 67337  
(316) 251-6380  
FAX (316) 251-7498  
Sales FAX (316) 251-1095  
Incinerator FAX (316) 251-0089

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

TESTIMONY RE: HB 2021

Presented by Vic DeJong, Plant Manager of

APTUS, Coffeyville, Kansas

April 4, 1991

Mr. Chairman, members of the committee:

My name is Vic DeJong, and I am vice president and general manager of the APTUS facility located in Coffeyville, Kansas where we provide environmental services and hazardous waste treatment.

Our Coffeyville facility offers a broad range of important and cost-effective environmental services important to Kansas agriculture and industry. We provide effective treatment of polychlorinated biphenyls (PCBs) through a number of processes, including high-temperature incineration. We also offer transportation, a commercial laboratory, site remediation, and emergency spill response. We have applied for a Resource Conservation and Recovery Act (RCRA) permit from the State of Kansas to handle, store, and treat a wider spectrum of waste types. That permit application is currently under review by the Kansas Department of Health and Environment.

*E & N R  
4-4-91  
attachment 6  
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We have had a positive economic impact on our community and believe we will be able to continue this role when we have been granted this additional operating permit.

We strongly supported the bill after it left the House Committee, even though it required compromises by several groups. We disagree with the House Committee of the Whole amendment that provides for a fee difference between cement kilns and hazardous waste incinerators. There should be no legislative distinction for the following reasons:

1. The new federal regulations essentially allow cement kilns to do everything a hazardous waste incinerator can do. We want a level competitive playing field regarding fees.
2. There is an erroneous belief that a cement kiln permit will be much simpler than a hazardous waste incinerator permit. Cement kilns are already preparing permits with intentions of applying for a broad range of materials. It is apparent such permits could be as complicated as our incinerator. (Please see attachment)
3. The volume of hazardous waste burned by the cement kilns exceeds the volume to be burned in our hazardous waste incinerator.

4. There is an argument that cement kilns should be given a break because their burning of hazardous waste off sets the use of coal thus conserving that resource. Our situation is similar except we would be using natural gas instead of coal to perform the needed service of destroying hazardous waste.
  
5. A portion of the fee goes to household hazardous waste collection programs which we strongly advocate. Coffeyville was denied the matching fund request because the fund was out of money. Municipal landfills are not designed to handle the hazardous waste which comes from a typical household. Kansas needs a strong program to prevent ground water contamination.
  
6. The current bill allows for different fee rates (page 8 lines 10 through 14) which could be granted to the cement kilns if their permit applications are in fact simpler and more limited in scope than our incinerator. But that decision can and should be made by the Department of Health and Environment based upon technical and cost criteria.

We strongly recommend that the House floor amendment on page 8 lines 19 through 28 be removed.

Thank you for the opportunity to testify on this issue.

Attachment

## Twenty-Nine New Projects Identified

During our survey of state regulatory agencies, 29 new proposals for commercial hazardous waste facilities were identified. They include:

- Eleven incinerators.
- Six land disposal facilities.
- Four multipurpose facilities, and
- Eight treatment/recycling projects.

## New Incinerator Proposals Have Tapered Off

Fewer incinerator projects were proposed in 1990 than in previous years. In addition, seven of the eleven proposals involve cement kilns that plan to burn hazardous wastes. Recent incinerator proposals are listed below:

- Ash Grove Cement Company is planning to burn hazardous wastes in its Montana City, Montana cement kiln. However, the facility's air emissions permit needs to be revised before burning can begin.
- Federated Technologies plans to construct a rotary kiln incinerator in Pulaski, Tennessee. The company expects to submit a Part B permit application in February 1991.
- Holnan has filed for interim status under the toxicity characteristic (TC) rule to store hazardous wastes at its Laporte, Colorado and Dundee, Michigan cement plants. The company plans to burn hazardous wastes if interim status is granted and revised air emissions permits are approved.
- Keystone Cement Company has submitted a Part B permit application seeking approval to burn hazardous waste sludges in addition to the hazardous wastes currently burned in the facility's Bath, Pennsylvania cement kiln.
- Kosmos Cement Company is seeking a Part B storage permit for solvents that are burned in its Louisville, Kentucky cement

kiln. A final permit decision is expected in 1991.

- Monarch Cement's facility in Humbolt, Kansas has submitted a Part A application requesting interim status to burn TC wastes in its cement kiln. According to state officials, interim status will probably be granted by mid-1991.
- Patchem/Medusa Cement (Wampum, Pennsylvania) is seeking a Part B permit to burn hazardous waste sludges in its cement kiln, in addition to the hazardous wastes currently burned.
- Rollins Environmental Services, Inc. plans to construct a rotary reactor to thermally treat low-Btu wastes at its Bridgeport, New Jersey facility. A permit modification request is currently under review by the state.
- USPCI is seeking a permit for two rotary kiln incinerators in Tooele County, Utah.
- Waste-Tech Services (Golden, Colorado) is investigating the possibility of constructing a commercial incinerator in Madison County, Florida.

## New Land Disposal Proposals

This year we have identified six new land disposal projects, three of which involve expansion of existing landfills:

- Chemical Waste Management of Indiana, Inc.'s land disposal facility in Fort Wayne, Indiana has applied for a permit modification to increase its capacity. The state expects a decision to be made in mid-1991.
- Crystal Mines (Detroit, Michigan) proposes to store/dispose of hazardous wastes in a salt mine. The company plans to submit a permit application after state regulations for miscellaneous disposal units are finalized.
- EnviroSAFE is seeking a Part B permit modification to expand its landfill in Grandview, Idaho.
- Laidlaw Environmental Services (formerly GSX) has planned a major expansion of its Imperial Valley, California land disposal facility. In accordance with

the facility's existing permit, a new 750,000-cubic-yard landfill is under construction. Laidlaw has also applied for a permit modification to construct two additional landfills, a stabilization unit, an asbestos landfill, a liquid storage area, and two storage facilities.

- Nebraska has entered into a regional agreement to site a low-level radioactive facility in Boyd County. The facility will be designed to accept mixed radioactive and hazardous wastes.
- Waste-Tech Services, Inc. has expressed interest in siting a hazardous waste ash land disposal facility in Mercer County, Missouri.

## Several Multipurpose Facilities Planned

In addition to the proposed incinerators and land disposal facilities listed above, several multipurpose facilities are in the permitting or planning stage:

- Concord Resources Group is planning to build a multipurpose hazardous waste management facility in Clarion County, Pennsylvania. The facility will offer aqueous waste treatment, rotary kiln incineration, solvent recycling, and land disposal.
- Conversion Systems, Inc. has submitted a Part B permit application for an incineration and aqueous treatment facility in Issaquena County, Mississippi.
- Federated Technologies plans to construct an incinerator and landfill near Brooksville, Mississippi. A Part B permit application is expected to be filed in February 1991.
- The La Posta Recycling Center (a joint venture of Canonie Environmental Services Corporation, American Waste Recovery, Inc. and Grace Environmental, Inc.) is proposing to construct a rotary kiln incinerator and hazardous waste treatment/recycling facility on the La Posta Indian Reservation near San Diego, California. The center plans to submit a permit application in 1991.

4/4

Kansas Senate  
Energy and Natural Resources Committee  
HB2021 - Hazardous Waste Fees

Paul J. Peters  
Systech Environmental Corporation  
Fredonia, KS

4 April 1991

Systech Environmental Corporation operates a permitted hazardous waste storage site in Fredonia. One-hundred percent of the waste we receive is used in the manufacture of cement by Lafarge Corporation at the same facility. Our recycling operation currently employs 35 full-time people and represents a new industry in Kansas.

Recycling has been named by some as the top growth industry in North America. At the same time, utilizing wastes as replacements for natural resources in the manufacture of cement has become a crucial element for the survival of cement manufacturing in Fredonia and elsewhere. Therefore, what we are doing benefits Kansas in a number of ways: creating new jobs in waste management, helping to preserve the cement industry and their jobs, and providing a superior technology for the destruction of wastes.

We support HB2021 as it now is drafted. We have asked for more specific language in certain sections. However, in lieu of that, we have had extensive discussions with KDHE and are convinced of the fairness of the regulatory agency's interpretation and implementation of the bill once it becomes law.

We support the bill based on the fact that our business requires timely response to permit applications or permit modifications. Our business also relies on public support, and the public demands an adequately funded regulatory agency. We support reasonable regulation and fair fees to accomplish this. We also believe that waste minimization and household hazardous waste collection are worthy of our support.

It should be noted for the committee that the Federal Government has just enacted tough, new regulations on cement kilns that burn hazardous wastes. The regulations are called Boiler and Industrial Furnace (BIF) Regulations. They are as stringent a set of regulations as have been established for anyone in the hazardous waste business. BIF will be costly and will be exacting. However, we supported BIF. We welcome regulations which are fair and have reasonable costs. For these reasons, we support HB2021.

*E & N.R.*  
*4-4-91*  
*Attachment 7*



Kansas Senate  
Senate Energy and Natural Resources Committee

HB No. 2021  
Hazardous Waste Fees  
Horace H. Compton  
Plant Manager  
Lafarge Corporation  
Fredonia, Kansas

April 4, 1991

Lafarge Corporation operates a cement plant/co-processing facility at Fredonia, Kansas which recycles waste such as solvents as fuel in its cement kilns. These materials are supplied by Systech Environmental Corporation, a wholly owned subsidiary of Lafarge.

To date Lafarge Corporation has had good success in treating hazardous waste and recovering energy in the same process. This process is very vital to the continued survival of the Lafarge operations in Kansas.

We believe the fee structure as proposed in HB 2021 is fair and we support the bill in its present form. We believe it will adequately address the Department of Health and Environment concerns relative to timely technical review of complex permit applications for new or modified facilities. To continue to be successful our business requires a timely response in permitting. We believe the household hazardous waste collection provisions are worthwhile and should have industry support.

*ENR*  
*4-4-91*  
*attachment 8*

4-3-91

[As Further Amended by House Committee of the Whole]

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 1991

# HOUSE BILL No. 2037

By Committee on Energy and Natural Resources

1-23

13 AN ACT concerning water conservation; providing for adoption and  
 14 implementation of conservation plans and practices; authorizing  
 15 declaration of a state of drought under certain circumstances and  
 16 implementation of drought contingency plans; amending K.S.A.  
 17 48-924[, 82a-711] and 82a-732 and K.S.A. 1990 Supp. 74-2608  
 18 and repealing the existing sections.

19  
20 *Be it enacted by the Legislature of the State of Kansas:*

21 Section 1. K.S.A. 48-924 is hereby amended to read as follows:  
22 48-924. (a) The governor shall be responsible for meeting the dangers  
23 to the state and people presented by disasters.

24 (b) The governor, upon finding that a disaster has occurred or  
 25 that occurrence or the threat thereof is imminent, shall issue a  
 26 proclamation declaring a state of disaster emergency. The state of  
 27 disaster emergency so declared shall continue until the governor  
 28 finds that the threat or danger of disaster has passed, or the disaster  
 29 has been dealt with to the extent that emergency conditions no  
 30 longer exist, and. Upon making such findings the governor shall  
 31 terminate the state of disaster emergency by proclamation, but no  
 32 state of disaster emergency may continue for longer than fifteen  
 33 ~~(15)~~ 15 days unless ratified by concurrent resolution of the legis-  
 34 lature, with the single exception that upon specific application by  
 35 the governor to the state finance council and an affirmative vote of  
 36 a majority of the legislative members thereof, a state of disaster  
 37 emergency may be extended once for a specified period not to exceed  
 38 ~~thirty (30)~~ 30 days beyond such ~~fifteen-day~~ 15-day period. At any  
 39 time, the legislature by concurrent resolution may require the gov-  
 40 ernor to terminate a state of disaster emergency. Upon such action  
 41 by the legislature, the governor shall issue a proclamation terminating  
 42 the state of disaster emergency. Any proclamation declaring or ter-  
 43 minating a state of disaster emergency which is issued under this

F & NR  
 attachment 9  
 4-4-91  
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1 subsection shall indicate the nature of the disaster, the area or areas  
2 threatened or affected by the disaster and the conditions which have  
3 brought about, or which make possible the termination of, the state  
4 of disaster emergency. Each such proclamation shall be disseminated  
5 promptly by means calculated to bring its contents to the attention  
6 of the general public and, unless the circumstances attendant upon  
7 the disaster prevent the same, each such proclamation shall be filed  
8 promptly with the division of emergency preparedness, the office of  
9 the secretary of state and each city clerk or county clerk, as the  
10 case may be, in the area to which such proclamation applies.

11 (c) In the event of the absence of the governor from the state  
12 or the existence of any constitutional disability of the governor, the  
13 lieutenant governor may issue a proclamation declaring a state of  
14 disaster emergency in the manner provided in and subject to the  
15 provisions of subsection (a). During a state of disaster emergency  
16 declared pursuant to this subsection, the lieutenant governor may  
17 exercise the powers conferred upon the governor by K.S.A. 48-925  
18 *and amendments thereto*. Upon the return of the governor to the  
19 state or the removal of any constitutional disability of the governor,  
20 the authority of the lieutenant governor to exercise such powers shall  
21 terminate immediately and the governor shall resume the full powers  
22 of such office. Any state of disaster emergency and any actions taken  
23 by the lieutenant governor under this subsection shall continue and  
24 shall have full force and effect as authorized by law unless modified  
25 or terminated by the governor in the manner prescribed by law.

26 (d) A proclamation declaring a state of disaster emergency shall  
27 activate the disaster response and recovery aspects of the state dis-  
28 aster emergency plan and of any local and interjurisdictional disaster  
29 plans applicable to the political subdivisions or areas affected by the  
30 proclamation. Such proclamation shall be authority for the deploy-  
31 ment and use of any forces to which the plan or plans apply and  
32 for use or distribution of any supplies, equipment, materials or fa-  
33 cilities assembled, stockpiled or arranged to be made available pur-  
34 suant to this act during a disaster.

35 (e) *The governor, when advised pursuant to K.S.A. 74-2608 and*  
36 *amendments thereto that conditions indicative of drought exist, shall*  
37 *be authorized to declare by proclamation that a state of drought*  
38 *exists. This declaration of a state of drought can be for specific areas*  
39 *or communities, can be statewide or for specific water sources and*  
40 *shall effect immediate implementation of drought contingency plans*  
41 *contained in state approved conservation plans, including those for*  
42 *state facilities.*

43 Sec. 2. K.S.A. 1990 Supp. 74-2608 is hereby amended to read

LH

1 as follows: 74-2608. The Kansas water office shall:

2 (a) Collect and compile information pertaining to climate, water  
3 and soil as related to the usage of water for agricultural, industrial  
4 and municipal purposes and the availability of water supplies in the  
5 several watersheds of the state, and, in so doing, the office shall  
6 collect and compile the information obtainable from other agencies,  
7 instrumentalities of the state, political subdivisions of the state and  
8 the federal government.

9 (b) Develop a state plan of water resources management, con-  
10 servation and development for water planning areas as determined  
11 by the office, and cooperate with any agency or instrumentality of  
12 the state or federal government now or hereafter engaged in the  
13 development of plans or having developed plans affecting any such  
14 area of the state.

15 (c) Develop and maintain guidelines for water conservation plans  
16 and practices. Such guidelines shall:

17 (1) Not prejudicially or unreasonably affect the public interest;

18 (2) be technologically and economically feasible for each water  
19 user to implement;

20 (3) be designed to curtail the waste of water;

21 (4) consider the use of other water if the use of freshwater is not  
22 necessary;

23 (5) not require curtailment in water use which will not benefit  
24 other water users or the public interest;

25 (6) not result in the unreasonable deterioration of the quality of  
26 the waters of the state;

27 (7) consider the reasonable needs of the water user at the time;

28 (8) not conflict with the provisions of the Kansas water appro-  
29 priation act and the state water planning act;

30 (9) be limited to practices of water use efficiency except for  
31 drought contingency plans for municipal users; and

32 (10) take into consideration drought contingency plans for mu-  
33 nicipal and industrial users.

34 When developing such guidelines, the Kansas water office shall  
35 consider existing guidelines of groundwater management districts and  
36 the cost to benefit ratio effect of any plan.

37 (d) *The Kansas water office, with the approval of the Kansas*  
38 *water authority, shall establish guidelines as to when conditions*  
39 *indicative of drought exist. When the Kansas water office determines*  
40 *that such conditions exist in an area, it shall so advise the governor*  
41 *and shall recommend the assembling of the governor's drought re-*  
*sponse team.*

[Sec. 3. K.S.A. 82a-711 is hereby amended to read as follows:

37

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1 82a-711. (a) If a proposed use neither impairs a use under an  
2 existing water right nor prejudicially and unreasonably affects the  
3 public interest, the chief engineer shall approve all applications for  
4 such use made in good faith in proper form which contemplate the  
5 utilization of water for beneficial purpose, within reasonable lim-  
6 itations except that the chief engineer shall not approve any ap-  
7 plication submitted for the proposed use of fresh water in any case  
8 where other waters are available for such proposed use and the  
9 use thereof is technologically and economically feasible. Otherwise,  
10 the chief engineer shall make an order rejecting such application  
11 or requiring its modification to conform to the public interest to  
12 the end that the highest public benefit and maximum economical  
13 development may result from the use of such water.

14 [(b) In ascertaining whether a proposed use will prejudicially  
15 and unreasonably affect the public interest, the chief engineer shall  
16 take into consideration:

- 17 [(1) Established minimum desirable streamflow requirements;
- 18 [(2) the area, safe yield and recharge rate of the appropriate  
19 water supply;
- 20 [(3) the priority of existing claims of all persons to use the water  
21 of the appropriate water supply;
- 22 [(4) the amount of each claim to use water from the appropriate  
23 water supply; and
- 24 [(5) all other matters pertaining to such question.

25 [(c) With regard to whether a proposed use will impair a use  
26 under an existing water right, impairment shall include the unrea-  
27 sonable raising or lowering of the static water level or the unrea-  
28 sonable increase or decrease of the streamflow or the unreasonable  
29 deterioration of the water quality at the water user's point of di-  
30 version beyond a reasonable economic limit. Any person aggrieved  
31 by any order or decision by the chief engineer relating to that  
32 person's application for a permit to appropriate water may appeal  
33 to the district court in the manner prescribed by K.S.A. 82a-724,  
34 and amendments thereto.

35 [(d) The chief engineer may require an applicant for a per-  
36 mit to appropriate water to adopt and implement conservation  
37 plans and practices. Such plans and practices shall be consistent  
38 with the guidelines for conservation plans and practices de-  
39 veloped and maintained by the Kansas water office pursuant  
40 to subsection (c) of K.S.A. 74-2608, and amendments thereto.  
41 Prior to approval of an application, the chief engineer, in con-  
42 sultation with the director of the Kansas water office if re-  
43 quested by the applicant, shall determine whether such plans

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1 and practices are consistent with the guidelines adopted by  
2 the Kansas water office.]

3 Sec. 3 [4]. K.S.A. 82a-732 is hereby amended to read as follows:  
4 82a-732. (a) The owner of a water right or permit to appropriate  
5 water for beneficial use, except for domestic use, shall file an annual  
6 water use report on a form prescribed by the chief engineer of the  
7 division of water resources of the state board of agriculture on or  
8 before March 1 following the end of the previous calendar year. The  
9 report shall completely and accurately set forth such water use in-  
10 formation as requested by the chief engineer.

11 (b) Any person failing to file a water use report or other docu-  
12 ments required under the provisions of subsection (a) shall be subject  
13 to a civil penalty in an amount not to exceed \$250. The chief engineer  
14 upon a finding that the owner of a water right or permit to appro-  
15 priate water for beneficial use has failed to file such a report may  
16 impose a civil penalty as provided in this section. Any person filing  
17 a document knowing it to contain any false information as to a  
18 material matter shall be guilty of a class C misdemeanor. ~~(e)~~ All  
19 fines collected by the chief engineer pursuant to this section *sub-*  
20 *section* shall be remitted to the state treasurer as provided in K.S.A.  
21 82a-731, and amendments thereto.

22 New Sec. 4 [5]. (a) The chief engineer may require the owner  
23 of a water right or permit to appropriate water for beneficial use to  
24 adopt and implement conservation plans and practices. The chief  
25 engineer shall not mandate the adoption and implementation of  
26 conservation plans and practices except pursuant to a finding that  
27 such plans and practices will assure public benefit and promote  
28 public interest. In selecting the water rights or permits for which  
29 conservation plans and practices are required to be adopted and  
30 implemented, the chief engineer shall give priority to: (1) Water  
31 users that share a common source of supply that could be insufficient  
32 during times of drought; (2) ~~water users in water short areas,~~  
33 ~~including fully appropriated areas or within the boundaries of~~  
34 ~~an intensive groundwater use control area;~~ (3) water users whose  
35 use is significantly higher than their peers; ~~and (4), as described~~  
36 ~~in the annual water use reports of the Kansas water office and~~  
37 ~~division of water resources; and (3) water users who apply for any~~  
38 ~~state administered grant, loan or cost-share moneys for water-related~~  
39 ~~projects. Prior to requiring the adoption and implementation of con-~~  
40 ~~servation plans and practices, the chief engineer shall assess the~~  
41 ~~availability of technical assistance and inform the owner of a water~~  
42 ~~right or permit who is required to adopt and implement a conser-~~  
43 ~~vation plan and practices of the available sources of technical as-~~

an applicant for permit to appropriate water for beneficial use, or

applications,

from the same geographical area with comparable circumstances

to appropriate water for beneficial use or the applicant for such a permit

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1 sistance to prepare the conservation plan.

2 (b) The chief engineer shall allow the owner of a water right or  
3 permit a minimum of 60 days to prepare a required conservation  
4 plan. The time allowed to prepare the required conservation plan  
5 may be extended by the chief engineer for good cause shown by  
6 the applicant. The chief engineer shall provide the owner of the  
7 water right or permit a reasonable time to implement the conser-  
8 vation plan and, for good cause shown, such as the need to apply  
9 extensive land treatment practices, the chief engineer may extend  
10 the time for implementation for a period of up to five years.

to appropriate water for beneficial use or the applicant for such a permit

to appropriate water for beneficial use or the applicant for such a permit

11 (c) Plans and practices required pursuant to this section shall be  
12 consistent with the guidelines for conservation plans and practices  
13 developed and maintained by the Kansas water office pursuant to  
14 subsection (c) of K.S.A. 74-2608 and amendments thereto. If re-  
15 quested by the owner of the water right or permit, the chief en-  
16 gineer, in consultation with the director of the Kansas water office,  
17 shall determine whether such plans and practices are consistent with  
18 the guidelines adopted by the Kansas water office. The Kansas water  
19 office shall provide, or arrange to provide, technical assistance for  
20 water users required to adopt and implement conservation plans and  
21 practices pursuant to this section.

to appropriate water for beneficial use or the applicant for such a permit

22 ~~(d) The chief engineer may require domestic users of water  
23 to adopt and implement conservation plans and practices, and  
24 delegate this authority to municipalities that have conservation  
25 plans meeting state guidelines, so that they can require com-  
26 pliance from private well owners within the city limits.~~

(d) The chief engineer may require domestic users of water to adopt and implement conservation plans and practices, and delegate this authority to municipalities that have conservation plans meeting state guidelines, so that they can require compliance from private domestic well owners within the city limits.

27 ~~(e) [(d)] - No state agency shall lend, grant or cost-share funds  
28 Before any state agency makes any loan or grant, or provides any  
29 cost-share funds, for any water-related projects to any person or  
30 entity without first determining that the person or entity has  
31 submitted to, the state agency may require the person or entity  
32 to submit to, and have approved by, the chief engineer a water  
33 conservation plan consistent with the guidelines for conservation  
34 plans and practices developed and maintained by the Kansas water  
35 office pursuant to subsection (c) of K.S.A. 1990 Supp. 74-2608 and  
36 amendments thereto; and that the chief engineer has approved  
37 the plan.~~

(e)

38 ~~(f) [(e)] - As used in this section, "water-related projects" shall  
39 include, but not be limited to, the following: Interconnections be-  
40 tween water supply systems; development of new water supply and  
41 delivery systems; improvements or repairs to an existing water sup-  
42 ply; sewer or water treatment system; land treatment on irri-  
43 gated land system, sanitary sewer system or water treatment~~

(f)

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1 system, which would significantly increase the amount of water  
2 used; small lakes development, improvement or repair; and devel-  
3 opment of other small impoundments for public water supply or  
4 irrigation.

5 ~~(e) [(f)]—[The provisions of this section shall not apply to any~~  
6 ~~water right or permit to appropriate water from within the bound-~~  
7 ~~aries of a groundwater management district.]~~

8 ~~[(g)]~~ This section shall be part of and supplemental to the Kansas  
9 water appropriation act.

10 Sec. 5 [6]. K.S.A. 48-924[, 82a-711] and 82a-732 and K.S.A.  
11 1990 Supp. 74-2608 are hereby repealed.

12 Sec. 6 [7]. This act shall take effect and be in force from and  
13 after its publication in the Kansas register statute book.

(g) The chief engineer shall consider the recommendations of the appropriate groundwater management district before requiring conservation plans and practices pursuant to this section if groundwater is the source of supply for the water user or users in question.

(h) The chief engineer may approve the conservation plans and practices required pursuant to the provisions of this section on such terms, conditions and limitations as he or she shall deem necessary to carry out the provisions of this section. The implementation of the conservation plan and practices as approved or any subsequent approved modification shall constitute a condition of the water right or permit to appropriate water for beneficial use.

(i) The chief engineer may delegate authority to implement and enforce any of the provisions of this section to a groundwater management district on such terms as may be appropriate and necessary to carry out the provisions of this section within the boundaries of such district.

(j) Except for subsection (d), the provisions of this section shall only apply to municipal, industrial, irrigation and recreational uses of water.

(k)