

Approved: Carl Dean Holmes
Date 3-6-95

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes on January 26, 1995 in Room 526-S of the Capitol.

All members were present except: Representative Cindy Empson

Committee staff present: Raney Gilliland, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Mary Torrence, Revisor of Statutes
Shirley Wilds, Committee Secretary

Conferees appearing before the committee: Phil Wittek - Johnson County Environmental Dept
Bill Bider - KS Department of Health & Environment
David T. Burnett - Southeast KS Regional Planning Commission
Joseph Pajor - City of Wichita
William H. Lewis - Northwest KS Small Landfill Commission
Claud S. Shelor - (formerly) Recycling & Market Development
Clark Duffy - KS Petroleum Council
Chiquita Cornelius - KS Business & Industry Recycling
Anne Spies - KS Association of Counties
D. Sean White - Deffenbaugh Industries, Inc
The Honorable Fred Gatlin - KS House of Representatives

Others attending: See attached list

Chairperson Holmes inquired of the Committee if there were any bill requests.

Chairperson Holmes announced due to a conflict with scheduled plans of the Agriculture Committee, he is canceling the February 3 briefing (in order that members from this Committee who also serve on the Agriculture Committee can attend.) He said he will tentatively set the briefing for February 13.

Hearing on HB 2036:

Phil Wittek. Speaking on behalf of Johnson County and the Johnson County Environmental Department, Mr. Wittek said it is their opinion that **HB 2036** would be of great assistance for proper solid waste management, for both rural and urban communities in Kansas. He listed five advantageous key elements: 1) Financial assistance to all communities; 2) local and regional active planning agencies; 3) an increase in the Household Hazardous Waste Grants Program; 4) local government funding opportunities for proper hazardous materials management; and 5) the grants will offer flexibility and stability for agencies throughout the State. (Attachment 1)

Mr. Wittek respectfully urged the Committee to consider adoption of this bill.

Chairperson Holmes introduced Mr. Bob Mead, Acting Director of the Division of Environment.

Bill Bider. (See Attachment #2) Mr. Bider explained that the funds referred to in this bill comes primarily from the \$1.50 per ton tipping fee which is paid for most landfilled waste in Kansas. At today's disposal rate, Mr. Bider said about \$4.9 million were deposited into the fund. Over the next several years there will probably be a decrease of a few percent per as a result of recycling.

Because of the interest in how the fund will be used in the future (and because of the immediate need to revise the statute), a special meeting of the solid waste advisory group was held on August 23, 1994. At this open meeting, approximately 120 persons were in attendance, representing a wide range of interests. (See attachment for list of those in attendance.) Based upon the input received at this meeting, KDHE drafted

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MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m.. on January 26, 1995.

proposed changes to the law to establish four major new uses for the fund. Mr. Bider detailed the particulars of the recommended expenditures as listed:

1. Solid Waste Base Grants
2. Solid Waste Plan Implementation Grants
3. Household Hazardous Waste Grants
4. Enhanced State Waste Reduction Programs

Mr. Bider attached two tables to his testimony with total estimates for FY 1996 and FY 1997 expenditures from the solid waste management fund under the provisions of the bill as drafted.

In summarizing support for **HB 2036**, Mr. Bider said local governments would benefit financially from these new programs, as will the private sector which will be called upon to provide most of the services and equipment funded through new grants. Additionally, he said there are certain government services which will be enhanced through the provisions of this bill.

David T. Burnett. Mr. Burnett introduced persons accompanying him to the Committee hearing today: Dr. James Tripplet, Pittsburg State University and John O. Delmont, Cherokee County Commissioner.

Reporting that the Southeast Kansas Solid Waste Authority supports this measure, they propose a revisions relating to the composition of the solid waste grants advisory committee. (See Attachment #3.)

With the proposed revisions in place, Mr. Burnett said the nine counties of their Authority are substantially in support and recommended passage of **HB 2036**.

Joseph T. Pajor. (See Attachment #4.) Although in support of **HB 2036**, Mr. Pajor reported that the City of Wichita offers two changes they believe would improve the bill. The first would be to raise the level of base grants made to large individual counties from 75% to 90% as provided for regions. Secondly, to raise the cap on the portion of the solid waste management funds that can be expended on base grants - they recommend the maximum amount be increased from 30% to 60% with the cap being maintained at 60%.

The City of Wichita strongly supports the provision of grant funds to develop and implement household and exempt small quantity hazardous waste generator collection programs.

William H. Lewis. (See Attachment #5.) Mr. Lewis reported that the Northwest Kansas Small Landfill Commission supports the new grant programs which will be funded by the tipping fees in this bill. He said that grant funds have helped them become much more aware of problems that exist and how to solve them. Also, those grants have enticed counties to work together, sharing ideas and to economize the spending of funds. He encouraged passage of this measure.

Claud S. Shelor. (See Attachment #6.) As a spokesman and former Kansas Coordinator of Waste Reduction, Recycling and Market Development, Mr. Shelor said they would favor the overall objective of **HB 2036**. There are, however, areas of concern. He suggested clarification of duties of the new Section 3, "Grants and Advisory Committee" members. He said this point is questioned due to concern of a number of counties that regionalized to form Waste Management Subtitle "D" districts during 1992-93. The 90% incentive money to regionalize was expended to consultants for study of regional areas, only to discover that the original regional plans did not fulfill county needs or desires. Certain counties are now being advised their allocations must be returned and they have lost their eligibility for future funding from KDHE. Mr. Shelor concluded by asking, could this policy be applied to **HB 2036** upon passage.

Clark Duffy. (See Attachment #7.) Speaking in support of this bill on behalf of the Kansas Petroleum Council, Mr. Duffy said it provides a mechanism for local communities to receive grant funds for recycling of do-it-yourselfer used motor oil. He reported that nationally the member companies of the Council collect half of all of the do-it-yourselfer used oil recycled in the United States.

He said that 1.25 million gallons of motor oil was sold in Kansas in 1992 to do-it-yourselfers, and remain potentially recyclable after it is drained from engines. Mr. Duffy said that according to the EPA it has been estimated that less than 10 percent of do-it-yourselfer motor oil is properly managed, which means that approximately one million gallons are improperly managed in Kansas each year. Mr. Duffy said that used motor oil is a resource, not a waste. He added that without a convenient collection site for the oil, millions of gallons are not disposed of properly. With **HB 2036** he maintains the local communities will be allowed to

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obtain financial resources to establish recycling programs to begin collecting do-it-yourselfer used motor oil.

Given the cost of expensive public oil collection centers, Mr. Duffy recommended an amendment to this bill to allow for the creation of public/private partnerships for do-it-yourselfer used motor oil collection. (There is presently limited access by private citizens to an existing private collection system for businesses and industries.)

Mr. Duffy furnished an amendment to this bill that is taken from the national model bill which has been adopted by the National Association of Counties; Council of State Governments; the American Legislative Exchange Council; and the American Petroleum Institute. Also with his attachments is background information regarding petroleum industry support for used oil recycling.

Chiquita Cornelius. (See Attachment #8.) Ms. Cornelius reported that the Kansas Business and Industry Recycling Program (BIRP) supports a comprehensive, integrated approach to minimize the State's solid waste, and that industry, government and the public must work together to resolve this common issue. She said BIRP supports the intent of **HB 2036**, and in continuance with the direction set in 1992 (HB 2801), the next logical step is to foster implementation of these plans.

Ms. Cornelius commended the inclusion of public education in this bill, adding that public education is too often overlooked but an intricate factor in determining the success of a program.

Anne Spiess. (See Attachment #9.) Expressing an interest in the needs of local units of government, Ms. Spiess said grants in which all counties and regions are automatically eligible should include the following possible categories:

- * Hazardous waste programs
- * Transfer stations
- * Recycling projects
- * Waste reduction programs
- * Remediation costs
- * Facility costs

Ms. Spiess said it is the opinion of the Kansas Association of Counties that current funding levels do not support the inclusion of all program categories and they consider the proposed changes to be necessary.

D. Sean White. (See Attachment #10.) Representative Deffenbaugh Industries, Inc of Shawnee KS, Mr. White strongly encouraged the Committee not only to reject **HB 2036**, but also to consider a significant reduction in the tipping fee. He added a reduction in the tipping fee would allow the solid waste industry to continue to support the efforts of KDHE, while at the same time offer relief to solid waste management companies in Kansas. He said with the introduction of this bill, KDHE is clearly proposing to spend the additional tipping fee money for no other reason than to occupy the surplus. He said the adverse affects of the excessive tipping fees are especially acute for independent Kansas-based solid waste business. Mr. White reported that Deffenbaugh has not been able to easily pass the increased tipping fee costs through to their customers, and contractual arrangements often restrict increases in costs, especially with municipal solid waste contracts. (Mr. White included with his testimony excerpts from the Federal Register regarding disposal of pesticides, contaminants, etc.)

The Honorable Fred Gatlin. (See Attachment #11.) Representative Gatlin reported that upon discussions with several people, he developed some concerns that need to be addressed, along with a recommendation. He referred the Committee to the first four words of Sections C; D; E; F; and G, wherein the first four words read "The Secretary is authorized." He explained his first and major concern of **HB 2036** is that the new Secretary of Health and Environment will have arrived on his first day of work on February 6. To proceed with the bill as this point does not allow the incoming Secretary O'Conner an opportunity to review the changes.

Representative Gatlin also expressed concern with regard to the percentages of the tipping fees, saying there needs to be serious debate on the 75 and 90 percent figures -- do they indicate a local level of interest and involvement, or do they just lead a group of counties in a certain direction because they can get more money?

Other questions posed were: 1) Does this bill allow every county to set up a competing recycling project? 2) What are the guarantees of coordination and of development of a cooperative statewide or regional plan?

Representative Gatlin concludes there are enough issues that clearly involve policy, and warrants the incoming Secretary an opportunity to review this measure and testify before the Committee before the bill advances.

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The Chair referred the Committee to written testimony of **Gail E. Revell** (See Attachment #12.)

Chairperson Holmes reminded the Committee of a briefing at tomorrow's meeting with Steve Hurst , Kansas Water Office.

At the Committee meeting Monday, January 30, the Chair advised action on some bills is planned.

There being no further business to come before the Committee, the meeting adjourned at 5:25 p.m.

The next meeting is scheduled for January 27, 1995.

HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE GUEST LIST

DATE: January 26, 1995

NAME	REPRESENTING
Bill Bider	KDHE
Ron HAMMERSCHEIDT	KDHE
PHIL WITTEK	JOHNSON COUNTY (ENV. DEPT.)
Wm Linn	Rauley County Comm.
Allan K. Blaker	Wilson County
DAVID T. BURNETT	Southeast Ks. Solid Waste Authority
John Dilmont	Cherokee County Commissioner
Ruschel Beth	DeSoto County Commissioner
Ed Sass	Leavenworth Co., H/H/O
Debbie McRill	LEAVENWORTH Co. Solid Waste Div.
Jim Langford	DOB
Wade Dixon	Breeley Co.
Gleyn Lowe	Trego Co.
James Satewood	City of Parsons - Lab. Co.
William L. Mitchell	Kansas Leaders Assn.
Clark Duffly	ISC
Sean White	Deffenbaugh Industries
JOHN BOTTENBERG	Deffenbaugh Ind
J. C. Hong	Utihli Corp Limited Inc.

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1/26/95 - ENR

Joseph T. Pajor
PHILIP HURLEY
STEVE KEARNEY

City of Wichita
PATRICK J. HURLEY & CO.
WMX

Jim R EARDON

Kansas Assn of Counties

Anne Spiess

" " " "

Michelle Peterson
George Barber

Ks. Gov. Consulting
Kan Consulting Engrs

Prepared Testimony
on
House Bill No 2036

Presented By
Phil Wittek
Environmental Department Director
Johnson County, Kansas

January 26, 1995

On behalf of Johnson County and the Johnson County Environmental Department, I would like to thank the Committee for the opportunity to offer testimony in support of House Bill No. 2036.

It is our opinion that the Bill as written is beneficial and would be of great assistance for proper solid waste management in our State. Representing a county that is actively involved in the solid waste management planning process, we see the importance of this grant funding package. The entire State would benefit-- both rural and urban communities.

The following are some of the key elements of the Bill that are advantageous.

1. Financial assistance would be available to all communities regardless of the presence of a solid waste disposal area in the jurisdiction.
2. The Bill reinforces the importance of local and regional solid waste management plans and active planning agencies.
3. The State's successful Household Hazardous Waste Grant Program would see an increase in monies made available to locals. We in Johnson County were able to assist over 3,300 participants in 1994 due to this type of grant.

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Attachment # 1

4. Outstanding funding opportunities would be within reach of local governments to assist both the agricultural and business communities in proper hazardous materials management.

5. The Bill sets forth financial assistance provisions that will offer a wide array of eligible activities to solid waste planning agencies throughout the State through both base and implementation grants. These grants will offer stability and flexibility, and help blunt unfunded mandate criticism.

In conclusion, I respectfully urge you to consider adopting House Bill 2036. If you require further budgeting information and clarification on the effects of the Bill, I am sure that Kansas Department of Health and Environment officials would provide more details. I would be eager to address any questions concerning Johnson County's plans.

Again, thank you for the opportunity to appear before this Committee.

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State of Kansas



Department of Health and Environment

Testimony presented to

House Energy and Natural Resource Committee

by

The Kansas Department of Health and Environment

House Bill 2036

The Kansas Department of Health and Environment is pleased to have this opportunity to testify in support of House Bill 2036 which establishes several new uses for the solid waste management fund. The statutory changes proposed in this bill were developed by KDHE based upon extensive input from the state solid waste advisory group and many other interested parties. This is a very important bill for the State of Kansas because without changes to the solid waste law, financial assistance cannot be offered to local units of government to implement their solid waste programs. Current law prohibits KDHE from using this fund to support local solid waste projects unless they are related to planning. Because planning activities are winding down in FY 1995, it is necessary to establish new uses for the fund in FY 1996 and beyond.

The revenues deposited into the solid waste management fund come primarily from the \$1.50 per ton tipping fee which is paid for most landfilled waste in Kansas. In FY 1994, about \$4.9 million dollars were deposited into the fund. Annual revenues are likely to decrease a few percent per year over the next several years as counties and local communities implement waste reduction and recycling programs. In FY 1994, \$2.8 million was awarded to counties and regions for solid waste planning grants. Only minor funding will be required to support the planning process over the next several years. This frees up about \$2.0 million per year to be used for other purposes.

Many ideas began to be received in early 1994 regarding possible new uses for the fund. Most counties and regions are ready to move from planning to implementation, and financial support is desired and needed in many areas. Most important is the need to give a financial "boost" to projects related to waste reduction and recycling.

Because of the great interest in how the fund will be used in the future and because of the immediate need to revise the statute, a special meeting of the solid waste advisory group was held on August 23, 1994 in Topeka to solicit input on this issue. This special meeting was open to all interested persons rather than members of the advisory group only. Approximately 120 persons representing a wide range of interests attended that meeting and an excellent exchange of ideas took place. A copy of the attendance list is attached as part of KDHE's testimony.

Based upon input received at the meeting, KDHE drafted proposed changes to the law to establish four major new uses for the fund. All of the old uses were retained as well. This draft was reviewed by a smaller work group which represented the interests of counties, cities, recyclers, private industry, and environmentalists. Based upon additional comments, KDHE revised the proposal which was then distributed to all participants in the August 23rd meeting. The resultant recommendations incorporated into HB 2036 are believed to represent the wishes of most of the interested and impacted parties across the state.

The four new areas of recommended expenditures include:

Solid Waste Base Grants - This new grant program would distribute a portion of the statewide tipping fees to all counties and multi-county regions to carry out projects which they consider most important to accomplish their overall solid waste management goals. Funds would be allocated to counties based upon population and the presence of

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a regional landfill in the county. It is proposed that 30% of the fund revenues be used for this purpose in FY 1996 and 20% thereafter. This grant program will give counties a great deal of flexibility in the use of funds and it will ensure that all counties are eligible for significant assistance.

Solid Waste Plan Implementation Grants - This new competitive grant program is designed to give counties and regions financial assistance to implement projects identified in their approved solid waste management plans related to waste reduction, recycling, and public education and training. The first awards are not scheduled until FY 1997 in order to allow the planning process to wind down and to allow a grants advisory committee to be established and adequately review first year proposals. It is likely that grant applications would be solicited as early as the end of calendar year 1995 to allow a six to eight month period for review by the new statutorily established committee and to ensure that the grant contracts are finalized by early in FY 1997. It is estimated that approximately \$2.6 million will be available for use in the first year of this grant program. The amount will decrease in subsequent years as significant carryover funds will likely be used up in the first year.

Household Hazardous Waste Grants - Additional financial support will be provided to this existing grant program. Increased funding is necessary to accomplish the goals established by the advisory group which include offering collection and disposal services for small unregulated quantities of hazardous waste generated by businesses and pesticide waste generated by farmers. Approximately \$200,000 per year from the fund will be used to support this grant program.

Enhanced State Waste Reduction Programs - There was good agreement that the State of Kansas should enhance waste reduction and recycling efforts. The input received supported the continuation of the state recycling coordinator in the Department of Commerce as well as increased services from KDHE. Areas of recommended improvement include public education and training, technical assistance, statewide recycling and waste reduction data base development, curriculum development, and market development for recyclables. To satisfactorily provide the services recommended by our solid waste advisors, 3.25 new staff members are requested to enhance the Bureau of Waste Management Solid Waste Program within KDHE. The anticipated duties of these positions are described below:

Environmental Scientist I - To provide waste reduction and recycling technical assistance to local communities, schools and other interested parties, and oversee the technical aspects of the development and implementation of the statewide public awareness campaign.

Public Service Administrator I - To develop and maintain a statewide data base on waste reduction and recycling practices and prepare and distribute annual reports which can be used as a measure of state progress.

Environmental Scientist II - To oversee the expansion of the household hazardous waste (HHW) program to include programs to collect and dispose of pesticide wastes generated by farmers and exempt quantities of hazardous waste generated by small businesses.

Accountant I (25% time) - To assist the KDHE business office in the issuance of grants through the new and enhanced programs. Although planning grants will decrease, base grants, implementation grants, and HHW grants will increase significantly.

An additional 1.5 persons are recommended for within the Department of Commerce and Housing. This includes the state waste reduction and recycling coordinator and some clerical assistance. KDHE and Commerce activities must complement one another to offer the greatest efficiency and degree of service to the citizens of Kansas. A detailed delineation of responsibilities between the two agencies can be worked out in the interagency agreement which is specified by current statute. It is likely that

Commerce will focus on the business side of things while KDHE focuses on environmental matters. The federal government has now required both environmental and economic development agencies to be involved in waste reduction and recycling projects in order for states to be eligible for certain federal grants.

We have attached two tables to this testimony which estimate total FY 1996 and FY 1997 expenditures from the solid waste management fund under the provisions of the bill as drafted. These estimates include all existing programs as well as the four new programs explained above. About half of the annual revenues are needed to administer the total statewide solid waste program. Please note that no state general funds are used to support any state solid waste program activity. This includes all inspection, permitting, enforcement, policy development, technical assistance, grant administration, and certain accounting, legal, and computer service functions. Additional funds are allocated for potential environmental remediation projects at abandoned or closed dumps which may pose a threat to human health or the environment.

In summary, this bill provides the necessary statutory changes to allow the state to move forward with the next phase of statewide integrated solid waste management. The new aid-to-local grant programs focus on waste reduction and recycling in ways never before supported in Kansas. The base grant program also offers counties and regions the opportunity to utilize a portion of the tipping fee revenues to carry out projects which they consider most important. Local governments should benefit financially from these new programs as will the private sector which will be called upon to provide most of the services and equipment funded through new grants. Finally, there are certain government services which will be enhanced through the provisions of this bill. Although agency staff will coordinate new or expanded services, it will be a cooperative public/private endeavor particularly in the area of public education and training.

KDHE appreciates this opportunity to provide testimony in support of HB 2036.

Testimony presented by:

Bill Bider
Director, Bureau of Waste Management
Division of Environment
January 26, 1995

TABLE 1

**BUREAU OF WASTE MANAGEMENT
SW MANAGEMENT FUND PROJECTED EXPENDITURES
FY 96 (Estimated January 20, 1995)**

ESTIMATED FY 95 CARRYOVER		\$2,500,000
NET REVENUE (FY 94)		\$4,923,500
DECREASE IN REVENUE DUE TO WASTE REDUCTION (3%)		(\$147,700)
INTEREST		<u>\$100,000</u>
FY 96 NET REVENUE		\$4,875,800
FY 96 AVAILABLE FUNDS		<u>\$7,375,800</u>
CURRENTLY AUTHORIZED EXPENDITURES		
Salaries-KDHE	\$1,905,000	
Operational Expenses	\$215,000	
Landfill Remediation Projects	\$300,000	
Public Education & Training	\$75,000	
Technical Consulting Contracts	\$165,000	
Solid Waste Planning Grants	\$500,000	
RECOMMENDED EXPENDITURES		
Household Hazardous Waste Program		\$300,000
Salaries	\$43,435	
Grants & Direct Expenditures	\$256,565	
KDHE/DOC Waste Reduction Program		\$250,000
Salaries		
DOC	\$54,080	
KDHE	\$82,524	
Operating Expenses	\$113,396	
Solid Waste Base Grants		\$1,450,000
Solid Waste Plan Implementation Grants		\$0
TOTAL PROJECTED FY 96 EXPENSES		<u>\$5,160,000</u>
ENDING FUND BALANCE (June 30, 1996)		\$2,215,800

NOTE: Salaries and operating expenses are firm estimates based upon currently authorized and proposed positions. Projected carryover funds and expenditures related to some grant programs and technical contracts are less certain. FY 95 carryover funds could exceed the \$1.5 million estimate and some grant application requests could be less than projected. Any excess funds will be carried over into FY 97 and directed into grants for solid waste plan implementation.

TABLE 2

**BUREAU OF WASTE MANAGEMENT
SW MANAGEMENT FUND PROJECTED EXPENDITURES
FY 97 (Estimated January 20, 1995)**

ESTIMATED FY 96 CARRYOVER		\$2,215,800
NET REVENUE (FY 96)		\$4,875,800
DECREASE IN REVENUE DUE TO WASTE REDUCTION (3%)		<u>(\$146,300)</u>
FY 97 NET REVENUE		\$4,729,500
FY 97 AVAILABLE FUNDS		<u>\$6,945,300</u>
CURRENTLY AUTHORIZED EXPENDITURES		
Salaries-KDHE	\$1,981,200	
Operational Expenses	\$241,885	
Landfill Remediation Projects	\$300,000	
Public Education & Training	\$75,000	
Technical Consulting Contracts	\$100,000	
Solid Waste Planning Grants	\$200,000	
RECOMMENDED EXPENDITURES		
Household Hazardous Waste Program		\$300,000
Salaries	\$44,702	
Grants & Direct Expenditures	\$255,298	
KDHE/DOC Waste Reduction Program		\$250,000
Salaries		
DOC	\$55,638	
KDHE	\$84,903	
Operating Expenses	\$109,459	
Solid Waste Base Grants		\$750,000
Solid Waste Plan Implementation Grants		\$2,600,000
TOTAL PROJECTED FY 97 EXPENSES		<u>\$6,798,085</u>
ENDING FUND BALANCE (June 30, 1997)		\$147,215

NOTE: Salaries and operating expenses are firm estimates based upon currently authorized and proposed positions. Projected carryover funds and expenditures related to some grant programs and technical contracts are less certain. FY 96 carryover funds could exceed \$1.2 million estimate and some grant application requests could be less than projected. Any excess funds will be available to expand the budget for grants for solid waste plan implementation.

SOLID WASTE ADVISORY GROUP MEETING
AUGUST 23, 1994

ORGANIZATION

- | | |
|----------------------------------|---------------------|
| 1. John B. Remondt | NWKSOPA ✓ |
| 2. Mostafa Kemat | KDHE - NED ✓ |
| 3. Don Hardin | Sherman County ✓ |
| 4. Alvin Reeves | Rooks County ✓ |
| 5. Winston Alred | Cloud County ✓ |
| 6. Rudy Pouch | Osage Co. ✓ |
| 7. Bruce Powersox | KDHE - SWD |
| 8. John H. Achatz | Rice Co. ✓ |
| 9. FRANK DILL | RICE Co. ✓ |
| 10. Bill Bider | KDHE ✓ |
| 11. Kathy Lewis | KDHE ✓ |
| 12. Kurt Booe | Kirkham Michael ✓ |
| 13. Cecil Fish | Labette County ✓ |
| 14. Dwan Compton | WASHINGTON CITY ✓ |
| 15. John Henry | Washington City ✓ |
| 16. Eric Stutz | KDHE ✓ |
| 17. Gregory J. Hopper | Washington County ✓ |
| 18. William J. Hopper | Washington Co. ✓ |
| 19. John E. Lough | Sumner Co. ✓ |

- 20. ~~Don Atchison~~
- 21. ~~Lois F Taylor~~
- 22. ~~Walter Hayes~~
- 23. ~~Jim Atchison~~
- 24. TERRY GRAHAM
- 25. John Wright
- 26. ~~John Wright~~
- 27. JOE CROWIN
- 28. Rick Brunetti
- 29. ~~DUSTY R. FENEBOUR~~
- 30. ED WOLKEN
- 31. Jim Goodman
- 32. Jim Gordon
- 33. ~~Art Albrecht~~
- 34. ~~Gladys Albrecht~~
- 35. Gail E Revell
- 36. John E Revell
- 37. Vern Steffen
- 38. ~~Red White~~
- 39. ~~Wm Lewis~~
- 40. ~~August Beaholtz~~
- 41. ~~Wm Albrecht~~
- 42. ~~Chazita Cornblom~~

- SCSWA - Arkansas City ✓
- Taylor & BSSO Inc ✓
- Finney Co. ✓
- Bourbon Co. ✓
- BOURBON CO. ✓
- SCS ENGINEERS ✓
- SCS ENGINEERS ✓
- KDHE
- KDHE - Salina ✓
- ANDERSON CO. ✓
- Anderson Co ✓
- Atchison Co. ✓
- Atchison Co ✓
- Strington - MR. Co ✓
- " " ✓
- McCoy, Inc Concordia, Ks ✓
- " " " " ✓
- Pawnee Co Lamed ✓
- Pawnee Co Lumbell ✓
- Rowles Co ✓
- Cheyenne Co. ✓
- Terracon ✓
- KS BIRP ✓

43.	Don Carlson	KDHE
44.	John Robinson	POTTAWATOMIE CO. ✓
45.	PAT O'X	BG CONSULTANTS
46.	GERALD A. MEELT	BLACK & VEATCH ✓
47.	ALD Kletto	Russell Co ✓
48.	Carol Knisley II	Resource Recovery ✓
49.	Jim Apple	Plan Corp Ltd ✓
50.	Carl Ware	City of Chanute
51.	John Vanneeman	City of Chanute
52.	Bill Tucker	KDHE SCDO ✓
53.	Bill Keltner	AEC, INC ✓
54.	Darryl McFarland	AEC, Inc. ✓
✓ 55.	Raul Taylor	City of Wichita ✓
56.	STEVE KEARNEY	WMX ✓
57.	Ken Madsen	BFI ✓
58.	MIKE GRAK	Ellis County ✓
59.	Chris Pook	Waste Management, Inc ✓
60.	Bill Upman	Waste Mgmt of Kansas ✓
✓ 61.	John M. Donnell	American Disposal
✓ 62.	Bob Parsons	American Disposal
✓ 63.	GORDON MCNIFF	WOODSON CO. COMM.
✓ 64.	Sh Workshlager	Harper Co Comm
✓ 65.	Hub Caspar	Miami Co.

66. CHUCK HADSALL

MIAMI CO. ✓

67. ~~MARY ANN BRADFORD~~

League of Women Voters ✓

68. ~~Frank R. Weinholt~~

Salina ✓

69. ROU HELMIG

HUTCH ✓

70. CHRIS SANDERS

HUTCH ✓

71. ~~Rep Laura Anne Clure~~

Osborne ✓

72. ~~William N. Babin~~

KDHE

73. ~~Charles Baver~~

KDHE-SEI ✓

74. ~~James R. Triplett~~

~~Crawford Co. ✓ ?~~

75. ~~Dennis MEIER~~

TRIP ✓

76. Carl McCalm

Granddies ✓

77. Bob Krummich

Deffenbaugh ✓

78. Ron Bonjour

Coffey Co. ✓

~~79. Mike Kukul~~

Television ✓

80. Gardner Hayden

Fl. Co ✓

81. Lena Savage

Franklin Co. ✓

82. ~~Jim Cline~~

Franklin Co. ✓

83. ~~Charles Sedlack~~

Hamm Co. ✓

84. ~~Tim Williams~~

CAM COM ✓

85. Mike Hanner

Linn Co. ✓

86. B. L. Buelow

Montgomery Co. ✓

87. ~~PAUL WITTEK~~

Johnson Co. ENV DEPT ✓

88. John Browning

Deffenbaugh ✓

- 89. ~~Kenneth J. Brooks~~
- 90. Glenn Jones
- 91. Allen W. Blaker
- 92. ~~Mike Cook~~
- 93. ~~Robert Hill~~
- 94. Jack Rowlett
- 95. R. W. Miller
- 96. Ray DeJure
- 97. Richard A. Stapp
- 98. H. J. Howitt
- 99. JOE DANIELS
- 100. David Stump
- 101. ~~Chris Cook~~
- 102. Richard Alving
- 103. Paul Pitts
- 104. Hugo Spiker
- 105. Jim Kinne
- 106. ~~Frank Young~~
- 107. ~~Trevor Urban~~
- 108. ~~John Peterson~~
- 109. ~~Russell & Farris Jr~~
- 110. Rob Anderson
- 111. ~~Mike Hunsley~~
- 112. ~~Jennis Miller~~
- 113. ~~Complet Kane~~
- 114. ~~Harry Hunsley~~

- KDHE - Hays ✓
- Wilson Co. Fredonia ✓
- - - ✓
- Franklin Assoc., Ltd. ✓
- Lake Region Auth. ✓
- " ✓
- " ✓
- " ✓
- Lin Co. ✓
- LV. Co. ✓
- LV. Co. ✓
- Marshall Co ✓
- Schwab Eaton P.A. ✓
- Western Resources ✓
- Neosho Co ✓
- Neosho Co. ✓
- Neosho Co. ✓
- Neosho Co
- City of Kansas City Kansas ✓
- BFT
- Kansas Recyclers Assn
- SEKRPC ✓
- Allen Co. Comm ✓
- Central Fiber Corp ✓
- Jackson County ✓
- Ford County ✓ 2-10
- SETSWA ✓ 29

NAME	ORGANIZATION	LUNCH PD
15 Cynthia J. Kidd	Reno County	✓
16 George P. Sugars	Reno Co.	✓
17 Steve Sweeney	OSAGE TIRE Keyser	✓
18 Mrs. Lynn Tyson	" B.F.I. "	✓
19 Haru. Roberts	KDHE	DONT WANT,
20 Mary J. [unclear]	KDHE	no lunch
21 Marti Crow	KDHE	
22 Font Foster	KD OCH	no lunch
23 Edna S. Shelton	Lawrence.	✓
24 Patricia Murkin	League of Ks. Wm	No lunch
25 Christine [unclear]		
196 Anne Spess	Ks. Assoc of Counties	
27 Margarete Miller	Wichita Ks	

Southeast Kansas Solid Waste Authority
Legislative Position Statement

RE: HB 2036

HB 2036 does not reflect the funding methodology originally proposed by representatives of the Southeast Kansas Solid Waste Authority to KDH&E at its August 23, 1994 public meeting. However, the consensus of the Advisory Board would indicate that HB 2036 is a viable alternative to the methodology originally proposed to KDH&E.

The Southeast Kansas Solid Waste Authority proposes to support HB 2036 with the following revisions to New Sec. 3. (a) found on page six, beginning at line six of the Bill relating to the composition of the a solid waste grants advisory committee:

1. Delete the phrase "of seven members" from line 8 of page six of the Bill in consideration of suggested changes in the composition of the solid waste grants advisory committee.

The wording of New Sec. 3. (1) on page six of the Bill, lines 9 - 12, should be revised as follows:

- (a) One member appointed by the governor from each regional solid waste authority, so designated and approved by the Kansas Department of Health and Environment in accordance with K.S.A. 12-2901 et seq. The governor shall appoint members from each solid waste authority from persons residing within the authority's geographic boundaries and designated by their respective authorities as knowledgeable of solid waste management issues within their respective regions. Each regional solid waste authority shall submit a list of persons so designated to the governor for appointment.
 - (b) Three additional members shall be appointed by the Governor, one of whom shall represent the interests of counties not included in a regional solid waste authority, one of whom shall represent the interests of cities not included in a regional solid waste authority, and one of whom shall represent the interests of the private sector.
2. We propose to delete New Sec. 3. (a) (2) found on page six, lines 13 and 14 of the Bill.

As representatives of the nine counties of the Southeast Kansas Solid Waste Authority, we are substantially in support of, and do recommend passage of HB 2036 with the revisions stated above.

Submitted on behalf of the Southeast Kansas Solid Waste Authority by:

Dr. James Tripplett - Pittsburg State University
John O. Delmont - Cherokee County Commissioner
David T. Burnett - Southeast Kansas Regional Planning Commission

1/26/95
Energy & Nat Resources
Attachment #3

DEPARTMENT OF
PUBLIC WORKS
OFFICE OF NATURAL RESOURCES
CITY HALL - EIGHTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202
(316) 268-4356

January 26, 1995

House Energy and Natural Resources Committee
Representative Carl D. Holmes, Chairman
State Capital Building - Room 526-S
Topeka, Kansas 66612

Dear Committee Members,

My name is Joseph Pajor and I am the Natural Resources director for the City Of Wichita. The City of Wichita supports House Bill 2036. We would however offer two changes that we believe would improve the bill.

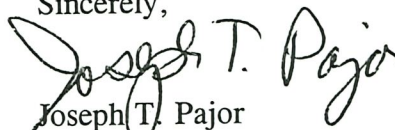
The first is to raise the level of base grants made to large individual counties from 75% to 90% as provided for regions. Counties with a population of sufficient magnitude find that the economies of scale of forming a region are not significant. We would submit that for counties with a population of 100,000 or more this is almost certainly the case. This threshold could be used making four counties eligible to be treated as regions for the purpose of base grants.

The second change is to raise the cap on the portion of the solid waste management funds that can be expended on base grants. We recommend the maximum amount be increased from 30% to 60% and that this cap be maintained at 60%. Base grants should allow local units of government to be confident that funds to implement their plans will be forthcoming. Setting the cap too low means we can not rely on these grants as being "base" but are in practice "competitive" with the uncertainty in funding that one would expect of "competitive" rather than "base" grants.


We strongly support the provision of grant funds to develop and implement household and exempt small quantity hazardous waste generator collection programs.

In closing, the City of Wichita supports HB 2036 and recommends these changes to make this bill a better law. Thank you for your consideration. I will be happy to answer any questions of the Committee.

Sincerely,


Joseph T. Pajor
Natural Resources Director

JTP

1/26/95
Energy & Natural Resources
Attachment #4
 Made with Recycled Paper

TO: Energy and Natural Resource Committee

FROM: William H. Lewis, Rawlins County Commissioner,
representing Northwest Kansas Small Landfill Commission

RE: House Bill 2036

Commissioners from Northwest Kansas have traveled many miles across the State of Kansas several times to give our views concerning various items on bills being presented to the legislature. Not always have we been in favor, however this time we have come not to testify against HB 2036, but to support the new grant programs which will be funded by the tipping fees in this bill.

Many of the smaller populated counties of Western Kansas are trying to develop solid waste plans under the Small Landfill exemption provided for by the Environmental Protection Agency. The EPA made this provision specifically, as quoted from the Federal Register, because "Small communities would have insufficient financial resources to comply with sub-title D landfill requirements." We are still in the planning and development stage and will be until about October of 1996. We feel it is critical for us to have adequate financial resources to properly plan and develop our landfills as has been done with the sub-title D landfills in the rest of the state.

We realize that KDHE, Bureau of Waste Management, is funded primarily by tipping fees from solid waste and that many of the meetings held and grants given to help us study our landfills would have been unavailable without such a program. The grant funds have helped us to become much more aware of problems that exist and how to solve them. Grant funds have also enticed counties to work together, by sharing ideas and to economize the spending of funds by sharing common interest and ideas in developing landfills necessary to function in our area.

The federal and state requirements to develop better control of solid waste would be very hard for small counties to administrate without the aid of this bill, although there could be arguments for or against the tipping fees. We feel that at least for the near future the tipping fees are extremely important to implement the improved state solid waste program. Therefore, we encourage the legislature to pass House Bill 2036.

1/26/95
Energy & Natural Resources
Attachment #5

HOUSE BILL No. 2036

HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Testimony of Claud S. Shelor, formerly Kansas Coordinator of Waste Reduction, Recycling and Market Development.

We would favor the overall objective of H.B. 2036. However, there are several items of concern that should be discussed.

The projects eligible for funding under the base grant program proposal are logical. However, we would request clarification of duties of the new Sec.3, "Grants Advisory Committee" members, with regard to rulings by the KDHE Secretary or KDHE personnel to administer base grant programs to local and/or regional entities.

This point is questioned because of concern of a number of counties that regionalized to form Waste Management Subtitle "D" districts during 1992-93. The 90% incentive money to regionalize was expended to consultants for study of regional areas, only to discover that the original regional plans did not fulfill county needs or desires.

Certain counties are now being advised their allocations must be returned and they have lost their eligibility for future funding from KDHE.

Could this policy be applied to H.B. 2036 upon passage?

Energy & Natural Resources
Attachment # 6
1/26/95

**TESTIMONY ON HOUSE BILL 2036
BY CLARK DUFFY, KANSAS PETROLEUM COUNCIL
JANUARY 26, 1995**

I am Clark Duffy, the Associate Director of the Kansas Petroleum Council. The Kansas Petroleum Council represents the major oil and gas companies and allied industries in their exploration, production, refining, transportation, and marketing operations in Kansas. I appear today as a proponent of House Bill 2036.

The Kansas Petroleum Council primarily supports House Bill 2036 because it provides a mechanism for local communities to receive grant funds for recycling of do-it-yourselfer used motor oil. This effort is consistent with the national effort of public and private programs to promote do-it-yourselfer used oil recycling in the United States. Nationally, the member companies of the Kansas Petroleum Council collect half of all of the do-it-yourselfer used oil recycled in the United States.

In 1992, an estimated 5 million gallons of motor oil was sold in Kansas. Of that amount, about one half, or 2.5 million gallons was sold to do-it-yourselfers. One half of that amount, or 1.25 million gallons remain as potentially recyclable oil after it is drained from an engine. It has been estimated by EPA that less than 10 percent of this do-it-yourselfer motor oil is properly managed. This means that approximately 1 million gallons of do-it-yourselfer used oil is improperly managed in Kansas each year. Used motor oil is a resource not a waste. More importantly, improper disposal of used oil can cause serious environmental damage.

1/26/95
Energy & Natural Resources
Attachment # 87

It's not that do-it-yourselfers are irresponsible. Most want to do the right thing for the environment when they dispose of used oil, but without a convenient collection site for the oil, millions of gallons are not disposed of properly. House Bill 2036 will allow local communities to obtain financial resources to establish recycling programs to begin collecting this do-it-yourselfer used motor oil.

Unfortunately, public used oil collection centers can be expensive to establish and to operate. For that reason, the Kansas Petroleum Council would recommend an amendment to this bill to allow for the creation of public/private partnerships for do-it-yourselfer used motor oil collection.

There is an existing private collection system for recycling of used oil generated by businesses and industries. Unfortunately, private citizens have only limited access to that system. By relying on private industry to provide the collection center, the cost to local entities is relatively inexpensive. The recent success in the development of the Metro Kansas City area recycling program would indicate that less than \$10,000 per year is necessary to operate a public/private program for the entire Kansas City Metro area.

This amendment would allow public funds to be used to plan, establish, and promote used oil recycling centers, including the development of private center locations for the collection of used motor oil.

In states where model used oil recycling legislation has been adopted, there has been a dramatic increase in both the collection of used oil and the number of used oil collection centers. Nationwide, the Kansas Petroleum Council companies have increased their number private centers, which are open to do-it-yourselfer collection from about 800 in 1991, to currently just over 8,000 centers. By allowing local communities to work with these private businesses, the State of Kansas can begin a successful program of recycling used do-it-yourselfer motor oil. The amendment attached to my testimony is taken from the national model bill, which has been adopted by the National Association of Counties, Council of State Governments, the American Legislative Exchange Council, and the American Petroleum Institute. I encourage the committee's favorable consideration of this amendment and House Bill 2036.

BACKGROUND INFORMATION

"PETROLEUM INDUSTRY SUPPORT FOR USED OIL RECYCLING"

**By
Clark Duffy
Kansas Petroleum Council
January 24, 1995**

The American Petroleum Institute (API) is a National Trade Association that consists of about 300 companies from a broad cross section of major petroleum and allied industries in exploration, production, refining, transportation, and marketing. The Kansas Petroleum Council is comprised of those companies with assets in Kansas. Both API and the Kansas Petroleum Council are strong advocates for proper management of used oil.

API established a used oil recycling program in 1991. Since 1992, the Kansas Petroleum Council has also been active in the promotion of used oil recycling activities within the state. The purpose of this paper will be to provide background information on these efforts in Kansas and across the nation.

USED OIL IS A RESOURCE

The industrial and commercial sector generators of used oil have been recycling used oils of all types for many years. The majority of used oil - over 60 percent - is burned for energy recovery in industrial boilers and furnaces, such as asphalt plants, electric utilities, and cement kilns. Some generators of used oil, such as service stations and car care facilities, use burned oil on site in space heaters. (The Environmental Protection Agency (EPA) strictly regulates the burning of used oil to ensure that this practice does not pose a threat to human health and the environment.) An estimated 100,000,000 gallons - about 7 percent of all the used oil - is rerefined into lubricating oil. Several petroleum companies are currently collecting and processing used motor oil in their petroleum refineries for use as a feed stock for products like jet fuel, kerosene, home heating oil, and gasoline.

Although there is an existing system for collection and recycling of used oil generated by businesses and industries, private citizens only have limited access to that system. Every year in the United States, do-it-yourselfer's produce enough used motor oil to fill up five super tankers - over 200,000,000 gallons. According to the EPA, only about 10 percent of this used oil is collected and reused. Instead, many do-it-yourselfer's simply dump this valuable resource into their back yards or into the sewer drain. It is not that do-it-yourselfer's are irresponsible. Most want to do the right thing for the environment when they dispose of their used oil. But, without a convenient collection site for the oil, millions of gallons are not disposed of properly.

While collection of used motor oil is necessary for several reasons, environmental protection is the foremost rationale. Improper management and disposal of do-it-yourself used motor oil can cause serious environmental damage. It is especially harmful to our rivers, streams, and our sensitive ground water areas. It takes only one quart of used motor oil to foul 250,000 gallons of drinking water. With proper collection programs, that same quart of oil could be used by a power plant to provide enough energy to run an average household for three hours.

AMERICAN PETROLEUM INSTITUTE ACTIVITIES

API established a used motor oil program in 1991. The API program is designed to assist and supplement used oil do-it-yourself recycling efforts by states and local governments. In particular, the API focus is to:

- 1) Serve as the focal point on used oil recycling by developing and distributing promotional and technical materials and to provide technical advice;
- 2) Increase the number of major oil company service stations and quick lubes that collect do-it-yourself oil, and
- 3) Work to pass the API model used oil collection legislation in appropriate states.

One of the earliest successes of the do-it-yourself collection program was a pilot curbside used oil collection program in the City of Houston. It has collected over 13,000 gallons of used motor oil since its inception in 1992. This program was an early indicator of the dramatic impact that do-it-yourself collection programs can have within a community. Over the past three years, API has developed several major publications to assist communities in the development of used oil recycling programs. Documents such as the "Guidebook for Implementing Curbside and Drop-Off Used Oil Recycling Programs", public relations kit, used oil bibliography, and a state used oil law digest help communities develop programs such as those that have been successful in Houston.

One of the most important components of the API program was to increase the number of collection centers for the public to return their used oil. In 1991, member companies offered about 800 centers to the public. Currently, member companies provide almost 8,000 used oil collection centers in 48 states and the District of Columbia. Twelve major oil companies (Amoco, Ashland (Valvoline), BP, Exxon, Marathon, Mobil, Pennzoil, Phillips, Quaker State, Shell, Sun, and Texaco) have formally announced used oil collection programs and other companies are expected to announce similar programs soon. Through 1993, member companies collected over 12 million gallons of used oil. Based on EPA estimates, this would mean that API member companies collected almost 50 percent of the do-it-yourself oil recycled in 1993.

API developed a model bill in 1991 to assist states and local communities in the development of used oil recycling centers. This model legislation also has the support of the National Association of Counties, the Council of State Governments, the Southern Legislative Conference, and the American Legislative Exchange Council. At this time, 13 states have passed this model bill or major components of it (California, Delaware, Florida, Kentucky, Louisiana, Maryland,

New Hampshire, Rhode Island, South Carolina, Tennessee, Texas, Utah, and Virginia). In addition, there are 15 states that have established used oil collection programs. Finally, there are 14 additional states that are presently considering passage of the model API bill. In some cases, this legislation would supplement the existing programs in states that have not adopted the API model legislation.

KANSAS PETROLEUM COUNCIL ACTIVITIES

The Kansas Petroleum Council became involved in used oil recycling issues in 1992. At that time, it was asked to assist in the development of the Metro Kansas City Used Oil Program. In addition, it has started to work with member companies to establish private do-it-yourselfer collection centers in Kansas.

In 1992, an estimated 2.5 million of the 5 million gallons of motor oil sold in Kansas was sold to do-it-yourselfers. About one half of that amount remain as potentially recyclable oil after it is drained from an engine. It is estimated that in Kansas, less than 10 percent of this do-it-yourselfer motor oil is recycled. This means that almost 1 million gallons of used motor oil is improperly managed in Kansas each year.

Again, it is not that the do-it-yourselfer's are irresponsible. Most want to do the right thing for the environment when they dispose of used oil, but without a convenient collection site for the oil, millions of gallons are not disposed of properly. Since Kansas has an effective existing system for collection and recycling of used oil generated by businesses and industries, do-it-yourselfer's simply need access to that system.

The Kansas Petroleum Council is very encouraged by the success of the Metro Kansas City Used Oil Program to date. Within the first quarter of the first year of the program, it has signed up 62 collection centers and recycled over 30,000 gallons of do-it-yourself used oil. This program emphasizes the importance of a public/private partnership in environmental protection and will serve as a model for other communities.

A PUBLIC/PRIVATE PARTNERSHIP IN KANSAS

The primary goal of the national model bill is to increase the amount of used oil collected by the do-it-yourselfer through two methods:

- 1) Increasing the number of public and private used oil collection centers, and
- 2) Raising the level of public awareness regarding the need for returning used motor oil to a collection center.

This bill would establish state do-it-yourselfer used oil recycling programs, which would be designed primarily to provide grants to cities, counties, and other local entities to set up used oil drop-off or curbside collection programs. Grant funds would also be made available to communities to carry out public awareness campaigns.

By enacting key provisions of this national model bill, the State of Kansas can create a public/private partnership for recycling do-it-yourselfer used motor oil.

There is an existing system for collection and recycling of used oil generated by businesses and industries. Unfortunately, private citizens have only limited access to that system. By relying on private industry to provide the collection center, the cost to local entities is relatively inexpensive. The recent success in the development of the Metro Kansas City area recycling program would indicate that less than \$10,000 per year is necessary to operate a public/private program for the entire Kansas City Metro area.

The key provisions of the national model bill would allow public funds to be used to plan, establish, and promote used oil recycling centers, including the development of private center locations. Private business and industry would then maintain responsibility for collection and recycling of used motor oil.

CONCLUSION

The API Used Oil Program has made a real impact on the management of used oil in the past several years. Some of the best used oil collection programs in the nation are those in which the model bill has been passed and implemented.

The Kansas Petroleum Council looks forward to assisting in the management of a statewide used oil collection program. The Kansas City Metro Program serves as an outstanding private/public model program which can have application in many parts of Kansas.

REFERENCES

Council of State Governments, The Model Used Oil Collection Act, 1991.

Environmental Protection Agency, Environmental Fact Sheet, Management Standards Issued to Central Potential Risks from Recycled Used Oil - No Hazardous Waste Listing, EP/530 F-92-018, August 1992.

Jones, Brad. American Petroleum Institute, "A Model Experience", for 1st International Congress on Liquid Waste Recycling, San Francisco on May 23-27, 1994.

Jones, Brad. American Petroleum Institute. "Major Developments in Used Oil Recycling", for Metropolitan Washington Environmental Professionals, Inc., Washington, D.C., June 30, 1994.

Used Oil Solutions Committee, Kansas City, Missouri, Metro Kansas City Used Motor Oil Collection Program, June 30, 1993.

Washington Citizens for Recycling Foundation prepared for American Petroleum Institute, A Guidebook for Implementing Curbside and Drop-Off Used Motor Oil Collection Programs, February 1992.

New Subsection for Section 1

The Secretary is authorized to assist counties, cities or regional solid waste management entities that are part of an interlocal agreement entered into pursuant to KSA 12-2901 et seq. and amendments thereto or other applicable statutes, by administering grants that pay up to 100% of costs incurred by such a county, city or regional entity to plan, establish or promote do-it-yourselfer used motor oil collection systems.

1. For purposes of this subsection the following terms mean:

(A) "Do-it-yourselfer used motor oil collection center", any site or facility that accepts or aggregates and stores used motor oil collected only from household do-it-yourselfers or farmers who generate an average of twenty-five gallons per month or less of used motor oil from vehicles or machinery used on the farm in a calendar year. This term does not preclude a commercial generator from operating a do-it-yourselfer used motor oil collection center;

(B) "Do-it-yourselfer used motor oil collection system", any do-it-yourselfer used motor oil collection center at publicly owned facilities or private locations or any curbside collection of household do-it-yourselfer used motor oil, or any other do-it-yourselfer used motor oil collection program determined by the department to further the purposes of this act;

(C) "Household do-it-yourselfer", an individual who generates used motor oil through the maintenance of their personal automobile, vessel, airplane, or machinery powered by an internal combustion engine;

(D) "Motor oil", any oil intended for use in an internal combustion engine, crankcase, transmission, gear box or differential for an automobile, bus, truck, train, vessel, airplane, heavy equipment, or machinery powered by an internal combustion engine;

(E) "Person", an individual, trust, firm, joint stock company, federal agency, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state or any interstate body;

(F) "Recycle", to prepare used motor oil for energy recovery or reuse as a petroleum product by rerefining, reclaiming, reprocessing or other means or to utilize used motor oil which has been so rerefined, reclaimed, or reprocessed as a substitute for petroleum products provided that the preparation and use complies with standards that have been set by the department;

(G) "Used motor oil", any motor oil which as a result of use, becomes unsuitable for its original purpose due to loss of original

properties, or the presence of impurities. Used motor oil does not include ethylene glycol, oils used for solvent purposes, oil filters that have been drained of free flowing used oil, oily waste, oil recovered from oil tank cleaning operations, oil spilled to land or water, or industrial nonlube oils such as hydraulic oils, transmission quenching oils, and transformer oils containing any amount of PCB;

2. All do-it-yourselfer used motor oil collection centers must meet minimum standards as established by the department. Do-it-yourselfer used motor oil collection centers may not accept used motor oil from commercial operations. Do-it-yourselfer used motor oil collection centers may limit the quantity of oil received at any one time from an individual and may restrict the size of the container used to deliver the oil to the center.

3. The fund shall indemnify and hold harmless any local government entity on its behalf or on behalf of any volunteer private entity authorized by the local government entity for all costs arising out of contamination or other liability associated with the operation of the do-it-yourselfer used motor oil collection center, so long as no more than two hundred seventy-five gallons of used motor oil is accumulated at the site of the do-it-yourselfer used motor oil collection center at any one time. This indemnification does not extend to do-it-yourselfer used motor oil collection centers that have not operated in accordance with the minimum standards established by the department.

4. A person or the state may not recover from the owner, operator, or lessor of a do-it-yourselfer used motor oil collection system which has received moneys from the fund any costs of response actions resulting from a release of used motor oil collected at the center or in subsequent handling or disposition by others if:

(A) The owner, operator, or lessor of the do-it-yourselfer used motor oil collection center does not mix the used motor oil collected with any hazardous substance;

(B) The owner, operator, or lessor of the do-it-yourselfer used motor oil collection center does not accept used motor oil that the owner, operator, or lessor knows contains hazardous substances; and

(C) The do-it-yourselfer used motor oil collection center is in compliance with management standards issued by the department and the used motor oil is removed from the premises by a licensed transporter.

5. For purposes of this subsection, the owner, operator, or lessor of a do-it-yourselfer used motor oil collection center may presume that household do-it-yourselfer used motor oil is not mixed with a hazardous substance provided that the do-it-yourselfer used motor oil has been removed from the engine of a light duty motor

vehicle or household appliance by the owner of such vehicle or appliance, and the do-it-yourselfer used motor oil contains not more than one thousand ppm total halogens.

6. This subsection applies only to activities directly related to the collection of used motor oil by a do-it-yourselfer used motor oil collection system which has received moneys from the fund. This section does not apply to negligent activities related to the operation of a do-it-yourselfer used motor oil collection center.

Kansas Business and Industry Recycling Program, Inc.

2933 SW Woodside Dr., Suite C, Topeka, Kansas 66614-4181
(913) 273-6808 FAX (913) 273-2405



Testimony on HB 2036 presented to
The Committee on Energy and Natural Resources

by

Chiquita Cornelius, Executive Director

Kansas Business and Industry Recycling Program, Inc.

January 26, 1995

Mr. Chairman and Members of the Committee:

The Kansas Business and Industry Recycling Program (Ks BIRP) is a non profit organization founded in 1983. Our program supports a comprehensive, integrated approach to minimize our state's solid waste and believes that industry, government and the public must work together to resolve this common issue.

The Kansas Business and Industry Recycling Program supports the intent of HB 2036. If we are to continue the direction set in HB 2801 passed in 1992 to develop and implement comprehensive solid waste management plans in the State of Kansas, then the next logical step is to foster implementation of these plans. In the past, too frequently we have seen plans developed or revised only to end up on a shelf.

We applaud the inclusion and recognition of public education in this bill as a necessary component in the implementation process. Public education is too often overlooked, but is certainly a major factor in determining the success of a program.

Kansas BIRP will continue to be available to offer our assistance and appreciates the opportunities we have had to be included in solid waste planning for Kansas citizens.



**KANSAS
ASSOCIATION
OF COUNTIES**

"Service to County Government"

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Marrell Wilson
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Executive Director
John T. Torbert, CAE

To: Representative Holmes, Chairman
House Committee on Energy and Natural
Resources

From: Anne Spiess, Dir. of Legislation
Jim Reardon, Dir. Legal Services

Date: January 26, 1995

RE: **H.B. 2036 Solid Waste Fee Fund**

Background: The solid waste management fund was created to provide grants to counties and multi-county regions to carry out the comprehensive solid waste planning required by law. The fund is supported by a \$1.50 per ton tipping fee. The proposed changes broaden the scope of projects eligible for funding under the program and extends eligibility to household hazardous waste and recycling efforts. Capital and equipment needs also become eligible for funding under the program.

The language changes reflect the transition from preliminary planning and closure requirements to on-going operational needs. They are the outgrowth of several meetings initiated by KDHE and attended by affected industry and governmental representatives.

New Sect. 3 creates a 7 member advisory committee to review grants, prioritize funds, and make recommendations regarding the selection of grantees and the disbursement of moneys.

KAC 1995 County Platform: Counties have a diversity of needs regarding solid waste issues. Due to this diversity, consideration should be given to providing local units of government with the flexibility to use funds to accomplish other important solid waste projects. This flexibility could be accomplished by the state increasing the level of grant funding to local units of government.

1/26/95

Attachment #9

Grants in which all counties and regions are automatically eligible should include the following possible categories:

1. Hazardous waste programs
2. transfer stations
3. recycling projects
4. waste reduction programs
5. remediation costs
6. facility costs."

Comment: KAC is in general support of H.B. 2035

There is concern among some of our members that the language of **H.B. 2035** does not go far enough in addressing the needs of the counties or assuring their participation in the program. For example, **H.B. 2035** does not provide for automatic eligibility of counties who have met their compliance timetables.

It is KAC's opinion that current funding levels do not currently support the inclusion of all program categories sought by our platform committee. We consider the proposed changes to be necessary and we feel that they reflect the thinking of a consensus of those county representatives who took part in the meetings.

Sld Wst. mem

DEFFENBAUGH INDUSTRIES, INC.

POST OFFICE BOX 3220
SHAWNEE, KANSAS 66203
913-631-3300

January 26, 1994

Committee on Energy and Natural Resources
House of Representatives
State of Kansas
Topeka, KS 66612

RE: House Bill 2036

Dear Mr. Chairman and Members of the Committee:

My name is Sean White, and I am the environmental compliance manager for Deffenbaugh Industries, Inc.. I appear before you today to express my company's opposition to House Bill 2036.

Deffenbaugh Industries, headquartered in Shawnee, has been a leader in solid waste management in Kansas for over 20 years. Deffenbaugh and its affiliate companies employ over 1,100 people in Kansas at operations in Shawnee, Bonner Springs, Olathe, Kansas City, Newton, Pittsburg, and Wichita.

In 1992, when Kansas faced the unfunded mandate created by Subtitle D of the Resource Conservation and Recovery Act, the legislature enacted House Bill 2801 in order for Kansas to become approved by the U.S. EPA for purposes of implementing the Subtitle D criteria. It was argued during consideration of H.B. 2801 that a \$1.50 per ton fee on solid waste disposed of at Kansas landfills was needed by KDHE to fulfill its federally-imposed obligations. At that time, it was estimated that the \$1.50 fee would generate \$3.7 million annually¹. However, in FY 1994, the solid waste management fund received a total of \$4,923,486² - fully \$1.2 million more than originally projected. After operating expenses incurred during FY 1994, the KDHE solid waste management fund experienced a \$1.4 million surplus. Obviously, the expenses were overestimated and the revenue stream underestimated. This speaks forcefully for a reduction in the tipping fee. However, with the introduction of H.B. 2036, KDHE is clearly proposing to

¹ Testimony presented to House Energy and Natural Resources Committee by Kansas Department of Health and Environment on House Bill 2801, February 18, 1992

² Memorandum from William L. Bider, Director KDHE Bureau of Solid Waste, and Charles Jones, Director KDHE Division of Environment to Solid Waste Advisory Committee, RE: "Future Used of Solid Waste Management Fund", September 21, 1994

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Energy & Natural Resources
Attachment #10

spend the additional tipping fee money for no other reason than to occupy the surplus. We feel that this is totally contrary to the current belief, held by most Kansans, that the size and cost of state government needs to be reduced *not expanded*. The adverse affects of the excessive tipping fees are especially acute for independent Kansas-based solid waste businesses. Specifically as it relates to Deffenbaugh, we have not been able to easily pass the increased tipping fee costs through to our customers as we collect and haul both household and commercial solid waste, and contractual arrangements often restrict increases in costs, especially with municipal/city solid waste contracts.

Our opposition to any expanded uses of the solid waste management fund notwithstanding, we make the following observations with respect to certain provisions contained in H.B. 2036.

Proposed KSA 65-3415(f), Funding of Agricultural Pesticide Collection Programs

Deffenbaugh Industries questions whether the solid waste management fund should be utilized to address an issue that is more closely related to, and most appropriately funded by, the agricultural chemicals industry. Also, it is important to keep in mind that there are extensive current efforts by the U.S. EPA under the authority of the Federal Insecticide Fungicide and Rodenticide Act (FIFRA) to develop standards for the safe handling and disposal of pesticides and pesticide containers³. Farmers have traditionally been exempt from hazardous waste management regulations when disposing of their pesticides on their own land⁴, not when disposing of pesticides in municipal solid waste landfills. Clearly, the use and ultimate disposal of pesticides pose unique risks to the environment, but we feel that the costs associated with managing those risks should be the burden of the agricultural chemicals industry, not the solid waste industry. Perhaps the goal of reduced risk from disposal of pesticides can best be achieved through product stewardship efforts of that industry, or through taxes on the sale of those unique chemicals.

Proposed KSA 65-3415(g), Funding of Collection Programs for Hazardous Waste from Exempt Small Quantity Generators

Deffenbaugh Industries questions whether significant environmental benefit would be achieved through expenditure of the solid waste fund to capture small exempt quantities of hazardous waste. It is important to recognize that Kansas has one of the most stringent "small quantity generator" rules in the nation. The U.S. EPA, and most states, exempt from regulation those hazardous waste generators that produce less than 100 Kg (220 lbs) of hazardous waste per calendar month. The hazardous waste from such "conditionally exempt small quantity

³ "Pesticide Management and Disposal", 58 FR 26856, 5/11/93; and "Pesticide Management and Disposal: Standards for Pesticide Containers and Containment", 59 FR 6712, 2/11/94 (ATTACHMENT A)

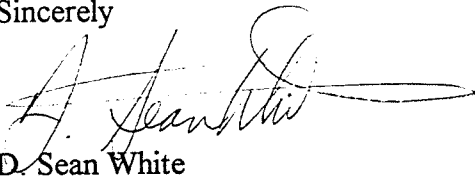
⁴ 40 CFR §262.70 (ATTACHMENT B)

generators" can be disposed of in municipal solid waste landfills⁵. Kansas on the other hand, has established the exemption level for small generators at 25 Kg (55 lbs) per calendar month⁶. Simply by establishing an exemption level so low, it is arguable that Kansas has reduced significantly the amount of hazardous waste potentially disposed of in landfills. If the state should embark upon a program to collect conditionally exempt small quantities of hazardous waste, Deffenbaugh Industries predicts that the costs of such a program would be staggering. It is also important to keep in mind that the recently implemented Subtitle D regulations (e.g. design and operating criteria) are specifically designed to address and reduce the risks associated with disposal of conditionally exempt quantities of hazardous waste and household hazardous waste⁷.

In conclusion, we strongly encourage the Legislature not only to reject House Bill 2036, but also to consider a significant reduction in the tipping fee. A reduction in the tipping fee would allow the solid waste management fund to continue to support the efforts of KDHE, while at the same time offer relief to solid waste management companies in Kansas.

We appreciate the opportunity to present Deffenbaugh Industries' position on this important issue. I would be more than happy to entertain any questions that the committee may have.

Sincerely



D. Sean White

⁵ 40 CFR §261.5 (ATTACHMENT C)

⁶ K.A.R. 28-31-2 (ATTACHMENT D)

⁷ Preamble discussion to proposed Subtitle D landfill regulations, 53 FR 39319, August 30, 1988 (ATTACHMENT E)

ATTACHMENT A

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 2446.

Agency Contact: John MacDonald, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 7506C, Washington, DC 20460, 703 305-7370

RIN: 2070-AB75

3929. REPORTING REQUIREMENTS FOR RISK/BENEFIT INFORMATION (REVISION)

Legal Authority: 7 USC 136d/FIFRA6

CFR Citation: 40 CFR 153; 40 CFR 159

Legal Deadline: None

Abstract: Section 6(a)(2) of FIFRA requires pesticide registrants to report to EPA additional factual information regarding unreasonable adverse effects of their products. By statutory definition, "unreasonable risk" includes risk and benefit information. In 1992 EPA proposed to revise its 1979 enforcement policy on section 6(a)(2) by expanding upon the types of information which must be reported. This final rule includes modifications to the 1992 proposals made by EPA in response to comments received on the proposed rule.

Timetable:

Action	Date	FR Cite
Final Action	08/23/78	43 FR 37611
Final Action	07/12/79	44 FR 40716
Final Action Codified	09/20/85	50 FR 38115
NPRM	09/24/92	57 FR 44290
NPRM Comment	12/23/92	
Final Action	10/00/94	
Final Action	12/00/94	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2338.

Agency Contact: James V. Roelofs, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 7501C, Washington, DC 20460, 703 305-7102

RIN: 2070-AB50

3930. POLICY OR PROCEDURES FOR NOTIFICATION TO THE AGENCY OF STORED PESTICIDES WITH CANCELLED OR SUSPENDED REGISTRATION

Legal Authority: 7 USC 136/FIFRA 6

CFR Citation: 40 CFR 168

Legal Deadline: None

Abstract: This policy will clarify the requirements of section 6(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The policy will provide procedures for certain persons who possess cancelled or suspended pesticides to notify the EPA and State and local officials of (1) such possessions; (2) the quantity possessed; and (3) the place the pesticide is stored.

Timetable:

Action	Date	FR Cite
NPRM	03/28/91	56 FR 13042
Final Action	10/00/94	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: SAN No. 2720.

Agency Contact: David Stangel, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, SE., Washington, DC 20460, 703 308-8295

RIN: 2070-AC08

3931. CLASSIFICATION OF CERTAIN PESTICIDES FOR RESTRICTED USE DUE TO GROUNDWATER CONCERNS

Legal Authority: 7 USC 136a(d); 136i(e); 136j

CFR Citation: 40 CFR 152.170

Legal Deadline: None

Abstract: This rule will apply previously established criteria (see RIN 2070-AB60) to select pesticides for restricted use classification (RU) due to ground-water concerns. Once promulgated, classified pesticides will be restricted to use by trained and certified operators.

Timetable:

Action	Date	FR Cite
NPRM	05/31/91	56 FR 22076
Final Action	05/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 2351.

Agency Contact: Arden Calvert, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 7501C, Washington, DC 20460, 703 305-7099

RIN: 2070-AC33

3932. REVISION TO CROP GROUPING REGULATIONS

Legal Authority: 21 USC 345a,371

CFR Citation: 40 CFR 180

Legal Deadline: None

Abstract: The current crop grouping regulations allow establishment of pesticide tolerances for multiple related crops based upon data for a representative set of crops. EPA has published a proposal to revise the crop grouping regulations by providing additional options for crop grouping. These revisions would promote greater utilization of crop grouping for tolerance-setting purposes. Revisions to the crop grouping scheme that would increase its utilization will reduce the regulatory burden associated with residue data development in support of pesticide tolerances and registration.

Timetable:

Action	Date	FR Cite
NPRM	08/25/93	58 FR 44990
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3141.

Agency Contact: Hoyt Jamerson, EPA, Office of Pesticide Program, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 401 M St. SW., Washington, DC 20460, 7505w, 703 308-8783

RIN: 2070-AC52

3933. PESTICIDE MANAGEMENT AND DISPOSAL

Legal Authority: 7 USC 136 et seq

CFR Citation: 40 CFR 165

Legal Deadline: None

Abstract: This action develops procedures for mandatory and voluntary recall actions under section 19(b) of FIFRA and would establish criteria for acceptable storage and

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Final Rule Stage

disposal plans which registrants may submit to this Agency to become eligible for reimbursement of storage costs. This action establishes procedures for indemnification of owners of suspended and cancelled pesticides for disposal.

Timetable:

Action	Date	FR Cite
NPRM	05/05/93	58 FR 26856
Final Action	12/00/94	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3432.

Agency Contact: David Stangel, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 2211w, Washington DC 20460, 703 308-8295

RIN: 2070-AC81

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Completed Actions

3934. MICROBIAL PESTICIDES; EXPERIMENTAL USE PERMITS AND NOTIFICATIONS

CFR Citation: 40 CFR 172

Completed:

Reason	Date	FR Cite
Final Action	09/01/94	59 FR 45600

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Agency Contact: Ev Byington, 703 305-6307

RIN: 2070-AB77

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Toxic Substances Control Act (TSCA)

Proposed Rule Stage

3935. HAZARDOUS AIR POLLUTANTS TEST RULE

Legal Authority: 15 USC 2603;/TSCA 4; 42 USC 7412, 7403;/CAA 112 & 103

CFR Citation: 40 CFR 789 to 795

Legal Deadline: None

Section 112 of the CAA indirectly imposes deadlines on this test rule, inasmuch as the test data is needed to carry out programs and activities that have statutory deadlines.

Abstract: A multi-chemical endpoint test rule will require the testing of many chemicals for a specific effect or endpoint. This type of rule is an alternative to single chemical rules which require testing of one chemical for many effects. The multi-chemical endpoint rule approach will obtain testing while conserving Agency resources. EPA is proposing health effects testing under TSCA section 4 in support of programs and activities required under section 112 of the Clean Air Act (CAA), governing Hazardous Air Pollutants (HAPs). Section 112 of the CAA directs EPA to determine the risk to health and the environment remaining after application of a technology-based standard to major and area sources. Section 112 also sets forth a mechanism for revising and modifying the statutory list of 189 HAPs under section 112(b),

requirements for an accidental release control program, requirements for an urban air toxics program, a mechanism for ranking of hazards for offsets, and requirements for Great Waters studies. In order to implement these and other programs and requirements under section 112, EPA must identify the health and (cont)

Timetable:

Action	Date	FR Cite
NPRM	12/00/94	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3504.

ABSTRACT CONT: environmental effects of potential concern from exposure to HAPs, ascertain the minimum data needed to adequately characterize those health and environmental effects, and assess the risks posed by HAPs. In addition, under section 103(d), EPA is required to conduct a research program on the short- and long-term effects of air pollutants on human health.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (7405), Washington, DC 20460, 202 260-8130

RIN: 2070-AC76

3936. TSCA CHEMICAL USE INVENTORY RULE

Regulatory Plan: This entry is Seq. No. 141 in Part II of this issue of the Federal Register.

RIN: 2070-AC61

3937. FACILITY COVERAGE AMENDMENT; TOXIC CHEMICAL RELEASE REPORTING; COMMUNITY RIGHT-TO-KNOW

Legal Authority: 42 USC 11013 EPCRA 313; 42 USC 11023; 42 USC 11048; 42 USC 11076

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: Action is being taken in order to expand the reporting universe of the Toxics Release Inventory (TRI), pursuant to authority under the Emergency Planning and Community Right-to-Know Act (EPCRA) section 313. Additional industry sectors, as defined by SIC code, would be subject to the same reporting requirements as are currently reporting facilities. This increase in the number of reporting facilities will significantly enhance the public's right-to-know about toxic chemicals released in their communities. The additional data included in the TRI will provide a more comprehensive portrait of toxic

EPA—FIFRA

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2687.

Agency Contact: Amy Rispin, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 7501c, Washington, DC 20460, 703 305-5989

RIN: 2070-AC12

3915. MICROBIOLOGICAL WATER PURIFIERS; LABELING CLAIMS

Legal Authority: 7 USC 136a/FIFRA 3; 7 USC 136w/FIFRA 25

CFR Citation: 40 CFR 156.10(a)(6)

Legal Deadline: None

Abstract: This rule will establish standards for pesticides or devices claiming to be drinking water "purifiers" and requirements for the use of any derivation of the terminology "purify/purification" in labeling or advertising. Only products able to meet the standard for microbiological purification would be permitted to be labeled or advertised as "purifiers." Products claimed as purifiers which do not meet the microbiological purification standard would be considered in violation of FIFRA for false or misleading claims.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3019.

Agency Contact: D. Jean Jenkins, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 7505C, Washington, DC 20460, 703 305-7443

RIN: 2070-AC43

3916. PESTICIDES AND GROUNDWATER STATE MANAGEMENT PLAN REGULATION

Legal Authority: 7 USC 136a(d); 7 USC 136i(e); 7 USC 136j

CFR Citation: 40 CFR 152.170

Legal Deadline: None

Abstract: The regulation will designate certain individual pesticides to be

subject to EPA approved State Management Plans (SMPs) as a condition of legal sale and use. This regulation would establish SMPs as a new regulatory requirement for those pesticides; absent an EPA-approved state plan specifying risk-reduction measures, use of the chemical would be prohibited. The rule would also specify procedures and deadlines for development, approval and implementation of SMPs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: SAN No. 3222.

Agency Contact: Arden Calvert, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 7501C, Washington, DC 20460, 703 305-7099

RIN: 2070-AC46

3917. PROCEDURES TO MAKE RESTRICTED USE PESTICIDES AVAILABLE TO NONCERTIFIED PERSONS FOR USE BY CERTIFIED APPLICATORS

Legal Authority: 7 USC 136i/FIFRA 11; 7 USC 136j/FIFRA 12; 7 USC 136w/FIFRA 25

CFR Citation: 40 CFR 171

Legal Deadline: None

Abstract: This action is intended to develop regulations pursuant to FIFRA Section 12(a)(2)(F) to allow the sale of restricted use pesticides under certain circumstances to persons who are not certified applicators. Regulatory development will be coordinated with the review of State plans under FIFRA Section 11 to determine both need and compatibility with State authorities and programs.

Timetable:

Action	Date	FR Cite
NPRM	03/00/95	
Interim Final Rule	09/00/95	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2337.

Agency Contact: Robert Bielarski, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 7506C, Washington, DC 20460, 703 305-7371

RIN: 2070-AB48

3918. FIFRA BOOKS AND RECORDS OF PESTICIDE PRODUCTION AND DISTRIBUTION (REVISION)

Legal Authority: 7 USC 136f/FIFRA 8

CFR Citation: 40 CFR 169

Legal Deadline: None

Abstract: This action would amend the recordkeeping requirements for registrants and applicants for registration under FIFRA Section 8. It will also examine recordkeeping affected by the 1988 amendments to FIFRA and amend 40 CFR 169, as necessary.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2725.

Agency Contact: Steve Howie, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, SE., Washington, DC 20460 703 308-8383

RIN: 2070-AC07

3919. PESTICIDE MANAGEMENT AND DISPOSAL: STANDARDS FOR PESTICIDE CONTAINERS AND CONTAINMENT

Legal Authority: 7 USC 136q/FIFRA 1 7 USC 136a/FIFRA 3; 7 USC 136w/FIFRA 25

CFR Citation: 40 CFR 165; 40 CFR 15

Legal Deadline: Final, Statutory, December 24, 1991.

Abstract: The 1988 amendments to FIFRA section 19 significantly expanded and strengthened EPA authority to regulate the management of pesticide and their containers, including storage transportation and disposal. As proposed this rule would establish standards for removal of pesticides

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from containers and for rinsing containers; facilitate the safe use, refill, reuse, and disposal of pesticide containers by establishing standards for container design, labeling and refilling; and establish requirements for containment of stationary bulk containers and for containment of pesticide dispensing areas.

Timetable:

Action	Date	FR Cite
NPRM (Container Design, Residue Removal, Bulk Containment)	02/11/94	59 FR 6712
NPRM (Storage, Disposal, Mixer/Loader, and Transportation)	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2659.

Agency Contact: Paul F. Schuda, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 7507C, Washington, DC 20460, 703 305-7695

RIN: 2070-AB95

3920. CHILD-RESISTANT PACKAGING REGULATIONS (REVISION)

Legal Authority: 7 USC 136/FIFRA 25
CFR Citation: 40 CFR 157

Legal Deadline: None
EPA regulations should be concurrent with CPSC.

Abstract: These regulations will revise current Child Resistant Packaging regulations (CRP) to be consistent with CRP protocol testing revisions the CPSC is proposing in its regulations. Also, these regulations will discuss the implementation of these changes in terms of pesticide registrations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/94	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 2639.

Agency Contact: Rosalind L. Gross, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 7505W, Washington, DC 20460, 703 308-8354

RIN: 2070-AB96

3921. EXEMPTION OF STERILANT PESTICIDE PRODUCTS FROM REGULATION UNDER THE FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT (FIFRA)

Legal Authority: 7 USC 136w/FIFRA 25(b)

CFR Citation: 40 CFR 152.20

Legal Deadline: None

Abstract: Under FIFRA, EPA regulates antimicrobial products, including sterilants, used to control microorganisms on treated environmental surfaces. Specifically, EPA regulates all sterilant products typically used on invasive medical devices and other critical devices/surfaces. Under the Federal Food, Drug and Cosmetic Act (FFDCA), the Food and Drug Administration (FDA) has jurisdiction over chemical germicides used as sterilants for medical devices. FIFRA section 25(b) allows EPA to exempt from FIFRA a pesticide which is adequately regulated by another federal agency. In accordance with a Memorandum of Understanding signed on June 4, 1993, and amended on June 20, 1994, EPA and FDA propose to eliminate the redundant regulation of these sterilants. EPA proposes to exempt from FIFRA regulation and to transfer sole jurisdiction over these sterilants to FDA.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3318.

Agency Contact: Michele E. Wingfield, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 7505c, Washington DC 20460, 703 305-7470

RIN: 2070-AC58

3922. REGULATORY RELIEF FOR LOW-RISK PESTICIDES

Legal Authority: 7 USC 136w(b)/FIFRA 25(b)

CFR Citation: 40 CFR 152

Legal Deadline: None

Abstract: Pesticides which are substances or mixtures intended to control or mitigate pests, are regulated under FIFRA and are required to be registered prior to sale or distribution in the United States. human health and the environment. Some pesticides may also be widely used in foods or for other non-pesticidal purposes, e.g., natural cedar wood. These pesticides are considered innocuous or are otherwise of a character that do not require registration. EPA proposes to exempt appropriate pesticides (to be cited in the proposal) from registration and develop criteria for future pesticides that may qualify for exemption from FIFRA requirements.

Timetable:

- List of Other Pesticides and Criteria**
- NPRM 10/00/94
- Final Action 02/00/95
- Natural Cedar Pesticides**
- NPRM 08/11/93 (58 FR 42711)
- Final Action 01/19/94 (59 FR 2748)

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3320.

Agency Contact: Dick Mountfort, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 7505c, Washington, DC 204460, 703 305-5446

RIN: 2070-AC67

ATTACHMENT B

form, then the manifest form may be obtained from any source.

[51 FR 28685, Aug. 8, 1986]

Subpart G—Farmers

§ 262.70 Farmers.

A farmer disposing of waste pesticides from his own use which are hazardous wastes is not required to comply with the standards in this part or other standards in 40 CFR parts 264, 265, 268, or 270 for those wastes provided he triple rinses each emptied pesticide container in accordance with § 261.7(b)(3) and disposes of the pesticide residues on his own farm in a manner consistent with the disposal instructions on the pesticide label.

[53 FR 27165, July 19, 1988]

APPENDIX TO PART 262—UNIFORM HAZARDOUS WASTE MANIFEST AND INSTRUCTIONS (EPA FORMS 8700-22 AND 8700-22A AND THEIR INSTRUCTIONS)

U.S. EPA Form 8700-22

Read all instructions before completing this form.

This form has been designed for use on a 12-pitch (elite) typewriter; a firm point pen may also be used—press down hard.

Federal regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage, and disposal facilities to use this form (8700-22) and, if necessary, the continuation sheet (Form 8700-22A) for both inter and intrastate transportation.

Federal regulations also require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage and disposal facilities to complete the following information:

* * * * *

pounds) of debris
and contaminated materials from the clean up of spillage of acutely hazardous waste.

(f) **Differences between state and federal definitions.** When the same word is defined both in the Kansas statutes or these regulations and in any federal regulation adopted by reference in these rules and regulations and the definitions are not identical, the definition prescribed in the Kansas statutes or regulations shall control. (Authorized by and implementing K.S.A. 65-3431; effective E-82-20, Nov. 4, 1981; effective May 1, 1982; amended, T-84-5, Feb. 10, 1983; amended May 1, 1984; amended, T-85-42, Dec. 19, 1984; amended May 1, 1985, amended, T-86-32, Sept. 24, 1985; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended Feb. 5, 1990; amended April 25, 1994.)

28-31-3. Identification of characteristics and listing of hazardous waste.

(a) **Incorporation.** 40 CFR Part 261, as in effect on July 1, 1992, is adopted by reference, except for section 261.5.

(b) **Rulemaking petitions.** 40 CFR Part 260 subpart C except for sections 260.21 and 260.22, as in effect on July 1, 1992 is adopted by reference. A re-evaluation of a petition that has previously been approved may be conducted by the department at anytime for just cause.

(Authorized by and implementing K.S.A. 65-3431; effective E-82-20, Nov. 4, 1981; effective May 1, 1982; amended, T-84-5, Feb. 10, 1983; amended May 1, 1984; amended, T-85-42, Dec. 19, 1984; amended May 1, 1985; amended, T-86-32, Sept. 24, 1985; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended Feb. 5, 1990; amended April 25, 1994.)

* **28-31-4. Standards for generators of hazardous waste.** (a) **Purpose, scope and applicability.** All generators of hazardous waste and any person who imports hazardous waste into Kansas shall comply with the standards of this regulation. In addition, each owner or operator of a treatment, storage or disposal facility who initiates a shipment of hazardous waste shall comply with the standards of this regulation.

(b) **Hazardous waste determination.** Any person who generates a solid waste, as defined by 40 CFR 261.2, as in effect on July 1, 1992, shall determine if that waste is a hazardous waste using the following methods.

(1) The person shall first determine if the waste is excluded from regulation under 40 CFR 261.4, as in effect on July 1, 1992.

(2) If it is not excluded under paragraph (1), the person shall next determine if the waste is listed as a hazardous waste in 40 CFR 261 subpart D, as in effect on July 1, 1992.

(3) If the waste is not listed as a hazardous waste in 40 CFR 261 subpart D, as in effect on July 1, 1992, the person shall determine whether the waste is identified in 40 CFR 261 subpart C, as in effect on July 1, 1992 by either:

(A) Submitting the waste for testing according to the methods in 40 CFR 261 subpart C, as in effect on July 1, 1992, by a laboratory which is certified for such analyses by the department; or

(B) applying knowledge of the hazardous characteristics of the waste in light of materials or processes used.

(4) If the waste is determined to be hazardous, the generator shall refer to 40 CFR 261,

or non-hazardous materials is a satisfactory treatment method which results in the mixture no longer exhibiting any characteristic of hazardous waste.

(ii) Upon submittal of an acceptable demonstration, written approval indicating that the resulting mixture is not regulated as hazardous waste may be granted by the department.

(B) For listed hazardous waste, as defined by 40 CFR 261 subpart D, as in effect on July 1, 1992, the resulting mixture shall remain regulated as a listed hazardous waste unless it is listed solely because it exhibits one or more characteristics of hazardous waste identified in 40 CFR 261 subpart C, as in effect on July 1, 1992, and the resulting mixture no longer exhibits these characteristics.

(3) Hazardous waste which is mixed with used oil shall be regulated as follows:

(A) If hazardous waste from a small quantity generator is mixed with used oil, the resulting mixture shall be subject to 40 CFR 266 subpart E, as in effect on July 1, 1992, if it is destined to be burned for energy recovery. Any material produced from such a mixture by processing, blending, or other treatment shall also be subject to 40 CFR 266 subpart E, as in effect on July 1, 1992, if it is destined to be burned for energy recovery.

(B) If a Kansas or EPA generator mixes a characteristic or listed hazardous waste with used oil, the resulting mixture shall remain identified as a characteristic or listed hazardous waste.

(4) Small quantity generators may mix their hazardous waste with used oil, non-hazardous waste or other material and remain subject to the requirements of subsection (m) even though the resultant mixture exceeds the quantity limitations of subsection (m), unless the mixture meets any of the characteristics of hazardous waste identified in 40 CFR 261, as in effect on July 1, 1992.

(q) **Exports of hazardous waste.** 40 CFR 262 subpart E, as in effect on July 1, 1992, is adopted by reference.

(r) **Imports of hazardous waste.** 40 CFR 262 subpart F, as in effect on July 1, 1992, is adopted by reference.

(s) **Farmers.** 40 CFR 262 subpart G, as in effect on July 1, 1992, is adopted by reference. (Authorized by and implementing K.S.A. 65-3431; effective, E-82-20, Nov. 4, 1981; effective May 1, 1982, amended, T-84-5, Feb. 10, 1983; amended May 1, 1984; amended, T-86-32, Sept. 24, 1985; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended Feb. 5, 1990; amended April 25, 1994.)

28-31-5. Underground burial of hazardous waste prohibited. (a) **Exception** requests to the prohibition against underground burial of hazardous waste. Any person may petition the secretary to be granted an exception to the prohibition against underground burial of hazardous waste. Each request shall include the following:

- (1) A complete chemical and physical analysis of the waste;
- (2) a list and description of all technologically feasible methods which could be considered to treat, store or dispose of the waste;
- (3) for each method described in paragraph (2), an economic analysis based upon a 30-year time period. The analysis shall determine the costs associated with treating, storing, disposing and monitoring the waste during this time period; and
- (4) a demonstration that no economically reasonable or technologically feasible

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(11) The facility notifies the Regional Administrator, or State Director (if located in an authorized State), by letter when the facility is no longer planning to conduct any treatability studies at the site.

(Approved by the Office of Management and Budget under control number 2050-0088)

[45 FR 33119, May 19, 1980]

EDITORIAL NOTE: FOR FEDERAL REGISTER citations affecting § 261.4, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 261.5 Special requirements for hazardous waste generated by conditionally exempt small quantity generators.

(a) A generator is a conditionally exempt small quantity generator in a calendar month if he generates no more than 100 kilograms of hazardous waste in that month.

(b) Except for those wastes identified in paragraphs (e), (f), (g), and (j) of this section, a conditionally exempt small quantity generator's hazardous wastes are not subject to regulation under parts 262 through 266, 268, and parts 270 and 124 of this chapter, and the notification requirements of section 3010 of RCRA, provided the generator complies with the requirements of paragraphs (f), (g), and (j) of this section.

(c) Hazardous waste that is not subject to regulation or that is subject only to § 262.11, § 262.12, § 262.40(c), and § 262.41 is not included in the quantity determinations of this part and parts 262 through 266, 268, and 270 and is not subject to any of the requirements of those parts. Hazardous waste that is subject to the requirements of § 261.6 (b) and (c) and subparts C, D, and F of part 266 is included in the quantity determination of this part and is subject to the requirements of parts 262 through 266 and 270.

(d) In determining the quantity of hazardous waste generated, a generator need not include:

(1) Hazardous waste when it is removed from on-site storage; or

(2) Hazardous waste produced by on-site treatment (including reclamation) of his hazardous waste, so long as the

hazardous waste that is treated was counted once; or

(3) Spent materials that are generated, reclaimed, and subsequently reused on-site, so long as such spent materials have been counted once.

(e) If a generator generates acute hazardous waste in a calendar month in quantities greater than set forth below, all quantities of that acute hazardous waste are subject to full regulation under parts 262 through 266, 268, and parts 270 and 124 of this chapter, and the notification requirements of section 3010 of RCRA:

(1) A total of one kilogram of acute hazardous wastes listed in §§ 261.31, 261.32, or 261.33(e).

(2) A total of 100 kilograms of any residue or contaminated soil, waste, or other debris resulting from the clean-up of a spill, into or on any land or water, of any acute hazardous wastes listed in §§ 261.31, 261.32, or 261.33(e).

[Comment: "Full regulation" means those regulations applicable to generators of greater than 1,000 kg of non-acutely hazardous waste in a calendar month.]

(f) In order for acute hazardous wastes generated by a generator of acute hazardous wastes in quantities equal to or less than those set forth in paragraph (e)(1) or (2) of this section to be excluded from full regulation under this section, the generator must comply with the following requirements:

(1) Section 262.11 of this chapter;

(2) The generator may accumulate acute hazardous waste on-site. If he accumulates at any time acute hazardous wastes in quantities greater than those set forth in paragraph (e)(1) or (e)(2) of this section, all of those accumulated wastes are subject to regulation under parts 262 through 266, 268, and parts 270 and 124 of this chapter, and the applicable notification requirements of section 3010 of RCRA. The time period of § 262.34(a) of this chapter, for accumulation of wastes on-site, begins when the accumulated wastes exceed the applicable exclusion limit;

(3) A conditionally exempt small quantity generator may either treat or dispose of his acute hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage or dis-

posal facility, either of which, if located in the U.S., is:

(i) Permitted under part 270 of this chapter;

(ii) In interim status under parts 270 and 265 of this chapter;

(iii) Authorized to manage hazardous waste by a State with a hazardous waste management program approved under part 271 of this chapter;

(iv) Permitted, licensed, or registered by a State to manage municipal or industrial solid waste; or

(v) A facility which:

(A) Beneficially uses or reuses, or legitimately recycles or reclaims its waste; or

(B) Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation.

(g) In order for hazardous waste generated by a conditionally exempt small quantity generator in quantities of less than 100 kilograms of hazardous waste during a calendar month to be excluded from full regulation under this section, the generator must comply with the following requirements:

(1) Section 262.11 of this chapter;

(2) The conditionally exempt small quantity generator may accumulate hazardous waste on-site. If he accumulates at any time more than a total of 1000 kilograms of his hazardous wastes, all of those accumulated wastes are subject to regulation under the special provisions of part 262 applicable to generators of between 100 kg and 1000 kg of hazardous waste in a calendar month as well as the requirements of parts 263 through 266, 268, and parts 270 and 124 of this chapter, and the applicable notification requirements of section 3010 of RCRA. The time period of § 262.34(d) for accumulation of wastes on-site begins for a conditionally exempt small quantity generator when the accumulated wastes exceed 1000 kilograms;

(3) A conditionally exempt small quantity generator may either treat or dispose of his hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage or disposal facility, either of which, if located in the U.S., is:

(i) Permitted under part 270 of this chapter;

(ii) In interim status under parts 270 and 265 of this chapter;

(iii) Authorized to manage hazardous waste by a State with a hazardous waste management program approved under part 271 of this chapter;

(iv) Permitted, licensed, or registered by a State to manage municipal or industrial solid waste; or

(v) A facility which:

(A) Beneficially uses or reuses, or legitimately recycles or reclaims its waste; or

(B) Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation.

(h) Hazardous waste subject to the reduced requirements of this section may be mixed with non-hazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this section, unless the mixture meets any of the characteristics of hazardous waste identified in subpart C.

(i) If any person mixes a solid waste with a hazardous waste that exceeds a quantity exclusion level of this section, the mixture is subject to full regulation.

(j) If a conditionally exempt small quantity generator's wastes are mixed with used oil, the mixture is subject to subpart E of part 266 of this chapter if it is destined to be burned for energy recovery. Any material produced from such a mixture by processing, blending, or other treatment is also so regulated if it is destined to be burned for energy recovery.

[51 FR 10174, Mar. 24, 1986, as amended at 51 FR 28682, Aug. 8, 1986; 51 FR 40637, Nov. 7, 1986; 53 FR 27163, July 19, 1988]

§ 261.6 Requirements for recyclable materials.

(a)(1) Hazardous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of paragraphs (b) and (c) of this section, except for the materials listed in paragraphs (a)(2) and (a)(3) of this section. Hazardous wastes that are recycled will be known as "recyclable materials."

(2) The following recyclable materials are not subject to the requirements

ATTACHMENT D

**Article 31.-HAZARDOUS WASTE
MANAGEMENT STANDARDS AND REGULATIONS**

28-31-1. General provisions. (a) Any reference in these rules and regulations to standards, procedures, or requirements of 40 CFR Parts 124, 260, 261, 262, 263, 264, 265, 266, 268, or 270, as in effect on July 1, 1992, and 49 CFR Parts 172, 173, 178 or 179, as in effect on October 1, 1992, inclusive shall constitute a full adoption by reference of the part, subpart, and paragraph so referenced, including any notes and appendices associated therewith, unless otherwise specifically stated in these rules and regulations.

(b) When used in any provision adopted from 40 CFR Parts 124, 260, 261, 262, 263, 264, 265, 266, 268, or 270, as in effect on July 1, 1992, inclusive, references to "the United States" shall be replaced with "the state of Kansas", "environmental protection agency" shall be replaced with the "Kansas department of health and environment", "administrator" or "regional administrator" shall be replaced with the "secretary" and "Federal Register" shall be replaced with the "Kansas Register". (Authorized by and implementing K.S.A. 65-3431; effective E-82-20, Nov. 4, 1981; effective May 1, 1982; amended, T-86-32, Sept. 24, 1985; amended May 1, 1986; amended May 1, 1987, amended May 1, 1988; amended Feb. 5, 1990; amended April 25, 1994.)

28-31-2. Definitions. (a) **Incorporation.** 40 CFR 260 subpart B, as in effect on July 1, 1992, is adopted by reference.

(b) **"Disposal authorization"** means approval from the secretary to dispose of hazardous waste in Kansas.

(c) **"EPA generator"** means any person who meets any of the following conditions:

(1) Generates in any single calendar month or accumulates at any time 1,000 kilograms (2,200 pounds) or more of hazardous waste;

(2) generates in any single calendar month or accumulates at any time 1 kilogram (2.2 pounds) of acutely hazardous waste; or

(3) generates or accumulates at any time 25 kilograms (55 pounds) or more of debris and contaminated materials from the clean up of spillage of acutely hazardous waste.

* (d) **"Kansas generator"** means any person who meets all of the following conditions:

(1) Generates 25 kilograms (55 pounds) or more of hazardous waste and less than 1,000 kilograms (2,200 pounds) in any single calendar month;

(2) accumulates at any time no more than 1,000 kilograms (2,200 pounds) of hazardous waste or 1 kilogram (2.2 pounds) of acutely hazardous waste; and

(3) generates or accumulates at any time no more than 25 kilograms (55 pounds) of debris and contaminated materials from the clean up of spillage of acutely hazardous waste.

* (e) **"Small quantity generator"** means any person who meets all of the following conditions:

(1) Generates less than 25 kilograms (55 pounds) of hazardous waste, or less than 1 kilogram (2.2 pounds) of acutely hazardous waste in any single calendar month; and

(2) accumulates at any time less than 1,000 kilograms (2,200 pounds) of hazardous waste or 1 kilogram (2.2 pounds) of acutely hazardous waste, or less than 25 kilograms (55

pounds) of debris

and contaminated materials from the clean up of spillage of acutely hazardous waste.

(f) **Differences between state and federal definitions.** When the same word is defined both in the Kansas statutes or these regulations and in any federal regulation adopted by reference in these rules and regulations and the definitions are not identical, the definition prescribed in the Kansas statutes or regulations shall control. (Authorized by and implementing K.S.A. 65-3431; effective E-82-20, Nov. 4, 1981; effective May 1, 1982; amended, T-84-5, Feb. 10, 1983; amended May 1, 1984; amended, T-85-42, Dec. 19, 1984; amended May 1, 1985, amended, T-86-32, Sept. 24, 1985; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended Feb. 5, 1990; amended April 25, 1994.)

28-31-3. Identification of characteristics and listing of hazardous waste.

(a) **Incorporation.** 40 CFR Part 261, as in effect on July 1, 1992, is adopted by reference, except for section 261.5.

(b) **Rulemaking petitions.** 40 CFR Part 260 subpart C except for sections 260.21 and 260.22, as in effect on July 1, 1992 is adopted by reference. A re-evaluation of a petition that has previously been approved may be conducted by the department at anytime for just cause.

(Authorized by and implementing K.S.A. 65-3431; effective E-82-20, Nov. 4, 1981; effective May 1, 1982; amended, T-84-5, Feb. 10, 1983; amended May 1, 1984; amended, T-85-42, Dec. 19, 1984; amended May 1, 1985; amended, T-86-32, Sept. 24, 1985; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended Feb. 5, 1990; amended April 25, 1994.)

28-31-4. Standards for generators of hazardous waste. (a) **Purpose, scope and applicability.** All generators of hazardous waste and any person who imports hazardous waste into Kansas shall comply with the standards of this regulation. In addition, each owner or operator of a treatment, storage or disposal facility who initiates a shipment of hazardous waste shall comply with the standards of this regulation.

(b) **Hazardous waste determination.** Any person who generates a solid waste, as defined by 40 CFR 261.2, as in effect on July 1, 1992, shall determine if that waste is a hazardous waste using the following methods.

(1) The person shall first determine if the waste is excluded from regulation under 40 CFR 261.4, as in effect on July 1, 1992.

(2) If it is not excluded under paragraph (1), the person shall next determine if the waste is listed as a hazardous waste in 40 CFR 261 subpart D, as in effect on July 1, 1992.

(3) If the waste is not listed as a hazardous waste in 40 CFR 261 subpart D, as in effect on July 1, 1992, the person shall determine whether the waste is identified in 40 CFR 261 subpart C, as in effect on July 1, 1992 by either:

(A) Submitting the waste for testing according to the methods in 40 CFR 261 subpart C, as in effect on July 1, 1992, by a laboratory which is certified for such analyses by the department; or

(B) applying knowledge of the hazardous characteristics of the waste in light of materials or processes used.

(4) If the waste is determined to be hazardous, the generator shall refer to 40 CFR 261,

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examined in detail in EPA's Subtitle D study. In particular oil and gas wastes, utility wastes, and mining waste have been the subject of special studies conducted under section 8002 of RCRA and are being considered separately for rulemaking. In addition, the Agency currently is closely evaluating, in a separate effort, the characteristics and management practices for municipal waste combustion ash. Thus, the following discussion focuses on the characteristics of municipal solid waste, household hazardous waste, and small quantity generator hazardous waste, which are the primary waste streams addressed by today's proposal, as well as industrial solid waste.

In 1986, EPA sponsored a study entitled "Characterization of Municipal Solid Waste in the United States, 1960 to 2000" (Ref. 16). This study examined the quantity and composition of municipal solid wastes and forecast the characteristics of municipal solid wastes in the U.S. through the end of the century. The study found that, on average, more than 50 percent of municipal solid waste comprises paper, paperboard, and yard wastes; nearly 40 percent is metals, food wastes, and plastics; and the remaining 10 percent is wood, rubber, leather, textiles, and miscellaneous inorganics. Waste composition was found to be highly site-dependent and influenced significantly by climate, season, and socioeconomic factors. The study determined that approximately 158 million tons of municipal solid waste were generated in 1984 (of which more than 128 million tons were landfilled) and that the waste volume was expected to increase significantly by the end of the century. EPA recently completed an update to this study entitled, "Characterization of Municipal Solid Waste in the United States, 1960-2000 (Update 1988)" (Ref. 17). This update estimated that 158 million tons of municipal solid waste were generated in 1986.

In October 1986, EPA published "A Survey of Household Hazardous Wastes and Related Collection Programs," which analyzed the existing information on characteristics of HHW and reviewed HHW collection programs (Ref. 30). This study indicated that common discarded household products, such as household cleaners, automotive products, paint thinners, and pesticides, may contain hazardous wastes that are either listed under Subtitle C or exhibit one or more hazardous characteristics. Household wastes, including HHW, currently are exempt from regulation under Subtitle C of RCRA.

A third study, "Summary of Data on Industrial Nonhazardous Waste Disposal Practices," compiled available data on industrial solid waste characteristics and land disposal practices in 22 major manufacturing industries (Ref. 29). This study estimated that roughly 390 million metric tons of industrial nonhazardous waste are generated by these industries each year, that 35 percent of these wastes are managed on site, and that 75 percent of these wastes are generated by four industries: Iron and steel, electric power generation, industrial inorganic chemicals, and plastics and resins. Additional information on industrial nonhazardous waste quantities was provided by the Industrial Facility Screening Survey (Ref. 35), which estimated that approximately 7.8 billion tons of industrial nonhazardous wastes are generated each year. The survey is described in more detail below.

In 1985, EPA also conducted the "National Small Quantity Generator Survey," which characterized SQG waste volumes and disposal practices (Ref. 14). (For purposes of this study, SQGs were defined as those operations yielding less than 1,000 kilograms of hazardous waste per month.) This survey indicated that SQGs annually produce 940,000 metric tons of hazardous waste, consisting largely of lead-acid batteries, solvents, and strongly acidic or alkaline wastes. Furthermore, the survey found that solid waste disposal facilities, including MSWLFs, are the second most frequent destination for SQG hazardous waste shipped off site. EPA estimates that MSWLFs may receive from 5 percent to 16 percent of the SQG hazardous waste produced.

Existing information on MSWLF leachate, summarized in the background document on MSWLF leachate quality (Ref. 5), indicates that leachate from MSWLFs generally contain a wide range of inorganic and organic hazardous constituents in varying concentrations. Landfill gas comprises 50 to 60 percent methane, 40 to 50 percent carbon dioxide, and less than 1 percent hydrogen, oxygen, nitrogen, and other trace gases.

2. Review of Waste Disposal Practices

EPA conducted numerous studies to gather existing information on the numbers of Subtitle D facilities, facility design and operating characteristics, leachate and gas characteristics, and environmental and human health impacts associated with different types of facilities. EPA relied on several key sources of information on the number and design and operating characteristics

of Subtitle D facilities for this proposal. The first major source was an EPA mail survey of State solid waste management programs conducted in 1985 to gather information on State Subtitle D programs and facilities. The final report on the survey, "Census of State and Territorial Subtitle D Nonhazardous Waste Programs" (State Census), was issued in 1986 (Ref. 46).

The State Census indicated that there are about 227,000 Subtitle D disposal facilities, excluding waste piles (which were not included in the survey). This total includes approximately 16,500 landfills, 191,500 surface impoundments, and 19,000 land application units. In addition, the State Census indicated that there are more than 145,000 oil and gas waste or mining waste facilities, which EPA is addressing in separate efforts.

The States estimated that roughly 37,000 Subtitle D facilities (or 16 percent of all the facilities) may receive hazardous wastes from households or from small quantity generators. The States' estimate of 16,500 landfills included approximately 9,300 MSWLFs; however, the States subsequently identified errors in the numbers reported for MSWLFs and submitted revised figures. These revised State figures and the results from EPA's 1986 municipal solid waste landfill survey, which was a random sample of approximately 1,250 MSWLFs nationwide, indicate that there are a total of 8,034 MSWLFs (as of 1986). The MSWLF survey also provided detailed information on MSWLF design and operation.

In developing this rule, EPA also utilized the results of an industrial facility screening survey, which involved a telephone screening of nearly 30,000 establishments in 22 industries. The primary purpose of this screening survey was to provide EPA with basic information on the universe and characteristics of industrial solid waste disposal facilities.

In general, information on Subtitle D disposal facilities is limited, except for MSWLFs. While new MSWLFs are expected to be better located, designed, and operated, the following observations can be made regarding the universe of existing MSWLFs. According to the State Census, MSWLFs are distributed throughout the country, occurring in virtually every hydrogeologic setting, and generally concentrated near more populated areas; they are owned predominantly by local governments (80 percent), with the remainder owned by private entities (15 percent), the Federal Government (4 percent), and State governments (1 percent). Approximately 42 percent are

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CARE DECISIONS FOR 90'S

January 26, 1995

TESTIMONY FOR THE ENERGY AND NATURAL RESOURCES COMMITTEE

HB 2036

Chairman Holmes and Members of the Committee:

This is my first visit back to the Committee this year, and in a different role than I have been for the last six. I have been looking at HB 2036 since the beginning of the Session. I have had discussions with a number of people on it, and I have some concerns that I think need to be expressed at this point and a recommendation.

The changes in HB 2036 start on Line 28 and most of them are on the rest of that page after Line 28 on Page 2 and Page 3 down through Line 15 with additional changes scattered throughout the rest of the bill.

I want to draw to your attention the first four words of Section C, Section D, Section E, Section F, and Section G. In all those sections, the first four words are, "The Secretary is authorized". My first and major concern of this bill is this. The new Secretary of Health & Environment will arrive and have his first day of work February 6. Yet we are proceeding with a bill that changes the policy regarding fees and their use for solid waste programs without an opportunity for incoming Secretary O'Conner to review them.

This bill, in my opinion, changes the policy in regard to the use of tipping fees dramatically. I have some concerns about the percentages. I think we need to debate seriously the 75 percent and 90 percent figures.

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Do they indicate a local level of interest and involvement, or do they just lead a group of counties in a certain direction because they can get the money?

I would strongly support recycling efforts, but does this bill allow every county to set up a competing recycling project? What are the guarantees of coordination and of development of a cooperative state-wide or regional plan?

I believe there are enough issues that clearly involve policy that an incoming Secretary should have an opportunity to review it before the bill advances. Additionally, I believe the incoming Secretary should have a chance to testify before this Committee. Waiting until early February to advance this bill and allowing the Secretary to have that opportunity would seem reasonable and easily obtainable to me.

Thank you for your time. I will stand for questions.

A handwritten signature in black ink, appearing to read "Fred Gatlin". The signature is stylized with large, sweeping loops and a prominent initial "F".

Fred Gatlin

My name is Gail E. Revell and I am one of the founders of North Central Recycling, Inc. in Concordia, Cloud Co. Kansas. N.C. Recycling, Inc. was founded because of a need presented by the Volunteer Recyclers of the Resource Council. Many items they were taking on the first Saturday of the month were gradually being deleted by the local business they were taking those recyclable items to. They did not want to stop receiving those items because the residents and businesses were responding so well in taking them out of their waste stream.

North central recycling, Inc. is a non-profit corporation in Kansas and Federal 501 (c)(3). It's mission is: To educate and promote public awareness of the alternatives that will make the environment a safe place to live and to provide a service of waste reduction through recycling to the rural communities and people of the north central Kansas region.

When the recycling market dollars were at nothing or very low, N.C. Recycling still received the recyclable items, when no one else in the area would take them. Many new seeds were planted in regards to recycling, some died quickly with the lack of nurturing, some were stolen like a thief in the night, but for the past two years, N.C. Recycling continued to grow during the hard times and the good times, a venture of trial and error, to work for providing a service of waste reduction through recycling to the communities and people of Kansas.

N.C. Recycling, Inc. has received a lot of assistance, knowledge wise from KDHE and Dept. of Commerce. The Department of Commerce Waste and Recycling section, has been very important to use for information, services, what is available and since they are the ones people orientated of the problems of the people, other than businesses, as BIRP is, assisted with understanding and information of recycling and waste reduction in Kansas. Personally it was very frustrating in setting up the recycling center, due to non-county government support for waste reduction by recycling. I don't mean financially, but acknowledging reduction. There is a very ugly "silent wars" going on in many counties about "recycling".

With this in mind, I wish to express that KDHE needs to work with the Dept. of Commerce, not only to stay people orientated, but to get a understanding of needs, people wish to express. KDHE has done a wonderful job in working on a problem that was caused by so many of the local and county land-fills to close in the state of Kansas. House Bill No. 2026 will open many areas of needed expansion and financial grants for the sparsely populated sections of Kansas as well as the largely populated cities and metropolitan communities. I don't know what we would have been able to accomplish with out the help of the different department in KDHE as well as the Dept. of Commerce and Housing, Waste Management and Recycling. Together they are an asset for our state.

KDHE needs to develop technical relations for awareness of information needed with waste reduction in recycling. Work shops, public awareness, information and development as needed and should be provided as soon as possible.

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Commerce has a better working field for public concerns, each has a different degree of experts and together they make a harmony for Kansas of unity. Together they have made support available for those with out financial clout, to continue and know in the future it can only get better for development, education, data base of recycling and composting for the entire state.

Public education and motivation is badly needed in Kansas, I do not know what is available in the larger communities, but in the rural areas, and in my area, I have heard nothing. People need to be taught how to recycle and motivated to do it. This is as important as collecting and marketing the recyclables. A large variety of classroom activities need to be provided of recycling and waste management education. public education materials that are up with the times need to be available. And a location to use that education on needs to be available.

The Solid Waste Management Committees are good, if they include people who could set goal, and work on those goals. With out the education and full understand of the problem they had to address, we have "silent wars" among the people, towns and county. In Cloud Co. we have a trash hauler on the committee who complained that they did NOT want recycling, it would take their business away and they needed the \$\$\$. Also a scrap iron dealer, was against recycling, saying the county or committee needed to know just how much waste was going to the transfer station before recycling got started. A County commissioner, who got his way in setting a flat fee for all residents and businesses, no matter how much waste they generated. For what ever power these people had. The county and the solid waste problem is a mess. After the draft was made for the solid waste proposals, this committee thought they were done and could disband! The education in dealing with this is needed very badly.

Now, what good is it to provide education about waste reduction if there is no place to take the recyclables that one was "educated" about. What good does it do for private enterprises to try their best to help with the waste reduction, by education and setting up centers, when their county government does not recognize that need? How will they be able to go after any state grant funding, if their government does not recognize their need? I do not believe the state should supplement any recycling ventures, but I strongly encourage money to be made available by grants, to more than just county, city or region. The tipping fees are good the way they stand, in my opinion, for making money available. This would gradually decrease, I would hope, by the communities responding to waste reduction and areas made available for that reduction by community, city, town and private enterprises wither for profit or non profit, who have been working on waste reduction, in a large scale of recyclable items, for the residents and businesses with a record of their achievement.

When we started N.C. Recycling, not a penny was available and as any new venture, funding was searched for in being non-profit, since there was no other business we were under to financially carry the expenses in getting the recycling center going, this was over two years ago. We work with volunteers and the judicial system with community services, and at times there are four or five at the center trying to keep up with the recyclables that come in, to sort and prepare, the large variety of materials received. Presently, by a vote of the county commissioners, two to one, we have a contract to keep a few items out of the transfer station, paying a penny per pound on these few items, a maximum of 50 tons per month, for six months, this was signed Oct. 17, 1994, before this contract we were shipping out over 50 tons per month, commodities in dollar value of nothing or next to nothing. NOW, from out of the wood work, there are those who fought against what we were trying to do for the county, who opened their own recycling sites. Please don't get me wrong on this, competition is always good and was welcomed in lowering the tonnage shipped to the landfill and out of the earth.

I ask you to please make available KDH&E and the Department of Commerce to work together for the people. Please include grant funding for those groups and entities, other than just government, who have worked hard on the projects of waste reduction by recycling, Many of them are the educators for their communities, please keep that in mind, and they are not getting paid for doing that educating of waste reduction, the environment and our earth, to all walks of life.

I thank you for allowing me to speak on the needs our state has available in this House Bill No 2026. KDH&E allowed many people to participate in their suggestions for this new bill and it went very well. That involvement allowed the public and private businesses to express concern at one open forum. I feel KDH&E is doing the very best they can with what they have to work with.

I am unable to be there in person as I intended, we just had a 40 foot trailer broken into and baled recycle commodities were stolen I apologize as I looked forward for this opportunity a long time. Thank you.