

Approved: 4-4-97
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson David Corbin at 8:00 a.m. on March 20, 1997 in Room 254-E of the Capitol.

All members were present.

Committee staff present: Raney Gilliland, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
Lila McClaffin, Committee Secretary

Conferees appearing before the committee:

Bill Bider, Director, Bureau of Waste Management, Kansas Department Health & Environment (KDHE)
Mike Armstrong, Johnson County Water District #1
William Mitchell, Recyclers Association
Steve Kearney, Waste Management of Kansas, Inc.
Willie Martin, Director of Intergovernmental Relations, Sedgwick County, Kansas

Others attending: See attached list

HB 2219 - Concerning solid waste; relating to solid waste disposal areas exempt from certain requirements.

Chairperson Corbin called on Mr. Bider from Kansas Department of Health and Environment.

Bill Bider, Director, Bureau of Waste Management, KDHE, the department developed this bill to make the Kansas statutes consistent with federal law and regulations. The intent of the bill is to give KDHE the authority to establish and/or approve of alternate operating requirements at municipal solid waste landfills which meet the "small arid landfill" definition (Attachment 1). Responding to questions Mr. Bidder stated Western Counties Small Landfill Advisory Group were depending on this legislation, and the EPA agreed with the proposed legislation.

The hearing on **HB 2219** was closed.

HB 2226 - Concerning solid waste; amendments to the solid waste management act.

Fiscal note was distributed.

Bill Bider, Director, Bureau of Waste Management, KDHE, supported the bill, as it was developed by the department based upon a review of the statutes in light of recent developments in Kansas and across the country. His testimony list several important areas of change with a brief description of the purpose for each change (Attachment 2). Responding to questions Mr. Bider said **HB 2226** clarifies and updates the statutes.

Mike Armstrong, Water District #1, of Johnson County appeared as a proponent, and in particular in support of Section 2 of the bill, as it would expand and clarify the definition of a recyclable to include the beneficial reuse of water treatment residuals (Attachment 3).

Willie Martin, Director of Intergovernmental Relations, Sedgwick County, Kansas, supported **HB 2226** and especially permitting C&D's to accept cardboard which would reduce the waste stream into the Sedgwick County municipal landfill by 20-25% (Attachment 4).

William Mitchell, Recycler's Association, presented an article from the "American Metal Market" stating metal recyclers face definition dilemma. Mr. Mitchell said the definitions need to be refined, as materials that are non hazardous in one country may well be considered hazardous in another country (Attachment 5). He offered some amendments in Section 1 (e) line 38 before "materials", insert "market", page 3 (r) "Recyclable" in line 27, after "glass", "oil" should be inserted, on page 4 (x) "Industrial waste" waste oil filters should be redefined. If these amendments were adopted they would support the bill.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 254-E Statehouse, at 8:00 a.m. on March 20, 1997.

Steve Kearney, Waste Management of Kansas, Inc., asked that the language that expands the definition of construction demolition wastes be struck from HB 2226. (Attachment 6)

The hearing was closed.

The meeting adjourned at 9:00 a.m.

The next meeting is scheduled for March 21, 1997.

**SENATE ENERGY & NATURAL RESOURCES
COMMITTEE GUEST LIST**

DATE: 3-20-97

NAME	REPRESENTING
RONALD R. GOULD	WATER DISTRICT #4 OF JOHNSON COUNTY, KS.
MIKE ARMSTRONG	WATER DISTRICT No. 1
Chiquita Cornelius	KS. BIRP
Wanda Ann Smith	KOTHA
STEVE KEANEY	WMX
John BOTTENBERG	Duffenbaugh
Jim Alley	KBIA
Kellie Martin	Sedgewick County
Dana Helms	Western Resources



Department of Health and Environment

James J. O'Connell, Secretary

Testimony presented to

Senate Energy and Natural Resources Committee

by

The Kansas Department of Health and Environment

House Bill 2219

The Kansas Department of Health and Environment (KDHE) appreciates this opportunity to provide testimony in support of House Bill 2219. The department developed this bill to make the Kansas statutes consistent with federal law and regulations. The intent of the bill is to give KDHE the authority to establish and/or approve of alternate operating requirements at municipal solid waste landfills which meet the "small, arid landfill" definition. This group of landfills which currently number 33, are also referred to as "small exempt" landfills. The term "exempt" means the landfills are not required to satisfy federal standards related to the design and construction of liners, and leachate collection systems. All small arid landfills are operated by cities or counties and they are located west of the 25-inch rainfall line which runs from Jewell County to Barber County. A copy of a map showing the location of all Kansas landfills is attached.

Current law would require arid exempt landfills to comply with the same operating requirements as the "large and/or wet" landfills when the regulatory deadline of October 9, 1997 arrives. This provision was placed into law as part of House Bill 2457 in 1995 because at that time, the requirement was specified in federal regulations. However, last year Congress passed H.R. 2036 which provided this new flexibility for small landfills. Very recently, the U.S. EPA developed a draft federal regulation which would implement the change to federal law by giving states the flexibility to establish certain alternate operating requirements.

What are the areas of operating flexibility which would be allowed by this amendment? We presently believe there will be four areas in which small landfill operators will have the option of proposing alternative operating practices including: (1) recordkeeping; (2) landfill gas monitoring; (3) hazardous waste screening; and (4) daily cover over waste. These add to the regulatory flexibility which small exempt landfills already have related to groundwater monitoring.

If this legislation passes, KDHE will immediately move forward to change the landfill operating regulations to allow flexibility in these four areas. Because the regulation adoption process is a time consuming process, the new regulation may not be adopted before the applicability date of October 9, 1997. Nevertheless, as soon as the law is changed, KDHE will inform the affected cities and counties that alternate requirements will apply to their facilities and that their operations plans should be developed or finalized based upon that expectation. We do not want facilities to develop operating plans which need to be revised as soon as the new regulation becomes effective.

*Sen Energy & Nat Res
3-20-97
Attachment 1*

KDHE Testimony - HB 2219

March 20, 1997

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We have already informed cities and counties that this change to the law is likely, but that operating plans which establish alternate practices cannot be officially approved by KDHE until the law is changed. We have also told them that additional guidance on how to establish alternate operating programs will be distributed with a draft version of the regulation change as soon as the law is amended. Rather than specify precisely what the alternate operating requirements will be allowed, we currently expect to develop a flexible regulation which allows landfill owners and operators to propose practices which are most applicable to their own local conditions. Our guidance document will provide several ideas regarding ways to efficiently and effectively address these operational issues.

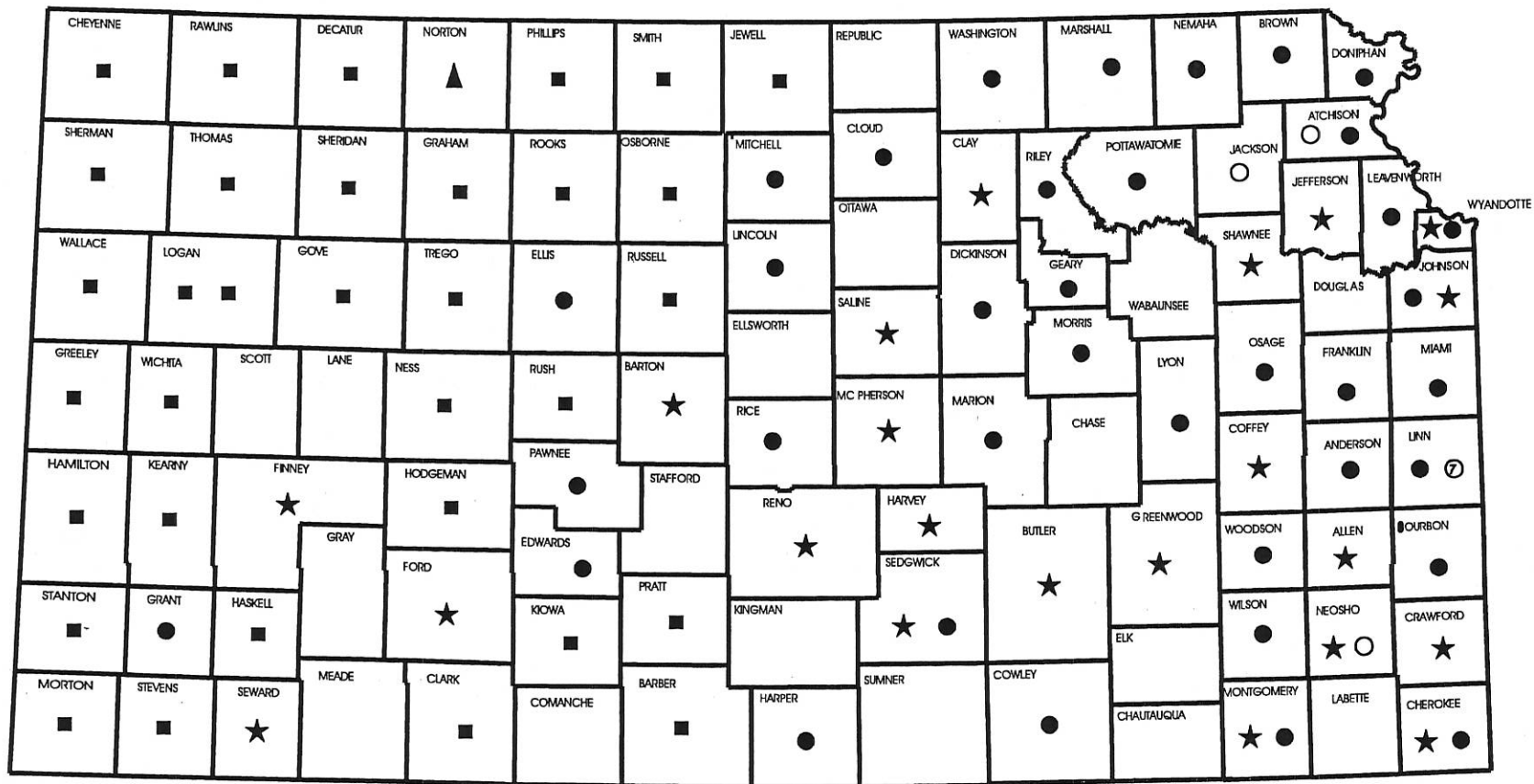
Finally, we expect this added operating flexibility to save landfill owners and operators time and money without increasing environmental risks or impacts. When approving alternate operating practices, staff will assess local conditions to insure that safe and protective procedures are still utilized.

Thank you for this opportunity to provide testimony on HB 2219, a bill which is very important to the owners and operators of 33 small landfills in 32 rural western Kansas counties.

Testimony presented by:

Bill Bider
Director
Bureau of Waste Management
March 20, 1997

MUNICIPAL SOLID WASTE MANAGEMENT IN KANSAS



LEGEND

- ▲ INCINERATOR
- ★ SUBTITLE D LANDFILL
- SMALL EXEMPT LANDFILL
- ROLLOFF CONTAINER TRANSFER STATIONS
- TRANSFER STATIONS



Department of Health and Environment

James J. O'Connell, Secretary

Testimony presented to

Senate Energy and Natural Resources Committee

by

The Kansas Department of Health and Environment

House Bill 2226

The Kansas Department of Health and Environment appreciates this opportunity to present testimony in support of House Bill 2226. This bill was developed by the department based upon a thorough review of the statutes in light of many recent developments in Kansas and across the country. Examples of events which have prompted the need for changes include: recent court decisions; county decisions to shift from regional planning to individual county planning; an increased interest in recycling and waste reduction projects; and federal actions to amend solid waste laws and regulations. Several changes to the initial bill were made in response to comments received during the hearing in the House Environment Committee. One important change made on the House side was the incorporation of House Bill 2302 into this bill. The provisions of HB 2302 are addressed later in this testimony. Two additional minor amendments are requested at this time as shown on the attached balloon. One change allows private entities receiving solid waste grants to use in-kind expenses to satisfy their match requirement; the other change is the deletion of an obsolete portion of the tipping fee provisions.

As the bill now stands, we are confident that the overall proposed changes to the solid waste statutes will improve clarity and make our state law more practical, efficient, and service-oriented.

No new requirements are added to the solid waste regulatory program through these changes except for a simple notification requirement for local solid waste planning committees. Following the completion of the statutorily required annual plan reviews and the local public hearings held every five years, local committees will be required to notify KDHE of their actions. The applicability of certain provisions related to permitting requirements will be clarified and these changes could also be perceived by some persons to be new requirements.

It is difficult to briefly summarize the many changes to the solid waste law which are recommended in this bill. Therefore, for the purposes of this testimony, we will list several important areas of change with a brief description of the purpose for each change:

- (1) **General Policy** - A brief statement has been added to emphasize the importance of encouraging the wise use of natural resources and efforts to reduce waste generation and disposal.
- (2) **Definition Changes** - Several definitions are changed primarily to establish clear requirements related to permitting facilities which process and reclaim materials which have the potential to adversely impact the environment, if

mismanaged. This could include wastes such as used oil filters and fluorescent lamps. Another definition change works the opposite way. Small composting operations of less than one half acre in size would no longer require an operating permit.

- (3) **Planning** - Two primary amendments related to local solid waste planning are recommended. First, local planning committees would be required to notify KDHE when they complete their statutorily required annual plan reviews or the public hearing held every five years. Currently, committees only notify KDHE if it is determined that amendments are necessary. Second, increased flexibility would be granted to KDHE to authorize counties to withdraw from regional planning authorities. It is currently a difficult and costly process to withdraw from a region after local plans are approved.
- (4) **Financial Assurance** - This change is made to make Kansas law consistent with federal law and regulations. The amendment establishes the financial assurance mechanisms available to local governments operating municipal solid waste landfills. Ad valorem taxing power is no longer an allowable mechanism for this group. Now, a federally established test of financial strength must be passed. The law maintains the ad valorem taxing option for other types of solid waste permits not regulated at the federal level.
- (5) **Enforcement** - Authority would be given to counties or district attorneys to independently enforce the provisions of the solid waste law without being requested to do so by the secretary of KDHE.
- (6) **Grants** - Sections of the law related to the now obsolete solid waste base grant program are deleted. A provision is also being added to officially allow the governor's solid waste grants advisory committee to recommend that statewide projects be eligible for funding, even if the location of the projects are in counties without their own approved solid waste plans. A third change is to specify that grants may be matched using in-kind directly related expenditures (see attached balloon).
- (7) **Fees** - A section of the law which allows counties to establish special fees for landfilling out of county waste is deleted. The U.S. Supreme Court has ruled that this provision is unconstitutional with respect to the Commerce Clause. The KDHE balloon shows another fee-related change. A provision exempting certain construction and demolition waste from the tipping fee is deleted because the time period for the exemption has now passed.
- (8) **Flow Control Issues** - The U.S. Supreme Court has ruled that the flow of solid waste to certain preferred facilities cannot be dictated by public or private owners of those facilities. The generators or collectors of waste are free to select where they will dispose or process their waste. Some provisions of our solid waste law give authority to counties or regions to direct waste flow which conflicts with the court decisions. This issue continues to be debated in the U.S. Congress and a new federal law covering this issue may be established in the future.
- (9) **Construction and Demolition (C & D) Waste** - This statutory definition is being changed to allow certain additional materials to enter C & D landfills including: construction-related packaging, floor coverings, and non-friable asbestos containing materials. A new definition is also being added for "construction-related packaging" to place some limits on the types of materials which qualify. These limitations are important in order to minimize environmental risks and to comply with federal restrictions on what can and cannot be landfilled at such facilities without subjecting the facilities to higher design and operating standards. For example, chemical containing packaging such as paint cans or caulking tubes are not allowed as part of the approved construction-related packaging materials. Small amounts of cardboard, paper, plastic, and other materials will be allowed as long as they are generated at the construction and demolition site. These are the changes related to the incorporation of HB 2302 into this bill.

- (10) **Exemptions to the Solid Waste Permitting Requirements** - Rather than allow a general provision in the statutes for KDHE to grant an "approval" in place of a permit for solid waste disposal or processing activities, a new section is proposed to list the specific exemptions to permits. These exemptions, which could be granted by KDHE, are related to sites which have already received wastes without a permit or those where a temporary soil cleanup project is warranted.

Overall, the department believes the proposed changes to the solid waste law will benefit the businesses which generate waste, waste disposal facility owners and operators, the department, and the environment. Costs to plan and manage solid waste systems should be lower and local control of some issues will increase.

Thank you for this opportunity to explain our recommendations related to updating and improving the solid waste law.

Testimony presented by:

Bill Bider
Director
Bureau of Waste Management
Kansas Department of Health and Environment
March 20, 1997

1 official county newspaper as defined in K.S.A. 64-101, and amendments
 2 thereto, of the county where the landfill is located if the applicant is a
 3 regional solid waste management entity.

4 (2) To be eligible for base grants awarded pursuant to this section,
 5 the counties, cities or regional solid waste management entities must be
 6 participating in a solid waste management planning process or imple-
 7 menting an approved solid waste management plan. To be eligible for
 8 competitive grants awarded pursuant to this section, the counties, cities
 9 or regional solid waste management entities must be implementing an
 10 approved solid waste management plan. Indications of planning process
 11 participation include the formation of a county or regional planning com-
 12 mittee, regular solid waste planning committee meetings, amendment of
 13 existing solid waste management plans and development of new compre-
 14 hensive solid waste management plans.

15 (3) (f) (1) Failure to pay solid waste tonnage fees on wastes disposed
 16 in Kansas pursuant to K.S.A. 65-3415b and amendments thereto, shall
 17 bar receipt of any grant funds until fees and related penalties have been
 18 paid.

19 (4) (2) The secretary may establish additional minimum requirements
 20 for grant eligibility.

21 (h) (g) The secretary shall prepare and deliver to the legislature on
 22 or before January 2, 1998, a report which summarizes all solid waste
 23 management grant program activities, solid waste management fund rev-
 24 enues and recommendations regarding continuation of solid waste man-
 25 agement programs.

26 (i) (h) All grants shall be made in accordance with appropriations acts
 27 from the state general fund or from moneys in the solid waste manage-
 28 ment fund created by K.S.A. 65-3415a and amendments thereto.

29 (i) *Local match requirements for all solid waste grant programs may*
 30 *be met by in-kind contributions from counties, designated cities* ~~or re-~~ ,
 31 *gional solid waste management entities* ~~or re-~~ , or private entities

32 Sec. 7 9. K.S.A. 1996 Supp. 65-3415a is hereby amended to read as
 33 follows: 65-3415a. (a) There is hereby created in the state treasury the
 34 solid waste management fund.

35 (b) The secretary shall remit at least monthly to the state treasurer
 36 all moneys collected or received by the secretary from the following
 37 sources:

38 (1) Solid waste tonnage fees imposed pursuant to K.S.A. 65-3415b,
 39 and amendments thereto;

40 (2) application and annual fees provided for by K.S.A. 65-3407, and
 41 amendments thereto;

42 (3) gifts, grants, reimbursements or appropriations intended to be
 43 used for the purposes of the fund, but excluding federal grants and co-

2-4

1 ties. The revenue from such charge may be used by the county or group
 2 of counties for the development and implementation of its solid waste
 3 management plan and the costs of closure and postclosure cleanup of
 4 solid waste disposal areas within the county or group of counties.

5 ~~(b)~~ Except as provided by subsection ~~(e)~~, on and after July 1, 1993
 6 ~~(b)~~, any county or group of counties operating a solid waste disposal area
 7 shall levy a charge on any solid waste, whether generated within or outside
 8 such county or counties, that is deposited at any privately owned solid
 9 waste disposal area located in such county or counties. The revenue from
 10 such charge may be used by the county or group of counties for the
 11 development and implementation of its solid waste management plan and
 12 the costs of closure and postclosure cleanup of solid waste disposal areas
 13 within the county or group of counties.

14 ~~(e)~~ ~~(b)~~ The board of county commissioners of any county by unani-
 15 mous vote may determine not to impose the fee provided for by subsec-
 16 tion (a) or ~~(b)~~.

17 ~~(d)~~ ~~(c)~~ Any charges imposed by counties under this section shall be
 18 in addition to any other fees, charges, franchise payments or taxes im-
 19 posed for solid waste deposited at a solid waste disposal area. The sec-
 20 retary of health and environment shall make available to counties infor-
 21 mation as to the amounts paid by the operators of solid waste disposal
 22 areas under the provisions of K.S.A. 65-3415b and amendments thereto.

23 Sec. 10 12. K.S.A. 1996 Supp. 65-3415f is hereby amended to read
 24 as follows: 65-3415f. (a) As used in this section, terms have the meanings
 25 provided by K.S.A. 65-3402 and amendments thereto.

26 (b) In addition to any other fee provided by law, the board of county
 27 commissioners of any county may impose, by resolution adopted pursuant
 28 to this section, a solid waste tonnage fee for each ton or equivalent volume
 29 of solid waste disposed of at any solid waste disposal area operated by
 30 such county. Such fees shall not apply to:

31 (1) Any waste tire, as defined by K.S.A. 65-3424 and amendments
 32 thereto, disposed in or at a permitted solid waste disposal area;

33 (2) any of the following wastes when disposed of at a monofill per-
 34 mitted by the department: (A) Sludges from public drinking water supply
 35 treatment plants; (B) cement kiln dust from the manufacture of portland
 36 and masonry cement; (C) flue gas desulfurization sludge, fly ash and bot-
 37 tom ash from coal-fired electric generating facilities; and (D) foundry
 38 sand;

39 (3) clean rubble;

40 (4) solid waste solely consisting of vegetation from land clearing and
 41 grubbing, utility maintenance and seasonal or storm-related cleanup but
 42 such exception shall not apply to yard waste;

43 ~~(5) construction and demolition waste generated before January 1,~~

5-6

1 ~~1996, from federal facilities as provided for under contract with the U.S.~~
2 ~~army corps of engineers before the effective date of this act, and~~

3 ~~(6) construction and demolition waste disposed of by the state of Kan-~~
4 ~~sas or by any city or county in the state of Kansas, or by any person on~~
5 ~~behalf of the state or any city or county thereof.~~

6 (c) Fees imposed pursuant to this section shall be collected by the
7 county and deposited in a special fund in the county treasury. All interest
8 earned on moneys in the fund shall also be deposited in the fund. If there
9 is more than one solid waste disposal area in the county where fees are
0 imposed pursuant to this section, a separate fund for each such disposal
1 area shall be maintained from the fees collected from such disposal area.
2 Money in the fund shall be used only for payment of costs of closure,
3 postclosure actions and contamination remediation associated with the
4 solid waste disposal area until the secretary determines that all require-
5 ments for closure, postclosure actions and contamination remediation as-
6 sociated with the disposal area have been met.

7 (d) The board of county commissioners, by resolution, may modify,
8 discontinue or reinstate the fee authorized by this section.

9 (e) Transfer or expenditure of moneys in a special fund provided for
10 by this section for any purpose other than authorized by this section is a
11 class A nonperson misdemeanor and constitutes grounds for forfeiture of
12 public office.

13 (f) If two or more counties jointly operate a solid waste disposal area,
14 the fee provided for by this section on solid waste disposed of at such
15 disposal area may be imposed, modified, discontinued or reinstated only
16 if a majority of the board of county commissioners of each county jointly
17 operating the disposal area votes to impose, modify, discontinue or re-
18 instate the fee.

19 Sec. ~~11~~ 13. K.S.A. 65-3401, 65-3405, 65-3414, 65-3415c, 65-3415e
20 and 65-3422 and K.S.A. 1996 Supp. 65-3402, 65-3407, **65-3409**, 65-3415,
21 65-3415a, 65-3415b and 65-3415f are hereby repealed.

22 Sec. ~~12~~ 14. This act shall take effect and be in force from and after
23 its publication in the statute book.

(5)

**Testimony Presented on Behalf of
WATER DISTRICT NO. 1 OF JOHNSON COUNTY
Regarding House Bill No. 2226**

Presented at the
Senate Energy & Natural Resources Committee Hearing
On March 20, 1997

Water District No. 1 of Johnson County appears as a proponent of House Bill No. 2226, and in particular appears in support of Section 2 of the bill. Water District No. 1 is political subdivision organized as a regional water utility under K.S.A. 19-3501 et seq. to serve the suburban region in and around Johnson County. It currently serves over 300,000 consumers in that area.

The primary water supply for Water District No. 1 is surface water from the Kansas and Missouri Rivers. The water treatment process employed by Water District No. 1 produces an inert lime residue made up of the silt and hardness removed from the river water and calcium carbonate used to treat the raw water. This treatment residue is an essential by-product of the water treatment process. Historically, municipal water treatment residues were discharged back into the surface water. Recently EPA and KDHE have begun discouraging this practice, and have specifically prohibited Water District No. 1 from discharging its water treatment residues. The disposal options for this material are limited. Disposal of these water treatment residues in monofils or basins at the water treatment plant is authorized and permitted as part of the public water supply system under K.S.A. 65-163. KDHE has also encouraged beneficial reuse of these residues. Water District No. 1 is currently in the third year of a five year contract with an independent contractor who arranges for beneficial reuse of a portion of its water treatment residues as a soil conditioner.

The proposed amendments contained in Section 2 of House Bill 2226 would expand and clarify the definition of a recyclable to include the beneficial reuse of water treatment residuals, not only as a soil conditioner, but also other uses such as power plant scrubbers. Although KDHE has never sought to regulate water treatment residues as solid waste, without this expanded definition of recyclables, some ambiguity exists concerning the regulatory characterization of this material. Because Water District No. 1 intends to continue to make investments in developing markets for the beneficial reuse of this material, it would be desirable to have more certainty regarding the regulation of water treatment residues. Clarification of this provision and encouragement of recycling water treatment residues would also promote good public policy.

Water District No. 1 of Johnson County therefore urges your support of House Bill No. 2226, and in particular Section 2 of the bill which would clarify the existing statutory provisions concerning recyclables and encourage further beneficial reuse of municipal water treatment residuals.

MJA/grl

*Sen Energy & Nat Res
3-20-97
Attachment 3*



SEDGWICK COUNTY, KANSAS

INTERGOVERNMENTAL RELATIONS

WILLIE MARTIN

COUNTY COURTHOUSE • 525 N. MAIN • SUITE 315 • WICHITA, KANSAS 67203 • TELEPHONE (316) 383-7552

TO: Senate Energy and Natural Resources

FROM: Willie Martin, Director of Intergovernmental Relations

RE: House Bill 2226 - Construction and Demolition Landfill

DATE: March 29, 1997

Chairman Corbin and members of the committee, I am Willie Martin appearing on behalf of the Sedgwick County Board of Commissioners.

At the present time, the definition of Construction and Demolition Waste Landfill excludes cardboard. By excluding cardboard from the products that can be sent to a construction and Demolition (C&D) Landfill, most of the actual construction and demolition waste is excluded. Much of construction and demolition waste is packaged in cardboard.

Permitting C&D's to accept cardboard would reduce the waste stream into the Sedgwick County municipal landfill by 20-25%. In the State of Kansas there are 92 Construction and Demolition Landfills in 48 counties.

The original proposal for legislation, submitted by KDHE to the legislature, did not include exclusion of cardboard. Cardboard was added as an encouragement to recycle. However, since the law was enacted, there have been several changes in the market place. Tipping fees and transportation costs have doubled or tripled. The avoidance of this additional cost will succeed more effectively than legislation. In addition, waste reduction at the source is more effective today than ever before. For example, many appliance wholesalers deliver unpacked products and recycle the cardboard. Wholesalers have the advantage of selling to many home builders. Therefore, they can generate volume and weight.

In addition, only two states have stricter laws than Kansas on the regulation of cardboard in the C&D waste stream.

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3-20-97
Attachment 4 4-1

This legislation was recommended by business members of the Sedgwick County Solid Waste Management Committee and approved by the entire Committee. (The Solid Waste Management Committee is statutorily required: K.S.A. 65-3405)

Sedgwick County has worked with Bill Bider, with the Kansas Department of Health and Environment, in the request for this legislation.

We respectfully request your consideration and support of House Bill 2226.

CONSTRUCTION AND DEMOLITIONS IN KANSAS

COUNTY	NO.	LOCATION (City)
Atchison	1	Atchison
Barton	1	Great Bend
Bourbon	1	Fort Scot
Brown	1	Hiawatha
Butler	1	El Dorado
Chautauqua	1	Sedan
Cherokee	2	Galena - Brumback/Atchinson
Cloud	2	Miltonvale - Concordia
Cowley	2	Arkansas City
Crawford	5	Pittsburg
Dickinson	1	Chapman
Doniphan	1	
Edwards	1	Kinsley
Elk	1	Moline
Ellis	2	Hays
Finney	2	Garden City
Ford	3	Dodge City
Geary	1	Fort Riley
Harper	1	Harper
Havey	1	Moundridge - Newton
Jackson	1	Holton
Johnson	5	Shawnee - Olathe - Overland Park
Labette	5	Parsons - Mound Valley - Edan
Lane	1	Dighton
Leavenworth	5	Leavenworth - Lansing - Fort Leavenworth
Lincoln	1	Lincoln
Linn	1	Mound City
Lyon	1	Emporia
McPherson	1	Inman
Meade	1	
Montgomery	8	Cherryvale - Coffeyville - Independence - Caney
Neosho	2	Chanute
Norton	1	Norton
Osage	1	Overbrook
Ottawa	1	Minneapolis
Pawnee	2	Larned
Pottowatomie	4	St. Mary - Wamego - Onaga
Pratt	1	Pratt
Reno	1	Hutchinson
Rice	1	Lyons
Riley	1	Manhattan

Scott	1	
Sedgwick	4	Derby - Mt. Hope - Clearwater
Shawnee	5	Topeka
Sumner	1	Wellington
Washington	1	Washington
Wilson	1	Fredonia
Woodson	1	Yates Center

TOTALS

48 Counties 92 C&D Landfills

4-4
~~4-3~~

AMERICAN METAL MARKET

THURSDAY, MARCH 6, 1997

VOLUME 105, NUMBER 45

INTERNET ADDRESS: <http://www.amm.com>

\$5.00

SCRAP

Metal recyclers face definition dilemma

By PHILIP BURGERT

BRUSSELS — Copper and other metal recyclers face an urgent need to deal with the definition of waste as the Jan. 1, 1998, Basel ban on exports of hazardous waste for recycling grows closer, participants at the World Conference on Copper Recycling were told here.

Francis Veys, secretary general of the Brussels-based Bureau of International Recycling, told the conference organized by the International Copper Study Group that the ban in effect for exports to countries not in the Organization for Economic Cooperation and Development (OECD) crosses a new line, replacing controls with a unilateral ban.

"Bilateral agreements will be prohibited and disappear," he said. "This ban, which has now been fully implemented in European Union legislation, will be in effect in nine months' time and to date nobody knows which materials will escape unaffected."

He noted that recent preliminary estimates by a United Nations study suggested that about \$14 billion worth of secondary metals is traded annually, of which more than \$4 billion are exported from OECD to non-OECD countries.

Veys called unacceptable a statement by the European Commission that it prefers to wait for further work on the question of defining waste and secondary metals to be completed at the OECD level, saying "it indicates a complete failure by the European authorities to acknowledge the severity of the situation."

He suggested that the definition of waste was a key issue which must be addressed as "a matter of urgency" at the worldwide level rather than by accepting regional or national definitions. While primary raw materials are presumed to be environmentally innocent, he said, legislation shows that waste and secondary materials are presumed guilty. So far, he said, all industry arguments and scientific evidence provided by industry with help from scientific experts have been ignored, particularly at the European Union level.

"On the world level, the situation is an even more difficult one," he said. "Material which is non hazardous in one country may well be considered hazardous in another country."

Robert Frosch, a senior fellow at Harvard University's John F. Kennedy School of Government and keynote speaker for the conference, cited research concluding that putting scrap dealers out of business would disrupt metals recycling.

Sen Energy & Nat Res
3-20-97
Attachment 5 5-1

SCRAP

Broad changes proposed for solid waste definition

By PHILIP BURGERT

BRUSSELS — U.S. environmental officials plan to propose "broad changes" in the federal government's definition of solid waste involved in recycling, an Environmental Protection Agency official told copper industry executives here.

The proposals are expected to be issued for budgetary office and public comment this summer or fall and could see a review period lasting beyond the end of the year, Elizabeth A. Cotsworth, deputy director of the EPA's Office of Solid Waste, said in an interview following a speech to the World Conference of Copper Recycling.

The plans were seen by conference participants as responding to some of their concerns about environmentally linked restrictions on the trade of copper and other metals, including a ban planned at the end of the year on exports of hazardous wastes for recycling to countries that are not members of the Organization for Economic Cooperation and Development.

Cotsworth told the conference that two options for transfer-based and in-commerce recycling activities will be proposed and that various copper-bearing secondary materials that are recycled may be affected under each option.

Under the proposed transfer-based option, she explained, copper-bearing secondary materials previously considered a solid and hazardous waste would be excluded from the classification if recycled on-site or intra-company.

Cotsworth added, though, that some copper-bearing materials like sludges and by-

products might be included if shipped off-site to another company for recovery. Any use involving disposal and land storage would be prohibited. But materials managed in such a way or recycled off-

Cotsworth told the conference that two options for transfer-based and in-commerce recycling activities will be proposed.

site might be eligible for a "commodity-like" variance.

Under the in-commerce option being considered by the EPA's solid waste office, Cotsworth said that copper-bearing secondary materials would be excluded from the hazardous waste classification if recycled. This, she said later, is the definition that most copper recyclers would like to be able to utilize.

The federal environmental agency is preparing to issue a final rule in April on a proposed exclusion from domestic hazardous waste the regulation of processed scrap and prepared prompt scrap, she said. That proposal has been pending since early last year.

Cotsworth also said that the EPA is planning to issue in final form a regulation excluding shredded circuit boards that are containerized from the hazardous waste classification and is working to encourage the recycling of copper-bearing electronic wastes.

Testimony Concerning House Bill 2226
Waste Management of Kansas, Inc.

Chairman Corbin and members of the Committee, thank you for this opportunity to appear today to present testimony on behalf of Waste Management of Kansas, Inc. I am Steve Kearney, local government affairs counsel for Waste Management.

HB 2226 contains language that expands the definition of construction and demolition wastes to include “construction related packaging.” According to the bill, construction related packaging means, “minor quantities of packaging wastes which are generated in the construction, remodeling, or repair of structures....”

Strike this language and keep the law as it is today, protective of the environment!

By expanding the definition of construction and demolition waste, HB 2226 discourages source separating recyclables at the point of generation and encourages disposing of what is currently considered solid waste into a facility that does not have the proper environmental controls.

C&D facilities are not required to meet stringent environmental regulations, nor are they designed with groundwater monitoring wells and advanced liner and leachate collection systems that are required of Subtitle D solid waste disposal sites. Because C&D facilities are **not** similar to solid waste disposal facilities, they should not handle the same types of wastes.

Packaging wastes could include anything used to contain products, including ferrous and aluminum paint cans, cardboard containers for appliances, paper materials of all types, caulk canisters, plastic containers of all types, aerosol cans from paints and lacquers, polystyrene packaging and foam materials, PVC plastic liners and tubes used for plumbing, wire banding, aluminum and steel trimmings etc.

Studies have shown that leachate (rainwater that has percolated through waste material) at C&D disposal sites has the same characteristics as leachate from solid waste disposal sites. However, C&D facilities are not required to meet the same stringent environmental standards.

This bill would allow for “minor quantities of packaging wastes”, an amount that is not quantifiable or enforceable.

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