

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 8:12 a.m. on March 26, 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 McClafin, Committee Secretary

Conferees appearing before the committee:
Jamie Clover Adams, Governor's Office
Karl Mueldener, Kansas Department of Health and Environment
Allie Devine, Secretary Kansas Department of Agriculture
Bill Bider, Kansas Department of Health and Environment
Edward "Woody" Moses, Kansas Aggregate Producers' Association

Others attending: See attached list

Substitute for HB 2368 - Concerning surface water quality; relating to application of certain stream designations and certain standards; creating the special commission on water quality standards and specifying the membership and functions.

Chairperson Corbin closed the hearing on the bill. Committee discussion was opened.

Information opposing the bill from William C. Skaer, DVM, MSES of Wichita, KS was distributed (Attachment 1)

A proposed amendment to Substitute for HB 2368 was distributed (Attachment 2). Chairperson Corbin stated that the proposed amendment had been the work of interested parties that meet yesterday to work out language that is acceptable with EPA guidelines. He called on Jamie Clover Adams to explain the amendment.

Ms. Adams stated the amendment had been put together with the help of the EPA and the Department of Health and Environment, and the language had been reviewed by EPA's attorneys in Washington. She stated the language in Sec 2, (c), had been recommended by EPA.

Carl Mueldener responded to questions regarding section 2 (a) which deals with 7Q10 flow. He said that cities will still be required to proceed with a plan. Secretary Devine responded to questions concerning Sec 3, (6).

Senator Biggs moved to adopted the proposed amendment. Senator Schraad seconded the motion. The motion carried. The information in the fiscal note was discussed. Chris McKenzie, League of Kansas Municipalities addressed these concerns. He said the language in (e) which is a new section was drafted to meet these concerns. Senator Biggs moved Substitute for HB 2368 be passed as amended. Senator Tyson seconded the motion. The motion carried.

HB 2226 - concerning solid waste management.

Chairperson Corbin opened the discussion on the bill. He said he had been contacted asking that used oil filters be eliminated from the bill.

Senator Morris distributed an amendment striking cardboard from construction and demolition waste section of the bill on page 3 continuing on page 4, and on page 5 striking the section (dd) that relates to construction related packaging (Attachment 3). Senator Morris moved that the amendment be adopted. Senator Schraad seconded the motion. Discussion followed. Responding to a question Bill Bider, KDHE, said they did not

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 254-E Statehouse, at 8:00 a.m. on March 26, 1997.

objected to the proposed amendment. The motion carried.

Senator Schradd distributed a copy of a proposed amendment that would add language on page 3, line 26, which would include municipal water treatment residues as defined in the statutes. He said Michael Armstrong with Johnson County Water District #1 had requested this amendment in his testimony. Edward Moses responded to a question on the amendment. Responding to a question on the amendment, Bill Bider, KDHE said they did not oppose the amendment as they can already be put in landfills. Senator Schradd moved the amendment be adopted. Senator Morris seconded the motion. The motion carried.

(Attachment #4)

Senator Huelskamp moved that on page 14 and 15, subsection (b) be stricken. Senator Tyson seconded the motion. Bill Bider responded to questions regarding grants for counties. Responding he said the grants are recommended by a committee appointed by the Governor, and approved by the Secretary of KDHE. The funding for the projects come from the solid waste tipping fees. He said many small counties and counties in western Kansas have benefitted from the grants. The motion failed.

Staff pointed out some technical amendments, and they were conceptually adopted.

A motion was made by Senator Biggs that **HB 2226** be adopted as amended. Senator Goodwin seconded the motion. Motion carried.

Chairperson Corbin thanked the members of the committee for their work this session. The meeting adjourned.

No further meetings planned for the 1997 session.

SENATE ENERGY & NATURAL RESOURCES COMMITTEE GUEST LIST

DATE: 3-26-97

NAME	REPRESENTING
STEVE KEAGNEY	W M X
Don Hottelhaus	Western Resources
Laura McClure	119th Dist
Jim White	KCPA - KPSPA
Doug Wareham	KCPA - KFCA
Wendy Harms	Ks Aggregate Producers Assoc.
E. R. "Woody" Moore	✓ ✓ ✓ ✓
Bill Juller	Kansas Farm Bureau
Allie Divine	Ks. Farm Bureau
Bob Tilton	Ks Contractors Association
Van Ska	House of Rep
Ray Schmitt	Multi American Envt
David Fulmer	Blackwell Sanders
Scott Canister	CITY OF OMAHA
Leslie Kaufman	Ks Farm Bureau
EDWARD ROWE	LEAGUE OF WOMEN VOTERS/KS
Terry Shistar	Ks. Sierra Club
Theresa Hodges	KDHE
Tom Stiles	KWO

the Clean Water Act (CWA) which is vital legislation for the health and safety of Americans. Now an unholy alliance of special interests threatens the standards for clean water upon which everything depends.

A small group of municipalities is spearheading the attack on water quality standards because they don't have the will to comply with 1994 ammonia standards for waste water treatment plants. According to the Kansas Department of Health and Environment (KDHE), all but 35 out of 900 licensed waste water treatment plants have met or are in the process of meeting the ammonia standards.

The estimated costs for compliance with the 1994 standards are greatly inflated. Those few municipalities claim the cost of compliance would be too high. For example, Johnson County claims the cost would be \$80 million. However, a 1995 legislative post audit report indicated that statewide costs for compliance would be \$66.5 million.

The intransigence of those few municipalities has ramifications for us all. At a KDHE hearing on March 12, 1997 one of the representatives from Johnson County made a revealing statement which shows their real mentality. She said: "Why should we worry about loss of species (from our activities)? We can clone sheep now; we could just clone those species and reintroduce them if necessary."

Wichita has upgraded its sewage treatment plant and has greatly improved the Arkansas River below. The upgrade in Wichita has resulted in a 10 fold reduction in ammonia levels and a 94 fold reduction in fecal coliform dumped into the river. The Arkansas River is a much healthier ecosystem because of

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attachment 1 1-1

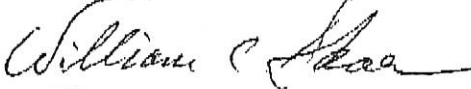
Wichita's far sighted efforts. I'm sure Derby, which gets its water supply from the Ark River down stream from Wichita, is appreciative of Wichita's efforts. Why should a few municipalities not meet the standards of the CWA and threaten the aquatic ecosystems that we ALL depend on? After all, we're all down stream from someone.


Agricultural interests want the numeric aquatic life criteria for atrazine rolled back three fold. Atrazine is a Class C carcinogen and, in studies done at Cornell and other research institutions, also an endocrine disrupter (gender bender). Atrazine is a pesticide that is toxic to aquatic life.

Studies by Dr. Theo Colborn in the Great Lakes region and by Dr. Gillette in Florida show the alarming results of endocrine disruption by certain chemicals and combinations of those chemicals. We always focus on the toxic and carcinogenic effects of those chemicals when the chronic endocrine disrupting effects may be far more significant for the health of wildlife and humans.

David, you know Vicki and I have nothing at stake in this debate but our concern for the health of Kansans and Kansas ecosystems. In Kansas, water is life. We cannot afford to roll back our surface water quality standards because of the ignorance of special interests.

Sincerely,


William C. Skaer, DVM, MSES


Vicki L. Skaer, MSES

CC: Senator Barbara Lawrence
Charles Benjamin
Representative Jo Ann Pottorff

Replace section 2 with the following:

"Sec. 2. On and after the effective date of this act and before July 1, 1999:

(a) The department shall use a mixing zone of at least 50% of the average cross-sectional area of the stream and a low flow provision of one cubic foot per second or the 7Q10 flow, whichever is the greater existing condition in the receiving stream, in determining national pollutant discharge elimination system (NPDES) permit limits for total ammonia and chlorides under subsections (b) and (d) for permits issued by the department.

(b) Unless an applicant for a new or renewal NPDES permit agrees to meet all surface water quality standards, notwithstanding the provisions of subsection (a), the department shall not require the applicant to comply with the numeric aquatic life criteria for total ammonia and chlorides that are contained in the surface water quality standards and shall instead require an applicant to comply with the applicant's existing permit requirements for total ammonia and chlorides or with the standards for total ammonia and chlorides that took effect May 1, 1987, whichever is more protective.

(c) The department shall not use the numeric chronic aquatic life criteria for atrazine in Table 1a of subsection (d) of K. A. R. 1995 Supp. 28-16-28e and shall rely instead on the greater of either an annual average of 3 parts per billion for atrazine or any revised numeric chronic aquatic life criteria for atrazine recommended by the United States environmental protection agency after the effective date of this act.

(d) Permits issued for expansion, upgrade or new construction of wastewater treatment facilities and modifications and renewals of existing permits shall include the following statement of conditions, which shall be legally binding and enforceable upon the permittee:

"The permittee who does not agree to meet affluent limitations as necessary to attain the aquatic life criteria for ammonia and chlorides within the 1994 surface water quality standards incurs and acknowledges the legal duty and obligation to bring the facilities and operations authorized by this permit into compliance with the permit effluent limitations based on the 1994 surface water quality standards within 24 months after July 1, 1999, unless before July 1, 1999, more stringent numeric criteria for ammonia and chlorides are adopted pursuant to subsection (g) of section 3, in which case the permittee incurs and acknowledges the legal duty and obligation to bring such facilities and operations into compliance with the permit effluent limitations based on the more stringent criteria within 24 months following the effective date of the more stringent criteria."

(e) The department shall develop a plan and permit conditions that will assist entities that, on the effective date of this act, hold a permit or are applicants for a permit in meeting the requirements of this section relating to total ammonia and chlorides."

quality of the air, groundwater, surface water or soils on or in the vicinity of a *solid waste processing facility or solid waste disposal facility or area.*

(m) "Closure" means the permanent cessation of active disposal operations, abandonment of the disposal area, revocation of the permit or filling with waste of all areas and volume specified in the permit and preparing the area for the long-term care.

(n) "Postclosure" means that period of time subsequent to closure of a solid waste disposal area when actions at the site must be performed.

(o) "Reclamation facility" means any location at which material containing a component defined as a hazardous substance pursuant to K.S.A. 65-3452a and amendments thereto *or as an industrial waste pursuant to this section is processed.*

(p) "Designated city" means a city or group of cities which, through interlocal agreement with the county in which they are located, is delegated the responsibility for preparation, adoption or implementation of the county solid waste plan.

(q) "Nonhazardous special waste" means any solid waste designated by the secretary as requiring extraordinary handling in a solid waste disposal area.

(r) "Recyclables" means any ~~scrap materials that can be used as a replacement for virgin material in manufacturing, including but not limited to ferrous metals, scrap paper products, scrap plastics and nonferrous metals. Nonferrous metals shall be defined by rule and regulation materials that will be used or reused, or prepared for use or reuse, as an ingredient in an industrial process to make a product, or as an effective substitute for a commercial product.~~ "Recyclables" includes, but is not limited to, paper, glass, plastic and metal, but does not include yard waste.

(s) "Scrap material processing industry" means any person who accepts, processes and markets recyclables.

(t) "Scrap material recycling and processing facility" means a fixed location that utilizes machinery and equipment for processing only recyclables.

(u) "Construction and demolition waste" means solid waste resulting from the construction, remodeling, repair and demolition of structures, roads, sidewalks and utilities; untreated wood and untreated sawdust from any source; solid waste consisting of motor vehicle window glass; and solid waste consisting of vegetation from land clearing and grubbing, utility maintenance, and seasonal or storm-related cleanup. Such wastes include, but are not limited to, bricks, concrete and other masonry materials, roofing materials, soil, rock, wood, wood products, wall ~~covering or floor coverings~~, plaster, drywall, plumbing fixtures, electrical wiring, electrical components containing no hazardous materials ~~and nonasbestos insulation. It shall not include asbestos waste, garbage, cardboard, nonasbestos~~

and

*Senator Morris
Sen. Energy + Nat Res
3-26-97
Attachment 3 3-1*

A-2

| — strike as marked

1 ~~insulation and construction related packaging~~ “Construction and
2 ~~demolition waste~~” shall not include waste material containing fri-
3 ~~able asbestos, garbage~~, furniture, appliances, electrical equipment con-
4 taining hazardous materials, tires, drums and containers even though such
5 wastes resulted from construction and demolition activities. Clean rubble
6 that is mixed with other construction and demolition waste during dem-
7 olition or transportation shall be considered to be construction and dem-
8 olition waste.

9 (v) “Construction and demolition landfill” means a permitted solid
10 waste disposal area used exclusively for the disposal on land of construc-
11 tion and demolition wastes. This term shall not include a site that is used
12 exclusively for the disposal of clean rubble.

13 (w) “Clean rubble” means inert uncontaminated construction and
14 demolition waste which includes concrete and concrete products, rein-
15 forcing steel, asphalt pavement, brick, soil or rock.

16 (x) “Industrial waste” means all solid waste resulting from manufac-
17 turing, commercial and industrial processes which is not suitable for dis-
18 charge to a sanitary sewer or treatment in a community sewage treatment
19 plant or is not beneficially used in a manner that meets the defi-
20 nition of recyclables. Industrial waste includes, but is not limited to:
21 ~~mining; Mining wastes from extraction, beneficiation and~~ ~~beneficiation~~ ~~and~~
22 ~~processing of ores and minerals unless those minerals are returned to the~~
23 ~~mine site; fly ash, bottom ash, slag and flue gas emission wastes generated~~
24 ~~primarily from the combustion of coal or other fossil fuels; cement kiln~~
25 ~~dust; waste oil and sludges; waste oil filters; and fluorescent lamps. Not~~
26 ~~all industrial wastes are suitable for disposal in landfills.~~

27 (y) “Composting facility” means any facility that composts wastes and
28 has a composting area larger than one-half acre.

29 (z) “Household hazardous waste facility” means a facility es-
30 tablished for the purpose of collecting, accumulating and manag-
31 ing household hazardous waste and may also include small quan-
32 tity generator waste or agricultural pesticide waste, or both.
33 Household hazardous wastes are consumer products that when
34 discarded exhibit hazardous characteristics.

35 (aa) “Waste-to-energy facility” means a facility that processes
36 solid waste to produce energy or fuel.

37 (bb) “Transfer station” means any facility where solid wastes
38 are transferred from one vehicle to another or where solid wastes
39 are stored and consolidated before being transported elsewhere,
40 but shall not include a collection box provided for public use as a
41 part of a county-operated solid waste management system if the
42 box is not equipped with compaction mechanisms or has a volume
43 smaller than 20 cubic yards.

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3

1 (cc) "Municipal solid waste landfill" means a solid waste dis-
2 posal area where residential waste is placed for disposal. A munic-
3 ipal solid waste landfill also may receive other nonhazardous
4 wastes, including commercial solid waste, sludge and industrial
5 solid waste.

6 ~~(dd) "Construction related packaging" means small quantities
7 of packaging wastes that are generated in the construction, re-
8 modeling or repair of structures and related appurtenances. "Con-
9 struction related packaging" does not include packaging wastes
10 that are generated at retail establishments selling construction ma-
11 terials, chemical containers generated from any source or pack-
12 aging wastes generated during maintenance of existing structures.~~

← strike as marked

13 Sec. 3. K.S.A. 65-3405 is hereby amended to read as follows: 65-
14 3405. (a) Each county of this state, or a designated city, shall submit to
15 the secretary a workable plan for the management of solid waste in such
16 county. The plan developed by each county or designated city shall be
17 adopted by the governing body of such county or designated city if so
18 authorized. Two or more counties, by interlocal agreement entered into
19 pursuant to K.S.A. 12-2901 et seq., and amendments thereto, may de-
20 velop and adopt a regional plan in lieu of separate county plans. The
21 secretary shall not require the submission of county or regional plans
22 earlier than one year following completion and distribution of the state-
23 wide solid waste management plan provided for in subsection (a)(5) of
24 K.S.A. 65-3406, and amendments thereto. County and regional plans shall
25 be amended from time to time as changing conditions occur by filing
26 revisions with the secretary.

27 (b) There shall be established in each county or group of counties
28 cooperating in a regional plan a solid waste management committee. A
29 county by interlocal agreement may designate a city as the solid waste
30 management planning authority for the county. Subject to the require-
31 ments of this section, the membership of the committee, the terms of
32 committee members, the organization of the committee and selection of
33 its officers shall be determined by the county or counties by interlocal
34 agreement entered into pursuant to K.S.A. 12-2901 et seq., and amend-
35 ments thereto. The membership of the committee shall not exceed 30
36 members and shall include: (1) Representatives of incorporated cities
37 located in the county or counties, equal in number to five members rep-
38 resenting any cities of the first class, three members representing any
39 cities of the second class and one member representing any cities of the
40 third class; (2) one representative of unincorporated areas of the county
41 or counties; (3) representatives of the general public, citizen organiza-
42 tions, private industry, any private solid waste management industry op-
43 erating in the county or counties and any private recycling or scrap ma-

- 1 quality of the air, groundwater, surface water or soils on or in the vicinity
- 2 of a solid waste processing facility or solid waste disposal facility or area.
- 3 (m) "Closure" means the permanent cessation of active disposal op-
- 4 erations, abandonment of the disposal area, revocation of the permit or
- 5 filling with waste of all areas and volume specified in the permit and
- 6 preparing the area for the long-term care.
- 7 (n) "Postclosure" means that period of time subsequent to closure of
- 8 a solid waste disposal area when actions at the site must be performed.
- 9 (o) "Reclamation facility" means any location at which material con-
- 10 taining a component defined as a hazardous substance pursuant to K.S.A.
- 11 65-3452a and amendments thereto or as an industrial waste pursuant to
- 12 this section is processed.
- 13 (p) "Designated city" means a city or group of cities which, through
- 14 interlocal agreement with the county in which they are located, is dele-
- 15 gated the responsibility for preparation, adoption or implementation of
- 16 the county solid waste plan.
- 17 (q) "Nonhazardous special waste" means any solid waste designated
- 18 by the secretary as requiring extraordinary handling in a solid waste dis-
- 19 posal area.
- 20 (r) "Recyclables" means any scrap materials that can be used as a
- 21 replacement for virgin material in manufacturing, including but not lim-
- 22 ited to ferrous metals, scrap paper products, scrap plastics and nonferrous
- 23 metals. Nonferrous metals shall be defined by rule and regulation mate-
- 24 rials that will be used or reused, or prepared for use or reuse, as an
- 25 ingredient in an industrial process to make a product, or as an effective
- 26 substitute for a commercial product. "Recyclables" includes, but is not
- 27 limited to, paper, glass, plastic and metal, but does not include yard waste.
- 28 (s) "Scrap material processing industry" means any person who ac-
- 29 cepts, processes and markets recyclables.
- 30 (t) "Scrap material recycling and processing facility" means a fixed
- 31 location that utilizes machinery and equipment for processing only re-
- 32 cyclables.
- 33 (u) "Construction and demolition waste" means solid waste resulting
- 34 from the construction, remodeling, repair and demolition of structures,
- 35 roads, sidewalks and utilities; untreated wood and untreated sawdust from
- 36 any source; solid waste consisting of motor vehicle window glass; and solid
- 37 waste consisting of vegetation from land clearing and grubbing, utility
- 38 maintenance, and seasonal or storm-related cleanup. Such wastes include,
- 39 but are not limited to, bricks, concrete and other masonry materials, roof-
- 40 ing materials, soil, rock, wood, wood products, wall covering or floor
- 41 coverings, plaster, drywall, plumbing fixtures, electrical wiring, electrical
- 42 components containing no hazardous materials and nonasbestos insula-
- 43 tion. It shall not include asbestos waste, garbage, cardboard, nonasbestos

Municipal water treatment residues as defined by
K.S.a. 65-163, and amendments thereto

Sen. Schriener
Sen. Energy & Nat. Res.
3-26-97
Attachment 4
4-1

NO. 088

SPE LAW FIRM

11:43

03/20/97