

Approved: _____

Date

2-9-99

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson Steve Morris at 10:00 a.m. on February 4, 1999 in Room 423-S of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department
 Bruce Kinzie, Revisor of Statutes
 Nancy Kippes, Committee Secretary

Conferees appearing before the committee:

Doug Wareham, Kansas Fertilizer and Chemical Association and the Kansas Grain and Feed Association
Jere White, Executive Director, Kansas Grain Sorghum Producers Association
Bill Fuller, Associate Director, Public Affairs Division, Kansas Farm Bureau
Mary Jane Stattelman, Assistant Secretary of Agriculture

Others attending: (See Attached)

Senator Umbarger made a motion to approve the minutes from the February 3, 1999 meeting as submitted. Senator Clark seconded. The motion carried.

SCR 1609: Urging Congress to direct the Environmental Protection Agency (EPA) to initiate administrative rulemaking that ensures the Food Quality Protection Act (FQPA) is implemented in a manner that utilizes sound science and real world data, protects the production, availability and affordability of food, and further urges Congress to conduct oversight hearings to ensure EPA actions are consistent with Congressional intent.

Doug Wareham, Kansas Fertilizer and Chemical Association and the Kansas Grain and Feed Association, testified in support of **SCR 1609** saying the resolution would send a direct message to members of the Kansas Congressional Delegation and members of the Executive Branch in Washington, D.C. regarding the U.S. Environmental Protection Agency's implementation of the Food Quality Protection Act (Attachment 1). He stated the Kansas agribusiness industry supports reasonable, science based regulations that protect food safety in addition to its availability and affordability and the use of real world data. Mr. Wareham recommended an amendment that would add language to send **SCR 1609** to the Office of the President, Office of the Vice President and Administrator of the Environmental Protection Agency.

Jere White, Executive Director, Kansas Grain Sorghum Producers Association, provided testimony to support **SCR 1609** stating that his organization believes FQPA is workable if implementation is fair and based on sound science, not political science (Attachment 2). Mr. White was in support of Doug Wareham's suggested amendment.

Bill Fuller, Associate Director, Public Affairs Division, Kansas Farm Bureau, in his testimony in support of **SCR 1609** stated this resolution is important to the agriculture producer, the consumer and the economy of Kansas and the entire United States. Mr. Fuller advised that the many assurances from EPA assuring farmers and Congress that the determination of the future of crop protection products would be based on sound science, that newer and safer products would be created and approved and that the process to meet these ends would be open have not been upheld. (Attachment 3).

Mary Jane Stattelman, Assistant Secretary of Agriculture, provided written testimony and testified in support of **SCR 1609** (Attachment 4). She stated the EPA is certain to take actions to restrict organic phosphates and serious efforts need to be made by states to conduct surveys or otherwise collect detailed information on actual pesticide use in the state so that real world data can be used to make these decisions.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE, Room 423-S of the Capitol, 10:00 a.m. on February 4, 1999.

Written testimony in support of **SCR 1609** was provided by Kansas Agricultural Alliance (Attachment 5).

Hearings on **SCR 1609** were closed.

Senator Corbin made a motion to pass SCR 1609 favorably with the suggested amendment to add wording to distribute to the Office of the President, Office of the Vice President and Administrator of the Environmental Protection Agency. Senator Clark seconded. The motion carried.

SB 65 - Relating to commercial fertilizers; concerning inspection fees; funding for pesticide use survey.

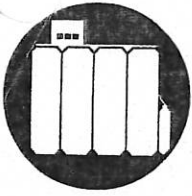
Senator Umbarger made a motion to pass SB 65 favorably with minor technical amendments. Senator Biggs seconded. The motion carried.

The next meeting will be February 9, 1999.

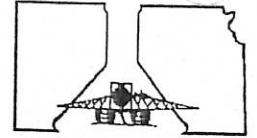
SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: 3-4-99

NAME	REPRESENTING
Marty Vanier	KS Ag Alliance
Julie Jimison	Ks Grain & Feed Assn.
Dag Wareham	Ks Grain & Feed Assn. Ks Fertilizer & Chemical Assn.
Bill Fuller	Kansas Farm Bureau
Jere White	KCGA - KBSPA
Mary Jane Stattelmaier	KS Dept of Agriculture
Julie Hein	Hein and Weir, Chtd.
Jamie Clover Adams	Governor's Office



**KANSAS GRAIN & FEED ASSOCIATION
KANSAS FERTILIZER & CHEMICAL ASSOCIATION**



**Statement of the
Kansas Fertilizer and Chemical Association
and the
Kansas Grain and Feed Association**

Regarding

S.C.R. 1609

to the

Senate Agriculture Committee

Senator Steve Morris, Chairman

February 4, 1999

*Senate Agriculture
2-4-99
Attachment 1*

KGFA & KFCA MEMBERS ADVOCATE PUBLIC POLICIES THAT ADVANCE A SOUND ECONOMIC CLIMATE FOR AGRIBUSINESS TO GROW AND PROSPER SO THEY MAY CONTINUE THEIR INTREGAL ROLE IN PROVIDING KANSANS AND THE WORLD THE SAFEST, MOST ABUNDANT FOOD SUPPLY.

Mr. Chairman and members of the committee, I am Doug Wareham appearing today on behalf of both the Kansas Fertilizer and Chemical Association (KFCA) and the Kansas Grain and Feed Association (KGFA). KFCA's nearly 500 members are primarily plant nutrient and crop protection retail dealers with a proven record of supporting Kansas producers by providing the latest crop protection products and services available in today's rapidly changing agricultural industry. KGFA is comprised of 1150 member firms including country elevators -- both independent and cooperative -- terminal elevators, grain merchandisers and feed manufacturers all of which rely on the production of Kansas producers for the vital raw ingredients which make our grain and feed industry the envy of the world.

I appreciate the opportunity to appear today in support of S.C.R. 1609 and respectfully request positive action on this resolution. S.C.R. 1609 will send a direct message to the members of the Kansas Congressional Delegation and members of the Executive Branch in Washington D.C. regarding the U.S. Environmental Protection Agency's (EPA) implementation of the Food Quality Protection Act. The Kansas agribusiness industry is very concerned about the way the 1996 Food Quality Protection Act (FQPA) is being implemented. If not curtailed, new EPA regulations will have a major, lasting impact on Kansas and American agriculture and our ability to continue producing the world's most abundant, affordable and safest supplies of food and fiber.

Passed by Congress in 1996, the Food Quality Protection Act (FQPA) revamps existing U.S. pesticide regulations by requiring EPA to reassess risk assessments for all pesticides within 10 years. Therefore, EPA has the task of re-evaluating more than 9,000 pesticide uses for safety, with the first 3,000, including most organophosphate and carbamate insecticides, subject to an August 1999 deadline. Simply put, EPA is currently deciding which pesticides and pesticide uses will remain available and which won't.

Unfortunately, arguing that it must meet the short deadlines imposed by FQPA, it appears EPA is using unrealistic, theoretical assumptions, rather than real world data from farmers, businesses, public health officials and others about how pesticides are actually used to protect crops and in turn, protect us. If FQPA implementation continues in this manner, without intervention from Congress, virtually all pesticide and pesticide uses will be jeopardized. Whether its insect damage to Kansas grown crops, wormy apples in Washington State, cockroaches in kitchens, Americans in every walk of life will be deprived the benefits of effective pest control.

The effort to raise awareness of the possible negative effects of FQPA implementation without sound science and reliable use data, is not only a cause of our organization, but of numerous agricultural organizations, states and even governmental associations. Last year, three states passed resolutions similar to the resolution before you today. Those states were Idaho, Michigan & Pennsylvania. Today, there are six additional states considering similar resolutions calling for Congress to intervene and ensure FQPA is implemented in a manner that protects our ability to produce abundant, safe and affordable food. Those states are North Carolina, North Dakota, Wyoming, Ohio, Georgia and Iowa. We have been informed that Governors in the states of New York, Florida and Washington have drafted letters to EPA calling for fair implementation of FQPA to ensure that valuable pesticides are not lost, threatening farm production, business operations and public services. And finally, both the National Governor's Association and National Association of State Departments of Agriculture have adopted policy positions similar to the components contained in Senate Concurrent Resolution 1609.

The Kansas agribusiness industry supports reasonable, science based regulations that protect food safety in addition to its availability and affordability. What we cannot support and hope Congress will not allow is the Environmental Protection Agency to rush to judgement without all the facts. This committee has already heard testimony on Senate Bill 65 that would enable the Kansas Secretary of Agriculture to initiate a much needed pesticide use survey to gather those facts. We support the use of real world data and hope the adoption of this resolution will send a clear message to Congress and the Executive Branch in Washington, D.C. that Kansans will accept nothing less.

I do at this time Mr. Chairman wish to request an amendment to S.C.R. 1609. It has been suggested by our affiliate national organization, the American Crop Protection Association, that S.C.R. 1609 be forwarded to the Office of the President, Office of the Vice President and Administrator of the Environmental Protection Agency. We respectfully request that amendment at this time.

Thank you for the opportunity to appear in support of S.C.R. 1609 and I would be happy to respond to any questions at this time.



TESTIMONY

TO: Kansas Senate Committee on Agriculture
FROM: Jere White, Executive Director
DATE: 4 February 1999
SUBJECT: SCR 1609

The Kansas Corn Growers Association and Kansas Grain Sorghum Producers wish to submit this testimony in support of SCR 1609, a resolution concerning the implementation of the Food Quality Protection Act. Kansas has a long history of implementing new and innovative programs in agriculture. Working with university researchers, regulators, and product registrants, we have successfully met the challenge of balancing pest control programs with concerns for food safety, environmental quality and an economically viable agriculture. Kansas corn and grain sorghum farmers invest significant dollars each year to support research that will allow us to continue to meet these challenges.

Improper implementation of the Food Quality Protection Act will create challenges for growers and regulators alike. The US EPA is seriously lacking in appropriate data to determine tolerances for many common tools in production agriculture. Organophosphate and carbamate insecticides are the first class of chemicals under scrutiny. Growers welcome a science-based approach that uses real world data. Unfortunately, this type of data, when not already in the EPA's hands, is being replaced with default assumptions that always will be excessively conservative. Losing valuable products to theoretical risk will jeopardize Kansas and US farm production. In fact, the US EPA has a long history of not getting new data and studies reviewed when they are in fact already in the Agency's hands.

Such was the case last year when the US EPA turned down a request for a Section 18 application from Kansas to use propazine on grain sorghum. The US EPA concluded that in a given area, 100 % of the cattle

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2-4-99
Attachment 2

could eat a diet of only grain sorghum that was 100% treated with propazine at 100% of maximum label rate. Children in the area could eat a diet of 100% milk and beef, with 100% coming from the same cattle. Also, other triazine herbicides, like atrazine, are registered for grain sorghum, so you had to add that exposure to the risk cup. The FQPA Risk Cup “runneth” over. In fact, no beef or dairy animal ever eats a diet of 100% anything, and of course children aren’t likely to either. Even if they could, 100% of the crop would never be treated. It is all somewhat academic when you realize that triazine residues, including propazine have never been detected in market basket surveys of real food... meat or milk. As to adding atrazine and propazine together, it sounds reasonable, other than you would never use both products. Propazine would replace atrazine 100% in grain sorghum on the treated acres. It is also more expensive and would only be used in certain soil conditions to reduce plant injury or facilitate crop rotation. Why did US EPA get this issue so wrong? It was not because the data didn’t exist. In fact it was in the hands of the Agency all the time, along with literally thousands of other submissions of data representing millions of dollars of research. Yes, US EPA needs to obtain sound data for the proper implementation of FQPA. But also they must use that data that is in their possession, as well as at USDA.

As the EPA works to implement FQPA, we urge that:

- (1) Real pesticide use data should be used when making risk assessment decisions on pesticides. Assumptions of pesticide use based on labels are not a realistic approach. For many crops real pesticide use and residue data exist, but if not, it should be collected in order to arrive at realistic risk assessment decisions.
- (2) Adequate time is allowed to find appropriate alternatives in cases where products are removed from the marketplace. Input from growers should be carefully weighed in these decisions since they are the ones that will need to transition to alternatives should products be lost.
- (3) Implementation proceeds under transparent policies.

We believe that FQPA is workable if implementation is fair and based on sound science, not political science. We ask this committee pass favorably SCR 1609 and request implementation in a fashion consistent with the intent of Congress. FQPA will then, and only then, serve the nation in providing a continued safe abundant supply of food and fiber.



PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON AGRICULTURE

RE: SCR 1609 – Urges Congress to direct the Environmental Protection Agency when implementing Food Quality Protection Act to use sound science and conduct oversight hearings.

**February 4, 1999
Topeka, Kansas**

**Prepared by:
Bill R. Fuller, Associate Director
Public Affairs Division
Kansas Farm Bureau**

Chairman Morris and members of the Senate Committee on Agriculture, the goal of American farmer is to provide the world with safe, wholesome and affordable food and fiber. This is what the world expects. This is what the world needs.

My name is Bill Fuller. I am the Associate Director of the Public Affairs Division for Kansas Farm Bureau. We appreciate this opportunity to express our strong support for SCR 1609.

The resolution urges the U.S. Congress to:

- ◆ Direct the Environmental Protection Agency (EPA) to immediately initiate appropriate administrative rulemaking;
- ◆ Direct the EPA to subject its policies and standards it intends to apply in evaluating pesticide tolerances to thorough public notice and comment;

*Senate Agriculture
2-4-99
Attachment 3*

- ◆ Require the EPA to use sound science and real-world data in establishing realistic models for evaluating risks;
- ◆ Direct EPA to implement the Food Quality Protection Act (FQPA) in a manner that will not disrupt agricultural production nor negatively impact the availability, diversity and affordability of food; and,
- ◆ Conduct oversight hearings to ensure that actions by EPA are consistent with FQPA provisions and Congressional intent.

When Congress passed the FQPA in 1996, agriculture was relieved that the unreasonable, outdated, decades-old Delaney clause was repealed. Gone were the days of a “zero-risk” standard to determine the safety of agriculture chemicals—or so we thought.

Fair implementation of FQPA is at the top of Farm Bureau’s to-do list. EPA assured farmers and Congress that determination of the future of crop protection products would be based on sound science, that newer and safer products would be created and approved and that the process to meet these ends would be open. The many assurances have not been upheld. The EPA has failed to live up to its part of the FQPA bargain.

Under pressure from Farm Bureau and other agriculture and related groups, Vice President Al Gore earlier this year ordered EPA and the USDA to cooperate on FQPA implementation. The order created the Tolerance Reassessment Advisory Committee (TRAC), a panel of representatives from government, industry and affected publics. Farm Bureau lobbied for and was given a seat at the TRAC table.

TRAC members met five times this year and are scheduled to hold at least two more meetings next year. Along the way EPA released 16 so-called preliminary risk assessments of organophosphate-based crop protection products. This is the first step in EPA’s plan to eliminate the availability and use of these products, a move Farm Bureau says would be disastrous for American agriculture.

Next year’s TRAC meetings are expected to focus on the scientific principals behind the decisions to revoke or redefine crop protection chemical uses, with

one whole meeting dedicated to discussing the cumulative risk assessments of products. The catch is in the data gathering---EPA has used exposure assumptions that are out of this world. In determining the initial risk assessments released so far, the agency has assumed that producers spray 100 percent of the allowable rate of the chemical on 100 percent of the crop at every possible opportunity allowed by chemical's labeling. Ask any farmer if this is they way they do business. The answer will be a resounding no!

The threat from EPA to the livelihood of the agriculture producer is real. FQPA is on a collision course with the American farmer. If left unchecked, FQPA will impose major regulatory decisions without realistic or reliable information to back them up. The statute will abandon safe, proven crop protection products without any substitutes for producers to fall back on. The loss of those chemicals would jeopardize existing integrated pest management programs. Loss of reliable products will force countless producers out of business and spur the demand for imported food.

We respectfully encourage you to approve SCR 1609. It is important to the agriculture producer, the consumer and the economy of Kansas and the entire United States. Thank you!

STATE OF KANSAS

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KANSAS DEPARTMENT OF AGRICULTURE

TESTIMONY
TO THE

SENATE AGRICULTURE COMMITTEE

FEBRUARY 4, 1999

BY

MARY JANE STATTELMAN
ASSISTANT SECRETARY OF AGRICULTURE

SCR 1609

Good morning, I appear before you on behalf of Secretary Allie Devine in support of SCR 1609. The Food Quality Protection Act (P.L. 104-170) received unanimous approval by Congress and was signed into law by President Clinton in August of 1996. The law was an attempt to resolve inconsistencies in the country's two main pesticide statutes - the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and the Federal Food, Drug and Cosmetic Act. Prior to passage, much of the congressional debate was focused on one principal issue. This was how to deal with the pre-existing Delaney Clause in light of scientific advances concerning tolerance to potential carcinogens in food.

Under FIFRA, EPA registers and regulates pesticides to prevent unreasonable adverse effects on human health or the environment. FQPA directs the agency to reassess all of the nation's pesticides using more data and taking more factors into account. When approving a "food use" for a pesticide, EPA under FIFRA must first establish a "tolerance", the acceptable amount of exposure to pesticide residue on food. The tolerance is the level of residue that a person could be exposed to every day for 70 years without showing adverse effects. The acceptable exposure level is termed the "risk cup".

Before 1996, the risk cup was filled only with pesticide residues from food. Under FQPA, EPA must also include non-dietary exposure in the risk cup. Some examples would be potential exposures from water by drinking or taking a shower, exposures from working in the lawn or taking a walk in the park, or exposures within the household. In addition, prior to 1996, the risk cup was filled only with residues of a single pesticide. Under FQPA, pesticides having a common "mechanism of toxicity" must be included in a single risk cup. FQPA also mandates that EPA complete reassessment of tolerances within 10 years. This means that EPA has 10 years to reassess approximately 10,000 chemicals. EPA has decided to start by looking at the organic

phosphate (OP) and carbamate classes of insecticides. One-third of all pesticides are in these two groups.

There is at present a very intense controversy ongoing over the approach EPA is taking with the reassessment process, especially in regards to the use of default assumptions. The Environmental Working Group, the Natural Resources Defense Council and some other environmental advocacy groups are saying that EPA already has more information than it needs to ban the pesticides and the agency is protecting corporations and industries to the detriment of vulnerable children. Farm organizations, grower associations and chemical manufactures are saying the EPA is in such a rush to do assessments that the agency is misusing default assumptions (worst case scenario's) rather than hard data and by doing so will end up outlawing many if not most pesticides. For example, if Tilt Fungicide is registered for use on wheat on Kansas can EPA legitimately presume that all wheat acreage in Kansas is treated annually at maximum rate.

On April 8, 1998, Vice-President Al Gore issued a directive to EPA and USDA to involve interested parties in FQPA implementation. To that end, in May, 1998 EPA created a 50 member EPA-USDA Tolerance Reassessment Advisory Committee (TRAC). US Department of Agriculture Secretary Dan Glickman appointed Secretary Devine to serve as one of the members.

Whether EPA can gather all the data it needs and to what extent it can rely on default assumptions remains to be seen. However, it is a near-certainty that EPA will eventually outlaw some of the OPs. It has also become quite apparent that serious efforts need to be made by states to conduct surveys or otherwise collect detailed information on actual pesticide use in the state so that they can use this real world data to make these decisions. Therefore, KDA urges your support of SCR 1609.



KANSAS AGRICULTURAL ALLIANCE

**STATEMENT
OF THE
KANSAS AGRICULTURAL ALLIANCE
ON
SCR 1609
BEFORE THE
SENATE AGRICULTURE COMMITTEE
STEVE MORRIS, CHAIRMAN
FEBRUARY 4, 1999**

Chairman Morris and members of the Senate Agriculture Committee. The Kansas Agricultural Alliance is a coalition of statewide agricultural organizations that represents a broad spectrum of Kansas agriculture, including grain and livestock producers, input suppliers, agribusinesses and professions.

The Alliance supports SCR 1609.

The United States has long been able to produce an abundant, safe, stable and inexpensive food supply in large part due to the efficiency of the American agriculture community. A major component of this efficiency is the appropriate use of a wide array of pesticides. The Food Quality Protection Act of 1996 sought to assure the continued availability of pesticides by instituting changes in the risk assessment process used by EPA. The changes required the use of "real world" data to generate reliable and accurate information on the many uses of different types of pesticides and required the risk assessment and tolerance setting processes to be open and transparent. If these processes are performed in such a way that inaccurate information leads to restriction of valuable pesticides the damage to the American food supply from disruptions in pest management programs would be significant. These disruptions would have a direct economic effect on Kansas farmers and ranchers.

The Kansas Agricultural Alliance joins with its individual members here today to urge you to support SCR 1609 requesting Congress to direct the Environmental Protection Agency to ensure the Food Quality Protection Act is implemented in a manner that utilizes sound science.

*Senate Agriculture
2-4-99
Attachment 5*