

Approved: Carl/Deane Holmes  
Date 3-9-93

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes at 3:30 p.m. on February 24, 1993 in Room 526-S of the Capitol.

All members were present except: Representative McKinney, excused

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

Conferees appearing before the committee: Charles Jones, Kansas Dept. of Health & Environment  
Pam Wells, Kansas Cooperative Council  
Michael Torrey, Kansas Grain & Feed Association  
Terry Leatherman, Kansas Chamber of Commerce & Industry  
William Craven, Kansas Sierra Club  
Derenda J. Mitchell, Kansas Recyclers Association

Others attending: See attached list

Chairman Holmes opened the meeting and discussion on **HB 2429**-Kansas Nuclear Emergency Preparedness Act. Representative Lawrence made a motion to accept an Amendment. (Attachment I) The motion was seconded by Representative Grotewiel. The motion carried. Representative Lawrence then moved that the Bill be passed favorably as amended. The motion was seconded by Representative Kejr. The motion carried. Representative Lawrence will carry the Bill on the floor.

The hearing was opened on **SB 29**-Kansas Air Quality Act. Pam Wells, Executive Assistant for the Kansas Cooperative Council, testified in support of this bill because it would grant administration control to the Kansas Department of Health and Environment, instead of the Environmental Protection Agency retaining control. She felt that by granting this administrative supervision to KDHE, the members of Kansas Cooperative Council would incur fewer compliance expenses and less stringent regulation. (Attachment II) 2

Michael Torrey, Director of Legislative and Regulatory Affairs for the Kansas Grain and Feed Association gave his testimony in support of **SB 29** in that this legislation would give control for the administration of this act to the KDHE, and agency in which they had established a good working relationship. He also briefly stated that if EPA retained the authority to administer this act, it would be more difficult to develop a general operating permit to comply with requirements for the grain elevators. (Attachment III) 3

Charles Jones of the Kansas Department of Health and Environment gave testimony in support of this Bill in that the legislation enables legislation to update the Kansas air quality statutes to provide KDHE with the necessary authorities to implement the requirements of the federal Clean Air Act Amendments of 1990 (CAA). Failure to comply with these requirements can subject the state to federal sanctions including the loss of federal highway funds, the loss of federal air grant funds, withdrawal of existing air program approvals, and implementation of a federal program in Kansas in lieu of a continuing state program. (Attachment IV) 4

William Craven, Legislative Coordinator of the Kansas Sierra Club, presented testimony in opposition to parts of this proposal and to recommend amendments which would strengthen it. He briefly stated concerns about KDHE's enforcement record in terms of air quality regulations and made the committee aware the fact that Kansas ' spending for air pollution on a per capita basis ranks 48th in the nation. (Attachment V) 5

Derenda J. Mitchell, Legal Counsel for the Kansas Recyclers Association, presented her opposition of two sections of **SB 29** in that the language may be interpreted to deny an owner or operator of a facility or site subject to the act the due process right of notice and hearing before being ordered to prevent or eliminate whatever practice it has allegedly committed. This could jeopardize the jobs and well-being of the operation and its employees under order. Basically her testimony requested an amendment to the Bill asking that an owner or operator subject to complaint be able to offer its explanation before a court which can then weigh and

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m. on February 24, 1993.

balance the appropriate response after reviewing all the evidence. (Attachment VII)

Terry Leatherman, Executive Director of the Kansas Industrial Council, a division of the Kansas Chamber of Commerce and Industry appeared in support of **SB 29**. KCCI supports the establishment of policies and procedures to permit the KDHE to be the enforcement agency in our state of the provisions of the federal Clean Air Act. Further, the Kansas Chamber feels the state regulatory activities should be no more restrictive than the federal law, and should encompass an approach which balances environmental protection with economic growth. (Attachment VII)

After the Committee questioned the Conferees, the Chair closed the hearing on **SB 29**.

The Chairman opened discussion and final action on **HB 2070**. Representative Grotewiel presented an outline of the Timetable as proposed by the Subcommittee concerning deadlines under which the process would continue as there was a concern of many on the length of the process. (Attachment VII) He also noted that: "The hearing officer may extend deadlines outlined in Sub-section 4 (b) and 5 (b) only with the written consent of all parties or for good cause shown". Representative Grotewiel made a motion to incorporate these changes within the Bill. The motion was seconded by Representative Alldritt. The motion carried.

Representative Hendrix wanted to rediscuss a couple of areas contained in the balloon prepared by Mary Torrence. His first concern was on the restrictions changed in Subparagraph 1 (a) putting limitations on the inner 10 miles and outer 50 miles at 4,000 acre feet. He felt that this will create problems for a couple of areas, i.e. Johnson County and Wichita. Representative Hendrix made a motion to delete the restrictions in respect to the areas between 10 and 50 miles and also the 4,000 acre feet. The motion was seconded by Representative Myers. Discussion was opened. A "division" was called on the verbal vote. By show of hands, 7 in favor and 11 opposed; the motion failed.

Representative Hendrix then made a motion to delete from the statutory requirement the increasing block rate structure referred to in 3 (C) on Page 3. The motion was seconded by Representative Myers. His concern was in areas of the state where there is a surplus of water and imposed water conservation rate is in effect, this may hinder future growth and development. On a show of hands, 9 in favor and 9 opposed. The Chair had to break the tie; the motion failed.

Representative Grotewiel made a motion clarifying the definition of "point of use". (~~Attachment IX~~) The motion was seconded by Representative Lawrence. The motion carried.

Representative Shore made a motion to change, in Line 17 of Page 1 of the original language, 50 to 25 miles. The motion was seconded by Representative Lloyd. On a show of hands, 8 in favor and 11 opposed. The motion failed.

Mary Torrence addressed the Committee as to three corrections requested by Dr. Peck, one of which was a policy change. The changes would be on Page 1, line 29; Page 3 C, "public water supply system" and Page 7, second line of balloon language, insert "in accordance with the Kansas Administrative Procedures Act". Representative Kejr made a motion to accept these changes. The motion was seconded by Representative Alldritt. The motion carried.

Representative McClure made a statement as to the intent of the Committee in reference to **HB 2070**. On Page 3, Lines 19-27: (c) To determine whether the benefits to the state for approving the transfer outweigh the benefits to the state for not approving the transfer, the hearing officer shall consider all matters pertaining thereto, including specifically: (1) Whether the proposed transfer would reduce the amount of water required to meet the present or any reasonably foreseeable future beneficial use of water by present or future users in the natural watercourse or watershed, aquifer or general area from which the water is to be taken for transfer. **She outlined that this be the legislative intent for the Water Transfer Act.**

Representative Gatlin made a motion to pass the Bill favorably as amended. The motion was seconded by Representative McClure. On a verbal vote, the motion carried. Representative Powers requested to be recorded as voting no Representative Holmes will carry **HB 2070** on the floor.

The meeting adjourned at 6:15 p.m.

The next meeting is scheduled for February 25, 1993.



Date: 2/24/93

## GUEST REGISTER

## HOUSE

## COMMITTEE ON ENERGY AND NATURAL RESOURCES

NAME	ORGANIZATION	ADDRESS	PHONE
Derenda Mitchell	Kansas Recyclers Assn	Topeka Ks	357-6311
Charles Jones	KONE	topeka	296-1535
John Rawn	KONE	Topeka	296-1542
Wayne Kitchen	Western Resources	Topeka	575 8184
Tim Landerback	BARBEE and Assoc.	Topeka	
Sam Wells	Ks Co-op Council	Topeka	
Al Stallard	Ks Dept of Transportation	Topeka	
Mary Ann Bradford	League of Women Voters	"	354-1676
Bill Craven	Sierra Club	Topeka	232-8600
Joyce Wolf	Ks Audubon Council	Topeka	357 7849
Ferry Hazlett	Ks Wildlife Federation	Topeka	266-6685
Shelley Wells	Logis Intern	Lawrence	865-3560
Tom Whitaker	Ks Motor Carriers Assn	Topeka	267-1641
Steve Hunt	KWOC	Topeka	3185
Jack Graves	Parkville Eastern	Wichita	316 262-5181
FREYA POTTER	UTILICORP	TOPEKA	235-5996
LEE EISENHOWER	PROPANE MARKETERS ASSN.	"	354-1749
Steve Wayne	Ks Gov. Consulting	Lawrence	
Mike Torrey	K&FA	Topeka	234-0461
Kreab Dalue	KASB	TOPEKA/WICHITA	357-4020
Bill Anderson	Water Dist #1 of Jo Co	Mission	
Tom Slatten	Top AG of Ks	Top	

Date: 2/24/93

## GUEST REGISTER

## HOUSE

## COMMITTEE ON ENERGY AND NATURAL RESOURCES

[illegible]

Proposed Amendment to H.B. 2429

On page 3, in line 13, after the period, insert:

"The adjutant general shall have the duty, in administering this act, to prevent and eliminate any duplication of services or equipment."

House E & NR  
Attachment 1  
2/24/93



STATEMENT OF THE  
KANSAS COOPERATIVE COUNCIL  
PRESENTED TO THE  
HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE  
REGARDING SB 29  
FEBRUARY 24, 1993

Chairman Holmes and members of the Committee, I am Pam Wells, executive assistant for the Kansas Cooperative Council. The Council's membership consists of more than 200 cooperative businesses having a combined total of nearly 200,000 members.

I appear before you today in support of SB 29. This bill would allow Kansas businesses to meet federal requirements of the Clean Air Act through state administered programs.

The 1990 federal Clean Air Act placed restrictions on business and industry concerning air contaminant emissions. Because grain elevators emit dust particles through their processing and handling activities, approximately 300 Kansas grain elevators must now comply with these federal mandates. The Council supports this legislation because it would grant administrative control to the Kansas Department of Health and Environment, instead of the Environmental Protection Agency retaining control.

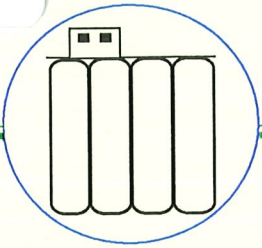
House Enr. LR  
Attachment 2  
2/24/93



By granting this administrative supervision to KDHE, our members would incur fewer compliance expenses and less stringent regulation. It has been estimated that a general operating permit implemented by KDHE would cost about \$18 per ton emissions, while a federal permit would cost about \$25 per ton emissions. Our industry has seen a significant increase in regulatory fees over the past 10 years and this lower rate would be welcomed. We urge your favorable consideration of SB 29.

Thank you for your attention and I would attempt to answer any questions.

PRO



## KANSAS GRAIN AND FEED ASSOCIATION

STATEMENT OF THE  
KANSAS GRAIN AND FEED ASSOCIATION  
TO THE  
HOUSE ENERGY & NATURAL RESOURCES COMMITTEE  
REP. CARL HOLMES, CHAIRMAN  
REGARDING S.B. 29  
FEBRUARY 24, 1993

Mr. Chairman and Members of the Committee, I am Michael Torrey, Director of Legislative & Regulatory Affairs for the Kansas Grain and Feed Association. Our Association's approximately 1,000 member locations are involved in the handling, storage and processing of grain. We appreciate the opportunity to comment today in support of S.B. 29.

The 1990 federal Clean Air Act placed several restrictions on business and industry regarding air emissions. As you may know, grain elevators emit dust during the handling and processing of grain and consequently, it is estimated approximately 300 elevators across Kansas will be required to comply with the Clean Air Act. We are supportive of this legislation because it will give control for the administration of this act to the Kansas Department of Health and Environment, an agency with which we have a good working relationship.

We recently had a productive meeting with KDHE to discuss how this act will affect our members and what can be done to assist the grain elevators in complying with it. Since this meeting, we have started to develop a program which will minimize the cost and burden to our membership. Essentially

House E & NR  
Attachment - 3

2/24/93



KGFA, through the assistance of a private contractor, will develop a general operating permit, which would require KDHE approval and would meet the compliance requirements for between 200 and 250 elevators. Emissions from the remaining 50-75 elevators are high enough that they may be required to develop their own permit. We understand that it will be more difficult to develop a general operating permit if EPA retains the authority to administer this act.

Another advantage of giving authority to the state would be cheaper compliance fees. The federal act allows fees up to \$25 a ton for emissions, while KDHE has suggested they can administer the program for around \$18 per ton emissions. As an industry that has seen a significant increase in regulatory fees during the last 10 years we would welcome this lower rate.

We encourage your favorable consideration of S.B. 29 and stand ready to answer any questions you may have.



Department of Health and Environment

**Robert C. Harder, Secretary**

Reply to:

Testimony presented to

House Energy and Natural Resources Committee

by

The Kansas Department of Health and Environment

Senate Bill 29

The Department of Health and Environment (KDHE) is pleased to provide testimony in support of Senate Bill 29 relating to the Kansas air quality program. Senate Bill 29 represents enabling legislation to update the Kansas air quality statutes to provide KDHE with the necessary authorities to implement the requirements of the federal Clean Air Act Amendments of 1990 (CAA). Failure to comply with these requirements can subject the state to federal sanctions including the loss of federal highway funds, the loss of federal air grant funds, withdrawal of existing air program approvals, and implementation of a federal program in Kansas in lieu of a continuing state program.

During mid-1991, KDHE convened a work group to guide the agency in preparing recommendations for legislation to update the Kansas air statutes. Representatives from the Office of the Revisor of Statutes, the legal and air program staff from KDHE, and the legal and air program staff from the U.S. Environmental Protection Agency served on this work group. The revisions proposed in Senate Bill 542 (which was introduced and considered by the 1992 Legislature but not enacted into law) were the product of that work group. Over the past year, KDHE has continued to work closely with a broad group of Kansans interested in air quality issues to further discuss and clarify the statutory revisions appropriate for implementing the federal CAA. The Clean Air Act Implementation Advisory Group formed by KDHE to assist in this effort recommended several additions to the revisions included in Senate Bill 542, as did agency staff. These newly-recommended provisions have been incorporated into Senate Bill 29.

While significant new program resources will be required by KDHE (and the local air agencies that provide support) to implement the requirements of the 1990 Amendments to the CAA, this complex new law is not expected to impact Kansas as directly as many other states. The past success of the Kansas program in controlling air pollution has prevented several of the major provisions of the



Amendments from applying to Kansas. Conversely, the clean motor vehicle fuel provisions of the federal CAA will result in new opportunities to market Kansas products such as natural gas, propane, and ethanol-derived fuels that will be used to reduce urban pollution in many other areas of the United States. The information provided in the attachments to this testimony highlight the major requirements of the federal Amendments and provides insight into their applicability in Kansas. The substantive revisions proposed in Senate Bill 29 are those that must be made in the Kansas statutes in order to implement the mandatory requirements that do apply to Kansas. The most significant requirements occur in the following five areas:

1. Title V (Operating Permits) of the CAA Amendments requires that states develop and implement a broadened operating permit program for all major air pollution sources. Through the operating permit, Title V links the currently regulated major air emission source program with the applicable provisions of Title III (Hazardous Air Pollutants) and Title IV (Acid Rain) of the CAA Amendments. This provision is intended to result in more comprehensive and enforceable air permits issued on a five year basis and will require significant revisions to KDHE's existing major source air permit program. Changes are proposed in Senate Bill 29 to update the procedural requirements of the Kansas air permit program to be consistent with the new federal law.
2. Title V of the CAA Amendments also requires states to fund the new operating permit program with dedicated emission fees assessed on a "dollars per ton of emissions" basis. Because the air program in Kansas is less complex than those in the more heavily polluted areas of the country, the fees required in Kansas are expected to be less than in many other states. Revisions to existing fee authorities have been proposed to establish the framework for the emission fee and for the deposit of these funds into a dedicated fund for use in funding the air program as required by federal law. The larger emission sources in Kansas will primarily be affected by these fees.
3. The federal CAA Amendments require states to have specific enforcement authorities in order to effectively implement the provisions of the Act under state law. Senate Bill 29 proposes to update the current Kansas statutes to provide for administrative penalties of up to \$10,000 per violation per day and for appropriate criminal sanctions as required.
4. The CAA Amendments also require states to establish and implement a Small Business Technical and Environmental

Compliance Assistance Program to assist small businesses in identifying and preventing environmental releases. This program is particularly important to Kansas businesses because the new hazardous air pollutant provisions of Title III of the CAA are expected to affect many small industries that have not been previously regulated. Senate Bill 29 contains revisions to the Kansas statutes that will provide for this program.

5. Several minor administrative changes are also proposed in Senate Bill 29 to update the statutory language, in general, and to make the air program procedures more consistent with the requirements of the Kansas Administrative Procedures Act.

The summary of the proposed changes attached to this testimony provides a more detailed listing of the proposed changes.

As noted earlier, the resources required to implement the new Title V operating permit program in Kansas are required by federal law to be provided by emission fees assessed among the major sources of air emissions. While the total fiscal impact of these new federal requirements cannot be precisely assessed until several additional federal regulations are published that define the process more specifically, KDHE has prepared a comprehensive implementation plan for this program that provides estimates of resource needs through FY 96. This plan provides for incremental increases in resources beginning in FY 94 with full implementation by the end of FY 96.

These estimated funding trends for the air program in Kansas show a transition in the funding mechanisms from an existing combination of permit fees, state and local general funds, and federal grant funds to a system that is more predominantly supported by the new emission fees. Since these fees will be assessed on the basis of the quantity of emissions, the largest sources will be affected most directly by this change. Revenues from these fees will not be available until late in FY 94 because of the procedural restraints associated with the collection of emission fees. Therefore, the first year implementation strategy for Senate Bill 29 provides for a loan from an agency overhead fund early in FY 94 to be repaid during the latter half of the year when CAA fees become available.

In summary, the federal Clean Air Act requires all states, including Kansas, to begin a complex CAA implementation process that will unfold over the next 8-10 years. That segment of the federal law that will have the greatest impact upon the state's program within KDHE is the new Title V operating permit program. This program requires KDHE to submit a comprehensive plan for complying with Title V to the federal EPA by November 15, 1993, and to be prepared to begin processing new five-year operating permits for all major air sources in the state not more than one year later. The state was also required to submit a plan for



implementing the mandatory CAA Small Business Technical Assistance Program by November 15, 1992. Because Kansas failed to enact enabling legislation authorizing this program last year, we have been found in violation of this provision and have received a formal notice of state program deficiency from the federal EPA. KDHE is particularly concerned about the delays in developing the small business assistance program as it is very important for help to be available to small businesses before the effective dates of forthcoming federal CAA regulatory requirements.

The first critical step in responding to these new requirements is the passage of enabling legislation. Because implementation time pressures upon KDHE have increased dramatically as a result of the loss of the air legislation proposed last year, we encourage the 1993 Legislature to not only look favorably upon Senate Bill 29 but to do so early in the session. Early enactment will provide KDHE the opportunity to begin immediately to meet the rapidly approaching federal deadlines and to correct the program deficiency already identified.

Presented by: Charles Jones  
Division of Environment  
February 24, 1993

**Summary of Statutory Revisions to the Kansas  
Air Quality Statutes Proposed in Senate Bill 29  
in Response to the  
Federal Clean Air Act Amendments of 1990**

<b><u>SB 29 Section</u></b>	<b><u>SB 29 Page</u></b>	<b><u>Summary of Proposed Action</u></b>
1	1	Amends K.S.A. 65-3001 to provide for a more current format and to identify the Act as the Kansas Air Quality Act.
2	1-2	Amends K.S.A. 65-3002 to clarify additional terms used in the statute.
3	2-4	Amends K.S.A. 65-3005 to further clarify the Secretary's authorities under the Act.
4	4	Amends K.S.A. 65-3007 to further clarify the Secretary's authority to require monitoring of emission sources in response to a federal requirement.
5	4-7	Amends K.S.A. 65-3008 to rewrite the air quality permit process to provide in clear and concise language the requirements of the permit program.
New Section 6	7	Specifies the public comment procedures that apply to the permit program and clarifies the public role in comparison to the role of the permittee.
New Section 7	7-9	Specifies and clarifies those actions that the Secretary may take in administering the air permit program.



<u>SB 29</u> <u>Section</u>	<u>SB 29</u> <u>Page</u>	<u>Summary of Proposed Action</u>
New Section 8	9-10	Clarifies the Secretary's authority to collect emission fees to fund air quality activities. Establishes a dedicated fund for receiving emission fee revenues.
9	10-11	Amends K.S.A. 65-3011 to clarify the enforcement authorities of the Secretary in response to the federal requirements and updates outdated statutory language.
New Section 10	11-12	Provides a concise statement of unlawful acts in response to federal requirements and to make the statute more consistent with other environmental statutes.
New Section 11	12	Specifies criminal sanctions as required, generally, by federal law. The specific language was selected to be consistent with the Kansas hazardous waste laws.
12	12-14	Amends K.S.A. 65-3012 to provide an update of the Secretary's emergency authorities to replace outdated language. The specific language was patterned after the Kansas hazardous waste statutes.
13	14	Amends K.S.A. 65-3015 to update provisions relating to public access to agency records and to make these provisions consistent with the new federal requirements.
14	14-15	Amends K.S.A. 65-3018 to assure penalty authorities required by the federal act and to assure consistency with other environmental statutes.

<u>SB 29</u> <u>Section</u>	<u>SB 29</u> <u>Page</u>	<u>Summary of Proposed Action</u>
New Section 15	15-18	Creates the Small Business Stationary Source Technical and Environmental Compliance Assistance Program required by the federal Clean Air Act and establishes the procedural requirements for setting up this program. The specific language was derived heavily from the federal Act.
New Section 16	18	Insures current regulations remain effective until the new program is fully implemented.
17, 18, 19	18-19	Amends existing statutes to be consistent with the new statutory changes.
18	19	Deletes K.S.A. 65-3014 which set out procedures for promulgating rules and regulations. The procedures set out at K.S.A. 77-415 <u>et seq.</u> provide sufficient public participation to satisfy federal Act requirements.



# STATUS OF STATE ENABLING LEGISLATION

(As of July, 1992)

PREPARED BY EPA

	STATES	PERMITS: SUBSTANTIVE	PERMITS: ADMINISTRATION	FEES	ENFORCEMENT	APPLICABILITY
REGION I	CONNECTICUT	A	A*	A	A*	A
	MAINE	D	D	D	D	D
	MASSACHUSETTS	D	D	D	D	D
	NEW HAMPSHIRE	E*	E*	E	F	E*
	RHODE ISLAND	B	B	B	B	B
	VERMONT	F	F	F	F	F
REGION II	NEW JERSEY	B	B	B	B	B
	NEW YORK	B	B	B	B	B
	PUERTO RICO	D	D	D	D	D
	VIRGIN ISLANDS	D	D	D	D	D
REGION III	DELAWARE	E	C	C	D	E
	MARYLAND	E	C	C	C	E
	PENNSYLVANIA	B	B	B	D	B
	VIRGINIA	E	E	C	C	C
	WEST VIRGINIA	D	D	D	D	D
REGION IV	ALABAMA	E	E	E	E*	E
	FLORIDA	E	A	A	E	E
	GEORGIA	E	A	A	A	E
	KENTUCKY	E	E	A	E	E
	MISSISSIPPI	E	F	F	E	E
	NORTH CAROLINA	E	F	A	E	E
	SOUTH CAROLINA	E	B	B	E	E
	TENNESSEE	E	E	A*	E	E
REGION V	ILLINOIS	C	C	C	C	C
	INDIANA	D,E	D,E	D*	D*	D*
	MICHIGAN	B*	B*	B*	B*	B*
	MINNESOTA	A	A	A	A	A
	OHIO	D	D	D	D	D
	WISCONSIN	A	A	A	A	A
REGION VI	ARKANSAS	E	A	A	A	A
	LOUISIANA	B	B	A	B	B
	NEW MEXICO	A	A*	A	A	A
	OKLAHOMA	B	B	B	B	B
	TEXAS	A	A	A	A	A
REGION VII	IOWA	F	F	F	F	F
	KANSAS	F	F	F	F	F
	MISSOURI	A	A	A	A	A
	NEBRASKA	A	A	A	A	A
REGION VIII	COLORADO	B	B	B	B*	B*
	MONTANA	D	D	D	D	D
	NORTH DAKOTA	E	E	E	E	E
	SOUTH DAKOTA	A	A	A	A	A
	UTAH	A	A	A*	A	A
	WYOMING	A	A	A*	A,E	A*
REGION IX	ARIZONA	B	B	B	B	B
	CALIFORNIA	D	D	E	A	D
	HAWAII	A	A	A	A	A
	NEVADA	E	D	D	D	D
	AMERICAN SAMOA					
	GUAM					
REGION X	ALASKA	F	F	F	F	F
	IDAHO	E	E	E	F	E
	OREGON	A*	A	A	D	A
	WASHINGTON	A	A	D	A	A

A = LEGISLATION ENACTED

C = LEGISLATION PREPARED, BUT NOT BEFORE THE LEGISLATURE

E = PRE-EXISTING AUTHORITY ADEQUATE

\* = REGION QUESTIONS ADEQUACY OF LEGISLATION

B = LEGISLATION BEFORE THE LEGISLATURE

D = NO LEGISLATION PREPARED

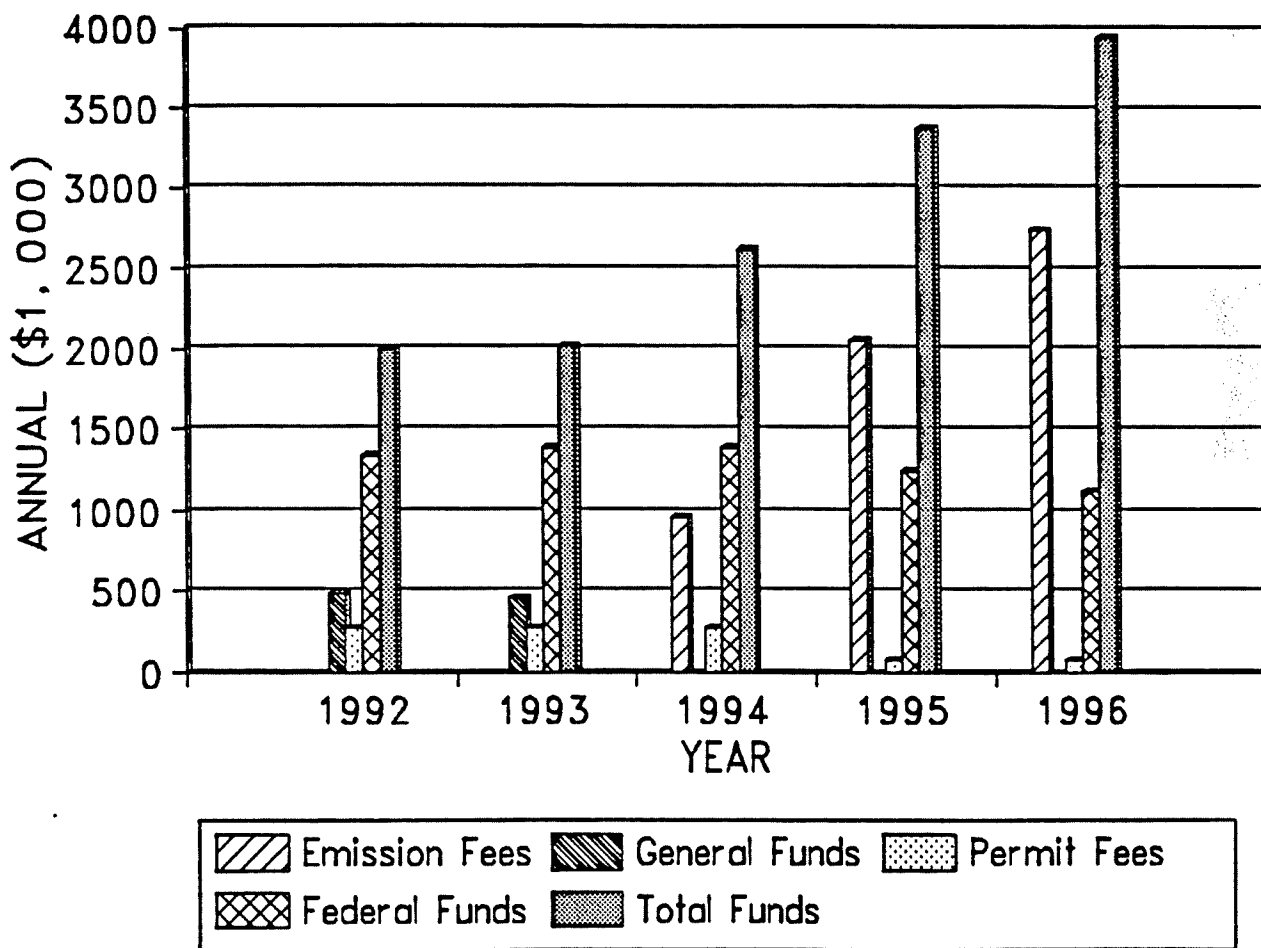
F = LEGISLATION INTRODUCED BUT FAILED

4-8

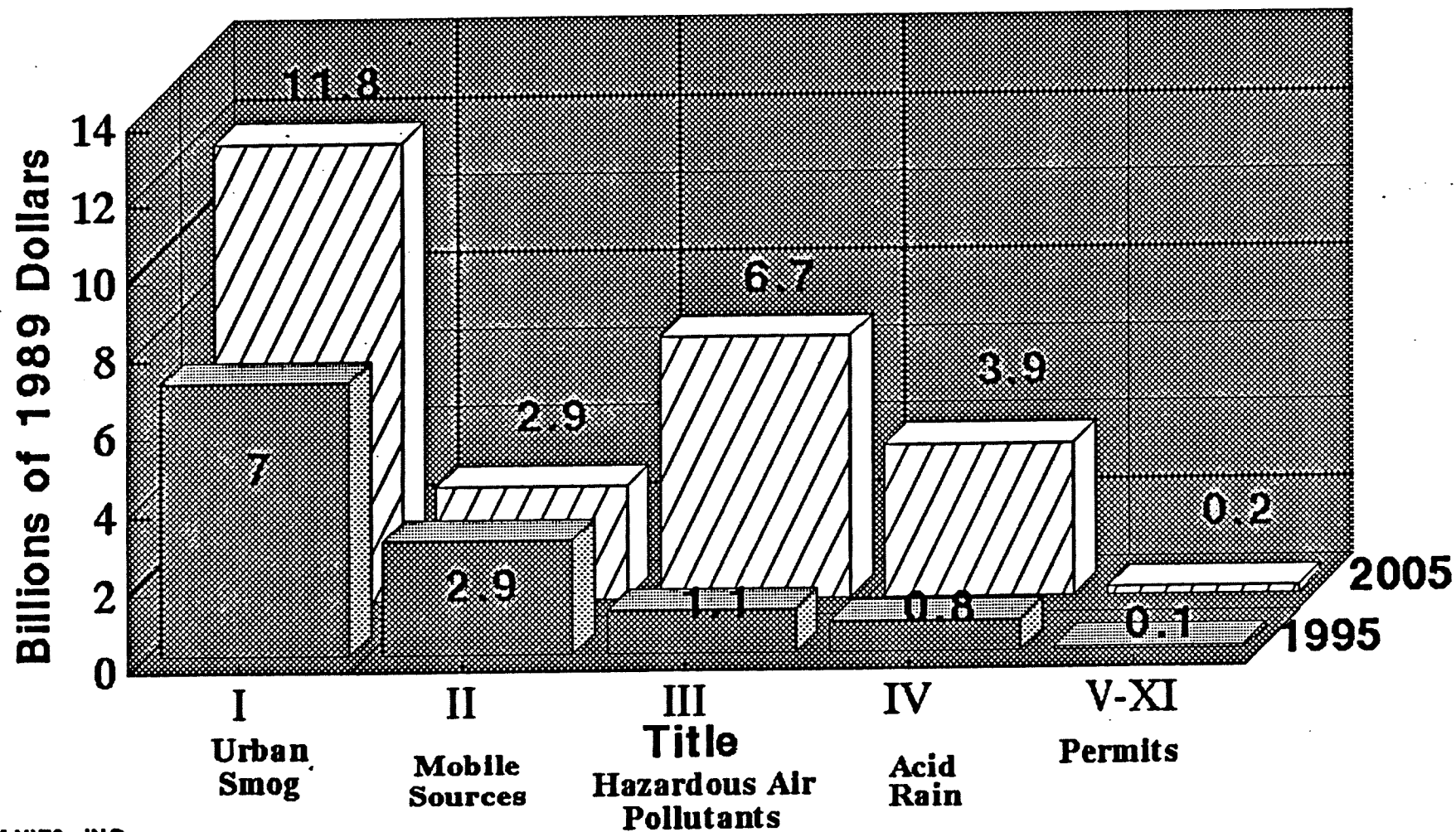
NOTE: THE DATA REPORTED ABOVE REFLECT REPORTS FROM STATES AND/OR INITIAL REGIONAL OFFICE CHECKS THEY DO NOT REFLECT IN-DEPTH EPA REVIEW OR CONCLUSIONS AS TO THEIR ULTIMATE ADEQUACY IN SUPPORTING APPROVAL OF STATE OPERATING PERMIT PROGRAM SUBMISSIONS.

# KANSAS CLEAN AIR ACT IMPLEMENTATION RESOURCE TRENDS 1992-1996

## State & Local Funds



# PROJECTED ANNUAL COST BREAKDOWN 1990 AMENDMENTS



Source:  
TRC COMPANIES, INC.

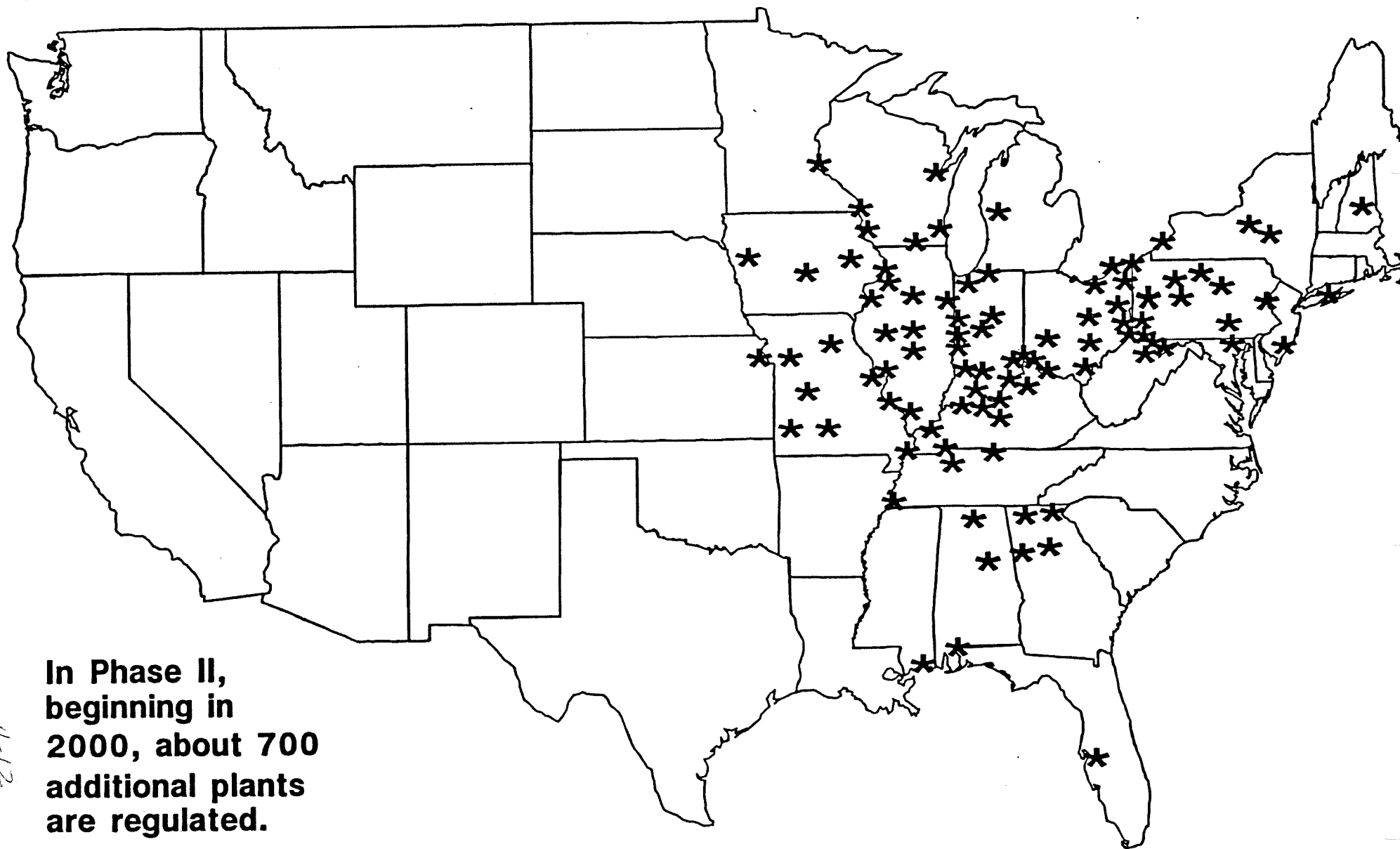


**KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT  
CLEAN AIR ACT IMPLEMENTATION ADVISORY GROUP**

	REPRESENTING	NAME	TITLE	ORGANIZATION
1	Board of Public Utilities	Adair, Larry	Manager, Electric Supply	Board of Public Utilities
2	Kansas Chamber of Commerce & Industry	Baird, Bob	Environmental Manager	General Motors Corp. - CTC Fairfax Plant
3	Wichita/Sg. Co. Dept. of Community Health	Brown, Jack	Environmental Health Director	Wichita/Sg. Co. Dept. of Community Health
4	Kansas Sierra Club	Cather, William	Chairman	Kansas Chapter of Sierra Club
5	Kansas Association for Small Business	Dial, Keith	Partner	Air Capital Plating, Inc.
6	Kansas Department of Commerce & Housing	Filter, Mikel	Director, Bus. Retention & Expansion	Kansas Department of Commerce & Housing
7	American Lung Association of Kansas	Garcia, Jayne	Program Director	American Lung Association of Kansas
8	Kansas Municipal Utilities, Inc.	Hanson, Gilbert, Jr.	General Manager	Kansas Municipal Energy Agency
9	Kansas Wildlife Federation, Inc.	Hazlett, Jerry	Executive Director	Kansas Wildlife Federation, Inc.
10	Western Resources	Kitchen, Wayne	Director, Env. Serv. & Indus. Hygiene	Western Resources
11	Kansas Grain and Feed Association	Meinhardt, Dan	General Plant Superintendent	The Smoot Grain Company
12	Wyandotte County Health Department	Michael, Richard	Director, Air Pollution Control	Wyandotte County Health Department
13	Kansas Cement Council	Moses, Edward R.	Managing Director	Kansas Cement Council
14	Kansas Chamber of Commerce & Industry	Newman, Dennis	Environmental Supervisor	Vulcan Chemicals
15	Kansas Chamber of Commerce & Industry	O'Kane, Roger	EPA Engineer	Automotive Controls
16	Sunflower Electric Power Corp.	Penrod, Wayne E.	Sr. Manager/Env. & Production Planning	Sunflower Electric Power Corp.
17	Kansas Petroleum Council	Peterson, Ken	Executive Director	Kansas Petroleum Council
18	Kansas Asphalt Pavers Association, Inc.	Popejoy, Don	President	Popejoy Construction Co., Inc.
19	Panhandle Eastern Pipeline Co.	Porter, Donald C.	Director of Environmental Protection	Panhandle Eastern Pipeline Co.
20	Kansas Department of Transportation	Siefken, Myron W.	Systems Evaluation Engineer	Kansas Department of Transportation
21	Kansas Chamber of Commerce & Industry	Spalding, Douglas	Plant Technical Systems Manager	Proctor and Gamble
22	Kansas City Power and Light	Wasson, Ronald G.	Sr. Vice Pres./Admin. & Tech. Services	Kansas City Power and Light
23	Kansas Audubon Council	Wolf, Joyce	Legislative Coordinator	Kansas Audubon Council

# PHASE I PLANTS

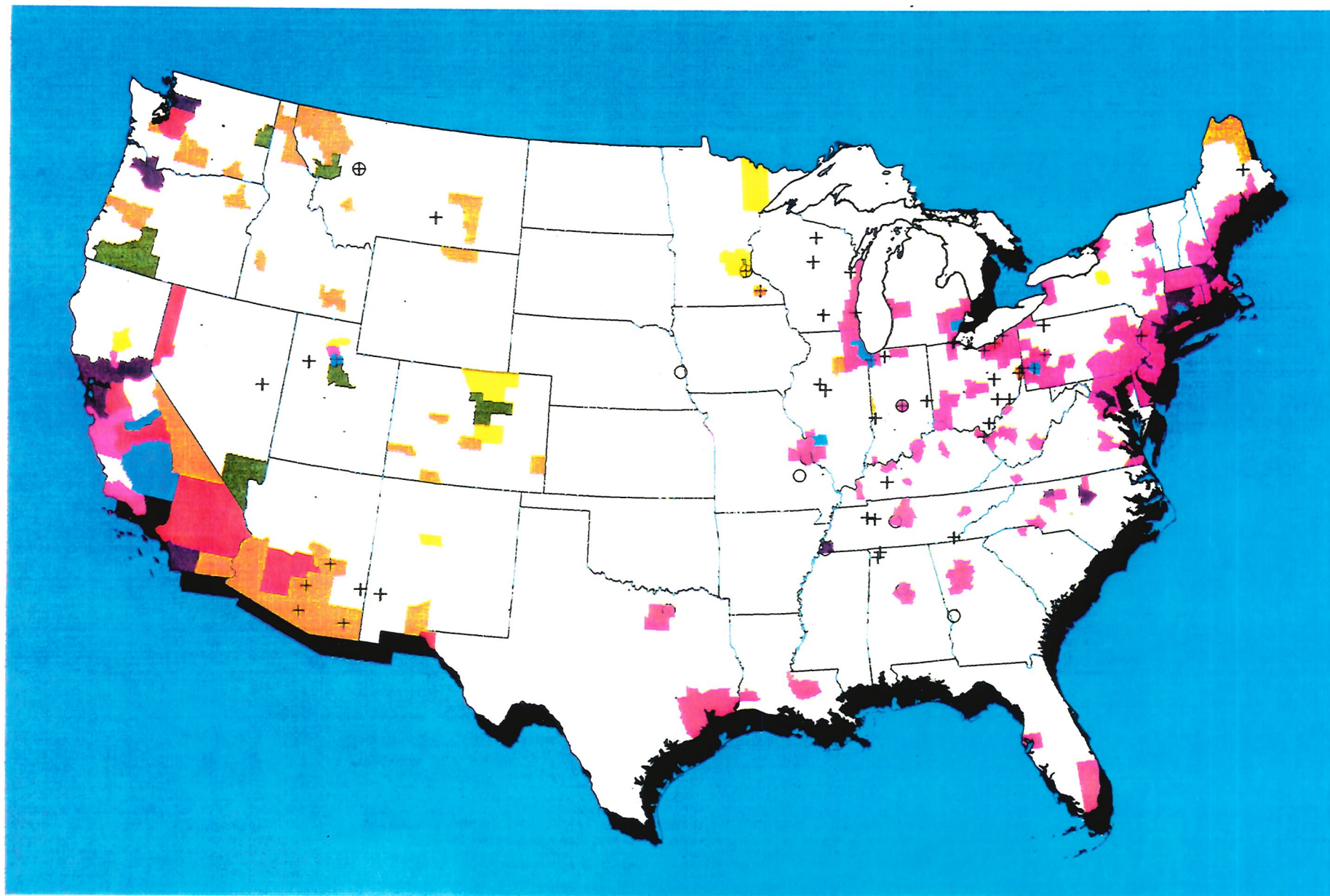
SUBJECT TO THE APPLICABLE REQUIREMENTS OF TITLE IV  
1995-1999



In Phase II,  
beginning in  
2000, about 700  
additional plants  
are regulated.

# Counties with Non-Attainment Areas

SUBJECT TO THE APPLICABLE REQUIREMENTS OF TITLES I AND II



O3
  CO
  PM10
  O3 - CO
  O3 - PM10
  CO - PM10

O3 - CO - PM10
  O3 - CO - PM10 - NO2
 + SO2
 o Pb



### Glossary of Terms

- O<sub>3</sub> - Ozone; a component of photochemical smog
- CO - Carbon monoxide
- PM<sub>10</sub> - Particulate matter less than 10 microns in diameter
- NO<sub>2</sub> - Nitrogen dioxide
- SO<sub>2</sub> - Sulfur dioxide
- Pb - Lead



# SIERRA CLUB

## Kansas Chapter

Clean Air Act

S.B. 29

Testimony of William Craven

Legislative Coordinator, Kansas Sierra Club

House Energy and Natural Resources Committee

Feb. 24, 1993

Thank you for giving the Kansas Sierra Club an opportunity to express its opposition to parts of this proposal and to recommend amendments which would strengthen it. If you check with the counterpart Senate committee, you will see that this testimony is much shorter, with far fewer objections than were presented on that side. Several reasons explain the changes. First, some of our objections have been resolved in subsequent discussions with the department. Second, the meat of this measure will be in the rules and regulations, and we will be active there. Third, we don't want to hold up passage of this implementing legislation to the detriment of Kansas receiving federal funds. That doesn't mean that the Sierra Club is caving in. Two types of amendments will be proposed: one is quite substantive, the other consists of agreed upon changes reached between the Sierra Club and KDHE.

We do have some concerns about KDHE's enforcement record in terms of air quality regulations. As one example, the Aptus incinerator in Coffeyville, which is permitted to burn hazardous wastes, was caught burning radioactive materials shipped to it by the U.S. Department of Energy, a clear violation of its permit. KDHE failed to take any enforcement action whatsoever. If burning this material was done knowingly, it could have subjected the company to criminal penalty. Even if done without knowledge, it should have resulted in a civil action.

Aptus is planning to expand, and this bill would be strengthened remarkably if a moratorium on future hazardous waste incineration was included. According to the 1990-91 Green Index, Kansas leads the nation in both municipal incineration and in the importing of hazardous wastes for eventual burning. This is done despite the fact that KDHE has no evidence giving these emissions a clean bill of health. It may be legal, but it certainly isn't healthy. To the contrary, what is emitted from hazardous waste incinerators is, in large measure, some of the most pervasive and long-lasting contaminants known.

You should also know that according to a recent U.S. Environmental Protection Agency release, that all of the hazardous waste incinerators in the country potentially fail to meet the agency's requirements for near-total destruction of hazardous wastes, especially dioxins. EPA requires 99.99 percent destruction of all hazardous wastes and 99.9999 percent destruction of especially harmful wastes such as PCB's and dioxins. Those numbers may seem high to you, until you recall that dioxins are among the most harmful chemicals known to man.

House E & NR  
Attachment 5  
2/24/93

The committee should have on record the fact that Kansas' spending for air pollution on a per capita basis ranks 48th in the nation.

It is probably no accident that the Aptus facility is located in a county with traditionally high unemployment and poverty and that the proposed medical wastes incinerator in Wyandotte County is proposed to be located in an area which is largely African-American. A recent National Law Journal special section documented the connection between low-income and minority areas and some of the nation's worse toxic nightmares.

In addition to that proposed amendment, much too much of the bill is worded permissively. There are many examples of "the Secretary may" which should be replaced with "the Secretary shall." The changes made in the Senate Energy and Natural Resources Committee reflected our opposition to several of these examples. I believe there were five "mays" changed to "shalls." The following examples should also be amended into the bill:

Page 6, line 25, and  
Page 7, line 30

The first of these only requires the secretary to promulgate regulations. The content of those regulations is yet to be determined.

The second change still vests discretion in the Secretary, and my understanding is that department does not object to either of these changes.

Thank you for providing the Sierra Club an opportunity to testify.



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February 23, 1993

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House Committee on Energy  
& Natural Resources  
c/o Chairman Holmes  
Capitol, Room 115 South  
Topeka, Kansas 66612

ATTN: April Howell

RE: Senate Bill No. 29

Dear Committee Members:

My name is Derenda J. Mitchell, and I represent the Kansas Recyclers Association. I submit this letter to you regarding Senate Bill No. 29 and ask that it constitute our prefiled testimony regarding the legislation.

Although we do not oppose the Bill in substantial part, we do oppose two sections of the Bill, one of which is found on page 13, lines 17-20. The basis for our opposition to this section is that we are greatly concerned that the language may be interpreted to deny an owner or operator of a facility or site subject to the act the due process right of notice and hearing before being ordered to prevent or eliminate whatever practice it has allegedly committed. This "shoot first, ask questions later" approach could be disastrous to the business in question and could jeopardize the jobs and well-being of the operation and its employees under order.

Elimination of lines 17-20 would not hamper the ability of the Secretary of Health and Environment to address offending practices. Section 2 on page 13, found at lines 21-29 identifies the empowerment of the Secretary of Health and Environment to enjoin practices violative of the law.

We understand that it is not the intention of the Department of Health and Environment to act arbitrarily without the opportunity afforded to offer an explanation of practices. We, nevertheless, do not know who will be responsible for making these decisions years into the future and cannot afford to take for granted that fairness will be incorporated into the bill when it is not apparent from its face.

House E & NR  
Attachment  
2/24/93

February 23, 1993  
Page 2

We are also opposed to Section (c), beginning on page 13 of Senate Bill 29 lines 37-2 on page 14. An owner or operator allegedly subject to the law should not be compelled to restrain from operations or be enjoined preliminarily and certainly not permanently when the proponent of the restraint or injunction cannot even prove that irreparable damage or harm will be caused by the failure to grant the remedy sought.

All we ask by our proposed amendments to Senate Bill 29 is that an owner or operator subject to complaint be able to offer its explanation before a court which can then weigh and balance the appropriate response after reviewing all the evidence.

Thank you for the opportunity to consider our concerns. If you have questions, please do not hesitate to let us know so that we may assist you in addressing them.

Very truly yours,



DERENDA J. MITCHELL

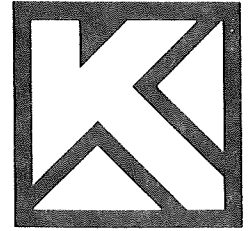
DJM:bls

cc: Russell Fallis, President,  
Kansas Recyclers Association  
William L. Mitchell, Legislative Counsel

# LEGISLATIVE TESTIMONY

## Kansas Chamber of Commerce and Industry

500 Bank IV Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321



A consolidation of the  
Kansas State Chamber  
of Commerce,  
Associated Industries  
of Kansas,  
Kansas Retail Council

SB 29

February 24, 1993

KANSAS CHAMBER OF COMMERCE AND INDUSTRY  
Testimony Before the  
House Committee on Energy and Natural Resources  
by  
Terry Leatherman  
Executive Director  
Kansas Industrial Council

Mr. Chairman and members of the Committee:

I am Terry Leatherman. I am the Executive Director of the Kansas Industrial Council, a division of the Kansas Chamber of Commerce and Industry. Thank you for the opportunity to appear before you today in support of SB 29.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

KCCI supports the establishment of policies and procedures to permit the Kansas Department of Health and Environment to be the enforcement agency in our state of the

House E&NR  
Attachment  
2/24/93

7

provisions of the federal Clean Air Act. Further, the Kansas Chamber feels the state regulatory activities should be no more restrictive than the federal law, and should encompass an approach which balances environmental protection with economic growth.

During deliberations over SB 542 last year, KCCI was convinced that bill met the objectives of the Kansas business community and urged the bill's adoption. Since SB 29 nearly mirrors SB 542, the Kansas Chamber is pleased to reiterate our support.

Thank you for considering KCCI's position on this issue. I would be pleased to answer any questions.



# TIMETABLE-HB 2070

<sup>complete</sup> <del>Application received</del>	As Amended	As proposed
Notice	14	see attachment
{ Pre-Hearing	120 (beginning)	not sooner than 90, not later than 120
	60 (end)	45
	90 (beginning)	not sooner than 90, not later than 120
{ Hearing	180 (end)	120
Initial Order	90	90
Final Order	90	90

644 TOTAL DAYS

525 to 585 DAYS

"The hearing office may extend deadlines outlined in Sub-section 4(b) and 5(b) only with the written consent of all parties or for good cause shown."

House E & NR  
Attachment  
8  
2/24/93

8-2

1 taken by a majority of the members thereof. The panel shall  
 2 have all powers necessary to conduct the hearings; make its  
 3 findings and implement the provisions of this act. The hearing  
 4 shall be conducted in a prudent and timely manner.

5 (e) To determine whether the benefits to the state for ap-  
 6 proving the transfer outweigh the benefits to the state for not  
 7 approving the transfer, the panel shall consider all matters per-  
 8 taining thereto, including specifically:

9 (1) Any current beneficial use being made of the water pro-  
 10 posed to be diverted, including minimum desirable streamflow  
 11 requirements;

12 (2) any reasonably foreseeable future beneficial use of the  
 13 water;

14 (3) the economic, environmental, public health and welfare  
 15 and other impacts of approving or denying the transfer of the  
 16 water;

17 (4) alternative sources of water available to the applicant  
 18 and present or future users for any beneficial use;

19 (5) the proposed plan of design, construction and operation  
 20 of any works or facilities used in conjunction with carrying the  
 21 water from the point of diversion. The plan shall be in sufficient  
 22 detail to enable all parties to understand the impacts of the  
 23 proposed water transfer; and

24 (6) conservation plans and practices or the need for such  
 25 plans and practices of persons protesting or potentially affected  
 26 by the proposed transfer. Such plans and practices shall be  
 27 consistent with the guidelines for conservation plans and prac-  
 28 tices developed and maintained by the Kansas water office  
 29 pursuant to subsection (e) of K.S.A. 74-2608; and amendments  
 30 thereto.

31 (b) The hearing officer shall commence the hearing process by  
 32 giving notice of the prehearing conference to the applicant and the  
 33 appropriate commenting agencies by mail. Notice of the prehearing  
 34 conference shall also be published in the Kansas register and in at  
 35 least one paper of general circulation in the area where the proposed  
 36 point of diversion is located. The hearing officer shall hold a pre-  
 37 hearing conference not later than 120 days after receipt of the com-  
 38 plete application and shall commence a formal public hearing not  
 39 later than 90 days after completing the prehearing conference, except  
 40 that the time limits may be extended by the hearing officer with the  
 41 consent of all parties. A formal public hearing shall be held in the  
 42 basin of origin and, if deemed necessary by the hearing officer, a  
 43 public comment hearing shall be held in the basin of use. The initial

panel employs the hearing officer.

not more than 14 days after the chief engineer receives the  
 completed application. Such notice shall be given by mail to the  
 applicant, any other parties who have intervened and the  
 appropriate commenting agencies and shall be published in the  
 Kansas register and in at least two newspapers having

which shall commence not later than 120 days after the required  
 notice has been given and conclude not later than 60 days after  
 commencement. Not later than 90 days after the conclusion of the  
 prehearing conference, the hearing officer shall commence a  
 formal public hearing. The

formal public hearing shall conclude not later than 180 days  
 after commencement and the

(c) "Point of use" means the geographical center of each water user's proposed or authorized place of use where any water authorized by the proposed transfer will be used.

Add to K.S.A. 82a-1501(a) -- In determining the amount of water transferred in the case of a water transfer supplying water to multiple public water supply systems and/or other water users, the amount of water transferred shall be the considered to be the aggregate amount of water which will be supplied by the transfer to all public water supply systems and/or other water users whose "points of use" are located outside the geographical limits set in K.S.A. 82a-1501(a).

House E & NR  
Attachment  
2/24/93