

*Carl Dean Holmes*  
Approved: January 25, 1994  
Date

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 January 13, 1994 in Room 526-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee:

Tom Dailey, KS Corporation Commission  
Charles Jones, KS Dept of Health and Environment  
Darrel Montai, KS Wildlife and Parks  
William Bider, KS Dept of Health and Environment  
Thomas Dailey, Kansas Corporation Commission

Others attending: See attached list

Chairman Holmes called the meeting to order, opening the floor to any bill requests by the committee or state agencies. He requested that committee members postpone any debate on the issues until the bills are scheduled for a hearing.

**Thomas Dailey.** Mr. Dailey gave a brief synopsis of five bill requests to amend current Kansas statutes relating to the Kansas Corporation Commission. (See Attachment #1) The bill requests and action taken are as follows:

Representative Grotewiel moved to accept the bill request to amend KSA 66-101e; 66-1,192; 66-1,205; 66-1,220; and 66-1,235 as follows: strike the word "affecting" in Paragraph Two of each statute listed to the word "changing." Motion seconded by Representative Powers. Motion passed.

Representative Grotewiel moved to accept the bill request to amend KSA 66-104 to clarify the definition of a natural gas public utility. Representative Webb seconded the motion. Motion carried.

Representative Powers moved to accept the bill request to amend KSA 66-123 to add a penalty for failure to file annual reports to the Commission within the prescribed time period and require companies to file a statement outlining the gross intrastate operating revenues for the preceding calendar year by February 28 of each year and then must file their annual report as prescribed in the statute by April 30 of each year. The motion was seconded by Representative Grotewiel. Motion carried.

Representative Grotewiel moved the bill request to amend KSA 66-1,151 be accepted inserting wording "according to the 1968 Pipeline Safety Act as amended" to parallel the federal statutes relating to violations of the natural gas pipeline safety act. Representative Alldritt seconded the motion. Motion carried.

Representative Alldritt moved to accept the bill request to amend KSA 66-106 to allow the Commission to have better working relationships and potential of regional regulation, allowing for issues such as Integrated Resource Planning, decommissioning issues related to nuclear power facilities, joint telecommunications audits, etc.. Motion seconded by Representative Powers. Motion carried.

**Charles Jones.** Mr. Jones briefed the committee on two proposed bills. (See Attachments #2 and #3) The proposals and actions are as follows:

Representative Webb moved to accept a bill request from the Kansas Department of Health and Environment regarding amending KSA 82a-1203 and 82a-1205 and repealing the existing actions. Representative Lloyd seconded the motion. Motion carried.

Representative Grotewiel moved to accept a bill request to amend KSA 65-5301 et.seq., to add provisions for licensure and certification of firms and individuals who perform lead-hazard detection or lead hazard reduction activities and repealing the existing sections. Representative Alldritt seconded the motion. Motion carried.

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m. on January 13, 1994. CONTINUATION SHEET

**Darrell Montai.** Mr. Montai asked the committee to consider introduction of three bills. (See Attachment #4) Explanation and action on each is as follows:

Representative Powers moved to accept a bill request to amend and/or repeal select statutes as follows: KSA 32-901 and, instead, issue an individual state park use license for entry into state parks and to use rail-trails. Such license would not be required for those under 16 years of age. In addition, to establish an individual public lands use license for Department lands and waters, other than state parks. Such license would not be required for those under 16 years of age and those in possession of a hunting, fishing or furharvesting license. Further, to amend the statute to provide for a lifetime use license for the aforementioned applicants. KSA 32-906 to remove the 24-hour resident provision for fishing license. Representative Alldritt seconded. Motion carried.

Representative Alldritt moved to accept a bill request to amend KSA 32-1050 to include a more complete listing of violations of KWP laws and regulations and monetary bonding amounts. Such amendment would authorize the use of personal checks for payment of bond amounts. Representative Grotewiel seconded. Motion carried.

Representative Freeborn moved to accept a bill request to amend KSA 32-877 to provide that all monies in hatchery bond accounts in excess of that required to pay the principal of, interest on and any premiums on the revenue bonds be transferred to the Wildlife Fee Fund. Representative Gatlin seconded the motion. Motion carried.

Representative McClure moved to introduce the resolution to implement the Safe Drinking Water Act, as proposed by Congressman James Slattery. Seconded by Representative Alldritt. Motion carried.

**William Bider.** Mr. Bider briefed the Committee on the Solid Waste Act and Solid Waste Management Fund. (See Attachment #5) He began first by clarifying some information discussed at the January 12 Committee meeting. He stated there is no match required for tire grants.

In offering background on the status of solid waste activities, Mr. Bider stated a major effort during 1993 was the completion of landfill design and operating regulations and the related state application of the Environmental Protection Agency to become authorized to oversee the municipal solid waste landfill permitting program. He added there were several positive outcomes to all their efforts in 1993, wherein KDHE received program approval before the October 9 1993 deadline applied to the state's large facilities, offering some degree of protection from third party lawsuits at all times. Additionally, the six-month extension granted to all small landfills receiving less than 100 tons of solid waste per day, allowing many small cities and counties time to plan and make informed decisions about their facilities. He stated an extension of 18 months is available to very small landfills (less than 20 tons per day) in arid areas if there is no evidence of groundwater contamination.

Mr. Bider stated the education process has been difficult, but now most members of the regulated community are well informed. KDHE plans to continue ongoing education. He said individual county and regional planning committees have been formed and hired consultants are available to assist in their efforts.

Mr. Bider reported that the grant application process has worked well, with the first planning grants being awarded in November 1993. He provided a table indicating over \$700,000 grants now pending. Also provided is a map showing a total of 76 counties have now submitted individual applications or are part of regional applications.

With reference to groundwater contamination, samplings indicate an increase at Kansas landfills. He said they must responsibly utilize information on this problem when determining appropriate long-term landfill design and operation standards for all landfill sizes and types.

Mr. Bider said many counties are moving forward with closure and KDHE is working closely with counties to develop appropriate solid waste transfer systems, allowing flexibility while ensuring that certain necessary operating conditions are satisfied.

KDHE is presently in the process of assessing solid waste disposal cost impacts associated with the implementation of Subtitle D. Mr. Bider stated the total cost consists of two major components - collection and disposal. The Solid Waste Advisory Group established in the spring of 1993 has been an effective and valuable group effort. Mr. Bider said KDHE intends to utilize the Advisory Group in future efforts related to regulation development and in certain program policy decisions.

Mr. Bider concluded by saying KDHE entered into an agreement KAC for training purposes. They are also working with BIRP to obtain federal funding to study hard to manage non-hazardous wastes.

Upon completion of its business, the meeting adjourned at 4:50 p.m.

The next meeting is scheduled for January 18, 1994.

## GUEST LIST

Committee: Energy & Natural Resources

Date: 1/13/94

[illegible]

KANSAS CORPORATION COMMISSION  
PROPOSED LEGISLATION  
1994 LEGISLATURE

Requested before the House Committee on Energy and Natural Resources  
January 13, 1994

Amend K.S.A. 66-101e, 66-1,192, 66-1,205, 66-1,220, and 66-1,235 (authority of Commission: investigations)

Amend K.S.A. 66-101e, 66-1,192, 66-1,205, 66-1,220, and 66-1,235 by deleting the word "affecting" in the second paragraph of each statute listed to the word "changing". These five statutes are general complaint statutes dealing with the investigations by the Commission with or without complaint. The second paragraph of each of the general statutes which the Commission proposes amending deals with the authority of the Commission. The word "affecting" is so vague it could be read to mean that every single complaint is entitled to a hearing, no matter what it is.

Amend K.S.A. 66-104 (definition of public utility)

The Commission proposes amending K.S.A. 66-104 which deals with the definitions of a public utility. The intent of a proposed amendment is to clarify the definition of a natural gas public utility. There have been situations where companies have placed in service a pipeline which may or may not qualify as a public utility under the present definitions in chapter 66 of the Kansas Statutes Annotated, because the pipeline is less than fifteen miles in length in the single instance, but then the company places in service more than one line which becomes more than fifteen miles in length.

Amend K.S.A. 66-123 (annual reports: penalties)

The KCC proposes amending K.S.A. 66-123 to add a penalty for failure to file annual reports to the Commission within the prescribed time period. Presently, the Commission relies on information contained in the annual reports of jurisdictional companies to prepare assessment information for the coming fiscal year. The information required by the accounting staff of the Commission is the gross intrastate operating revenues of the preceding calendar year. The Commission proposes amending KSA 66-123 to require the companies to file a statement outlining the gross intrastate operating revenues for the preceding calendar year by February 28 of each year and then they must file their annual report as prescribed in KSA 66-123 by April 30 of each year.

Amend K.S.A. 66-1,151 (violations of the natural gas pipeline safety act)

Amend KSA 66-1,151 to parallel the federal statutes relating to violations of the natural gas pipeline safety act. Effective October 1, 1993 the U.S. Department of Transportation (USDOT) raised the civil penalty for any person who violates any rule or regulation of the federal natural gas pipeline safety.

Amend K.S.A. 66-106 to enable facilitation of regional regulation

The Commission proposes amending KSA 66-106 to allow the commission to have better working relationships and potential of regional regulation allowing for issues such as Integrated Resource Planning, decommissioning issues related to nuclear power facilities, joint telecommunications audits, etc. Missouri presently has a statute which sets out their regional regulation authority, which the Kansas Corporation Commission would like to pattern after.

*Energy & Natural Resources*

*1/13/94*

*Attachment #1*

State of Kansas

Joan Finney, Governor



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Department of Health and Environment

Robert C. Harder, Secretary

CONTINUING EDUCATION  
FOR WATER WELL CONTRACTORS

by

Charles Jones

Director of Environment

January 13, 1994

KDHE requests this legislation to clarify the intent of KSA 82a-1203 and 82a-1205 pertaining to the licensure of water well contractors and their designated water well drillers. Present statute authorizes KDHE to adopt regulations for continuing education for licensed water well contractors. Proposed amendments include designated driller as being required to complete continuing education. The theory of the original legislation was the more knowledgeable the well driller, the better wells are constructed and public health and the environment are protected. The original legislation simply required the water well contractor to pursue continuing education rather than the actual on-site drilling supervisor, commonly referred to as the driller.

KDHE has adopted regulations requiring continuing education for the contractor. KDHE's proposed regulations required continuing education of the water well contractors and their designated drillers, but the attorney general would not approve those regulations due to lack of authorizing legislation regarding designated drillers. During the regulatory hearing process, those making comments were supportive of the requirement being placed on the driller as well as the water well contractor.

1/13/94

Energy & Natural Resources

Attachment 2

Bureau: Water  
Date: August 4, 1993

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT  
BILL BRIEF

TITLE: Continuing Education Requirements For Water Well Contractors And Designated Water Well Drillers

I. Purpose/Reason for Proposed Legislation

Amendments to K.S.A. 82a-1203 and K.S.A. 82a-1205 are required to correct a technical deficiency noted during the development of regulations to implement the continuing education requirements. The intent was to require both the licensed water well contractors and their designated drillers to participate in the continuing education process. The Attorney General's office has noted that Article 12 - Groundwater Exploration and Protection Act would only allow KDHE authority to require continuing education of the licensed contractors and not the drillers as originally intended. The proposed legislation corrects this deficiency.

II. Bill Summary

K.S.A. 82a-1205(e) will be amended to authorize the Secretary to adopt rules and regulations necessary to establish continuing educational requirements for both persons licensed under the act and for designated water well drillers.

K.S.A. 82a-1203 will be amended by adding a definition for "water well driller" and "designated water well driller". These amendments will then allow KDHE to require both water well contractors and designated water well drillers to participate in the continuing education process.

III. Legislative History

The provisions addressing continuing education requirements were introduced as Senate Bill No. 90 in the 1991 session. Representatives of the Kansas Ground Water Association (formerly Kansas Water Well Association), the Committee of Kansas Farm Organizations and KDHE testified in support of the Bill. No objections were noted. The proposed amendments address the technical deficiency identified by the Attorney General's office. Testimony presented by KDHE clearly identified the continuing education requirement was meant to address both the contractors and drillers.

IV. Impact on Other Agencies or KDHE Bureaus

Typically none unless they are involved in constructing, reconstructing, or treating water wells.

V. Fiscal Impact:

**SALARIES AND WAGES**

<u>Classification</u>	<u>Total FTE</u>	<u>Amount</u>
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Anticipate program costs being absorbed without increase in staff or budget.

Subtotal	<u>0</u>	\$ <u>0</u>
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<b>CONTRACTUAL SERVICES AND COMMODITIES</b>	<u>Amount</u>
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None.

Subtotal	\$ <u>0</u>
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<b>CAPITAL OUTLAY</b>	<u>Unit Cost</u>	<u>"R"/"N"</u>	<u>Amount</u>
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None.

Subtotal	\$ <u>0</u>
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<b>OTHER</b>	<u>Amount</u>
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None.

Subtotal	\$ <u>0</u>
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TOTAL PROJECTED EXPENDITURES	\$ <u>0</u>
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Funding Source	<u>Amount</u>
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Not applicable.	\$ <u>0</u>
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August 4, 1993

\_\_\_\_\_  
BY \_\_\_\_\_ BILL NO. \_\_\_\_\_

AN ACT amending the Kansas groundwater exploration and protection act; concerning continuing educational requirements for licensees and designated water well drillers; amending K.S.A. 82a-1203 and 82a-1205 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 82a-1203 is hereby amended to read as follows: 82a-1203. Definitions. As used in this act, unless the context otherwise requires:

(a) "Construction of water wells" means all acts necessary to obtaining groundwater by any method for any use including, without limitation, the location of and excavation for the well.

(b) "Person" means any individual, association, firm, partnership, corporation or governmental entity.

(c) "Sand point" or "well point" means any driven well which is 25 feet or less in depth and is constructed by manually driving into the ground a drive point fitted to the lower end of tightly connected sections of pipe that are 2 inches or less in diameter.

(d) "Domestic uses" means the use of water by any person, family unit or household for household purposes, the watering of livestock, poultry, farm and domestic animals used in operating a farm or the irrigation of lands not exceeding a total of two acres



in area for the growing of gardens, orchards or lawns.

(e) "Secretary" means the secretary of health and environment.

(f) "Water well" means any excavation that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed, when the intended use of such excavation is for the location, diversion, artificial recharge or acquisition of groundwater.

(g) "Water well contractor" or "contractor" means any person who constructs, reconstructs or treats a water well. The term shall not include:

(1) An individual while in the act of constructing a water well on land which is owned by such individual and is used by such individual for domestic purposes at such individual's place of abode, but only when the well is constructed in compliance with prescribed minimum well standards as provided in this act; or

(2) an individual who performs labor or services for a licensed water well contractor at such contractor's direction and under such contractor's supervision.

(h) "Water well driller" means an individual who performs labor or services for a licensed water well contractor at such contractor's direction and under such contractors supervision.

(i) "Designated water well driller" means a water well driller, identified by a water well contractor at the time of initial licensing or relicensing, as being directly responsible to the contractor for the construction, reconstruction, treatment or plugging of water wells.

Sec. 2. K.S.A. 82a-1205 is hereby amended to read as follows:  
82a-1205. Administration and enforcement of Kansas groundwater exploration and protection act; license fees; licenses; inspection; personnel; report. (a) The secretary shall be responsible for the administration and enforcement of the provisions of this act and any rules and regulations adopted pursuant thereto.

(b) The secretary shall fix by rules and regulations reasonable license fees annually for each contractor and for each drill rig operated by or for such contractor. The secretary shall fix by rules and regulations an additional fee for each water well drilled except as provided in paragraphs (1) and (2) of subsection (c) of K.S.A. 82a-1203 and amendments thereto. Such fees shall be in an amount, which, together with any other funds available therefor, will produce an amount, which will properly administer the provisions of this act. Any nonresident may secure a water well contractor's license in Kansas upon approval of an application therefor by the secretary and the payment of a fee equal to the fee charged for a similar nonresident license by the state in which the applicant is a resident, but in no case shall the fee be less than that charged to a Kansas resident.

(c) The secretary shall have the power and authority and may cause to be inspected water wells in all phases of construction, reconstruction, treatment or plugging, and shall have access to such wells at all reasonable times. The secretary shall have general supervision and authority over the construction, reconstruction and treatment of all water wells and the plugging

of holes drilled and abandoned in search of a groundwater supply or hydrogeological information.

(d) The secretary may employ within funds available such engineering, geological, legal, clerical and other personnel as may be necessary for the proper performance of responsibilities under this act. Such employees shall be within the classified service under the Kansas civil service act.

(e) The secretary is authorized and directed to cause examination to be made of applicants for licensing; to renew such licenses; to adopt rules and regulations necessary to establish continuing educational requirements for persons licensed under this act and designated water well drillers performing labor or services for a licensed water well contractor; to issue licenses to qualified water well contractors in this state; to revoke or suspend licenses after their issuance is hereafter determined, after notice to the person affected and an opportunity for hearing; and to reinstate licenses previously revoked when justification therefor is shown.

(f) The secretary shall prepare, in the form and manner prescribed by law, a report on the administration of this act.

Sec. 3. K.S.A. 82a-1203 and K.S.A. 82a-1205 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas Register.

**Kansas Department of Health and Environment  
Division of Environment**

**M E M O R A N D U M**

**DATE:** January 13, 1994

**TO:** House Energy and Natural Resources Committee

**FROM:** Charles Jones, Director, *CJ*  
Division of Environment

**SUBJECT:** Lead abatement certification program

The purpose of this legislation is to provide necessary authority to implement the lead abatement certification requirements associated with the federal Title X Residential Lead-Based Paint Hazard Reduction Act of 1992. It requires the federal U.S. Environmental Protection Agency (EPA) and the U.S. Department of Housing and Urban Development (HUD) to develop comprehensive rules and regulations governing the abatement of lead-based paint. EPA is responsible for the development of a program whereby individuals involved with lead-based paint abatement work must be trained and accredited. The federal legislation also provides grant funds, administered through HUD, that can be used to abate private residences that have been identified at high risk of child lead exposure and that meet HUD income criteria requirements. However, to be eligible for these funds, a state must develop a lead abatement certification program. The objective of the certification program is to assure that lead abatement contractors use proper procedures, so as to prevent widespread lead contamination from abatement operations. Congress authorized \$125,000,000 for federal fiscal year 1993 and \$250,000,000 for federal fiscal year 1994 to implement the federal residential lead abatement program. This proposed state legislation will satisfy the certification criteria required to make Kansas eligible for U.S. HUD funds.

*Energy! Natural Resources*  
*1/13/94*

*Attachment 3*

November 12, 1993

BILL NO. \_\_\_\_\_

BY \_\_\_\_\_

AN ACT amending the asbestos control act K.S.A. 65-5301 et seq. to add provisions for licensure and certification of firms and individuals who perform lead-hazard detection or lead-hazard reduction activities and repealing the existing sections.

Be it enacted by the Legislature of the state of Kansas:

Section 1. K.S.A. 65-5301 is hereby amended to read as follows: 65-5301 Definitions. As used in this act:

(a) "~~Asbestos~~ Abatement project" means an activity undertaken to remove or encapsulate friable asbestos containing materials or to detect or abate lead-based paint hazards.

(b) "Business entity" means a partnership, firm, association, corporation, sole proprietorship, or other business concern.

(c) "Certificate means an authorization issued by the secretary permitting an individual person to engage in an ~~asbestos~~ abatement project.

(d) "License" means an authorization issued by the secretary permitting a business entity to engage in an ~~asbestos~~ abatement project.

(e) "Secretary means the secretary of health and environment.

(f) "Friable asbestos containing material" means any material

that contains more than 1% asbestos, by weight, which is applied to ceilings, walls, structural members, piping, ductwork or any other part of a building and which, when dry, may be crumbled, pulverized or reduced to powder by hand pressure.

(g) "Asbestos" means that asbestiform varieties of: chrysotile, crocidolite, amosite, anthophyllite, tremolite and actinolite.

(h) "Lead-based paint hazard" means any condition that causes exposure to lead-based paint-contaminated dust, lead-based paint-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces, that would result in adverse human health effects as defined in regulations promulgated by the secretary.

Section 2. K.S.A. 65-5302 is hereby amended to read as follows: 65-5302. ~~Asbestos~~ Abatement projects; license required, exemptions, notification of secretary, health and safety training program.

(a) Except as otherwise provided in this act, no business entity shall engage in an ~~asbestos~~ abatement project unless the entity holds a license issued by the secretary for that purpose.

(b) Except as provided in this subsection, the provisions of this act do not apply to a business entity which uses its own employees ~~in removing or encapsulating asbestos~~ to perform an abatement project for the purpose of renovating, maintaining or

repairing its own facilities. ~~A business entity which is exempted from applicability of the provisions of this act and which assigns an employee to remove or encapsulate asbestos shall provide notification to the secretary in the manner prescribed by the secretary of their intent to conduct such activities and shall provide training on the health and safety aspects of the removal or encapsulation including the federal and state standards applicable to asbestos projects. The training program shall be available for inspection, review and approval by the secretary.~~

Section 3. K.S.A. 65-5303 is hereby amended to read as follows: 65-5303. Administration of act; duties of secretary; license and certificate fees; inspections; rules and regulations. The secretary shall administer the provisions of this act. In administering the provisions of this act, the secretary shall;

(a) Prescribe fees for the issuance and renewal of certificates and licenses. The fees shall be based upon the amount of revenue determined by the secretary to be required for proper administration of the provisions of this act;

(b) conduct at least one on-site inspection annually of procedures being utilized by a licensee ~~for removing and encapsulating asbestos~~ to perform abatement project activity during an actual ~~asbestos~~ abatement project;

(c) inspect and approve ~~asbestos~~ abatement project waste disposal sites; and

(d) adopt rules and regulations necessary for the

administration of this act including, but not limited to, requirements, procedures and standards relating to ~~asbestos~~ abatement projects as are necessary to protect the public health and safety.

Section 4. K.S.A. 65-5304 is hereby amended to read as follows: 65-5304. Licensure of business entities; qualifications; requirements. In order to qualify for a license, a business entity shall:

(a) Ensure that each employee or agent of the business entity ~~who will come into contact with asbestos or~~ who will engage in an ~~asbestos~~ abatement project is certified;

(b) demonstrate to the satisfaction of the secretary that the business entity is capable of complying with all applicable requirements, procedures, standards of the United States environmental protection agency and the United States occupational safety and health administration and the secretary;

(c) have access to at least one approved ~~asbestos~~ abatement project waste disposal site for deposit of all ~~asbestos~~ waste that the business entity will generate during the term of the license; ~~and~~

(d) comply with all rules and regulations adopted by the secretary under this act; and

(e) allow an agent or employee of the secretary, after such agent or employee identifies and gives notice of the agent's or employee's purpose, to inspect abatement project sites as required



in order to implement provisions of this act.

Section 5. K.S.A. 65-5305 is hereby amended to read as follows: 65-5305. Same; application; form; requirements; fee.

(a) To apply for a license, a business entity shall submit an application to the secretary in the form required by the secretary and shall pay the fee prescribed by the secretary.

(b) The application shall include:

(1) The name and address of the business entity;

(2) a description of the protective clothing and respirators that the business entity will use;

(3) the name and address of each ~~asbestos~~ abatement project waste disposal site that the business entity will use;

(4) a description of the site decontamination procedures that the business entity will use;

(5) a description of the ~~removal and encapsulation~~ abatement methods that the business entity will use;

(6) a description of the procedures that the business entity will use for handling waste ~~containing asbestos~~ generated by the abatement project;

(7) a description of the air monitoring procedures that the business entity will use;

(8) a description of the procedures that the business entity will use in cleaning up after completion of the ~~asbestos~~ abatement project.

(9) the signature of the chief executive officer of the

business entity or a designee of the chief executive officer; and

(10) any other information which may be required by the secretary.

Section 6. K.S.A. 65-5307 is hereby amended to read as follows: 65-5307. Records of ~~asbestos~~ abatement projects required, contents; notification of secretary.

(a) Every licensee shall keep a record of each ~~asbestos~~ abatement project it performs and shall make the record available to the secretary at any reasonable time. Records required by this section shall be kept for not less than six years. The record shall include:

(1) The name, address and certificate number of the individual person who supervised the ~~asbestos~~ abatement project and of each employee or agent of the licensee who worked on the project;

(2) the location and a description of the project and the amount of ~~asbestos~~ material that was removed;

(3) the starting and completion dates of each ~~instance of removal or encapsulation~~ abatement project;

(4) a summary of the procedures that were used to comply with all applicable standards;

(5) the name and address of each ~~asbestos~~ abatement project waste disposal site where the waste ~~containing asbestos~~ was deposited; and

(6) any other information which may be required by the secretary.

(b) Every licensee, state agency or political or taxing subdivision of the state that engages in an ~~asbestos~~ abatement project shall notify the secretary, in the manner prescribed by the secretary, of the proposed date on which the project is to be initiated.

Section 7. K.S.A. 65-5308 is hereby amended to read as follows: 65-5308. Certification of individuals required; qualifications; application; term; renewals; fee; exemptions.

(a) Except as otherwise provided in this act, no individual person shall engage in an ~~asbestos~~ abatement project unless the person holds a certificate issued by the secretary for that purpose.

(b) The provisions of this act do not apply to an individual person who is an employee of a business entity which is exempted from the provisions of this act by subsection (b) of K.S.A. 65-5302.

(c) In order to qualify for a certificate, an individual person must have successfully completed a basic course, approved by the secretary, on the health and safety aspects of ~~the removal and encapsulation of asbestos~~ abatement projects including the federal and state standards applicable to ~~asbestos~~ abatement projects, and must have been examined by a physician within the preceding year and declared by the physician to be physically capable of working

while wearing a respirator.

(d) In order to qualify for renewal of a certificate, an individual person must have successfully completed ~~an annual~~ a review course approved by the secretary and have been reexamined and approved by a physician as physically eligible for renewal of the certificate.

(e) Applications for certificates and renewals shall be submitted to the secretary on forms prescribed by the secretary and shall be accompanied by a fee prescribed by the secretary.

~~(f) A certificate expires one year from its effective date unless it is renewed for a one year term as provided by this section.~~

Section 8. K.S.A. 65-5309 is hereby amended to read as follows: 65-5309. Schedule of fees; disposition of moneys.

(a) The secretary shall establish by rules and regulations a reasonable schedule of fees for licensure, for certification and for project evaluations under this act. The fee schedule shall be established on the basis of determination by the secretary of the amount of revenue required for administration of the asbestos and lead-based paint hazard provisions of this act.

(b) The secretary shall remit all moneys received from the asbestos fees established pursuant to this section to the state treasurer at least monthly. Upon receipt of such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury to the credit of the state general fund.

(c) There is established in the state treasury the lead-based paint hazard fee fund. Revenue from the following sources shall be deposited in the state treasury and credited to the fund:

(1) Lead-based paint-related fees collected under subsection (a);

(2) any moneys recovered by the state under provisions of this act, including administrative expenses, civil penalties and moneys paid under any agreement, stipulation or settlement; and

(3) interest attributable to investment of moneys in the fund.

(d) On the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the lead-based paint hazard fee fund that amount of money certified by the pooled investment board in accordance with this subsection. Prior to the 10th day of each month, the pooled money investment board shall certify to the director of accounts and reports the amount of money equal to the proportionate amount of all the interest credited to the state general fund for the preceding period of time specified under this subsection, pursuant to K.S.A. 75-4210a and amendments thereto, that is attributable to moneys in the lead-based paint hazard fee fund. Such amount of money shall be determined by the pooled money investment board based on:

(1) The average daily balance of moneys in the lead-based paint hazard fee fund during the period of time specified under this subsection as certified to the board by the director of accounts and reports; and

(2) the average interest rate on repurchase agreements of less than 30 days' duration entered into by the pooled money investment board for that period of time. On or before the fifth day of the month for the preceding month, the director of accounts and reports shall certify to the pooled money investment board the average daily balance of moneys in the lead-based paint hazard fee fund for the period of time specified under this subsection.

(e) All expenditures from the fund shall be made in accordance with the appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary for the purposes set forth in this section.

Section 9. K.S.A. 65-5310 is hereby amended to read as follows: 65-5310. Denial, suspension or revocation of license or certificate, notice and hearing; appeals; temporary suspension.

(a) The secretary may deny, suspend or revoke any license issued under this act if the secretary finds, after notice and hearing conducted in accordance with the provisions of the Kansas administrative procedure act, that the applicant for license or licensee, whichever is applicable, has:

(1) Fraudulently or deceptively obtained or attempted to obtain a license;

(2) failed at any time to meet the qualifications for a license or to comply with any rules and regulations adopted by the secretary under this act;

(3) failed at any time to meet any applicable federal or state standard ~~for removal or encapsulation of asbestos~~ applicable to abatement projects; or

(4) employed or permitted an uncertified individual person to work on an ~~asbestos~~ abatement project.

(b) The secretary may deny, suspend or revoke any certificate issued under this act if the secretary finds, after notice and hearing conducted in accordance with the provisions of the Kansas administrative procedure act, that the applicant for certificate or certificate holder, whichever is applicable, has:

(1) Fraudulently or deceptively obtained or attempted to obtain a certificate; or

(2) failed at any time or meet qualifications for a certificate or to comply with any provision or requirement of this act or any rules and regulations adopted by the secretary under this act.

(c) Before any license or certificate is denied, suspended or revoked, the secretary shall conduct a hearing thereon in accordance with the provisions of the Kansas administrative procedure act.

(d) Any individual person or business entity aggrieved by a decision or order of the secretary may appeal the order or decision in accordance with the provisions of the act for judicial review and civil enforcement of agency actions.

(e)(1) If the secretary finds that the public health or safety is endangered by the continuation of an ~~asbestos~~ abatement

project, the secretary may temporarily suspend, without notice or hearing in accordance with the emergency adjudication procedures of the provisions of the Kansas administrative procedure act, the license of the business entity or the certificate of any person engaging in such ~~asbestos~~ abatement project.

(2) In no case shall a temporary suspension of a license or certificate under this section be in effect for a period of time in excess of 90 days. At the end of such period of time, the license or certificate shall be reinstated unless the secretary has suspended or revoked the license or certificate, after notice and hearing, or the license has expired as otherwise provided under this act.

Section 10. K.S.A 65-5311 is hereby amended to read as follows: 65-5311. Waiver of license requirement, when; alternative requirements.

(a) In an emergency that results from a sudden, unexpected event that is not a planned renovation or demolition, the secretary may waive the requirement for a license.

(b) The secretary may approve, on a case-by-case basis, an alternative to a required public health protection procedure for an ~~asbestos~~ abatement project if the business entity or state or political or taxing subdivision of the state submits a written description of the alternative procedure to the secretary and demonstrates to the satisfaction of the secretary that the proposed alternative procedure provides equivalent protection.



(c) If a business entity or state or political or taxing subdivision of the state is not primarily engaged in ~~the removal or encapsulation of asbestos~~ or lead abatement projects, the secretary may waive the requirement for a license or employee certification if public health protection requirements are met or an alternative procedure is approved under subsection (b).

Section 11. K.S.A. 65-5312 is hereby amended to read as follows: 65-5312. State agencies and political subdivisions; bid acceptance requirements; compliance with act.

(a) No state agency or political or taxing subdivision of the state shall accept a bid in connection with any asbestos or lead abatement project from a business entity which does not hold a license at the time the bid is submitted.

(b) No state agency or political or taxing subdivision of the state shall carry out any asbestos or lead abatement project using its own employee except in compliance with the requirements of K.S.A. 65-5304 that also apply to business entities.

Section 12. K.S.A. 65-5314 is hereby amended to read as follows: 65-5314. Same, civil penalties; corrective measures; appeal and review; disposition of moneys recovered.

(a) Any business entity which violates any provision of this act or any rules and regulations adopted under this act, in addition to any other penalty provided by law, may incur a civil penalty imposed under subsection (b) in an amount not to exceed

\$5,000 for each violation and, in the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(b) The secretary, upon the finding that a business entity has violated any provision of this act or any rules and regulations adopted under this act, may impose a civil penalty within the limits provided in this section upon such business entity, which civil penalty shall be in an amount to constitute an actual and substantial economic deterrent to the violation for which the civil penalty is assessed.

(c) The secretary, upon the finding that a business entity has violated any provision of this act or any rules and regulations adopted under this act, may issue an order finding such business entity in violation of the act and directing the business entity to take such action as necessary to correct the violation.

~~(e)~~ (d) No civil penalty or corrective measures shall be imposed under this section except upon the written order of the secretary after notification and hearing, if a hearing is requested, in accordance with the provisions of the Kansas administrative procedure act.

~~(d)~~ (e) Any business entity aggrieved by an order of the secretary made under this section may appeal such order to the district court in the manner provided by the act for judicial review and civil enforcement of agency actions. An appeal to the district court or to an appellate court shall not stay the payment of the civil penalty. If the court sustains the appeal, the

secretary shall refund forthwith the payment of any civil penalty to the business entity with interest at the rate established by K.S.A. 16-204, and amendments thereto, from the date of payment of the penalty.

~~(e)(f)~~ ~~Any penalty~~ Penalties recovered pursuant to the asbestos-related provisions of this section shall be remitted to the state treasurer, deposited in the state treasury and credited to the state general fund and penalties recovered pursuant to the lead-based paint-related provisions of this section shall be credited to the lead-based paint hazard fee fund.

New Sec. 13. Licensure or certification of a business entity or individual person who engages in a lead-based paint hazard abatement project shall not be required, until such time the secretary promulgates rules and regulations to implement the lead-based paint hazard abatement licensure and certification provisions.

New Sec. 14. K.S.A. 65-5301, 65-5302, 65-5303, 65-5304, 65-5305, 65-5307, 65-5308, 65-5309, 65-5310, 65-5311, 65-5312 and 65-5314 are hereby repealed.

New Sec. 15. This act shall take effect and be in force from and after its publication in the statute book.

STATE OF KANSAS



Joan Finney  
Governor

DEPARTMENT OF WILDLIFE & PARKS  
OFFICE OF THE SECRETARY  
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Theodore D. Ensley  
Secretary

House Energy and Natural Resources Committee  
January 13, 1994

Department of Wildlife and Parks Request for Bill Introduction

The Department is requesting Committee consideration of three bills for introduction in the 1994 Legislative Session. The following is a brief summary of the requests.

1. Funding Initiatives:
  - a. Repeal K.S.A. 32-901. This law establishes the vehicle permit requirement for entry into state parks.
  - b. Establish an individual state park use license for entry into state parks and to use rail-trails. The state park use license would not be required for those under 16 years of age.
  - c. Establish an individual public lands use license for Department lands and waters other than state parks. The public lands use license would not be required for those under 16 years of age or those in possession of a hunting, fishing or furharvesting license.
  - d. Provide for lifetime "use" licenses listed above.
  - e. Amend K.S.A. 32-906 to remove the 24 hour resident fishing license.

Energy & Natural Resources  
Attachment #4

1/13/94

- f. Amend K.S.A. 32-919 to remove the 48 hour waterfowl permit.
  - g. Create a "penalty assessment" provision for violation of wildlife and Parks laws and regulations and a penalty assessment fund. This would be an percentage based assessment in addition to fines and court costs. The penalty assessment funds would become available for Department use. A separate accounting of park violation and wildlife violation receipts would be maintained.
  - h. Provide for an "environmental" license plate.
- 2. Court Bonding Schedule. Amend K.S.A. 32-1050 to include a more complete listing of violations of KWP laws and regulations and monetary bonding amounts. The amendment would also authorize the use of personal checks for payment of bond amounts.
  - 3. Amend K.S.A. 32-877 to provide that all moneys in hatchery bond accounts in excess of that required to pay the principal of, interest on and any premiums on the revenue bonds be transferred to the Wildlife Fee Fund.

**REPORT TO**  
**HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE**  
on  
**STATUS OF SOLID WASTE PROGRAM ACTIVITIES**  
January 13, 1994

**Background**

The passage of HB 2801 in 1992 and the federal mandates as set forth in RCRA Subtitle D led KDHE to establish a challenging set of goals related to the enhancement of the Solid Waste Program which existed at the time within the Bureau of Waste Management.

A major effort during 1993 was the completion of landfill design and operating regulations and the related state application to EPA to become authorized to oversee the municipal solid waste landfill permitting program. It was an important goal of KDHE to receive program approval prior to October 9, 1993, which was at that time the compliance deadline for all MSW landfills. The conditions set forth in HB 2428 led KDHE to adopt the federal Subtitle D regulations by reference rather than move forward with equivalent state regulations. The uncertainty as to whether any of the Subtitle D deadlines would be extended added greatly to the confusion of everyone and made it virtually impossible to draft state regulations in early summer which would be totally consistent with the final federal regulations.

During the summer, the State of Kansas was very active in encouraging EPA and Congress to extend the Subtitle D deadlines. The state legislature, the state congressional delegation, the Kansas Association of Counties, and many individual citizens petitioned EPA to extend the deadlines focusing on the needs of small landfills, particularly those in rural areas. Based upon Kansas' comments and those received from a few other vocal states, EPA issued some preliminary opinions in early summer which explained their intention to extend the compliance deadlines for small landfills. Based upon EPA's reported intentions, KDHE drafted state landfill regulations which would offer extensions to small landfills in Kansas.

As the Kansas landfill program review was taking place at the regional EPA office in Kansas City, EPA in Washington was in the process of finalizing their own landfill regulations. The EPA regional office initially concluded that the KDHE regulations would satisfy all program requirements and it was so stated in the August 25, 1993 issue of the Federal Register which proposed "Full Program Approval" following the public comment period. However, the final EPA regulation placed some conditions on the ability of a small landfill to qualify for the 6 month extension which were not initially proposed by EPA and not included in the Kansas regulations which accompanied the program permit application to EPA. Therefore, EPA could only issue a "Partial Program Approval" to Kansas which was ultimately received on October 7, 1993, two days before the deadline was reached for large landfills. The partial approval covered large landfills only. With some minor revisions to the regulation which have now been drafted but not yet adopted, KDHE will receive full program approval.

There were several positive outcomes to all of our efforts during 1993. First, KDHE received program approval before the October 9, 1993 deadline applied to the state's large facilities meaning that some degree of protection from third party lawsuits existed at all times. Perhaps even more important was the 6 month extension granted to all small landfills receiving less than 100 tons of solid waste per day. This decision by EPA gave many small cities and counties much needed time to plan individually and as regions and make informed decisions about the long-term operation of their facilities. An additional extension of 18 months is also available to very small landfills (less than 20 tons per day) in arid areas

*Energy & Natural Resources  
Attachment #5  
1/13/94*

(less than 25 inches of rainfall per year) if there is no evidence of groundwater contamination at the site. Several small western Kansas landfills are likely to take advantage of this extension. Finally, primarily at the request of Kansas and other midwest states which were hit by the flood of 1993, EPA provided an additional extension to the Subtitle D deadlines for landfills located in counties which were declared disaster areas. Several large Kansas landfills did qualify and receive 6 month extensions.

### **Education and Outreach**

Beginning in the second half of 1992, KDHE embarked on a program to provide training to the regulated community in the coming Subtitle D requirements. Several technical conferences were held, some in cooperation with KAC. Hundreds of city, county, and private sector employees attended these meetings to hear KDHE and other experts explain the requirements using the best available information at the time. In addition to meetings, many documents were prepared and distributed throughout the year. KDHE staff also participated in dozens of individual meetings with cities and counties to advise them in their own particular situations. It has been a difficult education process, but we are now at a point where most members of the regulated community are well-informed and in the process of planning how to comply with Subtitle D. KDHE will continue to provide technical assistance to cities and counties with existing staff and with our new solid waste district engineers which are just now coming on board.

### **County Planning Activities**

Solid waste planning activity is now in full swing throughout the state. Individual county and regional planning committees have been formed and consultants have been hired to assist in the planning effort. Many counties which began planning individually have now joined regions to determine if cooperative efforts may lead to long-term efficiencies. Regional planning also adds the advantage of increased state funding. Planning costs are reimbursable at a rate of 90% for regions compared to only 50% for individual counties.

The first planning grants were awarded in November 1993 and additional grants continue to be processed each week. The attached table shows that a total of over \$ 1.7 million in grants have been awarded thus far in FY 1994. Currently, over \$700,000 in additional grant requests are pending. Additional grant applications were anticipated this week as part of the third round of requests.

The map which accompanies the table shows that most counties are now covered by the grants which have either been awarded or are pending. A total of 76 counties have now submitted individual applications or are part of regional applications.

Overall, the grant application process has worked well. Virtually every application has needed some degree of revision to clarify scope of work and to eliminate requests to fund ineligible tasks. The grant application process specified the types of tasks which were eligible and maximum costs for each task. County or region size was a factor in determining maximum costs. It is also important to note that counties and regions are being reimbursed for planning expenses incurred prior to their formal grant requests. This has been particularly important to many small counties which installed groundwater monitoring wells to determine if contamination exists at their landfills. Most counties with groundwater contamination are deciding to close because they would not be eligible for the small landfill design exemption allowed by the federal regulations.

### **Groundwater Contamination at Kansas Landfills**

As groundwater sampling increases at Kansas landfills, more and more contamination is being discovered. As explained to this committee in November of 1993, more than one third of the landfills which have developed groundwater monitoring data have some degree of groundwater contamination. Additional landfills may also have contamination present, but results are not yet conclusive. At last count, 11 small western Kansas landfills have found contamination at their facilities. This finding is serious because of the importance of groundwater resources and because the added 18 month extension of the Subtitle D deadline and subsequent small landfill exempt status for design requirements is lost whenever groundwater contamination is identified. We must responsibly utilize this information when determining appropriate long-term landfill design and operation standards for all landfill sizes and types.

### **Landfill Closures**

With the extra time given to counties under the Subtitle D deadline extensions, closure activity has slowed somewhat. Some counties are moving forward with closure, but most landfills are utilizing the extra time to make a smoother transition from operating a local landfill to managing solid waste by an alternative method. Many counties are examining their alternatives and deciding on closure with the construction of a transfer station. It is anticipated that several landfills will close before the April 9, 1994 deadline to avoid the implications of operating and closing under Subtitle D. Additional closures will continue over the next two years as many small western Kansas landfills, which utilized the small arid landfill exemption, complete studies which fully assess the costs of operating Subtitle D landfills.

Many counties which have decided to close are proceeding quickly with plans to design, construct, and operate transfer stations. KDHE is working closely with counties to develop appropriate solid waste transfer systems allowing local flexibility while ensuring that certain necessary operating conditions are satisfied including those related to litter control, security, runoff controls, and health considerations. KDHE also intends to work with counties to develop and operate interim transfer stations when the construction of permanent facilities cannot be completed prior to the applicable deadline.

### **Cost of Solid Waste Management Under Subtitle D**

KDHE is in the process of assessing solid waste disposal cost impacts associated with the implementation of Subtitle D. It is very important to emphasize that the total cost of solid waste management consists of two major components -- collection and disposal. Collection, which typically comprises 70 to 80 percent of the total cost is not impacted by Subtitle D. Only the disposal component is impacted. The increases in disposal costs are related to increased tipping fees at landfills to support the design, construction, and operation of the new generation of landfills and transfer stations and to transfer solid waste to out of county facilities.

### **Solid Waste Advisory Group**

In the spring of 1993, the Solid Waste Advisory Group was established. Approximately 35 persons from



local government, consulting, and industry have voluntarily given of their time and expertise to assist KDHE in some very important tasks over this first year. Most noteworthy is the major effort related to the completion of a state landfill regulation package which can ultimately replace the federal Subtitle D regulations adopted by reference last September. Consensus was reached in the group to move forward with this regulation which provides state flexibility in several areas and addresses many areas in which the federal regulations were silent. The professionalism of the advisors and their perseverance to work through some tough issues is appreciated and the quality final work product is a credit to them as well as KDHE's technical staff who spent many hundreds of hours on this project.

KDHE intends to utilize the Advisory Group in future efforts related to regulation development and in certain program policy decisions. KDHE has also requested time to brief the House and Senate Energy and Natural Resource Committees regarding the regulation package developed with the Advisory Group.

#### **Kansas Association of Counties Training Contract**

In December 1993, KDHE entered into an agreement with KAC to provide training to city and county employees related to procuring services and equipment needed to properly manage solid waste. Many local government units are in the process of procuring such services and will continue to do so for several years. This training should cover many important and complex issues including financing, legal considerations, technical considerations, and general contract management. The training is scheduled to at four locations throughout the state in late February and early March 1994 (Garden City, Hays, Topeka, and Wichita). There is no cost to attend the training for employees of local government as the costs of the program are being covered by the solid waste tipping fee.

#### **Possible BIRP Contract**

The Business and Industry Recycling Program (BIRP) is currently working with KDHE to obtain federal funding to study "hard to manage" non-hazardous wastes generated by businesses throughout the state. Historically, such wastes which include various sludges, dusts, chips, scraps, etc have been taken to local landfills; however, with the development of many new transfer stations some of these materials may not be suitable for mixing with other wastes at the transfer location. A proposal has been submitted to EPA and tentatively approved. The goals of this study will be to develop an inventory of such wastes and identify alternative waste management practices focusing on the potential for recycling.

**SOLID WASTE MANAGEMENT PLANNING GRANTS**  
August and October 1993 Cycles

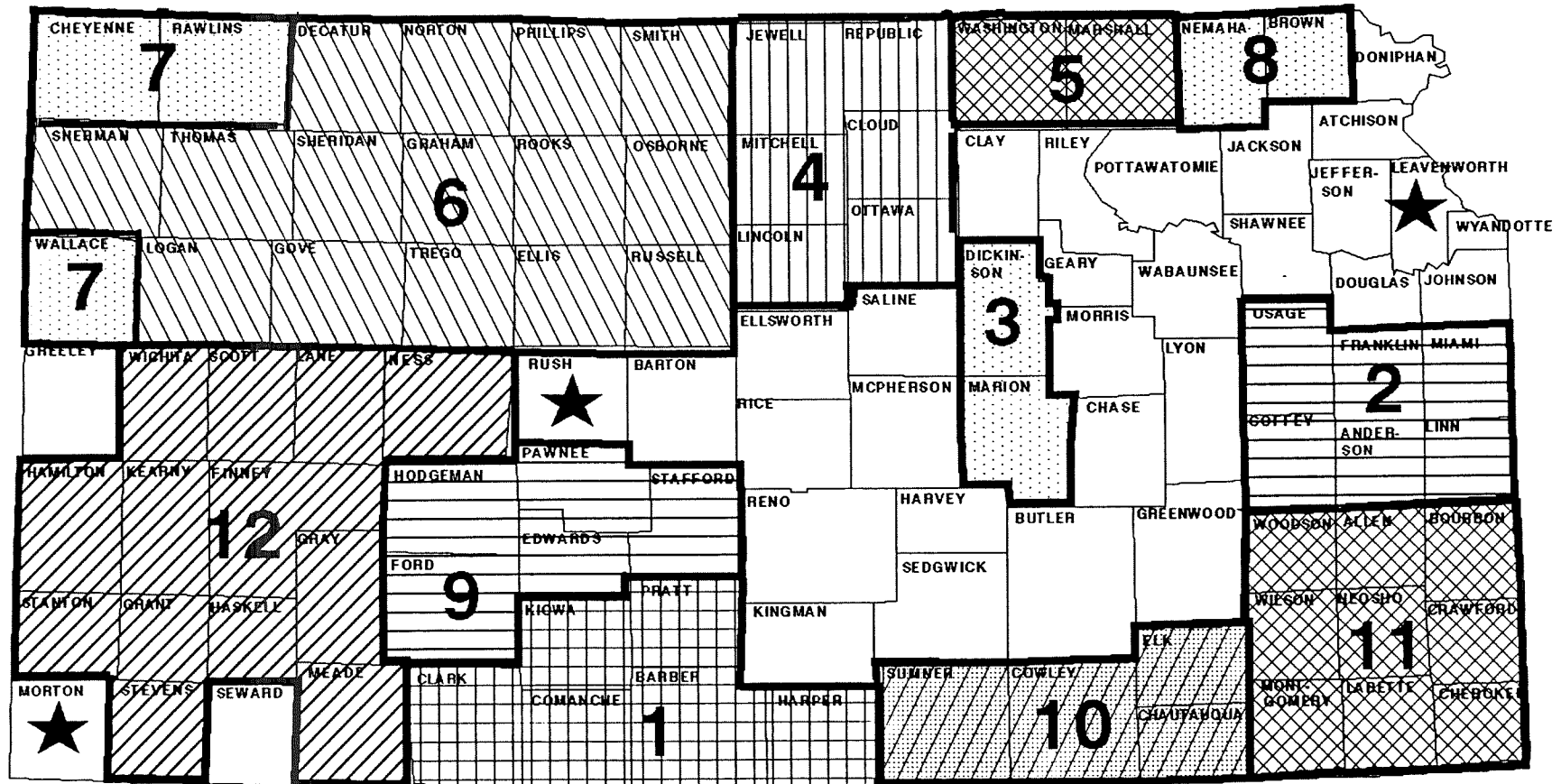
	Regional Groups	SFY 1994	Pending 1994
1.	<b>Gyp Hills SWA</b> 6 counties Barber, Clark, Comanche, Harper, Kiowa & Pratt	\$235,335.00	
2.	<b>Lake Region SWA</b> 6 counties Anderson, Coffey, Franklin, Linn, Miami and Osage		\$211,250.00*
3.	<b>Marion-Dickinson</b> 2 counties Marion and Dickinson		\$ 35,296.79*
4.	<b>North Central Kansas SWA</b> 6 counties Cloud, Jewell, Lincoln, Mitchell, Ottawa and Republic		\$239,333.85*
5.	<b>Northeast Kansas SWA</b> 2 counties Washington and Marshall		\$ 55,370.00*
6.	<b>Northwest Kansas SWA</b> 15 counties Decatur, Ellis, Gove, Graham, Logan, Norton, Osborne, Phillips, Rooks, Russell, Sheridan, Sherman, Smith, Thomas, Trego	\$401,397	
7.	<b>Northwest Kansas Small SWA</b> 3 counties Cheyenne, Rawlins and Wallace	\$123,672.35	
8.	<b>Rural Development Association of Northeast Kansas</b> 2 counties Brown and Nemaha	\$77,400.00	
9.	<b>Santa Fe Trail SWA</b> 5 counties Edwards, Ford, Hodgeman, Pawnee and Stafford		\$177,489.17*
10.	<b>South Central Kansas SWA</b> 4 counties Chautauqua, Cowley, Elk and Sumner	\$126,905.00	
11.	<b>Southeast Kansas SWA</b> 9 counties Allen, Bourbon, Cherokee, Crawford, Labette, Montgomery, Neosho, Woodson and Wilson	\$252,946.00	
12.	<b>Southwest Kansas SWA</b> 13 counties Finney, Grant, Gray, Hamilton, Haskell, Kearney, Lane, Meade, Ness, Scott, Stanton, Stevens and Wichita	\$410,936.00	
	<b>INDIVIDUAL COUNTIES</b>		
	<b>Leavenworth County</b>	\$40,000.00	
	<b>Morton County</b>	\$29,521.70	
	<b>Rush County</b>	\$ 3,604.00	
	<b>Total</b>	\$1,701,717.05	\$718,739.81

SWA = Solid Waste Authority  
\* Dollar amounts are estimates.

1/13/94

# Solid Waste Management Planning Grant Applications

## Aug & Oct 1993 Grant Cycles



★ Individual Counties