

Approved: 2-21-94  
Date

## MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Don Sallee at 8:00 a.m. on February 14, 1994 in Room 423-S of the Capitol.

All members were present or excused:

Committee staff present: Raney Gilliland, Legislative Research Department  
Dennis Hodgins, Legislative Research Department  
Don Hayward, Revisor of Statutes  
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

Charles Jones, Director, Department of Environment, KDHE  
John Brenenkamp, County Commissioner, Thomas County  
Frank Weinhold, Engineer, City of Salina  
Brenda Beringer, Chairperson, Northwest Kansas Small Solid Waste Landfill Authority, Wallace County  
Paul Taylor, Assistant Maintenance Engineer, City of Wichita  
William H. Lewis, Northwest Kansas Small Landfill Authority  
Chiquita Cornelius, Executive Director, KS Business & Industry Recycling Program, Inc.  
Bill Upham, Waste Management, Inc.

Others attending: See attached list

Charles Jones, Director, Department of Environment, KDHE, addressed the committee concerning rules and regulations which were developed by KDHE and the Solid Waste Advisory Committee following a series of day-long meetings. Attachment 1

Extended discussion dealt with:

1. Vertical expansions - Proposed regulations would require county commissioners approve vertical expansion plans, also included is a stipulation that vertical expansion permits be issued for 5 year intervals.
2. Groundwater monitoring - KDHE has requested that EPA provide states with maximum flexibility in testing.
3. Final cover design - Upon review the Advisory Committee's technical experts concluded the EPA model had major flaws in areas of site drainage and limiting damage from the freeze/thaw cycle. A model suited to Kansas conditions allowing some variations based upon varying climate across the state was developed.
4. Bottom liner requirements for exempt small landfills - EPA does not require bottom liners in small landfills in arid areas. The Advisory Committee, because of concern about possible groundwater contamination and the loss of exempt status, included a bottom liner requirement. Upon proper demonstration KDHE may waive this requirement.

Mr. Jones stated HB-2428 anticipated that the regulations would already have been adopted and the legislature could then remove what was felt to be inappropriate. The process has been delayed by working through the advisory committee, therefore the rules and regulations are not adopted at this time. These proposed regulations will not take effect until 45 days after the onset of 1995 Legislative session without additional action. There is need to balance appropriate legislative overview against the need for clear direction to the counties. A number of regulation packages will face this situation.

Concern was expressed about differing requirements from EPA and this regulation package as related to the final cover design to protect it from the freeze-thaw cycle.

A member requested clarification concerning groundwater monitoring stating in some areas the water levels were over 150 feet deep. Mr. Jones stated that a comparable level of protection was acceptable, and could be met in a number of ways as long as the same level of protection is provided. This could be by natural placement or natural formations as long as some proof was shown that there was some protection at the bottom of the trench to protect the underlying groundwater.

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 423-S Statehouse, at 8:00 a.m. on February 14, 1994.

Mr. Jones presented copies of the Draft form of Solid Waste Regulations, January, 1994, a copy of which is filed in the large document file in Senator Sallee's office. Mr. Jones affirmed that public hearings had not been held as yet on the proposed regulations. Following hearings these regulations would be adopted. It is hoped the previous public input has dealt with most issues.

A member asked how the department proposed dealing with the statute requiring these regulations be in place 45 days after onset of the 1994 Legislative session. Mr. Jones stated he had conferred with the House Energy chairman and it appeared statutory changes might have to be made.

John Brenenkamp, County Commissioner, Thomas County, commended members of the legislature for the process finally used in writing stringent regulations as related to EPA regulations and the need for legislative approval. Mr. Brenenkamp expressed the opinion that use of an advisory committee to help promulgate the development of rules and regulations by the department of KDHE should be continued. This process highlights difficulties of the department in dealing with federal regulations, brings expert information to those involved, can bring about changes to save counties money and also provide flexibility.

Mr. Brenenkamp stated that anything which could be done to speed up the process would be appreciated. The counties and businesses need to know exactly where they stand concerning these regulations and time is very short.

Frank Weinhold, Engineer, City of Salina, told the committee that the Solid Waste Advisory Committee meetings permitted an exchange of concerns, ideas and information. Discussing new and revised regulations as well as the rationale behind the various regulations appeared beneficial to all those involved. Attachment 2

Brenda Beringer, Chairperson, Northwest Kansas Small Solid Waste Landfill Authority, appeared before the committee presenting testimony. Attachment 3 Ms. Beringer stated that after attempting to meet the requests and the deadline of the EPA they are now faced with regulations that basically strip the small landfills of all previous considerations. She further stated the intent of these regulations prepared by KDHE are understood but they do not seem appropriate for small arid counties, namely Cheyenne, Greeley, Rawlins and Wallace.

Ms. Beringer stated the EPA acknowledged there should be special consideration to landfills meeting specific criteria and the above mentioned counties met and exceeded each specified criteria. Costs of proposed regulations by KDHE would be devastating to such sparsely populated counties creating more financial and physical hardship to certain counties than may be necessary. The committee was requested to give careful consideration to the ramifications of approving proposed regulations which take away the flexibility that EPA has intended to provide for small landfills.

Paul Taylor, Assistant Maintenance Engineer, City of Wichita, appeared before the committee stating a wide variety of interests had been represented and ample opportunity had been provided to express opinions in meetings of the Solid Waste Advisory Committee meetings.

Mr. Taylor stated there was good discussion but not unanimous agreement on many issues. A consensus opinion was reached which appeared to be, for the most part, workable, but still afforded protection for the environment. Attachment 4 Mr. Taylor stated minor modifications may be requested which could be handled through public hearings. He further stated the belief that many states are more restrictive than Kansas.

William H. Lewis, member of the Northwest Kansas Small Landfill Authority, composed of Cheyenne, Greeley, Rawlins and Wallace counties told committee members he did not like the requirement for all landfills requiring liners, that it is difficult to have one landfill plan for the entire region. The EPA does not require liners at the bottoms of landfills in arid areas. Attachment 5

Mr. Lewis told committee members he liked the law passed last year which states no requirements will be made greater than those of the Environmental Protection Agency. He suggested KDHE could make their recommendations in writing to county commissioners and corrections recommended greater than EPA regulations would then be made on the basis of geological reports from that specific landfill. Mr. Lewis felt the County Commissioners with recommendations from a licensed engineer, could make decisions concerning the landfill, based on KDHE and the engineer's recommendations, since the landfill was made the responsibility of the county commissioners in the early 1970s'.

Chiquita Cornelius, Executive Director, Kansas Business and Industry Recycling Program, Inc. appeared and presented testimony concerning her observation of the process used to develop regulations. Attachment 6 Ms. Cornelius stated the meetings were extremely thorough, never cut short on a particular issue and the committee represented a very broad scope of interested or impacted parties.

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 423-S Statehouse, at 8:00 a.m. on February 14, 1994.

Bill Upham, Waste Management, Inc. appeared before the committee addressing Subtitle D regulations which were meant to be self-implementing by state landfill owners. Mr. Upham said state regulatory agencies must obtain Subtitle D authority to enforce the program locally and Kansas has obtained this authority thus obtaining the ability to modify portions of the federal regulations. He further stated federal regulations have several shortcomings that will create unreasonable technical requirements and unreasonable financial burdens on a regulated community. Mr. Upham stated Kansas has taken advantage of this option and adopted state regulations that basically mirror federal regulations. He said the Bureau of Waste Management developed a package of draft regulations taking full advantage of the flexibility offered by federal regulations and established the Solid Waste Advisory Group to review and provide comments on the draft regulations. Mr. Upham said the group was composed of a full spectrum of the regulated community including local and municipal officials, consultants, public and private landfill operators and the KDHE staff and by involving this group the regulating community had an opportunity to provide constructive input to the development of proposed regulations. He further stated he was not aware of any other state where the regulated community has had such an opportunity to discuss Subtitle D regulations with the regulatory body such as Kansas. Mr. Upham stated that from a technical aspect, proposed regulations allow more flexibility and implementation of design and operating standards than federal regulations. This ultimately allows landfill operators more flexibility as to how their facilities are designed and operated resulting in a reduced cost of operations and hopefully translates into reduced costs to the people of Kansas while still maintaining an equal level of protection to the people of Kansas. Attachment 7, written testimony by Mr. Upham was submitted after the minutes were approved.

A committee member asked KDHE for clarification concerning the EPA requirement of 24 inches of covering. The department representative stated it had always been 18 inches of clay and 6 inches of soil. Last year the department proposed 24 inches of clay and 12 inches of top soil. It was noted the department had been discussing top soil in reference to 12 inches needed to give vegetation purchase. The member expressed concern that in some areas soil is a premium and will there be difficulties concerning soil conservation. The department representative commented that they had added depth to the requirement but had approved gravel or rubble, something that could support vegetation in an effort to make some accommodation concerning this issue. It was further suggested that where trenches were being dug those soils removed could be stockpiled for later use.

In closing Mr. Jones stated the department is not at a point where the regulations have been adopted, but grants have been approved, time has been spent obtaining extensions, much time was invested dealing with the 1993 flood, had seen Kansas become the first state in Region 7 to be approved and felt the Bureau of Waste Management has done an excellent job to be where they are at the present time.

The meeting adjourned at 9:00 a.m.

The next meeting is scheduled for February 15, 1994.

## GUEST LIST

## SENATE COMMITTEE ON ENERGY &amp; NATURAL RESOURCES

DATE February 14, 1994(PLEASE PRINT)  
NAME AND ADDRESS

ORGANIZATION

Chiquita Cornelius Topeka  
 STEVE KEARNEY "  
 Wm Lewis  
 John P. Brumkamp 2295 K-25 Colby, KS  
 Bev Bradley  
 William D. Upson  
 Brad W. Sloan  
 Brenda Beringer  
 Margaret Bucholtz  
 Michl TAT  
 Bill Bider  
 Tom Gross  
 Frank R. Weinhold Salina  
 Paul E. Taylor PW's Dept. 455 N. Main 67202  
 MARTI CROW Leavenworth  
 Jim PARDON Topeka  
 Jim Kauf Topeka  
 William L. Anderson

Ks. BIRP  
 WMX TECH. INC.  
 Rowles County  
 Thomas Co.  
 KS Assoc. of Counties  
 Waste Management of Kansas, Inc.  
 Greeley County  
 Wallace County  
 Cheyenne County  
 KDHE - ToPEKA  
 KDHE  
 KDHE  
 City of Salina  
 City of Wichita  
 KDHE  
 KS ASSN of COUNTIES  
 SWKSA  
 KDHE

TESTIMONY PRESENTED TO  
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE  
on  
ADOPTION OF KANSAS SOLID WASTE LANDFILL REGULATIONS  
February 14, 1994

All of you should have received a copy of the proposed municipal solid waste landfill regulations, which were jointly developed by KDHE and the Solid Waste Advisory Committee. These regulations address Location, Operation, Design, Groundwater Monitoring and Closure/Post Closure of municipal solid waste landfills operating in Kansas. Some of the proposed regulations provide guidance for implementation of federally-mandated Subtitle D requirements, and others address situations where action is required, but little or no guidance is offered.

The proposed regulations were developed through a series of day-long meetings during which the Advisory Committee would discuss, in detail, draft regulations prepared by the Bureau of Waste Management. I want to thank the Advisory Committee for their hard work, candor, and tremendously valuable input. I also want to thank the Bureau of Waste Management for developing a strong package of draft regulations for the Committee to work on. Through the joint effort of the Committee -- including local officials, consultants, KDHE staff and a legislator or two -- we have balanced aspirations with pragmatism, and effectiveness with affordability.

In some cases, the proposed regulations reflect flexibilities granted by EPA to states having approved Solid Waste Programs. Kansas was the first state in EPA Region VII and the eighteenth state in the nation to receive EPA approval. In other cases, the proposed regulations depart from the Subtitle D model in order to address the specific needs of Kansas.

Of the more than 120 pages in the proposed regulation package, the Committee had extended discussion on only a handful of issues.

- Vertical Expansions: Subtitle D is silent on vertical expansions. However, a number of landfill operators have indicated their desire to use vertical expansions as they make the transition into new Subtitle D facilities. Included in the proposed regulations are a requirement that county commissioners approve vertical expansion plans, and the stipulation that vertical expansion permits will be issued for 5-year intervals.
- Groundwater Monitoring: In response to a court order, EPA will require groundwater monitoring at exempt small landfills in arid regions of the State. KDHE has requested that EPA provide states maximum flexibility in the number of analytes

Senate Energy & Natural Resources  
February 14, 1994  
Attachment I

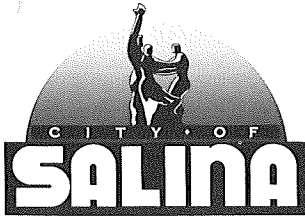
tested, the number of wells installed, the frequency of testing, and the response required when groundwater contamination is found. The groundwater monitoring requirement -- in conjunction with EPA's rule that the small landfill exemption will be lost if groundwater contamination is discovered -- gives greater emphasis to groundwater protection.

- Final Cover Design: EPA's requirement for final cover -- the cap placed over the landfill to prevent water from seeping through the closed fill and potentially contaminating groundwater -- was quite prescriptive, requiring layers of certain materials and dictating the thickness or composition of those layers. Upon close review, the Advisory Committee's technical experts concluded that the EPA model had some major flaws in the areas of site drainage and limiting damage from the freeze/thaw cycle. In response to this, KDHE and the Advisory Committee developed a model suited to Kansas conditions allowing some variations based upon varying climate across the state.
- Bottom Liner Requirements for Exempt Small Landfills: EPA does not require bottom liners in small landfills in arid areas. However, concerns about possible groundwater contamination and the loss of exempt status, led the Advisory Committee to include a bottom liner requirement. Where it can be demonstrated that an equivalent level of protection is available -- through a low permeability clay layer or the absence of groundwater -- the bottom liner requirement may be waived by KDHE.

The proposed Solid Waste Regulations are being reviewed by the Kansas Attorney General and Department of Administration. When these reviews are completed, KDHE will schedule public hearings on the proposed regulations in several locations across the state.

Several members of our Advisory Committee have come today to provide you with their opinions of the regulation development process as well as the requirements set forth by the package. We believe KDHE should now step aside and allow the committee to listen to these individuals who have volunteered their valuable time to participate in this process.

We would be happy to answer any questions at this time or following the comments by the Advisors and others.



DEPARTMENT OF GENERAL SERVICES • FRANK R. WEINHOLD, P.E.

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Salina, Kansas 67402-0736

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February 14, 1994

## OVERVIEW OF THE SOLID WASTE ADVISORY COMMITTEE

The Solid Waste Advisory Committee concept had been around before the spring of 1993. However, I think it was the area constituents that caused the Kansas Legislators to question the Kansas Department of Health and Environment (KDH&E) about their Solid Waste regulations. This caused the KDH&E staff and regulators to reach out through the Solid Waste Advisory Committee to get interaction with those of us trying to implement the proposed regulations.

The first meeting was held on May 7, 1993 with representatives from the KDH&E staff, counties, cities, private landfills, consultants, political action groups and associations and even a few legislators. There is no doubt there was mistrust and anger, and there were some very defensive regulators at this first meeting. However, we all had a common goal to implement the federal mandate; the Environment Protection Agency's (EPA) Subtitle D Regulations.

Overregulation was a concern of many and I believe the KDH&E staff relented and yielded on some of the proposed regulations. For the most part, I think they knew they were overregulating. However, as I sat in this advisory meeting listening to all the comments, I changed my views. I understand now and commend the KDH&E staff for their responsible stance.

As you may have gathered, the committee meeting was a forum for an exchange of thoughts, concerns and a place in which to learn. By bringing in professionals from the various aspects of the solid waste industry, we all gained in knowledge which is reflected in KDH&E regulation package.

I believe you, as legislators, are asking, "are the KDH&E regulations more stringent than the EPA Subtitle D regulations?" I am sure KDH&E has told you that their regulations are both more lenient and more stringent. If Region VII of the EPA will allow KDH&E to be more lenient in certain areas then that is the State of Kansas' advantage.

Is KDH&E's regulations more stringent than EPA's Subtitle D in certain areas? Yes, they are. However, allow me to explain.

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Attachment 2

In developing specifications, I may specify or require a minimum 300 cubic inch engine knowing full well that a 300 cubic inch engine does not exist. I know the one manufacturer has a 302 cubic inch engine, another has a 318 cubic inch engine, and a third manufacturer has a 327 cubic inch engine. All three manufacturers will bid their respective engines but they will not bid a cheaper or smaller engine because it will not meet my specifications and they will not bid their more expensive larger engine because they will not be competitive.

To a certain degree, this is the way Subtitle D regulations are written. The regulations are a minimum standard. However, only certain areas of the United States are able to use those minimum standards. Let me explain by using the controversial final cover as an example.

Subtitle D requires a minimum of 18 inches of a low permeability layer and 6 inches protective layer, or a total of 24 inches of soil over the trash for final cover. This is the minimum requirement! EPA does not say, but assumes anyone designing the final cover has read their other publications or knows how to design the final cover. EPA states a 24 inch low permeability cover is required to prevent the downward movement of moisture and the top layer to be deep enough to protect the first layer from frost. This fact was not in EPA's Subtitle D regulations, but in their other publications. There are only a few sites in the United States that can use the minimum standard of 18 inches and 6 inches final cover. In Salina, where I live, the EPA map is showing 15 inches of frost protection with the 24 inches of low permeability layer. This is a total of 39 inches!

I think the final determination on the depth of frost protection is still being researched. I do not believe this knowledge was shared until the last advisory meeting in November. The point here is that it took all the Solid Waste Advisors to learn about frost protection and the information was not available before. After the meeting KDH&E staff researched and shared their information on the frost protection.

In my opinion, the advisory committee performed well. It provided the State with the best knowledge available at the time and it provided a forum for sharing both knowledge and opinions. The forum provided a place to dismiss the distrust and work as a team to satisfy the requirements of Subtitle D regulations.

The Solid Waste Advisory Committee would not have come to fruition without the legislators concern and involvement. I applaud the KDH&E efforts and commend them on delivering a good workable set of solid waste regulations.

Lastly, I hope the Solid Waste Advisory Committee continues to meet to discuss new and revised regulations and the rationale behind each regulation.



# ***ENERGY & NATURAL RESOURCE COMMITTEE***

February 14, 1994

As presented by Brenda Beringer

I thank you for allowing me this opportunity to visit with you. Today I stand before you as the chairman of the Northwest Kansas Small Solid Waste Landfill Authority. This Authority represents four (4) western Kansas counties: Cheyenne, Greeley, Rawlins, and Wallace. I am very honored to be able to represent them in this capacity today.

This group of counties is very unique and very special. These counties represent some of the most sparsely populated areas in the state of Kansas. And yet despite their size, they have shown time and time again that they are some of the most resourceful and responsive people found anywhere. When an issue or a need arises they reach from within to resolve the issues and address the needs. These are people with pride and respect of their resources, their families, and their communities. These people have a real love for the place they call home.

These four counties, which do not border each other, have developed this solid waste authority, through the legal means of an interlocal agreement, because each desires to maintain their small county landfills.

The first obstacle faced by all Kansas landfills came when the courts ruled in favor of the Sierra Club and required the EPA to amend their regulations to require ground water monitoring at all landfill sites, including the small exempt landfills. These small counties bit the bullet and set out to meet the requests of EPA.

The second obstacle was the October 9th, 1993 deadline determined by EPA as the compliance deadline. Thanks to the influence of many people, including a powerful response by these counties, this was delayed to April 9th, 1994.

Now these counties that have done everything within their power to comply with the laws and also maintain their small county landfills are faced with regulations that basically strip the small landfills of all previous considerations.

The intent of these regulations prepared by the Kansas Department of Health and Environment and the Solid Waste Advisory Committee, is understood and respected. However, we do not feel that the appropriate consideration has been given to the small arid counties such as these.

The Federal Environmental Protection Agency acknowledged that there should be special consideration given to the landfills that meet the criteria of [1] receiving and disposing of less than 20 tons of solid waste daily, based on an annual average, [2] there is no evidence of groundwater contamination, [3] located in an area that receives less than or equal to 25 inches of precipitation, and [4] has no practical waste management alternative. These counties have met and exceeded each one of these criteria.

As we now study the proposed regulations of KDHE, we find that the design standards which are wavered in the Subtitle D regulations, are now debilitating the potential of some of the landfills being able to continue in the effort to provide this service to the constituents within their counties.

An example of this impact may be viewed in the requirement of bottom liners for Small Exempt Landfills. It has been estimated to me that one - two acre cell would cost approximately \$76,000 to develop a two foot clay liner with soils found from within that area. A figure such as this is devastating for counties that are with populations between 1800 and 3400 people who generate less than 5 tons of refuse per day.

We are not suggesting that there is no potential risk involved in the small landfills. But we will never eliminate all possible hazards whether in a small landfill or a Subtitle D landfill. Most all counties in the state have acquired the assistance of consulting firms that specialize in these environmental concerns. Therefore, the choices made by the counties are not made without appropriate, individualized, guidance and care. Blanket regulations cannot meet the specific needs found in each county. I submit to you that these blanket regulations serve only to create a more financial and physical hardship to counties than may be necessary.

I ask that this committee consider very carefully the ramifications of approving these proposed regulations that take away the flexibility that EPA has always intended to provide for the small landfills.

# THE CITY OF WICHITA

DEPARTMENT OF  
PUBLIC WORKS  
OFFICE OF THE DIRECTOR  
CITY HALL — EIGHTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE  
RE: KDHE REGULATIONS FOR LANDFILLS  
MONDAY, FEBRUARY 14, 1994  
8:00 A.M. ROOM 423-S

Members of the Committee, I am Paul Taylor, Assistant Maintenance Engineer for the City of Wichita. We thank you for the opportunity to speak to you regarding solid waste, a matter that is becoming increasingly important to all of us, like many other environmental issues.

I am representing the City of Wichita, who operates Brooks Landfill. Brooks serves all of the citizens of Sedgwick County and accepts over 1500 tons of solid waste per day.

As you are aware, some people have been concerned about the requirements and ultimately the cost of the new EPA Subtitle D and the proposed KDHE requirements related to landfills. While there are many implications to these requirements, the City of Wichita agrees with the need for a large majority of the regulations so that we better protect the environment.

One reason I am here today is to tell you that we have been pleased with the opportunity we have had for input into the proposed new regulations that has been afforded to us by Charles Jones, Bill Bider, Tom Gross and all the other KDHE staff. I am a member of the Solid Waste Advisory Committee and I believe I attended every meeting. There were a wide variety of interests represented, including some legislators. From my perspective, I felt we were all given ample opportunity to express our opinions and that KDHE was very responsive.

I am not here to tell you that there was unanimous agreement on the many issues we discussed; that would probably be almost impossible. But with leadership from the KDHE staff, the group was able to have good discussion and reach a consensus opinion that appears to be workable for most, while still affording protection for the environment.

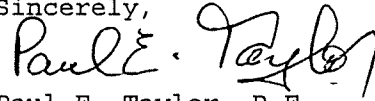
One example of reaching a consensus is the issue of vertical expansion. Subtitle D is silent on this important subject. The subject generated considerable Advisory Committee discussion and we believe a consensus was reached that most will find workable. The City of Wichita did not get everything they wanted on this subject, but we, too, feel that it is workable.

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Attachment 4

Senate Energy & Natural Resources Committee  
Re: KDHE Regulations For Landfills  
February 14, 1994  
Page 2

In summary, the City of Wichita does not oppose the vast majority of KDHE's proposed new landfill regulations. There may be a few minor things where we will request a modification, but that can be handled through their public hearings. We do not feel that the regulations are overly restrictive. In fact, I believe there are probably many states that are more restrictive than Kansas. We encourage you to take whatever action is appropriate so that these regulations may be enacted soon. If you have any questions, please feel free to contact me at 316-268-4369. Again, thank you for the opportunity to address your committee on this important issue.

Sincerely,

A handwritten signature in dark ink, appearing to read "Paul E. Taylor". The signature is fluid and cursive, with a large, stylized "T" at the end.

Paul E. Taylor, P.E.  
Assistant Maintenance Engineer

PET/bn

February 14, 1994

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

FROM: William H. Lewis

RE: Proposed Solid Waste Landfill Regulations

I am a member of the State Solid Waste Advisory Committee which worked jointly with the Kansas Department of Health and Environment Commission to draft regulations concerning landfills in the State of Kansas. Also, I am a member of the Northwest Kansas Small Landfill Authority, which is composed of Cheyenne, Greeley, Rawlins and Wallace Counties. These four counties joined in this endeavor because we are similar in size, with an approximate population of 3000 in each of the counties. Also, each county is interested in maintaining their own small landfill. Each county has appointed five members, and alternates, to represent them in developing a study of the existing landfill in their county.

Several of the people on the committee are concerned with the regulation concerning Bottom Liner Requirements for Exempt Small Landfills. Their concern is that EPA does not require liners at the bottoms of landfills in arid areas and the regulations would give KDHE the authority to require some sort of bottom liner requirement if they so desire. When the advisory committee was drawing up the regulations, that was not a concept which I liked. However, there were many people there that are planning to build regional landfills which do require liners and thought that all landfills should require the same. I believe their intent to push this regulation was to force small counties to join them in building their regional landfills. Charles Jones, however, did a fine job of listening to both sides and weeded through everyone's ideas to draw up the plan which has been given to the legislature. Although I did not like the above mentioned requirement, I realize it is hard to have one landfill plan for the entire region.

Let me say in ending that the biggest problem that I have concerning this regulation, or any regulation which is more stringent than EPA's, is that I like the law passed last year by the Kansas Legislature which states that no requirements will be made greater than those of the Environmental Protection Agency. If I were a State Legislature, I would keep that approach!

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February 14, 1994  
Attachment 5

I would also recommend that KDHE make their recommendations, in writing to the County Commissioners. The corrections which are recommended and are greater than EPA regulations will then be made on the basis of geological reports from that specific landfill.

The County Commissioners should also have a licensed engineer that can make specific recommendations to them. It should then be up to the County Commissioners to make decisions on the actions to be taken at the landfill, based on KDHE and the licensed engineer's recommendation. This follows state laws which made the landfill the responsibility of the County Commissioners in the early 1970's.

**Kansas Business and Industry Recycling Program, Inc.**

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(913) 273-6808 FAX (913) 273-2405



Testimony to Senate Energy and Natural Resources Committee

on

Solid Waste Landfill Regulations

by

Chiquita Cornelius, Executive Director

Kansas Business and Industry Recycling Program, Inc.

February 14, 1994

Mr. Chairman and Members of the Committee:

I am Chiquita Cornelius, Executive Director of the Kansas Business and Industry Recycling Program (Ks. BIRP). I am a member of the Solid Waste Advisory Committee that jointly with the Kansas Department of Health and Environment (KDHE) developed the regulations before you today. I also serve on the Shawnee County Solid Waste Management Committee that is charged with the responsibility of developing the counties' solid waste management plan.

While the Ks. BIRP program has followed closely, the solid waste issue as it has developed, and been instrumental in developing recycling and waste minimization program, my expertise does not lend itself to speaking to the technical aspects of the regulations before you. Rather, my testimony today will reflect on my observation of the process used to develop these regulations.

Serving on this committee was the first opportunity I have had to follow the process of drafting regulations that "supposedly" reflect the intent of legislation passed at the state or federal level. I think all of us have observed on occasion that what we felt was the

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Attachment 6



intent of a piece of federal or state legislation seems to change when placed in the hands of a regulatory agency.

Therefore, I entered into this process with some trepidation. However, what transpired, was in fact the most open, fair, and deliberate discussions of the issues.

The staff of KDHE was extremely thorough in their preparation of materials for the meeting. They conducted the meetings very effectively, but deliberation was never cut short on any particular issue. No one was ever denied an opportunity to explain or elaborate on a point of concern.

The makeup of the committee represented a very broad scope of interested or impacted parties so that no one perspective dominated the final regulation proposal before you.

The staff of the Division of Environment was creative, sensitive and responsive to the concerns and input they received from the advisory committee members - while always mindful of the responsibilities the department is charged with.

To my knowledge the final regulation package before you was acceptable to all members of the committee. No simple issue was left unresolved or defined as unsatisfactory by any sector represented on the committee.

When flexibility was available with EPA requirements, I believe those with expertise on the committee and KDHE staff arrived at realistic and proper decisions to protect the health and welfare of our Kansas citizens.

I consider my opportunity to serve on the advisory committee as a privilege and left the last full intensive work day with a very positive feeling about the process, the final product and the Department of Environment.





Waste Management of North America, Inc.  
Midwest Region  
4800 Kaw Drive  
P.O. Box 11116  
Kansas City, Kansas 66111  
913/287-2711

February 17, 1994

Senator Don Sallee  
Room 128 South  
State Capital Building  
Topeka, Kansas 66612

Re: Senate Energy and Natural Resources Committee  
February 14<sup>th</sup> Meeting

Dear Senator Sallee:

Pursuant to your request, I am providing you with a written copy of my testimony at the above-referenced meeting. If you have any questions, please do not hesitate to contact me at (816) 461-5999.

Sincerely,

Waste Management, Inc. - Midwest

*William D. Upman*

William D. Upman  
Environmental Engineer

WDU:db

cc: Lisa Disbrow  
Steve Kearney

FV217942

Senate Energy & Natural Resources  
February 14, 1994  
Attachment 7

Members of the Committee, my name is Bill Upman. I represent Waste Management, Inc. in the capacity of Environmental Engineer. Waste Management is the nation's largest provider of solid waste management services and owns and/or operates approximately 140 solid waste landfills in the United States, including two here in Kansas. Since 1988 our company has participated in the Subtitle D rule making process at the federal level and also has participated in the Subtitle D rule making process in approximately 30 states. My responsibilities include the oversight of engineering and compliance activities at company landfills in Kansas and Western Missouri. I personally have participated in the Subtitle D rule making process in three states, including Kansas, Missouri, and Nebraska.

My purpose for being here today is to discuss the proposed solid waste landfill regulations in front of you.

I'd first like to briefly summarize the history of Subtitle D. Subtitle D is the first comprehensive regulations governing the design and operation of municipal solid waste landfills and was promulgated on October 9, 1991. The regulations provides a framework for Federal, State, local and private cooperation to handle, effectively and efficiently, the disposal of non-hazardous solid waste. Subtitle D sets minimum standards for location restrictions, operating criteria, design standards, groundwater monitoring and corrective action, closure and post-closure care, and financial assurance. Subtitle D went into effect on October 9, 1993 with an extension to

April 6, 1994 for small landfills.

The Subtitle D regulations were meant to be self implementing by landfill owners and that state regulatory agencies must obtain Subtitle D authority to enforce the program locally. The State of Kansas has obtained this authority. Authorized states have the ability to modify portions of the federal regulations.

It is important to note that the federal regulations have several shortcomings that will create unreasonable technical requirements and unreasonable financial burdens on the regulated community. We, as a company, have always maintained that states should take full advantage of the flexibility offered by the federal regulation to address these shortcomings.

Unfortunately, few states have taken advantage of this flexibility and have adopted state regulations that basically mirror the federal regulations, including here in Kansas. In our opinion, the regulations currently adopted in Kansas will be a burden on the regulated community.

In order to address the shortcomings of the federal regulations, the Bureau of Waste Management developed a package of draft regulations taking full advantage of the flexibility offered by the federal regulations. The Bureau also established the Solid Waste Advisory Group to review and provide comments on the draft regulations. The Solid Waste Advisory Group is made up of members from the full spectrum of the regulated community, including local

municipal officials, consultants, public and private landfill operators and KDHE staff. By establishing and involving the Solid Waste Advisory Group early in this process, the regulated community has had an opportunity to provide constructive input into the development of the proposed regulations. The Bureau is to be commended for establishing the Solid Waste Advisory Group. I am not aware of any other state in which the regulated community has had an opportunity to discuss the Subtitle D regulations with a regulatory body to such a degree. We wish more state regulatory agencies would take this approach.

With regard to the issue of these regulations being stricter than the federal regulations, I don't believe it is an issue of these regulations being stricter, but rather these regulations making more sense. As stated earlier, the federal regulations and those currently adopted here in Kansas, are far from perfect. There are shortcomings in these regulations that will create unreasonable technical requirements and unreasonable financial burdens on the regulated community including municipalities. States should take advantage of the flexibility offered by the federal regulation to address these shortcomings. The Bureau has taken this step with the proposed regulations.

Finally, the proposed regulations are as strict as the federal regulations in that they provide equal environmental protection. From a technical standpoint, the proposed regulations allow more flexibility than the federal regulations in the implementation of design and operating standards. This ultimately allows landfill operators more flexibility in how their facilities are designed and operated, resulting in reduced cost of operation and ultimately reduced cost to the people of Kansas, while still maintaining an equal level of environmental protection. The Committee

should recommend the adoption of the proposed regulations.

I'd be happy to answer any questions.