

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by SENATOR ROBERT V. TALKINGTON at  
Chairperson

9:00 a.m. on Tuesday, February 28, 1984 in room 254-E of the Capitol.

All members were present except:

Senator Jan Meyers

Committee staff present:

Fred Carman, Hank Avila, Rosalie Black

Conferees appearing before the committee:

SB 698 - Senator Norma Daniels; Bill Green, KCC; Robert Eye, Health and Environment;  
Nancy Zielke, DOT; Lt. Vern Prostler, Highway Patrol; Leon Mannell, Adjutant  
General's Office

SB 739 - Bill Edds, Dept. of Revenue SB 778 - Senator Roy Ehrlich; Bill Edds

The meeting was called to order by Senator Talkington, Chairman, who introduced  
Senator Norma Daniels to discuss Senate Bill 698.

SENATE BILL 698 - HEARING AND ACTION - INTERIM STUDY

Senator Daniels explained that SB 698 deals with transportation of radioactive  
materials and is patterned on Florida's bill. She indicated the involvement of  
several state agencies and the role each plays in controlling transportation  
of hazardous wastes. In order to obtain coherent regulations of the various agencies  
and their functions, Senator Daniels requested an interim study. (See Attachment 1.)

A description of each agency's involvement in transporting radioactive  
materials was presented by Bill Green, Robert Eye, Nancy Zielke, Lt. Vern Prostler  
and Leon Mannell. The highway patrol noted that enforcement and monitoring of  
hazardous materials within the state are almost totally unenforceable. Currently,  
the only agencies that have regulations governing how and where such materials may  
be transported are the federal bureau of motor carrier inspections and the Kansas  
emergency preparedness agency under the direction of the adjutant general's office.  
(See Attachments 2 - 4.) Representatives of each agency recommended an interim  
study. *(unable to identify atchs)*

Senator Burke moved for an interim study involving SB 698; seconded by  
Senator Rehorn. The motion carried.

SENATE BILL 778 - HEARING

Senator Roy Ehrlich said the bill to prohibit connotations on personalized

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,  
room 254-E, Statehouse, at 9:00 a.m./p.m. on February 28, 1984.

SENATE BILL 778 - HEARING - Con't

license plates was requested by one of his county elected officials.

Bill Edds testified that it would cost the Department of Revenue \$7,500 to retrieve each license plate that violates the bill as described in Lines 96-97.

SENATE BILL 739 - HEARING AND ACTION

Speaking in support of SB 739, Bill Edds said that many motorcycles do not have a place for a front tag and the bill eliminates the need for two tags.

Senator Johnston moved to place SB 739 on the consent calendar; seconded by Senator Burke. The motion carried.

SENATE BILL 809 - ACTION

The Chairman asked Mr. Edds for the Department of Revenue's position on SB 809.

Referring to the fact that the department needs authorization to continue the practice of reporting motor vehicle violations on consolidated magnetic tapes, Mr. Edds recommended support of the bill.

Senator Morris moved to place SB 809 on the consent calendar; seconded by Senator Hayden. The motion carried.

The meeting adjourned at 9:55 a.m.

*Robert V. Jelliffe*

Please PRINT Name, Address, the organization you represent, and the Number of the Bill in which you are interested. Thank you.

2-28-84

NAME	ADDRESS	ORGANIZATION	BILL NO.
Joy D. Cole	Topeka, Ks	The Adjutant Gen. Dept.	698
Mrs. Ralph T. Eise	"	TAC	698
Leon H. Mannell	"	The Adjutant General Dept	698
Lt. VERNON PROSTLER	"	KANSAS Highway Patrol	698
BILL GREED	TOPEKA	STATE CORR. COMM	698
M. Howe	"	Capital-Jour	
Pat Hulbice	Topeka, Ks.	Kansas Railroad Assn.	698
Tom Whitaker	Topeka, Ks	KANSAS MOTOR CARRIERS	698
Ellyn R. Rallestad	Topeka	Post Audit	698
Marna Daniels	Topeka	Senate	698
Nancy Zieffe-Biggsby	Topeka	KDOT	
G. W. Allen	Topeka	KDA & E	698
R. Eise	"	"	"
Harold B. Furniture	"	DEPT. OF. REV.	739-798
Bue Eads	"	"	"

STATE OF KANSAS

3 28-84

SENATOR  
ROBERT V. TALKINGTON  
MAJORITY LEADER  
P. O. BOX 725  
IOLA, KANSAS 66749



COMMITTEE ASSIGNMENTS  
CHAIRMAN: TRANSPORTATION AND UTILITIES  
VICE-CHAIRMAN: ORGANIZATION, CALENDAR AND RULES  
MEMBER: ELECTIONS  
INTERSTATE COOPERATION  
LEGISLATIVE COORDINATING COUNCIL  
WAYS AND MEANS

TOPEKA

SENATE CHAMBER  
MAJORITY LEADER

April 5, 1984

The Honorable Mike Hayden, Speaker  
The House of Representatives  
Chairman, Legislative Coordinating Council  
Capitol, 3rd Floor  
Topeka, Kansas 66612

Dear Mike:

I have been asked by the Senate Transportation and Utilities Committee to request an interim study concerning state agency regulation of transporting radioactive materials.

At the Hearing on SB 698, testimony indicated the newness of the subject plus regulation by the Secretary of Health and Environment with enforcement by DOT, the Adjutant General's Office, Kansas Highway Patrol and the KCC further complicated the subject.

Thank you for your consideration of this request.

Sincerely,

Robert V. Talkington, Chairman  
Senate T & U Committee

5. Daniel's

Attachment 1

**CONTRACTOR REPORT**

SAND83-7437  
Unlimited Release  
TTC-0450

**STATE STATUTES AND REGULATIONS  
ON RADIOACTIVE MATERIALS  
TRANSPORTATION**

Barbara Foster

National Conference of State Legislatures  
1125 Seventeenth Street, Suite 1500  
Denver, Colorado 80202

Prepared by Sandia National Laboratories  
Albuquerque, New Mexico 87185 and  
Livermore, California 94550 for the  
United States Department of Energy  
under Contract Number 37-3224

Printed October 1983

Atch. 1

SAND83-7437  
TTC-0450  
UC-71  
Unlimited Release

## STATE STATUTES AND REGULATIONS ON RADIOACTIVE MATERIALS TRANSPORTATION

Barbara Foster

National Conference of State Legislatures  
1125 Seventeenth Street, Suite 1500  
Denver, Colorado 80202

October 1983

### ABSTRACT

The transport of radioactive materials is controlled by numerous legislative and regulatory actions at the federal, state, and local levels. This document is a compilation of the state-level laws and regulations. The collected information is abstracted and indexed by states.

The Transportation Technology Center is engaged in a continuing effort to track legislation. This center will provide update information to users who request it. Requests for specific information should be directed to:

Transportation Technology Center  
Sandia National Laboratories  
P. O. Box 5800, Organization 6321  
Albuquerque, New Mexico 87185  
Attn: Cheryl Coppin  
(505)844-0423 or FTS 844-1740

The research for this document was extensive and the intent was to include all pertinent information as of August 30, 1983. The reporting of errors and omissions to the Transportation Technology Center is encouraged.

## Overview of Document

### Preface

This document was prepared for use by individuals who are involved in the radioactive materials transportation process. The document contains state-level legislative and regulatory information that affects the transportation of radioactive materials. This document is arranged alphabetically by state.

A number of sources were used to compile this information. Barbara Foster, National Conference of State Legislatures, was the abstractor and Sharon Bjorkman was the editor.

### Abstracts Section

The citations and wording in the abstract section follow the structure used by the individual state statutes. Each abstract section begins with a listing of the statutes and regulations that are relevant to radioactive materials transportation. The balance of the abstract matches statute sections with subject headings. Regulations are preceded by an "R" when used as a citation. Brief explanations of the subject headings are detailed below.

Rules. This entry lists the statute citation that specifies to whom the rules apply. Generally speaking, rules apply to a "person," and states define "person" to include corporations, agencies, etc. In the case of radioactive materials transportation, the rules usually apply to everyone who has anything to do with that transportation. Some states specifically indicate that in certain instances the federal government is excluded. The first edition of State Statutes and Regulations on Radioactive Materials Transportation contains a photostat of the state laws that NCSL abstracted. Because the state laws are often so detailed, readers should refer to the photostat itself in the first edition or look up the state statute or regulation cited under "Rules" for further information.

Definition. Most statutes contain a definition of the radioactive material covered by the statute. Generally, definitions tend to be uniform. Most states define radioactive materials as those which emit ionizing radiation. Hazardous materials usually, but not always, include radioactive materials. Some states separate the two; many simply use the definitions found in 49 CFR. On the whole, definitions are neither complex nor technical.

Routing. The routing entry collects together a variety of citations that might have an impact on the conditions under which the actual transport of radioactive material occurs. The terms used are:

Escorts -- Applies to shipments of nuclear material, usually in the field of physical security.

Monitoring, Surveillance, and Inspection -- Applies to the physical condition of the equipment and to the packaging.

Prohibitions -- Usually concerns routes.

Certain Shipments -- Type of nuclear materials as well as modes and purpose of transportation.

Certificate of Emergency Transport -- A type of permit which essentially prohibits the shipment.

Registration Fees, Licensing -- Requirement to obtain a permit usually in advance of transportation of material.

Routing -- State regulatory agency can specify acceptable routes for nuclear material shipments.

Time Restrictions -- Usually specifies time of day that shipments are allowed.

Notification -- Calls for advance notification to state agency by shippers before certain nuclear materials can be transported within state's boundaries.

Accident Notification -- Requires accident notification of all carriers and specifies reporting requirements.

Accident/Emergency Procedures -- Primarily a state responsibility and states are relied upon to specify requirements.

Qualification of Personnel -- Specifies personnel requirements for guard and escort personnel as well as for other types.

Loading, Labeling and Marking of Packages, Unloading -- Specifies the requirements for the handling and marking of nuclear material containers.

Financial, Liability, Insurance, Bonding -- Specifies protection limits for the public.

Other Regulations. Keeping/Access to Records -- Refers to maintenance of and access to records of nuclear material shipments, including those to be on-board the vehicle.

Certain conventions are used in this section. Where no statute or regulation is available, the word "None" is inserted. In some cases, the statutes may specify that the director of a certain agency is authorized to implement rules and regulations, but nothing indicates that the authority has been used.



### Information Sources

The initial source of information for the Abstracts was collected by J. Bailey and C. Jeffries of Federal-State Reports, Inc., in Virginia for the U. S. Nuclear Regulatory Commission. Their compilation, State Laws and Regulations on Transportation of Radioactive Material (NUREG/CR 1263), was completed in January 1980.

The above referenced material was expanded by the work of E. W. Shepherd, Sandia National Laboratories, and on information contained in the "Legislative and Regulatory Information System," an interactive computer-based data file funded by Sandia.

Another information source is the Compendium of Regulations, Shipments of Radioactive Materials over Toll Roads, Bridges and Tunnels, February 1974, compiled by International Bridge, Tunnel and Turnpike Association, Inc.

The information on local laws and regulations came from Oak Ridge National Laboratories and Sandia National Laboratories in August 1983.

This document has been updated during the summer of 1982-summer 1983.

It would not have been possible to do the update without the kind cooperation of many people, most frequently radiation control directors, in state agencies. Their help is most appreciated.

STATE OF KANSAS

(Agreement State)

STATUTES AND REGULATIONS:

Kansas Statutes Ann. Chapter 48 Article 16 - Nuclear Energy Development and  
Radiation Control  
SB-532 - Amending K.S.A. 48-904, 48-928, & K.S.A. Supplement 65-3406c  
Kansas Solid Waste Act  
Compendium of Regulations

RULES:

48-1603(j) See state citation section.

DEFINITION:

48-904(h), SB-532 Hazardous materials (including radioactive) are any materials that may be harmful to health or the environment.

ROUTING:

(1). ESCORTS:

None

(2). MONITORING, SURVEILLANCE, INSPECTION:

48-1609 The Secretary of Health and Environment has the right to inspect any facility (except those under the jurisdiction of the federal government) for compliance with rules and regulations.

48-1610 Radioactive materials may be impounded in cases of violations of rules.

(3). PROHIBITIONS AND PROHIBITED SHIPMENTS:

None

(4). REGISTRATION, FEES, LICENSING:

48-1612 A license by or registration with the Secretary of Health and Environment is required.

(5). ROUTING:

None

(6). TIME OF DAY:

None

*Response Program -*

NOTIFICATION:

(1). SHIPPING PAPERS, ADVANCE NOTIFICATION, CERTIFICATION:

None

(2). PERMITS REQUIRED:

None

(3). ACCIDENT/INCIDENT NOTIFICATION:

None

(4). EMERGENCY PROCEDURES:

48-928(a), SB-532 amends K.S.A. 48-928 to establish a division of emergency preparedness which includes preparedness for hazardous material disasters.

QUALIFICATION OF PERSONNEL:

None

LOADING, PACKAGING, LABELING, MARKING:

Kansas Solid Waste Act -- Requires compliance with U.S. Department of Transportation regulations for loading, unloading, and packaging.

INSURANCE, BONDING, FINANCIAL LIABILITY:

None

OTHER REGULATIONS:

48-1617 Local laws are not superseded by state law so long as they are consistent with state law.

Compendium -- Shipments are allowed on the facilities of the Kansas Turnpike Authority if they conform to the regulations of the NRC, U.S. Department of Transportation, and Interstate Commerce Commission.

REMARKS:

The Transportation Division of the State Corporation Division has adopted 49 CFR, 100-199.

STATE OF FLORIDA

(Agreement State)

STATUTES AND REGULATIONS:

Ch. 10D-63, Chap. 381 Florida Statutes 1979  
Rules Ch. 76-168  
Chap. 25-5 Transportation of Hazardous Materials  
381.512 Transportation of Radioactive Materials  
Chap. 79-254 Mailing in Accordance with Federal Regulations  
Chap. 404, Florida Statutes, "Radiation"  
501.061 Hazardous Substances Law  
Title XXXV, 624.425 Insurance  
Chap. 633 Fire Prevention and Control  
Regulations Chapter 10D-63 Transportation of Radioactive Materials  
HB 1066 (1982) Low-Level Radioactive Waste Compact  
Compendium of Regulations

RULES:

404.031 (10) See state citation section.

DEFINITION:

404.031 (12) Radioactive material means anything which emits spontaneous ionizing radiation excluding radioactive wastes regulated by the Hazardous Waste Management sections of the Federal Resource Conservation Recovery Act of 1976 or the Department of Environmental Regulation's assumption of that program.

ROUTING:

(1). ESCORTS:

(Local) (Tampa, Fort Pierce) Require fire department escorts for radioactive materials.

(Local) (Fort Walton, Key West) Require city police escorts for radioactive materials.

(2). MONITORING, SURVEILLANCE, INSPECTION:

381.512 (2)(b) (Inspection) Any duly authorized state employee may inspect, at a reasonable time, any vehicle used to transport hazardous substances in commerce or any records relating to such transportation.

HB 1066 Amending 381.512 (3) b) Radioactive materials cargoes that are ready for shipment to a treatment, storage, or disposal facility will be inspected with reference to external radiation level, package bracing, package marking, vehicle placarding, and shipping papers.

(3). PROHIBITIONS & PROHIBITED SHIPMENTS:

(Local) (Port of Miami, Port of Palm Beach) Ban radioactive materials shipments.

## (4). REGISTRATION, FEES, LICENSING:

404.131 (Fees) The Department of Health & Rehabilitative Services is authorized to charge and collect fees for special and general licenses.

404.061(2) (Licensing and Registration) The transport of any source of radiation requires a license, registration, or exemption by the Department of Health and Rehabilitative Services.

## (5). ROUTING:

R 10D-63.14 (2) The Department of Health & Rehabilitative Services Radiological Health Program may designate routes.

See Remarks.

## (6). TIME OF DAY:

R 10D-63.14 (2) The Department may also designate driving hours.

NOTIFICATION:

## (1). SHIPPING PAPERS, ADVANCE NOTIFICATION, CERTIFICATION:

Compendium - (Certificate) A Certificate of Authority from the Florida PUC is required to travel the facilities of the Florida DOT.

R 10D-63.14 (Advance Notification) All radioactive shipments defined by 49 CFR 173.389 (a)(3)(b) require 10 days written notification to DHRS - Radiological Health Program.

HB 1066 Amending 381.512 (3)(b) (Shipping Papers) Shipping papers must contain routing and expected time information.

## (2). PERMITS REQUIRED:

None

## (3). ACCIDENT/INCIDENT NOTIFICATION:

R 10D-63.15 (1)(a) Reporting of incidents should comply with 49 CFR, Parts 100-199. A real or suspected breach of containment should be reported to DHRS Radiological Health Program.

## (4). EMERGENCY PROCEDURES:

404.091 and 404.101 The Department of Health & Rehabilitative Services is authorized to respond to an emergency, to carry out required decontamination and protect the public health and safety. Ionizing radiation sources may be impounded.

QUALIFICATION OF PERSONNEL:

404.071 (4) The Department of Health & Rehabilitative Services can institute educational or training programs for persons who transport radioactive material.

LOADING, PACKAGING, LABELING, MARKING:

316.302 (1)(a) (Placarding) Vehicles transporting hazardous materials should be placarded in accordance with 49 CFR, Sec. 172.504.

316.302 (1)(c) Any vehicles transporting radioactive material not regulated by federal authority will be marked and placarded as prescribed by regulations of the Department of Insurance.

INSURANCE, BONDING, FINANCIAL LIABILITY:

404.111 (1),(2),(3),(4) A bond is required of licensees.

OTHER REGULATIONS:

None

REMARKS:

R 10D-63.12 (5) Shipments under the direction of federal agencies are exempt from the regulations of Chap. 10D-63.

R 76-168 Compliance is required with 49 CFR, 171.8, 172, 173, 177, and 178.

Ch. 10D-63, Ch. 381 Radiation dose limits are set for private carrier personnel.

Check points may be designated en route.

## SCOPE STATEMENT

### **Transportation of Radioactive and Hazardous Materials in Kansas**

A number of questions have been raised recently regarding the transportation of radioactive and hazardous materials in Kansas. A primary concern is that there has been insufficient review of the State's policies and procedures governing this area and their relationship to federal regulation of radioactive and hazardous materials transportation. A related concern focuses on the health and safety factors involved in transporting radioactive and hazardous materials in the State.

A performance audit in this area would address the following questions:

1. **What is the extent of radioactive and hazardous materials shipments in Kansas, and what kinds of materials are transported?** In addressing this question, the auditors will talk with officials of various State agencies to determine if there are any State records available which would indicate the nature and extent of radioactive and hazardous materials transportation throughout Kansas. They will also examine any other sources of data to gather this type of information on both a State and a national basis.
2. **What are the present laws and regulations governing transportation of radioactive and hazardous materials in Kansas?** The federal government is involved in regulating this area, as are a number of State agencies. The auditors will examine all of the appropriate statutes and regulations. They will assess the degree to which State agencies duplicate each other's regulation and the degree to which divided responsibility creates major gaps in the regulatory program.

In addressing this question the auditors will also determine whether Kansas laws and regulations are more or less restrictive than those at the federal level. As part of this examination, the auditors will determine what procedures are in place at the various state agencies to track federal laws and regulations and ensure that the relevant State laws and regulations are updated and revised as appropriate.

Legislation and regulations in surrounding states will also be examined to determine if Kansas has more or less restrictive policies governing radioactive and hazardous materials transportation. This examination will allow the auditors to assess the impact of policies in surrounding states on the transportation of these materials through Kansas.

**Estimated time to complete: 6-8 weeks**

Attachments 2-4

# KANSAS DEPARTMENT OF TRANSPORTATION

STATE OFFICE BUILDING—TOPEKA, KANSAS 66612



JOHN B. KEMP, Secretary of Transportation

JOHN CARLIN, Governor

February 28, 1984

TO: SENATE TRANSPORTATION AND UTILITIES COMMITTEE

FROM: KANSAS DEPARTMENT OF TRANSPORTATION

REGARDING: SENATE BILL 698 TRANSPORTATION OF RADIOACTIVE MATERIALS

The Kansas Department of Transportation has a strong commitment to the safety of the traveling public in building and maintaining an efficient multi-mode transportation system. While KDOT does not have state enforcement powers, the Department is an advocate in developing a comprehensive plan to monitor the transportation of hazardous cargo, like radioactive materials, in and throughout Kansas. As our business, industrial, and agricultural communities continue to expand, the volume and variety of materials shipped across Kansas roads, railways, rivers, and airways, will also increase, possibly effecting the environmental quality and public safety of Kansans.

The U.S. Department of Transportation in November 1983 estimated that more than 250,000 shipments of hazardous materials move daily through the nation's transportation systems and that an estimated 200 billion ton-miles of hazardous materials are shipped annually in the United States. These shipments originate from more than 100,000 locations within the 50 states and more than 2 million persons are involved in the handling of these shipments.

The Surface Transportation Assistance Act of 1982 (P.L. 97-424) authorizes states to participate in a new Motor Carrier Safety Assistance Program. The purpose of the program is for states to enforce substantially similar commercial motor vehicle and hazardous materials highway transportation safety standards uniform with federal regulations. KDOT was appointed to be the lead Agency in the Sub-Cabinet Motor Carrier Safety Committee, to develop a Kansas Enforcement Plan, in developing a program for the enforcement of compatible state and federal rules, regulations and standards and orders applicable to commercial motor vehicle safety.

The Sub-Cabinet Committee is composed of representatives from Kansas Department of Transportation, Department of Administration, Department of Revenue, Department of Health and Environment, Kansas Corporation Commissions, the Kansas Highway Patrol, and Adjutant General's Office. The Committee has begun to review and assess existing Kansas statutes, and rules and regulations, pertaining to commercial motor carrier safety enforcement and hazardous materials safety to ensure consistency with federal rules and regulations and identify the roles and responsibilities of the State Agencies who are currently involved in motor carrier activities.

Should the review of existing Kansas rules and regulations indicate inconsistencies with federal requirements, changes will be proposed for Kansas as soon as possible to insure compatibility with all federal rules, regulations, standards, and orders which are applicable to commercial motor vehicle safety.



The Kansas Department of Transportation has been designated by Governor Carlin to be the lead agency in the development of the State Enforcement Plan. These development efforts are scheduled for completion on or before August 1, 1984.

KDOT has previously promulgated rules and safety regulations under Title 49 CFR, Part 397, Section 397.1 - 397.21, exclusive of 397.2 and not in conflict with state laws regulating the transportation of hazardous materials. These regulations however were recently revoked due to the identical provisions enacted by the Kansas Corporation Commission rules and regulations.

KDOT is also available to assist and advise those state regulatory agency's by coordinating measurable parameters, such as average daily traffic, number of heavy volume intersections, number of signals, type of road or railroad or rail condition to plan the best route system to transport hazardous cargo.

The provisions of Senate Bill 698 would have no direct impact on the present operations of the Department but permits the Secretary to advise and assist the Kansas Department of Health and Environment in promulgating rules and regulations. These rules and regulations when enacted, however, may then redefine and commit KDOT to new duties and responsibilities.

KDOT supports the concept of monitoring the transport of radioactive materials in and across Kansas, as addressed in Senate Bill 698. These provisions could stimulate further review of existing federal and state regulations and provide a catalyst for the adoption of comprehensive plan including standards for all hazardous materials.

# KANSAS HIGHWAY PATROL

*Service—Courtesy—Protection*

John Carlin  
Governor



Bert Cantwell  
Col. ~~David Hornbaker~~  
Superintendent

## SYNOPSIS

The enforcement and monitoring of the transportation of hazardous or radioactive materials regulations within the State of Kansas are almost totally unenforceable, as we do not have current statutes or regulations to enforce at this time. The only agencies that have regulations governing how and where radioactive materials may be transported are the Federal Bureau of Motor Carrier Inspections and the Kansas Emergency Preparedness Agency, under the direction of the Adjutant General's office. The Kansas Corporation Commission and Secretary of Transportation have the authority to adopt the regulations of the federal government by reference, governing the movement of hazardous or radioactive material; however, both are outdated.

### I. Enforcement.

#### A. Applicable Kansas laws and regulations.

1. K.S.A. 8-1746 Rule # 36-25-1.
  - a. Rule # 36-25-1 was revoked May 1, 1983.
2. K.S.A. 66-1, ~~109~~ Rule # 82-4-20.
  - a. This rule adopts federal regulations by reference only on regulations in force on Dec. 23, 1980.
  - b. This rule is unenforceable due to the changes in the federal regulations since Dec. 23, 1980.

122 SW SEVENTH STREET  
TOPEKA, KANSAS 66603 (913) 232-9200

B. Transportation of special nuclear materials.

1. Transported by federal officers of the Atomic Energy Commission.
  - a. Heavily escorted and regulated by the Atomic Energy Commission.

II. Additional regulations.

A. Senate Bill 698.

1. Only addresses radioactive materials.
2. Needs to be amended to include all hazardous materials.
  - a. To give law enforcement agencies a tool to work with.
3. We need legislation to become active in the area of hazardous materials rather than reactive after there is a serious accident or incident.
4. Federal cite # changed effective 7-1-83 to
  - a. 173.455 a(3), b

SUMMARY

We need to obtain some type of law, rules or regulations governing the movement of hazardous materials which encompass radioactive materials. As it stands now, our laws are either antiquated or revoked. If we have a serious incident, there in all reality could not be any enforcement by any law enforcement agency in Kansas. We need legislation to enable us to actively check carriers and regulate how, where and when they haul materials that would be injurious not only to the environment, but to people themselves.

Attachments

cc: Committee Members  
Captain Pickert  
Colonel Cantwell  
Senator Daniels

MOTOR VEHICLE LAWS

(1) If traffic on the roadway moves in two (2) directions, one (1) flag shall be placed approximately one hundred (100) feet to the rear and one (1) flag approximately one hundred (100) feet in advance of the vehicle in the center of the lane occupied by such vehicle.

(2) Upon a one-way roadway, one (1) flag shall be placed approximately one hundred (100) feet and one (1) flag approximately two hundred (200) feet to the rear of the vehicle in the center of the lane occupied by such vehicle.

(h) When any vehicle described in this section is stopped entirely off the roadway and on an adjacent shoulder at any time and place hereinbefore mentioned, the warning devices shall be placed, as nearly as practicable, on the shoulder near the edge of the roadway.

(i) The flares, fuseses, red electric lanterns, portable red emergency reflectors and flags to be displayed as required in this section shall conform with the requirements of K.S.A. 8-1744 applicable thereto.

History: L. 1974, ch. 33, § 8-1745; July 1.

**8-1746. Vehicles transporting hazardous materials; regulations by secretary, compliance; markings of and equipment on vehicles.** (a) The secretary of transportation shall adopt such rules or regulations as may be necessary for the safe transportation of hazardous materials. Such rules or regulations may duplicate or be consistent with current hazardous materials regulations of the United States department of transportation. The secretary is hereby authorized to adopt said hazardous materials regulations by reference.

RULE #  
36-25-1

(b) Any person operating a vehicle transporting any hazardous material as a cargo or part of a cargo upon a highway shall at all times comply with rules or regulations of the secretary adopted pursuant to the provisions of this section.

(c) Said vehicle shall be marked or placarded at such places and in such manner as have been prescribed by rules or regulations adopted pursuant to this section.

(d) Every said vehicle shall be equipped with fire extinguishers of a type, size and number approved by the secretary, filled and ready for immediate use, and placed at a convenient point on the vehicle so used.

History: L. 1974, ch. 33, § 8-1746; L. 1975, ch. 426, § 48; Aug. 15.

**8-1747. Air-conditioning equipment.** (a) The term "air-conditioning equipment" as used or referred to in this section shall mean mechanical vapor compression refrigeration equipment

All other accidents shall be reported as requested by the commission. Reports shall be plainly written or typewritten and promptly forwarded by United States mail to the state corporation commission, Topeka, Kansas.

If an accident results in death or injury likely to result in death or property damage to an apparent extent of more than two thousand dollars (\$2,000), a prompt report shall be made to the local sheriff or chief of police or to the state highway patrol. This does not preclude the driver from reporting accidents that are required to be reported under K.S.A. 8-1607. (Authorized by and implementing K.S.A. 66-1,129; effective Jan. 1, 1971; amended May 1, 1981.)

**82-4-20. Transportation of hazardous materials by motor vehicles.** The laws of the state of Kansas and all safety regulations promulgated by the U.S. department of transportation, federal highway administration, and bureau of motor carrier safety, not in conflict with the laws of the state of Kansas, are hereby adopted as the safety regulations of this commission. (Authorized by K.S.A. 66-1,112, 66-1,112a, 66-1,112g, 66-1,129; implementing K.S.A. 66-1,129; effective Jan. 1, 1971; amended May 1, 1981.)

**NOTE:** Attorney General Opinion 77-369 of November 30, 1977, states that state Agencies which have been empowered to adopt regulations may only adopt by reference those regulations which are known and in existence at the time of adoption. Therefore, the Commission's adoption of the Federal Safety Regulation by reference in 82-4-20 applies only to those Federal Regulations in effect on December 23, 1980.

#### INSURANCE

**82-4-21. Requiring insurance.** Public motor carriers of property or passengers, or contract motor carriers of property or passengers, or private motor carriers of property, shall not operate a motor vehicle, trailer, or semitrailer for the transportation of persons or property within the provisions of the motor carrier law of this state until an insurance policy is filed in compliance with K.S.A. 66-1,128, amended, and in accordance with the regulations of the commission. (Authorized by K.S.A. 66-1,112, 66-1,112a, 66-1,112g; implementing K.S.A. 66-1,128; effective Jan. 1, 1971; amended May 1, 1981.)

**82-4-22. Insurance requirements.** (a) Before a certificate, permit, or license shall be issued to a public motor carrier of property or passengers, contract motor carrier of property or passengers, or private motor carrier of property, the applicant shall file with and have approved by the state corporation commission of Kansas, a public liability and prop-

- Sec.  
 173.422 Exceptions for instruments and articles.  
 173.423 Table of activity limits—excepted quantities and devices.  
 173.424 Excepted article containing natural uranium or thorium.  
 173.425 Transport requirements for low specific activity (LSA) radioactive materials.  
 173.427 Empty radioactive materials packaging.  
 173.431 Activity limits for Type A and Type B packages.  
 173.433 Requirements for determination of  $A_1$  and  $A_2$  values for radionuclides.  
 173.435 Table of  $A_1$  and  $A_2$  values for radionuclides.  
 173.441 Radiation level limitations.  
 173.442 Thermal limitations.  
 173.443 Contamination control.  
 173.444 Labeling requirements.  
 173.446 Placarding requirements.  
 173.447 Storage incident to transportation—general requirements.  
 173.448 General transportation requirements.  
 173.451 Fissile materials—general requirements.  
 173.453 Fissile materials—exceptions.  
 173.455 Classification of fissile materials packages.  
 173.457 Transportation of Fissile Class III shipments—specific requirements.  
 173.459 Mixing of fissile material packages.  
 173.461 Demonstration of compliance with tests.  
 173.462 Preparation of specimens for testing.  
 173.463 Packaging and shielding—testing for integrity.  
 173.465 Tests for proposed packagings designed for normal conditions of transportation.  
 173.466 Additional tests for Type A packagings designed for liquids and gases.  
 173.467 Tests for demonstrating the ability of Type B and fissile radioactive materials packagings to withstand accident conditions in transportation.  
 173.469 Tests for special form radioactive materials.  
 173.471 Requirements for U.S. Nuclear Regulatory Commission approved packages.  
 173.472 Requirements for exporting DOT specification Type B and fissile packages.  
 173.473 Requirements for foreign-made packages.  
 173.474 Quality control for construction of packaging.  
 173.475 Quality control requirements prior to each shipment of radioactive materials.  
 173.476 Approval of special form radioactive materials.  
 173.477 Approval for export shipments.  
 173.478 Notification to competent authorities for export shipments.

#### Subpart I—Radioactive Materials

##### § 173.401 Scope.

(a) This subpart sets forth requirements for the transportation of radioactive materials by carriers and

shippers subject to this subchapter. The requirements prescribed in this subpart are in addition to, but not in lieu of, other requirements set forth in this subchapter and in 10 CFR Part 71 for the packaging and transportation of radioactive materials.

(b) This subpart does not apply to—

(1) Radioactive materials produced, used, transported, or stored within an establishment other than during the course of transportation.

(2) Radioactive materials contained in a medical device, such as a heart pacemaker, which is implanted in a human being or live animal.

(3) Radiopharmaceuticals that have been injected into, or ingested by, and are still in human beings or live animals.

##### § 173.403 Definitions.

In this subpart:

(a) " $A_1$ " means the maximum activity of special form radioactive material permitted in a Type A package.

(b) " $A_2$ " means the maximum activity of radioactive material, other than special form or low specific activity radioactive material, permitted in a Type A package. These values are either listed in § 173.435 or may be derived in accordance with the procedure prescribed in § 173.433.

(c) "Closed transport vehicle" means a vehicle equipped with a securely attached exterior enclosure that during normal transportation restricts the access of authorized persons to the cargo space containing the radioactive materials. The enclosure may be either temporary or permanent, and in the case of packaged materials may be of the "see-through" type, and must limit access from top, sides, and ends.

(d) "Containment system" means the components of the packaging intended to retain the radioactive contents during transportation.

(e) "Conveyance" means any vehicle, aircraft, vessel, freight container, or hold, compartment or defined deck area of an inland waterway craft or seagoing vessel.

(f) "Depleted uranium" means uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes.

(g) "Design" means the description of a special form material, a package, or a packaging, that enables those items to be fully identified. The description may include specifications, engineering drawings, reports showing compliance with regulatory requirements, and other relevant documentation.

(h) "Enriched uranium" means uranium containing more uranium-235 than the naturally occurring distribution of uranium isotopes.

(i) "Exclusive use" (also referred to in other regulations as "sole use" or "full load") means the sole use of a conveyance by a single consignor and for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee.

(j) "Fissile material" means any material consisting of or containing one or more fissile radionuclides. Fissile radionuclides are plutonium-238, plutonium-239, plutonium-241, uranium-233 and uranium-235. Neither natural nor depleted uranium are fissile material. Fissile materials are classified according to the controls needed to provide nuclear criticality safety during transportation, as provided in § 173.455. Certain exclusions are provided in § 173.453.

(k) "Freight container" means a reusable container having a volume of 1.81 cubic meters (64 cubic feet) or more, designed and constructed to permit being lifted with its contents intact and intended primarily for containment of packages in unit form during transportation. A small freight container is one which has either one outer dimension less than 1.5 meters (4.9 feet) or an internal volume of not more than 3.0 cubic meters (106 cubic feet). All other are designated as "large freight containers."

(l) "Highway route controlled quantity" means a quantity within a single package which exceeds:

- (1) 3000 times the  $A_1$  value of the radionuclides as specified in § 173.433 for special form radioactive material;
- (2) 3000 times the  $A_2$  value of the radionuclides as specified in § 173.433 for special form radioactive material; or
- (3) 30,000 curies, whichever is least.

(m) "Limited quantity of radioactive materials" means a quantity of radioactive material not exceeding the limits given in § 173.423.

(n) "Low specific activity material (LSA)" means any of the following:

- (1) Uranium or thorium ores and physical or chemical concentrates of those ores.
- (2) Unirradiated natural or depleted uranium or unirradiated natural thorium.
- (3) Tritium oxide in aqueous solutions provided the concentration does not exceed 5.0 millicuries per milliliter.

(4) Material in which the radioactivity is essentially uniformly distributed and in which the estimated average concentration per gram of contents does not exceed:

- (i) 0.0001 millicurie of radionuclides for which the  $A_2$  quantity is not more than .05 curie;

STATE OF KANSAS  
THE ADJUTANT GENERAL  
DIVISION OF EMERGENCY PREPAREDNESS  
TOPEKA, KANSAS 66601

February 27, 1984

KSA 48-904 contains the definition of Hazardous Material which includes radioactive material. KSA 48-928 directs the Division of Emergency Preparedness to "serve, for all those agencies which regulate any matter affecting the transportation of hazardous materials:

- (1) As the coordinating and supervising state agency; and
- (2) to provide continuing liaison between such state agencies;"

"establish an informational system under which the state agencies shall notify the division of emergency preparedness;"

A continuing reporting system is in place for the reporting of all hazardous material incidents/accidents that take place in the State.

The Adjutant General's Department, Division of Emergency Preparedness, is the agency that coordinates and receives mandatory or allowed pre-notification of large quantity (now called "highway route controlled quantity packages") shipments of radioactive materials through Kansas.

This pre-notification includes security sensitive information which must be protected from unauthorized disclosure. This is a U.S. Nuclear Regulatory Commission program involving certain types of nuclear wastes and irradiated reactor fuels.

Presently, movement of large quantities (highway route controlled quantity packages) of radioactive materials and irradiated

February 27, 1984

reactor fuel or nuclear waste move over selected "preferred routes" or "preferred highways" as designated by the Adjutant General's Department.

The Emergency Response capabilities of state and local organizations are taken into account in the selection of "preferred routes" or "preferred highways."

A capability for rapid response to hazardous materials incidents/accidents is coordinated by the Adjutant General's Department, Division of Emergency Preparedness. Training is currently conducted by the Division of Emergency Preparedness, Radiological Systems Management for local police, fire, ambulance-rescue, emergency preparedness personnel, Kansas Department of Transportation, Kansas Highway Patrol, Kansas Fish and Game federal agencies, etc., in handling and managing hazardous material emergencies.

A microcomputer has been provided by Federal Emergency Management Agency for the purpose of research into using a computer to maintain the training records, plans and "first responder" emergency information.

64,000 radiological monitoring (RADIAC) instruments have been provided by Federal Emergency Management Agency, at no cost to the state, having a value of 1 million dollars and are distributed to all levels of government.

Calibration and maintenance of these RADIAC instruments for all levels of government is the responsibility of the RADIAC Facility of the Division of Emergency Preparedness.

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