

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by Sen. Bill Morris at
Chairperson

9:00 a.m./~~p.m.~~ on January 24, 1985 in room 254-E of the Capitol.

All members were present except:

Sen. Doyen was excused.

Committee staff present:

Fred Carman - Revisor
Hank Avila - Research Department
Louise Cunningham - Committee Secretary

Conferees appearing before the committee:

Ron Green, Legislative Post Audit
Bill Green, Kansas Corporation Commission
Ed Desoignie, Department of Transportation
Tom Whitaker, Kansas Motor Carriers Association
Mary Turkington, Kansas Motor Carriers Association
Pat Hubbell, Kansas Railroad Association
R.E. Calbert, United Transportation Union
Col Mahlon G. Weed, Director of Emergency Preparedness
Capt. D. Hornbaker, Highway Patrol

On a motion from Sen. Hayden and a second from Sen. Walker the Minutes of January 23, 1985 were approved.

Hearing on S.B. 21 and S.B. 22 - Transporting of Hazardous Materials

Ron Green, Legislative Post Audit, said the Department was requested in Spring, 1984 to make an audit on transporting hazardous materials in Kansas. This audit was completed in June, 1984. Copy is attached. (Attachment 1). The Department came up with a list of five recommendations. (Attachment 2). These recommendations would bring Kansas in compliance with the federal rules and regulations making the state eligible to receive federal funds for training and also additional personnel. He said the major populated areas had staff and specific training in this area but perhaps the state should research the rural areas of the state to determine their preparedness.

Bill Green, KCC, spoke in favor of S.B. 21 and S.B. 22 and said these bills would allow the Commission to participate in the Federal Motor Carrier Safety Assistance Program. Copies of his supporting statements are attached. (Attachments 3 and 4).

Ed DeSoignie, DOT, spoke in favor of S.B. 21. He said the bill would authorize KCC to adopt such rules and regulations as are necessary to ensure continuation of the Federal Motor Carrier Safety Assistance Program. A copy of his statement is attached. (Attachment 5).

Tom Whitaker, Kansas Motor Carriers Association, said they were in support of S.B. 21 but did have one minor amendment to the bill. The Association offered to provide every appropriate assistance to the Commission to expedite adoption of the federal rules and regulations in the transportation of hazardous materials. A copy of his statement is attached. (Attachment 6).

Mary Turkington, Kansas Motor Carriers Association, had been questioned regarding the age of the operators of the motor vehicles used as public carriers. There was some concern because of the change to age 16. She said this applied only to the private carriers and this was mainly because of the rural districts. The words "hazardous material" had such a broad scope and would encompass such things as are commonly used in the operation

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,
room 254-E, Statehouse, at 9:00 a.m./~~p.m.~~ on January 24, 1985

of farms. This would include gasoline and chemicals used in farming. Some of the operators are the young sons of farmers. This age was enacted in 1931 but is reviewed frequently by the legislature.

Col. Mahlon Weed, Emergency Preparedness, said it was the purpose of his Division to provide information concerning their responsibilities as it pertains to the transportation of hazardous materials. They insure responses to accidents through county and state resources and if necessary, they also respond. He said they had requested additional personnel. A copy of his statement is attached. (Attachment 7). The Chairman asked Col. Weed to supply members of the Committee with copies of the 1984 Emergency Response Guidebook.

Pat Hubbell, Kansas Railroad Association, spoke in favor of S.B. 22. He said they follow federal rules and regulations and offer training to fire departments in the areas in which they transport. They also take part in presentations with other agencies. Their manifest printouts contain descriptions of how to handle spillage or accidents. They also have an 800 number connected to Chemtrec and could quickly notify local people how to deal with accidents.

Ron Calbert, United Transportation Union, spoke in favor of S.B. 22. A copy of his statement is attached. (Attachment 8).

Fred Carman said the Governor had appointed a task force to implement state participation in the Motor Carriers Safety Assistance Program. This would insure receiving federal funds. The legislature had not taken a policy position. This bill announces that the legislative branch does intend to participate in this program. There was no testimony during the interim that it was a bad idea to participate, however there does seem to be a minor question of whether the assistance that comes from federal government will compensate the state for all the expense it will incur to participate in this program.

Capt. Hornbaker, Highway Patrol, said he was on the Governor's task force and the Highway Patrol would be responsible for safety enforcement of the federal rules and regulations. He said they were on a reimbursement grant. The state must first spend the money and then they are reimbursed by the federal government. He said they would need some additional personnel.

Bill Green, KCC, said one of the purposes of the bill was to provide uniformity because different states have different types of regulations. KCC did not intend to add any additional positions.

Meeting was adjourned at 9:50 a.m.

SENATE TRANSPORTATION & UTILITIES COMMITTEE

Date 1-24 Place 254-E Time 9:00

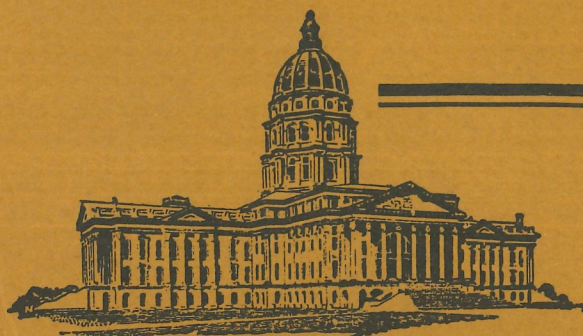
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Pat Huelbeck	Topeka	Kansas Railroad Assn.
Tom Whitaker	Topeka	Ks Motor Carriers Assn.
Ken Pender	✓	K L P G ASSN
Ken Johnson	✓	✓ ✓
Nancy Ingle	"	Budget
Jerry Conrad	"	KGSE
Ed BeSoignie	"	KDOT
Ray D. Shinkal	Shawnee	KCPL
Bern Robertson	TOPEKA	KPL/GSC
Leroy Jones	"	B.L.E.
Ron Green	"	Legis Post Audit
TOM HIRSCH/RAY UNRUH	WICHITA	KWCH-TV NEWS

ATT. ①

1-24



PERFORMANCE AUDIT REPORT

Transporting Hazardous Materials in Kansas

**A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
June 1984**

*Atch. 1
1/24/85*

Legislative Post Audit Committee

Legislative Division of Post Audit

THE LEGISLATIVE POST Audit Committee and its audit agency, the Legislative Division of Post Audit, are the audit arm of Kansas government. The programs and activities of State government now cost about \$3 billion a year. As legislators and administrators try increasingly to allocate tax dollars effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by Legislative Post Audit helps provide that information.

As a guide to all their work, the auditors use the audit standards set forth by the U.S. General Accounting Office and endorsed by the American Institute of Certified Public Accountants. These standards were also adopted by the Legislative Post Audit Committee.

The Legislative Post Audit Committee is a bipartisan committee comprising five senators and five representatives. Of the Senate members, three are appointed by the President of the Senate and two are appointed by the Senate Minority Leader. Of the Representatives, three are appointed by the Speaker of the House and two are appointed by the Minority Leader.

Audits are performed at the direction of the Legislative Post Audit Committee.

Legislators or committees should make their requests for performance audits through the Chairman or any other member of the Committee.

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LEGISLATIVE DIVISION OF POST AUDIT

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PERFORMANCE AUDIT REPORT

Transporting Hazardous Materials in Kansas

OBTAINING AUDIT INFORMATION

This audit was conducted by three members of the Division's staff: Ron Green, senior auditor; and Mary Beth Hammerschmidt and Marilyn Allen, auditors. Mr. Green was the project leader. If you need any additional information about the audit's findings, please contact him at the Division's offices.

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TRANSPORTING HAZARDOUS MATERIALS IN KANSAS

Summary of Legislative Post Audit's Findings

This audit involved a review of regulatory programs for the transportation of hazardous materials at the federal, State, and local levels. It provides an overview of how the transportation of hazardous materials is regulated in the State.

What Is The Extent of Radioactive and Hazardous Materials Shipments in Kansas, And What Kinds of Materials Are Transported?

No State or federal agency collects sufficient data to provide an estimate of the number or volume of shipments made just in Kansas, but some nationwide estimates have been made. The U.S. Department of Transportation estimates, for example, that five to 15 percent of all trucks are transporting hazardous materials. Most hazardous materials shipments include relatively commonplace substances that are used nearly everywhere. A national study indicated that fuels such as gasoline make up 90 percent of all hazardous materials shipments. The auditors found no reason to conclude that the extent of hazardous materials transportation in Kansas was substantially different from the rest of the country.

Are Kansas Laws And Regulations For Hazardous Materials Transportation As Comprehensive As Those Of The Federal Government and Other States?

Kansas laws and regulations generally parallel the federal regulations, though recently revised Kansas Administrative Regulations omitted several relevant parts of the federal regulations. This was an apparent oversight, not a deliberate rejection. Most states have adopted all or part of the federal regulations on transporting hazardous materials. The audit report recommends that Kansas adopt all relevant portions of the federal regulations on hazardous materials transportation and on motor carrier safety.

To What Degree Do Agencies In Kansas Duplicate Each Other's Regulation Or Leave Gaps In The Regulatory Program?

A number of State agencies are involved in regulating hazardous materials transportation in Kansas. Four State agencies are involved in adopting regulations governing the transport of hazardous materials, with five agencies involved in the enforcement of those regulations. At least four State agencies take an active role in responding to hazardous materials accidents and in assisting local law enforcement officers and firefighters. Six of the State's most populous counties also have hazardous materials response units with specialized equipment and specially trained personnel.

The auditors found that gaps, not duplication, are the greater problem with this divided responsibility. The main problem was in the inspection of motor carriers operating on the State's highways. Despite the extensive number

of agencies involved, only the full-time equivalent of about six State and three federal inspectors enforce motor carrier safety and hazardous materials regulations on Kansas highways. Other problems include the amount of training for law enforcement officers, the lack of an established procedure for designating an on-scene commander at hazardous materials accidents, and the need to improve the reporting of hazardous materials accidents.

State agencies already have several efforts under way to improve the regulatory program. These efforts include a new State enforcement plan supported mainly by federal dollars. In addition, the audit report makes several recommendations to consider for improving the program.

TRANSPORTING HAZARDOUS MATERIALS IN KANSAS

This performance audit was requested as a step in the Kansas Legislature's examination of the transportation of hazardous materials. It was requested for use during the 1984 interim and is designed to give an overview of the current situation regarding the transportation of hazardous materials in the State. The audit, which was authorized by the Legislative Post Audit Committee at its meeting on March 15, 1984, addresses the following questions:

1. What is the extent of radioactive and hazardous materials shipments in Kansas, and what kinds of materials are transported?
2. Are Kansas laws and regulations for hazardous materials transportation as comprehensive as those of the federal government and other states?
3. To what degree do agencies in Kansas duplicate each other's regulation or leave gaps in the regulatory program?

To conduct this audit, the staff reviewed regulatory programs at the federal, state, and local levels. They collected information from many sources, visited facilities, interviewed government and business officials, and analyzed laws and regulations. Although this review was quite extensive, it is not a complete performance audit of the program. It provides a comparative overview of Kansas' program, but not a full assessment of its performance.

What Is the Extent of Radioactive and Hazardous Materials Shipments in Kansas, and What Kinds of Materials Are Transported?

Under federal law, "hazardous material" means a substance or material in a quantity and form which may pose an unreasonable risk to health and safety or property when transported in commerce. The term covers a wide variety of products and wastes. Hazardous materials include explosives, radioactive materials, flammable liquids or solids, combustible liquids or solids, poisons, corrosive materials, and compressed gases.

Hazardous materials are transported in many ways, including highways, railroads, waterways, pipelines, and aircraft. This report concentrates mainly on hazardous material transportation over highways and railroads, because they carry the majority of hazardous materials and because the State is most active in regulating them.

Although the subject of hazardous materials transportation is receiving more attention nationwide, little still is known about the full extent of such shipments. Some estimates are available, but they cannot be verified. It is estimated that each day more than 250,000 hazardous materials shipments, equalling four billion tons of hazardous materials annually, move through the United States. The U.S. Department of Transportation estimates that five to

15 percent of all trucks on the road at any given time are carrying hazardous materials. The Association of American Railroads estimates that more than one million carloads (80 million tons) of hazardous materials are transported annually. Tank cars, which primarily carry hazardous chemicals, constitute 10 percent of the nation's rail car fleet.

The auditors hoped to gather data that would provide a relatively clear view of the extent of hazardous materials transportation in Kansas. However, no State or federal agency collects sufficient data to permit an estimate of the extent of hazardous material shipments on Kansas highways. Even with regard to nuclear and radioactive materials, no data is available on the number of shipments moving through Kansas. With regard to railroads, the Federal Railroad Administration has gathered information on the number of rail cars of hazardous materials on individual rail routes, but no Statewide totals are available.

The auditors found no reason to conclude that the extent of hazardous materials transportation in Kansas was substantially different from the rest of the country. Most hazardous materials shipments involve relatively commonplace substances that are used nearly everywhere: a 1979 study for the U.S. Senate reported that 90 percent of all hazardous materials shipments were for gasoline, other fuels, and fuel oil. It could probably be assumed that anhydrous ammonia and other chemicals used for agricultural purposes would account for a higher percentage of shipments in Kansas than nationwide. The Senate study put the nationwide figure for anhydrous ammonia at four percent of all hazardous materials shipments.

Accidents, Both Nationally and in Kansas, Point Out the Dangers in Hazardous Materials Transportation

Although the extent of hazardous materials transportation may not be fully and accurately known, one fact that cannot be disputed is that hazardous materials can do great damage if an accident occurs during transportation. No city or state wants to experience a disaster such as these:

- At Waverly, Tennessee, in 1978, a derailed tanker carrying liquid propane gas exploded and burned. Sixteen people were killed and 43 injured; property damage was estimated at \$1.8 million.
- At Livingston, Louisiana, in 1982, derailment of 43 train cars forced evacuation of nearly 3,000 people for two weeks while the chemical cargo burned. Train equipment and cargo destroyed in the accident were worth over \$2.5 million, and clean-up costs have exceeded \$10 million.
- At Oakland, California, in 1982, a gasoline truck was knocked over inside a tunnel. The resulting fireball caused seven deaths.

For highways and railroads, the U.S. Department of Transportation has reported that 268 deaths have occurred between 1972 and 1983. (These are only the deaths reported to the Department; the actual figures may be higher.) There were eight highway deaths reported in 1983, the lowest annual total during the period. The U.S. Department of Transportation also reports the

number of incidents, number of injuries, and amount of damages. From 1972 to 1983, these totals were as follows:

	<u>Highway</u>	<u>Railroad</u>
Incidents	117,082	11,062
Deaths	224	44
Injuries	4,852	2,493
Damages	\$95,930,187	\$52,918,720

Railroad traffic accounted for only 8.6 percent of the hazardous materials incidents for these two main modes of transportation. However, railroad incidents accounted for 16.4 percent of the deaths, 33.9 percent of the injuries, and 35.6 percent of the dollar damages. One study concludes, "While the overall accident rate is lower for railroads than for trucks, serious accidents occur with greater frequency on railroads, and the severity of some rail accidents far exceeds that of the most serious truck accidents."

The Transportation Department's statistics indicate that, on the highways, gasoline is a common--and dangerous--cargo. Transportation of gasoline accounts for about 40 percent of all fatalities from hazardous materials accidents. In 1981, 20 of the 27 deaths involving hazardous materials came in crashes of trucks hauling gasoline. Tanker trucks make up to 110,000 deliveries daily of gasoline and fuel oil.

Kansas too has experienced serious incidents during the transportation of hazardous materials, though the incidents have not been of the magnitude of some incidents elsewhere. According to the U.S. Department of Transportation, two deaths have been reported in Kansas for the 1979-1983 period. However, the auditors' review of files at the Adjutant General's Department revealed a 2-fatality accident at Nortonville in February 1983, which was not reported by the carrier to the U.S. Department of Transportation. This accident occurred when a propane truck collided with a train. Although not all carriers report incidents to the U.S. Department of Transportation as required, this federal data is the most complete information available.

During the 1979-1983 period, U.S. Department of Transportation reports show that 1,019 hazardous materials incidents occurred in Kansas. Ninety-six of these involved fatalities, injuries, or property damage over \$1,000. Seventy-six of these serious incidents occurred on the highways and 20 occurred on railroads. These 96 serious incidents represent only 9.4 percent of the total number of incidents reported, but they accounted for 89.1 percent of the total damages of \$742,387 reported for all incidents.

Radioactive materials are included in the federal definition of hazardous materials, but more stringent regulations are applied to the packaging and transportation of radioactive materials. As a result, there have been no deaths or injuries from radiation leakage in nearly 40 years of shipments. Since 1978 there have been three radioactive material transport incidents in Kansas, one of which was serious. In March 1979, a truck accident on I-235 near Wichita resulted in the spillage of about 20 drums of low-radiation uranium powder called "yellowcake." This accident caused the interstate to be closed, and

required nine days to remove the yellowcake and contaminated soil from the scene.

Are Kansas Laws and Regulations for Hazardous Materials Transportation as Comprehensive as Those of the Federal Government and Other States?

Regulating the transportation of hazardous materials is a complex process. It involves overseeing many different activities, from labeling packages and trucks to establishing routes to responding to accidents. The main parts of the regulatory process are described briefly in the box on the next page. Readers not familiar with hazardous materials transportation are encouraged to read Appendix A, which explains each aspect of the regulatory program in more detail and explains the various roles of the many agencies involved.

Laws and regulations on the transportation of hazardous materials are basically designed to minimize the possibility of a release of those materials due to packaging failure or vehicular accident. The federal government has issued detailed regulations specifying allowable packages and containers for the transportation of hazardous materials. The federal regulations also establish rules on such topics as marking packages and vehicles, vehicle and driver safety, and allowable routes.

Kansas Laws and Regulations Have Generally Paralleled the Comprehensive Federal Regulations

The federal regulations dealing with hazardous materials transportation are found in Title 49 of the Code of Federal Regulations. They include both the Motor Carrier Safety Regulations (Parts 390-398) and the Hazardous Materials Safety Regulations (Parts 171-179). More than 40 states have adopted Title 49, either in whole or in part. Kansas is one of them.

The federal laws and regulations provide a comprehensive approach to hazardous materials transportation. In their review of programs in other states, the auditors found generally that state laws and regulations did not extend beyond the federal government's. Some states and localities have been more specific in restricting hazardous materials transportation to certain times or routes, but most states appear to have accepted the view that the federal regulations provide an acceptable legal framework. The auditors found differences between states in the quality and extent of their regulatory programs, but the differences appeared to have more to do with the states' enforcement efforts than with the laws and regulations that were on the books.

Prior to May 1984, the Kansas Corporation Commission had adopted all federal safety regulations concerning highway transportation of hazardous materials. The Commission and the Highway Patrol were authorized to enforce these highway safety regulations. However, the auditors found that the situation has changed since May 1, 1984, when new Kansas Administrative Regulations took effect.

Gaps are now present in Kansas' adoption of federal regulations. A 1977 Attorney General's opinion stated that Kansas could not simply adopt a body of

AN OVERVIEW OF REGULATING HAZARDOUS MATERIALS TRANSPORTATION IN KANSAS

The federal government has passed detailed regulations on transporting hazardous materials, generally covering these areas:

Marking and Labeling Packages--Shippers are required to mark packages with the proper shipping name and number, and to apply the appropriate label for each class of hazardous material. Markings and labels tell the carrier and any other persons the nature of the hazardous materials they are handling.

Placarding of Vehicles--Placards are also designed to communicate the type of hazardous material being transported, but placards are displayed on the outside of the vehicle and must be visible at a distance. Placards are about 11 inches on each side, and must be mounted on each end and each side of the vehicle.

Shipping Papers--The shipper is also required to prepare shipping papers providing the specific description, identification number, hazard class, quantity, and warnings for the hazardous material being shipped. The shipping papers are given to the carrier, who must keep them available during transportation.

Vehicle Safety--Motor carriers transporting hazardous materials must comply with general safety regulations on lights, brakes, electrical equipment, tires, fuel systems, and other equipment. In addition, motor vehicles carrying hazardous materials must comply with special rules on tire safety, emergency equipment, and fire extinguishers. Special federal rules also apply to placement and handling of railroad cars containing hazardous materials.

Driver Safety--Drivers of vehicles carrying hazardous materials must meet the federal safety requirements for all motor carrier drivers. All drivers must pass a road test and a written exam, and are not supposed to drive beyond limited hours of service. Drivers of hazardous materials vehicles are not required to have any special licensing or registration, but special training is required for transporting radioactive materials and certain flammable liquids.

Allowable Routes--Vehicles carrying hazardous materials are not supposed to go through heavily populated areas, tunnels, narrow streets, or alleys unless there is no practicable alternative. More restrictive routing requirements limit radioactive shipments to preferred routes such as interstate highways.

Most states have adopted all or part of the federal regulations on transporting hazardous materials. For highway transportation, the enforcement of regulations falls mainly to the state agencies because the federal agencies do not have sufficient enforcement personnel. For transportation by air, railroad, or vessel, the federal government retains the primary enforcement role.

Responsibility for responding to hazardous materials accidents lies mainly at the local government level. In Kansas, most major cities have developed their own capabilities for responding to hazardous materials accidents. At the State level, the Adjutant General's Office coordinates the emergency response activities of all government agencies. Depending on the type of hazardous materials involved, various State and local agencies can be involved in these areas:

**Establishing Authority at the Scene
Taking Protective Actions at the Scene
Controlling Traffic Around the Accident**

**Evacuating the Area
Cleaning up the Site**

federal regulations into the Kansas Administrative Regulations. Rather, a State agency must adopt specifically cited federal regulations as of a specific date. In attempting to comply, the Kansas Corporation Commission adopted new permanent regulations which took effect on May 1, 1984. However, the new State regulations (see K.A.R. 82-4-3 and 82-4-20) did not include all of the relevant parts of the federal regulations on hazardous materials transportation.

For example, K.A.R. 82-4-20 now adopts Part 172 of Title 49 by reference. Part 172 covers "Hazardous Materials Tables and Hazardous Materials Communications Regulations." However, no other parts of the Hazardous Materials Regulations were adopted. Parts 171 and 173-179 have thus received no State action. Without these other parts, the State will not have a comprehensive system for regulating hazardous materials transportation, and will not qualify for federal grant funds available under the Motor Carrier Safety Assistance Program--up to \$410,000 in fiscal year 1985. The State currently has a smaller grant under this program, and the grant will be discussed in more detail in the next section of this report.

Not adopting the remaining regulations appears to be an oversight rather than a deliberate rejection. When the auditors called this matter to the agencies' attention, no officials responded that the regulations had been left out because the State disagreed with them. Neither the U.S. Department of Transportation nor any of the State agencies was apparently aware of the problem. The auditors concluded that the best course of action for the State, both to keep a comprehensive legal framework for its regulatory program and to keep from jeopardizing assistance in this area, was to ensure that the remaining regulations are adopted as quickly as possible.

Recommendation

Kansas should adopt all relevant portions of the federal regulations on hazardous materials transportation. Title 49, Parts 171 and 173-179 of the Code of Federal Regulations should be reviewed and specifically adopted into State regulations wherever deemed to be relevant and necessary. Sections of the federal motor carrier safety regulations in Title 49, Parts 388-398, that are currently missing from State regulation should also be reviewed to determine if they should be adopted.

To What Degree Do Agencies in Kansas Duplicate Each Other's Regulation or Leave Gaps in the Regulatory Process?

Regulating the transportation of hazardous materials involves numerous federal, state, and local agencies. As indicated earlier, the federal government has been the most active in developing laws and regulations. The federal government has established regulations for the marking and labeling of packages, the placarding of vehicles, the content of shipping papers, vehicle safety requirements, driver safety standards, and allowable routes for vehicles. State agencies are also involved in issuing regulations. As the table on the next page shows, four State agencies have adopted regulations on the transportation of

**STATE AND LOCAL AGENCIES INVOLVED
IN HAZARDOUS MATERIALS TRANSPORTATION**

	General Authority		Authority In Response to a Hazardous Materials Emergency				
	Adopting Regulations	Enforcing Regulations	Taking Protective Action	Controlling Traffic	Evacuating the Area	Coordinating Government Agencies	Cleaning Up the Site
Corporation Commission	X	X					
Highway Patrol		X	X	X	X		
Department of Health and Environment	X (a)	X (a)	X				X
Department of Transportation (b)				X	X		
Adjutant General			X (c)			X	
Board of Agriculture	X (d)	X (d)					
Fire Marshal	X (e)	X (e)					
Law Enforcement Officers			X	X	X		
Firefighters			X	X			

- (a) For radioactive materials and hazardous wastes
- (b) The Department of Transportation is authorized to adopt rules and regulations for transporting hazardous materials, but has revoked its prior regulations.
- (c) For radioactive materials incidents
- (d) For anhydrous ammonia
- (e) For LP gas and gasoline liquid fuels

hazardous materials. They are the Corporation Commission, the Department of Health and Environment, the Board of Agriculture, and the Fire Marshal. All but the Corporation Commission have authority only in limited areas.

State governments have the primary responsibility for enforcing hazardous material regulations concerning highway transportation. In Kansas, at least five State agencies are involved in enforcing some aspect of hazardous materials regulations and motor carrier safety regulations. As the table shows, these five agencies are the Corporation Commission, the Highway Patrol, the Department of Health and Environment, the Board of Agriculture, and the Fire Marshal. The Corporation Commission and the Highway Patrol enforce hazardous material and motor carrier safety regulations for all motor carriers. Transporters of hazardous waste and radioactive materials are regulated by the Department of Health and Environment. The Board of Agriculture enforces standards for transporters of anhydrous ammonia. Finally, the State Fire Marshal performs fire safety inspections of liquified petroleum gas and gasoline liquid fuel transporters.

State and local governments have primary responsibility for responding to hazardous materials accidents because they can send personnel and equipment to the scene immediately. The table indicates that at least four State agencies take an active role in responding to hazardous materials accidents. These four agencies are the Adjutant General's Department, the Highway Patrol, the Department of Health and Environment, and the Department of Transportation. The table shows the kinds of authority each agency has, and Appendix A describes their roles in more detail.

At the local level, each county in Kansas has established an emergency preparedness unit, and these units can provide assistance in the event of a hazardous materials accident. In the State's most populous areas, emergency assistance is also available from hazardous materials response units. These units are staffed and equipped mainly through the county (or city) fire departments, usually in conjunction with emergency preparedness officials. Such units have been established in these counties:

--Douglas	--Sedgwick
--Ford	--Shawnee
--Johnson	--Wyandotte

These hazardous materials units generally have specialized equipment for handling hazardous materials and are staffed by personnel with hazardous material training.

Improvements Are Needed in the State's Regulatory Program

After reviewing the State's program and comparing it with programs elsewhere, the auditors concluded that improvements are needed, especially in the enforcement of regulations. The auditors identified several steps that could be taken to improve the regulatory program. The first of these, already discussed above, relates to adopting federal regulations that are needed to round out the scope of regulation. Four additional steps were identified. They are as follows:

- Improving inspections of motor carriers
- Improving training for law enforcement officers
- Designating an on-scene commander at accidents
- Improving the reporting of hazardous materials accidents.

Improving inspections of motor carriers. At present, Kansas' system for inspecting motor carriers is fragmented and incomplete. As mentioned earlier, at least five State agencies enforce various aspects of hazardous materials regulations and motor carrier safety regulations. In addition to those agencies, the Department of Revenue operates motor carrier inspection stations throughout the State to ensure that carriers have the proper permits and meet weight restrictions. Despite the extensive number of State agencies involved, only the full-time equivalent of approximately six inspectors enforce motor carrier safety and hazardous materials regulations on Kansas highways. (This is in addition to the three Federal Highway Administration inspectors who are based in Kansas.)

Once all of the relevant regulations are in place, the State needs to strengthen and coordinate its program of inspecting motor carriers on the highways. Other states have already increased their level of highway enforcement of regulations related to the transportation of hazardous materials. For example, Illinois has nearly 60 specially trained highway patrol troopers who devote their time to enforcing motor carrier safety and hazardous materials regulations and providing compliance training for industry. Colorado has 30 troopers who specialize in enforcing hazardous materials regulation and responding to accidents involving hazardous materials.

Through the federal Motor Carrier Safety Assistance Program, the State is beginning to plan for improvements in this area. The federal government is encouraging states to increase their level of enforcement of motor carrier safety and hazardous materials regulations through grants from this program. The Secretary of the U.S. Department of Transportation was authorized by the Surface Transportation Act of 1982 to make grants to states for motor vehicle and hazardous materials inspection and enforcement activities. The main objective of the Motor Carrier Safety Assistance Program is to reduce the number and severity of accidents and hazardous materials incidents involving commercial motor vehicles.

During federal fiscal year 1984, Kansas received a \$50,000 development grant to develop a State enforcement plan. Assuming that total federal funds of \$16 million are available in 1985, Kansas could receive approximately \$273,000 to \$410,000 for program implementation. The federal share of the State program costs is not to exceed 80 percent of the total cost of implementing the commercial motor carrier safety program. Including Kansas, 43 states are participating in the Motor Carrier Safety Assistance Program this year.

Prior to receiving an implementation grant, each state is required to submit a State Enforcement Plan detailing planned activities for enforcing the safety program. A Cabinet Subcommittee on Motor Carrier Safety is developing the enforcement plan for Kansas, and this plan should be complete by August 1, 1984. The State Enforcement Plan will identify a lead State agency

for enforcing motor vehicle and hazardous materials safety regulations and should provide an assessment of the commercial motor carrier and highway hazardous materials safety problems in Kansas.

Recommendation

When all necessary federal regulations are adopted in State regulations, State agencies should take steps to improve the inspection process for motor vehicles. Ideally, these inspections would be done both at fixed inspection stations along major highways and by law enforcement officers in mobile units.

These inspections could be funded largely through the federal Motor Carrier Safety Assistance Program, which is authorized through 1988. Under this program, a comprehensive plan must be developed, and a lead agency for inspections must be designated. The Highway Patrol, which currently conducts inspections, could be given such a role. Implementation of this recommendation would not necessarily require additional personnel, but could entail additional training or a redistribution of duties.

Improving training for law enforcement officers. The auditors' review showed that Kansas has in place a reasonably complete system for responding to hazardous materials accidents. Major cities such as Wichita, Kansas City, Topeka, Lawrence, and Dodge City have established special hazardous materials response teams. Any response to a major hazardous materials accident would involve all levels of government, as well as private industries. However, local firefighters or law enforcement officers are generally the first to respond to an accident scene. The first few minutes after a hazardous materials accident occurs are often critical in attempting to minimize injury and damage. In this regard, the auditors noted that law enforcement officers do not always receive specific training in how to respond to hazardous materials accidents.

The Kansas Law Enforcement Training Center at Hutchinson provides 320 hours of training for new law enforcement personnel. The Center also certifies local programs that provide the same level of training. The auditors were told that the current program includes only a brief overview on the handling of hazardous materials. However, after reviewing this matter with the auditors, the Center indicated that it was considering revising its curriculum to include a two-hour presentation on the handling of hazardous materials.

Recommendation

The Kansas Law Enforcement Training Center should provide new law enforcement officers with specific training concerning the types of hazardous materials, the dangers these materials may pose, and the proper procedures to take initially at the scene of a hazardous materials accident.

Designating an on-scene commander at accidents. One of the most important aspects of responding to a hazardous materials emergency is that a specific agency or person should be designated as the on-scene commander. This person then becomes legally responsible for making necessary decisions and delegating duties to other agencies at the scene. The designation of a single commander should help to reduce or eliminate confusion at the accident scene, and enable all responding agencies to coordinate their efforts. The importance of the designation of an on-scene commander was emphasized in a U.S. Department of Transportation study of hazardous materials transportation in the Puget Sound region.

The auditors found that the State Disaster Emergency Plan prepared by the Adjutant General's Office does not specify procedures for determining an on-scene commander. Other states have established written procedures for determining on-site command. In some states, the command agency is always the highway patrol; in other states, the command agency depends on the type of accident or material involved.

Recommendation

The Adjutant General's Office should revise the State Disaster Emergency Plan to clearly specify what procedures should be followed in designating an on-scene commander at a hazardous materials accident. This revised Plan should specify in what circumstances the on-scene commander would be a representative of a fire department, police department, sheriff's office, the Highway Patrol, the Adjutant General's Office, or any other agency.

Improving the reporting of hazardous materials accidents. The auditors found that, while numerous federal and State agencies require reports on hazardous materials accidents, no single agency has a reporting system which can be regarded as inclusive of all such accidents. The U.S. Department of Transportation apparently has the most comprehensive data of all government agencies, but that data is supplied mainly by carriers.

The Division of Emergency Preparedness in the Adjutant General's Office is authorized to "establish an informational system under which state agencies shall notify the Division of Emergency Preparedness," but the law does not specify what information must be reported. Since the Division is planning to computerize all hazardous materials accident and incident information in 1985, the auditors concluded that the Division's plans should be clarified as to what information must be reported to the Division of Emergency Preparedness. The 1979 Special Committee on Transportation recommended that the Division of Emergency Preparedness would be notified by State agencies in regard to any emergency.

Recommendation

The Division of Emergency Preparedness in the Adjutant General's Office should develop a plan for the information system authorized by K.S.A. 48-928(l), and should submit the plan to the Special Committee on Transportation. The Plan should include the goals of the information system, the materials to be collected, and the persons or agencies that are required to supply information.

APPENDIX A
STEPS AND ROLES IN THE REGULATION OF
HAZARDOUS MATERIALS TRANSPORTATION

To explain completely the federal, state, and local roles in regulating the transportation of hazardous materials would require a very thick book. This Appendix summarizes the process in shorter fashion. The Appendix is divided according to various aspects of the regulatory process as follows:

Regulation:

- Communicating the Nature of the Hazardous Material
- Maintaining Vehicle Safety
- Maintaining Driver Safety
- Determining Allowable Routes

Enforcement:

- Enforcing Hazardous Materials Regulations and Motor Carrier Safety Regulations

Emergency Response:

- Responding to Hazardous Materials Accidents

Record-Keeping:

- Reporting Incidents and Accidents

Communicating the Nature of Hazardous Materials

There are four methods of communicating the nature of a hazardous cargo to those handling the cargo or those responding to an emergency. The U.S. Department of Transportation provides uniform standards for satisfying all four. The four are as follows:

Markings--providing detailed technical information

Labels--providing immediate notice of the general type of hazard

Shipping papers--providing name, hazard class, and quantity

Placards--providing notice recognizable at a distance from the vehicle.

A person who wants to ship something must first determine if that material has been designated as hazardous by the Secretary of Transportation. U.S. Department of Transportation regulations provide definitions of the classes of hazardous materials along with extensive tables of regulated materials. Any

explosive, compressed gas, flammable or combustible liquid, flammable solid, oxidizer, poison, radioactive material, corrosive material, or other regulated material must be packaged, marked, labeled, and documented according to the requirements of its classification. The packaging must be manufactured to meet federal specifications and be certified by the manufacturer.

Markings. Packaging with a rated capacity of 110 gallons or less must be marked with the proper shipping name and identification number. Packaging or containers with a capacity over 110 gallons, such as portable tanks, cargo tanks (highway), and tank cars (rail), generally must be marked on the sides and ends with the same information plus structural information such as capacity, construction material, and the year of manufacture. Markings must be of a certain size and on a contrasting background.

Labels. Each class of hazardous material has a distinctive label designed to provide prompt recognition of a hazardous package. Federal Department of Transportation regulations require that uniform symbols, colors, and print be used for each class of hazard. For instance, packages or containers of regulated radioactive materials must display the RADIOACTIVE I, II, or III label, indicating the degree of control needed during transport. Labels must measure at least four inches on each side and be placed near the proper shipping name on the marking. If a material meets the criteria for more than one class of hazard, the label for each class should be on the package.

Shipping papers. The shipper must also prepare shipping papers, using the specified description, identification number, hazard class, quantity, type of container, and warnings, along with the following certification: "This is to certify that the above-named materials are properly classified, described, packaged, marked, and labeled, and are in proper condition for transportation according to the applicable regulations of the Department of Transportation." Following this certification by the shipper, responsibility for compliance shifts to the carrier. Therefore, the carrier should inspect all shipments to determine that markings, labels, and shipping documents are accurate before loading a hazardous material for transport.

Placards. Placards, like labels, are designed to communicate the type of hazardous material being transported. Unlike labels, however, placards are displayed on the outside of the vehicle and must be visible at a distance. Each placard must measure 10-3/4 inches on each side, must contain the symbols, colors, and message specified by federal regulations, and must be mounted on each side and each end of the vehicle. Placards are required on portable tanks holding more than 110 gallons, cargo tanks, and tank cars, as well as all vehicles carrying explosives, certain poisons, flammable solids that are dangerous when wet, radioactive materials labeled RADIOACTIVE III, and any shipment of 1,000 pounds or more of any hazardous material.

Identification numbers for the proper shipping name of the hazardous material must also be displayed near the placards on portable tanks, cargo tanks, and tank cars. These numbers may be on orange rectangular panels or may replace the wording on the placard itself. However, the identification number must never replace the wording on the placard if the cargo is a poison gas, explosive, or radioactive material.

Federal regulations provide alternative placards for certain materials. A CHLORINE placard can be used on chlorine shipments instead of the POISON GAS placard. A special FLAMMABLE SOLID placard has a symbol to indicate that it is also dangerous when wet. Finally, a DANGEROUS placard is specified for use when a cargo meets the criteria for more than one class of hazard, since only one type of placard should be displayed.

The shipper must provide placards to the carrier. A truck driver must affix the placards and maintain them during transit. For railroad cars, the shipper must affix the placards to the rail cars before offering them to the railroad for transport.

Maintaining Vehicle Safety

Basic requirements. A number of federal safety regulations apply to all motor carrier vehicles, whether they are transporting hazardous materials or not. These include requirements for lighting devices, reflectors, electrical equipment, brakes, windows, fuel systems, coupling devices, towing methods, tires, emergency equipment, and blocking and bracing methods. In addition, all drivers are required to inspect each safety aspect of their vehicle at the end of each day and record the results on a daily report.

Hazardous material requirements. Motor vehicles that transport hazardous materials must comply with additional federal regulations. For instance, when transporting a hazardous material, the driver of any motor vehicle that is equipped with more than two tires on any axle must examine the tires at least once every two hours or 100 miles, whichever is less. A deflating tire must be repaired at the nearest safe place, since it may rub against the tire mounted next to it and catch fire. Any tire that is overheating must be removed immediately and placed a safe distance from the cargo. Emergency equipment that is flame-producing, such as flares or oil lanterns, must not be carried on any motor vehicle transporting explosives or cargo tanks used for flammable liquids or flammable compressed gas, even if the tank is empty. Emergency fire extinguishers on units used to transport hazardous materials must have higher ratings than extinguishers required for other vehicles.

Requirements for railroads. Rail carriers are responsible for compliance with all safety regulations of the Federal Railroad Administration, as well as any applicable hazardous materials regulations. The railroad is required to inspect all cars for safety and appropriate placarding before accepting the car for transport. Once accepted, placarded rail cars may not be transported in a passenger train, within five cars of the engine or an occupied car, or next to other placarded cars carrying certain classes of hazardous material.

Maintaining Driver Safety

Basic requirements. A number of federal safety regulations apply to all motor carrier drivers, whether they are transporting hazardous materials or not. These regulations are designed to identify drivers that may be unsafe. Each driver must meet the following requirements:

- be at least 21 years old
- be able to read, write and speak English
- have no disqualifying physical impairment
- have sufficient experience or training to operate the vehicle safely
- be able to determine whether the cargo has been properly located, distributed, and secured
- pass a road test and written exam
- have a valid motor vehicle operator's license

The driver's hours of service are also regulated, according to on-duty time and driving time. After eight consecutive hours off-duty, a driver should not drive more than ten hours or be on duty for more than fifteen hours without taking another eight hours off. Also, no driver may be on duty more than 60 hours in any seven consecutive days, or in some instances, more than 70 hours in any eight consecutive days.

Hazardous materials requirements. In addition to meeting basic requirements, the driver of a vehicle carrying hazardous materials must meet other federal requirements. These requirements vary with the class of hazard, and may cover parking, smoking restrictions, fueling procedures, or loading and unloading precautions. Drivers cannot accept certain types of materials for transportation or storage together, and they must not accept leaking or damaged containers of hazardous materials or materials that are forbidden for transport by motor carrier. Drivers must know how to report hazardous materials incidents, and be familiar with the properties of their cargo.

Drivers of hazardous materials are not required to have any special licensing or registration. However, some classes of hazardous material require special driver training. Two examples are flammable cryogenic liquids transported in cargo tanks and radioactive materials that require placards. The driver of a cargo tank containing flammable cryogenic liquids, such as propane, must have written training in the properties and potential hazards of the particular material being transported, the handling characteristics and loading limitations of the type of cargo tank used, and procedures to follow in case of accident or other emergency, including unanticipated pressure increase or decrease. Training must be repeated at least every 24 months, and certification of the training, dates, and materials covered must be kept in the driver's file. The driver of a vehicle carrying radioactive materials that require placards must also have received special training within the previous 24 months. This training must cover the properties and hazardous of the radioactive materials being transported, federal regulations pertaining to radioactive materials, and procedures to be followed in case of an accident or other emergency. In addition to having a certificate of training on file with the carrier, the driver must have a certificate of training in his immediate possession.

Requirements for railroads. Rail carriers must instruct all train crews on safety procedures required by hazardous materials, since any train could contain hazardous materials. The train crew must have a document indicating the position in the train of each loaded placarded car. A copy of the shipping papers for any hazardous materials must also be provided for the train crew. Rail carriers are to provide booklets on the various classes of hazards, and a

table in the crew's timetable is always to include emergency response requirements. Loading, blocking, bracing, unloading, and switching of cars carrying hazardous materials are regulated by detailed handling regulations which vary with the class of hazardous material.

Determining Allowable Routes

Every motor vehicle containing hazardous materials must be driven and parked in compliance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated, unless the local rules are less stringent than federal safety regulations. Some federal routing requirements apply to radioactive shipments that require placarding, and the remaining regulations govern routing for all other hazardous materials.

Radioactive materials. Shipments of radioactive materials that require placarding must be transported over "preferred routes" selected to provide the least time in transit. Radioactive materials differ from other hazardous materials because there is some radiation emitted during normal transit. To limit the driver's exposure, the risk of an accident in a populous area must be balanced against transit time. The regulations define "preferred routes" as an interstate system highway, especially interstate system bypasses or beltways, or a state-designated route selected in accordance with federal guidelines. In Kansas, the Governor has designated the interstate highways and the Kansas Turnpike as preferred routes for large-quantity radioactive shipments.

Loading, parking, and unloading must be coordinated to reduce delays. The carrier must give the driver a written route plan with the origin, route selected, all planned stops, and estimated departure and arrival time.

Other materials. Regulations governing all other shipments of hazardous materials state that vehicles must not go through heavily populated areas, places where crowds are assembled, tunnels, narrow streets, or alleys unless there is no practicable alternative. Operating convenience, such as shorter distance or driving time, does not justify using any of these prohibited routes.

Railroad shipments. Unlike highway transportation, railroad shipments of hazardous materials are not limited to specific designated or preferred routes. Those routes with the most shipments of hazardous materials are given more frequent inspections by the Federal Railway Administration inspectors, as well as by inspectors from the Kansas Corporation Commission.

Enforcing Hazardous Materials Regulations and Motor Carrier Safety Regulations

Federal Enforcement Efforts

Inspection of motor carriers. The Federal Highway Administration, through its Bureau of Motor Carrier Safety, conducts road checks each spring and fall to identify unsafe commercial vehicles and make motor carriers more aware of their responsibilities. These inspections cover compliance with

general regulations for all motor carriers and with specific regulations for those transporting hazardous materials. Violations of general regulations that are serious enough to place a vehicle out of service include defects in brakes, warning devices, lights, signals, tires, wheels, suspension, and steering. Violations of hazardous materials regulations that are serious enough to place a vehicle out of service include a leaking container or valve or an unsecured load, bare electrical wiring, an unauthorized cargo tank, displaying the wrong placards, or lacking the required placards. Drivers may also be placed out of service for exceeding the allowable hours of duty or failing to have recorded duty status during the previous 48 hours.

Semiannual inspections are a joint effort of the regional inspectors, State law enforcement officials and State agency inspectors. In this region of the country, southeast Kansas and southwest Missouri were chosen as the target area for the inspections held May 1-3, 1984. Federal inspectors based in Nebraska, Iowa, Kansas, and Missouri staffed three inspection sites in Kansas and seven inspection sites in Missouri. Ninety-two motor carriers passing through Crestline, Galena, and Opolis during these three days were inspected. The Kansas Highway Patrol set up the road checks, since they have the authority to pull vehicles over. Kansas Corporation Commission inspectors also conducted safety checks, while the motor carrier inspectors from the Department of Revenue checked weights and tariffs.

The inspections showed that 50 percent of all vehicles inspected had deficiencies that presented an imminent hazard. A much lower percentage of the vehicles carrying hazardous materials, 16 percent, had defects serious enough to place them out of service. These results are comparable to national figures for inspections in October 1982 and May 1983. In October, 50 percent of the 5,679 motor carriers inspected nationwide were placed out of service. In May 1983, 42 percent of the 4,245 vehicles inspected were placed out of service. The percentage of vehicles placed out of service and the percentage of vehicles carrying hazardous materials cannot be considered representative of all commercial vehicles on the highway, since vehicles with obvious violations and vehicles with hazardous cargo were given preference when selecting the trucks to be inspected.

These semiannual inspections are not the only inspections done by federal inspectors. Inspections may also be done at a carrier's place of business, at weigh stations, or wherever a motor carrier is already stopped. The Federal Highway Administration has three full-time inspectors based in Kansas.

Though federal statutes provide for civil and criminal penalties for violations of the regulations, inspectors do not assess any fines. Federal inspectors issue reports which the carrier returns to the regional office showing the corrective actions taken. Reports are evaluated in the regional office, and follow-up inspections may be made at the carrier's place of business. If the violations are serious enough and the documented evidence is sufficient, however, the agency may recommend that a civil penalty be assessed.

Inspection of railroads. The Federal Railroad Administration is responsible for the enforcement of federal safety regulations and for the hazardous materials regulations that apply to railroads. Kansas participates in the

Federal-State Railroad Safety Participation Program, which coordinates inspections by State and federal officials. Since any freight train may include cars with hazardous materials, reducing the number of train accidents is an important factor in reducing hazardous material releases. The National Inspection Plan for 1984 indicates that hazardous materials routes in Kansas will be inspected twice per year. The Federal Railroad Administration calculates "defect ratios" for different rail carriers and concentrates enforcement and inspection effort where those ratios are highest. Since these records are kept by carrier but not by state, no ratios of defects on rail cars transported in Kansas as a percent of total Kansas inspections are available. The following figures show a decrease in derailments in Kansas, which the federal agency attributes to the efforts of State and federal inspectors to improve track safety.

	1979	1980	1981	1982
Total Number of Derailments:	265	216	132	121
Derailments Caused by Track:	115	91	59	51

State Enforcement Efforts

At least six State agencies are involved in enforcing various aspects of regulations concerning hazardous materials transportation or motor carrier safety. These State agencies are:

- Kansas Corporation Commission
- Kansas Highway Patrol
- Department of Revenue
- Department of Health and Environment
- Board of Agriculture
- State Fire Marshal

The responsibilities and enforcement activities of these agencies are discussed below.

Kansas Corporation Commission. The Corporation Commission regulates motor carriers, railroads, and pipeline companies. The Transportation Division is responsible for enforcing regulations applicable to motor carriers and railroads. Pipeline regulations adopted by the Corporation Commission are enforced by the Utilities Division.

The Commission has adopted most of the relevant sections of the Federal Motor Carrier Safety Regulations. The sections not adopted include those concerning physical qualifications and examinations for drivers and specifications for required fire extinguishers. In these cases, State regulations similar to the federal regulations have been adopted. The Commission has also adopted one section of the Federal Hazardous Materials Regulations. Prior to May 1984, all sections of the regulations had been adopted by the Commission.

Two inspectors are responsible for enforcing the state and federal motor carrier safety regulations adopted by the Commission. During 1982, they conducted 2,450 inspections of commercial motor vehicles, including vehicles

transporting hazardous materials. No information on the number of hazardous materials transporters inspected or the corresponding warnings issued is available. Inspections are conducted at random and include reviews of driver qualifications, log books, and safety features such as fire extinguishers, lights, brakes, and tires. If a vehicle is known to be carrying a hazardous material, the inspector generally verifies that the vehicle is properly placarded. Inspections are often conducted in conjunction with the Highway Patrol and the Department of Revenue's Motor Carrier Inspection Bureau. Any motor carrier who violates safety regulations may be found guilty of a misdemeanor and fined up to \$500 upon conviction.

For railroad safety regulations, the Commission has adopted the Federal Track Safety Standards of the U.S. Department of Transportation. Under the Federal-State Railroad Participation Program, the Commission employs one investigator to inspect approximately 2,500 miles of railroad track in the northern third of Kansas. The Federal Railroad Administration is responsible for inspecting the remaining 4,914 miles of track in the State.

The Commission inspected 2,478 miles and 3,467 miles of track during federal fiscal years 1982 and 1983, respectively. No information is available on the number and types of warnings issued as a result of these inspections. Citations for non-compliance with track safety regulations are generally enforced by the Federal Railroad Administration.

Kansas Highway Patrol. K.S.A. 74-2108(b) authorizes the Kansas Highway Patrol to enforce State laws relating to public and private motor carriers of property, including any rules and regulations of the Corporation Commission. To enforce such rules and regulations, the Patrol conducts motor carrier safety inspections at random on Kansas highways. These inspections include reviews of driver qualifications, daily log books, and safety features such as fire extinguishers, brakes, lights, and tires.

The Patrol estimates that 1.4 percent of the total road troopers' time is devoted to motor carrier safety inspections. With 280 full-time road troopers, this translates to approximately four troopers enforcing motor carrier safety regulations on a full-time equivalent basis. In 1983 the Highway Patrol conducted about 52,000 motor carrier inspections. No information is available on how many of these inspections involved carriers transporting hazardous materials, nor on how many citations were issued to such carriers.

Department of Revenue. The Motor Carrier Inspection Bureau of the Department of Revenue operates 31 permanent and 15 mobile inspection stations in Kansas. Inspections performed at these stations are primarily intended to ensure that carriers have the proper permits and are complying with laws concerning interstate registration, State registration, fuel user permits, liability insurance, and weight restrictions. The Department of Revenue does not generally enforce hazardous materials rules and regulations at inspection stations. If trucks are obviously in violation of motor carrier safety regulations or hazardous materials regulations, motor carrier inspection personnel can notify the Highway Patrol for enforcement action.

Department of Health and Environment. The Department of Health and Environment regulates the transportation of two types of hazardous materials--

hazardous waste and radioactive materials. The Bureau of Waste Management regulates transporters of hazardous waste, and transporters of radioactive materials are regulated by the Bureau of Radiation Control.

Any transporter of hazardous waste in Kansas is required to register with the Department of Health and Environment. Approximately 145 public and private transporters of hazardous waste are registered; 43 of these have central offices located in Kansas. The Department conducts inspections of the hazardous waste transporters with central offices in the State. During the last two fiscal years, 51 inspections were conducted and no significant violations were found. Department inspections are limited to reviews of hazardous waste manifests and spill or accident reports on file. Transportation equipment is not inspected.

The Bureau of Radiation Control is responsible for regulating intrastate transporters of radioactive materials. (Interstate transporters are regulated at the federal level.) The Department requires these carriers to comply with the applicable requirements of the U.S. Department of Transportation concerning the loading and storage of packages, placarding of the transporting vehicle, and incident reporting. K.S.A. 48-1609 authorizes the Department of Health and Environment to inspect any private or public property to determine compliance with their rules and regulations concerning radioactive materials. Although it does not regularly inspect transporters, the Department is in the process of reviewing compliance by carriers involved in the transportation of radioactive materials. Results of this review should be available early in fiscal year 1985.

The Department has the authority to impound sources of radiation that are in the possession of any person who fails to observe established rules and regulations. Violators may also be found guilty of a misdemeanor and fined \$25 to \$500 and/or imprisoned for up to six months.

Board of Agriculture. K.S.A. 2-1212 authorizes the Board of Agriculture to establish regulations and safety standards for transporters of anhydrous ammonia, a common hazardous material used in agriculture. The Board of Agriculture does not conduct investigations of anhydrous ammonia carriers in transit. However, its office site inspection includes examination of transport vehicles. Through May of fiscal year 1984, the Board of Agriculture conducted 817 site inspections and found no direct violations of safety regulations for transport vehicles. Any owner or operator of anhydrous ammonia transport vehicles who fails to comply with the Board's rules and regulations may be fined up to \$500.

State Fire Marshal. The State Fire Marshal performs fire safety inspections of carriers transporting liquified petroleum gas and gasoline liquid fuels. In addition to their other duties, eight inspectors stationed throughout the State perform these safety inspections at random. Safety features inspected include brakes, lights, fire extinguishers, and tires. The State Fire Marshal's Office indicated that its inspectors conducted 136 inspections in 1983, and 130 inspections during the first half of 1984. In cases involving violations, the State Fire Marshal sends a written notice of the defect to the firm. If a carrier fails to take corrective action, the Fire Marshal is authorized to issue an order to cease and desist such violations or to file a criminal complaint with the Attorney General or the appropriate district or county attorney.

Motor Carrier Safety Assistance Program. The Surface Transportation Assistance Act of 1982 authorized the Secretary of the U.S. Department of Transportation to make grants to states for motor vehicle and hazardous materials inspection and enforcement activities. The main objective of the resulting Motor Carrier Safety Assistance Program is to reduce the number and severity of accidents and hazardous materials incidents involving commercial motor vehicles. The program also encourages states to enforce standards uniformly throughout the country.

Commencing in federal fiscal year 1984, with authorized funding through 1988, the program provides financial assistance for developing and implementing plans. Developmental grants of up to \$50,000 are available to states that need to establish enforcement plans. Implementation grants provide funding for states ready to initiate or continue enforcement programs. Implementation grants are made for not less than \$75,000 or more than \$1.25 million annually. During federal fiscal year 1984, 26 states received grants for the development of plans, 17 states received grants for the implementation of plans, and seven states did not apply for a federal grant.

Kansas received a \$50,000 development grant during federal fiscal year 1984. The largest grant, for \$912,036, was paid to Illinois. Of Kansas' neighboring states, Missouri received \$539,808 and Iowa received \$297,880 for the implementation of plans, Colorado and Nebraska received \$50,000 each for the development of plans, and Oklahoma did not apply for the grant.

Assuming that total federal funds of \$16 million are available in 1985, Kansas could receive approximately \$273,000 to \$410,000 for program implementation in fiscal year 1985. Authorized funding at the federal level goes up each year through 1988. The federal share of program costs is not to exceed 80 percent of the total cost of implementing the commercial motor carrier safety program.

Prior to program implementation, each state is required to submit a State Enforcement Plan detailing planned activities for enforcing the safety program. A Cabinet Subcommittee on Motor Carrier Safety is currently developing the enforcement plan for Kansas. Members of the Subcommittee are:

- Secretary of Transportation, Chair
- Secretary of Administration
- Secretary of Health and Environment
- Secretary of Revenue
- Superintendent of Kansas Highway Patrol
- Chairman of Kansas Corporation Commission
- Adjutant General

The plan will identify a lead State agency for enforcing motor vehicle and hazardous materials safety regulations and should provide an assessment of the commercial motor carrier and highway hazardous materials safety problems in Kansas. The State Enforcement Plan should be complete by August 1, 1984.

Responding to Hazardous Materials Accidents

The responsibility for responding to hazardous materials accidents lies with state and local governments because of their ability to send personnel and

equipment to the scene immediately. In Kansas, emergency responders can include local law enforcement officers, firefighters, emergency preparedness personnel, Kansas Highway Patrol troopers, and officials from the Office of the Adjutant General, the Kansas Department of Transportation, and the Department of Health and Environment. These state and local officials can also request assistance from federal agencies such as the Environmental Protection Agency and the Department of Transportation, and from private industries familiar with hazardous materials.

Procedures which assist emergency responders in minimizing injuries and damages include the following:

- Establishing authority at the scene
- Taking protective actions at the scene
- Controlling traffic around the accident
- Evacuating the area
- Coordinating actions of government agencies
- Cleaning up the site
- Training emergency responders

The following sections will discuss which emergency responders have the primary responsibility for these actions.

Establishing authority at the scene. Although a serious accident would be too complex for a single agency to manage effectively, it is essential that an on-scene commander be designated at the scene of every hazardous materials accident. This on-scene commander should have the legal authority to make any critical decisions regarding the handling of the accident, or to delegate this authority to other qualified individuals at the scene. Current Kansas laws and regulations do not specifically provide for the designation of an on-scene commander at the site of a hazardous materials accident. The auditors were told that an on-scene commander is generally determined by state and local officials at the scene, according to local agreements and capabilities.

Taking protective actions at the scene. The initial emergency responders to a hazardous materials accident will take actions to identify and stabilize the materials involved. Responders must identify the material or materials involved in order to determine the appropriate response. Materials can be identified through information supplied by shipping papers, the driver or operator, vehicle placarding, and package labeling.

Once the material is identified, the responders can determine the appropriate initial response from a number of sources. The **Hazardous Materials Emergency Response Guidebook**, published by the U.S. Department of Transportation, identifies the most significant hazards and initial emergency response actions for accidents involving hazardous materials. Initial responders can also contact the Chemical Transportation Emergency Center for general information on handling hazardous materials accidents. The Center is a toll-free, 24-hour hotline for chemical and hazardous materials emergencies, and is funded by the Chemical Manufacturers Association. The Center will also contact the shipper of the material for additional information and follow-up on the materials involved in the accident.

The Kansas Highway Patrol and local law enforcement officers will generally assume responsibility for protective actions at the scene, except in situations involving fire hazards and radioactive materials. If the accident involves a fire or fire hazard, local firefighters would be responsible for stabilizing the situation. The Department of Health and Environment's Bureau of Radiation Control is responsible for responding to accidents involving radioactive materials. The Office of Adjutant General is the lead State agency for responding to accidents involving U.S. Department of Defense radioactive materials and nuclear fuel.

Each county in Kansas has established an emergency preparedness unit, and local emergency preparedness personnel can assist in taking protective actions. In the State's most populous areas, emergency assistance is also available from hazardous materials response units. These units are staffed and equipped mainly through the county (or city) fire departments, usually in conjunction with emergency preparedness officials. Such units have been established in these counties:

--Douglas	--Sedgwick
--Ford	--Shawnee
--Johnson	--Wyandotte

Controlling traffic around the accident. The Kansas Highway Patrol and local law enforcement officers would be responsible for controlling traffic and restricting access to the accident area. With assistance from the Department of Transportation, these officials would establish and enforce any required detours.

Evacuating the area. If a hazardous materials accident endangered residents of the area, the Kansas Highway Patrol and local law enforcement officers would be responsible for evacuating the area. Fire department members can also exercise certain police powers at the scene of a fire or potential fire. The Department of Transportation would provide assistance in establishing the necessary evacuation routes.

Coordinating actions of government agencies. K.S.A. 48-928(k) requires that the Adjutant General's Office, Division of Emergency Preparedness, coordinate and supervise governmental agencies that regulate the transportation of hazardous materials in Kansas. Any state, county, or city agency with knowledge of a hazardous materials accident or incident is required to contact the Division of Emergency Preparedness immediately. The Division of Emergency Preparedness then coordinates the emergency response of federal, state, and local agencies. The hazardous materials response coordinator of the Division of Emergency Preparedness would be available to provide assistance at the accident site. The Division of Emergency Preparedness has developed written guidelines for local and State response to hazardous materials accidents as part of the State Disaster Emergency Plan.

Cleaning up the site. The carrier has the primary responsibility for mitigating damages and cleaning up the accident area. If the carrier does not have the resources to conduct clean-up activities, the firm is required to pay the costs of cleaning up the area. The Department of Health and Environment

is responsible for coordinating and supervising clean-up procedures for accidentally spilled or discharged hazardous materials. Also, the Department's Bureau of Radiation Control will supervise clean-up operations for spilled or discharged radioactive materials.

If the release of hazardous materials is a significant threat to the environment, the Environmental Protection Agency can take responsibility for cleaning up the site. Under the federal Superfund law, the agency can take action to recover clean-up costs from the responsible parties.

Training emergency responders. Initial responders to hazardous materials accidents are often required to make critical decisions in order to save lives and protect property and the environment. It is essential that law enforcement officers, firefighters, and emergency preparedness personnel receive adequate training in the handling of hazardous materials accidents. Kansas Highway Patrol troopers receive up to eight hours of training annually on the handling of hazardous materials. The Division of Emergency Preparedness conducts annual hazardous materials training sessions at the State Fire School, at five two-day training sessions for firemen, and at a four-day training session for all interested parties.

All 105 county emergency preparedness coordinators have received some form of awareness training in regard to hazardous materials. However, law enforcement officers trained at the Kansas Law Enforcement Center do not currently receive special training in responding to hazardous materials accidents. In addition to in-state programs, hazardous materials emergency response training is available from various other sources such as the Colorado Training Institute in Denver and the Federal Highway Administration's Transportation Safety Institute in Oklahoma City.

Reporting of Hazardous Materials Accidents

Federal Agencies

U.S. Department of Transportation regulations require that carriers report any release of a hazardous material, whether it was the consequence of a vehicular accident, derailment, or packaging failure. Incidents that must be reported immediately by telephone are those that involve any of the following:

- A fatality
- An injury requiring hospitalization
- Estimated property damage exceeding \$50,000
- Any release or suspected contamination from a shipment of radioactive materials
- A situation that needs immediate response, such as a continuing threat to life
- Any release of a reportable quantity of a material regulated by the Environmental Protection Agency

The U.S. Department of Transportation Hazardous Materials Information System relies mainly on carriers to provide information on accidents. For this

reason, the data base cannot be accepted as a complete record of all hazardous materials accidents which occur. The Department is currently conducting hearings on a proposal that written incident reports be submitted only if the incident involved any of the following:

- Telephone notice
- Evacuation
- Bulk shipments
- Property damage of \$1,000 or more
- Release of any hazardous waste

This would eliminate the incident reports on low-consequence releases that now make up almost 80 percent of the Hazardous Materials Information System's computerized data base.

Radioactive materials considered strategic are regulated by the Nuclear Regulatory Commission. The NRC controls the conditions under which shippers licensed to have strategic materials may offer them for transport. These radioactive materials must be packaged so that no release or venting of the radioactive material can occur under normal conditions of transport or under certain accident conditions. The licensee, either the shipper or the consignee, must submit a written report to the Director of Nuclear Material Safety and Safeguards at the NRC for any instance in which there is substantial reduction in the effectiveness of any authorized packaging during use.

State Agencies

Adjutant General. Any state, county, or city agency with knowledge of a hazardous materials accident or incident is required to immediately contact the Division of Emergency Preparedness within the Adjutant General's Department. The Division also requires governmental agencies to submit a written report on the next working day following the accident or incident. The Division of Emergency Preparedness is to be notified of all incidents and accidents involving hazardous materials, including transportation incidents or accidents.

Corporation Commission. A motor carrier must report any accident occurring in Kansas to the Corporation Commission if that accident results in a death, personal injuries requiring medical attention, or property damage of \$2,000 or more. Such reports are to be made by telephone or telegraph within 24 hours if a death occurred as a result of the accident. All other reports are to be made promptly, in writing. The Commission also requires carriers to report such accidents promptly to the local sheriff, chief of police, or Kansas Highway Patrol. Railroad accidents must be reported immediately to the Commission whenever they involve a fatality or serious personal injuries.

Department of Health and Environment. Carriers must report hazardous materials transportation accidents or incidents involving the discharge of materials that could potentially contaminate waters of the State to the Department of Health and Environment. The Department of Health and Environment also requires carriers to comply with federal regulations concerning accident and incident reporting for the transportation of hazardous waste and radioactive materials.

APPENDIX B
Agency Responses



JOHN CARLIN
MICHAEL LENNEN
R. C. "PETE" LOUX
KEITH R. HENLEY
JUDITH A. McCONNELL
BRIAN J. MOLINE

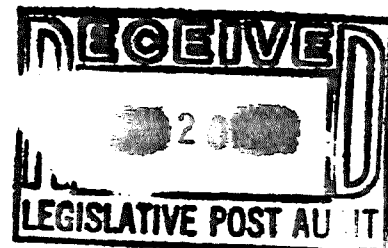
Governor
Chairman
Commissioner
Commissioner
Executive Secretary
General Counsel

State Corporation Commission

Fourth Floor, State Office Bldg.
Ph. 913-296-3355
TOPEKA, KANSAS 66612-1571

June 20, 1984

Ronald J. Green
Senior Auditor
Legislative Division
of Post Audit
Mills Building
Topeka, KS 66612



Dear Mr. Green:

This letter constitutes this agency's response to your draft audit regarding transport of hazardous materials in Kansas. This response is confined to those aspects of the draft report that concern the State Corporation Commission.

The draft report refers to a gap in the regulations which could jeopardize Kansas participation in the Motor Carrier Safety Assistance Program (MCSAP). Specifically, the auditors express concern on the amendments to K.A.R. 82-4-3 and 82-4-20 as submitted to the 1984 legislative session.

As originally submitted, these regulations were deemed too broad and general by the joint committee on rules and regulations who recommended that the agency revise and clarify both regulations.

As you are aware, permanent regulations must be submitted by September 15 of each year. This is an inflexible deadline. At the time this agency was revising these regulations in order to meet the deadline, the final standards for MCSAP were still being formulated. As the deadline approached, it was unclear what the final standards would be. After consulting with the Kansas Highway Patrol as to what the most likely standards would be, the present form of 82-4-3 and 82-4-20 were submitted and approved within the deadline.

Attached are temporary regulations that incorporate by reference the following parts so the State of Kansas can qualify for MCSAP: 49 CFR 107, 171, 173, 177 and 178. These regulations are currently under review by the Commissioners and will soon be submitted to the Secretary of Administration and the Attorney General. I have also attached copies of temporary regulations 49 CFR 174 and 179 which will also be submitted. Since these regulations deal with railroads, they will be incorporated by reference into the railroad safety regulations.

49 CFR 175 and 176 may well need to be adopted but they are non-jurisdictional to this agency since 175 deals with carriage by aircraft and 176 deals with carriage by water vessel.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Brian Moline".
Brian Moline
General Counsel

82-4-3. Motor carrier safety regulations. The following parts of the federal rules and regulations promulgated by the U.S. department of transportation, federal highway administration, and bureau of motor carrier safety, are hereby incorporated by reference as the rules and regulations of the state corporation commission of the state of Kansas. The incorporation by reference shall cover the parts as they exist on ~~September 15, 1983~~ June 22, 1984: (a) Federal Motor Carrier Safety Regulations: General, 49 CFR Part 390.

(b) Qualifications of Drivers: 49 CFR Part 391; deleting sections 49 CFR 391.11 (b) (1), 391.41, 391.43, 391.45, 391.47 and 391.49.

(c) Driving of Motor Vehicles: 49 CFR Part 392.

(d) Parts and Accessories Necessary for Safe Operation: 49 CFR Part 393; deleting section 49 CFR 393.95 (a) and (b).

(e) Hours of Service of Drivers: 49 CFR Part 395.

(f) Inspection, Repair and Maintenance: 49 CFR Part 396.

(g) Transportation of Hazardous Materials; Driving and Parking Rules: 49 CFR Part 397.

(h) Transportation of Migrant Workers: 49 CFR Part 398.

(i) Employee Safety and Health Standards: 49 CFR Part 399.

Copies of the motor carrier safety regulations promulgated by the U.S. department of transportation may be obtained from

the superintendent of documents, United States Government
printing office, Washington, D.C. 20402. (Authorized by and
implementing K.S.A. 66-1,129; effective Jan. 1, 1971;
modified, 1981 HCR No. 5020, May 1, 1981, amended May 1,
1984; amended, T- _____, _____.)

82-4-20. Transportation of hazardous materials by motor vehicles. ~~The federal regulations entitled "Hazardous Materials Tables and Hazardous Materials Communications Safety Regulations", Title 49 CFR, Part 172 as in effect on September 15, 1983, are adopted by reference.~~ The following parts of the Federal rules and regulations promulgated by the U.S. Department of Transportation dealing with Hazardous Materials Regulation are hereby incorporated by reference as the rules and regulations of the State Corporation Commission of the state of Kansas: Title 49 CFR, Parts 107, 171, 172, 173, 177 and 178, as in effect on June 22, 1984. (Authorized by K.S.A. 1982 Supp. 66-1,112, K.S.A. 66-1,112a, K.S.A. 1982 Supp. 66-1,112g and K.S.A. 66-1,129; implementing K.S.A. 66-1,129, effective Jan. 1, 1971; amended May 1, 1981; amended May 1, 1984; amended, T-_____, _____.)

82-5-11. Regulation relating to transportation of hazardous materials. (a) When the track condition on any railroad makes the transportation of explosives and other dangerous articles hazardous, restriction of the movement over said track may be imposed by the state corporation commission until track conditions are corrected or a satisfactory alternate route is available.

(b) The following parts of the Federal rules and regulations promulgated by the U.S. Department of Transportation dealing with Hazardous Materials Regulation are hereby incorporated by reference as the rules and regulations of the State Corporation Commission of the state of Kansas: Title 49 CFR, Parts 174 and 179, as in effect on June 22, 1984. (Authorized by K.S.A. 66-141, 66-156; effective E-71-15, March 5, 1971; amended, E-71-22, May 28, 1971; effective Jan. 1, 1972; amended, T-_____ , _____.)

KANSAS HIGHWAY PATROL

Service—Courtesy—Protection

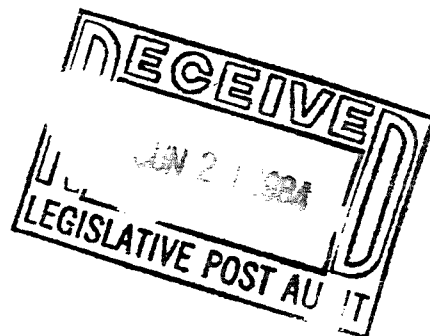
John Carlin
Governor



Col. David Hornbaker
Superintendent

June 20, 1984

Meredith Williams
Legislative Post Auditor
Mills Building
Topeka, Kansas 66612



Dear Mr. Williams

The enclosed represents this agency's response to the performance audit report on Transporting Hazardous Materials in Kansas. We appreciate the opportunity to furnish written comments for consideration of the Committee.

Lieutenant Vernon Prostler will represent the KHP at the meeting Friday and be available to respond to any questions members of the Committee might have.

Very truly yours

A handwritten signature in cursive script that reads "Bert Cantwell" followed by a date "6/20/84".

BERT CANTWELL
Superintendent

BC:m

Enclosure

cc: Major Stuart A. Elliott
Lieutenant Vernon J. Prostler

Response of the Kansas Highway Patrol
to the
Legislative Division of Post Audit
Performance Audit Report
on
TRANSPORTING HAZARDOUS MATERIALS IN KANSAS

The Legislative Post Audit report on Transporting Hazardous Materials into and through the State of Kansas is very complete, comprehensive and accurate. It outlines the lack of regulations and enforcement in Kansas.

The report also indicates that the transportation of hazardous materials is not accurately monitored in Kansas. The Kansas Highway Patrol has neither the manpower or monies to enforce federal regulations in an effective manner. Hazardous materials regulations should be enforced at the shipping or storage facilities, as well as when the materials are in transit.

The report further points out that Kansas does not have statutes that can be updated regularly in order to remain parallel with federal regulations. The Kansas Corporation Commission Regulation 82-4-20 is already outdated. Federal regulations in effect September 1, 1983, were adopted, and these became effective as Kansas law May 1, 1984. By the time KCC manuals are printed and distributed, the regulations are approximately a year old. An Attorney General's Opinion stated that Kansas can only adopt regulations by reference for the specific date of September 1, 1983.

The report is important to Kansas, as it calls attention to the dangers and seriousness of a continued lack of enforcement in transporting hazardous materials. Kansas has been very fortunate in this area since a large number of shipments are made into and through the state and a very low number of serious incidents, accidents or spills has been recorded. The number of "minor" incidents indicates that actions need to be taken before "our luck runs out." This will require coordinated actions by five or six agencies, (Emergency Preparedness, Health and Environment, Highway Patrol, Motor Carrier Inspection, Water and Transportation), and adequate funding by the legislature.



MAYNARD L. BRAZEAL
Director
316-662-3378

THE UNIVERSITY OF KANSAS
KANSAS LAW ENFORCEMENT TRAINING CENTER
P.O. Box 647
Hutchinson, Kansas 67504-0647



June 15, 1984

Mr. Ron Green
Legislative Post Audit
109 West 9th, Suite 301
Topeka, Kansas 66612

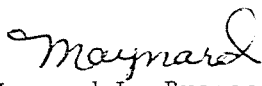
Dear Ron:

The recommendation of post audit for the Kansas Law Enforcement Training Center to provide new law enforcement officers with special training concerning hazardous material and the proper procedure for responding to hazardous materials accidents is already being initiated for the 83rd basic training class. The instructor for this class will be Fire Chief Jim McSwain, Fire Department, Lawrence, Kansas.

Furthermore, it will be recommended to the Kansas Law Enforcement Training Commission that the core curricula of all certified basic schools in Kansas will have a minimum of two hours of instruction with additional hours as needed for the larger police departments and more populated counties.

I am well aware of the importance for this type of training having attended the Federal Emergency Management Agency's seminar for State training directors and State emergency preparedness managers. I am planning to attend the legislative post audit committee meeting on June 22 to respond to what we are initiating with the basic class that is now in session.

Sincerely,


Maynard L. Brazeal

MLB:ams

STATE OF KANSAS
THE ADJUTANT GENERAL

TOPEKA, KANSAS 66601

June 21, 1984

Mr. Meredith Williams
Legislative Post Auditor
Mills Building
Topeka, KS 66612

Dear Mr. Williams:

This is in response to your completed performance audit report on Transporting Hazardous Materials in Kansas, dated June 14, 1984.

Our review of the report and its recommendations has been completed. We do not have adverse comments to the report and believe that we can comply with the recommendations that affect our agency.

Sincerely,



Ralph T. Tice
Major General, Kansas
Army National Guard
The Adjutant General

State of Kansas . . . John Carlin, Governor

DEPARTMENT OF HEALTH AND ENVIRONMENT

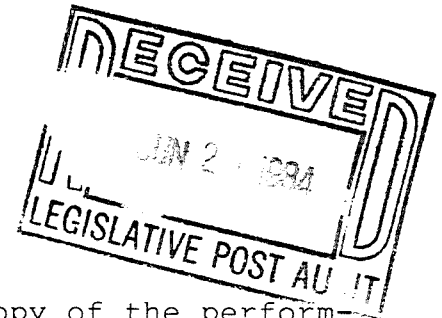
Barbara J. Sabol, Secretary

Forbes Field
Topeka, Kansas 66620
913-862-9360



June 21, 1984

Meredith Williams
Legislative Post Auditor
Legislative Div. of Post Audit
Mills Building
Topeka, Kansas 66612



Dear Mr. Williams:

We have completed review of the draft copy of the performance audit report on Transporting Hazardous Materials in Kansas and have several comments, corrections or clarifications. Most of these relate to the Department's role in the regulation of and response to transportation incidents involving hazardous materials:

- (1) The matter of improving the state's regulatory control over the transportation of hazardous materials has been of concern to both the executive and legislative branches of government. Governor Carlin has recognized the importance of motor carrier safety by appointing a Cabinet Subcommittee to develop a state enforcement plan which will meet the requirements of the Federal Motor Carriers Safety Assistance Program administered by Federal Department of Transportation. The performance audit report refers to this program as an ideal vehicle through which those state agencies having some authority over hazardous materials or hazardous material incidents will be able to coordinate efforts and resources to protect the public health and safety, and prevent damages to the environment.
- (2) The regulatory overview for Hazardous Material Transportation in Kansas as summarized on page 5 of the audit report does not portray an accurate picture of how Kansas responds to hazardous material accidents. The table on page 7 provides a better outline of the Kansas Emergency Response Program. As is pointed out in the background information, many of the hazardous material accidents involve spillage of gasoline or diesel fuel where coordination of emergency response activities constitute containment and cleanup.

The Department routinely responds to these incidents directly upon notification by the Kansas Highway Patrol, local law enforcement center, or by EPA and coordinates the cleanup activities. The Department requires notification if spillage occurs but does not require such notification where an accident occurs and nothing is released to the environment. In some cases, the Adjutant General's Office and the Department coordinate efforts due to the need for evacuation or traffic control. The Adjutant General's Office also notifies the Department of incidents.

- (3) Page 10 - Recommendation on Kansas Law Enforcement Training Center Responsibilities. The Department believes that the proposed training of new law enforcement officers to inspect radioactive materials shipments should be coordinated through KDHE since it has regulatory authority and on-staff expertise. KDHE also has specialists in the handling and cleanup of hazardous substances that become wastes upon unrecoverable spillage and this knowledge should be utilized in training functions.
- (4) Page 11 - Recommendation. The Department recognizes the Adjutant General's Offices as responsible for the State Disaster Plan. By the same token, KDHE has primacy from the U. S. Environmental Protection Agency to develop and maintain an acceptable spill program which includes updating the State Spill Contingency Plan. The procedures for assigning an On-Scene Coordinator and other appropriate response personnel roles are a part of that plan. In other words, a hazardous material incident where escape of the material has occurred requires KDHE coordination and notification to EPA. During the last three or four years, KDHE and the Adjutant General's Office have had discussions that have been helpful to both in determining which agency should appropriately take the coordinating lead at a particular stage in a hazardous material incident. As rules and procedures for proper handling containment and cleanup become more exacting and specific, it is apparent that the Adjutant General, KDHE, Kansas Highway Patrol and local

Meredith Williams
June 21, 1984
Page 3

responders become trained more adequately to address initial response activities. Specified procedures, perhaps, could be achieved through interagency Memoranda of Agreement that would meet EPA acceptance.


- (5) Page 12 - Recommendation that Division of Emergency Preparedness (DEP) should develop an information system for incident reporting.

KDHE reports all spills to EPA through a computer entry system and EPA has the capability of generating lists. Since KDHE currently responds to all spill incidents, including those involving hazardous material, perhaps, that information system could be utilized to coordinate documentation of reported incidents. All spillage events must be reported to KDHE by regulation and by EPA primacy. The interagency reporting obligations between DEP and KDHE should be covered in a MOA.

We feel that the Legislative Division of Post Audit did a commendable job of piecing together this report, particularly since the subject of hazardous material transportation is so complex. One of the important aspects of hazardous material incidents is that each occurrence is a new experience which requires extemporaneous selection of the correct response activity. Interagency coordination is essential to achieve the right option that will protect the health and well being of persons in the area of a serious incident.

I and my staff will be happy to provide you with whatever information and testimony will be helpful to the Legislative Post Audit Committee and to the interim Committee on Transportation and Utilities in their study of Hazardous Material Transportation in Kansas.

Sincerely,


Barbara J. Sabol
Secretary

BJS:cas
cc: Dr. Allan Abramson
William R. Bryson
Dennis Murphey
Robert Eye



Kansas State Fire Marshal Department
503 Kansas Avenue, Suite 303
Topeka, Kansas 66603
Phone (913) 296-3401

June 20, 1984

Mr. Meredith Williams
Legislative Post Auditor
Legislative Division of Post Audit
Mills Building
Topeka, Kansas 66612



Dear Mr. Williams:

In response to the audit report on Transporting Hazardous Materials in Kansas, I offer the following comment:

Pg. 21 - State Fire Marshal inspectors conduct inspections on carriers transporting liquefied petroleum gas and gasoline liquid fuels. These inspections are conducted at random throughout the state. Records are available in our office on inspections conducted and violations identified.

<u>Calendar Year</u>	<u>Inspections Conducted</u>
1982	277
1983	136
1984 (6 mo.)	130

Sincerely,

EDWARD C. REDMON
State Fire Marshal

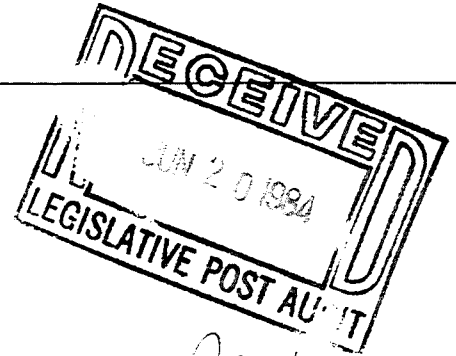
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STATE OF KANSAS



STATE BOARD OF AGRICULTURE
109 S.W. 9th
Topeka, Kan. 66612-1280
HARLAND E. PRIDDLE, Secretary

M E M O R A N D U M



TO: Meredith Williams
Legislative Post Auditor

FROM: Freeman E. Biery, Acting Secretary
Kansas State Board of Agriculture

Freeman E. Biery

DATE: June 20, 1984

RE: Performance audit on "Transporting Hazardous Materials in Kansas"

The Board of Agriculture is named in the report on matters relating to K.S.A. 2-1212, which authorizes the Board to establish regulations and safety standards for transporters of anhydrous ammonia.

The Board of Agriculture administers the "Kansas Pesticide Law" K.S.A. 2-2438-2468. The act addresses the regulation of applicators of pesticides. Pesticides are commonly considered hazardous material. And, in the process of applying pesticides, transportation on the public roadways is inherent.

It is the Board of Agriculture's desire to increase and improve our involvement within the guidelines of the Anhydrous Ammonia and Pesticide Laws, which the Board administers.

We have experienced good cooperation and have had very satisfactory relationships with the other agencies, particularly the Department of Health and Environment, Department of Transportation, Fire Marshall, and the Highway Patrol.

We do concur with the recommendation that a lead agency be clearly identified and that an on-scene commander be designated. We also concur with the need to improve training of law enforcement officers. The Board of Agriculture would like to be included in the training program and to be considered as a resource of persons who might assist when emergencies occur. We support an improvement in the system of reporting incidents and accidents.

The report did not address the use of the Kansas poison control centers and the availability of Chem-Trec services.

MEMORANDUM -- Meredith Williams
June 20, 1984
Page 2

The Board of Agriculture appreciates being included in this audit study and wishes to continue to be informed of progress in the area of hazardous materials and to be a participant in discussions relating to such.

It is planned that members of our staff will attend the Legislative Post Audit Committee hearing Friday, June 22, in room 123-S of the Statehouse.

Imm

**Performance Audit: Transporting Hazardous Materials in Kansas
(Report issued in June 1984)**

Recommendations

1. Kansas should adopt all relevant portions of the federal regulations on hazardous materials transportation. Title 49, Parts 171 and 173-179 of the Code of Federal Regulations should be reviewed and specifically adopted into State regulations wherever deemed to be relevant and necessary. Sections of the federal motor carrier safety regulations in Title 49, Parts 388-398, that are currently missing from State regulation should also be reviewed to determine if they should be adopted.
2. When all necessary federal regulations are adopted in State regulations, State agencies should take steps to improve the inspection process for motor vehicles. Ideally, these inspections would be done both at fixed inspection stations along major highways and by law enforcement officers in mobile units.

These inspections could be funded largely through the federal Motor Carrier Safety Assistance Program, which is authorized through 1988. Under this program, a comprehensive plan must be developed, and a lead agency for inspections must be designated. The Highway Patrol, which currently conducts inspections, could be given such a role. Implementation of this recommendation would not necessarily require additional personnel, but could entail additional training or a redistribution of duties.

3. The Kansas Law Enforcement Training Center should provide new law enforcement officers with specific training concerning the types of hazardous materials, the dangers these materials may pose, and the proper procedures to take initially at the scene of a hazardous materials accident.
4. The Adjutant General's Office should revise the State Disaster Emergency Plan to clearly specify what procedures should be followed in designating an on-scene commander at a hazardous materials accident. This revised Plan should specify in what circumstances the on-scene commander would be a representative of a fire department, police department, sheriff's office, the Highway Patrol, the Adjutant General's Office, or any other agency.
5. The Division of Emergency Preparedness in the Adjutant General's Office should develop a plan for the information system authorized by K.S.A. 48-928(1), and should submit the plan to the Special Committee on Transportation. The Plan should include the goals of the information system, the materials to be collected, and the persons or agencies that are required to supply information.



JOHN CARLIN
MICHAEL LENNEN
R. C. "PETE" LOUX
KEITH R. HENLEY
JUDITH A. McCONNELL
BRIAN J. MOLINE

Governor
Chairman
Commissioner
Commissioner
Executive Secretary
General Counsel

Fourth Floor, State Office Bldg.
Ph. 913-296-3355
TOPEKA, KANSAS 66612-1571

STATEMENT PRESENTED TO THE SENATE TRANSPORTATION AND UTILITIES
COMMITTEE BY THE STATE CORPORATION COMMISSION OF KANSAS
ON SENATE BILL NO. 21 ON JANUARY 24, 1985

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I AM BILL GREEN, ADMINISTRATOR OF THE TRANSPORTATION DIVISION OF THE STATE CORPORATION COMMISSION. I APPEAR HERE TODAY REPRESENTING THE COMMISSION IN SUPPORT OF SENATE BILL 21.

SENATE BILL 21 IS THE RESULT OF THE INTERIM HEARINGS ON THE TRANSPORTATION OF HAZARDOUS MATERIALS IN KANSAS. SECTION 1 (a) MANDATES THE COMMISSION ADOPT RULES AND REGULATIONS WHICH WILL ALLOW THE COMMISSION TO PARTICIPATE IN THE FEDERAL MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.

THIS BILL WAS RECOMMENDED BECAUSE, LIKE SENATE BILL 22, THE EXISTING STATUTES AUTHORIZING THE ADOPTION OF RULES AND REGULATIONS FOR MOTOR CARRIERS (K.S.A. 66-1,129) DOES NOT SPECIFICALLY AUTHORIZE THE COMMISSION TO ADOPT RULES AND REGULATIONS REGARDING THE TRANSPORTATION OF HAZARDOUS MATERIALS. THE COMMISSION'S LEGAL STAFF, THE GENERAL COUNSEL FOR THE DEPARTMENT OF TRANSPORTATION AND THE OFFICE OF ATTORNEY GENERAL WERE NOT CLEAR AS TO WHO WAS AUTHORIZED TO DEVELOP THE HAZARDOUS MATERIAL REGULATIONS ON THE TRANSPORTATION OF HAZARDOUS MATERIALS.

Atch. 3
1/24/85

SECTION 2 OF SENATE BILL 21 DEFINES THE DEPARTMENT OF TRANSPORTATION'S RESPONSIBILITY IN THE ADOPTION OF RULES AND REGULATIONS RELATED TO SAFETY REGULATIONS; WHILE SECTION (1) CLARIFIES THE COMMISSION'S RESPONSIBILITY IN THE ADOPTION OF MOTOR CARRIER RULES AND REGULATIONS REGARDING THE TRANSPORTATION OF HAZARDOUS MATERIALS.

DURING THE INTERIM STUDY, MEMBERS OF THE COMMITTEE WERE INTERESTED IN DETERMING WHETHER THE PENALTY PROVISION FOR VIOLATION OF THE HAZARDOUS MATERIALS REGULATIONS IN KANSAS IS A SUFFICIENT DETERRENT. I HAVE ATTACHED FOR YOUR INFORMATION A COPY OF A LETTER TO REPRESENTATIVE CROWELL, CHAIRMAN OF THE HOUSE TRANSPORTATION COMMITTEE, SETTING FORTH THE PENALTY IN THE STATES SURROUNDING KANSAS. NONE OF THESE STATES HAVE A PENALTY WITH THE POTENTIAL SEVERITY AS CONTAINED IN THE FEDERAL HAZARDOUS MATERIALS ACT. (CIVIL PENALTY: NOT MORE THAN \$10,000 FINE FOR EACH VIOLATION; CRIMINAL PENALTY: NOT MORE THAN \$25,000 FOR EACH VIOLATION OR IMPRISONMENT NOT TO EXCEED 5 YEARS OR BOTH)

THE COMMISSION HAS NO RECOMMENDATION REGARDING THE LEVEL OF PENALTY WHICH SHOULD BE IMPOSED FOR VIOLATIONS OF THE KANSAS HAZARDOUS MATERIALS REGULATIONS. I WOULD HOWEVER MENTION THE EXISTING KANSAS STATUTES (K.S.A. 66-1,130) AUTHORIZES A FINE OF NOT TO EXCEED \$500 UPON CONVICTION.

AT THIS TIME SHOULD YOU HAVE ANY QUESTIONS, I WILL ATTEMPT TO ANSWER THEM.

State of Kansas



JOHN CARLIN
MICHAEL LENNEN
R. C. "PETE" LOUX
KEITH R. HENLEY
JUDITH A. MCCONNELL
BRIAN J. MOLINE

Governor
Chairman
Commissioner
Commissioner
Executive Secretary
General Counsel

State Corporation Commission

Fourth Floor, State Office Bldg.

Ph. 913-296-3355

TOPEKA, KANSAS 66612-1571

January 17, 1985

Representative Rex Crowell
Chairman of the House
Transportation Committee
Room 431-N, State House
Topeka, Kansas 66612

RE: Penalty Provisions Relating To
Hazardous Material Regulations

Dear Representative Crowell:

During the interim hearings on the transportation of hazardous materials you inquired what penalty provisions the States surrounding Kansas have for violations of those States hazardous material regulations. Also, you inquired if any State surrounding Kansas adopted the penalty provisions which are in the Federal Regulations of the transportation of hazardous materials.

The staff has inquired of the States of Oklahoma, Nebraska, Missouri and Colorado; none of these States have adopted the penalty provisions which appears in the Federal Hazardous Material Regulations. Additionally only one State has a penalty provision for the violation of the Hazardous Material Regulations, that State is Colorado.

The penalty provisions for the four States surrounding Kansas is attached.

Should you or members of the House Transportation Committee have any additional questions regarding this matter, please feel free to contact me at (913) 296-3808.

Respectfully,

William E. Green, Administrator
Transportation Division

WEG:kc

Attachment
cc: Fred Carman
Hank Avila

PENALTY PROVISIONS FOR VIOLATION OF HAZARDOUS MATERIAL REGULATIONS
IN THE STATES OF OKLAHOMA, NEBRASKA, MISSOURI AND COLORADO

<u>STATE</u>	<u>STATUTE</u>	<u>PENALTY</u>
Oklahoma	Unsafe condition of equipment	1st conviction \$10 - \$100; or imprisonment for up to 10 days 2nd conviction \$20 - \$200 (if within one year period); or imprisonment for up to 20 days; or both 3rd conviction \$1 - \$500; or 6 months imprisonment; or both
Nebraska	General Penalty For Class IV Misdemeanor	\$1 to \$500 maximum for each offense
Colorado	Penalty For violation of Hazardous Material Regulations .	\$25 to \$1,000 maximum
Missouri	General penalty for violation of Commission's regulations	\$100 to \$2,000 maximum



JOHN CARLIN
MICHAEL LENNEN
R. C. "PETE" LOUX
KEITH R. HENLEY
JUDITH A. McCONNELL
BRIAN J. MOLINE

Governor
Chairman
Commissioner
Commissioner
Executive Secretary
General Counsel

State Corporation Commission

Fourth Floor, State Office Bldg.
Ph. 913/296-3355
TOPEKA, KANSAS 66612-1571

STATEMENT PRESENTED TO THE SENATE TRANSPORTATION AND UTILITIES
COMMITTEE BY THE STATE CORPORATION COMMISSION OF KANSAS
ON SENATE BILL NO. 22 ON JANUARY 24, 1985

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I AM BILL GREEN, ADMINISTRATOR OF THE TRANSPORTATION DIVISION OF THE STATE CORPORATION COMMISSION. I APPEAR HERE TODAY REPRESENTING THE COMMISSION IN SUPPORT OF SENATE BILL 22.

AS EXPLAINED TO YOU EARLIER THIS WEEK, SENATE BILL 22 IS THE RESULT OF THE INTERIM HEARINGS ON THE TRANSPORTATION OF HAZARDOUS MATERIALS IN KANSAS. DURING THE INTERIM HEARINGS ON THE TRANSPORTATION OF HAZARDOUS MATERIALS IN KANSAS, THERE WAS SOME DISAGREEMENT BETWEEN THE LEGAL STAFF OF THE COMMISSION AND THE OFFICE OF ATTORNEY GENERAL REGARDING THE COMMISSION'S STATUTORY AUTHORITY TO ADOPT THE RULES AND REGULATIONS ON THE TRANSPORTATION OF HAZARDOUS MATERIALS.

THIS BILL CLARIFIES THE COMMISSION'S AUTHORITY TO ESTABLISH RULES AND REGULATIONS FOR THE TRANSPORTATION OF HAZARDOUS MATERIALS BY INTRASTATE RAILROAD COMMON CARRIERS.

ADDITIONALLY, AS A MATTER OF INFORMATION THE COMMISSION CURRENTLY HAS FILED REGULATIONS ON THE TRANSPORTATION OF HAZARDOUS MATERIALS BY RAILROAD COMMON CARRIERS. THESE REGULATIONS ADOPT THE EXISTING FEDERAL

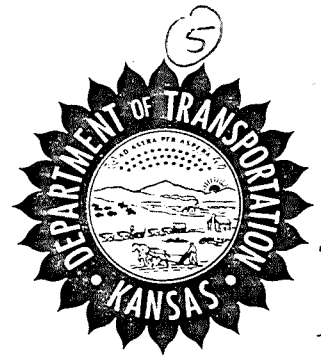
REGULATIONS ON THE TRANSPORTATION OF HAZARDOUS MATERIALS WHICH ARE NOT
IN CONFLICT WITH KANSAS STATUTE OR REGULATIONS.

SHOULD YOU HAVE ANY QUESTIONS, AT THIS TIME I WILL ATTEMPT TO ANSWER
THEM.

1/23/85

KANSAS DEPARTMENT OF TRANSPORTATION

STATE OFFICE BUILDING—TOPEKA, KANSAS 66612



JOHN B. KEMP, Secretary of Transportation

JOHN CARLIN, Governor

MEMORANDUM TO: SENATE TRANSPORTATION AND UTILITIES COMMITTEE
FROM: KANSAS DEPARTMENT OF TRANSPORTATION
REGARDING: SENATE BILL 21
DATE: JANUARY 24, 1985

I. SUMMARY

SENATE BILL 21 WAS INTRODUCED BY THE SPECIAL COMMITTEE ON TRANSPORTATION AS A PRODUCT OF HEARINGS HELD DURING THE 1984 INTERIM ON PROPOSAL NO. 44 - TRANSPORTATION OF HAZARDOUS AND RADIOACTIVE MATERIALS. SECTION 1 OF THE BILL AUTHORIZES THE KANSAS CORPORATION COMMISSION TO ADOPT SUCH RULES AND REGULATIONS AS ARE NECESSARY TO ENSURE CONTINUATION OF THE FEDERAL MOTOR CARRIER SAFETY ASSISTANCE PROGRAM (MCSAP). SUCH REGULATIONS WOULD IN EFFECT BE THE FEDERAL REGULATIONS ON HAZARDOUS MATERIALS TRANSPORTATION FOUND AT 49 CFR 171 ET. SEQ. SECTION 2 OF THE BILL RESTORES LANGUAGE TO K.S.A. 8-1746, INADVERTANTLY STRICKEN LAST SESSION, WHICH PROVIDES THE SECRETARY OF TRANSPORTATION WITH THE DISCRETIONARY AUTHORITY TO PROMULGATE RULES AND REGULATIONS ON THE TRANSPORTATION OF HAZARDOUS MATERIALS.

II. COMMENTS

THE DEPARTMENT SUPPORTS THE PROVISIONS OF SENATE BILL 21 AND REQUESTS IT BE CONSIDERED FAVORABLY.

III. FISCAL IMPACT

SENATE BILL 21 WOULD NOT IMPACT THE KANSAS DEPARTMENT OF TRANSPORTATION OVER AND ABOVE THE GOVERNOR'S BUDGET RECOMMENDATION.

1/24/85
ATT. (5)

STATEMENT

By

KANSAS MOTOR CARRIERS ASSOCIATION

Concerning Senate Bill No. 21 relating to the transportation of hazardous materials and the adoption of rules and regulations by the State Corporation Commission.

Presented to the Senate Transportation & Utilities Committee, Sen. Bill Morris, Chairman; Statehouse, Topeka, Thursday, January 24, 1985.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am Tom Whitaker, Governmental Relations Director of the Kansas Motor Carriers Association with offices in Topeka. I appear here this morning representing the 1,550 member-firms of the Association and the highway transportation industry.

A Post Audit Report dealing particularly with the effectiveness of a "response" system and responsibility of a "lead agency" in the event of an emergency with hazardous material transportation in Kansas, was received by the 1984 Interim Transportation Committee.

The report recommended that the State Corporation Commission adopt the Federal Rules and Regulations governing the transportation of hazardous materials so long as such regulations are not contrary to Kansas statutes.

1/24/85
ATT. ⑥

The Interim Transportation Committee, after conducting extensive hearings, agreed with the report and instructed the KCC to adopt such regulations. The Commission now is in the process of complying with this directive. A major difficulty apparently lies with the Commission's ability to secure copies of the publications to which the federal regulations refer. A copy of such documents must be available at the Commission to comply with Kansas procedures governing the adoption of federal rules and regulations by reference.

The Kansas Motor Carriers Association publicly has offered to assist the Commission in securing those publications referenced in the federal rules and regulations. The Association reaffirms this offer to provide every appropriate assistance to the Commission to expedite adoption of the federal rules and regulations in the transportation of hazardous materials.

Adoption of the federal rules and regulations on the transportation of hazardous materials and adoption by the KCC of the Federal Motor Carrier Safety Rules and Regulations will allow Kansas to participate in the Motor Carrier Safety Assistance Program. This is the grant program available from the federal government to fund increased enforcement and inspection activity of motor carriers operating in Kansas.

The positive effect of this Interim Committee recommendation on the motor carrier industry in Kansas is a better safety performance on roads and highways and uniformity in the requirements for operation of motor vehicles between Kansas and other jurisdictions.

The Kansas Motor Carriers Association does suggest one minor amendment to Senate Bill 21. On line 54 after the word "truck", strike the word "having" and insert the words "registered for". This amendment would clarify the motor vehicles to which the act applies and eliminate any question concerning a manufacturer's rated capacity or the actual gross weight for which a vehicle is registered.

With this amendment, the Kansas Motor Carriers Association fully supports passage of Senate Bill No. 21. The bill would provide for uniformity between Kansas regulations and the federal regulations governing the safety requirements of the highway transportation industry.

We thank you for the opportunity to offer testimony to the Committee today. I will be pleased to respond to any questions you may have.

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Testimony by the Division of Emergency

Preparedness - SB 21 & SB 22

Our purpose is to provide information concerning the responsibilities of the Division of Emergency Preparedness as it pertains to the transportation of hazardous materials. This is for your use in deliberations concerning various legislative actions.

Our concern is the response to accidents or incidents when hazardous material carriers are involved. KSA 48-928 requires that the Division of Emergency Preparedness serve as the coordinating agency for all agencies that regulate any matter affecting the transportation of hazardous material. Also to set up an informational system for reporting and coordinating response of hazardous material accidents. We do this by requesting immediate notification of hazardous material spills while in transit. This has been forthcoming through County Emergency Preparedness organizations, Sheriffs, Fire organizations, Police, and Kansas Highway Patrol. We then insure response to the accident through county and State resources, if necessary we respond ourselves. We habitually offer handling advice obtained from our own resources or from technical organizations such as Chemtrec (an organization of chemical manufacturers).

To enhance our ability to respond to and document transportation accidents of hazardous materials we have requested additional personnel in the FY-86 State Budget to man our communications center 24 hours a day. The Department of Health and Environment and the Kansas Highway Patrol have concurred with this concept.

1/24/85
ATT. ②

PRESENTATION BY RON CALBERT
KANSAS STATE LEGISLATIVE BOARD
UNITED TRANSPORTATION UNION

To: SENATE TRANSPORTATION COMMITTEE (SB 22)

JANUARY 24, 1985

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I AM RON CALBERT, DIRECTOR, KANSAS STATE LEGISLATIVE BOARD, UNITED TRANSPORTATION UNION, AUTHORIZED TO SPEAK FOR OUR SEVEN THOUSAND (7,000) ACTIVE AND RETIRED MEMBERS AND THEIR FAMILIES WHO RESIDE IN KANSAS.

MR. CHAIRMAN, WE RISE IN SUPPORT OF SENATE BILL No. 22, CONCERNING TRANSPORTATION OF HAZARDOUS MATERIALS BY RAILROAD COMMON CARRIERS.

THE VAST VARIATIONS IN TERRAIN, CLIMATE AND POPULATION PATTERNS WITHIN THIS NATION, LOGICALLY REQUIRE THAT THE STATES RETAIN SUFFICIENT FLEXIBILITY TO ADOPT THE FEDERAL HAZARDOUS MATERIALS TRANSPORTATION ACT'S (PL 93-633) RULES AND REGULATIONS WHERE NECESSARY TO MEET CHANGING SAFETY NEEDS ALONG RAILROAD ROUTES.

STATES CAN ACHIEVE ENFORCEMENT MORE EFFICIENTLY; AND, TO THE EXTENT OF THEIR AUTHORITY UNDER STATE LAW, LOCAL GOVERNMENTS CAN ALSO EFFECTIVELY ENFORCE HAZARDOUS MATERIALS SAFETY REGULATIONS.

MANY STATES HAVE MADE VALUABLE AND WORTHWHILE ADDITIONS TO RAILROADS SAFETY AND SUCH CREATIVE EFFORTS HAVE PROVED TO BE AND SHOULD CONTINUE TO BE FRUITFUL SOURCES FOR STRENGTHENING RAIL SAFETY.

WE STRONGLY SUPPORT AND URGE THE COMMITTEE SUPPORT THE STATE CORPORATION COMMISSION ADOPTING RULES AND REGULATIONS RELATING TO INTERSTATE TRANSPORTATION OF HAZARDOUS MATERIALS BY RAILROADS.

THANK YOU.

1/24/85
RTT. ⑧