

Approved: Carl Dean Holmes
Date 3/14/96

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Vice Chairperson Joann Freeborn at 3:35 p.m. on February 19, 1996, in Room 526-S of the Capitol.

All members were present except: Chairperson Carl Holmes - Excused
Representative Doug Lawrence - Excused
Representative Vaughn Flora - Excused

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

Conferees appearing before the committee: Chris McKenzie, Chair, 1995 Environmental Law Task Force
Jamie Clover Adams, Kansas Chemical & Fertilizer Association
Frank H. Moussa, Division of Emergency Management
Ron Hammerschmidt, Ks. Dept. of Health & Environment
Bill Bider, Kansas Department of Health & Environment

Others attending: See attached list

Vice Chairperson Freeborn opened the meeting by announcing that the sub-committee has finished their work on HB 2711 and it will be worked in full committee after Chairperson Holmes is back. The Revisor will try to get a report out to all the committee members as soon as possible on the substitute bill for HB 2711.

Hearing on HB 2964: Statewide system for reporting and coordinating responses to spills of hazardous chemicals

Chris McKenzie. Mr. McKenzie appeared as Chair of the 1995 Environmental Law Task Force and in support of HB 2964. (Attachment #1) The language contained in the bill is in response to a recommendation of the Task Force recognizing that the various agencies who are responsible for reporting spills have to respond to multiple federal and state agencies. The idea is to create a centralized information system that would streamline the movement of information.

Jamie Clover Adams. Ms. Adams, Vice President of Government Affairs for the KFCA, asked for favorable consideration of HB 2964. (Attachment #2)

Frank Moussa. Mr. Moussa, Technological Hazards Administrator for the Adjutant General, Division of Emergency Management, supported the idea of HB 2964 and reported that the Lieutenant Governor's Office is currently studying this reporting system on a larger scale. (Attachment #3)

Vice Chairperson Freeborn distributed a fax to the committee members received today from Roger O'Kane in Independence, Kansas, who is a member of the State Emergency Response Commission. He feels there needs to be a total review of the state response capabilities. (Attachment #4)

Ron Hammerschmidt. Mr. Hammerschmidt, Director of the Division of Environment for KDHE, offered comments on HB 2964. (Attachment #5)

Questions followed after which the hearing was closed.

Hearing on HB 3004: Definition of "facility" for purposes of treatment, storage or disposal of hazardous waste

Chris McKenzie. Mr. McKenzie appeared for the 1995 Environmental Law Task Force in support of HB 3004 which they recommended. They recommend redefining "permitted facility" to mean the specific tract of land covered by the permit rather than all contiguous properties under the same ownership and operation. (Attachment #6)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m.. on February 19, 1996.

Bill Bider. Mr. Bider, Director of the Bureau of Waste Management, KDHE, testified in opposition to **HB 3004**. By eliminating the word "contiguous" from the definition of "facility" as this word applies to businesses that treat, store, or dispose of hazardous waste, KDHE would be unable to fully enforce the federal hazardous waste requirements. (Attachment #7)

Questions followed after which the hearing was closed.

Hearing on HB 3005: Fees imposed for programs of the division of environment of the department of health and environment required to be statutorily authorized and subject to a maximum

Ron Hammerschmidt. Mr. Hammerschmidt appeared to support **HB 3005** with some recommendations. The first recommendation would define funds collected by the division which are not covered by the requirements of the bill, the second would involve a number of technical corrections to clarify the bill and identify all fees, the third would request to increase many of the proposed caps contained in the bill, and the fourth would explain the distribution of fund deposits. (Attachment #8)

Questions followed after which the hearing was closed.

Copies of a memorandum to David Young in the Office of Lieutenant Governor from Dan Gronniger, Staff Attorney for the Department of Administration, was provided to the committee members by Frank Moussa. The subject of the memo was *Exploring Potential for Centralizing and Streamlining the Reporting of Hazardous Materials and Substances Spills and Accidents* and related to the hearing on **HB 2964**. (Attachment #9)

Vice Chairperson Freeborn adjourned the meeting at 4:38 p.m.

The next meeting is scheduled for February 20, 1996.

ENERGY AND NATURAL RESOURCES COMMITTEE
COMMITTEE GUEST LIST

DATE: February 19, 1996

NAME	REPRESENTING
FRANK H. MOUSSA	The Adjutant General, ^{Division of} Management
LOYD E. KRASE	" " " "
John W. Mitchell	KS Dept. of Health + Environment
Ron Hounghan, ^{husb}	KDHE
Ray Kuehn	KOHE
Meyer Dign	Kerny + Assoc.
Jamie Clover Adams	KS Fertilizer & Chemical Assn
PHILIP HURLEY	PATRICK J. HURLEY & CO.
DAVID B. SCHLOSSER	PETE MCGILL Assoc.
Dave Holt	Western Resources
Chryis McKenzie	League of Ks. Nurses
Rich McKee	KLA
Julie Hein	Hein, Ebert + Weir


Emergency



**League
of Kansas
Municipalities**

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 300 S.W. 8TH TOPEKA, KS 66603-3896 (913) 354-9565 FAX (913) 354-4186

TO: House Energy and Natural Resources Committee

FROM:  Chris McKenzie, Executive Director

DATE: February 19, 1996

SUBJECT: HB 2964

I appear today as Chairman of the 1995 Environmental Law Task Force and in support of HB 2964. The Task Force's report contained the following provisions concerning this issue:

SUBJECT: CENTRALIZED SPILL INFORMATION SYSTEM

Statute: K.S.A. 65-5701 et seq.,

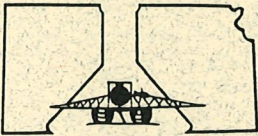
Issue: The Kansas Emergency Planning and Community Right-to-Know Act was enacted in 1987 and provides for State Emergency Response Commission comprised of at least 9 state officers or department secretaries. At this time there is no mechanism to provide for prompt interagency communication in the event of a hazardous materials incident. Furthermore, private and public organizations charged with notifying the state of an incident are charged with notifying multiple agencies with changing agency contact persons and phone numbers.

RECOMMENDATION: Amend the Act, possibly in K.S.A. 65-5706 or 65-5703(g), to provide for a one-call, centralized spill information system, ensuring that both KDHE and the Adjutant General's Office are contacted. The Task Force's contacts with the agencies indicates some informal willingness to cooperate in the creation of a one-call system. See suggested language below.

Thank you for your consideration.

House E+NR Comm.
2-19-96
Attachment 1

KANSAS FERTILIZER & CHEMICAL ASSOCIATION



KFCA is committed
to professional
development and
business viability for
the plant nutrient
and crop protection
industry in Kansas.

**STATEMENT OF THE
KANSAS FERTILIZER AND CHEMICAL ASSOCIATION
TO THE
HOUSE ENERGY & NATURAL RESOURCE COMMITTEE
REP. CARL HOLMES, CHAIR
REGARDING H.B. 2964
FEBRUARY 19, 1996**

House E+NR Comm.
2-19-96
Attachment 2

THE KANSAS FERTILIZER AND CHEMICAL ASSOCIATION

..... A VOLUNTARY PROFESSIONAL ASSOCIATION FOR THOSE INVOLVED IN THE PLANT NUTRIENT AND CROP PROTECTION INDUSTRY. KFCA REPRESENTS OUR NEARLY 500 MEMBERS INTERESTS IN LEGISLATIVE MATTERS AT ALL LEVELS OF GOVERNMENT, AS WELL AS PROVIDING EDUCATIONAL OPPORTUNITIES AND BUSINESS SERVICES. THE INDUSTRY IS COMMITTED TO PROFESSIONAL DEVELOPMENT AND BUSINESS VIABILITY FOR THE PLANT NUTRIENT AND CROP PROTECTION RETAIL INDUSTRY.

Mr. Chairman and members of the committee, I am Jamie Clover Adams, Vice President of Government Affairs for the Kansas Fertilizer and Chemical Association (KFCA). We thank you for giving us the opportunity to appear today in support of H.B. 2964.

KFCA is the professional trade association for the state's plant nutrient and crop protection industry. Our nearly 500 members are primarily retail dealers scattered across Kansas. They sell and custom apply pesticides and fertilizers for Kansas producers. Our membership also includes distribution firms, manufacturer representatives, equipment manufacturers and others who serve the industry.

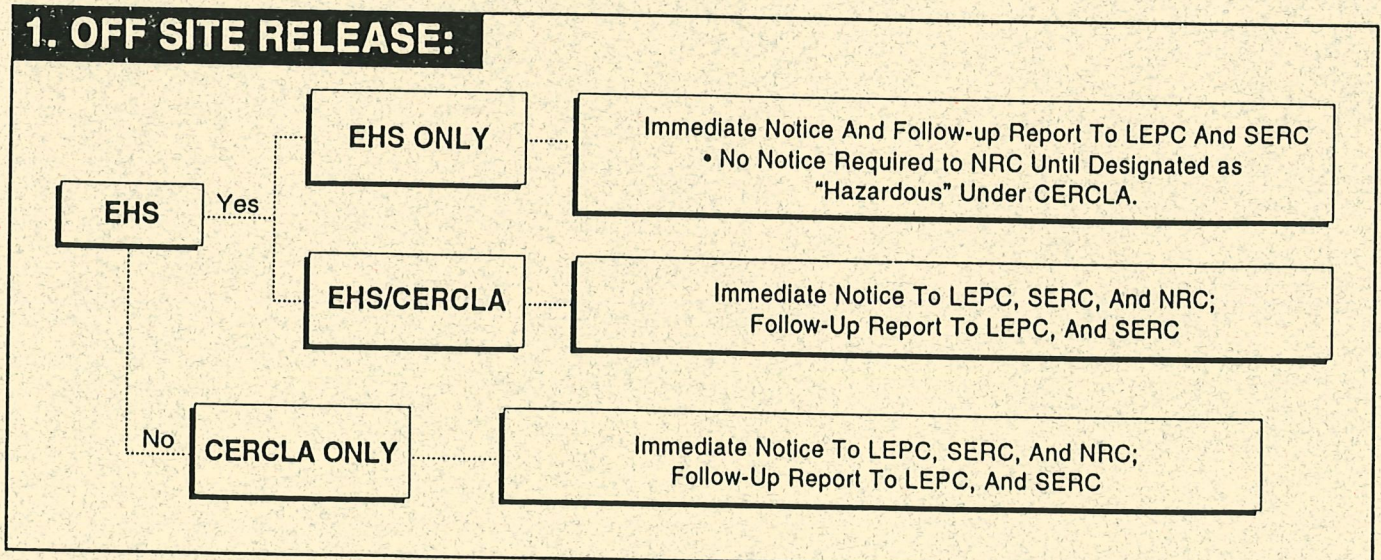
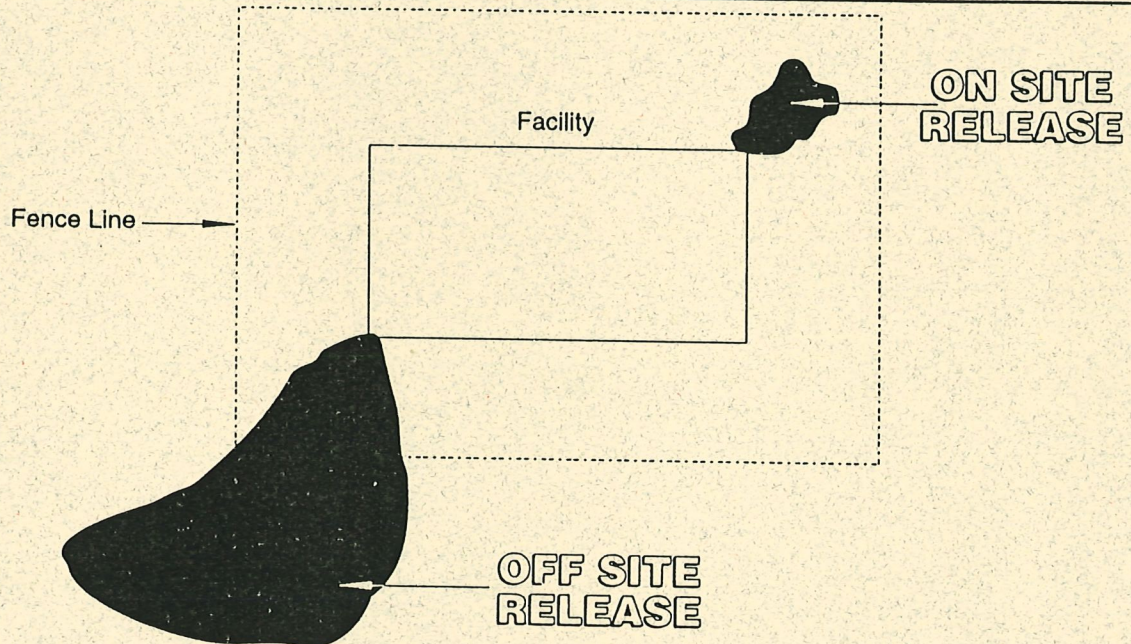
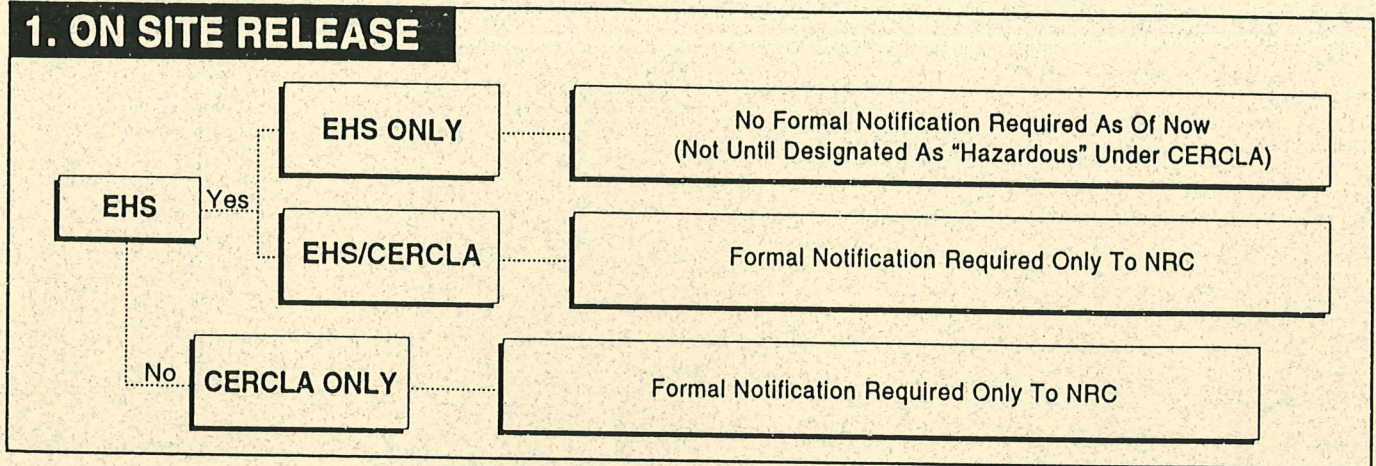
KFCA retail members handle many fertilizers and agriculture chemicals that are considered hazardous under various federal and state statutes. KFCA supports H.B. 2964 because it allows a retail dealer to make one telephone call to report an accidental release and then allows him to concentrate on the most important thing -- controlling the spill to minimize environmental contamination. I have attached a schematic of notification under CERCLA and SARA Title III and a copy of DowElanco's Emergency and Environmental Resource Guide to give a flavor for the current state of affairs.

KFCA asks for your favorable consideration of H.B. 2964. I would stand for any questions you may have.

Figure 8.1

Emergency Release Notification Flowchart:

CERCLA And Title III Combined Requirements



4
2-8

Handling Media Inquiries

First, Take Five

1. Caller's Name
2. Affiliation
3. Nature of Inquiry
4. Urgency of Situation/Deadline
5. Phone Number

Then, Think SOS

Seek Assistance, Call

DowElanco Public Affairs: (317) 337-4797

Organize and Share Facts

Stay Involved

Remember the Three C's

Communicate, Cooperate, but
don't Confront

Notes

Dow Chemical Emergency Services
(517) 636-4400
(collect calls accepted)

Form No. 512-00-003 Rev. 7/95



Emergency and Environmental Resource Guide

Dow Chemical Emergency Services
(517) 636-4400
(collect calls accepted)

Handling Emergency Calls

First, Document Call

1. Caller's Name & Phone Number
2. Product Involved
3. Location of Incident
4. Magnitude of Incident
5. Classify Incident:
 - Human Exposure
 - Animal Exposure
 - Spill/Release
 - Fire
6. Define Who Owns Title to Product

Then, Route Call

For DowElanco products, call
Dow Chemical Emergency Services
collect at (517) 636-4400.
or
For non-DowElanco products, call
CHEMTREC at (800) 424-9300.

Emergency Response Contacts

CHEMTREC (800) 424-9300
Dept. of Transportation
(DOT) (800) 424-8802
Dow Chemical Emergency
Services (517) 636-4400
Environmental Protection Agency
(EPA) National Office (202) 260-2090
EPA National Pesticide
Telecommunication Network ... (800) 858-7378
or
(800) 858-7377
General DowElanco Product Information:
Crop Protection Products (800) 258-3033
Specialty Products (800) 352-6776
National Response
Center (NRC) (800) 424-8802
or
(202) 267-2675
U.S. Coast Guard (800) 424-8802
University of Illinois National Animal Poison
Control Center (800) 345-4735 Ext. 115

Emergency Response Contacts

(Fill in phone number)

Hospital _____
EMS/Ambulance _____
Local Fire Department _____
Local Police Station _____
State Police/Sheriff _____
Regional EPA Office _____
Poison Control Center _____
Local Emergency Planning Committee _____
State Emergency Response Commission _____
State Environmental Agency _____
Board of Health _____
State Agriculture Office _____
Clean-up Specialist _____

5
2-X

STATE OF KANSAS
THE ADJUTANT GENERAL
DIVISION OF EMERGENCY MANAGEMENT
2800 S.W. TOPEKA BLVD.
TOPEKA, KANSAS 66611-1287

Testimony Presented to House Energy and Natural Resources
by
Frank H. Moussa, Technological Hazards Administrator
February 19, 1996

House Bill 2964

An act amending the Kansas Emergency Planning and Community Right-to-Know Act; providing for a statewide one-call reporting system; amending K.S.A. 65-5706 and repealing the existing section.

Agency Comments:

The Adjutant General's Department, Division of Emergency Management supports the one-call reporting system as it relates to the Superfund Amendment and Reauthorization Act under Title III of the Emergency Planning and Community Right-to-Know Act. K.S.A. 65-5706 focuses only on the emergency planning and community right-to-know chemicals and reportable quantity releases as it pertains to those specific chemicals.

The Agency currently has a Memorandum of Understanding with Kansas Department of Health and Environment on notification and coordination of remediation action pertaining to those specific list of chemicals as defined by the EPA under Section 304 of P.L. 99-499.

The Lieutenant Governor's Office is currently studying this one-call reporting system issue on a larger scale since this bill has implications for all state agencies that have responsibilities regarding hazardous materials, waste or substances. Recommend consideration of the results of the Lieutenant Governor's Office's study in addition to comments from state agencies that have responsibilities for spill reporting.

House Bill 2964 should clearly state that the "one-call centralized reporting system is for those chemicals identified by the EPA's list under the Emergency Planning and Community Right-to-Know Act (EPCRA) to be used by the public and public agencies to report and coordinate responses to spills of those hazardous chemicals under EPCRA."

This Bill (2964) does not exclude the spiller from its responsibility to notify local government, the National Response Center (NRC) or any other federal entity as required by law.

This proposed bill should not imply the one-call centralized reporting under other environmental programs other than EPCRA (i.e., Toxic Substance Control Act (TSCA), Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or Resource Conservation and Recovery Act (RCRA)), Oil Pollution Control Act, Clean Water Act, and Clean Air Act.

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Attachment 3

Fiscal Impact

- * One-call centralized reporting system for EPCRA under K.S.A. 65-5706.

No additional funds are needed. The Adjutant General's Department, Division of Emergency Management has the necessary staff to take on this mission.

- * One-call centralized reporting system for all environmentally regulated chemicals.

\$300,000 - The Agency would have to employ more staff and operate a 24-hour emergency operation center with 5 FTEs to receive all calls that address other regulated programs beside EPCRA. The Agency would have to provide an 800 number to facilitate all incoming calls.

- * One-call centralized reporting system operated by private entity.

\$400,000 - The Kansas Division of Emergency Management is assuming this would include the calls already being made currently under the EPCRA program, all environmentally regulated EPA programs, all natural disasters notification currently handled by KDEM and all Nuclear Power Plant notification currently handled by KDEM.



Automotive Controls Corporation

1300 West Oak, Box 788, Independence, KS. 67301-0788 (316) 331-1000

An Ecklin Company

Date **February 19, 1996** Copy To **Marsha Ayres**
To **Rep. Carl Holmes**
From **Roger O'Kane**
Subject **HB 2964 - One point reporting.**

HB 2964 will be presented before Committee this date for public comment. I was first made aware of this proposal's existence on Saturday, February 17, 1996 at an informal luncheon held in Kansas City.

Without having an opportunity to review this proposal, it is my understanding this proposal is intended to assist the Kansas - State Emergency Response Commission (SERC) and various State Chemical Spill Response Agencies in providing a "One Call Reporting Mechanism", for accidental spill release notification in the State of Kansas.

While I applaud the initiative of the committee in reviewing this section of Article 65 and support their recommendation for change of the State Statute, I am disappointed that no member of the Kansas State SERC or the two primary state chemical spill response agencies, (KDHE and DEM) participated in the development of this proposal.

The federal mandates that promulgated Articles 48 and 65 were first introduced in 1986. This federal mandate established the Kansas SERC and 105 Local LEPC's as the planning systems for Kansas' chemical planning, reporting and spill response activities. Since 1986 the roles of the LEPC and county Emergency Management (EM) have changed and are in the process of taking on a new direction of "All Hazards Planning". One of the major stumbling blocks facing the SERC and LEPC's in the development of an all hazards approach, is the lack of authority and financial support provided under article's 48 and 65.

I have requested Joyce McCrary (Governor Graves' Representative to the Kansas SERC) to encourage Governor Graves to appoint a Governors Task Force to evaluate the needs for change in Article's 48 and 65. It is my hope this task force will address the key elements of these articles and provide the necessary incentives to maintain compliance to the federal mandates. I feel we need to expand the roles of the SERC and LEPC's to fully utilize the human resources available to the LEPC's in the event of any disaster in the State of Kansas.

The Kansas Emergency Manager's Association, Kansas' 105 LEPC's and the Kansas SERC have all conducted independent studies of the deficiencies associated with Kansas Articles 48 and 65. While the leaders from each of these groups have come to the

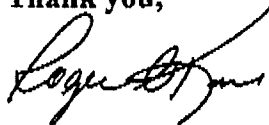
*House E+NR Comm.
2-19-96
Attachment 4*

conclusion that no single effort will succeed in making these necessary changes, to date no organized effort has been established to pool our collective resources.

If a Governors task Force is created to review Kansas' Articles 48 and 65, it is my hope representatives from the above mentioned groups, the various state agencies charged responsible for maintaining these programs and members of your sub-committee will sit down together and review the real issues facing the State of Kansas' Emergency response capabilities.

I would like to go on public record as saying I applaud your efforts to assist the local and state response activities in their reporting process. However I want the Kansas State Legislature to understand this is not the total review of Article's 48 and 65 needed to enhance our state response capabilities. The constituents of the State of Kansas expect our state and local response agencies to be prepared with the proper training and equipment necessary to minimize the effects of any catastrophe which might bestow them. We are now faced with the opportunity to enhance the state response programs and to meet their expectations.

Thank you,



Roger O'Kane

State of Kansas

Bill Graves



Governor

Department of Health and Environment

James J. O'Connell, Secretary

Testimony presented to

House Energy and Natural Resources

by

The Kansas Department of Health and Environment

House Bill 2964

Good afternoon members of the committee. I am Ron Hammerschmidt, Director of the Division of Environment for the Department of Health and Environment. I am here today to offer comments on House Bill 2964.

This bill amends the state emergency planning and community right to know act, EPCRA. This statute defines the responsibilities of industry, KDHE, Division of Emergency Management, local emergency planning committees and others in reporting, data collection response and other activities. The bill requires KDHE and DEM to work together to establish a one-call system for the reporting spills of hazardous chemicals. The two agencies, our Bureau of Air and Radiation and the Division of Emergency Management, already maintains this type of agreement. Perhaps we need to do a better job of informing the business community of the availability of this reporting service.

It should be noted that the EPCRA program only covers hazardous chemicals. There are a wide variety of spills which pose a significant threat to the environment which do not fall under the requirements of EPCRA. For example, a recent spill of bovine blood on Highway 27 south of Tribune to Syracuse covered a wide area. It is not a reportable spill under EPCRA. Neither was a spill of milk several years ago which killed all aquatic life in several miles of stream. Additional example are releases of refined petroleum products, radioactive materials, crude oil, brines, and a long list of potentially harmful substances which are not specified in the EPCRA statutes. Staff of the department both within the Bureau of Environmental Remediation and Bureau of District Operations routinely respond to spills of materials. Some materials like the blood and milk spills may pose unexpected harms. Other materials such as refined petroleum products pose an immediately and readily identified hazards. Our role in responding to these spills is to evaluate potential hazards and work with the response teams, public or private, to minimize public health and environmental impacts and to insure the cleanup or response action does not create additional hazards or damage. We do not act as First Responders or HAZ Mat teams.

During the years 1994 through 1995, 2,382 spills were reported within Kansas. The nature and sources of these spills are detailed in the attachment. Some of these spills were reported under EPCRA. We work with the Division of Emergency Management to minimize extra reporting. A number of these spills do not fall under EPCRA requirements and are reported directly to DEM. In many cases followup information and oversight and response actions are often necessary. This requires KDHE staff to work with the party responsible for spills during and after the initial response is completed.

There is also a requirement for reporting by the responsible party of many of these spills through the National Response Center operated by the Coast Guard. This reporting must be performed in addition to any state level reporting. Elimination of the requirement to report spills of hazardous chemical at the state level, in order to reduce this duplicate state and federal reporting, will result in inordinate delays in responding by KDHE and others. Often we are notified by the NRC well after the spill has occurred.

There has been speculation that the intent of this bill is to create a one stop system for all spills. House Bill 2964 reaffirms the existing system for coordinated EPCRA reporting. It does not create a mechanism for reporting of all spills which pose a threat to the environment of Kansas. If the intent of HB 2964 is to create a single spill reporting system for all situations, we recommend a more thorough review by all parties including KDHE, Division of Emergency Management, Department of Agriculture, Corporation Commission, the Highway Patrol, local governments and business representatives.

We are available to respond to questions on this topic. Thank you for your attention this afternoon.

Presented by: Ron Hammerschmidt, Ph.D.
 Director, Division of Environment
 Department of Health and Environment
 February 19, 1996

MATERIAL SPILLED	NUMBER OF SPILLS JAN - DEC 1994	NUMBER OF SPILLS JAN - DEC 1995
ACIDS	11	10
AGRICULTURE CHEMICALS	0	2
ALCOHOL	4	11
ANIMAL/VEGETABLE OIL	0	0
ASPHALT	2	0
BRINE	575	505
CAUSTICS	7	3
CRUDE OIL	740	663
DIESEL FUEL	62	56
FERTILIZER	22	13
GASOLINE	21	14
HERBICIDES	7	6
INSECTICIDES	3	2
METALS	0	0
ORGANIC SOLVENTS	8	3
OTHER OIL	62	54
OTHER FUEL	17	18
OTHER	39	38
PCB	4	3
UNKNOWN	1	9
WASTE OIL	5	11
TOTAL NUMBER OF MATERIALS SPILLED	1,590	1,421
TOTAL NUMBER OF SPILLS	1,253	1,129

A single spill may consist of more than one material spilled (i.e., in 1995 at the 1,129 spill sites, 1,421 materials were spilled).



**League
of Kansas
Municipalities**

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 300 S.W. 8TH TOPEKA, KS 66603-3896 (913) 354-9565 FAX (913) 354-4186

TO: House Energy and Natural Resources Committee
FROM: Chris McKenzie, Executive Director
DATE: February 19, 1996
SUBJECT: HB 3004

I appear today as Chairman of the 1995 Environmental Law Task Force and in support of HB 3004. The Task Force's report contained the following provisions concerning this issue:

SUBJECT: HAZARDOUS WASTE: DEFINITIONS

Statute: K.S.A. 65-3430

Issue: K.S.A. 65-3430 et seq. requires a permit for the construction or modification of an off-site or on-site hazardous waste facility. The term "facility" is defined in paragraph (c) of K.S.A. 65-3430 as follows:

(c) "Facility" means all contiguous land, structures and other appurtenances and improvements on the land utilized for the purpose of treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units.

The problem with this definition is that when a permit is issued for a "facility" it can include properties which have no relationship to the operation of the disposal activity which is being permitted. In the instance of large corporate operations (e.g., Boeing in Sedgwick County), the emergency operations plans required for the "facility" for which the permit is issued may even conflict with emergency operations plans for other parts of the operations.

RECOMMENDATION: Amend K.S.A. 65-3430 to provide for a new definition for a "Permitted Facility" which would mean the specific tract of land covered by the permit rather than all contiguous properties under the same ownership and operation.

Thank you for your consideration.

House E+NR
2-19-96
Attachment 6

State of Kansas

Bill Graves



Governor

Department of Health and Environment

James J. O'Connell, Secretary

Testimony presented to
House Energy and Natural Resources Committee
by
The Kansas Department of Health and Environment

House Bill 3004

The Kansas Department of Health and Environment appreciates this opportunity to present testimony in opposition to House Bill 3004. Although this bill eliminates just a single word from the hazardous waste statutes, it would have major implications on the Kansas Hazardous Waste Regulatory Program and on Kansas businesses. By eliminating the word "contiguous" from the definition of "facility" as this word applies to businesses that treat, store, or dispose of hazardous waste, KDHE would be unable to fully enforce the federal hazardous waste requirements. If KDHE could not fully enforce federal requirements, EPA could choose to withdraw state program authorization and the associated federal grant which is approximately \$1.0 million per year.

Currently, the definition for a hazardous waste facility is nearly identical to the federal regulatory definition as it was in effect in 1992. Paraphrasing the definition, a hazardous waste facility includes not only the actual hazardous waste treatment, storage, or disposal area; it also includes all other business activities and structures which are present on "contiguous" property. This means all buildings, sewer systems, wastewater treatment units, chemical storage areas, and manufacturing processes are considered as part of the "permitted facility."

This expanded definition of "the facility" is very important as it applies to the federally mandated RCRA corrective action process. As part of the hazardous waste facility permitting process or permit renewal process, each facility must identify each solid waste management unit (SWMU) at the facility and determine whether any releases of hazardous constituents have occurred. SWMUs include things such as sewer systems, storage tanks, drain sumps, chemical piping, and on-site wastewater treatment plants. Some complex facilities may have many SWMUs. If releases have occurred from SWMUs, facility owners and operators must determine appropriate corrective measures and implement remedial action. This is a federal requirement and it was established because hazardous waste treatment facilities have historically been found to have other operations in addition to the actual hazardous waste management activity which have resulted in releases of hazardous constituents to the environment.

If this bill passes, Kansas businesses would not be relieved of any requirements under the RCRA corrective action process because EPA would ensure that things occurred in accordance with federal laws and regulations. While an approved state does have some flexibility to implement the hazardous waste program, this deviation is believed to be much too significant to satisfy EPA. Passage of the bill would ensure that our regulated community would work with EPA rather than KDHE as certain hazardous waste actions are implemented. We have been told many times by Kansas businesses that they would prefer to deal with KDHE rather than EPA.

In summary, this bill would jeopardize KDHE's hazardous waste program authorization and funding, but it would not relieve businesses of any requirements. We strongly recommend that the committee vote no on this change to the hazardous waste statutes.

Thank you for this opportunity to testify on House Bill 3004.

Testimony presented by: Bill Bider
Director, Bureau of Waste Management
Division of Environment
February 19, 1996

House E+NR Comm.
2-19-96
Attachment 7

State of Kansas

Bill Graves



Governor

Department of Health and Environment

James J. O'Connell, Secretary

Testimony presented to

House Energy and Natural Resources Committee

by

The Kansas Department of Health and Environment

House Bill 3005

Good afternoon members of the committee. I am Ron Hammerschmidt, Director of the Division of Environment for KDHE. I appear today to support HB 3005. In brief this bill creates a statutory cap requirement for all fees collected by the Division. There are four areas that I will address in my testimony. The first is a strong recommendation to define funds collected by the division which are not covered by the requirements of HB 3005. The second are a number of technical corrections to clarify the bill and identify all fees. Third a request to increase many of the proposed caps contained in the bill. Fourth and finally, an explanation of the distribution of fund deposits.

The department has no opposition to the requirements of HB 3005 on permit and emission fees. There are however a number of programs which collect funds which are neither permit or emission fees. For example, fines are assessed and collected as part of our enforcement programs. In addition, the remedial programs routinely collect oversight and cost recovery payments related to program activities. The latter are paid by Potential Responsible Parties (PRPs) under negotiated consent agreements. We do not believe it is your intent to eliminate these collections or include these collections with the permit or emission fees. Therefore, we recommend the adoption of the amendment titled "Exclusion of Other Funds." The adoption of this amendment is essential.

The department supplied information on the fees collected by our programs prior to the drafting of HB 3005. It appears that we may not have provided sufficient detail to identify and quantify all of the fees collected by the division which should have been included in the bill. For example several radiation program fees are not included in the bill. Other examples include storage tank program fees which do not have a designated cap but rather are to cover the cost of program operation. The second amendment titled "Base Technical Amendments" includes the additional fees which should be added to continue current levels of fee collection for programs of the Division of Environment. The language added for the Radiation program fees in this amendment sets the caps at an amount contained in draft regulations currently under development by the department. We can address individual changes if you have questions.

In the drafting of the bill, the statutory caps in section 2 through 8 appear to be primarily the current fees assessed and collected by the department including some fees for which fee increases are anticipated in the very near future. We request that you allow some flexibility to raise fees within the programs. There are two types of increases for review and consideration. Some programs are currently developing new fee regulations designed to recover the cost of the program to state general funds which were not included when HB 3005 was drafted. An example of this type of increase can be found in the Radiation Program fees. A second type is a general increase in the proposed cap to allow some increase in the future. For most fees not in the first type, we request the amounts for caps in HB 3005 be increased by 20 to 25%. We have listed our recommendations for the increase of the cap amounts in the

House E & NR Comm.

2-19-96

Attachment 8

amendment titled "Technical Amendments Plus Increase." The changes in the "Base Technical Amendment" balloon are also included in this draft. Therefore, you do not need to adopt the "Base Technical Amendment" language if the "Technical Amendments Plus Increase" language is adopted. We do not recommend increases for the air quality emission fee or power generating fee in either set of amendments.

Table One of the attachments shows the depository for the collected fees. You will note that the majority of the permit fees collected are deposited in the state general fund. Appropriations for operation of the division's programs in these areas are made from general fund during the annual budgetary process. In recent years, although not this session, there has been encouragement for programs to recover at least state general fund supported program costs in the form of fees. The impact of the proposed caps under HB 3005 will be to limit movement toward the recovery of program costs to completely offset SGF expenditures. (There are a several dedicated fee funds, for example the solid waste fee fund and storage tank fees which are included in the table but are not addressed by this bill because the fee amount is set by statute.)

The secretary requests your adoption of two items during your action of HB 3005. First, the adoption of the "Exclusion of Other Funds" amendment is requested. Second, the adoption of either the "Base Technical Amendments" or "Technical Amendments Plus Increase" language is requested. Our preference is for adoption of the latter. We are available to work with the revisor on the incorporation of the amendments into the bill.

Thank you for your attention. We are available to answer any questions.

Presented by: Ronald Hammerschmidt, Ph.D.
Director
Division of Environment
February 19, 1996

HOUSE BILL No. 3005

By Committee on Energy and Natural Resources

2-12

9 AN ACT concerning certain fees established by the secretary of health
10 and environment; amending K.S.A. 65-3022, 65-5309, 65-5704 and
11 82a-1206 and K.S.A. 1995 Supp. 65-166a, 65-3008 and 65-3024 and
12 repealing the existing sections.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 New Section 1. Any fee imposed by the secretary of health and en-
16 vironment for a program administered by the division of environment
17 shall expire at 12 midnight June 30, 1996, unless the fee is specifically
18 authorized by statute and is subject to a maximum amount established by
19 statute.

20 Sec. 2. K.S.A. 1995 Supp. 65-166a is hereby amended to read as
21 follows: 65-166a. (a) *Subject to the limitations of subsection (d), the sec-*
22 *retary of health and environment is authorized and directed to establish*
23 *by duly adopted rules or shall establish by rules and regulations a schedule*
24 *of fees to defray all or any part of the costs of administering the water*
25 *pollution control permit system established by K.S.A. 65-165 and 65-166*
26 *and amendments thereto. The amount of the fees so established shall be*
27 *based upon the quantity of raw wastes or treated wastes to be discharged,*
28 *units of design capacity of treatment facilities or structures, numbers of*
29 *potential pollution units, physical or chemical characteristics of discharges*
30 *and staff time necessary for review and evaluation of proposed projects.*
31 *In establishing the fee schedule, the secretary of health and environment*
32 *shall not assess fees for permits required in the extension of a sewage*
33 *collection system, but such fees shall be assessed for all treatment devices,*
34 *facilities or discharges where a permit is required by law and is issued by*
35 *the secretary of health and environment or the secretary's designated*
36 *representative. Such fees shall be nonrefundable.*

37 (b) Any such permit for which a fee is assessed shall expire five years
38 from the date of its issuance. The secretary of health and environment
39 may issue permits pursuant to K.S.A. 65-165 and amendments thereto
40 for terms of less than five years, if the secretary determines valid cause
41 exists for issuance of the permit with a term of less than five years. The
42 minimum fee assessed for any permit issued pursuant to K.S.A. 65-165
43 and amendments thereto shall be for not less than one year. Permit fees

permit or emission

The definition of permit or emission fee does not include sureties, bonds, financial assurance requirements, taxes, damages, monies recovered for violations of statutes and regulations or monies collected, expended or recovered on the department for environmental cleanup, reclamation and/or remediation or laboratory fees of find.

subject to limitations established in subsection (d).

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Session of 1996

HOUSE BILL No. 3005

By Committee on Energy and Natural Resources

2-12

9 AN ACT concerning certain fees established by the secretary of health
10 and environment; amending K.S.A. 65-3022, 65-5309, 65-5704 and
11 82a-1206 and K.S.A. 1995 Supp. 65-166a, 65-3008 and 65-3024 and
12 repealing the existing sections.
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14 *Be it enacted by the Legislature of the State of Kansas:*

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18 authorized by statute and is subject to a maximum amount established by
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21 follows: 65-166a. (a) *Subject to the limitations of subsection (d)*, the sec-
22 retary of health and environment ~~is authorized and directed to establish~~
23 ~~by duly adopted rules or shall establish by rules and regulations~~ a schedule
24 of fees to defray all or any part of the costs of administering the water
25 pollution control permit system established by K.S.A. 65-165 and 65-166
26 and amendments thereto. The amount of the fees so established shall be
27 based upon the quantity of raw wastes or treated wastes to be discharged,
28 units of design capacity of treatment facilities or structures, numbers of
29 potential pollution units, physical or chemical characteristics of discharges
30 and staff time necessary for review and evaluation of proposed projects.
31 In establishing the fee schedule, the secretary of health and environment
32 shall not assess fees for permits required in the extension of a sewage
33 collection system, but such fees shall be assessed for all treatment devices,
34 facilities or discharges where a permit is required by law and is issued by
35 the secretary of health and environment or the secretary's designated
36 representative. Such fees shall be nonrefundable.

37 (b) Any such permit for which a fee is assessed shall expire five years
38 from the date of its issuance. The secretary of health and environment
39 may issue permits pursuant to K.S.A. 65-165 and amendments thereto
40 for terms of less than five years, if the secretary determines valid cause
41 exists for issuance of the permit with a term of less than five years. The
42 minimum fee assessed for any permit issued pursuant to K.S.A. 65-165
43 and amendments thereto shall be for not less than one year. Permit fees

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1 may be assessed and collected on an annual basis and failure to pay the
2 assessed fee shall be cause for revocation of the permit. Any permit which
3 has expired or has been revoked may be reissued upon payment of the
4 appropriate fee and submission of a new application for a permit as pro-
5 vided in K.S.A. 65-165 and 65-166 and amendments thereto.

6 (c) A permit shall be required for:

7 (1) Any confined feeding facility with an animal unit capacity of 300
8 to 999 if the secretary determines that the facility has significant water
9 pollution potential; and

10 (2) any confined feeding facility with an animal unit capacity of 1,000
11 or more.

12 (d) ~~At no time shall the annual permit fee for a confined feeding~~
13 ~~facility Annual permit fees established by the secretary pursuant to this~~
14 ~~section shall not exceed:~~

15 (1) *For confined feeding facilities:*

16 (A) \$25 for facilities with an animal unit capacity of not more than
17 999;

18 ~~(2)~~ (B) \$100 for facilities with an animal unit capacity of 1,000 to
19 4,999;

20 ~~(3)~~ (C) \$200 for facilities with an animal unit capacity of 5,000 to
21 9,999; or

22 ~~(4)~~ (D) \$400 for facilities with an animal unit capacity of 10,000 or
23 more.

24 (2) *For municipal or commercial waste treatment facilities, \$185 per*
25 *million gallons per day ~~design~~ capacity or any portion thereof.* permitted

26 (3) *For municipal stormwater systems of cities having over 100,000*
27 *population, \$2,000.*

28 (4) *For industrial waste treatment facilities, \$320 per million gallons*
29 *per day ~~design~~ capacity or any portion thereof.* permitted

30 (5) *For cooling water discharges, surface disposal, no chemical ad-*
31 *dition, \$60.*

32 (6) *For cooling water discharges, surface disposal, chemical addition,*
33 *\$120.*

34 (7) *For dewatering discharges, \$60.*

35 (8) *For industrial stormwater discharges, general permit, \$40.*

36 (9) *For industrial stormwater discharges, individual permit, \$320.*

37 ~~(10) For dairy farm waste control facilities, 500 cow herd or more,~~
38 ~~\$30.~~

Covered under (d)1 A,B,C & D

39 ~~(11) For a truck washing facility for animal wastes, \$320.~~

40 (e) The secretary of health and environment shall remit all moneys
41 received from the fees established pursuant to this act to the state treas-
42 urer at least monthly. Upon receipt of such remittance, the state treasurer
43 shall deposit the entire amount thereof in the state treasury to the credit

(11)- Pretreatment permits \$320 per year

(12)- General permit \$60 per year

1 of the state general fund.

2 (f) Any confined feeding facility with an animal unit capacity of less
3 than 300 may be required to obtain a permit from the secretary if the
4 secretary determines that such facility has significant water pollution po-
5 tential.

6 (g) Any confined feeding facility not otherwise required to obtain a
7 permit or certification may obtain a permit or certification from the sec-
8 retary. Any such facility obtaining a permit shall pay an annual permit fee
9 of not more than \$25.

10 Sec. 3. K.S.A. 1995 Supp. 65-3008 is hereby amended to read as
11 follows: 65-3008. (a) No person shall construct, own, operate, install,
12 alter or use any air contaminant emission stationary source which, in ac-
13 cordance with rules and regulations, the secretary finds may cause or
14 contribute to air pollution, unless an appropriate approval or permit has
15 been issued for the source by the secretary under this act. Approvals or
16 permits issued by the secretary may be subject to conditions consistent
17 with the purposes of this act and rules and regulations promulgated under
18 this act.

19 (b) The secretary shall require that applications for approvals and
20 permits, and renewals thereof, under this act shall be accompanied by
21 application fees and such plans, specifications, compliance plans or other
22 information as the secretary deems necessary. Applications shall be sub-
23 mitted on forms provided by the secretary and shall be signed by a re-
24 sponsible official of the source, who shall certify the accuracy of the in-
25 formation submitted.

26 (c) The issuance or holding of an approval or permit shall not convey
27 any property right or exclusive privilege to the holder thereof.

28 (d) Without any further action on the part of the secretary, an ap-
29 proval or a permit shall become void and without effect on its expiration
30 date unless a completed application form and any required fee are filed
31 with the secretary on or before the expiration date of the approval or the
32 permit. For purposes of this subsection, the secretary may specify by rule
33 and regulation an amount of time prior to the expiration date of an op-
34 erating permit by which a complete application form and any required
35 fee must be filed with the secretary in order to be considered timely filed.
36 The secretary may provide for a grace period by rule and regulation.

37 (e) The secretary may issue by rule and regulation a general approval
38 or permit covering numerous similar sources. Any general approval or
39 permit shall comply with all requirements applicable to approvals or per-
40 mits under this act. Any source covered by a general approval or permit
41 must apply to the secretary and receive authority to operate under the
42 general approval or permit.

43 (f) The secretary may fix, charge and collect fees for approvals and

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1 ~~operating permit applications and construction~~ permits, and the renewal approvals and ~~DELETED~~
 2 thereof, to cover all or any part of the cost of administering the provisions ~~DELETED~~
 3 of Kansas air quality act, other than K.S.A. 1995 Supp. 65-3027, and the ~~DELETED~~
 4 amendments thereto. The secretary shall adopt rules and regulations fixing ~~DELETED~~
 5 such fees, subject to the following: (1) Operating permit application fees approval and
 6 ~~shall be not less than \$20 and not more than \$400;~~ and (2) construction \$1000 ~~DELETED~~
 7 ~~permit application fees shall be not less than \$100 and not more than~~ approval ~~DELETED~~
 8 ~~\$1,000, except that an additional \$1,500 may be added to the fee for a~~
 9 ~~source located within an area identified as not meeting a national ambient~~
 10 ~~air quality standard for a pollutant for which the source is major under~~
 11 ~~the procedures prescribed by section 107(d) of the federal clean air act~~
 12 ~~(42 U.S.C. 7407(d)).~~ The fees shall be deposited in the state treasury and
 13 credited to the state general fund, except that if all or any portion of the
 14 regulatory services for which a fee is collected under this section is per-
 15 formed by a county, city-county or multicounty health department, that
 16 portion of such fee which pertains to such services, as determined by the
 17 secretary, shall be credited to the local air quality control authority reg-
 18 ulation services fund, which is hereby created in the state treasury, and
 19 shall be paid from such fund to such local air quality control authority.

required to obtain a preconstruction permit pursuant to rules and regulations promulgated to satisfy the requirements of subchapter I, part C of the federal clean air act (42 U.S.C. 7470 et seq.) or for a source required to obtain a preconstruction permit pursuant to rules and regulations promulgated to satisfy the requirements of subchapter I, part D of the federal clean air act (42 U.S.C. 7501 et seq.).

20 Sec. 4. K.S.A. 65-3022 is hereby amended to read as follows: 65-
 21 3022. In order to defray costs in determining and monitoring the envi-
 22 ronmental impact of power generation facilities with respect to air quality
 23 and, in the case of nuclear powered generation facilities, the overall ra-
 24 diological impact thereof, the secretary is authorized and directed to
 25 adopt rules and regulations to provide for the establishment of fees and
 26 for the collection thereof from each such facility. Such fees shall be de-
 27 termined and collected annually, and such determination shall be based
 28 upon the size and type of such facilities, *but no such fee shall exceed*
 29 *\$200,000 per year.* In establishing programs for determining and moni-
 30 toring environmental impact, the secretary shall take into consideration
 31 monitoring programs conducted by other persons and where possible
 32 avoid duplication of effort and expense. The secretary may also provide
 33 for quality review and evaluation of monitoring conducted by other per-
 34 sons in order to further the objectives of this act and to determine the
 35 extent and necessity of monitoring programs to be conducted by the de-
 36 partment of health and environment.
 37 Sec. 5. K.S.A. 1995 Supp. 65-3024 is hereby amended to read as
 38 follows: 65-3024. (a) The secretary may fix, charge and collect annual
 39 emissions fees in amounts necessary to pay the direct and indirect costs
 40 of administering the provisions of the Kansas air quality act. The secretary
 41 shall adopt rules and regulations fixing such fees and shall periodically
 42 increase or decrease such fees consistent with the need to cover the direct
 43 and indirect costs of administering the program, *but no such fee shall*

DELETED

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1 *exceed \$18 per ton.* To the extent possible, annual emission fees shall be
2 based upon actual emissions determined pursuant to rules and regulations
3 adopted by the secretary. For purposes of determining emission fees for
4 a facility, emissions of any single regulated pollutant in excess of 4,000
5 tons per year shall not be included in the calculation when determining
6 the total emissions from the facility.

7 (b) There is hereby established in the state treasury the air quality
8 fee fund. Revenue from the following sources shall be deposited in the
9 state treasury and credited to the fund:

10 (1) Fees collected under subsection (a);

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

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

15 (c) Moneys deposited in the fund shall be expended only for the pur-
16 pose of administering the Kansas air quality act, including funding of a
17 technical and environmental compliance assistance program, and for no
18 other governmental purposes.

19 (d) On the 10th day of each month, the director of accounts and
20 reports shall transfer from the state general fund to the air quality fee
21 fund the amount of money certified by the pooled money investment
22 board in accordance with this subsection. Prior to the 10th day of each
23 month, the pooled money investment board shall certify to the director
24 of accounts and reports the amount of money equal to the proportionate
25 amount of all the interest credited to the state general fund for the pre-
26 ceding period of time specified under this subsection, pursuant to K.S.A.
27 75-4210a and amendments thereto, that is attributable to moneys in the
28 air quality fee fund. Such amount of money shall be determined by the
29 pooled money investment board based on: (1) The average daily balance
30 of moneys in the air quality fee fund during the period of time specified
31 under this subsection as certified to the board by the director of accounts
32 and reports; and (2) the average interest rate on repurchase agreements
33 of less than 30 days' duration entered into by the pooled money invest-
34 ment board for that period of time. On or before the fifth day of the
35 month for the preceding month, the director of accounts and reports shall
36 certify to the pooled money investment board the average daily balance
37 of moneys in the air quality fee fund for the period of time specified
38 under this subsection.

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

43 Sec. 6. K.S.A. 65-5309 is hereby amended to read as follows: 65-

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1 5309. (a) The secretary shall establish by rules and regulations a reason-
 2 able schedule of fees for licensure, for certification and for project eval-
 3 uations under this act. The fee schedule shall be established on the basis
 4 of determination by the secretary of the amount of revenue required for
 5 administration of the provisions of this act, *subject to the following:* (1)
 6 *The annual fee for licensure of a business entity shall not exceed \$1,000;*
 7 *(2) the annual fee for certification as an asbestos worker shall not exceed*
 8 *\$30; and (3) the project evaluation fee shall not exceed ~~\$5,000.~~ \$10,100*

9 (b) The secretary shall remit all moneys received from the fees es-
 10 tablished pursuant to this section to the state treasurer at least monthly.
 11 Upon receipt of such remittance, the state treasurer shall deposit the
 12 entire amount thereof in the state treasury to the credit of the state gen-
 13 eral fund.

14 Sec. 7. K.S.A. 65-5704 is hereby amended to read as follows: 65-
 15 5704. (a)The secretary of health and environment shall: ~~(a)~~ (1) Provide
 16 support for the oversight and administrative activities of the commission;
 17 ~~(b)~~ (2) receive, process and manage hazardous chemical information re-
 18 quired to be submitted and notifications required to be given pursuant
 19 to the federal act; ~~(c)~~ (3) establish a list of Kansas reportable chemicals
 20 which shall also be subject to the requirements of sections 311 and 312
 21 of the federal act; ~~(d)~~ (4) designate threshold planning quantities and
 22 reportable quantities for any chemical designated for listing as reportable
 23 in Kansas. For purposes of reporting in Kansas, the secretary may estab-
 24 lish more stringent reporting thresholds for those chemicals required to
 25 be reported under the federal act. Chemicals shall be designated and
 26 reporting thresholds established after public notice and hearing, based
 27 upon concern for the hazards such chemicals may represent in Kansas;
 28 and ~~(e)~~ (5) adopt such rules and regulations as necessary to implement
 29 the provisions of the federal act and the secretary's duties under this
 30 section, including provisions for protection of trade secrets and for public
 31 disclosure of information consistent with sections 322, 323 and 324 of the
 32 federal act. ~~Such~~

33 (b) Rules and regulations adopted pursuant to subsection (a)(5) may
 34 establish fees to cover all or part of the total cost of operation of the
 35 program, *but such fees shall not exceed the following:*

36 (1) *For an annual report required under section 312 of the federal*
 37 *act by an owner or operator of a facility, the lesser of: (A) \$3,000; or (B)*
 38 *a fee based upon the sum of the maximum daily reportable quantity of*
 39 *extremely hazardous substances or hazardous chemicals, or both, present*
 40 *at a facility, as follows: (i) For 1 to 9,999 pounds of extremely hazardous*
 41 *substances, \$25; (ii) for 10,000 to 999,999 pounds of extremely hazardous*
 42 *substances, \$50; (iii) for 1,000,000 or more pounds of extremely hazardous*
 43 *substances, \$150; (iv) for 10,000 to 99,999 pounds of hazardous chemicals,*

01-8

1 \$25; (v) for 100,000 to 999,999 pounds of hazardous chemicals, \$50; (vi)
2 for 1,000,000 to 9,999,999 pounds of hazardous chemicals, \$150; and (vii)
3 for 10,000,000 or more pounds of hazardous chemicals, \$300.

4 (2) For an annual report required under section 312 of the federal
5 act by an owner or operator of an oil or gas well, as defined in K.S.A. 55-
6 150 and amendments thereto, \$25.

7 (3) For a toxic chemical release report required under section 313 of
8 the federal act, a fee based on the total quantity of chemicals released, as
9 follows: (A) For 100 to 19,999 pounds of chemicals released, \$250; (B) for
10 20,000 to 99,999 pounds of chemicals released, \$700; (C) for 100,000 to
11 999,999 pounds of chemicals released, \$1,700; and (D) for 1,000,000 or
12 more pounds of chemicals released, \$3,000.

13 Sec. 8. K.S.A. 82a-1206 is hereby amended to read as follows: 82a-
14 1206. (a) Every well contractor desiring to engage in the business of
15 constructing, reconstructing or treating water wells in this state shall make
16 initial application for a license to the secretary. Every contractor making
17 such application shall set out such information as may be required upon
18 forms to be adopted and furnished by the secretary. ~~The secretary shall~~
19 ~~charge an application fee as established by regulation for the filing of such~~
20 ~~initial application by a contractor, and~~ The secretary shall not act upon
21 any application until such the application fee has been paid.

22 (b) ~~The secretary shall adopt rules and regulations establishing a fee~~
23 ~~for an application for a contractor's license, a fee for a contractor's license~~
24 ~~and a fee for each water well constructed by a licensed contractor, but~~
25 ~~such fees shall not exceed the following:~~

26 (1) ~~For an application for licensure, \$10.~~

27 (2) ~~For an annual license of a resident contractor, \$100 plus \$25 for~~
28 ~~each drill rig operated by or for the contractor.~~

29 (3) ~~For and annual license of a nonresident contractor: (A) An amount~~
30 ~~equal to the annual license fee charged a Kansas contractor by the non-~~
31 ~~resident's state of residence or \$100, whichever is less; plus (B) \$25 for~~
32 ~~each drill rig operated by or for the contractor.~~

33 (c) All application fees and license fees collected hereunder shall be
34 remitted to the state treasurer at least monthly. Upon receipt of any such
35 remittance, the state treasurer shall deposit the entire amount thereof in
36 the state treasury and the same shall be credited to the state general fund.
37 ~~On July 1, 1983, the director of accounts and reports shall transfer all~~
38 ~~moneys in the water well contractors licensing fund to the state general~~
39 ~~fund. All liabilities of the water well contractors licensing fund are hereby~~
40 ~~transferred to and imposed upon the state general fund. The water well~~
41 ~~contractors licensing fund is hereby abolished.~~

42 (e) (d) A license to construct water wells shall be issued to any ap-
43 plicant if, under the standards set forth in K.S.A. 82a-1207 and amend-

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1 ments thereto, the secretary shall determine such applicant is qualified
2 to conduct water well construction operations. In the granting of such
3 licenses due regard shall be given to the interest of the state of Kansas in
4 the protection of its underground water resources. Application fees paid
5 hereunder shall be retained by the secretary whether such initial license
6 is issued or denied, but if denied, the license fee shall be refunded.

7 ~~(d)~~ (e) Applicants for licenses hereunder who are engaged in busi-
8 ness as water well contractors in this state, if incorporated, shall submit
9 evidence of current good standing with the registration requirements for
10 corporations of the secretary of state.

11 Sec. 9. K.S.A. 65-3022, 65-5309, 65-5704 and 82a-1206 and K.S.A.
12 1995 Supp. 65-166a, 65-3008 and 65-3024 are hereby repealed.

13 Sec. 10. This act shall take effect and be in force from and after its
14 publication in the statute book.

Insert attached Radiation & Remediation-related addition.

**Bureau of Air and Radiation - Radiation Program
Balloon to H.B. 3005**

Sec. 9. K.S.A. 48-1606 is hereby amended to read as follows: 48-1606 State radiation control; duties of secretary of health and environment; fees for licenses registrations. (a) The secretary of health and environment shall be responsible for state radiation control.

(b) The secretary, for the protection of the public health and safety, shall develop programs for evaluation of hazards associated with use of sources of radiation.

(c) The secretary may:

(1) Advise, consult and cooperate with other agencies of the state, the federal government, other states and interstate agencies, political subdivisions and with groups concerned with control of sources of radiation;

(2) accept and administer grants or gifts, conditional or otherwise, in furtherance of its functions, from the federal government and from other sources, public or private;

(3) collect and disseminate information relating to control of sources of radiation;

(4) encourage, participate in, or conduct studies, investigations, training, research and demonstrations relating to control of sources of radiation;

(5) in accordance with the laws of the state, employ, compensate and prescribe the powers and duties of such individuals as may be necessary to carry out the responsibilities set forth herein;

(6) institute training programs for the purpose of qualifying personnel to carry out the provisions of this act, and make personnel available for participation in any program or programs of the federal government, other states or interstate agencies in furtherance of the purposes of this act; and

(7) fix, charge and collect fees for licenses and registrations, and renewals thereof, issued under the nuclear energy development and radiation control act to cover all or any part of the cost of administering such act.

Such fees shall not exceed:

<i>Licenses for possession and use of special nuclear material in sealed sources That are contained in devices used in industrial measuring systems</i>	<i>New license</i> \$500.00
	<i>Amendment</i> \$300.00

<i>Any other licenses for possession and use of special nuclear material, except those listed in elsewhere in this paragraph</i>	<i>New License</i> \$1,200.00
	<i>Amendment</i> \$300.00

<i>All source material licenses, except those listed elsewhere in this paragraph</i>	<i>New License</i> \$600.00
	<i>Amendment</i> \$300.00

Licenses for possession and use of radioactive or by-product material for the purpose of processing or manufacturing items containing radioactive or by-product material for commercial distribution, where more than one radionuclide is used or the handling of unsealed sources is required

New License \$2,000.00

Amendment \$300.00

License for possession and use of radioactive or by-product material for the purpose of processing or manufacturing items containing radioactive or by-product material for commercial distribution, where only one radionuclide is used and only sealed sources are handled

New License \$1,200.00

Amendment \$300.00

License for possession and use of radioactive or by-product material for the purpose of processing, manufacturing or distributing radiopharmaceuticals containing radioactive or by-product materials

New License \$800.00

Amendment \$300.00

Licenses for possession and use of radioactive or by-product materials in permanent, shielded facilities for industrial radiography

New License \$2,500.00

Amendment \$300.00

Licenses for possession and use of industrial radiography devices in permanent, shielded facilities or on multiple temporary job sites

New License \$2,500.00

Amendment \$500.00

Licenses for possession and use of radioactive or by-product material for irradiation of materials in which the source is not removed from its shield for irradiation purposes

New License \$500.00

Amendment \$400.00

Licenses for possession and use of radioactive or by-product material for irradiation of material in which the source is removed from its shield for irradiation purposes

New License \$3,000.00

Amendment \$500.00

Licenses authorizing distribution of radioactive or by-product materials to persons generally licensed to possess them

New License \$1,500.00

Amendment \$700.00

Licenses authorizing distribution of radioactive or by-product material to persons exempt from licensing requirements

New License \$1,600.00

Amendment \$800.00

Licenses for possession and use of radioactive or by-product material for the purpose of research and development, except those licenses authorizing manufacturer and distribution or those authorizing use in a medical institution or private medical office

New License \$1,400.00

Amendment \$600.00

Licenses for possession and use of radioactive or by-product material, except those listed elsewhere in these paragraphs

New License \$600.00

Amendment \$300.00

Licenses specifically authorizing the receipt of radioactive, by-product, source, or special nuclear material wastes from other persons for the purpose of packaging of material

New License \$2,000.00

Amendment \$800.00

Licenses specifically authorizing the receipt of packaged radioactive, by-product, source, or special nuclear material wastes from other persons

New License \$1,000.00

Amendment \$500.00

Licenses specifically authorizing possession and use of radioactive, by-product, source, or special nuclear material for the purpose of well logging, well surveys, or tracer studies

New License \$1,000.00

Amendment \$500.00

Licenses specifically authorizing commercial collection and laundry of items contaminated with radioactive, by-product, source or special nuclear material

New License \$800.00

Amendment \$300.00

Licenses specifically authorizing medical use of radioactive, source, by-product, or special nuclear materials for teletherapy

New License \$1,500.00

Amendment \$500.00

Licenses authorizing the use of radioactive, by-product, source, or special nuclear material in a medical institution or by two or more physicians, for medical purposes, except licenses authorizing teletherapy

New License \$700.00

Amendment \$300.00

Licenses authorizing the use of radioactive, by-product, source or special nuclear material by private physicians for medical purposes, except licenses authorizing use in institutions or teletherapy covered above

New License \$500.00

Amendment \$300.00

Licenses authorizing possession and use of radioactive, by-product, source or special nuclear material for civil defense purposes

New License \$500.00

Amendment \$300.00

Review of a device, product, or sealed source containing radioactive, by-product, source or special nuclear material for distribution to general licensees or persons exempt from licensing

New License \$1,500.00

Amendment \$300.00

Licenses authorizing the manufacturing and distribution of encapsulated radioactive, by-product, source, or special nuclear material in a device that uses decay heat as a source of power

New License \$3,500.00

Amendment \$470.00

Licenses authorizing the possession and use of waste radioactive by-product, source or special nuclear material for a commercial low level waste disposal facility

New License \$300,000.00

Amendment \$100,000.00

Licenses authorizing the possession and use of radioactive materials (Ra-226) in luminous paint or in products containing such paint

New License \$1,000.00

Amendment \$300.00

Registration of medical x-ray machines, including those x-ray machines used in hospitals or clinics by or under the supervision of medical doctors, osteopaths, or chiropractors

First Machine \$56.00

Each Additional \$13.00

Registration of dental x-ray machines, including those machines used in hospitals, dental clinics or private offices by or under the supervision of dentists, podiatrists, and veterinarians

First Machine \$36.00

Each Additional \$13.00

Registration of industrial radiographic machines

First Machine \$36.00

Each Additional \$11.00

Registration of analytical x-ray machines

First Machine \$36.00

Each Additional \$11.00

*Registration of particle
accelerators*

Each Machine \$78.00

(d) The secretary shall adopt rules and regulations fixing the fees for each radioactive hazardous waste disposal facility which shall be not more than \$300,000 annually. The fees shall be deposited in the state treasury and credited to the state general fund.

Amendment 2, Base technical adjustments

**Bureau of Environmental Remediation
Balloon to H.B. 3005**

Sec. 10. K.S.A. 65-34,105 is hereby amended to read as follows: K.S.A. 65-34,105 (a) The secretary is authorized and directed to adopt rules and regulations necessary to administer and enforce the provisions of this act. Any rules and regulations so adopted shall be reasonably necessary to preserve, protect and maintain the waters and other natural resources of this state, and reasonably necessary to provide for the prompt investigation and cleanup of sites contaminated by a release from a storage tank. In addition, any rules and regulations or portions thereof which pertain to underground storage tanks or the owners and operators thereof shall be adopted for the purpose of enabling the secretary and the department to implement the federal act, and such rules and regulations so adopted shall be consistent with the federal act. Consistent with these purposes, the secretary shall adopt rules and regulations:

(1) Establishing performance standards for underground storage tanks first brought into use on or after May 18, 1989. The performance standards for new underground storage tanks shall include, but are not limited to, design, construction, installation, release detection and product compatibility standards;

(2) establishing performance standards for aboveground storage tanks brought into use after May 18, 1989. The performance standards shall not exceed those performance standards adopted by the administrator of the U.S. environmental protection agency and for new aboveground storage tanks shall include, but are not limited to, design, construction, installation, release detection and product compatibility standards;

(3) establishing performance standards for the inground repair of underground storage tanks. The performance standards shall include, but are not limited to, specifying under what circumstances an underground storage tank may be repaired and specifying design, construction, installation, release detection, product compatibility standards and warranty;

(4) establishing performance standards for maintaining spill and overflow equipment, leak detection systems and comparable systems or methods designed to prevent or identify releases. In addition, the secretary shall establish standards for maintaining records and reporting leak detection monitoring, inventory control and tank testing or comparable systems;

(5) establishing requirements for reporting a release and for reporting and taking corrective action in response to a release;

(6) establishing requirements for maintaining evidence of financial responsibility to be met by owners and operators of underground storage tanks;

(7) establishing requirements for the closure of storage tanks including the removal and disposal of storage tanks and regulated substance residues contained therein to prevent future releases of regulated substances into the environment;

(8) for the approval of tank tightness testing methods, including determination of the qualifications of persons performing or offering to perform such testing;

Amendment 2, Base technical adjustments

(9) establishing site selection and clean-up criteria regarding corrective actions related to a release, which criteria address the following: The physical and chemical characteristics of the released substance, including toxicity, persistence and potential for migration; the hydrogeologic characteristics of the release site and the surrounding land; the proximity, quality and current and future uses of groundwater; an exposure assessment; the proximity, quality and current and future use of surface water; and the level of the released substance allowed to remain on the facility following cleanup;

(10) prescribing fees for the following with regard to storage tanks: Registration, issuance of permits, approval of plans for new installations and conducting of inspections. The fees shall be established in such amounts that revenue from such fees does not exceed the amount of revenue required for the purposes provided by subsection (b) of K.S.A. 65-34,128, *but shall not exceed the following: a non-refundable \$20.00 per tank application fee for installation of an underground storage tank; an annual underground storage tank registration fee of \$10.00 per tank; a late notice fee of \$10.00 shall be charged for each facility which fails to submit the required underground storage tank registration fees prior to April 30 of each year; an annual \$10 per tank aboveground storage tank registration fee; a late notice fee of \$10.00 shall be charged for each facility which fails to submit the required aboveground storage tank registration fees prior to December 31 of each year.* All fees for underground storage tanks shall be deposited in the state general fund and all fees for aboveground storage tanks shall be deposited in the storage tank fee fund;

(11) for determining the qualifications, adequacy of performance and financial responsibility of persons desiring to be licensed as underground storage tank installers or contractors. In adopting rules and regulations, the secretary may specify classes of specialized activities, such as the installation of corrosion protection devices or inground relining of underground storage tanks, and may require persons wishing to engage in such activities to demonstrate additional qualifications to perform these services;

(12) prescribing fees for the issuance of licenses to underground storage tank installers and contractors. The fees shall be established in such amounts that revenue from such fees does not exceed the amount of revenue determined by the secretary to be required for administration of the provisions of K.S.A. 65-34,110 and amendments thereto, but shall not exceed the following: *An underground storage tank contractor licensing fee of \$200.00 to secure a license to remain in force until two years from the initial licensing date, with an annual renewal fee of \$100.00 thereafter; an underground storage tank installer's licensing fee of \$100.00 to secure a license to remain in force until two years from the initial licensing date with an annual renewal fee of \$50.00 thereafter; an underground storage tank tightness tester's licensing fee of \$100.00 to secure a license to remain in force until two years from the initial licensing date and an annual renewal fee of \$50.00 thereafter ; and*

Amendment 2, Base technical adjustments

(13) adopting schedules requiring the retrofiting of underground storage tanks in existence on May 18, 1989, and aboveground storage tanks in existence on July 1, 1992, and for the retirement from service of underground storage tanks placed in service prior to May 18, 1989, and aboveground storage tanks placed in service prior to July 1, 1992. Such schedules shall be based on the age and location of the storage tank and the type of substance stored. Such retrofiting shall include secondary containment, corrosion protection, linings, leak detection equipment and spill and overfill equipment.

(b) In adopting rules and regulations under this section, the secretary shall take notice of rules and regulations pertaining to fire prevention and safety adopted by the state fire marshal pursuant to subsection (a)(1) of K.S.A. 31-133, and amendments thereto.

(c) Nothing in this section shall interfere with the right of a city or county having authority to adopt a building or fire code from imposing requirements more stringent than those adopted by the secretary pursuant to subsections (a)(1), (2), (3), (7) and (13), or affect the exercise of powers by cities, counties and townships regarding the location of storage tanks and the visual compatibility of aboveground storage tanks with surrounding property.

Amendment 2, Base technical adjustments

Sec. 11. K.S.A. 49-406 is hereby amended to read as follows: 49-406. (a) No operator shall engage in surface mining unless such operator possesses a valid permit issued by the secretary designating the area of land affected by the operation. The permit shall authorize the operator to engage in surface mining upon the area of land described in such permit and shall be valid for a period not to exceed five years from the date of its issuance unless sooner revoked or suspended as herein provided. All surface mining conducted under such permit shall comply with the requirements of the surface mining control and reclamation act of 1977 (public law 95-87) and the regulations issued thereunder. It shall be the duty of each producer holding a permit within the state of Kansas to file an annual statement setting forth the full amount of coal mined or taken from each source or deposit and to identify the specific source or deposit from which taken. Such statement shall be filed with the secretary upon forms provided by the department not later than 30 days after the end of each calendar year. All operators shall apply for new permits within two months following approval of the state reclamation program by the secretary of the interior, pursuant to the final program provisions of the national surface mining control and reclamation act of 1977 (public law 95-87), who expect to operate a mine or mines after the expiration of eight months following such approval of this act.

(b) The application for the permit shall include: (1) Five copies of a United States geological survey topographic map on which the operator has indicated the location of the area of land affected, the course which would be taken by drainage from the area of land affected to the nearest stream or streams to which such drainage would normally flow, the name of the applicant and the date.

(2) The owner or owners of the surface of the area of land to be affected by the permit and the owner or owners of all surface area within 500 feet of any part of the affected area.

(3) All persons with any interest in the coal to be mined.

(4) The source of the applicant's legal right to mine the coal or other minerals affected by the permit.

(5) The permanent and temporary post-office address of the applicant.

(6) Whether the applicant or any person, firm, partnership or corporation associated with the applicant holds or has held any other permits under this act; and, if so, an identification of such permits.

(7) The written consent of the applicant and such other persons, if any, necessary to grant such access to the secretary and the secretary's designee to the area of land affected under application from the date of application until the expiration of any permit granted under such application and thereafter for such time as is necessary to assure compliance with all provisions of this act or any rule or regulation promulgated hereunder.

(8) A determination of probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and groundwater systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the department of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area, and particularly upon water availability. This determination shall not be required until hydrologic information on the general area prior to mining is made available from appropriate governmental agencies, but a permit shall not be approved

Amendment 2, Base technical adjustments

until such information is available and is incorporated into the application. If the secretary finds that the probable total annual production at all locations of any operator will not exceed 100,000 tons, the determination of probable hydrologic consequences, and any statement required by the secretary concerning results of test borings or core samplings, shall, upon written operator request, be performed by a qualified public or private laboratory designated by the secretary, at departmental expense.

(9) Such other information as may be required by the secretary in order to qualify to administer the regulatory programs adopted by the United States department of the interior, office of surface mining reclamation and enforcement, pursuant to the national surface mining control and reclamation act of 1977 (public law 95-87) and federal rules and regulations adopted pursuant thereto.

(c) At the time of submission of the application for a permit, or amendment to a permit, the operator shall submit to the secretary proof of publication which shall contain such data and be in such form as the secretary shall require by regulations consistent with the national surface mining control and reclamation act of 1977 (public law 95-87), which notice shall be published at least once a week for four consecutive weeks. The secretary, in accordance with regulations consistent with such national act, shall notify appropriate public agencies of the operator's intention to mine, and shall receive and make available for public inspection the written comments or objections of such agencies and any person having an interest possibly affected adversely by proposed operations. The secretary also shall prescribe by regulations consistent with such national act, a system for holding informal conferences in the area of proposed operations with public notice thereof.

(d) The application for a permit shall be accompanied by an enlarged United States geological survey topographic map prepared and certified by a professional engineer or geologist containing the following: (1) An identification of the area to correspond with the application.

(2) The boundaries of surface properties and names of owners on the area of land affected, adjacent deep mines, and the name of the owner or owners of the surface area within 1,000 feet of any part of the area of land affected, and, if known to the operator, the existence of adjacent deep mines.

(3) Be of a scale of not less than 400 feet to the inch and not to exceed 660 feet to the inch.

(4) Show the names and locations of all streams, creeks or other bodies of public water, roads, buildings, cemeteries, oil and gas wells and utility lines on the area to be mined and within 1,000 feet of such area.

(5) Show by appropriate markings the boundaries of the area of land affected, the cropline of the seam or deposit to be mined, and the total number of acres involved in the area of land affected.

(6) Show the date on which the map was prepared, the north point and the quadrangle name.

(7) Show the drainage plan on and away from the area of land affected. Such plan shall indicate the directional flow of water, constructed drainways, natural waterways used for drainage, and the nearest streams or tributaries receiving the discharge.

(8) A verified statement by the operator containing the proposed method of operation, grading, reclamation and conservation plan for the affected area including dates and approximate time of completion, and that the operation will meet the requirements of this act, or any rule or regulation promulgated hereunder.

(9) The certification of the maps by the professional engineer or geologist shall read as follows:

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"I, the undersigned, Hereby certify that this map is correct and shows to the best of my knowledge and belief all the information required by the surface mining laws of this state." The certification shall be signed and, in the case of an engineer, the engineer's seal affixed.

(10) Such other information as may be required by the secretary in order to qualify to administer the regulatory programs adopted by the United States department of the interior, office of surface mining reclamation and enforcement, pursuant to the national surface mining control and reclamation act of 1977 (public law 95-87) and federal rules and regulations adopted pursuant thereto.

Nothing in this subsection shall be construed to permit the practice of engineering, as defined by K.S.A. 74-7001, and amendments thereto, by a geologist.

(e) The application for a permit shall be accompanied by a plan of reclamation that meets the requirements of this act, and the rules and regulations promulgated hereunder and the requirements necessary for the secretary to qualify to administer the regulatory programs adopted by the United States department of the interior, office of surface mining reclamation and enforcement, pursuant to the national surface mining control and reclamation act of 1977 (public law 95-87) and federal rules and regulations adopted pursuant thereto.

(f) The secretary shall not approve the application for a permit to mine where such mining would constitute a hazard to a residence, public building, school, church, cemetery, commercial or residential building, public road, stream, lake or other property. No surface coal mining operations shall be permitted within 100 feet of the outside right-of-way line of any public road, except where mine access roads or haulage roads join such right-of-way line and except that the secretary may permit such roads to be relocated or the area affected to lie within 100 feet of such road, if after public notice and opportunity for public hearing in the locality, a written finding is made that the interests of the public and the landowners affected thereby will be protected; or within 300 feet from any occupied dwelling, unless waived by the owner thereof, nor within 300 feet of any public building, school, church, community, or institutional building, public park, or within 100 feet of a cemetery.

(g) (1) A basic fee of \$50 plus a fee in an amount to be fixed by the secretary for every acre and fraction of an acre of land to be affected, *but not to exceed \$500 per acre or fraction of an acre*, shall be paid at the time of application.

(2) Each permittee shall be assessed a per ton fee on every ton of coal extracted.

(3) Pursuant to paragraph (2) of this subsection (g), the per ton fee shall be an amount not less than \$.03 and not more than \$.10 per ton of coal extracted each calendar year. This per ton fee shall be paid to the department on a quarterly basis and it shall be due within 30 calendar days after the beginning of each calendar quarter.

(4) Fees established under this subsection shall be fixed by the secretary, subject to restrictions and limitations imposed by this subsection, in amounts deemed necessary to administer and enforce the provisions of the mined-land conservation and reclamation act.

(h) (1) After a surface coal mining and reclamation permit application has been approved but before such a permit is issued, the applicant shall file with the secretary, on a form prescribed and furnished by the department, a bond for performance payable to the state treasurer, and conditional upon faithful performance of all the requirements of this act and the permit. The bond shall cover that area of land within the permit area upon which the operator will initiate and conduct surface coal mining

Amendment 2, Base technical adjustments

and reclamation operations within the initial term of the permit. As succeeding increments of surface coal mining and reclamation operations are to be initiated and conducted within the permit area, the operator shall file with the department an additional bond or bonds to cover such increments as required by the secretary. The amount of the bond required for each bonded area shall depend upon the reclamation requirements of the approved permit; shall reflect the probable difficulty of reclamation giving consideration to such factors as topography, geology of the site, hydrology, and revegetation potential; and shall be determined by the secretary. The amount of the bond shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by the department in the event of forfeiture and in no case shall the bond for the entire area under one permit be less than \$10,000.

(2) Liability under the bond shall be for the duration of the surface coal mining and reclamation operation and for a period coincident with operator's responsibility for revegetation requirements. Surety bonds shall be executed by the operator and a corporate surety licensed to do business in Kansas.

(3) The amount of the bond required and the terms of each acceptance of the applicant's bond shall be adjusted by the secretary from time to time as affected land acreages are increased or decreased or where the cost of future reclamation changes.

(4) Subject to provision (5), an applicant may elect to satisfy the bonding requirements of this subsection by depositing with the state treasurer cash, negotiable bonds of the United States or of the state of Kansas, negotiable certificates of deposit of any bank organized under the laws of the United States or of the state of Kansas or irrevocable letters of credit of any such bank. The cash deposit or market value of any such securities shall be equal to or greater than the amount of the bond required for the bonded area.

(5) An applicant may elect to satisfy the bonding requirements of this subsection by depositing with the state treasurer cash or any of the securities specified in provision (4) or any combination thereof and a first mortgage on real estate which in the aggregate shall be equal to or greater than the amount of the bond required for the bonded area. The mortgage shall be equal in value to not more than 50% of the amount of the bond and shall be secured by real estate which has an appraised value equal to or greater than twice the amount of the mortgage.

(i) Each permit applicant shall submit to the department as part of the application, a certificate issued by an insurance company licensed to do business in Kansas, certifying that the applicant has a public liability policy in force for all operations under the permit applied for, providing personal injury and property damage insurance in an amount adequate to compensate persons damaged as a result of mining and reclamation operations, including use of explosives, and entitled to compensation under the laws of Kansas. The secretary may establish, by regulations, the amount of such insurance to be carried. Such policy shall be maintained during the term of the permit and any renewal, and be continued until completion of all operations.

(j) Where one operator succeeds another at any uncompleted operation, either by sale, assignment, lease or otherwise, the secretary may release the first operator from all liability under this act as to that particular operation. If two or more operators have been issued a permit for the same operation and have otherwise complied with the requirements of the act and regulations promulgated pursuant thereto, the successor operator shall assume as part of such operator's obligation under the

Amendment 2, Base technical adjustments

act, all liability for the reclamation of the area of land affected by the former operator.

(k) A valid permit issued by the secretary may be renewed with respect to areas within boundaries of the existing permit, upon application by the permit holder. The burden shall be upon the applicant, subsequent to fulfillment of public notice requirements of the national surface mining control and reclamation act of 1977 (public law 95-87), to establish, subject to confirmation by written findings of the secretary, that:

- (1) Terms and conditions of the existing permit are satisfactorily met; and
- (2) present mining and reclamation operations are in compliance with environmental protection standards imposed by this act and the national surface mining control and reclamation act of 1977 (public law 95-87); and
- (3) renewal will not substantially jeopardize the operator's continuing responsibility on existing permit areas; and
- (4) the operator has provided evidence that the performance bond in effect for the operation together with any additional bond required by the secretary, will continue in full force and effect for any renewal requested; and
- (5) any additional revised or updated information required by the secretary has been provided.

Prior to approval of any permit renewal, the secretary shall provide notice to any appropriate public authorities.

(1) If a renewal application includes a proposal to extend operations beyond existing permit boundaries, that portion of the application applicable to areas beyond existing permit boundaries shall be subject to all standards applicable to new permits. Permit renewals shall not be issued for terms greater than provided for original permits, and applications for renewal permits shall be made at least 120 days prior to expiration of the existing permit.

(m) Each permit applicant shall file a copy of the application for public inspection at the field office of the department, which copy need not contain information relating to the coal seam itself. Any person with an interest which may be adversely affected shall be furnished with information pertaining to coal seams, test borings, core samplings, or soil samples, if such information is required by the secretary, together with data respecting location of subsurface water and analysis of chemical properties including acid forming properties of the mineral and overburden. Information pertaining only to the analysis of the chemical and physical properties of the coal, excepting information regarding such mineral or elemental content which is potentially toxic in the environment, shall be kept confidential and not made a matter of public record.

Session of 1996

HOUSE BILL No. 3005

By Committee on Energy and Natural Resources

2-12

8-26

9 AN ACT concerning certain fees established by the secretary of health
10 and environment; amending K.S.A. 65-3022, 65-5309, 65-5704 and
11 82a-1206 and K.S.A. 1995 Supp. 65-166a, 65-3008 and 65-3024 and
12 repealing the existing sections.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 New Section 1. Any fee imposed by the secretary of health and en-
16 vironment for a program administered by the division of environment
17 shall expire at 12 midnight June 30, 1996, unless the fee is specifically
18 authorized by statute and is subject to a maximum amount established by
19 statute.

20 Sec. 2. K.S.A. 1995 Supp. 65-166a is hereby amended to read as
21 follows: 65-166a. (a) *Subject to the limitations of subsection (d), the sec-*
22 *retary of health and environment is authorized and directed to establish*
23 *by duly adopted rules or shall establish by rules and regulations a schedule*
24 *of fees to defray all or any part of the costs of administering the water*
25 *pollution control permit system established by K.S.A. 65-165 and 65-166*
26 *and amendments thereto. The amount of the fees so established shall be*
27 *based upon the quantity of raw wastes or treated wastes to be discharged,*
28 *units of design capacity of treatment facilities or structures, numbers of*
29 *potential pollution units, physical or chemical characteristics of discharges*
30 *and staff time necessary for review and evaluation of proposed projects.*
31 *In establishing the fee schedule, the secretary of health and environment*
32 *shall not assess fees for permits required in the extension of a sewage*
33 *collection system, but such fees shall be assessed for all treatment devices,*
34 *facilities or discharges where a permit is required by law and is issued by*
35 *the secretary of health and environment or the secretary's designated*
36 *representative. Such fees shall be nonrefundable.*

37 (b) Any such permit for which a fee is assessed shall expire five years
38 from the date of its issuance. The secretary of health and environment
39 may issue permits pursuant to K.S.A. 65-165 and amendments thereto
40 for terms of less than five years, if the secretary determines valid cause
41 exists for issuance of the permit with a term of less than five years. The
42 minimum fee assessed for any permit issued pursuant to K.S.A. 65-165
43 and amendments thereto shall be for not less than one year. Permit fees

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1 may be assessed and collected on an annual basis and failure to pay the
2 assessed fee shall be cause for revocation of the permit. Any permit which
3 has expired or has been revoked may be reissued upon payment of the
4 appropriate fee and submission of a new application for a permit as pro-
5 vided in K.S.A. 65-165 and 65-166 and amendments thereto.

6 (c) A permit shall be required for:

7 (1) Any confined feeding facility with an animal unit capacity of 300
8 to 999 if the secretary determines that the facility has significant water
9 pollution potential; and

10 (2) any confined feeding facility with an animal unit capacity of 1,000
11 or more.

12 (d) ~~At no time shall the annual permit fee for a confined feeding~~
13 ~~facility. Annual permit fees established by the secretary pursuant to this~~
14 ~~section shall not exceed:~~

15 (1) ~~For confined feeding facilities:~~

16 (A) ~~\$25~~ for facilities with an animal unit capacity of not more than ~~_____~~ \$30
17 999;

18 ~~(B) \$100~~ for facilities with an animal unit capacity of 1,000 to ~~_____~~ \$125
19 4,999;

20 ~~(C) \$200~~ for facilities with an animal unit capacity of 5,000 to ~~_____~~ \$250
21 9,999; or

22 ~~(D) \$400~~ for facilities with an animal unit capacity of 10,000 or ~~_____~~ \$500
23 more.

24 (2) ~~For municipal or commercial waste treatment facilities, \$185 per~~ \$250
25 ~~million gallons per day design capacity or any portion thereof.~~ permitted

26 (3) ~~For municipal stormwater systems of cities having over 100,000~~ \$2500
27 ~~population, \$2,000.~~

28 (4) ~~For industrial waste treatment facilities, \$320 per million gallons~~ \$400
29 ~~per day design capacity or any portion thereof.~~ permitted

30 (5) ~~For cooling water discharges, surface disposal, no chemical ad-~~ \$75
31 ~~dition, \$60.~~

32 (6) ~~For cooling water discharges, surface disposal, chemical addition,~~ \$150
33 ~~\$120.~~

34 (7) ~~For dewatering discharges, \$60.~~ \$75

35 (8) ~~For industrial stormwater discharges, general permit, \$40.~~ \$50

36 (9) ~~For industrial stormwater discharges, individual permit, \$320.~~ \$400

37 ~~(10) For dairy farm waste control facilities, 500 cow herd or more,~~ Covered under 9d) 1 A,B,C & D
38 \$30.

39 ~~(11) For a truck washing facility for animal wastes, \$320.~~ \$400

40 (e) The secretary of health and environment shall remit all moneys
41 received from the fees established pursuant to this act to the state treas-
42 urer at least monthly. Upon receipt of such remittance, the state treasurer
43 shall deposit the entire amount thereof in the state treasury to the credit
(11) - Pretreatment permits \$400 per year
(12) - General permit \$75 per year

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1 of the state general fund.

2 (f) Any confined feeding facility with an animal unit capacity of less
3 than 300 may be required to obtain a permit from the secretary if the
4 secretary determines that such facility has significant water pollution po-
5 tential.

6 (g) Any confined feeding facility not otherwise required to obtain a
7 permit or certification may obtain a permit or certification from the sec-
8 retary. Any such facility obtaining a permit shall pay an annual permit fee
9 of not more than ~~\$25~~ \$30.

10 Sec. 3. K.S.A. 1995 Supp. 65-3008 is hereby amended to read as
11 follows: 65-3008. (a) No person shall construct, own, operate, install,
12 alter or use any air contaminant emission stationary source which, in ac-
13 cordance with rules and regulations, the secretary finds may cause or
14 contribute to air pollution, unless an appropriate approval or permit has
15 been issued for the source by the secretary under this act. Approvals or
16 permits issued by the secretary may be subject to conditions consistent
17 with the purposes of this act and rules and regulations promulgated under
18 this act.

19 (b) The secretary shall require that applications for approvals and
20 permits, and renewals thereof, under this act shall be accompanied by
21 application fees and such plans, specifications, compliance plans or other
22 information as the secretary deems necessary. Applications shall be sub-
23 mitted on forms provided by the secretary and shall be signed by a re-
24 sponsible official of the source, who shall certify the accuracy of the in-
25 formation submitted.

26 (c) The issuance or holding of an approval or permit shall not convey
27 any property right or exclusive privilege to the holder thereof.

28 (d) Without any further action on the part of the secretary, an ap-
29 proval or a permit shall become void and without effect on its expiration
30 date unless a completed application form and any required fee are filed
31 with the secretary on or before the expiration date of the approval or the
32 permit. For purposes of this subsection, the secretary may specify by rule
33 and regulation an amount of time prior to the expiration date of an op-
34 erating permit by which a complete application form and any required
35 fee must be filed with the secretary in order to be considered timely filed.
36 The secretary may provide for a grace period by rule and regulation.

37 (e) The secretary may issue by rule and regulation a general approval
38 or permit covering numerous similar sources. Any general approval or
39 permit shall comply with all requirements applicable to approvals or per-
40 mits under this act. Any source covered by a general approval or permit
41 must apply to the secretary and receive authority to operate under the
42 general approval or permit.

43 (f) The secretary may fix, charge and collect fees for ~~approvals and~~

1 ~~operating permit applications and construction permits, and the renewal~~
 2 ~~thereof, to cover all or any part of the cost of administering the provisions~~
 3 ~~of Kansas air quality act, other than K.S.A. 1995 Supp. 65-3027, and~~
 4 ~~amendments thereto. The secretary shall adopt rules and regulations fixing~~
 5 ~~such fees, subject to the following: (1) Operating permit application fees~~
 6 ~~shall be not less than \$20 and not more than \$400; and (2) construction~~
 7 ~~permit application fees shall be not less than \$100 and not more than~~
 8 ~~\$4,000, except that an additional \$1,500 may be added to the fee for a~~
 9 ~~source located within an area identified as not meeting a national ambient~~
 10 ~~air quality standard for a pollutant for which the source is major under~~
 11 ~~the procedures prescribed by section 107(d) of the federal clean air act~~
 12 ~~(42 U.S.C. 7407(d)). The fees shall be deposited in the state treasury and~~
 13 ~~credited to the state general fund, except that if all or any portion of the~~
 14 ~~regulatory services for which a fee is collected under this section is per-~~
 15 ~~formed by a county, city-county or multicounty health department, that~~
 16 ~~portion of such fee which pertains to such services, as determined by the~~
 17 ~~secretary, shall be credited to the local air quality control authority reg-~~
 18 ~~ulation services fund, which is hereby created in the state treasury, and~~
 19 ~~shall be paid from such fund to such local air quality control authority.~~

approvals and

the

approval and

\$1000

approval

\$5000

required to obtain a preconstruction permit pursuant to rules and
 regulations promulgated to satisfy the requirements of subchapter I,
 part C of the federal clean air act (42 U.S.C. 7470 et seq.) or for a
 source required to obtain a preconstruction permit pursuant to rules
 and regulations promulgated to satisfy the requirements of subchapter
 I, part D of the federal clean air act (42 U.S.C. 7501 et seq.).

20 Sec. 4. K.S.A. 65-3022 is hereby amended to read as follows: 65-
 21 3022. In order to defray costs in determining and monitoring the envi-
 22 ronmental impact of power generation facilities with respect to air quality
 23 and, in the case of nuclear powered generation facilities, the overall ra-
 24 diological impact thereof, the secretary is authorized and directed to
 25 adopt rules and regulations to provide for the establishment of fees and
 26 for the collection thereof from each such facility. Such fees shall be de-
 27 termined and collected annually, and such determination shall be based
 28 upon the size and type of such facilities, *but no such fee shall exceed*
 29 *\$200,000 per year.* In establishing programs for determining and moni-
 30 toring environmental impact, the secretary shall take into consideration
 31 monitoring programs conducted by other persons and where possible
 32 avoid duplication of effort and expense. The secretary may also provide
 33 for quality review and evaluation of monitoring conducted by other per-
 34 sons in order to further the objectives of this act and to determine the
 35 extent and necessity of monitoring programs to be conducted by the de-
 36 partment of health and environment.

37 Sec. 5. K.S.A. 1995 Supp. 65-3024 is hereby amended to read as
 38 follows: 65-3024. (a) The secretary may fix, charge and collect annual
 39 emissions fees in amounts necessary to pay the direct and indirect costs
 40 of administering the provisions of the Kansas air quality act. The secretary
 41 shall adopt rules and regulations fixing such fees and shall periodically
 42 increase or decrease such fees consistent with the need to cover the direct
 43 and indirect costs of administering the program, *but no such fee shall*

8-29

8-30

1 *exceed \$18 per ton.* To the extent possible, annual emission fees shall be
2 based upon actual emissions determined pursuant to rules and regulations
3 adopted by the secretary. For purposes of determining emission fees for
4 a facility, emissions of any single regulated pollutant in excess of 4,000
5 tons per year shall not be included in the calculation when determining
6 the total emissions from the facility.

7 (b) There is hereby established in the state treasury the air quality
8 fee fund. Revenue from the following sources shall be deposited in the
9 state treasury and credited to the fund:

10 (1) Fees collected under subsection (a);

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

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

15 (c) Moneys deposited in the fund shall be expended only for the pur-
16 pose of administering the Kansas air quality act, including funding of a
17 technical and environmental compliance assistance program, and for no
18 other governmental purposes.

19 (d) On the 10th day of each month, the director of accounts and
20 reports shall transfer from the state general fund to the air quality fee
21 fund the amount of money certified by the pooled money investment
22 board in accordance with this subsection. Prior to the 10th day of each
23 month, the pooled money investment board shall certify to the director
24 of accounts and reports the amount of money equal to the proportionate
25 amount of all the interest credited to the state general fund for the pre-
26 ceding period of time specified under this subsection, pursuant to K.S.A.
27 75-4210a and amendments thereto, that is attributable to moneys in the
28 air quality fee fund. Such amount of money shall be determined by the
29 pooled money investment board based on: (1) The average daily balance
30 of moneys in the air quality fee fund during the period of time specified
31 under this subsection as certified to the board by the director of accounts
32 and reports; and (2) the average interest rate on repurchase agreements
33 of less than 30 days' duration entered into by the pooled money invest-
34 ment board for that period of time. On or before the fifth day of the
35 month for the preceding month, the director of accounts and reports shall
36 certify to the pooled money investment board the average daily balance
37 of moneys in the air quality fee fund for the period of time specified
38 under this subsection.

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

43 Sec. 6. K.S.A. 65-5309 is hereby amended to read as follows: 65-

8-31

1 5309. (a) The secretary shall establish by rules and regulations a reason-
 2 able schedule of fees for licensure, for certification and for project eval-
 3 uations under this act. The fee schedule shall be established on the basis
 4 of determination by the secretary of the amount of revenue required for
 5 administration of the provisions of this act, *subject to the following: (1)*
 6 *The annual fee for licensure of a business entity shall not exceed \$1,000;*
 7 *(2) the annual fee for certification as an asbestos worker shall not exceed*
 8 ~~*\$30; and (3) the project evaluation fee shall not exceed \$5,000.*~~

————— \$1500
 ————— \$50
 ————— \$10,100

9 (b) The secretary shall remit all moneys received from the fees es-
 10 tablished pursuant to this section to the state treasurer at least monthly.
 11 Upon receipt of such remittance, the state treasurer shall deposit the
 12 entire amount thereof in the state treasury to the credit of the state gen-
 13 eral fund.

14 Sec. 7. K.S.A. 65-5704 is hereby amended to read as follows: 65-
 15 5704. (a) The secretary of health and environment shall: ~~(a)~~ (1) Provide
 16 support for the oversight and administrative activities of the commission;
 17 ~~(b)~~ (2) receive, process and manage hazardous chemical information re-
 18 quired to be submitted and notifications required to be given pursuant
 19 to the federal act; ~~(c)~~ (3) establish a list of Kansas reportable chemicals
 20 which shall also be subject to the requirements of sections 311 and 312
 21 of the federal act; ~~(d)~~ (4) designate threshold planning quantities and
 22 reportable quantities for any chemical designated for listing as reportable
 23 in Kansas. For purposes of reporting in Kansas, the secretary may estab-
 24 lish more stringent reporting thresholds for those chemicals required to
 25 be reported under the federal act. Chemicals shall be designated and
 26 reporting thresholds established after public notice and hearing, based
 27 upon concern for the hazards such chemicals may represent in Kansas;
 28 and ~~(e)~~ (5) adopt such rules and regulations as necessary to implement
 29 the provisions of the federal act and the secretary's duties under this
 30 section, including provisions for protection of trade secrets and for public
 31 disclosure of information consistent with sections 322, 323 and 324 of the
 32 federal act. ~~Such~~

33 (b) Rules and regulations adopted pursuant to subsection (a)(5) may
 34 establish fees to cover all or part of the total cost of operation of the
 35 program, but such fees shall not exceed the following:

36 (1) For an annual report required under section 312 of the federal
 37 act by an owner or operator of a facility, the lesser of: (A) ~~\$3,000~~; or (B)
 38 a fee based upon the sum of the maximum daily reportable quantity of
 39 extremely hazardous substances or hazardous chemicals, or both, present
 40 at a facility, as follows: (i) For 1 to 9,999 pounds of extremely hazardous
 41 substances, ~~\$25~~; (ii) for 10,000 to 999,999 pounds of extremely hazardous
 42 substances, ~~\$50~~; (ii) for 1,000,000 or more pounds of extremely hazardous
 43 substances, ~~\$150~~; (iv) for 10,000 to 99,999 pounds of hazardous chemicals,

————— \$3750
 ————— \$30
 ————— \$65
 ————— \$200

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1	\$25, (v) for 100,000 to 999,999 pounds of hazardous chemicals, \$50; (vi)	\$30	\$65
2	for 1,000,000 to 9,999,999 pounds of hazardous chemicals, \$150; and (vii)		\$200
3	for 10,000,000 or more pounds of hazardous chemicals, \$300.	\$375	
4	(2) For an annual report required under section 312 of the federal		
5	act by an owner or operator of an oil or gas well, as defined in K.S.A. 55-		
6	150 and amendments thereto, \$25.	\$30	
7	(3) For a toxic chemical release report required under section 313 of		
8	the federal act, a fee based on the total quantity of chemicals released, as		
9	follows: (A) For 100 to 19,999 pounds of chemicals released, \$250;	\$325	
10	(B) for 20,000 to 99,999 pounds of chemicals released, \$700;	\$900	
11	(C) for 100,000 to 999,999 pounds of chemicals released, \$1,700;	\$2200	
12	and (D) for 1,000,000 or more pounds of chemicals released, \$3,000.	\$3750	

13 Sec. 8. K.S.A. 82a-1206 is hereby amended to read as follows: 82a-
 14 1206. (a) Every well contractor desiring to engage in the business of
 15 constructing, reconstructing or treating water wells in this state shall make
 16 initial application for a license to the secretary. Every contractor making
 17 such application shall set out such information as may be required upon
 18 forms to be adopted and furnished by the secretary. The secretary shall
 19 charge an application fee as established by regulation for the filing of such
 20 initial application by a contractor, and The secretary shall not act upon
 21 any application until such the application fee has been paid.

22 (b) The secretary shall adopt rules and regulations establishing a fee
 23 for an application for a contractor's license, a fee for a contractor's license
 24 and a fee for each water well constructed by a licensed contractor, but
 25 such fees shall not exceed the following:

26	(1) For an application for licensure, \$10.	\$15	
27	(2) For an annual license of a resident contractor, \$100 plus \$25 for	\$125	\$30
28	each drill rig operated by or for the contractor.		
29	(3) For and annual license of a nonresident contractor: (A) An amount		
30	equal to the annual license fee charged a Kansas contractor by the non-		
31	resident's state of residence or \$100, whichever is less; plus (B) \$25 for	\$125	\$30
32	each drill rig operated by or for the contractor.		

33 (c) All application fees and license fees collected hereunder shall be
 34 remitted to the state treasurer at least monthly. Upon receipt of any such
 35 remittance, the state treasurer shall deposit the entire amount thereof in
 36 the state treasury and the same shall be credited to the state general fund.
 37 On July 1, 1983, the director of accounts and reports shall transfer all
 38 moneys in the water well contractors licensing fund to the state general
 39 fund. All liabilities of the water well contractors licensing fund are hereby
 40 transferred to and imposed upon the state general fund. The water well
 41 contractors licensing fund is hereby abolished.

42 (e) (d) A license to construct water wells shall be issued to any ap-
 43 plicant if, under the standards set forth in K.S.A. 82a-1207 and amend-

8-33

1 ments thereto, the secretary shall determine such applicant is qualified
2 to conduct water well construction operations. In the granting of such
3 licenses due regard shall be given to the interest of the state of Kansas in
4 the protection of its underground water resources. Application fees paid
5 hereunder shall be retained by the secretary whether such initial license
6 is issued or denied, but if denied, the license fee shall be refunded.

7 ~~(d)~~ (e) Applicants for licenses hereunder who are engaged in busi-
8 ness as water well contractors in this state, if incorporated, shall submit
9 evidence of current good standing with the registration requirements for
10 corporations of the secretary of state.

11 Sec. 9. K.S.A. 65-3022, 65-5309, 65-5704 and 82a-1206 and K.S.A.
12 1995 Supp. 65-166a, 65-3008 and 65-3024 are hereby repealed.

13 Sec. 10. This act shall take effect and be in force from and after its
14 publication in the statute book.

Insert attached Radiation & Remediation-related addition

**Bureau of Air and Radiation - Radiation Program
Balloon to H.B. 3005**

Sec. 9. K.S.A. 48-1606 is hereby amended to read as follows: 48-1606 State radiation control; duties of secretary of health and environment; fees for licenses registrations. (a) The secretary of health and environment shall be responsible for state radiation control.

(b) The secretary, for the protection of the public health and safety, shall develop programs for evaluation of hazards associated with use of sources of radiation.

(c) The secretary may:

(1) Advise, consult and cooperate with other agencies of the state, the federal government, other states and interstate agencies, political subdivisions and with groups concerned with control of sources of radiation;

(2) accept and administer grants or gifts, conditional or otherwise, in furtherance of its functions, from the federal government and from other sources, public or private;

(3) collect and disseminate information relating to control of sources of radiation;

(4) encourage, participate in, or conduct studies, investigations, training, research and demonstrations relating to control of sources of radiation;

(5) in accordance with the laws of the state, employ, compensate and prescribe the powers and duties of such individuals as may be necessary to carry out the responsibilities set forth herein;

(6) institute training programs for the purpose of qualifying personnel to carry out the provisions of this act, and make personnel available for participation in any program or programs of the federal government, other states or interstate agencies in furtherance of the purposes of this act; and

(7) fix, charge and collect fees for licenses and registrations, and renewals thereof, issued under the nuclear energy development and radiation control act to cover all or any part of the cost of administering such act.

Such fees shall not exceed:

<i>Licenses for possession and use of special nuclear material in sealed sources That are contained in devices used in industrial measuring systems</i>	<i>New license</i>	<i>\$500.00</i>	<i>\$1000.00</i>
	<i>Amendment</i>	<i>\$300.00</i>	<i>\$600.00</i>
<i>Any other licenses for possession and use of special nuclear material, except those listed in elsewhere in this paragraph</i>	<i>New License</i>	<i>\$1,200.00</i>	<i>\$2500.00</i>
	<i>Amendment</i>	<i>\$300.00</i>	<i>\$600.00</i>
<i>All source material licenses, except those listed elsewhere in this paragraph</i>	<i>New License</i>	<i>\$600.00</i>	<i>\$1200.00</i>
	<i>Amendment</i>	<i>\$300.00</i>	<i>\$600.00</i>

Licenses for possession and use of radioactive or by-product material for the purpose of processing or manufacturing items containing radioactive or by-product material for commercial distribution, where more than one radionuclide is used or the handling of unsealed sources is required

New License \$2,000.00 \$4000.00

Amendment \$300.00 \$600.00

License for possession and use of radioactive or by-product material for the purpose of processing or manufacturing items containing radioactive or by-product material for commercial distribution, where only one radionuclide is used and only sealed sources are handled

New License \$1,200.00 \$2500.00

Amendment \$300.00 \$600.00

License for possession and use of radioactive or by-product material for the purpose of processing, manufacturing or distributing radiopharmaceuticals containing radioactive or by-product materials

New License \$800.00 \$1600.00

Amendment \$300.00 \$600.00

Licenses for possession and use of radioactive or by-product materials in permanent, shielded facilities for industrial radiography

New License \$2,500.00 \$5000.00

Amendment \$300.00 \$600.00

Licenses for possession and use of industrial radiography devices in permanent, shielded facilities or on multiple temporary job sites

New License \$2,500.00 \$5000.00

Amendment \$500.00 \$1000.00

<i>Licenses for possession and use of radioactive or by-product material for irradiation of materials in which the source is not removed from its shield for irradiation purposes</i>	<i>New License</i> \$500.00	\$1000.00
	<i>Amendment</i> \$400.00	\$800.00
<i>Licenses for possession and use of radioactive or by-product material for irradiation of material in which the source is removed from its shield for irradiation purposes</i>	<i>New License</i> \$3,000.00	\$6000.00
	<i>Amendment</i> \$500.00	\$1000.00
<i>Licenses authorizing distribution of radioactive or by-product materials to persons generally licensed to possess them</i>	<i>New License</i> \$1,500.00	\$3000.00
	<i>Amendment</i> \$700.00	\$1500.00
<i>Licenses authorizing distribution of radioactive or by-product material to persons exempt from licensing requirements</i>	<i>New License</i> \$1,600.00	\$3000.00
	<i>Amendment</i> \$800.00	\$1600.00
<i>Licenses for possession and use of radioactive or by-product material for the purpose of research and development, except those licenses authorizing manufacturer and distribution or those authorizing use in a medical institution or private medical office</i>	<i>New License</i> \$1,400.00	\$2800.00
	<i>Amendment</i> \$600.00	\$1200.00
<i>Licenses for possession and use of radioactive or by-product material, except those listed elsewhere in these paragraphs</i>	<i>New License</i> \$600.00	\$1200.00
	<i>Amendment</i> \$300.00	\$600.00
<i>Licenses specifically authorizing the receipt of radioactive, by-product, source, or special nuclear material wastes from other persons for the purpose of packaging of material</i>	<i>New License</i> \$2,000.00	\$4000.00
	<i>Amendment</i> \$800.00	\$1600.00

Licenses specifically authorizing the receipt of packaged radioactive, by-product, source, or special nuclear material wastes from other persons

New License \$1,000.00 \$2000.00
Amendment \$500.00 \$1000.00

Licenses specifically authorizing possession and use of radioactive, by-product, source, or special nuclear material for the purpose of well logging, well surveys, or tracer studies

New License \$1,000.00 \$2000.00
Amendment \$500.00 \$1000.00

Licenses specifically authorizing commercial collection and laundry of items contaminated with radioactive, by-product, source or special nuclear material

New License \$800.00 \$1600.00
Amendment \$300.00 \$600.00

Licenses specifically authorizing medical use of radioactive, source, by-product, or special nuclear materials for teletherapy

New License \$1,500.00 \$3000.00
Amendment \$500.00 \$1000.00

Licenses authorizing the use of radioactive, by-product, source, or special nuclear material in a medical institution or by two or more physicians, for medical purposes, except licenses authorizing teletherapy

New License \$700.00 \$1500.00
Amendment \$300.00 \$600.00

Licenses authorizing the use of radioactive, by-product, source or special nuclear material by private physicians for medical purposes, except licenses authorizing use in institutions or teletherapy covered above

New License \$500.00 \$1000.00
Amendment \$300.00 \$600.00

Licenses authorizing possession and use of radioactive, by-product, source or special nuclear material for civil defense purposes

New License \$500.00 \$1000.00
Amendment \$300.00 \$600.00

<i>Review of a device, product, or sealed source containing radioactive, by-product, source or special nuclear material for distribution to general licensees or persons exempt from licensing</i>	<i>New License</i> \$1,500.00	\$3000.00
	<i>Amendment</i> \$300.00	\$600.00
<i>Licenses authorizing the manufacturing and distribution of encapsulated radioactive, by-product, source, or special nuclear material in a device that uses decay heat as a source of power</i>	<i>New License</i> \$3,500.00	\$7000.00
	<i>Amendment</i> \$470.00	\$1000.00
<i>Licenses authorizing the possession and use of waste radioactive by-product, source or special nuclear material for a commercial low level waste disposal facility</i>	<i>New License</i> \$300,000.00	
	<i>Amendment</i> \$100,000.00	
<i>Licenses authorizing the possession and use of radioactive materials (Ra-226) in luminous paint or in products containing such paint</i>	<i>New License</i> \$1,000.00	\$2000.00
	<i>Amendment</i> \$300.00	\$600.00
<i>Registration of medical x-ray machines, including those x-ray machines used in hospitals or clinics by or under the supervision of medical doctors, osteopaths, or chiropractors</i>	<i>First Machine</i> \$56.00	\$100.00
	<i>Each Additional</i> \$13.00	\$25.00
<i>Registration of dental x-ray machines, including those machines used in hospitals, dental clinics or private offices by or under the supervision of dentists, podiatrists, and veterinarians</i>	<i>First Machine</i> \$36.00	\$60.00
	<i>Each Additional</i> \$13.00	\$20.00
<i>Registration of industrial radiographic machines</i>	<i>First Machine</i> \$36.00	\$60.00
	<i>Each Additional</i> \$11.00	\$20.00
<i>Registration of analytical x-ray machines</i>	<i>First Machine</i> \$36.00	\$60.00
	<i>Each Additional</i> \$11.00	\$20.00

*Registration of particle
accelerators*

Each Machine \$78.00 \$125.00

(d) The secretary shall adopt rules and regulations fixing the fees for each radioactive hazardous waste disposal facility which shall be not more than \$300,000 annually. The fees shall be deposited in the state treasury and credited to the state general fund.

Amendment 3, Technical amendments plus increases

Bureau of Environmental Remediation
Balloon to H.B. 3005

Sec. 10. K.S.A. 65-34,105 is hereby amended to read as follows: K.S.A. 65-34,105 (a) The secretary is authorized and directed to adopt rules and regulations necessary to administer and enforce the provisions of this act. Any rules and regulations so adopted shall be reasonably necessary to preserve, protect and maintain the waters and other natural resources of this state, and reasonably necessary to provide for the prompt investigation and cleanup of sites contaminated by a release from a storage tank. In addition, any rules and regulations or portions thereof which pertain to underground storage tanks or the owners and operators thereof shall be adopted for the purpose of enabling the secretary and the department to implement the federal act, and such rules and regulations so adopted shall be consistent with the federal act. Consistent with these purposes, the secretary shall adopt rules and regulations:

(1) Establishing performance standards for underground storage tanks first brought into use on or after May 18, 1989. The performance standards for new underground storage tanks shall include, but are not limited to, design, construction, installation, release detection and product compatibility standards;

(2) establishing performance standards for aboveground storage tanks brought into use after May 18, 1989. The performance standards shall not exceed those performance standards adopted by the administrator of the U.S. environmental protection agency and for new aboveground storage tanks shall include, but are not limited to, design, construction, installation, release detection and product compatibility standards;

(3) establishing performance standards for the inground repair of underground storage tanks. The performance standards shall include, but are not limited to, specifying under what circumstances an underground storage tank may be repaired and specifying design, construction, installation, release detection, product compatibility standards and warranty;

(4) establishing performance standards for maintaining spill and overfill equipment, leak detection systems and comparable systems or methods designed to prevent or identify releases. In addition, the secretary shall establish standards for maintaining records and reporting leak detection monitoring, inventory control and tank testing or comparable systems;

(5) establishing requirements for reporting a release and for reporting and taking corrective action in response to a release;

(6) establishing requirements for maintaining evidence of financial responsibility to be met by owners and operators of underground storage tanks;

(7) establishing requirements for the closure of storage tanks including the removal and disposal of storage tanks and regulated substance residues contained therein to prevent future releases of regulated substances into the environment;

(8) for the approval of tank tightness testing methods, including determination of the qualifications of persons performing or offering to perform such testing;

Amendment 3, Technical amendments plus increases

(9) establishing site selection and clean-up criteria regarding corrective actions related to a release, which criteria address the following: The physical and chemical characteristics of the released substance, including toxicity, persistence and potential for migration; the hydrogeologic characteristics of the release site and the surrounding land; the proximity, quality and current and future uses of groundwater; an exposure assessment; the proximity, quality and current and future use of surface water; and the level of the released substance allowed to remain on the facility following cleanup;

(10) prescribing fees for the following with regard to storage tanks: Registration, issuance of permits, approval of plans for new installations and conducting of inspections. The fees shall be established in such amounts that revenue from such fees does not exceed the amount of revenue required for the purposes provided by subsection (b) of K.S.A. 65-34,128, *but shall not exceed the following: a non-refundable \$20.00 per tank application fee for installation of an underground storage tank; an annual underground storage tank registration fee of \$10.00 per tank; a late notice fee of \$10.00 shall be charged for each facility which fails to submit the required underground storage tank registration fees prior to April 30 of each year; an annual \$10 per tank aboveground storage tank registration fee; a late notice fee of \$10.00 shall be charged for each facility which fails to submit the required aboveground storage tank registration fees prior to December 31 of each year.* All fees for underground storage tanks shall be deposited in the state general fund and all fees for aboveground storage tanks shall be deposited in the storage tank fee fund;

(11) for determining the qualifications, adequacy of performance and financial responsibility of persons desiring to be licensed as underground storage tank installers or contractors. In adopting rules and regulations, the secretary may specify classes of specialized activities, such as the installation of corrosion protection devices or inground relining of underground storage tanks, and may require persons wishing to engage in such activities to demonstrate additional qualifications to perform these services;

(12) prescribing fees for the issuance of licenses to underground storage tank installers and contractors. The fees shall be established in such amounts that revenue from such fees does not exceed the amount of revenue determined by the secretary to be required for administration of the provisions of K.S.A. 65-34,110 and amendments thereto, but shall not exceed the following: *An underground storage tank contractor licensing fee of \$200.00 to secure a license to remain in force until two years from the initial licensing date, with an annual renewal fee of \$100.00 thereafter; an underground storage tank installer's licensing fee of \$100.00 to secure a license to remain in force until two years from the initial licensing date with an annual renewal fee of \$50.00 thereafter; an underground storage tank tightness tester's licensing fee of \$100.00 to secure a license to remain in force until two years from the initial licensing date and an annual renewal fee of \$50.00 thereafter ; and*

Amendment 3, Technical amendments plus increases

(13) adopting schedules requiring the retrofiting of underground storage tanks in existence on May 18, 1989, and aboveground storage tanks in existence on July 1, 1992, and for the retirement from service of underground storage tanks placed in service prior to May 18, 1989, and aboveground storage tanks placed in service prior to July 1, 1992. Such schedules shall be based on the age and location of the storage tank and the type of substance stored. Such retrofiting shall include secondary containment, corrosion protection, linings, leak detection equipment and spill and overfill equipment.

(b) In adopting rules and regulations under this section, the secretary shall take notice of rules and regulations pertaining to fire prevention and safety adopted by the state fire marshal pursuant to subsection (a)(1) of K.S.A. 31-133, and amendments thereto.

(c) Nothing in this section shall interfere with the right of a city or county having authority to adopt a building or fire code from imposing requirements more stringent than those adopted by the secretary pursuant to subsections (a)(1), (2), (3), (7) and (13), or affect the exercise of powers by cities, counties and townships regarding the location of storage tanks and the visual compatibility of aboveground storage tanks with surrounding property.

Amendment 3, Technical amendments plus increases

Sec. 11. K.S.A. 49-406 is hereby amended to read as follows: 49-406. (a) No operator shall engage in surface mining unless such operator possesses a valid permit issued by the secretary designating the area of land affected by the operation. The permit shall authorize the operator to engage in surface mining upon the area of land described in such permit and shall be valid for a period not to exceed five years from the date of its issuance unless sooner revoked or suspended as herein provided. All surface mining conducted under such permit shall comply with the requirements of the surface mining control and reclamation act of 1977 (public law 95-87) and the regulations issued thereunder. It shall be the duty of each producer holding a permit within the state of Kansas to file an annual statement setting forth the full amount of coal mined or taken from each source or deposit and to identify the specific source or deposit from which taken. Such statement shall be filed with the secretary upon forms provided by the department not later than 30 days after the end of each calendar year. All operators shall apply for new permits within two months following approval of the state reclamation program by the secretary of the interior, pursuant to the final program provisions of the national surface mining control and reclamation act of 1977 (public law 95-87), who expect to operate a mine or mines after the expiration of eight months following such approval of this act.

(b) The application for the permit shall include: (1) Five copies of a United States geological survey topographic map on which the operator has indicated the location of the area of land affected, the course which would be taken by drainage from the area of land affected to the nearest stream or streams to which such drainage would normally flow, the name of the applicant and the date.

(2) The owner or owners of the surface of the area of land to be affected by the permit and the owner or owners of all surface area within 500 feet of any part of the affected area.

(3) All persons with any interest in the coal to be mined.

(4) The source of the applicant's legal right to mine the coal or other minerals affected by the permit.

(5) The permanent and temporary post-office address of the applicant.

(6) Whether the applicant or any person, firm, partnership or corporation associated with the applicant holds or has held any other permits under this act; and, if so, an identification of such permits.

(7) The written consent of the applicant and such other persons, if any, necessary to grant such access to the secretary and the secretary's designee to the area of land affected under application from the date of application until the expiration of any permit granted under such application and thereafter for such time as is necessary to assure compliance with all provisions of this act or any rule or regulation promulgated hereunder.

(8) A determination of probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and groundwater systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the department of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area, and particularly upon water availability. This determination shall not be required until hydrologic information on the general area prior to mining is made available from appropriate governmental agencies, but a permit shall not be approved

Amendment 3, Technical amendments plus increases

until such information is available and is incorporated into the application. If the secretary finds that the probable total annual production at all locations of any operator will not exceed 100,000 tons, the determination of probable hydrologic consequences, and any statement required by the secretary concerning results of test borings or core samplings, shall, upon written operator request, be performed by a qualified public or private laboratory designated by the secretary, at departmental expense.

(9) Such other information as may be required by the secretary in order to qualify to administer the regulatory programs adopted by the United States department of the interior, office of surface mining reclamation and enforcement, pursuant to the national surface mining control and reclamation act of 1977 (public law 95-87) and federal rules and regulations adopted pursuant thereto.

(c) At the time of submission of the application for a permit, or amendment to a permit, the operator shall submit to the secretary proof of publication which shall contain such data and be in such form as the secretary shall require by regulations consistent with the national surface mining control and reclamation act of 1977 (public law 95-87), which notice shall be published at least once a week for four consecutive weeks. The secretary, in accordance with regulations consistent with such national act, shall notify appropriate public agencies of the operator's intention to mine, and shall receive and make available for public inspection the written comments or objections of such agencies and any person having an interest possibly affected adversely by proposed operations. The secretary also shall prescribe by regulations consistent with such national act, a system for holding informal conferences in the area of proposed operations with public notice thereof.

(d) The application for a permit shall be accompanied by an enlarged United States geological survey topographic map prepared and certified by a professional engineer or geologist containing the following: (1) An identification of the area to correspond with the application.

(2) The boundaries of surface properties and names of owners on the area of land affected, adjacent deep mines, and the name of the owner or owners of the surface area within 1,000 feet of any part of the area of land affected, and, if known to the operator, the existence of adjacent deep mines.

(3) Be of a scale of not less than 400 feet to the inch and not to exceed 660 feet to the inch.

(4) Show the names and locations of all streams, creeks or other bodies of public water, roads, buildings, cemeteries, oil and gas wells and utility lines on the area to be mined and within 1,000 feet of such area.

(5) Show by appropriate markings the boundaries of the area of land affected, the cropline of the seam or deposit to be mined, and the total number of acres involved in the area of land affected.

(6) Show the date on which the map was prepared, the north point and the quadrangle name.

(7) Show the drainage plan on and away from the area of land affected. Such plan shall indicate the directional flow of water, constructed drainways, natural waterways used for drainage, and the nearest streams or tributaries receiving the discharge.

(8) A verified statement by the operator containing the proposed method of operation, grading, reclamation and conservation plan for the affected area including dates and approximate time of completion, and that the operation will meet the requirements of this act, or any rule or regulation promulgated hereunder.

(9) The certification of the maps by the professional engineer or geologist shall read as follows:

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"I, the undersigned, Hereby certify that this map is correct and shows to the best of my knowledge and belief all the information required by the surface mining laws of this state." The certification shall be signed and, in the case of an engineer, the engineer's seal affixed.

(10) Such other information as may be required by the secretary in order to qualify to administer the regulatory programs adopted by the United States department of the interior, office of surface mining reclamation and enforcement, pursuant to the national surface mining control and reclamation act of 1977 (public law 95-87) and federal rules and regulations adopted pursuant thereto.

Nothing in this subsection shall be construed to permit the practice of engineering, as defined by K.S.A. 74-7001, and amendments thereto, by a geologist.

(e) The application for a permit shall be accompanied by a plan of reclamation that meets the requirements of this act, and the rules and regulations promulgated hereunder and the requirements necessary for the secretary to qualify to administer the regulatory programs adopted by the United States department of the interior, office of surface mining reclamation and enforcement, pursuant to the national surface mining control and reclamation act of 1977 (public law 95-87) and federal rules and regulations adopted pursuant thereto.

(f) The secretary shall not approve the application for a permit to mine where such mining would constitute a hazard to a residence, public building, school, church, cemetery, commercial or residential building, public road, stream, lake or other property. No surface coal mining operations shall be permitted within 100 feet of the outside right-of-way line of any public road, except where mine access roads or haulage roads join such right-of-way line and except that the secretary may permit such roads to be relocated or the area affected to lie within 100 feet of such road, if after public notice and opportunity for public hearing in the locality, a written finding is made that the interests of the public and the landowners affected thereby will be protected; or within 300 feet from any occupied dwelling, unless waived by the owner thereof, nor within 300 feet of any public building, school, church, community, or institutional building, public park, or within 100 feet of a cemetery.

(g) (1) A basic fee of \$50 plus a fee in an amount to be fixed by the secretary for every acre and fraction of an acre of land to be affected, *but not to exceed \$500 per acre or fraction of an acre*, shall be paid at the time of application.

(2) Each permittee shall be assessed a per ton fee on every ton of coal extracted.

(3) Pursuant to paragraph (2) of this subsection (g), the per ton fee shall be an amount not less than \$.03 and not more than \$.10 per ton of coal extracted each calendar year. This per ton fee shall be paid to the department on a quarterly basis and it shall be due within 30 calendar days after the beginning of each calendar quarter.

(4) Fees established under this subsection shall be fixed by the secretary, subject to restrictions and limitations imposed by this subsection, in amounts deemed necessary to administer and enforce the provisions of the mined-land conservation and reclamation act.

(h) (1) After a surface coal mining and reclamation permit application has been approved but before such a permit is issued, the applicant shall file with the secretary, on a form prescribed and furnished by the department, a bond for performance payable to the state treasurer, and conditional upon faithful performance of all the requirements of this act and the permit. The bond shall cover that area of land within the permit area upon which the operator will initiate and conduct surface coal mining

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and reclamation operations within the initial term of the permit. As succeeding increments of surface coal mining and reclamation operations are to be initiated and conducted within the permit area, the operator shall file with the department an additional bond or bonds to cover such increments as required by the secretary. The amount of the bond required for each bonded area shall depend upon the reclamation requirements of the approved permit; shall reflect the probable difficulty of reclamation giving consideration to such factors as topography, geology of the site, hydrology, and revegetation potential; and shall be determined by the secretary. The amount of the bond shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by the department in the event of forfeiture and in no case shall the bond for the entire area under one permit be less than \$10,000.

(2) Liability under the bond shall be for the duration of the surface coal mining and reclamation operation and for a period coincident with operator's responsibility for revegetation requirements. Surety bonds shall be executed by the operator and a corporate surety licensed to do business in Kansas.

(3) The amount of the bond required and the terms of each acceptance of the applicant's bond shall be adjusted by the secretary from time to time as affected land acreages are increased or decreased or where the cost of future reclamation changes.

(4) Subject to provision (5), an applicant may elect to satisfy the bonding requirements of this subsection by depositing with the state treasurer cash, negotiable bonds of the United States or of the state of Kansas, negotiable certificates of deposit of any bank organized under the laws of the United States or of the state of Kansas or irrevocable letters of credit of any such bank. The cash deposit or market value of any such securities shall be equal to or greater than the amount of the bond required for the bonded area.

(5) An applicant may elect to satisfy the bonding requirements of this subsection by depositing with the state treasurer cash or any of the securities specified in provision (4) or any combination thereof and a first mortgage on real estate which in the aggregate shall be equal to or greater than the amount of the bond required for the bonded area. The mortgage shall be equal in value to not more than 50% of the amount of the bond and shall be secured by real estate which has an appraised value equal to or greater than twice the amount of the mortgage.

(i) Each permit applicant shall submit to the department as part of the application, a certificate issued by an insurance company licensed to do business in Kansas, certifying that the applicant has a public liability policy in force for all operations under the permit applied for, providing personal injury and property damage insurance in an amount adequate to compensate persons damaged as a result of mining and reclamation operations, including use of explosives, and entitled to compensation under the laws of Kansas. The secretary may establish, by regulations, the amount of such insurance to be carried. Such policy shall be maintained during the term of the permit and any renewal, and be continued until completion of all operations.

(j) Where one operator succeeds another at any uncompleted operation, either by sale, assignment, lease or otherwise, the secretary may release the first operator from all liability under this act as to that particular operation. If two or more operators have been issued a permit for the same operation and have otherwise complied with the requirements of the act and regulations promulgated pursuant thereto, the successor operator shall assume as part of such operator's obligation under the

Amendment 3, Technical amendments plus increases

act, all liability for the reclamation of the area of land affected by the former operator.

(k) A valid permit issued by the secretary may be renewed with respect to areas within boundaries of the existing permit, upon application by the permit holder. The burden shall be upon the applicant, subsequent to fulfillment of public notice requirements of the national surface mining control and reclamation act of 1977 (public law 95-87), to establish, subject to confirmation by written findings of the secretary, that:

- (1) Terms and conditions of the existing permit are satisfactorily met; and
- (2) present mining and reclamation operations are in compliance with environmental protection standards imposed by this act and the national surface mining control and reclamation act of 1977 (public law 95-87); and
- (3) renewal will not substantially jeopardize the operator's continuing responsibility on existing permit areas; and
- (4) the operator has provided evidence that the performance bond in effect for the operation together with any additional bond required by the secretary, will continue in full force and effect for any renewal requested; and
- (5) any additional revised or updated information required by the secretary has been provided.

Prior to approval of any permit renewal, the secretary shall provide notice to any appropriate public authorities.

(1) If a renewal application includes a proposal to extend operations beyond existing permit boundaries, that portion of the application applicable to areas beyond existing permit boundaries shall be subject to all standards applicable to new permits. Permit renewals shall not be issued for terms greater than provided for original permits, and applications for renewal permits shall be made at least 120 days prior to expiration of the existing permit.

(m) Each permit applicant shall file a copy of the application for public inspection at the field office of the department, which copy need not contain information relating to the coal seam itself. Any person with an interest which may be adversely affected shall be furnished with information pertaining to coal seams, test borings, core samplings, or soil samples, if such information is required by the secretary, together with data respecting location of subsurface water and analysis of chemical properties including acid forming properties of the mineral and overburden. Information pertaining only to the analysis of the chemical and physical properties of the coal, excepting information regarding such mineral or elemental content which is potentially toxic in the environment, shall be kept confidential and not made a matter of public record.

Kansas Department of Health and Environment
Division of Environment
 Table 1. Depository for collected fees

8-11-8

PROGRAM	DESCRIPTION	HB 3005	AGENCY RECOMEND.	KDHE FUND #	FY 97 ESTIMATED COLLECTION DEPOSITED	
					FUND #	SGF
Bureau of Air and Radiation	AIR QUALITY FEES a. Operating approval permit b. Construction approval application c. (note: possible additional fee)	NTE \$400 NTE \$4,000 \$1,500	NTE \$1,000 NTE \$4,000 \$1,500	2667	\$22,795.00	\$50,000.00
Bureau of Air and Radiation	AIR QUALITY FEE FUND	\$18 / ton		2020	\$3,020,415.00	
Bureau of Air and Radiation	ASBESTOS LICENSE AND CERTIFICATION FEE a. Business license b. Asbestos worker certification c. Project evaluation fee	NTE \$1,000 NTE \$30 NTE \$5,000	NTE \$1,000 NTE \$30 NTE \$10,100			\$229,000.00
Bureau of Air and Radiation	RIGHT TO KNOW FEES Section 312 and / or Section 313 annual report fee a. extremely hazardous substances b. hazardous chemicals c. toxic chemical release report d. Section 312 annual report for oil or gas well	NTE \$3,000 1-9,999 lbs. \$25 10,000-999,999 lbs. \$50 >1,000,000 lbs. \$150 10,000 - 99,999 lbs. \$25 100,000 - 999,999 lbs. \$50 1,000,000 - 9,999,999 lbs. \$150 >10,000,000 lbs. \$300 100 - 19,999 lbs. \$250 20,000 - 99,999 lbs. \$700 100,000 - 999,999 lbs. \$1700 >1,000,000 lbs. \$3,000 \$25				\$300,000.00
Bureau of Air and Radiation	RADIATION CONTROL (see attachment "A" - 5 pages)					\$311,000.00
Bureau of Air and Radiation	POWER GENERATION FACILITY FEE FUND	NTE \$200,000		2131	\$128,000.00	
Bureau of Water	WASTE WATER DISCHARGE PERMITS Municipal or commercial waste treatment facility Municipal Stormwater (cities over 100,000 pop.) Industrial Waste treatment facility Industrial discharge - general permit Industrial Stormwater discharge - general permit Pre treatment permit Cooling water discharge - surface disposal, no chemical add. Cooling water discharge - surface disposal, chemical add. Dewatering discharge	\$185.00 \$2,000.00 \$320.00 \$60.00 \$40.00 \$320.00 \$60.00 \$120.00 \$60.00				\$522,000.00

Kansas Department of Health and Environment
Division of Environment
 Table 1. Depository for collected fees

8-49

PROGRAM	DESCRIPTION	HB 3005	AGENCY RECOMEND.	KDHE FUND #	FY 97 ESTIMATED COLLECTION DEPOSITED	
					FUND #	SGF
	CONFINED FEE LOTS Less than 999 animal unit capacity (ACU) 1,000 to 4,999 ACU 5,000 to 9,999 ACU 10,000 ACU or more Truck washing facility for animal wastes	\$25.00 \$100.00 \$200.00 \$400.00 \$320.00				
Bureau of Water	WATER WELL CONTRACTOR LICENSE Application fee Resident Annual license Resident Drill rig Non resident annual license Non resident drill rig	\$10.00 \$100.00 \$25.00 NTE \$100.00 NTE \$25.00				\$50,000.00
Bureau of Remediation	MINED LAND CONSERVATION AND RECLAMATION FEE Basic fee Per acre of land affected	\$50.00 per acre NTE \$500.00 per acre		2233	\$56,045.00	\$14,011.00
Bureau of Remediation	UNDER GRD PETROLEUM STORAGE TANK PERMIT FEE Application fee for installation Annual registration fee Late registration fee	\$20.00 per tank \$10.00 per tank \$10.00 per facility				\$81,000.00
Bureau of Remediation	ABOVE GRD STORAGE TANK FEE Annual registration fee Late registration fee	\$10.00 per tank \$10.00 per facility		2293	\$95,000.00	
Bureau of Remediation	UNDERGROUND STORAGE TANK INSTALLER LICENSE Initial contractor license fee (2 years) Annual renewal Initial installer license fee (2 years) Annual renewal Initial tank tester license fee (2 years) Annual renewal	\$200.00 \$100.00 \$100.00 \$50.00 \$100.00 \$50.00				\$34,000.00

\$3,322,255.00

\$1,591,011.00

Attachment "A" of Table 1.

Description	Type of License	Current fee	Proposed fee
Licenses for possession and use of special nuclear material in sealed sources that are contained in devices used in industrial measuring systems	New	\$500.00	\$900.00
	Amendment	\$300.00	\$540.00
Any other licenses for possession and use of special nuclear material, except those listed in elsewhere in this paragraph	New	\$1,200.00	\$2,160.00
	Amendment	\$300.00	\$540.00
All source material licenses, except those listed elsewhere in this paragraph	New	\$600.00	\$1,080.00
	Amendment	\$300.00	\$540.00
Licenses for possession and use of radioactive or by-product material for the purpose of processing or manufacturing items containing radioactive or by-product material for commercial distribution, where more than one radionuclide is used or the handling of unsealed sources is required	New	\$2,000.00	\$3,600.00
	Amendment	\$300.00	\$540.00
Licenses for possession and use of radioactive or by-product material for the purpose of processing or manufacturing items containing radioactive or by-product material for commercial distribution, where only one radionuclide is used and only sealed sources are handled	New	\$1,200.00	\$2,160.00
	Amendment	\$300.00	\$540.00
Licenses for possession and use of radioactive or by-product material for the purpose of processing, manufacturing or distributing radiopharmaceuticals containing radioactive or by-product materials	New	\$800.00	\$1,440.00
	Amendment	\$300.00	\$540.00

Attachment "A" of Table 1.

Licenses for possession and use of radioactive or by-product materials in permanent, shielded facilities for industrial radiography	New	\$2500.00	\$4,500.00
	Amendment	\$300.00	\$540.00
Licenses for possession and use of industrial radiography devices in permanent, shielded facilities or on multiple temporary job sites	New	\$2500.00	\$4,500.00
	Amendment	\$500.00	\$900.00
Licenses for possession and use of radioactive or by-product material for irradiation of materials in which the source is not removed from its shield for irradiation purposes	New	\$500.00	\$900.00
	Amendment	\$400.00	\$720.00
Licenses for possession and use of radioactive or by-product material for irradiation of material in which the source is removed from its shield for irradiation purposes	New	\$3000.00	\$5,400.00
	Amendment	\$500.00	\$900.00
Licenses authorizing distribution of radioactive or by-product materials to persons generally licensed to possess them	New	\$1500.00	\$2,700.00
	Amendment	\$700.00	\$1260.00
Licenses authorizing distribution of radioactive or by-product material to persons exempt from licensing requirements	New	\$1600.00	\$2,880.00
	Amendment	\$800.00	\$1440.00
Licenses for possession and use of radioactive or by-product material for the purpose of research and development, except those licenses authorizing manufacturer and distribution or those authorizing use in a medical institution or private medical office	New	\$1400.00	\$2,520.00
	Amendment	\$600.00	\$1080.00

Attachment "A" of Table 1.

Licenses for possession and use of radioactive or by-product material, except those listed elsewhere in these paragraphs	New	\$600.00	\$1,080.00
	Amendment	\$300.00	\$540.00
Licenses specifically authorizing the receipt of radioactive, by-product, source, or special nuclear material wastes from other persons for the purpose of packaging of material	New	\$2000.00	\$3660.00
	Amendment	\$800.00	\$1440.00
Licenses specifically authorizing the receipt of packaged radioactive, by-product, source, or special nuclear material wastes from other persons	New	\$1000.00	\$1,800.00
	Amendment	\$500.00	\$900.00
Licenses specifically authorizing possession and use of radioactive, by-product, source, or special nuclear material for the purpose of well logging, well surveys, or tracer studies	New	\$1000.00	\$1,800.00
	Amendment	\$500.00	\$900.00
Licenses specifically authorizing commercial collection and laundry of items contaminated with radioactive, by-product, source or special nuclear material	New	\$800.00	\$1440.00
	Amendment	\$300.00	\$540.00
Licenses specifically authorizing medical use of radioactive, source, by-product, or special nuclear materials for teletherapy	New	\$1500.00	\$2700.00
	Amendment	\$500.00	\$900.00
Licenses authorizing the use of radioactive, by-product, source, or special nuclear material in a medical institution or by two or more physicians, for medical purposes, except licenses authorizing teletherapy	New	\$700.00	\$1260.00
	Amendment	\$300.00	\$540.00

Attachment "A" of Table 1.

Licenses authorizing the use of radioactive, by-product, source or special nuclear material by private physicians for medical purposes, except licenses authorizing use in institutions or teletherapy covered above	New	\$500.00	\$900.00
	Amendment	\$300.00	\$540.00
Licenses authorizing possession and use of radioactive, by-product, source or special nuclear material for civil defense purposes	New	\$500.00	\$900.00
	Amendment	\$300.00	\$540.00
Review of a device, product, or sealed source containing radioactive, by-product, source or special nuclear material for distribution to general licensees or persons exempt from licensing	New	\$1500.00	\$2700.00
	Amendment	\$300.00	\$540.00
Licenses authorizing the manufacturing and distribution of encapsulated radioactive, by-product, source, or special nuclear material in a device that uses decay heat as a source of power	New	\$3500.00	\$6300.00
	Amendment	\$470.00	\$850.00
License authorizing the possession and use of waste radioactive by-product, source or special nuclear material for a commercial low level waste disposal facility	New	\$300000.00	\$300000.00
	Amendment	\$100000.00	\$100000.00
Licenses authorizing the possession and use of radioactive materials (Ra-226) in luminous paint or in products containing such paint	New	\$1000.00	\$1800.00
	Amendment	\$300.00	\$540.00
Registration of medical x-ray machines, including those x-ray machines used in hospitals or clinics by or under the supervision of medical doctors, osteopaths, or chiropractors	First Machine	\$56.00	\$78.00
	Each Additional	\$13.00	\$18.00

Attachment "A" of Table 1.

Registration of dental x-ray machines, including those machines used in hospitals, dental clinics or private offices by or under the supervision of dentists, podiatrists, and veterinarians	First Machine	\$36.00	\$50.00
	Each Additional	\$13.00	\$15.00
Registration of industrial radiographic machines	First Machine	\$36.00	\$50.00
	Each Additional	\$11.00	\$15.00
Registration of analytical x-ray machines	First Machine	\$36.00	\$50.00
	Each Additional	\$11.00	\$15.00
Registration of particle accelerators	Each Machine	\$78.00	\$109.00



BILL GRAVES
Governor

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SHEILA FRAHM
Lt. Governor/Secretary

MEMORANDUM

TO: Mr. David Young, Administrative Assistant
Office of Lieutenant Governor Sheila Frahm

FROM: Dan Gronniger, Staff Attorney *Dan G.*
Department of Administration, Legal Section

DATE: November 2, 1995

RE: Exploring Potential for Centralizing and Streamlining the Reporting of Hazardous
Materials and Substances Spills and Accidents.

Purpose of this Memo.

The purpose of this Memorandum is to look at the current legal requirements for reporting spills of hazardous materials and substances in Kansas and study the potential for a single agency to receive all required reports and then notify other agencies and organizations which need to be notified (because required by statute or practical considerations).

I. OVERVIEW.

A. What must be done to streamline the reporting process?

In order to streamline the hazard material/substance spill reporting process, these steps must be accomplished:

- (1) Choose a state agency to serve as the recipient and distributor of reports of hazardous materials/substances spills;
- (2) Devise a procedure for reporting hazardous materials/substances spills by telephone, E-mail, and/or in writing;
- (3) Devise a procedure for the chosen state agency to follow when it receives reports of hazardous materials/substances spills;

- (4) Develop a Standard Form to be filled out by Kansas businesses, private citizens, and State agencies alike to report hazardous materials/substances spills to the chosen state agency;
- (5) Revise any existing statutes which require reports of hazardous materials/substances spills to be made to any agency other than the chosen agency in order to reflect the choice of a different agency as the recipient of the reports; and
- (6) Notify any state agency which has regulations requiring that notice of hazardous materials/substances spills be given to a different entity that its regulation(s) conflicts with the revised statute(s).

B. Who currently receives reports of spills?

Currently, reports of spills of hazardous materials/substances (of various types) must be made to:

- Kansas Emergency Planning Community Right-to-Know Commission (under K.S.A. 65-5707 and K.A.R. 28-65-3 (adopting federal statute -- 42 U.S.C. 11004 -- and federal regulation -- 40 C.F.R. 355.40));
- Local Emergency Planning Commission's Community Emergency Coordinator, if there is one, and if there is not one, then to the relevant Local Emergency Response Personnel (under K.S.A. 65-5707 and K.A.R. 28-65-4 (adopting federal statute -- 42 U.S.C. 11004 -- and federal regulation -- 40 C.F.R. 355.40));
- Division of Emergency Management in the Adjutant General's Office (under K.A.R. 28-65-4(c));
- Secretary of Agriculture (under K.A.R. 4-4-921; K.A.R. 4-4-954; K.A.R. 4-10-2k; and K.A.R. 4-20-3);
- Secretary or Department of Health & Environment (under K.A.R. 4-20-3; K.A.R. 28-16-27; K.A.R. 28-35-228; K.A.R. 28-35-229; K.A.R. 28-35-230; K.A.R. 28-48-2);
- Kansas Corporation Commission District Field Office (under K.A.R. 82-3-603); and
- State Fire Marshal (under K.A.R. 22-5-1 (incidentally)).

C. Who is currently required by Kansas statutes to deal with spill reports?

Although the language of the statutes is susceptible to several different interpretations, two statutes currently seem to require two different state agencies to develop a system for reporting spills of hazardous materials/substances:

- ◇ The Secretary of Health & Environment has the duty, under K.S.A. 65-5704(b) of the "Kansas Emergency Planning and Community Right-to-Know Act," to "receive, process and manage hazardous chemical information required to be submitted and notifications required to be given pursuant to the federal act" [i.e., the "Emergency Planning and Community Right-to-Know Act of 1986," 42 U.S.C. 11001 *et seq.*]; and

- ◇ The Division of Emergency Management in the Office of the Adjutant General has the following duties under K.S.A. 48-928 of the Kansas Emergency Management Act:
 - ◇ [K.S.A. 48-928(k)] to "serve, for all those agencies which regulate any matter affecting the transportation of hazardous materials:
 - (1) As the coordinating and supervising state agency; and
 - (2) to provide continuing liaison between such state agencies."
 - ◇ [K.S.A. 48-928(l)] to "establish an informational system under which state agencies shall notify the division of emergency management."

Please note that under K.S.A. 65-5706 of the "Kansas Emergency Planning and Community Right-to-Know Act," the Secretary of Health and Environment and the Adjutant General "shall enter into an interagency agreement providing for exchange of information and coordination of their respective duties and responsibilities under [the] act."

D. Which agencies would like to deal with reports?

Two different state agencies have expressed an interest in serving as the single recipient of hazardous materials spills reports -- the Fire Marshal's Office (by letter from Ms. Elena C. Nuss, PSA III, to Department of Administration Staff Attorney Kathryn Myers dated July 10, 1995) and the Adjutant General's Office (by telephone call to Kathryn Myers).

E. Recommendation.

Both agencies which would like to be the first point of contact for reporting hazardous material/substance spills -- the State Fire Marshal and the Adjutant General -- are members of Kansas's State Emergency Response Commission. The Kansas Emergency Planning and Community Right-to-Know Act gives the Adjutant General a more active role than the State Fire Marshal. However, under the KEPCRA, it is the Department of Health and Environment which is specifically charged with receiving, processing, and managing "hazardous chemical information required to be submitted and notifications required to be given pursuant to the federal [EPCRA]." (K.S.A. 65-5704(b)) Nevertheless, the Department of Health and Environment and the Adjutant General are required to enter into an interagency agreement "providing for exchange of information and coordination of their respective duties and responsibilities under this act." (K.S.A. 65-5706) I believe the language in K.S.A. 65-5706 is broad and malleable enough to permit the Department of Health & Environment, in its interagency agreement with the Adjutant General, to provide for the Adjutant General to perform the "receipt of notice" requirement.

I recommend that the Adjutant General be selected as the state agency to receive all reports of hazardous material/substance spills and to process and distribute the information and notices after receiving those reports. The provisions in K.S.A. 65-5704(b) requiring the Department to perform that duty may be satisfied by the interagency agreement between KDHE and the Adjutant General required by K.S.A. 65-5706. If that is not satisfactory, K.S.A. 65-5704(b) and 65-5705 may be amended to give the responsibility for receiving reports to the Adjutant General.

II. SUMMARY OF REPORTS CURRENTLY REQUIRED.

Following are summaries of the reports which must be made for hazardous materials/substances spills in Kansas under Kansas statutes and regulations and two federal statutes, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601 *et seq.*, and the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. 11001 *et seq.*

1. COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT [CERCLA] (42 U.S.C. 9601 ET SEQ.)

Reports Required to Be Made, By Whom, and to Whom:

Releases of hazardous substances from a vessel or an offshore or onshore facility (per 42 U.S.C. 9603(a))

To: National Response Center (which notifies the affected State's Governor)

By: Any person in charge of the vessel or the offshore or onshore facility involved.

2. KANSAS EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (INCORPORATING THE FEDERAL "EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT, 42 U.S.C. 11001 ET SEQ.) -- STATE EMERGENCY RESPONSE COMMISSION, DEPARTMENT OF HEALTH & ENVIRONMENT, AND KANSAS ADJUTANT GENERAL (K.S.A. 65-5701 ET. SEQ.)

K.S.A. 65-5703 Creates the State Emergency Response Commission

K.S.A. 65-5703(a) Purpose of the Commission is to carry out "all requirements of the federal act" (i.e., The Emergency Planning and Community Right-to-Know Act of 1986, Public Law 99-499, Title III -- codified at 42 U.S.C. 11001-11050, with regulations appearing, among other places, at 40 C.F.R. Parts 355 ("Emergency Planning and Notification") and 372 ("Toxic Chemical Release Reporting: Community Right-to-Know")).

K.S.A. 65-5707 The law of Kansas is considered to be the provisions of Public Law 99-499, Title III, Sections 302(c) [42 U.S.C. 11002], 303(d) [42 U.S.C. 11003(d)], 304 [42 U.S.C. 11004], 311 [42 U.S.C. 11021], 312 [42 U.S.C. 11022], 313 [42 U.S.C. 11023], and 323 [42 U.S.C. 11043] pertaining to providing information and giving notifications, and those provisions shall apply equally to all facilities, federal or otherwise, located in Kansas to which the federal act applies.

K.S.A. 65-5703(b) Eleven (11) "state agency" members of the Commission:

Governor	Secretary of Wildlife & Parks
Lieutenant Governor	Secretary of Human Resources
Attorney General	Secretary of Agriculture
Adjutant General	Secretary of Health & Environment
Kansas Highway Patrol Superintendent	Secretary of Transportation
State Fire Marshal	

K.S.A. 65-5704 Duties of the Secretary of Health & Environment:

K.S.A. 65-5704(b): "receive, process and manage hazardous chemical information required to be submitted and notifications required to be given pursuant to the federal act."

K.S.A. 65-5704(c): adopt regulations to implement:

- provisions of the federal act
- the Secretary's duties under the Kansas act
- provisions for public disclosure of information consistent with P.L. 99-499, Title III, §§ 322, 323, and 324.

K.S.A. 65-5705 Duties of the Adjutant General:

Responsible for:

- emergency planning activities under the federal act
- adoption of regulations to implement provisions of the federal act pertaining to emergency planning activities

K.S.A. 65-5706 Interagency Agreement

The Secretary of Health and Environment and the Adjutant General "shall enter into an interagency agreement providing for exchange of information and coordination of their respective duties and responsibilities under this act."

Reports Required to Be Made, By Whom, and to Whom:

Releases of extremely hazardous substances, as identified in 40 C.F.R. Part 355, Appendix A, and releases of other hazardous substances.

[per K.S.A. 65-5707, adopting 42 U.S.C. 11004(b)]

[per 40 C.F.R. 355.40(b)]

[per K.A.R. 28-65-3(c), adopting 42 U.S.C. 11004]

To: (1) Kansas Emergency Response Commission;
(2) the Local Emergency Planning Commission's Community Emergency Coordinator (or, if there is no Local Emergency Planning Commission, then to the relevant Local Emergency Response Personnel); (3) the Division of Emergency Management in the Adjutant General's Office; and (4) the National Response Center.

By: Owner or operator of a facility at which an extremely hazardous substance is produced, used, or stored.

[PLEASE NOTE: There are other notices, reports, and data sheets regarding inventories or storage or usage or production of toxic chemicals or hazardous materials at facilities which must be provided -- on other than a "spill" or "discharge" or other emergency basis -- to:

- the Kansas State Emergency Response Commission under 42 U.S.C. 11002 (EPCRA § 302, adopted by K.A.R. 28-65-4(a), (d));
- the Kansas State Emergency Response Commission, the Local Emergency Planning Commission, and the local Fire Department under 42 U.S.C. 11021 (EPCRA § 311, adopted by K.A.R. 28-65-4(a), (d));
- the Kansas State Emergency Response Commission, the Local Emergency Planning Commission, and the local Fire Department under 42 U.S.C. 11022 (EPCRA § 312, adopted by K.A.R. 28-65-4(a), (d)); and
- the Administrator of the federal Environmental Protection Agency and the appropriate state official designated by the Governor of Kansas as provided under 42 U.S.C. 11023 (EPCRA § 313, adopted by K.A.R. 28-65-4(b)).]

**3. KANSAS EMERGENCY MANAGEMENT ACT --
ADJUTANT GENERAL OFFICE: DIVISION OF EMERGENCY MANAGEMENT
(K.S.A. 48-904 ET. SEQ.)**

[Please Note: The Division of Emergency Preparedness was abolished in July, 1994 when the Division of Emergency Management was created to take its place.]

K.S.A. 48-904(d) A "disaster" is "the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or manmade cause, including, but not limited to, fire, flood, earthquake, wind, storm, epidemics, air contamination, blight, drought, infestation, explosion, riot or hostile military or paramilitary action."

K.S.A. 48-928 Duties of the Division of Emergency Management:

K.S.A. 48-928(k) It shall "serve, for all those agencies which regulate any matter affecting the transportation of hazardous materials:

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

K.S.A. 48-928(l) It shall "establish an informational system under which state agencies shall notify the division of emergency management."

K.S.A. 48-928(m) It shall "cooperate with the federal government and any public or private agency or entity in achieving any purpose of this act and in implementing programs for disaster prevention, preparation response and recovery."

Reports Required to Be Made, By Whom, and to Whom:

None.

4. **KANSAS CHEMIGATION SAFETY LAW --**
KANSAS DEPARTMENT OF AGRICULTURE
(K.S.A. 2-3301 ET. SEQ.)

K.S.A. 2-3307(a) The Secretary of Agriculture or the Secretary's agent or the County Attorney or the District Attorney or their agents may enter any premises at any reasonable time in order to: . . . "(2) inspect or sample water, lands and crops reported to be exposed to chemicals."

K.A.R. 4-20-3(d) "Each chemigation permit holder shall report immediately both to the secretary of the board of agriculture and to the secretary of health and environment all spills, accidents, system malfunctions, or other situations involving actual or potential contamination of either groundwater or surface water."

Reports Required to Be Made, By Whom, and to Whom:

Releases of Pesticides, Fertilizers, and other
Chemicals, and Animals Wastes added to
Irrigation Waters which are or may be
contaminating surface or ground water.
(per K.A.R. 4-20-3(d))

To: Secretary of Agriculture
Secretary of Health & Environment

By: Chemigation permit holders

5. **KANSAS PESTICIDE LAW --**
KANSAS DEPARTMENT OF AGRICULTURE
(K.S.A. 2-2438a ET. SEQ.)

K.S.A. 2-2457a Statements of Claims of Damages Caused by Pesticide Application

K.S.A. 2-2457a(a) Requires a person who claims to have been damaged by an application of pesticides to file a written statement of claim with the Secretary of Agriculture within 60 days after discovery of the damage.

K.S.A. 2-2457a(b) The Secretary of Agriculture must send a copy of the written statement of the claim of damages to the pesticide applicant, to the owner or lessee of the land where the pesticide was applied, and to any other person who might be responsible for the alleged damage.

K.S.A. 2-2462 To enforce the act, the Secretary of Agriculture or the Secretary's agent or the County Attorney or the District Attorney may enter any premises: . . . "(2) to inspect or sample lands and crops actually or reported to be exposed to pesticides; or . . . (4) to inspect or investigate complaints of injury to humans, crops or land"

Reports Required to Be Made, By Whom, and to Whom:

Statements of claims for damages allegedly caused by applications of pesticides (per K.S.A. 2-2457a(a))

To: Secretary of Agriculture

By: Persons who believe they were damaged by pesticide applications

6. **KANSAS ACT FOR THE HANDLING, STORAGE AND DISPOSAL OF COMMERCIAL AND BULK FERTILIZERS --**
KANSAS DEPARTMENT OF AGRICULTURE
(K.S.A. 2-1226 ET. SEQ.)

Reports Required to Be Made, By Whom, and to Whom:

Discharges of 1000 lbs. of dry fertilizer or 100 gallons of liquid fertilizer (per K.A.R. 4-4-954)

To: Secretary of Agriculture

By: Operator of the fertilizer storage facility where the discharge occurred.

Lost or unaccounted for dry or liquid fertilizer which exceeds 1% current liquid fertilizer inventory or 2% of current dry fertilizer as shown by prior inventory sheets and current reconciled inventory sheets. (per K.A.R. 4-4-921(a)(4), (5))

To: Secretary of Agriculture

By: Operator of the fertilizer storage facility where the loss occurred.

7. **KANSAS ACT RELATING TO ANHYDROUS AMMONIA --**
KANSAS DEPARTMENT OF AGRICULTURE
(K.S.A. 2-1212 ET. SEQ.)

Reports Required to Be Made, By Whom, and to Whom:

Each accident involving the storage, transportation or application of anhydrous ammonia (per K.A.R. 4-10-2k(c))

To: Secretary of Agriculture

By: Owner or operator of the anhydrous ammonia storage or equipment involved

8. **THE AGRICULTURAL CHEMICAL ACT OF 1947 --**
KANSAS DEPARTMENT OF AGRICULTURE
(K.S.A. 2-2201 ET. SEQ.)

Reports Required to Be Made, By Whom, and to Whom:

None.

9. **ACT FOR THE PROTECTION OF SURFACE AND GROUNDWATER --**
KANSAS CORPORATION COMMISSION
(K.S.A. 55-150 ET SEQ.)

K.S.A. 55-185 The Kansas Corporation Commission and the Kansas Department of Health and Environment "shall enter into any memorandum of understanding necessary to carry out the provisions of this act. The memorandum of understanding shall include, but not be limited to, procedures addressing the following subjects: (a) Responses to spills resulting from oil and gas activities"

Reports Required to Be Made, By Whom, and to Whom:

Spills which are not confined to a surface pond
and spills which have reached running water
(per K.A.R. 82-3-603(a))

To: KCC District Field Office
By: Each operator of an oil or gas
well involved in the spill

10. **AN ACT RELATING TO FIRE SAFETY AND PREVENTION --**
KANSAS STATE FIRE MARSHAL
(K.S.A. 31-132 ET SEQ.)

Reports Required to Be Made, By Whom, and to Whom:

Incidents where a response is made, regardless
of whether an actual fire occurred
(per K.A.R. 22-5-1(a)(1))

To: State Fire Marshal
By: Chief of any organized fire
department, regular or
volunteer, or chief law
enforcement officer if there is
no fire department

[Note: The State Fire Marshal uses a "fire incident documentation" program -- the "National Fire Incident Reporting System" -- which has a "hazardous materials module" (which the State Fire Marshal is not currently using). There is a "Hazardous Materials Incident Report" form which is part of the NFIRS's "hazardous materials module."]

**11. AN ACT RELATING TO WATER SUPPLY AND SEWAGE --
DEPARTMENT OF HEALTH & ENVIRONMENT
(K.S.A. 65-161 ET SEQ.)**

Reports Required to Be Made, By Whom, and to Whom:

Discharges of sewage or other materials detrimental to the quality of waters (per K.A.R. 28-16-27)

To: Secretary of Health & Environment
By: Owner of sewage treatment facility or the person responsible for the discharge

Discharges of sewage, materials, or wastes described in K.S.A. 65-171d which are or threaten to alter the properties of waters or pollute the soil (per K.A.R. 28-48-2(a), (b))

To: Department of Health & Environment
By: Owner of the facility or of the materials spilled, or the person in control of the facility or the materials

**12. KANSAS NUCLEAR ENERGY DEVELOPMENT AND RADIATION CONTROL ACT--
DEPARTMENT OF HEALTH & ENVIRONMENT
(K.S.A. 48-1601 ET SEQ.)**

Reports Required to Be Made, By Whom, and to Whom:

Theft or loss of any source of radiation. (per K.A.R. 28-35-228a(a), (b))
An incident involving any source of radiation. (per K.A.R. 28-35-229a(a), (b))
Exposures of individuals to radiation; excessive levels of radiation within a controlled area; incidents involving any source of radiation; and incidents involving excessive levels of radiation in an uncontrolled area. (per K.A.R. 28-35-230a(a))

To: Department of Health & Environment
By: Persons licensed by and registered with the Department of Health & Environment

13. **KANSAS ACT RELATING TO THE KANSAS HIGHWAY PATROL --
KANSAS HIGHWAY PATROL
(K.S.A. 74-2105 ET. SEQ.)**

Reports Required to Be Made, By Whom, and to Whom:

None by statute -- However, according to Lt. Timothy P. Lockett in Emergency Operations, "the Kansas Highway Patrol is responsible for relaying information concerning the [hazardous materials] incident to the Governor, the Division of Emergency Management, and affected local law enforcement agencies." (Letter to Kathryn D. Myers dated July 10, 1995.)

14. **KANSAS ACT RELATING TO THE KANSAS DEPARTMENT OF HUMAN RESOURCES --
KANSAS DEPARTMENT OF HUMAN RESOURCES
(K.S.A. 75-5701 ET SEQ.)**

Reports Required to Be Made, By Whom, and to Whom:

None.

15. **KANSAS ACT RELATING TO THE KANSAS DEPARTMENT OF TRANSPORTATION --
KANSAS DEPARTMENT OF TRANSPORTATION
(K.S.A. 75-5001 ET SEQ.)**

Reports Required to Be Made, By Whom, and to Whom:

None by statute -- However, according to James D. Jones, P.E., the Director of KDOT Operations, the KDOT has addressed the potential for accidents involving hazardous materials spills in Section 12.20 ("Hazardous Material Emergencies") of the KDOT Maintenance Manual. Section 12.24 requires a report on a "Form A" (Figure 12-3), entitled "Hazardous Materials Incidents/Accidents/Continuous Releases," which apparently devised by the old "Kansas Division of Emergency Preparedness" and last revised in June of 1991. Furthermore, according to Mr. Jones, the KDOT also reports a "hazardous materials accident" on an "Alert Bulletin," KDOT Form No. 370 (Revised 12-92). (Letter to Kathryn D. Myers dated July 11, 1995.)

16. **KANSAS ACT RELATING TO THE DEPARTMENT OF WILDLIFE AND PARKS --
KANSAS DEPARTMENT OF WILDLIFE AND PARKS
(K.S.A. 32-801 ET SEQ.)**

Reports Required to Be Made, By Whom, and to Whom:

None.