

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT.

The meeting was called to order by Chairperson Joann Freeborn at 3:30 p.m. on March 7, 2002 in Room 231-N of the Capitol.

All members were present except:

Committee staff present: Emalene Correll, Kansas Legislative Research Department
Raney Gilliland, Kansas Legislative Research Department
Mary Torrence, Revisor of Statute's Office
Mary Ann Graham, Committee Secretary

Conferees appearing before the committee:

Others attending: See Attached Sheet

Chairperson Joann Freeborn called the meeting to order at 3:30 p.m. She announced that the hearing on **HB2881** had been cancelled but is opening the bill for information and discussion. If the persons who requested the bill, are still wanting a hearing after hearing the information and the discussion today, she will consider rescheduling a hearing at a later date.

Raney Gilliland, of the Legislative Research Department, distributed information concerning **HB2881** and reviewed the background of the bill. It was requested by a member of the Joint Administrative Rules and Regulations Committee. He distributed copies of the rules and regulations of the State Fire Marshall. (See attachment 1) Discussion followed.

Written only testimony in opposition to the bill was submitted by Mary Jane Stattelmann on behalf of the Kansas Agribusiness Retailers Association (KARA). They are unclear as to the intent of the bill and whether it would duplicate or increase the already substantial amount of regulation that their members cope with when dealing with hazardous materials. (See attachment 2)

Written only testimony in opposition to the bill was submitted by Michael D. Selves, Director, Kansas Emergency Management Association (KEMA), Johnson County. KEMA represents the Emergency Management Coordinators/Directors in 86 of Kansas's 105 Counties and are very concerned about the encroachment on the ability of local jurisdictions to respond to HAZMAT incidents which this bill represents. (See attachment 3)

The Chairperson opened **SB264** for discussion and possible action.

SB264: Concerning the equus beds groundwater management district no. 2; relating to the powers, duties and operation of the district.

Rep. Sharon Schwartz was recognized. She stated she wanted to amend **SB264** with provisions relating to **HB2710**. She asked Rep. Freeborn if there would be any other vehicle. Rep. Freeborn said that due to requests from committee members regarding issues in **HB2710** she would attempt to provide a Wildlife and Parks bill as a vehicle. This would be done on March 14, 2002 when the Wildlife and Parks bills are worked. Rep. Schwartz then said she would wait until the committee worked **SB504**, **SB431**, and **SB430**.

Rep. Tom Sloan made a motion to adopt House Substitute for SB264. Rep. Becky Hutchins seconded the motion. Motion carried.

Rep. Bill Light made a motion to strike "Kansas Water Authority" on page 2, section 1, sub-section (E). Rep. Dennis McKinney seconded the motion. Motion carried. 8 yeas 7 nays.

Rep. Sharon Schwartz made a motion to change "\$1.00 per acre-foot" to "90 cents per acre-foot", page 2, Section 1, sub-section (D). Rep. Bill Light seconded the motion. Motion carried. 8 yeas 7 nays.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT, Room 231-N of the Capitol
at 3:30 p.m. on March 7, 2002.

Rep. Tom Sloan made a motion to strike “except for domestic use”, page 1, section 1, lines 4&5, and on page 2, lines 1,4,6, and 8, changed “groundwater withdrawn” to “such groundwater”. Rep. Becky Hutchins seconded the motion. Motion carried.

Rep. Tom Sloan made a motion **House Substitute for SB264** be passed favorably as amended. Rep. Becky Hutchins seconded the motion. Motion carried. Rep. Joann Freeborn will carry the bill on the House Floor.

Written only testimony was submitted by Brad Franz, President, Equus Beds Groundwater Management District No. 2, in opposition to the substitute bill. The Board of Directors believe the proposed **House Substitute for SB264** does not reflect the interim committee’s recommendation. By placing a cap on water assessments for water used within the District, but no cap on assessments for water used outside the District, the legislation unfairly and inappropriately places the financing of the District’s activities on a minority of users. Those users are primarily the Cities of Newton, McPherson and Wichita. The three cities use about 10 percent of the total water appropriated in the District. (See attachment 4)

The meeting adjourned at 4:25 p.m. The next meeting is scheduled for Tuesday, March 12, 2002.

HOUSE ENVIRONMENT COMMITTEE GUEST LIST

DATE: March 7, 2002

NAME	REPRESENTING
Brad Franz	CMD #2
Mike Toal	CMD #2
Pat Lehman	CMD 4
Wendy Harns	KRMCA
Wood Moses	KAPA
Andrew Hoskins	
Heidi Miller	
Keith Thompson	
CARRY R BAER	LKM
Ashley Sherard	Johnson County
Judy Moler	KAC
DIM KEATINGE	KSIFFA
Cory Berst	Rep Bonhove
Paul Berst	72 nd Dist Legislature
Gene Hutchins	Heri Law
Earl Lewis	KW0
Rebecca Reed	KS Dept. of Agriculture
Jamie Clover Adams	KS Dept. of Agriculture
Charles Benjamin	Sierra Club - KS Chapter

STATE OF KANSAS

BEN F. BARRETT
DIRECTOR
WILLIAM G. WOLFF
ASSOCIATE DIRECTOR
ALAN D. CONROY
CHIEF FISCAL ANALYST



STAFF
LEGISLATIVE COORDINATING COUNCIL
INTERIM COMMITTEES
STANDING COMMITTEES
LEGISLATIVE INQUIRIES

THE LEGISLATIVE RESEARCH DEPARTMENT

300 W. TENTH—ROOM 545-N
PHONE (913) 296-3181/FAX (913) 296-3824
INTERNET: kslegres@lr01.wpo.state.ks.us
TOPEKA, KANSAS 66612-1504

November 15, 2001

Gale Haag, Fire Marshal
State Fire Marshal's Office
700 SW Jackson Street
BUILDING MAIL

Dear Mr. Haag:

At its meeting on November 6, 2001, the Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning hazardous materials response teams. After discussion, the Committee expressed the following comment.

- General Comment. The Committee strongly suggests the Fire Marshal not adopt as final the proposed rules and regulations and await further legislative action that clarifies the Fire Marshal's authority to act in the area of hazardous materials. The Committee directs staff to draft such clarifying legislation for its future review.

Please make this letter a part of the public record on these regulations. The Committee will review the regulations which the agency ultimately adopts and reserves any expression of legislative concern to that review. To assist in that final review, please inform the Joint Committee in writing, at the time the rules and regulations are adopted and filed with the Secretary of State of any and all changes which have been made following the public hearing.

Prior to filing with the Secretary of State, review the history sections of the rules and regulations to update them to the most recent statutory citations, making certain the citations for authorizing and implementing statutes are correct and complete. Finally, verify that the adoption by reference of any materials included in the regulations is properly completed as prescribed in the *Policy and Procedure Manual for the Adoption of Kansas Administrative Regulations*.

Sincerely,

William G. Wolff
Associate Director

*House Environment
3-7-02
Attachment 1*

WGW/sp



OFFICE OF THE
KANSAS STATE FIRE MARSHAL

Gale Haag
Fire Marshal

700 SW JACKSON ST, SUITE 600, TOPEKA, KS 66603-3714
PHONE (785) 296-3401 / FAX (785) 296-0151

Bill Graves
Governor

January 22, 2002

Secretary of State
Memorial Hall, 1st Floor
Topeka, Ks 66612-1594

RE: Permanent Regulations

To Whom It May Concern:

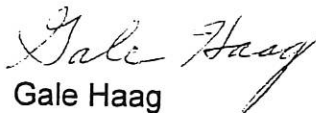
Attached are three copies of:

1. Fire Marshal Permanent Regulations K.A.R. 22-24-1 through K.A.R. 22-24-18;
2. The updated impact statement reflecting the hearings held and that no revisions or new information was discovered; and
3. Formal adoption of the Regulations by the Fire Marshal.

Also attached is one copy of the documents adopted by reference in the Regulations.

If you have any questions regarding the matter, feel free to contact me at the above address or telephone. Thank you for your prompt assistance in getting the Regulations published in the Kansas Register.

Sincerely,



Gale Haag
State Fire Marshal

Enc.



"Where fire safety is a way of life."



OFFICE OF THE
KANSAS STATE FIRE MARSHAL

Gale Haag
Fire Marshal

700 SW JACKSON ST, SUITE 600, TOPEKA, KS 66603-3714
PHONE (785) 296-3401 / FAX (785) 296-0151

Bill Graves
Governor

Declaration of Adoption

I, Gale Haag, State Fire Marshal, hereby adopt K.A.R. 22-24-1 through K.A.R. 22-24-18 as permanent regulations on the 17th day of January, 2002. K.A.R. 22-24-1 through K.A.R. 22-24-18 are hereby filed for adoption, and the Economic Impact Statement is enclosed.


Gale Haag



"Where fire safety is a way of life."

1-3

K.A.R. 22-24-1. Definitions. (a) "Chemical assessment team" (CAT) means either of the following:

(1) A type of emergency response team whose primary objective is the assessment of chemical hazards; or

(2) those members of a hazardous materials response team whose primary objective is the assessment of chemical hazards.

(b) "Division" means the hazardous materials response division of the Kansas state fire marshal's office.

(c) "Emergency response team" means a hazardous materials response team or chemical assessment team that has entered into a contract with the state fire marshal's office to provide a response to hazardous materials incidents.

(d) "Hazardous materials response team" means a team whose primary responsibility is to respond to hazardous materials incidents with full capabilities to control or mitigate the situation in order to protect life and property from the hazardous materials incident.

(e) "Local authority" means the local unit of government's public safety agency that is in overall command at the scene of a hazardous materials incident.

(f) "Management system" means a combination of facilities, equipment, personnel, procedures, and communications operating within a common organizational structure with responsibility for the management of assigned

resources to effectively accomplish stated objectives at the scene of an incident.

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(g) "Mitigation" means the actions taken by an emergency response team to lessen the severity or intensity of a hazardous materials incident. Mitigation shall not include restoration of the scene to its preaccident condition and shall not be interpreted as including cleanup procedures, remediation, or both.

(h) "NFPA" means the national fire protection association.

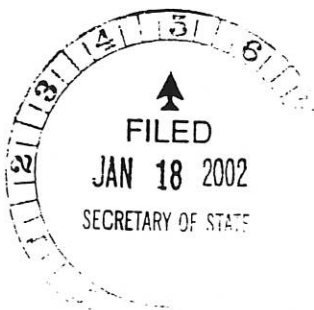
(i) "Primary response area" means the geographic portion of the state to which an emergency response team has been assigned to provide the principal response to incidents occurring in that area.

(j) "Regional response team program" means the system of regionally located emergency response teams who have contracted with the state fire marshal to provide a response to hazardous materials incidents occurring in that area.

(k) "Response area" means the primary or secondary response area of an emergency response team.

(l) "Secondary response area" means the geographic portion of the state to which an emergency response team has been assigned to provide the alternate response to incidents occurring in that area.

(m) "State fire marshal" means the state fire marshal or the state fire marshal's designee. (Authorized by and implementing K.S.A. 31-133; effective, T-22-10-25-01, Oct. 25, 2001; effective P- Feb. 15, 2002.)



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22-24-2. Team response areas. (a) The primary and secondary response areas for each emergency response team shall be established by the state fire marshal. Each team shall be assigned at least one secondary area.

(b) The factors used by the state fire marshal in establishing these primary and secondary response areas shall include the following:

(1) The number and geographic location of fixed facilities manufacturing, using, or storing hazardous materials that may pose a threat to life or property if released;

(2) the number of miles of primary transportation routes in a given area, including highways, rail lines, commercially navigable waterways, pipelines, and airports;

(3) the population of each county;

(4) any special conditions that may be present in a given area of the state and the need for specialized equipment unique to those conditions that might affect emergency response capability;

(5) the existing local capabilities for dealing with hazardous materials incidents; and

(6) any other factor that could contribute to the potential for a hazardous materials release that could threaten life or property, thus meriting an emergency response.

(c) The boundaries of each response area shall be reviewed and, if needed, adjusted by the state fire marshal at least every two years. The adjustment of

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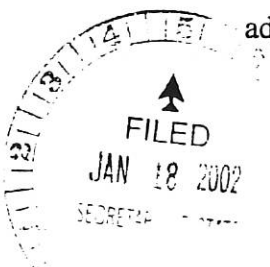
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boundaries shall not be modified, conditioned, or limited by any collective bargaining agreement or memorandum of agreement.

(d) Each emergency response team shall respond to any area of the state when directed to do so by the state fire marshal. (Authorized by and implementing K.S.A. 31-133; effective, T-22-10-25-01, Oct. 25, 2001; effective P-Feb. 15, 2002.)



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22-24-3. Adoption by reference. (a) The following nationally recognized standards are hereby adopted by reference:

(1) "Recommended practice for responding to hazardous materials incidents," national fire protection association pamphlet no. 471 (NFPA 471), including appendices, 1997 edition;

(2) "standard on professional competence of responders to hazardous materials incidents," national fire protection association pamphlet no. 472 (NFPA 472), including appendices, but excluding chapters 7, 8, 9, 10, and 11, 1997 edition; and

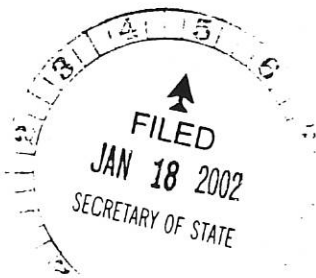
(3) "standard for competencies for EMS personnel responding to hazardous materials incidents," national fire protection association pamphlet no. 473 (NFPA 473), including appendices, 1997 edition.

(b) Each team member shall comply with the provisions of "hazardous waste operations and emergency response," 29 C.F.R. 1910.120(q), as in effect on March 7, 1996, and hereby adopted by reference. (Authorized by and implementing K.S.A. 31-133; effective, T-2210-25-cl, Oct. 25, 2001; effective P-Feb. 15, 2002 .)

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22-24-4. Qualifications of team members. (a) Each member of each emergency response team shall successfully complete annual refresher training that meets or exceeds the continuing education requirements of 29 C.F.R. 1910.120(q)(8).

(b) Each employer of one or more emergency response team members shall document all hazardous material training and continuing education, and these records shall be made available to the state fire marshal upon request. Each employer of one or more emergency response team members shall annually certify to the state fire marshal in writing that each team member has met the medical requirements of 29 C.F.R. 1910.120(q)(9) and the educational requirements of 29 C.F.R. 1910.120(q)(6)(i), (ii), and (iii).

(c) Any of the training or educational requirements identified in these regulations may be waived by the state fire marshal, and a substitute requirement or standard issued by the occupational safety and health administration or the NFPA may be approved by the state fire marshal, if the substitute requirement or standard is equivalent to, meets, or exceeds the requirement to be replaced.

(Authorized by and implementing K.S.A. 31-133; effective, T-

22-10-25-01, Oct. 25, 2001; effective P-Feb. 15, 2002.)



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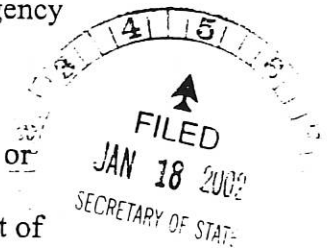
22-24-5. Composition of teams. (a) Each hazardous materials response team shall consist of at least nine members who possess the qualifications established by K.A.R. 22-24-3 and K.A.R. 22-24-4. A minimum of four members shall be available for response at any time.

(b) Each chemical assessment team shall consist of at least six members who possess the qualifications established by K.A.R. 22-24-3 and K.A.R. 22-24-4. A minimum of three members shall be available for response at any time.

(c) Each emergency response team member shall be certified by that individual's employer as meeting the qualifications for hazardous materials technicians established by NFPA 472. Each emergency response team member assigned to provide emergency medical support shall be certified by that individual's employer as meeting the qualifications for a level II responder or a higher level as defined by NFPA 473 and shall be currently certified or registered as an emergency medical technician by the state of Kansas board of emergency medical services.

(d) Emergency response teams may consist of personnel from one or more public or nonpublic entities. Each team shall designate a single point of contact for purposes of emergency dispatch, a single authority for contract administration, and the employer responsible for the employer requirements set out in these regulations. (Authorized by and implementing K.S.A. 31-133;

effective, T- 22-10-25-01, Oct 25, 2001; effective P- Feb 15, 2002.)



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22-24-6. Responsibilities of teams. (a) As its primary responsibility, each hazardous materials response team shall assist local authorities by recommending emergency actions necessary to protect life and property from the effects of a release of a hazardous material. These emergency actions may include preventing releases, mitigating a release, stabilizing the situation, and any other actions necessary to control the incident.

(b) As its primary responsibility, each chemical assessment team shall assist local authorities by providing technical advice and recommending mitigation actions to local incident commanders. Each chemical assessment team may assist the hazardous materials response team by responding in conjunction with them, assessing the chemical issues, and assisting in the formulation of strategies to mitigate or prevent incidents. The chemical assessment team may mitigate the effects of a release and stabilize the situation after contacting the hazardous materials response team and obtaining advice when necessary.

(c) When requested by the local incident commander and approved by the emergency response team commander, the emergency response team may remain at the scene and provide continuing assistance by monitoring cleanup activity conducted by local, state, or federal agencies or private entities for the purpose of ensuring public safety. The emergency response team shall not be required to remain at the scene. If the emergency response team remains, the team's costs shall be recoverable costs against the responsible party as provided in K.A.R.

22-24-14.



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(d) An emergency response team shall not take any of the following actions:

(1) Transport, store, dispose of, or perform remedial cleanup of hazardous materials, except as may be incidentally necessary to mitigate an emergency;

(2) assume overall command of the hazardous materials incident, except that the team shall establish a joint command comprised of the local incident commander and the emergency response team commander if local authorities do not have incident command training; or

(3) mitigate incidents involving explosives, explosive devices, incendiary devices, shock-sensitive explosive chemicals, or clandestine drug labs, except to respond to the effects of a hazardous materials release that has occurred as a consequence of these incidents. (Authorized by and implementing K.S.A. 31-133; effective, T-22-10-25-01, Oct. 25, 2001; effective P-Feb. 15, 2002.)



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22-24-7. Reporting and documentation. (a) Each emergency response team shall submit to the state fire marshal's office a detailed report of its response to each incident. The report shall be prepared in a manner and on a form prescribed by the state fire marshal and shall include the following data:

- (1) A list of all equipment used and the personnel who responded;
- (2) a description of all emergency actions taken;
- (3) a copy of the site safety plans developed during the response; and
- (4) completed cost-recovery forms.

(b) When an emergency response has been activated, the emergency response team commander shall notify the Kansas department of health and environment and the Kansas division of emergency management.

(c) Each local jurisdiction requesting assistance from the emergency response team shall notify the local Kansas division of emergency management representative and the Kansas department of health and environment that an incident has occurred. (Authorized by and implementing K.S.A. 31-133; effective, T-22-10-25-UL, Oct. 25, 2001; effective P- Feb. 15, 2002.)



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22-24-8. Emergency preplanning. (a) Any emergency response team may submit a request to the state fire marshal for information concerning hazardous materials that are stored or used by a state agency. Upon request of the state fire marshal, the state agency shall furnish the requested information to the division.

(b) Each government agency, including any county, city, township, or school district, shall provide information relating to its storage or use of hazardous materials when requested by an emergency response team. The local government agency shall furnish the requested information directly to the requesting team.

(c) Information that may be requested under either subsection (a) or (b) shall include the following:

- (1) A copy of any facility preplans;
- (2) a copy of the state or local agency's hazardous materials emergency response plan;
- (3) a statement describing the local agency's level of hazardous materials training;
- (4) a description of the resources available locally to support hazardous materials response actions; and
- (5) any other information reasonably needed by the requesting team.

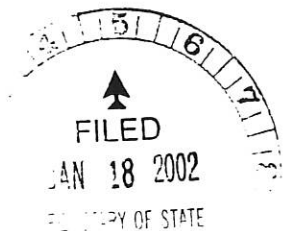
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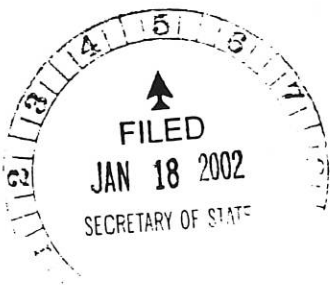
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22-24-9. Emergency response assistance. Any emergency response team may secure for use during an emergency response any technical assistance or specialized equipment necessary to safely and properly respond to an incident. When the incident involves explosives, explosive devices, incendiary devices, or shock-sensitive explosive chemicals, the team shall request assistance from a qualified bomb squad, an explosive ordnance disposal unit, or an alcohol, tobacco, and firearms unit. No emergency response team member shall take any action except as directed by the responding explosives unit. The costs associated with the activation of a bomb squad, an explosive ordnance disposal unit, or an alcohol, tobacco, and firearms unit shall not be recoverable from the hazardous materials emergency response program. (Authorized by and implementing K.S.A. 31-133; effective, T-22-10-25-01, Oct. 25, 2001; effective P- Feb. 15, 2002.)



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22-24-10. Review and evaluation of response. Each emergency response team shall conduct an evaluation of its response to each incident after termination of the team's response. The team shall give all public and private agencies involved in the response the opportunity to participate in the evaluation. The team shall prepare a written report following completion of the evaluation, a copy of which shall be provided to the state fire marshal within 45 days after termination of the team's response. For good cause shown, the length of the time in which the report is submitted may be extended by the state fire marshal for an additional 90 days. (Authorized by and implementing K.S.A. 31-133; effective, T-22-10-25-01, Oct. 25, 2001; effective P- Feb. 15, 2002.)



DEPT. OF ADMINISTRATION

OCT 10 2001

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22-24-11. Supplies, equipment, and vehicles for hazardous materials

response teams. Each hazardous materials response team shall have immediate access to the following general categories of supplies and equipment in suitable quantities to respond to anticipated hazardous materials incidents: (a) Chemical reference and emergency response manuals;

- (b) personal protective equipment;
- (c) decontamination equipment and supplies;
- (d) leak-control supplies and equipment;
- (e) radios and other forms of communications equipment;
- (f) computer equipment and supporting software;
- (g) monitoring and detection equipment;
- (h) basic suppression equipment;
- (i) spill containment supplies and equipment;
- (j) assorted nonsparking hand tools;
- (k) basic first aid supplies; and
- (l) related incident management and administrative supplies and

equipment. (Authorized by and implementing K.S.A. 31-133; effective, T-

22-10-25-01, Oct. 25, 2001; effective P- Feb. 15, 2002.)



DEPT. OF ADMINISTRATION

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22-24-12. Equipment for chemical assessment teams. Each chemical assessment team shall have immediate access to the following general categories of supplies and equipment in suitable quantities to respond to anticipated hazardous materials incidents: (a) Chemical reference and emergency response manuals;

- (b) personal protective equipment;
- (c) decontamination equipment and supplies;
- (d) leak-control supplies and equipment;
- (e) radios and other forms of communications equipment;
- (f) monitoring and detection equipment;
- (g) assorted nonsparking hand tools;
- (h) basic first aid supplies; and
- (i) related incident management and administrative supplies and

equipment. (Authorized by and implementing K.S.A. 31-133; effective, T-

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22-24-13. Emergency response criteria and dispatch. (a) Each emergency response team shall engage in an emergency response only if it is authorized by the state fire marshal. An emergency response may include technical assistance provided by a team via telephone or other means of communication or the deployment of team personnel and equipment to the scene of a hazardous material incident. An emergency response team response shall be authorized by the state fire marshal whenever it appears necessary to protect life or property from the effects or potential effects of a hazardous materials release.

(b) Each decision to authorize an emergency response shall be based on consideration of all of the following criteria:

(1) A hazardous materials release has occurred, or there is a significant potential for release.

(2) The release or threat of release poses a significant threat to life or property.

(3) Local authorities on the scene have determined that the situation exceeds their capabilities.

(4) Local authorities are requesting a team response.

(c) Only the local incident commander or designee for the jurisdiction in which the scene of the hazardous materials incident is located shall be authorized to request an emergency response team. Each request for an emergency response team shall be made to the state fire marshal. The communications arrangements provided by the state fire marshal shall allow 24-hour-a-day notification of a request for a response.



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(d) Each team, when authorized to respond under subsection (a), shall evaluate the situation, determine if an emergency response is needed, and act accordingly. Any question or concerns arising out of the team's decisions may be relayed to the division.

(e) An emergency response team may be authorized by the state fire marshal to provide standby technical assistance in support of a bomb squad response. A response under this subsection shall be limited to incidents involving explosives, explosive devices, incendiary devices, or shock-sensitive explosive chemicals. A bomb squad, an explosive ordnance disposal unit, or an alcohol, tobacco, and firearms unit shall be on the scene. When an emergency response team responds under this subsection, its costs shall be recoverable under the provisions of these regulations. The costs of activation of a bomb squad, an explosive ordnance disposal unit, or an alcohol, tobacco, and firearms unit shall not be recoverable expenses.

(f) If an emergency team is en route to an incident, the team's response may be cancelled only by the state fire marshal or by the local incident commander.

(g) The emergency response team commander or safety officer may terminate any response action at the scene of a hazardous materials incident when it is determined that response action would place any personnel in imminent danger. A team response may also be terminated at the scene of an incident by order of the local incident commander. (Authorized by and implementing K.S.A.

31-133; effective, T-22-10-25-01, Oct. 25, 2001; effective P-Feb. 15, 2002.)



DEPT. OF ADMINISTRATION

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22-24-14. **Cost recovery.** (a) When an emergency response team is activated to respond to a hazardous materials incident, the party responsible for the hazardous materials shall be responsible for paying the costs incurred as a result of the team's emergency response. The responsible party shall be billed by the state fire marshal for these costs in a summary order. If the responsible party fails to pay the bill in full within 30 days of its issuance, a second billing shall be issued by the state fire marshal. The second billing and any subsequent billings shall include interest on the unpaid balance. If payment is not made in full within 60 days of the initial billing, the responsible party shall be contacted by the state fire marshal in an effort to obtain payment. If the matter remains unresolved, legal action shall be brought to recover the costs of the response, any legal fees, and other related expenses, including reasonable attorney's fees.

(b) Within 30 days of the original billing issued as a summary order, any responsible party who disagrees with a billing for costs incurred as a result of an emergency response may request a hearing, which shall be conducted in accordance with the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto. The request for a hearing shall specifically identify the portion of the billing that is disputed and the factual basis of that dispute. Any remaining portion of the bill that is undisputed shall be paid in accordance with subsection (a). (Authorized by and implementing K.S.A. 31-133; effective, T-

22-10-25-01, Oct. 25, 2001; effective P- Feb. 15, 2002)



ATTORNEY GENERAL

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APPROVED

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1-21

22-24-15. Coordinating emergency response activities. (a) The local authority that has jurisdiction and that requested the emergency response shall provide all necessary assistance to the emergency response team. The emergency response team commander shall coordinate with those local, state, or federal agencies, or other organizations that are on the scene or providing assistance.

(b) Mutual aid agreements, interlocal agreements, or other forms of written agreements with local, state, or federal agencies within and without this state may be entered into by the state fire marshal to mutually support and foster assistance in response to hazardous materials incidents. (Authorized by and implementing K.S.A. 31-133; effective, T-22-10-25-01, Oct. 25, 2001; effective P-Feb. 15, 2002.)



DEPT. OF ADMINISTRATION

OCT 10 2001

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1-22

22-24-16. Liability. Each member of each emergency response team shall be considered a state employee for purposes of coverage under the tort claims act, K.S.A. 75-6101 et seq. and amendments thereto, upon activation by the state fire marshal for an emergency response or in connection with authorized training.

(Authorized by and implementing K.S.A. 31-133; effective, T- 22-10-25-01, Oct. 25, 2001 ; effective P- Feb. 15, 2002.)



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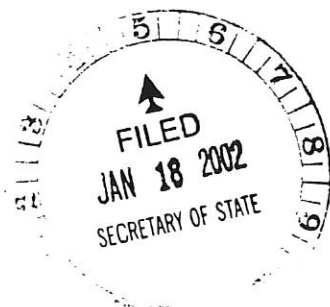
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1-23

22-24-17. Workers compensation. For the purposes of workers compensation coverage, each member of each emergency response team shall at all times be considered an employee of the public or nonpublic entity contracting with the state fire marshal to provide emergency response team services. (Authorized by and implementing K.S.A. 31-133; effective, T-22-10-25-01, Oct. 25, 2001; effective P- Feb. 15, 2002.)



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OCT 10 2001

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ATTORNEY GENERAL

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1-24

22-24-18. Advisory committee. A hazardous materials advisory committee may be appointed by the state fire marshal to provide input and assistance to the hazardous materials program and act as advisor to the state fire marshal and the director of the division. The committee shall meet periodically as determined by the state fire marshal. (Authorized by and implementing K.S.A. 31-133 and 31-135; effective, T-22-102501, Oct. 25, 2001 ; effective P-Feb. 15, 2002.)



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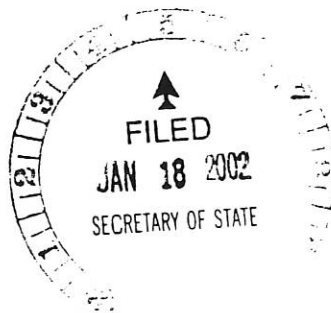
1-25

State of Kansas Fire Marshal's Office
Updated
Economic Impact Statement

K.A.R. 22-24-1 through K.A.R. 22-24-18. These regulations address the development and operation of regional hazardous materials response teams across the state of Kansas. Areas addressed are response areas; adoption of standards; qualifications of team members; composition of teams; responsibilities of teams; reporting and documentation; emergency planning; emergency response assistance; review and evaluation of response; supplies, equipment and vehicles; equipment for chemical assessment teams; emergency response and dispatch criteria; cost recovery; coordinating emergency response activities; liability; workers compensation; and advisory committee.

Economic Impact: No adverse impact. A hearing was held on December 18, 2001, at the Jayhawk Towers, 700 SW Jackson, Topeka, with 18 persons attending. No information was discovered that would alter the original estimate that no adverse impact will occur to parties affected by the regulations.

Pursuant to K.S.A. 31-134, a second hearing was held on January 10, 2002, at the Jayhawk Towers, 700 SW Jackson, Topeka, with seven persons attending. No information was discovered that would alter the original estimate that no adverse impact will occur to parties affected by the regulations.



MINUTES

JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS

November 5-6, 2001
Room 514-S—Statehouse

Members Present

Representative Melvin Neufeld, Chairman
Senator Karin Brownlee
Senator Stan Clark
Senator U. L. "Rip" Gooch
Senator Chris Steineger
Representative Carl Holmes
Representative Laura L. McClure
Representative Janice Pauls
Representative Tony Powell
Representative L. Candy Ruff

Members Excused

Senator Dwayne Umbarger, Vice Chairman
Representative Bill Light

Staff Present

Bill Wolff, Kansas Legislative Research Department
Raney Gilliland, Kansas Legislative Research Department
Ken Wilke, Office of the Revisor of Statutes
Pat Kahler, Secretary

Others Present

Linda Peterson, Kansas Agricultural Remediation Board
Mary Jane Stattelman, Kansas Agricultural Remediation Board
Rod Bieker, Kansas Department of Education
Susan Hilbert, Kansas Department of Education
Martha Gage, Kansas Department of Education
Alexa Pochowski, Kansas Department of Education
Peg Dunlap, Kansas National Education Association

She said HB 2128, enacted in the 2001 Session of the Legislature, created a 25 percent state income tax credit on qualified rehabilitation expenses on a qualified historic structure. This legislation is being implemented by the proposed rules and regulations.

Staff asked the conferee to review the adoption by reference in KAR 118-5-3 and determine if the most recent CFRs published in July 1, 2001, should not be the proper citation. Also, staff suggested, in KAR 118-5-4, application, the conferee adopt the date of the hardbound CFRs in subsection (a)(2) and change the adoption of Part 1 in subsection (d)(5) to only the 14 pages used by the Historical Society.

Many information questions were answered by the conferee dealing with historic structures. At the conclusion of the review, Ms. Davis was thanked for the presentation.

Daniel Thompson came before the Committee to review the proposed rules and regulations noticed for hearing for the State Fire Marshal's Office. KAR 22-24-1, definitions; 22-24-2, team response areas; 22-24-3, adoption by reference; 22-24-4, qualifications of team members; 22-24-5, composition of teams; 22-24-6, responsibilities of teams; 22-24-7, reporting and documentation; 22-24-8, emergency preplanning; 22-24-9, emergency response assistance; 22-24-10, review and evaluation of response; 22-24-11, supplies, equipment, and vehicles for hazardous materials response teams; 22-24-12, equipment for chemical assessment teams; 22-24-13, emergency response criteria and dispatch; 22-24-14, cost recovery; 22-24-15, coordinating emergency response activities; 22-24-16, liability; 22-24-17, workers compensation; and 22-24-18, advisory committee.

Mr. Thompson told the Committee that the proposed regulations would allow the State Fire Marshal's Office to establish and oversee regional response units throughout the state.

The conferee explained that under KAR 22-24-12, equipment for chemical assessment teams, teams would be comprised of local persons designated by the Fire Marshal's Office. This regulation would require three trained personnel available within one-hour or less of an incident. Larger cities having established teams would be available to help other communities. The state would be divided into seven regions with two response units in each region, a hazardous materials response unit and a chemical assessment team. These units would be funded through the Fire Marshal's Fee Fund, with some fees paid by insurance companies.

A member asked Mr. Thompson to include a definition of hazardous materials in KAR 22-24-1, definitions, or consider using the reference to KSA 48-904(h).

Members of the Committee expressed the opinion that, while the subject matter of the rules and regulations was an area for concern and regulation, the proposed regulations exceed the authority of the Fire Marshal's Office. Since many other regulatory bodies have jurisdiction in these areas, the Committee commented that the issue of regulation should be returned to the Legislature for further consideration.

Representative Pauls moved, seconded by Senator Clark, that a bill be drafted that would take the issues of the proposed rules and regulations and place them in bill form for

future review by the Committee and possible introduction for consideration by the 2002 Legislature. The motion carried.

After an extensive question and answer period, Mr. Thompson was thanked for the presentation.

Chairman Neufeld welcomed Kevin Glendenning and Sonya Allen to speak to the proposed rules and regulations noticed for hearing by the State Bank Commissioner. Mr. Glendenning reviewed KAR 17-24-2, mortgage business fees.

Mr. Glendenning was asked to clarify the use of "amendment" in subsection (g).

Sonya Allen continued the review for the State Bank Commissioner. KAR 17-11-14, directors' meetings; 17-11-18, loans; documentation requirement; 17-11-19, charged-off assets; records; 17-11-21, appraisals and evaluations; KAR 17-16-2, application; contents; 17-23-1, definitions; 17-23-3, administration of fiduciary powers; 17-23-6, funds awaiting investment or distribution; 17-23-8, self-dealing; 17-23-9, custody of investments; 17-23-11, collective investment; 17-23-14, time of notification for securities transactions; and 17-23-15, securities trading policies and procedures.

KAR 17-23-1, definitions. Staff suggested the Commissioner consider adopting by reference the "Uniform Gifts to Minors Act" and the "Uniform Transfers to Minors Act."

When looking at KAR 17-23-8, self-dealing, staff proposed "the" be added to subsection (b)(1)(B) before potential liability.

KAR 17-23-11, collective investment, subsection (b)(4)(A) should be rewritten to say "except to the following" instead of "according to the following," making the regulation clearer.

Following further discussion, no other concerns were expressed. The Chairman thanked Mr. Glendenning and Ms. Allen for coming before the Committee.

Mark Stafford, Board of Healing Arts, was present to review the proposed rule and regulation noticed for hearing in Article 27. KAR 100-27-1, supervision of light-based medical treatment.

There were no questions or concerns and the Chairman thanked Mr. Stafford for the presentation.

The Chairman welcomed Mary Blubaugh to speak to the proposed rules and regulations noticed for hearing for the Kansas State Board of Nursing (Attachment 4). KAR 60-11-116, reinstatement of certification; 60-13-103, school approval requirements; and 60-13-110, reinstatement of authorization.

There were no concerns or recommendations given by the Committee. Ms. Blubaugh was thanked for her presentation.

State Fire Marshal. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning hazardous materials response teams. After discussion, the Committee expressed the following comment.

- General Comment. The Committee strongly suggests the Fire Marshal not adopt as final the proposed rules and regulations and await further legislative action that clarifies the Fire Marshal's authority to act in the area of hazardous materials. The Committee directs staff to draft such clarifying legislation for its future review.

Bank Commissioner. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning documentation requirements, charter applications, trust supervision, and mortgage business. After discussion, the Committee expressed the following comments.

- KAR 17-23-8. In subsection (b)(1)(B), at the end of the first clause, insert the word "contingent or potential" before the word "liability."
- KAR 17-23-11. Check the language at the bottom of page 2 and the top of page 3 for duplication.

State Board of Healing Arts. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning light-based medical treatment. After discussion, the Committee had no comment.

State Board of Nursing. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning Advanced Registered Nurse Practitioners and Nurse Anesthetists. After discussion, the Committee had no comment.

Department of Agriculture. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning weights and measures. After discussion, the Committee expressed the following comments.

- General Comment. Consider expanding reporting and filing options to include electronic means as well as fax or written communications.
- KAR 99-26-1. The economic impact statement needs to include total revenues as well as the number of entities to whom the fee applies.

Department of Social and Rehabilitation Services. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning developmental disabilities. After discussion, the Committee expressed the following comments.

KANSAS AGRIBUSINESS RETAILERS ASSOCIATION

Statement of the

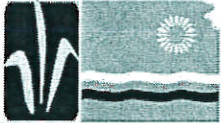
Kansas Agribusiness Retailers Association

Presented to the

House Environment Committee

Regarding House Bill 2881

March 7, 2002



KARA is
*"Committed to
Professional
Development
and Business
Viability for
the Retail Crop
Production
Industry"*

*House Environment
3-7-02
Attachment 2*

Good afternoon, Chairperson Freeborn and members of the House Environment Committee. My name is Mary Jane Stattelmann and I appear before you on behalf of the Kansas Agribusiness Retailers Association (KARA).

KARA is comprised of agribusiness retailers across the state that could potentially be impacted by this bill. KARA members handle various hazardous materials as defined in New Section 1. We are unclear what is the intent of this bill and whether it would duplicate or increase the already substantial amount of regulation that our members cope with when dealing with hazardous materials. The following is an abbreviated list of the regulations and reporting requirements that the KARA members already are required to comply with:

- report all fertilizer and pesticide spills to both the Kansas Department of Agriculture and the Kansas Department of Health and Environment;
- comply with all of the decal requirements regarding hazardous materials of the State Fire Marshall and Department of Transportation;
- report to the Corporation Commission outlining what type of hazardous materials we are transporting and how many miles that material will be transported;
- require each driver to have a commercial driver's license with a hazardous material designation
- KARA is comprised of agribusiness retailers across the state that could potentially be impacted by this bill. KARA members handle various hazardous materials as defined in New Section 1. We are unclear what is the intent of this bill and whether it would cause more regulation by the various agencies listed in the definition of hazardous materials agency. Our members are already heavily

regulated by a number of the mentioned agencies. Here is an abbreviated list of what KARA members already are required to do the following activities concerning hazardous materials:

- ensure that each driver has passed a drug test and that they have a current medical card;
- participate in an anhydrous ammonia school according to the EPA risk management plan; and
- register all of their bulk fuel and propane locations with the State Fire Marshall.

As I stated at the beginning of my testimony, we are unclear as to the intent of this bill and what impact it may have on our members. We are also unclear as to what costs the state fire marshall can recover pursuant to New Section 5.

Thank you for your time and attention. I would be happy to stand for any questions that you may have at this time.

Testimony on Behalf of the Kansas Emergency Management Assn. by Michael D. Selves, Government Affairs Chairman, before the House Environmental Committee -- Regarding House Bill 2881 :

The Board of Directors of the Kansas Emergency Management Association (KEMA) wish to go on record as opposing House Bill 2881 concerning the organization for hazardous materials incident response. We are informed that the bill will be considered by the House Environmental Committee tomorrow. Unfortunately, we cannot be present in person to expressing our position so we respectfully request that this e-mail be entered into the record of your hearings on this bill. Since KEMA represents the Emergency Management Coordinators/Directors in 86 of Kansas's 105 Counties, we are very concerned about the encroachment on the ability of local jurisdictions to respond to HAZMAT incidents which this bill represents. The Fire Marshall has already been given the authority to work with local jurisdictions to develop regional response teams. To extend this authority to include what amounts to actual management of local HAZMAT response resources is unnecessary and probably unworkable. We believe that the current cooperative efforts of the Fire Marshall's office and local emergency response agencies can and will produce a system we can work with. HB 2881 will significantly undermine those efforts.

Michael D. Selves, CEM, CPM
Director, Emergency Management
Johnson County, Kansas
111 S. Cherry Street, Suite 100
Olathe, KS 66061

*House Environment
3-7-02
Attachment 3*

EQUUS BEDS GROUNDWATER MANAGEMENT DISTRICT NO. 2
Board of Directors
Position Paper
on
Proposed House Substitute for Senate Bill 264
Presented by Brad Franz, President

The Board of Directors met in special session March 5, 2002, in response to a legislative inquiry concerning a proposed House Substitute for Senate Bill 264 proposed by a sub-committee of the House Environment Committee. Eight directors attended the special session and one director was absent.

The Equus Beds Groundwater Management District Board of Directors supports the recommendations of the Special Interim Committee on Energy, Natural Resources and Environment.

The Board of Directors believe the proposed House Substitute for SB No. 264 does not reflect the interim committee's recommendation. By placing a cap on water assessments for water used within the District, but no cap on assessments for water used outside the District, the legislation unfairly and inappropriately places the financing of the District's activities on a minority of users. Those users are primarily the Cities of Newton, McPherson and Wichita. The three cities use about 10 percent of the total water appropriated in the District.

To achieve the same revenue that would be generated by the \$1.19 per acre-foot assessed to all users, but reallocated to only \$1.00 per acre-foot for those using water inside the District; assessment rates of approximately \$2.73 per acre-foot would be required from the Cities of McPherson, Newton and Wichita. While these cities use 10 percent of the water, they would be financing 25 percent of the District's activities.

The burden of assessment does not reflect the services received by those entities. At this time only 9 percent of the District's resources are spent on water quality sampling and analysis. While the argument has been made that municipalities get more value from these activities than agricultural users, the Board strongly feels that water quality is vital to all users.

When the Board reviewed the activities of the District, it concluded that over 75 percent of the District's activities were directly related to agricultural users, while less than 25 percent were directly related to all other water users, which also included activities for municipalities located within the District.

Requiring the Cities of Newton, McPherson and Wichita to pay an unfair proportion of the District's funding, without giving them an equal level of representation on the Board of Directors, will create a conflict that may lead to court action to remedy.

The Board also objects to the concept of having assessment rates reviewed by the Chief Engineer of the Division of Water Resources and by the Kansas Water Authority. Nothing within their current or historical duties would be consistent with this type of financial review, and such a review would be completely inconsistent with the local management created by the Groundwater

*House Environment
3-7-02
Attachment 4*

Management District Act. The responsibility for setting assessments should remain with the Board of Directors who are elected by the water users in the District and not with other entities which do not have accountability to District voters.

The proposed substitute language also seeks to amend the existing Kansas Groundwater Management District Act. The Board of Directors as well as all the other groundwater management district Boards of Directors oppose amending the Act.

Additionally, if the substitute language is approved, it will eliminate the District voting rights of domestic users by excluding domestic use from the groundwater assessment fee. The Board opposes excluding domestic users as an eligible voter in District matters.

By a unanimous vote of the eight directors present at the special meeting, the Board voted to oppose the proposed House Substitute for SB No. 264 based on the following:

1. it seeks to amend the existing Kansas Groundwater Management District Act;
2. a cap was not placed on the 2nd class of water assessment rate payers, which would create an unfair allocation of District financing,
3. it requires a locally elected governing body to submit financial and budget matters to two state agencies for approval,
4. the District voting rights of domestic users are abolished by excluding domestic use from the groundwater assessment fee, and
5. it creates financial and administrative problems for the Board of Directors by basing differential assessment rates on place of use instead of water use.

The Board of Directors recommend the following amendments to SB 264 that support the findings and conclusions of the Special Interim Committee:

1. the groundwater user fee cap is raised to a base rate of \$1.19 per acre-foot,
2. the Board of Directors is given the authority to establish other classes of rate payers based on water use, and
3. the rates for each of the other classes of water use be capped at 150 percent of the base user fee of \$1.19 per acre-foot.