

Kansas State Fire Marshal

Notice of Hearing on Proposed Administrative Regulations

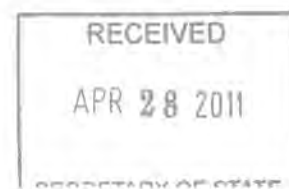
A public hearing will be conducted at 10:00 a.m., Thursday, July 7, 2011 in the Senate Room of the Jayhawk Towers Building, 700 SW Jackson, Topeka, KS 66603 to consider proposed Kansas Administrative Regulations K.A.R. 22-19-2 and 22-19-5, which pertain to the certification of fire investigators and filing reports with the state fire marshal. Also for consideration are revocations of K.A.R. 22-19-3, which also pertain to certified fire investigator recertification. These regulations are proposed on a permanent basis.

K.A.R. 22-19-2. This amended regulation establishes the certification process and maintenance for fire investigators.

K.A.R. 22-19-5. This amended regulation establishes the requirement of certified fire investigators to file reports with the state fire marshal.

These regulations are expected to cause no economic impact on the Kansas State Fire Marshal's Office, other state agencies, state employees or the general public.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to Carolyn Lowry, Administrative Specialist, 700 SW Jackson, Suite 600, Topeka, KS

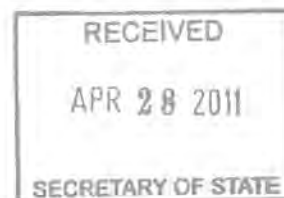


66603. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentations to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Carolyn Lowry at the address above or by calling (785) 296-8984.

Handicapped parking is located on the west side of Jayhawk Towers on the corner of 7th and Jackson. The west entrance to the building is accessible to individuals with disabilities.

Copies of the regulation and the economic impact statement may be obtained at the address above or by calling Carolyn Lowry at (785) 296-8984 or emailing her at carolyn.lowry@ksfm.ks.gov.



Proposed

K.A.R. 22-19-2. Certification of fire investigators. Certification may be granted at one of two levels: certified fire investigator I or certified fire investigator II. (a) Each fire investigator who makes application and who individual seeking certification at either level shall apply on a form approved by the state fire marshal. Any individual that meets and demonstrates the following criteria may be certified by the state fire marshal:

(1) Is a United States citizen;

(2) has been fingerprinted, with a search of local, state, and national fingerprint files to determine whether the applicant has a criminal record;

(3) has not been convicted, does not have an expunged conviction, and on and after July 1, 1995, has not been placed on diversion by any state or the federal government for a crime that is a felony or its equivalent under the uniform code of military justice;

(4) has not been convicted, does not have an expunged conviction, and has not been placed on diversion by any state or the federal government for a misdemeanor crime of domestic violence or its equivalent under the uniform code of military justice, if the misdemeanor crime of domestic violence was committed on or after the effective date of this regulation;

(5) is the holder of a high school diploma or furnishes evidence of successful completion of an examination indicating an equivalent achievement;

(6) is of good moral character;

(7) is free of any physical or mental condition that could adversely affect the applicant's performance of a fire investigator's duties;

(8) is at least 21 years of age;

(9) Each applicant for fire investigator certification shall be recommended by the fire chief agency head of the applicant's jurisdiction;



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~~(2) (10)(A) Each applicant shall provide~~ Provides proof of successful completion of a fire investigation course, within the past five calendar years, that meets or exceeds the "standard for professional qualifications for fire investigator" established by the national fire protection association in publication number 1033, ~~1998~~ 2009 edition, which is hereby adopted by reference, and all law enforcement training required under K.S.A. ~~74-5602~~ 74-5607a et seq., and amendments thereto, and applicable regulations. Each applicant for fire investigator-II certification shall also successfully complete a firearms training course approved for law enforcement officers and shall be employed full-time by a fire department or law enforcement agency. An applicant for fire investigator I shall not be required to have firearms training or full-time status. Each applicant who completed an approved fire investigation course more than five years before the date of application shall submit proof of the applicant's successful completion of the course and proof of the applicant's fire investigation responsibilities within the past five calendar years; or

~~(3) (B) Each applicant who has not completed a nationally recognized training course may be certified upon achievement of~~ achieves a score of ~~not less than 70~~ at least 80 percent correct on the fire investigation graded examination and ~~upon presentation of all other requirements.~~ Any applicant may take this examination only once. If an applicant scores less than 80 percent, the applicant shall meet the requirement in paragraph (a)(10)(A); and

~~(4) (11) Each applicant shall submit~~ submits a completed KBI background investigation that demonstrates to the state fire marshal's satisfaction that the applicant has no criminal justice history or other disqualification for a law enforcement officer criminal history form. Each applicant shall also provide proof that the applicant has submitted fingerprints to the Kansas bureau of investigation.

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(b) Each applicant for certified fire investigator II shall, in addition to meeting all of the requirements in subsection (a), successfully complete a firearms training course approved for law enforcement officers and be employed full-time by a fire department or law enforcement agency. Each applicant for a certified fire investigator II shall maintain firearms qualifications annually and shall provide documentation of this to the state fire marshal.

(c) Any applicant who is a part-time or volunteer certified fire investigator I may apply for certification as a fire investigator II with a written recommendation from the local law enforcement agency.

(d) Comparable qualifications from another state or jurisdiction may be recognized by the state fire marshal.

~~(e) (e) Certification as a fire investigator I or II shall be valid for a period of three years.~~

~~(d) Certification may be granted at two levels: fire investigator I or fire investigator II. Fire investigator I certification shall require the qualifications set out in paragraphs (a) (1) through (3) above. Qualification as a fire investigator II shall require, in addition to the requirements for fire investigator I, the successful completion of law enforcement firearms training and full-time employment as a paid member of a fire department or law enforcement agency.~~

~~(e) Any fire department or law enforcement agency may employ up to four certified fire investigator II's. Upon written application demonstrating good cause, additional certified fire investigator II's may be authorized by the state fire marshal. A fire department or law enforcement agency may employ any number of fire investigator I's.~~

(f) Any certification issued under this regulation may be suspended or revoked by the state fire marshal if the state fire marshal finds that the certification holder has not accumulated



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and documented at least 60 points in each three-year period following initial certification and has not provided this documentation to the state fire marshal as follows:

(1) Training points shall be earned at the rate of one point for every clock-hour of department-approved training attended or taught, and 10 points shall be earned for every college-level course of three or more credit hours for which the applicant achieves a grade of C or higher if the course content directly relates to fire investigation skills. No more than 10 points shall be applied from instructing. At least 30 points shall be earned in this category, and a maximum of 40 points may be applied towards recertification.

(2) Experience points shall be earned for performing fire scene investigation and reporting or for the supervision of fire scene investigation and reporting. Points shall be earned at the rate of one point per fire investigation performed or supervised. At least 10 points shall be earned in this category, and a maximum of 20 points may be earned.

(3) Each individual shall be required to accumulate and document at least 10 points of training in law enforcement-related courses.

(g) Points shall not be carried over from one three-year period into another. A fire investigator who is certified before the effective date of this regulation shall not be required to meet the requirements in paragraph (f)(3) until the individual's next three-year certification period following the effective date of this regulation.

(h) For each subsequent three-year certification, each individual shall provide the following to the state fire marshal no later than 60 days before the expiration of the individual's current certification:

- (1) A completed certification form approved by the state fire marshal;
- (2) originals or legible copies of all documents establishing the points earned; and



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(3) a notarized statement of eligibility for the subsequent three-year certification.

(i) If an individual's certification lapses for more than six months, the individual shall complete all applicable requirements in subsections (a) through (e). (Authorized by and implementing K.S.A. 31-157; effective, T-84-43, Dec. 21, 1983; effective May 1, 1984; amended May 10, 1993; amended Aug. 27, 1999; amended P-_____.)

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K.A.R. 22-19-3. (Authorized by and implementing K.S.A. 31-157; effective, T-84-43, Dec. 21, 1983; effective May 1, 1984; amended May 10, 1993; amended Aug. 27, 1999; revoked P-
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K.A.R. 22-19-5. Reports, Filing reports with state fire marshal. (a) Each person certified as a fire investigator I or II shall file a report of every fire investigation conducted by that ~~certified investigator~~ individual with the state fire marshal within 30 days. The report shall contain all information on the current report form used by the state fire marshal's deputies, including ~~but not limited to~~ the following:

(1) ~~The name of owner, and~~ birthdate of the owner;

(2) ~~the name and birthdate of each suspect, if any, birthdate of suspect, and either the~~ driver's license or other identification number of each suspect;

(3) ~~the name of witnesses, birthdates of witnesses, the birthdate, and either the~~ driver's license or other identification number of witnesses, each witness; and

(4) ~~the name of the~~ insurance company, policy number, and amount of insurance coverage.

(b) ~~Supplements~~ Supplemental reports shall be filed indicating disposition of the case.

(c) Each report shall be submitted through the investigative database used by the state fire marshal's investigations division.

(d) Failure to file ~~such~~ the reports specified in this regulation shall be grounds for suspension or revocation of the certificate pursuant to K.A.R. 22-1-5. (Authorized by K.S.A. ~~4992~~ 2009 Supp. 31-133; implementing K.S.A. 2009 Supp. 31-137; effective May 10, 1993; amended P-_____.)



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**KANSAS STATE FIRE MARSHAL'S OFFICE
ECONOMIC IMPACT STATEMENT
K.A.R. 22-19-2, 22-19-3 and 22-19-5**

Proposed

I. Summary of Amended Regulations, Including its Purpose.

The proposed amendments to existing regulations include updates to certification and training requirements. The updated regulations will increase total training hour requirements that includes mandated law enforcement specific training. The updated regulation outlines more specifics for actual reporting and documentation of fires worked. The updates also address a problem of recertification authority. The purpose is to increase and better align the regulations for certified fire investigators with state law enforcement requirements.

II. Reason or Reasons the Proposed Regulation is Required, Including Whether or Not the Regulation is Mandated by Federal Law.

The proposed changes are needed to keep current with training requirements. They are not mandated by federal law but by state statutes.

III. Anticipated Economic Impact upon the Kansas State Fire Marshal's Office.

The Kansas State Fire Marshal does not anticipate any economic impact upon the Kansas State Fire Marshal's Office.

IV. Anticipated Financial Impact upon Other Governmental Agencies.

The Kansas State Fire Marshal does not anticipate any economic impact upon other governmental agencies.

V. Anticipated Financial Impact upon Private Business or Individuals.

The Kansas State Fire Marshal does not anticipate any financial impact upon private businesses or individuals.

VI. Less Costly or Intrusive Methods That Were Considered, but Rejected, and the Reason for Rejection.

No other methods were considered since there is no financial impact involved.

