

# KANSAS REGISTER

State of Kansas

JACK H. BRIER  
Secretary of State

Vol. 4, No. 14

April 4, 1985

Pages 457-544

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State of Kansas

**SECRETARY OF STATE****NOTICE**

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

I, JACK BRIER, Secretary of State of the State of Kansas, do hereby certify that pursuant to the provisions of K.S.A. 1984 Supp. 16-207, the maximum effective rate of interest per annum for notes secured by all real estate mortgages and contracts for deed for real estate executed during the period of April 1, 1985 through April 30, 1985 shall be 14.73%.

In testimony whereof: I hereto set my hand and cause to be affixed my seal. Done at the City of Topeka, this 29th day of March A.D. 1985.

JACK H. BRIER  
Secretary of State

Doc. No. 003069

State of Kansas

**STATE HISTORICAL SOCIETY  
STATE RECORDS BOARD****NOTICE OF MEETING**

The Kansas State Records Board will meet at 10 a.m., Thursday, April 11, 1985, in the conference room on the fourth floor of the Memorial Building. The Board will consider requests from state agencies submitting proposals for disposition of noncurrent government records.

In addition, general administrative matters and other business will be discussed.

EUGENE D. DECKER  
State Archivist  
Secretary, State Records Board

Doc. No. 003061

State of Kansas

**BOARD OF EMBALMING****NOTICE OF MEETING**

Notice is hereby given of the regular meeting of the Kansas State Board of Embalming on Thursday and Friday, April 11-12, 1985, at the board's office, 214 W. 6th St., Suite 203, Topeka, KS.

The April 11th meeting will begin at 8:45 a.m. Written examinations will be administered at 9 a.m. on Friday the 12th.

DOUGLAS "MACK" SMITH  
Executive Secretary

Doc. No. 003057

State of Kansas

**SOCIAL AND REHABILITATION SERVICES****STATE PLANNING COUNCIL ON  
DEVELOPMENTAL DISABILITIES  
SERVICES****NOTICE OF MEETING**

The State Planning Council on Developmental Disabilities Services will meet at 10 a.m., Thursday, April 18, 1985, in Room A, Staff Development Training Center, Topeka State Hospital Grounds, Topeka, KS.

The Council will consider grant proposals submitted through 5 p.m., March 29, 1985, and hear the Grant Review Committee's reports concerning these proposals. Public comment will be afforded.

JOHN KELLY  
Executive Secretary

Doc. No. 003065

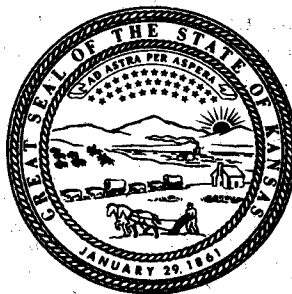
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PUBLISHED BY  
JACK H. BRIER  
Secretary of State  
State Capitol  
Topeka, KS 66612



PHONE: 913/296-3489

(Published in the KANSAS REGISTER, April 4, 1985.)

## State of Kansas

**ADJUTANT GENERAL  
MILITARY ADVISORY BOARD****NOTICE OF MEETING**

Notice is hereby given to all interested parties that the Kansas Military Advisory Board will meet at 1 p.m., Friday, April 26, 1985, in Conference Room 102, State Defense Building, 2800 Topeka Ave., Topeka, KS. Kansas National Guard stationing plans and other business will be discussed.

RALPH T. TICE  
Major General, Kansas  
Army National Guard  
The Adjutant General

Doc. No. 003064

## State of Kansas

**STATE EMPLOYEES  
HEALTH CARE COMMISSION****NOTICE OF MEETING CHANGE**

The regular monthly meeting of the Kansas State Employees Health Care Commission has been rescheduled from 2 p.m., Friday, April 5, 1985, to 2 p.m., Monday, April 15, 1985. The meeting will be held in the Third Floor Conference Room, Insurance Department, 420 S.W. 9th, Topeka, KS.

MARVIN A. HARDER  
Chairman

Doc. No. 003062

## State of Kansas

**ANIMAL HEALTH DEPARTMENT****NOTICE OF HEARING  
ON PROPOSED TEMPORARY AND PERMANENT  
ADMINISTRATIVE REGULATIONS**

Notice is hereby given to all interested parties that a public hearing will be held at 10 a.m., April 22, 1985, in the office of the Animal Health Department, 417 E. 4th St., 4th Floor, Topeka, KS, to consider the adoption of the proposed temporary and permanent regulations and amendments thereto of the Kansas Animal Health Department.

All interested parties may submit in writing their views or they will be given reasonable opportunity to orally present their comments at the time of the hearing in regard to the adoption of the proposed regulations.

The proposed regulations, 9-2-1, 9-2-32 and 9-11-10, adopt the minimum standards of the Uniform Methods and Rules for achieving and maintaining a certain status for brucellosis and tuberculosis in the state of Kansas.

Copies of the proposed regulations and a fiscal impact statement may be obtained from the Animal Health Department at the above address.

DR. GERALD D. GURSS  
Livestock Commissioner

Doc. No. 003048

## State of Kansas

**DEPARTMENT OF TRANSPORTATION****NOTICE TO BIDDERS**

Sealed bids for contracts for the highway mowing and baling rights for the Kansas Department of Transportation, located in the six (6) districts, will be received until 10 a.m., Thursday, April 18, 1985.

Bid blanks may be obtained from H. E. Shubert, Purchasing Agent, 7th Floor, State Office Building, Topeka, KS; J. D. Jones, District Engineer, 121 W 21st St., Topeka, KS; R. L. Anderson, District Engineer, 1006 N 3rd, Salina, KS; E. L. Olson, District Engineer, 312 S 2nd, Norton, KS; D. E. Kimbell, District Engineer, 411 W 14th St., Chanute, KS; M. S. Fry, District Engineer, 500 N Hendricks, Hutchinson, KS and E. D. Crockett, District Engineer, east on US-50, Garden City, KS.

JOHN B. KEMP  
Secretary of Transportation

Doc. No. 003059

(Published in the KANSAS REGISTER, April 4, 1985)

## State of Kansas

**DEPARTMENT OF TRANSPORTATION****NOTICE TO CONTRACTORS**

Notice is hereby given that sealed proposals for the construction of road and bridge work in the following Kansas counties will be received at the office of the Chief of Construction and Maintenance, K.D.O.T., Topeka, Kansas, until 10:00 a.m., April 18, 1985, and then publicly opened:

**DISTRICT TWO—Northcentral**

Geary—70-31 M-1360-01—I-70, Safety Rest Area 1505 and 1506, 1.0 mile west of I-70 and US-77, safety rest area. (State Funds)

Geary—70-31 M-1361-01—I-70, Safety Rest Area 1511 and 1512, 4.1 miles west of I-70 and K-177, safety rest area. (State Funds)

Proposals will be issued upon request to all prospective bidders who have been prequalified by the Kansas Department of Transportation on the basis of financial condition, available construction equipment, and experience. Also, a statement of unearned contracts (Form No. 284) must be filed. There will be no discrimination against anyone regardless of race, religion, color, sex, physical handicap, national origin or ancestry in the award of contracts.

Plans and specifications for the project(s) may be examined at the offices of the respective County Clerks or at the Kansas Department of Transportation district offices responsible for the work.

JOHN B. KEMP  
Secretary of Transportation

Doc. No. 003051

(Published in the KANSAS REGISTER, April 4, 1985)

**State of Kansas**  
**DEPARTMENT OF TRANSPORTATION**

**NOTICE TO CONTRACTORS**

Notice is hereby given that sealed proposals for the construction of road and bridge work in the following Kansas counties will be received at the K.D.O.T. District One Conference Room, 121 W. 21st, Topeka, KS, until 10:00 a.m. C.D.T., May 2, 1985, and then publicly opened:

**DISTRICT ONE—Northeast**

**Johnson—435-46 K-0456-06—I-435**, ramps east-north and west-south and bridges on I-35, grading and surfacing. (Federal Funds)

A pre-bid conference for the above referenced Project 435-46 K-0456-06, Johnson County, is scheduled for Thursday, April 18, 1985, at 1:15 p.m. at the K.D.O.T. District One Conference Room, 121 W. 21st, Topeka. The project includes the ramps east-north and west-south at the interchange of I-435 & I-35 in the Cities of Lenexa and Overland Park.

Contractors wishing to bid on the project are *required* to attend this pre-bid conference in accordance with the provisions of 80P-207-R1 dated January 31, 1985. The project is tentatively scheduled to be let on May 2, 1985.

Proposals will be issued upon request to all prospective bidders who have been prequalified by the Kansas Department of Transportation on the basis of financial condition, available construction equipment, and experience. Also, a statement of unearned contracts (Form No. 284) must be filed. There will be no discrimination against anyone regardless of race, religion, color, sex, physical handicap, national origin or ancestry in the award of contracts.

Plans and specifications for the project(s) may be examined at the offices of the respective County Clerks or at the Kansas Department of Transportation district offices responsible for the work.

**JOHN B. KEMP**  
Secretary of Transportation

Doc. No. 003052

**State of Kansas**  
**DEPARTMENT OF HEALTH**  
**AND ENVIRONMENT**

**PUBLIC NOTICE**

A Certificate of Need application from Shawnee Mission Medical Center, Shawnee Mission, KS, for the replacement of vascular imaging equipment at a cost of \$1,174,414, was filed by the Kansas Department of Health and Environment March 25, 1985 for initiation of the 90-day review cycle. The application will be available for public examination at the Kansas Department of Health and Environment, Building 321, Forbes Field, Topeka, KS.

A Certificate of Need application from The Kansas Institute, Olathe, KS, for the addition of 36 psychiatric

beds at that facility at a cost of \$1,700,000, was filed by the Kansas Department of Health and Environment March 25, 1985 for initiation of the 90-day review cycle. The application will be available for public examination at the Kansas Department of Health and Environment, Building 321, Forbes Field, Topeka, KS.

**BARBARA J. SABOL**  
Secretary of Health  
and Environment

Doc. No. 003058

**State of Kansas**  
**DEPARTMENT OF HEALTH**  
**AND ENVIRONMENT**

**NOTICE OF HEARING**

Notice is hereby given to all interested parties that the Kansas Department of Health and Environment is applying to the Department of Health and Human Services, Public Health Service, for continued designation and funding as the State Health Planning and Development Agency for Kansas, pursuant to the provisions of P.L. 96-79, the National Health Planning and Resources Development Act, and K.S.A. 65-4701, *et seq.*, the Kansas Health Planning and Development Act. These laws provide that the State Health Planning and Development Agency shall conduct the health planning activities of the state, including administration of a Certificate of Need Program which applies to new institutional health services proposed to be offered or developed within the state.

Persons wishing to review the application may do so between the hours of 8 a.m. and 4:30 p.m. from April 8-25 at the Office of Health and Environmental Planning, Division of Policy and Planning, Kansas Department of Health and Environment, Building 321, Forbes Field, Topeka, KS. Persons wishing to comment on the application should submit their comments in writing to Rosemary O'Leary, Director, Division of Policy and Planning.

A hearing will be held on April 26, 1985, at 10 a.m., to inform the public on the application's content. All interested individuals and organizations are invited to attend this hearing in the Department of Health and Environment's Hearing Room, Building 740, Forbes Field, Topeka, KS.

**BARBARA J. SABOL**  
Secretary of Health  
and Environment

Doc. No. 003047

**State of Kansas**  
**INSURANCE DEPARTMENT**

**NOTICE OF HEARING**

**TO THE SHAREHOLDERS OF WESTERN CASUALTY AND SURETY COMPANY, SUMMIT CITY INSURANCE COMPANY, WESTERN INSURANCE SECURITIES COMPANY, WESTERN SECURITIES HOLDING CORPORATION, AND ALL OTHER INTERESTED PARTIES:**

You are hereby notified of a formal hearing to be held in the offices of the Kansas Commissioner of Insurance, 420 S.W. 9th St., Topeka, KS, April 12, 1985, at 9:00 a.m., to determine whether the application for the proposed union of Western Casualty and Surety Company, Fort Scott, KS, and Summit City Insurance Company, Topeka, KS, and the merger of Western Insurance Securities Company, a Delaware corporation, with and into Western Securities Holding Corporation, an Indiana Corporation, should be approved by the Commissioner of Insurance.

Western Casualty and Surety Company and Summit City Insurance Company, and Western Insurance Securities Company and Western Securities Holding Corporation have requested the Commissioner of Insurance approve the union and merger of the companies pursuant to K.S.A. 40-309 and K.S.A. 40-3301, *et seq.*

Any interested parties may attend and will be given the opportunity to hear the details of the proposed union and merger, to present either oral or written testimony in favor of or in opposition to the transactions, and to ask any questions relative to them.

FLETCHER BELL  
Commissioner of Insurance

Doc. No. 003053

State of Kansas

### ATTORNEY GENERAL

#### Opinion No. 85-30

**Constitution of the United States—First Amendment—Restrictions on Political Activities of City Police Officers.** Jerry L. Griffith, Hoisington City Attorney, Hoisington, March 21, 1985.

A city personnel policy which prohibits a police officer from becoming a candidate for board member of a unified school district within the city is justified by the city's compelling interest in maintaining the integrity of its police department, and is constitutional as applied to prohibit the candidacy of a police captain. Cited herein: U.S. Const., First Amendment. TRH

ROBERT T. STEPHAN  
Attorney General

Doc. No. 003046

State of Kansas

### DEPARTMENT OF HUMAN RESOURCES

#### NOTICE OF GRANT APPLICATIONS IN REVIEW

Below are applications which have been submitted to the Kansas Review Process. For those requiring review, comments should be sent to the Kansas Single Point of Contact, Judy Krueger, Kansas Department of Human Resources, Office of the Secretary, 401 Topeka Ave., Topeka, KS 66603. The due date for comments is indicated.

**KS850321-002-11311WY**—Application to the Department of Commerce for \$625,000. The element of

the proposed revolving loan fund impact three areas or objectives: (1) changing the risk/return relationship for our private capital market participants, (2) opening up avenues for financing and, (3) stimulating the creation of jobs. Contact LaVert Murray, City of Kansas City, KS, 701 N. 7th St., Kansas City, KS 66101, 913/573-5730. No review required.

**KS850321-003-84004MO**—Application to the U.S. Department of Education for \$268,155 to provide technical assistance and training to responsible governmental agencies which will enable them to achieve sex desegregation in all educational programs and activities in the states of Iowa, Kansas, Missouri and Nebraska. Contact Gretchen Wilbur, Mid-Continent Regional Educational Laboratory, 4709 Belleview, Kansas City, MO 64112, 816/756-2401. Comments due by April 15, 1985.

**KS850322-001-13260SG**—Application to the Department of Health and Human Services for \$53,042. This proposal is a joint venture by the Wichita State University Physician Assistant Program and the Wichita Urban Indian Health Center, Inc. in an effort to establish a comprehensive Family Planning Program for Native Americans. Contact Epifanio Elizondo, Associate Clinical Coordinator, Wichita State University, Box 43, Wichita, KS 67208, 316/689-3011. Comments due by April 16, 1985.

**KS850322-002-84029KS**—Application to the U.S. Department of Education for \$67,067 to improve the interdisciplinary team functioning skills of all Kansas personnel serving the handicapped by providing the teachers and supervisors with an inservice program. Contact Betty Weithers, Kansas State Department of Education, 120 E. 10th, Topeka, KS 66612. No review required.

**KS850325-001-84029KS**—Application to the Department of Education for \$56,268 to provide 484 families with information and training on topics related to the education of the family member with a handicapping condition. Contact Dr. Edwin Helmsstetter, Families Together, Inc. 2015 New Hampshire, Lawrence, KS 66046, 913/864-4954. No review required.

**KS850325-003-13628SN**—Application to the Department of Health and Human Services for \$67,000 to increase the awareness and prevention of child sexual abuse through the development, evaluation, and dissemination of educational materials. Contact January H. Scott, Kansas Committee for Prevention of Child Abuse, 435 S. Kansas, 2nd Floor, Topeka, KS 66603, 913/354-7738. Comments due by May 4, 1985.

**KS850325-004-15DFDKS**—The Department of the Interior submitted a survey for natural landmarks located in Kansas which include: Baker Wetlands and Baldwin Woods in Douglas County, Big Basin Preserve in Clark County, Monument Rocks Natural Area in Gove County, Rock City in Ottawa County. This information is a status report on threatened or damaged National Natural Landmarks which will be submitted to Congress. Comments due by April 19, 1985.

The following applications have been made to the Department of Health and Human Services for ex-

(continued)

pansion of existing or establishment of new Head Start Program:

**KS850321-001-13600FO**—\$122,345—Dodge City Head Start—U.S.D. 443. Contact Bev Sayre, Unified School District 443 Head Start, 1000 2nd, Box 460, Dodge City, KS 67801, 316/227-7423. Comments due by April 15, 1985.

**KS850325-002-13600BU** — \$149,263 — MIDKAP, Inc./Head Start. Contact Gerald Franklin, MIDKAP, Inc., 126 E. 2nd, El Dorado, KS 67042, 316/321-3795. Comments due by April 19, 1985.

LARRY E. WOLGAST, Ed.D.  
Secretary of Human Resources

Doc. No. 003056

### State of Kansas

## DEPARTMENT OF ADMINISTRATION DIVISION OF PURCHASES

### NOTICE TO BIDDERS

Sealed bids for items hereinafter listed will be received by the Director of Purchases, State Office Bldg., Topeka, KS, until 2 p.m., CST or DST, whichever is in effect on the date indicated, and then will be publicly opened. Interested bidders may call (913) 296-2377 for additional information.

**MONDAY, APRIL 15, 1985**

#61177

Kansas Technical Institute, Salina—  
TRANSMISSION ASSEMBLY MAIN ROTOR

#61178

Kansas State Industrial Reformatory, Hutchinson—  
4,000 PSI CONCRETE

#61179

Fort Hays State University, Hays—CONTINUOUS  
LETTERHEADS AND ENVELOPES

#61182

Norton State Hospital, Norton—TRANSFORMER

#61183

Department of Transportation, various locations—  
LIGHT POLES, BASES AND MASTARMS

#61185

Wichita State University, Wichita—25% RAG  
BOND-WATERMARKED—SCHOOL SEAL

#61189

Adjutant General's Department, Topeka—BUILD  
BATTERY ROOM ADDITION, Dodge City

#61190

University of Kansas, Lawrence—SPRINKLER  
EQUIPMENT

#61191

Kansas State Industrial Reformatory,  
Hutchinson—TOBACCO

#61198

Pittsburg State University, Pittsburg—COMPUTER  
ASSISTED DESIGN EQUIPMENT

#61199

Kansas State University, Manhattan—ENERGY  
DISPERSIVE SYSTEM

#61200

Kansas State University, Manhattan—GAMMA  
COUNTER

#61201

Department of Transportation, various locations—  
TOOL BOX FOR DUMP TRUCKS

#61202

Department of Revenue, Topeka—CONVERSION  
COATED ALUMINUM, Wichita

#61203

Kansas State University, Manhattan—LINE  
PRINTER—ATTACH TO MULTIPLEXER  
CHANNEL OF NAS 6630

#61234

Department of Transportation, Chanute—PLANT  
MIX BITUMINOUS MIXTURE, COMMERCIAL  
GRADE, Columbus

#61235

University of Kansas, Lawrence—WARDROBES

#61245

University of Kansas Medical Center, Kansas  
City—MULTICHANNEL ELECTROMYOGRAPHIC  
PROCESSOR

#61246

Department of Transportation, Salina—EPOXY  
RESIN

#61249

University of Kansas Medical Center, Kansas  
City—DATA REDUCTION COMPUTER AND  
PATIENT HISTORY AND TEST SOFTWARE

#61256

Kansas State University, Manhattan—SOFTWARE  
PACKAGES

#61257

Department of Social and Rehabilitation Services,  
Topeka—8-PLY COTTON WETMOP YARN

#61258

University of Kansas, Lawrence—RADIOGRAPHIC  
FILM PROCESSOR

**TUESDAY, APRIL 16, 1985**

#A-5018

Youth Center at Atchison, Atchison—REPLACE  
PUBLIC ADDRESS SYSTEMS, Bert Nash School,  
Hickory and Oak Cottages

#A-5024

Youth Center at Beloit, Beloit—FURNISH FINISH  
HARDWARE LOCKSETS

#60964

Department of Social and Rehabilitation Services,  
Topeka—SALE OF USED COMPUTER  
EQUIPMENT

#61184

Department of Administration, Division of Printing,  
Topeka—BROWN KRAFT ENVELOPES

#61187

University of Kansas Medical Center, Kansas  
City—RADIOLOGY FORMS 414 and 415

#61196

Emporia State University, Emporia; Larned State  
Hospital, Larned; and University of Kansas,  
Lawrence—APPLIANCES

#61204

University of Kansas Medical Center, Kansas  
City—SOFTWARE—IBM 4381 COMPATIBLE

#61209

Kansas State University, Manhattan—  
LAB/ULTRASOUND EQUIPMENT

#61210

University of Kansas Medical Center, Kansas  
City—X-RAY FILM PROCESSOR

#61221

University of Kansas, Lawrence—DIGITIZING  
TABLE

#61222  
University of Kansas, Lawrence—BOOT  
DEVICE—VAX-11/750 COMPATIBLE

#61223  
Wichita State University, Wichita—TERMINAL  
CONTROL UNIT—IBM 3081 COMPATIBLE

#61238  
Department of Corrections, Topeka—  
HEATING-COOLING CONTROLS, Kansas State  
Penitentiary, Lansing

#61252  
Kansas State University, Manhattan—WATER  
CHEMICALS

#61255  
University of Kansas, Lawrence—HPLC SOLVENT  
DELIVERY SYSTEM

**WEDNESDAY, APRIL 17, 1985**

#A-4062(d)  
University of Kansas, Lawrence—FIRST FLOOR  
RESTROOM MODIFICATIONS, Carruth-O'Leary  
Hall

#A-5140  
Department of Social and Rehabilitation Services,  
Topeka—DRAINAGE CORRECTION AND  
SIDEWALK REPAIR, Rehabilitation Center for the  
Blind

#61197  
Department of Administration, Division of Printing,  
Topeka—ENVELOPES-G11A AND HS-1A—  
PRINTED

#61228  
University of Kansas Medical Center, Kansas  
City—ULTRACENTRIFUGE

#61229  
Kansas State University, Manhattan—LAB  
APPARATUS/SUPPLIES

#61230  
Kansas State University, Manhattan—OATS

#61231  
Department of Administration, Division of Printing,  
Topeka—CENTRAL PROCESSING UNIT

#61233  
University of Kansas, Lawrence—SOFTWARE  
MANAGEMENT SYSTEM

#61236  
University of Kansas Medical Center, Kansas  
City—AIR CONDITIONING UNIT

#61237  
Kansas Bureau of Investigation, Topeka—SCANNER  
MONITORS

#61250  
Kansas State Industrial Reformatory,  
Hutchinson—FURNISH AND INSTALL FREEZER  
AND COOLER ROOM WALK-IN DOORS

**THURSDAY, APRIL 18, 1985**

#A-5073  
Department of Transportation—REROOF THE  
AREA OFFICE AND SHOP BUILDING, Anthony

#A-5195  
Wichita State University, Wichita—CONSTRUCT  
AIRLOCKS, Clinton Hall

#A-5220  
Department of Human Resources,  
Topeka—REPLACE VESTIBULE DOORS, Wichita

#61171  
Department of Administration, Division of Printing,  
Topeka—SALE OF USED ALUMINUM PLATES  
AND USED FILM

#61172  
Kansas State University, Manhattan—SALE OF  
USED COMBINE

**FRIDAY, APRIL 19, 1985**

#A-5086  
Wichita State University, Wichita—REPAIR OR  
REPLACE ROOF ON THE PRESSBOX AREA,  
Cessna Stadium

#61260  
Department of Administration, Building and  
Grounds Services, Topeka—FURNISH AND  
INSTALL AUTOMATIC SLIDING DOOR SYSTEMS

**TUESDAY, APRIL 23, 1985**

#26499  
Statewide—TOOTHBRUSHES AND  
TOOTHPASTE

**THURSDAY, APRIL 25, 1985**

#A-5075  
Department of Corrections, Topeka—CONSTRUCT  
ADDITION, El Dorado Honor Camp

**FRIDAY, APRIL 26, 1985**

#61232  
Kansas State University, Manhattan—FINANCIAL  
MANAGEMENT SOFTWARE SYSTEM—IBM 4381  
COMPATIBLE

**TUESDAY, APRIL 30, 1985**

#61195  
School for the Visually Handicapped, Kansas City—  
TELECOMMUNICATIONS SYSTEM

**MONDAY, MAY 6, 1985**

#26509  
Kansas Fish and Game Commission, Pratt—  
AGRICULTURE LEASE, Nemaha State Fishing Lake

NICHOLAS B. ROACH  
Director of Purchases

Doc. No. 003063

**State of Kansas****SECRETARY OF STATE****NOTICE OF FORFEITURE**

In accordance with K.S.A. 17-7510, the articles of incorporation of the following corporations organized under the laws of the State of Kansas and the authority of the following foreign corporations to do business in the State of Kansas were forfeited March 15, 1985, for failure to file an annual report and pay the annual franchise tax, as required by the Kansas General Corporation Code.

*Cancelled 3/15/85 for failure to correct and return annual report*

**Domestic for Profit**

Arrow, Inc., Topeka, KS.  
Corporate Design Center, Inc., Overland Park, KS.  
Corporate Design Center Installation, Incorporated,  
Overland Park, KS.  
Data Tron, Inc., Leawood, KS.  
Haysville Dairy Queen, Inc., Haysville, KS.  
Hedrick Racing Ltd., Inc., Olathe, KS.

(continued)

Jim Goodwin Roofing, Inc., Kansas City, KS.  
 Kansas Krude Marketing, Inc., Wichita, KS.  
 Kaufman House Residential Group Treatment Center,  
 Newton, KS.  
 The Little People, Inc., Wichita, KS.  
 MJD's Contractors, Inc., Shawnee Mission, KS.  
 Rosey Enterprises, Inc., Kansas City, MO.  
 Sasse Shop, Ltd., Marion, KS.  
 Shelter of Fitness, Inc., Kansas City, KS.  
 Spencer Antiques-Oddtiques, Inc., Topeka, KS.  
 Sycamore Gas Gathering System, Inc.,  
 Independence, KS.  
 Tauscher Enterprises, Inc., Great Bend, KS.  
 Transportation, Corporation, Lawrence, KS.  
 True Auto Parts, Inc., Merriam, KS.  
 Union Cab of Lawrence, Inc., Lawrence, KS.  
 Vader Petroleum, Inc., Caney, KS.  
 Wes Smith Sales, Inc., Kiowa, KS.

#### Foreign for Profit

AMCML Corporation, Southfield, MI.  
 Brock Exploration Corporation, New Orleans, LA.  
 Brock Hydrocarbons, Inc., New Orleans, LA.  
 Catalyst Technology (Midwest), Inc., Buckner, KY.  
 The Clean Guys, Inc., Kansas City, MO.  
 E O R Petroleum Company, Denver, CO.  
 Geophysical Company of Norway (U.S.), Inc.,  
 Houston, TX.  
 Mid-America Car, Inc., Overland Park, KS.  
 U.S. Industries, Inc., New York, NY.

#### Professional Association

Paul R. Fieldstone, M.D., P.A., Junction City, KS.

*Cancelled 3/15/85 for failure to file the 8/31/84 annual report*

#### Domestic for Profit

A & A Enterprises, Inc., Inman, KS.  
 Alan C. Fiering Construction Co., Inc.,  
 Prairie Village, KS.  
 ATG Construction Management, Inc., Wichita, KS.  
 Blackburn Painting and Decorating, Inc., Wichita, KS.  
 Bob Funk Elevator Repair, Inc., WaKeeney, KS.  
 Buck Stove of Lee's Summit, Inc., Stilwell, KS.  
 CDS, Inc., Coffeyville, KS.  
 Cedarcliff, Ltd., Shawnee Mission, KS.  
 Central Apartments, Inc., Hoisington, KS.  
 Central Plains Management Co., Inc., Lawrence, KS.  
 Charitable Financial Strategies, Inc.,  
 Overland Park, KS.  
 Chemicals Consolidated, Inc., El Dorado, KS.  
 Cherokee Cattle Co., Inc., Parsons, KS.  
 Chimney & Fireplace Service of Topeka, Ltd.,  
 Topeka, KS.  
 Claude Collins Oil Co., Inc., Leavenworth, KS.  
 Consolidated American Petroleum Corp.,  
 Independence, KS.  
 Corporate Business Services, Inc., Olathe, KS.  
 Country Donuts, Inc., Wichita, KS.  
 Custom Fab Incorporated, Haysville, KS.  
 Custom Hauling, Inc., Kansas City, KS.  
 D. L. Barncord, Jr. Trucking, Inc., Tonganoxie, KS.  
 Dan J. Bachofer Plumbing & Heating Company, Inc.,  
 Salina, KS.

Dataco, Inc., Wichita, KS.  
 Debackers Wood Stoves Etc., Inc., Topeka, KS.  
 Deines Furniture, Incorporated, Russell, KS.  
 Eagle Supply Company, Inc., Coffeyville, KS.  
 Eartheye Systems, Inc., Chanute, KS.  
 Elm Enterprises, Inc., Overland Park, KS.  
 Empire Oil and Pipe Supply Co., Inc., Winfield, KS.  
 Energy Alternatives, Inc., Wichita, KS.  
 Far-Mar-Co Export Elevator, Inc., Kansas City, MO.  
 G & D Enterprises, Inc., Bradenton, FL.  
 Galena Drug, Inc., Galena, KS.  
 Gallery G Fine Arts Ltd., Wichita, KS.  
 Hays Self-Store, Inc., Hays, KS.  
 Hitching Post, Inc., Shawnee Mission, KS.  
 Hydro Contractors, Inc., Pittsburg, KS.  
 The Ice Cream Works Off Manhattan, Inc., Manhattan,  
 KS.  
 J.F.W. Taco Johns of Kansas, Inc., Kearney, NE.  
 J & S Woofter, Inc., Colby, KS.  
 K & W Marketing Company, Inc., Overland Park, KS.  
 Kopper Supply, Inc., Hutchinson, KS.  
 The Lambert Investment Corporation, Wichita, KS.  
 Leavenworth Bus Service, Inc., Leavenworth, KS.  
 Linesman Lounge, Inc., Wichita, KS.  
 M.V.A. Explorations, Ltd., Ottawa, KS.  
 Mademoiselle of Overland Park, Inc.,  
 Overland Park, KS.  
 McPherson Broadcasting, Inc.,\*McPherson, KS.  
 Meadowlark Construction Company, Inc.,  
 Wichita, KS.  
 Metro Homes, Inc., Sherman, TX.  
 MR, Inc., Satanta, KS.  
 Missouri Corporate Services, Inc., Overland Park, KS.  
 MR. Trading, Ltd., Phillipsburg, KS.  
 Novick Iron & Metal, Inc., Wichita, KS.  
 O. K. Service Co., Inc., Hutchinson, KS.  
 Petro American, Inc., Denver, CO.  
 Porter Oil and Gas Company, Inc., Basehor, KS.  
 Precision Systems Incorporated, Shawnee  
 Mission, KS.  
 Print For Less, Inc., Wichita, KS.  
 Ridgway's Satellite, Inc., Topeka, KS.  
 R J M, Inc., Great Bend, KS.  
 S. A. S. Enterprises, Inc., Maize, KS.  
 S & S Electric Construction, Inc., Olathe, KS.  
 Solvent, Inc., Kansas City, KS.  
 State Oil Company, Inc., Wichita, KS.  
 Statlab, Inc., Wichita, KS.  
 Sun Products, of Kansas, Inc., Tonganoxie, KS.  
 Toi Lecture Series, Inc., Leawood, KS.  
 Tomlinson Oil Co., Inc., Wichita, KS.  
 United States Window Co., Inc., Shawnee  
 Mission, KS.  
 Water Main Contractors, Inc., Prairie Village, KS.  
 Whitfield Sand and Concrete, Inc., Pratt, KS.

#### Foreign for Profit

B. J. Brooks Oil Company, St. Joseph, MO.  
 Carlson Systems Corporation, Omaha, NE.  
 Carolina Mills Lumber Company, Inc., Conway, SC.  
 Concrete Conservation Corporation, Tulsa, OK.  
 Dorchester Gas Producing Company, Dallas, TX.  
 Elliott Painting Company, Kansas City, MO.



Hevalow-Shanks Construction Company, Inc.,  
 Kansas City, MO.  
 Hytrans, Inc., Denver, CO.  
 Infolink Corporation, Northbrook, IL.  
 Loss Prevention Controls, Inc., Buffalo, MN.  
 McCollum's Travel Plaza, Inc., Brookfield, MO.  
 Permanent Enterprises of Tulsa, Inc., Perry, OK.  
 Reliable Exploration, Incorporated, Sidney, MT.  
 Service Care of America, Inc., Columbia, MO.  
 Sonic Land Corporation, Oklahoma City, OK.  
 Sonic Restaurants, Inc., Oklahoma City, OK.  
 Techne Corporation, Kansas City, MO.  
 Terra-Max Energy, Inc., Monument, CO.  
 Thompson Construction Co., Clearwater, FL.  
 Transcontinent Oil Company, Denver, CO.

**Professional Association**

Bone and Joint Clinic, P.A., Wichita, KS.  
 C. David Newbery, Chartered, Topeka, KS.  
 Greater Kansas City Industrial Clinic, P.A.,  
 Kansas City, KS.  
 Kurt A. Schoeb, P.A., Olathe, KS.  
 Lawrence E. Hart, M.D., P.A., Atchison, KS.  
 Valley Veterinary Clinic, P.A., Blue Rapids, KS.

*Cancelled 3/15/85 for failure to file the annual report due after 12/15/84 extension*

**Domestic for Profit**

A & B Rentals, Incorporated, Independence, KS.  
 C. W. Singleton Construction, Inc., Wichita, KS.  
 Cable Caddy, Inc., Lenexa, KS.  
 Cavu Sales, Inc., Hutchinson, KS.  
 Eck & Eck Incorporated, Valley Center, KS.  
 Gearhart Tool And Die, Inc., McPherson, KS.  
 Green Mesa Land And Cattle Company, Topeka, KS.  
 Jarvis Construction Supply, Inc., Topeka, KS.  
 Plains Plumbing & Heating, Inc., Plains, KS.  
 The Sportshop, Inc., Wichita, KS.  
 Star Records, Inc., Shawnee Mission, KS.

**Foreign for Profit**

Bride Company, Kansas City, MO.  
 Corral Industries, Incorporated, Phoenix, AZ.  
 Electra Oil And Gas, Inc., Dover, DE.  
 Gunitite Grout, Inc., Florence, AL.  
 Land Speed Insurors Agency, Inc., Mission, KS.  
 Resistol Sales, Inc., Garland, TX.

*Cancelled 3/15/85 for failure to submit a certificate of good standing with the annual report*

**Foreign for Profit**

American Tank & Steel Corporation, Farmington,  
 NM.  
 Davis Bros. Oil Producers, Inc., Tulsa, OK.  
 Harley Industries, Inc., Tulsa, OK.  
 Thermal-Seal Garage Door Systems, Inc.,  
 Kansas City, MO.  
 Worldgraphic Business Systems, Inc.,  
 Kansas City, MO.

*Cancelled 3/15/85 for failure to designate a new resident agent within 60 days of resignation of previous resident agent*

**Domestic for Profit**

Citizens Insurance Agency, Inc., Jewell, KS.  
 Krablin Enterprises, Inc., Wichita, KS.  
 T & S Food Distributors, Inc., Wichita, KS.  
 Tractor 8030, Inc., Fort Scott, KS.

JACK H. BRIER  
Secretary of State

By: JOHN R. WINE, JR.  
Legal Counsel

Deputy Assistant Secretary of State

Doc. No. 003067

**State of Kansas**

**STATE CORPORATION COMMISSION**

**NOTICE PERTAINING TO  
MOTOR CARRIER HEARINGS  
BEFORE THE  
STATE CORPORATION COMMISSION**

Applications set for hearing, are to be heard before the *State Corporation Commission, State Office Building, 4th Floor, Topeka, KS, commencing at 9:30 a.m. unless otherwise noticed.*

This list does not include cases previously assigned hearing dates for which parties of record have received notice.

Questions concerning applications for hearing dates should be addressed to the State Corporation Commission, 4th Floor, State Office Building, Topeka, KS 66612, or telephone (913) 296-3808 or 296-2110.

Your attention is invited to Kansas Administrative Regulations (K.A.R.) 82-1-228 of "Rules of Practice and Procedure Before the Commission."

**Application set for April 25, 1985—  
TOPEKA, KANSAS**

*Renoticed Application for Certificate of Convenience and Necessity:*

Art Becker, dba	)	Docket No. 145,278 M
B & G Trucking	)	
Route 2, Box 165	)	
Salina, Kansas 67401	)	

Applicant's Attorney: William Barker, 3401 S.W. Harrison, Topeka, Kansas 66611

*Grain, dry feed, dry feed ingredients, dry fertilizer, and dry fertilizer ingredients,*

Between points in that portion of Kansas on and bounded on the west by Kansas Highway 25, on the north by US Highway 40, and on the east by US Highway 81, on the one hand, and on the other, all points and places in Kansas.

\*\*\*\*\*

**Applications set for May 2, 1985—  
TOPEKA, KANSAS**

*Application for Certificate of Convenience and Necessity:*

Don Van Fleet, dba	)	Docket No. 145, 363 M
Don's Body Shop	)	
1221 Ann	)	
Winfield, Kansas 67156	)	

(continued)

Applicant's Attorney: William Taylor III, First National Bank Building, PO Box 731, Winfield, Kansas 67156-0731

*Wrecked, disabled, repossessed and replacement motor vehicles and trailers,*

Between all points and places in Cowley, Butler, Chautauqua, Sumner, Elk and Sedgwick Counties, Kansas.

\*\*\*\*\*

Robert A. Wilson, dba ) Docket No. 145, 366 M  
Wilson Auto Parts— )  
Service & Sales )  
7745 Kansas Avenue )  
Kansas City, Kansas 66111 )

Applicant's Attorney: None

*Wrecked, disabled, repossessed and replacement motor vehicles and trailers,*

Between all points and places in Wyandotte County, Kansas.

Also,

Between all points and places in Wyandotte County, Kansas, on the one hand and all points and places in the state of Kansas, on the other.

\*\*\*\*\*

**Application for Transfer of Certificate of Convenience and Necessity:**

Lonnie's Auto Parts & ) Docket No. 84,027 M  
Services, Inc. )  
1130 North 155th Street )  
Basehor, Kansas 66007 ) MC ID No. 100911

TO:

Michael R. Johnson, dba  
Johnson Tow Service  
11603 Kaw Drive  
PO Box 196  
Bonner Springs, Kansas 66012

Applicant's Attorney: None

*Wrecked and disabled motor vehicles,*

Between all points and places within a fifteen (15) mile radius of his place of business, which is located 300 yards west of the Bonner Springs Turnpike exchange on Kansas Highway 73.

Between all points and places within a 15-mile radius of the Bonner Springs Turnpike Exit and Highway 7 Junction, Bonner Springs, Kansas, on the one hand.

Also,

Between all points and places within a 15-mile radius of Bonner Springs Turnpike Exit and Highway 7 Junction, Bonner Springs, Kansas, on the one hand, and all points and places in the state of Kansas, on the other hand.

RESTRICTED not to transport trailers designed to be drawn by passenger automobiles, nor mobile homes, nor buildings in sections, traveling on their own or removable undercarriages, unless they are wrecked.

**Application for Extension to Eliminate the Radii Descriptions and Re-describe the Authority:**

Michael R. Johnson, dba ) Docket No. 84,027 M  
Johnson Tow Service )  
11603 Kaw Drive )  
PO Box 196 )  
Bonner Springs, Kansas )  
66012 )

Applicant's Attorney: None

*Wrecked, disabled, repossessed and replacement motor vehicles and trailers,*

Between all points and places in Wyandotte, Johnson and Leavenworth Counties, Kansas.

Also,

Between all points and places in Wyandotte, Johnson and Leavenworth Counties, Kansas, on the one hand and on the other, all points and places in the state of Kansas.

\*\*\*\*\*

**Applications set for May 7, 1985—  
TOPEKA, KANSAS**

**Application for Certificate of Convenience and Necessity:**

H. E. Cromwell, dba ) Docket No. 145,364 M  
Harold's )  
1400 East 6th )  
Topeka, Kansas 66607 )

Applicant's Attorney: None

*Wrecked, disabled, repossessed and replacement motor vehicles and trailers,*

Between all points and places in Shawnee County, Kansas.

Also,

Between all points and places in Shawnee County, Kansas, on the one hand, and on the other, all points and places in the state of Kansas.

\*\*\*\*\*

**Application for Certificate of Convenience and Necessity:**

Bob Hudspeth, dba ) Docket No. 145,365 M  
Hud Transport )  
716 South Calhoun )  
Liberal, Kansas 67901 )

Applicant's Attorney: Clyde Christey, 1010 Tyler Street, Suite 110-L, Topeka, Kansas 66612

*Oilfield equipment, materials, supplies and machinery,*

Between points and places in Hamilton, Stanton, Morton, Stevens, Grant, Seward, Haskell, Finney, Gray and Meade Counties, Kansas.

Also,

Between points and places in Hamilton, Stanton, Morton, Stevens, Grant, Seward, Haskell, Finney, Gray and Meade Counties, Kansas, on the one hand, and points and places in the state of Kansas, on the other hand.

**Application for Extension and Consolidation of Certificates of Convenience and Necessity:**

Studer Truck Line, Inc. ) Docket No. 22,729 M  
PO Box 36 ) Docket No. 25,855 M  
Beattie, Kansas 66406 ) Docket No. 34,133 M  
 ) Docket No. 60,696 M  
 ) Docket No. 64,306 M  
 ) MC ID No. 100102

Applicant's Attorney: John Jandera, 641 Harrison Street, Topeka, Kansas 66603

*Building material, coal, fertilizer, fertilizer ingredients, livestock, grain, feed, feed ingredients, seeds, hay, farm machinery,*

Between points in the counties of Republic, Cloud, Ottawa, Saline, McPherson, Marion, Chase, Lyon, Coffey, Franklin, Miami, Johnson, Douglas, Shawnee, Wabaunsee, Morris, Geary, Dickinson, Clay, Riley, Pottawatomie, Jackson, Jefferson, Leavenworth, Wyandotte, Atchison, Doniphan, Brown, Nemaha, Marshall and Washington.

Also,  
Between points in the above described counties, on the one hand, and, on the other, points in Kansas.

*Feed and feed ingredients,*

Between Pratt County, Kansas, on the one hand, and, on the other, points in Kansas.

*Chemicals,*

From Crawford County, Kansas, on the one hand, and, on the other, points in Kansas.

*Petroleum products, liquefied petroleum gases, and fertilizer ingredients,*

Between points in Brown, Nemaha, Marshall, Riley, Washington, Republic, Cloud, Clay, Pottawatomie, Jackson, Geary, Dickinson, Morris and Wabaunsee.

Also,  
Between said points, on the one hand, and, on the other, points in Kansas.

*Liquefied petroleum gases, and fertilizer ingredients,*

Between points in Saline, McPherson, Harvey, Marion, Chase, Lyon and Jefferson counties, Kansas.

Also,  
Between said counties, on the one hand, and, on the other, points in Kansas.

*Anhydrous ammonia,*

Between Sedgwick, McPherson, Clay and Ford Counties, Kansas.

Also,  
Between said counties, on the one hand, and, on the other, points in Kansas.

*Liquid bulk fertilizer, excluding anhydrous ammonia,*

Between all points and places within the state of Kansas.

\*\*\*\*\*

**Application for Extension of Certificate of Convenience and Necessity:**

Robson Oil Co., Inc. ) Docket No. 138,212 M  
101 South Cedar )  
PO Box 694 )  
Abilene, Kansas 67410 ) MC ID No. 113801

Applicant's Attorney: Paul Dugan, 2701 West Douglas, Wichita, Kansas 67213

*Gasoline, fuel oil, and diesel fuel, in bulk; and petroleum products in containers,*

TO, FROM AND BETWEEN all points and places in Saline, Marion, Clay, Geary, Pottawatomie, Riley, Cloud, Dickinson, Harvey, McPherson, Sedgwick and Shawnee County, Kansas, on the one hand; and all points and places in the state of Kansas on the other hand.

\*\*\*\*\*

**Application for Certificate of Convenience and Necessity:**

C. D. Dennis, dba ) Docket No. 145,532 M  
Dennis Service )  
817 Chandler )  
Topeka, Kansas 66607 )

Applicant's Attorney: None

*Wrecked, disabled, repossessed and replacement motor vehicles and trailers,*

Between all points and places in Shawnee County, Kansas.

Also,  
Between all points and places in Shawnee County, Kansas on the one hand and the state of Kansas, on the other.

\*\*\*\*\*

**Application for Transfer of Certificate of Convenience and Necessity:**

Bruce F. Hight ) Docket No. 60,095 M  
Bruce's Body Shop )  
305 North 6th )  
Marysville, Kansas 66508 ) MC ID No. 100614

TO:  
Joy Janet Hight, dba  
Bruce's Body Shop  
305 North 6th  
Marysville, Kansas 66508

Applicant's Attorney: Keith Sprouse, 1114 Broadway, PO Box 468, Marysville, Kansas 66508

*Wrecked or disabled automobiles, trucks, and farm machinery,*

Between Marysville, Kansas, on the one hand, and all points within 100 miles of Marysville, Kansas, on the other.

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(continued)

**Application for Extension to Eliminate the Radii  
Description and Re-describe the Authority:**

Joy Janet Hight, dba ) Docket No. 60,095 M  
Bruce's Body Shop )  
305 North 6th )  
Marysville, Kansas 66508 )

Applicant's Attorney: Keith Sprouse, 1114 Broadway,  
PO Box 468, Marysville, Kansas 66508

*Wrecked, disabled, repossessed and replacement  
motor vehicles and trailers and farm machinery,*

Between all points and places in Marshall County,  
Kansas, on the one hand, and all points and places in  
Jewell, Mitchell, Lincoln, Republic, Cloud, Ottawa,  
Saline, Washington, Clay, Dickinson, Marion, Mar-  
shall, Riley, Geary, Morris, Chase, Nemaha, Pottawa-  
tomie, Wabaunsee, Lyon, Brown, Jackson, Shawnee,  
Osage, Doniphan, Atchison, Jefferson, Douglas and  
Leavenworth Counties, Kansas, on the other.

\*\*\*\*\*

**Application for Certificate of Convenience  
and Necessity:**

Dale F. Oelkers, dba ) Docket No. 145,560 M  
Dale's Auto Service )  
333 East 55th Street South )  
Wichita, Kansas 67216 )

Applicant's Attorney: None

*Wrecked, disabled, repossessed and replacement  
motor vehicles and trailers,*

Between all points and places in Sedgwick County,  
Kansas.

Also,

Between all points and places in Sedgwick County,  
Kansas, on the one hand, and all points and places in  
Kansas, on the other.

\*\*\*\*\*

**Applications set for May 9, 1985—  
TOPEKA, KANSAS**

**Application for Certificate of Convenience  
and Necessity:**

Bill A. Thomas and ) Docket No. 145,507 M  
Mark Lucas, dba )  
Bottoms Up Tank Truck )  
Service )  
630 Broadview )  
El Dorado, Kansas 67042 )

Applicant's Attorney: Erle Francis, 719 Capitol Fed-  
eral Building, Topeka, Kansas 66603

*Crude oil, used in and for production, processing,  
treating, salvage, construction, and for lease road  
purposes, fresh water and salt water,*

Between all points and places in the Counties of  
Butler, Marion, Harvey, Sedgwick, Greenwood and  
Cowley.

\*\*\*\*\*

**Application for Certificate of Convenience  
and Necessity:**

Farmers Oil Co., Inc. ) Docket No. 145,505 M  
801 West Main )  
Anthony, Kansas 67003 )

Applicant's Attorney: Brad Murphree, 328 North  
Main, Suite #200, Wichita, Kansas 67202

*Petroleum and related products, chemicals and  
related products and fertilizer (other than dry),*

Between all points in the state of Kansas.

\*\*\*\*\*

**Application for Certificate of Convenience  
and Necessity:**

Steve Hake, dba ) Docket No. 145,508 M  
Kansas Trucking Company )  
Main Street )  
PO Box 23 )  
Tipton, Kansas 67485 )

Applicant's Attorney: None

*Feeds and feed ingredients, fertilizer, commercial salt  
and salt products, phosphates, building and  
construction materials, steel and steel articles and  
farm equipment,*

Between all points and places in the state of Kansas.

\*\*\*\*\*

**Application for Certificate of Convenience  
and Necessity:**

Ivan Gregoric, dba ) Docket No. 145,583 M  
Ivan's Body Shop )  
265 North 7th Street )  
Kansas City, Kansas 66101 )

Applicant's Attorney: None

*Wrecked, disabled, repossessed and replacement  
motor vehicles and trailers,*

Between all points and places in Doniphan, Atchi-  
son, Jefferson, Shawnee, Leavenworth, Douglas,  
Wyandotte, Johnson, Franklin and Miami Counties,  
Kansas.

\*\*\*\*\*

**Application for Certificate of Convenience  
and Necessity:**

Alan Clark, dba ) Docket No. 145,621 M  
Alan Clark Body Shop, )  
Inc. )  
501 South Highway 177 )  
Manhattan, Kansas 66502 )

Applicant's Attorney: None

*Wrecked, disabled, repossessed and replacement  
motor vehicles and trailers,*

Between points and places in Riley County, Kansas.  
Also,

Between points and places in Riley County, Kansas,  
on the one hand, and on the other hand, points and  
places in the state of Kansas.

**Applications set for May 14, 1985—  
TOPEKA, KANSAS**

***Application for Extension of Certificate of  
Convenience and Necessity:***

Matador Service, Inc. ) Docket No. 23,157 M  
PO Box 2256 )  
Wichita, Kansas 67201 ) MC ID NO. 106958  
Applicant's Attorney: Clyde Christey, 1010 Tyler  
Street, Suite 110-L, Topeka, Kansas 66612

***Commodities in bulk,***

Between all points and places in the state of Kansas.

\*\*\*\*\*

***Application for Transfer of Contract Carrier Permit:***

Melvin E. Sichley, dba ) Docket No. 119,234 M  
Jo-El Feed & Supply )  
1620 South Greenwich )  
Road )  
Wichita, Kansas 67201 ) MC ID No. 112150  
TO:

Stan Bulthaup  
807 North Walnut  
Beloit, Kansas 67420

Applicant's Attorney: None

***Feed and farm supply,***

From Wichita, Kansas, to Belle Plaine, Kansas and all points and places within 20 mile radius thereof. Under contract with Gene Watson Farm Supply, Inc., of Belle Plaine, Kansas.

From Wichita, Kansas, to Arkansas City and Winfield, Kansas. Under contract with Whaley's Feed & Supply, of Arkansas City, Kansas.

From Wichita, Kansas, to Wellington, Kansas. Under contract with Wolcott & Lincoln, of Wellington, Kansas.

From Wichita, Kansas, to Oxford, Kansas. Under contract with Oxford Elevator, of Oxford, Kansas.

\*\*\*\*\*

***Application for Extension of Contract Carrier Permit:***

Stan Bulthaup ) Docket No. 119,234 M  
807 North Walnut )  
Beloit, Kansas 67420 )

Applicant's Attorney: None

***Feed and farm supply,***

From Sedgwick County, Kansas to Sumner County, Kansas and all points and places within Sedgwick, Sumner, Cowley and Butler Counties, Kansas. Under contract with Gene Watson Farm Supply, Inc., of Belle Plaine, Kansas.

From Sedgwick County, Kansas, to Cowley County, Kansas. Under contract with Whaley's Feed & Supply, of Arkansas City, Kansas.

From Sedgwick County, Kansas, to Sumner County, Kansas. Under contract with Wolcott & Lincoln, of Wellington, Kansas, and under contract with Oxford Elevator, of Oxford, Kansas.

***Application for Certificate of Convenience  
and Necessity:***

Stan Bulthaup, dba ) Docket No. 145,504 M  
Bulthaup Trucking )  
807 North Walnut )  
Beloit, Kansas 67420 )

Applicant's Attorney: None

***Farm and livestock products,***

Between all points and places in Mitchell County, Kansas.

Also,

Between all points and places in Mitchell County, Kansas, on the one hand, and on the other, all points and places in Kansas.

\*\*\*\*\*

***Application for Transfer of Certificate of  
Convenience and Necessity:***

Ramsey Oil Company, Inc. ) Docket No. 135,131 M  
Nickerson, Kansas 67561 ) MC ID No. 113077  
TO:

Wittig Transport, Inc.  
Pratt, Kansas 67124

Applicant's Attorney: William Barker, 3401 S.W. Harrison, Topeka, Kansas 66611

***Gasoline, diesel fuel, propane, packaged oils,  
anhydrous ammonia, liquid nitrogen and phosphoric  
acid,***

Between all points and places in Reno, Harper, McPherson, Harvey, Sedgwick, Butler, Kingman, Barton and Rice Counties, on the one hand, and, all points and places in the state of Kansas, on the other hand.

\*\*\*\*\*

**Applications set for May 16, 1985—  
TOPEKA, KANSAS**

***Application for Certificate of Convenience  
and Necessity:***

M. D. Snider Leasing ) Docket No. 145,506 M  
Company, Inc. )  
PO Box 299 )  
Pampa, Texas 79065 )

Applicant's Attorney: John Jandera, 641 Harrison Street, Topeka, Kansas 66603

***Oilfield equipment, materials and supplies, iron and  
steel products, heavy machinery, heavy or  
cumbersome commodities and parts, pipeline  
equipment, materials and supplies,***

Between points in the counties of Morton, Stevens, Seward, Meade, Clark, Ford, Gray, Haskell, Grant, Stanton, Hamilton, Kearney, Finney, Hodgeman, Pawnee, Edwards, Kiowa, and Comanche.

Also,

Between points in said counties, on the one hand, and, on the other, points in the state of Kansas.

\*\*\*\*\*

(continued)

**Application for Certificate of Convenience and Necessity:**

Clay Cole, dba ) Docket No. 145,561 M  
C-R Wrecker Service )  
Route 1, Box 254 )  
Baxter Springs, Kansas )  
66713 )

Applicant's Attorney: None

*Wrecked and disabled, repossessed and replacement motor vehicles and trailers and parts thereof,*

Between points in Cherokee County, Kansas.

Also,

Between points in Cherokee County, Kansas, on the one hand, and points in Kansas, on the other hand.

\*\*\*\*\*

**Application for Transfer of Certificate of Convenience and Necessity:**

Weston Neil, dba ) Docket No. 32,214 M  
Neil Truck Line )  
Box N )  
Hepler, Kansas 66746 ) MC ID No. 100310  
TO:

William E. Griffiths  
109 Millicent  
PO Box 667  
Fort Scott, Kansas 66701

Applicant's Attorney: None

*Livestock,*

Between all points and places within a 25-mile radius of Hepler.

Also,

Between all points and places within said radius, on the one hand, and the markets at Kansas City, Kansas, Parsons and Wichita, Kansas, and community sales at Iola and Chanute, Kansas, on the other.

*Unprocessed hay, grain, seeds and farm products,*

Between points and places within a 25-mile radius of Hepler, Kansas.

Also,

Between all points and places within said radius, on the one hand, and farms and ranches in Kansas within a 150-mile radius of Hepler, Kansas, on the other.

*Processed mill feeds,*

Between points and places within a 25-mile radius of Hepler, Kansas, to any farm within said radius.

Also,

Between Wichita, Pittsburg, Fort Scott, Kansas City, Kansas, Emporia, and Fredonia, Kansas, on the one hand, and farms within a 25-mile radius of Hepler, Kansas, on the other.

*Building materials,*

From any town within a 25-mile radius of Hepler, Kansas, to any farm within said radius.

Also,

Between Weir, Humboldt and Coffeyville, Kansas, on the one hand, to any points or places within a 25-mile radius of Hepler, Kansas, on the other.

*Logs,*

Between all points and places within a 25-mile radius of Hepler, Kansas.

Also,

From any farm or rural location within a 50-mile radius of Hepler, Kansas, to Fort Scott, Girard, Walnut and Redfield, Kansas.

*New and used farm machinery, set up,*

Between all points and places within a 25-mile radius of Hepler, Kansas.

Also,

Between Wichita, Kansas City, Kansas, and Parsons, Kansas, on the one hand, and points and places within a 25-mile radius of Hepler, Kansas, on the other.

*Emigrant farm movables,*

Between points and places within a 25-mile radius of Hepler, Kansas.

Also,

Between points and places within said radius, on the one hand, and points and places in Kansas within a 150-mile radius of Hepler, Kansas, on the other, when moving from farm to farm, farm to town and town to farm.

*Posts,*

Between all points and places within a 25-mile radius of Hepler, Kansas.

Also,

Between all points and places within a 25-mile radius of Hepler, Kansas, on the one hand, and points and places in Kansas within a 150-mile radius of Hepler, Kansas, on the other.

*Salt,*

Between points and places within a 25-mile radius of Hepler, Kansas.

Also,

Between points and places within said radius, on the one hand, and Hutchinson and Lyons, Kansas, on the other.

*Coal,*

Between mines in Cherokee, Crawford and Bourbon Counties, Kansas, on the one hand, and points and places within a 25-mile radius of Hepler, Kansas, on the other.

*Livestock, hay, grain, seeds and farm products,*

Between points and places within a 25-mile radius of Hepler, Kansas.

Also,

Between points and places within a 25-mile radius of Hepler, Kansas, on the one hand, and points and places in the state of Kansas, on the other hand.

\*\*\*\*\*

**Application for Extension to Eliminate the Radii Description and Re-describe the Authority:**

William E. Griffiths ) Docket No. 32,214 M  
109 Millicent )  
PO Box 667 )  
Fort Scott, Kansas 66701 )

Applicant's Attorney: None

*Livestock, grain, seeds, farm products, feed and feed ingredients, building materials (including logs), farm machinery and implements, and coal,*

Between points and places in Allen, Bourbon, Crawford, Neosho, Labette, Linn, Cherokee and Wilson Counties, Kansas.

Also,

Between points and places in Allen, Bourbon, Crawford, Neosho, Labette, Linn, Cherokee and Wilson Counties, Kansas, on the one hand, and on the other, points in the State of Kansas.

*Salt,*

Between points and places in Allen, Bourbon, Crawford, Neosho, Labette, Cherokee, Linn and Wilson Counties, Kansas.

Also,

Between points and places in Allen, Bourbon, Crawford, Neosho, Labette, Cherokee, Linn and Wilson Counties, Kansas, on the one hand and on the other, points in Ellsworth, Lyons and Reno Counties, Kansas.

\*\*\*\*\*

*Application for Transfer of Certificate of Convenience and Necessity:*

Raymond E. Murphy, dba ) Docket No. 94,909 M  
Mike's Wrecker Service )  
1716 Fairlane )  
Manhattan, Kansas 66502 ) MC ID No.

TO:

Michael D. &/or Lorene A. Oppy,  
dba Mike's Wrecker Service, Inc.  
Route 2, Box 274  
Manhattan, Kansas 66502

Applicant's Attorney:

*Wrecked and disabled motor vehicles and trailers,*

Between all points and places in an area described as follows: Beginning at Onaga, Pottawatomie County, Kansas, thence, southeast to Grove, Shawnee County, Kansas, thence, south through Silver Lake, Shawnee County, Kansas, thence, southwest to Keene, Wabaunsee County, Kansas, thence, west to Kansas Highway 177, thence, northwest to Ogden, Riley County, Kansas, thence, north to junction of US Highways 77 and 24, thence, north to Olsburg, Pottawatomie County, Kansas, thence, east and north to the beginning point of Onaga, Pottawatomie County, Kansas.

Also,

Between all points and places in the above described area on the one hand, and all points and places in the state of Kansas on the other hand.

\*\*\*\*\*

*Application for Extension of Certificate of Convenience and Necessity to Re-describe the Authority:*

Michael D. &/or Lorene )  
A. Oppy, ) Docket No. 94,909 M  
dba Mike's Wrecker )  
Service, Inc. )  
Route 2, Box 274 )  
Manhattan, Kansas 66502 )

Applicant's Attorney:

*Wrecked, disabled, repossessed and replacement motor vehicles and trailers,*

Between all points and places in Pottawatomie, Shawnee, Wabaunsee and Riley Counties, Kansas.

Also,

Between all points and places in the above described area on the one hand, and all points and places in the state of Kansas, on the other.

\*\*\*\*\*

*Application set for May 21, 1985—  
TOPEKA, KANSAS*

*Application for Transfer of Portion of Certificate of Convenience and Necessity:*

T 'n' G Tank Service, Inc. ) Docket No. 57,681 M  
PO Box 873 )  
Hays, Kansas 67601 ) MC ID No. 100556

TO:  
T & J Corporation, dba  
Bill's Oil Field Service  
PO Box 749  
Perryton, Texas 79070

Applicant's Attorney: John Jandera, 641 Harrison Street, Topeka, Kansas 66603

*Crude oil, used in and for production, processing, treating, salvage, construction and for lease road purposes, except to refineries and pipeline terminals, fresh and salt water, for drilling, disposal and acidizing purposes,*

Between all points and places in Stanton, Morton, Grant, Stevens, Haskell, Seward, Gray, Ford, Meade, Clark, Hamilton, Kearny, Finney, Greeley and Wichita Counties, Kansas.

\*\*\*\*\*

WILLIAM E. GREEN  
Administrator  
Transportation Division

Doc. No. 003066

## State of Kansas

## LEGISLATURE

The following lists the numbers and titles of bills and resolutions recently introduced in the Legislature.

Copies of bills and resolutions are available free of charge from the Legislative Document Room, State Capitol, Topeka, KS 66612, (913) 296-7394. There is a limit of 25 copies of any one item.

**Bills Introduced March 20-27:**

**SB 364**, by Committee on Federal and State Affairs: An act relating to cigarettes and tobacco products; prohibiting the sale on credit or exchange of certain goods and services; amending K.S.A. 79-3321 and repealing the existing section.

**SB 365**, by Committee on Ways and Means: An act concerning workers' compensation; relating to vocational rehabilitation; relating to the workers' compensation fund; concerning temporary total disability compensation and knowledge of impairment by employer; amending K.S.A. 44-510d, 44-510e, 44-528 and 44-531 and K.S.A. 1984 Supp. 44-534a and 44-567 and repealing the existing sections; also repealing K.S.A. 44-510g.

**SB 366**, by Committee on Ways and Means: An act concerning vocational agriculture education; establishing a section thereon within the division of vocational and postsecondary education of the state department of education; providing for the establishment of an advisory council to the state board of education.

**SB 367**, by Committee on Ways and Means: An act concerning state financial aid to Washburn university of Topeka; concerning the basis for payments from the municipal university fund; amending K.S.A. 72-6504 and K.S.A. 1984 Supp. 72-6503 and repealing the existing sections.

**SB 368**, by Committee on Ways and Means: An act concerning insurance; relating to the purchase thereof by the university of Kansas, the university of Kansas medical center and the university press of Kansas; amending K.S.A. 75-4109 and K.S.A. 1984 Supp. 74-4702 and repealing the existing sections.

**SB 369**, by Committee on Ways and Means: An act concerning public buildings; relating to handicapped accessibility standards; amending K.S.A. 58-1310 and repealing the existing section.

**HB 2576**, by Committee on Federal and State Affairs: An act concerning the state park and resources authority; relating to the state park system; amending K.S.A. 1984 Supp. 74-4501a and 74-4510 and repealing the existing sections; also repealing K.S.A. 1984 Supp. 74-4550.

**HB 2577**, by Committee on Ways and Means: An act concerning the department of social and rehabilitation services; relating to the form of budget estimates and requests and the provisions of the governor's budget reports and recommendations relating to the department and institutions thereunder.

**HB 2578**, by Committee on Ways and Means: An act concerning water; enacting the multipurpose small lakes program act; amending K.S.A. 2-1915 and 82a-934 and K.S.A. 1984 Supp. 74-2609 and repealing the existing sections.

**HB 2579**, by Committee on Ways and Means: An act providing for individual income tax checkoff for soil and water conservation purposes.

**HB 2580**, by Committee on Ways and Means: An act concerning the judicial council; relating to publication and distribution of reports; amending K.S.A. 20-2204 and repealing the existing section.

**HB 2581**, by Committee on Ways and Means: An act concerning the conservation fee fund of the state corporation commission; relating to groundwater pollution research; amending K.S.A. 55-143 and repealing the existing section.

**HB 2582**, by Committee on Ways and Means: An act concerning the all-sports hall of fame; relating to surcharge on athletic tickets to certain events.

**HB 2583**, by Committee on Ways and Means: An act concerning the taxation of property; relating to the exemption of farm machinery and equipment; amending K.S.A. 79-201j and repealing the existing section.

**HB 2584**, by Committee on Ways and Means: An act concerning capital improvement projects for buildings or major repairs or improvements; relating to solicitation of bids therefor; amending K.S.A. 75-3741 and repealing the existing section.

**HB 2585**, by Committee on Education: An act concerning school district finance; providing state revenues therefor by imposing a school district finance tax upon Kansas taxable income of individuals and corporations and upon the privilege of doing business in this state by insurance companies and financial institutions, increasing the state retailers' sales and compensating use tax rate, and levying a state tax upon tangible property in this state; prescribing duties relating to the determination and distribution of state aid; amending K.S.A. 40-2801, 40-2809, 72-7030, 72-7038, 72-7051, 72-7052, 72-7063, 72-7072, 79-1022, 79-1107, 79-1108, 79-1112, 79-2201, 79-32, 105, 739-32, 110, 79-3603, 79-3620, 79-3703, 79-3710 and 79-5109 and K.S.A. 1984 Supp. 10-310, 72-7037, 72-7040, 72-7041, 72-7042, 72-7043, 72-7046a, 72-7049, 72-7050, 72-7053, 72-7054, 72-7055, 72-7056, 72-7059, 72-7065 and 72-7067, and repealing the existing sections; also repealing K.S.A. 72-7044, 72-7048, 72-7074 and 72-7080 and K.S.A. 1984 Supp. 72-7045.

**SR 1832**, by Senator Parrish: A resolution condemning the persecution of the Baha'is in Iran.

**IR 1833**, by Senators Hoferer, Parrish, and Salisbury: A resolution in support of efforts of the City of Topeka to attract reliable and regular air service to Forbes Field.

**SCR 1623**, by Committee on Public Health and Welfare: A concurrent resolution concerning 24-hour-a-day licensed nursing care in adult care homes which are intermediate care facilities.

**SCR 1624**, by Committee on Education: A concurrent resolution encouraging school district boards of education to give careful consideration to a post-Labor Day commencement of the school term.

**HR 6084**, by Representative Pottorff: A resolution congratulating Kandi Clubine on being chosen to compete at the International Winter Special Olympic Games.

**HR 6085**, by Representative Crumbaker: A resolution congratulating and commending the Golden Plains High School boys' basketball team and its coach, Jerry Livingston, on winning the 1985 Class 1A State Basketball Championship in Kansas.

**HR 6086**, by Representative Crumbaker: A resolution congratulating and commending Golden Plains High School for winning the sportsmanship trophy in the 1985 boys' Class 1A State Basketball Championship.

**HR 6087**, by Representative Roe: A resolution congratulating and commending the Mankato High School girls' basketball team and its coach, Marsha Koster, on an outstanding season.

**HR 6088**, by Representative Roe: A resolution congratulating the city of Alton on the centennial anniversary of its incorporation.

**HR 6089**, by Representative Roe: A resolution congratulating and commending the Downs High School girls' basketball team and its coach, Rose Stephens, on an outstanding season.

**HR 6090**, by Representative K. Campbell: A resolution congratulating and commending the Concordia High School girls' basketball team and its coach, Dick Switzer, on winning the 1985 Class 4A State Basketball Championship in Kansas.

**HR 6091**, by Representative Roenbaugh: A resolution congratulating and commending the Kinsley High School boys' basketball team and its coach, Jim Kuhn, on an outstanding season.

**HR 6092**, by Representative Beardon: A resolution commending Bryan K. Whitehead on his many years of outstanding service for the Brotherhood of Railway and Airline Clerks.

**HR 6093**, by Representative Hassler: A resolution establishing April 1 through April 7, 1985, as Kansas Health Planning Week.

**HR 6094**, by Representative Guldner: A resolution congratulating and commending the Lakin High School girls' basketball team and its coach, Dev Bernbeck, for an outstanding season.

Doc. No. 003055

(Published in the KANSAS REGISTER, April 4, 1985.)

## SENATE BILL No. 62

AN ACT concerning the Fort Hays military reservation; authorizing the lease of certain tracts of land on the campus of Fort Hays state university; amending K.S.A. 76-519 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 76-519 is hereby amended to read as follows: 76-519. (a) As used in this section, "center" means the Hays day care center for exceptional children incorporated, or its successor the early childhood development center, incorporated, or any successor thereof.

(b) The state of Kansas is hereby authorized to lease a tract one or more tracts of land situated on the campus of Fort Hays state university on the Fort Hays military reservation to the center for the purpose of the erection of a day care building or facility or for such other purposes as may be specified in the any lease entered into in accordance with this act section, which tract is tracts are located in said city in Ellis county, Kansas, in what is officially known as Fort Hays state university; and which tract is tracts are described as follows:

(1) Tract No. 1. Commencing at the Southeast corner of the Northeast quarter (NE 1/4) of section 5, township 14 South, range 18 West; thence North along the east line of said section 5, on an assumed bearing of N 1° 24' 55" E, a distance of 375.67 feet; thence on a bearing of N 71° 10' 10" W, a distance of 1,346.52 feet, to the point of beginning; thence on a bearing of N 44° 37' 27" W, a distance of 179.66 feet; thence on a bearing of N 41° 14' 53" E, a distance of 202.37 feet; thence on a bearing of S 48° 45' 07" E, a distance of 118.50 feet; thence on a curve to the right having a radius of 224 feet and a terminal tangent bearing of S 28° 30' 07" E, an arc distance of 79.17 feet; thence on said terminal tangent a distance of 53.94 feet; thence on a bearing of S 61° 29' 53" W, a distance of 194.84 feet to the point of beginning.

(2) Tract No. 2. Commencing at the Southeast corner of the Northeast quarter of section five (SE Cor. of NE 1/4 Sec. 5), in township 14 South, range 18 West of the Sixth prime meridian; thence North along the East line of said section five, on an assumed bearing of N 1° 24' 55" E, a distance of 375.67 feet; thence on a bearing of N 71° 10' 10" W, a distance of 1,346.52 feet; thence on a bearing of N 44° 37' 27" W, a distance of 179.66 feet to the point of beginning, said point being set by a previous survey dated December 8, 1977; thence continuing on a bearing of N 44° 37' 27" W, a distance of 77.20 feet; thence on a bearing of N 41° 14' 53" E, a distance of 196.81 feet; thence on a bearing of S 48° 45' 07" E, a distance of 77.00 feet; thence on a bearing of S 41° 14' 53" W, a distance of 202.37 feet to the point of beginning, said tract containing 0.353 acres more or less.

(3) Tract No. 3. Commencing at the Southeast corner of the Northeast quarter of section five (SE Cor. of NE 1/4 Sec. 5), in township 14 South, range 18 West of the Sixth prime meridian; thence North along the East line of said section five, on an assumed bearing of N 1° 24' 55" E, a distance of 375.67 feet; thence on a bearing of N 71° 10' 10" W, a distance of 1,346.52 feet; thence on a bearing of N 61° 29' 53" E, a distance of 138.99 feet to the point of beginning; thence continuing on a bearing of N 61° 29' 53" E, a distance of 48.00 feet; thence on a bearing of S 20° 53' 51" E, a distance of 32.50 feet; thence on a bearing of S 50° 30' 14" W, a distance of 35.00 feet; thence on a bearing of N 42° 00' 05" W, a distance of 40.00 feet to the point of beginning, said tract containing 0.034 acres more or less.

(c) Each such lease shall be signed by the governor and the chairperson of the state board of regents, attested by the secretary of state and signed by the authorized representative of the center. The Each lease shall be for a period of forty (40) 40 years or contemporaneous with the term of any existing lease entered into under the provisions of this section and shall be entered



into *with* such terms and conditions as the governor, the board of regents and the center shall agree to, consistent with and subject to the other provisions of this section and. Each such lease shall require that the real estate so leased shall be maintained and operated by ~~said~~ the center at no cost to the state.

(d) The Each lease entered into pursuant to the provisions of this section shall be renewable at the end of ~~forty (40) years~~ the term of the lease or may be deemed canceled at the instance of either of the parties thereto. Such lease shall be deemed canceled automatically, after notice thereof to the center, if any of the provisions of subsection (e) are violated. Upon the termination of ~~the any such~~ lease, all buildings and other improvements on the real estate under such lease shall become the property of the state of Kansas.

(e) In addition to the other provisions of this section, the each lease entered into pursuant to this section shall contain the following restrictions or limitations on the use of the land so leased:

(1) All building or facility designs shall conform to existing standards for state buildings;

(2) final building or facility plans must be approved by the division of architectural services and the state board of regents prior to letting of contracts for construction of any such building;

(3) the center shall be liable for any damage to any state-owned property or injury to any person;

(4) the center shall be made available at reasonable times for students at Fort Hays state university enrolled in educational programs designated by the university to observe and work with persons enrolled or participating in programs in the center; and

(5) the center shall reserve the right to sublease the facility under the terms and conditions prescribed by the terms of the lease and subject to approval by the state board of regents.

(f) No child who resides in this state shall be denied admission to the center solely because the child resides in a county other than Ellis county.

Sec. 2. K.S.A. 76-519 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body February 14, 1985.

ROBERT V. TALKINGTON  
*President of the Senate.*  
LU KENNY  
*Secretary of the Senate.*

Passed the HOUSE March 18, 1985.

MIKE HAYDEN  
*Speaker of the House.*  
GENEVA SEWARD  
*Chief Clerk of the House.*

APPROVED March 27, 1985.

JOHN CARLIN  
*Governor.*

STATE OF KANSAS  
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 27th day of March, 1985.

(SEAL) JACK H. BRIER  
*Secretary of State.*

(Published in the KANSAS REGISTER, April 4, 1985.)

HOUSE BILL No. 2183

AN ACT authorizing health care facilities and services hospital district No. 1, Linn and Bourbon counties, to enter into a contract to borrow money for the purpose of building an addition to an existing home for the aged; placing certain conditions upon such contract.

Be it enacted by the Legislature of the State of Kansas:

Section 1. The board of directors of health care facilities and services hospital district No. 1, Linn and Bourbon counties, is hereby authorized to contract with any individual or individuals for the purpose of borrowing money from such individual or individuals to provide money to be used to build an addition to an existing home for the aged subject to such terms and conditions as the parties may specify in the contract. Before any such contract becomes effective, the board of directors shall cause to be published once in a newspaper of general circulation in such district a copy of the contract which shall state, in addition to such other terms and conditions as may be contained in the contract, that the contract shall become effective on the 30th day after the day of publication of the contract unless protest petitions signed by at least 5% of the registered voters of such district are filed with the county election officer of the county in which the home for the aged is located prior to that day. If within such thirty-day period protest petitions are filed with sufficient signers, the contract shall not become effective until the board of county commissioners of the counties in which such district is located call a special election at which the question of whether the contract should become effective is submitted to the electors of such district and a majority of voters voting at such election vote in favor of the contract becoming effective.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 11, 1985.

MIKE HAYDEN  
*Speaker of the House.*  
GENEVA SEWARD  
*Chief Clerk of the House.*

Passed the SENATE March 21, 1985.

ROBERT V. TALKINGTON  
*President of the Senate.*  
LU KENNEY  
*Secretary of the Senate.*

APPROVED March 29, 1985.

JOHN CARLIN  
*Governor.*

STATE OF KANSAS  
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 29th day of March, 1985.

(SEAL) JACK H. BRIER  
*Secretary of State.*

(Published in the KANSAS REGISTER, April 4, 1985.)

**NOTICE OF BOND SALE**  
**\$150,000**  
**CAPITAL OUTLAY GENERAL OBLIGATION**  
**BONDS**  
**SERIES 1985**  
**OF**  
**UNIFIED SCHOOL DISTRICT NO. 343**  
**JEFFERSON COUNTY, KANSAS**

(general obligation bonds payable from  
 unlimited ad valorem taxes)

*Sealed Bids*

Sealed bids will be received by the undersigned, Clerk of the Board of Education, Unified School District No. 343, Jefferson County, Kansas (the "School District"), on behalf of the School District at the Administration Building, West Budge Street, P. O. Box 29, Perry, Kansas, until 7:30 o'clock p.m., Central Standard Time, on

**MONDAY, APRIL 8, 1985**

for the purchase of \$150,000 principal amount of Capital Outlay General Obligation Bonds, Series 1985 (the "Bonds"), of the School District hereinafter described. All bids will be publicly opened and read at said time and place and will be acted upon by the governing body immediately thereafter.

*Bond Details*

The Bonds will consist of fully registered certificated bonds in the denomination of \$5,000 or any integral multiple thereof, dated April 1, 1985, and becoming due serially on April 1 in the years as follows:

<i>Year</i>	<i>Principal Amount</i>
1986	\$25,000
1987	25,000
1988	30,000
1989	35,000
1990	35,000

The Bonds will bear interest from the date thereof at rates to be determined when the Bonds are sold as hereinafter provided, which interest will be payable semiannually on October 1 and April 1 in each year, beginning on October 1, 1985.

*Place of Payment and Bond Registration*

The principal of and interest on the Bonds will be payable in lawful money of the United States of America by check or draft of the Treasurer of the State of Kansas, Topeka, Kansas (the "Paying Agent" and "Bond Registrar"), to the registered owners thereof whose names are on the registration books of the Bond Registrar as of the 15th day of the month preceding each interest payment date. The Bonds will be registered pursuant to a plan of registration approved by the School District and the Attorney General of the State of Kansas.

The School District will pay for the fees of the Bond Registrar for registration and transfer of the Bonds and will also pay for printing a reasonable supply of registered bond blanks. Any additional costs or fees that might be incurred in the secondary market, other than fees of the Bond Registrar, will be the responsibility of the bondholders.

The type and denominations of the Bonds and the names, addresses and social security or taxpayer identification numbers of the registered owners shall be submitted in writing by the successful bidder to the School District and Bond Registrar at least two weeks prior to the closing date.

*Conditions of Bids*

Proposals will be received on the Bonds bearing such rate or rates of interest as may be specified by the bidders, subject to the following conditions: The same rate shall apply to all bonds of the same maturity. Each interest rate specified shall be a multiple of 1/8 or 1/20 of 1%. No interest rate shall exceed a rate equal to the 20 bond index of tax exempt municipal bonds published by *Credit Markets* (formerly *The Weekly Bond Buyer*) in New York, New York, on the Monday next preceding the day on which the Bonds are sold, plus 2%. No rate specified shall be lower than any rate specified for an earlier maturity of the Bonds. No bid of less than the par value of the Bonds and accrued interest thereon to the date of delivery will be considered and no supplemental interest payments will be authorized. Each bid shall specify the total interest cost to the School District during the life of the Bonds on the basis of such bid, the premium, if any, offered by the bidder, and the net interest cost to the School District on the basis of such bid. Each bid shall also specify the average annual net interest rate to the School District on the basis of such bid.

*Basis of Award*

The award of the Bonds will be made on the basis of the lowest net interest cost to the School District, which will be determined by subtracting the amount of the premium bid, if any, from the total interest cost to the School District. If there is any discrepancy between the net interest cost and the average annual net interest rate specified, the specified net interest cost shall govern and the interest rates specified in the bid shall be adjusted accordingly. If two or more proper bids providing for identical amounts for the lowest net interest cost are received, the governing body shall determine which bid, if any, shall be accepted, and its determination shall be final. The School District reserves the right to reject all bids and to waive any irregularities in a submitted bid.

*Authority, Purpose and Security*

The Bonds are being issued pursuant to K.S.A. 72-8801 to 72-8812, inclusive, as amended, for the purpose of paying the cost of the constructing certain improvements at Perry Middle School. The Bonds and the interest thereon will constitute general obligations of the School District, payable from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the School District.

*Legal Opinion*

The Bonds will be sold subject to the legal opinion of GAAR & BELL, Overland Park, Kansas, Bond Counsel, whose approving legal opinion as to the validity of the Bonds will be furnished and paid for by

the School District, printed on the Bonds and delivered to the successful bidder as and when the Bonds are delivered. Said opinion will also state that in the opinion of Bond Counsel, under existing laws and regulations, the interest on the Bonds is exempt from federal income taxation.

**Delivery and Payment**

The School District will pay for printing the Bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder within 45 days after the date of sale at such bank or trust company in the State of Kansas or Kansas City, Missouri, as may be specified by the successful bidder. The successful bidder will also be furnished with a certified transcript of the proceedings evidencing the authorization and issuance of the Bonds and the usual closing proofs which will include a certificate that there is no litigation pending or threatened at the time of delivery of the Bonds affecting their validity. Payment for the Bonds shall be made in federal reserve funds, immediately subject to use by the School District.

**Good Faith Deposit**

Each bid shall be accompanied by a cashier's or certified check drawn on a bank located in the United States of America in the amount of 2% of the total par value of the Bonds, i.e., \$3,000, payable to the order of the School District to secure the School District from any loss resulting from the failure of the successful bidder to comply with the terms of its bid. No interest will be paid upon the successful bidder's good faith check. Said check shall be returned to the bidder if its bid is not accepted. If a bid is accepted, said check will be held by the School District until the bidder shall have complied with all of the terms and conditions of this Notice, at which time the check will be returned to the successful bidder or paid to its order at the option of the School District. If a bid is accepted but the School District shall fail to deliver the Bonds to the bidder in accordance with the terms and conditions of this Notice, said check will be returned to the bidder. If a bid is accepted but the bidder defaults in the performance of any of the terms and conditions of this Notice, the proceeds of such check will be retained by the School District as and for liquidated damages.

**Bid Forms**

All bids must be made on forms which may be procured from the Clerk of the Board of Education. No additions or alterations in such forms shall be made and any erasures may cause rejection of any bid. The School District reserves the right to waive irregularities and to reject any or all bids.

**Submission of Bids**

Bids must be submitted in sealed envelopes addressed to the undersigned Clerk of the Board of Education, and marked "Proposal for the Purchase of Capital Outlay General Obligation Bonds." Bids may be submitted by mail or delivered in person to the undersigned at the School District and must be re-

ceived by the undersigned prior to 7:30 o'clock p.m., Central Standard Time, on Monday, April 8, 1985.

**Assessed Valuation and Indebtedness**

The total assessed valuation of the taxable tangible property within the School District for the year 1984 is \$13,807,646. The total general obligation indebtedness of the School District as of the date of the Bonds, including the Bonds being sold, is \$495,000.

**Additional Information**

Additional information regarding the Bonds may be obtained from the Clerk of the Board of Education. DATED this 25th day of March 1985.

UNIFIED SCHOOL DISTRICT NO. 343,  
JEFFERSON COUNTY, KANSAS

By Ruth Leslie  
Clerk of the Board of Education  
P. O. Box 29  
Perry, Kansas 66073  
(913/597-5138)

Doc. No. 003050

(Published in the KANSAS REGISTER, April 4, 1985.)

**NOTICE OF BOND SALE**  
**\$200,000**  
**GENERAL OBLIGATION BONDS**  
**SERIES 1985**  
**OF THE**  
**CITY OF ELWOOD, KANSAS**

(payable from unlimited ad valorem taxes)

**Sealed Bids**

Sealed bids will be received by the undersigned, City Clerk of the City of Elwood, Kansas (the "City"), on behalf of the City Council at the City Hall, 205 N. 6th, Elwood, Kansas, until 9:30 o'clock a.m., Central Time, on

WEDNESDAY, APRIL 10, 1985

for the purchase of \$200,000 principal amount of General Obligation Bonds, Series 1985 (the "Bonds"), of the City hereinafter described. All bids will be publicly opened and read at said time and place and will be acted upon by the governing body at a meeting to be held at 5:00 p.m., Central Time on Wednesday, April 10, 1985.

**Bond Details**

The Bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof, dated April 1, 1985, and becoming due serially on October 1 in the years as follows:

Year	Principal Amount
1985	\$15,000
1986	15,000
1987	15,000
1988	15,000
1989	20,000
1990	20,000
1991	20,000
1992	25,000
1993	25,000
1994	30,000

The Bonds will bear interest from the date thereof at rates to be determined when the Bonds are sold as hereinafter provided, which interest will be payable

(continued)

seminannually on April 1 and October 1 in each year, beginning on October 1, 1985.

#### *Place of Payment and Bond Registration*

The principal of and interest on the Bonds will be payable in lawful money of the United States of America by check or draft of the Treasurer of the State of Kansas, Topeka, Kansas (the "Paying Agent" and "Bond Registrar"), to the registered owners thereof whose names are on the registration books of the Bond Registrar as of the 15th day of the month preceding each interest payment date.

The type and denominations of the Bonds and the names, addresses and social security or taxpayer identification numbers of the registered owners shall be submitted in writing by the successful bidder to the City and Bond Registrar at least two weeks prior to the closing date.

#### *Conditions of Bids*

Proposals will be received on the Bonds bearing such rate or rates of interest as may be specified by the bidders, subject to the following conditions: The same rate shall apply to all bonds of the same maturity. Each interest rate specified shall be a multiple of 1/8 or 1/20 of 1%. No interest rate shall exceed a rate equal to the 20 bond index of tax exempt municipal bonds published by *Credit Markets* (formerly *The Weekly Bond Buyer*) in New York, New York, on the Monday next preceding the day on which the Bonds are sold, plus 2%. No rate specified shall be lower than any rate specified for an earlier maturity of the Bonds. No bid of less than the par value of the Bonds and accrued interest thereon to the date of delivery will be considered and no supplemental interest payments will be authorized. Each bid shall specify the total interest cost to the City during the life of the Bonds on the basis of such bid, the premium, if any, offered by the bidder, and the net interest cost to the City on the basis of such bid. Each bid shall also specify the average annual net interest rate to the City on the basis of such bid. The City reserves the right to reject all bids and to waive any irregularities in a submitted bid.

#### *Legal Opinion*

The Bonds will be sold subject to the legal opinion of GAAR & BELL, Overland Park, Kansas, Bond Counsel, whose approving legal opinion as to the validity of the Bonds will be furnished and paid for by the City, printed on the Bonds and delivered to the successful bidder as and when the Bonds are delivered. Said opinion will also state that in the opinion of Bond Counsel, under existing laws and regulations, the interest on the Bonds is exempt from federal income taxation.

#### *Delivery and Payment*

The City will pay for printing the Bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder within 45 days after the date of sale at such bank or trust company in the state of Kansas or Kansas City, Missouri, as may be specified by the successful bidder. Payment for the Bonds shall be made in federal reserve funds, immediately subject to use by the City.

#### *Good Faith Deposit*

Each bid shall be accompanied by a cashier's or certified check drawn on a bank located in the United States of America in the amount of \$4,000 payable to the order of the City to secure the City from any loss resulting from the failure of the successful bidder to comply with the terms of its bid.

#### *Submission of Bids*

All bids must be made on forms which may be procured from the City Clerk. Bids must be submitted in sealed envelopes addressed to the undersigned City Clerk, and marked "Proposal for the Purchase of General Obligation Bonds."

#### *Assessed Valuation and Indebtedness*

The total assessed valuation of the taxable tangible property within the City for the year 1984 is \$7,541,628. The total general obligation indebtedness of the City as of the date of the Bonds, including the Bonds being sold, is \$364,000. Temporary notes in the principal amount of \$200,000 will be retired out of proceeds of the Bonds and other available funds.

DATED this 25th day of March 1985.

CITY OF ELWOOD, KANSAS  
By CAROLYN PORTER  
City Clerk  
City Hall  
205 North Sixth Street  
P. O. Box 357  
Elwood, Kansas 66024  
(913/365-6871)

Doc. No. 003049

(Published in the KANSAS REGISTER, April 4, 1985)

**NOTICE OF BOND SALE**  
**\$215,000.00**  
**MAJOR TRAFFICWAY BONDS**  
**SERIES "A", 1985**  
**CITY OF MARYSVILLE**  
**MARSHALL COUNTY, KANSAS**  
**(General obligations, payable from**  
**unlimited ad valorem taxes)**

Pursuant to K.S.A. 10-106 as amended, written sealed bids will be received by the City Clerk of the City of Marysville, Marshall County, Kansas (the "City") in the Office of the City Clerk, City Building, 209 North 8th Street, Marysville, Kansas 66508, until 8:00 o'clock p.m., local time on

**WEDNESDAY, APRIL 24, 1985**

at which time and place said bids will be publicly opened and read for the purchase of \$215,000.00 aggregate principal amount of General Obligation Major Trafficway Bonds (Series "A", 1985) (the "Bonds"). All bids received will be reported to the City Council for determination of the best bid at a meeting of the Council to be held at said time, date and place.

#### *Details of the Bonds*

The Bonds will consist of an issue of \$215,000.00 principal amount of General Obligation Major Trafficway Bonds, series "A", 1985. The Bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof, dated May 1,

1985, and becoming due serially on November 1 of each year in the principal amounts as follows:

**SERIES "A", 1985—\$215,000.00**

Year	Principal Amount
1986	\$20,000
1987	\$20,000
1988	\$20,000
1989	\$20,000
1990	\$20,000
1991	\$20,000
1992	\$20,000
1993	\$25,000
1994	\$25,000
1995	\$25,000

The Bonds will bear interest at rates to be determined when the Bonds are sold as hereinafter provided, which interest will be payable semi-annually on November 1 and May 1 of each year, beginning on May 1, 1986.

Both principal and interest on the Bonds will be payable in lawful money of the United States of America at the Office of the Treasurer of the State of Kansas, in the City of Topeka, Kansas, (the "Paying Agent" and the "Bond Registrar") to the registered owners thereof whose names are on the registration books of the Bond Registrar as of the 15th day of the month preceding each interest payment date.

The Bonds will be registered in the Office of the Kansas State Treasurer pursuant to a plan of registration approved by the City and the Attorney General of the State of Kansas, registered as either fully registered certificated bonds and/or uncertificated bonds. The successful bidder (the "Purchaser"), may express its preference, and the City will honor said successful purchaser's preference regarding the plan of registration.

The City will pay for all initial registration costs and for printing of a reasonable supply of registered bond blanks as determined by the Registrar and Paying Agent. Any additional costs or fees that might be incurred in the secondary market will be the responsibility of the bondholder.

The type and denomination of the Bonds and the names, addresses and social security or taxpayer identification numbers of the registered owners shall be submitted in writing by the successful bidder to the City by May 20, 1985.

**Redemption of Bonds**

None of said bonds shall be callable for redemption prior to its stated maturity.

**Authority, Purpose and Security for the Bonds**

The Bonds are being issued pursuant to and in full compliance with the constitution and laws of the State of Kansas including K.S.A. 12-685 *et seq.*, Article 1 of Chapter 10 and Chapter 49 of the 1983 Kansas Session Laws, for the purpose of paying the cost of certain major trafficway improvements.

The General Obligation Major Trafficway Bonds, Series "A", 1985, will be general obligations of the City, payable as to both principal and interest from ad valorem taxes which may be levied without limitation

as to rate or amount on all the taxable tangible property within the City.

**Conditions of Bids**

Bids will be received on the Bonds bearing such rate or rates of interest as may be specified by the bidders, subject to the following conditions: The same rate shall apply to all bonds maturing in the same year. Each interest rate specified shall be a multiple of 1/8 or 1/20 of 1%. No interest rate shall exceed a rate equal to the 20 bond index of tax exempt municipal bonds published by The Weekly Bond Buyer (or its successor) in New York, New York, on the Monday next preceding the day on which the Bonds are sold, plus 2%, and the difference between the highest and lowest interest rates specified in any bid shall not exceed 2%. No bid of less than the principal amount of the Bonds plus accrued interest thereon to the date of their delivery will be considered. Each bid shall specify the total interest cost to the City on the basis of such bid, and the average annual net interest rate on the basis of such bid.

**Basis of Award**

The award of the Bonds shall be made on the basis of the lowest net interest cost to the City, which will be determined by subtracting the amount of the premium bid, if any, from the total interest cost to the City. If there is any discrepancy between said net interest cost and the average annual net interest rate specified, the specified net interest cost shall govern and the interest rates specified in the bid shall be adjusted accordingly. If two or more proper bids which provide for identical amounts for the lowest net interest cost are received, the City shall determine which bid, if any, shall be accepted, and its determination shall be final.

**Delivery of and Payment for the Bonds**

The City will pay for printing and registering the Bonds and will deliver the same properly prepared, executed and registered to the successful bidder within 60 days after the date of sale at such bank or trust company located in the contiguous United States of America, as may be specified by the successful bidder without cost to the successful bidder. Payment for the Bonds shall be made in federal reserve funds or other funds which shall be available to the City on the same day the Bonds are delivered to the successful bidder. The successful bidder will be furnished with a certified transcript evidencing the authorization and issuance of the Bonds and the usual closing proofs, which will include a certificate that there is no litigation pending or threatened at the time of the delivery of the Bonds affecting their validity.

**Legal Opinion**

The Bonds will be sold subject to the legal opinion of Fred W. Rausch, Jr, Bond Counsel, Topeka, Kansas, whose unqualified approving opinion will be furnished and paid for by the City, and will be printed on the Bonds and provided to the successful bidder as and when the Bonds are delivered. Said opinion will also state that in the opinion of Bond Counsel, under

(continued)

existing laws and regulations, the interest on the Bonds is exempt from federal income taxation and from Kansas intangible personal property taxes.

#### *CUSIP Numbers*

It is anticipated that CUSIP identification numbers will be printed on certificated bonds, or assigned to uncertificated bonds, but neither the failure to print such number on any bond nor any error with respect thereto shall constitute cause for failure or refusal by the purchaser thereof to accept delivery of and pay for the Bonds in accordance with the terms of the successful bid and this Notice of Bond Sale. All expenses in relation to the assignment and printing of CUSIP numbers on the Bonds will be paid for by the City.

#### *Good Faith Deposit*

Each bid must be accompanied by a good faith deposit in the form of a cashier's or certified check drawn on a bank located in the United States of America in the amount of \$4,300.00 (2% of the total par value of the Bonds) made payable to the order of the Treasurer of the City of Marysville, Kansas, to secure the City from any loss resulting from the failure of the bidder to comply with the terms of the bid. No interest will be paid on the deposit made by the successful bidder. Said check shall be returned to the bidder if its bid is not accepted. If a bid is accepted, said check may be deposited by the City or held by the City until the bidder has complied with all of the terms and conditions of this Notice, at which time the check will be deposited and credited to the order of the bidder. If a bid is accepted but the City shall fail to deliver the Bonds to the bidder in accordance with the terms and conditions of this Notice, said check or the proceeds thereof will be returned to the bidder. If a bid is accepted but the bidder shall default in the performance of any of the terms and conditions of this Notice, the proceeds of such check will be retained by the City as and for liquidated damages.

#### *Bid Forms*

All bids shall be subject to the terms and conditions contained in this Notice of Bond Sale and must be made on the bid forms which may be obtained from the City Clerk, or upon equivalent forms. No additions or alterations may be made to such forms and any erasures may cause rejection of any bid. The City reserves the right to waive irregularities and to reject any or all bids.

#### *Submission of Bids*

Bids must be submitted in sealed envelopes and addressed to the undersigned, City Clerk, City Building, 209 North 8th Street, Marysville, Kansas 66508, and marked "Bid For the Purchase of Bonds." Bids may be submitted by mail or delivered in person, and must be received by the undersigned prior to 8:00 o'clock p.m., local time on April 24, 1985.

#### *Assessed Valuation and Indebtedness*

The total equalized assessed valuation of the taxable tangible property within the City for the year 1984 is \$10,212,397.00, including motor vehicle valuation of \$1,846,776.00, motor vehicle dealers' inventory valuation of \$82,141.00, and farm machinery and business

aircraft valuation of \$18,000.00. The total general obligation bonded indebtedness of the City as of May 1, 1985, including the Bonds being sold is \$923,700.00, plus temporary notes in the amount of \$670,483.44, of which amount the sum of \$310,929.69 will be retired from the proceeds of these bonds and certain state funds.

#### *Bond Ratings*

The outstanding general obligation bonds of the City have not been rated and the City has not applied for a rating on the bonds herein offered for sale.

DATED this 26th day of March, 1985.

JAY M. FUNK  
City Clerk  
City Building  
209 North 8th Street  
Marysville, Kansas 66508  
(913) 562-5331

Doc. No. 003060

#### State of Kansas

### STATE BOARD OF INDIGENTS' DEFENSE SERVICES

#### PERMANENT ADMINISTRATIVE REGULATIONS (Effective May 1, 1985)

#### Article 2.—TERMS DEFINED

**105-2-1. Definitions.** Unless the context otherwise requires, terms used in K.A.R. 105-1-1, *et seq.*, forms and instructions shall have the following meanings:

- (a) Board means the state board of indigents' defense services.
- (b) Director means the state director of indigents' defense services appointed by the board.
- (c) District means judicial district.
- (d) Legal representation means representation of indigent defendants by a qualified and effective attorney, as well as transcript preparation and other related defense services by investigators, expert witnesses and others when requested by the attorney and approved by the court.
- (e) Panel means the list of qualified attorneys in a county who are eligible for appointment to represent indigent defendants.
- (f) Public defender means an attorney selected and employed on full-time basis by the board to provide quality legal representation to indigent defendants pursuant to K.S.A. 1983 Supp. 22-4501, *et seq.* (Authorized by K.S.A. 1983 Supp. 22-4522; implementing K.S.A. 1983 Supp. 22-4522; effective May 1, 1984; amended May 1, 1985.)

#### Article 4.—ENTITLEMENT TO LEGAL REPRESENTATION

**105-4-3. Affidavit of indigency.** A standard format for an affidavit of indigency shall include the following information: (a) the defendant's liquid assets and household income;

- (b) the defendant's household expenses;

- (c) any extraordinary financial obligations of the defendant;
- (d) the size of the defendant's household;
- (e) any transfer of property by the defendant after the date of the alleged commission of the offense;
- (f) the board's table of reasonable and necessary living expenses; and
- (g) the anticipated cost of private legal representation.

If the information provided by the defendant on the affidavit is unclear, incomplete, contradictory, or questionable, further inquiry may be conducted by the board, the court, the county or district attorney, or other officer assigned by the court. The affidavit of indigency forms shall be published and distributed annually to the judicial administrator and to the administrative judge of each district. (Authorized by K.S.A. 1983 Supp. 22-4522; implementing K.S.A. 1983 Supp. 22-4504; effective May 1, 1984; amended May 1, 1985.)

**105-4-5. Partial indigency.** (a) The court shall find any defendant to be partially indigent if the defendant is able to pay some part of the cost of legal representation and if the payment or payments does not impose manifest hardship on the defendant or the defendant's household. Any defendant may be found to be partially indigent if the defendant's combined household income and liquid assets are greater than the defendant's reasonable and necessary living expenses but less than the sum of the defendant's reasonable and necessary living expenses plus the anticipated cost of private legal representation.

(b) A defendant found to be partially indigent may be ordered by the court to pay, to the clerk of the district court, a sum not more than the amount expended by the board on behalf of the defendant. (Authorized by K.S.A. 1983 Supp. 22-4504 and 22-4522; implementing K.S.A. 1983 Supp. 22-4504 and 22-4513; effective May 1, 1984; amended May 1, 1985.)

#### Article 5.—ATTORNEY COMPENSATION

**105-5-3. Appellate courts; compensation.** For services performed in appealing a case to the court of appeals or the supreme court, compensation shall be at the rate prescribed in K.A.R. 105-5-2, except that appointed counsel shall not be compensated for more than three hours of time spend in appellate court.

(b) Compensation for attorneys' services in cases appealed to the Kansas supreme court or the court of appeals shall not exceed \$750. However, the board may approve additional compensation if approved by the court. (Authorized by K.S.A. 1983 Supp. 22-4507 and 22-4522; implementing K.S.A. 1983 Supp. 22-4507; effective May 1, 1984; amended May 1, 1985.)

**105-5-6. Maximum compensation; non-tried cases.** (a) Appointed attorneys shall be compensated for time expended in representing indigent defendants and other indigent persons at the hourly rate prescribed in K.A.R. 105-5-2. Except as provided in K.A.R. 105-5-8,

compensation shall not exceed \$400 in the following cases:

(1) class A, B and C felony cases in the trial court which are not submitted to a judge or jury, including services at a preliminary hearing and sentencing, if applicable; and

(2) class D and E felony cases that have not been submitted to a judge or jury and in which there have been six hours or more spent in court in defense of the indigent defendant, including services at a preliminary hearing and sentencing, if applicable.

(b) Except as provided in K.A.R. 105-5-8 and K.A.R. 105-5-6(a), compensation to appointed attorneys shall not exceed \$250 in the following types of cases:

(1) class D and E felony cases in the trial court which are not submitted to a judge or jury, including services at a preliminary hearing and sentencing, if applicable;

(2) habeas corpus cases as authorized by K.S.A. 1983 Supp. 22-4506;

(3) cases filed pursuant to K.S.A. 60-1507;

(4) habeas corpus cases as authorized by K.S.A. 22-2710;

(5) habeas corpus cases as authorized by K.S.A. 1983 Supp. 22-3428; and

(6) habeas corpus cases as authorized by K.S.A. 59-2917.

(c) Except as provided in K.A.R. 105-5-8, compensation shall not exceed \$100 in the following types of cases: (1) representation of grand jury witnesses determined to be indigent and called to testify pursuant to K.S.A. 22-3009;

(2) representation of indigent persons committed to custody as material witnesses pursuant to K.S.A. 1983 Supp. 22-2805;

(3) probation revocation hearings; and

(4) motions to modify sentence pursuant to K.S.A. 21-4603. (Authorized by K.S.A. 1983 Supp. 22-4507 and 22-4522; implementing K.S.A. 22-3716 and K.S.A. 1983 Supp. 22-4507; effective May 1, 1984; amended May 1, 1985.)

#### Article 7.—INVESTIGATIVE, EXPERT OR OTHER SERVICES

**105-7-2. Claims.** (a) Claims for compensation for investigative, expert or other services provided to an indigent defendant shall be made on a form approved by the board. The claims shall be signed by the payee and the judge prior to transmittal to the board. Claims for investigative, expert or other services shall include a timesheet detailing time expended in the performance of these services and any compensation received for the same services from any other source.

(b) Exceptions. Claims for expert services rendered at the request of a public defender office shall be excluded from the provisions of this regulation. (Authorized by K.S.A. 1983 Supp. 22-4507 and 22-4522; implementing K.S.A. 1983 Supp. 22-4507 and 22-4508; effective May 1, 1984; amended May 1, 1985.)

(continued)

**Article 8.—COURT REPORTERS—  
TRANSCRIPTS**

**105-8-4. Claims not allowed.** Claims by court reporters for transcripts of pleas of guilty or nolo contendere, preliminary hearings, voir dire proceedings, opening statements or closing statements shall not be compensated except when the defendant alleges reversible error at that particular stage of the proceeding. (Authorized by K.S.A. 1983 Supp. 22-4507; implementing K.S.A. 1983 Supp. 22-4509; effective May 1, 1984; amended May 1, 1985.)

**Article 21.—PUBLIC  
DEFENDER GUIDELINES**

**105-21-5.** (Authorized by K.S.A. 1982 Supp. 22-4507 and 22-4522; implementing K.S.A. 1982 Supp. 22-4508 and 22-4522; effective May 1, 1984; revoked May 1, 1985.)

RON MILES  
Executive Director

Doc. No. 002960

**State of Kansas**

**BOARD OF REGENTS  
LAW ENFORCEMENT TRAINING CENTER**

**PERMANENT ADMINISTRATIVE  
REGULATIONS**

(Effective May 1, 1985)

**Article 1.—CERTIFICATION OF LAW ENFORCEMENT OFFICERS AND TRAINING SCHOOLS**

**107-1-1. Definitions.** Unless the context otherwise requires, the terms below shall have the following meanings. (a) "Training center" means the law enforcement training center within the division of continuing education of the University of Kansas, created by K.S.A. 74-5603 and amendments thereto.

(b) "Course" means any grouping of classes, or series of lessons or lectures, designed to attain a specific educational or law enforcement training objective.

(c) "Class" means any single meeting or session devoted to a specific law enforcement-related subject or topic.

(d) "Mandated course" or "mandated class" means any course or class used to satisfy any of the training requirements of K.S.A. 74-5601 *et seq.*, and amendments thereto, or of these rules.

(e) "Agency head" means the hiring authority, including the chief of police, sheriff or other administrative officer, responsible for the employment and training of police or law enforcement officers.

(f) "Auxiliary personnel" means members of organized nonsalaried groups which operate as an adjunct to a police or sheriff's department, including posses and search and rescue groups. (Authorized by and implementing K.S.A. 1983 Supp. 74-5603 and 74-5604a; effective, T-85-5, Feb. 21, 1984; effective, May 1, 1985.)

**107-1-2. Certification of police or law enforcement officers.** (a) Certified status necessary. All police or law enforcement officers shall satisfy the training requirements established by the associate director and approved by the commission and shall meet the minimum qualifications as set forth in K.S.A. 1983 Supp. 74-5605, and amendments thereto. Each officer who meets all of the standards concerning qualifications and training requirements shall be certified by the associate director and shall be issued a certificate by the associate director.

(b) Law enforcement agency participation. When any person is elected or employed as a police or law enforcement officer, the agency head shall submit an acknowledgement that the officer meets the requirements of K.S.A. 1983 Supp. 74-5605, and amendments thereto, on the appropriate form provided by the associate director. All agencies shall maintain the necessary records verifying that each officer meets these requirements. The records shall be made available on request for inspection by members of the commission or staff.

(c) Extensions. Upon written application by the agency head, the associate director may extend the one-year time period for completion of the minimum training requirement until the next available class when it is shown that the failure to comply with the requirements was not due to the intentional avoidance of the law.

(d) Basic school; full-time enrollment required. No officer attending a basic school shall be allowed to work as a police or law enforcement officer while enrolled in the school. (Authorized by K.S.A. 1983 Supp. 74-5603 and 74-5604a; implementing K.S.A. 1983 Supp. 74-5607a, 74-5605, 74-5604a and 74-5608a; effective, T-85-5, Feb. 21, 1984; effective, May 1, 1985.)

**107-1-3. Certification of law enforcement training schools; general requirements.** (a) Certificate necessary. Schools which meet all of the standards approved by the commission concerning curriculum, use of approved instructors and adequacy of facilities shall be issued a certificate by the associate director. Each law enforcement training school shall be certified by the associate director prior to offering courses required for certification of police or law enforcement officers under K.A.R. 107-1-1 and 107-1-2.

(b) Duration. Certificates may be renewed annually upon application to the associate director.

(c) Inspection. Certification of training schools shall be issued and maintained on the basis of on-site inspections of the schools. On-site inspections shall be conducted by the associate director or the designee of the associate director. Inspections shall be conducted as often as the associate director deems necessary. In no event shall inspections be conducted less frequently than once each fiscal year.

(d) Certification and renewal. The associate director, with the approval of the commission, may refuse to renew the certificate of any law enforcement training school for failure to maintain minimum curriculum, instructor or facility requirements as determined by



the associate director and approved by the commission.

(e) Use of instructors. All instructors used in mandated training courses shall comply with the requirements for instructors as established by the associate director and approved by the commission.

(f) Approval of school facilities. The certification of a police training school shall be deemed to include approval of that school's facilities. Each law enforcement training school desiring certification shall supply, when required by the curriculum:

(1) A classroom with adequate heating, cooling, ventilation, lighting and space;

(2) comfortable chairs with tables or arms for writing;

(3) all necessary visual aid devices for proper classroom presentations;

(4) a firing range with an adequate backstop to insure the safety of students and instructors;

(5) an adequate driving range for instruction in emergency vehicle operation and control (or alternate provisions for that instruction);

(6) a facility for physical fitness training; and

(7) any other physical facilities that may be required by the curriculum. (Authorized by K.S.A. 1983 Supp. 74-5604a and 74-5603; implementing K.S.A. 1983 Supp. 74-5604a; effective, T-85-5, Feb. 21, 1984; effective May 1, 1985.)

**107-1-4. Certification of law enforcement training schools; procedures.** The following procedures shall be followed to obtain certification for all mandated courses. However, the requirements of this section shall not apply to the 40-hour, annual in-service training specified in K.S.A. 1983 Supp. 74-5607a(b). (a) Each state or local law enforcement agency, or other organization or entity, wishing to receive certification for the purpose of conducting a mandated law enforcement training course shall submit a request for certification at least 90 days prior to the first class date of the proposed training school on forms provided by the associate director.

(b) Each request for certification shall include:

(1) A description of the classroom and other facilities to be utilized by the requesting agency;

(2) a listing of the audiovisual equipment and other instructional devices and aids which are available; and

(3) an estimate of the minimum and maximum number of officers expected to be trained by the agency under the requested certification.

(c) The associate director shall review the request for certification and shall notify the requesting agency within 10 days that tentative approval has been granted or that certification has been denied. If certification has been denied, the associate director shall provide in writing the reason or reasons for the denial of certification.

(d) If tentative approval is granted, the associate director shall send to the requesting agency a core curriculum which has been approved by the commission. Within 15 days of receipt of the core curriculum, the requesting agency shall return to the associate

director a proposed class schedule together with a list of proposed instructors who will provide the mandated courses. The list of proposed instructional personnel shall be submitted on forms provided by the associate director.

(e) Upon review of the proposed class schedule and the qualifications of the proposed instructors, the associate director may issue a course certification. However, if a certificate is not issued, the associate director shall advise the requesting agency of the deficiencies which preclude certification. If these deficiencies are corrected, the proposal may be reviewed again, upon request of the agency head, and notification shall be sent as to the disposition.

(f) Upon certification, the associate director may provide to the certified agency the aid, assistance and guidance deemed necessary to the delivery of an effective training program, including but not limited to:

(1) Course descriptions for each instructor. The course descriptions shall delineate the instructor's duties and responsibilities, including learning objectives for each class section;

(2) training materials;

(3) support by the Kansas law enforcement training center staff to acquaint instructors with the philosophy of training, and with techniques relating to effective public speaking and law enforcement instruction;

(4) forms and other documents to enroll trainees and to document training, class attendance and examination results;

(5) examinations and other testing materials; and

(6) such other support as is deemed by the associate director to be necessary for the effective delivery of training.

(g) Responsibilities of certified training agency. After certification is granted, the certified training agency shall, at a minimum, be responsible for:

(1) Assuring that the qualifications of individual trainees applying for entry into the course meet the requirements of K.S.A. 1983 Supp. 74-5605 and amendments thereto;

(2) providing a comfortable, well-lighted classroom with a seating capacity sufficient to accommodate all attending trainees;

(3) monitoring and certifying classroom attendance of trainees;

(4) providing audiovisual equipment, including overhead slide and 16mm projectors and other auxiliary equipment;

(5) administering all examinations and other tests in compliance with standards as established by the associate director and approved by the commission;

(6) submitting to the associate director, on forms provided by the associate director and within seven working days of completing the course, the names of all persons who have completed the mandated training course satisfactorily; and

(7) assuming all monetary costs related to payment or reimbursement of guest or other instructional personnel, excluding instructional and staff support provided by the Kansas law enforcement training center. (Authorized by K.S.A. 1983 Supp. 74-5603 and 74-

(continued)

5604a; implementing K.S.A. 1983 Supp. 74-5604a; effective, T-85-5, Feb. 21, 1984; effective May 1, 1985.)

**107-1-5. Minimum standards for satisfactory completion of course.** (a) To complete mandated training courses satisfactorily, individual trainees shall meet the following minimum standards:

(1) Trainees shall attend a minimum of 90% of the course curriculum approved by the associate director.

(2) Trainees shall attain an average score of 70% on all examinations and tests.

(3) Trainees shall complete the entire firearms portion of the curriculum, if offered.

(b) Absences for scheduled classes in excess of 10% of the total course curriculum shall be made up as required by the associate director. However, no police or law enforcement officer shall be certified without satisfactorily completing the entire firearms portion of the curriculum.

(c) The following procedures shall be followed with respect to firearms training:

(1) Persons attending a basic course for police and law enforcement officers shall complete the firearms portion of the basic course curriculum satisfactorily and shall attain a final qualifying score of not less than 70% on a course of fire approved by the associate director.

(2) Instructors responsible for the delivery of the firearms portion of the basic curriculum shall be approved by the associate director as competent to provide training. At a minimum, these instructors shall have completed satisfactorily a course for police firearms instructors provided by a recognized authority. Recognized authorities shall include, but are not limited to, the Kansas law enforcement training center, the federal bureau of investigation or the national rifle association. (Authorized by K.S.A. 1983 Supp. 74-5603 and 74-5604a, implementing K.S.A. 1983 Supp. 74-5603, 74-5607a and 74-5604a; effective, T-85-5, Feb. 21, 1984; effective May 1, 1985.)

#### Article 2.—ADVANCED OFFICERS

**107-2-1. Advanced officer.** Beginning the second year after certification, every full-time police officer or law enforcement officer shall complete, between July 1 of each calendar year and June 30 of the succeeding calendar year, 40 hours of law enforcement education or training in subjects relating directly to law enforcement. This training shall be completed in accordance with the procedures established and approved by the commission. (Authorized by and implementing K.S.A. 1983 Supp. 74-5607a; effective, T-85-5, Feb. 21, 1984; effective May 1, 1985.)

#### Article 3.—PRETRAINING EVALUATION

**107-3-1. Standards for pre-training evaluation.** (a) Each full-time and part-time salaried law enforcement officer who is an applicant for basic law enforcement training at the Kansas law enforcement training center, or a certified state or local law enforcement training school, shall complete the pre-training evaluation successfully prior to admittance.

(b) To complete the pre-training evaluation successfully, each applicant shall:

(1) comply with the criteria for basic law enforcement training applicants set out in K.S.A. 1983 Supp. 74-5605 and 74-5605a; and

(2) successfully complete an intelligence and psychological test approved by the associate director under subsection (c) of this regulation.

(c) Each intelligence and psychological test approved by the associate director shall be validated according to the criteria set forth in the Uniform Guideline on Employee Selection Procedures, 41 CFR chapter 60, as in effect on July 1, 1984, which is herein adopted by reference. Particular attention shall be paid to the technical standards for validity studies as described in 41 CFR 60-3.14.

(d) Any agency may select a substitute intelligence and psychological test, subject to the following requirements:

(1) The agency shall certify that the substitute intelligence and psychological test meets the validity requirements of 41 CFR chapter 60, as in effect on July 1, 1984.

(2) The agency shall provide evidence of validity that meets generally accepted professional research standards, as described in 41 CFR 60-3.5, as in effect on July 1, 1984, or as subsequently amended.

(e) The associate director shall perform the pre-training evaluation based on a review of the intelligence and psychological test results and compliance with said statutorily required criteria. (Authorized by K.S.A. 1983 Supp. 74-5603 and 74-5604a; implementing K.S.A. 1983 Supp. 74-5604a, K.S.A. 1983 Supp. 74-5605, K.S.A. 1983 Supp. 74-5605a, and K.S.A. 1983 Supp. 74-5618; effective, May 1, 1985.)

#### LAW ENFORCEMENT TRAINING CENTER

Doc. No. 002958

#### State of Kansas

### DEPARTMENT OF HEALTH AND ENVIRONMENT

#### PERMANENT ADMINISTRATIVE REGULATIONS

(Effective May 1, 1985)

#### Article 4.—MATERNAL AND CHILD HEALTH

**28-4-113. Definitions.** (a) "Care provider" or "provider" means a person, association, corporation or other organization who has control or custody of one or more children under 16 years of age who are unattended by a parent or guardian for the purpose of providing those children with care for less than 24 hours a day, except children related to the person by blood, marriage or legal adoption.

(b) "Day care home" means a home in which care is provided for a maximum of 10 children under 14 years of age, not more than six of whom are under kindergarten age.

(c) "Department" means the Kansas department of health and environment.

(d) "Evening care" means care for children staying with the provider after 6:00 p.m. and leaving before 1:00 a.m. the following day.

(e) "Fire inspector" means a person approved by the state fire marshal to conduct fire safety inspections.

(f) "Group day care home" means a home in which care is provided for a maximum of 12 children under 14 years of age.

(g) "Kindergarten age" means the age at which children enter kindergarten as set forth in K.S.A. 1983 Supp. 72-1107, and any amendments thereto.

(h) "License capacity" means the maximum number of children unrelated to the provider who may be allowed to be in attendance at any one time.

(i) "Licensed physician" means a person licensed to practice medicine or surgery in Kansas as set forth in K.S.A. 65-2869 and 65-2870, and any amendments thereto.

(j) "Overnight care" means care for children staying with the care provider after 1:00 a.m.

(k) "Planned absence" means more than two consecutive days away from the day care home or group day care home.

(l) "Substitute care provider" means a person who supervises children in the day care home or group day care home in the absence of the provider.

(m) "Temporary absence" means time away from the day care home or group day care home and from the children in care for a period not to exceed two consecutive days, and for not more than 14 days per year. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-501, K.S.A. 1983 Supp. 65-503, and K.S.A. 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985.)

**28-4-114. The applicant and licensee.** (a) (1) Any person desiring to conduct a day care home or group day care home shall apply for a license on forms provided by the Kansas department of health and environment.

(2) The applicable fee shall be submitted at the time of license application and reapplication, and shall not be refundable.

(b) Each licensee:

(1) Shall be at least 18 years of age;

(2) shall not be involved in child care or a combination of child care and other employment for more than 18 hours in a 24-hour period; and

(3) shall not be licensed concurrently for more than one type of child care or for child and adult care in the same home.

(c) All persons caring for children shall be qualified by temperament, emotional maturity, sound judgment, and an understanding of children.

(d) Day care home and group day care home licensees shall report to the Kansas department of health and environment the names, addresses and birthdates of new persons residing, working in or volunteering in the home during the license year. This report shall be filed within two weeks of the time the person begins to reside, work or volunteer in the facility.

(e) (1) The maximum number of children for which a day care home may be licensed shall be reduced by one for each child under 18 months in care, as follows:

Number of Children under 18 months	Maximum Number of Children 18 months to Kindergarten Age	Maximum number of Children In Attendance*
0	6	10
1	5	10
2	3	9
3	1	8

\* Includes children kindergarten age to age 14.

(2) The provider's own children under 14 years of age shall be included in the maximum number of children in attendance.

(f) The maximum number of children for which a group day care home may be licensed shall be as follows:

# of Adults Providing Child Care	Age of Children Enrolled	Maximum # Children In Attendance*
One Adult	2 1/2 Years to 14 Years of Age	9
	3 Years to 14 Years of Age	10
	Kindergarten Age to 14 Years of Age	12
Two Adults	Not more than 3 Children Under 18 Months	12
	Not more than 5 Children 18 Months to Kindergarten Age	12
Two Adults	Not more than 5 Children 18 Months to 2 1/2 Years	12

\* Includes children kindergarten age to age 14.

(2) The provider's own children under 14 years of age shall be included in the maximum number of children in attendance in a group day care home.

(g) The total number of children in attendance, including the provider's own children under 14 years of age, shall not exceed the license capacity.

(h) Each group day care home provider shall meet one of the following training requirements prior to initial licensure:

(1) Five sessions of observations, not less than 2 1/2 consecutive hours per observation, in a licensed group day care home or a licensed child care center. Observations shall be planned so that all daily activities (morning, lunch, nap, late afternoon) can be observed;

(2) the requirements for program directors of child care centers as specified in K.A.R. 28-4-429;

(3) a child development associate credential;

(4) ten hours of directed reading in child care or related topics; or

(5) fifteen hours attendance at workshops or at membership meetings of child care organizations.

(i) At the time of obtaining the license application forms, the applicant shall receive a self-evaluation checklist which the applicant shall complete and forward to the local health department or to the district office of the department.

(j) A license shall be issued if the secretary finds that the applicant is in compliance with the requirements of K.S.A. 65-501 *et seq.*, and amendments

(continued)

thereof, and the rules and regulations promulgated pursuant thereto and that the applicant has made full payment of the license fee required by the provisions of K.S.A. 65-505 and amendments thereof. The license and any written exceptions granted by the secretary under K.A.R. 28-4-119 shall be posted as required by K.S.A. 65-504.

(k) (1) Each applicant or licensee shall arrange for a substitute care provider 16 years of age or older to care for children in the event of a temporary absence. In the event of a planned absence, the substitute provider shall be over 18 years of age.

(2) Each applicant or licensee shall have a record of tuberculin test or x-ray on file for the substitute provider. That test shall have been obtained within two years prior to serving as a substitute. Further tuberculin testing shall not be routinely required.

(l) Emergency care may be provided for children not regularly enrolled in the day care home or group day care home if the additional children do not cause that home to exceed its license capacity. Emergency care shall not exceed two consecutive weeks.

(m) Prior to relicensure, each group day care home licensee shall provide documentation of three clock-hours of in-service training or five hours of directed reading in child care or related topics. In-service training may include child care association membership meetings and annual conferences, extension homemaker programs, or other programs on child care.

(n) A copy of the "regulations for licensing day care homes and group day care homes for children" shall be kept on the premises at all times.

(o) Each care provider shall notify the county health department or the department when day care or group day care service is to be indefinitely discontinued. If child care is resumed at a later date, a new application for license shall be required.

(p) Each applicant or licensee receiving notice of denial or revocation of license shall be notified of the right to an administrative hearing by the department and subsequently shall be notified of the right to appeal the denial or revocation to the district court. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-501, K.S.A. 1983 Supp. 65-503, 65-505, and K.S.A. 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985.)

**28-4-116. The children in care.** (a) Each child shall be offered the opportunity to participate daily in activities which promote healthy growth and development. Age-appropriate toys and play equipment of safe construction and in good repair shall be available.

(b) Each day care home and group day care home shall have 25 square feet of available play space per child.

(c) Each child shall have at least one hour of outdoor play daily unless extreme weather conditions prevail. Children playing outdoors shall be under the supervision of an adult who is within hearing distance at all times.

(d) Each child shall have a daily supervised rest period as needed. Napping facilities or sleeping facilities for evening and overnight care shall be provided as follows:

(1) A crib or playpen for each child under 18 months; or

(2) A family bed, cot, sofa, lower bunk or a pad over carpet for each child over 18 months. Two children may sleep on a double bed.

(e) Each child in a day or group day care home shall receive a nutritious mid-morning and mid-afternoon snack. If a child remains in the home for longer than four hours, exclusive of overnight care, that child shall be served a balanced meal which provides 1/3 of the child's daily nutritional requirements.

(f) Methods of discipline shall be appropriate to the age and developmental level of the child. Punishment shall not be humiliating, frightening, or physically or mentally harmful to the child.

(g) A file shall be maintained for each child which includes:

(1) The full name, home and business addresses, and home and business phone numbers of the child's parent or parents or guardian, and the name of the person to notify in case of emergency;

(2) the full name and telephone number of each person authorized to call for the child, and to provide transportation to and from the day care home or group day care home;

(3) a health record as required by K.A.R. 28-4-117(a); and

(4) written parental permission for emergency medical care as required by K.A.R. 28-4-118(c). (Authorized by K.S.A. 65-508; implementing K.S.A. 65-507, 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1985.)

**28-4-117. Health care policies.** (a) Physical health of children in day care.

(1) A health assessment conducted within six months prior to initial enrollment in a child care facility shall be on file for each child under school age. The assessment shall be conducted by a licensed physician or a nurse approved to perform health assessments.

(2) School age children shall have health assessments as required by the school districts in which they are enrolled.

(3) Children under 16 years of age shall not be required to have routine tuberculin tests.

(b) (1) Immunizations shall be current or in process in accordance with the child's age at time of enrollment, and shall be maintained current for protection against diphtheria, pertussis, tetanus, measles, mumps, rubella, and poliomyelitis. A record of each child's immunizations shall be maintained on that child's health assessment form.

(2) Exceptions to health assessments and immunizations shall be permitted if one of the following is obtained:

(A) Certification from a licensed physician stating the physical condition of the child is such that the test and immunization would seriously endanger the child's life or health; or

(B) a written statement signed by one parent or guardian that the parent or guardian is an adherent of a

religious denomination whose religious teachings are opposed to health assessments or such tests and immunizations.

(c)(1) When an infant is enrolled who has not been immunized against measles, mumps and rubella because of the age of that child, and there are children in care who have not had measles, mumps and rubella immunizations due to exemption, including the children of the provider, the parents of the infant at risk shall sign a statement that they have been informed of the risk to their child. This statement shall be in the infant's file at the day care or group day care home.

(d) When a child is moved to a different child care provider, a new health assessment shall not be required if the previous health assessment record is available.

(e) Each licensee shall provide information to parents of children in the licensee's program about the value of annual well-child health assessments for children under the age of six years and bi-annual health assessments for children six years of age and older. Each licensee shall also provide information about the importance of seeking medical advice when children exhibit health problems. This information may be provided by giving a Kansas department of health and environment pamphlet to the parent at the time the child is enrolled, or by posting the information in a conspicuous place, with copies of the pamphlets available to parents on request.

(f) Physical health of applicant or licensee and other household members.

(1) Each person living or working in the day or group day care home shall have a health assessment conducted by a licensed physician or by a nurse approved to perform health assessments. The health assessment shall be conducted within two years prior to application. Each child under 16 living in the home shall have current immunizations unless an exception is approved pursuant to paragraph (2) of subsection (b).

(2) Each person over 16 years of age living in the home shall have a record of a tuberculin test or x-ray obtained within two years prior to application. Further tuberculin testing shall not be routinely required. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-507, 65-508, and 65-510; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended, T-83-27, Sept. 22, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985.)

**28-4-119a. Transportation.** (a) When children are transported while in the care of the day care provider, the driver shall be 18 years of age or older, and shall hold an operator's license of a type appropriate for the vehicle being used.

(b) Each transporting vehicle shall be in safe operating condition. The transporting vehicle shall have a yearly mechanical safety check of tires, lights, windshield wipers, horn, signal lights, steering, suspension, glass, brakes, and tail-lights. A record of the date of the annual safety check and corrections made shall be kept on file at the facility or in the vehicle.

(c) Children shall not be transported in campers,

vehicle-drawn recreation vehicles or in the back of a truck.

(d) Each vehicle shall be covered by accident and liability insurance as required by K.S.A. 40-3104 and 40-3118, and any amendments thereto.

(e) Emergency release forms and health assessment records, as specified in K.A.R. 28-4-118(a) and 28-4-119(c), shall be carried in the vehicle when children are transported. A first aid kit shall be available.

(f) The safety of the children riding in the vehicle shall be protected as follows:

(1) Each vehicle shall be equipped with an individual restraint for each child as follows:

(A) An infant unable to sit up without support shall be provided with an infant car carrier which faces the rear.

(B) A child able to sit up without support shall be provided with one of the following restraints:

(i) a shield-type device;

(ii) a car seat facing the front that is designed to hold a child weighing up to 40 pounds; or

(iii) a safety harness.

(C) A child four years of age or older, or weighing 40 pounds or more, shall have a lap belt. Shoulder straps shall be used if they do not cross the child's neck or face.

(D) Not more than one child shall be restrained in each lap belt.

(E) School-type buses transporting school-age children shall not be required to be equipped with individual restraints.

(2) All doors shall be locked while the vehicle is in motion.

(3) Discipline shall be maintained at all times.

(4) All parts of the child's body shall remain inside the vehicle at all times.

(5) Children shall not enter nor exit the vehicle into a lane of traffic.

(6) Children shall not be left in a vehicle unattended by an adult. When the vehicle is vacated, the provider shall make certain that no child is left in the vehicle.

(7) Smoking in the vehicle shall be prohibited while the children are being transported. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1984; amended May 1, 1985.)

**28-4-187. Administration.** (a) Organization. Each day care referral agency shall have a clearly designated individual or governing body which shall exercise authority over and have responsibility for the operation, policies, and practices of the day care referral agency.

(b) Insurance. Each day care referral agency shall carry liability insurance and accident insurance of not less than \$100,000 per occurrence.

(c) Services.

(1) Each day care referral agency shall have a written description of the day care referral services to be offered to children and their families. The statement of services shall be available in individual copies for distribution to clients and to the public.

(continued)

(2) Any advertisements shall conform to the written statement of services.

(3) Each day care referral agency shall notify the division of any changes in the designated authority or services offered.

(4) Referrals shall be made only to registered or licensed facilities.

(5) The following referral records shall be maintained for a period of one year and shall be available for review by licensing staff:

- (A) Date of inquiry;
- (B) name of person requesting referral; and
- (C) disposition of request.
- (d) Personnel.
- (1) Staffing patterns.

(A) Each day care referral agency that operates child care facilities shall maintain a separate direct child care staff.

(B) Day care referral staff shall not be counted in determining child/staff ratios in any other licensed or registered child care facility.

(2) Records. A personnel record shall be maintained for each day care referral service staff member. The record shall include: job descriptions, medical records, and a record of training and experience. Each staff member shall have reasonable access to that staff member's file and shall be allowed to add any written statement that staff member wishes to make to the file at any time.

(3) Staff qualifications. Day care referral agencies shall have at least one staff member who meets the following requirements:

- (A) Knowledge of the needs of young children;
- (B) Human relations skills to relate to the providers, parents and the community; and
- (C) Training or experience in administrative skills such as budgeting, bookkeeping, and recordkeeping.

(4) Volunteers. The agency shall, if it makes use of volunteers, develop a written plan for their orientation, training, and use. The agency shall assign a staff person to supervise volunteers.

(5) Substitute care.

(A) Day care referral agencies shall not move children from one child care provider to another or knowingly assist in the relocation of children without establishing, with the provider, a means of informing each child's parent or parents.

(B) If the need for substitute care is known in advance, parents shall be given notification of names, addresses, and telephone numbers of substitute providers and shall make their own substitute care arrangements.

(C) Emergency permission forms and health assessment forms shall accompany the child to the substitute care.

(D) The agency shall report to the department the name, address and birthdate of each new staff person hired, each new person living in the facility, and each new volunteer recruited during the license year. This report shall be filed within two weeks of the time the person begins to reside, work or volunteer in the facility. (Authorized by and implementing K.S.A. 65-

508; effective May 1, 1982; amended May 1, 1984; amended May 1, 1985.)

**28-4-189. Transportation.** Any day care referral agency that provides transportation as a part of the day care referral service shall meet the following requirements:

(a) When children are transported, the driver shall be 18 years of age or older, and shall hold an operator's license of a type appropriate for the vehicle being used.

(b) Each transporting vehicle shall be in safe operating condition. The transporting vehicle shall have a yearly mechanical safety check of tires, lights, windshield wipers, horn, signal lights, steering, suspension, glass, brakes, and tail-lights. A record of the date of the annual safety checks and corrections made shall be kept on file at the facility or in the vehicle.

(c) Children shall not be transported in campers, vehicle-drawn recreation vehicles or in the back of a truck.

(d) Each vehicle shall be covered by accident and liability insurance as required by K.S.A. 40-3104 and 40-3118 and any amendments thereof.

(e) Emergency release forms and health assessment records, as specified in K.A.R. 28-4-118(a) and 28-4-119(c), shall be carried in the vehicle when children are transported. A first aid kit shall be available.

(f) The safety of the children riding in the vehicle shall be protected as follows:

(1) Each vehicle shall be equipped with an individual restraint for each child as follows:

(A) An infant unable to sit up without support shall be provided with an infant car carrier which faces the rear.

(B) A child able to sit up without support shall be provided with one of the following restraints:

- (i) a shield-type device;
- (ii) a car seat facing the front that is designed to hold a child weighing up to 40 pounds; or
- (iii) a safety harness.

(C) A child four years of age or older, or weighing 40 pounds or more, shall have a lap belt. Shoulder straps shall be used if they do not cross the child's neck or face.

(D) Not more than one child shall be restrained in each lap belt.

(E) School-type buses transporting school-age children shall not be required to be equipped with individual restraints.

(2) All doors shall be locked while the vehicle is in motion.

(3) Discipline shall be maintained at all times.

(4) All parts of the child's body shall remain inside the vehicle at all times.

(5) Children shall not enter or exit from the vehicle into a lane of traffic.

(6) Children shall not be left in a vehicle unattended by an adult. When the vehicle is vacated, the provider shall make certain no child is left in the vehicle.

(7) Smoking in the vehicle shall be prohibited while the children are being transported. (Authorized

by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982; amended May 1, 1984; amended May 1, 1985.)

**28-4-356. Health care policies.**

(a) Health services.

(1) Each center, in consultation with a physician or community health nurse, shall develop written health care policies which cover the following areas:

- (A) Health examinations for detainees and staff;
- (B) Continuing health care;
- (C) Dental examinations and follow-up dental care;
- (D) Corrections of medical problems;
- (E) Special examinations such as vision, hearing and neurological examinations;
- (F) Care of minor illness, including the use of non-prescription drugs;
- (G) Care of residents under the influence of alcohol and drugs;
- (H) Consultation regarding individual residents when indicated; and

(1) Continuing health education for staff.

(2) Each center shall have a physician designated as the medical consultant to the health program.

(3) The center shall obtain a written consent from the parent or guardian for medical and dental care.

(4) Medicines, poisons and firearms shall be kept locked. The medicine cabinet shall be located in an accessible, supervised area. Internal and external medicines shall be kept in separate sections of the cabinet.

(5) Any prescription medicine shall be given only in accordance with the directions on its label. A record shall be kept in the resident's file documenting the name of the person who gave the medication and when it was given. All unused medication shall be safely discarded.

(6) Arrangements for emergency care shall be made as follows:

(A) The detention center shall have a written statement of the name, address and telephone number of a physician to be called in case of emergency.

(B) Provisions shall be made for the care of residents requiring emergency medical treatment.

(C) When a staff member accompanies a resident to the source of emergency care, the staff member shall remain with the resident for the duration of the emergency. Such an arrangement shall not compromise the supervision of the other residents in the program.

(7) Any incident resulting in the death of or serious injury to any staff member or resident, or any instance of abuse or neglect shall be reported immediately to the bureau of adult and child care facilities.

(8) Each staff member shall be trained in observation of symptoms of illness and in elementary first aid. Health education for the staff shall be planned on a continuing basis.

(9) The community health nurse who evaluates the center for licensing shall be used as a consultant with regard to compliance with licensing regulations.

(b) Physical health of residents.

(1) A health history checklist shall be completed for each child or youth at the time of admission. This

checklist shall be completed by the person who admits the resident, using forms supplied by the licensing agency.

(A) The health checklist shall serve as a guide to determine if a resident is in need of immediate medical care.

(B) The physician shall be contacted for any resident who is on a prescribed medication at the time of admission so that treatment is not interrupted.

(C) The physician shall be contacted for any resident who has acute symptoms of illness or who has a chronic illness. Reportable communicable diseases shall be reported immediately to the county health officer.

(2) Detainees who will be in the center for 30 days or more shall have a health assessment conducted by a licensed physician, or by a nurse authorized to conduct such assessments.

(A) The health assessment shall include dental screening, vision and hearing screening and a tuberculin test according to K.A.R. 28-4-356 (b)(2)(B). Medical and dental records shall be kept on forms issued by the Kansas department of health and environment and shall be kept current.

(B) All positive tuberculin reactors or those with a history of previous reaction shall have a chest x-ray. The proper treatment or prophylaxis shall be instituted. The results of such a follow-up shall be recorded in the resident's record and the health department shall be kept informed of those results.

(C) A current health record shall be kept for each resident which includes the resident's health status, developmental progress, any special needs the resident may have and appropriate plans to meet these needs.

(D) The staff shall update the health information according to the program's specific health policies and shall use such information for review and evaluation of the resident's health status.

(E) A copy of the health record shall accompany the resident if transferred to another facility.

(c) Dental health of residents.

(1) Emergency dental care shall be available for all detainees.

(2) The detention center staff shall develop plans for dental health education and shall supervise the residents in the practice of good dental hygiene.

(d) Personal health of staff and volunteers.

(1) Each staff member shall be free of communicable disease and shall be in such a state of health and freedom from physical or emotional handicaps as is necessary to work with children.

(2) Each staff member who will have contact with the detainees shall have a health assessment within six months prior to employment. This assessment shall be conducted by a licensed physician or a nurse authorized to conduct such assessments.

(3) Results of the health assessment shall be recorded on forms supplied by the Kansas department of health and environment and kept on file at the center.

(4) The initial health assessment shall include a tuberculin test unless there is a history of previous

(continued)

reaction. All reactors and those with history of previous reaction shall have a chest x-ray. Test or x-ray results shall be recorded in the person's health record.

(5) Retesting for tuberculosis shall not be routinely required. If significant exposure to an open case of tuberculosis occurs or symptoms compatible with tuberculosis develop between health assessments, the person exposed or showing symptoms shall be retested by a tuberculin test or x-ray, and the proper treatment or prophylaxis shall be instituted. Results of such a follow-up shall be recorded in the person's health record and the health department shall be kept informed of those results.

(6) Volunteers shall present written proof of freedom from active tuberculosis before serving in the detention center.

(7) Smoking shall be confined to designated smoking areas in the facility.

(e) Nutrition policies.

(1) Meals and snacks shall meet the nutrient needs of the residents based on the resident's age and sex and shall be in accordance with the chart listing recommended daily dietary allowances provided at the end of the ninth edition of recommended dietary allowances, revised 1980.

(2) Special diets shall be provided for residents as ordered by the attending physician.

(3) The menus shall be planned one week in advance and copies of menus that were served for the preceding month shall be kept on file and available for inspection.

(4) Only pasteurized milk and government-inspected meat and fowl shall be used. Powdered milk shall be used for cooking only.

(5) Home canned foods shall not be served in the detention center. Foods frozen under safe conditions shall be acceptable. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1979; amended May 1, 1985.)

**28-4-374. Admission and discharge policies.**

(a) Admission policies shall be on file in the maternity center and shall include the following:

(1) The maternity center shall not admit any person who has any of the medical or obstetric problems listed on pages 53 and 54 of the 1983 edition of "Guidelines for Perinatal Care," issued by the American Academy of Pediatrics and the American College of Obstetrics and Gynecologists.

(2) Medical supervision, including laboratory examination, shall begin no later than the thirteenth week of pregnancy.

(3) A patient shall not be admitted for delivery before 38 weeks of pregnancy or if the estimated weight of the fetus is under 2,501 grams.

(4) A patient shall not be admitted for delivery prior to the onset of labor except in case of spontaneous rupture of membranes.

(5) A patient who has not participated in a child birth preparation course shall not be admitted for delivery.

(6) Each patient shall be informed of the services and risks associated with a maternity center and a

signed, informed consent agreement shall be obtained.

(b) Written criteria for determining the need to transfer a patient to the hospital shall be on file in the maternity center and available to staff and shall include the following:

(1) Blood pressure greater than 140/90 mmHg between contractions;

(2) Inadequate progress of labor as defined by:

(A) Second stage of labor greater than two hours;

(B) First stage (primigravida) greater than 20 hours or first stage (multigravida) greater than 18 hours;

(3) Maternal temperature greater than 38°C or evidence of infection;

(4) Any sign of placenta abruption or placenta previa;

(5) Rupture of membranes without the onset of active labor within 24 hours following the rupture;

(6) Labor requiring oxytocin augmentation;

(7) Fetal heart rate abnormalities as determined with the fetoscope including:

(A) Tachycardia greater than 170 beats per minute;

(B) Sustained bradycardia less than 90 beats per minute for longer than 60 seconds;

(C) Failure of fetal heart tones to return to the baseline 30 seconds after the end of the contraction;

(8) Indications requiring electronic fetal monitoring;

(9) A presentation other than vertex;

(10) A delivery which is other than outlet forceps or spontaneous vaginal delivery;

(11) Postural changes in blood pressure of 20 mmHg or greater persisting four hours postpartum;

(12) Postpartum surveillance required longer than 24 hours;

(13) Excessive apprehension, fear or inappropriate reactions on the part of the patient or visitors which interfere with care of the patient; and

(14) Any other conditions considered abnormal by the physician.

(c) Written criteria for determining need to transfer an infant to the hospital shall be on file and shall include the following:

(1) Respiratory distress;

(2) A neonatal condition requiring ventilatory support;

(3) Shock or asphyxia;

(4) Apgar score of six or less;

(5) Neonatal sepsis or infection;

(6) Neonatal blood loss;

(7) Neonatal seizures;

(8) Hypoglycemia;

(9) Hemolytic disease of newborn;

(10) Significant congenital malformation; and

(11) Infant requiring more than routine observation.

(d) Written criteria for discharge of postpartum patients shall be on file in the maternity center and available to the staff and shall include the following:

(1) Normal physical examination by a physician before discharge;

(2) Stable vital signs with:

(A) Temperature less than 38°C;

(B) Pulse less than 100 beats per minute;



(C) Blood pressure greater than 90/60 mmHg and less than 140/90 mmHg;

(D) No postural blood pressure changes of 20 mmHg or greater;

(3) Fundus firm with no excessive bleeding;

(4) Ambulating well and able to care for infant;

(5) The patient has voided;

(6) RH antibody has been determined. Treatment, if indicated, shall be accomplished within 72 hours after birth of the infant;

(7) A minimum of six hours has elapsed;

(8) The patient has identified a person to be in the home who will be responsible for postpartum surveillance and written instructions have been given to the patient and the support person; and

(9) A home visit will be made by a licensed health professional on the staff of the maternity center within 24 hours of discharge of the patient to provide a health assessment of the mother and infant. A second visit by a licensed health professional shall be made between three and four days following birth of the infant.

(e) Written criteria for discharge of the infant shall be on file in the maternity center and available to staff and shall include the following:

(1) Normal physical examination by a physician before discharge;

(2) Vital signs stable for at least four hours with:

(A) Temperature between 36.5°C and 37.5°C;

(B) Heart rate 100 to 160 beats per minute; and

(C) Respirations 30 to 60 per minute;

(3) No excessive jaundice or central cyanosis;

(4) No evidence of blood type incompatibility;

(5) Completion of procedures for eye prophylaxis;

(6) Assurance that phenylketonuria (PKU), galactosemia and hypothyroidism screening will be performed between 72 hours and seven days after birth. A copy of the laboratory report shall be filed in the infant's medical record;

(7) Good toleration of at least one water feeding by the infant. If breastfed, the infant shall be sucking well;

(8) Demonstration by the mother of the ability to handle and care for the infant to the satisfaction of the nurse practitioner or physician;

(9) Discharge instructions for infant and mother's care given to and reviewed with mother; and

(10) Completion of the birth or death certificate as required by state law. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-507, 65-508; effective May 1, 1981; amended May 1, 1985.)

**28-4-375. Labor and delivery room services and equipment.** (a) There shall be at least 180 square feet of area with a minimum of 20 square feet for each person who is present in addition to staff, parents and infant.

(b) Each patient shall have access to a toilet, lavatory and shower which is not used by visitors or staff.

(c) A written protocol listing conditions under which obstetric and pediatric consultation will be obtained shall be on file in the maternity center and shall be available to staff members.

(d) A written routine for stabilization, examination

and surveillance of the newborn shall be developed. The routine shall substantially comply with the standards prescribed in the 1983 edition of the "Guidelines for Perinatal Care," Chapter 4, issued by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

(e) Each maternity center shall be equipped with the following:

(1) A scrub sink with elbow, knee or foot control;

(2) Equipment for instating intravenous fluids;

(3) A supply of glucose and saline fluids;

(4) Emergency drug supplies;

(5) Sphygmomanometer, stethoscope, dopler type fetoscope and thermometer;

(6) Infant scales;

(7) Bedpan; and

(8) One sterile pack for use in each delivery room with at least one additional set available. There shall be a written schedule for reesterilization.

(f) Each delivery room shall be equipped with the following:

(1) Adequate lighting, including a spotlight suitable for use during delivery;

(2) An infant warmer with a radiant heat source;

(3) Resuscitation equipment for mother and infant;

(4) Oxygen with a selection of mask sizes;

(5) Suction equipment;

(6) Intubation equipment;

(7) A bed or table for delivery;

(8) One or more comfortable chairs; and

(9) A wall clock with a second hand. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-507, 65-508; effective May 1, 1981; amended May 1, 1985.)

**28-4-376. Health policies.** (a) Each person working or living in the center shall have a health assessment that is conducted by a physician or nurse authorized to perform health assessments. Health assessments shall be renewed every three years.

(b) A record of a tuberculin test or chest x-ray obtained within two years prior to employment shall be submitted with the health certificate. Further tuberculin testing shall not be routinely required.

(c) Any visitors to a patient shall be screened for exposure to or symptoms of communicable disease.

(d) Smoking shall be prohibited in the center. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-507, 65-508, 65-510; effective May 1, 1981; amended May 1, 1985.)

**28-4-400. Definitions.** (a) "Cash assets" means money, savings accounts, saving certificates, checking accounts and stocks and bonds.

(b) "Diagnostic service" means an evaluation to identify a handicapping disease or disease process.

(c) "Emergency" means an unanticipated, urgent event requiring immediate medical treatment.

(d) Family.

(1) "Family," for an eligible person who resides with the person's parents, stepparents, or legal guardian or is considered to be a dependent of that person's parents, stepparents, or legal guardian for income tax purposes, means the person, the person's parents,

(continued)

stepparents, or legal guardian and all other persons who reside in the same home as the person. Family shall not include persons who lease or rent a portion of the residence.

(2) "Family," for an eligible person who has established a separate residence and is no longer considered a dependent of the person's parents, stepparents or legal guardian for income tax purposes, means the person, the person's spouse, children and relatives and all other persons who reside in the same home as that person. Family shall not include persons who lease or rent a portion of the residence.

(e) "Family income" means the total amount of adjusted gross income reported for federal income tax purposes on the most recent federal income tax return filed by each adult member of the family, with the addition of non-taxable benefits from whatever source.

(f) "Family living allowance" means the amount established by the secretary as specified in K.A.R. 28-4-403(b).

(g) "Individual service plan" means documents prepared by the crippled and chronically ill children's program which state a plan of treatment, authorized services, approved providers of service, time frame for provision of services and party responsible for payment for services.

(h) "Prior authorization" means the approval of a request to provide a specific service before the provision of the service, or in an emergency, within two working days after the emergency occurs.

(i) "Medical treatment" means any medical or surgical services and any medical equipment, devices or supplies provided to a person who is eligible for assistance under the crippled and chronically ill children's program.

(j) "Resident" means a person who is living in the state with the intention of making a permanent home.

(k) "Secretary" means the secretary of the department of health and environment or the secretary's designee. (Authorized by and implementing K.S.A. 1984 Supp. 65-5a08; effective, E-82-10, April 27, 1981; effective May 1, 1982; amended May 1, 1983; amended, T-85-41, Dec. 19, 1984; amended May 1, 1985.)

**28-4-401. Responsibilities of individuals who apply for or who receive services.** (a) Each applicant shall supply, insofar as possible, information essential to the establishment of eligibility within 30 days of the request for service.

(b) Each applicant shall give written permission on forms prescribed by the secretary for release of information needed to determine medical and financial eligibility.

(c) Each applicant or eligible person shall report changes in address, number of children living in the home, marital status, custody of children, insurance coverage, family income or cash assets of more than \$500.00 per year, or other circumstances that affect the special health care needs of the applicant or eligible person, within 10 working days of the change.

(d) Each eligible person shall:

(1) Apply for insurance benefits, title XIX medicaid

program benefits, supplemental security income benefits, or benefits from other sources, when requested;

(2) assign the insurance benefits to hospitals and other providers of service for any medical treatment provided by the crippled and chronically ill children's program;

(3) apply the benefits of any non-assignable insurance by making payments to hospitals or other providers of service for items ordered by the attending physician; and

(4) reimburse the crippled and chronically ill children's program for any insurance proceeds sent directly to the recipient if the insurance payment is made for medical treatment provided by the crippled and chronically ill children's program. (Authorized by and implementing K.S.A. 1984 Supp. 65-5a08; effective, E-82-10, April 27, 1981; effective May 1, 1982; amended May 1, 1983; amended, T-85-41, Dec. 19, 1984; amended May 1, 1985.)

**28-4-402. Responsibilities of the secretary persons who apply for or receive services.** The secretary shall:

(a) Inform eligible persons of program requirements;

(b) develop an individual service plan for each person accepted into the program;

(c) issue a statement of prior authorization to the eligible person and to the approved provider(s) of service stipulating what services, products and items will be paid for by the crippled and chronically ill children's program. The statement of prior authorization shall also designate the time period for which services are authorized.

(d) inform the eligible person or the parents, stepparents or legal guardian of each person accepted into the program of that portion of costs for medical treatment to be paid by the eligible person, the parents, stepparents or legal guardian and of that portion of costs to be paid by the program;

(e) redetermine, at least once each 12 months, eligibility for each person accepted into the program; and

(f) terminate crippled and chronically ill children's program services for persons who fail to meet one or more of the requirements of K.A.R. 28-4-401, and any amendments to that rule and regulation. Notification of termination shall be sent to the eligible person or to the parents, stepparents or legal guardian of the person and to providers of service. (Authorized by and implementing K.S.A. 1984 Supp. 65-5a08; effective E-82-10, April 27, 1981; effective May 1, 1982; amended May 1, 1983; amended, T-85-41, Dec. 19, 1984; amended May 1, 1985.)

**28-4-403. Financial eligibility.** (a) The following persons shall be exempt from the uniform standards for eligibility:

(1) Those persons who are eligible under K.S.A. 65-180 through 65-183 for:

(A) Screening, diagnostic and treatment control tests; and

(B) The provision of the necessary treatment product for diagnosed cases, for as long as medically indicated, when the product is not available through other state agencies; and

(2) Those persons who are eligible under K.S.A. 65-1, 105 through 65-1, 106 for blood tests and counselling for sickle cell trait and sickle cell anemia.

(b)(1) The uniform standard for determining eligibility shall be the annual margin as calculated in paragraph (2) below. If the annual margin is zero or below, the person shall be eligible for financial assistance for medical treatment. If the annual margin is above zero, the person shall not be eligible for financial assistance, except as provided in subsections (e) and (f) below. The factors to be utilized in calculating the annual margin shall be: family income, cash assets, family living allowance, anticipated specialized health care expenditures for the person and the health insurance coverage of the person.

(2) The annual margin shall be calculated by:

(A) Adding the amount of the family income to the amount of cash assets above the maximum allowed under subsection (d) below; and

(B) Subtracting from the total of paragraph (A) above the following:

(i) The family living allowance as determined in subsection (c) below, and

(ii) The amount of the anticipated health care expenditures for the person that will not be paid by the person's health insurance coverage.

(c) The following table shall be used to determine the family living allowance.

Persons in Family  
(Per Year)

1	2	3	4	5
\$9,213	\$12,432	\$15,651	\$18,870	\$22,089

For each additional person, \$3,219 shall be added to \$22,089.

(d) The following table shall be used to determine the maximum cash assets allowed a family.

Persons in Family  
(Per Year)

1	2	3	4	5
\$1,034	\$1,366	\$1,699	\$2,028	\$2,359

For each additional person, \$331 shall be added to \$2,359.

(e) If within twelve months after application the annual margin is spent down per subsection (f) to zero or below by the family's actual or obligated expenditures for medical care, the person shall be, at that time, financially eligible for assistance for the remainder of the twelve-month period. These expenditures shall be in addition to any expenditure or reimbursement made by health insurance or other third party payor.

(f) In order to spend the annual margin down to zero, the family shall agree to:

(1) pay for medical expenses and travel expenses related to medical treatment or for health support services, supplies or equipment; or

(2) pay for a portion of actual or anticipated medical expenses, and travel expense related to medical treatment or for a portion of health support services, supplies or equipment as documented in the individual service plan. (Authorized by K.S.A. 1984 Supp. 65-5a08; implementing, K.S.A. 1984 Supp. 65-5a12; effective, E-82-10, April 27, 1981; effective May 1,

1982; amended, T-85-41, Dec. 19, 1984; amended May 1, 1985.)

**28-4-404. Diagnostic services.** (a) Diagnostic services shall be made available to any eligible person who is a resident of this state and who is believed to have a severely handicapping disease or disease process.

(b) Diagnostic services shall be authorized before the services are rendered and shall be provided in facilities and by providers approved by the secretary. (Authorized by K.S.A. 1984 Supp. 65-5a08; implementing K.S.A. 1984 Supp. 65-5a10; effective May 1, 1982; amended, T-85-41, Dec. 19, 1984; amended May 1, 1985.)

**28-4-405. Providers of service.** (a) Application. Each person or corporation desiring to supply services or sell prosthetic devices, equipment, appliances, or supplies shall file an application with the secretary. The secretary shall approve or disapprove each application and notify interested parties of the action taken and maintain a list of approved providers of service.

(b) Designation of hospitals. Each hospital approved to provide medical and surgical services for the care and treatment of eligible persons shall:

(1) Be licensed as a hospital in Kansas;

(2) be certified by the joint commission on accreditation of hospitals;

(3) have a social work department;

(4) have staff physicians certified by specialty boards in the specialty appropriate for the needs of the eligible person;

(5) have facilities to isolate persons with communicable diseases or other conditions requiring isolation or separation;

(6) have available consultation in other specialty areas for the cases being treated;

(7) have adequate operating facilities for the specialty for which the hospital is approved;

(8) have persons qualified to give anesthesia;

(9) have hematologic, chemistry, microbiology and serologic laboratory facilities appropriate for the needs of the eligible person;

(10) have x-ray facilities appropriate for the needs of the eligible person;

(11) have facilities for the application of plaster or other cast material for orthopedic cases;

(12) have a physical therapy department with qualified personnel to treat eligible persons;

(13) have regularly scheduled in-service programs; and

(14) have the following services for children:

(A) a separate department for pediatrics and for adult medicine, with qualified nurses assigned to each area;

(B) at least one pediatrician on the hospital staff, with a designated chief of pediatrics; and

(C) a separate area for children, with provisions made for parents who wish to live in with their child, non-restrictive visiting hours for parents and suitable recreational facilities for children.

(c) Designation of other providers. Other providers

(continued)

approved to provide medical, surgical and other services for the care and treatment of eligible persons shall meet the following standards:

(1) Audiologists shall have an American speech and hearing certification or its equivalent, and professional experience.

(2) Dentists shall be licensed by the Kansas dental board and dental specialists shall be licensed to practice their specialty by the Kansas dental board.

(3) Hearing aid dealers shall be licensed by the Kansas board of examiners in fitting and dispensing of hearing aids.

(4) Nurses shall be registered with the Kansas state board of nursing.

(5) Nutritionists shall be registered with the American dietetic association.

(6) Occupational therapists shall have completed the requirements necessary to be registered by the national registry of the American occupational therapy association.

(7) Pharmacists shall be licensed by the Kansas state board of pharmacy.

(8) Physical therapists shall be licensed by the Kansas state board of healing arts.

(9) Physicians shall be licensed by the Kansas state board of healing arts and shall be certified by their respective specialty board.

(10) Prosthetic and orthotic appliance facilities shall have employees who meet the requirements for certification by the American board of certification in orthotics and prosthetics and shall have an approved physical plant.

(11) Social workers shall have a master's degree in social work and shall be licensed by the behavioral sciences regulatory board.

(d) Responsibilities. Each provider of service shall agree:

(1) That race, color, religion, national origin, or ancestry will not be a basis for refusing to provide service;

(2) to submit reports requested by the crippled and chronically ill children's program;

(3) to accept personal responsibility for the care and treatment provided to persons under the crippled and chronically ill children's program;

(4) to accept payment in accordance with the fees established by the secretary as payment in full and not to bill families for any crippled and chronically ill children's program covered service without permission of the secretary;

(5) to obtain prior authorization from the crippled and chronically ill children's program for services provided; and

(6) to notify the secretary of withdrawal from the crippled and chronically ill children's program. (Authorized by K.S.A. 1984 Supp. 65-5a08; implementing K.S.A. 65-5a09; effective May 1, 1982; amended May 1, 1983; amended, T-85-41, Dec. 19, 1984; amended May 1, 1985.)

**28-4-405a. Payment.** (a) Service shall not be paid for without prior authorization. The secretary shall specify in the prior authorization for service the

number and types of service, including days of hospitalization, for which the crippled and chronically ill children's program shall be responsible for payment. Services in excess of those having prior authorization shall not be paid for under the crippled and chronically ill children's program unless a provider requests an extension which is granted by the secretary.

(b) Insurance, title XIX, and other coverage. For persons receiving funding from both the title XIX medicaid program and the crippled and chronically ill children's program, the medicaid program shall have primary funding responsibility. The crippled and chronically ill children's program shall not pay for services eligible for title XIX medicaid reimbursement. Private insurance shall have primary funding responsibility over the crippled and chronically ill children's program and every effort shall be made to utilize insurance benefits. When insurance fails to pay or pays only a portion of the total bill, the providers shall file a crippled and chronically ill children's program claim. If the insurance payment is less than the crippled and chronically ill children's program allowable rate, additional payment may be made up to the allowable rate. If the insurance payment exceeds or equals the maximum crippled and chronically ill children's program allowable rate, an additional payment shall not be made.

(c) Any person who provides a prior-authorized service, product or item shall submit a claim for payment.

(d) Each claim submitted for payment shall state the eligible person's name and address and the date service was provided. The claim submitted also shall give a description of the services provided and indicate the appropriate procedure code. The claim also shall specify one of the following:

(1) The services provided were covered by a policy of insurance;

(2) a claim on a policy of insurance was made but rejected by the insurer;

(3) a policy of insurance was not available for the services provided;

(4) the services provided were covered by a policy of insurance, but the costs of the services were not paid in full by the insurer; or

(5) a claim for the services provided was filed under the medicaid program but was rejected. The reason for the rejection of the claim by medicaid shall be stated if known to the claimant.

(e) The secretary may allow claims by individuals or hospitals who do not meet the requirements of subsections (a) to (c), inclusive, of K.A.R. 28-4-405, and any amendments thereto, if the individual or hospital provides emergency medical treatment for an eligible person or, with the prior authorization of the secretary, provides specialized medical treatment for an eligible person. (Authorized by and implementing K.S.A. 1984 Supp. 65-5a08; effective, T-85-41, Dec. 19, 1984; effective May 1, 1985.)

**28-4-405b. Termination.** The secretary may terminate a provider's participation in the crippled and

chronically ill children's program for one or more of the following reasons:

- (1) Voluntary withdrawal of the provider from participation in the program;
- (2) non-compliance with applicable state laws or regulations;
- (3) unethical or unprofessional conduct; or
- (4) suspension or termination of license or certificate. (Authorized by K.S.A. 1984 Supp. 65-5a08; implementing K.S.A. 65-5a09; effective, T-85-41, Dec. 19, 1984; effective May 1, 1985.)

**28-4-406. Conditions eligible for treatment.** For a person to be eligible for financial assistance under the crippled and chronically ill children's program, the person shall be afflicted with one or more of the following conditions:

- (a) Myelomeningocele;
- (b) Cleft palate, cleft lip and related problems;
- (c) Cardiovascular conditions, including the following congenital and acquired heart disease or anomalies of the major blood vessels:

(1) Congenital heart defects, including ventricular septal defect, atrial septal defect, tetralogy of Fallot, transposition of the great arteries, complete heart block, aortic stenosis with or without regurgitation, coarctation of the aorta, patent ductus arteriosus, mitral stenosis, pulmonary stenosis, cor triatriatum, endocardial fibroelastosis, Ebstein's anomaly, tricuspid or pulmonary atresia, truncus arteriosus, pulmonary arteriovenous fistula, or hypoplastic left heart;

- (2) Rheumatic fever;
- (3) Congestive heart failure;
- (4) Arrhythmias, including Stokes-Adams, paroxysmal atrial tachycardia, and heart block; or
- (5) Conditions related to heart disease requiring hospitalization, including measures to treat or prevent pneumonia or congestive failure;

(d) Neurosurgical conditions, including spinal injury as a result of accident or hydrocephalus related to myelomeningocele;

- (e) Orthopedic conditions, including:
  - (1) Congenital anomalies leading to physical handicaps, including club foot, congenital dislocated hips, progressive scoliosis which is severe enough that it is likely to become a functional disability in the patient's lifetime, osteogenesis imperfecta, dwarfisms, phocomelia, polydactyly and syndactyly of hands and feet, arthrogyposis multiplex congenita, osteopetrosis, or cerebral palsy;

(2) Acquired conditions leading to physical handicaps, including Legg-Calve-Perthes, Scheuermann's, vitamin D-resistant rickets, Osgood-Schlatter's, Pott's, neurofibromatosis or idiopathic scoliosis;

(3) Fractures in which there is a complication in healing;

(4) Joint conditions, including hemarthrosis and juvenile rheumatoid arthritis;

(5) Developmental problems, including internal tibial torsion, femoral anteversion, knock knees or bowlegs, the correction of which requires surgery; or

(6) Muscle problems that are of a disabling nature, including muscular dystrophies, myositis ossificans progressiva or poliomyelitis.

(f) Genetic and metabolic conditions, including phenylketonuria, cystic fibrosis and sickle cell disease.

(g) Hearing problems which lead to or which present a high risk for permanent hearing loss;

(h) Gastrointestinal problems requiring surgery, including tracheoesophageal fistula, intestinal atresia, Hirschsprung's disease, imperforate anus, meconium ileus, diaphragmatic hernia, omphalocele and gastroschisis, gastro-esophageal reflux, or tracheo-malacia;

(i) Genitourinary problems, including exstrophy of bladder or urethral valves which require surgery;

(j) Burns requiring plastic surgery; or

(k) Seizures. (Authorized by and implementing K.S.A. 1984 Supp. 65-5a14; effective May 1, 1982; amended, T-85-41, Dec. 19, 1984; amended May 1, 1985.)

**28-4-407. System of priorities.** Because assistance under the crippled and chronically ill children's program is constrained by the amount of funds appropriated for this assistance, a system of priorities for assistance shall be established as follows: priority for assistance shall be given to persons afflicted with the condition specified in subsection (a) of K.A.R. 28-4-406, with priorities for assistance established in descending order for conditions listed in subsection (b) through (k), inclusive. Persons afflicted with that condition specified in subsection (k) of K.A.R. 28-4-406 shall be assigned the lowest priority for assistance. (Authorized by and implementing K.S.A. 1984 Supp. 65-5a14; effective May 1, 1982; amended, T-85-41, Dec. 19, 1984; amended May 1, 1985.)

**28-4-410. Definitions** (a) "Blood bank" means a licensed facility that supplies blood or blood products.

(b) "Blood product" means a substance derived from human blood. Blood products provided by the hemophilia program shall be limited to the following:

(1) Purified anti-hemophilic fraction—Factor VIII—heat treated;

(2) purified anti-hemophilic fraction—Factor VIII—non-heat treated;

(3) purified anti-hemophilic fraction—Factor IX—heat treated;

(4) purified anti-hemophilic fraction—Factor IX—non-heat treated; and

(5) fresh frozen plasma and cryoprecipitate.

(c) "Cash assets" means money, savings accounts, savings certificates, checking accounts and stocks and bonds.

(d) "Comprehensive centers" means The Children's Mercy Hospital and St. Luke's Hospital in Kansas City, Missouri and Halstead Hospital in Halstead, Kansas.

(e) "Emergency" means an unanticipated, urgent event requiring immediate medical treatment.

(f) Family.

(1) "Family," for an eligible person who resides with the person's parents, stepparents or legal guardian or who is considered to be a dependent of that person's parents, stepparents or legal guardian for income tax purposes, means the person who has he-

(continued)

mophilia, that person's parents, stepparents or legal guardian and all other persons who reside in the same home as the person who has hemophilia. Family shall not include persons who lease or rent a portion of the residence.

(2) "Family," for an eligible person who has established a separate residence and is no longer considered a dependent of that person's parents, stepparents or legal guardian, for income tax purposes, means the person who has hemophilia, that person's spouse, children and relatives and all other persons who reside in the same home as the person who has hemophilia. Family shall not include persons who lease or rent a portion of the residence.

(g) "Family income" means the total amount of adjusted gross income reported for federal income tax purposes on the most recent federal income tax return filed by each adult member of the family, with the addition of non-taxable benefits from whatever source.

(h) "Family living allowance" means the amount established by the secretary as specified in K.A.R. 28-4-413.

(i) "Hemophilia" means a bleeding tendency that results from a genetically determined deficiency factor in the blood.

(j) "Hemophilia program" means services that are provided for the care and treatment of persons with hemophilia and that are administered by the crippled and chronically ill children's program.

(k) "Home therapy," or "self therapy," means the administration of transfusions of blood concentrates or blood derivatives in a home setting.

(l) "Individual service plan" means documents prepared by the crippled and chronically ill children's program that state a plan of treatment, authorized services, providers of service, time frame for provision of services and party responsible for payment for services.

(m) "Infusion" means therapeutic introduction of a fluid into a vein.

(n) "Infusion supplies" means syringes, needles and hemophilia infusion sets.

(o) "Prior authorization" means the approval of a request to obtain blood, blood derivatives and concentrates and other efficacious agents or educational services pertaining to hemophilia before the provision of the service, or in an emergency, within two working days after the emergency occurs.

(p) "Secretary" means the secretary of the department of health and environment or the secretary's designee. (Authorized by K.S.A. 1984 Supp. 65-1,134; implementing K.S.A. 1984 Supp. 65-1,132, 65-1,133; effective, T-85-41, Dec. 19, 1984; effective May 1, 1985.)

**28-4-411. Responsibilities of individuals who apply for or who receive assistance.** (a) Each applicant shall supply, insofar as possible, information essential to the establishment of eligibility within 30 days of the request for assistance.

(b) Each applicant shall give written permission on forms prescribed by the secretary for release of information needed to determine medical and financial eligibility.

(c) Each applicant or eligible person shall report changes in address, number of children living in the home, marital status, custody of children, insurance coverage, family income or cash assets of more than \$500.00 per year or other circumstances that affect the special health care needs of the applicant or eligible person within 10 working days of the change.

(d) Each eligible person shall:

(1) Apply for insurance benefits, title XIX medicaid program benefits, supplemental security income benefits or benefits from other sources when requested;

(2) assign the insurance benefits to hospitals and other providers of service for any medical treatment provided by the hemophilia program;

(3) apply the benefits of any non-assignable insurance by making payments to hospitals or other providers of service for items ordered by the attending physician; and

(4) reimburse the hemophilia program for any insurance proceeds sent directly to the recipient if the insurance payment is made for medical treatment provided by the hemophilia program.

(e) Each eligible person shall obtain from one of the comprehensive centers initial and annual evaluations of medical eligibility for the hemophilia program.

(f) Each eligible person shall obtain from one of the comprehensive centers a written prescription for blood, blood derivatives and concentrates or other efficacious agents and shall provide a copy of the current prescription to the hemophilia program. (Authorized by and implementing K.S.A. 1984 Supp. 65-1,132; effective, T-85-41, Dec. 19, 1984; effective May 1, 1985.)

**28-4-412. Responsibilities of the secretary to individuals who apply for or receive assistance.** The secretary shall: (a) Inform eligible persons of program requirements;

(b) develop an individual service plan for each person accepted into the program;

(c) issue a statement of prior authorization to the eligible person and to the approved provider(s) of service stipulating what blood, blood derivatives and concentrates, other efficacious agents or educational services pertaining to hemophilia will be paid for by the hemophilia program. The statement of prior authorization shall also designate the time period for which services are authorized.

(d) inform the eligible person or the parents, stepparents or legal guardian of each person accepted into the program of that portion of costs for medical treatment to be paid by the eligible person, the parents, stepparents, or legal guardian and of that portion of costs to be paid by the program;

(e) redetermine, at least once each 12 months, eligibility for each person accepted into the program; and

(f) terminate hemophilia program assistance for individuals who fail to meet one or more of the requirements of K.A.R. 28-4-411. Notification of termination shall be sent to the eligible person or to the parents, stepparents or legal guardian of the person and to providers of service. (Authorized by and implement-

ing K.S.A. 1984 Supp. 65-1,132; effective, T-85-41, Dec. 19, 1984; effective May 1, 1985.)

**28-4-413. Financial eligibility.** (a) (1) The uniform standard for determining eligibility shall be the annual margin as calculated in paragraph (2) below. If the annual margin is zero or below, the person shall be eligible for financial assistance under the hemophilia program. If the annual margin is above zero, the person shall not be eligible for financial assistance, except as provided in subsections (d) and (e) below. The factors to be utilized in calculating the annual margin shall be: family income, cash assets, family living allowance, anticipated specialized health care expenditures for the person and the health insurance coverage of the person.

(2) The annual margin shall be calculated by:

(A) Adding the amount of the family income to the amount of cash assets above the maximum allowed under subsection (c) below; and

(B) Subtracting from the total of paragraph (A) above the following:

(i) The family living allowance as determined in subsection (b) below, and

(ii) The amount of the anticipated health care expenditures for the person that will not be paid by the person's health insurance coverage.

(b) The following table shall be used to determine the family living allowance:

Persons in Family (Per Year)				
1	2	3	4	5
\$9,213	\$12,432	\$15,651	\$18,870	\$22,089

For each additional person, \$3,219 shall be added to \$22,089.

(c) The following table shall be used to determine the maximum cash assets allowed a family.

Persons in Family (Per Year)				
1	2	3	4	5
\$1,034	\$1,366	\$1,699	\$2,028	\$2,359

For each additional person, \$331 shall be added to \$2,359.

(d) If within twelve months after application the annual margin is spent down per subsection (e) to zero or below by the family's actual or obligated expenditures for medical care, the person shall be, at that time, financially eligible for assistance for the remainder of the twelve-month period. These expenditures shall be in addition to any expenditure or reimbursement made by health insurance or other third-party payor.

(e) In order to spend the annual margin down to zero, the family shall agree to:

(1) pay for medical expenses and travel expenses related to medical treatment or for health support services, supplies or equipment; or

(2) pay for a portion of actual or anticipated medical expenses, and travel expenses related to medical treatment or for a portion of health support services, supplies or equipment as documented in the individual service plan. (Authorized by and implementing K.S.A. 1984 Supp. 65-1,132; effective, T-85-41, Dec. 19, 1984; amended May 1, 1985.)

**28-4-414. Payment.** (a) Assistance shall not be

provided without prior authorization. The secretary shall specify in the prior authorization for assistance the products or services for which the hemophilia program shall be responsible for payment.

(b) Insurance, title XIX, and other coverage. For persons receiving funding from both the title XIX medicaid program and the hemophilia program, the medicaid program shall have primary funding responsibility. The hemophilia program shall not pay for services eligible for title XIX medicaid reimbursement. Private insurance shall have primary funding responsibility over the hemophilia program and every effort shall be made to utilize insurance benefits. When insurance fails to pay or pays only a portion of the total bill, the providers shall file a hemophilia program claim. If the insurance payment is less than the hemophilia program's allowable rate, additional payment may be made up to the allowable rate. If the insurance payment exceeds or equals the maximum hemophilia program's allowable rate, an additional payment shall not be made.

(c) Any person who provides a prior-authorized blood product or service shall submit a claim for payment.

(d) Each claim submitted for payment shall state the name of the person who has hemophilia, that person's address and the date service was provided. The claim submitted also shall give a description of the services provided and indicate the appropriate procedure code. The claim also shall specify one of the following:

(1) The services provided were covered by a policy of insurance;

(2) a claim on a policy of insurance was made but rejected by the insurer;

(3) a policy of insurance was not available for the services provided;

(4) the services provided were covered by a policy of insurance, but the costs of the services were not paid in full by the insurer; or

(5) a claim for the services provided was filed under the medicaid program but was rejected. The reason for the rejection of the claim by medicaid shall be stated if known to the claimant.

(e) The secretary may allow claims for payment by individuals who provide emergency medical treatment for a person who has hemophilia even though this treatment was not prior-authorized. (Authorized by K.S.A. 1984 Supp. 65-1,134; implementing K.S.A. 1984 Supp. 65-1,133; effective, T-85-41, Dec. 19, 1984; effective May 1, 1985.)

**28-4-415. Conditions eligible for treatment.** For a person who has hemophilia to be eligible for financial assistance under the hemophilia program, that person shall meet one or more of the following conditions:

(a) The person requires continuing home therapy with blood or blood derivatives to avoid extensive hospitalization and other crippling effects associated with this chronic bleeding condition; or

(b) the person requires education concerning the administration and management of home therapy for hemophilia. (Authorized by and implementing K.S.A.

(continued)

1984 Supp. 65-1,134; implementing K.S.A. 1984 Supp. 65-1,132, 65-1,133; effective, T-85-41, Dec. 19, 1984; effective May 1, 1985.)

**28-4-416. System of priorities.** Because assistance under the hemophilia program is constrained by the amount of funds appropriated for this assistance, provision of blood products and infusion supplies for home therapy shall be the highest priority for assistance, education for persons who have hemophilia and for families of persons who have hemophilia shall be the second-highest priority for assistance, and education for physicians, dentists, nurses and other professionals who assist persons with hemophilia shall be the lowest priority for assistance. (Authorized by K.S.A. 1984 Supp. 65-1,134; implementing K.S.A. 1984 Supp. 65-1,132, 65-1,133; effective, T-85-41, Dec. 19, 1984; effective May 1, 1985.)

**28-4-420. Definitions.** (a) "Administrator" means the staff member of a child care center or preschool who is responsible for the general and fiscal management of the facility.

(b) "Attendance" means the number of children present at any one time.

(c) "Basement" means an area in which all four outside walls are more than two-thirds below ground level.

(d) "Child care center" means a facility in which care and educational activities are provided for 13 or more children two weeks to 16 years of age for more than three hours and less than 24 hours per day including day time, evening, and nighttime care. A facility may have fewer than 13 children and be licensed as a center if the program and building meet child care center regulations.

(e) "Child with handicaps" means a child in care who does not function according to age-appropriate expectations to such an extent that the child requires special help, program adjustment, and support services on a regular basis.

(f) "Corporal punishment" means activity directed toward modifying a child's behavior by means of physical contact such as spanking with the hand or any implement, slapping, swatting, pulling hair, yanking the arm, or any similar activity.

(g) "Discipline" means the on-going process of helping children develop inner control so that they can manage their own behavior in a socially-approved manner.

(h) "Enrollment" means the total number of children for whom services are available.

(i) "Evening care" means care provided between six o'clock p.m. and midnight of the same day.

(j) "Fire inspector" means a person approved by the state fire marshal to conduct fire safety inspections.

(k) "Infant" means a child who is between two weeks and 12 months of age, or a child over 12 months who has not learned to walk.

(l) "In-service training" means job-related training provided for employed staff and volunteers.

(m) "Integrated unit" means a center or preschool program serving both handicapped and non-handi-

capped children, in which not less than 1/3 and not more than 2/3 of the children are handicapped.

(n) "License" means a document issued by the Kansas department of health and environment which authorizes a licensee to operate and maintain a child care center or preschool.

(o) "License capacity" means the maximum number of children that is allowed to attend at any one time.

(p) "Licensed physician" means a person licensed to practice medicine and surgery in Kansas as set forth in K.S.A. 65-2869 and 65-2870, and any amendments thereto.

(q) "Licensee" means a person, corporation, firm, association, educational group or other organization which operates or maintains a child care center or preschool.

(r) "Mother's day out" means a program operating more than five consecutive hours or more than one day per week and in which any one child is enrolled for not more than one session per week.

(s) "Nighttime care" means care provided after six o'clock p.m. and continuing until after midnight.

(t) "Preschool" means a facility:

(1) Which provides learning experiences for children who have not attained the age of eligibility to enter kindergarten as prescribed in K.S.A. 1983 Supp. 72-1197(c) and any amendments thereto, and who are 30 months of age or older;

(2) which conducts sessions not exceeding three hours per session;

(3) which does not enroll any child more than one session per day; and

(4) which does not serve a meal. The term "preschool" shall include educational preschools, Montessori schools, nursery schools, church-sponsored preschools, and cooperatives. A facility may have fewer than 13 children and be licensed as a preschool if the program and facility meet preschool regulations.

(u) "Preschool age" means a child who is between 30 months of age and the age of eligibility to enter kindergarten as prescribed in K.S.A. 1983 Supp. 72-1107(c) and any amendments thereto.

(v) "Program" means a comprehensive and coordinated plan of activities providing for the education, care, protection, and development of children who attend a preschool or a child care center.

(w) "Program director" means the staff member of a child care center or preschool who meets the requirements specified in K.A.R. 28-4-429(b), (c), (d) or (e) and who is responsible for implementing and supervising the program.

(x) "School-age" means a child who will attain the age of six years on or before the first day of September of any school year, but who is not 16 years of age or older.

(y) "Self-contained unit" means an area separated by walls or partitions not less than five feet high which contains indoor learning materials for the maximum number of children permitted in one group as specified in K.A.R. 28-4-428(a).

(z) "Sick child" means a child who has a contagious



disease or shows other signs or symptoms of an acute illness.

(aa) "Special purpose unit" means a program in which more than two-thirds of the children enrolled have severe or mild handicaps.

(bb) "Summer program for school-age children" means a program in which school-age children are enrolled for more than three hours daily for more than two consecutive weeks, and shall include summer camps.

(cc) "Swimming pool" means an enclosed body of water more than 12 inches deep.

(dd) "Toddler" means a child who has learned to walk and who is between 12 and 30 months of age.

(ee) "Unit" means the number of children that may be present in one group, as specified in K.A.R. 28-4-428(a). (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985.)

**28-4-423. Physical plant.** (a) Premises.

(1) The building shall meet the legal requirements of the community as to fire protection, water supply, and sewage disposal.

(2) The designated area for children's activities shall contain a minimum of thirty-five square feet of floor space per child, exclusive of kitchen, passage-ways, storage areas, and bathrooms.

(3) The building shall have two exits approved by a fire inspector. One exit shall lead directly to the outside.

(4) Second floors approved by a fire inspector may be used for children 2½ years or over. Second-floor windows shall be guarded.

(5) Finished basements approved by a fire inspector may be used for children 2½ years or older. Basements shall be dry and well-ventilated, heated and cooled as specified in paragraph (a)(20) of this regulation; and lighted as specified in paragraph (a)(18) of this regulation.

(6) When mobile classroom units are used, they shall be securely anchored to the ground and shall meet all requirements for permanent structures.

(7) All stairs which have more than two steps shall be provided with sturdy handrails. When balusters are more than four inches apart, provisions shall be made to prevent a child's head or body from falling through.

(8) Landings or gates shall be provided beyond each exterior door, and any door opening onto a full-length stairway.

(9) Ceiling height shall be not less than seven feet, six inches.

(10) Windows and doors.

(A) Each window and glass door shall be screened or guarded.

(B) Each window and door opened for ventilation shall be screened.

(11) Floors shall be smooth and not slippery, free from cracks, clean and in good condition. A floor covering shall be required over concrete.

(12) Carpeting shall be clean and in good repair. Newly-installed carpeting shall meet fire safety requirements of the state fire marshal.

(13) Walls shall be clean and free of cracks.

(14) All surfaces shall be free of toxic materials.

(15) Electrical outlets within the reach of children under five years of age shall be provided with receptacle covers when not in use.

(16) Extension cords shall not be used.

(17) Each room occupied by children shall have a minimum of 20 foot candles of light in all parts of the room. Each sleeping room shall be lighted to allow freedom of movement.

(18) The premises shall be maintained in good condition and shall be clean at all times, free from accumulated dirt and trash, and any evidence of vermin or rodent infestation. Each outdoor trash and garbage container shall be covered, and the contents shall be removed at least weekly.

(19) Each room occupied by the children shall be heated, ventilated and cooled. The temperature in each room shall not be less than 65° F. nor more than 90° F. Each area occupied by children shall be free of drafts.

(20) Each electric fan if used, shall be mounted high on the wall or shall be guarded.

(21) When a gas heater is used, it shall be approved by a fire inspector before use. Open-faced heaters shall be prohibited.

(22) All heating elements, including hot water pipes, shall be insulated or installed in such a way that children cannot come in contact with them. Asbestos insulation shall not be used. Fireplaces shall not be used when children are present.

(23) Medicines, household poisons, and other dangerous substances and instruments shall be in locked storage.

(24) Storage of firearms in any area used for children's activities shall be prohibited. Firearms stored in any other area of the premises shall be in locked storage, or shall be equipped with trigger locks.

(b) Water supply.

(1) The water supply shall be from a source approved by a health department, or by the Kansas department of health and environment.

(2) Sanitary drinking facilities shall be available to children while indoors or outdoors. One of the following methods shall be used:

(A) Individual disposable cups and a water dispenser;

(B) individually-marked glasses or cups which shall be washed daily; or

(C) a fountain designed so that a child can get a drink of water without assistance.

(3) Drinking fountains shall not be plumbed to sinks.

(4) Water from drinking fountains shall be under pressure so that the stream is not less than three inches high.

(5) Cold water and hot water not exceeding 110° F. shall be supplied to lavatory fixtures accessible to children.

(c) Toilet and lavatory facilities.

(1) All plumbing fixtures and building sewers shall be connected to public sewers where available.

(continued).

(2) When a public sewer is not available, a private sewage disposal system meeting requirements of the county health department or the Kansas department of health and environment shall be installed and connected to all plumbing fixtures.

(3) Plumbing shall be installed and maintained according to local and state plumbing codes.

(4) Bathroom facilities shall be readily accessible to the children, and shall be placed low or be provided with safety steps.

(5) There shall be one toilet and one washbasin for each fifteen children.

(6) Bathroom facilities shall be planned to assure privacy for staff.

(7) Soap, individual cloth towels or paper towels, and toilet paper shall be provided. The use of common towels and wash cloths shall be prohibited. When cloth towels and wash cloths are used, they shall be labeled with the child's name, and laundered at least weekly. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1985.)

**28-4-424. Swimming and wading pools.** (a) When a swimming pool or wading pool is used as part of the program, it shall be constructed, maintained and used in such a manner as to safeguard the lives and health of the children.

(b) Below-ground swimming pools shall be enclosed by a fence not less than five feet high to prevent chance access by children.

(c) Above-ground pools shall be five feet high, or shall be enclosed with a fence not less than five feet high.

(d)(1) The number and ages of children using either swimming or wading pools shall be limited to allow appropriate supervision by adult staff members.

(2) Licensing requirements regarding staff/child ratios shall be maintained at the pool at all times.

(3) There shall be a minimum of two adults in attendance with the children.

(4) A certified life guard shall be on duty when children are using a swimming pool in which the water is more than two feet deep.

(5) Each swimming pool more than six feet in diameter shall be provided with a ring buoy and rope or shepherd's hook. Such equipment shall be of sufficient length to reach the center of the pool from its edge.

(e) The water in the swimming pool shall be maintained between pH 7.2 and pH 8.2. Available free chlorine content shall be between 0.4 to 3.0 parts per million. The pool shall be cleaned daily, and the chlorine level and pH level shall be tested daily. The results of these tests shall be recorded and available.

(f) Water in wading pools shall be emptied daily.

(g) Legible safety rules for the use of swimming and wading pools shall be posted in a conspicuous location, and shall be read and reviewed at regular intervals by all staff members responsible for the supervision of children.

(h) Natural bodies of water may be used only for children over six years of age, and shall be approved for swimming by the county health department or

Kansas department of health and environment. A certified life guard shall be on duty. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1985.)

**28-4-425. Transportation.** (a) Facility-owned or leased vehicles.

(1) When a vehicle used for transportation of children is owned or leased by the facility, the driver shall be 18 years of age or older, and shall hold an operator's license of a type appropriate for the vehicle being used.

(2)(A) Each transporting vehicle shall be in safe operating condition.

(B) The transporting vehicle shall have a yearly mechanical safety check of tires, lights, windshield wipers, horn, signal lights, steering, suspension, glass, brakes, tail lights and exhaust system. A record of the date of the annual safety check and corrections made shall be kept on file at the facility or in the vehicle.

(3) Children shall not be transported in campers, vehicle-drawn recreation vehicles or in the back of a truck.

(4) The vehicle shall be covered by accident and liability insurance as required by K.S.A. 40-3104 and 40-3118, and any amendments thereof.

(5) Emergency release forms, and health assessment records, as specified in K.A.R. 28-4-430 and 28-4-432(e), shall be carried in the vehicle when children are transported. A first aid kit shall be available.

(6) Each vehicle shall be equipped with an individual restraint for each child as follows:

(A) An infant unable to sit up without support shall be provided with an infant car carrier which faces the rear.

(B) A child able to sit up without support shall be provided with one of the following restraints:

- (i) a shield-type device; or
- (ii) a car seat facing the front that is designed to hold a child weighing up to 40 pounds; or
- (iii) a safety harness.

(C) A child four years of age or older, or weighing 40 pounds or more, shall have a lap belt. Shoulder straps shall be used if they do not cross the child's neck or face.

(D) Not more than one child shall be restrained in each lap belt.

(E) School-type buses transporting school-age children shall not be required to be equipped with individual restraints.

(b) The safety of the children riding in the vehicle shall be protected as follows:

(1) All doors shall be locked while the vehicle is in motion.

(2) Discipline shall be maintained at all times.

(3) All parts of the child's body shall remain inside the vehicle at all times.

(4) Children shall not enter nor exit the vehicle into a lane of traffic.

(5) Children shall not be left in a vehicle unattended by an adult. When the vehicle is vacated, the driver shall make certain no child is left in the vehicle.

(6) Smoking in the vehicle shall be prohibited while children are being transported.

(7) A second adult shall ride in the vehicle when more than five children under five years of age or more than three infants are being transported, or when the route exceeds 30 minutes.

(c) The driver shall deliver the child to the responsible person, agency or institution as designated by the child's parent or legal guardian, or by the person legally responsible for the care and custody of the child.

(d) Paragraphs (1) through (7) of subsection (b) and subsection (c) of this regulation shall be posted in the vehicle and made available to the driver.

(e) Privately-owned, non-facility vehicles, volunteered without remuneration, shall meet all of the foregoing requirements except those of paragraph (a)(2)(B).

(f) Each driver shall be informed of this transportation regulation. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended, T-85-41, Dec. 19, 1984; amended May 1, 1985.)

**28-4-426. Administration.** (a) Line of authority. There shall be a written delegation of administrative authority designating the person in charge in the facility for all hours of operation.

(b) Admission policies.

(1) Arrangements for the admission of children shall be made prior to the date they are admitted to the center or preschool.

(2) Admission policies shall be non-discriminatory in regard to race, color, religion, national origin, ancestry, physical handicap, or sex, in accordance with Kansas civil rights statute K.S.A. 44-1009. A copy of the admission policies shall be available for review.

(3) Parents shall be informed of services offered.

(4) Parents shall be informed when religious training is included in the program.

(c) Insurance.

(1) Accident insurance shall be carried on children.

(2) Accident and liability insurance shall be carried on staff.

(3) Documentation of insurance coverage shall be on file, including the name of the insurance company or companies, policy number or numbers and dates of coverage.

(d) Staff records. The following records shall be maintained for each staff person:

(1) a record of education and experience;

(2) date of employment;

(3) a record of scheduled hours;

(4) a record of in-service training;

(5) a health certificate; and

(6) work references.

(e) Children's records.

(1) A daily attendance record shall be maintained and kept on file at the facility.

(2) The following emergency information shall be readily accessible and near the telephone:

(A) Name, date of birth, and sex of child;

(B) name, home and business address, and phone numbers of parents or legal guardian;

(C) name, address, and telephone number of physi-

cian, hospital, and person to notify in case of emergency; and

(D) persons authorized to call for child.

(3) A file shall be maintained for each child which includes:

(A) The application for enrollment, including beginning date and date of termination;

(B) a record of scheduled hours and days of attendance;

(C) a health assessment and immunization record;

(D) accident reports; and

(E) signed parental permission for field trips, transfer of records, and, when applicable, walking to and from activities away from the facility.

(4) Children's records shall be confidential. Staff shall not disclose nor discuss personal information regarding children and their relatives with any unauthorized person.

(5) Each child's records and reports shall be made available to that child's parents on request. Children's health records shall be returned to the parents when the children are no longer enrolled. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1985.)

**28-4-428. Staff requirements.** (a) Minimum staff/child ratio. The ratio between staff and children shall be determined by the age of children and type of service provided. The required staff/child ratio shall not fall below this minimum level at any time and no child shall be left unsupervised. Only staff who are in attendance with the children shall be counted in the minimum staff/child ratio as follows:

Age of Children	Minimum Staff/Child ratio	Maximum Number of Children per unit
Infants (2 weeks to 12 months)	1 to 3	9
Infants to 6 years	1 to 4	8
	(max. 2 infants)	(max. 4 infants)
Toddlers (12 months to 2½ years, if walking alone)	1 to 5	10
2½ years to school age	1 to 10	20
3 years to school age	1 to 12	24
Kindergarten enrollees	1 to 14	28
School age	1 to 16	32

(b) Substitute staff. Each facility shall have two additional adults who are available to work in case of illness or emergency. Their names and phone numbers shall be posted, and their health certificates shall be on file.

(c) Volunteers. Volunteers shall be at least 14 years of age. Volunteers may be counted in the staff/child ratio if they are 16 years of age or older, participate in in-service training programs, and are supervised at all times by employed staff.

(d)(1) Each child care center shall have a program director who is employed full time.

(2) Each facility licensed for more than 60 children shall employ a program director who has no other assigned teaching responsibilities.

(3) Each facility licensed for more than 60 children shall have an administrator, who may also be the program director.

(e) Staff training.

(continued)

(1) The program director shall receive at least five clock-hours of approved in-service training annually. Such in-service training shall be conducted away from the facility.

(2) Teaching staff shall receive at least 10 clock-hours of approved in-service training annually.

(f) References. Each staff member shall provide work references at the time of application for employment.

(g) The program director shall submit an annual program report to the Kansas department of health and environment on forms supplied by the department.

(h) The program director shall report to the Kansas department of health and environment the name, address and birthdate of each new staff person hired, each new person living in the facility, and each new volunteer recruited during the license year. This report shall be filed within two weeks of the time the person begins to reside, work or volunteer in the facility. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985.)

**28-4-430. Health.** (a) Children's health assessments.

(1) A pre-entrance health assessment conducted within six months prior to enrollment shall be required for each child. The assessment shall be conducted by a licensed physician, or a nurse approved to perform health assessments.

(2) Results of the assessment shall be recorded on forms supplied by the Kansas department of health and environment, and kept in the child's file at the facility.

(3) Children transferring from one facility to another shall not be required to obtain a new health assessment if the old assessment record is available.

(4) Tuberculin testing shall be required only if the child comes in contact with a new active or reactivated case of tuberculosis. The results of this examination shall become a part of the child's health record.

(5) Immunizations shall be current in accordance with the child's age at time of enrollment, and shall be maintained current for protection against diphtheria, pertussis, tetanus, measles, mumps, rubella, and poliomyelitis. A record of each child's immunizations shall be maintained on that child's health assessment form.

(6) Exceptions to health assessments and immunizations shall be permitted if one of the following is obtained:

(A) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or

(B) A written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to health assessments or immunizations.

(7) Each licensee shall provide information to the parents of children in care about the value of annual, well-child health assessments for children under six years of age and bi-annual health assessments for

children six years of age and older. Each licensee shall also provide information about the importance of seeking medical advice when a child exhibits health problems. This information may be provided by giving a Kansas department of health and environment pamphlet to the parent at the time the child is enrolled, or by posting the information in a conspicuous place, with copies of the pamphlets available to parents on request.

(b) Health practices.

(1) Each child's hands shall be washed with soap and water before eating and after toileting. Each child's hands and face shall be washed after eating.

(2) Children shall be allowed to go to the bathroom individually as needed.

(c) Illness and abuse.

(1) When a child is absent due to a communicable disease, staff shall inform other parents of the nature of the illness.

(2) Communicable diseases shall be reported to the county health department.

(3) Each staff member shall be trained to observe symptoms of illness, neglect, and child abuse, and shall observe each child's physical condition daily.

(4) Symptoms of illness shall be reported immediately to parents.

(5) Any evidence of neglect or unusual injuries, including bruises, contusions, lacerations, and burns, shall be noted on the child's record, and shall be reported immediately to the person in charge of the facility.

(6) The person in charge of the facility shall report immediately to the Kansas department of social and rehabilitation services any evidence of suspected child abuse or neglect. When the local offices of the department of social and rehabilitation services are not open, reports shall be made to local law enforcement agencies.

(7) If care of sick children is to be provided, written plans regarding the needs of a sick child, and the care of a sick child, shall be prepared in consultation with the public health nurse, and shall be presented to the parents at time of enrollment.

(8) A quiet area shall be provided for sick children. Sick children shall be supervised by an adult.

(9)(A) Non-prescription medications shall not be administered to any child except on written order of the parent or guardian.

(B) These orders shall be renewed yearly.

(C) Such medication shall be administered by a designated staff member.

(10) Prescription medication shall be administered by one designated staff member, per session, from a pharmacy container labeled with the child's name, the name of the medication, dosage, dosage intervals, the name of the physician, and the date the prescription was filled. The label shall be considered the order from the physician.

(11) A record shall be kept in the child's file as to who gave the medication, and of the date and time it was given.

(d) Staff.

(1) General health policies.

(A) All staff shall be free of communicable diseases and shall be in such a state of health and freedom from physical or emotional handicaps as is necessary to work with children.

(B) Smoking shall be prohibited in the center or preschool.

(C) Alcohol or non-prescribed controlled substances, as defined in K.S.A. 65-4101 and any amendments thereof, shall not be consumed on the premises during hours of operation, nor while children are present.

(2) Physical health.

(A) Each staff person who will have contact with the children shall have a health assessment conducted within one year prior to employment. Health assessments shall be conducted by a licensed physician or a nurse approved to perform health assessments.

(B) Results of the assessment shall be recorded on forms supplied by the Kansas department of health and environment and kept in the staff person's personnel file.

(C) The health assessment for each person 16 years of age or older shall include a record of a tuberculin test or X-ray obtained within the past two years. Test or X-ray results shall be recorded on the person's health record. The county health department and Kansas department of health and environment shall be notified when tests are positive.

(D) Additional tuberculin testing shall not be required unless significant exposure to an active case of tuberculosis occurs, or unless symptoms compatible with tuberculosis develop. Proper treatment or prophylaxis shall be instituted, and results of that follow-up shall be recorded on the person's health record. The Kansas department of health and environment shall be kept informed.

(e) Any person residing in the same location as a child care center or preschool shall obtain a health assessment as described in paragraph (2) of subsection (b). Persons under 16 years of age shall have current immunizations.

(f) Each volunteer shall present written proof of freedom from active tuberculosis. Such proof shall have been obtained within the past two years prior to volunteering. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985.)

**28-4-433. Pets and animals.** (a) Whenever animals are on the premises, policies for their care and maintenance shall be written and posted. Dogs and cats shall have current immunizations as recommended by a veterinarian. A record of immunizations shall be kept on file.

(b) Animals that represent a hazard to children shall not be kept on the premises but may be displayed on the premises as a part of an animal exhibit. Any such exhibit shall be supervised by appropriate animal care personnel.

(c) Dogs, horses, other animals and birds shall be confined in areas which are removed from children's activities, and which are maintained in a sanitary manner. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1985.)

**28-4-439. Child care centers: food service.** (a) Single or multi-unit centers serving a meal prepared at the center to 13 or more children shall employ a staff person who:

- (1) Has knowledge of nutritional needs of children;
- (2) understands quantity food preparation and service;
- (3) practices sanitary methods of food handling and storage;
- (4) is sensitive to individual and cultural food tastes of children; and
- (5) is willing to work with the program director in planning learning experiences for children relative to nutrition.

(b) Centers shall serve meals and snacks as follows:

Length of Time at Center	Food Served
2½ to 4 hours	1 snack
4 to 8 hours	1 snack & 1 meal
8 to 10 hours	2 snacks & 1 meal or 1 snack & 2 meals
10 hours or more	2 meals & 2 or 3 snacks

(c) Meals and snacks.

(1) Breakfasts shall include:

- (A) A fruit, vegetable, or full-strength fruit or vegetable juice;
- (B) bread, a bread product or cereal; and
- (C) milk.

(2) Noon or evening meals shall include one item from each of the following:

- (A) Meat, poultry, fish, egg, cheese, cooked dried peas or beans, or peanut butter;
- (B) two vegetables, 2 fruits, or one vegetable and one fruit;
- (C) bread, bread product or cereal; and
- (D) milk.

(3) Mid-morning and mid-afternoon snacks shall include at least two of the following:

- (A) Milk, milk product or food made with milk;
- (B) fruit, vegetable, or full-strength fruit or vegetable juice;
- (C) meat or a meat alternate; or
- (D) bread, bread product or cereal.

(d) A sufficient quantity of food shall be prepared for each meal to allow the children second portions of vegetables or fruit, bread, and milk.

(e) Food allergies or special dietary needs of specific children shall be known to cooks, staff members, child care workers, and substitutes.

(f) Menus shall be posted where parents can see them. Copies of menus served the previous month shall be kept on file.

(g) Staff shall sit at the table with the children, and socialization shall be encouraged. Children shall be encouraged to serve themselves. Spoons and forks shall be provided for each child's use. Appropriate service shall be used for meals and snacks.

(h) Children's food shall not be placed on a bare table.

(i) Toothbrushes shall be provided for each child's use. They shall be used daily after meals, and shall be stored in a sanitary manner out of children's reach.

(j) When meals are prepared on the premises, the

(continued)

kitchen shall be separate from the eating, play, and bathroom areas, and shall not be used as a passageway while food is being prepared.

(k) Food shall be stored as follows:

(1) Poisonous or toxic materials shall not be stored with food. Medications requiring refrigeration shall be labeled and kept in locked storage in the refrigerator.

(2) All perishables and potentially hazardous foods shall be continuously maintained at 45°F or lower in the refrigerator, or 10°F or lower in the freezer, with 0°F recommended. Each cold storage facility shall be provided with a clearly visible, accurate thermometer.

(3) All foods stored in the refrigerator shall be covered.

(4) Foods not requiring refrigeration shall be stored at least six inches above the floor in clean, dry, well-ventilated storerooms or other areas.

(5) Dry, bulk foods which are not in their original, unopened containers shall be stored in metal, glass or food-grade plastic containers with tight-fitting covers, and shall be labeled.

(l) Table service shall be maintained in sanitary condition using one of the following methods:

(1) Disposable plates and cups, and plastic utensils of food grade, medium weight; or

(2) a three-compartment sink supplied with hot and cold running water and a drainboard for washing, rinsing, sanitizing, and air drying; or

(3) a mechanical dishwasher.

(m) Dishes shall have smooth, hard-glazed surfaces, and shall be entirely free from cracks or chips.

(n) Tables shall be washed before and after meals, and floors shall be swept after meals.

(o) If meals are catered:

(1) Food shall be obtained from sources licensed by the Kansas department of health and environment.

(2) Food shall be transported in covered and temperature-controlled containers, and shall not be allowed to stand. Hot foods shall be maintained at not less than 140°F, and cold foods shall be maintained at 45°F or less.

(p) Fluid dairy products shall be Grade A pasteurized. Solid dairy products shall be pasteurized. Dry milk shall be used only for cooking.

(q) Meat shall be from government-inspected sources.

(r) Home-canned food, food from dented, rusted, bulging, or leaking cans, or food from cans without labels shall not be used.

(s) Garbage shall be placed in covered containers inaccessible to children, and shall be removed from the kitchen daily. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985.)

**28-4-440. Infant and toddler programs.** (a) Infant and toddler programs shall be conducted on the ground floor only.

(b) Infant and toddler units shall be separate from units for older children.

(c) Floor furnaces shall be prohibited.

(d) A sleeping area separate from the play area shall be provided for infants.

(e) A crib or playpen shall be provided for each infant in care at any one time.

(f) Cribs and playpens shall have slats not more than 2<sup>3</sup>/<sub>8</sub> inches apart, or shall be equipped with bumpers. The side of the crib or playpen shall be up while the crib or playpen is in use.

(g) When children are awake, they shall not be left unattended in cribs or other confinement for more than 30 minutes.

(h) An adult-size rocking chair shall be provided in each infant or toddler unit.

(i) Children not held for feeding shall have low chairs and tables, infant seats with trays, or high chairs with a wide base and a safety strap.

(j) Individually-labeled towels and washclothes or disposable products shall be provided.

(k) Items that children may place in their mouths shall be washed daily with soap and water.

(l) Staff requirements. Single or multi-unit centers serving infants and toddlers shall employ one staff person per unit who meets the training requirements under one of the following options:

(A) Option 1: A person with six months' teaching experience or a supervised practicum in licensed child care centers enrolling infants and toddlers; or

(B) Option 2: A licensed L.P.N. or R.N. with three months' experience in pediatrics, or in licensed child care centers enrolling infants and toddlers; or

(C) Option 3: A child development associate credential in infant/toddler care.

(m) Program.

(1) Daily activities shall contribute to:

(A) Gross and fine motor development;

(B) visual-motor coordination;

(C) language stimulation; and

(D) social and personal growth.

(2) Infants and toddlers shall spend time outdoors daily unless extreme weather conditions prevail.

(n) Food service.

(1) The nitrate content of water for children under one year of age shall not exceed 45 milligrams per liter as nitrate (NO<sub>3</sub>).

(2) Infants shall be held when bottle fed until they can hold their own bottles.

(3) Infants and toddlers shall not be allowed to sleep with bottles in their mouths.

(4) Prepared formula and juice shall be refrigerated until used. Leftover formula and juice shall be labeled and refrigerated with the nipple covered, and shall be used within 24 hours.

(5) Solid foods shall be offered in consultation with the child's parents. Opened containers of solid foods shall be labeled with child's name, and shall be covered and refrigerated. Food in such containers shall be reheated only once and shall not be served to other children.

(o) Toileting.

(1) Children's clothing shall be changed whenever wet or soiled.

(2) Each child shall have at least two complete changes of clothing.

(3) Handwashing facilities shall be in or adjacent to the diaper-changing area.

(4) Children shall be diapered in their own cribs or playpens, or on a changing table. Each unit shall have a changing table.

(5) Changing tables shall have an impervious, undamaged surface. Tables shall be sturdy, and shall be equipped with railings or safety straps.

(6) Changing tables shall be sanitized after each use by washing with a disinfectant solution of ½ cup of chlorine bleach to one gallon of water, or a commercial solution approved by the Kansas department of health and environment.

(7) Washable diapers or training pants shall be rinsed immediately following changing and shall be stored in a labeled, covered container or plastic bag.

(8) Disposable diapers shall be placed in a covered container or plastic bag which shall be emptied daily.

(9) There shall be one potty chair for every five toddlers. Potty chairs shall be left in the toilet room. The wastes shall be disposed of immediately in a flush toilet. The container shall be sanitized after each use and shall be washed with soap and water daily. Potty chairs shall not be counted as toilets.

(10) Staff shall wash their hands after changing soiled clothing.

(11) Changing and toileting procedures shall be posted.

(p) Transportation. Car seats, as required in K.A.R. 28-4-425(a)(6), shall be provided when infants and toddlers are transported.

(q) There shall be daily communication between parents and the staff about the child's behavior and development. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985.)

**28-4-441. Programs for school-age children.** (a) Physical plant.

Centers shall have a minimum of 35 foot candles of light in each area used for reading, study, and other close work.

(b) Staffing. (1) Single or multi-unit centers shall employ teaching staff who meet the requirements under one of the following options:

Option 1: As specified in K.A.R. 28-4-429; or

Option 2: An A.B. or B.S. degree in elementary education, physical education, child development or a related academic discipline, and three months' experience with school-age children.

(2) Each unit for school-age children shall be separate from units for younger children, except for periods not to exceed two hours before and after school. Staff/child ratios and unit size shall conform to the provisions of K.A.R. 28-4-428 and shall be based on the age of the youngest child in the group.

(c) Program.

(1) Educational and recreational activities shall meet the individual needs of the children.

(2) Children shall be provided the opportunity to plan activities appropriate to their age.

(3) Activities shall include arts, crafts, music, reading, table games, and sports.

(4) Written parental permission shall be obtained

for children to participate in activities away from the center.

(d) Summer programs for school-age children.

(1) License applications or application renewals for summer programs shall be submitted to the Kansas department of health and environment not later than April 15.

(2) Summer programs shall be based in facilities which meet license requirements.

(3) Sack lunches may be served. Sack lunches and beverages shall be refrigerated.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985.)

## Article 16.—WATER POLLUTION CONTROL

**28-16-56.** (Authorized by K.S.A. 1975 Supp. 65-166a; effective, E-74-7, Nov. 26, 1973; effective, E-76-3, Jan. 1, 1975; effective May 1, 1975; amended, E-76-39, Aug. 1, 1975; amended May 1, 1976; revoked, T-85-30, Nov. 14, 1984; revoked May 1, 1985.)

**28-16-56a. Sewage permit fees; definitions.** For the purposes of K.A.R. 28-16-56b:

(a) "Sewage" shall be defined as in K.S.A. 65-164.

(b) "Domestic sewage" means sewage originating primarily from kitchen, bathroom and laundry sources, including waste from food preparation, dishwashing, garbage grinding, toilets, baths, showers and sinks.

(c) "Municipal waste treatment facility" means a facility owned or operated by a city, county, township, sewer district or other governmental unit for the purpose of treating primarily domestic sewage by physical, chemical or biological means, or by a combination of those methods.

(d) "Commercial waste treatment facility" means a facility serving and owned by an industrial or commercial enterprise or group, or a combination thereof, for the purposes of treating primarily domestic sewage by physical, chemical or biological means, or by a combination of those methods.

(e) "Industrial waste treatment facility" means a facility serving an industrial or commercial enterprise or group, or a combination thereof, for the purposes of treating sewage or process-generated wastewater other than domestic sewage by physical, chemical or biological means or by a combination of those methods. Industrial waste treatment facility includes municipally-owned electricity generating facilities and water treatment plants.

(f) "Cooling water discharge" means cooling water from a system in which there is no contact with process pollutants and where there is no measured chemical buildup other than chemicals added for biological control. All other cooling water systems shall be classified as industrial waste treatment facilities and the fee shall be based on the design or on measured blowdown (discharge), whichever is greater.

(g) "Dewatering discharge" means a discharge resulting from drainage or removal of water from a lagoon, quarry, pit or any other holding device.

(continued)

Dewatering discharge shall not include discharge in which there is measured chemical buildup or to which chemicals have been added for any purpose.

(h) "Dairy farm waste control facility" means a facility used to treat or retain the sewage from the loafing areas, barns, milking parlor, bulk tank and appurtenances and cattle pens associated with the operation of a Grade A dairy farm or a dairy farm which produces manufacturing milk. This classification shall not apply to a processing plant which pasteurizes or bottles milk or which manufactures milk products.

(i) "Confined feedlot waste control facility" means a confined cattle, swine, poultry, or sheep feeding waste control facility, or any combination thereof, on land under common ownership with a contiguous boundary, excluding public roadways. Two cattle, swine, sheep or poultry operations on separate pieces of land without a contiguous ownership boundary shall be classified as separate operations and each operation shall be assessed a fee under K.A.R. 28-16-56b. (Authorized by and implementing K.S.A. 1984 Supp. 65-166a; effective, T-85-30, Nov. 14, 1984; effective May 1, 1985.)

**28-16-56b. Sewage permit fees; schedules.** (a) Each applicant applying for a permit in conformance with K.S.A. 65-165, and each holder of a permit issued in conformance with K.S.A. 65-165 and amendments thereto, shall submit the appropriate fee in accordance with the following schedule:

Schedule of Fees at Annual Rate	
Classification	Unit Rates & Minimum Rates
(1) Municipal or commercial waste treatment facility.	\$185/year/million gallons per day design capacity and for any portion thereof. \$185 minimum fee per year.
(2) Industrial waste treatment facility.	\$320/year/million gallons per day design capacity and for any portion thereof. \$320 minimum fee per year.
(3) Cooling water discharge—surface disposal.	\$60 per year.
(4) Dewatering discharge.	\$60 per year.
(5) Dairy farm waste control facility: 500 cow herd or more	\$30 per year.
(6) Confined cattle feedlot waste control facility: 1,000-4,999 head 5,000-9,999 head 10,000 head or more	\$30/year \$75/year \$150/year
(7) Confined swine feedlot waste control facility: 1,000-4,999 head 5,000-9,999 head 10,000 head or more	\$30/year \$75/year \$150/year
(8) Confined sheep feedlot waste control facility: 1,000-4,999 head 5,000-9,999 head 10,000 head or more	\$30/year \$75/year \$150/year
(9) Poultry waste control facility: 10,000-49,999 fowl 50,000-99,999 fowl 100,000 fowl or more	\$30/year \$75/year \$150/year

(b)(1) Plans and specifications shall not be reviewed and processing and issuance of a permit shall not take place until such fee is paid. Fees shall be made payable to "Kansas department of health and environment—water pollution control permit."

(2) Fees paid in accordance with the above schedule, including fees paid for facilities which are never built or which are abandoned, shall not be refunded.

(3) Applicants operating a facility in which two or more of the wastes identified in the above fee schedule are disposed of shall pay the appropriate fee for each type of waste disposed, even if only one permit has been issued for the facility.

(4) Permit fees shall be based on the minimum rate or unit rate, whichever is greater. The full unit rate shall be applied to any portion of a unit. The fees per unit shall not be prorated.

(5) If, during the term of a valid permit, ownership of the permitted facility changes, no additional fee shall be required unless a change occurs which results in a new or expanded facility or operation.

(6) A permit fee shall be paid annually in accordance with the above schedule for each permit issued or reissued after the effective date of this regulation. Payment shall be due on the month and day of the permit expiration date. Permit modification or revision, during the term of a valid permit, shall not require payment of an additional fee if the permit was issued prior to the effective date of this regulation, so long as the modification or revision is not the result of a new or expanded facility or operation.

(7) If, during the term of a valid permit, a change occurs which results in an expanded capacity of the facility or operation, a new application shall be required. Upon approval, the existing permit shall be amended and shall continue in effect for the remainder of its original term, unless revoked. The fee established shall be based only on the difference between the original permitted capacity and the expanded capacity and such fee shall be based on the annual unit or minimum rate, whichever is greater, for the remainder of the term of the permit. (Authorized by and implementing K.S.A. 1984 65-166a; effective, T-85-30, Nov. 14, 1984; effective May 1, 1985.)

**28-16-83. Entities regulated.** The provisions of K.A.R. 28-16-84 to 28-16-98, inclusive, and any amendments to those regulations, shall apply to:

(a) pollutants from nondomestic sources which are subject to one or more pretreatment standards and which are indirectly discharged, or are otherwise introduced by any means, into any publicly owned treatment works (POTW);

(b) any POTW which receives wastewater from sources subject to one or more pretreatment standards; and

(c) any new or existing source which is subject to one or more pretreatment standards. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1985.)

**28-16-84. Objectives of general pretreatment regulations.** 40 CFR § 403.2, as in effect on September 17, 1984, is adopted by reference. (Authorized by and



implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1985.)

**28-16-85. Definitions.** 40 CFR § 403.3, as in effect on September 17, 1984, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1985.)

**28-16-86. Local laws not superceded.** The provisions of K.A.R. 28-16-83 to 28-16-98, inclusive, shall not supercede any pretreatment requirements, including any standards or prohibitions, established by any local law as long as the local requirements are not less stringent than any set forth in the national pretreatment standards or other requirements or prohibitions established by the state or federal government. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1985.)

**28-16-87. National pretreatment standards; prohibited discharges.** Subsections (a) to (e), inclusive, of 40 CFR § 403.5, as in effect on September 17, 1984, are adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1985.)

**28-16-88. National pretreatment standards; categorical standard.** 40 CFR § 403.6, as in effect on September 17, 1984, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1985.)

**28-16-89. Revision of categorical pretreatment standards to reflect POTW removal of pollutants.** (a) 40 CFR § 403.7, as in effect on September 17, 1984, is adopted by reference, except in lieu of § 403.7(b)(3) the following shall apply: (3) The POTW shall analyze the samples for pollutants in accordance with the analytical techniques prescribed in 40 CFR part 136, as published on October 26, 1984. Where 40 CFR part 136 does not contain sampling and analytical techniques for the pollutant in question, or where the director determines that the part 136 sampling and techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed using validated analytical methods or other appropriate sampling and analytical procedures, including procedures suggested by the POTW or other persons, approved by the director:

(b) 40 CFR part 136, as published on October 26, 1984, is adopted by reference (see 49 FR 43234). (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1985.)

**28-16-90. POTW pretreatment programs, developed by POTW.** 40 CFR § 403.8, as in effect on September 17, 1984, is adopted by reference, except in lieu of paragraph (f)(1)(vii) the following shall apply: (vii) Comply with the confidentiality requirements of the Kansas open records act. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1985.)

**28-16-91. POTW pretreatment programs.** Any municipality (POTW) with a Kansas water pollution control permit may be required to develop a local

pretreatment program. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1985.)

**28-16-92. POTW pretreatment programs or authorization to revise pretreatment standards; submission for approval.** 40 CFR § 403.9, as in effect on September 17, 1984, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1985.)

**28-16-93. Approval procedures for POTW pretreatment programs and POTW revision of categorical pretreatment standards.** 40 CFR § 403.11, as in effect on September 17, 1984, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1985.)

**28-16-94. Reporting requirements for POTW's and industrial users.** (a) 40 CFR § 403.12, as in effect on September 17, 1984, is adopted by reference, except: (1) in lieu of § 403.12(b)(5)(vi) the following shall apply: (vi) Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR part 136, as published on October 26, 1984. Where 40 CFR part 136 does not contain sampling and analytical techniques for the pollutant in question, or where the director determines that the part 136 sampling and techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed using validated analytical methods or other appropriate sampling and analytical procedures, including procedures suggested by the POTW or other persons, approved by the director.

(2) in lieu of § 403.12(g) the following shall apply: (g) Monitoring and analysis to demonstrate continued compliance. The reports required in paragraphs (b)(5), (d), and (e) of this section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or producton and mass where requested by the control authority, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be as prescribed in the applicable pretreatment standard. All analyses shall be performed in accordance with 40 CFR part 136, as published on October 26, 1984. Where 40 CFR part 136 does not include sampling or analytical techniques for the pollutants in question, or where the director determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or other sampling and analytical procedures, including procedures suggested by the POTW or other persons, approved by the director.

(3) in lieu of § 403.12(k) the following shall apply: (k) Penalties for providing false information. Any person who willfully provides false information on any report required by subsections (b), (d), (e), (h), (i) or (j) of 40 CFR § 403.12 shall be subject to the penalties imposed under K.S.A. 65-170c, K.S.A. 65-170d and K.S.A. 1983 Supp. 21-3805, and any amendments thereto.

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(b) 40 CFR part 136, as published on October 26, 1984, is adopted by reference (see 49 FR 43234). (Authorized by and implementing 1984 Supp. 65-171d; effective May 1, 1985.)

**28-16-95. Variances from categorical pretreatment standards for fundamentally different factors.** 40 CFR § 403.13, as in effect on September 17, 1984, is adopted by reference, except: (a) in lieu of § 403.13(b) the following shall apply: (b) A fundamentally different factors variance may be requested under this section by any interested person believing that factors relating to an industrial user are fundamentally different from the factors considered during development of a categorical pretreatment standard applicable to that user and that the existence of those factors justifies a different discharge limit than specified in the applicable categorical pretreatment standard. Such a variance request may be initiated by the director. A fundamentally different factors variance is not available for any toxic pollutant controlled in a categorical pretreatment standard; and

(b) in lieu of § 403.13(c)(1)(ii) the following shall apply: (ii) Factors relating to the discharge controlled by the categorical pretreatment standard are fundamentally different from the factors considered in establishing the standards; and. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1985.)

**28-16-96. Confidentiality of information.** Any information submitted to the department of health and environment shall be subject to disclosure or nondisclosure as provided in the Kansas open records act. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1985.)

**28-16-97. Net/Gross calculations.** 40 CFR § 403.15, as in effect on September 17, 1984, is adopted by reference, except that each reference to the enforcement division director, regional enforcement officer, or EPA shall be deemed to refer to the director. Nothing in this regulation shall relieve any person of the duty to obtain approval from the U.S. environmental protection agency. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1985.)

**28-16-98. Upset provisions.** 40 CFR § 403.16, as in effect on September 17, 1984, is adopted by reference, except that each reference to the agency shall be deemed to refer to the Kansas department of health and environment. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1985.)

## Article 19.—AMBIENT AIR QUALITY STANDARDS AND AIR POLLUTION CONTROL

**28-19-7. Definitions.** All terms and abbreviations used in these emission and open burning control regulations shall have the following meanings unless otherwise defined in an individual regulation.

(a) Agricultural-related activity means processes used in the production of popcorn which is packaged

but not popped; ornamental floriculture and nursery products; shortening, table oils and margarine; prepared feeds and feed ingredients for animals and fowl; molasses, which is mixed or blended; cotton ginnings; flour and other grain mill products. Agricultural-related activity also includes sunflower oil reclaiming, seed cleaning and operations related to alfalfa dehydrators, sun-cured alfalfa plants, soybean oil mills and grain elevators.

(b) *Alter* means any physical change to, or any change in the method of operating, any machine, equipment, device, or other article, or combination thereof, which constitutes a source of air contaminant emissions subject to the provisions of these regulations, if that change effects the amount or nature of these emissions. Routine maintenance or parts replacement shall not be considered to be an alteration. Increases or decreases in operating hours or production rates shall not be considered to be an alteration if production rate increases do not exceed the originally approved design capacity of the articles involved and if the increased emissions resulting from these changes do not exceed any emission or operating limitations imposed as a condition to any permit issued under K.A.R. 28-19-14.

(c) *Control device* means any equipment, device or other article that is designed, installed or both for the purpose of reducing or preventing the discharge of contaminant emissions to the air.

(d) *Department* means the Kansas state department of health and environment or an authorized representative of the department.

(e) *Direct heating equipment* means any device in which fuel is burned in direct contact with, and for the purpose of heating, air which comes in direct contact with the material being processed.

(f) *Director* means the secretary of health and environment or a designated representative of the secretary.

(g) *Emission source* means any machine, equipment, device or other article or operation that directly or indirectly releases contaminants into the outdoor atmosphere.

(h) *Existing* means any processing machine, equipment, device or other article, or combination thereof, or any indirect heating equipment or incinerator, that is completed, under construction, or under purchase contract on the effective date of any applicable regulation.

(i) *Indirect heating equipment* means any device in which fuel is burned to produce heat which is transferred through a heat-conducting materials barrier or by a heat storage medium to a material that is to be heated so that the material being heated is not contacted by, and adds no substance to, the products of combustion.

(j) *Incinerator* means any device or structure used for the destruction, or volume reduction of garbage, rubbish, or other liquid or solid waste materials by combustion for the purpose of disposal or salvage.

(k) *Modified open burning operation* means an open burning operation in which the contaminants emitted to the ambient air as a result of combustion are

reduced, controlled or both through positive regulation of fuel/air ratios, air screens or other control techniques. Combustion devices used solely for the purpose of disposing of flammable gases shall not be considered to be modified open burning operations.

(l) *Official observer* means a designated representative of the department who has been certified by the department as being trained, and qualified on the basis of actual testing, to determine the degree of opacity of visible plumes by direct visual observation. The testing procedure shall be established and published by the department. Such individuals shall be required to be re-tested at least once every six months in order to maintain their certification.

(m) *Opacity* means the degree to which a contaminant emission obscures an official observer's view of transmitted light passing through that contaminant. Zero percent opacity is equivalent to perfect transparency and 100 percent opacity is perfectly opaque.

(n) *Open burning operations* means the burning of any materials in which contaminants resulting from combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. For the purposes of this definition, a chamber shall be considered enclosed when only those apertures, ducts, stacks, flues or chimneys that are required to supply combustion air and to permit the escape of exhaust gases are open during the combustion process.

(o) *Particulate* means any dispersed matter, whether solid or liquid, except uncombined water.

(p) *Potential contaminant emission factor* means the mathematical expression derived by dividing the average value of the amount of air contaminant emissions that have been found to be associated with a specific type of processing or combustion operation by the quantity of material that was being processed at the time the emissions were determined or by some other meaningful parameter.

(q) *Potential contaminant emission rate* means the total weight of a contaminant that is or, in the absence of control equipment, would be emitted from an air contaminant source when that source is operating at its maximum capacity. For the purposes of these regulations, the potential contaminant emission rate shall be determined by:

- (1) Sampling in a flue or duct prior to the inlet of any control device serving the flue or duct;
- (2) estimating such emissions by performing a "material balance" calculation which indicates the difference between processing input weight and output weight of materials;
- (3) using potential contaminant emission factors as recognized by the department; or
- (4) by using any other estimating technique mutually agreeable to the department and the person responsible for operation of the source.

(r) *Premises* means one or more contiguous or adjacent parcels of land, and any structures or equipment located on the parcels, that are under one ownership. For the purpose of this definition, a parcel of land that is bordering another parcel solely divided by a public

roadway or a railroad right-of-way shall be considered to be adjacent.

(s) *Processing* means any operation related to the handling, storage, treatment or conversion of input materials to produce a salable or usable end product.

(t) *Smoke* means particulate emissions, resulting from incomplete combustion, that consist primarily of carbon, ash and other material and that form a visible plume in the ambient atmosphere.

(u) *Waste or wastes* means all discarded solid and liquid materials resulting from industrial, commercial and agricultural operations, and from community activities, that are not intentionally disposed of by means of water carried systems that empty into the waters of the state. (Authorized by and implementing K.S.A. 65-3005; effective Jan. 1, 1971; amended Jan. 1, 1972; amended, E-73-8, Dec. 27, 1972; amended Jan. 1, 1974; amended May 1, 1975; amended, T-84-39, Dec. 21, 1983; amended May 1, 1984; amended, T-85-29, Nov. 14, 1984; amended May 1, 1985.)

**28-19-8. Reporting required.** (a) (1) Any person who proposes to construct, alter, use or operate any processing machine, equipment, device or other article, or any combination thereof, that is capable of emitting any potential contaminant emissions equal to or in excess of the levels specified in subsection (b) of this regulation shall report this proposed activity to the department at least 90 days prior to initiating the activity. Reporting required by this section shall be on forms provided by the department and shall contain all information required by the department that is relevant to air pollution and that is available to, or that is reasonably capable of being assembled by, the person that completes the report.

(2) If the construction, alteration, use or operation of any article that is subject to this reporting requirement was not previously required to be reported under these regulations and if the construction, alteration, use or operation was initiated before January 1, 1984, then this alteration, construction, use or operation shall not be considered in violation of this regulation until 60 days after the department has notified the person responsible for the use or operation of the article that this use or operation must be reported. This notification shall be in writing.

(b) The following levels and types of air contaminant emissions shall be reported under the provisions of subsection (a) of this regulation:

- (1) One or more pounds of particulate during any hour of operation;
- (2) for any agricultural-related activity, five or more pounds of particulate during any hour of operation;
- (3) two or more pounds of sulfur dioxide or sulfur trioxide, or a combination of both, during any hour of operation;
- (4) 50 or more pounds of oxides of nitrogen, calculated as nitrogen dioxide, during any cumulative 24-hour period;
- (5) 50 or more pounds of carbon monoxide during any cumulative 24-hour period;
- (6) 50 or more pounds of gaseous hydrocarbons,

(continued)

excluding methane, during any cumulative 24-hour period;

(7) any measurable quantity of lead or lead compounds;

(8) any air contaminant emissions from any incinerator used to dispose of refuse by burning or for the processing of salvageable materials, except incinerators that are installed on residential premises which contain less than six dwelling units and that are used to burn waste materials that are associated with normal habitation of those dwelling units; and

(9) any other air contaminant emissions that the secretary of health and environment or an authorized representative of the secretary determines may cause or contribute to air pollution within the state because of its specific chemical or physical nature or because of the quantity discharged. Failure to report sources of a contaminant subject to provisions of this paragraph shall not be considered in violation of the requirement of subsection (a) until 60 days after the person responsible for construction, alteration, use or operation of the source has received written notice from the department requiring that emissions from the source are to be reported.

(c) Construction required for activities that are subject to this regulation shall not be initiated until the department has provided written notice that the activity is approved or until any permit required for this activity has been issued under K.A.R. 28-19-14. (Authorized by K.S.A. 65-3005; implementing K.S.A. 65-3005, 65-3007, 65-3010, effective Jan. 1, 1971; amended Jan. 1, 1972; amended, E-73-8, Dec. 27, 1972; amended Jan. 1, 1974; amended May 1, 1975; amended, T-84-39, Dec. 21, 1983; amended May 1, 1984; amended, T-85-29, Nov. 14, 1984; amended May 1, 1985.)

**28-19-14. Permits required.** (a) Any person who proposes to construct, alter, use, or operate any air contaminant emission source that is required to be reported under K.A.R. 28-19-8 and that has a potential contaminant emission rate in excess of the following limitations shall obtain a permit from the department of health and environment before beginning this activity:

(1) 10 tons per year or more of particulate;

(2) for agricultural related activity, 100 tons per year or more of particulate, or 25 tons per year or more of particulate when a review and approval under the provisions of K.A.R. 28-19-16 or 28-19-17 is required;

(3) 10 tons per year or more of sulfur oxides;

(4) 10 tons per year or more of carbon monoxide;

(5) 10 tons per year or more of volatile organic compounds, excluding methane;

(6) 50 tons per year or more of oxides of nitrogen;

(7) Any measurable amount of lead or lead compound; and

(8) Any emission required to be reported under K.A.R. 28-19-8(b)(9).

(b) Application for a permit required by this regulation for the construction, alteration, use or operation of an emission source shall be made on forms provided by the department. The department shall send these

forms to the person proposing the activity within 15 days of receipt of a report submitted in accordance with K.A.R. 28-19-8. The department may require the applicant to furnish any additional information that is relevant in determining compliance with these regulations and that is available to or that is reasonably capable of being assembled by the applicant.

(c) The department shall review each completed application that has been submitted in accordance with subsection (b) and shall provide written notice to the applicant of the approval, conditional approval, or denial of the permit within 180 days of receipt of the completed application. The reason for denial of any application shall be specified.

(d) Any permit issued for the construction or alteration of a source under the provisions of this regulation shall become void if the construction or alteration is not commenced within 18 months after the permit has been issued or if the activities required to complete the alteration or construction have been discontinued for 18 months or more.

(e) Any permit required for the construction or alteration of a source by this regulation shall not be issued if the department determines that the air contaminant emissions from the source will interfere with the attainment and maintenance of any ambient air quality standard that has been established under the provisions of the federal Clean Air Act, and amendments thereto, or under the provisions of state law.

(f) Any permit required by this regulation shall not be issued or renewed unless the fee required by K.A.R. 28-19-14a or 28-19-14b has been paid.

(g) The department shall collect an annual operating permit fee for an approved new or altered source only for each year following the year in which the construction of the new source or the alteration of an existing source has been completed.

(h) Subject to the provisions of subsection (k), the secretary shall issue an operating permit required by this regulation for any source that is operating, under construction, under purchase contract, or that is being altered on January 1, 1984. These sources shall be considered existing sources for the purpose of initially complying with the permit requirements of this regulation and shall only be subject to the provisions that are applicable to the renewal of permits.

(i) Any permit issued or renewed under this regulation may be conditioned upon compliance by the owner or operator with any special restrictions that are deemed necessary to assure compliance with these regulations or otherwise prevent air pollution. These restrictions may include, but need not be limited to, special requirements concerning methods of operation, emission limitations or control procedures to be implemented. Such restrictions shall be stipulated in writing as part of, or as an attachment to, the permit.

(j) Any permit issued or renewed under this regulation may stipulate one or more air contaminant emission sources that are approved to be constructed, altered, used, or operated. These sources shall be located on the same premises, shall be under one ownership and shall be considered as part of the same industrial grouping as determined by the department.

The industrial grouping shall be identified by using the industrial titles and descriptions provided in the "Standard Industrial Classification Manual 1972," as published by the U.S. Government Printing Office. For the purpose of establishing the annual operating permit fee to be collected under K.A.R. 28-19-14b, the department shall stipulate the industrial grouping that is considered to be the primary activity covered by the permit.

(k) The secretary may refuse to issue or renew any permit that is required by this regulation, or may suspend or revoke any previously issued or renewed permit, if it is determined that the air contaminant emissions from the source are in violation of any of the requirements of these regulations or any applicable provision of state statute. (Authorized by K.S.A. 65-3005; implementing K.S.A. 65-3005, and K.S.A. 1984 Supp. 65-3008; effective, E-78-8, Dec. 27, 1972; effective Jan 1, 1974; amended May 1, 1984; amended, T-85-29; Nov. 14, 1984; amended May 1, 1985.)

**28-19-14b. Operating permit fee.** (a) The department of health and environment shall annually collect a fee for permits issued or renewed for the operation of air contaminant emission sources under the provisions of K.A.R. 28-19-14.

(b) The fee collected under subsection (a) shall be established on the basis of the classification of the contaminant source as identified in Table F-1, of this regulation. The annual fee collected for a source in any class shall be determined by multiplying the class number for the source, as determined by Table F-1, by \$20.00.

TABLE F-1—Operating Permit Fee Classification Table

Class Number	Source Type
1	Incinerators (wire reclaimers only); Incinerators (burnout ovens).
2	Ready-mix Concrete Plants, $\geq 12$ to $< 100$ cubic yards per hour capacity; Packaging Fumigants; Concrete Block Plants; Sawmill and Planing Mills; Metal Shredding; Bituminous Coal Loadout Site; Liquid Fertilizer Converters; Pipe Organs; Indirect Heaters $\leq 5,000,000$ BTU/hr (waste oil fired).
3	Ready Mix Concrete Plants, $\geq 100$ cubic yards per hour capacity; Miscellaneous Plastic Products; Aluminum Extruded Products; Drawing and Insulating of Nonferrous Wire; Heating Equipment, Except Electric and Warm Air Furnaces; Fabricated Structural Metal Products; Farm and Garden Machinery and Equipment; Special Dies and Tools, Die Sets, Jigs and Fixtures and Industrial Molds; General Industrial Machinery and Equipment; Truck and Bus Bodies; Motor Vehicle Parts and Accessories; Games, Toys and Children's Vehicles; Cheese, Natural and Processed; Shortening, Table Oils and Margarine; Fabricated Rubber Products; Boat Building; Municipal Incinerators, with capacity $< 2,000$ lbs/hr; Concrete Slabs, Sewer Pipe and Tie Manufacturing; Sand Drying Operations; Pre-blended Concrete; Furniture Manufacturing; Appliance Manufacturing; Lubricant Blending; Waste Oil Refining; Fabricated Pipe Products; Research and Development Laboratories; Mobile Homes (frames); Pharmaceutical Preparations; Surgical and Medical Instruments and Apparatus; Dry Wall Finishing Materials; Signs.
4	Millwork; Charcoal Manufacturing; Nonferrous Foundries (castings); Metal Forgings and Stampings; Valves and Pipe Fittings; Service Industry Machines; Brooms and Brushes; Prepared Feeds and feed Ingredients for Animals and Fowl; Micronutrient Manufacturing; Rendering Plants; Dog, Cat and Other Pet Food (without can plant); Food Emulsifiers and

- Conditioners; Macaroni, Spaghetti and Egg Noodles; Kitty Litter; Miscellaneous Janitorial Supplies; Pesticide Mixing, Blending and Packaging; Paperboard Containers and Boxes; Refrigerant Manufacturing; Sunflower Oil Reclaiming; Liquid Nitrogenous Fertilizer Terminal; Granola Processing; Molasses, Mixed or Blended; Coffee Roasting.
- 5 Aluminum Dross Processing; Rock Salt Mining; Natural Gas or Petroleum Liquid Transmission, stations total maximum HP rating  $\geq 475$  HP to  $< 950$  Hp.; \*Crushed and Broken Limestone, maximum capacity of primary crusher  $< 150$  tons per hour; Hot Mix Asphalt Plant, maximum plant capacity  $< 200$  tons per hour; Electric Lamps; Cotton Ginning; Tire Retreading; Heating Equipment; Outdoor Recreation Equipment; Reconditioned Barrels and Drums (without incineration).
- 6 Colleges, Universities and Professional Schools; Correctional Institutions; Meat Packing Plants; Sausages and Other Prepared Meat Products; Drilling Mud Manufacturing; Aircraft Parts and Auxiliary Equipment; Railroad Equipment (railcar refurbishing); Baked and Fried Snacks, Potato Chips, Condensed and Evaporated Milk Processing; Steam Heat Generation; Hospitals.
- 7 Secondary Aluminum Foundry; Brass and Bronze Foundry; Gray Iron Foundry; Bituminous Coal and Lignite (crusher); Hot Mix Asphalt Plants, plant maximum capacity  $\geq 200$  tons per hour; Dog, Cat and Other Pet Foods (with can plant); \*Crushed and Broken Limestone, maximum capacity of primary crusher  $\geq 150$  tons per hour; Perlite and Vermiculite Manufacturing or Handling; Lead Oxide Manufacturing; Railcar Incineration; Detoxification or Destruction of Chlorinated Hydrocarbons.
- 8 Alfalfa Dehydrators and Sun Cured Alfalfa Plants; Roofing Granules Processing; Cement Bulk Terminals; Sewerage Systems, (lime burning); Sodium Silicate Processing.
- 9 Grain Elevators, storage capacity  $\geq 75,000$  bu. to  $< 2,500,000$  bu.; Expanded Shale Manufacturing; Commercial Printing; Greeting Card Publishing; Beet Sugar; Electric Power Generation, internal combustion only; Natural Gas or Petroleum Liquid Transmission, stations total maximum HP rating  $\geq 950$  HP to  $< 10,000$  HP; Natural Gas or Petroleum Liquid Storage Only; Electric Power Generation, steam generation only (excluding coal fired); Brick and Structural Clay Tile; Clay Pipe and Refractories; Paperboard Containers and Boxes (with printing); Reconditioned Barrels and Drums (with incineration); Steel Drum Manufacturing; Paperboard Mills; Paints, Varnishes, Lacquers, Enamels and Allied Products.
- 10 Salt Mining, Evaporation or Brine Process; Steel Foundries; Gasohol Manufacturing.
- 11 Aircraft Manufacturing; National Security; Sewerage Systems, (sludge incineration).
- 12 Grain Elevators, storage capacity  $\geq 2,500,000$  bu. to  $< 10,000,000$  bu.; Electric Power Generation, internal combustion and steam generation (excluding coal fired).
- 13 Lubricating Oils and Greases; Petroleum Bulk Terminals; Medicinal Chemicals and Botanical Products; Petroleum Liquid Storage (with pump station).
- 14 Ammunition, Except for Small Arms; Storage Batteries.
- 15 Grain Elevators, storage capacity  $\geq 10,000,000$  bu.; Flour and Other Grain Mill Products; Soybean Oil Mills; Natural Gas or Petroleum Liquid Transmission, stations total maximum HP rating  $\geq 10,000$  HP; Natural Gas Liquids; Mixed, Manufactured or Liquefied Petroleum Gas Production and/or Storage and Distribution; Helium Plants; Gypsum Manufacturing.
- 16 Carbon Black; Asphalt Felts and Coatings; Electric Power Generation, total plant generating capacity  $< 1000$  MW (coal fired), Soap and Other Detergents.
- 17 Sulfuric Acid Manufacturing; Nitrogenous Fertilizer Manufacturing; Phosphoric Acid Manufacturing; Industrial Chemical Manufacturing; Cellophane Manufacturing.
- 18 Distilled, Rectified and Blended Liquors; Fiberglass Insulation Manufacturing; Tire Manufacturing.
- 19 Explosives; Portland Cement Manufacturing; Motor Vehicles and Passenger Car Bodies.
- 10 Electric Power Generation, total plant generating capacity  $\geq 1000$  MW (coal fired); Petroleum Refinery.

\* Primary crusher-initial crushing unit to process quarried rock.

(c) The department shall send written notice to any (continued)

source that is required to pay a permit fee under this regulation. This notice shall be sent to the owner or operator of the source not later than January 1 of each year, shall specify the source classification and class number assigned to the source, and shall specify the amount of the fee that is to be remitted to the department.

(d) The permit fee shall be received by the department before April 1 of each year.

(e) If any fee is not paid by April 1, the department shall assess and collect an additional permit fee of \$5.00 for each day that the fee is not paid after March 31.

(f) Any source that does not submit the permit fee before June 1 of any year shall be considered to be an inactive source. The department, before July 1 of any year, shall send written notice to the permit holder of this determination and that the permit will be revoked unless a hearing is requested within 15 days of the notice.

(g) Any source that is deactivated shall not be reactivated or granted an operating permit unless the department has determined that the source complies with the emission and permit requirements of these regulations that pertain to the construction and operation of new sources. The 90 day reporting period required by K.A.R. 28-19-8(a) shall apply to the date that the source is proposed to be reactivated.

(h) The permit fee required by this regulation shall be remitted in the form of a check or money order made payable to the Kansas department of health and environment. Any check for the fee that is not covered by sufficient funds shall be considered to not have been received and the operation of the source shall continue to remain subject to the provisions of subsections (d), (e), (f) and (g) of this regulation. (Authorized by and implementing K.S.A. 65-3005, and K.S.A. 1984 Supp. 65-3008; effective May 1, 1984; amended, T-85-29, Nov. 14, 1984; amended May 1, 1985.)

**28-19-26. Sulfuric acid mist emissions.** (a) As used in this regulation, "sulfuric acid production unit" means a unit producing sulfuric acid through the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides and mercaptans, or acid sludge. Sulfuric acid production units shall not include units in which the conversion to sulfuric acid is used primarily to prevent emissions to the atmosphere of sulfur dioxide or other sulfur compounds.

(b) No person shall cause or permit any gases which contain sulfuric acid mist ( $H_2SO_4$ ) in excess of 0.5 pounds of acid mist per ton of acid produced to be released into the atmosphere from a sulfuric acid production unit. In calculating the amount of acid produced, the acid production shall be expressed as 100%  $H_2SO_4$ .

(c) Reference Method 8 of Appendix A to 40 CFR Part 60, as in effect on August 18, 1977, is adopted by reference and shall be used for determining compliance with subsection (b) of this regulation. (Authorized by K.S.A. 65-3005; implementing K.S.A. 65-3005 and 65-3010; effective May 1, 1985).

## Article 31.—HAZARDOUS WASTE MANAGEMENT STANDARDS AND REGULATIONS

**28-31-2. Definitions.** (a) Incorporation. 40 CFR section 260.10, as in effect on October 1, 1984, is adopted by reference.

(b) "Disposal authorization" means approval from the secretary to dispose of hazardous waste in Kansas.

(c) "Hazardous waste disposal application" means the written information which a hazardous waste generator, transporter or disposal facility is required to submit to the department in order to obtain disposal authorization.

(d) "Kansas generator" means any person who generates more than 75 kilograms and less than 1,000 kilograms of hazardous waste in a calendar month. Effective July 1, 1985, the minimum quantity shall decrease to 50 kilograms and, effective July 1, 1986, the minimum quantity shall decrease to 25 kilograms.

(e) Differences between state and federal definitions. When the same word is defined both in the Kansas statutes and in any federal regulation adopted by reference in these rules and regulations and the definitions are not identical, the definition prescribed in the Kansas statutes shall control. (Authorized by and implementing K.S.A. 1984 Supp. 65-3431; effective May 1, 1982; amended, T-84-5, Feb. 10, 1983; amended May 1, 1984; amended, T-85-42, Dec. 19, 1984; amended May 1, 1985.)

**28-31-3. Identification of characteristics and listing of hazardous waste.** (a) Incorporation. 40 CFR Part 261, as in effect on October 1, 1984, is adopted by reference, except for section 261.5 (a) which shall read, "A generator is a small quantity generator if less than 75 kilograms of hazardous waste is generated in a calendar month." Effective July 1, 1985, the minimum quantity shall decrease to 50 kilograms and, effective July 1, 1986, the minimum quantity shall decrease to 25 kilograms.

(b) Delisting procedure. Any person seeking to exclude a waste at a particular generating facility from the list maintained by the secretary may petition the secretary in accordance with the provisions of 40 CFR sections 260.20 and 260.22, as in effect on October 1, 1984.

(Authorized by and implementing K.S.A. 1984 Supp. 65-3431; effective E-82-20, Nov. 4, 1981; effective May 1, 1982; amended, T-84-5, Feb. 10, 1983; amended May 1, 1984; amended, T-85-42, Dec. 19, 1984; amended May 1, 1985.)

**28-31-7. Standards for routing of hazardous waste.** (a) Standards for preferred routes. Each transporter of hazardous waste shall ensure that any vehicle containing hazardous waste is operated over routes that minimize risk to public health and safety. The transporter shall consider available information on accident rates, transit time, population density and activities, time of day, and day of week during which transportation will occur to select a preferred route. Any transporter of hazardous waste may deviate from a

preferred route under any of the following circumstances:

- (1) Emergency conditions which make continued use of the preferred route unsafe;
- (2) To make necessary rest, fuel, and vehicle repair stops; or
- (3) To the extent necessary to pickup, deliver, or transfer hazardous wastes.

(b) Transporter responsibility. Each transporter shall bear the responsibility of confining the carriage of hazardous wastes to preferred routes. Unless notice to the contrary is given to the transporter or published in the "Kansas Register", all portions of the major highway system may be used. The major highway system is considered to be all interstate routes, U.S. highways, state highways, and temporary detours designated by the Kansas department of transportation. An interstate system bypass or beltway around a city shall be used when available. (Authorized by and implementing K.S.A. 1984 Supp. 65-3431; effective E-82-20, Nov. 4, 1981; effective May 1, 1982; amended, T-85-42, Dec. 19, 1984; amended May 1, 1985.)

**28-31-8a Treatment of hazardous waste for energy recovery.** Any method, technique or process used to recover energy shall be considered hazardous waste treatment and shall comply with the requirements of K.A.R. 28-31-8, if the waste meets any of the following specifications.

- (a) Heat value is less than 8000 BTU/pound;
- (b) Ash content is greater than 7 percent;
- (c) Total sulfur is greater than 3 percent;
- (d) PCB's are greater than 50 ppm; or
- (e) Halogenated organics are greater than 5 percent.

This regulation shall not apply if the facility generates less than 100 kilograms of hazardous waste per month and the waste is burned onsite to recover useful energy in a device determined by the department to have sufficient destruction and removal efficiency to protect human health and environment. (Authorized by and implementing K.S.A. 1984 Supp. 65-3431; effective, T-85-42, Dec. 19, 1984; effective May 1, 1985.)

**28-31-10. Hazardous waste monitoring fees.** (a) Hazardous waste storage facility. Each hazardous waste storage facility shall pay an annual monitoring fee of \$1,500. This fee shall be paid prior to March 1 of each year.

(b) Hazardous waste treatment facility. Each hazardous waste treatment facility shall pay an annual monitoring fee of \$2,500. This fee shall be paid prior to March 1 of each year.

(c) Hazardous waste disposal facility. Each hazardous waste disposal facility other than a landfill shall pay an annual monitoring fee of \$5,000. Each landfill shall pay \$10,000. This fee shall be paid prior to March 1 of each year.

(d) Hazardous waste transporters. Each hazardous waste transporter shall pay an annual monitoring fee of \$250. This fee shall be paid at the time the transporter notifies the department, in accordance with K.A.R. 28-31-6, and prior to March 1 for each year thereafter.

(e) Hazardous waste generators. Each hazardous waste generator shall pay an annual monitoring fee for all hazardous waste generated during the previous calendar year. This fee shall be based upon the following schedule:

Total Yearly Quantity Generated	Monitoring Fee
Less than 2 tons	\$100
Greater than 2 tons and less than 10 tons	\$200
Greater than 10 tons and less than 100 tons	\$500
Greater than 100 tons and less than 500 tons	\$1000
Greater than 500 tons and less than 1000 tons	\$3000
Greater than 1000 tons	\$5000

This fee shall not apply to hazardous wastes which are exempt from regulation by 40 CFR section 261.6(a), as in effect on October 1, 1984. This fee shall be paid prior to March 1 of each year. (Authorized by and implementing K.S.A. 1984 Supp. 65-3431; effective, E-82-20, Nov. 4, 1981; effective May 1, 1982; amended, T-84-5, Feb. 10, 1983; amended, T-85-2, Jan. 13, 1984; amended May 1, 1984; amended, T-85-42, Dec. 19, 1984; amended May 1, 1985.)

**28-31-11. Hazardous waste perpetual care trust fund fees.** (a) Hazardous waste disposal facilities. Each hazardous waste disposal facility shall pay a monthly perpetual care trust fund fee, based on the cubic feet of hazardous waste disposed at the facility. The cubic feet of waste shall be determined prior to addition of those materials which are added at the disposal facility to treat the wastes. The fee shall be 25¢ per cubic foot for hazardous waste disposed in landfills, 0.02¢ per wet cubic foot for hazardous waste disposed by deep well injection and 5¢ per cubic foot for waste disposed by other methods. All calculations of this fee shall apply to the total waste volume.

(b) Monthly reports. On or before the 20th day of each month, the operator of any hazardous waste disposal facility shall prepare and submit to the department a statement giving the following information:

- (1) The name and location of the operator;
- (2) The total cubic feet of hazardous waste disposed at the facility during the preceding calendar month.
- (3) A check for the calculated fee which is payable to the department and designated for the hazardous waste perpetual care trust fund. (Authorized by and implementing K.S.A. 1984 Supp. 65-3431; effective E-82-20, Nov. 4, 1981; effective May 1, 1982; amended, T-85-42, Dec. 19, 1984; amended May 1, 1985.)

**28-31-12. Inspections.** (a) Upon presentation of credentials and stating the purpose of the visit, the secretary or any duly authorized representative of the secretary may at any reasonable hour of the day:

- (1) Enter any factory, plant, construction site, hazardous waste storage, treatment, or disposal facility, or other location where hazardous wastes may potentially be generated, stored, treated, or disposed, and inspect the premises to gather information regarding existing conditions and procedures;
- (2) obtain samples of actual or potential hazardous waste from any person or from the property of any

(continued)

person, including samples from any vehicle in which hazardous wastes are being transported;

(3) stop and inspect any vehicle, if there is reasonable cause to believe the vehicle is transporting hazardous wastes;

(4) conduct tests, analyses, and evaluations of wastes to determine whether the wastes are hazardous wastes and whether the requirements of these rules and regulations are being met;

(5) obtain samples from any containers or facsimiles of container labels;

(6) inspect and copy any records, reports, information, or test results relating to wastes generated, stored, transported, treated, or disposed; and

(7) photograph any hazardous waste management facility, device, structure, or equipment.

(b) If, during the inspection, unsafe or unpermitted hazardous waste management procedures are discovered, the secretary's representative may instruct the operator of the facility to retain and properly store hazardous wastes, pertinent records, samples, and other items. These materials shall be retained by the operator until the waste has been identified and the department determines the proper procedure to be used in handling the waste.

(c) When obtaining samples, the secretary's representative shall allow the facility operator to collect duplicate samples for separate analyses.

(d) During the inspection, the secretary's representative shall comply with all reasonable security, safety, and sanitation measures employed at the facility.

(e) A written report listing any deficiencies found during the inspection and stating the measures required to correct the deficiencies shall be prepared and sent to the operator. (Authorized by and implementing K.S.A. 1984 Supp. 65-3431; effective E-82-20, Nov. 4, 1981; effective May 1, 1982; amended, T-85-42, Dec. 19, 1984; amended May 1, 1985.)

**28-31-13. Variances.** (a) Application. Any person may request a variance from specific provisions of these rules and regulations by submitting an application on a form furnished by the department. The person shall state the reasons and circumstances which support the request and shall submit any other pertinent data to support the request.

(b) Review. The secretary, or a designee of the secretary, shall review the variance application, determine whether the granting of the variance would endanger human health or safety or the environment, and notify the person within 60 days of receipt that the application is approved or denied, or that additional information is required. If approved, the secretary shall specify any conditions or time limitations needed to comply with all applicable state or federal laws or to protect human health or safety or the environment. The secretary shall prescribe a date upon which the variance shall no longer be valid.

(c) Extension of a prior or existing variance. Any person may submit a request in writing to extend a prior or existing variance. The person shall demonstrate need for continuation of the variance. The sec-

retary may reissue or extend the variance for another period upon finding that the reissuance or extension of the variance would not endanger human health or safety or the environment.

(d) Termination of a variance. Any variance may be terminated if the secretary finds that:

(1) the person is in violation of any requirement, condition, schedule or limitation of the variance;

(2) operation under the variance does not meet the minimum requirements established by state or federal law or rules and regulations; or

(3) operation under the variance is unreasonably threatening human health or safety or the environment. Written notice of termination shall be provided to the person granted the variance.

(e) Emergency variances. If an incident involving hazardous waste requires immediate action to protect human health or safety or the environment, an emergency variance may be granted by the department from all or any specific requirement of these rules and regulations. The emergency variance shall remain in effect until the incident no longer presents an immediate hazard to human health or safety or the environment. (Authorized by and implementing K.S.A. 1984, Supp. 65-3431; effective E-82-20, Nov. 4, 1981; effective May 1, 1982; amended, T-85-42, Dec. 19, 1984; amended May 1, 1985.)

## Article 35.—RADIATION

### PART I—GENERAL

**28-35-133. Persons protected.** These regulations state the requirements that shall be applied in the use of all radiation, radiation machines, and radioactive materials to ensure the maximum protection of the public health and the maximum safety to all persons at, or in the vicinity of, the place of use, storage, or disposal of sources of radiation. These regulations are intended to be consistent with the best use of radiation machines and radioactive materials, and to encourage the constructive uses of radiation. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended May 1, 1976; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-134. Persons regulated and exempted.** Except as otherwise specified, these regulations shall apply to all persons who receive, possess, use, transfer, own, or acquire any source of radiation. However, nothing in these regulations shall apply to any person to the extent that the person is subject to regulation by the United States nuclear regulatory commission. Regulation by the secretary of source material, by-product material, and special nuclear material in quantities not sufficient to form a critical mass is subject to the provisions of the agreement between the department and the U.S. nuclear regulatory commission and to part 150 of the commission's regulations (10 CFR Part 150), as in effect on January 29, 1982. The provisions of part 4 of these regulations shall not limit the exposure of patients to radiation for the purpose of diagnosis or therapy, by persons licensed to practice one or more of the healing arts



within the authority granted to them by the Kansas healing arts statutes, or by persons licensed to practice dentistry or podiatry within the authority granted to them by Kansas licensing laws applying to dentists and podiatrists. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended May 1, 1976; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-135. Definitions.** As used in these regulations: (a) "Accelerator produced material" means any material made radioactive by exposing it in a particle accelerator.

(b) "Act" means the "nuclear energy development and radiation control act," K.S.A. 48-1601 *et seq.*, as amended.

(c) "Agreement state" means any state with which the United States nuclear regulatory commission enters, or has entered, into an effective agreement under Section 274b of the atomic energy act of 1954, as amended (73 Stat. 689), as in effect on November 1, 1982.

(d) "Airborne radioactive material" means any radioactive material dispersed in the air in the form of dusts, fumes, mists, vapors, or gases.

(e) "Areas":

(1) "Airborne radioactive area" means:

(A) any room, enclosure, or operating area in which airborne radioactive material exists in concentrations in excess of the amounts specified in K.A.R. 28-35-232, Appendix A, Table I, Column 1, and any amendment of that rule and regulation; or

(B) any room, enclosure, or operating area in which airborne radioactive material exists in concentrations which, when averaged over the number of hours in any week during which individuals are in the area, exceed 25 percent of the amounts specified in K.A.R. 28-35-232, Appendix A, Table I, Column 1, and any amendment of that rule and regulation.

(2) "Controlled area" means any area the access to which is controlled by the licensee or registrant for the purpose of protecting individuals from exposure to radiation and radioactive material. Controlled area shall not mean any area used as residential quarters. A separate room or rooms in a residential building may be set apart as a controlled area.

(3) "High radiation area" means any area which is accessible to individuals, in which there exists radiation at such levels that an individual could receive, in any one hour, a dose to the whole body in excess of 100 millirems.

(4) "Radiation area" means any area which is accessible to individuals, in which there exists radiation at such levels that an individual could receive:

(A) in any one hour, a dose to the whole body in excess of five millirems; or

(B) in any five consecutive days, a dose to the whole body in excess of 100 millirems.

(5) "Uncontrolled area" means any area, the access to which is not controlled by the licensee or registrant for the purpose of protecting individuals from exposure to radiation and radioactive material, and any area used as residential quarters.

(f) "Calendar quarter" means not less than 12 nor more than 14 consecutive weeks. The first calendar quarter of each year shall begin in January and subsequent calendar quarters shall be arranged so that no day is included in more than one calendar quarter and no day in any one year is omitted from inclusion within a calendar quarter. No licensee or registrant shall change the method of determining calendar quarters for purposes of these regulations except at the beginning of a calendar year.

(g) "Curie" means a unit of measurement of radioactivity. One curie (Ci) is that quantity of radioactive material which decays at the rate of  $3.7 \times 10^{10}$  disintegrations per second (dps). Commonly used submultiples of the curie are the millicurie and the microcurie. One millicurie (mCi) = 0.001 curie =  $3.7 \times 10^7$  dps. One microcurie ( $\mu$ Ci) = 0.000001 curie =  $3.7 \times 10^4$  dps.

(h) "Department" means the department of health and environment.

(i) "Depleted uranium" means source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium shall not include special nuclear material.

(j) "Dose" means an absorbed dose or dose equivalent, as appropriate.

(1) "Absorbed dose" means the energy imparted to matter by ionizing radiation per unit mass of irradiated material at the place of interest. The special unit of absorbed dose is the rad.

(2) "Dose equivalent" means a quantity that expresses, on a common scale for all radiation, a measure of the postulated effect on a given organ. It is defined as the absorbed dose in rads times certain modifying factors. The special unit of dose equivalent is the rem.

(3) "Occupational dose" means any dose received by an individual in any controlled area or in the course of the individual's employment when the individual's duties involve exposure to radiation. It shall not include any dose received by an individual if the exposure to radiation is for the purpose of diagnosis or therapy of that individual by persons licensed to practice one or more of the healing arts, dentistry, or podiatry.

(4) "Rad" means the unit of absorbed radiation dose. One rad is the dose corresponding to the absorption of 100 ergs per gram. One millirad (mrad) equals 0.001 rad.

(5) "Rem" means a measure of the dose of any radiation to the body tissue in terms of its estimated biological effects relative to an exposure of one roentgen (R) of X-rays or gamma rays. One millirem (mrem) equals 0.001 rem. For the purpose of these regulations, any of the following is considered to be equivalent to one rem:

(A) One roentgen due to X-rays or gamma rays;

(B) One rad due to X-rays, gamma rays, or beta particles;

(C) 0.1 rad due to neutrons or high energy protons;

(D) 0.05 rad due to particles heavier than protons and with sufficient energy to reach the lens of the eye;

or

(continued)

(E)  $14 \times 10^6$  neutrons per square centimeter, or in accordance with the following table if the energy of the neutrons is known:

Neutron energy (MeV)	Number of neutrons per square centimeter equivalent to a dose of one rem
Thermal	$970 \times 10^6$
.0001	$720 \times 10^6$
.005	$820 \times 10^6$
.02	$400 \times 10^6$
.1	$120 \times 10^6$
.5	$43 \times 10^6$
1.0	$26 \times 10^6$
2.5	$29 \times 10^6$
5.0	$26 \times 10^6$
7.5	$24 \times 10^6$
10	$24 \times 10^6$
10 to 30	$14 \times 10^6$

(6) "Exposure" means the quotient of dQ by dm. "dQ" is the absolute value of the total charge of the ions of one sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a volume element of air having mass "dm" are completely stopped in air. [The special unit of exposure is the roentgen (R).] One roentgen equals  $2.58 \times 10^{-4}$  coulombs/kilogram of air.

(7) "Exposure rate" means the exposure per unit of time, such as R/min or mR/hr.

(k) "Dose commitment" means the total radiation dose to a part of the body that will result from retention in the body of radioactive material. For purposes of estimating the dose commitment, it is assumed that, from the time of intake, the period of exposure to retained material will not exceed 50 years.

(l) "Half-life" means the time required for any given radioisotope to decay to one-half of its original activity.

(m) (1) "Healing arts" means the activities authorized pursuant to K.S.A. 65-2801 *et seq.*, and any amendments to those statutes.

(2) "Dentistry" means the activities authorized pursuant to K.S.A. 65-1421 *et seq.*, and any amendments to those statutes.

(3) "Podiatry" means the activities authorized pursuant to K.S.A. 65-2001 *et seq.*, and any amendments to those statutes.

(n) "Human use" means the intentional internal or external administration of radiation or radioactive material to any individual.

(o) "Individual" means any human being.

(p) "Inspection" means an official examination or observation including, but not limited to, tests, surveys, and monitoring to determine compliance with rules, regulations, orders, requirements and conditions of the department.

(q) "Installation" means the location where one or more sources of radiation are used, operated, or stored.

(r) "Interlock" means a device for precluding access by an individual to an area of radiation hazard without warning, either by preventing admission, or by automatically removing the hazard.

(s) "License" means a license issued pursuant to these regulations, except where otherwise specified.

(t) "Licensee" means any person who is licensed in accordance with these regulations and the act.

(u) "Particle accelerator" means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of one MeV.

(v) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this or any other state or political subdivision or agency thereof. The term includes also any legal successor, representative, agent or agency of the foregoing, other than the United States nuclear regulatory commission, or any successor thereto, and other than federal government agencies licensed by the United States nuclear regulatory commission, or any successor thereto.

(w) "Personnel monitoring equipment" means any device designed to be carried or worn by an individual and used to measure the exposure of that individual to radiation.

(x) "Pharmacist" means any individual registered under K.S.A. 65-1626 *et seq.*, and any amendments to those statutes, to practice pharmacy.

(y) "Physician" means any individual licensed to practice the healing arts pursuant to K.S.A. 65-2869 or 65-2870, or any amendments to these statutes.

(z) "Protective barrier" means a barrier of attenuating materials used to reduce radiation exposure to the required degree.

(1) "Primary protective barrier" means a barrier of attenuating materials used to reduce the useful X-ray beam to the required degree.

(2) "Secondary protective barrier" means a barrier sufficient to attenuate stray radiation to the required degree.

(aa) "Qualified expert" means, with reference to radiation protection, a person having the knowledge and training to measure ionizing radiation, to evaluate safety techniques, and to advise regarding radiation protection needs. With reference to the calibration of radiation therapy equipment, it means a person having, in addition to the above qualifications, training and experience in the clinical applications of radiation physics to radiation therapy.

(bb) "Radiation."

(1) "Ionizing radiation" means gamma rays and X-rays, alpha and beta particles, high speed electrons, neutrons, and other nuclear particles;

(2) "nonionizing radiation" means sound or radio waves, or visible, infrared, or ultra-violet light.

(cc) "Radiation safety officer" means a person directly responsible for radiation protection.

(dd) "Radioactivity" means the disintegration of unstable atomic nuclei by the emission of radiation.

(ee) "Radiographer" means any individual who performs non-medical radiographic operations or who, in attendance at the site where those radiographic operations are being performed, personally supervises the operations and is responsible to the licensee or registrant or both for assuring compliance with the requirements of regulations or the conditions of the license or both.

(ff) "Radiographer's assistant" means any individual who, under the personal supervision of a radiographer, uses radiation machines, radiographic expo-

sure devices, sealed sources, or related handling tools or survey instruments, in industrial radiography.

(gg) Radiographic devices.

(1) "Radiographic exposure device" means any instrument with a sealed source fastened or contained in the instrument in which the sealed source or shielding of the source may be moved or otherwise changed from a shielded to unshielded position for purposes of making a radiographic exposure.

(2) "Source changer" means a device designed and used for replacement of sealed sources in radiographic exposure devices, including those also used for transporting and storage of sealed sources.

(3) "Shielded position" means the location within the radiographic exposure device or storage container which, by manufacturer's design, is the proper location for storage of the sealed source.

(hh) "Radiography (non-medical)."

(1) "Industrial radiography" means the examination of the macroscopic structure of materials by nondestructive methods utilizing sources of radiation.

(2) "Cabinet radiography using radiation machines" means industrial radiography, using radiation machines, which is conducted in an enclosed, interlocked cabinet such that the radiation machine will not operate unless all openings are securely closed, and in which the cabinet is so shielded that every location on the exterior meets conditions for an uncontrolled area as specified in K.A.R. 28-35-214, and any amendment to that rule and regulation.

(A) "Cabinet x-ray system" means an x-ray system with the x-ray tube installed in an enclosure (termed "cabinet") which, independently of existing architectural structures except the floor on which it may be placed, is intended to contain at least that portion of a material being irradiated, provide radiation attenuation, and exclude personnel from its interior during generation of x-rays. Included are all x-ray systems designed primarily for the inspection of carry-on baggage at airline, railroad, and bus terminals, and in similar facilities. An x-ray tube used within a shielded part of a building, or x-ray equipment which may temporarily or occasionally incorporate portable shielding, is not considered a cabinet x-ray system.

(B) "Certified cabinet x-ray system" means a cabinet x-ray system which has been certified in accordance with 21 CFR 1010.2 as being manufactured and assembled pursuant to the provisions of 21 CFR 1020.40.

(3) "Shielded room radiography using radiation machines" means industrial radiography using radiation machines which:

(A) is conducted in an enclosed room, the interior of which is not occupied during radiographic operations;

(B) is so shielded that every location on the exterior meets conditions for an uncontrolled area as specified in K.A.R. 28-35-214, and any amendment to that rule and regulation; and

(C) is only accessible through openings which are interlocked so that the radiation machine will not operate unless all openings are securely closed.

(4) "Permanent radiographic installation" means a shielded installation or structure designed or intended for radiography and in which radiography is regularly performed.

(ii) "Registrable item" means any radiation ma-

chine as defined in subsection (pp)(2) of this rule and regulation.

(jj) "Registrant" means any person who is registered with the department and is legally obligated to register with the department pursuant to these regulations and the Act.

(kk) "Registration" means completing and filing forms required by these regulations with the department in accordance with these regulations.

(ll) "Regulations of the U.S. department of transportation" means the regulations in 49 CFR Parts 100-189, as in effect on December 31, 1982.

(mm) "Research and development" means:

(1) theoretical analysis, exploration, or experimentation; or

(2) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and development, as used in these regulations, does not include the internal or external administration of radiation or radioactive materials to any individual.

(nn) "Sealed source" means any radioactive material that is permanently encased in a container or matrix designed to prevent the leakage or escape of such radioactive material under foreseeable conditions of use and wear.

(oo) "Stray radiation" means the sum of leakage and scattered radiation.

(1) "Leakage radiation" means all radiation, except the useful beam, coming from within the source housing.

(2) "Scattered radiation" means radiation that, during passage through matter, has been deviated in direction.

(pp) "Source of radiation" means any material, device, or equipment emitting, or capable of producing, radiation.

(1) "Radioactive material" means any material, in any chemical or physical form, which emits radiation spontaneously.

(A) "By-product material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to radiation incident to the process of producing or utilizing special nuclear material.

(B) "Source material" means:

(i) uranium or thorium, or any combination thereof, in any physical or chemical form; or

(ii) ores which contain, by weight, 0.05 percent or more of uranium, thorium or any combination thereof. Source material shall not include special nuclear material.

(C) "Special nuclear material in quantities not sufficient to form a critical mass" means:

(i) uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235;

(ii) uranium enriched in the isotope uranium-233 in quantities not exceeding 200 grams of contained U-233;

(iii) plutonium not exceeding 200 grams; or

(iv) any combination of these special nuclear materials in accordance with the following formula:

(continued)

$$\frac{\text{grams of contained U-235}}{350} + \frac{\text{grams of contained U-233}}{200} + \frac{\text{gram of Pu}}{200} \leq 1$$

The sum of such ratios for all of the kinds of special nuclear material in combination shall not exceed "1" (i.e. unity).

(D) "Natural radioactivity" means radioactivity of naturally occurring nuclides.

(2) "Radiation machine" means:

(A) any device which is primarily intended to produce, and is capable of producing, ionizing radiation as defined in subsection (bb) of this rule and regulation; or

(B) any device which is not primarily intended to, but does, produce ionizing radiation at a level greater than 0.5 mR/hr at any point five centimeters from its surface. Radiation machine shall not mean any device which produces ionizing radiation only by use of radioactive materials.

(qq) "Special form" means any of the following physical forms of licensed material of any transport group:

(1) Material, in solid form, having no dimension less than 0.5 millimeter or at least one dimension greater than five millimeters, which does not melt, sublime, or ignite in air at a temperature of 1,000°F, does not shatter or crumble if subjected to the percussion test described in Appendix B of this part, and is not dissolved or converted into dispersible form to the extent of more than 0.005 percent by weight by immersion for one week in water at 68°F. or in air at 86°F.; or

(2) Material, securely contained in a capsule, having no dimension less than 0.5 millimeter or at least one dimension greater than five millimeters, which will retain its contents if subjected to the tests prescribed in Appendix B of this part, and which is constructed of materials which do not melt, sublime, or ignite in air at 1,475°F., and do not dissolve or convert into dispersible form to the extent of more than 0.005 percent by weight by immersion for one week in water at 68°F. or in air at 86°F.

(rr) "Storage container" means a device in which radioactive materials are transported or stored.

(ss) "Survey" means an evaluation of the radiation hazard incident to the production, use, release, disposal, or presence of sources of radiation under a specific set of conditions. When appropriate, such evaluation includes a physical survey of the location of materials or equipment or both and measurements of levels of radiation or concentrations of radioactive materials present.

(tt) "Test" means a method for determining the characteristics or condition of sources of radiation or components of the sources.

(uu) "These regulations" mean K.A.R. 28-35-133 to 28-35-337, inclusive, and any amendments to those rules and regulations.

(vv) "Transport group" means any one of seven groups into which radionuclides in normal form are classified, according to their toxicity and their relative potential hazard in transport, in Appendix A of this part.

(1) Any radionuclide not specifically listed in one of the groups in Appendix A is assigned to one of the groups in accordance with the following table:

Radionuclide	Radioactive Half-life		
	0 to 1000 days	1000 days to 10 <sup>6</sup> years	Over 10 <sup>6</sup> years
Atomic number 1-81	Group III	Group II	Group III
Atomic number 82 and over	Group I	Group I	Group III

(2) For mixtures of radionuclides the following shall apply:

(A) If the identity and respective activity of each radionuclide are known, the permissible activity of each radionuclide shall be such that the sum, for all groups present, of the ratio between the total activity for each group to the permissible activity for each group will not be greater than unity.

(B) If the groups of the radionuclides are known but the amount in each group cannot be reasonably determined, the mixture shall be assigned to the most restrictive group present.

(C) If the identity of all or some of the radionuclides cannot be reasonably determined, each of those unidentified radionuclides shall be considered as belonging to the most restrictive group which cannot be positively excluded.

(D) Mixtures consisting of a single radioactive decay chain where the radionuclides are in the naturally occurring proportions shall be considered as consisting of a single radionuclide. The group and activity shall be that of the first member present in the chain, except that if a radionuclide "X" has a half-life longer than that of the first member and an activity greater than that of any other member, including the first, at any time during transportation, the transport group of the nuclide "X" and the activity of the mixture shall be the maximum activity of that nuclide "X" during transportation.

(ww) "U.S. department of energy" means the department of energy established by the department of energy organization act (public law 95-91, August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 *et seq.*), to the extent that the department exercises functions formerly vested in the U.S. atomic energy commission under the energy reorganization act of 1974 (public law 93-438, October 11, 1974, 88 Stat. 1233 at 1237, effective January 19, 1975) and retransferred to the secretary of energy pursuant to section 301(a) of the department of energy organization act (public law 95-91, August 4, 1977, 91 Stat. 565 at 577-578, 42 U.S.C. 7151, effective October 1, 1977).

(xx) "Unrefined and unprocessed ore" means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or refining.

(yy) "Useful beam" means that part of the radiation which passes through a window, aperture, cone, or other collimating device.

(zz) "Whole body," as used in K.A.R. 28-35-162 and 28-35-212, and any amendments to those rules and regulations, means entire human body, or the head and trunk, active blood-forming organs, the gonads, or lenses of the eyes. This definition is not applicable to the phrase "skin of the whole body."

(aaa) "Worker" means an individual engaged in work under a license or registration or both issued by the department and controlled by a licensee or regis-

trant or both. Worker shall not include any licensee or registrant.

(bbb) "X-ray equipment standard definitions."

(1) "Accessible surface" means the external surface of the enclosure or housing provided by the manufacturer.

(2) "Added filter" means the filter added to the inherent filtration.

(3) "Aluminum equivalent" means the thickness of aluminum (type 1100 alloy) affording the same attenuation, under specified conditions, as the material in question. The nominal chemical composition of type 1100 aluminum alloy is 99.00 percent minimum aluminum, 0.12 percent copper.

(4) "Attenuation block" means a block or stack, having dimensions of 20 cm by 20 cm by 3.8 cm, of type 1100 aluminum alloy or other materials having equivalent attenuation.

(5) "Automatic exposure control" means a device which automatically controls one or more technique factors in order to obtain, at a preselected location or locations, a required quantity of radiation. (See also "Phototimer.")

(6) "Beam axis" means a line from the source through the centers of the X-ray fields.

(7) "Changeable filters" means any filter, exclusive of inherent filtration, which can be removed from the useful beam through any electronic, mechanical or physical process.

(8) "Contact therapy" means that the X-ray tube port is put in contact with, or within five centimeters of, the surface being treated.

(9) "Control panel" means that part of the X-ray control upon which are mounted the switches, knobs, pushbuttons, and other hardware necessary for manually setting the technique factors.

(10) "Deadman switch" means a switch constructed so that circuit closing can be maintained only by continuous pressure by the operator.

(11) "Diagnostic-type tube housing" means an X-ray tube housing constructed so that the leakage radiation, at a distance of one meter from the target, does not exceed 100 milliroentgens in one hour when the tube is operated at its maximum rated continuous tube current and maximum rated tube potential.

(12) "Diagnostic X-ray system" means an X-ray system designed for irradiation of any part of the human body for the purpose of diagnosis or visualization.

(13) "Entrance exposure rate" means the roentgens per unit time at the point where the center of the useful beam enters any individual.

(14) "Filter" means material placed in the path of the useful beam of X-rays to absorb, preferentially, the less penetrating radiations.

(15) "Fluoroscopic imaging assembly" means a component which comprises a reception system in which X-ray photons produce a fluoroscopic image. It includes equipment housings, electrical interlocks if any, the primary protective barrier, and structural material providing linkage between the image receptor and the diagnostic source assembly.

(16) "Gonadal shield" means a protective barrier for the testes or ovaries.

(17) "Half-value layer (HVL)" means the thickness of specified material which attenuates the beam of

radiation to an extent that the exposure rate is reduced to one half of its original value. In this definition the contribution of all scattered radiation, other than any which might be present initially in the beam concerned, is deemed to be excluded.

(18) "Image intensifier" means a device which converts, instantaneously by means of photoemissive surfaces and electronic circuiting, an X-ray pattern into a light pattern of greater intensity than would have been provided by the original X-ray pattern.

(19) "Image receptor" means any device, such as a fluorescent screen or radiographic film, which transforms incident X-ray photons into a visible image or into another form which can be made into a visible image by further transformations.

(20) "Inherent filtration" means the filtration permanently in the useful beam including the window of the X-ray tube and any permanent tube or source enclosure.

(21) "Kilovolts peak (kVp)" means the same as "peak tube potential."

(22) "Lead equivalent" means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.

(23) "Leakage radiation" means radiation emanating from the diagnostic or therapeutic source assembly except for:

(A) the useful beam; and

(B) radiation produced when the exposure switch or timer is not activated.

(24) "Leakage technique factors" means the technique factors associated with the tube housing assembly which are used in measuring leakage radiation. They are defined as follows:

(A) For capacitor energy storage equipment, the maximum rated number of exposures in an hour for operation at the maximum rated peak tube potential, with the quantity of charge per exposure being 10 millicoulombs (mAs) or the minimum obtainable from the unit, whichever is larger;

(B) for field emission equipment rated for pulsed operation, the maximum rated number of X-ray pulses in an hour for operation at the maximum rated peak tube potential; and

(C) for all other equipment, the maximum rated continuous tube current for the maximum rated peak tube potential.

(25) "Peak tube potential" means the maximum value of the potential differences across the X-ray tube during an exposure.

(26) "Phototimer" means a method for controlling radiation exposures to image receptors by limiting the amount of radiation which reaches a radiation monitoring device or devices. The radiation monitoring device or devices are part of an electronic circuit which controls the duration of time the tube is activated. (See also "Automatic exposure control.")

(27) "Position indicating device (PID)" means a device on dental X-ray equipment used to indicate the beam position and to establish a definite source to surface (skin) distance. It may or may not incorporate or serve as a beam-limiting device.

(28) "Protective apron" means an apron made of radiation absorbing materials, used to reduce radiation exposure.

(29) "Protective glove" means a glove made of ra-

diation absorbing materials used to reduce radiation exposure.

(30) "Radiograph" means an image receptor on which the image is created directly or indirectly by an X-ray pattern, which results in a permanent record.

(31) "Radiographic imaging system" means any system whereby a permanent or semi-permanent image is recorded on an image receptor by the action of ionizing radiation.

(32) "Recording" means producing a permanent form of an image resulting from X-ray photons such as film or video tape.

(33) "Source" means the focal spot of the X-ray tube.

(34) "Shutter" means a device, generally of lead, fixed to an X-ray tube housing to intercept the useful beam.

(35) "Source-image receptor distance (SID)" means the distance from the source to the center of the input surface of the image receptor.

(36) "Spot film" means a radiograph which is made during a fluoroscopic examination to permanently record conditions which exist during that fluoroscopic procedure.

(37) "Therapeutic-type tube housing" means:

(A) For X-ray equipment not capable of operating at 500 kVp or above, an X-ray tube housing so constructed that the leakage radiation, at a distance of one meter from the source, does not exceed one roentgen in an hour when the tube is operated at its maximum rated continuous current for the maximum rated tube potential; and

(B) For X-ray equipment capable of operating at 500 kVp or above, an X-ray tube housing so constructed that the leakage radiation, at a distance of one meter from the source, does not exceed 0.1 percent of the useful beam dose rate at one meter from the source for any of its operating conditions.

(C) In either case, areas of reduced protection are acceptable providing the average reading over any 100 cm<sup>2</sup> area, at one meter distance from the source, does not exceed the values given in paragraphs (A) or (B), above.

(38) "Tube" means an X-ray tube, unless otherwise specified.

(39) "Visible area" means that portion of the input surface of the image receptor over which incident X-ray photons produce a visible image.

(40) "X-ray equipment" means an X-ray system, subsystem, or component thereof, which may be either mobile or stationary.

(A) "Mobile X-ray equipment" means X-ray equipment mounted on a permanent base with wheels or casters or both for moving while completely assembled.

(B) "Stationary X-ray equipment" means X-ray equipment which is installed in a fixed location.

(41) "X-ray field" means that area of the intersection of the useful beam and any one of the set of planes parallel to and including the plane of the image receptor, whose perimeter, as established by the beam limiting device, is the locus of points at which the exposure rate is one-fourth of the maximum in the intersection.

(42) "X-ray system" means an assemblage of components for the controlled production of X-rays. It

includes, at a minimum, an X-ray high-voltage generator, an X-ray control, a tube housing assembly, a beam limiting device, and supporting structures. Additional components which function with the system are considered integral parts of the system.

(43) "X-ray tube" means any electron tube which is designed for the conversion of electrical energy into X-ray energy.

(44) "X-ray, analytical."

(A) "Analytical X-ray equipment" means equipment used for X-ray diffraction or fluorescence analysis.

(B) "Analytical X-ray system" means a group of local and remote components utilizing X-rays to determine the elemental composition, or to examine the microstructure, of materials. "Local components" include those that are struck by X-rays such as radiation source housings, port and shutter assemblies, collimators, sample holders, cameras, goniometers, detectors and shielding. "Remote components" include power supplies, transformers, amplifiers, readout devices, and control panels.

(C) "Fail-safe characteristics" means a design feature which causes beam port shutters to close, or otherwise prevents emergence of the primary beam, upon the failure of a safety or warning device.

(D) "Normal operating procedures" mean operating procedures for conditions suitable for analytical purposes with shielding and barriers in place. These do not include maintenance procedures, but do include routine alignment procedures. Routine and emergency radiation safety considerations are part of these procedures.

(E) "Open-beam configuration" means an analytical X-ray system in which an individual could accidentally place some part of the individual's body in the primary beam path during normal operation.

(F) "Primary beam" means ionizing radiation which passes through an aperture of the source housing by a direct path from the X-ray tube or a radioactive source located in the radiation source housing.

(ccc) "Secretary" means the secretary of the department of health and environment. (Authorized by K.S.A. 1984 Supp. 48-1607; implementing K.S.A. 1984 Supp. 48-1603, 48-1607; effective January 1, 1970; amended May 1, 1976; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-136. Communications.** All communications concerning these regulations shall be addressed to:

Department of Health & Environment  
Bureau of Air Quality and Radiation Control  
Attention: Radiation Control  
Topeka, Kansas 66620

(Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended Jan. 1, 1972; amended May 1, 1976; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-137. Records.** Each licensee or registrant shall keep records showing the receipt, transfer, and disposal of all sources of radiation, and any other records specifically required by these regulations. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-138. Inspections.** (a) Each licensee or registrant shall afford, at all reasonable times, the secretary or the secretary's duly authorized representative the opportunity to inspect sources of radiation and the premises and installations in which such sources of radiation are used or stored.

(b) Each licensee or registrant, upon reasonable notice, shall make available, for inspection by the secretary or the secretary's duly authorized representative records maintained pursuant to these regulations. (Authorized by K.S.A. 1984 Supp. 48-1607; implementing K.S.A. 1984 Supp. 48-1607, 48-1609; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-139. Testing and surveys.** (a) Each licensee or registrant shall make, or cause to be made, those surveys that are necessary for the licensee or registrant to comply with these regulations.

(b) Each licensee or registrant shall perform, upon instructions from the department, or shall permit the department to perform, such reasonable tests as the department deems appropriate or necessary, including, but not limited to, tests of:

- (1) Sources of radiation;
- (2) installations in which sources of radiation are used or stored;
- (3) radiation detection and monitoring instruments; and
- (4) other equipment and devices employed during use or storage of licensed or registered sources of radiation. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-140. Exemptions.** (a) General provision. The secretary, upon application for an exemption or upon the secretary's own initiative, may grant exemptions or exceptions from the requirements of these regulations, if it is determined that the exemption will not result in an undue hazard to public health and safety, or to property.

(b) Carriers. Common and contract carriers, freight forwarders, and warehousemen, who are subject to the rules and regulations of the U.S. department of transportation or the U.S. postal service (39 CFR Parts 14 and 15), shall be exempt from these regulations to the extent that they transport or store sources of radiation in the regular course of their carriage for another. Private carriers who are subject to the rules and regulations of the U.S. department of transportation shall be exempt from these regulations to the extent that they transport sources of radiation. Common, contract, and private carriers who are not subject to the rules and regulations of the U.S. department of transportation or the U.S. postal service shall be subject to applicable sections of these regulations.

(c) U.S. department of energy contractors and U.S. nuclear regulatory commission contractors. Any U.S. department of energy contractor or subcontractor and any U.S. nuclear regulatory commission contractor or subcontractor operating within this state shall be exempt from these regulations to the extent that the contractor or subcontractor, under the contract, re-

ceives, possesses, uses, transfers or acquires sources of radiation, and the contractor or subcontractor is included in one of the following categories:

(1) Prime contractors performing work for the U.S. department of energy at U.S. government-owned or controlled sites, including the transportation of sources of radiation to or from such sites and the performance of contract services during temporary interruptions of such transportation;

(2) prime contractors of the U.S. department of energy performing research in, or development, manufacture, storage, testing or transportation of, atomic weapons or components of atomic weapons;

(3) prime contractors of the U.S. department of energy using or operating nuclear reactors or other nuclear devices in a United States government-owned vehicle or vessel; and

(4) any other prime contractor or subcontractor of the U.S. department of energy or the U.S. nuclear regulatory commission when the secretary determines that, under the terms of the contract or subcontract, there is adequate assurance the work can be accomplished without undue risk to the public health and safety. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-141. Additional requirements.** At the time of registration, at the time of action upon application for license or amendment to the license, or upon inspection, the department shall specify any requirements or conditions of use, or both, that are necessary to ensure compliance with these regulations under the particular usage to which the licensee or registrant proposes to put the source of radiation. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-142.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective Jan. 1, 1970; amended May 1, 1976; revoked, T-85-43, Dec. 19, 1984; revoked May 1, 1985.)

**28-35-143. Appendix A—Transport grouping of radionuclides.**

Element <sup>1</sup>	Radionuclide <sup>2</sup>	Group
Actinium (89)	Ac-277	I
	Ac-228	I
Americium (95)	Am-241	I
	Am-243	I
Antimony (51)	Sb-122	IV
	Sb-124	III
	Sb-125	III
Argon (18)	Ar-37	VI
	Ar-41	II
	Ar-41 (uncompressed) <sup>3</sup>	V
Arsenic (33)	As-73	IV
	As-74	IV
	As-76	IV
	As-77	IV
Astatine (85)	At-211	III
Barium (56)	Ba-131	IV
	Ba-133	II
	Ba-140	III
Berkelium (97)	Bk-249	I
Beryllium (4)	Be-7	IV

(continued)

Bismuth (83)	Bi-206	IV		Ir-194	IV
	Bi-207	III	Iron (26)	Fe-55	IV
	Bi-210	II		Fe-59	IV
	Bi-212	III	Krypton (36)	Kr-85m <sup>4</sup>	III
Bromine (35)	Br-82	IV		Kr-85m <sup>4</sup> (uncompressed) <sup>3</sup>	V
Cadmium (48)	Cd-109	IV		Kr-85	III
	Cd-115m <sup>4</sup>	III		Kr-85 (uncompressed) <sup>3</sup>	VI
	Cd-115	IV		Kr-87	II
Calcium (20)	Ca-45	IV		Kr-87 (uncompressed) <sup>3</sup>	V
	Ca-47	IV	Lanthanum (57)	La-140	IV
Californium (98)	Cf-249	I	Lead (32)	Pb-203	IV
	Cf-250	I		Pb-210	II
	Cf-252	I		Pb-212	II
Carbon (6)	C-14	IV	Lutetium (71)	Lu-172	III
Cerium (59)	Ce-141	IV		Lu-177	IV
	Ce-143	IV	Magnesium (12)	Mg-28	III
	Ce-144	III	Manganese (25)	Mn-52	IV
Cesium (55)	Cs-131	IV		Mn-54	IV
	Cs-134m <sup>4</sup>	III		Mn-56	IV
	Cs-134	III	Mercury (80)	Hg-197m <sup>4</sup>	IV
	Cs-135	IV		Hg-197	IV
	Cs-136	IV		Hg-203	IV
	Cs-137	III	Mixed fission products (MFP)		II
Chlorine (17)	Cl-36	III	Molybdenum (42)	Mo-99	IV
	Cl-38	IV	Neodymium (60)	Nd-147	IV
Chromium (24)	Cr-51	IV		Nd-149	IV
Cobalt (27)	Co-56	III	Neptunium (93)	Np-237	I
	Co-57	IV		Np-239	I
	Co-58m <sup>4</sup>	IV	Nickel (28)	Ni-56	III
	Co-58	IV		Ni-59	IV
	Co-60	III		Ni-63	IV
Copper (29)	Cu-64	IV		Ni-65	IV
Curium (96)	Cm-242	I	Niobium (41)	Nb-93m <sup>4</sup>	IV
	Cm-243	I		Nb-95	IV
	Cm-244	I		Nb-97	IV
	Cm-245	I	Osmium (76)	Os-185	IV
	Cm-246	I		Os-191m <sup>4</sup>	IV
Dysprosium (66)	Dy-154	III		Os-191	IV
	Dy-165	IV		Os-193	IV
	Dy-166	IV	Palladium (46)	Pd-103	V
Erbium (68)	Er-169	IV		Pd-109	IV
	Er-171	IV	Phosphorus (15)	P-32	IV
Europium (63)	Eu-150	III	Platinum (78)	Pt-191	IV
	Eu-152m <sup>3</sup>	IV		Pt-193	IV
	Eu-152	III		Pt-193m <sup>4</sup>	IV
	Eu-154	II		Pt-197m <sup>4</sup>	IV
	Eu-155	IV		Pt-197	IV
Fluorine (9)	F-18	IV	Plutonium (94)	Pu-238 (F) <sup>5</sup>	I
Gadolinium (64)	Gd-153	IV		Pu-239 (F) <sup>5</sup>	I
	Gd-159	IV		Pu-240	I
Gallium (31)	Ga-67	III		Pu-241 (F) <sup>5</sup>	I
	Ga-72	IV		Pu-242	I
Germanium (32)	Ge-71	IV	Polonium (84)	Po-210	I
Gold (79)	Au-193	III	Potassium (19)	K-42	IV
	Au-194	III		K-43	III
	Au-195	III	Praseodymium (59)	Pr-142	IV
	Au-196	IV		Pr-143	IV
	Au-198	IV	Promethium (61)	Pm-147	IV
	Au-199	IV		Pm-149	IV
Hafnium (72)	Hf-181	IV	Protactinium (91)	Pa-230	I
Holmium (67)	Ho-166	IV		Pa-231	I
Hydrogen (1)	H-3 (see tritium)			Pa-233	II
Indium (49)	In-113m <sup>4</sup>	IV	Radium (88)	Ra-223	II
	In-114m <sup>4</sup>	III		Ra-224	II
	In-115m <sup>4</sup>	IV		Ra-226	I
	In-115	IV		Ra-228	I
Iodine (53)	I-124	III	Radon (86)	Rn-220	IV
	I-125	III		Rn-222	II
	I-126	III	Rhenium (75)	Re-183	IV
	I-129	III		Re-186	IV
	I-131	III		Re-187	IV
	I-132	IV		Re-188	IV
	I-133	III		Re-Natural	IV
	I-134	IV	Rhodium (45)	Rh-103m <sup>4</sup>	IV
	I-135	IV		Rh-105	IV
Iridium (77)	Ir-190	IV			
	Ir-192	III			



Rubidium (37)	Rb-86	IV
	Rb-87	IV
	Rb-Natural	IV
Ruthenium (44)	Ru-97	IV
	Ru-103	IV
	Ru-105	IV
	Ru-106	III
Samarium (62)	Sm-145	III
	Sm-147	III
	Sm-151	IV
	Sm-153	IV
Scandium (21)	Sc-46	III
	Sc-47	IV
	Sc-48	IV
Selenium (34)	Se-75	IV
Silicon (14)	Si-31	IV
Silver (47)	Ag-105	IV
	Ag-110m <sup>4</sup>	III
	Ag-111	IV
Sodium (11)	Na-22	III
	Na-24	IV
Strontium (38)	Sr-85m <sup>4</sup>	IV
	Sr-85	IV
	Sr-89	III
	Sr-90	II
	Sr-91	III
	Sr-92	IV
Sulfur (16)	S-35	IV
Tantalum (73)	Ta-182	III
Technetium (43)	Tc-96m <sup>4</sup>	IV
	Tc-96	IV
	Tc-97m <sup>4</sup>	IV
	Tc-97	IV
	Tc-99m <sup>4</sup>	IV
	Tc-99	IV
Tellurium (52)	Te-125m <sup>4</sup>	IV
	Te-127m <sup>4</sup>	IV
	Te-127	IV
	Te-129m <sup>4</sup>	III
	Te-129	IV
	Te-131m <sup>4</sup>	III
	Te-132	IV
Therbium (65)	Tb-160	III
Thallium (81)	Tl-200	IV
	Tl-201	IV
	Tl-202	IV
	Tl-204	III
Thorium (90)	Th-227	II
	Th-228	I
	Th-230	I
	Th-231	I
	Th-232	III
	Th-234	II
	Th-Natural	III
Thulium (69)	Tm-168	III
	Tm-170	III
	Tm-171	IV
Tin (50)	Sn-113	IV
	Sn-117m <sup>4</sup>	III
	Sn-121	III
	Sn-125	IV
Tritium (1)	H-3	IV
	H-3 (as a gas, as a luminous paint, or absorbed on solid material)	VII
Tungsten (74)	W-181	IV
	W-185	IV
	W-187	IV
Uranium (92)	U-230	II
	U-232	I
	U-233 (F) <sup>5</sup>	II
	U-234	II
	U-235 (F) <sup>5</sup>	III
	U-236	II
	U-238	III
	U-Natural	III
	U-Enriched (F) <sup>5</sup>	III

	U-Depleted	III
Vanadium (23)	V-48	IV
	V-49	III
Xenon (54)	Xe-125	III
	Xe-131m <sup>4</sup>	III
	Xe-131m <sup>4</sup> (uncompressed) <sup>3</sup>	V
	Xe-133	III
	Xe-133 (uncompressed) <sup>3</sup>	VI
	Xe-135	II
	Xe-135 (uncompressed) <sup>3</sup>	V
Ytterbium (70)	Yb-175	IV
Yttrium (39)	Y-88	III
	Y-90	IV
	Y-91m <sup>4</sup>	III
	Y-91	III
	Y-92	IV
	Y-93	IV
Zinc (30)	Zn-65	IV
	Zn-69m <sup>4</sup>	IV
	Zn-69	IV
Zirconium (40)	Zr-93	IV
	Zr-95	III
	Zr-97	IV

- 1 Atomic number shown in parentheses.
- 2 Atomic mass number shown after the element symbol.
- 3 Uncompressed means at a pressure not exceeding one atmosphere.
- 4 Metastable state.
- 5 Fissile material.

(Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective May 1, 1976; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-144. Appendix B—Tests for special form licensed material.**

(a) "Free Drop" means releasing material, without thrust, from a point 30 feet above a flat, essentially unyielding, horizontal surface, so that the material strikes the surface.

(b) "Percussion" means impacting material with the flat, circular end of a one inch diameter steel rod weighing three pounds, by releasing the steel rod a distance of forty inches above the surface of the material. The material shall be placed on a sheet of lead, of hardness number 3.5 to 4.5 on the Vickers scale, and not more than one inch thick, supported by a smooth, essentially unyielding surface.

(c) Heating: heating in air to a temperature of 1,475°F. and remaining at that temperature for a period of 10 minutes.

(d) Immersion: immersion for 24 hours in water at room temperature. The water shall be at pH 6—pH 8, with a maximum conductivity of 10 micromhos per centimeter. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective May 1, 1976; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**PART 2.—REGISTRATION OF RADIATION PRODUCING DEVICES**

**28-35-152. Persons registered.** Any person possessing a registrable item shall register with the department in accordance with the rules and regulations in this part. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended May 1, 1976; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

(continued)

**28-35-153. Initial registration.** Any person who is not registered and who acquires possession of a registrable item shall register with the department, within 30 days of the date of acquiring the item. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-154. Renewal of registration.** Each registrant shall reregister with the department. This registration shall be completed within 60 days of the date on which a registration form is sent to the registrant. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-155. Registration form.** Registration shall be made upon forms devised and furnished by the department. Each registrant shall provide all the information called for by the form and any additional information requested by the department. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-156. Separate installations.** Except as otherwise provided in K.A.R. 28-35-157, and any amendment to that rule and regulation, a separate registration form shall be completed for each installation. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-157. Special registration.** If the reporting of each installation, or other information called for, is impractical, the secretary, upon the written request of a person and upon a finding that the public health and safety would not be adversely affected, may approve registration in such special form as the secretary may prescribe. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-158. Report of change.** If a change is made on any x-ray equipment or other device producing radiation, or to any installation, so that information on file with the department is no longer accurate, the registrant shall notify the department, in writing, of the change, within 30 days of the date the change was made. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-159. Registration shall not imply approval.** A person shall not refer, in any form of advertisement, to the fact a registrable item is registered with the department, or state or imply that any installation registered with the department is approved by the department. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-160. Vendor notification.** Any distributor, retailer, or other person who sells, leases, transfers, or lends registrable items shall notify the department at 90 day intervals of:

- (a) The names and addresses of persons who have received these items;
- (b) the name of the manufacturer and model number of the source or device transferred; and
- (c) the date on which the registrable item, or items, were transferred. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-161. Discontinuance of use.** If a registrant ceases to use a registrable item or items, for any reason, the registrant or the duly authorized representative of the registrant's estate shall give written notice to the department of the cessation of use. The notice shall be provided within 30 days of the date that the registrant ceases to use the registrable item or items, and shall state the date on which use of the item or items was discontinued and the manner in which the registrable item or items were disposed. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-162. Exclusion from registration.** The following equipment shall not be required to be registered:

- (a) Electrical or electronic equipment, which:
  - (1) is not intended primarily to produce radiation;
  - (2) does not produce a radiation level greater than 0.5 mR/hr, at any point five centimeters from the surface; and
  - (3) is used or handled in such a manner that any individual cannot receive a dose to the whole body of 0.5 or more rems in a year, and
- (b) radiation-producing equipment which is in transit or which is in storage incident to transit. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended May 1, 1976; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-163. Excluded possessors.** (a) Except as provided in subsection (b), a common carrier or contract carrier operating within this state who is in possession of a registrable item or items shall be exempt from the provisions of these regulations, if the carrier possesses the registrable item or items for another person, solely for the purpose of transporting or storing the item or items.

(b) Each common carrier or contract carrier shall be subject to the provisions of K.A.R. 28-35-228a and 28-35-229a, and any amendments of those rules and regulations. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-164. Temporary use or storage of registrable items.** Any person desiring to bring a registrable item into this state for temporary use or storage shall give written notice to the department before bringing the item into this state. The notice shall be given to the department at least five days before the item is to be brought into this state and shall include the type and energy of the radiation source, the nature and

scope of the use or storage, the proposed duration of use or storage, and the exact location where the radiation source is to be used or stored. If, in a specific case, the five day period would impose an undue hardship on the person, the person, upon application by letter or telegram to the department, may obtain permission to proceed at an earlier date.

In addition, the person shall:

(a) Comply with all applicable regulations for the department; and

(b) supply the department with such other information as it may request.

If a registrable item is kept in the state for a total of 30 days, in a period of 12 consecutive months, it shall be considered to be permanently located in the state and shall be subject to the registration provision of these regulations. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-165. Disposal of registered items.** Whenever any person disposes of a registrable item, or items, by any method, the person, or in the event of the person's death, the representative of the person's estate, shall give written notice to the department of the disposal within 30 days. The notice shall include the date of disposal, the method of disposal, and, if transferred to another person, the name and address of the recipient. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-166. Shoe fitting, fluoroscopic machines; prohibition of.** No person shall install, operate or maintain any device or machine within the state of Kansas which uses fluoroscopic, X-ray or radiation principles for the purpose of fitting shoes. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-211.** (Authorized by K.S.A. 48-1607; effective Jan. 1, 1970; revoked, T-85-43, Dec. 19, 1984; revoked May 1, 1985.)

#### Part 4.—STANDARDS FOR PROTECTION AGAINST RADIATION

**28-35-211a. Persons to whom the standards apply.** This part establishes standards for protection against hazards associated with the use of radiation. Except as otherwise specifically provided, this part applies to all licensees and registrants. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984; effective May 1, 1985.)

**28-35-211b. General provisions.** (a) Any incorporation by reference in the rules and regulations in this part of any standard, procedure or requirement in 10 CFR Parts 20 or 30 shall constitute a full adoption by reference of the section so referenced, including any notes and appendices associated with the section, unless otherwise specifically stated in these rules and regulations.

(b) Definitions. As used in provisions adopted from 10 CFR Parts 20 and 30, the following terms shall be defined as follows.

(1) "United States" means the state of Kansas.

(2) "Commission" means the secretary of the Kansas department of health and environment.

(3) "Director of the appropriate nuclear regulatory commission inspection and enforcement regional office listed in appendix D," "director, office of nuclear material safety and safeguards," and "administrator of the appropriate NRC regional office listed in appendix D of this part" mean the bureau manager of the bureau of air quality and radiation control.

(4) "Restricted area" means a controlled area.

(5) "Unrestricted area" means an uncontrolled area.

(6) "The act" means the Kansas nuclear energy development and radiation control act.

(7) "Licensed material" means naturally occurring, accelerator-produced source, special nuclear or by-product material received, possessed, used or stored under a general or specific license issued by the department.

(8) "Licensee" means licensee or registrant.

(9) "Form NRC-4" means department form RH-4.

(10) "Form NRC-5" means department form RH-5.

(11) "Form NCR-314" means department form RH-23.

(12) "This part" means K.A.R. 28-35-211a through 28-35-233a, inclusive. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984; effective May 1, 1985.)

**28-35-212.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective Jan. 1970; amended May 1, 1976; revoked, T-85-43, Dec. 19, 1984; revoked May 1, 1985.)

**28-35-212a. Occupational dose limits from external exposure.** 10 CFR sections 20.101 and 20.102, and subsection (a) of section 20.104, as in effect on July 1, 1984, are adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984; effective May 1, 1985.)

**28-35-213.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective Jan. 1970; amended May 1, 1976; revoked, T-85-43, Dec. 19, 1984; revoked May 1, 1985.)

**28-35-213a. Exposure of individuals to concentrations of radioactive materials in controlled areas.** 10 CFR section 20.103 and subsection (b) of section 20.104, as in effect on July 1, 1984, are adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984; effective May 1, 1985.)

**28-35-214.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective Jan. 1970; amended May 1, 1976; revoked, T-85-43, Dec. 19, 1984; revoked May 1, 1985.)

**28-35-214a. Permissible levels of radiation in uncontrolled areas.** Subsections (a) and (b) of 10 CFR section 20.105, as in effect on July 1, 1984, are adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984; effective May 1, 1985.)

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**28-35-215.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective Jan. 1970; amended May 1, 1976; revoked, T-85-43, Dec. 19, 1984; revoked May 1, 1985.)

**28-35-215a. Release of concentrations in effluents to uncontrolled areas.** Subsections (a) through (f), inclusive, of 10 CFR section 20.106, as in effect on July 1, 1984, are adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984; effective May 1, 1985.)

**28-35-216.** (Authorized by K.S.A. 48-1607; effective Jan. 1, 1970; revoked, T-85-43, Dec. 19, 1984; revoked May 1, 1985.)

**28-35-216a. Leak tests.** (a) Each sealed radioactive source possessed under the provisions of a specific license, other than hydrogen 3 (tritium), that has a half-life greater than 30 days and that is in any form other than gas, shall be tested for leakage, contamination or both prior to initial use, and at intervals specified by the license. If there is reason to suspect that a sealed source might have been damaged, it shall be tested for leakage before further use.

(b) Leak tests shall be capable of detecting the presence of 0.005 microcurie of removable contamination. Any test conducted pursuant to subsection (a) of this regulation which reveals the presence of 0.005 microcurie or more of removable contamination shall be considered evidence that the sealed source is leaking. The licensee shall immediately withdraw the source from use and shall cause it to be decontaminated and repaired or to be disposed of in accordance with K.A.R. 28-35-190. When sealed sources are permanently mounted in devices or equipment, tests for contamination and leakage may be made by wiping appropriate accessible surfaces and measuring these wipes for transferred contamination. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984; effective May 1, 1985.)

**28-35-217.** (Authorized by K.S.A. 48-1607; effective Jan. 1, 1970; revoked, T-85-43, Dec. 19, 1984; revoked May 1, 1985.)

**28-35-217a. Personnel monitoring.** 10 CFR section 20.202, as in effect on July 1, 1984, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984; effective May 1, 1985.)

**28-35-218.** (Authorized by K.S.A. 48-1607; effective Jan. 1, 1970; revoked, T-85-43, Dec. 19, 1984; revoked May 1, 1985.)

**28-35-218a. Bioassays.** 10 CFR section 20.108, as in effect on July 1, 1984, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984; effective May 1, 1985.)

**28-35-219.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective Jan. 1, 1970; amended May 1, 1976; revoked, T-85-43, Dec. 19, 1984; revoked May 1, 1985.)

**28-35-219a. Caution signs and labels.** (a) Subsections (a), (b), (c)(1), (d), (e) and (f) of 10 CFR section

20.203, as in effect on July 1, 1984, are adopted by reference.

(b) All radiation machines shall be labeled in a manner which cautions individuals that radiation is produced when the machine is being operated. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984; effective May 1, 1985.)

**28-35-220.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective Jan. 1, 1970; amended Jan. 1, 1972; amended May 1, 1976; revoked, T-85-43, Dec. 19, 1984; revoked May 1, 1985.)

**28-35-220a. Entrance or access point control devices.** Paragraphs (2) through (7), inclusive, of subsection (c) of 10 CFR section 20.203, as in effect on July 1, 1984, are adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984; effective May 1, 1985.)

**28-35-221.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective May 1, 1976; revoked, T-85-43, Dec. 19, 1984; revoked May 1, 1985.)

**28-35-221a. Procedures for picking up, receiving and opening packages.** 10 CFR section 20.205, as in effect on July 1, 1984, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984; effective May 1, 1985.)

**28-35-222.** (Authorized by K.S.A. 48-1607; effective Jan. 1, 1970; revoked, T-85-43, Dec. 19, 1984; revoked May 1, 1985.)

**28-35-222a. Security of sources of radiation in uncontrolled areas.** 10 CFR section 20.207, as in effect on July 1, 1984, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984; effective May 1, 1985.)

**28-35-223.** (Authorized by K.S.A. 48-1607; effective Jan. 1, 1970; revoked, T-85-43, Dec. 19, 1984; revoked May 1, 1985.)

**28-35-223a. Waste disposal: general requirements.** (a) Except as provided in subsection (b) of this regulation, a licensee shall not dispose of any radioactive material except:

(1) By transfer to an authorized recipient as provided in K.A.R. 28-35-190; or

(2) as authorized by K.A.R. 28-35-215a, 28-35-224a or 28-35-225a.

(b) Any person may apply to the department for approval of proposed procedures to dispose of radioactive material in a manner not otherwise authorized in this part. Each applicant shall include a description of the radioactive material, including the quantities and kinds of radioactive material and the levels of radioactivity involved, and the proposed manner and conditions of disposal. The application, when appropriate, shall also include an analysis and evaluation of pertinent information as to the nature of the environment, including topographical, geological, meteorological, and hydrological characteristics; usage of ground and surface waters in the general area; the

nature and location of other potentially affected facilities; and procedures to be observed to minimize the risk of unexpected or hazardous exposures. The department shall not approve any application for a license to receive radioactive material from other persons for disposal on land not owned by a state or the federal government.

(c) (1) Any licensee may dispose of the following licensed material without regard to its radioactivity;

(A) 0.05 microcuries or less of hydrogen-3 or carbon-14, per gram of medium, used for liquid scintillation counting; and

(B) (1) 0.05 microcuries or less of hydrogen-3 or carbon-14, per gram of animal tissue averaged over the weight of the entire animal. Tissue shall not be disposed of under this section in a manner that would permit its use either as food for humans or as animal feed.

(2) This section shall not relieve any licensee of the duty to maintain records showing the receipt, transfer and disposal of such radioactive material as specified in K.A.R. 28-35-227a.

(3) This section shall not relieve any licensee of the duty of complying with other applicable federal, state and local regulations governing any other toxic or hazardous property of these materials. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984; effective May 1, 1985.)

**28-35-224.** (Authorized by K.S.A. 48-1607; effective Jan. 1, 1970; revoked, T-85-43, Dec. 19, 1984; revoked May 1, 1985.)

**28-35-224a. Disposal by release into sanitary sewerage systems.** 10 CFR section 20.303, as in effect on July 1, 1984, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984; effective May 1, 1985.)

**28-35-225.** (Authorized by K.S.A. 48-1607; effective Jan. 1, 1970; revoked, T-85-43, Dec. 19, 1984; revoked May 1, 1985.)

**28-35-225a. Alternative disposal procedures.** Subsection (a) of 10 CFR section 20.302, as in effect on July 1, 1984, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984; effective May 1, 1985.)

**28-35-226.** (Authorized by K.S.A. 48-1607; effective Jan. 1, 1970; revoked, T-85-43, Dec. 19, 1984; revoked May 1, 1985.)

**28-35-226a. Treatment or disposal by incineration.** 10 CFR section 20.305, as in effect on July 1, 1984, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984; effective May 1, 1985.)

**28-35-227.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective Jan. 1, 1970; amended Jan. 1, 1972; amended May 1, 1976; revoked, T-85-43, Dec. 19, 1984; revoked May 1, 1985.)

**28-35-227a. Records.** (a) Each licensee or registrant shall maintain accurate and complete written records showing:

(1) The results of each survey required by K.A.R. 28-35-139, disposals made pursuant to K.A.R. 28-35-224a, 28-35-225a, and 28-35-223a(b), and each leak test required by these regulations or the license, in units as set forth in these regulations and as set forth in the license (curies, millicuries, microcuries, rem or millirem);

(2) each receipt, transfer, or disposal of sources of radiation;

(3) radiation exposures of all individuals for whom personnel monitoring is required under K.A.R. 28-35-217a. Exposure records shall be kept on department form RH-5, or a clear and legible record containing all the information required on said form, and shall be for periods of time not exceeding one calendar quarter; and

(4) results of bioassays pursuant to K.A.R. 28-35-218a.

(b) Records of the results of surveys and monitoring which must be maintained pursuant to subsection (a) of this regulation shall be preserved for two years after completion of the survey except that the following records shall be maintained until the department authorized their disposition:

(1) Records of the results of surveys to determine compliance with K.A.R. 28-35-213a;

(2) in the absence of personnel monitoring data, records of the results of surveys to determine external radiation dose; and

(3) records of the results of surveys used to evaluate the release of radioactive effluents to the environment.

(c) Records of disposal of licensed material made pursuant to K.A.R. 28-35-223a, 28-35-224a, or 28-35-225a shall be maintained until the department authorizes their disposition.

(d) Records which must be maintained pursuant to this part may be the original, a reproduced copy, or microform if that reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage.

(e) If there is a conflict between the regulations in this part, and a license condition, or other written department approval or authorization pertaining to the retention period for the same type of record, the retention period specified in the regulations in this part for those records shall apply unless the department, pursuant to K.A.R. 28-35-227a, has granted a specific exemption from the record retention requirements specified in the regulations in this part.

(f) The discontinuance of or curtailment of activities does not relieve the licensee or registrant of responsibility for retaining all records required by this regulation. A licensee or registrant may, however, request the department to accept those records. The acceptance of the records by the department relieves the licensee or registrant of subsequent responsibility only in respect to the preservation of those records, as required by this regulation. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984; effective May 1, 1985.)

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**28-35-228.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective Jan. 1, 1970; amended Jan. 1, 1972; amended May 1, 1976; revoked, T-85-43, Dec. 19, 1984; revoked May 1, 1985.)

**28-35-228a.** Reports of theft or loss of sources of radiation. Paragraphs (a)(1) and (a)(2)(ii) and subsections (b) through (d), inclusive, of 10 CFR section 20.402, as is effective on July 1, 1984, are adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984; effective May 1, 1985.)

**28-35-229.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective Jan. 1, 1970; amended Jan. 1, 1972; amended May 1, 1976; revoked, T-85-43, Dec. 19, 1984; revoked May 1, 1985.)

**28-35-229a.** Notification of incidents. Subsections (a), (b) and (c), and paragraph (d)(2) of 10 CFR section 20.403, as in effect on July 1, 1984, are adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984; effective May 1, 1985.)

**28-35-230.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective Jan. 1, 1970; amended Jan. 1, 1972; amended May 1, 1976; revoked, T-85-43, Dec. 19, 1984; revoked May 1, 1985.)

**28-35-230a.** Reports of overexposures and excessive levels and concentrations. Subsections (a) and (b) of 10 CFR section 20.405, as in effect on July 1, 1984, are adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984; effective May 1, 1985.)

**28-35-231.** (Authorized by K.S.A. 48-1607; effective Jan. 1, 1970; revoked, T-85-43, Dec. 19, 1984; revoked May 1, 1985.)

**28-35-231a.** Vacating installations. Licensees, before vacating any installation which may have been contaminated by radioactive material as a result of the licensee's activities, shall, no less than 15 days prior to such vacating, notify the department in writing of intent to vacate. The department may require that the licensee decontaminate, or have decontaminated, the installation to a degree consistent with subsequent use as an uncontrolled area, the details to be specified in each case by the department. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984; effective May 1, 1985.)

**28-35-232.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective Jan. 1, 1970; amended May 1, 1976; revoked, T-85-43, Dec. 19, 1984; revoked May 1, 1985.)

**28-35-232a.** Appendix A; Protection factors for respirators. 10 CFR Part 20-Appendix A, as in effect on July 1, 1984, is adopted by reference. (Authorized by and implementing K.S.A. 48-1607, as amended by L. 1984, ch. 198, sec. 5; effective, T-85-43, Dec. 19, 1984; effective May 1, 1985.)

**28-35-233.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective Jan. 1, 1970; amended Jan. 1, 1972;

amended May 1, 1976; revoked, T-85-43, Dec. 19, 1984; revoked May 1, 1985.)

**28-35-233a.** Appendix B; Concentrations in air and water above natural background. 10 CFR Part 20-Appendix B, as in effect on July 1, 1984, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984; effective May 1, 1985.)

**28-35-234.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective May 1, 1976; revoked, T-85-43, Dec. 19, 1984; revoked May 1, 1985.)

**28-35-234a.** Appendix C; Quantities. (a) Exempt from requirement for labeling, section 28-35-219a, and (b) for calculation of limitations for disposal under provisions of 28-35-224a and 28-35-225a. 10 CFR Part 20-Appendix C, as in effect July 1, 1984, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984; effective May 1, 1985.)

#### Part 6.—USE OF SEALED RADIOACTIVE SOURCES IN THE HEALING ARTS

**28-35-261.** Persons required to meet the requirements of this part. The provisions of this part apply to all licensees who use sealed sources in medicine or veterinary medicine, and are in addition to, and not in substitution for, other applicable provisions of these regulations. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-262.** Interstitial, intracavatory, and superficial applications. (a) Accountability, storage and transit.

(1) Except as otherwise specifically authorized by the department, each licensee shall keep a record of the issue and return of all sealed sources to their place of storage.

(2) Each licensee shall conduct a quarterly physical inventory to account for all sources and devices received and possessed. Records of the inventories shall be maintained for inspection by the department and shall include the quantities and kinds of radioactive material, location of sources and devices, and the date of the inventory.

(3) Each licensee shall follow the radiation safety and handling instructions approved by the department, and furnished by the manufacturer on the label attached to the source, device or permanent container thereof, or in the leaflet or brochure which accompanies the source or device. Each licensee shall maintain the instructions in a legible and conveniently available form.

(4) Each licensee shall assure that needles or standard medical applicator cells containing radium-226, or cobalt-60 as wire, are not opened while in the licensee's possession, unless specifically authorized by the department.

(b) Testing sealed sources for leakage and contamination.

(1) All sealed sources containing more than 100 microcuries of radioactive material with a half-life

greater than 30 days, except iridium-192 seeds encased in nylon ribbon, shall be tested for contamination and leakage. The tests shall be conducted at intervals not to exceed six months or at other intervals that are approved by the department, and described by the manufacturer on the label attached to the source, device, or permanent container thereof, or in the leaflet or brochure which accompanies the source or device. Each source or device shall be tested prior to its first use unless the supplier furnishes a certificate that the source or device has been tested within six months of such use.

(2) Leak tests shall be capable of detecting the presence of 0.005 microcurie of radioactive material on the test sample, except that in the case of radium, the test shall be capable of detecting the escape of radon at the rate of 0.001 microcurie per 24 hours. The test sample shall be taken from the source or from the surfaces of the device in which the source is mounted or stored.

(3) Leak test results shall be recorded in units of microcuries and maintained for inspection by the department.

(4) If any leak test conducted pursuant to subsection (b)(1) reveals the presence of 0.005 microcurie or more of removable contamination, or in the case of radium, the escape of radon at a rate equal to or greater than 0.001 microcurie per 24 hours, the licensee shall immediately withdraw the source from use and cause it to be decontaminated and repaired or to be disposed of in accordance with department regulations. A report shall be filed with the department, within five days of the test. The report shall describe the equipment involved, state the test results, and indicate the corrective action taken.

(c) Radiation surveys.

(1) The maximum radiation level at a distance of one meter from the patient in whom brachytherapy sources have been inserted shall be determined by measurement and calculation. This radiation level shall be entered on the patient's chart and on signs as required under subsection (d) of this rule and regulation.

(2) The radiation levels in the patient's room and the surrounding area shall be determined, recorded, and maintained for inspection by the department.

(3) The licensee shall require that patients treated with cobalt-60, cesium-137, iridium-192, or radium-226 implants remain hospitalized until a source count and a radiation survey of the patient confirm that all implants have been removed.

(d) Signs and records.

(1) In addition to the requirements of K.A.R. 28-35-219a, and amendments to that rule and regulation, the bed and cubicle or room of each brachytherapy patient of a hospital shall be marked with a sign indicating the presence of brachytherapy sources. This sign shall incorporate the radiation symbol and specify that radionuclide, the activity, date, and the individual or individuals to contact for radiation safety instructions.

(2) The following information shall be included on the patient's chart:

(A) The radionuclide administered, number of

sources, activity in millicuries and time and date of administration;

(B) the exposure rate at one meter from the source, the time the determination was made, and by whom;

(C) the radiation symbol; and

(D) the precautionary instructions necessary to assure that the exposure of individuals does not exceed that permitted under K.A.R. 28-35-212a, and amendments to that rule and regulation. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended May 1, 1976; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-263. Teletherapy.** (a) Equipment.

(1) The housing shall be constructed so that, at one meter from the source, the maximum exposure rate does not exceed 10 milliroentgens per hour when the beam control mechanism is in the "off" position. The average dose rate measured at a representative number of points about the housing, each at one meter from the source, shall not exceed two milliroentgens per hour.

(2) Certification shall be obtained from the manufacturer or distributor that the leakage radiation measured at one meter from the source, when the beam control mechanism is on the "on" position, does not exceed the larger of one roentgen per hour or 0.1 percent of the useful beam.

(3) Adjustable or removable beam-defining diaphragms shall allow transmission of not more than five percent of the useful beam exposure rate.

(4) Each beam control mechanism shall be of a positive design, capable of acting in any position of the housing. In addition, each beam control mechanism shall have an automatic closing device and shall be designed so that it can be returned manually to the "off" position with a minimum risk of exposure.

(5) Each closing device shall be designed to return automatically to the "off" position in the event of any breakdown or interruption of the activating force and to stay in the "off" position until activated from the control panel.

(6) When any door to the treatment room is opened, the beam control mechanism shall, automatically and rapidly, restore the unit to the "off" position and cause it to remain there until the unit is reactivated from the control panel.

(7) There shall be, at the housing and at the control panel, a warning device that plainly indicates whether the beam is on or off.

(8) All equipment shall be provided with a locking device to prevent unauthorized use.

(9) Each control panel shall be provided with a timer that automatically terminates the exposure after a preset time.

(10) Each source shall be tested for leakage and contamination in accordance with K.A.R. 28-35-262(b), and amendments to that rule and regulation. The tests for leakage may be made by wiping accessible surfaces of the housing port or collimator while the source is in the "off" position and measuring these wipes for transferred contamination.

(b) Shielding.

(continued)

(1) Primary protective barriers shall be provided for any area that the useful beam may strike when using the largest possible diaphragm opening. The barriers shall extend at least one foot beyond the useful beam for any possible orientation.

(2) Secondary protective barriers shall be provided for all occupied areas exposed to leakage or scattered radiation.

(3) Provision shall be made to permit continuous observation of patients during irradiation.

(c) Operation.

(1) No individual who is occupationally exposed to radiation shall be in the treatment room during irradiation unless that individual is the patient.

(2) No individual, other than the patient, shall be in the treatment room, except when clinically necessary.

(d) Calibration measurements.

(1) Full calibration measurements shall be performed by licensees on each teletherapy unit:

(A) Prior to the first use of the unit for treating humans;

(B) prior to treating humans;

(i) whenever spot-check measurements indicate that the output value differs by more than 5 percent from the value obtained at the last full calibration corrected mathematically for physical decay;

(ii) following replacement of the radiation source or following reinstallation of the teletherapy unit in a new location; and

(iii) following any repair of the teletherapy unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and

(C) at intervals not exceeding one year.

(2) Full calibration measurements shall include determinations of:

(A) The exposure rate or dose rate to an accuracy within plus or minus three percent for the range of field of distances, or for the axis distance used in radiation therapy;

(B) the congruence between the radiation field and the field indicated by the light beam localizing device;

(C) the uniformity of the radiation field and its dependence upon the orientation of the useful beam;

(D) timer accuracy; and

(E) the accuracy of all distance measuring devices used for treating humans.

(3) Full calibration measurements shall be made in accordance with the procedures recommended by the scientific committee on radiation dosimetry of the American association of physicists in medicine as prescribed in Physics in Medicine and Biology, Vol. 16, No. 3, 1971, pp. 379-396.

(4) The exposure rate or dose rate values shall be corrected mathematically for physical decay for intervals not exceeding one month.

(5) Full calibration measurements and physical decay corrections shall be performed by an expert who meets the requirements prescribed in K.A.R. 28-35-135(aa), and amendments to that rule and regulation.

(6) Full calibration measurements shall be performed using a dosimetry system that has been cali-

brated in accordance with standards approved by the department. The dosimetry system shall have been calibrated within the previous two years and after any servicing that may have affected system calibration.

(e) Spot check.

(1) Spot check measurements shall be performed at intervals not exceeding one month.

(2) Spot check measurements shall include determinations of:

(A) Timer accuracy;

(B) the congruence between the radiation field and the field indicated by the light beam localizing device;

(C) the accuracy of all distance measuring devices used for treating humans;

(D) the exposure rate, dose rate, or a quantity related in a known manner to these rates for one typical set of operating conditions; and

(E) the difference between the measurement made in paragraph (e)(2)(D) and the anticipated output, expressed as a percentage of the anticipated output.

(3) Spot check measurements shall be performed by an expert who meets the requirements prescribed in K.A.R. 28-35-135(aa), and amendments to that rule and regulation.

(4) Spot check measurements shall be performed using a dosimetry system that has been calibrated in accordance with subsection (d)(6) or by using a dosimetry system used solely for spot check measurements, calibrated by direct intercomparison with a system that has been calibrated in accordance with subsection (d)(6). This alternative calibration method shall have been performed within the previous one year and after each servicing that may have affected system calibration. Dosimetry systems calibrated by this alternative method shall not be used for full calibration measurements. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended May 1, 1976; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**Part 7.—SPECIAL REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHIC OPERATIONS**

**28-35-273.** (Authorized by K.S.A. 48-1607; effective Jan. 1, 1970; revoked, T-85-43, Dec. 19, 1984; revoked May 1, 1985.)

**28-35-274. Applicability of this part.** (a) The regulations in this part shall apply to all persons who utilize sources of radiation for industrial radiography, except those persons who are licensed or registered in the state of Kansas to engage in the practice of the healing arts, dentistry, podiatry, or veterinary medicine. The requirements of this part shall be in addition to, and not in substitution for, other requirements of these regulations.

(b) The requirements of K.A.R. 28-35-275, 28-35-277, 28-35-279, 28-35-280, and 28-35-287 shall apply to sealed radioactive sources only. The requirements of the other regulations of this part shall apply to both radiation machines and sealed radioactive sources. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)



**28-35-275. Limits on levels of radiation for radiographic exposure devices and storage containers.** Radiographic exposure devices measuring less than four inches from the sealed source storage position to any exterior surface of the device shall have no radiation level in excess of 50 milliroentgens per hour at six inches from any exterior surface of the device. Radiographic exposure devices measuring four or more inches from the sealed source storage position to any exterior surface of the device, and all storage containers for sealed sources or outer containers for radiographic exposure devices, shall have no radiation level in excess of 200 milliroentgens per hour at any exterior surface, or in excess of 10 milliroentgens per hour at one meter from any exterior surface. The radiation level emanating from a device or container shall be measured with the sealed source in the shielded position. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended May 1, 1976; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-276. Locking sources of radiation.** (a) Each source of radiation shall be provided with a lock, or an outer-locked container designed to prevent unauthorized or accidental exposure. Each source shall be kept locked at all times, except when under the direct surveillance of a radiographer or radiographer's assistant, or as may be otherwise authorized under K.A.R. 28-35-285. Each storage container and source changer shall be provided with a lock and kept locked when containing sealed sources, except when the container is under the direct surveillance of a radiographer or radiographer's assistant.

(b) Radiographic exposure devices, source changers, and storage containers, prior to being moved from one location to another and also prior to being secured at a given location, shall be locked and the sealed source placed in the shielded position. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-277. Storage precautions.** Locked radiographic exposure devices, storage containers and source changers shall be physically secured to prevent tampering or removal by unauthorized personnel. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-278. Radiation survey instruments.** (a) Each licensee or registrant shall maintain calibrated and operable radiation survey instruments to make physical radiation surveys as required by this part. The instrumentation required by this subsection shall have a range capable of measuring two milliroentgens per hour to one roentgen per hour, inclusive.

(b) Each radiation survey instrument shall be calibrated:

- (1) At energies appropriate for use;
- (2) at intervals not to exceed three months and after each instrument servicing;
- (3) such that accuracy within plus or minus 20 percent can be demonstrated; and

(4) at two or more widely separated points, other than zero, on each scale.

(c) Records shall be maintained of these calibrations for two years after the calibration date. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-279. Leak testing, repair, tagging, opening, modification and replacement of sealed sources.** (a) The replacement of any sealed source fastened to, or contained in, a radiographic exposure device, leak testing, repair, tagging, opening, or any other action involving a sealed source shall be performed only by persons specifically authorized to do so by the department, the United States nuclear regulatory commission, or an agreement state.

(b) Each sealed source shall be tested for leakage at intervals not to exceed six months. In the absence of a certificate from a transferor that a leak test has been made within the six month period prior to transfer, the sealed source shall not be put into use until leak tested.

(c) The leak test shall be capable of detecting the presence of 0.005 microcuries of removable contamination. Leak tests shall be made by wiping appropriate accessible surfaces and measuring the level of transferred contamination on the wipes. Records of leak test results shall be kept in units of microcuries and maintained for a period of two years.

(d) If any leak test reveals the presence of 0.005 microcuries or more of removable radioactive material, it shall be conclusively presumed that the sealed source is leaking. The licensee shall immediately withdraw the equipment involved from use and shall cause it to be decontaminated and repaired, or to be disposed of, in accordance with regulations of the department. Within five days after obtaining results of any leak test, the licensee shall file a report with the department describing the equipment involved, the test results, and the corrective action taken, if any.

(e) Any sealed source which is not fastened to, or contained in, a radiographic exposure device shall have permanently attached to it a durable tag, at least one inch square, bearing the radiation symbol described in K.A.R. 28-35-219a and, at least, the instructions: "Danger—Radioactive Material—Do Not Handle—Notify Civil Authorities if Found." (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended May 1, 1976; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-280. Quarterly inventory.** Each licensee shall conduct a quarterly inventory to account for all radioactive material sources received or possessed by the licensee. The records of the inventories shall be maintained for a period of two years following the date of the inventory, and shall include the quantities and kinds of radioactive material inventoried, the location of radioactive material sources at the time of inventory, and the date the inventory was conducted. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

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**28-35-281. Utilization logs.** Each licensee or registrant shall maintain a log for each source of radiation which shall contain the following information:

(a) The make and model number, or a detailed description, of the source of radiation or storage container to which the log pertains;

(b) the name of the radiographer to whom the source or container is assigned;

(c) the plant or site where the source or container is used;

(d) the date or dates when the source or container is used; and

(e) the voltage, current, and exposure time for each radiographic exposure made with a radiation machine. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-282. Limitations.** (a) A licensee or registrant shall not permit any person to act as a radiographer, until that person:

(1) Has been instructed in the subjects listed in K.A.R. 28-35-289;

(2) has received copies of and been given instructions regarding the regulations contained in this part, the applicable sections of Part 4 and Part 10, the license or licenses issued to the licensee, and the licensee's or registrant's operating and emergency procedures;

(3) has demonstrated the competence to use the source of radiation, related handling tools, and survey instruments which are employed in the person's assignment; and

(4) has demonstrated comprehension of the matters referenced in this subsection, by successfully completing a written test and a field examination on those subjects. The test and field examination shall be reviewed and approved by the secretary.

(b) A licensee or registrant shall not permit any person to act as a radiographer's assistant, until that person:

(1) Has received copies of and been given instructions regarding the licensee's or registrant's operating and emergency procedures;

(2) has demonstrated the competence to use, under the personal supervision of a radiographer, the sources of radiation, related handling tools, and radiation survey instruments which are employed in the person's assignment; and

(3) has demonstrated comprehension of the matters referenced in this subsection by successfully completing a written or oral test and a field examination on those subjects. The test and examination shall be reviewed and approved by the secretary.

(c) When a radiographer's assistant uses radiographic exposure devices, sealed sources or related source handling tools, or when any such assistant conducts any of the radiation surveys required by K.A.R. 28-35-287(b) and (c) to determine that a sealed source has returned to the shielded position after an exposure, the radiographer's assistant shall be under the personal supervision of a radiographer. This personal supervision shall include:

(1) The radiographer's personal presence at the site where any sealed source is being used;

(2) The ability of the radiographer to give immediate assistance, if required; and

(3) Actual surveillance by the radiographer of the assistant's performance of the operations referred to in this subsection.

(d) Each licensee or registrant shall maintain records which indicate that the instruction and testing requirements of this rule and regulation have been met. These records shall be kept for a period of two years following the end of the year to which the records pertain. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended May 1, 1976; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-283. Operating and emergency procedures.** The operating and emergency procedures of each licensee or registrant shall include instructions in at least the following areas:

(a) Proper and authorized handling and use of sources of radiation;

(b) methods of, and occasions for, conducting radiation surveys;

(c) methods of controlling access to areas where radiography is being performed;

(d) methods of, and occasions for, locking and securing sources of radiation;

(e) personnel monitoring and the use of personnel monitoring equipment, including steps that must be taken immediately by radiography personnel in the event a pocket dosimeter is found to be off-scale;

(f) transporting sources of radiation to field locations, including packing sources of radiation in a vehicle, posting of a vehicle in which a source of radiation is to be transported, and control of sources of radiation during transportation;

(g) procedures for minimizing exposure of individuals in the event of an accident;

(h) procedures for notifying proper persons in the event of an accident;

(i) maintenance of records; and

(j) inspection and maintenance of radiographic exposure devices and storage containers. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended Jan. 1, 1972; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-284. Personnel monitoring control.** (a) A licensee or registrant shall not permit any individual to act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, the individual is wearing a film or TLD badge and a pocket dosimeter. Pocket dosimeters shall be capable of measuring doses ranging from zero to at least 200 milliroentgens. Each film or TLD badge shall be assigned to, and worn by, only one individual.

(b) Each pocket dosimeter shall be read and the dose shown by such reading shall be recorded daily. An individual's film or TLD badge shall be processed immediately if a pocket dosimeter is discharged beyond its range. The film or TLD badge reports received from the film badge processor, and records of

pocket dosimeter readings, shall be maintained for inspection by the department.

(c) Pocket dosimeters shall be checked, at intervals not exceeding one year, for correct response to radiation. Acceptable dosimeters shall read within plus or minus 30 percent of the true radiation exposure. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended Jan. 1, 1972; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-285. Security.** During each radiographic operation, the radiographer or radiographer's assistant shall maintain direct surveillance of the operation to protect against unauthorized entry into the high radiation area, except:

(a) When the high radiation area is equipped with a control device or an alarm system as described in K.A.R. 28-35-219a; or

(b) when the high radiation area is locked to protect against unauthorized or accidental entry. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-286. Posting.** Any area in which radiography is being performed shall be conspicuously posted in the manner required by K.A.R. 28-35-219a. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-287. Radiation surveys and survey records.** (a) No radiographic operation shall be conducted unless calibrated and operable radiation survey instruments, as described in K.A.R. 28-35-278, are available and used at each site where radiographic exposures are made.

(b) A survey, with a radiation survey instrument, shall be made after each radiographic exposure to determine that the sealed source has been returned to its shielded position. The entire circumference of the radiographic exposure device shall be surveyed. If the radiographic exposure device has a source guide tube, the survey shall include the guide tube.

(c) Prior to securing any radiographic exposure device or storage container in the manner required by K.A.R. 28-35-276, a survey, with a radiation survey instrument, shall be made to determine that each sealed source is in the shielded position.

(d) Records shall be kept of the surveys performed to comply with this rule and regulation.

(e) (1) The licensee shall check for obvious defects in radiographic exposure devices, storage containers, and source changers prior to use each day the equipment is used.

(2) The licensee shall conduct a program for inspection and maintenance of radiographic exposure devices, storage containers, and source changers at intervals not to exceed three months, or prior to the first use after three months from the previous inspections, to assure proper functioning of the device, especially the components concerning radiation safety. All parts of each device shall be maintained in

accordance with the manufacturer's specifications. Records of inspection and maintenance shall be maintained until the department authorizes the disposal of these records.

(3) If any inspection conducted pursuant to paragraph (1) or (2) of this subsection reveals damage to any component of the device concerning radiation safety, the device shall not be used until fully repaired. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended Jan. 1, 1972; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-288. Special requirements and exemptions for enclosed radiography.** (a) Systems for enclosed radiography, which are designed to allow admittance of individuals, shall:

(1) if not a certified cabinet x-ray system, comply with all applicable requirements of this part and K.A.R. 28-35-214a;

(2) if a certified cabinet x-ray system, comply with all applicable requirements of this part and 21 CFR 1020.40, as in effect on April 30, 1984; and

(3) be evaluated, at intervals not to exceed one year, to assure compliance with the applicable requirements specified in paragraphs (1) or (2). Records of these evaluations shall be maintained for a period of two years after the evaluation.

(b) Cabinet x-ray systems designed to exclude individuals shall be exempt from the requirements of this part with the following exceptions:

(1) Operating personnel shall be provided with either a film badge or a thermoluminescent dosimeter. Reports of the film badge or TLD analysis shall be made, and the results shall be maintained for inspection by the department.

(2) No registrant shall permit any individual to operate a cabinet x-ray system until that individual has received a copy of and instruction in the operating procedures for the unit and has demonstrated competence in its use. Records which demonstrate compliance with this paragraph shall be maintained for inspection by the department until disposition is authorized by the department.

(3) Tests for proper operation of high radiation area control devices or alarm systems, where applicable, shall be conducted and recorded in accordance with K.A.R. 28-35-289.

(4) The registrant shall perform an evaluation, at intervals not to exceed one year, to determine compliance with K.A.R. 28-35-214a. If such a system is a certified cabinet x-ray system, it shall be evaluated at intervals not to exceed one year to determine compliance with 21 CFR 1020.40, as in effect on April 30, 1984. Records of these evaluations shall be maintained for inspection by the department for a period of two years after the evaluation.

(c) Certified cabinet x-ray systems shall be maintained in compliance with 21 CFR 1020.40, as in effect on April 30, 1984, unless otherwise specified pursuant to K.A.R. 28-35-140(a).

(d) Permanent radiographic installations having

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high radiation area entrance controls of the types described in K.A.R. 28-35-220a shall also meet the following requirements:

(1) Each entrance that is used for personnel access to the high radiation area in a permanent radiographic installation shall have both visible and audible warning signals to warn of the presence of radiation.

(2) The visible signal shall be activated by radiation whenever the source is exposed. The audible signal shall be actuated when an attempt is made to enter the installation while the source is exposed.

(e) The control device or alarm system shall be tested for proper operation at the beginning of each period of use. Records of the tests shall be prepared quarterly, or prior to the first use thereafter. These records shall be maintained for inspection by the department until it authorizes their disposal. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-289.** The following subjects shall be included in training radiographers.

(a) Fundamentals of radiation safety.

(1) Characteristics of gamma and X-radiation;

(2) units of radiation dose (mrem) and quantity of radioactivity (curie);

(3) hazards of excessive exposure of radiation;

(4) levels of radiation from sources of radiation; and

(5) methods of controlling radiation dose;

(A) Working time;

(B) working distances; and

(C) shielding.

(b) Radiation detection instrumentation to be used.

(1) Use of radiation survey instruments;

(A) Operation;

(B) calibration; and

(C) limitations;

(2) survey techniques; and

(3) use of personnel monitoring equipment;

(A) Film or TLD badges; and

(B) pocket dosimeters.

(c) Radiographic equipment to be used.

(1) Remote handling equipment;

(2) radiographic exposure devices and sealed sources;

(3) storage containers; and

(4) operation and control of X-ray equipment.

(d) The requirements of federal and state regulations.

(e) The licensee's or registrant's written operating and emergency procedures.

(f) Case histories of radiography accidents. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended May 1, 1976; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**Part 10.—NOTICES, INSTRUCTIONS AND REPORTS TO WORKERS: INSPECTIONS**

**28-35-331.** Persons required to meet the requirements of this part. The requirements of this part apply to all persons who receive, possess, use, own or transfer material licensed by or registered with the

department pursuant to part 2 or 3 of these regulations. (Authorized by K.S.A. 1984 Supp. 48-1607; implementing K.S.A. 1984 Supp. 48-1604, 48-1607, 48-1609; effective May 1, 1976; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-332.** Posting of notices to workers. (a) Each licensee or registrant shall post current copies of the following documents:

(1) The regulations in this part and part 4;

(2) the license or certificate of registration, including any conditions on the license and any document or documents incorporated into the license by reference and also any amendment to the license;

(3) the operating procedures applicable to work under the license or registration; and

(4) any notice of violation involving radiological working conditions, any order issued pursuant to Part 1, and any response from the licensee or registrant.

(b) If the posting of a document specified in paragraph (a)(1), (2), or (3) is not practicable, the licensee or registrant may post a notice which describes the document and states where it may be examined.

(c) Department form RH-3 shall be posted by each licensee or registrant where individuals work in or frequent any portion of a controlled area.

(d) Documents, notices or forms shall be posted to allow individuals engaged in work under the license or registration to observe them on the way to or from any particular work location to which the document applies, shall be conspicuous, and shall be replaced if defaced or altered.

(e) Department documents posted pursuant to paragraph (a)(4) shall be posted within two working days after receipt of the documents from the department; the licensee's or registrant's response, if any, shall be posted within two working days after dispatch from the licensee or registrant. The documents shall remain posted for a minimum of five working days or until action correcting the violation has been completed, whichever is longer. (Authorized by K.S.A. 1984 Supp. 48-1607; implementing K.S.A. 1984 Supp. 48-1604, 48-1607, 48-1609; effective May 1, 1976; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-333.** Instructions to workers. All individuals working in or frequenting any portion of a controlled area shall be:

(a) Kept informed of the storage, transfer, or use of radioactive material or of radiation in the controlled area;

(b) instructed in the health protection problems associated with exposure to radioactive material or radiation, precautions or procedures to minimize exposure, and in the purposes and functions of protective devices employed;

(c) instructed in, and instructed to observe, to the extent within the worker's control, the provisions of these regulations and of any license which concern the protection of personnel from exposures to radiation or radioactive material;

(d) informed of their responsibility to report promptly to the licensee or registrant any condition

which has caused or may cause a violation of these regulations or a condition of a license, or which has caused or may cause unnecessary exposure to radiation or radioactive material;

(e) instructed in the appropriate response to warnings made in the event of any unusual occurrence or malfunction that may involve exposure to radiation or radioactive material; and

(f) informed of the radiation exposure reports which workers may request pursuant to K.A.R. 28-35-334, and any amendments to that rule and regulation. (Authorized by K.S.A. 1984 Supp. 48-1607; implementing K.S.A. 1984 Supp. 48-1604, 48-1607, 48-1609; effective May 1, 1976; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-334. Notifications and reports to individuals.** (a) Radiation exposure data for an individual and the results of any measurements, analyses, and calculations of radioactive material deposited or retained in the body of an individual shall be reported to the individual as specified in this section. The information reported shall include data and results obtained pursuant to the requirements of these regulations, any order of the secretary or any license condition. Each notification and report shall:

(1) Be in writing;

(2) include the name of the licensee or registrant, the name of the individual, and the individual's social security number;

(3) include the individual's exposure information; and

(4) contain the following statement:

"This report is furnished to you under the provisions of Kansas Administrative Rule and Regulation 28-35-334. You should preserve this report for further reference."

(b) At the request of any worker, each licensee or registrant shall advise the worker annually of the worker's exposure to radiation or radioactive material as shown in records maintained by the licensee or registrant pursuant to K.A.R. 28-35-227a.

(c) At the request of a worker formerly engaged in work controlled by the licensee or registrant, each licensee or registrant shall furnish to the worker a report of the worker's exposure to radiation or radioactive material. The report shall be furnished within 30 days from the time the request is made, or within 30 days after the exposure of the individual has been determined by the licensee or registrant, whichever is later.

The report shall cover, within the period of time specified in the request, each calendar quarter in which the worker's activities involved exposure to radiation from radioactive material licensed by, or radiation machines registered with, the department. The report shall also include the dates and locations of work under the license or registration in which the worker participated during this period.

(d) When a licensee or registrant is required to report to the department any exposure of an individual to radiation or radioactive material, the licensee or the registrant shall also provide to the individual a report

of the individual's exposure data included in the report. These reports shall be transmitted at a time not later than the transmittal to the department.

(e) At the request of a worker who is terminating employment with the licensee or registrant that involves exposure to radiation in a given calendar quarter, or at the request of a worker who, while employed by another person, is terminating assignment to work involving radiation dose in the licensee's facility in that calendar quarter, each licensee or registrant shall provide to the worker, or to the worker's designee, a written report regarding the radiation dose received by that worker from operations of the licensee or registrant during that specifically identified calendar quarter or fraction of the quarter. The report shall be provided at the worker's termination. The licensee or registrant may provide a written estimate of that dose if the finally determined personnel monitoring results are not available at that time. Estimated doses shall be clearly indicated as such. (Authorized by K.S.A. 1984 Supp. 48-1607; implementing K.S.A. 1984 Supp. 48-1604, 48-1607, 48-1609; effective May 1, 1976; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-335. Presence of representatives of licensees or registrants and workers during inspection.** (a) Each licensee or registrant shall afford to the department, at all reasonable times, opportunity to inspect materials, machines, activities, facilities, premises, and records maintained by the licensee or registrant.

(b) During an inspection, department inspectors may consult privately with workers as specified in K.A.R. 28-35-336 and any amendment to that rule and regulation. The licensee or registrant may accompany department inspectors during other phases of an inspection.

(c) If, at the time of inspection, an individual has been authorized by the workers to represent them during department inspections, the licensee shall give the workers' representative an opportunity to accompany the inspectors during the inspection of physical working conditions.

(d) Each workers' representative shall be routinely engaged in work under control of the licensee or registrant and shall have received the instructions specified in K.A.R. 28-35-333 and any amendment of that rule and regulation.

(e) Different representatives of licensees or registrants and workers may accompany the inspectors during different phases of an inspection if there is no resulting interference with the conduct of the inspection. However, only one workers' representative at a time shall accompany the inspectors.

(f) With the approval of the licensee or registrant and the workers' representative, an individual who is not routinely engaged in work under control of the licensee or registrant shall be afforded the opportunity to accompany the department inspectors during the inspection of physical working conditions.

(g) Department inspectors may refuse to permit accompaniment by an individual who deliberately interferes with a fair and orderly inspection. If an area to

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be inspected is a restricted area, the workers' representative for that area shall be an individual previously authorized by the licensee or registrant to enter that area. (Authorized by K.S.A. 1984 Supp. 48-1607; implementing K.S.A. 1984 Supp. 48-1604, 48-1607, 48-1609; effective May 1, 1976; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-336. Consultation with workers during inspections.** (a) Department inspectors may consult privately with workers concerning matters of occupational radiation protection and other matters related to the provisions of these regulations or any condition of a license, to the extent the inspectors deem necessary for the conduct of an effective and thorough inspection.

(b) During the course of an inspection, any worker may bring privately to the attention of the inspectors, either orally or in writing, any past or present condition which that worker has reason to believe may have contributed to or caused any violation of the act, these regulations, or any license condition, or any unnecessary exposure of an individual to radiation from licensed radioactive material or a registered radiation machine under the licensee's or registrant's control. Any such notice in writing shall state clearly the condition complained of and be signed by the worker.

(c) The provisions of 28-35-336 subsection (b) shall not be interpreted as authorizing disregard of instructions given pursuant to K.A.R. 28-35-333 and any amendments of that rule and regulation. (Authorized by K.S.A. 1984 Supp. 48-1607; implementing K.S.A. 1984 Supp. 48-1604, 48-1607, 48-1609; effective May 1, 1976; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-337. Requests by workers for inspections.**

(a) Any worker or representative of workers who believes that a violation of the act, these regulations or a license conditions exists or has occurred in work under a license or registration with regard to radiological working conditions in which the worker is engaged may request an inspection by giving notice of the alleged violation to the department. Any such notice shall be in writing, shall set forth the specific grounds for the notice, and shall be signed by the worker or representative of the workers. A copy shall be provided to the licensee or registrant by the department no later than at the time of inspection except that, upon the request of the worker giving the notice, the worker's name and the name of individuals referred to shall not appear in the copy or on any record published, released, or made available by the department, except for good cause shown.

(b) If, upon receipt of the notice, the department determines that the complaint meets the requirements of subsection (a), and that there are reasonable grounds to believe that the alleged violation exists or has occurred, an inspection shall be made as soon as practicable, to determine if the alleged violation exists or has occurred. Inspections pursuant to this section need not be limited to matters referred to in the complaint.

(c) No licensee or registrant shall discharge or in

any manner discriminate against any worker because the worker has filed any complaint, or instituted or caused to be instituted any proceeding under these regulations, or has testified or is about to testify in any proceeding, or because of the exercise by the worker on behalf of the worker or others of any option afforded by this part. (Authorized by K.S.A. 1984 Supp. 48-1607; implementing K.S.A. 1984 Supp. 48-1604, 48-1607, 48-1609; effective May 1, 1976; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**28-35-338. Inspections not warranted; informal review.** (a) If the department determines, with respect to a complaint filed under K.A.R. 28-35-337, and any amendments to that rule and regulation that an inspection is not warranted because there are no reasonable grounds to believe that a violation exists or has occurred, the department shall notify the complainant in writing of that determination. The complainant may obtain a review of the determination by submitting a written statement of position to the secretary, who will provide the licensee or registrant with a copy of the statement by certified mail, excluding, at the request of the complainant, the name of the complainant. The licensee or registrant may submit an opposing written statement of position to the secretary, who will provide the complainant with a copy of that statement by certified mail. Upon the request of the complainant, the secretary or the secretary's designee may hold an informal conference in which the complainant and the licensee or registrant may orally present their views. An informal conference may also be held at the request of the licensee or registrant, but disclosure of the identity of the complainant shall be made only following receipt of written authorization from the complainant. After considering all written or oral views presented, the secretary shall affirm, modify, or reverse the determination of the department and furnish the complainant and the licensee or registrant a written notification of the decision and the reason for the decision.

(b) If the secretary determines that an inspection is not warranted because the requirements of K.A.R. 28-35-337(a) have not been met, the secretary shall notify the complainant in writing of the determination. That determination shall be without prejudice to the filing of a new complaint meeting the requirements of K.A.R. 28-35-337(a). (Authorized by K.S.A. 1984 Supp. 48-1607; implementing K.S.A. 1984 Supp. 48-1604, 48-1607, 48-1609; effective May 1, 1976; amended, T-85-43, Dec. 19, 1984; amended May 1, 1985.)

**Article 39.—LICENSURE OF  
ADULT CARE HOMES**

**28-39-83. Administration; management standard.**

(a) Each licensee shall have full authority and responsibility for the operation of the facility and for compliance with licensing requirements.

(b) Policies and procedures. Each licensee shall adopt and enforce written policies and procedures relative to:

(1) The health care, safety, psychosocial, and self-esteem needs of the residents;

(2) Protection of personal and property rights of residents;

(3) Review of policies. All policies and procedures of the facility shall be revised as necessary and reviewed at least annually; and

(4) Availability of policies. Policies and procedures shall be available, on request, to all persons during normal business hours. A notice of availability shall be posted in a conspicuous location in the facility.

(c) Administrator. Each licensee shall adopt a written job description for, and shall employ, a full-time licensed administrator. The administrator shall be responsible for the overall management of the facility, including:

(1) Planning, organizing, and directing the operation of the facility as authorized by the licensee;

(2) Implementing operational policies and procedures for the facility; and

(3) Authorizing, in writing, a responsible employee 18 years old or older to act on the administrator's behalf in the administrator's absence.

(d) Advisory committee. Each facility shall have an advisory committee, including, but not limited to, a physician, a nurse, and a religious advisor. The advisory committee shall:

(1) Give advice and counsel to the administrator;

(2) Review resident care policies at least annually;

(3) Meet at least once every six months; and

(4) Record and retain minutes of the meetings.

(e) Admission. Each licensee shall have written policies regarding admission of residents. The admission policy shall meet the following requirements:

(1) The facility shall admit only those persons whose nursing care and physical needs can be met.

(2) Each resident admitted shall be under the care of a physician licensed to practice in Kansas.

(3) Upon admission or within 48 hours of admission, referral information shall be obtained by the facility. Referral forms shall include a medical history, diagnosis, personal and social data, and a description of permitted activities.

(4) Before admission, the prospective resident or the legal guardian of the resident shall be informed, in writing, of the rates and charges for the facility's services and of the resident's obligations regarding payment. This information shall include the refund policy of the facility.

(5) At the time of admission, the licensee shall execute a written agreement with the resident or the legal guardian of the resident which describes in detail the goods and services which the resident will receive and which sets forth the obligations that the resident has toward the facility.

(6) The facility shall not admit:

(A) Persons with an infection or disease in communicable stage;

(B) Children under the age of 16 years;

(C) Women who are pregnant or within three months following pregnancy; or

(D) Persons in need of active treatment for alcoholism, a mental condition, or drug addiction.

(f) Transfer and discharge. Each facility shall have written policies regarding transfer and discharge of

residents. The policy shall meet the following requirements:

(1) Immediate arrangements shall be made to transfer a resident when, in the written judgment of the resident's attending physician, changes in the physical or mental condition of the resident necessitate care which the facility is not capable of providing.

(2) When any resident develops a communicable disease or infection that cannot be managed in the facility, immediate arrangements shall be made for the transfer of the resident to an appropriate hospital or other facility. The development of any communicable disease or infection after admission shall be reported to the local health department.

(3) Except in an emergency, a resident shall not be transferred or discharged from the facility for medical reasons without a written order from the attending physician and prior notification to the resident or the legal guardian of the resident as prescribed in K.A.R. 28-39-78(a)(3). A summary of administrative, social, medical, and nursing information shall accompany the resident if transferred to another facility or hospital.

(g) Transfer agreement. Each facility shall have on file and in effect a transfer agreement with one or more hospitals which provides the basis for effective working arrangements under which inpatient hospital care or other hospital services are available promptly to the facility's residents when needed. A hospital and the facility shall be considered to have a transfer agreement in effect if, by reason of a written agreement between them, or if the two institutions are under common control, by reason of a written understanding by the person or body who controls both institutions, there is reasonable assurance that:

(1) Transfer of residents will be effected between the facilities, without delay, whenever a transfer is medically appropriate as determined by the attending physician;

(2) There will be an interchange of medical and other information necessary or useful in the care and treatment of individuals transferred between the facilities; and

(3) There will be arrangements made for the transfer of personal effects, particularly money and valuables, and for the transfer of information related to these items when necessary.

(h) Outside resources. Each facility shall provide services to residents according to their needs either by staff or by the use of qualified outside resources. These services shall be provided as follows:

(1) When a facility does not have a professional on its staff who is qualified to provide a specific required service, it shall make arrangements to have the service provided by a qualified person or agency through direct services to residents or as a consultant to the facility.

(2) The terms of the agreement, including financial arrangements and charges, shall be delineated in writing and signed by an authorized representative of the facility and the person or agency providing the service.

(3) The outside resource, when acting as a consul-

(continued)

tant, shall apprise the administrator of recommendations and plans for their implementation, and shall provide continuing assessment through dated, signed reports. These reports shall be retained by the facility.

(i) Resident possessions.

(1) Each facility shall have written policies which ensure the security of residents' personal possessions.

(2) A written inventory of each resident's personal possessions, signed by the resident, or by the resident's legal guardian, shall be completed at the time of admission and shall be updated annually.

(3) If a resident deposits personal possessions with the facility for safekeeping, a written record shall be maintained and a receipt shall be given to the resident.

(j) Resident funds.

(1) If any facility accepts a resident's funds for safekeeping or assumes responsibility for a resident's financial affairs, the resident shall agree in writing to the transfer of responsibility to the facility.

(2) Each facility shall utilize an accounting system which ensures an accurate accounting of receipts and disbursements made to, or on behalf of, a resident.

(3) Each facility shall designate in writing the person responsible for the accounting system.

(4) Receipts for all transactions shall be signed by the resident or the legal guardian of the resident.

(5) Each facility shall make a written quarterly accounting of transactions to the resident and shall advise the resident of the current balance of the resident's funds.

(k) Power of attorney and guardianship. A power of attorney from or legal guardianship for a resident shall not be accepted by anyone employed by or having a financial interest in the facility unless the person is related by marriage or blood within the second degree to the resident.

(l) Reports. Each administrator shall submit to the licensing agency, not later than 10 days following the period covered, a quarterly report of residents and employees. The report shall be submitted on forms provided by the licensing agency. The administrator shall submit any other reports as required by the licensing agency.

(m) Telephone. The facility shall maintain at least one noncoinoperated telephone accessible to residents or employees for use in emergencies. Names and telephone numbers of persons or places commonly required in emergencies shall be posted adjacent to the telephone.

(n) Smoking. Smoking may be permitted only in designated areas. Residents shall have the choice to be assigned a room in which smoking is not permitted. Smoking shall be prohibited in all other areas that are used for resident treatment or diagnosis.

(Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; amended May 1, 1985.)

#### Article 43.—CONSTRUCTION, OPERATION AND ABANDONMENT OF SALT SOLUTION MINING WELLS

##### 28-43-11. Salt solution mining operations; fees.

An annual fee of \$1,300 for permitting, monitoring and inspecting salt solution mining operations shall be paid by each person, firm, association or corporation operating salt solution mining wells. The fee shall be paid by April 1 of each year. Any person, firm, association or corporation who fails to pay the amount due by April 1 shall be subject to permit revocation. (Authorized by and implementing K.S.A 1984 Supp. 65-171d; effective, T-85-7, Feb. 15, 1984; effective May 1, 1984; amended May 1, 1985.)

#### Article 44.—PETROLEUM PRODUCTS STORAGE TANKS

**28-44-11. Buried petroleum products storage tanks program; fees.** Each person, firm, association, or corporation which has buried petroleum storage tanks shall pay an annual fee for plan approval and for monitoring and inspection of the buried storage tanks. The annual fee shall be \$3.00 for each buried petroleum storage tank in place. The fee shall be collected from the operator of the facility upon which the tanks are located. The fee shall be paid by April 30 of each year. (Authorized by and implementing K.S.A 1984 Supp. 65-171d; effective, T-85-7, Feb. 15, 1984; effective May 1, 1984; amended May 1, 1985.)

#### Article 45.—HYDROCARBON STORAGE WELLS AND WELL SYSTEMS

**28-45-11. Hydrocarbon storage wells and well systems; fees.** An annual fee of \$1,200 for permitting, monitoring and inspecting hydrocarbon storage wells and well systems shall be paid by each person, firm, association or corporation operating underground hydrocarbon storage facilities in bedded salt deposits. The fee shall be paid by April 1 of each year. Any person, firm, association or corporation who fails to pay the amount due by April 1 shall be subject to permit revocation. (Authorized by and implementing K.S.A 1984 Supp. 65-171d; effective, T-85-7, Feb. 15, 1984; effective May 1, 1984; amended May 1, 1985.)

BARBARA J. SABOL  
Secretary of Health  
and Environment

Doc. No. 002851



## State of Kansas

DEPARTMENT OF REVENUE  
DIVISION OF PROPERTY VALUATIONPERMANENT ADMINISTRATIVE  
REGULATIONS

(Effective May 1, 1985)

Article 4.—ASSESSMENT SALES  
RATIO STUDY

**93-4-1.** Assessment sales ratio study; urban and rural real estate. In establishing classes and subclasses of properties for the purpose of determining ratios of sales pursuant to K.S.A. 79-1435 *et seq.*, and amendments thereto, urban real estate shall constitute all real estate which is located within the incorporated limits of any city in this state and rural real estate shall constitute all real estate which is not within the incorporated limits of any city in this state. (Authorized by K.S.A. 79-1441; implementing K.S.A. 79-1437; effective, T-85-13, May 3, 1984; effective May 1, 1985.)

VIC MILLER  
Director

Doc. No. 002964

## State of Kansas

## DEPARTMENT OF REVENUE

PERMANENT ADMINISTRATIVE  
REGULATIONS

(Effective May 1, 1985)

Article 3.—MOTOR FUEL TAX  
AND TRANSPORTATION OF  
LIQUID FUEL

**92-3-13.** (Authorized by K.S.A. 83-125, K.S.A. 1965 Supp. 55-512; effective Jan. 1, 1966; revoked May 1, 1985.)

## Article 5.—CIGARETTE TAX

**92-5-3.** Manufacturer's salespersons. Manufacturer's salespersons shall not have in their possession packages of cigarettes other than sample packages, without the required Kansas tax indicia applied thereto. The salesperson's license shall at all times be posted in the vehicle used by the salesperson in the conduct of the salesperson's business. Cigarettes sold by a manufacturer's salesperson to a retail dealer shall be evidenced by an invoice stating the retail dealer's name, address and retail license number. (Authorized by K.S.A. 79-3326; implementing K.S.A. 79-3304, 79-3313; effective Jan. 1, 1966; amended, E-67-11, July 1, 1967; amended Jan. 1, 1968; amended May 1, 1985.)

Article 8.—CEREAL MALT  
BEVERAGE TAX

**92-8-9a.** Labels on containers of cereal malt beverage; nature. Each original package of cereal malt beverage offered for sale in this state shall bear a label

setting forth in plain and legible print in the English language and in the manner permitted by federal laws and regulations with respect to the labeling of cereal malt beverage, the word "beer", the number of fluid ounces contained therein, the name of the beer manufacturer, and such additional information as may be required by such laws and regulations. Each label shall be submitted to the alcoholic beverage control division in duplicate accompanied by a federal label approval form.

All labels and can lids submitted for cereal malt beverage shall show the statement "does not contain more than 3.2% alcohol by weight." However, any kind or brand of beer that contains 2% of alcohol or less by weight may substitute the words "does not contain more than 2% of alcohol by weight." (Authorized by K.S.A. 41-209(2); implementing K.S.A. 41-209(2); effective May 1, 1985.)

**92-8-19.** Inducements in exchange for exclusive brand at retail establishment prohibited. A brewer, wholesaler, or distributor of cereal malt beverage shall not, directly or indirectly, offer, give or furnish any gifts, prizes, coupons, premiums, rebates, discounts, or any other inducement or thing of value to a licensed retail seller of cereal malt beverage in exchange for the retail seller's agreement to sell only one brand of cereal malt beverage. (Authorized by K.S.A. 41-2717; implementing K.S.A. 41-2705(b)(1)(D); effective May 1, 1985.)

## Article 23.—BINGO

**92-23-1 to 92-23-3.** (Authorized by K.S.A. 1975 Supp. 79-4708; effective, E-76-32, June 19, 1975; effective May 1, 1976; revoked May 1, 1985.)

**92-23-9.** Persons conducting bingo games. Any person engaged in the management, operation or conduct of a bingo game shall not also participate as a player in the same bingo game. (Authorized by K.S.A. 79-4708; implementing K.S.A. 79-4706, 79-4708; effective May 1, 1985.)

**92-23-10.** Verification of winners. The winning numbers on the card of each announced winner of each bingo game shall be verified by: (a) at least one other player unrelated by blood or marriage to either the winning player or the caller of that bingo game; and

(b) one or more of the persons conducting the bingo game.

The winning numbers shall be called out loud so that the other players present can hear the numbers. (Authorized by and implementing K.S.A. 79-4708; effective May 1, 1985.)

**92-23-11.** Handling of hard cards. No person shall be allowed to select or set aside any hard cards for playing by such person or another person prior to the time that the hard cards are generally made accessible to all of the players prior to the start of a bingo session. At the end of each bingo session, all hard cards used during the session shall be returned to one common area. No person shall be allowed to set aside or reserve

(continued)

hard cards between sessions. All hard cards to be used for a particular session shall be shuffled prior to being sold or rented to the players so as to assure that cards returned from the previous session do not remain in the order in which they were returned. (Authorized by and implementing K.S.A. 79-4708; effective May 1, 1985.)

**92-23-12. Communication of numbers needed to win prohibited.** No person shall communicate verbally or in any other manner the number or numbers needed by any player to win a bingo game to any person involved in the conduct of that bingo game. (Authorized by and implementing K.S.A. 79-4708; effective May 1, 1985.)

**92-23-13. Display of numbered objects used in conducting games.** As each number is called during each bingo game, the selected object upon which such number appears shall be displayed to the players present so that each player who desires to see the number may do so. (Authorized by and implementing K.S.A. 79-4708; effective May 1, 1985.)

**92-23-14. Schedule of bingo games.** (a) Each organization applying for an original bingo license or for renewal of an existing bingo license shall furnish, at the time of such application, a schedule of bingo games that will be conducted by the organization. The schedule shall include the date and time of each session. If the bingo games will be conducted only occasionally or on irregular dates which have not been determined at the time of the application, the organization shall so state on the application form and shall furnish a schedule in accordance with subsection (b).

(b) Whenever a licensee intends to conduct bingo games on a date or at a time different from that previously furnished in writing to the secretary of revenue, the licensee shall submit written notice of the change to the bingo enforcement unit of the department of revenue at least seven days prior to the effective date of that change. (Authorized by K.S.A. 79-4708; implementing K.S.A. 79-4706; effective May 1, 1985.)

**92-23-15. Bingo trust accounts.** Licensees required to establish and use a bingo trust account pursuant to K.S.A. 79-4706, and amendments thereto, shall comply with the following:

(a) The bingo trust account name shall include the word "bingo."

(b) Only receipts from the conduct of bingo games shall be deposited into the trust account. Funds from other sources shall not be deposited in the account.

(c) Cash prizes under \$100 may be paid from the daily gross bingo receipts before depositing the same in the bingo trust account, if a detailed written record is kept of the gross receipts, cash prizes paid, and net deposit made to the bingo trust account for the day.

(d) All payments made from the bingo trust account shall be by check.

(e) Excess funds in the bingo trust account which are not needed for the payment of bingo prizes, taxes and expenses may be removed from the account by writing a check. Such excess funds may be used for

any lawful purpose of the organization pursuant to K.S.A. 79-4706, and amendments thereto. (Authorized by K.S.A. 79-4708; implementing K.S.A. 79-4706; effective May 1, 1985.)

**92-23-38. Bingo; books and records; inspection and preservation.** (a) Each licensee shall keep and maintain records that are necessary to determine the amount of tax due and to determine that the games of bingo operated or conducted by the licensee were operated or conducted in compliance with K.S.A. 79-4701, *et seq.*, and amendments thereto. The records shall show:

(1) The date and location of each bingo game conducted;

(2) The name of the operator or manager who conducted or operated each bingo game;

(3) The number of games played daily;

(4) The value of all prizes awarded for each game played;

(5) The value of all other prizes awarded in connection with games of bingo;

(6) The date that every prize was awarded;

(7) The name and address of each winner of a bingo game in which the prize awarded was \$100 or more in value and all winners of prizes in disputed bingo games. A prize shall not be awarded to any individual who refuses to give that individual's name and address to a licensee in compliance with this regulation; and

(8) The daily total of receipts received by the licensee for admission, charges for participation and other charges in connection with games of bingo.

(b) All books and records required by this section shall be preserved for a period of three years following the date the game to which they pertain was managed, operated or conducted.

(c) All books and records maintained in compliance with this regulation shall be available for and subject to inspection by the director of taxation or the director's duly authorized agents and employees at a location previously designated by the licensee. Such books and records shall be subject to inspection at any reasonable time and at all times that the licensee is operating or conducting games of bingo. Each licensee shall provide all information, tax returns, and records regarding, or related to, the operation, management or conduct of bingo games that is requested by the department of revenue. Failure to provide such information when requested shall constitute grounds for revocation of a bingo license. (Authorized by K.S.A. 79-4708; implementing K.S.A. 79-4706; effective, E-77-49, Sep. 30, 1976; effective Feb. 15, 1977; amended, E-81-27, Sep. 10, 1980; amended May 1, 1981; amended May 1, 1985.)

**92-23-38a. Disputed bingo game.** "Disputed bingo game" means a game of bingo at which a participant or observer registers a complaint with a representative who is operating, conducting or managing bingo games for a licensee. The complainant shall file a written complaint with the secretary of revenue. Each bingo licensee shall, on the premises at which bingo games are played, post in plain view of the participants the following address at which prospec-

tive complainants may file bingo complaints: Bingo enforcement unit, Kansas Department of Revenue, State Office Building, Topeka, Kansas 66612. (Authorized by K.S.A. 79-4708; implementing K.S.A. 79-4706, 79-4708; effective, E-81-27, Sept. 10, 1980; effective May 1, 1981; amended May 1, 1985.)

#### Article 51.—TITLES AND REGISTRATION

**92-51-22. Registration period beginning date; fee due.** The date of the assignment or reassignment of a manufacturer's certificate of origin or certificate of title shall be the beginning date of a registration period. The registration fee shall be due on that date, but may be paid at any time during a period of not to exceed 30 days after the assignment or reassignment. If the registration fee is not paid within the period of time prescribed by this regulation, the penalty for the late payment of the fee shall be computed from the date of the assignment or reassignment. (Authorized by K.S.A. 74-2011, K.S.A. 1983 Supp. 8-134; implementing K.S.A. 8-127, K.S.A. 1984 Supp. 8-143; effective, E-82-26, Dec. 16, 1981; effective May 1, 1982; amended, T-85-40, Dec. 19, 1984; amended May 1, 1985.)

**92-51-25. Prerequisites for applications for title on used, foreign vehicles.** (a) In securing a certificate of title on a used, foreign vehicle, the applicant shall surrender to the county treasurer:

(1) A form evidencing that the vehicle identification number has been verified by the Kansas highway patrol; and

(2) (A) The foreign title in the applicant's name and an affidavit of date of entry;

(B) A foreign title which has been properly assigned to the applicant; or

(C) A foreign title which has been properly assigned to a registered dealer of the state in which the title was issued and which has been properly reassigned by the dealer of that state to the Kansas resident.

(b) If the foreign state does not have a title law, the applicant shall present a notarized bill of sale from the person from whom the vehicle was purchased and a foreign registration receipt. The foreign registration receipt shall be:

(1) In the applicant's name;

(2) Properly assigned to the applicant; or

(3) Reassigned by a registered dealer of the issuing state. The foreign registration receipt and the notarized bill of sale shall be surrendered to the county treasurer. (Authorized by K.S.A. 74-2011, K.S.A. 1983 Supp. 8-134; implementing K.S.A. 1984 Supp. 8-116a, 8-135; effective, E-82-26, Dec. 16, 1981; effective May 1, 1982; amended, T-85-40, Dec. 19, 1984; amended May 1, 1985.)

**92-51-30. Application for refund of registration fee.** Any owner of a motor vehicle eligible for a refund of the registration fee shall file an application for the refund with the Kansas Department of Revenue, Division of Vehicles, State Office Building, Topeka,

Kansas 66612, or the department's designee. At the same time, the applicant shall relinquish to the division of vehicles the registration plate and any attachment issued in connection with the registration, unless the plate has been relinquished to the county treasurer pursuant to K.A.R. 92-55-3. Application for refund shall be in the form prescribed by the division. (Authorized by K.S.A. 74-2011, K.S.A. 1983 Supp. 8-134; implementing K.S.A. 1984 Supp. 8-143; effective, E-82-26, Dec. 16, 1981; effective May 1, 1982; amended, T-85-40, Dec. 19, 1984; amended May 1, 1985.)

**92-51-35. Prisoner of war number plates; application requirements.** Each applicant for a distinctive number plate designating that person as a former prisoner of war shall submit proof in the form of documentation from the veteran's administration or from a branch of the armed services or in the form of a newspaper clipping verifying the applicant's former prisoner of war status. If no such documentation is available, two notarized statements from acquaintances of the applicant verifying the applicant's former prisoner of war status shall be submitted as proof. (Authorized by and implementing K.S.A. 1983 Supp. 8-177c; effective, T-84-35, Dec. 7, 1983; effective, T-85-12, May 3, 1984; effective May 1, 1985.)

**92-51-36. Farm truck and farm truck tractor registrations; vehicle lettering requirements.** Each farm truck and farm truck tractor registered for a gross weight of more than 54,000 pounds shall have painted or permanently affixed on both sides of the motor vehicle the words "farm vehicle—not for hire." The words shall have letters not less than two inches in height and not less than one-fourth inch in stroke. (Authorized by K.S.A. 74-2011; implementing K.S.A. 1984 Supp. 8-143; effective, T-85-40, Dec. 19, 1984; effective May 1, 1985.)

**92-51-37. Lost or stolen personalized license plates; reissuance of different combination plates.** If one or both of the personalized plates are lost or stolen, the vehicle owner shall make application for new plates with a different combination of numbers or letters. If only one plate is lost or stolen, the remaining plate shall be surrendered to the division of vehicles. (Authorized by and implementing K.S.A. 1984 Supp. 8-132; effective, T-85-40, Dec. 19, 1984; effective May 1, 1985.)

HARLEY T. DUNCAN  
Secretary of Revenue

Doc. No. 002965

State of Kansas

### BOARD OF REGENTS

#### PERMANENT ADMINISTRATIVE REGULATIONS

(Effective May 1, 1985)

#### Article 10.—TAX-SHELTERED ANNUITY PROGRAM

**88-10-1. Purchase of annuities; conditions.** A pro-

(continued)

gram for the purchase of voluntary tax-sheltered annuities is hereby established for the members of the faculty and other eligible employees, as defined in K.S.A. 74-4925(1)(a), and any amendments thereto. The maximum amount to be contributed on behalf of each participating employee, including the contributions for employer-purchased annuities for the retirement plan described in K.S.A. 74-4925(1)(b) and K.S.A. 74-4925(1)(c), and any amendments thereto, shall be limited by the provisions of the internal revenue code of 1954 as amended. Such voluntary tax-sheltered annuities shall be purchased by the board of regents for those eligible employees who voluntarily reduce their salaries to provide the funds with which to purchase such annuities. The board of regents shall designate one or more basic retirement plan providers. The contributions dedicated to the plan as provided for in K.S.A. 74-4925(1)(b) and K.S.A. 74-4925(1)(c), and any amendments thereto, shall continue to be maintained for all present employees and all eligible new employees. (Authorized by K.S.A. 1984 Supp. 74-4925; implementing K.S.A. 1984 Supp. 74-4925; effective, E-74-12, Dec. 28, 1973; effective May 1, 1975; amended, T-85-31, Nov. 14, 1984; amended, May 1, 1985.)

**88-10-2. Same; contracts.** The executive officer of the board of regents, or any person or persons designated by the executive officer, may execute contracts on behalf of the board of regents with companies offering plans meeting the requirements of section 403(b) of the internal revenue code of 1954, as amended, and in effect on October 1, 1984. These contractual arrangements shall be only for the purpose of meeting such requirements as are needed by the companies and shall not be considered as an endorsement of any company. (Authorized by K.S.A. 1984 Supp. 74-4925; implementing K.S.A. 1984 Supp. 74-4925; effective, E-74-12, Dec. 28, 1973; effective May 1, 1975; amended, T-85-31, Nov. 14, 1984; amended May 1, 1985.)

**88-10-3. Same; powers to financial officer.** The chief financial officer of each state educational institution or the chief financial officer's designee may, on behalf of the board of regents, sign applications and other papers required to carry into effect the voluntary tax-sheltered annuity program. (Authorized by K.S.A. 1984 Supp. 74-4925; implementing K.S.A. 1984 Supp. 74-4925; effective, E-74-12, Dec. 28, 1973; effective May 1, 1975; amended, T-85-31, Nov. 14, 1984; amended May 1, 1985.)

**88-10-4. Same; contracts.** The voluntary tax-sheltered annuity program and annuities, contracts, and certificates associated with the voluntary tax-sheltered annuity program shall be separate from and in addition to the retirement program described in K.S.A. 74-4925(1)(b) and K.S.A. 74-4925(1)(c), and any amendments thereto. The voluntary tax-sheltered annuity contracts shall comply with sections 401(g) and 403(b) of the internal revenue code of 1954 as amended. No voluntary tax-sheltered plan shall be offered to any eligible employee until the company offering the plan has submitted verification to the executive officer of the board of regents or the executive officer's designee that the plan meets the requirements of section 403(b) of the internal revenue code of 1954 as amended. Such contracts shall not provide any element of life insurance nor for premium

waiver benefits. (Authorized by K.S.A. 1984 Supp. 74-4925; implementing K.S.A. 1984 Supp. 74-4925; effective, E-74-12, Dec. 28, 1973; effective May 1, 1975; amended, T-85-31, Nov. 14, 1984; amended May 1, 1985.)

**88-10-5. Same; insurance companies authorized to issue annuities.** Companies authorized to issue the voluntary tax-sheltered annuities shall be Teachers Insurance and Annuity Association/College Retirement Equities Fund, any life insurance company authorized to do business in this state and any noninsurance company offering retirement plans that meet the requirements of section 403(b) of the internal revenue code of 1954 as amended. (Authorized by K.S.A. 1984 Supp. 74-4925; implementing K.S.A. 1984 Supp. 74-4925; effective, E-74-12, Dec. 28, 1973; effective May 1, 1975; amended, T-85-31, Nov. 14, 1984; amended May 1, 1985.)

**88-10-6. Same; names of agents soliciting business; limits.** Companies engaged in the solicitation of voluntary tax-sheltered annuities shall file, in the office of the chief fiscal officer of each state educational institution, a list of the names of its agents who will solicit business. Not more than four agents shall be listed at each institution at any one time. Solicitation of this business by agents other than those so listed shall not be permitted. The list shall be accompanied by a statement, signed by a company officer, that the agents named are trained in the sale and service of tax-sheltered annuities. (Authorized by K.S.A. 1984 Supp. 74-4925; implementing K.S.A. 1984 Supp. 74-4925; effective, E-74-12, Dec. 28, 1973; effective May 1, 1975; amended, T-85-31, Nov. 14, 1984; amended May 1, 1985.)

**88-10-7. Same; responsibility of employees; exclusion allowance.** Each participating employee shall be responsible for the selection of the company and the type of annuity contract to be purchased on the employee's behalf and for evaluation of the tax-sheltered status provided by the contract. The board of regents shall not assume responsibility for an employee's selection. Each company offering the annuity product shall provide for the fiscal offices a maximum exclusion allowance calculation for each employee desiring to participate in the tax-sheltered annuity program. (Authorized by K.S.A. 1984 Supp. 74-4925; implementing K.S.A. 1984 Supp. 74-4925; effective, E-74-12, Dec. 28, 1973; effective May 1, 1975; amended, T-85-31, Nov. 14, 1984; amended May 1, 1985.)

**88-10-8. Same; salary reduction agreement form; termination of agreements.** A uniform salary reduction agreement form shall be used at the state educational institutions to effect the salary reduction and annuity purchase requests of the participating employees. The agreement shall be made for a period of at least one year. However, the first agreement may be for the remaining portion of the tax year. The employee may terminate an existing agreement at any time with respect to amounts not yet earned, but the employee shall not make more than one agreement with the same employer during the tax year. (Authorized by K.S.A. 1984 Supp. 74-4925; implementing K.S.A. 1984 Supp. 74-4925; effective, E-74-12, Dec. 28, 1973; effective May 1, 1975; amended, T-85-31, Nov. 14, 1984; amended May 1, 1985.)

**88-10-9.** (Authorized by K.S.A. 1974 Supp. 74-4925; effective, E-74-12, Dec. 28, 1973; effective May 1, 1975; revoked, T-85-31, Nov. 14, 1984; revoked May 1, 1985.)

**88-10-10.** Same; signed agreement and worksheet. An agreement to reduce salary and to purchase tax-deferred annuities and the appropriate worksheet shall be completed and signed by each participant in the voluntary tax-sheltered annuity program. (Authorized by K.S.A. 1984 Supp. 74-4925; implementing K.S.A. 1984 Supp. 74-4925; effective, E-74-12, Dec. 28, 1973; effective May 1, 1975; amended, T-85-31, Nov. 14, 1984; amended May 1, 1985.)

**88-10-12.** Same; selection of companies by employee; limitations. Each participating employee shall select no more than one company in addition to the basic retirement plan provider for the purchase of tax-sheltered annuities. The basic retirement plan provider may be the company selected for additional annuity purchase. (Authorized by K.S.A. 1984 Supp. 74-4925; implementing K.S.A. 1984 Supp. 74-4925; effective, E-74-12, Dec. 28, 1973; effective May 1, 1975; amended, T-85-31, Nov. 14, 1984; amended May 1, 1985.)

#### Article 11.—TAX-SHELTERED ANNUITY PROGRAMS FOR PERSONS COVERED BY 74-4925b

**88-11-1.** Program establishment; limitation; exception. A program for the purchase of voluntary tax-sheltered annuities is hereby established for any person employed by a state educational institution who is not described in K.S.A. 74-4925(1)(a), and any amendments thereto. The maximum amount to be contributed on behalf of each participating employee shall be as limited by the provisions of the internal revenue code of 1954 as amended. Such voluntary tax-sheltered annuities shall be purchased by the board of regents for those eligible employees who voluntarily reduce their salaries to provide the funds with which to purchase annuities. (Authorized by K.S.A. 74-4925b; implementing K.S.A. 74-4925b; effective, E-74-34, July 2, 1974; effective May 1, 1975; amended, T-85-31, Nov. 14, 1984; amended May 1, 1985.)

**88-11-2.** Same; eligible employees. Any person who is employed half-time or more by the board of regents or a state educational institution, who is not employed on a temporary basis and who is not described in K.S.A. 74-4925(1)(a), and any amendments thereto, shall be eligible to participate in a program established under K.A.R. 88-11-1. (Authorized by K.S.A. 74-4925b; implementing K.S.A. 74-4925b; effective, E-74-34, July 2, 1974; effective May 1, 1975; amended, T-85-31, Nov. 14, 1984; amended May 1, 1985.)

**88-11-3.** Same; contracts; execution. The executive officer of the board of regents, or any person or persons designated by the executive officer, may execute contracts on behalf of the board of regents with companies offering plans meeting the requirements of section (403)(b) of the internal revenue code of 1954 as amended. These contractual arrangements shall be only for the purpose of meeting such requirements as are needed by the companies and shall not be considered as an endorsement of any company. (Authorized by K.S.A. 74-4925b; implementing K.S.A. 74-4925b;

effective, E-74-34, July 2, 1974; effective May 1, 1975; amended, T-85-31, Nov. 14, 1984; amended May 1, 1985.)

**88-11-4.** Same; powers of financial officer. The chief financial officer of the state educational institution or the chief financial officer's designee may, on behalf of the board of regents, sign applications and other papers required to carry into effect the voluntary tax-sheltered annuity program. (Authorized by K.S.A. 74-4925b; implementing K.S.A. 74-4925b; effective, E-74-34, July 2, 1974; effective May 1, 1975; amended, T-85-31, Nov. 14, 1984; amended May 1, 1985.)

**88-11-5.** Same; conditions and limitations on programs. The voluntary tax-sheltered annuity program and annuities, contracts, and certificates associated with the voluntary tax-sheltered annuity program shall be separate from the basic retirement program described in K.S.A. 74-4919, and any amendments thereto. The voluntary tax-sheltered annuity contracts shall comply with sections 401 (g) and 403 (b) of the internal revenue code of 1954 as amended. No voluntary tax-sheltered plan shall be offered to any eligible employee until the company offering the plan has submitted verification to the executive officer of the board of regents or the executive officer's designee that the plan meets the requirements of section 403(b) of the internal revenue code of 1954 as amended. Such contracts shall not provide any element of life insurance nor for premium waiver benefits. (Authorized by K.S.A. 74-4925b; implementing K.S.A. 74-4925b; effective, E-74-34, July 2, 1974; effective May 1, 1975; amended, T-85-31, Nov. 14, 1984; amended May 1, 1985.)

**88-11-6.** Same; companies authorized to issue annuities. Companies authorized to issue the voluntary tax-sheltered annuities shall be Teachers Insurance and Annuity Association/College Retirement Equities Company, any life insurance company authorized to do business in Kansas and any noninsurance company offering retirement plans that meet the requirements of section 403(b) of the internal revenue code of 1954 as amended. (Authorized by K.S.A. 74-4925b; implementing K.S.A. 74-4925b; effective, E-74-34, July 2, 1974; effective May 1, 1975; amended, T-85-31, Nov. 14, 1984; amended May 1, 1985.)

**88-11-7.** Same; filing names of soliciting agents; limits; statement of company. Companies engaged in the solicitation of voluntary tax-sheltered annuities shall file, in the office of the chief fiscal officer of each state educational institution, a list of names of its agents who will solicit business. Not more than four agents shall be listed at each institution at any one time. Solicitation of this business by agents other than those so listed shall not be permitted. This list shall be accompanied by a statement, signed by a company officer, that the agents named are trained in the sale and service of tax-sheltered annuities. (Authorized by K.S.A. 74-4925b; implementing K.S.A. 74-4925b; effective, E-74-34, July 2, 1974; effective May 1, 1975; amended, T-85-31, Nov. 14, 1984; amended May 1, 1985.)

**88-11-8.** Same; employee responsibility; exclusion allowance. Each participating employee shall be responsible for the selection of the company and the type of annuity contract to be purchased on the employee's behalf and for evaluation of the tax-sheltered

(continued)

status provided by the contract. The board of regents shall not assume responsibility for an employee's selection. Each company offering the annuity product shall provide for the fiscal offices a maximum exclusion allowance calculation for each employee desiring to participate in the tax sheltered annuity program. (Authorized by K.S.A. 74-4925b; implementing K.S.A. 74-4925b; effective, E-74-34, July 2, 1974; effective May 1, 1975; amended, T-85-31, Nov. 14, 1984; amended May 1, 1985.)

**88-11-9. Same; salary reduction and annuity purchase requests; forms; termination of agreements.** A uniform salary reduction agreement form shall be used at the state education institutions to effect the salary reduction and annuity purchase requests of the participating employees. The agreement shall be made for a period of at least one year. However, the first agreement may be for the remaining portion of the tax year. The employee may terminate an existing agreement at any time with respect to amounts not yet earned, but the employee shall not make more than one agreement with the same employer during the tax year. (Authorized by K.S.A. 74-4925b; implementing K.S.A. 74-4925b; effective, E-74-34, July 2, 1974; effective May 1, 1975; amended, T-85-31, Nov. 14, 1984; amended May 1, 1985.)

**88-11-10.** (Authorized by K.S.A. 1974 Supp. 74-4925b; effective, E-74-34, July 2, 1974; effective May 1, 1975; revoked, T-85-31, Nov. 14, 1984; revoked May 1, 1985.)

**88-11-11. Same; signed agreement and worksheet.** An agreement to reduce salary and to purchase tax-deferred annuities, and the appropriate worksheet shall be completed and signed by each participant in the voluntary tax-sheltered annuity program. (Authorized by K.S.A. 74-4925b; implementing K.S.A. 74-4925b; effective, E-74-34, July 2, 1974; effective May 1, 1975; amended, T-85-31, Nov. 14, 1984; amended May 1, 1985.)

**88-11-12. Same; selection of one company.** Each participating employee shall select no more than one company in addition to the basic retirement plan for the purchase of voluntary tax-sheltered annuities. (Authorized by K.S.A. 74-4925b; implementing K.S.A. 74-4925b; effective, E-74-34, July 2, 1974; effective May 1, 1975; amended, T-85-31, Nov. 14, 1984; amended May 1, 1985.)

### Article 13.—STUDENT ASSISTANCE PROGRAMS

**88-13-4. Applicant eligibility.** To be eligible for a tuition grant offer, or state scholarship offer, or both, a person shall demonstrate to the executive director of the board that the applicant: (a) is a resident of the state of Kansas according to the residency statutes and administrative regulations applicable to the institutions under the control of the board;

(b) is initially accepted or enrolled at an eligible Kansas postsecondary institution;

(c) is an undergraduate who has never received a baccalaureate degree;

(d) has financial need as determined by an analysis of information submitted on the American College Testing Service Family Financial Statement 1985-86, which is hereby adopted as the board's family financial statement;

(e) for a state scholarship, has attained the academic standard of a cumulative 3.0 grade point average for all postsecondary academic terms or semesters. The average shall be calculated on a 4.0 scale where an A equals four points; and

(f) for a tuition grant, has attained the academic standard of a cumulative 2.0 grade point average for all postsecondary academic terms or semesters. The average shall be calculated on a 4.0 scale where an A equals four points. (Authorized by K.S.A. 72-6112, 72-6815; implementing K.S.A. 72-6112, 72-6815; effective, E-76-57, Dec. 12, 1975; effective, E-77-5, March 19, 1976; effective Feb. 15, 1977; amended, T-85-6, Feb. 15, 1984; amended, May 1, 1984; amended, T-85-14, May 3, 1984; amended, T-85-39, Dec. 19, 1984; amended May 1, 1985.)

**88-13-11. College certification.** Upon the enrollment of grantees, each eligible postsecondary institution shall certify to the board that each grantee attending its institution: (a) is providing a minimum of \$450 from the grantee's own work and resources;

(b) is not receiving more financial aid than the grantee's unmet need;

(c) is a full-time undergraduate student in good standing who is responsible for paying full tuition and required fees;

(d) has met the state scholarship academic standard of a cumulative 3.0 grade point average for grantees participating in the state scholarship program;

(e) has met the tuition grant academic standard of a cumulative 2.0 grade point average for grantees participating in the tuition grant program;

(f) has reported accurate parent or student income data, as verified by a copy of the income tax return for the most recent tax year or through other verification of income if an income tax return will not be filed; and

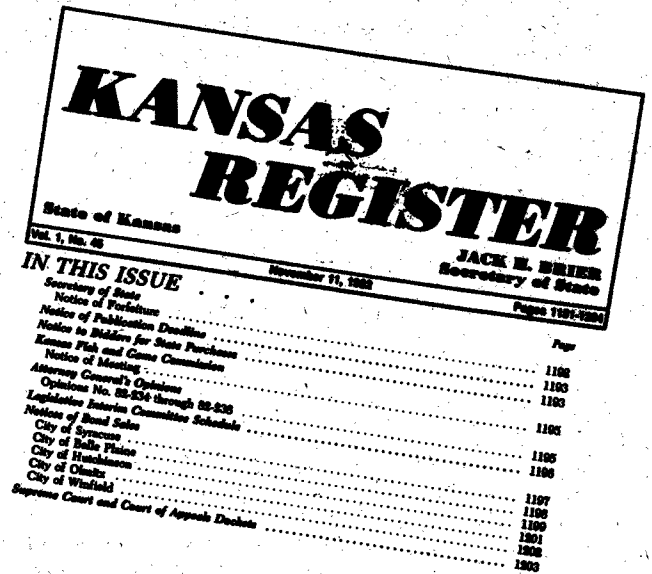
(g) for an independent grantee, that the grantee meets the U.S. education department guidelines for an independent student as in effect on October 26, 1983 and that the college has on file a valid statement of financial independence which shall be certified by a notarized signature of the applicant's parent or legal guardian. (Authorized by K.S.A. 72-6111, 72-6814; implementing K.S.A. 72-6107, 72-6111, 72-6810, 72-6814; effective, E-76-57, Dec. 12, 1975; effective, E-77-5, March 19, 1976; effective Feb. 15, 1977; amended, T-85-6, Feb. 15, 1984; amended May 1, 1984; amended, T-85-14, May 3, 1984; amended, T-85-39, Dec. 19, 1984; amended May 1, 1985.)

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