

# KANSAS REGISTER



State of Kansas

**JACK H. BRIER**  
Secretary of State

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State of Kansas  
**DEPARTMENT OF ADMINISTRATION**  
**DIVISION OF ARCHITECTURAL SERVICES**

**NOTICE OF COMMENCEMENT  
 OF NEGOTIATIONS  
 FOR ENGINEERING SERVICES**

Notice is hereby given of the commencement of negotiations for a contract for an engineering study and engineering services for the Rocky Ford fishing area site, Manhattan.

The study will include design options, cost estimates and final recommendations regarding needed repair and enhancement of the site. Once the most cost effective design is chosen, and subject to available funds, construction documents ready for bidding will be prepared.

Interested firms must be licensed to practice engineering in the state of Kansas.

Any questions or expressions of interest should be directed to Norman Moody, Division of Architectural Services, 625 Polk, Topeka 66603, (913) 233-9367, by February 14, 1986.

JOHN B. HIPPI, AIA  
 Director, Division of  
 Architectural Services

Doc. No. 003875

State of Kansas  
**ATTORNEY GENERAL**

**Opinion No. 86-5**

**Laws, Journals and Public Information—Records Open to Public—Disclosure of Coroner's Reports.**

**Counties and County Officers—District Coroner—Disclosure of Coroner's Reports. Edwin M. Wheeler, Jr., Marion County Attorney, Marion, January 21, 1986.**

Reports prepared by a district coroner or deputy district coroner pursuant to K.S.A. 19-1032 are public records open to inspection by any person under the Open Records Act, K.S.A. 1984 Supp. 44-215 *et seq.* Cited herein: K.S.A. 19-1026; 19-1032; 19-1033; 19-1034; 22-4701; K.S.A. 1984 Supp. 45-216; 45-217; 45-221. RLN

**Opinion No. 86-6**

**Counties and County Officers—County Commissioners; Powers and Duties—Eligibility to Office of Commissioner. Representative Susan Roenbaugh, 114th District, Lewis, January 21, 1986.**

A county commissioner is not precluded from holding a concurrent position as property appraiser with the Division of Property Valuation. Since a property appraiser is not a "public officer," such employment would not result in a situation prohibited by K.S.A. 19-205. Cited herein: K.S.A. 19-205; 21-3110. BPA

ROBERT T. STEPHAN  
 Attorney General

Doc. No. 003874

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PHONE: 913/296-3489

State of Kansas  
**SOCIAL AND REHABILITATION SERVICES**  
**KANSAS TASK FORCE ON**  
**PERMANENCY PLANNING**

**NOTICE OF MEETING**

The Kansas Task Force on Permanency Planning will meet at 10 a.m. Friday, February 7, in Hearing Room 2, Kansas Judicial Center, 301 W. 10th, Topeka.

ROBERT C. BARNUM  
 Chairman, Kansas Task Force  
 on Permanency Planning

Doc. No. 003872

State of Kansas  
**STATE HISTORICAL SOCIETY**  
**HISTORIC SITES BOARD OF REVIEW**

**NOTICE OF MEETING**

The Kansas Historic Sites Board of Review will meet at 8:30 a.m. Saturday, February 15, in the Coronado Room of the Downtown Holiday Inn, 914 Madison, Topeka. At 9 a.m. the board will travel to LeCompton to visit Constitution Hall, which has been proposed by petition for state acquisition. After its return to Topeka the board will evaluate the property and, as provided by K.S.A. 75-2726, will make a recommendation to the governor and the legislature concerning state acquisition.

The board also will evaluate the following properties which have been proposed for nomination to the National Register of Historic Places and the Register of Historic Kansas Places:

Case Library, Baker University, Baldwin City,  
 Douglas County

Charles Duncan House, 933 Tennessee St.,  
 Lawrence, Douglas County

Leavenworth Carnegie Library, 601 S. 5th,  
 Leavenworth, Leavenworth County

Santa Fe Depot, 781 Shawnee St., Leavenworth,  
 Leavenworth County

Richard Howe House, 315 E. Logan Ave.,  
 Emporia, Lyon County

Wisconsin Street Historic District, both sides of  
 700 block of Wisconsin St., Cawker City,  
 Mitchell County

John E. Frost House, 935 Western Ave.,  
 Topeka, Shawnee County

Conway Springs Springhouse, West Spring Ave.,  
 Conway Springs, Sumner County

JOSEPH W. SNELL  
 Executive Director

Doc. No. 003870

State of Kansas  
**SOCIAL AND REHABILITATION SERVICES**  
**CHILDREN AND YOUTH ADVISORY**  
**COMMITTEE**

**NOTICE OF MEETING**

The Children and Youth Advisory Committee will meet at noon Monday, February 10, in the Judicial Administrator's conference room, Judicial Center, 301 W. 10th, Topeka.

ROBERT C. BARNUM, Chairman  
 Children and Youth  
 Advisory Committee

Doc. No. 003873

(Published in the KANSAS REGISTER, January 30, 1986.)

**NOTICE OF REDEMPTION**  
**CITY OF LEAVENWORTH, KANSAS**  
**INDUSTRIAL REVENUE BONDS**  
**SERIES 1974**  
**(GRAHAM MEDICAL CLINIC**  
**P.A. PROJECT)**

Notice is hereby given that pursuant to Section 29 of the Lease Agreement dated as of September 1, 1974 between the city of Leavenworth, Kansas and Graham Medical Clinic, P.A., and pursuant to Section 3 of Ordinance 6203 of the city of Leavenworth, Kansas, passed and approved on September 10, 1974 and the Indenture of Trust dated as of September 1, 1974 between the city of Leavenworth, Kansas and Leavenworth National Bank and Trust Co., Trustee, there will be redeemed on March 1, 1986 all bonds maturing after March 1, 1986 at a redemption price equal to 103 percent of the principal amount thereof, plus accrued interest thereon to said redemption date.

On March 1, 1986, all bonds will be due and payable at the principal office of Leavenworth National Bank and Trust Co., Leavenworth, Kansas. All coupons maturing subsequent to March 1, 1986 must be attached and surrendered with said bonds. From and after March 1, 1986, interest on the aforesaid bonds will cease to accrue.

Dated January 16, 1986.

Leavenworth National Bank &  
 Trust Co., Trustee  
 P. O. Drawer 189  
 Leavenworth, KS 66048

Doc. No. 003876

## 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 Building, Topeka, 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, FEBRUARY 10, 1986**

#26386-A

Statewide—BROWN KRAFT ENVELOPES—UNPRINTED

#26950

Department of Administration, Division of Information Systems and Communications, Topeka—DATA COMMUNICATIONS EQUIPMENT

#26964

Adjutant General's Department, Topeka—LEASED TEMPORARY FACILITY, McConnell Air Force Base, Wichita

#26972

Wichita State University, Wichita—PATROL OFFICER'S UNIFORMS

#26974

Wichita State University, Wichita—WAXED CORRUGATED BOXES FOR TITE-WAD COMPACTOR

#63742-A

University of Kansas Medical Center, Kansas City—PLAIN PAPER COPIER

#64463

Kansas Correctional Industries, Lansing—TWILL FABRIC, Kansas State Industrial Reformatory, Hutchinson

#64464

University of Kansas, Lawrence—OSCILLOSCOPE

#64465

Kansas State Industrial Reformatory, Hutchinson—FIRE SHUTTERS

#64466

Kansas State University, Manhattan—SINGLE HUNG ALUMINUM WINDOWS

#64467

University of Kansas Medical Center, Kansas City—CHEMISTRY CONTROL MATERIAL

#64468

University of Kansas, Lawrence—CHROMATOGRAPHY APPARATUS

#64469

Kansas State Industrial Reformatory, Hutchinson—ELECTRIC STRIKE, MAGNETIC SWITCHES AND CONTROL CONSOLE

#64470

University of Kansas Medical Center, Kansas City—COLONOFIBERSCOPE

#64471

Department of Transportation, Topeka—AGGREGATE FOR COVER MATERIAL, Horton

#64473

Department of Transportation, Hutchinson—WOOD, STEEL SIGN AND FENCE POSTS

#64474

Adjutant General's Department, Topeka—SELF LUMINOUS EXIT LIGHTS

**TUESDAY, FEBRUARY 11, 1986**

#A-5306

Youth Center at Atchison, Atchison—PROVIDE NEW REPLACEMENT WATER SOFTENERS—VARIOUS BUILDINGS ON THE GROUNDS

#A-5308

Youth Center at Atchison, Atchison—PROVIDE NEW REPLACEMENT AIR COMPRESSORS FOR PNEUMATIC CONTROLS SYSTEMS—TWO COTTAGES ON THE GROUNDS

#A-5311

Youth Center at Atchison, Atchison—REPLACE COOLING TOWER—SCHOOL BUILDING

#26981

Fort Hays State University, Hays—READY MIX CONCRETE

#64486

Fort Hays State University, Hays—REFRIGERANT COMPRESSOR PARTS

#64487

Real Estate Commission, Topeka—PLAIN PAPER COPIER—12,000 VOLUME

#64488

Kansas State University, Manhattan—ISOLATION TRANSFORMER

#64491

Department of Transportation, Topeka—DRAFTING SUPPLIES

#64492

University of Kansas Medical Center, Kansas City—SCRUB TOPS AND PANTS

#64511

Kansas Fish and Game Commission, various locations—NATIVE GRASS SEEDS

**WEDNESDAY, FEBRUARY 12, 1986**

#A-4787

University of Kansas, Lawrence—PROVIDE REROOFING OF APOLLO ROOM, NICHOLS HALL

#A-5214

Kansas State University, Manhattan—PESTICIDE STORAGE BUILDING, Kansas State University Experiment Station, Garden City

#A-5330

University of Kansas, Lawrence—PROVIDE REPAIRS AND IMPROVEMENTS, ROOM 103—LIPPINCOTT HALL

#26956

Statewide—AUTOMOTIVE FILTERS (OIL, FUEL AND AIR)

#26961

Kansas Correctional Industries, Lansing—ONE GALLON POLYETHYLENE JUGS AND FIVE GALLON CONTAINERS

#64131-A

Department of Transportation, Topeka—FLEXIBLE DELINEATOR POSTS

#64495

Kansas Correctional Industries, Lansing—DRAPERIES, BLINDS INSTALLATION, Winfield Pre-release Center, Winfield

#64496

Department of Administration, Motor Pool, Topeka; Kansas State University, Manhattan; and University of Kansas, Lawrence—VEHICLES

#64497

Department of Transportation, various locations—AB-SPECIAL AGGREGATE

#64498

Kansas Correctional Industries, Lansing—LAUNDRY  
CHEMICALS

#64499

Wichita State University, Wichita—DEC LICENSE  
AND UPGRADE

#64500

University of Kansas Medical Center, Kansas  
City—UPGRADE OF IBM ADRS II

#64501

Wichita State University, Wichita—GRAPHICS  
TERMINAL

#64502

Kansas State University, Manhattan—METAL  
KITCHEN CABINETS

#64505

University of Kansas, Lawrence—  
CHROMATOGRAPHY APPARATUS

#64506

University of Kansas, Lawrence—HPLC  
EQUIPMENT

#64508

University of Kansas Medical Center, Kansas  
City—CONTINUOUS FORMS: "MEDICATION  
RECORD" AND "RADIOLOGY 4150"

**THURSDAY, FEBRUARY 13, 1986**

#A-5288

Parsons State Hospital and Training Center,  
Parsons—FURNISH AND INSTALL NEW  
REPLACEMENT HOT WATER STORAGE  
TANK—PINE COTTAGE

#A-5333

University of Kansas, Lawrence—PROVIDE  
REPAIRS FOR BOILER UNITS NO. 1 AND NO. 2,  
CENTRAL POWER PLANT FACILITY

#26869-A

University of Kansas Medical Center, Kansas  
City—ONE INCH SLAT WINDOW BLINDS

#26938

University of Kansas, Lawrence—INDUSTRIAL  
V-BELTS

#26957

Kansas Correctional Industries, Lansing—TRAFFIC  
ALKYD RESIN

#26958

Kansas Correctional Industries, Lansing—  
AMORPHOUS SILICA FOR PAINT

#26959

Kansas Correctional Industries, Lansing—CALCIUM  
CARBONATE FOR PAINT

#26962

Kansas Correctional Industries, Lansing—  
BLENDED TRAFFIC PAINT THINNER

#26969

Kansas State Penitentiary, Lansing and Kansas  
Correctional Institution at Lansing, Lansing—BURIAL  
SERVICES

#64135-A

Kansas State Industrial Reformatory, Hutchinson—  
HEATING AND AIR CONDITIONING  
EQUIPMENT AND ACCESSORIES

#64513

Kansas State University, Manhattan—  
TERMINAL—ANSI COMPATIBLE

#64515

Pittsburg State University, Pittsburg—FURNISH  
AND INSTALL STORM WINDOWS

**FRIDAY, FEBRUARY 14, 1986**

#26963

Kansas Correctional Industries, Lansing—HANSA  
YELLOW, LEAD FREE, DRY PAINT GRANULES

#26965

Kansas State Fair, Hutchinson—ELECTRICAL  
SUPPLIES

#26967

University of Kansas, Lawrence—CONCRETE  
CURING COMPOUND, EXPANSION JOINT  
MATERIAL, 400 BAGS CEMENT AND READY  
MIXED CONCRETE (APPROXIMATELY 825  
CUBIC YARDS)

#64097-A

Emporia State University, Emporia—FURNISH  
AND INSTALL ALUMINUM DOORS

#64518

University of Kansas, Lawrence—STACKABLE  
VIAL SECTIONS

#64519

Topeka State Hospital, Topeka—WASTE BASKETS

#64520

Norton State Hospital, Norton—DORM  
FURNITURE

#64521

University of Kansas Medical Center, Kansas  
City—COULOMETRIC SYSTEM

#64522

University of Kansas Medical Center, Kansas  
City—LAB HOOD

#64523

University of Kansas, Lawrence—CRYOPUMP

#64524

University of Kansas, Lawrence—PRINTING AND  
BINDING OF "WPA GUIDE TO 1930s  
OKLAHOMA"

#64525

Department of Transportation, various  
locations—PLANT MIX BITUMINOUS MIXTURE

**TUESDAY, FEBRUARY 18, 1986**

#26970

Statewide—MAGNETIC TAPE SUBSYSTEM AND  
MAINFRAME LASER PRINTER

#26977

University of Kansas Medical Center, Kansas  
City—REFUSE COMPACTOR AND DISPOSAL  
SERVICE

**FRIDAY, FEBRUARY 28, 1986**

#26983

Kansas State Penitentiary, Lansing—LEASE OF  
FARM LAND

**MONDAY, MARCH 3, 1986**

#26928

Statewide (except Department of  
Transportation)—AUTOMOBILE LIABILITY  
INSURANCE

**WEDNESDAY, MARCH 5, 1986**

#26968

Winfield State Hospital and Training Center,  
Winfield—LEASE OF FARM LAND, Cowley County

**THURSDAY, MARCH 20, 1986**

#A-5461

Department of Transportation, Topeka and Kansas  
Highway Patrol, Topeka—To exchange property and  
improvements currently owned by them at 3200 S.

*(continued)*

Topeka Avenue, Topeka, Kansas, for buildings and improvements to be constructed on Kansas Department of Transportation property at 101 Gage, Topeka, Kansas, and Kansas Highway Patrol property at 220 Gage, Topeka, Kansas, according to the Kansas Department of Transportation guideline construction documents and specifications.

NICHOLAS B. ROACH  
Director of Purchases

Doc. No. 003879

## State of Kansas

### LEGISLATURE

#### LEGISLATIVE BILLS INTRODUCED

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

Copies of bills and resolutions are available free of charge from the Legislative Document Room, 145-N State Capitol, Topeka 66612, (913) 296-4096. There is a limit of 25 copies of any one item.

#### Bills Introduced January 16-22:

**SB 436**, by Senator Talkington: An act concerning certified public accountants; relating to qualifications to practice; amending K.S.A. 1-302b and repealing the existing section.

**SB 437**, by Committee on Judiciary: An act establishing the citizens' commission on judicial compensation; providing for the powers, duties and functions of the commission.

**SB 438**, by Committee on Transportation and Utilities: An act concerning motor vehicles; requiring two license plates on certain motor vehicles; amending K.S.A. 8-139, 8-161 and 8-162 and K.S.A. 1985 Supp. 8-132, 8-132a, 8-133, 8-134, 8-147, 8-177a and 8-177c and repealing the existing sections.

**SB 439**, by Committee on Judiciary: An act relating to parole; amending K.S.A. 21-4614, 22-2723, 22-3701, 22-3706, 22-3709, 22-3710, 22-373, 22-3718, 22-3719, 22-3722, 65-4007, 75-5201, 75-5202, 75-5217, 75-5266, 77-421 and 77-437 and K.S.A. 1985 Supp. 12-4516, 20-346a, 21-4602, 21-4612, 21-4619, 22-3707, 22-3708, 22-3711, 22-3717, 22-3720 and 75-3302d and repealing the existing sections; also repealing K.S.A. 22-3712 and 75-5208.

**SB 440**, by Committee on Judiciary: An act relating to crimes and punishment; concerning the unlawful practice of law.

**SB 441**, by Committee on Judiciary: An act concerning consumer protection; relating to the unauthorized practice of law as a deceptive act and practice; amending K.S.A. 50-626 and repealing the existing section.

**SB 442**, by Committee on Ways and Means: An act making and concerning appropriations for the fiscal year ending June 30, 1987, for the Kansas commission on interstate cooperation, legislative coordinating council, legislature and division of post audit; authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain receipts and disbursements and acts incidental to the foregoing.

**SB 443**, by Committee on Ways and Means: An act making and concerning appropriations for the fiscal year ending June 30, 1987, for the judicial council, state board of indigent's defense services, judicial branch and crime victims reparations board; authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain receipts and disbursements and acts incidental to the foregoing.

**SB 444**, by Committee on Ways and Means: An act making and concerning appropriations for the fiscal year ending June 30, 1987, for the state board of agriculture, Kansas animal health department, Kansas state grain inspection department, board of state fair managers, Kansas wheat commission, state conservation commission and Kansas water office; authorizing certain transfers and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts and disbursements and acts incidental to the foregoing.

**HB 2693**, by Representatives Baker, Bowden, Cribbs, Dean, Duncan, Foster, Francisco, Fuller, Gjerstad, Grotewiel, Helgerson, Jarchow, Kline, K. Ott, Pottorff, Spaniol, Welb and Williams: An act concerning employment; relating to employer and employee rights to certain inventions; declaring certain employment agreement provisions to be void and unenforceable; requiring notifications and disclosures; prohibiting certain acts.

**HB 2694**, by Committee on Assessment and Taxation: An act relating to property taxation; exempting therefrom certain property used for the providing of human services.

**HB 2695**, by Committee on Assessment and Taxation: An act relating to property taxation; concerning the exemption therefrom of certain property used for religious purposes; amending K.S.A. 1985 Supp. 79-201 and repealing the existing section.

**HB 2696**, by Committee on Energy and Natural Resources: An act concerning groundwater protection; relating to water well construction.

**HB 2697**, by Representatives Roper, Buehler, C. Campbell, Erbe, Harper, Holmes, Lacey, Patrick, Shriver and Willert: An act relating to property taxation; repealing K.S.A. 1985 Supp. 79-1476 to 79-1484, inclusive, and 79-6021 to 79-5037, inclusive, relating to statewide reappraisal of property.

**HB 2698**, by Representatives Baker and Fox: An act concerning school districts, area vocational-technical schools and community colleges; relating to membership in the Kansas association of school boards; amending K.S.A. 72-5326 and 72-5326a, and repealing the existing sections.

**HB 2699**, by Committee on Governmental Organization: An act concerning the Kansas sunset law; continuing in existence the office of secretary of aging and the department on aging; amending K.S.A. 74-7268 and repealing the existing section.

**HB 2700**, by Committee on Governmental Organization: An act concerning the Kansas sunset law; continuing in existence the office of secretary of health and environment and the department of health and environment; amending K.S.A. 74-7267 and repealing the existing section.

**HB 2701**, by Committee on Local Government: An act relating to drainage districts; concerning notice of hearing on petition for enlargement of district; amending K.S.A. 1985 Supp. 24-465 and repealing the existing section.

**HB 2702**, by Committee on Education: An act concerning Washburn university; relating to the determination of state financial aid and out-district tuition; amending K.S.A. 13-13a27 and 72-6503 and K.S.A. 1985 Supp. 13-13a26 and 13-13a28, and repealing the existing sections.

**HB 2703**, by Committee on Energy and Natural Resources: An act concerning water; relating to conservation plans and enforcement thereof; amending K.S.A. 82a-706d and 82a-1305 and repealing the existing sections.

**HB 2704**, by Committee on Energy and Natural Resources: An act concerning water; relating to large reservoir projects and the financing thereof; amending K.S.A. 74-2609, 82a-907, 82a-915, 82a-928, 82a-1303 and 82a-1304 and repealing the existing sections.

**HB 2705**, by Committee on Energy and Natural Resources: An act concerning water; enacting the water assurance program act; authorizing the creation of water assurance districts; prescribing the powers and duties of the governing body thereof.

**HB 2706**, by Representative Jarchow: An act relating to local retailers' sales taxes; exempting utility services therefrom; repealing K.S.A. 12-189a.

**HB 2707**, by Representative Bideau: An act concerning district magistrate judges; relating to powers and authority; amending K.S.A. 20-301a and K.S.A. 1985 Supp. 20-319 and repealing the existing sections.

**HB 2708**, by Representative Bideau: An act concerning local wrecker carriers; amending K.S.A. 66-1329 and repealing the existing section.

**HB 2709**, by Committee on Education: An act concerning community colleges; relating to the determination of state financial aid and out-district tuition; amending K.S.A. 71-301 and 71-602, and repealing the existing sections.

**HB 2710**, by Committee on Public Health and Welfare: An act concerning social welfare; relating to the definition of, and eligibility for, general assistance; amending K.S.A. 1985 Supp. 39-702 and 39-709 and repealing the existing sections.

**HB 2711**, by Committee on Public Health and Welfare: An act authorizing the secretary of social and rehabilitation services to sell and convey or lease certain property currently being used as workshops for the blind.

**HB 2712**, by Committee on Public Health and Welfare: An act concerning crimes and punishments; relating to certain sex offenses involving children; amending K.S.A. 1985 Supp. 21-3516 and repealing the existing section.

**HB 2713**, by Committee on Public Health and Welfare: An act concerning the uniform vital statistics act; relating to the disclosure of certain information concerning birth; amending K.S.A. 65-2422 and repealing the existing section.

**HB 2714**, by Representatives Fuller and Whiteman: An act repealing K.S.A. 75-5390, relating to the expiration date of the provisions of the act establishing and providing for duties of the advisory commission on juvenile offender programs.

**HB 2715**, by Committee on Local Government: An act relating to funeral agreements; concerning the sale of cemetery merchandise; also concerning the administration of funds; amending K.S.A. 16-308 and K.S.A. 1985 Supp. 16-301 and repealing the existing sections.

**HB 2716**, by Representative Foster: An act concerning alcoholic beverages; relating to sale of cereal malt beverages by clubs; amending K.S.A. 41-2614 and 41-2707 and K.S.A. 1985 Supp. 41-2601, 41-2610, 41-2637, 41-2701 and 41-2716 and repealing the existing sections.

**HB 2717**, by Committee on Ways and Means: An act making and concerning appropriations for the fiscal year ending June 30, 1987, for the abstracters' board of examiners, board of accountancy, state bank commissioner, board of barber examiners, behavioral sciences regulatory board, state board of healing arts, Kansas state board of cosmetology, state department of credit unions, Kansas dental board, state board of mortuary arts, Kansas board of examiners in fitting and dispensing of hearing aids, consumer credit commissioner, board of nursing, board of examiners in optometry, state board of pharmacy, Kansas real estate commission, savings and loan department, office of the securities commissioner of Kansas, state board of technical professions and state board of veterinary examiners; authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain receipts and disbursements and acts incidental to the foregoing.

**HB 2718**, by Committee on Energy and Natural Resources: An act concerning animals; relating to the regulation thereof; amending K.S.A. 47-1713 and repealing the existing section.

**HB 2719**, by Representatives Turnquist and Spaniol: An act concerning insurance; relating to kinds of insurance authorized; collision damage waiver contracts; amending K.S.A. 1985 Supp. 40-1102 and repealing the existing section.

**SR 1866**, by Senators Reilly, Allen, Arasmith, Bogina, Burke, Doyen, Ehrlich, Harder, Hayden, Martin, Montgomery, Morris, Norvell, Talkington, Thiessen, Warren; Werts and Winter: A resolution in memory of Donna Shultz.

**SR 1867**, by Senator Montgomery: A resolution congratulating the Friedens Lutheran Church on its centennial anniversary.

**SR 1868**, by Senators Anderson, Burke, Daniels, Feleciano, Francisco, Gannon, Hoferer, Johnston, Karr, Martin, Mulich, Norvell, Parrish, Reilly, Salisbury, Strick, Walker, Winter and Yost: A resolution calling for the immediate unconditional release of Nelson Mandela and all South African political prisoners and detainees.

**HCR 5029**, by Representatives Braden and Barkis: A concurrent resolution providing for a joint session of the Senate and House of Representatives for the purpose of hearing a message from United States Representative Bob Whittaker.

**HCR 5030**, by Committee on Energy and Natural Resources: A concurrent resolution directing the State Biological Survey to establish a Natural Heritage Inventory for Kansas.

**HR 6157**, by Representative Holmes: A resolution congratulating and commending the Liberal Bee Jays and their coaching staff on winning the championship of the 51st National Baseball Congress World Series.

**HR 6158**, by Representative Barr: A resolution congratulating and commending the Washburn Rural High School football team and its coach, Ron Bowen, on winning the 1985 Class 5A State Football Championship in Kansas.

**HR 6159**, by Representative Heinemann: A resolution commending and congratulating Dave Barnum, Darren Wegner, Jim Summers and Brad Yapple for receiving the Eagle Scout award from the Boy Scouts of America.

**HR 6160**, by Representatives Freeman, Apt and Chronister: A resolution in memory of Danny L. Rogers.

**HR 6161**, by Representative Smith: A resolution congratulating and commending the Logan Junior High School Ninth Grade football team and its coaches for having a successful season.

**HR 6162**, by Representative Littlejohn: A resolution congratulating and commending the Norton Community High School football team and its coach, Neil Melillo, on winning the 1985 Class 4A State Football Championship in Kansas.

Doc. No. 003877

## 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, until 10 a.m., February 20, 1986, and then publicly opened:

## DISTRICT ONE—Northeast

**Johnson**—46 U-1032-01—Somerset Drive and State Line Road in Prairie Village, traffic signal. (Federal Funds)

**Shawnee**—89 U-1001-01—Five intersections in Topeka, traffic signals. (Federal Funds)

**Wyandotte**—105 U-1007-01—18th Street and State Avenue (U.S. 24) in Kansas City, traffic signal. (Federal Funds)

**Wyandotte**—105 U-0916-01—James Street at Kansas River in Kansas City, 0.3 mile, bridge replacement. (Federal Funds)

## DISTRICT TWO—Northcentral

**Chase**—50-9 K-2438-01—U.S. 50, west city limits of Strong City east to 5.4 miles east of FAS 856, 8.2 miles, grading, bituminous surfacing and bridge. (Federal Funds)

**Clay**—15-14 K-0184-01—K-15, Republican River bridge 19, 0.7 mile south of Clay Center, 1.1 miles, grading, bituminous surfacing, seeding and bridge. (Federal Funds)

**Jewell**—14-45 K-2543-01—K-14, east junction U.S. 36 north to the Kansas-Nebraska state line, 15.2 miles, conventional seal. (State Funds)

**Jewell**—36-45 K-1796-01—U.S. 36, junction of K-28, then east, 14.9 miles, overlay. (State Funds)

**Lincoln**—18-53 K-1553-01—K-18, junction of K-14 east to the Lincoln-Ottawa county line, 13.2 miles, overlay. (State Funds)

**Lincoln**—18-53 K-2492-01—K-18, Russell-Lincoln county line east to the junction of K-14, 18.5 miles, overlay. (State Funds)

**Lincoln**—252-53 K-2825-01—K-252, junction of K-18 south to the north city limits of Beverly, 0.5 mile, overlay. (State Funds)

**Lincoln**—53 C-1912-01—County road, Barnard, then east, 1.9 miles, surfacing. (Federal Funds)

**Ottawa**—18-72 K-1554-01—K-18, Lincoln-Ottawa county line east to the old junction of U.S. 81, 17.1 miles, bituminous overlay. (State Funds)

## DISTRICT THREE—Northwest

**Graham**—283-33 K-2678-01—U.S. 283, south Fork Solomon River bridge 23, 1.1 miles south of U.S. 24, bridge repair. (Federal Funds)

**Osborne**—24-71 K-1996-01—U.S. 24, Rooks-Osborne county line, east, 6.5 miles, overlay. (State Funds)

**Phillips**—36-74 K-1976-01—U.S. 36, east city limits of Phillipsburg, then east to the Phillips-Smith county line, 13.6 miles, recycling. (State Funds)

**Phillips**—183-74 K-0668-03—U.S. 183, 0.5 mile south of K-9, then north to 0.5 mile south of U.S. 36, 5.0 miles, grading, bituminous surfacing, seeding and bridge. (Federal Funds)

**Phillips**—183-74 K-2549-01—Junction of U.S. 183 and U.S. 36; then south, 0.5 mile, recycling. (State Funds)

**Rooks**—18-82 K-2177-01—K-18, junction U.S. 183 and K-18; then west 12.4 miles, overlay. (State Funds)

**Rooks**—24-82 K-1997-01—U.S. 24, beginning at the end of the concrete pavement at Stockton, then east to the Rooks-Osborne county line, 12.1 miles, overlay. (State Funds)

**Rooks**—183-82 K-2550-01—U.S. 183, 0.2 mile south of Phillips-Rooks county line then south, 8.3 miles, overlay. (State Funds)

**Russell**—281-84 K-2729-01—U.S. 281, north city limits of Russell to the west junction of U.S. 281 and K-18, 14.5 miles, overlay. (State Funds)

**Russell**—84 C-1811-01—County road, Bunker Hill, then south, 0.9 miles, surfacing. (Federal Funds)

**Russell**—84 C-1812-01—County road, 2.8 miles west and 7.8 miles south of Bunker Hill, then south, 4.1 miles, surfacing. (Federal Funds)

**Smith**—8-92 K-1948-01—K-8, junction of U.S. 36 north to Nebraska state line, 16.0 miles, conventional seal. (State Funds)

**Smith**—9-92 K-2679-01—K-9, Spring Creek bridge #35, 1.9 miles west of U.S. 281, bridge repair. (Federal Funds)

**Smith**—36-92 K-2548-01—U.S. 36, Phillips-Smith county line, then east to the west city limits of Kensington, 1.5 miles, recycling. (State Funds)

**Smith**—248-92 K-2551-01—K-248, junction of U.S. 36, then south to the Kyle Railroad crossing, 0.5 miles, overlay. (State Funds)

## DISTRICT FOUR—Southeast

**Labette**—50 X-0983-02—Burlington Northern Railroad crossing at 4th Street in Oswego, grading and surfacing. (Federal Funds)

**Miami**—61 C-1836-01—County road, three locations, 3.0 miles north, 3.0 miles south, and 6.0 miles south of Louisburg, 1.5 miles, grading and surfacing. (Federal Funds)

**Neosho**—39-67 M-1358-01—K-39, Neosho River bridge 24, 1.8 miles east of the south junction of U.S. 169, surfacing and bridge. (State Funds)

## DISTRICT FIVE—Southcentral

**Barber**—42-4 K-2769-01—K-42, Pratt-Barber county line to Barber-Kingman County line, 4.9 miles, conventional seal. (State Funds)

**Barber**—281-4 K-2251-01—U.S. 281, junction of K-2, then north to the west junction of U.S. 160, 18.1 miles, overlay. (State Funds)

**Barber**—281-4 K-2575-01—U.S. 281, east junction of U.S. 160, then north to the north city limits of Medicine Lodge, 0.7 mile, overlay. (State Funds)

**Barton**—56-5 K-2440-01—U.S. 56, east city limits of Great Bend, then east to the west city limits of Ellinwood, 8.1 miles, grading, bituminous surfacing and seeding. (Federal Funds)

(continued)



**Butler**—196-8 K-2069-01—K-196, bridge #58, Dry Creek drainage 5.9 miles east of Harvey-Butler county line, 8.2 miles, bridge replacement. (Federal Funds)

**Harper**—160-39 K-2055-01—U.S. 160, Bluff Creek bridges 7 and 8, bridge repair. (Federal Funds)

**Kingman**—42-48 K-2770-01—K-42, Barber-Kingman county line east to the east city limits of Nashville, 4.3 miles, conventional seal. (State Funds)

**Kiowa** — 154-49 K-2570-01 — K-154, Ford-Kiowa county line, then east to the junction of U.S. 54, 6.3 miles, recycling. (State Funds)

**Kiowa**—183-49 K-2571-01—U.S. 183, junction of U.S. 54, then south, 8.2 miles, overlay. (State Funds)

**Pratt**—42-76 K-2771-01—K-42, junction of U.S. 281 east and south to Pratt-Barber county line, 9.0 miles, conventional seal. (State Funds)

**Pratt**—61-76 K-2773-01—K-61, junction of U.S. 54, then north, 1.3 miles, slurry seal. (State Funds)

**Pratt**—281-76 K-2574-01—U.S. 281, Barber-Pratt county line, then north, 6.5 miles, overlay. (State Funds)

**Rice**—56-80 K-2034-01—U.S. 56, bridges 4 and 5 Spring Creek and drainage, west of Lyons, grading and bridge replacements. (Federal Funds)

**Sedgwick**—135-87 K-2359-01—I-135, south bound bridge 290, Wichita Viaduct, bridge repair. (Federal Funds)

**Sedgwick**—87 C-1723-01—County road, 2.0 miles east and 2.7 miles south of Cheney, then south, 0.4 mile, bridge replacement. (Federal Funds)

#### DISTRICT SIX—Southwest

**Finney**—156-28 K-2794-01—K-156, east city limits of Garden City, then north and east, 9.9 miles, overlay. (State Funds)

**Gray**—23-35 K-2295-01—K-23, Meade-Gray county line to the junction of U.S. 56, 10.5 miles, overlay. (State Funds)

**Meade**—23-60 K-2273-01—K-23, junction of U.S. 54 to the Meade-Gray county line, 13.1 miles, overlay. (State Funds)

**Stevens**—25-95 K-2283-01—K-25, east junction of U.S. 56 and K-25, then north to the Stevens-Grant county line, 13.1 miles, conventional seal. (State Funds)

**Seward**—51-88 K-2305-01—K-51, Seward-Stevens county line, then east to the junction of U.S. 83, 8.0 miles, overlay. (State Funds)

**Stevens**—51-95 K-2301-01—K-51, junction of U.S. 56, then east to the Stevens-Seward county line, 15.5 miles, overlay. (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 projects may be examined at the offices of the respective county clerks or at the K.D.O.T. district offices responsible for the work.

JOHN B. KEMP  
Secretary of Transportation

Doc. No. 003869

#### State of Kansas

### OFFICE OF JUDICIAL ADMINISTRATION COURT OF APPEALS DOCKET

(Note: Dates and times of arguments are subject to change.)

#### Kansas Court of Appeals

Division No. 8 Courtroom, 9 South, Sedgwick County Courthouse  
525 N. Main, Wichita, Kansas

Before Abbott, C.J.; Richard W. Wahl, District Judge, Assigned;  
and Frederick Wolesslagel, District Judge Retired, Assigned

Monday, February 10, 1986  
1:00 p.m.

Case No.	Case Name	Attorney	County
57,512	State of Kansas, <i>ex rel.</i> , SRS, appellee, v. Evelyn J. Fomby, appellant, Calvin W. Fomby.	Robert Hiller Carol L. Boorady Robert Mitchell	Sedgwick
57,456	Melvin F. Kollman, deceased, appellee, v. Phillips Petroelum Co., appellant.	Don E. Lambdin Jeffery L. Carmichael	Sedgwick



57,589	David M. Friedman, appellee, v. Alliance Insurance Company, Inc., appellant.	Walter G. Williamson  Larry A. Withers Arthur S. Chalmers	Sedgwick
57,604	Theodore W. Maisch, Sr. and Marjorie R. Maisch, Co-Partners, appellants, v. Automatic Music Co., Inc., Steven O. Ackerman, dba The Den, appellees.	Robert W. Kaplan  Stephén M. Joseph	Sedgwick

Tuesday, February 11, 1986  
9:00 a.m.

Case No.	Case Name	Attorney	County
58,393	State of Kansas, appellee, v. Terry L. Primm, appellant.	Geary Gorup; Attorney General  Lyle W. Britt	Sedgwick
57,676 S.C.	State of Kansas, appellee, v. Tony R. Roat, appellant.	Geary Gorup; Attorney General	Sedgwick
58,604	Gary Allen Ditges, appellant, v. State of Kansas, appellee.	Kiehl Rathbun Benjamin Wood  Geary Gorup, Assistant District Attorney General Attorney	Sedgwick
57,695	Lois I. Wilson, appellant, v. Travelers Express Co., Inc., Henry Edwards and Boulevard State Bank, appellees.	Phyllis F. Wendler  Jerry G. Elliott Wm. R. Sampson Quentin E. Kurtz William Tinker, Jr. Allen G. Glendenning	Sedgwick
57,701	Frey, Inc., appellee, v. City of Wichita, Board of Commissioners of the City of Wichita, <i>et al.</i> , Defendants, Fifth District Homeowner Association, Intervenor, appellant.	Clark Nelson  Hubert R. Kuhn Robert L. Mitchell	Sedgwick
1:00 p.m.			
57,781	In the marriage of Lois Crow, appellant, v. Lawrence Crow, appellee.	Charles F. Harris  Fred Beaty	Segwick
57,793	Janet Ann Oliver, appellant, v. Russell Lee Oliver, appellee.	Robert C. Brown	Sedgwick
58,208	Alice J. Schiefelbein, appellant, v. Robert T. Slawson, Steve Slawson and Craig Slawson individually and dba Slawson Enterprises, appellees.	Ross D. Alexander Charles E. Millsap  Randall E. Fisher	Sedgwick

(continued)

Wednesday, February 12, 1986  
(Revised January 8, 1986)  
9:00 a.m.

Case No.	Case Name	Attorney	County
58,026 S.C.	State of Kansas, appellee,	Geary Gorup, Attorney General	Sedgwick
	v. Clint L. Thomas, appellant.	Eric A. Stahl	
57,766	William J. Dykes, admin. estate of Harold L. Vaughn, appellants,	Tim Connell	Sedgwick
	v. Fay W. Glasco, appellee.	Jeffery L. Carmichael	
57,657	Jerry Hill, appellee,	Larry D. Toomey	Sedgwick
	v. Dedrick C. Koch, appellant.	David G. Crockett	
58,096	In the matter of the marriage of Julie D. Hatter and Robert W. Hatter.	Michael E. Foster Robert W. Hatter, <i>pro se</i>	Sedgwick
58,050	Central Bank & Trust Co., appellee,	Christopher G. Standlee	Sedgwick
	v. John P. Reed and Lowrie Lee Reed, appellant.	Larry D. Toomey Everett C. Fettis	

Kansas Court of Appeals  
Wyandotte County Courthouse, Division No. 5 Courtroom  
Kansas City, Kansas

Before Rees, P.J.; Parks and Brazil, JJ.

Monday, February 10, 1986  
1:00 p.m.

Case No.	Case Name	Attorney	County
58,486 S.C.	Richard J. Wyse, appellee,	Davy C. Walker	Wyandotte
	v. Roadway Express, Inc., appellant, and Kansas Workers' Compensation Fund, appellee.	Peggy Grant-Cobb Robert L. Kennedy	
57,433	Gary Lee Bryant, appellant,	David C. Van Parys	Leavenworth
	v. Michael Barbara and Richard Mills, appellees.	Linden G. Appel Larry Cowger	
58,134	Pacific Indemnity Co., Inc., appellant,	Bill E. Fabian	Wyandotte
	v. Detco Trailer, <i>et al.</i> , appellees.	James O. Schwinn, Michael Oliver, Alan P. Blinzler, Michael E. Callen, David M. Druten, James Borthwick, Robert Horn	
57,337	Ray Printing Co., appellee,	Stephen B. Sutton Charles D. Kugler	Wyandotte
	v. Metro Envelope-Midwest Inc., <i>et al.</i> , appellant.	Frank C. Weidling Richard A. Rubins	

Tuesday, February 11, 1986  
9:00 a.m.

Case No.	Case Name	Attorney	County
57,994	David Strong, appellee, v. Jesse Quinn, appellant.	H. Reed Walker	Wyandotte
57,728	In the matter of the estate of James M. Fagan.	Richard W. Niederhauser J. R. Russell William M. Tuley David W. Hughes	Wyandotte
57,738	Orville J. Brown, appellant, v. Missouri-Kansas-Texas Railroad Company, appellee.	Ralph E. Skoog Robert G. Herndon	Wyandotte
58,243	Anthony D. Sirna and Mary Elizabeth Sirna, appellants, v. Wyandotte Bank of Kansas City, Kansas, appellee.	J. R. Russell J. Donald Lysaught, Jr.	Wyandotte
58,034	Deborah E. French, appellee, v. Dennis E. Dorweiller, Merrit Foods, a Div. of Southland Corp. and International Harvester Co., appellants.	J. Roy Holliday Ronald W. Nelson	Wyandotte
1:00 p.m.			
57,804	Jewell Mahan, appellee, v. Herb Maschner, appellant.	Jewell Mahan, <i>pro se</i> Larry Cowger Linden G. Appel	Leavenworth
58,302	H. A. Kepler and Kathleen Kepler, appellees, v. Affiliated General Cont. Inc. and Roger Schmidt and Yvonne Schmidt, appellants.	James W. Dahl Steven R. Jarrett	Wyandotte
57,954	Mary Auchard, appellant, v. Ford Motor Credit Co., appellee.	Marvin G. Stottlemire Robert D. Beall, James B. Lowe	Leavenworth

Wednesday, February 12, 1986  
9:00 a.m.

Case No.	Case Name	Attorney	County
57,390	The Huber Co., appellee, v. Derrick J. DeSouza and Cherilyn DeSouza, appellants.	Robert D. Beall David J. King	Leavenworth
58,044	State of Kansas, appellee, v. Joseph M. Winston, appellant.	Frank E. Kohl, County Attorney; Attorney General Terri L. Harris	Leavenworth
57,543	Valley State Bank, appellee, Glenn M. Heider, v. Michael K. Denton and Rosalie Denton VanGaasbeek.	Martin Asher J. David Farris	Atchison

(continued)

58,416 Delia T. Kuhnert, appellant, Jo Lynne Justus Atchison  
 William E. Metcalf  
 v.  
 Kansas Dept. of Social and Rehabilitation Services, *et al.*, appellee. Deborah Purce Jones

**Kansas Court of Appeals**  
**Johnson County Courthouse, Division No. 6, Courtroom 300**  
**Olathe, Kansas**  
**Before Meyer, P.J.; Briscoe, J., and William D. Clement,**  
**District Judge, Assigned**

**Monday, February 10, 1986**  
**1:00 p.m.**

Case No.	Case Name	Attorney	County
58,362	State of Kansas, appellant,	Stephen R. Tatum, Assistant District Attorney; Attorney General	Johnson
	v. Vernon L. Johnson, appellee.	William Coffee	
58,331	State of Kansas, appellant,	Joseph E. Cosgrove, Jr., Richard G. Guinn, Attorney General	Johnson
	v. Christopher R. Senchak, appellee.	J. Roy Holliday, Jr.	
57,444	Evelyn Mater, appellant,	George E. Mallon	Johnson
	v. Martha Hamill, appellee.	Kent Sullivan, L. Franklin Taylor	
58,073	Citizens Bank & Trust Co., appellee,	John J. Gardner, Stephen J. Bradford	Johnson
	v. Joseph L. Funderburke and James M. Funderburke.	Jon A. Blongewicz	
57,534	Betty Bowers, appellant,	Richard N. Roe	Johnson
	v. Richard Ottenad, <i>et al.</i> , appellees.	Paul Hasty, Jr. Bradley McTavish Thomas R. Buchanan	

**Tuesday, February 11, 1986**  
**9:00 a.m.**

Case No.	Case Name	Attorney	County
58,597	Harry D. McDonald, appellee,	Robert A. Griffey, John G. O'Connor	Johnson
	v. J. A. Peterson Company and Aetna Life and Cas. Co., appellants.	Wade A. Dorothy Jeanne Gorman Rau	
58,060	Judy Jones Clouston, appellee,	Leonard J. Schopher James E. Martin	Johnson
	v. Board County Commissioners, <i>et al.</i> , Millers Mutual Ins. Co., and Workers' Compensation Fund, appellants.	Robert D. Beall Richmond M. Enochs Albert M. Ross	
58,053	Eugene P. Asay, appellant,	Michael A. Preston	Johnson
	v. American Drywall and Truck Insurance, appellees.	David K. Martin	

-57,926	James Alderton, <i>et al.</i> , appellants, v. Evans Elec. Const., Co., appellee.	Allan D. Morphett Allen Slater Michael G. Norris  William R. Coffee David M. Janicich Paul Hasty, Jr.	Johnson
1:00 p.m.			
57,532	Tammy L. Weatherd, appellant, v. Robert Hermes, <i>et al.</i> , appellees.	David R. Gilman  Joseph R. Ebbert	Johnson
57,764	Lynda J. Kearns, appellee, v. Victor W. Kearns, appellant.	James R. Orr	Johnson
57,620	Jerome E. Holtzman and Joan Holtzman, appellees, v. Reno Const. Co., Inc. and Ashland-Warren, Inc.	Mark A. Corder Ernest K. Ballweg  David R. Martin	Johnson

Wednesday, February 12, 1986

9:00 a.m.

Case No.	Case Name	Attorney	County
57,588	Daniel P. Skahan, appellant, v. M. C. Powell, <i>et al.</i> , appellees.	Daniel Skahan, <i>pro se</i>  Michael R. Santos	Johnson
57,479	Louis Paine, appellant, v. Humana of Kansas, Inc., <i>et al.</i> , appellee.	Laurence M. Jarvis  David E. Larsen James L. Eisenbrandt	Johnson
58,228	E. G. Wallingford & Co., Inc., formerly Earle G. Wallingford Grain Co., appellant, v. Mid-Am Bldg. Supply, Inc., and Mid-Missouri Bldg. Supply Inc., appellees.	C. Maxwell Logan  Douglas C. McKenna	Johnson
57,987 S.C.	Mary L. Baker, appellant, v. Raymond Juliano, appellee.	J. R. Russell  Darrell Frogley	Wyandotte

LEWIS C. CARTER  
Clerk of the Appellate Courts

Doc. No. 003871

State of Kansas

**BOARD OF HEARING AID EXAMINERS****PERMANENT ADMINISTRATIVE  
REGULATIONS  
(Effective May 1, 1986)****Article 7.—INSPECTIONS****67-7-4. Calibration of audiometric equipment. (a)**

Any audiometric equipment which is used in connection with the sale or fitting of hearing aids in this state shall be calibrated on or before December 31, 1985. Any audiometric equipment which is acquired, leased, or first used by a licensee after December 31, 1985 shall be calibrated within 30 days after the equipment is acquired, leased, or first used.

(b) Any audiometric equipment which is used in connection with the sale or fitting of hearing aids in this state shall be calibrated at intervals not exceeding two years.

(c) Each licensee shall submit to the board written proof of calibrations required in subsections (a) and (b) of this rule and regulation within 30 days of the required dates of calibration. Written proof of calibration shall include the name of the owner, the make, model and serial number of the equipment, the date of calibration, the printed name of the person and company calibrating the equipment, the signature of the person calibrating the equipment, and the signature of the licensee submitting proof of calibration.

(d) The board may suspend the license of any person or deny the license renewal or license application of any person if that person: (1) provides false or misleading information under this rule and regulation; (2) uses audiometric equipment which has not been calibrated as required by this rule and regulation; or (3) uses audiometric equipment the calibration of which has not been reported as required by this rule and regulation.

(e) This rule and regulation shall take effect on and after July 1, 1985. (Authorized by and implementing K.S.A. 74-5806; effective, T-86-16, June 17, 1985; effective May 1, 1986.)

**BOARD OF HEARING  
AID EXAMINERS**

Doc. No. 003880

State of Kansas

**BOARD OF MORTUARY ARTS****PERMANENT ADMINISTRATIVE  
REGULATIONS  
(Effective May 1, 1986)****Article 1.—EMBALMING; CONTINUING  
EDUCATION OF EMBALMERS AND  
FUNERAL DIRECTORS**

**63-1-1. Definitions. (a)** Advertisement means the publication, dissemination, circulation, or placing before the public or causing directly or indirectly to be made, published, disseminated, or placed before the public any announcement or statement in a newspaper, magazine, or other publications, or in the form of a book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label or tag, or over any radio or television station.

(b) "Board" means the state board of mortuary arts of Kansas.

(c) Burial insurance. The term "insurance or contracts of the burial or funeral benefit types" shall include all agreements, certificates, policies, contracts, by-laws, instruments, or other transactions made or issued by individuals, firms, partnerships, societies, corporations, associations, and other organizations of any kind, including companies organized or operating under burial insurance statutes which in consideration of the payment of dues, fees, subscriptions, assessments, premiums, or other considerations, provide the member assured or other designated person in case of death with funeral service, funeral merchandise, funeral expenses or any part of these, or which allow or promise any credit or concession for the purpose of inducing the placing of funeral calls or funeral services shall include policies or contracts, which contain provisions for the payment of funeral, burial, or other expenses of deceased members or assureds, and to policies or contracts issued by companies organized or operating under burial insurance statutes. It shall also include any contract or policy which contains any provisions whereby the benefits or any part of them accruing under the contracts or policy, upon the death of the member or of the person insured, are payable either directly or indirectly to a designated embalmer, funeral director or funeral establishment or other person engaged in such trade or business, or to any official or designated group of them which in any way deprives the legal representative, family, or next of kin of the deceased of the advantages of competition and freedom of choice at the immediate time of need in procuring and purchasing supplies or services in the open market in connection with the burial of the deceased.

(d) "Casket" means a rigid container which is designed for the encasement and burial of human remains and which is usually constructed of wood or metal, ornamented, and lined with fabric.

(e) "Disposition" means the final disposition of the body whether it be by earth interment, above ground burial, cremation, burial at sea, or by delivery to a

medical institution for lawful dissection and experimentation if the medical institution assumes complete responsibility for disposal.

(f) "Embalmer" means any person engaged or holding himself or herself out as engaged in embalming, whether on his or her own behalf or in the employ of another.

(g) "Embalming" means the injection both arterially and into the body cavities, of any amount of approved embalming fluid at least to the equivalent of ten percent (10%) of the body weight.

(h) "Funeral directing" means the business, practice, or profession of: directing or supervising funerals; the preparation other than by embalming or the disposal of dead human bodies by any means whatever other than by cremation; or conducting a funeral establishment which is advertised or used for funeral services.

(i) "Funeral service or funeral" means a period following death in which there are religious services or other rites or ceremonies with the body of the deceased present.

(j) "Apprentice embalmer" means a graduate of a school of mortuary science who has successfully passed the written examination given by the board and is properly registered under a Kansas licensed embalmer to serve his or her apprenticeship.

(k) "Embalmer apprenticeship" means a period of time specified by the board that the apprentice shall serve when properly registered by the board under a Kansas licensed embalmer after he or she has successfully passed the examination given by the board.

(l) "Graveside service" means when and where a rite or ceremony is held only at graveside. This rite or ceremony is not what is generally construed as the committal service which follows a funeral.

(m) "Memorial service" means a gathering of persons for a program in recognition of death without the presence of the body of the deceased.

(n) "Practice of funeral service" means a person engaging in: providing shelter, care, and custody of human dead; the practice of preparing the human dead by embalming or other methods for burial or other disposition; being responsible for the transportation of the human dead, bereaved relatives, and friends; making arrangements at before need, financial or otherwise, for the providing of these services or sale of funeral merchandise, whether for present or future use; or the practice of or performance of any functions of funeral directing or embalming as presently known including those stipulated in this part.

(o) "Suitable container" means any receptacle or enclosure other than a casket which is of sufficient strength to be used to hold and transport human remains including, but not limited to, cardboard, pressed-wood, or composition containers, and canvas or opaque polyethylene pouches.

(p) "Continuing education" means an academic course or workshop developed for the purpose of increasing or sustaining the proficiency of the licensee.

(q) "Licensee" means any person licensed to prac-

tice as an embalmer or as a funeral director in the state of Kansas.

(r) "Approved program or activity" means a continuing education program meeting the standards set forth in these rules which has received advance approval by the board pursuant to these rules.

(s) "Accredited sponsor" means a person or organization sponsoring continuing education activities which has been approved by the board as a sponsor pursuant to these rules.

(t) "The continuing education compliance period" means the twenty-four (24) month period immediately before the licensee's renewal date.

(u) "Funeral director apprenticeship" means the time spent as an assistant funeral director for a period of not less than one year. (Authorized by K.S.A. 74-1704; implementing K.S.A. 65-1703, K.S.A. 1984 Supp. 65-1701a, K.S.A. 65-1712, 65-1713, 65-1723, 74-1707, 65-1711a, 65-1713b; effective Jan. 1, 1966; amended Jan. 1, 1974; modified by L. 1978, ch. 465, May 1, 1978; amended May 1, 1979; amended May 1, 1982; amended May 1, 1986.)

**63-1-3. Registration and apprenticeship.** (a) Each person desiring to enter the practice of embalming dead human bodies within the state of Kansas shall make application to the board no later than 30 days before the examination date upon forms provided by the board for a "certification of registration." This application shall be accompanied by official transcripts of accredited institutions of higher learning showing the applicant has met the educational requirements of (K.S.A. 65-1701a, and statements that the school, institute, community college, or university where the applicant completed education meets the following qualifications:

- (1) The school, institute, community college, college, or university is accredited by a regional association, such as the north central association of the secondary schools, colleges, and universities;
- (2) The school, institute, community college, college, or university offers a 12 month course in mortuary science for funeral service education; and
- (3) The school, institute, community college, or university is accredited by the American board of funeral service education or by any agency recognized by the United States commissioner of education as the proper agency for the accrediting of these schools.

(b) When an applicant has successfully completed the educational requirements stated in K.S.A. 65-1701a, the applicant shall file with the board, the college or university transcript with the prescribed fee. Upon receiving a "certificate of completion" or the degree offered by the school, the applicant shall be eligible to apply to take the embalmer's examination given by this board.

(c) When the student enrolls in an approved school of mortuary science offering only mortuary science courses, the student shall have completed 60 hours in

(continued)



an accredited college or university. In the mortuary science courses, the student shall obtain a minimum of 30 hours before being eligible to apply to take the embalmer's examination given by this board.

(d) If successful in the examination, the applicant shall then be registered under a Kansas licensed embalmer for an apprenticeship as an embalmer. The licensee under whom the apprentice is registered shall file quarterly reports of progress with the board. Upon completion of the apprenticeship, the board shall issue an embalmer's license upon payment of the pro-rated biennial fee.

(e) All transcripts and other records filed with the board shall become part of its permanent file and records.

(f) If the applicant does not take the examination within two years from the date of first registration, that registration shall automatically be canceled. Time served in the armed forces shall not be counted in computing this period. If the applicant desires to re-register, the applicant shall make a new application for registration and comply with the requirements of the board.

(g) Should an apprentice embalmer fail to complete the apprenticeship within a period of two years following the successful completion of the examination, the apprenticeship shall be canceled, except that time served in the armed forces shall not be counted in computing this period. If the applicant later desires to complete the apprenticeship, the applicant shall first retake and successfully pass the embalmer's examination.

(h) An applicant who passed the examination shall receive credit toward the apprenticeship for time spent in the armed forces if the applicant's primary duties during that time were preparation of, and caring for, dead human bodies under the supervision of persons holding a valid embalmer's license in any state. One of the licensees shall certify as to the duties of the applicant. (Authorized by K.S.A. 44-534, K.S.A. 1984 Supp. 44-573; implementing K.S.A. 65-1702, K.S.A. 1984 Supp. 65-1701a, 65-1727; effective Jan. 1, 1966; amended Jan. 1, 1967; amended Jan. 1, 1969; amended Jan. 1, 1974; amended, E-76-14, Feb. 28, 1975; amended May 1, 1976; amended May 1, 1978; amended May 1, 1982; amended May 1, 1983; amended May 1, 1986.)

**63-1-8. Investigations and hearings.** (a) The state board of mortuary arts shall initiate an inquiry whenever a duly verified written complaint is filed with the board charging the holder of a Kansas embalmer or funeral director license with the violation of:

- (1) Any of the rules and regulations of the department of health and environment; or
- (2) any statute, rule, or regulation which the state board of mortuary arts is empowered to consider or enforce. If there are reasonable grounds for the charge or complaint, a time and place for the hearing shall be fixed by the board. Written notice of the time and place of the hearing shall be served upon the licensees by registered mail or personal service. When a written complaint

against that person is filed with the board, a copy of the written complaint shall be attached to the notice served upon the licensee. The hearing shall be a time that will allow the complainant and the alleged violator a reasonable time to prepare the case, and may be continued from time to time at the discretion of the board. Each interested party may appear in person and be represented by counsel, and may also produce witnesses and other evidence in support of the case. The board may also be represented by counsel and produce witnesses and other evidence. Affidavits that are properly executed may also be introduced into evidence. All complaints shall name the person against whom the complaint was made, the time and place of the alleged violation, and the facts of which the complainant has knowledge.

(b) A record shall be made of all proceedings. If charges have not been proved, those charges shall be dismissed. If, the charges are found to be true, in whole or in part, or in lesser degree than stated in the complaint or notice, a suspension, refusal to issue or renew, or revocation of the license of the guilty party or parties on probation may be ordered. A licensee whose license has been revoked shall only be reinstated by consent of the board, and upon passing any examination and investigation that the board deems necessary and proper under the circumstances. (Authorized by and implementing K.S.A. 74-1704; effective Jan. 1, 1966; amended May 1, 1978; amended May 1, 1982; amended May 1, 1984; amended May 1, 1986.)

**63-1-12. Embalmers biennial renewals.** (a) All embalmer licenses shall be paid on a biennial basis. The board of mortuary arts shall prorate to the nearest whole month all renewal fees on a one time basis, in order to establish the biennial renewal process for the calendar year 1980.

(b) Expiration dates will be done alphabetically according to the first letter of the licensee's surname, as follows:

- (1) A and M shall expire on January 31;
- (2) B and N shall expire on February 28;
- (3) C and O shall expire on March 31;
- (4) D and P shall expire on April 30;
- (5) E and Q shall expire on May 31;
- (6) F and R shall expire on June 30;
- (7) G and S shall expire on July 31;
- (8) H and T shall expire on August 31;
- (9) I and U shall expire on September 30;
- (10) J and V shall expire on October 31;
- (11) K and W shall expire on November 30;
- (12) L and XYZ shall expire on December 31;

Renewal surname letters A through L will renew on even numbered years; M through Z will renew on odd numbered years.

(c) The board may reinstate such lapsed licenses upon the payment of the renewal fee in arrears and a reinstatement fee in the amount equal to the renewal fee, except that the lapse shall not be over six months in duration.

(d) The provisions of section (a) shall not apply to apprentice licensees or periods of apprenticeship under K.S.A. 1984 Supp. 65-1701a. Initial licensure fee for new embalmers shall be charged on a pro rata basis in order to place new licensees within the alphabetical order section (b).

(e) Licensees changing their surnames shall notify the secretary of the board of the change and the expiration date shall be adjusted to the month so designated in section (b). (Authorized by K.S.A. 74-1704; effective, E-80-17, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1986.)

**Article 2.—FUNERAL DIRECTING**

**63-2-15. Assistant funeral directors biennial renewals.** (a) All assistant funeral directors licenses shall be paid on a biennial basis. The board of mortuary arts shall prorate to the nearest whole month all renewal fees on a one time basis, in order to establish the biennial renewal process for the calendar year 1980.

(b) Expiration dates will be done alphabetically according to the first letter of the licensee's surname, as follows:

- (1) A and M shall expire on January 31;
- (2) B and N shall expire on February 28;
- (3) C and O shall expire on March 31;
- (4) D and P shall expire on April 30;
- (5) E and Q shall expire on May 31;
- (6) F and R shall expire on June 30;
- (7) G and S shall expire on July 31;
- (8) H and T shall expire on August 31;
- (9) I and U shall expire on September 30;
- (10) J and V shall expire on October 31;
- (11) K and W shall expire on November 30;
- (12) L and XYZ shall expire on December 31;

Renewal surname letters A through L will renew on even numbered years; M through Z will renew on odd numbered years.

(c) Licensees changing their surnames shall notify the secretary to the board of the change and the expiration date shall be adjusted to the month designated in section (b). (Authorized by K.S.A. 74-1704; effective, E-80-17, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1986.)

**Article 3.—PREPARATION AND TRANSPORTATION OF BODIES; BURIAL IN MAUSOLEUMS; FUNERAL ESTABLISHMENTS**

**63-3-20. Reporting of prefinanced funeral agreement.** (a) Each funeral home licensed in the state of Kansas shall report to the state board of mortuary arts, on forms provided by the board, the following information concerning prefinanced funeral agreements entered into pursuant to K.S.A. 16-301 through K.S.A. 16-309:

- (1) The numbers which identify the accounts, in the records of the funeral home, of each purchaser of merchandise and services pursuant to those agreements;
- (2) the name of each bank, trust company, savings and loan association or credit union

into which each purchaser's funds were deposited and the number of each named account;

- (3) the amounts of each purchase pursuant to those agreements; and
- (4) the date of the purchases.

(b) The reports shall accompany each funeral home's biennial application for renewal of its establishment license, as required by K.A.R. 63-3-19, and any notification of the secretary of the board made pursuant to K.A.R. 63-2-7(b). The reports shall include all prefinanced funeral agreements entered into by each funeral home since the last issuance of its license or since the last report submitted under K.A.R. 63-2-7(b). The first report of each funeral home due after the effective date of this regulation shall include all such prefinanced funeral agreements for which any merchandise or service has not yet been rendered.

(c) Any funeral home may be required by the board, upon written complaint, to report the name and address of any purchaser and the corresponding account number described in (a)(1) above. The funeral home shall report the additional information within 10 days of receipt of the written request.

(d) Failure of any funeral home to comply with this regulation shall be grounds for refusal or revocation of its establishment license. (Authorized by and implementing K.S.A. 74-107; effective May 1, 1984; amended May 1, 1986.)

**Article 4.—FEES**

**63-4-1. Payment of fees.** (a) Fees to be charged by the Kansas state board of mortuary arts:

Embalmers examination fee . . . . .	\$100.00
Embalmers Reciprocity Application fee . . . . .	\$200.00
Embalmers biennial license & renewal fee . . . . .	\$ 48.00
Apprentice Embalmers registration fee . . . . .	\$ 50.00
Funeral Directors examination fee . . . . .	\$100.00
Funeral Directors Reciprocity Application fee . . . . .	\$200.00
Funeral Directors biennial license & renewal fee . . . . .	\$120.00
Assistant Funeral Directors application fee . . . . .	\$ 50.00
Assistant Funeral Directors biennial license & renewal fee . . . . .	\$ 72.00
Funeral Establishment biennial license & renewal fee . . . . .	\$200.00

(Authorized by and implementing K.S.A. 1984 Supp. 65-1727; effective May 1, 1983; amended May 1, 1986.)

DOUGLAS SMITH  
Executive Secretary

Doc. No. 003881

## State of Kansas

**DEPARTMENT OF REVENUE  
DIVISION OF ALCOHOLIC  
BEVERAGE CONTROL**

**PERMANENT ADMINISTRATIVE  
REGULATIONS  
(Effective May 1, 1986)**

**Article 2.—LICENSEES AND VENDORS**

**14-2-1. Living quarters connected with licensed premises prohibited.** No licensee shall have living quarters opening into his licensed premises, and all entrances, doorways, and other apertures between any licensed premises and living quarters shall be securely and permanently sealed. (Authorized by K.S.A. 41-211, as amended by L. 1985, Ch. 170, sec. 3; implementing K.S.A. 41-308(a); effective Jan. 1, 1966; amended May 1, 1986.)

**14-2-2. Lessor of premises deemed partner when beneficially interested in business.** Whenever any person shall lease premises to any licensee upon terms which result in the lessor having a beneficial interest in the business licensed, the lessor shall be deemed to be a partner in the licensed business. A lessor shall be deemed to have a beneficial interest in a licensed business if the lessor receives as rent, in whole or in part, a percentage of the licensee's gross receipts or profits from the sale of alcoholic liquor, other items to be mixed with alcoholic liquor, or club membership fees. Percentage rent provisions that do not include these items shall be subject to review and acceptance on an individual basis. (Authorized by K.S.A. 41-211, as amended by L. 1985, ch. 170, sec. 3; implementing K.S.A. 41-311; effective Jan. 1, 1966; amended May 1, 1986.)

**14-2-15. Alteration or repair of licensed premises; permission of director required.** Any alteration to or repair of the licensed premises which changes the physical character of the premises as reported in the application for a license shall not be made, unless and until the licensee receives written permission from the director. (Authorized by K.S.A. 41-211, 41-210 as amended by L. 1985, ch. 170, sec. 3; implementing K.S.A. 41-315; effective Jan. 1, 1966; amended Jan. 1, 1971; amended May 1, 1986.)

**Article 3.—RETAILERS**

**14-3-6. Sales and deliveries on certain days and during certain hours prohibited.** The sale or removal of alcoholic liquor from the licensed premises of a retail licensee on any day other than a legal day for sale of alcoholic liquor at retail, or after the legal closing hour, or before the legal opening hour, shall be prohibited. The delivery of alcoholic liquor shall not be accepted between the hours of 11:00 p.m. and 8:00 a.m. or on any Sunday. (Authorized by K.S.A. 41-211, as amended by L. 1985 ch. 170, sec. 3; implementing K.S.A. 41-712; effective Jan. 1, 1966; amended Jan. 1, 1973; amended May 1, 1986.)

**14-3-17. Untaxed or unstamped liquor prohibited on licensed premises.** A retail licensee shall not have or permit on the licensed premises any alcoholic liquor which does not have the Kansas identification stamp or strip affixed as required by law and the rules and regulations of the director. (Authorized by K.S.A. 41-211 as amended by L. 1985, ch. 170, sec. 3; implementing K.S.A. 41-407; effective Jan. 1, 1966; amended Jan. 1, 1973; amended Jan. 1, 1974; amended May 1, 1986.)

**14-3-18. Drinking on premises prohibited.** No retail licensee shall permit the drinking of alcoholic liquors or cereal malt beverage in, on, or about the premises covered by the license. (Authorized by K.S.A. 41-211, as amended by L. 1985 ch. 170, sec. 3; implementing K.S.A. 41-713; effective Jan. 1, 1966; amended May 1, 1986.)

**14-3-35. Sales to licensed clubs; requirements for; reports of sales.** (a) Any retailer shall not engage in the sale of alcoholic liquor to any licensed private club without having first obtained a federal wholesale basic permit. Retailers engaged in sales to licensed private clubs shall give these clubs vouchered, numbered sales slips in connection with all purchases.

(b) Retailers shall be prohibited from making sales of alcoholic liquor to a licensed private club through any person who is not a registered employee of the licensed private club, or a member of the board of directors of the licensed private club. Each itemized sales slip shall include the following information and a copy shall be kept by the retail liquor store for three years:

- (1) Date of purchase and name of liquor store and store's address as it appears on the license;
- (2) name and address of private club as it appears on the license;
- (3) name of individual making the purchase for the club, and that individual's position with the club;
- (4) brand, size, proof, and amount of each brand purchased;
- (5) bottle cost to the club and total price for each brand and size; and
- (6) total cost of the order after discount, if applied, and the total cost of the order including enforcement tax.

(c) Each licensed retailer who holds a federal wholesale basic permit shall, between the 1st and the 15th day of each month, upon a form to be provided by the director, submit a report of all sales made to licensed private clubs during the preceding month. The reports shall include the following information for each order placed by and sold to a private club:

- (1) The date of the order;
- (2) the name and license number of the club; and
- (3) the total price paid for each order.

Each report shall be signed by the retail licensee, who shall certify its accuracy. (Authorized by K.S.A. 41-210 and 41-211 as amended by L. 1985 ch. 170, sec. 3; implementing K.S.A. 41-308, 41-702; effective Jan. 1, 1966; amended Jan. 1, 1972; amended Feb. 15, 1977; amended, E-80-28, Dec. 12, 1979; amended

May 1, 1980; amended May 1, 1982; amended May 1, 1983; amended May 1, 1986.)

**Article 4.—MANUFACTURERS; DISTRIBUTORS;  
NONBEVERAGE USERS**

**14-4-1. Manufacturers and distributors shipping alcoholic liquor (except beer) into state required to furnish affidavits and reports to director.** Each manufacturer or distributor making shipment of alcoholic liquor, except beer, into the state of Kansas shall be required to furnish the director with an invoice or other commercial document or form approved and authorized by the director covering each consignment of liquor made into this state. The invoice document or form shall be mailed at the time shipment leaves the warehouse and shall contain such information that the director may require. An invoice, copy of the commercial document or form shall also be mailed to the consignee at the time of shipment. (Authorized by K.S.A. 41-211; implementing K.S.A. 41-402; effective Jan. 1, 1966; amended Jan. 1, 1968; amended May 1, 1986.)

**14-4-10. Licensed distributor's warehouse to be separate.** Each licensed distributor of alcoholic liquor shall provide, at the distributor's expense, a warehouse situated on and constituting a part of the premises. The warehouse shall be used solely and exclusively for the purpose of storage of alcoholic liquor, and shall be separate and apart from any and all other businesses operated in any building where the warehouse is located. Alcoholic liquor shall not be stored in any other place except: (a) As provided in K.A.R. 14-5-4; or (b) on a temporary basis as approved by the director. (Authorized by K.S.A. 41-211, as amended by L. 1985, ch. 170, sec. 3; implementing K.S.A. 41-401; effective Jan. 1, 1966; amended May 1, 1986.)

**14-4-13. Licensed distributor's order for alcoholic liquor; requirements for filing.** (a) Each licensed distributor, at the time of ordering and purchasing alcoholic liquor, except beer, from any manufacturer or corporate subsidiary of any manufacturer who markets the manufacturer's products solely through a subsidiary or subsidiaries, or from a rectifier, distiller or fermenter, or distributor of alcoholic liquor bottled in a foreign country, shall mail to the office of the director of alcoholic beverage control a full, true and correct copy of the purchase order.

(b) An order shall not be shipped to any licensed distributor by any manufacturer or distributor unless the order affirmatively shows on its face that a copy of the order has been filed in the office of the director of alcoholic beverage control. Orders requiring shipment shall not be valid after the 1st day of the sixth calendar month after that in which the order is placed. If a manufacturer, distributor or vendor fails to ship an item within these time limits, the purchase order shall be cancelled.

(c) When a manufacturer, distributor or vendor places an order on back order, that seller shall notify the director of that fact and shall ship the order when

available unless the licensed distributor authorizes the cancellation of the order and notifies the director of the cancellation. No subsequent orders for back-ordered merchandise may be filled and shipped until all prior back-orders of that merchandise have been filled.

(d) A distributor may place a purchase order at any time, but no supplier shall ship and no distributor shall accept delivery of the merchandise until after the item has been approved by the director for distribution and sale in this state. (Authorized by K.S.A. 41-210, 41-211 as amended by L. 1985 ch. 170, sec. 3; implementing K.S.A. 41-402, 41-405, 41-408, 41-701, 41-709, 41-1101, 41-1111, 41-1117, 41-1118, 41-1119; effective Jan. 1, 1966; amended, E-66-12, Aug. 8, 1966; amended Jan. 1, 1967; amended Jan. 1, 1970; amended Jan. 1, 1971; amended Jan. 1, 1972; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; amended May 1, 1983; amended May 1, 1986.)

**14-4-14. Transportation of alcoholic liquor by distributors.** (a)(1) Each licensed manufacturer or distributor of alcoholic liquor shall ship or transport alcoholic liquor from its bonded warehouse to the premises of any other licensee by any common contract or private carrier who holds a carrier's permit issued by the director.

(2) Any licensed distributor of strong beer may, in addition to the above methods of delivery, deliver strong beer to a retail licensee at the warehouse of the beer distributor, when written permission for that retailer to pick up the beer is obtained from the director and transported to the beer distributor.

(b)(1) Delivery shall not be made to a retail licensee between the hours of 11:00 p.m. and 8:00 a.m. Delivery shall not be made on the same day that the order is placed.

(2) No retail licensee shall accept the delivery of alcoholic liquor at the retailer's licensed premises on any Sunday and no licensed distributor shall deliver any alcoholic liquor to any licensed retailer on any Sunday.

(c) No delivery shall be made to a retail licensee between the hours of 8:00 a.m. and 9:00 a.m. or at any other time when the retail store is not open for business without the permission of the retail licensee. (Authorized by K.S.A. 41-211; implementing K.S.A. 41-402, 41-405, 41-408, 41-701, 41-708, 41-709, 41-712; effective Jan. 1, 1966; amended, E-73-21, June 29, 1973; amended Jan. 1, 1974; amended Feb. 15, 1977; amended, E-79-31, Nov. 21, 1978; amended May 1, 1979; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; amended, E-81-26, Dec. 10, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1985; amended May 1, 1986.)

**14-4-27. Industry seminars.** (a) Manufacturers and distributors may, when authorized by the director, hold seminars for other licensees and their employees only. Authorization shall be requested no less than seven days prior to the event.

(continued)

(b) Each request shall include the following information:

- (1) The date of the seminar;
- (2) the time of the seminar;
- (3) the exact location where the seminar will be held;

(4) a statement that any alcoholic merchandise displayed or used will be purchased from a Kansas retail liquor store;

(5) a statement that the seminar is being conducted solely for product information and marketing purposes; and

(6) a statement that any alcoholic liquor samples offered will be consumed on premises and in accordance with provisions of Kansas law. (Authorization by K.S.A. 41-211, as amended by L. 1985, ch. 170, sec. 3; implementing K.S.A. 41-714; effective May 1, 1986.)

**14-4-28. Export permits; requirements; shipping procedures.** (a) Export permits shall be issued for the shipping of merchandise back to out-of-state suppliers when:

(1) Non-posted items are shipped into Kansas in error;

(2) merchandise in inventory is unsaleable and the supplier wants to return rather than destroy the merchandise;

(3) the distributor does not wish to retain excess merchandise received in error; or

(4) when issuing such a permit is deemed to be appropriate by the director.

(b) Requests to return merchandise shall be submitted to the director on forms to be prescribed by the director. Each request shall include:

(1) The total number of containers, or cases, or both in the shipment; and

(2) the complete name and address of the consignee.

(c) In the event that a distributor has received non-posted merchandise, a request for export permit shall be submitted within five days of receipt of the merchandise.

(d) Following receipt of a request to return merchandise, an export permit authorizing an out-of-state shipment shall be issued by the director. A liquor control investigator shall be assigned to verify that the merchandise is actually packaged and loaded for return to the supplier.

(e) At the time of shipment to the consignee, the distributor shall forward to the director:

(1) A copy of the invoice signed by the distributor's agent;

(2) a copy of the bill of lading signed by the carrier's agent; and

(3) an affidavit of proof of claim for credit for a refund on the gallonage tax.

(f) An export permit shall not be issued, or alcoholic liquor consigned, to any person or corporation in another state who is not authorized by that state to receive alcoholic liquor. All shipments shall be made by bonded carrier, common carrier or private carrier. (Authorized by K.S.A. 41-211, as amended by L. 1985

ch. 170, sec. 3; implementing K.S.A. 41-306, 41-408, 41-507, 41-709, 41-801; effective May 1, 1986.)

## Article 6.—CONTAINERS AND LABELS

**14-6-2a. Capacities of containers.** Alcoholic liquors shall be sold or offered for retail sale in this state in original containers of the following capacities: (a) Beer: 6 $\frac{1}{2}$ , 7, 8, 10, 11, 11 $\frac{1}{2}$ , 12, 15, 16, 17, 24, 25.6 or 40 fluid ounces; 1 quart;  $\frac{1}{2}$  gallon; 2 liters; 1 gallon; 5 liters; 2 $\frac{1}{2}$  gallons (tapper);  $\frac{1}{8}$  barrel; (3 $\frac{7}{8}$  gallons);  $\frac{1}{6}$  barrel (5 $\frac{1}{6}$  gallons);  $\frac{1}{4}$  barrel (7 $\frac{3}{4}$  gallons);  $\frac{1}{2}$  barrel (15 $\frac{1}{2}$  gallons); or 1 barrel (31 gallons).

(b) Wines:  $\frac{4}{5}$  pint or 375 milliliters; 1 pint (imports only);  $\frac{4}{5}$  quart or 750 milliliters; 1 quart or 1 liter;  $\frac{1}{2}$  gallon;  $\frac{2}{5}$  gallon or  $\frac{1}{5}$  liter; 1 gallon or 3 liters; or 4 liters through 18 liters. Any brand or type of wine may be permitted in  $\frac{1}{2}$  gallon;  $\frac{2}{5}$  gallon or 1.5 liters; 1 gallon or 3 liters; or 4 liters through 18 liters, provided they are measured in full liter quantities. Any brand or type of wine may be permitted in one of the following: the  $\frac{1}{2}$  gallon,  $\frac{2}{5}$  gallon or 1.5 liter size; or the 1 gallon or 3 liter size. Apertif wine, including vermouth, may be sold or offered for retail sale in this state in original containers having a capacity of  $\frac{15}{16}$  quart, if the gallonage tax is paid at the full quart rate per bottle.

(c) Alcoholic liquor other than beer and wine:  $\frac{1}{2}$  pint or 200 milliliters;  $\frac{1}{10}$  gallon or 375 milliliters; 1 pint or 500 milliliters;  $\frac{4}{5}$  quart or 750 milliliters; 1 quart or 1 liter;  $\frac{1}{2}$  gallon or 1.75 liter; or 1 gallon.

(1) Domestic whiskey, including bonded bourbon, bonded rye, straight bourbon, straight rye, all blends of neutral spirits, corn whiskey, alcohol, domestic and imported gin, vodka, tequila, and Canadian imported whiskey shall not be offered for sale in containers of  $\frac{1}{10}$  gallon.

(2) Domestic brandies, prepared cocktails, rum, American cordials, liqueurs and specialties, flavored gin, flavored vodka, flavored whiskey, and scotch whiskey shall not be offered for sale in containers of 1 pint size, but may be offered in containers of 500 milliliters size.

(3) Any brand or type of merchandise except as restricted in subsections (1) and (2) of this subsection (c) may be permitted in any one of the following: the  $\frac{1}{10}$  gallon, 375 milliliter, 1 pint, or 500 milliliters size.

(d) For tax approval purposes on containers offered for sale, a variance in content may be permitted within 2 fluid ounces or 59.14 milliliters from the approved sizes in subsections (a) through (c).

(1) Each supplier of spirits authorized to do business in the state of Kansas may post for sale both a 375ML size container and a 500ML size container for a particular product. Once a supplier of spirits ships to Kansas an item in a 375 ML container, that supplier is prohibited from shipping a 500ML container of that same item to a licensed Kansas distributor.

(2) Each licensed Kansas distributor shall, upon receipt of a particular item in the 375ML size containers, first deplete their inventories of 500ML size containers of that particular item. Upon depletion of a dis-

tributor's stock of 500ML size containers, the distributor may introduce the 375ML size containers of that particular item into the distributor's franchise territory.

(3) Upon the filing of an affidavit by the supplier that the supplier has discontinued the distribution and sale of 375ML containers for an item in the state of Kansas, the supplier may, with authorization of the director and under such conditions as the director deems necessary to maintain an orderly market, report and ship 500ML containers to licensed Kansas distributors.

(f) Alcoholic liquors may be sold or offered for retail sale in this state in original containers of capacities other than those specified in subsection (a) through (c) inclusive only upon written approval from the director.

(1) Any container that is smaller than 200ML shall not be approved.

(2) Upon receipt of a request to approve a new container size, licensees and other interested parties shall be notified by the director that a request has been received, and that the request will be acted upon within 30 days after the date that public notice is given. The notice shall further state that any licensee or other interested party may submit written comments to the director either in favor of or opposed to an approval of the proposed size during the 30 day period. All comments submitted prior to approving or disapproving any new size shall be considered. Any party requesting approval for a new size, or any party that submitted written comments on a requested approval for a new size, who is aggrieved by a decision of the director may appeal such a decision through the appeal procedure set forth in K.S.A. 41-321 and 41-323. (Authorized by K.S.A. 41-211, as amended by L. 1985 ch. 170, sec. 3; implementing K.S.A. 41-211, as amended by L. 1985 ch. 170, sec. 3 and K.S.A. 41-1119; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986.)

#### Article 7.—TAX; TAX STAMPS; CROWNS; LIDS

**14-7-1.** (Authorized by K.S.A. 41-211, 41-501a, 41-502, K.S.A. 1965 Supp. 41-210, 41-501; effective Jan. 1, 1966; revoked effective May 1, 1986.)

**14-7-6. Kansas liquor stamps or strips; securing, affixation to original package; who shall affix; placing of stamps or strips.** (a) All alcoholic liquor other than beer, wine and brandy, shall be identified by a Kansas liquor identification stamp or strip which shall be placed thereon for identification in accordance with the rules and regulations of the director. The provisions of this regulation shall not apply to beer, wine and brandy sold or distributed in the state of Kansas.

(b) The Kansas liquor identification stamp shall be affixed to each original package of the alcoholic liquor at the place where the alcoholic liquor is manufactured. When alcoholic liquor is bottled in a foreign country and is imported into the United States, the

Kansas liquor identification stamps, or strips may be affixed to the original packages by the person importing them into the United States as the place within the United States where the shipment of alcoholic liquor into the state of Kansas originated. A licensed distributor or licensed manufacturer may stamp in the bonded distributor's warehouse any alcoholic liquor bottled in a foreign country, within 96 hours after receiving the alcoholic liquor in the bonded warehouse in the manner prescribed by the act and the rules and regulations of the director. Nothing contained in this rule and regulation shall be construed as changing or altering the provisions of the act or rules and regulations of the director.

(c) Each Kansas liquor identification stamp on alcoholic liquor shall be placed in a horizontal position upon a smooth surface on the front side, neck or shoulder of each original package in such a manner that the stamp will be plainly visible. Discretion shall be exercised in selecting the location for the Kansas liquor stamp to avoid mutilation of the stamp and the covering of any age, designation, bottled-in-bond identification, brand name or other information.

(d) When Kansas liquor identification strips are placed on original containers of alcoholic liquor instead of the identification stamp, each strip shall be placed over the cap or top of the bottle and down the neck, and shoulder of the bottle, in the location where federal revenue strips were formerly placed.

(e) Other alternate stamping methods may be approved by the director. (Authorized by K.S.A. 41-210 and 41-211, as amended by L. 1985 ch. 170, sec. 3; implementing K.S.A. 41-502; effective Jan. 1, 1966; amended Jan. 1, 1984; amended May 1, 1986.)

#### Article 8.—ADVERTISING

**14-8-6. Advertising on vehicles prohibited.** The advertising of alcoholic liquor on any vehicle is prohibited except that company names, brand names, and logos may appear on vehicles owned by or leased to licensed distributors, manufacturers, nonbeverage users and farm wineries, including any vehicle that is authorized to transport alcoholic liquor pursuant to K.A.R. 14-5-2. (Authorized by K.S.A. 41-210, 41-211, as amended by L. 1985 ch. 170, sec. 3; implementing K.S.A. 41-714; effective Jan. 1, 1966; amended Jan. 1, 1974; amended May 1, 1986.)

**14-8-7. House-to-house, door-to-door solicitation prohibited.** (a) A manufacturer, importer, distributor or retailer shall not, directly or indirectly, solicit from house-to-house, from door-to-door, personally, by telephone, by mail or to places of business other than retail liquor stores, the purchase or sale of alcoholic liquor, and shall not allow, permit, or suffer any solicitation.

(b) Seminars conducted by manufacturers or distributors, when authorized by the director, may be conducted pursuant to K.A.R. 14-4-26 for other licensees and their employees only. (Authorized by K.S.A. 41-210, 41-211 as amended by L. 1985 ch. 170, sec. 3;

(continued)



implementing K.S.A. 41-714, effective Jan. 1, 1966; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; amended May 1, 1986.)

**14-8-9.** (Authorized by K.S.A. 41-211, 41-714, K.S.A. 1970 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1968; amended Jan. 1, 1971; revoked May 1, 1986.)

**14-8-10.** (Authorized by K.S.A. 41-210, 41-211; implementing K.S.A. 41-714; effective Jan. 1, 1966; amended Jan. 1, 1971; amended May 1, 1983; revoked May 1, 1986.)

**14-8-13.** (Authorized by K.S.A. 41-211; 41-712, 41-714, K.S.A. 1970 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1971; revoked May 1, 1986.)

#### Article 10.—TRADE PRACTICES

**14-10-1. Trade practices between distributors and retailers.** (a)(1) Subject to the limitations prescribed in this regulation, any distributor may furnish to a retailer the materials specifically set forth in this regulation.

(2) No distributor shall directly or indirectly sell, supply, furnish, give, pay for, loan or lease any furnishings, fixtures or equipment to a retail licensee. Furnishings, fixtures or equipment include, for purposes of this regulation, permanent shelves, counters, cash registers, chairs, tables, refrigerators and coolers.

(b)(1) Each distributor shall keep and maintain adequate records on the licensed premises, for a three year period, of all product displays sold and point of sale materials given to retailers under this regulation.

(2) These records shall show:

- (A) The name and address of the retailer receiving the product display or point of sale materials;
- (B) the date the item is transferred to the retailer;
- (C) a description of each product display or point of sale item transferred to the retailer; and
- (D) the charges to the retailer, if any.

(c) Any distributor may sell product displays to a retailer for that retailer's sole use.

(1) "Product displays," as used in this regulation, means any barrels, half-barrels, casks or similar items from which alcoholic beverages are sold.

(2) The cost of a product display to the retailer shall be the actual cost to the supplier or distributor who initially purchased the item. Transportation and installation costs shall be excluded. If no purchase price is available, the distributor shall sell the item to the retailer for fair market value, as defined in this rule and regulation. "Fair market value" means a reasonable retail price for the same or a comparable item as determined by the director. Evidence submitted from suppliers, distributors, or other relevant sources shall be the basis for the director's determination of fair market value.

(3) Product displays shall bear conspicuous and substantial advertising matter.

(d)(1) Any distributor may furnish, at no cost to any retail liquor store licensee, point of sale materials which bear substantial advertising matter for the li-

censee's sole use. For purposes of this regulation, "point of sale materials" means posters, placards, or similar items made of paper, cardboard, or other non-durable material with or without mechanical devices and which have no secondary value for use outside of or away from the retail liquor store. Flyers, handbills and brochures shall not be considered to be point of sale materials. Framed or unframed mirrors which bear substantial advertising matter over a majority of the reflective surface shall be considered to be point of sale materials.

(2) The materials shall be used only in interior portions of the retail establishment. Consumer offers of any type of tear-off tabs shall not be affixed to or attached to this material. However, a licensed retailer may, irrespective of any other provision of these regulations, distribute original manufacturer's rebate coupons to consumers on the premises. Point of sale materials that have items of secondary value attached to them, such as blankets, coats, hats, binoculars, record albums, mugs, glasses, umbrellas, basketballs, golfballs, soccerballs, flashlights, lunch buckets, coffee pots or other items of value, shall not be sold, given away or provided to any retail liquor licensee.

(e) Any distributor of distilled spirits, wine or malt beverages may stock and rotate that distributor's products at any retail establishment with the permission of the retailer. Products distributed by other distributors shall not be altered or disturbed. Distributors shall be prohibited from pricing their products. The distributor shall not rearrange or reset all or part of a store.

(f) Product displays sold or point of sale materials given to a retailer shall not be repurchased or reclaimed by the distributor. The furnishing of materials authorized by this regulation shall not be conditioned on the purchase of distilled spirits, wine or malt beverages. (Authorized by K.S.A. 41-211; implementing K.S.A. 41-211, 41-703, 41-714; effective, E-80-28, Dec. 12, 1979; effective May 1, 1980; amended May 1, 1985; amended May 1, 1986.)

#### Article 16.—LICENSES; SUSPENSION; REVOCATION

**14-16-2.** (Authorized by K.S.A. 41-211, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1986.)

#### Article 18.—CLASS A AND B CLUBS

**14-18-10. Director to be notified of persons dispensing liquor.** Each club shall provide the director, on forms supplied by the director, a current list of the names and addresses of those officers and employees of the club, including the club manager, who are involved in the mixing and dispensing of alcoholic liquor. Each club shall also certify that all officers and employees are over the minimum legal age for such employment. Whenever a person is employed for the purpose of mixing, selling, serving or dispensing alcoholic liquor, the club shall provide the director with



this information and certification within five days of the initial employment of the person. (Authorized by K.S.A. 1984 Supp. 41-102, 41-803, 41-2610, 41-2634; implementing K.S.A. 41-2610; effective Jan. 1, 1966; amended Jan. 1, 1969; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; amended May 1, 1986.)

**14-18-31. "Meal" defined; meal package limited to one drink.** (a) Any class A or class B private club may serve a drink as part of a meal package at no extra charge if:

(1) The club is a food service establishment as that term is defined at K.S.A. 36-501; and

(2) when required by statute, it has a current and valid restaurant license.

(b) A "meal" means a combination of one or more food items regularly offered on a menu that a reasonable person would consider to constitute a full meal, whether breakfast, lunch, or dinner.

(c) Any club that sells, offers to sell, or gives away a meal package that includes a drink as part of the package at no extra cost shall not offer or include more than one drink per meal package in such an offering. (Authorized by K.S.A. 41-2634; implementing 1985 S.B. 126, sec. 4; effective T-86-28, Aug. 19, 1985; effective May 1, 1986.)

**14-18-32. Clubs charge the same price for the same drink all day; day defined.** (a) Any licensed private club shall not sell a drink to any person for less than the price charged for that same drink to all other club patrons on that day. Any particular drink that is offered for sale at any time during the day shall be offered at the same price for the entire day unless this becomes impossible due to circumstances beyond the club's control.

(b) The term "day" shall extend from the time that a club opens for business until the time that it closes, even if the opening and closing hours fall on consecutive calendar days. All times that a club is open between the legal opening and closing times for a single day, as those hours are specified in K.S.A. 41-2614, shall be included. Any club shall not close prior to the legal closing hour for private clubs and then re-open for purposes of circumventing this regulation. (Authorized by K.S.A. 41-2624; implementing 1985 S.B. 126, sec. 4; effective T-86-28, Aug. 19, 1985; effective May 1, 1986.)

#### Article 20.—CLASS B CLUBS

**14-20-7. Temporary memberships; granting, records, and billing.** (a)(1) Each class B club located on the premises of a "hotel," and each class B club that enters into a contract with a hotel to issue temporary memberships to that hotel's guests, shall, at all times, keep a record of temporary memberships granted by the club to registered, nonresident guests of that hotel. The term "hotel" shall be as defined in K.S.A. 36-501.

(2) The temporary memberships shall be granted only by the club and shall not be handled by or delegated to the hotel management. A temporary membership card shall be issued to the temporary

member setting forth, on its face, the effective dates, the name of the club and the name of the member. Billing may be handled by the hotel if all funds are accounted to the club and if the hotel keeps a permanent record of all charges and payments due to the club which are handled by the hotel.

(3) The hotel shall provide to each guest who desires to become a temporary club member a pre-printed form or statement on hotel letterhead, signed by the desk clerk or other authorized hotel employee or official, setting forth the name of the hotel guest, the date or dates on which the bearer is a registered guest at the hotel, and certifying that the guest does not permanently reside in the same county as the hotel or the private club.

(b) Each class B club located on property which is owned or operated by a municipal airport authority shall keep a record of all temporary memberships granted to air travelers. Each temporary membership shall be granted only upon the licensed club premises by club management after receipt of an application form, and shall be valid only for the day on which the air traveler's ticket is valid. Each temporary membership card issued shall state on its face, the name of the club, the name of the temporary member, the name of the airline and flight number on which that member will be a passenger and the effective date or dates of the membership.

(c) Records of all temporary memberships issued pursuant to subsections (a) and (b) shall be maintained on licensed club premises for a period of one year from date of issuance. (Authorized by K.S.A. 41-2634; implementing K.S.A. 41-2601; effective Jan. 1, 1966; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; amended E-82-13, June 17, 1981; amended May 1, 1982; amended, T-86-28, Aug. 19, 1985; amended May 1, 1986.)

JOHN A. LAMB  
Director, Division of  
Alcoholic Beverage Control

Doc. No. 003853

## State of Kansas

## FISH AND GAME COMMISSION

PERMANENT ADMINISTRATIVE  
REGULATIONS

(Effective May 1, 1986)

## Article 1.—GAME BIRDS

**23-1-10. Turkey, season restrictions.** (a) Legal hunting equipment.

(1) Archery equipment for archery and firearm seasons shall be long bows or compound bows of at least 45 pounds pull up to or at full draw. All arrows shall be equipped with broadhead points. A crossbow shall not be considered to be a long bow or a compound bow.

(2) Firearm equipment for the taking of turkey during firearm seasons shall be shotguns and muzzle-loading shotguns. Shotguns shall be 20 gauge or larger and shall use shot only.

(3) Decoys and non-electronic turkey calls shall be legal for taking turkeys during the established open seasons.

(b) Carcass tag. Each turkey hunter shall have a carcass tag in possession when hunting turkey. Removal of the carcass tag from the permit shall invalidate the permit for hunting. The permittee shall sign and date the tag and attach it to the carcass immediately following the kill.

(c) Information cards. Each permittee shall report the results of their hunt within 48 hours after the close of the season.

(d) Turkeys shall be shot only while on the ground or in flight.

(e) Each archery turkey hunter shall not have any type of firearm in possession while hunting turkey.

(f) A permit, once issued, shall not be transferable and a refund shall not be granted. However, a refund may be granted if the permittee dies prior to the opening date of the season.

(g) In addition to other penalties prescribed by law, a permit application may be rejected by the director when a false representation or misrepresentation is made upon the application. Each permit obtained through false representation or misrepresentation shall be invalid from date of issuance.

(h) A person shall not apply for more than one spring turkey permit in a calendar year. A person shall not apply for more than one fall turkey permit in a calendar year. In addition to other penalties prescribed by law, a person who submitted more than one application for a spring turkey hunt or more than one application for a fall turkey hunt shall be ineligible to receive any permit for the hunt in which multiple applications were made. Each permit issued to a person who made multiple applications for a hunt shall be invalid from the date of issuance. Each applicant unsuccessful in obtaining a permit in a drawing for limited permits shall be eligible to apply for permits remaining after the drawing or any permit available on an unlimited basis. An applicant shall not obtain more than one spring turkey permit in a calendar year or more than one fall turkey permit in a calendar year.

(Authorized by K.S.A. 32-215; implementing K.S.A. 32-177 and 32-178; effective, T-81-32, October 8, 1980; effective May 1, 1981; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986.)

## Article 2.—GAME ANIMALS

**23-2-14. Antelope and deer; season restrictions.** (a) Legal hunting equipment.

(1) Archery equipment for the taking of deer or antelope during archery and firearm seasons shall be long bows or compound bows of at least 45 pounds pull up to or at full draw. All arrows shall be equipped with broadhead points. A crossbow shall not be considered a long bow or compound bow.

(2) Firearm equipment for the taking of deer or antelope during firearm seasons shall be:

(A) Centerfire rifles that fire a bullet greater than .23 inch in diameter;

(B) Muzzleloading rifles that fire a bullet of at least .40 inch in diameter and that can only be loaded through the front of the firing chamber with separate components;

(C) Shotguns, 20 gauge or larger, using only rifled slugs; and

(D) Centerfire handguns, using a cartridge case 1.280 inches or greater in length and a bullet greater than .23 inches in diameter.

(3) Fully automatic rifles and handguns are prohibited for taking of deer and antelope. Only soft point, hollow point or other expanding bullets shall be used in handguns or rifles.

(b) Carcass tag. Each permittee shall possess an appropriate carcass tag while hunting antelope or deer. Removal of the carcass tag from the permit shall invalidate the permit for hunting. The permittee shall sign and date the tag and attach it to the carcass immediately following the kill. Legally acquired antelope or deer meat may be given to another, provided a written notice which includes the donor's name, address and permit number accompanies the meat.

(c) Informational cards. Each permittee shall report the results of their hunt within 48 hours after the close of the season.

(d) An archery deer permittee shall not have a firearm in possession while hunting deer. An archery antelope permittee shall not have a firearm in possession while hunting antelope.

(e) A muzzleloader deer permittee shall not have a rimfire or centerfire firearm in possession while hunting deer. A muzzleloader antelope permittee shall not have a rimfire or centerfire firearm in possession while hunting antelope.

(f) A permit, once issued, shall not be transferable and a refund shall not be granted. However, a refund may be granted if the permittee dies prior to the opening date of the season.

(g) In addition to other penalties prescribed by law, the commission may reject a permit application when a false representation or misrepresentation is made upon the application. All permits obtained through false representation or misrepresentation shall be invalid from the date of issuance.

(h) A person shall not submit more than one application for an antelope permit or apply for an archery antelope and a firearm antelope permit in the same calendar year. In addition to other penalties prescribed by law, a person who applies for more than one antelope permit in a calendar year shall be ineligible to receive any antelope permit for that year. Any permit issued to an applicant who applied for more than one permit shall be invalid from the date of issuance.

(i) A person shall not submit more than one application for a deer permit or apply for an archery deer and a firearm deer permit in the same calendar year. In addition to other penalties prescribed by law, a person who applies for more than one deer permit in a calendar year shall be ineligible to receive any deer permit for that year. Any permit issued to an applicant who applied for more than one permit shall be invalid from the date of issuance. Except, however, applicants who are unsuccessful in obtaining a permit in a drawing for limited permits shall be eligible to apply for those permits remaining after the drawing or any permits available on an unlimited basis. An applicant shall not obtain more than one deer permit in any calendar year.

(j) Priorities for receiving deer permits are as follows:

(1) those persons who applied for and were unsuccessful in obtaining a deer permit for each of the four previous years;

(2) those applicants who did not receive a permit the previous year; and

(3) all other applicants.

(k) Priorities for receiving antelope permits are as follows:

(1) those persons who have not obtained an antelope permit in either of the two previous years; and

(2) all other applicants.

(Authorized by K.S.A. 32-215; implementing K.S.A. 32-178 and 32-179; effective May 1, 1981; amended May 1, 1983; amended May 1, 1985; amended May 1, 1986.)

#### Article 6.—FURBEARERS

**23-6-2.** (Authorized by K.S.A. 1965 Supp. 32-158 and 32-164; effective January 1, 1966; revoked May 1, 1986.)

#### Article 8.—WILDLIFE AREAS

**23-8-1. Wildlife areas.** (a) The commission may designate state lakes, recreational grounds and game sanctuaries or portions of them as wildlife areas.

(b) Commission regulations applicable to wildlife areas shall apply to state lakes, recreational grounds and game sanctuaries designated as wildlife areas. (Authorized by and implementing K.S.A. 32-214, 32-224, and L. 1985, Ch. 252, Sec. 1; effective January 1, 1966; amended May 1, 1980; amended May 1, 1982; amended May 1, 1986.)

**23-8-18. Cheyenne Bottoms wildlife area—regulations.** The Cheyenne Bottoms wildlife area shall be

open to hunting, fishing and trapping during the open season subject to state and federal laws and regulations, posted notice by the director, and the restrictions listed below: (a) A permit available at the headquarters building shall be required to hunt those pools, blinds and goose zones identified by posted notice. Each permittee shall return the properly completed permit to the headquarters at the end of the day's hunt or within one hour after legal shooting hours. Each blind or goose zone shall contain no more than three permittees at any one time. Each hunter shall possess a permit for only one blind or one goose zone. Hunters obtaining a blind permit shall hunt within 100 yards of their assigned blind. Goose zone hunters shall hunt within their assigned zone, but may enter adjacent zones, without their guns, for the purpose of retrieving game birds and game animals.

(b) Hunting in perimeter areas, including use of areas not requiring a permit, shall be authorized in those portions of pools 2, 3, 4 and 5 as designated by posted notice at the area headquarters.

(c) Portable or temporary blinds shall be permitted only on the perimeter areas of pools 2, 3, 4 and 5 when such pools are open to public use.

(d) Boats, with or without motors, may be used in any pool designated by posted notice.

(e) Throw lines, limb lines and trotlines shall be prohibited except where authorized by posted notice.

(f) Trapping shall be allowed by permit only. The permittee shall submit a full report to the area manager providing required information on forms authorized by the director.

(g) Taking or attempting to take wildlife from roads and dikes shall be prohibited unless otherwise posted. (Authorized by K.S.A. 32-215, 32-224; implementing L. 1985, Ch. 252, Sec. 1; effective January 1, 1966; amended January 1, 1968; amended January 1, 1970; amended, E-76-51, Oct. 10, 1975; amended May 1, 1976; amended May 1, 1978; amended May 1, 1981; amended May 1, 1986.)

**23-8-19. Marais des Cygnes wildlife area—regulations.** The Marais des Cygnes wildlife area shall be open to hunting, fishing and trapping during the open season subject to state and federal laws and regulations, posted notice by the director, and the restrictions listed below: (a) A permit available at the headquarters building shall be required to hunt those units identified by posted notice. Each permittee shall return the properly completed permit to the headquarters at the end of the day's hunt or within one hour after legal shooting hours.

(b) Boats with or without motors, excluding airboats, may be used in any unit designated by posted notice.

(c) Taking or attempting to take wildlife from roads and dikes shall be prohibited unless otherwise posted.

(d) Throw lines, limb lines and trotlines shall be prohibited except where authorized by posted notice.

(e) Trapping shall be allowed by permit only. The permittee shall submit a full report to the area manager providing required information on forms authorized

(continued)

nized by the director. (Authorized by K.S.A. 32-215, 32-224; implementing L. 1985, Ch. 252, Sec. 1; effective January 1, 1966; amended January 1, 1968; amended January 1, 1970; amended May 1, 1976; amended May 1, 1978; amended May 1, 1981; amended May 1, 1986.)

**23-8-24. Field trial events—special use permits.**

(a) A special use permit authorized by the director may be issued to allow an individual or organization to conduct a sanctioned or licensed field trial event upon wildlife areas open to hunting.

(b) A sanctioned or licensed field trial event shall be one which is sanctioned or licensed by any national kennel or field dog organization for the express purpose of improving the quality of the breed through awarding points or credits toward specific class championships or other national recognition.

(c) The field trial season on wildlife areas shall be from September 15 to 10 days prior to the opening date of the upland game bird season and from the closing date of the upland game birds season through April 30.

(d) Applications for special use permits for conducting sanctioned or licensed field trial events on wildlife areas shall be submitted 60 days prior to the planned event to the director of the fish and game commission on forms provided by the director. Special use permits shall be awarded on a first-come, first-served basis. The special use permit shall expire at the conclusion of the field trial event.

(e) A performance deposit of \$100 is required. A certified or cashier's check payable to the Kansas fish and game commission shall accompany each application for a special use permit. The organization conducting the field trial event shall:

(1) be responsible for control of litter, damage to fences, facilities, crops and other vegetation on the wildlife area;

(2) provide portable, self-contained sanitary facilities where needed;

(3) restore the permitted area to the condition existing at the beginning of the event.

(f) Failure to meet the conditions of subsection (e) or violation of other regulations by the permittee may result in forfeiture of all or a part of the performance deposit and denial of special use permits for a period of one year.

(g) A field trial permit issued pursuant to K.A.R. 23-12-1 or 23-12-11 shall be required in addition to the special use permit.

(h) Horses may be used during the field trial events but shall not be boarded or corralled on the area overnight. Vehicles shall not be allowed except in designated areas.

(i) The special use permit shall be issued for a period not to exceed seven days. The event shall be limited to the area specified by the permit.

(j) Only banded pen-raised birds provided by the permittee may be shot during permitted field trial events. Wild birds may not be shot. Shooting pen-raised birds shall be permitted only on a single tract of land containing not more than 160 acres.

(k) Only the species of bird listed in the special use permit may be killed in the field trial event. A record of all birds released and killed shall be submitted to the director within 10 days following the field trial event.

(l) Each pen-raised game bird used in field trial events shall be banded with butt-end aluminum leg bands coded "F" and shall carry the number of the permit issued to the permittee. Recapture call pens may not be used on any wildlife area. Live ammunition shall not be used except to shoot pen-raised birds as permitted.

(m) The director shall designate on the permit the portions of the wildlife area to be used for the permitted field trial event.

(n) The director shall determine the number of events that may be held on a wildlife area during the field trial season, the location of parking areas, the location of sanitary facilities, and shall specify any additional conditions necessary for the protection of the wildlife area.

(o) A special use permit may be denied if information regarding the proposed field trial event is insufficient, unclear, or is misrepresented. (Authorized by K.S.A. 32-173, 32-174, 32-224; implementing L. 1985, Ch. 252, Sec. 1; effective February 15, 1977; amended May 1, 1986.)

**23-8-26.** (Authorized by K.S.A. 32-224; implementing K.S.A. 32-225; effective Feb. 15, 1977; amended May 1, 1982; revoked May 1, 1986.)

**Article 16.—IMPORTATION AND POSSESSION OF CERTAIN WILDLIFE**

**23-16-1. Importation and possession of certain wildlife.** (a) A person shall not import, possess or release any of the following wildlife species in the state of Kansas.

(1) Fish:

(A) Walking catfish (*Clarias batrachus*)

(B) Silver carp (*Hypophthalmichthys molitrix*)

(C) Bighead carp (*Aristichthys nobilis*); or

(2) Birds: Monk parakeet (*Myiopsitta monachus*); or

(3) Mammals: Asian raccoon dog (*Nyctereutes procyonoides*).

(b) Special permits authorized by the director for the species cited in subsection (a) may be issued for experimental, scientific or display purposes.

(c) Any specimen of the above fish and bird species possessed by persons prior to February 1, 1978 may be retained in possession, in closed confinement, by making application to the director stating the circumstances, location, and other information by which the specimen came into possession. The manner in which the specimen is to be used shall be identified in the application. Any specimen of the above mammal species possessed by persons prior to February 1, 1986 may be retained in possession, in closed confinement, by making application to the director stating the circumstances, location, and other information by which the specimen came into possession. The manner in which the specimen is to be used shall be identified in

the application. (Authorized by and implementing K.S.A. 32-164a; effective May 1, 1978; amended May 1, 1986.)

**Article 18.—FEES**

**23-18-1. Amount of fees.** (a) On and after May 1, 1986, through and including December 31, 1986, the following fees shall be in effect:

Resident hunting license	\$ 9.00
Nonresident hunting license	50.00
Resident fishing license	9.00
Nonresident fishing license	20.00
Resident furharvesters license	15.00
Nonresident furharvesters license	250.00
Resident duplicate license or permit (hunting, fishing, furharvester)	3.00
Nonresident duplicate license or permit (hunting, fishing, furharvester)	3.00
Resident fur dealer license	100.00
Combination resident hunting and fishing license	18.00
Nonresident fur dealer license	200.00
Controlled shooting area hunting license	9.00
Resident mussel fishing license	25.00
Nonresident mussel fishing license	100.00
Game breeders permit	10.00
Live rabbit trapping permit	10.00
Rabbit shipping permit	200.00
Collecting for scientific and exhibition permit	5.00
Disabled persons vehicle permit (lifetime)	3.00
General resident deer hunting permit	30.00
Landowner-tenant deer hunting permit	20.00
General resident antelope hunting permit	35.00
Landowner-tenant antelope hunting permit	25.00
Turkey hunting permit	20.00
Field trial permits (game birds and game animals)	20.00
Field trial permits (fur-bearing animals)	20.00
Commercial dog training permit	20.00
Water event permit	20.00

(b) On and after January 1, 1987, the following fees shall be in effect:

Resident hunting license	10.00
Nonresident hunting license	50.00
Resident fishing license	10.00
Nonresident fishing license	25.00
24-hour fishing license	2.00
Resident furharvesters license	15.00
Nonresident furharvesters license	250.00
Resident duplicate license or permit (hunting, fishing, furharvester)	3.00
Nonresident duplicate license or permit (hunting, fishing, furharvester)	3.00
Resident fur dealer license	100.00
Combination resident hunting and fishing license	20.00
Nonresident fur dealer license	200.00
Controlled shooting area hunting license	10.00
Resident mussel fishing license	25.00
Nonresident mussel fishing license	100.00
Game breeders permit	10.00
Live rabbit trapping permit	10.00
Rabbit shipping permit	200.00
Collecting for scientific and exhibition permit	5.00
Disabled persons vehicle permit (lifetime)	3.00
General resident deer hunting permit	30.00
Landowner-tenant deer hunting permit	20.00
General resident antelope hunting permit	40.00
Landowner-tenant antelope hunting permit	30.00
Turkey hunting permit	20.00
Field trial permits (game birds and game animals)	20.00
Field trial permits (fur-bearing animals)	20.00
Commercial dog training permit	20.00
Water event permit	20.00

(Authorized by and implementing K.S.A. 32-164b; effective, E-79-32, Nov. 21, 1978; effective May 1, 1979; amended May 1, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1986.)

**23-18-2. Hatchery stamp fee and stamp.** (a) On and after January 1, 1985, the following fees shall be in effect:—

Resident/non-resident fishing license— Hatchery fee	\$ 3.00
Non-resident 5-day trip fishing license— Hatchery fee	3.00
24-hour fishing license—Hatchery fee	3.00

Lifetime fishing license—Hatchery fee—as follows:  
A "lifetime hatchery stamp" may be obtained by making a one-time payment according to the following schedule:

Calendar Year	Fee
1985	\$15.00
1986	\$13.00
1987	\$11.00
1988	\$ 9.00
1989	\$ 6.00
1990	\$ 3.00

(b) The "lifetime hatchery stamp" shall consist of an adhesive seal to be affixed to the back of the lifetime fishing license. All other hatchery stamps shall consist of a punched hole that appears on the face of the authorized license in a location specifically marked "hatchery fee." Lifetime license holders may purchase either the lifetime hatchery stamp or annually purchase a hatchery "punch." (Authorized by and implementing K.S.A. 1984 Supp. 32-602; effective, T-83-34, Nov. 10, 1982; effective May 1, 1983; amended, T-85-21, July 2, 1984; effective May 1, 1985; amended, T-86-21, July 1, 1985; amended May 1, 1986.)

**BILL HANZLICK**  
Director, Kansas Fish and Game Commission

Doc. No. 003850

**State of Kansas**

**DEPARTMENT OF HEALTH AND ENVIRONMENT**

**TEMPORARY ADMINISTRATIVE REGULATIONS**

(Effective December 19, 1985. Expire May 1, 1986.)

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

**28-4-75.** (Authorized by K.S.A. 1978 Supp. 65-508; effective E-76-36, July 14, 1975; effective May 1, 1986; amended May 1, 1979; revoked, T-86-46, Dec. 18, 1985.)

**28-4-92. License Fees.** (a) When application is made for a license or for the renewal of a license, the applicant shall send to the secretary of the Kansas department of health and environment the appropriate license fee specified below:

Licensed Day Care Home/Group Day Care Home, or Group Boarding Home	\$10.00
Detention Center, Child Placing Agency Maternity Center, or Day Care Referral Agency	\$35.00
Child Care Center, Preschool or Residential Center	\$35.00

(continued)

(b) A full license shall be issued if the secretary finds that the applicant is in compliance with the requirements of K.S.A. 65-501 through 65-516 and amendments to it, and the rules and regulations promulgated pursuant to those statutes, and has made full payment of the license fee required by the provisions of K.S.A. 65-505 and amendments to it. (Authorized by and implementing K.S.A. 1984 Supp. 65-505 as amended by L. 1985, Chapter 210, Section 2; effective, T-83-24, Aug. 25, 1982; effective May 1, 1983; amended, T-86-46, Dec. 18, 1985.)

**28-4-122.** K.A.R. 28-4-123 through 28-4-131 shall apply to the following categories of child care:

- (1) Family day care home as defined by K.S.A. 65-517;
- (2) day care home and group day care home as defined by K.A.R. 28-4-113;
- (3) preschools and child care centers as defined by K.A.R. 28-4-420;
- (4) family foster home as defined by K.A.R. 28-4-311; and
- (5) residential center and group boarding home as defined by K.A.R. 28-4-268. (Authorized by and implementing K.S.A. 65-508 and K.S.A. 65-522; effective, T-86-46, Dec. 18, 1985.)

**28-4-123. Parental access to child care facilities.** Each parent or guardian of a child enrolled in a day care facility or preschool as defined in K.S.A. 65-517, K.A.R. 28-4-113 or K.A.R. 28-4-420 shall have access to the premises during all hours of operation. Each residential facility as defined in K.A.R. 28-4-311 and K.A.R. 28-4-268 shall develop a plan for parental visitation in cooperation with the legal custodian if different from the parent. (Authorized by and implementing K.S.A. 65-508 and K.S.A. 65-522; effective, T-86-46, Dec. 18, 1985.)

**28-4-124. Parental permission for outings and field trips in day care facilities.** Each day care facility as defined in K.A.R. 28-4-113, K.A.R. 28-4-420 and K.S.A. 65-517 and any amendments to it shall obtain a separate signed parental permission for each location to which children go off of the premises. The destination and time of each outing or field trip shall be posted in the facility. (Authorized by and implementing K.S.A. 65-508 and 65-522; effective, T-86-46, Dec. 18, 1985.)

**28-4-125. Criminal history and child abuse registry information for the purpose of obtaining criminal and child abuse histories.** (a) Each child care facility subject to licensing or registration by the secretary of health and environment shall report the name, address, and birthdate of each person over 10 years of age who resides, works or regularly volunteers in the facility, excluding children placed in care, at the time of application and application renewal. The report shall be forwarded to the Kansas department of health and environment on departmental forms.

(b) Within two weeks of the time a new person over 10 years of age resides, works or regularly volunteers in the facility, excluding children placed in care, a report of the name, address and birthdate shall be filed

with the Kansas department of health and environment. (Authorized by and implementing K.S.A. 1984 Supp. 65-516, as amended by Session Law 1985, Chapter 210, Section 1; effective, T-86-46, Dec. 18, 1985.)

**28-4-250.** (Authorized by K.S.A. 1975 Supp. 65-508; effective, E-76-36; July 14, 1975; effective May 1, 1976, T-86-46, Dec. 18, 1985.)

**28-4-268. Definitions.** (a) "Basement" means each area with a floor level more than 30 inches below ground level on all four sides.

(b) "Child" means each individual under 16 years of age.

(c) "Corporal punishment" means each activity directed toward modifying a child's behavior by means of adverse physical contact such as spanking with the hand or an implement, slapping, swatting, pulling hair, or any similar activity.

(d) "Developmental disability" means any physical, emotional, or mental disability which constitutes a substantial handicap to the individual as defined in public law 91-517.

(e) "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.

(f) "Emergency care" means residential care not to exceed 30 days.

(g) "Emergency shelter" means residential care and protection not to exceed 30 days.

(h) "Facility" means a group boarding home or residential center that provides residential care.

(i) "Group boarding home" means a non-secure facility providing residential care for not less than five nor more than ten persons unrelated to the caregivers, and includes emergency shelters and maternity homes.

(j) "Isolation" means removal of a resident from other residents to a separate locked room or quarters.

(k) "License" means a document issued by the Kansas department of health and environment which authorizes a licensee to operate and maintain a group boarding home or residential center.

(l) "Living unit" means a group of residents living together as an established unit within a residential center.

(m) "Maternity care" means residential care which includes services to women during pregnancy.

(n) "Maternity home" means a facility whose primary function is to provide services to women during pregnancy.

(o) "Non-secure facility" means a facility which provides the resident access to the surrounding community.

(p) "Placing agent" means the person, social agency or court possessing the legal right to place a child.

(q) "Program" means the comprehensive and coordinated sets of activities and services providing for the care, protection and development of the residents.

(r) "Resident" means any child, youth or pregnant woman accepted for care in the residential facility.

(s) "Residential care" means 24-hour care.



(t) "Residential center" means a non-secure facility which provides residential care for more than 10 residents unrelated to the caregivers, and includes emergency shelters and maternity homes.

(u) "Temporary care" means residential care not to exceed 90 days. (Authorized by and implementing K.S.A. 65-508; effective, T-86-46, Dec. 18, 1985.)

**28-4-401. Responsibilities of individuals who apply for or who receive services.** (a) Each applicant shall supply financial, insurance, and family information essential to the establishment of eligibility within 30 days of the request for service, on forms prescribed by the secretary.

(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 obtain prior authorization from the crippled and chronically ill children's program for services.

(e) 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; amended, T-86-46, Dec. 18, 1985.)

**28-4-402. Responsibilities of the director of crippled and chronically ill children's program to persons who apply for or receive services.** The director of crippled and chronically ill children's program 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 authoriza-

tion 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; amended, T-86-46, Dec. 18, 1985.)

**28-4-403. 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 for medical treatment. If the annual margin is above zero, the person shall not be eligible for financial assistance, except as provided in subsections (f) and (g) below. The factors to be used 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 subsections (d) and (e) below; and

(B) subtracting from the total of paragraph (A) above the following:

(i) The family living allowance as determined in subsections (b) and (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.

(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

(c) For each additional person, \$3,219 shall be added to \$22,089 in defining the family living allowance.

(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

(continued)



(e) For each additional person, \$331 shall be added to \$2,359 in determining maximum allowable family assets.

(f) If, within twelve months after application, the annual margin is spent down per subsection (g) 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.

(g) 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; amended, T-86-46, Dec. 18, 1985.)

**28-4-404. Diagnostic services.** (a) Diagnostic services shall be made available to each eligible person who is a resident of this state and who is believed to have a severely handicapping condition, 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; amended, T-86-46, Dec. 18, 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, 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 except for those hospitals out-of-state authorized by K.A.R. 28-4-408 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 approved to provide medical, surgical and other services for the care and treatment of eligible persons except for providers out-of-state authorized by K.A.R. 28-4-408 shall meet the following standards:

(1) Audiologists shall meet the requirements for certification by the American speech and hearing association, 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 meet the requirements for registration by 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.

(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 an-

cestry 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; and

(5) 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; amended, T-86-46, Dec. 18, 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 of service, patient, parent, stepparent or guardian 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 its amendments, 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; amended May 1, 1985; amended, T-86-46, Dec. 18, 1985.)

**28-4-405b. Termination.** When the secretary revokes approval of a provider's participation in the crippled and chronically ill children's program the revocation shall be 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; amended May 1, 1985; amended, T-86-46, Dec. 18, 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 or pulmonary stenosis.

(2) Rheumatic fever; or

(3) Conditions related to heart disease requiring hospitalization, including measures to treat or prevent pneumonia or congestive heart failure; or arrhythmias.

(d) Neurosurgical conditions, including spinal injury as a result of accident or hydrocephalus related to myelomeningocele;

(e) Orthopedic conditions, including:

(continued)

(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, arthrogryposis 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, myostitis 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;

(1) Specified craniofacial anomalies, including aperts syndrome, crouzon's syndrome and hydrocephalus; or

(m) Vision problems, including glaucoma, congenital cataracts or cataracts resulting from metabolic disease, retinal detachment with retinal defect, retinoblastoma, or retinal disorders excluding retrolental-fibroplasia. (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; amended, T-86-46, Dec. 18, 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 (m), inclusive. Persons afflicted with that condition specified in subsection (m) 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; amended, T-86-46, Dec. 18, 1985.)

**28-4-408. Out of state service provision.** (a) Treatment services may be provided out of state on an individual basis if:

(1) the medical specialty is not practiced in Kansas;

(2) the medical treatment is not available in Kansas and two approved medical specialists recommend out of state treatment;

(3) Kansas facilities have no hospital beds available for the client; or

(4) the eligible person, traveling outside of Kansas but within the United States and its possessions, requires emergency treatment for the eligible condition, providing Kansas residency is not severed through action or intent.

(b) Treatment services may be provided out of state for eligible children with specific conditions if there is a written agreement between the secretary and the service provider establishing a treatment site for ongoing care.

(c) The eligible family is responsible for:

(1) Any cost of treatment that is greater than the crippled and chronically ill children's program approved charges;

(2) cost of travel for the eligible child and family; and

(3) maintenance of the family during the treatment.

(d) Diagnostic services out-of-state shall not be authorized. (Authorized by and implementing K.S.A. 1984 Supp. 65-5a08; T-86-46, Dec. 18, 1985.)

#### Article 46.—UNDERGROUND INJECTION CONTROL REGULATIONS

**28-46-1. General provisions.** (a) Any reference in these rules and regulations to standards, procedures, or requirements of 40 CFR Parts 124, 144, 145, 146 or 261, shall constitute a full adoption by reference of the part, subpart and paragraph so referenced, including any notes, charts and appendices, unless otherwise specifically stated in these rules and regulations. The materials referenced are available at the Kansas department of health and environment, Topeka, Kansas.

(b) When used in any provision adopted from 40 CFR Parts 124, 144, 145, 146 or 261, references to "the United States" shall mean the state of Kansas, "environmental protection agency" shall mean the Kansas department of health and environment, and "administrator," "regional administrator," or "director" shall mean the secretary of the department of health and environment.

(c) If the United States environmental protection agency approves the Kansas application to regulate underground injection of fluids in connection with the production of oil and natural gas under Section 1425 of Public Law 93-523, the safe drinking water act, that section shall be adopted by reference on the date of that approval.

(d) When existing Kansas statutory and regulatory authority is more stringent than the regulations adopted in subsection (a), the Kansas requirements

shall prevail. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-86-47, Dec. 18, 1985.)

**28-46-2. Definitions.** (a) 40 CFR 124.2; 40 CFR 144.3 and 40 CFR 146.3, as in effect on July 1, 1985, are adopted by reference.

(b) "Cone of impression" means the mound in the potentiometric surface of the receiving formation in the vicinity of the injection well.

(c) "Calculated zone of endangering influence" means that area where the cone of impression intercepts the boundaries of a usable aquifer.

(d) "Fracture pressure" means that wellhead pressure which may cause vertical or horizontal fracturing of rock along a well bore.

(e) "Injection well" means a well designed for the purpose of the subsurface emplacement of fluids.

(f) "Injection well facility" means all land, structures, appurtenances or improvements on which one or more injection wells are located, and that are within the same well field or project.

(g) "Major facility" means a facility capable of producing hazardous waste identified or listed by the secretary under K.A.R. 28-31-3.

(h) "Major permit" means a permit for the underground injection of wastes produced by or stored on a major facility.

(i) "Maximum allowable injection pressure" means the maximum wellhead pressure not to be exceeded as a permit condition, as opposed to fracture pressure.

(j) "Secretary" means the secretary of the Kansas department of health and environment or duly authorized designee. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-3. Classification of injection wells.** 40 CFR 144.6 and 40 CFR 146.5, as in effect on July 1, 1985, are adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-4. Injection of hazardous or radioactive wastes into or above an underground source of drinking water.** Injection of hazardous or radioactive wastes into or above an underground source of drinking water shall be prohibited. Any similar injection taking place before the effective date of these rules and regulations shall be stopped immediately on the effective date of these rules and regulations. The secretary may issue such orders or take such actions as may be appropriate to enforce the provisions of this section. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-86-47, Dec. 18, 1985.)

**28-46-5. Application for injection well permits.** 40 CFR 124.3 and 40 CFR 144.31, as in effect on July 1, 1985, are adopted by reference. In addition, the provisions of K.S.A. 1984 Supp. 65-3437, as amended by L. 1985, Ch. 218, Sec. 3, which relate to hazardous waste injection wells shall be applicable to Class I

hazardous waste injection wells. (Authorized by K.S.A. 1984 Supp. 65-171d and L. 1985, Chap. 218, Sec. 3; implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-6. Conditions applicable to all permits.** 40 CFR 144.51(a) through (n), as in effect on July 1, 1985, are adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-7. Draft permits.** 40 CFR 124.6, as in effect on July 1, 1985, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-8. Fact sheets.** 40 CFR 124.8, as in effect on July 1, 1985, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-9. Establishing permit conditions.** 40 CFR 144.52, as in effect on July 1, 1985, are adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-10. Term of permits.** (a) Class I and class V permits shall be effective for a fixed term not to exceed 10 years.

(b) Class II and III permits shall be issued for a period up to the operating life of the facility.

(c) Each permit shall be reviewed at least once every five years to determine whether it should be modified, revoked and reissued, or terminated, with the exception of permits for Class I hazardous waste injection wells which shall be reviewed annually to determine whether they should be modified, revoked and reissued, or terminated. Class I hazardous waste injection well permits may be reviewed at more frequent intervals, which shall be set forth to the applicant at the time of annual permit review.

(d) Modification of permits shall not include extension of the maximum duration specified in subsection (a). At the end of the permit term, application shall be filed for a new permit. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-86-47, Dec. 18, 1985.)

**28-46-11. Schedules of compliance.** 40 CFR 144.53, as in effect on July 1, 1985, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-12. Requirements for recording and report-**

(continued)

ing of monitoring results. 40 CFR 144.54, as in effect on July 1, 1985, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-13. Effect of a permit.** 40 CFR 144.35, as in effect on July 1, 1985, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-14. Transfer of permits.** 40 CFR 144.38, as in effect on July 1, 1985, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-15. Modification or revocation and reissuance of permits.** 40 CFR 124.5 and 40 CFR 144.39, as in effect on July 1, 1985, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-16. Termination of permits.** 40 CFR 144.40, as in effect on July 1, 1985, is adopted by reference. (Authorized by K.S.A. 1984 Supp. 65-171d; implementing K.S.A. 1984 Supp. 65-165; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-17. Minor modifications of permits.** 40 CFR 144.41, as in effect on July 1, 1985, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-18. Area permits.** 40 CFR 144.33, as in effect on July 1, 1985, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-19. Emergency permits.** 40 CFR 144.34, as in effect on July 1, 1985, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-20. Corrective action.** 40 CFR 144.55, as in effect on July 1, 1985, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-21. Public notice of permit actions and public comment period; public comments and requests for public hearings; public hearings; response to comments.** (a) 40 CFR 145.11; 40 CFR 124.10

through 40 CFR 124.12; and 40 CFR 124.17, as in effect on July 1, 1985, are adopted by reference.

(b) Any provisions of Kansas law which provide additional opportunity for public comment or public hearing shall control over the provisions of the federal regulations. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-22. Signatories to permit applications and reports.** 40 CFR 144.32; 40 CFR 144.31; and 40 CFR 145.11, as in effect on July 1, 1985, are adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-23. Claims of confidentiality.** (a) Applicants for injection permits may claim confidentiality of information to protect trade secrets. These claims shall be submitted in writing at the time application is made for a permit. Upon agreement between the applicant and the secretary, the confidential information shall be stamped "confidential," and the documents shall not be released to the public by the secretary without the prior written consent of the applicant, to the extent provided by law.

(b) Claims of confidentiality shall not apply to release of confidential materials to governmental agencies with responsibilities in water pollution control or to the release of that material due to a court order.

(c) Prohibition of confidentiality. Claims of confidentiality shall not include the name and address of the applicant or permittee or information dealing with the existence, absence, or level of contaminants in drinking water. (Authorized by K.S.A. 1984 Supp. 65-171d; implementing K.S.A. 65-170g; effective May 1, 1982; amended, T-86-47, Dec. 18, 1985.)

**28-46-24. Requirements for wells injecting hazardous wastes.** 40 CFR 144.14, as in effect on July 1, 1985, is adopted by reference. In addition to 40 CFR 144.14, the following requirements are applicable to Class I hazardous waste injection wells:

(a) Liability coverage and long-term assurances. Insurance requirements, closure and post-closure requirements, and financial requirements shall be met by compliance with K.A.R. 28-31-8(a). Higher amounts for insurance, bonds or equivalent may be required by the secretary.

(b) Injection fluids received from multiple generators. Hazardous waste injection wells shall be subject to the requirements in K.A.R. 28-31-8(d).

(c) Disclosure statement. Each applicant shall be subject to the requirements in K.A.R. 28-31-9(c).

(d) Monitoring fees. The monitoring fee schedule shall be as specified in K.A.R. 28-31-10(c).

(e) Pretreatment requirements. Prior to hazardous waste injection, the fluids shall meet minimum pretreatment requirements that are set by the secretary. To the extent feasible, pretreatment shall render the injected fluid compatible with the injection well tubing and casing and with the disposal formation. In

setting minimum pretreatment requirements the secretary shall consider values 100 times greater than the applicable drinking water standards and values 100 times greater than the applicable  $10^{-5}$  cancer risk levels, or other values necessary to prevent contamination of underground drinking water supplies, to protect the public health, and to take into account environmental considerations. (Authorized by K.S.A. 1984 Supp. 65-171d and L. 1985, Chap. 218, Sec. 3; implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-25. Prohibition of unauthorized injection.** Injection wells shall not be constructed, and underground injection shall not take place, unless authorized by permit, or by rule as provided in K.A.R. 28-46-26. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-86-47, Dec. 18, 1985.)

**28-46-26. Authorization to continue to inject into wells which carry existing state permits and into class V wells.** (a) Each injection well which carries a valid state permit on or after May 1, 1986 may continue to operate for a maximum period of four years if all program elements listed in 40 CFR 144.21 are satisfied. Each existing permit shall be terminated at that time, and continued operation of an injection well shall be allowed only upon application to and approval of an underground injection control permit by the secretary.

(b) A class V injection well shall be authorized to operate until regulations concerning that class of injection wells are adopted. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-27. Prohibition of movement of fluid into underground sources of drinking water.** 40 CFR 144.12 and 40 CFR 145.11, as in effect July 1, 1985, are adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-28. Establishing maximum injection pressure.** The secretary shall establish a maximum allowable injection pressure for each injection well as a permit condition. All systems operating on other than zero or negative wellhead pressure injection of hazardous wastes shall be prohibited. The maximum operating pressure shall not be allowed to exceed fracture pressure, except during the development of horizontal fractures for well stimulation operations, or during the development of solution-mined wells as defined in K.A.R. 28-43-2(c) and K.A.R. 28-45-2. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-86-47, Dec. 18, 1985.)

**28-46-29. Construction requirements.** 40 CFR 146.12, governing Class I wells; 40 CFR 146.22, gov-

erning Class II wells; and 40 CFR 146.32, governing Class III wells, as in effect on July 1, 1985, are adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-30. Operating, monitoring and reporting requirements.** 40 CFR 146.13, regulating Class I wells; 40 CFR 146.23, regulating Class II wells; and 40 CFR 146.33, regulating Class III wells, as in effect on July 1, 1985, are adopted by reference. In addition to 40 CFR 146.14, the following requirements are applicable to Class I hazardous waste injection wells:

(a) Records of the continuously monitored parameters shall be maintained in addition to the weekly average, minimum and maximum values of the following parameters:

- (1) Injection pressure;
- (2) flow rate;
- (3) injection volume; and
- (4) annular pressure.

(b) Monitoring results shall be reported to the department on a monthly basis.

(c) The necessary number of monitoring wells in appropriate geologic zones for early detection of contaminant migration shall be determined by the secretary. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-31. Information to be considered by the secretary.** 40 CFR 146.14, for Class I wells; 40 CFR Part 144 Subpart F for Class I hazardous waste wells; 40 CFR 146.24, for Class II wells; and 40 CFR 146.34, for Class III wells, as in effect on July 1, 1985, are adopted by reference. In addition to 40 CFR 146.14, the following shall be applicable to Class I hazardous waste injection wells:

(a) The provisions of K.S.A. 1984 Supp. 65-3439, as amended by L. 1985, Ch. 218, Sec. 4, as it relates to hazardous waste injection wells shall be applicable to Class I hazardous waste injection wells.

(b) The applicant shall be responsible for providing all available information necessary for the secretary to determine that well injection of the hazardous waste liquid in question is the most reasonable method of disposal after all other options have been considered. Factors to be considered in determining the most reasonable method shall include those set forth in K.S.A. 1984 Supp. 65-3439(d). All factors considered shall be documented in a detailed report in the format required by the secretary.

(c) The location of each abandoned oil and gas well and exploratory hole within the area of review shall be determined through a detailed record search and field survey. An interview with those responsible for drilling, producing, plugging, or witnessing the activities shall be a part of the record. The results of the survey shall be documented in a report in the format required by the secretary. A map geographically documenting the location of all the holes and abandoned wells

(continued)



within the area of review shall be included as a part of the report. (Authorized by K.S.A. 1984 Supp. 65-171d and L. 1985, Chap. 218, Sec. 3; implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-32. Area of review.** The area of review for all injection wells requiring permits shall be ½ mile, with the exception of the following:

(a) For wells constructed in rock salt, the area of review shall be 150 feet or the property line of the permittee's premises; and

(b) For each Class I hazardous waste injection well, the area of review shall be no less than ½ mile or shall extend to the limits of the calculated zone of endangering influence, whichever is greater. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-86-47, Dec. 18, 1985.)

**28-46-33. Mechanical integrity testing.** (a) A downhole mechanical integrity test shall be required of each permittee on each injection well every five years except for hazardous waste injection wells, for which the mechanical integrity shall be demonstrated by the permittee every two years. The test shall be conducted in accordance with 40 CFR 146.8, as in effect on July 1, 1985.

(b) The secretary shall notify the permittee 30 days in advance that a mechanical integrity test must be performed, or a permittee may notify the secretary that a voluntary mechanical integrity test will be performed at least 14 days in advance of the test.

(c) When the secretary believes that, due to an apparent downhole problem, the continued use of an injection well constitutes a threat to human health or to waters of the state, the permittee shall be required to cease injection operations immediately and to conduct a mechanical integrity test. Injection operations shall not be resumed until the test is conducted.

(d) The secretary shall provide for a qualified state inspector to witness all of the mechanical integrity tests performed.

(e) The permittee shall submit results of all mechanical integrity tests to the secretary, in writing, within 30 days after conducting the test. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-34. Plugging and abandonment.** 40 CFR 144.51(n); 40 CFR 144.52(a)(6), and 40 CFR 146.10, as in effect on July 1, 1985, are adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-35. State inspection and right of entry.** (a) Qualified state inspectors to inspect and monitor injection well facilities shall be provided by the secretary.

(b) Duly authorized representatives of the secretary shall have access to injection facilities for all activities

required by these regulations. (Authorized by K.S.A. 1984 Supp. 65-171d; implementing K.S.A. 65-170b; effective May 1, 1982; amended, T-86-47, Dec. 18, 1985.)

**28-46-36. Waiver of requirements by secretary.** 40 CFR 144.16, as in effect on July 1, 1985, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-37. Non-compliance reporting by the secretary.** 40 CFR 144.8, as in effect on July 1, 1985, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-38. Inventory and assessment of Class V injection wells.** 40 CFR 146.52, as in effect on July 1, 1985, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-39. Mid-course evaluation reports.** The secretary shall submit reports to the regional administrator of the United States environmental protection agency at six month intervals during the first two years of operation of the underground injection control program. The data submitted shall be in accordance with the requirements of 40 CFR 146.15, 146.25, and 146.35, as in effect on July 1, 1985. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-40. Exempted aquifers.** (a) An aquifer may be designated by the secretary as exempt from protection as an underground source of drinking water. Criteria for exemption may include whether an aquifer:

(1) contains water with more than 10,000 milligrams per liter of total dissolved solid;

(2) produces mineral, hydrocarbon or geothermal energy; or

(3) is situated at a depth which makes the recovery of water economically impractical.

(b) These designations shall be first submitted to and approved by the administrator of the United States environmental protection agency. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-86-47, Dec. 18, 1985.)

**28-46-41. Sharing of information.** 40 CFR 145.14, as in effect on July 1, 1985, is adopted by reference. (Authorized by K.S.A. 1984 Supp. 65-171d; implementing K.S.A. 65-170g; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

**28-46-42. Exclusion of oil and gas related wells.**



Class II injection wells which inject fluids brought to the surface in connection with the production of oil or natural gas or which inject fluids to enhance the recovery of oil or natural gas shall be exempted from the provisions contained in article 46. (Authorized by and implementing K.S.A 1984 Supp. 65-171d; effective, T-83-7, April 29, 1982; effective May 1, 1983; amended, T-86-47, Dec. 18, 1985.)

BARBARA J. SABOL  
Secretary of Health  
and Environment

Doc. No. 003829

## State of Kansas

### DEPARTMENT ON AGING

#### TEMPORARY ADMINISTRATIVE REGULATIONS

(Effective December 18, 1985. Expire May 1, 1986.)

#### Article 1.—GENERAL PROVISIONS

**26-1-1. Definitions.** As used in Articles 1, 2, 3, 4, 5 and 6 of these rules and regulations: (a) "Area agency" or "area agency on aging" means the agency or organization within a planning and service area that has been designated by the secretary to develop, implement and administer a plan for the delivery of a comprehensive and coordinated system of services to older persons in the planning and service area.

(b) "Area plan" means the document developed by an area agency which describes the comprehensive and coordinated system of services to be provided to older persons in a planning and service area.

(c) "Comprehensive and coordinated system of services" means a program of interrelated supportive and nutrition services designed to meet the needs of older persons in a planning and service area.

(d) "Contract" means a procurement agreement.

(e) "Contractor" means the party or parties who, under contract with the department or an area agency, are to actually provide services to older persons in a planning and service area.

(f) "Contribution" means a donation of money, foodstamps or anything of monetary value, that is given by a participant to a service provider.

(g) "Department" means the Kansas department on aging, created by K.S.A. 75-5903 and any amendments to it.

(h) "Employment" means any activity which includes the exchange of labor or services for wages or money, food, clothing, shelter.

(i) "Employment-full-time" means employment of more than thirty (30) hours per week.

(j) "Employment-part-time" means employment of fewer than 30 hours per week.

(k) "Employment-permanent" means employment which is represented by an employer to be more than 30 days duration.

(l) "Employment-temporary" means employment which is represented by an employer to be of fewer than 30 days duration.

(m) "Family" means a collective body of persons who live in one house or under one head or management.

(n) "Federal act" means the older Americans act of 1965, as amended.

(o) "Financial audit" means an official examination and verification of a recipient's accounts which determines whether the financial statements of an audited entity present fairly the financial position and the results of financial operations in accordance with generally accepted accounting principles.

(p) "Financial report-final" means a recipient prepared document which contains the complete financial results of the grant or the complete financial results of the sub-grant.

(q) "Grant" means an award of financial assistance in the form of money, or property in lieu of money, by the department.

(r) "Grantee" means any legal entity to which a grant is awarded and which is accountable to the department for the use of the grant. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant.

(s) "Granting agency" means the Kansas department on aging.

(t) "Income-low" means family income which does not exceed 125% of the poverty level as determined by the Federal Office of Management and Budget.

(u) "Income-monthly gross" means the monthly sum of income received by an individual or couple from the following sources: (1) wages or salary; (2) net-income from non-farm self-employment; (3) net income from farm self-employment; (4) social security; (5) dividends, interest, income from estate or trusts, net rental income or royalties; (6) public assistance or welfare payment; (7) pensions and annuities; (8) unemployment compensation; (9) workers compensation; (10) alimony; and (11) veteran's pensions.

(v) "Indian tribal organization" means the recognized governing body of any Indian tribe, or any legally established organization of Indians which is controlled, sanctioned, or chartered by the governing body of an Indian tribe.

(w) "In-home service" means the provision of health, medical or social services to a private individual in his or her non-institutional place of residence.

(x) "Kansan" means any person who currently resides within the State of Kansas.

(y) "Modification of a grant or contract" means a change that would:

(1) Alter the program scope, planned objectives, or the manner in which services are delivered;

(2) provide financial assistance or payments to any entity not authorized by the original grant or contract; or

(3) alter the approved budget of the original grant or contract, except as authorized in directives issued by the secretary.

(z) "Notification of grant award" or "NGA" means the document, issued by the department, awarding financial assistance for the provision of services to older persons and specifying the terms of the grant.

(continued)

(aa) "Notification of sub-grant award" means the document, issued by an area agency, awarding financial assistance to a sub-grantee for the provision of services to older persons and specifying the terms of the sub-grant.

(bb) "Obligation" means the amount of orders placed, contracts and subgrants awarded, services received, and similar transactions during the grant period, which will require payment within 75 days following the last day in which the grant is active.

(cc) "Older person" means any person 60 years of age or older.

(dd) "Older worker" means any person 55 years of age or older, who is employed or seeking employment.

(ee) "Planning and service area" or "PSA" means a geographic area of the state designated by the department for area plan development and area agency designation.

(ff) "Poverty level" means family income which does not exceed 100% of the poverty level as determined by the Federal Office of Management and Budget.

(gg) "Purchase of service grant" means an award of financial assistance in which the payment is made on a reimbursement basis at a unit rate of cost of service with an upper limit on the total cost of the grant. Payment is made in the form of money, or property in lieu of money by the department.

(hh) "Recipient" means grantee or sub-grantee. Use of the term "recipient" in a provision shall be taken as referring equally to grantees or sub-grantees.

(ii) "Redesignation" means a change in the geographic boundaries of a planning and service area or selection of an area agency that is different than the area agency previously designated for a particular planning and service area.

(ij) "Request for Proposal" or "RFP" means the document containing criteria which is used to solicit applications for a contract or subgrant from potential service providers.

(kk) "Secretary" means the secretary of the Kansas department on aging.

(ll) "Self-employed" means a private individual engaged in the direct provision of a service or labor in exchange for money, food, shelter, clothing or any other item, items or service of economic value.

(mm) "Service provider" means any legal entity that is obligated to provide services to older persons in any planning and service area.

(nn) "Service provider; in-home meal" means any legal entity to which funds are paid for the purpose of providing home delivered meals under the in-home nutrition programs.

(oo) "State act" means the Kansas act on aging, K.S.A. 75-5901 through K.S.A. 75-5923.

(pp) "State advisory council" means the advisory council on aging created by K.S.A. 75-5911, and any amendments to it.

(qq) "State plan" means the document submitted by the department in order to receive its allotment of funds under the older Americans act.

(rr) "Sub-grant" means an award of financial assist-

ance in the form of money, or property in lieu of money, made under a grant by a grantee to a sub-grantee.

(ss) "Sub-grantee" means any legal entity to which a sub-grant is awarded and which is accountable to the grantee for the use of the grant funds.

(tt) "Unit of local government" means:

(1) Any county, city, township, school district, or other similar political subdivision of the state, or any agency, bureau, office or department thereof; or

(2) Any Indian tribal organization.

(uu) "Unused supplies" means supplies that still have a useful life. (Authorized by and implementing K.S.A. 75-5908; effective, T-85-47, Dec. 19, 1984; effective, May 1, 1985; amended, T-86-48, Dec. 18, 1985.)

**26-1-2. Procedure for redesignation of planning and service area boundaries.** (a) Requests for redesignation of existing planning and service area boundaries shall be in writing and may be made by:

(1) Any unit of local government;

(2) any Indian tribal organization;

(3) any region within the state recognized for areawide planning; or

(4) any metropolitan area.

(b) At a minimum, the following factors shall be considered in decisions regarding redesignation of planning and service areas:

(1) The proposed boundaries' conformity with requirements of the state and federal acts;

(2) the geographical distribution of persons age 60 and over;

(3) the relationship of the proposed boundaries to those of other planning and service areas;

(4) the incidence of need for services and the degree to which resources are available to meet the needs;

(5) comments by older citizens, units of local government, and other interested parties in the planning and service area; and

(6) comments of the state advisory council.

(c) A public hearing on the proposed planning and service area redesignation shall be held prior to taking action on the request. At least one hearing shall be held in the locality of the state where redesignation will alter or modify the existing geographic boundaries.

(d) Applications shall be processed in the following manner:

(1) Within 60 calendar days following the receipt by the department of a request for redesignation, a public hearing shall be held in the geographic area which will be affected by the proposed redesignation.

(2) Advance notice of the hearing shall be given at least 10 calendar days prior to the date of the hearing by publishing the notice in a newspaper which has general circulation in the geographic area which will be affected by the proposed redesignation. The notice shall state the date, time, location, and purpose of the public hearing.

(3) Written comments shall be received before, at, and up to 10 calendar days following the hearing.

(4) The secretary shall render a decision on each request within 60 days after the close of comment period.

(5) The applicant shall have 30 calendar days following the receipt of the decision to appeal the secretary's decision.

(e) The party requesting a redesignation of planning and service area boundaries may withdraw or ask for a continuance of its redesignation request at any time prior to receiving the secretary's decision. The request shall be in writing. Only one request for continuance shall be allowed for each redesignation request and, if granted, the continuance shall not exceed 90 days from the date it is requested. (Authorized by and implementing K.S.A. 75-5908; effective, T-85-46, Dec. 19, 1984; effective, May 1, 1985; amended, T-86-48, Dec. 18, 1985.)

**26-1-3. Procedure for redesignation of area agency on aging.** (a) Only one area agency on aging shall be designated in each planning and service area.

(b) A request for redesignation of an area agency on aging may be submitted by any of the following:

- (1) Any unit of local government;
- (2) any established office on aging operating in a planning and service area;
- (3) any private or public nonprofit agency; or
- (4) any Indian tribal organization.

(c) An area agency on aging shall not be redesignated until:

(1) An on-site review has been completed to determine the capacity of the applicant to conform with the federal and state acts and rules and regulations promulgated pursuant to those acts;

(2) At least one public hearing has been conducted in the planning and service area;

(3) Evidence of support has been provided from:

- (A) Units of local government;
- (B) older persons;
- (C) the state advisory council;
- (D) local advisory councils; and
- (E) other interested parties; and

(4) Evidence has been supplied that the applicant possesses the legal and organizational capacity to carry out the functions specified in the federal and state acts.

(d) Applications shall be processed as follows:

(1) Within 60 calendar days following the receipt by the department of a request for redesignation, a public hearing shall be held in the geographic area which will be affected by the proposed redesignation.

(2) Advance notice of the hearing shall be given at least 10 calendar days prior to the date of the hearing by publishing the notice in a newspaper which has general circulation in the geographic area which will be affected by the proposed redesignation. The notice shall state the date, time, location, and purpose of the public hearing.

(3) Written comments shall be received before, at, and up to 10 calendar days following the hearing.

(4) The secretary shall render a decision to the applicant within 60 calendar days after the close of the comment period.

(5) The applicant shall have 30 calendar days following the receipt of the secretary's decision to appeal the decision.

(e) The party requesting a redesignation of an area agency may withdraw or ask for a continuance of its redesignation request at any time prior to receiving the secretary's decision. The request shall be in writing. Only one request for continuance shall be allowed each redesignation request and, if granted, the continuance shall not exceed 90 calendar days from the date it is requested. (Authorized by and implementing K.S.A. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended, T-86-48, Dec. 18, 1985.)

**26-1-5. Area plan development.** (a) Each area agency shall develop and submit an area plan for approval by the department. An area agency shall not receive any funds until the area plan has been approved by the department.

(b) Each area plan shall be submitted on forms prescribed by the department and shall contain all of the information requested on the form, including:

- (1) The application for grant award;
- (2) A verification of application;
- (3) The assurance of Title VI civil rights compliance;
- (4) The assurance of compliance between the AAA and KDOA;
- (5) A copy of the organization chart of the AAA;
- (6) A profile of the AAA population;
- (7) A determination of area needs and AAA services;
- (8) A request for waiver of the requirement to provide an adequate proportion of Title III-B funds for priority services, if applicable;
- (9) A description of community focal points;
- (10) A statement of administrative objectives;
- (11) A statement of advocacy objectives;
- (12) A description of the manner in which implementation of objectives will be coordinated;
- (13) A description of program development objectives;
- (14) A description of information and referral objectives;
- (15) A description of outreach objectives;
- (16) A description of case management objectives;
- (17) A description of supportive services objectives;
- (18) A description of congregate nutrition services objectives;
- (19) A description of home-delivered nutrition services objectives;
- (20) The program characteristics of nutrition services;
- (21) A description of the program characteristics and supportive services data;
- (22) A copy of the form: "Title III-C(1)-congregate nutrition services";
- (23) A copy of the form: "An annual budget summary";
- (24) An annual budget for area plan administration;
- (25) Budget cost justifications for the program component;

(continued)

(26) Capital cost justifications for the program component;

(27) Resource justifications for the program component;

(28) A copy of the form: "Title III-B supportive services annual budgets";

(29) A copy of the form: "AAA direct services—III-B annual budgets";

(30) A copy of the form: "III-B supportive services data";

(31) A congregate meal budget summary; and

(32) A home-delivered meal budget summary.

(c) Each area agency shall ensure that units of local government, local advisory councils, potential service providers and older persons have an opportunity for involvement in the development of the area plan.

(d) Each area agency, as part of the area plan, shall describe the rationale for the proposed allocation of funds for services in the planning and service area. The rationale shall identify the manner in which the proposed distribution of funds will meet identified, priority nutrition and supportive service needs. (Authorized by and implementing K.S.A. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended, T-86-48, Dec. 18, 1985.)

**26-1-6. Operating policies and procedures.** (a) Each area agency receiving funding under an area plan shall have written policies and procedures to govern the conduct of its operations and functions. These policies and procedures shall:

(1) describe the administrative and policy structure of the area agency;

(2) describe the policies and procedures that are applicable to sub-grantees and service providers, and include any policies and procedures mandated by the department.

(b) Each area agency's written policies and procedures that are applicable to sub-grantees and service providers shall be officially adopted by action of the entity's governing body. Before adoption, the area agency shall provide an opportunity for comment on the proposed operating policies and procedures by units of local government, local advisory councils, potential service providers, and older persons. Notice of the opportunity for comment shall be published in a newspaper or newspapers of general circulation within the PSA at least 14 days before the policies and procedures are adopted by the area agency.

(c) Each area agency, prior to final adoption of its policies and procedures, shall first submit the procedures to the department for review.

(d) Each area agency shall provide without cost copies of the written policies and procedures to each sub-grantee and service provider with whom it has a sub-grant or contract and to the department. Other parties may obtain a copy of the written policies and procedures upon compliance with the Kansas open records act, 45-215 through 45-223. (Authorized by and implementing K.S.A. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended, T-86-48, Dec. 18, 1985.)

## Article 2.—GRANTS AND CONTRACTS

**26-2-1. Notification of grant award (NGA) or contract.** (a) Each grantee or contractor of the department shall sign and return to the department the notification of grant award or contract before funds will be advanced. The notification of grant award or contract shall include:

(1) the total financial amount of the award or contract, including:

(A) the amount of funds to be provided by the department;

(B) the amount of funds to be provided by the grantee or contractor; and

(2) the effective and expiration dates of the grant or contract;

(3) assurance that all materials published in connection with the area agency activities shall conspicuously acknowledge the support of the Administration on Aging and the department; and

(4) Special conditions which may be specified as part of the grant or contract.

(5) the signature of the authorized representative of the grantee or contractor and the secretary;

(b) Unless revised, computation of grant amounts which appear on the document, shall constitute a ceiling for state and federal participation in the approved cost.

(c) Unless specifically exempted by the secretary, providers of services funded, in whole or in part, by state funds shall comply with the financial requirements applicable to providers of services funded by federal funds. When an exemption is given, appropriate financial requirements shall be imposed concerning the use of these funds. (Authorized by and implementing K.S.A. 75-5908; effective, T-85-47; Dec. 19, 1984; effective May 1, 1985; amended, T-86-48, Dec. 18, 1985.)

**26-2-3. Reporting requirements.** (a) Each grantee or contractor of the department shall by the due dates using the forms prescribed by the Secretary, submit required program and financial reports deemed necessary by the department to comply with federal and state requirements.

(b) Each grantee shall be responsible for obtaining and reporting necessary information from those sub-grantees and service providers with whom they have sub-grants or contracts.

(c) Each grantee shall submit Title III final financial reports to the department on or before December 15th following the end of the grant period on September 30. The grantee shall submit a consolidated final financial report for each program component. These reports shall be accompanied and supported by copies of the area agency's subgrantee reports. Each grantee shall have received services and goods ordered and shall have liquidated corresponding obligations prior to submission of the final financial reports.

(d) If a grantee revises or modifies its final financial report the following are conditions and criteria to which the grantee shall adhere:

(1) A revised final financial report received by the

Department on or before December 31st of the calendar year in which the grant period ended shall be considered as a final financial report.

(2) A revised final financial report received by the Department after December 31st but on or before April 15th of the year following the end of the grant shall be considered a final financial report only if accompanied by a CPA audit report which confirms accuracy of the revised financial report.

(e) Calculation of unearned (carryover) funds shall be based upon the final financial report submitted as of the date the computation began. Final financial reports received after the issuance of unearned funds on a Notification of Grant Award shall be used to adjust the carryover only if such report results in an increase or decrease in federal/state funds earned of .5% or more.

(f) Each grantee who submits a revised final financial report, as defined in item (c)(4), shall adhere to the following:

(1) With an increase in unearned funds of .5% or more, the grantee shall submit a check payable to the Kansas department on aging for the amount of the increase in unearned funds;

(2) With an increase in unearned funds of less than .5%, the grantee may take no action at the time the revised final financial report is submitted;

(3) With a decrease in unearned funds, the grantee shall absorb the cost which results in the decrease in unearned funds. (Authorized by and implementing K.S.A. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended, T-86-48, Dec. 18, 1985.)

**26-2-4. Modification of approved grants or contracts.** (a) A written request for modification of a grant or contract may be submitted to the department for approval.

(b) The secretary may agree to a modification of an approved grant or contract, if the secretary determines that the modification is consistent with the state plan and will not adversely affect the provision of services to older persons.

(c) The secretary shall provide notification of action taken on the request within 30 days of the date of receiving a request for modification. (Authorized by and implementing K.S.A. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended, T-86-48, Dec. 18, 1985.)

**26-2-5. Assessments of performance and compliance with department grants and contracts.** (a) Each grantee or contractor shall submit to an annual on-site assessment to:

(1) determine the extent of compliance with state and federal requirements; and

(2) assess the degree to which objectives which are part of the grant or contract have been achieved.

(b) A written report of the on-site assessment shall be provided to the grantee or contractor describing the findings of the on-site assessment, and listing any corrective actions deemed necessary and the deadline for taking such action.

(c) Each grantee or contractor shall respond to the

department to any exceptions noted by the department within 30 days from receipt of the written assessment report.

(d) If corrective actions listed within the assessment report are not taken:

(1) The corrective action deadline may be extended by the department;

(2) The current grant may be suspended or terminated by the department; or

(3) Subsequent grant applications may be denied by the department.

(e) Grantees shall assess their subgrantees annually. (Authorized by and implementing K.S.A. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended, T-86-48, Dec. 18, 1985.)

**26-2-6. Withholding of payments; basis.** (a) Payments to a grantee or contractor shall be withheld by the department if:

(1) Expenditures by the grantee or contractor fail to comply with applicable federal or state requirements; or

(2) The secretary suspends or terminates the grant or contract.

(b) Payments may be withheld by the department if a grantee or contractor fails to submit any report required by the department on or before the established due date.

(c) Payments that are withheld shall be released within 30 days after the requirements are met by the grantee or contractor. (Authorized by and implementing K.S.A. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended, T-86-48, Dec. 18, 1985.)

**26-2-7. Closeout, suspension or termination of grants or subgrants.** The department, and each grantee of the department which has made one or more subgrants, may close out, suspend or terminate a grant or subgrant in accordance with the provisions of 45 C.F.R. sections 74.110 through 74.116, as in effect on July 1, 1984, which are adopted by reference, with the following exceptions:

(a) Each reference in the federal regulations to "HHS" shall be deemed to refer to the department when the department is a party in an action with the grantee and refers to the grantee when the grantee is a party in an action with the subgrantee;

(b) Each reference in the federal regulations to "the Federal Government" shall be deemed to refer to the department or grantee of the department;

(c) Each reference in the federal regulations to "Federal" shall be deemed to refer to "state";

(d) Subsections (b) and (d) of 45 C.F.R. Section 74.112 is deleted.

(e) Subpart O of 45 C.F.R. excluding 74.142-74.145 shall be included and any amounts due the federal government under subpart O shall constitute a debt or debts owed by the grantee to the federal government, and shall, if not paid upon demand, be recovered from the grantee or its successor or assignees by setoff or other action as provided by law. (Authorized by and implementing K.S.A. 75-5908; effective, T-85-47, Dec.

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19, 1984; effective May 1, 1985; amended, T-86-48, Dec. 18, 1985.)

**26-2-8. Final financial reports.** (a) Title III final financial reports shall be due to the department on or before December 15th following the end of the grant period on September 30.

(b) The recipient shall submit a consolidated final financial report for each program component. These reports shall be accompanied and supported by copies of the area agency's subgrantee reports. The recipients shall have received services and goods ordered and shall have liquidated corresponding obligations prior to submission of the final financial reports.

(c) Revised final financial reports received by December 31st of the calendar year in which the grant period ended shall be considered as a final financial report.

(d) A revised final financial report received by the department after December 31st shall be considered as a final report only if accompanied by a certified public accountant audit report which confirms the accuracy of the financial report and is received by April 15th of the year following the end of the grant period.

(e) Revised final financial reports received after December 31st of the calendar year in which the grant period ended not accompanied by a certified public account audit report shall not be considered a final financial report.

(f) Revised final financial reports received after April 15th of the year following the end of the grant period shall not be considered a final financial report.

(g) Each revised final financial report which is not considered a final financial report as defined above shall be handled as follows:

(1) If the revised final financial report indicates an increase in unearned funds of .5% or more, recipient shall submit a check payable to the department for the amount of the increase in unearned funds.

(2) If the revised final financial report indicates an increase in unearned funds of less than .5%, the recipient may take no action at the time the revised final financial report is submitted.

(3) If the revised final financial report indicates a decrease in unearned funds, the recipient shall absorb the cost which results in the decrease in unearned funds. (Authorized by and implementing K.S.A. 75-5908; effective, T-86-48, Dec. 18, 1985.)

### Article 3.—SUB-GRANTS AND CONTRACTS BY AREA AGENCIES

**26-3-1. Contracting and granting practices.** (a) An area agency shall not make a sub-grant or contract involving funds made available by the department until an area plan or other document detailing the proposed use or uses of the funds has been approved by the department for a specific time period and the secretary has issued a notification of grant award to the area agency.

(b) In making a sub-grant or contract, each area agency shall use the funds awarded under a department-approved area plan for those services which are

consistent with service definitions issued and provided by the department and the identified, priority service needs within the PSA.

(c) Each area agency and each sub-grantee of an area agency, when proposing to contract or sub-grant for services to older persons, shall select a service provider to deliver services in accordance with the provisions of paragraphs 8 to 15, inclusive, of Attachment O, "Procurement Standards," of OMB Circular A-102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments, as in effect on June 9, 1981. These provisions are adopted by reference, with the following exceptions:

(1) Each reference in the federal regulations to "grantee" shall be deemed to refer to an area agency or sub-grantee of an area agency or both.

(2) Each reference in the federal regulations to "federal grantor agency" or "grantor agency" shall be deemed to refer to the department on aging or an area agency on aging.

(3) Each reference in the federal regulations to "Comptroller General of the United States" and "Office of Federal Procurement Policy" shall be deemed to refer to the secretary.

(4) The second sentence of subsection (e) of paragraph 11 is deleted; and

(5) Each reference to "\$10,000" in paragraph 11 of the federal regulations shall be deemed to be \$2,500.

(d) An area agency may use the small purchase procedure described in paragraph 11(a) of Attachment O, if the procurement is for a total dollar amount of fewer than \$2,500. (Authorized by and implementing K.S.A. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended, T-86-48, Dec. 18, 1985.)

**26-3-2. Sub-grants.** (a) Each notification of sub-grant award shall prescribe the following:

(1) The total financial amount of the award, including:

(A) The amount of funds to be provided by the area agency; and

(B) the amount of funds to be provided by the sub-grantee.

(2) The conditions of the grant, including:

(A) The effective and expiration dates of the grant;

(B) a list of services to be provided by the sub-grantee; and

(C) other assurance and conditions contained within the application agreement.

(D) special conditions, if any, which may be specified as a part of the sub-grant.

(b) Each notice of sub-grant award shall be signed by the authorized representative of the area agency and the sub-grantee, and shall be recognized as official when signed by both parties.

(c) Services funded, in whole or in part, by state funds shall comply with the same financial requirements as those services funded by federal funds, unless specifically exempted by the secretary. When an exemption is given, appropriate financial requirements shall be imposed concerning the use of these state funds. (Authorized by and implementing K.S.A.



75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended, T-86-48, Dec. 18, 1985.)

**26-3-3. Contracts for services.** (a) Any area agency that has received a notification of grant award may enter into a contract with a public or private non-profit organization to provide services to older persons in a PSA, without the prior, written approval of the secretary.

(b) Any area agency that has received a notification of grant award shall not enter into a contract with a for-profit organization to provide services to older persons in a PSA until the area agency has received written approval from the secretary to enter into such a contract.

(c) Any area agency that has received an NGA containing the subgrantee's proposal to enter into a contract with a for-profit organization shall submit to the department written request seeking written prior approval to enter such a contract.

(1) The request shall be made on forms prescribed and furnished by the department, and shall contain:

- (A) The name of the applicant agent;
- (B) the name of the provider;
- (C) the effective date and expiration date of the grant;
- (D) the service specifications;
- (E) the responsibilities of each party;
- (F) the amount of the contract;
- (G) the method of payment;
- (H) a cancellation clause; and
- (I) the procedure for emergency delivery of service.
- (J) the method of evaluation of the contract;
- (K) the method of tracking services provided; and
- (L) the number of service units to be provided.

(2) The request shall be accompanied by the proposed contract.

(d) The secretary, within 30 days of the date of receiving any such request, shall notify the area agency of the decision to grant or deny the request.

(e) Within 15 days after receipt of an NGA from provider, the area agency shall submit to the department a copy of each subgrant and contract. (Authorized by and implementing K.S.A. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended, T-86-48, Dec. 18, 1985.)

**26-3-4. Responsibilities when sub-granting or contracting services under an area plan.** When sub-granting or contracting for services under an area plan, each area agency shall: (a) Sub-grant or contract for services within 90 days after the effective date of the notification of grant award issued by the department, unless written approval for an extension of time is requested of, and granted by, the secretary.

(b) Not alter the sub-grant or contract during the final 60 days of any grant period, unless written approval to do so is requested of, and granted by, the secretary;

(c) Obtain prior, written approval from the department when proposing to contract or subgrant for services with any for-profit organization;

(d) Submit to the department, within 20 days fol-

lowing the issuance of any sub-grant or contract, a copy of the sub-grant or contract; and

(e) Retain records for each sub-grant or contract in the area agency office for review and audit purposes for a period of three calendar years from the end of the calendar year or from the date of the final financial report whichever is later, to which the records pertain. If any litigation or audit is begun or if a claim is instituted involving a sub-grant or contract, the records pertaining to such sub-grant or contract shall be retained until such litigation, audit, or claim is settled. (Authorized by and implementing K.S.A. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended, T-86-48, Dec. 18, 1985.)

**26-3-5. Modification of approved sub-grants or contracts.** (a) A sub-grantee or contractor may submit, to an area agency, a written request for modification of a sub-grant or contract. "Modification of a sub-grant or contract" means any change that would:

(1) Alter the program scope, planned objectives, or the manner in which services are delivered; or

(2) Provide financial assistance or payments to any entity not authorized by the original sub-grant or contract.

(b) Any area agency may agree to a modification of a sub-grant or a contract with a non-profit public or private organization, if the area agency determines that such a modification is consistent with state and area plans and will not adversely affect the provision of services to older persons in the PSA.

(c) Any area agency, prior to agreeing to a modification of a contract with a for-profit organization, shall submit the modification to the department for its approval. The request shall include a statement that the area agency has determined that the proposed modification is consistent with the state and area plans and will not adversely affect the provision of services to older persons in the PSA.

(d) The secretary shall notify the area agency of action taken on the request within 30 days of the date of receiving a request for modification of a contract with a for-profit organization. (Authorized by and implementing K.S.A. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended, T-86-48, Dec. 18, 1985.)

**26-3-7. Appeals from certain area agency decisions.** (a) Any potential service provider who complied with the method of procurement procedures used by an area agency but who was not selected to provide services to older persons in a PSA, and any service provider that believes its subgrant or contract was suspended or terminated in a manner not consistent with K.A.R. 26-2-7, may appeal the action of the area agency by filing a written request for a hearing with the department.

(b) Any request for a hearing under this rule and regulation shall state clearly the action which prompts the request for hearing and shall be filed within 30 days from the date the action prompting the request for hearing was taken.

(c) Any request for a hearing shall be delivered or

(continued)



mailed to the area agency whose action is being appealed and to the department.

(d) Within 30 days of the date of receiving notification of the filing of a request for a hearing, an area agency shall submit to the department, and to the entity that requested the hearing, a statement of the basis upon which the action being appealed was taken by the area agency.

(e) Any request for a hearing filed under this rule and regulation shall be governed by the provisions of K.A.R. 26-4-2 through 26-4-4.

(f) The scope of review by the secretary of any area agency action shall be limited to determining whether the action of the area agency is:

- (1) Within the scope of the area agency's authority;
- (2) substantially supported by the evidence presented concerning the matter; and
- (3) unreasonable, or illegal. (Authorized by and implementing K.S.A. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended, T-86-48, Dec. 18, 1985.)

#### Article 4.—HEARINGS AND APPEALS

**26-4-1. Opportunity for a hearing regarding certain actions.** (a) If the secretary proposes to take any of the actions specified in subsection (b) of this regulation, the secretary, at least 45 days prior to taking such an action, shall give written notice of the proposed action and the basis for the proposed action to the entity or entities that will be affected by the proposed action.

(b) Notice, as prescribed in subsection (a), shall be required if the secretary proposes to:

- (1) Disapprove of a proposed area plan of any area agency;
- (2) deny a request for redesignation of the boundaries of any planning and service area;
- (3) withdraw the designation of any area agency;
- (4) suspend or terminate a grant or contract, except as provided by the terms of the grant or contract;
- (5) withhold payments under K.A.R. 26-2-6;
- (6) deny funding to an eligible applicant for funds under the in-home nutrition program; or
- (7) deny funding to an eligible applicant for funds under the older Kansans employment program.

(c) Each entity receiving notice of proposed action of the secretary may file a written request for a hearing concerning the proposed action, within 30 days of the date that the secretary sends the notice of proposed action.

(d) Each request for a hearing shall state clearly the proposed action upon which a hearing is requested and shall be delivered or mailed to the department. (Authorized by and implementing K.S.A. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended, T-86-48, Dec. 18, 1985.)

**26-4-3. Hearing.** (a) The presiding officer shall conduct each hearing in accordance with the provisions of the notice of hearing and the requirements of this regulation.

(b) Prior to the commencement of the hearing, the members of the hearing panel may examine the file relating to the matter.

(c) Upon commencement of the hearing, the appellant shall be permitted to make an opening statement and present any witnesses, documents, or other evidence, and in general, present the case. Then the representative of the agency whose decision is being appealed may make an opening statement and present any witnesses, documents, or other evidence and, in general, present the case on behalf of the agency. Then any other interested person, upon receiving recognition by the presiding officer, may present any evidence or statements that are relevant to the appeal. The appellant and the representative of the agency whose decision is being appealed may, in their turn, examine any witnesses and documents placed in evidence. Members of the hearing panel, from time to time during the hearing, may question any of the parties and witnesses and examine any documents offered in evidence.

(d) The hearing shall be of an informal and nonadversarial nature with no oath-taking required. For good cause shown, the hearing may be continued to a future date and time at which the hearing of the appeal shall be completed. Each party shall be allowed a period of time, which shall not exceed one hour, in which to present the case, unless the hearing panel, in the interest of justice, grants more time. (Authorized by and implementing K.S.A. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended, T-86-48, Dec. 18, 1985.)

#### Article 5.—IN-HOME NUTRITION PROGRAM

**26-5-1. Application for funding.** (a) An agency choosing to provide services under the in-home nutrition program shall submit a proposal to the department on forms supplied by the department on or before June 1 of each year.

(b) The application shall contain the following:

- (1) Narrative overview of current and proposed program operation;
- (2) geographic area(s) to be covered;
- (3) documentation of need;
- (4) resources currently used by the program;
- (5) most recent financial statement, audit, and meals served for same time period;
- (6) current cost per meal and explanation of anticipated changes;
- (7) total dollars requested;
- (8) reimbursement rate requested; and
- (9) number of meals to be provided.

(c) Each applicant shall document a willingness to adhere to the provisions of the in-home contract agreement supplied by the department. (Authorized by and implementing K.S.A. 75-5908; effective, T-86-48, Dec. 18, 1985.)

**26-5-2. Provider accountability.** (a) Upon receipt of funding from the department, the in-home service provider shall comply with reporting requirements of K.A.R. 26-2-3.

(b) Accurate, current, and complete disclosure of the financial results of the program shall be made in

accordance with the financial reporting requirements of the contract.

(c) Accounting records shall contain information pertaining to authorizations, obligations, unobligated balances, assets, outlays, income, and liabilities and shall identify adequately the source and application of funds for program activities.

(d) Effective control and accountability shall be maintained for all contract funds, real and personal property, and other assets. Recipients shall adequately safeguard all such property and shall assure that the property is used solely for authorized persons.

(e) Accounting records shall be supported by source documentation such as cancelled checks, paid bills, payrolls, and contract documents.

(f) Each recipient shall follow a systematic method to assure timely and appropriate resolution of audit findings and recommendations.

(g) Each recipient shall have an annual CPA audit performed by a certified public accountant. (Authorized by and implementing K.S.A. 75-5908; effective, T-86-48, Dec. 18, 1985.)

**26-5-3. Termination of contracts.** (a) A contract may be terminated by the department for cause in whole or in part, at any time before the expiration date, if the provider has failed to comply with the terms of the contract. The department shall notify the provider in writing of the determination and the reasons for the termination, together with the effective date.

(b) A contract under the in-home nutrition program may be terminated on other grounds by either party at any time upon thirty (30) days written notice.

(c) The applicant denied funding, or the provider whose contract is terminated for cause or on other grounds, shall have the right to appeal the decision by following the procedures outlined in K.A.R. 26-4-1 through K.A.R. 26-4-4. (Authorized by and implementing K.S.A. 75-5908; effective, T-86-48, Dec. 18, 1985.)

**26-5-4. Procurement.** (a) The procurement transactions made by in-home meals providers shall be conducted in a manner to provide competition in accordance with K.A.R. 26-3-1.

(b) The contracts for food service between an in-home meal provider and a profit-making prepared food provider shall be approved by the department prior to implementation. (Authorized by and implementing K.S.A. 75-5908; effective, T-86-48, Dec. 18, 1985.)

**26-5-5. Services to be provided.** (a) The in-home meal service provider shall provide a hot or other appropriate home-delivered meal to eligible homebound individuals at least once per day and five or more days per week.

(b) Each in-home meal service provider shall:

(1) comply with all state and local laws and regulations governing sanitation, preparation and handling of food; and

(2) follow appropriate procedures which assure

preservation of nutritional values and food safety in purchasing food and preparing and delivering meals.

(c) Each meal served in the in-home nutrition program shall contain at least one-third of the current recommended daily dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences—National Research Council. (Authorized by and implementing K.S.A. 75-5908; effective, T-86-48, Dec. 18, 1985.)

**26-5-6. Eligibility for services.** The in-home meal service provider shall make a written determination of the eligibility of each individual requesting nutrition services prior to the individual's receipt of a home-delivered meal and annually thereafter. The provider shall use the following eligibility criteria:

(a) Applicant shall be age 60 years or over and reside in Kansas.

(b) applicant shall be homebound by reason of illness or incapacitating disability or otherwise isolated; and

(c) applicant shall have a maximum monthly gross income not to exceed the income level established annually by the department. Priority shall be placed on providing service to individuals with gross income equal to or less than 100% of the poverty level. (Authorized by and implementing K.S.A. 75-5908; effective, T-86-48, Dec. 18, 1985.)

**26-5-7. Client contributions.** The in-home meal service provider shall:

(a) inform the client of the opportunity to contribute toward the cost of the service;

(b) provide for a confidential collection of client contributions;

(c) not deny any eligible person a meal if the person does not contribute to the cost of the meal; and

(d) use the meal contributions, in the in-home nutrition program, for current costs and to reduce the state cost of the program. (Authorized by and implementing K.S.A. 75-5908; effective, T-86-48, Dec. 18, 1985.)

## Article 6.—EMPLOYMENT PROGRAM

**26-6-1. Eligibility requirements to operate older Kansans employment programs (OKEP) shall include:**

(a) The following types of organizations;

(1) Any area agency on aging;

(2) any non-profit organization which provides social services; or

(3) any unit of local government.

(b) Completion of an application issued by the department.

(c) Using the department's competitive bid process, selection to become grantee shall be based upon the organization's:

(1) experience with employment and related personnel matters;

(2) prior contacts or affiliations with major private sector employers;

(3) objectives and methods of achieving objectives, including staff qualifications and work schedules;

(continued)

(4) budget proposals, including cost justification, support for future fundings, and ability to provide in-kind services or share the program costs;

(5) prior experience with meeting the needs of the elderly; and

(6) adherence to equal employment opportunity guidelines. (Authorized by and implementing K.S.A. 75-5908; effective, T-86-48, Dec. 18, 1985.)

**26-6-2. Types of mandated services under OKEP shall include:** (a) Outreach and recruitment to enroll the planned participants per quarter;

(1) Coordination of program activities with other community agencies which serve older persons; and

(2) education of employers in local communities concerning the advantages of hiring older workers.

(b) Counseling;

(c) training in job-seeking skills;

(d) job development; and

(e) job placement with emphasis upon placement in private sector jobs including jobs that are shared, flex-time, and part-time. (Authorized by and implementing K.S.A. 75-5908; effective, T-86-48, Dec. 18, 1985.)

**26-6-3. Allowable expenses for OKEP.** An agency receiving funding for services shall comply with the same requirements as those for JTPA found in K.A.R. 26-6-7. (Authorized by and implementing K.S.A. 75-5908; effective, T-86-48, Dec. 18, 1985.)

**26-6-4. Minimum performance standards to maintain grant shall include:** (a) Units of service including:

(1) Enrollment, at minimum, of the planned participants per quarter; and

(2) placement, at minimum, of the planned participants per quarter.

(b) fiscal accountability, including:

(1) Engagement of an independent certified public accounting (CPA) firm to perform a financial audit of any grant or subgrant of a least \$25,000 to:

(A) Perform a financial audit on a yearly basis;

(B) begin the financial audit after the last active day of the grant; and

(C) complete the financial audit within six months after the last active day of the grant;

(2) submission of the financial audit of the program to the granting agency within 30 days after the completion of the financial audit;

(3) reconciliation of the financial audit and the grantee financial report; and

(4) grantee submission of the financial reconciliation to the granting agency within 30 days after the financial audit completion.

(c) maintenance of records;

(d) maintenance of confidentiality;

(e) submission of reports to the department as follows:

(1) Monthly program reports;

(2) monthly financial reports;

(3) quarterly performance reports;

(4) annual reports;

(5) minority participation reports as required; and

(6) other reports as requested by the department;

(f) adherence to other requirements of the department. (Authorized by and implementing K.S.A. 75-5908; effective, T-86-48, Dec. 18, 1985.)

**26-6-5. Participant eligibility requirements for OKEP shall include:** (a) Kansas residency;

(b) age of 55 years of age or older;

(c) priority given to minority or low income elderly persons. (Authorized by and implementing K.S.A. 75-5908; effective, T-86-48, Dec. 18, 1985.)

**26-6-6. Grant or contract terminations.** (a) Grants can be terminated for the following reasons:

(1) Failure, after 30 days written notice from the department, to meet departmental requirements, concerning minimum program, outreach, and performance standards;

(2) fraud;

(3) loss of legislative appropriations; or

(4) use of OKEP funds for political or other non-allowable purposes.

(b) grantees may appeal funding termination in accordance with K.A.R. 26-4-1. (Authorized by and implementing K.S.A. 75-5908; effective, T-86-48, Dec. 18, 1985.)

**26-6-7. JTPA.** (a) The federal employment program is referenced in 20 CFR—Parts 626-638; Public Law 97-300, amended 12-31-82, 97-404.

(b) Additional program requirements for the JTPA program in the state of Kansas are referenced in the Kansas job training partnership act fiscal policies and procedures, the Kansas job training partnership act management information system manual, the Kansas department of human resources equal opportunity and grievance procedure guide for JTPA, and all applicable Kansas department of human resources program issuances. (Authorized by and implementing K.S.A. 75-5908; effective, T-86-48, Dec. 18, 1985.)

**26-6-8. Application for funding.** (a) Each agency or organization choosing to provide services under the JTPA 3% program shall submit a proposal to the department when required by the department.

(b) At a minimum, each proposal shall contain the following:

(1) Narrative description of outreach, recruitment, and eligibility determination procedures;

(2) narrative description of assessment, referral and selection process;

(3) narrative description of how equitable enrollment of JTPA target groups, including women, minorities, the handicapped, and public assistance recipients will be achieved;

(4) geographic area(s) to be covered;

(5) narrative description of program activities such as job search assistance, job development, skill training, on-the-job training, and supportive services;

(6) description of applicant organization's administrative structure;

(7) documentation of existing and proposed cooperative agreements between other related service providers in the area(s) to be served;

(8) description of specific, measurable, project objectives, including objectives for entered employment

rate, average hourly wage and placement, and cost per entered employment;

(9) total dollars requested; and

(10) detailed budget, with narrative description providing support for each budget item.

(c) Each applicant shall document a willingness to adhere to the provisions of the JTPA 3% grant agreement. (Authorized by and implementing K.S.A. 75-5908; effective, T-86-48, Dec. 18, 1985.)

JOYCE V. ROMERO  
Secretary of Aging

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