

KANSAS REGISTER



State of Kansas

BILL GRAVES
Secretary of State

Vol. 7, No. 11

March 17, 1988

Pages 381-436

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State of Kansas

ATTORNEY GENERAL

Opinion No. 88-30

Contracts and Promises—Interest and Charges—Interest; Late Payment Charges.

Consumer Credit Code—General Provisions and Definitions; Definitions—Finance Charge; Late Payment Charges. Representative Ben Foster, 85th District, Wichita, March 3, 1988.

The assessment by a cable television company of a reasonable late payment charge which reflects the cost of collection of delinquent accounts is not "interest" pursuant to K.S.A. 16-201 *et seq.*, nor is it a "finance charge" as defined by K.S.A. 1987 Supp. 16a-1-301(18) of the uniform consumer credit code. This conclusion assumes that actual efforts to collect are undertaken and the delinquent subscribers are not given alternative options for payment. Cited herein: K.S.A. 16-201 *et seq.*; K.S.A. 1987 Supp. 16a-1-301; 15 U.S.C.A. §1602; 12 C.F.R. §226.8. JLM

Opinion No. 88-31

Counties and County Officers—Hospitals and Related Facilities—County Hospitals; Deposit of Hospital Moneys; Financial Records. Charles A. Peckham, Rawlins County Attorney, Atwood, March 4, 1988.

K.S.A. 1987 Supp. 19-4601 *et seq.*, requires the hospital board of a county hospital, operating pursuant to that act, to handle all moneys, except those acquired through the issuance of revenue bonds, pursuant to the claims and warrant or warrant check procedures set forth in K.S.A. 1987 Supp. 19-4608, K.S.A. 10-801 to 10-806, and 12-105a and 12-1056. Failure of the county hospital board to comply with these procedures does not result in the board of county commissioner's loss of taxing authority pursuant to this act, nor is the county responsible for the independent administrative actions of the hospital board.

Cited herein: K.S.A. 1987 Supp. 10-802; K.S.A. 12-105a; K.S.A. 1987 Supp. 12-105b; 19-4605; 19-4606; 19-4608; 19-4610. TMN

Opinion No. 88-32

State Boards, Commissions and Authorities—State Board of Technical Professions—Land Surveyors; Qualifications for Licensure; Examination Requirement, Certain Exemption. Representative Jack E. Beauchamp, 14th District, Ottawa, March 8, 1988.

The land surveyors' licensing statute, K.S.A. 1987 Supp. 74-2044, is constitutional as a valid exercise of the police powers of the state. The exemption from examination found in subsection (b) of this statute is within the discretion of the governing body and evidences an attempt to not unduly burden engineers currently practicing land surveying under their engineering license.

In addition, unless mandated by statute, the Board of Technical Professions, as the administrative agency, is under no obligation to provide notice of statutory changes to those affected by the legislation. Cited herein: K.S.A. 1987 Supp. 74-7022, K.S.A. 74-7034 (Ensley 1985), Kan. Const., Art. 2, §18. GE

Opinion No. 88-33

Frauds, Statutes of—Statute of Frauds—Loans of Goods and Chattels. Joseph W. Snell, Executive Director, Kansas State Historical Society, March 8, 1988.

K.S.A. 33-104 applies to any governmental or private possessor, who is not otherwise precluded, seeking to establish ownership of and title to unclaimed goods and chattels. Cited herein: K.S.A. 33-104; K.S.A. 1987 Supp. 77-201 *Thirteenth*. TMN

ROBERT T. STEPHAN
Attorney General

Doc. No. 006324

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PUBLISHED BY
BILL GRAVES
Secretary of State
2nd Floor, State Capitol
Topeka, KS 66612-1594



Phone: (913) 296-3489

State of Kansas

UNIVERSITY OF KANSAS

NOTICE TO BIDDERS

Sealed bids for the items listed below will be received by the University of Kansas Purchasing Office, Lawrence, until 2 p.m. C.S.T. on the date indicated and then will be publicly opened. Interested bidders may call (913) 864-3416 for additional information.

Monday, March 28, 1988

#88 0683

UV-VIS Recording Spectrophotometer with dual disk drives, color CRT and high resolution optics, complete with sipper.

#88 0684

Liquid Scintillation Counter with two phase monitor and a single photon monitor.

#88 0685

Three complete Gradient HPLC Units with cooling baths.

GENE PUCKETT, C.P.M.
Director of Purchasing

Doc. No. 006322

State of Kansas

SOCIAL AND REHABILITATION SERVICES
STATE ECONOMIC OPPORTUNITY OFFICE

REQUEST FOR PROPOSALS

In accordance with the Department of Energy regulations dated January 1, 1986, Part VI, Sections 440.14 and 440.15, the State Economic Opportunity Office, a section of Adult Services within the Department of Social and Rehabilitation Services, is accepting applications until 5 p.m. April 15 for the purpose of identifying a program operator for the northern portion of Wyandotte County. Applicants should be either a public or private nonprofit organization. The Weatherization Assistance Program provides weatherization services at no cost to eligible low income, elderly and handicapped persons.

Requests for proposals will be available to interested organizations upon receipt of a written request. Written requests should be made to the State Economic Opportunity Office, Biddle Building, 1st Floor, 2700 S.W. 6th, Topeka 66606, (913) 296-4989, no later than April 7. Questions may be directed to Jim Spano, Program Operations Coordinator.

LOIS A. MARTIN, Administrator
State Economic Opportunity Office

Doc. No. 006334

State of Kansas

DEPARTMENT OF HUMAN RESOURCES
KANSAS COUNCIL ON
EMPLOYMENT AND TRAINING

NOTICE OF MEETING

The Kansas Council on Employment and Training (KCET) will meet from 9 a.m. to noon Friday, March 25, at the Holiday Inn City Centre, 914 Madison, Topeka. Reports concerning draft service delivery areas' plans for program year 1988-89 and the KanWork bill are included on the agenda. The meeting is open to the public.

DENNIS R. TAYLOR
Secretary of Human Resources

Doc. No. 006320

State of Kansas

SECRETARY OF STATE

EXECUTIVE APPOINTMENTS

Executive appointments made by the Governor, and in some cases by other state officials, are filed with the Secretary of State's office.

Complete listings of state agencies, boards and commissions are included in the Kansas Directory. County officials are listed in the Directory of County Officers. Both directories are published by the Secretary of State's office and are available free of charge.

The following appointments were filed March 7-11:

Kansas Corn Commission

Scott Kelsey, Rural Route, Rossville 66533. Effective March 11, 1988. Term expires June 30, 1991. Succeeds Jere L. White.

John Wise, Route 1, Box 48, Linwood 66052. Effective March 11, 1988. Term expires June 30, 1991. Reappointment.

State Board of Nursing

Jacquelyn Philip, 3501 Lincoln Drive, Hays 67601. Effective March 16, 1988. Term expires March 15, 1992. Succeeds Pat Boos.

Crawford County Clerk

Betty Lessen, Box 846, Arma 66712. Effective March 9, 1988. Term expires when a successor is elected and qualifies according to law. Succeeds Dean McFarland, resigned.

BILL GRAVES
Secretary of State

State of Kansas

STATE FAIR BOARD

NOTICE OF MEETING

The State Fair Board will meet at 10 a.m. Friday, March 18, in the State Board of Agriculture offices, 109 W. 9th, Topeka.

DEANA K. NOVAK
Administrative Officer

Doc. No. 006325

State of Kansas

BOARD OF MORTUARY ARTS

NOTICE OF MEETING

The Kansas State Board of Mortuary Arts will meet April 7-8 in Topeka. Thursday's meeting will begin at 8:45 a.m. at the board's office, Suite 856, Landon State Office Building, 900 S.W. Jackson.

Friday's meeting will be held at the Downtown Ramada Inn, beginning with the administering of examinations at 9 a.m.

DOUGLAS "MACK" SMITH
Executive Secretary

Doc. No. 006336

State of Kansas

DEPARTMENT OF HEALTH AND ENVIRONMENT

NOTICE CONCERNING KANSAS WATER POLLUTION CONTROL PERMIT

In accordance with state regulations 28-16-57 through 28-16-63 and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, tentative permits have been prepared for discharges to the waters of the United States and the state of Kansas for the applicants described below. The tentative determinations for permit content are based on preliminary staff review, applying the appropriate standards, regulations and effluent limitations of the state of Kansas and the EPA, and when issued will result in a state water pollution control permit and national pollutant discharge elimination system authorization to discharge subject to certain effluent limitations and special conditions:

Name and Address of Applicant	Waterway	Type of Discharge
Pat's Coal Inc.— Dry Wood Mine Route 3 Iola, KS 66749	Marais des Cygnes via Richland Creek and West Fork Dry Wood Creek	Stormwater runoff

Kansas Permit No. I-MC03-P003 Federal Permit No. KS-0081272

Description of Facility: This facility ceased operation in 1983. It is under reclamation, and sedimentation ponds are provided to contain stormwater runoff. This is an existing facility and the previous limitations are continued. Proposed effluent limitations are pursuant to Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f).

Name and Address of Applicant	Waterway	Type of Discharge
Prairie Mining Inc.— Plant #2 P.O. Box 15207 Lenexa, KS 66215 Johnson County, Kansas	Kansas River via Mill Creek via Un- named Tributary Kansas River Basin	Stormwater and sedimentation pond discharge

Kansas Permit No. KS34-P005 Federal Permit No. KS-0082082

Description of Facility: This facility is engaged in a limestone crushing operation. This is an existing facility and the previous limitations are continued. Proposed effluent limitations are pursuant to Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f).

Name and Address of Applicant	Waterway	Type of Discharge
Prairie Mining Inc.— Plant #1 P.O. Box 15207 Lenexa, KS 66215 Johnson County, Kansas	Kansas River via Mill Creek via Un- named Tributary Kansas River Basin	Stormwater and sedimentation pond discharge

Kansas Permit No. I-KS34-P004 Federal Permit No. KS-0081981

Description of Facility: This facility is engaged in a limestone crushing operation. This is an existing facility and the previous limitations are continued. Proposed effluent limitations are pursuant to Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f).

Name and Address of Applicant	Waterway	Type of Discharge
Thompson-Hayward Chemical Company P.O. Box 2383 5200 Speaker Road Kansas City, KS 66110 Wyandotte County, Kansas	Kansas River	Once through jacket and heat exchanger cooling water

Kansas Permit No. I-KS27-C003 Federal Permit No. KS-0001627

Description of Facility: This facility manufactures surface active agents and one vitamin product for use in animal feed. This is an existing facility and the previous limitations have been modified. Proposed effluent limitations are pursuant to Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f).

Written comments on the proposed determinations may be submitted to Bethel Spotts, Permit Clerk, Kansas Department of Health and Environment, Division of Environment, Bureau of Water Protection, Forbes Field, Topeka 66620. All comments received prior to April 15 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate application number (KS-88-13/16) and name of applicant as listed when preparing comments. If no objections are received, the Secretary of Health and Environment will issue the final determination. If response to this notice indicates significant public interest, a public hearing may be held in conformance with state regulation 28-16-61.

The application, proposed permit, including proposed effluent limitations and special conditions, fact sheets as appropriate, comments received, and other information are on file and may be inspected at the Division of Environment offices from 8 a.m. to 4:30 p.m. Monday through Friday. These documents are available upon request at the copying cost assessed by the department. Additional copies of this public notice may also be obtained at the Division of Environment.

STANLEY C. GRANT, Ph.D.
Secretary of Health
and Environment

Doc. No. 006329

State of Kansas

**DEPARTMENT OF HEALTH
AND ENVIRONMENT
STATE EMERGENCY RESPONSE
COMMISSION**

NOTICE OF MEETING

The State Emergency Response Commission will meet at 9 a.m. Friday, April 1, in the State Defense Building, 2800 S. Topeka Blvd., Topeka.

STANLEY C. GRANT, Ph.D.
Secretary of Health
and Environment

Doc. No. 006321

State of Kansas

DEPARTMENT OF TRANSPORTATION

NOTICE TO CONTRACTORS

Sealed proposals for the construction of road and bridge work in the following Kansas county will be received at the office of the Chief of Construction and Maintenance, K.D.O.T., Topeka, until 1 p.m. C.D.T. April 7, 1988, and then publicly opened:

Sedgwick—87 U-1006-01—21st and Hillside in Wichita, intersection improvement. (Federal 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 because of race, age, religion, color, sex, handicap, or national origin in the award of contracts.

Each bidder shall file a sworn statement executed by or on behalf of the person, firm, association or corporation submitting the bid, certifying that such person, firm, association or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the submitted bid. This sworn statement shall be in the form of an affidavit executed and sworn to by the bidder before a person who is authorized by the laws of the state to administer oaths. The required form of the affidavit will be provided by the state to each prospective bidder. Failure to submit the sworn statement as part of the bid-approval package will make the bid nonresponsive and not eligible for award consideration.

Plans and specifications for the project may be examined at the office of the respective county clerk or at the K.D.O.T. district office responsible for the work.

HORACE B. EDWARDS
Secretary of Transportation

Doc. No. 006335

State of Kansas

LEGISLATURE

LEGISLATIVE BILLS INTRODUCED

The following numbers and titles of bills and resolutions have been recently introduced in the 1988 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.

Bills introduced March 3-9:

House Bills

HB 3081, by Committee on Federal and State Affairs: An act concerning fire safety and prevention; relating to certification of businesses inspecting, installing, servicing or testing certain fire extinguishers; amending K.S.A. 31-133a and repealing the existing section.

HB 3082, by Committee on Appropriations: An act concerning the Kansas code for care of children; relating to periods of custody for children in need of care under certain circumstances; amending K.S.A. 38-1528 and 38-1542 and repealing the existing sections.

HB 3083, by Committee on Appropriations: An act concerning state institutions under the jurisdiction of the secretary of social and rehabilitation services; relating to charges for treatment of patients; amending K.S.A. 59-2006b and repealing the existing section.

HB 3084, by Committee on Appropriations: An act concerning the district court; providing for the creation of a district judge position and the election of a district judge therefor; amending K.S.A. 1987 Supp. 4-230 and 25-312a and repealing the existing sections.

HB 3085, by Committee on Taxation: An act amending the vehicle dealers' and manufacturers' licensing act; concerning supplemental places of business; providing grounds for denial, suspension or revocation of license; amending K.S.A. 1987 Supp. 8-2401, 8-2404, 8-2409, 8-2410 and 8-2411 and repealing the existing sections.

HB 3086, by Committee on Federal and State Affairs: An act concerning motor vehicles; relating to cylindrically shaped bales of hay loaders; amending K.S.A. 1987 Supp. 8-2118 and repealing the existing section.

Senate Bills

SB 717, by Committee on Ways and Means: An act concerning municipalities; relating to group-funded insurance pools.

SB 718, by Committee on Ways and Means: An act concerning the division of information systems and communications; creating the information technology fund and the information technology reserve fund; transferring money to such funds and abolishing certain funds; amending K.S.A. 75-4704 and 75-4704a and K.S.A. 1987 Supp. 75-4714 and repealing the existing sections.

SB 719, by Committee on Ways and Means: An act relating to the law enforcement officers memorial; establishing an advisory committee; providing for the composition and functions thereof; amending K.S.A. 75-2250 and repealing the existing section.

SB 720, by Committee on Federal and State Affairs: An act relating to cigarette taxation; exempting certain sales made to Indians; amending K.S.A. 1987 Supp. 79-3310 and repealing the existing section.

SB 721, by Committee on Federal and State Affairs: An act concerning elections; relating to terms of precinct committeewomen and precinct committeemen; amending K.S.A. 25-3801 and repealing the existing section.

SB 722, by Committee on Ways and Means: An act relating to the division of the budget; amending K.S.A. 75-1251, 75-3714a and 75-3718 and K.S.A. 1987 Supp. 75-3721 and repealing the existing sections.

SB 723, by Committee on Ways and Means: An act concerning imprest funds of the department of corrections; amending K.S.A. 1987 Supp. 75-3058 and repealing the existing section.

SB 724, by Committee on Ways and Means: An act authorizing the secretary of corrections to lease certain land under the control of the secretary; providing conditions and limitations on such leases.

SB 725, by Committee on Ways and Means: An act concerning county health funds; authorizing tax levies; amending K.S.A. 1987 Supp. 65-204 and repealing the existing section.

SB 726, by Committee on Ways and Means: An act concerning the secretary of corrections; authorizing payment of claims for medical services not submitted or processed within fiscal year in which services rendered.

House Resolutions

HCR 5051, by Representative Teagarden: A concurrent resolution commending and paying tribute to the Kansas Community Action Program Agencies in honor of their 23rd Anniversary.

HR 6041, by Representative Holmes: A resolution congratulating and commending the City of Kismet on its Centennial Anniversary.

HR 6042, by Representative Baker: A resolution in recognition of Derby High School Chapter of the Distributive Education Clubs of America's involvement in civic, benevolent, community and school activities.

HR 6043, by Representatives Hensley, Acheson, Barr, Bunten, Cribbs, Crowell, Justice, Laird, Love, Mainey, Roy, Sebelius, Smith and Wagoner: A resolution congratulating and commending Diana Duette who was selected Miss Black Topeka for 1988.

HR 6044, by Representative Littlejohn: A resolution congratulating and commending the City of Plainville on its Centennial Anniversary.

HR 6045, by Representative K. Campbell: A resolution congratulating and commending the Concordia High School wrestling team and Coach Doug Moore for winning the 1988 Kansas State High School Activities Association Class 4A State Wrestling Championship in Kansas.

Senate Resolutions

SCR 1617, by Committee on Financial Institutions and Insurance: A concurrent resolution providing for a special committee to make a legislative study concerning the approval and implementation of a plan to provide accident and sickness insurance for persons unable to procure the same through ordinary methods.

SR 1829, by Senator Hayden: A resolution honoring Timothy N. Hagemann for his contributions to the field of appraisal services.

SR 1830, by Senator Arasmith: A resolution congratulating and commending the City of Plainville on its Centennial Anniversary.

SR 1831, by Senator Arasmith: A resolution congratulating and commending the City of Atchison on its Centennial Anniversary.

SR 1832, by Senators Anderson, Hoferer, Langworthy and Parrish: A resolution congratulating and commending Diana Duette who was selected Miss Black Topeka for 1988.

Doc. No. 006332

State of Kansas
KANSAS STATE UNIVERSITY

NOTICE TO BIDDERS

Sealed bids for the item listed below will be received by the Kansas State University Purchasing Office, Manhattan, until 2 p.m. C.S.T. on the date indicated and then will be publicly opened. Interested bidders may call (913) 532-6214 for additional information.

Monday, March 28, 1988

#80064
 Centrifuge

WILLIAM H. SESLER
 Director of Purchasing

Doc. No. 006326

State of Kansas
BOARD OF EDUCATION

**NOTICE OF HEARING ON
 KANSAS MIGRANT EDUCATION
 STATE PLAN**

The Kansas State Board of Education will conduct a public hearing at 1:30 p.m. Tuesday, April 12, in Room 121 of the Kansas State Education Building, 120 E. 10th, Topeka, to consider the proposed Kansas Migrant Education State Plan for fiscal year 1989.

The Migrant Education Program is identified as a state operated program under Public Law 97-35, specifically designed to provide special educational services for migratory children of migratory agricultural workers or migratory fishermen.

Approximately \$3.6 million will be appropriated to Kansas migrant education for fiscal year 1989. The plan will be implemented to serve a minimum of 5,000 students in 36 regular programs and 10 summer educational programs.

A copy of the plan may be obtained by contacting the secretary of the State Board of Education at the address above prior to the date of the hearing.

All interested persons will be given a reasonable opportunity at the hearing to present their views or arguments, either orally or in writing, on the plan. Individuals or organizations that cannot appear at the hearing may submit to the secretary of the board at least five days before the hearing their views regarding the proposed plan. All comments received will be considered by the board. The hearing shall be conducted in compliance with public hearing procedures of the board.

DR. LEE DROEGEMUELLER
 Commissioner of Education

Doc. No. 006337

State of Kansas
WICHITA STATE UNIVERSITY

NOTICE TO BIDDERS

Sealed bids for the following item will be received by the Wichita State University Purchasing Office, 1845 Fairmount, 201 Jardine Hall, Wichita 67208-1595, until 2 p.m. C.S.T. on the date indicated and then will be publicly opened. Interested bidders may call (316) 689-3080 for additional information.

Thursday, March 31, 1988

#1197-033188H

Chemistry Department—Ion Trap Detector

GARY D. LINK
 Director of Purchasing

Doc. No. 006339

State of Kansas
BOARD OF EDUCATION

**NOTICE OF HEARING ON
 KANSAS ADULT BASIC EDUCATION
 STATE PLAN**

The Kansas State Board of Education will conduct a public hearing at 1:30 p.m. Tuesday, April 12, in Room 121 of the Kansas State Education Building, 120 E. 10th, Topeka, to consider the proposed changes in the Kansas Adult Basic Education State Plan which are to become effective July 1, 1988, and extending the present Adult Education State Plan for one year, through fiscal year 1989. The only changes proposed are to include provisions relating to "homeless" to reflect new federal priorities in adult basic education, and to assign staff responsibility for implementing the plan to a different section of the State Department of Education.

Copies of the fiscal year 1986 to 1988 Kansas State Plan for Adult Basic Education and the proposed changes thereto may be obtained by contacting the secretary of the State Board of Education at the address above prior to the date of the hearing.

All interested persons will be given a reasonable opportunity at the hearing to present their views or arguments, either orally or in writing, on the proposed changes to and extension of the plan. Individuals or organizations that cannot appear at the hearing may submit to the secretary of the board at least five days before the hearing their views regarding the proposed plan. All comments received will be considered by the board. The hearing shall be conducted in compliance with public hearing procedures of the board.

DR. LEE DROEGEMUELLER
 Commissioner of Education

Doc. No. 006338

State of Kansas

OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 88-106
ESTABLISHING THE COORDINATING
COUNCIL FOR CRIMINAL JUSTICE

WHEREAS, actions of the legislative, judicial, and executive branches of government have impact on criminal justice in Kansas; and

WHEREAS, improved coordination among the three branches will benefit criminal justice and the people of Kansas; and

WHEREAS, improved coordination of organizational elements that form an integral part of the criminal justice system can assist in analyzing criminal justice problems and identifying alternative solutions; and

WHEREAS, protection of the public and rehabilitation of offenders in an efficient and cost-effective manner are principal objectives of criminal justice in Kansas;

NOW, THEREFORE, pursuant to the authority vested in me as Governor and chief executive, I hereby establish the Coordinating Council for Criminal Justice. Members of the Council shall serve without compensation and shall not utilize designees or substitutes. The Department of Corrections shall provide staff to the Council.

The secretary of corrections shall serve as chairperson of the Council. The Governor's chief counsel, the chairperson of the Kansas Parole Board, and the secretary of social and rehabilitation services also shall be Council members.

The chairperson of the Council shall request the Attorney General and the Chief Justice of the Kansas Supreme Court to be members. The chairperson shall also request the President of the Kansas Senate and the Speaker of the House to designate one member each from their respective bodies to serve on the Council.

The Council shall be charged with analyzing problems in criminal justice, identifying alternative solutions, and making recommendations for improvements in criminal law, sentencing, prosecution, community and correctional placement, programs, release procedures and related matters.

This document shall be filed with the Secretary of State as Executive Order No. 88-106 and shall become effective immediately.

Dated March 10, 1988.

MIKE HAYDEN

Governor

Attest: BILL GRAVES

Secretary of State

Doc. No. 006327

State of Kansas

OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 88-107
RESCINDING EXECUTIVE ORDER NO. 82-59
AND ABOLISHING THE BODY
CREATED THEREUNDER

WHEREAS, the executive power of the Governor of Kansas may be exercised through the issuance of Executive Orders, Executive Directives and Proclamations; and

WHEREAS, the issuance of such documents is recognized as inherent powers vested in the chief executive of this state; and

WHEREAS, periodic examination and evaluation of the continuation of the force and effect of Executive Orders is necessary and proper; and

WHEREAS, the Agricultural Working Group, created by Executive Order No. 82-59, has performed a useful but diminishing advisory function for more than five years; and

WHEREAS, agriculture has been and will continue to be a major part of the economy of the State of Kansas; and

WHEREAS, it is the proper role of state government to assist in the formulation and implementation of public policies designed to promote the interests of Kansas farmers and farming industries; and

WHEREAS, the office of the Governor and the various departments of state government are always open to public input including the valuable advice and consultation offered by farmers, banking and agri-business interests; and

WHEREAS, existing state departments are funded and operating to be responsive to the needs of Kansas agriculture.

NOW THEREFORE, pursuant to the authority vested in me as Governor and chief executive of the State of Kansas, I hereby rescind the force and effect of the Executive Order No. 82-59 promulgated by the Governor of the State of Kansas and abolish the Agricultural Working Group created by such Executive Order.

This document shall be filed with the Secretary of State as Executive Order No. 88-107 and shall become effective immediately.

Dated March 10, 1988.

MIKE HAYDEN

Governor

Attest: BILL GRAVES

Secretary of State

Doc. No. 006328

State of Kansas

STATE CORPORATION COMMISSION

NOTICE OF MOTOR CARRIER HEARINGS

Applications set for hearing are to be heard at 9:30 a.m. before the State Corporation Commission, Docking State Office Building, fourth floor, Topeka, unless otherwise noticed.

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

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

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

Applications set for March 29, 1988

Application for Transfer of Certificate of Convenience and Necessity:

Ronnie L. Felt) Docket No. 46,883 M
Route 1, Box 98A)
Redfield, KS 66769) MC ID No. 104708
TO:

Ronnie Felt & Sons Ltd.
Route 1, Box 98A
Redfield, KS 66769

Applicant's Attorney: None

Livestock,

Between all points and places in Bourbon County, Kansas, and that portion of Allen County, Kansas, east of Hwy. 59 and south of Hwy. 54.

Also,

Between all points and places in the afore described area and all points and places in Kansas.

Coal,

From mines in Bourbon and Crawford counties to all points and places in the afore described areas.

Unprocessed hay, grain and seeds,

Between all points and places in the afore described areas.

Also,

Between all points and places in the afore described areas and Kansas east of Hwy. 281.

Application for Certificate of Convenience and Necessity:

Steven Mark Dardenne, dba) Docket No. 159,452 M
Steve's Wrecker Service)
910 Texas Ave.)
Baxter Springs, KS 66713)

Applicant's Attorney: None

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

Between all points and places in Cherokee, Crawford, Labette and Montgomery counties, Kansas.

Application for Extension of Certificate of Convenience and Necessity:

Ed Racette & Son, Inc.) Docket No. 60,130 M
6021 N. Broadway)
Wichita, KS 67219) MC ID No. 100617

Applicant's Attorney: Clyde Christey, Southwest Plaza Bldg., Suite 202, 3601 W. 29th, Topeka, KS 66614

General commodities (except household goods, classes A and B explosives, hazardous commodities, commodities in bulk and commodities requiring temperature control),

Between all points and places in the state of Kansas.

Application for Certificate of Convenience and Necessity:

The Elite Professionals, Inc.) Docket No. 159,453 M
Hwy. 50)
Strong City, KS 66869) MC ID No. 127216

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

Food and related products, and materials and supplies used in the manufacture and distribution of food and related products,

Between all points and places in Kansas.

Applications set for March 31, 1988

Application for Extension of Certificate of Convenience and Necessity:

Robert G. Allen, dba) Docket No. 159,450 M
Allen Trucking)
6020 N.W. Westbrook Drive)
Topeka, KS 66617) MC ID No. 130386

Applicant's Attorney: None

Grain, dry feed ingredients and dry feed,

Between all points and places in Shawnee, Jackson, Jefferson, Douglas, Osage, Wabaunsee, Wyandotte, Saline, Reno and Sedgwick counties, Kansas.

Also,

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

Application for Extension of Certificate of Convenience and Necessity:

James S. Apps, dba) Docket No. 143,231 M
Armored Transport Co.)
2134 Plass)
Topeka, KS 66611) MC ID No. 119865

Applicant's Attorney: None

Coins, currency, bank documents and data processing materials,

Between points and places in Shawnee, Jefferson, Potawatomie, Douglas, Osage and Jackson counties, Kansas.
Also,

Between all points and places in the above named counties, on the one hand, and all points and places in Kansas, on the other hand.

Applications set for April 5, 1988

Application for Certificate of Convenience and Necessity:

Ron Harvey) Docket No. 160,020 M
Box 4)
Caney, KS 67333) MC ID No. 128798

Applicant's Attorney: None

General commodities (except classes A and B explosives, household goods, livestock, flour in bulk and commodities in bulk),

Between points in Kansas.

Application for Certificate of Convenience and Necessity:

Midwest Express Corporation) Docket No. 160,021 M
827 S. 7th)
Kansas City, KS 66212) MC ID No. 121546

Applicant's Attorney: None

General commodities (except classes A and B explosives, household goods and commodities in bulk), in truckload lots,

Between all points in Kansas.

Application set for April 7, 1988

Application for Certificate of Convenience and Necessity:

Mid-America Marketing, Inc.) Docket No. 159,455 M
of Kansas)
712 S. Ohio, Suite H)
Salina, KS 67401)

Applicant's Attorney: John Sherman

Salt, grain, dry feed, dry feed ingredients, dry fertilizer and seeds,

Between all points and places in Barton, Cloud, Dickinson, Ellsworth, Finney, Ford, Grant, Gray, Haskell, Lincoln, McPherson, Ottawa, Reno, Rice, Russell, Saline, Sedgwick, Seward, Sherman and Thomas counties.

Also,

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

Application set for April 14, 1988

Application for Certificate of Convenience and Necessity:

Sunflower Transport Company) Docket No. 159,454 M
559 N. Knight)
Wichita, KS 67203)

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

General commodities (except classes A and B explosives, commodities in bulk and household goods),

Between all points and places in McPherson, Rice, Saline, Reno, Harvey and Sedgwick counties, Kansas.
Also,

Between all points and places in McPherson, Rice, Saline, Reno, Harvey and Sedgwick counties, Kansas, on the one hand, and all points and places in the state of Kansas, on the other hand.

ALFONZO A. MAXWELL
Administrator
Transportation Division

Doc. No. 006331

(Published in the *Kansas Register*, March 17, 1988.)

NOTICE OF BOND SALE
\$410,000
City of Liberal, Kansas
General Obligation Bonds
Series 1988-A

Sealed Bids

Sealed bids for the purchase of \$410,000 principal amount of general obligation bonds, Series 1988, of the city hereinafter described, will be received by the undersigned, city clerk of the city of Liberal, Kansas, on behalf of the governing body of the city at City Hall, 325 N. Washington, Liberal, until 6 p.m. C.S.T. on Monday, March 28, 1988. All bids will be publicly opened and read at said time and place and will be acted upon by the city immediately thereafter. No oral or auction bids will be considered.

Bond Details

The bonds will consist of fully registered bonds without coupons in the denomination of \$5,000 or any integral multiple thereof. The bonds will be dated April 1, 1988, and will become due serially on October 1 in the years set out as follows:

Year	Principal Amount
1989	\$10,000
1990	25,000
1991	30,000
1992	30,000
1993	30,000
1994	35,000
1995	35,000
1996	40,000

(continued)

1997	40,000
1998	45,000
1999	45,000
2000	45,000

The bonds will bear interest at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on April 1 and October 1 in each year, beginning on April 1, 1989.

Place of Payment and Bond Registration

The principal of and interest on the bonds will be payable in lawful money of the United States of America by check or draft of the Kansas State Treasurer, Topeka, Kansas (the paying agent and bond registrar). The principal of the bonds will be payable at maturity or upon earlier redemption to the registered owners upon presentation and surrender of the bonds at the office of the paying agent. Interest on the bonds will be paid by check or draft mailed by the paying agent to the persons in whose names the bonds are registered on the registration books maintained by the bond registrar at the close of business on the record date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date.

The city will pay for the fees of the bond registrar for registration and transfer of the bonds and will also pay for printing a reasonable supply of registered bond blanks. Any additional costs or fees that might be incurred in the secondary market, other than fees of the bond registrar, will be the responsibility of the bondowners.

Redemption of Bonds Prior to Maturity

At the option of the city, bonds maturing on October 1, 1997 and thereafter will be subject to redemption and payment prior to maturity on October 1, 1996, and thereafter in whole or in part on any interest payment date (bonds of less than a single maturity to be selected by lot in multiples of \$5,000 principal amount by the paying agent and bond registrar in such equitable manner as it shall designate), at the principal amount thereof, plus accrued interest to the redemption date, at 101 percent and declining as follows:

Redemption Dates	Redemption Price
October 1, 1996, and April 1, 1997	101.00%
October 1, 1997, and April 1, 1998	100.75
October 1, 1998, and April 1, 1999	100.50
October 1, 1999, and April 1, 2000	100.25
October 1, 2000	100.00

Whenever the city is to select the bonds for the purpose of redemption, it shall, in the case of bonds in denominations greater than \$5,000, if less than all of the bonds then outstanding are to be called for redemption, treat each \$5,000 of face value of each such fully registered bond as though it were a separate bond of the denomination of \$5,000.

If the city shall elect to call any bond for redemption and payment prior to the maturity thereof, the city shall give written notice of its intention to redeem and pay said bonds on a specified date, the same being described by number and maturity, said notice to be mailed by United States registered or certified mail addressed to the registered owners of said bonds, to the paying agent and bond registrar, and to the manager or managers of the

underwriting account making the successful bid, each of said notices to be mailed at least 30 days prior to the redemption date. If any bond be called for redemption and payment as aforesaid, all interest on such bond shall cease from and after the date for which such call is made, provided funds are available for its payment at the price hereinbefore specified.

Conditions of Bids

Proposals will be received on the bonds bearing such rate or rates of interest as may be specified by the bidders, subject to the following conditions: The same rate shall apply to all bonds of the same maturity. Each interest rate specified shall be a multiple of 1/8 or 1/20 of 1 percent. No interest rate shall exceed the index of treasury bonds published by the weekly *Credit Markets* in New York, New York, on the Monday next preceding the day on which the bonds are sold, plus 2 percent. The difference between the highest rate specified and the lowest rate specified shall not exceed 2 percent. No supplemental interest payments will be authorized. No bid of less than the principal amount of the bonds and accrued interest will be considered. Each bid shall specify the total interest cost to the city during the life of the bond issue on the basis of such bid, the premium, if any, offered by the bidder, and the net interest cost to the city on the basis of such bid. Each bid shall also specify the average annual net interest rate to the city on the basis of such bid. Bidders shall specify in the bid form the prices (exclusive of accrued interest), expressed as a dollar price, at which the bidder intends that each maturity amount of the bonds shall be initially offered to the public (the initial reoffering prices).

Basis of Award

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

Authorization, Purpose and Security for the Bonds

The bonds are being authorized and issued to permanently finance various internal improvements to the city. The bonds will be general obligations of the city payable as to both principal and interest from ad valorem taxes which may be levied without limitation upon all the taxable tangible property, real and personal, within the territorial limits of the city. The balance of the principal of and interest on the bonds is payable from ad valorem taxes which may be levied, without limitation as to rate or amount on all the taxable tangible property, real and personal, within the territorial limits of the city.

Internal Revenue Code of 1986

The Internal Revenue Code of 1986 was signed into law by the President of the United States on October 22, 1986. The provisions of the code regarding obligations of

state and local units of government are generally effective for obligations such as the bonds issued after August 31, 1986. Certain of these provisions impose requirements on the city which must be met subsequent to the issuance of the bonds by the city and, as a result, the city will and does hereby covenant that it will diligently undertake those steps necessary to maintain the tax-exempt status of the bonds. The city's failure to comply with such requirements could adversely affect the tax-exempt status of the bonds. Purchasers of the bonds should be aware that should the bonds lose their status as tax-exempt obligations as a result of the city's failure to comply with such requirements, the bonds are neither callable nor will the rate of interest on the bonds be adjusted to reflect such circumstances.

The code includes interest on tax-exempt obligations, such as the bonds, in the adjusted net book income of certain corporations for taxable years beginning after December 31, 1986, and includes, through 1989, in the calculation of alternative minimum taxable income one-half of the excess of a corporation's adjusted net book income over its alternative minimum taxable income (determined without regard to this adjustment and prior to reduction for certain net operating losses). After 1989, the use of "book income" will be replaced by "adjusted current earnings," with certain other adjustments. Furthermore, Section 59A of the code, as added by the Superfund Amendments and Reauthorization Act of 1986, provides for a new environmental tax generally based on corporate alternative minimum taxable income. The amount of the tax is equal to 0.12 percent of the excess of alternative minimum taxable income, without regard to net operating losses and the deduction for this tax, over \$2 million. The environmental tax is imposed whether or not the taxpayer is subject to the alternative minimum tax. The environmental tax, which is effective for taxable years beginning after December 31, 1986, may subject certain bondowners to additional taxation for interest earned on the bonds.

The code also requires property and casualty insurance companies, for taxable years beginning on or after January 1, 1987, to reduce the amount of their deductible underwriting losses by a percentage of the amount of tax-exempt interest received or accrued on obligations acquired after August 7, 1986.

With the exception of certain "qualified tax-exempt obligations," the code provides that banks and thrift institutions may not deduct any portion of the interest cost of purchasing or carrying tax-exempt obligations such as the bonds if such interest cost is incurred in taxable years ending after December 31, 1986, with respect to obligations acquired after August 7, 1986. The city does intend to designate the bonds as "qualified tax-exempt obligations" under Section 265 of the code.

Legal Opinion

The bonds will be sold subject to the legal opinion of Nichols and Wolfe Chartered, Topeka, Kansas, bond counsel, whose approving legal opinion as to the validity of the bonds will be furnished and paid for by the city, printed on the bonds and delivered to the successful bidder when the bonds are delivered. Said opinion will also state that in the opinion of bond counsel, assuming continued compliance by the city with the provisions of the

ordinance authorizing the issuance of the bonds and the code, under existing law, the interest on the bonds is exempt from federal income taxation.

Delivery and Payment

The city will pay for printing the bonds and will deliver the bonds, without cost to the successful bidder, properly prepared, executed and registered, on or prior to April 27, 1988, at such bank or trust company in the contiguous United States of America as may be specified by the successful bidder. Said bidder will also be furnished with a certified transcript of the proceedings evidencing the authorization and issuance of the bonds and the usual closing documents, including a certificate that there is no litigation pending or threatened at the time of delivery of the bonds affecting their validity and a certificate regarding the completeness and accuracy of the official statement. Payment for the bonds shall be made in federal reserve funds, immediately subject to use by the city. The denominations of the bonds and the names, addresses and social security or taxpayer identification numbers of the registered owners, shall be submitted in writing by the successful bidder to the city and bond registrar not later than 5 p.m. C.S.T. on April 22, 1988. In the absence of such information, the city will deliver bonds in the denomination of each maturity registered in the name of the successful bidder.

The successful bidder shall furnish the city by 5 p.m. C.S.T. on April 15, 1988 a certificate acceptable to the city's bond counsel to the effect that (i) the successful bidder has made a bona fide public offering of the bonds at the initial reoffering prices, and (ii) a substantial amount of the bonds was sold to the public (excluding brokers and other intermediaries at such initial reoffering prices. Such certificate shall state that (1) it is made on the best knowledge, information and belief of the successful bidder and (2) 10 percent or more in par amount of the bonds of each maturity was sold to the public at or below the initial reoffering prices (such amount being sufficient to establish the sale of a "substantial amount" of the bonds).

Good Faith Deposit

Each bid shall be accompanied by a cashier's or certified check drawn on a bank located in the United States of America in the amount of \$8,200, payable to the order of the city to secure the city from any loss resulting from the failure of the bidder to comply with the terms of the bid. No interest will be paid upon the deposit made by the successful bidder. Said check shall be returned to the bidder if the bid is not accepted. If a bid is accepted, said check shall be held by the city until the bidder shall have complied with all of the terms and conditions of this notice, at which time said check shall be returned to the successful bidder or deducted from the purchase price at the option of the city. If a bid is accepted but the city shall fail to deliver the bonds to the bidder in accordance with the terms and conditions of this notice, said check shall be returned to the bidder. If a bid is accepted but the bidder shall default in the performance of any of the terms and conditions of this notice, the proceeds of such check shall be retained by the city as and for liquidated damages.

(continued)

CUSIP Numbers

CUSIP identification numbers will be printed on the bonds, but neither the failure to print such number on any bond nor any error with respect thereto shall constitute cause for failure or refusal by the purchaser thereof to accept delivery of and pay for the bonds in accordance with the terms of this notice. All expenses in relation to the assignment and printing of CUSIP numbers on the bonds will be paid by the city.

Bond Ratings

The outstanding general obligation bonds of the city are not rated. The city has not applied for rating on the bonds herein offered for sale.

Bid Forms

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

Submission of Bids

Bids must be submitted in sealed envelopes addressed to the undersigned city clerk and marked "Proposal for the Purchase of General Obligation Bonds." Bids may be submitted by mail or delivered in person to the undersigned at City Hall and must be received by the undersigned prior to 6 p.m. C.S.T. on Monday, March 28, 1988.

Official Statement

Upon the sale of the bonds, the city will adopt an official statement in substantially the form as the preliminary official statement, subject to minor amendments and supplementation. Copies of the city's preliminary official statement relating to the bonds may be obtained from the city clerk or the city's financial adviser, United Securities, Inc., 444 Board of Trade Center, 120 S. Market, Wichita, KS 67202, (316) 265-9421. Upon request, a reasonable number of copies of the official statement will be made available to the successful bidder without charge. Additional copies may be obtained at the bidder's expense.

Assessed Valuation and Indebtedness

The total assessed valuation of the taxable tangible property within the city for the year 1987 is \$47,085,047. The total general obligation bonded indebtedness of the city as of the date of the bonds, including the bonds, is \$5,381,000, including, as of the date of the bonds, temporary notes outstanding in the principal amount of \$116,000. In accordance with the financial adviser's agreement with the city, the financial adviser *will not* be submitting a bid or participating in a group submitting a bid for the purchase of the bonds.

Dated March 28, 1988.

CITY OF LIBERAL, KANSAS

Craig Simons

City Clerk

City Hall

325 N. Washington

Liberal, KS 67901

(316) 626-0101

State of Kansas**STATE CONSERVATION COMMISSION****NOTICE OF MEETING ON
RIPARIAN AND WETLAND
PROTECTION PROGRAM**

The draft of the Riparian and Wetland Protection Program is scheduled for discussion at six informal public meetings to be held in conjunction with the commission's spring workshops for conservation districts. A copy of the draft program is available from the State Conservation Commission, 109 S.W. 9th, Room 300, Topeka 66612-1299, (913) 296-3600.

The public meetings are scheduled as follows:

March 29—9:30 a.m., Yates Center Community Center, South Highway 75

March 30—9:30 a.m., Holton, 4-H Fair Building

March 31—9:30 a.m., Concordia, First United Methodist Church

April 5—9:30 a.m., Oakley, Country Club

April 6—9:30 a.m., Garden City, United Methodist Church, corner of Main and Kansas Ave.

April 7—9:30 a.m., Kingman, Activity Center at the fairgrounds

Based on the ideas and comments generated from these informal public meetings, the draft will be revised as necessary prior to the public hearings later this year on the rules and regulations implementing the program.

KENNETH F. KERN
Executive Director

Doc. No. 006330

State of Kansas**DEPARTMENT OF ADMINISTRATION
DIVISION OF PURCHASES****NOTICE TO BIDDERS**

Sealed bids for the following items will be received by the Director of Purchases, Landon State Office Building, 900 Jackson, Room 102, Topeka, until 2 p.m. C.S.T. on the date indicated, and then will be publicly opened. Interested bidders may call (913) 296-2377 for additional information.

Monday, March 28, 1988

#27042

University of Kansas Medical Center—MIST
INHALATORS

#27788

Department of Social and Rehabilitation Services—
JANITORIAL SERVICES, Liberal

#73196

Department of Transportation—WOOD SIGN
POSTS, Hutchinson

#73197

Department of Corrections—WEED TRIMMER,
El Dorado

#73259

Pittsburg State University—FTIR EQUIPMENT

Doc. No. 006323

Tuesday, March 29, 1988

#27126

University of Kansas Medical Center—SMALL ANIMAL FEED

#27524

University of Kansas—MAY (1988) MEAT PRODUCTS

#73205

Department of Human Resources—PROCESSOR CAMERA, JACKET LOADER, DUPLIFICHE PRINTER AND TABLE

#73218

Kansas Insurance Department—MOBILE SHELVING

#73219

Kansas State University—CHROMATOGRAPHY EQUIPMENT

Wednesday, March 30, 1988

#A-5820

Kansas State School for the Visually Handicapped—RENOVATION OF SMH RESTROOM, Vogel Building

#A-5930

Kansas State University—WINDOWS REPLACEMENT, Goodnow Hall

#27789

Statewide—MODULAR SPLITTERS

#73190

State Corporation Commission—RECLAMATION ON BILL'S COAL COMPANY INTERIM PERMITS #52, 59, 80, 89, Labette County

#73191

State Corporation Commission—RECLAMATION ON BILL'S COAL COMPANY FORT SCOTT MINE, PERMITS #32, 34, 44, 45, 53, 67, 68, 82, 87, Bourbon County

#73236

Kansas State University—FURNISH AND INSTALL ROOFING SYSTEM

Thursday, March 31, 1988

#27098

University of Kansas Medical Center—PERSONNEL RADIATION MONITORING

#27790

Statewide—PATCH PANELS

#73249

Department of Transportation and Department of Corrections, Kansas Correctional Industries—TRUCKS, various locations

#73250

Kansas State University, Pittsburg State University, and University of Kansas Medical Center—VEHICLES

Friday, April 1, 1988

#27516

Statewide—MAY (1988) MEAT PRODUCTS

#73189

State Corporation Commission—RECLAMATION ON FUEL DYNAMICS GOLDEN EAGLE PERMITS, #CR-T-LF-701, Crawford County

#73251

University of Kansas—4X4 VEHICLE

#73252

Department of Transportation—FORKLIFTS, various locations

#73253

Department of Transportation—VAN

#73258

Kansas State University—PLOTTER, DIGITIZER, MONITOR AND PERIPHERALS

#73260

Department of Corrections, Kansas Correctional Industries—PAINT SUSPENDING AGENT

#73261

Department of Corrections, Kansas Correctional Industries—TWILL FABRIC

#73262

Kansas Highway Patrol—TWO-WAY RADIO EQUIPMENT

#73263

Department of Transportation—TRUCK

#73264

Kansas Highway Patrol—AMMO

Monday, April 4, 1988

#27601

Department of Social and Rehabilitation Services—PHARMACEUTICALS MEDICAID/MEDIKAN PROGRAM

Tuesday, April 5, 1988

#A-5454-2

University of Kansas—DECATAMINATION OF BUILDING #29 RADIO ISOTOPE LAB

Wednesday, April 6, 1988

#A-5925

University of Kansas—GERTRUDE-SELLARDS PEARSON HALL COOLING TOWER REPLACEMENT

Friday, April 8, 1988

#27791

Statewide—CALL PROCESSING SYSTEMS AND ANSWERING CONSOLES

Thursday, April 14, 1988

#A-5410

University of Kansas Medical Center—PEDIATRIC INPATIENT UNIT RENOVATION

Monday, April 18, 1988

#27792

Kansas Department of Wildlife and Parks—LEASE OF LAND, Jamestown Wildlife Area

Thursday, April 21, 1988

#A-5454

University of Kansas—CONSTRUCTION OF HUMAN DEVELOPMENT CENTER, Robert Dole Facility

NICHOLAS B. ROACH
Director of Purchases

Doc. No. 006333

State of Kansas

OFFICE OF JUDICIAL ADMINISTRATION

SUPREME COURT DOCKET

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

Monday, March 21, 1988

9:30 a.m.

Case No.	Case Name	Attorneys	County
60,801	State of Kansas, Appellant, v. Thai Do Hoang, Appellee.	Robert T. Stephan, Attorney General Debra Barnett, Assistant District Attorney Benjamin C. Wood	Sedgwick
61,006	State of Kansas, Appellant, v. Lloyd D. Clothier, Appellee.	Robert T. Stephan, Attorney General Debra Barnett, Assistant District Attorney Jack Focht	Sedgwick
60,586	L & M Surco Manufacturing, Inc., Appellee, v. Gunn Tile Company, Appellant.	Randy Troutt Terry L. Unruh	Sedgwick
61,211	Imogene K. Clements, Appellant, v. United States Fidelity and Guaranty Company, a Corporation, Appellee.	Garry L. Howard Arthur S. Chalmers	Sedgwick

1:30 p.m.

Case No.	Case Name	Attorneys	County
60,896	State of Kansas, Appellant, v. Peggy J. Stewart, Appellee.	Robert T. Stephan, Attorney General Morgan Metcalf, County Attorney Benjamin C. Wood	Butler
61,759	Donald D. Edmonston, Plaintiff, v. The Home Stake Oil & Gas Corporation, <i>et al.</i> , Defendants.	Robert W. Christensen Gordon Penny Donald W. Bostwick Robert L. Hoecker	Certified Question
61,570	Marcia L. Thies, <i>et al.</i> , and Noreen Malchow, Plaintiffs, v. Michael Cooper and V & M Distributing, Inc., a Kansas Corporation, Defendants.	Gary D. McCallister Robert M. Adrian H. W. Fanning	Certified Question

Tuesday, March 22, 1988
9:30 a.m.

Case No.	Case Name	Attorneys	County
60,923	State of Kansas, Appellee, v. John R. Spellman, Appellant.	Robert T. Stephan, Attorney General Richard G. Guinn, Assistant District Attorney Edward M. Van Morlan	Johnson
60,980	State of Kansas, Appellee, v. Dwight Higgins, Appellant.	Robert T. Stephan, Attorney General Michael Grosko, Assistant District Attorney Benjamin C. Wood	Wyandotte
61,421	Bill L. Duckworth and Chemold Systems, Inc., Appellants, v. The City of Kansas City, Kansas, Appellee.	Edward H. Powers, Sr. Jody Boeding, Assistant City Attorney	Wyandotte
61,327	Kansas Commission on Civil Rights, Appellant, v. Topeka U.S.D. 501 and Jerry Miller, Appellees.	Brandon L. Myers K. Gary Sebelius Cathryn Walter	Shawnee

1:30 p.m.

Case No.	Case Name	Attorneys	County
60,741	State of Kansas, Appellee, v. Richard Joseph Longobardi, Appellant.	Robert T. Stephan, Attorney General Nick A. Tomasic, District Attorney Benjamin C. Wood	Wyandotte
61,525	Gregory S. Kwoka, Appellant. v. Emporia State University, <i>et al.</i> , Appellees.	John Harl Campbell David T. Holt Michael C. Halbert Carl A. Gallagher	Lyon
60,288	Marcellus H. Baker, Appellant. v. State of Kansas, Appellee.	Benjamin C. Wood Ralph J. DeZago Robert T. Stephan, Attorney General Rodney Symmonds, County Attorney	Lyon
Consolidated with 61,155	State of Kansas, Appellee, v. Marcellus H. Baker, Appellant.	Robert T. Stephan, Attorney General Rodney Symmonds, County Attorney Benjamin C. Wood Ralph J. DeZago	Lyon

(continued)

Wednesday, March 23, 1988
9:30 a.m.

Case No.	Case Name	Attorneys	County
60,859	State of Kansas, Appellee, v. Archie Watkins, Appellant.	Robert T. Stephan, Attorney General Steven Opat, County Attorney Benjamin C. Wood	Geary
61,272	Kennedy & Mitchell, Inc., a Texas Corporation, Appellant, v. Anadarko Production Company, a Delaware Corporation, Appellees.	Stanley E. Antrim Robert J. O'Connor Clarence A. Conoley	Seward
61,468	Jessica Louise Bacon, <i>et al.</i> , Appellants, v. Mercy Hospital of Fort Scott, Kansas, <i>et al.</i> , Appellees.	Brock R. Snyder Cynthia J. Schriock Warren M. McCamish Myron L. Listrom Bill Wachter	Bourbon
61,191	Rural Gas, Inc., a Kansas Corporation, Appellant, v. North Central Kansas Production Credit Association, Concordia, Kansas, Appellee.	J. Stan Sexton Fred Swoyer Don W. Noah	Republic

1:30 p.m.

Case No.	Case Name	Attorneys	County
61,128	Keith A. Casner, Appellant, v. Schwan's Sales Enterprises, <i>et al.</i> , Appellees.	Gary L. Jordan John David Jurcyk Chris Miller	Franklin
61,502	Inam Ul Haq, <i>et al.</i> , Appellant, v. Lester C. Voeltz and Kansas Department of Transportation, Appellees.	David P. Troup Larry G. Pepperdine	Ellsworth

Thursday, March 24, 1988
9:30 a.m.

Case No.	Case Name	Attorneys	County
60,260	In the Matter of the Conservatorship of Fred A. Marcotte. v. On Petition for Review	Scott E. Daniel Clyde C. Farris Lelyn J. Braun	Finney
61,283	Marion W. Crow, Appellant, v. Board of County Commissioners of Shawnee County, Kansas, Appellee.	Marion W. Crow, <i>pro se</i> Douglas Martin	Shawnee

61,326	Clifford F. Davis and Iva L. Davis, Appellants, v. City of Leavenworth, Kansas, and Greenamyre Rentals, Inc., Appellees.	Rod L. Richardson Neil R. Shortlidge Robert D. Beall	Leavenworth
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61,163	Kaneez Batul Chinoy, Appellant, v. Jerry R. Dahlstrom, Appellee.	Charles S. Scott Jill A. Michaux	Shawnee
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1:30 p.m.

Case No.	Case Name	Attorneys	County
60,882	Lamar Gilmore, Appellant, v. Robert Hannigan, <i>et al.</i> , Appellees.	William F. Bradley John K. Bork, Assistant Attorney General Timothy Frieden	Reno
60,905	John Stasse, Appellee, v. The Kansas Parole Board, <i>et al.</i> , Appellants.	Edward V. Byrne John K. Bork, Assistant Attorney General	Leavenworth
61,030	Robert E. Murphy, Appellee, v. The Kansas Parole Board, <i>et al.</i> , Appellants.	Edward V. Byrne John K. Bork, Assistant Attorney General	Leavenworth
61,031	Gary Dean Darby, Appellee, v. Kansas Parole Board, <i>et al.</i> , Appellants.	Edward V. Byrne John K. Bork	Leavenworth
61,032	Joseph Dyche, Appellee, v. The Kansas Parole Board, <i>et al.</i> , Appellants.	Edward V. Byrne John K. Bork, Assistant Attorney General	Leavenworth

Consolidated with

Friday, March 25, 1988
9:30 a.m.

Case No.	Case Name	Attorneys	County
61,065	State of Kansas, Appellant, v. Milton Guinn, Appellee.	Robert T. Stephan, Attorney General Rachael C. Lipman, Assistant Attorney General Kenneth Crockett	Shawnee
60,301	State of Kansas, Appellee, v. James G. Fike, Appellant.	Robert T. Stephan, Attorney General Gene M. Olander, District Attorney Benjamin C. Wood Steven R. Zinn	Shawnee On Petition for Review

(continued)

61,357	In the Matter of J. William Stapleton, Respondent.	Bruce E. Miller J. William Stapleton, <i>pro se</i> J. Chris Morse	Original
61,834	In the Matter of William Van Horn Smith, Respondent.	Bruce E. Miller William Van Horn Smith, <i>pro se</i> Jim Lawing	Original
61,735	In the Matter of Charles W. Sauer, Respondent.	Bruce E. Miller Charles W. Sauer, <i>pro se</i>	Original
61,835	In the Matter of Richard W. Niederhauser, Respondent.	Bruce E. Miller Richard W. Niederhauser, <i>pro se</i>	Original
61,883	In the Matter of Richard W. Niederhauser, Respondent.	Bruce E. Miller Richard W. Niederhauser, <i>pro se</i>	Original
61,837	In the Matter of Jack L. Miller, Respondent.	Bruce E. Miller Jack L. Miller, <i>pro se</i>	Original
61,836	In the Matter of Lonnie A. Hamilton, Respondent.	Bruce E. Miller Lonnie A. Hamilton, <i>pro se</i>	Original
61,865	In the Matter of Russell Wayne Davisson, Respondent.	Bruce E. Miller Russell Wayne Davisson, <i>pro se</i> Jack Focht	Original

LEWIS C. CARTER
Clerk of the Appellate Courts

Doc. No. 006307

State of Kansas
CONSUMER CREDIT COMMISSIONER

**PERMANENT ADMINISTRATIVE
REGULATIONS**

(Effective May 1, 1988)

Article 1.—ADJUSTABLE RATE NOTES

104-1-1. (Authorized by and implementing L. 1982, ch. 94; effective, T-83-29, Sept. 22, 1982; effective May 1, 1983; revoked, T-88-28, Aug. 19, 1987; revoked May 1, 1988.)

104-1-2. Adjustable rate notes secured by a real estate mortgage or a contract for deed to real estate. A creditor may use any interest-rate index that is readily verifiable by the borrower and is beyond the control of the creditor to adjust the interest rate on adjustable rate notes secured by a real estate mortgage or a contract for deed to real estate. Adjustments shall

correspond directly to the movement of the index, subject to any rate-adjustment limitations that a creditor may provide. When the movement of the index permits an interest-rate increase, the creditor may decline to increase the interest rate by the indicated amount. The creditor may decrease the interest rate at any time.

Adjustments to the interest rate may be implemented through adjustments to the outstanding principal loan balance, loan term, payment amount, or any combination of the above.

The borrower shall not be charged any costs or fees in connection with regularly-scheduled adjustments to the interest rate, payment, outstanding principal loan balance, or loan term. (Authorized by and implementing K.S.A. 16-207d; effective, T-88-28, Aug. 19, 1987; effective May 1, 1988.)

JUDITH K. STRINGER
Consumer Credit Commissioner

Doc. No. 006310

State of Kansas
DEPARTMENT OF HUMAN RESOURCES
DIVISION OF EMPLOYMENT
PERMANENT ADMINISTRATIVE
REGULATIONS
 (Effective May 1, 1988)

Article 3.—UNEMPLOYMENT INSURANCE
BENEFITS

50-3-1. Employing unit requirements. (a) Benefit posters. Each employer shall post and maintain an unemployment insurance benefit poster and the certificate of registration as an employer in a conspicuous place in each plant, branch or establishment maintained by that employer. The secretary shall furnish each employer sufficient copies of the poster and certificate to enable compliance with this regulation.

(b) Notice of partial unemployment. Immediately after the termination of any week in which an employer because of lack of work has furnished any worker in his or her employ less than four full days of work, and if the earnings for that work are less than the maximum weekly benefit amount established for the current calendar year by the secretary in accordance with K.S.A. 44-704(b), the employer shall give each affected worker a notice of partial unemployment. That notice shall be in the form prescribed by the secretary. No form or notice as described shall be required with respect to any worker if the employer has been notified of the weekly benefit amount and the allowance of benefits to that worker.

(c) Notice of labor dispute. In all cases of unemployment due to a strike, lockout or other labor dispute, the employer shall at once fill out notice of labor dispute, in the form prescribed by the secretary, setting forth the approximate number of workers affected. The form shall be mailed to the department of human resources' administrative offices in Topeka, Kansas.

(d) List of workers affected by labor dispute. Upon request by the secretary, an employing unit shall furnish the secretary with a list showing the names and social security numbers of all workers ordinarily performing services in the department or establishment where unemployment is or was caused by a strike, lockout or other labor dispute.

(e) Refusal of work. Whenever a worker who is currently claiming benefits for unemployment refuses an offer of work made by an employing unit, that employing unit shall immediately report the refusal by furnishing a completed notice of refusal of work to the secretary. That notice shall be in the form prescribed by the secretary and shall furnish the name and social security account number of the worker, nature of the work and duties required of the worker, location of the work, date that work would begin, duration of the work, wages, hours, union requirements, how the offer was made, date of offer, date of refusal, reason given by the worker for refusal, and any other information as required by the form.

(f) Low earnings report. Immediately after the ter-

mination of each payroll period, the employing unit shall furnish each worker in its employ who has made a claim for benefits for partial unemployment with a low earnings report. This report shall be in the form prescribed by the secretary, and shall include each week during the worker's current benefit year in which the worker was employed less than full time because full-time work was not available and in which the worker earned less than that worker's weekly benefit amount.

Payroll byproducts. If authorized by the secretary, the employing unit may, in lieu of the prescribed low earnings report, furnish written evidence concerning the partial unemployment of a worker by means of a pay envelope, pay-check stub or copy thereof, or other suitable medium approved by the secretary. The information contained in that medium shall be in ink or typed print, and it shall show:

- (1) The name of the employing unit;
- (2) the name and social security account number of the worker;
- (3) the amount of wages earned by weeks and the ending date of each such week;
- (4) the following individual or rubber stamp certification: "I certify that the above amount represents reduced earnings in a week of less than full-time work because of lack of work"; and

(5) an actual or facsimile signature by the employing unit to the above certification, or other positive identification of the authority supplying the evidence.

(g) Information pertaining to workers scheduled for mass layoff. Upon receiving a request from the secretary, an employer shall furnish the secretary with a list of employees scheduled to be involved in a mass layoff showing the name, social security number and scheduled date of layoff for each employee. In addition, if the layoff is of an indefinite duration, the employer shall issue an unemployment insurance claim packet furnished by the secretary to each employee involved in the layoff.

(h) Response to employer notice. Any base period employer who desires to request reconsideration of a charge to the employer's experience rating account under K.S.A. 44-710(c) as amended by L. 1987, Ch. 191, Sec. 5 shall, within 10 days from the date the notice was mailed to the employer, complete and mail to the address indicated on each form a "notice of separation and request for reconsideration under section 44-710(c), Kansas employment security law." The examiner shall furnish a notice of separation and request for reconsideration form with each employer notice. The employer shall request reconsideration upon that original form.

The employer shall provide a complete explanation of the circumstances; the date of separation, if any; the signature and title of the person completing the form for the employer; the employer's firm name and address; the date the form is completed; and any other information required by the form.

(i) Request for separation information and to verify earnings. The secretary is authorized to require spe-

(continued)

cial reports from any employing unit to verify earnings and separation information for individuals who have performed services for that employing unit when that information is needed for any purpose connected with the orderly administration of the benefit provisions of the unemployment insurance law of any state or of the federal government. In response to a request to verify earnings or for separation information, any employing unit shall, within 10 days from the date the request is mailed to the employing unit furnish all of the information requested and in the form stipulated. (Authorized by and implementing K.S.A. 44-705(a) and (b), 44-709(a), as amended by L. 1987, Ch. 191, Sec. 4, 44-710(c), as amended by L. 1987, Ch. 191, Sec. 5, 44-714(a) and (f), as amended by L. 1987, Ch. 191, Sec. 8; effective Jan. 1, 1966; amended Jan. 1, 1971; amended May 1, 1980; amended May 1, 1983; amended May 1, 1988.)

Article 4.—DISCLOSURE OF INFORMATION

50-4-2. Limitations and procedures concerning disclosure. (a) Information obtained from any worker, employing unit, or other persons or groups pursuant to the administration of employment security law shall not be disclosed, directly or indirectly, in any manner revealing the individual's or employing unit's identity, except in the following circumstances:

(1) Information shall be disclosed to the individual or employing unit which furnished the requested information, if:

(A) The individual or employing unit is properly identified in a manner that insures the identity of the individual or employing unit, and

(B) The individual or employing unit makes the requests for information on a form provided by the secretary.

(2) Information shall be disclosed to any claimant, employing unit or designated representatives at a hearing before the secretary or a hearing pursuant to K.S.A. 44-709 as amended by L. 1987, Ch. 191, Sec. 4, and amendments thereto, concerning the payment or denial of benefits, if:

(A) The requested information relates to the payment or denial of benefits, and

(B) The information is to be used by the claimant or employing unit to aid in the preparation of evidence to be presented at a hearing before the secretary or a hearing pursuant to K.S.A. 44-709 as amended by L. 1987, Ch. 191, Sec. 4, and amendments thereto, concerning the payment or denial of benefits, and

(C) The request is on a form provided by the secretary, and

(D) If the information is to be disclosed to a representative of the claimant or employing unit, the claimant or employing unit designates the representative in writing on the form furnished by the secretary.

(3) Information shall be disclosed to officers or employees of an agency of the federal government or a state, territorial or local government in the performance of their public duties, upon written request, if:

(A) The written request specifies the information desired, and

(B) The written request states that the requested information will not be released or published in any manner. The introduction of any information disclosed as evidence at a public hearing or as part of a record available to the public constitutes publication.

(4) Information shall be disclosed upon written request of either of the parties or their representatives for the purpose of administering or adjudicating a claim for benefits under the provisions of any other state benefit program if:

(A) The written request is accompanied by a subpoena or order for records production from an administrative law judge or other official, and

(B) The written request states that the requested information will not be released or published in any manner. The introduction of any information disclosed as evidence at a public hearing or as part of a record available to the public constitutes publication.

(5) Information shall be disclosed as required by any other statute of the federal government or the state of Kansas if the request for information is in writing and the statutory authorization for the release of the requested information is cited in the written request.

(b) Information disclosing the identity of a claimant or employing unit may be used in criminal or civil court proceedings brought by the state of Kansas or secretary of human resources pursuant to the enforcement of the employment security act.

(c) General information concerning employment opportunities, employment levels and trends, and labor supply and demand, may be released, provided no information disclosing the claimant's or employing unit's identity is included.

(d) In all cases where an application for information is granted, the information shall be furnished in written form.

(e) Requests for information shall be made to the district unemployment insurance claims office where the claim was filed or the administrative office in Topeka, Kansas. Forms for requests for information, which by this regulation are to be supplied by the secretary, shall be made available at the district unemployment insurance claims office or the administrative office in Topeka, Kansas.

(f) The secretary may require reimbursement of reasonable expenses incurred in furnishing the requested information, unless:

(1) The information is furnished to a claimant or employing unit pursuant to an unemployment insurance claim.

(2) Federal or state law specifically provides that the information shall be furnished without cost to the individual or agency requesting the information. (Authorized by and implementing 44-714(a) as amended by L. 1987, Ch. 191, Sec. 8; effective May 1, 1980; amended May 1, 1988.)

DENNIS R. TAYLOR
Secretary of Human Resources

Doc. No. 006292

State of Kansas

BOARD OF BARBER EXAMINERS**PERMANENT ADMINISTRATIVE
REGULATIONS**

(Effective May 1, 1988)

**Article 1.—SANITARY RULES AND
REGULATIONS GOVERNING BARBER
SHOPS, SCHOOLS AND COLLEGES
AND PUBLIC REST ROOMS
IN CONNECTION THEREWITH**

61-1-19. Persons suffering from contagious or infectious diseases not served. No person suffering from communicable or infectious diseases, which are dangerous to the public health, shall knowingly be served in a barber shop, school or college, or rest room in connection therewith. (Authorized by K.S.A. 74-1805; implementing K.S.A. 74-1805; effective Jan. 1, 1966; amended May 1, 1982; amended May 1, 1988.)

Article 3.—SCHOOLS; REQUIREMENTS

61-3-7. Minimum requirements for opening a school or college of barbering. An approved school or college of barbering shall have a minimum of ten students enrolled and a minimum of 2,500 square feet of floor space available before opening. The school or college shall have at least two rooms accessible at all times, one room to be used for class study, examinations and lectures, and the other for practical demonstrations. The school shall provide two rest rooms, which shall be kept in a sanitary condition. Each room shall be equipped to fully comply with all applicable rules and regulations of the Kansas state board of barber examiners. (Authorized by K.S.A. 65-1825, 74-1806; implementing K.S.A. 65-1810; effective Jan. 1, 1966; amended May 1, 1988.)

61-3-22. Schools or colleges ineligible for a permit to operate a barber school or college. No correspondence school shall be granted a permit to establish or operate a school or college of barbering. No school or college of barbering housed in an establishment which teaches or conducts any other trade, profession, or business shall be granted a permit to operate a school or college of barbering. (Authorized by K.S.A. 65-1825, 74-1806; implementing K.S.A. 65-1810; effective Jan. 1, 1966; amended May 1, 1988.)

61-3-26. Night classes permitted. Any school or college of barbering may be issued a permit to operate night classes provided that the classes are held in the school or college of barbering. (Authorized by K.S.A. 65-1825, 74-1806; implementing K.S.A. 65-1810; effective May 1, 1988.)

CHARLES L. LUTZ
Administrative Officer

Doc. No. 006291

State of Kansas

**OFFICE OF THE SECURITIES
COMMISSIONER****PERMANENT ADMINISTRATIVE
REGULATIONS**

(Effective May 1, 1988)

Article 2.—FILING, FEES, FORMS

81-2-1. Filing, fees and forms. All applications, petitions, amendments, reports and complaints shall be governed by the following requirements: (a) Filing. A document is filed when it is received in the office of the securities commissioner, or as defined by K.S.A. 1986 Supp. 17-1254(j)(3)(A).

(b) Fees. All fees must accompany the application or supplemental amendment to which they pertain and shall be paid by check or money order to the securities commissioner of Kansas, except as required by K.S.A. 1986 Supp. 17-1254(j)(2)(C).

(c) Copies. Copies of documents filed and recorded in the office of the securities commissioner, certified upon request, will be provided for a service charge of 25 cents per page, payable in advance.

(d) Forms. The following forms have been adopted for use.

FORM	TITLE
(1) Uniform forms:	
ADV	Uniform application for investment adviser registration
ADV-S	Annual report for investment advisers
ADV-W	Notice of withdrawal from registration as investment adviser
BD	Uniform application for broker-dealer registration
BDW	Uniform request for withdrawal from registration as a broker-dealer
D	Notice of sales of securities
U-1	Uniform application to register securities
U-2	Uniform consent to service of process
U-2A	Uniform corporation resolution
U-4	Uniform application for securities industry registration or transfer
U-5	Uniform termination notice for securities industry registration
(2) Kansas forms:	
K-1	Sales report/renewal application
K-4	Application for registration of securities
K-4A	Application for exemption from registration [pursuant to K.S.A. 1985 Supp. 17-1261(h)]
K-5	Consent to service
K-6	Corporate resolution
K-12	Annual report for non-profit organizations

(Authorized by and implementing K.S.A. 1986 Supp. 17-1270; effective Jan. 1, 1966; amended, E-70-15, Feb. 4, 1970; amended Jan. 1, 1971; amended, E-77-40, Aug. 12, 1976; amended Feb. 15, 1977; amended, T-86-38, Dec. 11, 1985; amended May 1, 1986; amended May 1, 1987; amended, T-88-29, Aug. 19, 1987, amended May 1, 1988.)

**Article 4.—REGISTRATION OF
SECURITIES**

81-4-1. Registration of securities. (a) Original applications. Application to register securities for sale in

(continued)

the state of Kansas shall be filed with the commissioner in substantially the form and content required by the application form specified in K.A.R. 81-2-1(d) together with the exhibits required for applications for registration by either notification, coordination or qualification. Each application shall be accompanied by the fee specified in K.S.A. 17-1259(b)(1), and amendments thereto based on the amount of securities to be registered.

(1) Applications for registration, post-effective amendments, and extension applications of a face-amount certificate company or an open-end management company or unit investment trust shall be limited to a maximum aggregate offering amount of \$10,000,000.

(2) Any application for which notification has been filed with the SEC under Regulation A shall be filed with this office only by qualification.

(b) Amendment applications. Applications for post-effective amendment to securities registration may be accomplished by filing applicable amended documents required with the registration statement. Each application for post-effective amendment of the name of the issuer or aggregate amount of securities registered shall be accompanied by a fee of \$100 as specified in K.S.A. 17-1259(b)(2), and amendments thereto. Amendments to increase the aggregate amount of securities registered may require payment of an additional fee specified in K.S.A. 17-1259(b)(1), and amendments thereto, unless the annual maximum fee under that section has been paid.

(c) Extension applications. (1) Applications to extend the period of effectiveness for securities registration pursuant to K.S.A. 17-1259(a), and amendments thereto, shall include the following:

(A) Form K-1 or a uniform form which includes the same information;

(B) a filing fee of \$100 as specified in K.S.A. 17-1259(b)(2), and amendments thereto;

(C) a registration fee as specified in K.S.A. 17-1259(b)(1), and amendments thereto, based on the aggregate amount of securities to be offered during the extended period of effectiveness;

(D) one copy of the prospectus to be provided for offers during the extended period of effectiveness which includes audited financial statements for the most recent fiscal year of the issuer. If the extension request occurs before such statements are available, the issuer shall undertake to file an updated prospectus containing the statements no later than 90 days after the end of the fiscal year.

(2) Extensions of registration shall remain effective for one year. The effective date of an extension of registration shall be the date upon which the previous effective registration period expired.

(3) The due date for filing extension applications shall be 30 days prior to the date on which a registration is due to expire.

(d) Abandoned applications. (1) Applications on file with the commissioner for 6 months or more shall be deemed abandoned if no response to inquiries or deficiency notices of the commissioner's staff has been filed as requested.

(2) Abandoned applications will be disregarded and a notice of abandonment shall be issued by the commissioner after reasonable inquiry. Further consideration of abandoned applications shall require the filing of a new, complete application. (Authorized by K.S.A. 1986 Supp. 17-1270 (f); implementing K.S.A. 17-1259 as amended by 1987 Senate Bill 66; effective Jan. 1, 1966; amended, E-70-15, Feb. 4, 1970; amended Jan. 1, 1971; amended, T-88-29, Aug. 19, 1987, amended May 1, 1988.)

Article 5.—EXEMPTIONS

81-5-8. Exemption Filing Fees. The following fees shall be remitted with filings requesting exemptions from securities registration or interpretive opinions:

(a) A fee of \$100 with each filing required for compliance with the Uniform Limited Offering Exemption as specified in K.A.R. 81-5-6;

(b) a fee of \$100 with each notification filed in compliance with K.S.A. 17-1261(j) pertaining to an employee stock benefit plan;

(c) a fee of \$100 with each filing required by K.S.A. 17-1261(m)(3), except that no fee shall be required for secondary trading of securities registered in Kansas if the final sales report required by K.S.A. 17-1259(a) has been filed in compliance with K.A.R. 81-9-1;

(d) a fee of \$100 with each notice filed in connection with offers to existing security holders as may be required by K.S.A. 17-1262(i);

(e) a fee of \$100 with each notice filed in connection with merger or reorganization transactions as required by K.S.A. 17-1262(1); and

(f) a fee of \$100 with each request for a no-action letter or interpretive opinion letter from the commissioner or staff. (Authorized by K.S.A. 1986 Supp. 17-1270(f); implementing K.S.A. 17-1259 as amended by 1987 Senate Bill 66; effective, T-88-29, Aug. 19, 1987; amended May 1, 1988.)

Article 7.—POLICY RELATING TO REGISTRATION

81-7-1. Statements of policy relating to registration of securities. Applications for registration shall meet the following requirements unless good cause is shown for an exception:

(a) Financial statements.

(1) Historical financial statements as required in a registration application, prospectus, or as required under K.A.R. 81-7-1(e)(3)(C) and (j)(2) shall be in conformity with generally accepted accounting principles applied on a consistent basis. These statements shall have been examined and reported on by an independent certified public accountant in accordance with generally accepted auditing standards.

(2) Prospective financial statements may be used in connection with a registered offering only if all of the following conditions exist:

(A) The prospective financial statements shall be financial forecasts in conformity with guidelines established by the American institute of certified public accountants and shall be the subject of a report pre-

pared by an independent certified public accountant in accordance with standards for an examination of a forecast established by the American Institute of certified public accountants; and

(B) Each forecast shall be included within or accompanied by a complete prospectus.

(3) Pro forma financial presentations based on historical financial statements adjusted to demonstrate the effects of proposed transactions, shall not be considered prospective financial statements subject to the conditions of K.A.R. 81-7-1(a)(2).

(b) Commissions and expenses.

(1) Commissions and expenses to be paid in connection with the sale of securities proposed to be registered shall not exceed 15% of the aggregate offering price.

(2) Such expenses may include the following:

(A) Salaries;

(B) advertising and printing;

(C) attorneys fees and legal expenses in connection with registration;

(D) fees of accountants, engineers, appraisers and other technical experts;

(E) costs of authorizing, preparing and printing the securities and documents relating thereto, including revenue stamps and taxes; and

(F) all other expenses incurred directly or indirectly in connection with the sale and promotion of the offering except as hereinafter provided.

(3) Commissions in this regulation shall include the difference between the consideration paid for the shares and the proposed net offering price when securities have been acquired by an underwriter in connection with the sale of securities. Commissions shall also include any other thing of value accruing to such dealer or underwriter. Options, warrants and other acquisition or conversion rights permitted under K.A.R. 81-7-1(d) shall not be commissions under this regulation.

(4) The limitations provided in K.A.R. 81-7-1(b)(1) may be waived by the commissioner for good cause shown in applications for registration of securities in which the maximum aggregate offering price is not greater than \$3,000,000.

(c) Cheap stock.

(1) Definition. Cheap stock means shares of a corporation issued, or shares to be issued, to underwriters, officers, directors, or control persons for less than the public offering price or for consideration other than cash. Cheap stock shall not include any shares issued more than two years before the date of filing an application for registration. Also, cheap stock shall not include shares issued or to be issued for consideration other than cash if it can be conclusively established that the value of the consideration is greater than or equal to the public offering price.

(2) Escrow requirements. Cheap stock shall be placed in escrow unless exempt under K.A.R. 81-7-1(c)(4).

(A) The escrow agent shall be any bank or trust company or other depository approved by the commissioner.

(B) in the event of dissolution or liquidation, escrowed shares shall not be entitled to participate in the distribution of corporate assets until holders of shares not escrowed have been paid an amount equal to the purchase price per share in the public offering.

(C) holders of escrowed shares shall not sell or contract to sell escrowed shares during the term of escrow. However, such shares may be transferred by will or pursuant to the laws of descent and distribution, or upon death of the holder may be pledged as security to pay expenses of the estate. In all cases, such shares shall remain in escrow and be subject to the terms of the escrow.

(D) Each application for approval of the escrow arrangement shall be made to the commissioner. The application shall contain the following:

(i) A list of all owners of the cheap stock and the respective amount held;

(ii) a copy of the resolution of the board of directors or the letter of authorization appointing the escrow agent, and the written consent of the agent to act as such;

(iii) a waiver of rights as required by K.A.R. 81-7-1(c)(2)(B) of this regulation;

(iv) copies of the escrow agreements, instruments, and instructions; and

(v) any other information required by the commissioner.

(3) The escrow shall remain in effect until an application for release of escrowed shares is filed with and approved in writing by the commissioner, and any one of the following conditions are met:

(A) Two years have elapsed since the termination of the registered offering;

(B) if the shares registered have been quoted at a bid price of at least 125% of the original offering price for 45 consecutive trading days at any time after one year since the termination of the registered offering;

(C) the issuer has earned net income, exclusive of extraordinary items and gains on disposal of property and equipment or discontinued operations, of at least 6% of total capital contribution by all shareholders as reported in financial statements for one fiscal year ending after the termination of the registered offering;

or

(D) a tender offer has been made by an unaffiliated person to all shareholders on an equal basis.

(4) Exemption from escrow requirements. The escrow requirements imposed by this regulation shall not be waived if:

(A) The cheap stock will dilute the value of securities to be registered by 50% or less based on the registered offering price;

(B) the cheap stock is held by a Kansas venture capital company certified by the secretary of the department of commerce pursuant to K.S.A. 74-8301 and amendments thereto; or

(C) the cheap stock is held by an institutional or professional investor who has provided venture capital funds to the issuer, provided good cause has been demonstrated and the escrow requirement has been waived by the commissioner.

(continued)

(d) Options and warrants. Options, warrants and other acquisition or conversion rights granted to or reserved for underwriters, officers, directors, and control persons shall meet the following requirements:

(1) The total number of underlying shares subject to such options shall not exceed 25% of the shares that would be outstanding if all shares being offered are sold;

(2) such rights shall not be exercisable during the effective period of the public offering nor for a period of one year from date issued. The exercise price thereafter shall not be less than 120% of the public offering price.

(3) Options or warrants issued to all shareholders pro rata, or in connection with qualified stock options to employees which meet the requirements of the U.S. internal revenue code, or other employees' options pursuant to a stock purchase or profit sharing plan shall not be subject to the restrictions provided in this regulation, if they are justified and reasonable.

(e) Impoundment of proceeds.

(1) As a condition to registration, all proceeds from sales of securities shall be impounded in escrow until a sufficient amount has been impounded to accomplish the purposes of the offering when:

(A) the registration is sought by a new company, financing an initial or proposed enterprise;

(B) the registration is sought by a company in poor financial condition, intending to raise additional working capital to continue its operations; or

(C) the commissioner determines that impoundment is in the public interest.

(2) Any funds impounded shall be deposited in a separate trust account with a depository approved by the commissioner.

(3) Each application to the commissioner naming such depository shall contain the following:

(A) A copy of the resolution of the board of directors designating the depository;

(B) written consent of depository to act as such; and

(C) copies of any escrow agreements, instruments and instructions.

(4) The following provisions shall govern the impoundment of funds:

(A) If the applicant fails to obtain the minimum proposed offering amount, all proceeds shall be returned to investors;

(B) the applicant shall satisfy the commissioner that it has arranged a sales organization or program with a reasonable expectation that the amount will be raised sufficient to accomplish the purposes of the offering;

(C) no certificates evidencing securities sold, other than subscription agreements, shall be issued until after release of funds from impoundments;

(D) all checks, drafts and money orders shall be made payable to the depository, and all moneys received from the sale of securities shall be promptly deposited in trust. If an instrument is inadvertently made payable to another payee, the payee shall not cash or deposit it in its own account, but shall endorse and deliver it to the depository. The depository shall collect the face amount and disburse to the registrant the amount to which the registrant is entitled;

(E) if a broker-dealer is acting as underwriter or selling agent for the issuer, payments may be made directly to the dealer, who shall promptly, after collection, transmit to the depository the net proceeds required to be impounded;

(F) each application shall state that upon request of the commissioner the issuer will file reports containing a list of names and addresses of subscribers, the number of shares or units subscribed for, amounts paid, and the accumulative total of funds derived from the offering subject to impoundment;

(G) the escrow agreements shall contain an acknowledgment that no funds are to be released from impoundment without written consent of the commissioner; and

(H) if any payments are to be made to the investor in the event of failure to obtain the minimum prescribed proceeds from the offering, the payments shall be made directly to the investor by the escrow holder, and not through the issuer.

(5) If the terms of the escrow conditions have not been met, the applicant shall advise the commissioner upon expiration of the time limit provided and request an order directing the depository to return the funds to the subscribers.

(6) A request for a modification of the escrow arrangements or for partial release of the funds shall be granted only upon good cause shown, and by application containing the following information:

(A) A certified statement from the depository setting forth the total amount of subscriptions and the character of each deposit; and

(B) a written waiver and consent executed by each purchaser or subscriber whose funds are sought to be released, or a written acknowledgment signed by such persons that an offer for return of investment has been made and rejected. The offer, or solicitation for waiver and consent shall state:

(i) That the company has failed to meet the impoundment conditions required to provide the necessary financing proposed;

(ii) the asserted reason for requesting a partial release of funds or modification of the escrow arrangements; and

(iii) a statement that the subscriber realizes that by acknowledgment the subscriber waives all rights by contract or otherwise, which accrue by virtue of the impoundment conditions.

(7) Each application for release of funds impounded shall be in writing and shall contain the following:

(A) A statement that all required subscriptions for the sale of securities have been taken and the proceeds therefrom impounded in accordance with the terms and conditions of the escrow arrangements;

(B) a certified statement from the depository verifying the amount of funds held in escrow and the character of each deposit;

(C) a statement that there has been no change in the circumstances requiring the impoundment, or the adequacy of the amount required to accomplish the objectives of the issuer; and

(D) any additional information as the commissioner requires.

(f) Promoters equity investment. When an issuer is in a promotional, exploratory or development state, the ratio of equity investment by promoters or insiders shall be determined as reasonable and equitable in light of the facts and circumstances presented in each particular case, but shall be considered objectionable when the fair value of the investment is less than 5% of the aggregate offering price of the securities to be registered, unless deemed otherwise by the commissioner.

The fair value of equity investment means the total of all sums conveyed to the issuer in the form of contributed cash or other contributions with an established or determinable value.

(g) Real estate investment trusts. Each application to register securities issued or to be issued by a real estate investment trust shall comply with the NASAA Statement of Policy, Real Estate Investment Trusts, adopted October 2, 1985, effective January 1, 1986, which is hereby adopted by reference.

(h) "Package" or combination offering. Securities registered for distribution in this state shall not be sold or offered for sale in conjunction with other securities of any issuer unless each type or class of security is clearly and separately identified and an offering price specified as to each unit.

(i) Voting rights. Securities of an issuer having more than one class of common stock shall provide equal voting rights upon all matters, including the election of members to the board of directors.

(j) Offering price. If an issuer which has been actually engaged in business or operation, the amount for which a security is being offered to the public should bear some reasonable relationship to:

- (1) Market value, if any; or
- (2) the price-earnings ratio, as reflected by its financial statements covering an average of the preceding three year period, or such a shorter duration of experience or operation as may be applied.

(3) In the absence of an established or determinable market value or price-earnings ratio, the book value of the issuer may be taken into consideration in justifying or substantiating the reasonableness of the offering price.

(k) Periodic payment plans. All periodic payment plans shall be registered with the SEC prior to being registered with the securities commissioner. (Authorized by K.S.A. 1986 Supp. 17-1270(f); implementing K.S.A. 1986 Supp. 17-1260; K.S.A. 17-1259, as amended by L. 1987, ch. 84, § 1; effective Jan. 1, 1966; amended, E-70-15, Feb. 4, 1970; amended Jan. 1, 1971; amended Jan. 1, 1972; amended, T-88-65, Dec. 30, 1987; amended May 1, 1988.)

Article 8.—EFFECTIVENESS AND POST-EFFECTIVE REQUIREMENTS

81-8-1. Effectiveness and post-effective requirements. When an application for registration has been accepted and declared effective by the commissioner it shall be designated as a "registration statement" and the offering may be commenced in accordance with the terms and conditions of the order or notice of

effectiveness and governed by the following provisions:

(a) Effectiveness. If no stop order, stay order or notice of deficiency has been entered, and all deficiencies, if any, have been corrected, then registration shall become effective at the time specified in K.S.A. 17-1256(c) for registration by notification, or K.S.A. 17-1257(c) for registration by coordination, or K.S.A. 17-1258(b) for registration by qualification. A notice of deficiency is deemed to represent a pending proceeding under K.S.A. 17-1260 for purposes of precluding automatic effectiveness as provided in K.S.A. 17-1256(c) and K.S.A. 17-1257(c).

(b) Amendments to registration statements. During the period of effectiveness, if any statement, document or information contained in the registration statement or offering circular becomes inaccurate, incorrect or misleading, or in light of changes in circumstances, addendums are made necessary in order to present a full disclosure of material facts affecting the issuer's business or the offering, or if the commissioner requests additional information, the registrant shall file a correcting amendment no later than 15 days following such event. A registration statement relating to a security issued by a face amount certificate company or a redeemable security issued by an open-end management company or unit investment trust, as those terms are defined in the investment company act of 1940, may be amended after its effective date to increase the amount of registered securities to be offered. Amendment application requirements and fees are specified in K.A.R. 81-4-1(b). (Authorized by 1986 Supp. K.S.A. 17-1270(f); implementing K.S.A. 17-1256; 17-1257; 17-1264; effective Jan. 1, 1966; amended, T-88-29, Aug. 19, 1987; amended May 1, 1988.)

Article 9.—ANNUAL REPORTS

81-9-1. Final reports. Every registrant who has securities registered by qualification, notification, or coordination shall upon completion or termination of the offering file a final report of sales with the commissioner on Form K-1, or in such other form which includes the same type of information. (Authorized by K.S.A. 17-1270(f); implementing K.S.A. 17-1259 as amended by Senate Bill 66; effective Jan. 1, 1966; amended, E-70-15, Feb. 4, 1970; amended Jan. 1, 1971; amended, T-88-29, Aug. 19, 1987; amended May 1, 1988.)

M. DOUGLAS MAYS
Securities Commissioner

Doc. No. 006289

State of Kansas

**STATE BOARD OF INDIGENTS'
DEFENSE SERVICES****PERMANENT ADMINISTRATIVE
REGULATIONS**

(Effective May 1, 1988)

**Article 5.—ATTORNEY
COMPENSATION**

105-5-2. Rates of compensation. Appointed counsel shall be compensated at the rate of \$40 per hour for time spent in preparing cases for trial or appeal and for in-court presentation. (Authorized by K.S.A. 1986 Supp. 22-4507, 22-4522; implementing K.S.A. 1986 Supp. 22-4507; effective May 1, 1984; amended May 1, 1988.)

105-5-6. Maximum compensation; non-tried cases. (a) Each appointed attorney shall be compensated for time expended in representing indigent defendants and other indigent persons at the hourly rate prescribed in K.A.R. 105-5-2. Except as provided in K.A.R. 105-5-8, compensation shall not exceed \$750 in the following cases:

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

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

(b) Except as provided in K.A.R. 105-5-8 and K.A.R. 105-5-6(a), compensation to appointed attorneys shall not exceed \$500 in the following types of cases:

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

(2) habeas corpus cases as authorized by K.S.A. 1986 Supp. 22-4506;

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

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

(5) habeas corpus cases as authorized by K.S.A. 1986 Supp. 22-3428; and

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

(c) Except as provided in K.A.R. 105-5-8, compensation shall not exceed \$100 in the following types of cases:

(1) representation of grand jury witnesses determined to be indigent and called to testify pursuant to K.S.A. 22-3009;

(2) representation of indigent persons committed to custody as material witnesses pursuant to K.S.A. 1986 Supp. 22-2805;

(3) probation revocation hearings; and

(4) motions to modify sentence pursuant to K.S.A.

1986 Supp. 21-4603. (Authorized by K.S.A. 1986 Supp. 22-4507, and 22-4522; implementing K.S.A. 1986 Supp. 22-3716 and K.S.A. 1986 Supp. 22-4507; effective May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended May 1, 1988.)

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

105-7-8. Maximum compensation. Any claim in excess of \$300, in any one case, for investigative, expert or other services shall require approval of the director. (Authorized by K.S.A. 1986 Supp. 22-4507 and 22-4522; implementing K.S.A. 1986 Supp. 22-4507, 22-4508; effective May 1, 1984; amended May 1, 1988.)

RON MILES
Director

Doc. No. 006311

State of Kansas

BOARD OF COSMETOLOGY**PERMANENT ADMINISTRATIVE
REGULATIONS**

(Effective May 1, 1988)

Article 3.—SCHOOLS

69-3-23. Application for opening an electrology school. (a) Each applicant for licensure as a school of electrology shall submit a written notarized application to the board of cosmetology at least ninety days before the proposed date of opening.

(b) A license to operate a school of electrology shall be granted upon written application filed with the state board of cosmetology setting forth the following:

(1) The name of the applicant and the name of the owner of the school;

(2) the applicant's educational qualifications in electrology and prior experience;

(3) a financial statement which shows the applicant or owner to be financially able to purchase and provide the facilities and equipment required to operate a school of electrology for at least one year;

(4) the location of the proposed school and a descriptive floor plan of the premises showing the square footage, the floor space available for instructional purposes, the number of rooms, and the location and names of the instructional equipment to be located within each room; and

(5) an inventory of all instructional equipment to be provided and used in the operation of the school. (Authorized by and implementing K.S.A. 65-1903; as amended by L. 1987, Ch. 238, Sec. 3; effective, T-88-60, Dec. 28, 1987; effective May 1, 1988.)

69-3-24. Physical requirements for an electrology school. All schools of electrology shall provide and maintain at all times minimum premises as follows:

(a) The premises must contain not less than 1,000 square feet of useable floor space and must be com-

pletely segregated and separated from any other place of business, other than a school of cosmetology, by solid floor-to-ceiling walls.

(b) The school shall provide sufficient heat, light and ventilation to maintain safe, sanitary and healthful surroundings.

(c) The building shall contain at least two rooms; one for classroom study and one for practical work and instruction.

(d) The rooms for classroom study and instruction shall be large enough to provide for the required desks or tables, chairs, blackboard, bulletin board, slide projectors, film projectors, and all equipment required in teaching theory, and shall contain the following minimum equipment at all times:

- (1) One blackboard not less than 3 x 5 feet; and
- (2) suitable charts showing the muscles, nerves and circulatory systems of the face, head and neck and the hair shaft, follicle, root and other relevant components of hair.

(e) The room for clinical instruction shall be adequate in size to provide space for the following minimum equipment:

(1) One F.C.C. approved electrolysis machine, operator stool, and one lamp for each two students enrolled. This equipment shall be spaced at least four feet apart;

(2) a closed cabinet for clean sanitary linen for treatment tables;

(3) a sufficient number of both wet and dry sterilizers to accommodate enrollment. These sterilizers shall contain suitable sterilizing agents;

(4) restroom facilities for students;

(5) one standard textbook and one work kit for each student enrolled; and

(6) dispensary or supply room. (Authorized by and implementing K.S.A. 65-1903; as amended by L. 1987, Ch. 238, Sec. 3; effective, T-88-60, Dec. 28, 1987; effective May 1, 1988.)

69-3-25. School curriculum. Each school of electrology shall provide a course of training for the profession of electrologists. Training classes shall be scheduled no more than eight hours per day nor more than five days a week. The course of study shall include a minimum of 500 hours in the following:

(a) Theoretical and practical training in:

- (1) Ethics and professional conduct;
 - (2) shop management;
 - (3) consultations; and
 - (4) miscellaneous, optical, state laws, history.
- (b) Theory covering:
- (1) physiology;
 - (2) dermatology;
 - (3) trichology;
 - (4) peripheral vascular or capillary system;
 - (5) sensory nervous system;
 - (6) electricity;
 - (7) electrology; and
 - (8) thermology.

(c) Theory and practice of electrolysis and thermology:

- (1) Sanitation and sterilization as applied to electrology;
- (2) bacteriology and hygiene;
- (3) patron protection;
- (4) use of the electrical currents;
- (5) use of the equipment and instruments;
- (6) insertion of needles;
- (7) precautionary measures to observe;
- (8) before and after treatment;
- (9) immediate after care;
- (10) destruction of the papilla; and
- (11) observation including demonstration and its result.

TOTAL HOURS: 500. (Authorized by and implementing K.S.A. 65-1903; as amended by L. 1987, Ch. 238, Sec. 3; effective, T-88-60, Dec. 28, 1987; effective May 1, 1988.)

Article 11.—FEES

69-11-1. Fees. The following fees shall be charged:

Cosmetology license renewal (2 yr.)	\$20.00
Delinquent cosmetology fee	4.00
Cosmetology technician license (2 yr.)	14.00
Delinquent cosmetology technician fee	4.00
Three year senior cosmetology license	30.00
Manicurist license renewal (2 yr.)	14.00
Delinquent manicurist fee	4.00
Electrologist license renewal (2 yr.)	20.00
Delinquent electrologist fee	4.00
Apprentice license	10.00
Additional training license	10.00
Student examination fee	15.00
Out-of-state applicant	30.00
New school license	100.00
School license renewal	25.00
Delinquent school license fee	10.00
New beauty salon license	25.00
Beauty salon license renewal	15.00
Delinquent beauty salon license fee	6.00
Transfer of beauty salon license	10.00
New manicuring salon license	25.00
Manicuring salon license renewal	15.00
Delinquent manicuring salon license fee	6.00
Transfer of manicuring salon license	10.00
New electrology clinic license	25.00
Electrology clinic license renewal	15.00
Delinquent electrology clinic license fee	6.00
Transfer of electrology clinic license	10.00
Out-of-state affidavit	2.00
Any duplicate license	2.00

(Authorized by and implementing K.S.A. 65-1904 as amended by L. 1987, Ch. 238, Sec. 4; effective, E-76-44, Sep. 5, 1975; effective Feb. 15, 1977; amended May 1, 1978; amended May 1, 1981; amended May 1, 1982; amended, T-83-21, July 21, 1982; amended May 1, 1983; amended May 1, 1984; amended, T-88-60, Dec. 28, 1987; amended May 1, 1988.)

HENRI FOURNIER
Executive Director

Doc. No. 006308

State of Kansas

REAL ESTATE COMMISSION**PERMANENT ADMINISTRATIVE
REGULATIONS**

(Effective May 1, 1988)

**Article 1.—EXAMINATION AND
REGISTRATION**

86-1-11. Minimum curricula and standards for course. (a) Each school offering a course approved by the commission under subsection (a) of K.S.A. 58-3046a, and amendments thereto, shall use a course syllabus provided by the commission and shall register such course under the title "Principles of Real Estate."

(b) Each school offering a course approved by the commission under subsection (b) of K.S.A. 58-3046a, and amendments thereto, shall use a course syllabus provided by the commission and shall register such course under the title "Broker Pre-License Course."

(c) Additional instruction required by subsection (c) of K.S.A. 58-3046a, and amendments thereto, shall be courses approved by the commission and may include instruction in real estate finance, real estate law, real estate appraisal, real estate investment, and real estate management. Courses dealing with other subject matters may be approved by the commission. Total instruction time of approved courses shall be not less than four hours.

(d) Instruction required by subsection (d) of K.S.A. 58-3046a, and amendments thereto, shall include 30 hours of instruction designated by the commission as required hours and 20 hours elected by the licensee from courses approved by the commission as elective hours to meet this requirement. (Authorized by K.S.A. 74-4202(b); implementing K.S.A. 1986 Supp. 58-3046a; effective, T-86-31, Sept. 24, 1985; effective May 1, 1986; amended, T-87-32, Nov. 19, 1986; amended May 1, 1987; amended May 1, 1988.)

86-1-13. Submission of evidence of course attendance. (a) As a prerequisite to taking the examination required by K.S.A. 58-3039 and amendments thereto, each applicant for an original license shall submit evidence required by subsection (a) of K.S.A. 58-3046a, and amendments thereto, to the testing service designated by the commission. The evidence submitted shall be a certificate of completion of a principles of real estate course, of not less than 30 hours, approved by the commission and attended by the applicant within 12 months immediately preceding the date of the examination.

(b) As a prerequisite to taking the examination required by K.S.A. 58-3046a, and amendments thereto, each applicant for an original license as a broker shall submit evidence required by subsection (b) of K.S.A. 58-3046a, and amendments thereto, to the testing service designated by the commission. The evidence submitted shall be a certificate of completion of a broker pre-license course, of not less than 24 hours, approved by the commission and attended by the

applicant within 12 months immediately preceding the date of the examination.

(c) Each licensee shall submit to the commission a certificate of completion for each course for which credit is requested to meet the requirements of subsections (c) or (d) of K.S.A. 58-3046a and amendments thereto. (Authorized by K.S.A. 74-4202(b); implementing K.S.A. 1986 Supp. 58-3046a; effective, T-86-31, Sept. 24, 1985; effective May 1, 1986; amended May 1, 1988.)

**Article 3.—PERSONS HOLDING
LICENSES; DUTIES**

86-3-6a. Offices. (a) A primary office may be in the supervising broker's residence. A branch office may be in the branch broker's residence.

(b) Office space shall be sufficient to maintain the records relating to the broker's real estate business and to allow examination or inspection by the commission pursuant to K.S.A. 58-3061 and amendments thereto without interference by other users of the property. (Authorized by K.S.A. 74-4202(b); implementing K.S.A. 1986 Supp. 58-3060; effective, E-81-18, July 16, 1980; effective May 1, 1981; amended, T-37-32, Nov. 19, 1986; amended May 1, 1987; amended May 1, 1988.)

86-3-18. Trust account records. (a) Each supervising broker, and each branch broker who maintains a separate trust account for a branch office as provided by K.S.A. 58-3061 and amendments thereto, shall maintain in the broker's office a complete record of all monies received or escrowed on real estate transactions, including the following:

(1) Deposit slips showing the transaction number assigned pursuant to K.A.R. 86-3-22, the date of deposit, the amount, and where deposited;

(2) monthly trust account bank, savings and loan association or credit union statements, including canceled checks and deposit slips;

(3) all voided trust account checks;

(4) a check register which shows the chronological sequence in which funds are received and disbursed. For funds received, the check register shall include the date of deposit, the transaction number assigned pursuant to K.A.R. 86-3-22, and the amount. For disbursement, the check register shall include the date, the transaction number assigned pursuant to K.A.R. 86-3-22, the payee, and the amount. The names of the principals may be included. A balance shall be shown, and the balances shall be kept current;

(5) a ledger for each transaction. The ledger shall include the names of the principals, the property address, and the transaction number assigned pursuant to K.A.R. 86-3-22; the amount and date of deposit of all monies received; and the check number, the date, the payee, and the amount of each disbursement. A balance shall be shown for each ledger account, and balances shall be kept current; and

(6) a ledger for broker's funds, if such funds are deposited in the trust account pursuant to K.S.A. 58-3062(a)(3) and amendments thereto. The balance shall be kept current.

(b) The trust account shall be reconciled monthly against bank, savings and loan association, or credit union records unless there has been no activity during the month.

(c) Trust account liability, as established by ledger sheet balances, shall be compared to the reconciled trust account balance monthly unless there has been no activity during the month. (Authorized by K.S.A. 74-4202(b), implementing K.S.A. 1986 Supp. 58-3061, effective May 1, 1975; amended, E-81-18, July 26, 1980; amended May 1, 1981; amended T-88-32, Jan. 1, 1988; amended May 1, 1988.)

86-3-22. Transaction identification. (a) Each supervising broker shall assign a transaction number to each real estate sales contract, option agreement, and lease agreement for which the broker acts as an employee of, or on behalf of, the owner, purchaser, lessor or lessee. If a separate trust account is maintained for a branch office as provided by K.S.A. 58-3061 and amendments thereto, the transaction number shall be assigned by the branch broker.

(b) Sales contracts and option agreements shall be numbered in consecutive order by contract date each calendar year with the first two digits designating the year (88-1, 88-2). Lease agreements shall be numbered in consecutive order by contract date each calendar year with the first two digits designating the year and preceded by the letter "L" (L88-1, L88-2).

(c) The transaction number shall be shown on the transaction file and shall be included on any of the following applicable records:

- (1) The trust account check register to identify funds deposited or disbursed;
- (2) each trust account deposit slip with the amount of the deposit related to each transaction designated;
- (3) each check drawn on the trust account;
- (4) each transaction ledger maintained in accordance with K.A.R. 86-3-18(5); and
- (5) each receipt from an escrow agent required by K.A.R. 86-3-21.

(d) If the broker's records are computerized, the transaction number shall be shown on any applicable computer sensitive record.

(e) A different transaction numbering system requested by a broker may be approved by the commission. (Authorized by 74-4202(b); implementing K.S.A. 1986 Supp. 58-3061; effective, T-88-32, Jan. 1, 1988; effective May 1, 1988.)

JEAN DUNCAN
Administrative Officer

Doc. No. 006309

State of Kansas

STATE CORPORATION COMMISSION
MINED-LAND CONSERVATION
AND RECLAMATION BOARD

PERMANENT ADMINISTRATIVE
REGULATIONS

(Effective May 1, 1988)

Article 2.—MEANING OF TERMS

47-2-75. Definitions; incorporation by reference. The following parts and sections of the federal rules and regulations of the office of surface mining, department of the interior, promulgated pursuant to the surface mining control and reclamation act of 1977, are hereby incorporated by reference as rules and regulations of the board, with exceptions as indicated. The incorporation by reference shall cover the parts and sections in effect on July 1, 1987:

- (a) Definitions, 30 CFR 700.5, except:
 - (1) "Regulatory authority" and "state regulatory authority" are defined in K.A.R. 47-2-53;
 - (2) "Surface coal mining operations" is defined in K.S.A. 49-403(s); and
 - (3) "Surface coal mining and reclamation operations" is defined in K.S.A. 49-403(r).
- (4) The following shall be deleted from the definition of "anthracite":
 - (1) Notices of changes made to this publication will be periodically published by the office of surface mining in the federal register. This ASTM standard is on file and available for inspection at the OSM office, U.S. Department of the Interior, South Interior Building, Washington, D.C. 20240, at each OSM regional office, district office and field office, and at the central office of the applicable state regulatory authority, if any. Copies of this publication may also be obtained by writing to the above locations. A copy of this publication will also be on file for public inspection at the federal register library, 1100 L. St., N.W. Washington, D.C. Incorporation by reference provisions approved by the director of the federal register February 7, 1979. The director's approval of this incorporation by reference expires on July 1, 1981.

(5) "Regulatory program" is defined in K.A.R. 47-2-53a.

- (b) Definitions, 30 CFR 701.5, except:
 - (1) "Imminent danger to the health and safety of the public" is defined in K.S.A. 49-403(n);
 - (2) "Operator" is defined in K.S.A. 49-403(d);
 - (3) "Permit" is defined in K.S.A. 49-403(o);
 - (4) "Permit area" is defined in K.S.A. 49-403(p);
 - (5) "Significant, imminent environmental harm to land, air or water resources" is defined in K.A.R. 47-2-58; and
 - (6) The following federal definitions are deleted entirely:
 - (A) "Agricultural activities or farming";
 - (B) "Alluvial valley floors";
 - (C) "Arid and semiarid area";
 - (D) "Essential hydrologic functions";

(continued)

- (E) "Flood irrigation";
- (F) "Materially damage the quality and quantity of water";
- (G) "Rangeland";
- (H) "Special bituminous coal mines";
- (I) "Subirrigation";
- (J) "Undeveloped rangeland"; and
- (K) "Upland areas."
- (c) Definitions, 30 CFR 705.5, except:
 - (1) "Employee" is defined in K.A.R. 47-2-21; and
 - (2) "State regulatory authority" is defined in K.A.R. 47-2-53. (Authorized by K.S.A. 49-404, 49-405; implementing K.S.A. 49-401 et seq.; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended May 1, 1985; amended May 1, 1986; amended May 1, 1988.)

Article 3.—APPLICATION FOR MINING PERMIT

47-3-42. Application for mining permit; incorporation by reference. (a) The following parts and sections of the federal rules and regulations of the office of surface mining, department of the interior, promulgated pursuant to the surface mining control and reclamation act of 1977, are hereby incorporated as rules and regulations of the board. Except as otherwise indicated, the incorporation by reference shall cover the parts and sections in effect on July 1, 1987:

- (1) Identification of interests, 30 CFR 778.13;
- (2) violation information, 30 CFR 778.14;
- (3) right of entry and operation information, 30 CFR 778.15;
- (4) status of unsuitability claims, 30 CFR 778.16;
- (5) permit term information, 30 CFR 778.17(a);
- (6) insurance, 30 CFR 778.18;
- (7) newspaper advertisement and proof of publication, 30 CFR 778.21;
- (8) facilities or structures used in common, 30 CFR 778.22;
- (9) responsibilities, 30 CFR 779.4. The phrase "this part" shall be replaced by "K.A.R. 47-3-42(a)(9) to (18), inclusive";
- (10) general requirements, 30 CFR 779.11;
- (11) general environmental resources information, 30 CFR 779.12;
- (12) climatological information, 30 CFR 779.18;
- (13) vegetation information, 30 CFR 779.19;
- (14) fish and wildlife resources information, 30 CFR 779.20. Reference to "mine plan" shall be deleted and replaced by "permit";
- (15) soil resources information, 30 CFR 779.21;
- (16) land-use information, 30 CFR 779.22. The phrase "this part" shall be replaced by "K.A.R. 47-3-42(a)(9) to (18), inclusive";
- (17) maps: general information, 30 CFR 779.24;
- (18) cross sections, maps, and plans, 30 CFR 779.25;
- (19) operation plan: general requirements, 30 CFR 780.11;
- (20) operation plan: existing structures, 30 CFR 780.12;
- (21) operation plan: blasting, 30 CFR 780.13;

- (22) operation plan: maps and plans, 30 CFR 780.14;
- (23) air pollution control plan, 30 CFR 780.15;
- (24) fish and wildlife plan, 30 CFR 780.16;
- (25) reclamation plan: general requirements, 30 CFR 780.18;
- (26) hydrologic information, 30 CFR 780.21;
- (27) geologic information, 30 CFR 780.22;
- (28) reclamation plan: postmining land uses, 30 CFR 780.23;
- (29) reclamation plan: ponds, impoundments, banks, dams, and embankments, 30 CFR 780.25;
- (30) reclamation plan: surface mining near underground mining, 30 CFR 780.27;
- (31) diversions, 30 CFR 780.29;
- (32) protection of public parks and historic places, 30 CFR 780.31;
- (33) relocation or use of public roads, 30 CFR 780.33;
- (34) disposal of excess spoil, 30 CFR 780.35;
- (35) transportation facilities, 30 CFR 780.37;
- (36) experimental practices mining, 30 CFR 785.13;
- (37) prime farmlands, 30 CFR 785.17. The last sentence in 30 CFR 785.17(c)(1)(i) shall be deleted;
- (38) variances for delay in contemporaneous reclamation requirement in combined surface and underground mining operations, 30 CFR 785.18;
- (39) augering, 30 CFR 785.20;
- (40) coal preparation plants not located within the permit area of a specified mine, 30 CFR 785.21.
- (41) in situ processing activities, 30 CFR 785.22;
- (42) public participation in permit processing, 30 CFR 773.13. The phrase "with section 503(a)(6) or section 504(h) of the act or" shall be deleted;
- (43) review of permit applications, 30 CFR 773.15;
- (44) permit issuance and right of renewal, 30 CFR 773.19. The phrase, "unless the requirements of § 778.17 of this chapter are met" shall be deleted;
- (45) applicability, 30 CFR 701.11(e), deleting subsections (a), (b), (c), (d) and (f); and
- (46) regulatory coordination with requirements under other laws, 30 CFR 773.12.
- (b) The following terms shall be replaced with the indicated terms wherever they appear in the text of the rules and regulations incorporated by reference under this section:
 - (1) "Subchapter k" or "subchapter k of this chapter" shall be replaced by "K.A.R. 47-9-1."
 - (2) "This chapter," "this subchapter" or "subchapter g of this chapter" shall be replaced by "these rules and regulations."
 - (3) "Act" shall be replaced by "state act."
 - (4) "Section 515", "section 515(b)," or "section 515(b)(22)" shall be replaced by "K.S.A. 49-405a, 49-408 to 49-413, inclusive, and 49-429."
 - (5) "Subchapter j of this chapter" or "part 800 of this chapter" shall be replaced by "article 8 of chapter 47 of the Kansas administrative rules and regulations."
 - (6) "Section 502" and "section 508" shall be replaced by "K.S.A. 1986 Supp. 49-406."
 - (7) "Section 515(b)(16)" or "section 516" shall be replaced by "K.S.A. 49-429."

(8) "Subchapter r of this chapter" shall be replaced by "the office."

(9) "Subchapter b of this chapter" shall be replaced by "K.A.R. 47-9-4."

(10) "Part 775 of this chapter" shall be replaced by "K.S.A. 49-407(d), 49-416a, 1986 Supp. 49-422a, and article 4 of chapter 47 of the Kansas administrative rules and regulations."

(11) "Parts 762, 764, and 769 of this chapter" or "parts 764 and 769 of this chapter" shall be replaced by "K.A.R. 47-12-4."

(12) "Part 816" or "part 816 of this chapter" shall be replaced by "K.A.R. 47-9-1(c)."

(13) "§ 775.13" shall be replaced by "K.S.A. 1986 Supp. 49-422a."

(14) "§ 775.11" shall be replaced by "K.S.A. 49-407(d), 49-416a, and article 4 of chapter 47 of the Kansas administrative rules and regulations."

(15) "Part 785 of this chapter" shall be replaced by "K.A.R. 47-3-42(a)(36) to (40), inclusive." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-405, 49-407, 49-427, K.S.A. 1986 Supp. 49-406; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981, amended May 1, 1985; amended May 1, 1986; amended May 1, 1988.)

Article 7.—COAL EXPLORATION

47-7-2. Coal exploration; incorporation by reference. The following parts and sections of the federal rules and regulations of the office of surface mining, department of the interior, promulgated pursuant to the surface mining control and reclamation act of 1977, are hereby incorporated by reference as rules and regulations of the board. The incorporation by reference shall cover the parts and sections as they existed in effect on July 1, 1987:

(a) Notice requirements for exploration removing 250 tons of coal or less, 30 CFR 772.11;

(b) permit requirements for exploration removing more than 250 tons of coal, 30 CFR 772.12;

(c) coal exploration compliance duties, 30 CFR 772.13;

(d) requirements for commercial sale, 30 CFR 772.14; and

(e) public availability of information, 30 CFR 772.15.

(f) The following terms shall be replaced with the indicated terms wherever they appear in the text of the rules and regulations incorporated by reference under this section:

(1) "Part 815 of this chapter" shall be replaced by "K.A.R. 47-9-1(b)."

(2) "This chapter" shall be replaced by "these rules and regulations."

(3) "Subchapter f of this chapter" shall be replaced by "article 12 of chapter 47 of the Kansas administrative rules and regulations."

(4) "Part 775" shall be replaced by "K.S.A. 49-407(d), 49-416a, 1986 Supp. 49-422a, and article 4 of chapter 47 of the Kansas administrative rules and regulations."

(5) "Section 518 of the act" shall be replaced by "K.S.A. 49-405c."

(6) "Subchapter 1" shall be replaced by "articles 5 and 15 of chapter 47 of the Kansas administrative rules and regulations."

(7) "Parts 773-785 of this chapter" shall be replaced by "articles 3, 4, 6, and 10 of chapter 47 of the Kansas administrative rules and regulations, K.S.A. 49-407(d), 49-416a, and 1986 Supp. 49-422a."

(8) "Section 518 of the act, and subchapter 1 of this chapter," shall be replaced by "K.S.A. 49-405c and article 5 of chapter 47 of the Kansas administrative rules and regulations."

(9) "This part" shall be replaced by "K.A.R. 47-7-2." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-427; effective, E-81-30, Oct. 8, 1980, effective May 1, 1981; amended May 1, 1986; amended May 1, 1988.)

Article 9.—PERFORMANCE STANDARDS

47-9-1. Performance standards; incorporation by reference. The following parts and sections of the federal rules and regulations of the office of surface mining, department of the interior, promulgated pursuant to the surface mining control and reclamation act of 1977, are hereby incorporated by reference as rules and regulations of the board as the performance standards to be maintained by surface and underground coal mining and reclamation operations. The incorporation by reference shall cover the parts and sections in effect on July 1, 1985, except as otherwise indicated:

(a) Permanent program performance standards—general provisions, 30 CFR 810.2, except "subchapter" shall be replaced by "K.A.R. 47-9-1(a)";

(b) permanent program performance standards—coal exploration, 30 CFR Part 815;

(c) permanent program standards—surface mining activities, 30 CFR Part 816, except as follows: This section shall be incorporated by reference as in effect on July 1, 1987, except as follows:

(1) a subsection (g) shall be added to 30 CFR 816.11 which reads: "Increment boundary markers. As deemed appropriate by the board or its designated representative to ascertain increment boundaries, increment boundary markers shall be placed on each portion of a permit area on which a performance bond or other equivalent guarantee was or will be posted as provided by K.S.A. 1986 Supp. 49-406(h)";

(2) the first paragraph of subsection (d) of 30 CFR 816.22 shall be replaced by the following:

Absent a regulatory authority approved schedule for soil material distribution, topsoil materials removed under paragraph (a) of this section shall be redistributed within 120 days following rough backfilling and grading in a manner that—

(3) the first paragraph of subsection (a) of C.F.R. 816.102 shall be replaced by the following:

Absent a regulatory authority approved schedule, backfilling and grading will be completed within 180 days following coal removal and shall not be more than four spoil ridges behind the pit being worked, the

(continued)

spoil from the active pit being considered the first ridge. Disturbed areas shall be backfilled and graded to—

(4) "subchapter" shall be replaced by "K.A.R. 47-9-1(c)";

(d) permanent program performance standards—underground mining activities, 30 CFR Part 817, except as follows: This section shall be incorporated by reference as in effect on July 1, 1987, except as follows:

(1) a subsection g shall be added to 30 CFR 817.11 which reads: "Increment boundary markers. Increment boundary markers shall be placed on each portion of a permit area on which a performance bond or other equivalent guarantee was or will be posted as provided by K.S.A. 1986 Supp. 49-406(h)";

(2) "subchapter" shall be replaced by "K.A.R. 47-9-1(d)";

(e) Special permanent program performance standards—auger mining, 30 CFR Part 819.

(f) special permanent program performance standards—operations on prime farmland, 30 CFR Part 823;

(g) permanent program performance standards—coal preparation plants not located within the permit area of a mine, 30 CFR Part 827. This section shall be incorporated by reference as in effect on October 1, 1985; and

(h) special permanent program performance standards—in situ processing, 30 CFR Part 828.

(i) The following terms shall be replaced with the indicated terms wherever they appear in the text of rules and regulations incorporated by reference under this section:

(1) "Subchapter k" shall be replaced by "K.A.R. 47-9-1."

(2) "Director" or "regional director" shall be replaced by "board."

(3) "Subchapter g" shall be replaced by "these rules and regulations."

(4) "Subchapter j" shall be replaced by "article 8 of chapter 47 of the Kansas administrative rules and regulations."

(5) "Subchapter b of this chapter" shall be replaced by "K.A.R. 47-9-4."

(6) "This part" or "30 CFR Parts 816 through 828" shall be replaced by "K.A.R. 47-9-1."

(7) "This chapter" or "subchapter c" shall be replaced by "these rules and regulations." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-405, 49-408, 49-409, 49-411, 49-413, 49-415, 49-429; effective May 1, 1980; amended, E-81-30, Oct. 8, 1980; amended May 1, 1981; amended May 1, 1985; amended May 1, 1986; amended May 1, 1988.)

Article 10.—UNDERGROUND MINING

47-10-1. Incorporation by reference; underground mining. (a) The following parts and sections of the federal rules and regulations of the office of surface mining, department of the interior, promulgated pursuant to the surface mining control and reclamation act of 1977, are hereby incorporated by reference as rules and regulations of the board for the operation of un-

derground mining and reclamation operations in the state of Kansas. The incorporation by reference shall cover the parts and sections as they existed in effect on July 1, 1987:

(1) Underground mining permit applications—minimum requirements for information on environmental resources, 30 CFR Part 783, deleting 30 CFR 783.1, 783.2, 783.4, and 783.10;

(2) Underground mining permit applications—minimum requirements for reclamation and operation plans, 30 CFR Part 784, deleting 30 CFR 784.1, 784.2, 784.4, and 784.10; and

(b) The following terms shall be replaced with the indicated terms wherever they appear in the text of the rules and regulations incorporation by reference under this section:

(1) "Subchapter k of this chapter" or "subchapter k" shall be replaced by "K.A.R. 47-9-1."

(2) "Subchapter b of this chapter" or "subchapter b" shall be replaced by "K.A.R. 47-9-4."

(3) "Section 515 and 516 of the act" shall be replaced by "K.S.A. 49-405a, 49-408 to 49-413, inclusive, and 49-429."

(4) "Subchapter j of this chapter" or "subchapter j" shall be replaced by "article 8 of chapter 47 of the Kansas administrative rules and regulations."

(5) "This chapter" shall be replaced by "these rules and regulations."

(6) "30 CFR Parts 773 and 775" shall be replaced by "K.A.R. 47-3-42(a)(41) to (43), inclusive, K.A.R. 47-6-6, K.S.A. 49-407(d), 49-416a, 1986 Supp. 49-422a, and article 4 of chapter 47 of the Kansas administrative rules and regulations." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-429; effective May 1, 1980; amended, E-81-30, Oct. 8, 1980; amended May 1, 1981; amended May 1, 1986; amended May 1, 1988.)

Article 12.—LANDS UNSUITABLE FOR SURFACE MINING

47-12-4. Land unsuitable for surface mining; incorporation by reference. The following sections of the federal rules and regulations of the office of surface mining, department of the interior, promulgated pursuant to the surface mining control and reclamation act of 1977, are hereby incorporated by reference as rules and regulations of the board. The incorporation by reference shall cover the sections as they existed in effect on July 1, 1987:

(a) Definitions, 30 CFR 761.5;

(b) areas where mining is prohibited or limited, 30 CFR 761.11, deleting subsection (b);

(c) procedures, 30 CFR 761.12, deleting subsection (c);

(d) definitions, 30 CFR 762.5;

(e) criteria for designating lands as unsuitable, 30 CFR 762.11;

(f) land exempt from designation as unsuitable for surface coal mining operations, 30 CFR 762.13;

(g) exploration on land designated as unsuitable for surface coal mining operations, 30 CFR 762.14;

(h) petitions, 30 CFR 764.13;

(i) initial processing, recordkeeping, and notification requirements, 30 CFR 764.15;
 (j) hearing requirements, 30 CFR 764.17;
 (k) decision, 30 CFR 764.19;
 (l) data base and inventory system requirements, 30 CFR 764.21;

(m) public information, 30 CFR 764.23; and
 (n) regulatory authority responsibility for implementation, 30 CFR 764.25; and

(o) The following terms shall be replaced with the indicated terms wherever they appear in the text of the rules and regulations incorporated by reference under this section:

(1) "§§ 775.11 and 775.13 of this chapter" shall be replaced by "K.S.A. 49-407(d), 49-416a, 1986 Supp. 49-422a, and article 4 of chapter 47 of the Kansas administrative rules and regulations."

(2) "Sections 522(a)(2) and (3)" shall be replaced by "K.S.A. 49-405b(a)(1) and (2)."

(3) "This chapter" shall be replaced by "these rules and regulations."

(4) "§ 526(e) of the act and § 775.13 of this chapter" shall be replaced by "K.S.A. 1986 Supp. 49-422a and K.S.A. 49-426."

(5) "Section 522 of the act" or "section 522(e) of the act" shall be replaced by "K.S.A. 49-405b."

(6) "Section 701(28) of the act" shall be replaced by "K.S.A. 49-403(s)."

(7) "Part 762, 764 or 769 of this chapter" shall be replaced by "K.A.R. 47-12-4(d) to (o), inclusive."

(8) "Part 761 of this chapter" shall be replaced by "K.A.R. 47-12-4(a), (b), (c) and (o)."

(9) "Part 761, 762, or 764" shall be replaced by "K.A.R. 47-12-4."

(10) "Part 722 of this chapter" shall be replaced by "K.A.R. 47-7-2."

(11) "Act" shall be replaced by "state act."

(12) "This part" or "this subchapter" shall be replaced by "K.A.R. 47-12-4." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-405b, 1986 Supp. 49-422a and 49-426; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended May 1, 1986; amended May 1, 1988.)

RON FOX
 Executive Director

Doc. No. 006316

State of Kansas

STATE CORPORATION COMMISSION

PERMANENT ADMINISTRATIVE REGULATIONS

(Effective May 1, 1988)

Article 1.—RULES OF PRACTICE AND PROCEDURE

82-1-231. Applications in rate cases. (a) Each electric, gas, telephone or water utility whose rates are under review by the commission at the request of the utility, or as a result of investigation, complaint or any other procedure, shall comply with this regulation and shall be prepared to establish, by appropriate schedules and competent testimony, all relevant facts and data pertaining to its business and operations which will assist the commission in arriving at a determination of rates that are fair, just and reasonable both to the utility and the public.

(b) Procedures for different classes of utilities.

(1) Each utility shall be classified according to the uniform system of accounts prescribe by the commission.

(2) When proposed changes in tariffs will result in a major increase in its rates or charges, each class A or class B utility shall prepare and submit its application and schedules in conformity with subsection (c) of this regulation. Any utility which, for any reason, is classified as other than a class A or class B electric, gas, telephone or water utility may follow the procedures outlined in subsection (d) of this regulation. Any rural electric cooperative distribution system providing service to less than 15,000 customers may follow the procedures outlined in K.A.R. 82-1-231a.

(3) Any utility which proposes a change in rates within 12 months after a commission order following a general rate proceeding and investigation may submit schedules which eliminate data that duplicates information provided in the original schedules if:

(A) the utility is willing to adopt all the regulatory procedures, principles and rate of return established by the commission in that order; and

(B) the utility receives prior approval from the commission.

(4) An application by a class A and class B utility shall be construed to propose changes in tariffs which result in a major increase in rates or charges when:

(A) The proposed changes relate to a general increase in revenues for the purpose of obtaining an alleged fair rate of return;

(B) material changes in operations, facilities or cost of service occur subsequent to the test year employed in any major rate decision, except for proposals which are for the sole purpose of compensating for the increased production or purchase cost of a principal product; or

(C) the proposed changes will, in the opinion of the commission, materially affect the public interest.

(c) Class A and class B utility rate proceedings; application and evidence. Each application by a class

(continued)

A or class B utility which proposes a major increase in rates or charges shall be accompanied by schedules which will indicate to the commission the nature and extent of the proposed changes. Applications shall be based upon data submitted for a test year.

"Test year" means any consecutive 12-month period selected for the purpose of determining or justifying the rates. The test year selected by the applicant may be disapproved by the commission for cause.

The original and nine copies of the application and schedules shall be filed with the commission. Each application and schedule shall be bound together under one looseleaf binder. If the bulk of the material would make such handling impractical, two or more volumes in looseleaf form shall be filed. The size of print used in the application and schedules shall not be smaller than elite type reduced 25 percent. Negative numbers shall be shown in parentheses. Amounts included in the application shall be cross-referenced between the appropriate summary schedule and supporting schedules as well as between the various sections. Referencing shall include allocation ratios, when appropriate. All items shall be self-explanatory or additional information, cross references or explanatory footnotes shall be presented on the schedule.

The application shall be supported by schedules as required by this regulation, and shall be assembled under topical sections, with index tabs for each section and page numbers for each schedule. The form, order and titles of each section shall conform to the following requirements:

(1) Application, letter of transmittal, and authorization. This section shall contain a copy of the application, a copy of the letter of transmittal, and the appropriate document or documents authorizing the filing of the application, if any.

(2) General information and publicity. This section shall describe the means generally employed by the utility to acquaint the general public that would be affected by the proposed rate change with the nature and extent of the proposal. This section may include, but is not limited to, statements concerning meetings with public officials, civic organizations and citizen groups, newspaper articles and advertisements, and shall include general information concerning the application which will be of interest to the public and suitable for publication. Such information shall include, when applicable:

(A) The aggregate annual revenue increase which the application proposes;

(B) names of communities affected;

(C) the number and classification of customers to be affected;

(D) the average per customer increase sought in dollars and cents;

(E) a summary of the reasons for filing the application;

(F) such other pertinent information which the applicant may desire to submit or which the commission may require; and

(G) copies of any press releases issued by the appli-

cant prior to or at the time of filing the application for a rate review which relate to that review.

(3) Summary of rate base, operating income and rate of return. This section shall contain schedules which show the components of the test year rate base, operating revenues, expenses and income as well as the rate of return under the present and proposed tariff or tariffs. The schedules shall be presented as follows:

(A) The first schedule shall summarize, for each utility service for which the rate change is sought, the total Kansas and commission jurisdictional components of the rate base, operating revenues, expenses, net income and rate of return.

(B) Supporting schedules shall show the unadjusted commission jurisdictional figures and shall further set out each adjustment to arrive at the total adjustments. When added to the unadjusted total, the adjusted commission jurisdictional figures shall correspond with the commission jurisdictional figures presented on the first schedule of this section.

(C) Additional schedules not applicable to other sections of the application may be set out in this section.

(4) Plant investments. This section shall contain the items of plant investment, presented in the following manner:

(A) The first schedule shall detail, by functional classification, unadjusted amounts, adjustments to these amounts and jurisdictional allocations.

(B) Supplemental schedules, by primary account, shall set forth year-end plant investment for the three calendar years preceding the test year, for the test year and for the 12-month period preceding the test year. Additional schedules setting forth pertinent information related to the plant may be submitted under this section. "Primary account," as utilized in this regulation, shall mean the account classification provided in the uniform system of accounts prescribed by the commission for the utility.

(5) Accumulated provision for depreciation, amortization and depletion. This section shall contain schedules which shall show, by functional classification, as of dates corresponding with the dates of plant investment data submitted under section 4, the balances of the reserve accounts in which the credits representing provisions for depreciation, amortization, depletion, any adjustments thereto and jurisdictional allocations are accumulated. Upon commission request, or when considered relevant by the utility, schedules may be submitted showing analysis of the activities of the reserve accounts relating to the plant in service, segregated by primary accounts, or other segregation as is required by the uniform system of accounts prescribed by the commission for that utility.

(6) Working capital. This section shall set forth in detail each component of the working capital items the applicant proposes to submit as elements in the composition of the rate base. This section shall be presented as follows:

(A) The first schedule shall contain the components included in working capital, adjustments thereto and jurisdictional allocations.

(B) The method of calculation for each component of

working capital and a complete explanation of any pro forma adjustments shall be included in supporting schedules.

(7) Capital and cost of money. This section shall contain:

(A) A schedule indicating the amounts of the major components of the capital structures of the utility, including long term debt, preferred stock, and common equity, outstanding as of the beginning and at the end of the test year. This schedule shall contain the ratios of each component to the total capital including the percentage cost and the requested overall rate of return. When only a portion of the capital serves the utility operations involved in the proceeding, as would be the case in a multi-utility or multistate operation, the schedule shall show an appropriate allocation of the capital items;

(B) a schedule disclosing the cost of each issue of debt and preferred stock outstanding, with due allowance for premiums, discounts and issuance expense. Data relating to the other components of capital as may be appropriate shall also be included;

(C) a schedule displaying historical interest coverage for at least the three calendar years preceding the test year, the test year and the 12-month period preceding the test year. The method used in the calculation shall be indicated and shall be consistent with the applicant's bond indenture requirements; and

(D) the consolidated capital structure, if the applicant is a part of consolidated group or a division of another company.

(8) Financial and operating data. This section shall contain, for each of the three calendar years immediately preceding the test year, the test year, and the 12-month period preceding the test year:

(A) A balance sheet by primary account;

(B) comparative income and retained earnings statements. The primary account numbers shall be shown and dividends paid, by class of stock, shall be indicated;

(C) operating revenue and expenses by primary accounts;

(D) operating statistics appropriate to the type of utility, including kwh or mcf sales by rate schedules and customer consumption, power cost per kwh, and maintenance cost per subscriber. The statistics shall be presented in at least the same detail as is required in the annual reports to the commission; and

(E) annual payrolls by primary account.

(9) Test year and pro forma income statements. The first schedule shall present an operating income statement depicting the unadjusted test year operations, pro forma test year operations and allocations to jurisdictions. Supporting schedules shall set forth a full and complete explanation of the purpose and rationale for the pro forma adjustments. Such pro forma adjustments may include:

(A) Adjustments to reflect the elimination or normalization of nonrecurring and unusual items; and

(B) adjustments for known or determinable changes in revenue and expenses.

(10) Depreciation and amortization. This section shall include the schedules indicating depreciation

rates by primary account, depreciation expense for the test year, and amounts charged to operations, clearing accounts and construction. When items of amortization appear in the income statements, schedules showing the basis for those items shall also be included in this section or made available. If new depreciation rates are proposed, a copy of the depreciation study shall be provided or made available.

(11) Taxes. This section shall contain the following information:

(A) The first schedule shall detail the various taxes chargeable to operations allocated jurisdictionally. Appropriate supporting schedules for taxes other than income taxes shall be provided if pro forma adjustments are presented.

(B) A schedule disclosing the calculation of taxable income shall be included.

(C) A description of adjustments to arrive at taxable income, including method of computation, shall be provided.

(D) A schedule shall be provided depicting the calculation of income taxes, the jurisdictional allocation of those taxes and a division of those taxes to reflect current or deferred taxes.

(E) A schedule shall also be included for deferred investment tax credits showing the annual charges, credits and the balance to that account for a period of not less than 10 years. Furthermore, those schedules shall show the accumulated investment tax credits by the pertinent effective rate or rates for the test year and the 12-month period preceding the test year.

(F) A schedule shall be included for deferred income taxes showing the annual charges, credits and balance to the account for a period of not less than 10 years and for the test year and the year preceding the test year. For both the investment tax credits and deferred income tax schedules, the test year and the 12-month period preceding the test year balances shall be allocated to the jurisdictions.

(12) Allocation ratios. This section shall contain complete detail for all ratios used in the allocations between jurisdictions, areas of operations, departments, classes of customers and other allocable items. In addition, this section shall include a narrative description of the rationale for the allocation ratio, the components included in the calculation of the ratio and their source, the allocation percentages applicable to jurisdictions or departments and what is being allocated by the ratio.

(13) Annual report to stockholders and the U.S. Securities and Exchange Commission. This section shall contain:

(A) The most recent annual report of the utility to its stockholders, and if the utility is a subsidiary of a parent corporation, the most recent annual report of the parent corporation to its stockholders; and

(B) when applicable, a copy of the most recent form 10-K filed with the U.S. Securities and Exchange Commission.

(14 through 16) Additional evidence. These sections include all other schedules, exhibits and data deemed

(continued)

pertinent to the application which may not be properly included under the preceding sections. Such additional evidence may be submitted at the option of the applicant and shall be submitted upon the direction of the commission.

(17) This section shall be applicable only to applications and schedules filed by or pertaining to the operations of gas or electric utilities. This section shall contain:

(A) A summary schedule which provides, by general customer classification, the test year revenues utilizing the existing and proposed tariffs. The test year revenues under existing tariffs shall be adjusted when pro forma normalization or annualization adjustments are appropriate.

(B) a schedule detailing the following data for the test year, by tariff schedule:

- (i) The tariff number;
- (ii) a narrative description of that tariff number;
- (iii) the average number of customers served during the test year;
- (iv) the units sold;
- (v) the base revenue;
- (vi) the revenue from riders, fuel or purchased power clauses;
- (vii) the total revenue, utilizing the existing tariff. The total revenue shall be shown as adjusted, if appropriate;
- (viii) revenue per unit sold;
- (ix) the proposed tariff revenue;
- (x) the proposed revenue per unit;
- (xi) the dollar increase; and
- (xii) the percentage increase.

(18) This section shall contain the proposed rate change schedules. All new language or figures shall be designated by underlining or in another appropriate manner. All deleted language or figures shall be designated in a different manner, such as italics. Upon request, and within the time limits the commission determines, the filing of the proposed rate schedule, or other materials required to be filed under this rule, separate from the filing of the application and schedules may be permitted by the commission.

(d) Rate proceedings by those utilities other than class A and B electric, gas, telephone or water utilities. Such utilities may prepare a rate application and submit schedules in accordance with the above provisions of this regulation, or may prepare a less extensive application and schedules that are more appropriate to the operations of smaller utilities. Such applications or schedules shall be in the form and substance permitted by the commission and shall eliminate foregoing requirements which may be burdensome and unnecessary for those smaller utilities. Rural electric cooperative distribution systems providing service to less than 15,000 customers may follow the procedures outlined in K.A.R. 82-1-231a.

(e) Revisions of applications and schedules. If the applicant desires to make revisions to its application and schedules, other than minor corrections and insertions which only require interlineation and which do not unduly prolong the hearing with respect to the

application or schedules, the applicant shall file with the commission those revised schedules that are necessary to reflect the desired revisions, as follows:

(1) Each page of any such revised section or schedule shall bear the same section letter designation, schedule number, and page number as the original page with the word "Revised" and the date of the revision immediately below the original section, schedule, or page designation.

(2) The same number of copies of any revised sections, schedules or pages shall be filed as the number of copies originally required to be filed.

(3) A copy of each revised section, schedule or page shall also be served upon each party whose intervention has previously been permitted by the commission pursuant to K.A.R. 82-1-125.

(4) All revised sections, schedules and pages shall be filed in accordance with the provisions of K.A.R. 82-1-221, unless otherwise ordered by the commission for good cause shown.

(5) Substantial revisions of the schedules, including changing to a different test year, may constitute grounds for the commission to continue any scheduled hearing to a later date, if necessary for its staff to conduct further investigation or revise its schedules with respect to these revisions.

(f) Prepared testimony shall be required in all class A and class B utility rate proceedings filed pursuant to subsection (c) of this regulation. The prepared testimony shall be filed simultaneously with the filing of the application.

(g) For good cause shown, any of the requirements of this regulation may be waived by the commission. (Authorized by K.S.A. 66-106; implementing K.S.A. 66-106 and 66-117; effective Jan. 1, 1966; amended Feb. 15, 1977; amended, E-78-31, Nov. 9, 1977; amended May 1, 1978; amended, E-82-1, Jan. 21, 1981; amended May 1, 1981; amended, T-83-43, Dec. 8, 1982; amended May 1, 1983; amended May 1, 1987; amended May 1, 1988.)

82-1-231a. Applications in rate proceedings by rural electric distribution cooperative systems providing service to less than 15,000 customers. (a) In lieu of filing a rate case application pursuant to K.A.R. 82-1-231, any rural electric distribution cooperative with memberships of less than 15,000 may elect to prepare a less extensive application with schedules that are more appropriate to the operations of smaller utilities.

(b) Applications and evidence.

(1) The application and schedules shall be in the form and substance permitted by the commission. The application shall include:

(A) Supporting schedules as required by the commission;

(B) a copy of the financial statements of the rural electric distribution cooperative for a test year. The financial statements shall have been audited by a certified public accountant;

(C) a copy of the monthly REA form seven for the test year; and

(D) a copy of the most recent tariffs with penciled-in proposed changes. "Test year" means any historic

consecutive 12-month period selected for the purpose of determining rates. The test year selected by the applicant may be disapproved by the commission for cause.

(2) A rate case application shall not be considered under this regulation unless:

(A) The commission has received written notice of the intent to file an application not less than 30 nor more than 90 days before the application filing date;

(B) the applicant has met with technical staff to inform the technical staff of the applicant's approximate revenue requirement, any proposed changes in the apportionment of the revenue requirement among rate classes, and any proposed rate design changes; and

(C) the applicant has held a public meeting, for which adequate notice was given, to inform its membership of its intent to file an application and to allow its membership to comment. The applicant's public meeting notice shall include a statement of applicant's approximate revenue requirement, any proposed changes in the apportionment of the revenue requirement among rate classes and any proposed rate design changes.

(3) Within 30 days of a third consecutive filing by an applicant under this regulation, a determination shall be made by the commission as to whether the filing may again be treated as an alternative filing under this regulation, or whether the filing warrants an extended investigation under K.A.R. 82-1-231.

(c) General Procedure.

(1) The technical staff shall meet with applicant within 10 days after the application is filed to discuss the technical staff's preliminary review of the application and the appropriateness of addressing the application under this regulation.

(2) Any data request issued by the technical staff shall be answered by the applicant within seven days of issuance. If the data request is not answered within seven days, the applicant shall provide the technical staff with a written explanation of the failure to comply. The technical staff may conduct a field audit to verify any information the technical staff considers essential to a rate proceeding.

(3) The technical staff shall complete the audit of the application and forward a written recommendation to the commission within 60 days after the application is filed.

(4) A copy of the technical staff's recommendation shall be provided to the applicant. If the technical staff recommendation is to approve the application with modification or to deny the application, the applicant may submit written comments, which may include a request for hearing, to the commission within 65 days after the application is filed.

(5) The application shall be considered by the commission within 75 days after the application is filed. The application may be:

(A) Approved as filed;

(B) approved with modifications;

(C) suspended by the commission pending an order setting the matter for hearing and directing the technical staff to conduct a further investigation; or

(D) denied.

(6)(A) If the commission approves the application pursuant to subparagraph 5(A) or 5(B), an interim order seeking comment shall be issued within 85 days after the application was filed. The interim order shall be subject to a comment period of 90 days. The applicant shall notify its membership of the interim rates, interim rate design, and the comment period within 20 days of the commission's issuance of the interim order.

(B) If at the close of the 90-day comment period, substantial comment has not been received, a final order making the temporary rates permanent shall be issued by the commission. If at the close of the 90-day comment period, substantial comment has been received, further investigation and hearing may be ordered by the commission.

(7) If the commission orders a further investigation and hearing under subparagraph 5(C) or 6(B), a hearing date and dates by which parties must file written testimony shall be specified by the commission.

(d) Consideration of an application under this regulation may be suspended and converted to an application subject to K.A.R. 82-1-231 at any time during the proceeding and for good cause. Such a conversion may be made on the motion of the technical staff or the commission.

(e) For good cause shown, any requirements of this rule may be waived by the commission. (Authorized by K.S.A. 66-106; implementing K.S.A. 66-106 and 66-117; effective May 1, 1988.)

Article 3.—PRODUCTION AND CONSERVATION OF OIL AND GAS

82-3-101. Definitions. (a) As used in these regulations:

(1) "Acreage factor" means the quotient obtained by dividing the acreage attributable to a well by the basic acreage unit. The basic acreage unit shall be defined by the commission and promulgated in the basic proration order for the common source of supply in which the well is located.

(2) "Allowable" means the amount of oil or gas authorized to be produced by order of the commission.

(3) "Allowable period" means the time in which the allowable may be produced.

(4) "Alternative cementing materials" are materials used in lieu of Portland cement blends, as prescribed by commission order, dated March 29, 1985, Docket No. 34,780-C (C-1825).

(5) "Assessment" means any charge against the parties involved in any hearing, application, investigation, or the enforcement of an order, and the assessment on natural gas and oil produced to pay the costs associated with the administration of the oil or gas conservation act.

(6) "Attributable acreage" means the acreage assigned to a well in accordance with the well spacing program adopted for each of the prorated fields.

(7) "Burn pit" means a surface pond used for the temporary confinement of oil leakage at a lease site or of materials commonly known as tank bottoms, basic

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sediment, bottom sediment, bottom settlings, or paraffin, for the purpose of burning such contents.

(8) "Casing" means tubular goods used to line a well bore.

(9) "Casing-head gas" means gas produced that was in solution with oil in its original state in the reservoir.

(10) "Cement" means Portland cement or a blend of Portland cement used in the oil and gas industry to support and protect casing and to prevent the migration of subsurface fluids by the formation of an impermeable barrier.

(11) "Combination well" means a well that produces both oil and gas, excluding casing-head gas, from the same common source of supply.

(12) "Commingling" means the mixing of production from more than one common source of supply.

(13) "Commission" means the state corporation commission.

(14) "Common source of supply" means each geographic area or horizon definitely separated from any other area or horizon which contains, or appears to contain, a common accumulation of oil, gas or both.

(15) "Conservation division" means the division of the commission in charge of the administration of the oil and gas conservation acts, well plugging, salt water disposal, and enhanced recovery.

(16) "Correlative rights" means that each owner or producer in a common source of supply is privileged to produce from that supply only in a manner or amount that will not:

(A) injure the reservoir to the detriment of others;

(B) take an undue proportion of the obtainable oil or gas; or

(C) cause undue drainage between developed leases.

(17) "Day" means a period of 24 consecutive hours.

(18) "Deliverability" means the amount of natural gas, expressed in Mcf per day, which a well is capable of producing into a pipeline, while maintaining a back-pressure against the well head. The amount of back-pressure to be maintained and the test procedure shall be specified by the commission in the basic proration order for the common source of supply in which the well is located.

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

(20) "Director" means the director of the conservation division of the commission.

(21) "Discovery well" means the first well completed in a common source of supply which is not in communication with any other common source of supply.

(22) "Disposal well" means a well which injects, for purposes other than enhanced recovery, those fluids brought to the surface in connection with oil and natural gas production.

(23) "Division order" means a dated, written statement, duly signed by the owners and delivered to the purchasers, certifying and guaranteeing the interests of ownership of production and directing payment according to those interests.

(24) "Drilling pit" means a surface pond used to

temporarily confine fluids or refuse resulting from oil and gas activities during the drilling or completion of any oil, gas, exploratory, service, or storage well.

(25) "Drilling time log" is the chronological tabulation or plotting of the rate of penetration of subsurface rocks by the rotary bit.

(26) "Emergency pit" means a surface pond used to temporarily contain fluids resulting from oil and gas activities which were discharged as a result of unforeseen and unavoidable circumstances.

(27) "Enhanced recovery" means any process involving the injection of fluids into a pool to increase the recovery of oil or gas.

(28) "Enhanced recovery injection well" means a well which injects fluids to increase the recovery of hydrocarbons.

(29) "Field" means a geographic area containing one or more pools.

(30) "First purchaser" means the person holding the division order and issuing checks to pay any working or royalty interest.

(31) "Fluid" means a material or substance which flows or moves in a semi-solid, liquid, sludge, or gas state.

(32) "Freshwater" means water containing not more than 1,000 milligrams of total dissolved solids per liter. This upper limit is approximately equivalent to 1,000 parts of salt per million or 500 parts of chlorides per million.

(33) "Gas" means the gas obtained from gas or combination wells regardless of its chemical analysis.

(34) "Gas" (cubic foot) means the volume of gas contained in one cubic foot of space at a standard pressure base and at a standard temperature base. The standard pressure base shall be 14.65 pounds per square inch absolute, and the standard temperature base shall be 60 degrees Fahrenheit. Whenever the conditions of pressure and temperature differ from the above standard, conversion of the volume from these conditions to the standard conditions shall be made in accordance with the ideal gas laws as corrected for deviation.

(35) "Gas-oil ratio" means the ratio of gas produced, in cubic feet, to one barrel of oil produced during the concurrent period.

(36) "Gas" (sour) means any natural gas containing more than 1½ grains of hydrogen sulphide per 100 cubic feet or more than 30 grains of total sulphur per 100 cubic feet, or gas which is found by the commission to be unfit for sale due to its hydrogen sulfide content.

(37) "Gas well" means a well that:

(A) produces gas not associated with oil at the time of production from the reservoir; or

(B) for allowable purposes, produces more than 15,000 standard cubic feet of gas to each stock tank barrel of oil from the same common source of supply, as measured by the gas-oil ratio test prescribed by and reported on the form prescribed and furnished by the commission.

(38) "Hardship well" means a well authorized by commission order to produce at a specified rate be-

cause reasonable cause exists to expect that production below the specified rate would damage the well and cause waste.

(39) "Illegal production" means any production in violation of the statutes, rules, regulations or orders of the commission.

(40) "Liquid" means a solution or substance, excluding gas, which flows freely at standard temperature and pressure.

(41) "Minimum well" means any oil well which has a productivity of 25 barrels or less per day.

(42) "Mousehole" means a service hole drilled at a slight angle and normally about 30 feet deep on those wells drilled by rotary tools.

(43) "Mud-laden fluid," as the term is commonly used in the industry, means any commission-approved mixture of water and clay or other material which will effectively seal a formation to which it is applied.

(44) "Multiple completion" means the completion of any well so as to permit production from two or more common sources of supply with the common sources of supply completely segregated.

(45) "Oil" (crude) means any petroleum hydrocarbon which is produced from a well in liquid phase and which existed in a liquid phase in the reservoir.

(46) "Oil, (pipeline)" means oil free from water and basic sediment to the degree that it is acceptable for pipeline transportation and refinery use.

(47) "Oil well" means, for allowable purposes, a well that produced one stock tank barrel or more of crude oil to each 15,000 standard cubic feet of gas, as measured by the gas-oil ratio test prescribed by and reported on the form prescribed and furnished by the commission.

(48) "Open flow" means the volume of gas which a gas well is capable of producing at the wellhead during a period of 24 hours against atmospheric pressure, computed according to the standard procedure approved by the commission.

(49) "Operator" means any person who is in charge of the development of a lease, or the operation of a producing well.

(50) "Overage" or "overproduction" means the oil or gas produced in excess of the allowable.

(51) "Person" means any natural person, corporation, association, partnership, governmental or political subdivision, receiver, trustee, guardian, executor, administrator, fiduciary, or any other legal entity.

(52) "Pipeline" means any pipes above or below the ground used or to be used for the transportation of oil, gas, liquids, or gases.

(53) "Pool" means a single and separate natural reservoir of oil or gas characterized by a single pressure system.

(54) "Producer" means any person who owns, in whole or in part, a well capable of producing oil or gas or both.

(55) "Production" means produced oil, gas, condensate, or casing-head gas.

(56) "Productivity of a well" means the daily capacity of a well to produce oil or gas.

(57) "Productivity of a pool" means the sum of the productivities of the wells completed in the pool.

(58) "Proration" means the regulation of the amount of allowed production to prevent waste, undue drainage between developed leases, unratable taking, or unreasonable discrimination between operators, producers and royalty owners who are within a common source of supply, that would favor any one pool as compared to any other pool in this state.

(59) "Purchaser" means any person who purchases production from a well, lease or common source of supply.

(60) "Rathole" means the service hole drilled at a slight angle and normally about 40 feet deep on those wells drilled by rotary tools.

(61) "Reasonable market demand" means the amount of crude petroleum or natural gas which must be produced to satisfy current rates of consumption.

(62) "Recompletion" occurs when a well is reworked for the purpose of developing new zones after its initial well completion.

(63) "Service well" means a well drilled for:

(A) The injection of fluids in enhanced recovery projects;

(B) The supply of fluids for enhanced recovery projects; or

(C) The disposal of salt water.

(64) "Shortage" means the amount by which the oil or gas legally produced and sold or removed from the premise is less than the allowable.

(65) "Solid" means a material or substance which does not flow freely at standard temperature and pressure.

(66) "Spill" means any escape of salt water, oil, or refuse by overflow, seepage or otherwise from the vicinity of wells, tanks, pipelines or surface ponds involved in the exploration for and gathering of oil and gas and the drilling, production, lease storage, treatment, abandonment and postabandonment of oil and gas wells.

(67) "Spud date" means the date of first actual penetration of the earth with a drilling bit.

(68) "Storage oil" means produced oil confined in tanks, reservoirs, or containers.

(69) "Storage oil-lease" means produced oil in tanks, reservoirs, or containers on the lease where it was produced.

(70) "Storage pit" means a surface pond used for the storage, confinement or treatment of fluids resulting from oil and gas activities.

(71) "Storage well" means a well used to inject or extract natural gas for storage purposes.

(72) "Stratigraphic hole" means a hole, normally of small diameter, drilled through subsurface strata for exploratory purposes, with no intent to produce hydrocarbons through the hole being drilled.

(73) "Surface casing" is the first casing put in a well which is cemented into place. It serves to shut out shallow water formations. It also acts as a foundation or anchor for all subsequent drilling activity. For purposes of compliance with K.A.R. 82-3-106, additional strings of casing, which are set and cemented in a well bore below the lowest fresh and usable water strata, shall be deemed to be surface casing.

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(74) "Surface pond" means any constructed, excavated or naturally occurring depression upon the surface of the earth.

(75) "Tertiary recovery process" means the process or processes described in K.S.A. 1986 Supp. 79-4217, as amended by L. 1987, ch. 393, sec. 1(b)(2).

(76) "Undue drainage" means the uncompensated migration of either oil or gas between developed leases within the same common source of supply caused by the unratable production of some well or wells located there.

(77) "Usable water" means water containing not more than 10,000 milligrams of total dissolved solids per liter. This upper limit is approximately equivalent to 10,000 parts of salt per million or 5,000 parts of chlorides per million.

(78) "Waste oil" means any tank bottom, basic sediment, cut oil, reclaimed oil from pits, ponds or streams, dead oil, emulsions, or other types of oil not defined as pipeline oil.

(79) "Waterflood" means the process of injecting fluids into one or more wells to enhance the recovery of oil.

(80) "Well completion, (oil)" occurs when the first new oil is produced through permanent wellhead equipment into lease tanks from the producing interval after the production casing has been run.

(81) "Well completion, (gas)" occurs when the well is capable of producing gas through permanent wellhead equipment from the producing zone after the production casing has been run.

(82) "Well completion, (dry hole)" occurs when all provisions of plugging are complied with as set out in these regulations.

(83) "Wellhead working pressure" means the static pressure in the annulus while flowing through the tubing, or static pressure in the tubing while flowing through the annulus, except in cases where the casinghead is not in open communication with the producing formation because of the presence of a packer or other obstruction in the annular space between casing and tubing. In these cases, the wellhead working pressure shall be determined by adjusting the observed tubing pressure for the effect of friction caused by flow through the tubing, or by using a bottom-hole pressure bomb and correcting back to wellhead conditions.

(84) "Well log" means the written record progressively describing the well's down-hole development.

(85) "Well history" means the chronological record of the development and completion of a well.

(b) All terms not defined in this definitional section shall be interpreted to be consistent with their common use in the industry. (Authorized by and implementing K.S.A. 1986 Supp. 55-152, K.S.A. 55-602, 55-604, 55-704, K.S.A. 1986 Supp. 55-901, 74-623; effective, T-83-44, Dec. 8, 1982; effective May 1, 1983; amended, T-84-19, July 26, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended, T-87-46, Dec. 19, 1986; amended May 1, 1987; amended May 1, 1988.)

82-3-103. Notice of intention to drill. (a) (1) The owner, operator, or persons responsible for a drilling operation shall give written notice of the intention to drill for approval by the conservation division before the commencement of drilling operations for:

(A) Exploratory holes anticipated to penetrate a salt water formation;

(B) the discovery or production of oil, gas or other minerals, including reentry of a previously plugged and abandoned well;

(C) drilling of a service well; or

(D) drilling of a storage well.

(2) The notice shall be received by the conservation division at least five days before any drilling is commenced.

(3) The notice shall contain:

(A) The operator's name, address, and commission license number;

(B) the contractor's name, address, and commission license number;

(C) the date on which drilling is anticipated to begin;

(D) the lease name, quarter section, section, range, township, county, and the distance of the proposed drilling location from the section's East and South lines;

(E) the distance to the nearest lease or unit boundary line;

(F) the estimated total depth of the well;

(G) the type of drilling equipment to be used;

(H) the depth of the deepest freshwater at the drill site;

(I) the depth to the bottom of the deepest usable water formation at the drill site; and

(J) any other information which may be requested by the commission. The notice shall be on a form prescribed by the commission which shall be filled in completely and signed by the operator or the operator's agent.

(b) Surface casing requirements shall be given to the operator with the approved notice of the intention to drill. Prior to spudding the well, the operator shall notify the appropriate district office.

(c) The owner or operator shall not commence the drilling operation until after commission approval has been received. A copy of the approved notice of intent to drill shall be posted on each drilling rig.

(d) Preliminary plugging instructions shall be given to the operator with the approved notice of the intention to drill.

(e) The approval of the notice of intent to drill shall expire six months from the date of approval.

(f) If a written request for an extension is filed with the conservation division prior to the expiration date of the notice, a six-month extension of the approval may be granted by the commission.

(g) Designation, by the operator, of the source of drilling water and the vested right or permit file number assigned by the division of water resources of the state board of agriculture on the written notice of intention to drill may be required by the commission. (Authorized by K.S.A. 1986 Supp. 55-152; implementing K.S.A. 1986 Supp. 55-151, K.S.A. 1986 Supp. 55-

152; effective, T-83-44, Dec. 8, 1982; effective May 1, 1983; amended May 1, 1985; amended May 1, 1987; amended May 1, 1988.)

82-3-106. Cementing-in surface casing. (a) Beginning of drilling operations. Drilling shall not begin until the operator has received the approved notice of intent to drill from the conservation division, pursuant to K.A.R. 82-3-103. The notice of intent to drill shall indicate the amount of surface casing that must be set.

(b) Depth. The depth of required surface casing shall be determined in the following manner.

(1) The operator shall set a minimum of 50 feet of surface casing in the well, except as otherwise provided by paragraph (b)(2).

(2) Table 1, dated October 15, 1985, shall be used to determine the required depth of the surface casing and the cementing requirements for the protection of fresh and usable water. Upon submission of additional information, adjustments to the required depth of the surface casing may be made by the commission. These adjustments shall be indicated on the drilling permit.

(A) Operators who drill wells in areas referenced in commission order, dated January 27, 1983, Docket No. 133,891-C, may set surface casing at the minimum depth set forth in that docket.

(B) An exception to the requirements set forth in Table 1, dated October 15, 1985, may be granted by the director.

(c) Cementing and time requirements. Protection of fresh and usable water shall be accomplished by one of the two following alternatives.

(1) Alternate I. The surface casing shall be cemented to the surface with a Portland cement blend. The surface casing shall be set and cemented below all fresh and usable water strata, according to the requirements made pursuant to subsection (b). An operator shall not drill to any depth to test for oil or gas without having set and cemented a continuous string of surface casing.

(2) Alternate II. Surface casing shall be set and cemented in the following manner:

(A) The first string of casing shall be set through all unconsolidated material plus 20 feet into the underlying formation. The surface casing shall be cemented to the surface with a Portland cement blend. An operator shall not drill to any depth to test for oil or gas, without having set and cemented this string of casing.

(B) (i) All additional casing which is next to the borehole shall be cemented from 50 feet below the lowest usable water, according to the requirements made pursuant to subsection (b), to the surface with a Portland cement blend except as provided by subparagraph (d)(3).

(ii) The operator shall notify the appropriate district office prior to the cementing of the additional casing. If a time period is specified by Table I, dated October 15, 1985, the additional cementing shall be completed within the time period specified. If a time period is not specified in Table I, dated October 15, 1985, the additional cementing shall be completed within a time period sufficient to allow compliance with K.A.R. 82-3-106(e). Extensions of the time period within

which the additional cementing must be completed may be granted by the director.

(d) Methods and materials to be used in setting and cementing of surface casing.

(1) In setting surface casing, the surface hole diameter shall be sufficiently larger than the surface casing to permit circulation of the cement.

(2) The annular space between the surface casing and the borehole shall be filled with a Portland cement blend. The cement shall be maintained at surface level.

(3) The use of any material other than a Portland cement blend shall be prohibited except for the alternative cementing materials as defined by commission order, dated March 29, 1985, Docket No. 34,780-C (C-1825).

(4) The cemented casing string shall stand and further operations shall not begin until the cement has been in place for at least eight hours and until the cement has reached a compressive strength of 300 pounds per square inch. This requirement may be modified by specific order of the commission.

(e) Affidavit. Each operator shall file a sworn affidavit with the conservation division setting out the type, amount, and method of cementing used on all casing strings in a well bore. The affidavit shall be filed on the form provided by the conservation division within 120 days of the spud date of the well or as otherwise required by K.A.R. 82-3-130(b). Legible documentation of the cementing operations across fresh and usable water strata shall be attached to the affidavit. The documentation may consist of: invoices, job logs, job descriptions, or other such service company reports. Falsification of the documentation or the failure to complete Alternate II cementing is punishable by a \$5,000 penalty, and the well shall be shut-in until compliance with requirements of this regulation are achieved. (Authorized by K.S.A. 1986 Supp. 55-152; implementing K.S.A. 1986 Supp. 55-151, K.S.A. 1986 Supp. 55-152, K.S.A. 55-156, 55-157, K.S.A. 1986 Supp. 55-159, 55-164; effective, T-83-44, Dec. 8, 1982; effective May 1, 1983; amended May 1, 1984; amended, T-85-1, January 13, 1984; amended, T-85-51, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1986; amended, T-87-46, Dec. 19, 1987; amended May 1, 1987; amended May 1, 1988.)

82-3-107. Preservation of well samples and logs.

(a) Every person, firm, association, or corporation drilling or responsible for drilling or recompleting holes for the purpose of discovery or production of oil or gas, excluding seismic "shotholes" and "core-holes," shall preserve samples and all other information as required under subsection (c). These samples shall be delivered, at the prepaid expense of that person, to the Kansas geological survey, sample library, Wichita, Kansas. All other information shall be delivered to the conservation division.

(b) Formation samples (drill cuttings) normally saved in drilling or recompletion operations shall be retained by the operator. Upon request of the Kansas geological survey, these samples shall be washed, and

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cut into splits (sets). One set shall be placed in sample envelopes and delivered to the sample library. Notification that samples are required shall be made either by notice appended to or on a copy of the notice of intention to drill returned to the operator by the conservation division or the Kansas geological survey. Delivery of the processed samples shall be made within 120 days of the spud date or date of commencement of recompletion of the well. The survey may request shallow samples from portions of the hole that may not normally be saved in drilling operations. The sample library shall accept all washed and cut samples whether or not they were requested.

(c) A copy of well histories, electric logs, radioactivity logs, drilling time logs and similar wireline logs or surveys run by operators on all boreholes, excluding seismic "shotholes" and "coreholes," and logs run to obtain geo-physical data, shall be delivered to the conservation division, within 120 days of the spud date or date of commencement of recompletion of the well. The conservation division shall deposit the information with the Kansas geological survey.

(d) If a written request for confidentiality is made to the conservation division at the time of filing, any information or samples filed as required in subsection (a), (b) and (c) shall be held in confidential custody by the survey for an initial period of one year from the filing date. All rights to confidentiality shall be lost if the filings are not timely, as provided in subsection (a), (b), and (c). Samples or information may be released prior to the expiration of the one year period only upon written approval of the operator. If a request for an extension is made at least 30 days before the expiration of the initial one year period, the period of confidentiality may be extended for one additional year.

(e) Exceptions to the provisions of this regulation may be granted upon a showing of good cause and after notice and hearing.

(f) All wire line service companies shall furnish to the conservation division a list of all holes serviced in the state of Kansas each month. (Authorized by and implementing K.S.A. 1986 Supp. 55-152, K.S.A. 55-604, 55-704; effective, T-83-44, Dec. 8, 1982; effective May 1, 1983; amended May 1, 1984; amended May 1, 1987; amended May 1, 1988.)

82-3-108. Well location; exception. (a) Except as provided by subsection (b) or (c), each well shall not be drilled nearer than 330 feet from any lease or unit boundary line.

(b) Each oil well which is drilled to a total depth of less than 2,000 feet, and which is drilled in one of the following counties, shall not be drilled nearer than 165 feet from the nearest lease or unit boundary line: Allen, Anderson, Atchison, Bourbon, Brown, Cherokee, Coffey, Crawford, Douglas, Elk, Franklin, Greenwood, Jackson, Jefferson, Johnson, Labette, Leavenworth, Linn, Lyon, Miami, Montgomery, Neosho, Osage, Shawnee, Wilson, Woodson, and Wyandotte. Each oil well which is drilled in Chautauqua County, and which is drilled to a total depth of less

than 2,500 feet, shall not be drilled nearer than 165 feet from the nearest lease or unit boundary line.

(c) After notice and hearing, a well location exception may be granted to permit drilling within shorter distances than provided in subsection (a) or (b), whichever is applicable, and to the acreage attributable and assigned allowables, when such exceptions are necessary either to prevent waste or to protect correlative rights. In granting the exception, the acreage attributable to the well and the assigned allowables shall be considered.

(d) When an exception to this regulation is desired pursuant to subsection (c), an application shall be submitted to the conservation division. The application shall contain:

(1) A brief explanation of the exception or exceptions requested;

(2) the proposed location of the well, including the distance to the nearest lease or unit boundary line;

(3) a list of the following:

(A) Each offset operator whose lease line is located less than the required distance from the proposed location;

(B) each unleased offset mineral owner whose property boundary is located less than the minimum distance required by subsection (a) or (b) from the proposed locations; and

(C) the applicant's lessor or lessors, if the applicant operates any lease which will be situated less than minimum distance required by subsection (a) or (b) from the proposed well location:

(4) the acreage attributable to the well; and

(5) the allowable requested.

(e) Each application submitted under subsection (d) shall be accompanied by the proposed notice of the intention to drill and a plat, drawn to the scale of one inch equalling 1,320 feet, that accurately shows:

(1) The property on which the well is sought to be drilled;

(2) all other completed, partially drilled, or permitted wells on the property; and

(3) all adjacent properties and wells.

(f) Each applicant shall provide notice of hearing not less than 30 days prior to the hearing date. The notice shall be sent to:

(1) Each offset operator whose lease line is less than the required distance from the proposed location;

(2) each unleased mineral owner whose property boundary is less than the minimum distance required by subsection (a) or (b) from the proposed location;

(3) the applicant's lessor or lessors, if the applicant owns or operates any lease which will be situated less than the minimum distance required by subsection (a) or (b) from the proposed well location.

(g) Each applicant requesting an exception pursuant to subsection (f) shall also publish notice pursuant to K.A.R. 82-3-135.

(h) An exception to permit drilling within lesser distances, and to the acreage attributable and assigned allowable, may be granted by the commission for the purposes of drilling, deepening, or additional completion, recompletion, or reentry of a well. Such an

exception may be issued without hearing under either of the following conditions:

(1) If a protest has not been filed after 30 days notice has been given by the applicant to:

(A) Each offset operator whose lease line is less than the required distance from the proposed location;

(B) each unleased mineral owner whose property boundary is located less than the minimum distance required by section (a) or (b) from the proposed location; and

(C) the applicant's lessor or lessors, if the applicant owns or operates any lease which will be situated less than the minimum distance required by subsection (a) or (b) from the proposed well location; or

(2) when an application is accompanied by waivers of objection signed by each operator, unleased mineral owner or lessor entitled to notice under paragraph (1) of this subsection.

(i) Each waiver of objection shall be on a form prescribed by the commission.

(j) Each well location exception issued by the commission shall expire six months from the granting of the exception, unless drilling operations are begun or an application for a six-month extension of the permit is approved by the commission. The application for a six-month extension shall be accompanied by a statement setting out the reasons for extension. Only one six-month extension shall be granted by the commission. If a well location exception permit expires, a renewal shall not be granted unless a new application is filed, notice given, a hearing held, and proof made as in an original well location exception application.

(k) Any well drilled nearer than the minimum distance required by subsection (a) or (b) from any lease or unit boundary line without obtaining an exception from the commission shall be prohibited from producing either oil or gas until an appropriate allowable is determined.

(l) Whenever authority is granted to drill a well at a location other than specified by this regulation, the allowable shall be determined by the commission for the protection of the correlative rights of all persons entitled to share in the common source of supply in accordance with K.A.R. 82-3-207(b) and (c).

(m) This regulation shall not apply to any counties or specific areas that are exempted by the commission after notice and hearing. (Authorized by K.S.A. 1986 Supp. 55-152, K.S.A. 55-604, 55-704; implementing K.S.A. 1986 Supp. 55-605, 55-706, 55-152, K.S.A. 55-603, 55-703a; effective, T-83-44, Dec. 8, 1982; effective May 1, 1983; amended May 1, 1984; amended, T-85-51, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988.)

82-3-109. Application for well spacing. (a) Contents. Any interested party may file an application for well spacing and orderly development. The application shall include the following:

(1) The location, depth, and producing formation of the existing productive well or wells in the area sought to be spaced;

(2) a description of the area sought to be spaced,

with an affirmation that all of the area is reasonably expected to be productive from the subject formation;

(3) the proposed well location restriction and proposed provisions for any exceptions thereto;

(4) the proposed configuration of producing units for acreage attribution purposes;

(5) the names and addresses of all lessees of record in the area sought to be spaced;

(6) the names and addresses of all owners of record of the minerals in unleased acreage within the area sought to be spaced;

(7) the names and addresses, as shown by the applicant's books and records, of all persons owning the royalty or leasehold interest in acreage sought to be spaced and operated by the applicant, or on which the applicant has a lease or an interest in the lease;

(8) if a proration formula is sought, the specific factors proposed to be utilized in the allocation of production;

(9) the applicant's license number; and

(10) such other information which may be required by the commission.

(b) Notice of hearing. An original and three copies of the application shall be filed with the secretary of the commission in Topeka, Kansas. An additional copy of the application shall be sent to the conservation division. The application shall be set for hearing by the commission. The applicant shall provide notice of the hearing. The notice shall state the time, place, and nature of the hearing. The notice shall be provided at least 30 days prior to the hearing to all lease operators of record, and all owners of record of the minerals in unleased acreage, in the area sought to be spaced. The applicant shall also publish notice pursuant to K.A.R. 82-3-135. (Authorized by K.S.A. 55-604, 55-704; implementing K.S.A. 1986 Supp. 55-605, 55-706, K.S.A. 55-603, 55-703a, 55-704; effective, T-83-44, Dec. 8, 1982; effective May 1, 1983; amended, T-85-51, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1987; amended May 1, 1988.)

82-3-112. Shut-off test; when required. Whenever it appears to the conservation division that any water from any well is migrating or infiltrating into oil-bearing or gas-bearing strata or that any detrimental substances are infiltrating any fresh and usable water, a shut-off test may be required by the conservation division, to be made at the expense of the operator or owner of that well. The time and procedure for the taking of the test shall be fixed by the conservation division. Reasonable notice of the test shall be given to the owner or operator.

The person legally responsible for the proper care and control of any abandoned oil or gas well from which water is migrating or infiltrating into any oil-bearing or gas-bearing strata, or from which any detrimental substances are infiltrating any fresh or usable water, shall immediately plug or repair the well in accordance with K.A.R. 82-3-114 or 82-3-115 and shall prevent the infiltration of oil, gas, salt water or other detrimental substances into underground fresh and usable water strata. (Authorized by K.S.A. 55-602; im-

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plementing K.S.A. 55-157; effective, T-83-44, Dec. 8, 1982; effective May 1, 1983; amended May 1, 1984; amended May 1, 1988.)

82-3-117. Plugging report. Within 60 days after plugging any well drilled for discovery of oil or gas, disposal of salt water, or injection for enhanced recovery, the owner or operator of the well shall file a well plugging report with the conservation division setting forth the date of drilling, the location of the well, the method used in plugging the well, and all other information required by the commission. The report shall be made on a form prescribed by the commission and shall be verified by the operator. The operator shall be assessed the cost of the plugging as referred to in K.A.R. 82-3-118. Copies of well plugging records shall be furnished to any person requesting that information upon the payment of two dollars per copy. (Authorized by K.S.A. 1986 Supp. 55-152; implementing K.S.A. 1986 Supp. 55-152, 55-158, 55-159; effective, T-83-44, Dec. 8, 1982; effective May 1, 1983; amended May 1, 1988.)

82-3-123. Well bore; commingling. (a) Commingling of production from more than one source of supply shall be permitted if the total production potential is less than the allowable for a single common source of supply for the immediate area and after application and approval by the commission. Commingling shall be prohibited if the commission finds that waste or a violation of correlative rights is likely to result.

(b) The maximum well allowable for a well in which commingled production is approved shall be the allowable as provided in K.A.R. 82-3-203, using the depth of the deepest source of supply, or K.A.R. 82-3-312, or both.

(c) Each original application for commingling and one copy shall be filed with the conservation division and shall include the following information:

(1) A description of the well with a plat attached showing the location of the subject well, the location of other wells on the lease, the location of offset wells within a ½ mile radius of the subject well and the lessee of record or operator's names of all the wells, and the acreage owned by any unleased mineral owners within a ½ mile radius of the subject well;

(2) the names of the upper and lower limits of the sources of supply to be commingled, with proposed perforations or open holes noted;

(3) a wireline log of the subject well;

(4) the production potential of oil, water, gas or a combination for each source of supply;

(5) the total production for the formations sought to be commingled; and

(6) the applicant's license number.

(d) Each application shall be supported by an affidavit certifying service of a copy of the application without attachments to each operator or lessee of record and to each unleased mineral owner within a ½ mile radius of the subject well. When the application is accompanied by waivers of right to protest executed by the above noticed parties, the application may be

approved without hearing; otherwise, it shall be held in abeyance for 15 days from the date of filing. If a protest is not filed with the commission within this 15 days from the date of filing and if the commission has no objection, the application may be approved without hearing; otherwise, a hearing shall be held. The applicant shall provide notice of the hearing not less than 30 days before the hearing date to each offset operator or lessee of record. The applicant shall also publish notice as required by K.A.R. 82-3-135.

(e) A new commingling application shall be required if the operator desires to open an additional source of supply that was not included in the initial application. (Authorized by K.S.A. 55-602; implementing K.S.A. 55-603; effective, T-83-44, Dec. 8, 1982; effective May 1, 1983; amended May 1, 1985; amended May 1, 1987; amended May 1, 1988.)

82-3-124. Dual or multiple-completed wells. (a) Production from more than one common source of supply through the same well bore shall be permitted if separation of each source of supply is maintained and if commission approval has been obtained.

(b) Whenever an operator or producer desires to complete a well in more than one source of supply, an original and one copy of an application requesting approval of dual or multiple completion shall be filed with the conservation division. The application shall contain the following information:

(1) A description of the well with a plat attached showing the location of the subject well, the location of all other wells on the lease, the location of all offset wells within a ½ mile radius of the subject well and their lessee of record or operators' names. Well depths and producing sources of supply shall be properly designated on the plat;

(2) the names and upper and lower limits of the sources of supply involved in the dual or multiple completion;

(3) a wireline log of the subject well;

(4) a complete description of the proposed installation including the size, weight, depth, and condition of all casing and tubing, the size of all drilled holes, the amount of cement used and the location of the tops of cement behind each casing string, the location or intended location of casing perforations, the type of packer to be used and the depth at which it is to be set. A diagram of the proposed installation shall be attached to the application;

(5) a description of the proposed plan for separately measuring and accounting for the production for each source of supply;

(6) a description of storage facilities;

(7) a description and diagram of the proposed well-head to pipeline installation; and

(8) the applicant's license number.

(c) Each application shall be supported by an affidavit certifying service of a copy of the application upon the operators of all offset leases. The application may be accompanied by waivers of right to protest executed by operators of offset leases. If waivers are obtained from the operators of all offset leases, the application may be approved without hearing; other-

wise, the application shall be held in abeyance for 15 days from the date of filing. If a protest is not filed with the commission within 15 days from the date of filing, the application may be approved without hearing; otherwise, a hearing shall be held. The applicant shall provide notice of the hearing not less than 30 days prior to the hearing date to each offset operator or lessee of record within a ½ mile radius of the subject well. The applicant shall also publish notice as is required by K.A.R. 82-3-135.

(d) All dual and multiple completions shall be made and operated under the direction of the commission. Packers shall not be installed, removed, reinstalled, or replaced in such a well, except upon notice to and with the approval of a representative of the commission. If one of the producing sources of supply is abandoned, the plugging of the abandoned source of supply shall be in accordance with the requirements of the commission.

(e) If any source of supply in an intended dual or multiple completion is found upon testing to be non-productive, it shall immediately be plugged under the direction of a commission representative.

(f) Dual and multiple-completed wells shall be operated and maintained so as to insure complete segregation of all fluids from the producing sources of supply. In monitoring installation of packers, and in inspecting dual and multiple-completed wells tests shall be made by or at the direction of representatives of the commission to determine whether packer leakage exists. These tests may include bottom hole pressure measurements, chemical analysis of oil, water, and gas, and any other tests which indicate the effectiveness of the packer.

(g) Whenever evidence of leakage of the packer in any dual or multiple-completed well is discovered, the packer shall be immediately repaired, a new packer shall be installed, or the affected producing source of supply shall be plugged.

(h) The allowable for each source of supply shall be determined according to K.A.R. 82-3-203(b) or K.A.R. 82-3-312 for non-prorated common sources of supply or according to the basic proration order for prorated common sources of supply, or both.

(i) Operators shall notify the commission and the operators of offset producing leases at least 24 hours before installing a packer.

(j) An installation charge for each dual or multiple-completed well, and a charge for any inspection of such well, shall be made to defray necessary expenses of supervision by the commission.

(k) Failure of the operator of any dual or multiple-completed well to comply with any of the provisions of this regulation shall constitute grounds for the revocation of the order granting the dual or multiple completion, or the suspension or cancellation of current or future allowables of that well. If the order granting the dual or multiple completion of any well is revoked, all but one of the producing sources of supply shall immediately be sealed off under the direction of the commission.

(l) Tentative approval for dual or multiple-

completed wells may be granted by the commission based on extenuating circumstances. Final approval may be granted after proper application. (Authorized by K.S.A. 55-602; implementing K.S.A. 1986 Supp. 55-605, K.S.A. 1986 Supp. 55-706, K.S.A. 55-603; effective, T-83-44, Dec. 8, 1982; effective May 1, 1983; amended, T-85-51, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1987; amended May 1, 1988.)

82-3-131. Vacuum and high volume pumps; application and approval. (a) Upon application, the installation and use of vacuum pumps in fields which are nearly depleted and the installation and use of high volume pumps may be permitted by the commission. A high volume pump is one which is capable of producing total fluids in excess of 2,500 barrels per day. No application for commission approval shall be required for the installation and use of high volume pumps in a field which is unitized for secondary recovery operations.

(b) The original and one copy of the application shall be filed with the conservation division. The application shall contain the following information:

- (1) The applicant's license number;
- (2) the name, location, and producing formation of the well or wells to be pumped;
- (3) a plat map showing the subject well or wells, the location of all oil and gas wells on the lease, and the location of all offset wells within a ½ mile radius of the subject well or wells and their operators' names;
- (4) the anticipated maximum daily production of oil, water, and gas;
- (5) for vacuum pump applications, an estimate of the remaining recoverable hydrocarbon reserves underlying the subject lease;
- (6) for high volume pump applications, the size and capacity of the pump to be used and the estimated oil-water ratio; and
- (7) any additional information the commission may require.

(c) Each applicant shall give notice of the application by mailing or delivering a copy of the application to the landowner on whose land the well is located, to each offset operator and to each unleased mineral owner within a ½ mile radius of the subject well or wells. The notice shall be mailed or delivered on or before the date the application is filed with the conservation division. The notice shall be published in at least one issue of a newspaper with general circulation in the county or counties in which the lands involved are located.

(d) Objections to the application stating reasons for the objection shall be filed with the conservation division within 15 days after the notice is published.

(e) A hearing shall be held if any objection is filed, or if the commission, on its own motion, determines that there should be a hearing. The applicant shall provide notice of the hearing to those parties listed in subsection (c) not less than 30 days prior to the hearing date. Notice shall also be provided pursuant to K.A.R. 82-3-135. (Authorized by and implementing K.S.A. 55-604; effective, T-83-44, Dec. 8, 1982; effective May

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1, 1983; amended May 1, 1987; amended May 1, 1988.)

82-3-132. Re-entry notification. Every operator shall notify the conservation division or a district office at least 48 hours before re-entering an abandoned or plugged well. An agent of the commission may conduct on-site inspection of the drilling operations. A report shall be filed by the agent of the commission or, in the absence of an observing agent, by the operator, stating where cement was encountered when drilling out plugs. (Authorized by K.S.A. 1986 Supp. 55-152; implementing K.S.A. 1986 Supp. 55-160; effective, T-83-44, Dec. 8, 1982; effective May 1, 1983; amended May 1, 1988.)

82-3-135. Notice for certain administrative hearings. (a) Scope. The notice requirements in this regulation apply to each administrative hearing arising under any rule or regulation or statutory provision for the conservation of crude oil and natural gas heard by the commission or any agent appointed by the commission.

(b) Hearings initiated by the attorney general or the commission.

(1) Notice of the hearing shall be published by the commission in the Wichita Eagle-Beacon and the Kansas Register. The commission shall also publish notice of the hearing in the official county newspaper of each county in which the lands affected by the hearing are located. If that county does not have an official county newspaper, the commission may publish notice in any newspaper satisfying the requirements of K.S.A. 64-101 in a county in which the lands affected by the hearing are located.

(2) A copy of the notice of the hearing shall be mailed by the commission to each person who has filed for the purpose of receiving notice. The notice shall be mailed not less than 33 days prior to the hearing date.

(3) Any additional notice required by any rule, regulation or statute which applies to the hearing or which is necessary to provide due process to any person whose property may be affected by the hearing shall be provided by the commission.

(c) Hearings initiated by any person other than the attorney general or commission.

(1) Anyone who initiates a hearing shall publish notice of the hearing in the Wichita Eagle-Beacon and in the official county newspaper of each county in which the lands affected by the hearing are located. Anyone who initiates a hearing may publish notice in any newspaper satisfying the requirements of K.S.A. 64-101 in a county in which the lands affected by the hearing are located, if that county does not have an official newspaper.

(2) A copy of the notice of the hearing shall be mailed by the commission to each person who has filed for the purpose of receiving notice. The copy of the notice shall be mailed not less than 33 days prior to the hearing date.

(3) Anyone who initiates a hearing shall provide any additional notice required by any rule, regulation or statute which applies to the hearing or is necessary

to provide due process to any person whose property may be affected by the hearing.

(d) Proof of notice. If the commission is required to publish notice, it shall be proven by commission staff that notice has been properly published. Acceptable proof of notice may include an affidavit sworn by the commission staff that notice has been perfected. Anyone who initiates the hearing shall prove that notice has been properly published. An affidavit sworn by the person who initiates the hearing certifying that notice has been perfected may be accepted as proof of notice. The affidavit shall be filed with the commission on or before the hearing date.

(e) Filing for the purpose of receiving notice. Anyone who desires to receive notice of any hearings shall file annually with the conservation division that person's name, address and other information as may be reasonably required by the commission. The filing shall be on a form required by the commission and shall be accompanied by an annual \$50 fee. (Authorized by K.S.A. 1986 Supp. 55-152, 1986 Supp. 55-602, 55-604, K.S.A. 1986 Supp. 55-704; implementing K.S.A. 1986 Supp. 55-605, 55-706, effective, T-85-51, Dec. 19, 1984; effective May 1, 1985; amended May 1, 1986; amended May 1, 1988.)

82-3-138. New pool and discovery allowable application. (a) New pool application. Each new pool application for certification to the Kansas department of revenue shall be submitted to the commission on the form provided by the commission and shall be accompanied by:

(1) The affidavit of completion;

(2) a copy of the results of a state-supervised production test, showing volumes of oil, gas and water;

(3) the names and addresses of each operator or lessee of record and each unleased mineral owner within a ½ mile radius of the subject well;

(4) the exhibits and evidence needed to substantiate the applicant's claim of a new pool; and

(5) any other information required by the commission.

(b) Each newly discovered pool shall be recognized only upon the approval of an application. An oil discovery allowable may be granted to wells completed in a newly discovered pool when the applicant designates the discovery allowable request on the application. When only new pool certification is requested, the applicant shall not be required to provide notice. When a discovery allowable is requested, with or without a new pool certification request, the application shall contain an affidavit indicating the date a copy of the application, without attachments, was served to each operator or lessee of record and to each unleased mineral owner within a ½ mile radius of the subject well.

(c) Discovery allowable. An oil discovery allowable may be granted to wells completed in a newly discovered pool at any time within 24 months from the date of first oil production from the discovery well. The oil discovery allowable shall be equal to 1½ times the current daily allowable which would be assigned to the well had it not been completed in a newly discov-

ered pool. The current daily allowable shall be determined by using the allowables set pursuant to K.A.R. 82-3-203 or the daily allowable as established by a special pool basic proration order.

(1) A discovery allowable may be assigned to wells in a newly discovered pool for one of the following periods of time, whichever occurs first:

(A) A period not to exceed 24 months from the date of the first oil production from the discovery well; or

(B) until further development has connected the pool with another pool which existed prior to the discovery pool.

(2) Overproduction and underproduction of the discovery oil allowable shall be subject to the same restrictions and procedures as followed for standard oil allowables.

(3) Each discovery allowable shall be subject to adjustment for the gas-oil ratio provisions in any combination pool.

(4) Any discovery allowable may be reduced temporarily to reflect the market demand determination. If reduction is required, the time for production of the discovery allowable may be extended by the commission.

(5) Discovery allowables may be obtained for each newly discovered pool in the same well bore if the well is completed in such a manner that production from a newly discovered pool is not commingled with production from any other pool in the well bore.

(6) Development wells in the newly discovered pool may be granted a discovery allowable that is effective on the date of the first oil production from the well after the approval of an application by the commission.

(d) Hearing procedure. Any new pool may be certified and a discovery allowable may be granted without a hearing. If a hearing is necessary, the applicant shall provide notice of the hearing not less than 30 days before the hearing date to each offset operator or lessee of record and to each unleased mineral owner within a ½ mile radius of the subject well. The applicant shall also publish notice as required by K.A.R. 82-3-135. A hearing before the commission shall be set and proper notice given if:

(1) the new pool application does not clearly show that the subject well is producing from a newly discovered pool; or

(2) a protest is filed with the commission by an interested party within 15 days from the date the application is served as referred to in subsection (b). (Authorized by K.S.A. 55-604, 55-704; implementing K.S.A. 1986 Supp. 79-4217, as amended by L. 1987, Ch. 393, Sec. 1; effective May 1, 1985; amended May 1, 1987; amended May 1, 1988.)

82-3-140. Tertiary recovery project certification.

(a) Each application for certification of a tertiary recovery project under the Crude Oil Windfall Profit Tax Act of 1980, 26 U.S.C. § 4993, and each application for certification to the Kansas department of revenue shall be submitted to the commission and shall be accompanied by:

(1) The project name and its legal description;

(2) the type of tertiary recovery process to be implemented;

(3) the exhibits and evidence required to support the application for certification; and

(4) any other information required by the commission.

(b) The original and three copies of the application shall be filed with the secretary of the commission in Topeka, Kansas. An additional copy of the application shall be sent to the conservation division.

(c) The applicant shall publish notice of the hearing as is required by K.A.R. 82-3-135. (Authorized by K.S.A. 55-604, 55-704; implementing K.S.A. 1986 Supp. 79-4217, as amended by L. 1987, Ch. 393, Sec. 1; effective, T-87-46, Dec. 19, 1987; effective May 1, 1987; amended May 1, 1988.)

82-3-141. Recompletion report. (a) Within 120 days of the date of commencement of recompletion of a well, the operator shall file an original and two copies of an affidavit of recompletion with the conservation division.

(b) The affidavit of recompletion shall be filed regardless of the manner in which the well is completed. The affidavit of recompletion shall be on forms furnished by the commission. If requested by the commission, the affidavit shall be accompanied by wireline logs of the well, if run. (Authorized by and implementing K.S.A. 55-604; effective May 1, 1988.)

82-3-202. Productivities, methods of determining, when required. The productivity of all wells in prorated pools in this state shall be determined in accordance with the following rules.

(a) Type of test. The productivity of each well shall be determined by a physical test conducted in the manner in which the well is normally produced. The initial physical test shall be conducted within 30 days of the filing of the affidavit of completion for the well.

(b) Supervision. Each test shall be conducted under the supervision of the commission.

(c) Notice and witnesses. Each operator of a well on which a test is to be conducted shall notify the commission's agent at least 12 hours before the beginning of a test. Any offset operator may witness the test.

(d) Temporary allowable of a well. After the operator files an affidavit of completion, a temporary allowable for the well shall be established and shall be effective for 30 days.

(e) Production considered. Only pipeline oil produced during the test shall be considered in determining a well's productivity.

(f) Pool and productivity tests. (1) Pool and productivity tests shall be taken initially and on an annual basis, except on wells which produced less than 25 barrels of oil per day at the time of the last current test.

(2) Those wells producing less than 25 barrels of oil per day shall be exempt from further testing unless the well becomes capable of producing more than 25 barrels of oil per day or unless otherwise ordered by the commission.

(3) Whenever, due to some act or omission of the operator, more than 15 months have lapsed since the

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last productivity test for a well was conducted, the well shall not be entitled to an allowable until tested, unless otherwise exempt.

(4) Any well that was tested less than three months before the date of a scheduled pool test shall not be required to take the pool test.

(5) Operators shall be notified 10 days before the start of a pool test.

(g) Good cause shown. The commission may, on its own motion and for good cause shown, direct the taking of a productivity test of any well or any pool. (Authorized by and implementing K.S.A. 55-604; effective, T-83-44, Dec. 8, 1982; effective May 1, 1983; amended May 1, 1986; amended May 1, 1988.)

82-3-204. Reports by producers. The producer or operator of each well in prorated pools, including minimum wells, shall file each month a verified statement showing the amount of crude petroleum actually produced by each well and lease. The verified statement shall be filed with the conservation division on or before the 15th day of each month following the month in which the production occurred. The filing of production reports by producers shall be required for the purpose of obtaining allowables. (Authorized by K.S.A. 55-604; implementing K.S.A. 55-603; effective, T-83-44, Dec. 8, 1982; effective May 1, 1983; amended May 1, 1986; amended May 1, 1988.)

82-3-207. Oil drilling unit. In the absence of special orders issued by the commission, the following provisions shall apply to all oil wells.

(a) Standard drilling unit. A standard drilling unit shall be 10 acres. Except as otherwise provided by K.A.R. 82-3-108(b) or (c), the well for that unit shall be located at least 330 feet from any lease or unit boundary.

(b) Acreage-attribution unit. Unless an exception is granted, any oil well that is drilled nearer than the minimum distance required by subsection (a) or (b) of K.A.R. 82-3-108, whichever is applicable, from any lease or unit boundary line shall have its attributable acreage determined by the establishment of an acreage-attribution unit. The width of the acreage-attribution unit shall be twice the distance from the well to the nearest lease or unit boundary line. The length of the unit shall be the same as the width.

(c) Acreage attributable. When the acreage attributable to any well is less than 10 acres, the well's allowable shall be reduced in the same proportion that the acreage attributable to the well bears to 10 acres. (Authorized by and implementing K.S.A. 55-604; effective, T-83-44, Dec. 8, 1982; effective May 1, 1983; amended May 1, 1984; amended May 1, 1986; amended May 1, 1988.)

82-3-300. Application for allowables in prorated pools; notice. (a) An allowable shall not be granted by the commission for any gas well in a prorated pool unless an application has been filed and duly verified.

Each application shall show:

(1) The exact location of the well and the acreage attributed to the well;

(2) the common source of supply in which the well is located;

(3) the name of the purchaser and, if known, the initial price to be paid for the gas at the standard pressure base of 14.65 pounds per square inch absolute;

(4) the names and addresses of all persons owning royalty interests in the acreage to be attributed, and an affidavit indicating the date service of a copy of the application was made to each;

(5) a plat showing the location and approximate depths of all wells and dry holes which have been drilled within one mile from the acreage to be attributed;

(6) the applicant's license number; and

(7) any other information the commission may require.

(b) The original and three copies of the application shall be filed with the secretary of the commission in Topeka, Kansas. An additional copy of the application shall be sent to the conservation division.

(c) All applications for the granting of allowables for any gas well in a prorated pool which involves exceptions to a basic proration order shall, in addition to the above requirements, include the names and addresses and an affidavit indicating the date service of a copy of the application was made to each of the following:

(1) all operators of producing acreage abutting or adjoining the acreage to be attributed;

(2) all lessees of record of non-producing acreage abutting or adjoining the acreage to be attributed;

(3) all owners of record of the minerals in, or royalty of unleased acreage abutting or adjoining, the acreage to be attributed, and

(4) all persons owning the royalty or leasehold interests in acreage abutting or adjoining the acreage to be attributed which is operated by the applicant or on which the applicant has a lease or an interest in the lease. (Authorized by K.S.A. 55-704; implementing K.S.A. 55-705b; effective, T-83-44, Dec. 8, 1982; effective May 1, 1983; amended May 1, 1988.)

82-3-302. (Authorized by and implementing K.S.A. 55-704; effective, T-83-44, Dec. 8, 1982; effective May 1, 1983; revoked May 1, 1988.)

82-3-304. Tests of gas wells. (a) Initial certified tests run in conformance with these rules or special orders shall be filed with the commission within 60 days of first gas sales. Tests shall be conducted under the supervision of the conservation division whether a representative is present or not. In prorated fields, all gas produced into a pipeline shall be counted against the allowables.

(b) Tests may be witnessed by a representative of any producer in the field. Any producer may request notification of the time the tests will commence from the operator of the well on which a test is to be run.

(c) An annual test shall be run in accordance with these rules except on gas wells used for domestic purposes where gas is not sold and on wells which had an absolute open flow of 65 mcf of gas per day or less at the time of the last current test, in the absence of special orders issued by the commission. Such min-

imum wells will be exempt from further testing unless the well becomes capable of producing more than 65 mcf of gas per day or unless otherwise ordered by the commission. The test shall be effective during the next succeeding year. Additional tests may be required by the commission at any time. The test shall become effective the first day of the month following receipt of test results by the conservation division.

(d) Each operator of a gas well shall be responsible for conducting all tests required to obtain an allowable for the well. Each operator shall submit one copy of the test required under subsection (c) to the conservation division and one copy to the purchaser to confirm the allowable as determined by these rules or by special orders.

(e) Any gas produced and sold without the required test shall be illegal production. (Authorized by K.S.A. 55-704; implementing K.S.A. 1986 Supp. 55-703; effective, T-83-44, Dec. 8, 1982; effective May 1, 1983; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988.)

82-3-306. Reports from gas producers. Each producer of gas shall file a verified monthly report showing the amount of gas actually produced by each lease. The verified report shall be filed with the conservation division on or before the 20th day of the second month following the month in which the production occurred. Extensions of the time period within which the verified report must be filed may be granted by the director. The form used for reporting shall be furnished by the commission. (Authorized by and implementing K.S.A. 55-704; effective, T-83-44, Dec. 8, 1982; effective May 1, 1983; amended May 1, 1988.)

82-3-311. Drilling through gas storage formations.

(a) Every person, firm or corporation who, for any purpose, drills or causes the drilling of a well or test hole that penetrates or bores through any underground stratum or formation that a natural gas public utility has appropriated through the exercise of the right of eminent domain for the underground storage of natural gas pursuant to K.S.A. 55-1204 shall seal off the natural gas storage stratum or formation by:

(1) The methods and materials recommended by the public utility and approved by the commission or its duly authorized representative; or

(2) by methods and materials that the commission determines to be fair, equitable and reasonable.

(b) That person, firm or corporation shall maintain the well or test hole in a manner that will protect the stratum or formation at all times against pollution and the escape of natural gas.

(c) Not less than 30 days before commencing or plugging a well or test hole as referred to in subsection (b), the person, firm or corporation desiring to commence drilling or plugging operations shall give the public utility and the commission notice in writing, by registered mail, of the date desired for commencement of drilling or plugging the well.

(d) Within 10 days after receipt of notice, the public utility shall forward to the commission its recommendations as to the manner, methods and materials to be used in the sealing off or plugging operation. The

public utility shall give notice of the recommendations by mailing or delivering a copy to the person, firm or corporation who seeks to drill or plug a well or test hole. The notice shall be mailed or delivered on or before the date the recommendations are mailed to or filed with the commission.

(e) Any objections or complaints stating why the recommendations proposed by the public utility are not feasible, practical or reasonable shall be filed within five days after the recommendation is filed.

(f) If any objections or complaints are filed, or if the commission deems that there should be a hearing on the recommendation of the public utility, a hearing shall be held. The person, firm, corporation or agency requesting the hearing shall provide notice of the hearing not less than 30 days prior to the hearing date to each person, firm or corporation seeking to drill or plug a test hole and to the public utility. Notice shall also be provided pursuant to K.A.R. 82-3-135.

(g) Following receipt of the recommendations proposed by the public utility or the hearing, the commission shall prescribe the manner, methods and materials to be used in the sealing off or plugging operation. Operations shall not commence until the manner, methods and materials to be used have been prescribed by the commission.

(h) Any public utility involved may have a representative present at all times during the drilling, completing or plugging of the well or test hole and shall have access to all records relating to the drilling, equipping, maintenance, operation or plugging of the well.

(i) Each public utility involved, in conjunction with the commission or its representative and the operator of the well, shall have the right to inspect or test the well to discover any leaks or defects that may affect the underground natural gas storage stratum or formation.

(j) Each cost and expense necessarily incurred in sealing off the stratum or formation or in plugging, maintaining, inspecting or testing the well, as recommended by the public utility and subsequently approved or independently determined by the commission or its representative, that is over and above the ordinary expense of operations using similar methods shall be paid upon completion by the public utility involved.

(k) Special rules, regulations and orders shall be issued when required and shall prevail over the general rules and regulations if a conflict occurs. (Authorized by K.S.A. 1986 Supp. 55-152, K.S.A. 55-604; implementing K.S.A. 1986 Supp. 55-605, 55-706, K.S.A. 55-1203; effective, T-83-44, Dec. 8, 1982; effective May 1, 1983; amended, T-85-51, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1988.)

82-3-312. Gas allowables and drilling unit. In the absence of special orders issued by the commission, the following provisions shall apply to all gas wells.

(a) Standard daily allowable. The standard daily allowable for a gas well is limited to 25 percent of the well's actual open flow potential. All wells shall be

(continued)

entitled to a minimum daily allowable of 65 Mcf. The well's actual open flow potential shall be measured pursuant to these rules.

(b) Standard drilling unit. A standard drilling unit shall be 10 acres. Except as otherwise provided by K.A.R. 82-3-108(c), the well for that unit shall be located at least 330 feet from any lease or unit boundary.

(c) Acreage—attribution unit. Unless a well location exception is granted, any gas well which is located nearer than 330 feet to any lease or unit boundary line shall have acreage attributed to it by the establishment of an acreage-attribution unit. This unit's width shall be defined as being twice the distance from the well to the nearest lease or unit boundary line. The length of the unit shall be defined to be the same as the width.

(d) Acreage attributable. When any gas well is located nearer than 330 feet to any lease or unit boundary line, the standard daily allowable or minimum allowable shall be reduced in the same proportion that the acreage attributed to the well bears to 10 acres.

(e) The commission may grant exceptions and adjust the allowable to protect correlative rights, prevent waste and give the full allowable where:

(1) Location exceptions have been granted for man made structures or topographic features;

(2) no interference with drainage of adjacent wells can be shown by competent evidence; or

(3) actual interference is less than the reduced allowable. (Authorized by K.S.A. 55-704; implementing K.S.A. 1986 Supp. 55-703; effective May 1, 1985; amended May 1, 1988.)

82-3-400. Application, approval, place of injection or disposal, and records. (a) Enhanced recovery fluids injection or disposal operations shall be permitted only upon application to and approval by the commission. Before any formations are approved for use, determinations shall be made that they are separated from fresh and usable water formations by impervious beds to give adequate protection to the fresh and usable water formations.

(b) In reviewing applications for injection or disposal wells, the protection of hydrocarbons and water resources and oil and gas advisory committee recommendations concerning safe depths for injection or disposal for all producing areas in the state shall be considered by the commission.

(c) If no additional information, including well logs, formation tests, water quality data, or water well data, is made available by the operator, Table II, dated August 1, 1987, Docket No. 156,397-C (C-22,607), hereby incorporated by reference, shall be used by the commission in determining the minimum depth for the injection of salt water.

(d) All injection and disposal well applications filed on and after December 8, 1982, which require well-head pressure to inject fluids shall inject the fluids through tubing under a packer set immediately above the uppermost perforation or open hole zone, except as provided in K.A.R. 82-3-404. The packer shall be set opposite an interval of casing protected by cement.

(e) Each owner or operator of an injection or dis-

posal well that is injecting fluid into a subsurface formation shall:

(1) Keep a current and accurate record to be preserved for five years of the amount and kind of fluid injected into the well; and

(2) submit a report to the commission at the end of each calendar year showing the amount and kind of fluid injected or disposed of into each well and any other information that may be required.

(f) Emergency authority to inject or dispose of fluids at an alternate location, in the event a facility is shut-in for maintenance, testing, repairs or by order of the commission, may be granted by the commission. (Authorized by K.S.A. 1986 Supp. 55-152, 55-901; implementing K.S.A. 1986 Supp. 55-151, K.S.A. 55-153, K.S.A. 1986 Supp. 55-901, 55-1003; effective, T-83-44, Dec. 8, 1982; effective May 1, 1983; amended May 1, 1984; amended May 1, 1986; amended, T-87-46, Dec. 19, 1986; amended May 1, 1987; amended May 1, 1988.)

82-3-401. Injection or disposal well; application, content, notice, objection, hearing and approval. (a)

Fluid shall not be injected into a well for enhanced recovery or disposal purposes until approved by the commission, following the required application and notice procedures. An exception to this requirement may be granted by the commission for good cause.

(b) Each application shall be verified and filed with the commission and shall show:

(1) The name, location, surface elevation, total depth, and plug back depth of each injection or disposal well;

(2) the location of all oil and gas wells, including abandoned wells, drilling wells and dry holes within a ½ mile radius of the injection or disposal well;

(3) the name and address of each operator of a producing or drilling well within a ½ mile radius of the injection or disposal well;

(4) the name, description, and depth of each injection interval. The application shall indicate whether the interval is through any perforations, an open-hole, or both;

(5) the depths of the tops and bottoms of all casing and cement used or to be used in the injection or disposal well;

(6) a plat, showing all producing wells within a ½ mile radius and indicating producing formations and the subsea top of the producing formations;

(7) the size of the casing and tubing and the depth of the tubing packer;

(8) any information that is available in the log of the injection or disposal well, including an elevation reference;

(9) a description of the fluid to be injected, the source of injected fluid, and the estimated maximum and average daily rate of injection in barrels per day;

(10) the names and addresses of the operators shown in paragraph (b)(3) above who were notified of the application, and evidence that the notice was given;

(11) information showing that injection or disposal into the proposed zone will be contained within the

zone and will not initiate fractures through the overlying strata which could enable the fluid or formation fluid to enter fresh and usable water strata. Fracture gradients shall be computed and furnished to the commission by the applicant, if requested by the commission;

(12) the applicant's license number; and

(13) any other information that the commission requires.

(c) (1) Approval of the design of any proposed well may be obtained prior to actual construction of the well. Each applicant desiring design approval shall place the words "design approval" at the top of the application for enhanced recovery or disposal operations. The design approval application shall be subject to the requirements set forth in subsections (b), (g) and (j) of this regulation.

(2) Each applicant shall be notified by the commission of its approval of the well design provided:

(A) All requirements set forth in subsections (b), (g) and (j) of this regulation have been met;

(B) the design of the proposed well will protect fresh and usable water; and

(C) no objections or complaints have been filed pursuant to subsection (h) of this regulation.

(3) Upon completion of each well construction, a copy of the well completion report, on the form prescribed and furnished by the commission, shall be submitted to the commission. The application for the injection of fluid into the proposed well for enhanced recovery or disposal purposes shall be approved, if there are no significant differences between actual construction and the approved designed construction of the proposed well and the mechanical integrity of the well has been tested pursuant to K.A.R. 82-3-405.

(d) When issuing an order approving injection or disposal, the following factors shall be considered by the commission:

(1) Maximum injection or disposal rate;

(2) maximum surface pressure;

(3) the type of injection or disposal fluid and the rock characteristics of the injection or disposal zone and the overlying strata;

(4) the adequacy and thickness of the confining zone or zones between the injection interval and the base of the lowest fresh or usable water; and

(5) the construction of all oil and gas wells within a ¼ mile radius of the proposed injection or disposal well, including all abandoned, plugged, producing, and other injection or disposal wells, to ensure that fluids introduced into the proposed injection or disposal wells, to ensure that fluids introduced into the proposed injection or disposal zone will be confined to that zone.

(e) Applications may be filed for more than one injection or disposal well on the same lease or on more than one lease. The applicant shall provide the requested information for each well included in the application.

(f) Each application shall be executed by the operator of the proposed injection plan or disposal well.

(g) Each applicant shall give notice of the application by mailing or delivering a copy of the application

to the landowner on whose land the well is located, to each operator of a producing or drilling well and to each unleased mineral owner within a ½ mile radius of the proposed injection or disposal well. Notice shall be mailed or delivered on or before the date the application is filed with the commission. Notice of the application shall be published in at least one issue of the official county newspaper of each county in which the lands involved are located.

(h) Objections or complaints shall be filed within 15 days after the notice is published. The complaint or objection shall state the reasons why the proposed plan, as contained in the application, may cause damage to oil, gas, or fresh and usable water resources.

(i) If the application is for disposal into a formation producing within a ½ mile radius of the applicant's well, the disposal zone shall be below the oil-water contact or 50 feet below the base of the producing zone. For the purposes of this subsection, "disposal zone" means that stratigraphic interval which contains little or no commercially productive hydrocarbons and which is salt-water bearing; "producing zone" means that stratigraphic interval which contains, or appears to contain, a common accumulation of commercially productive hydrocarbons.

(j) If any objection or complaint is filed, or if the commission, on its own motion, deems that there should be a hearing on the application, a hearing shall be held. The applicant shall provide notice of the hearing not less than 15 days prior to the hearing date. The notice shall be provided to the landowner on whose land the well is located, to each operator of a producing or drilling well and to each unleased mineral owner within a ½ mile radius of the proposed injection or disposal well. Notice shall also be provided pursuant to K.A.R. 82-3-135. (Authorized by K.S.A. 1986 Supp. 55-901, 55-152; implementing K.S.A. 1986 Supp. 55-605, 55-706, 55-152, 55-1003; effective T-83-44, Dec. 8, 1982; effective May 1, 1983; amended May 1, 1984; amended, T-85-51, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1986; amended, T-87-46, Dec. 19, 1986; amended May 1, 1987; amended May 1, 1988.)

82-3-502. Notice; protest; hearing; administrative grant. (a) The time and place for hearings on applications for natural gas well classification determinations under the Natural Gas Policy Act of 1978, Public Law 95-621 shall be set by the commission. If commission staff determines that the application is complete, that it has been filed as provided in K.A.R. 82-3-501 and that it should be granted without hearing, the applicant shall be advised accordingly. The applicant shall give notice, by publication to all interested parties, that the matter is intended to be granted without hearing unless a written protest is filed and received by the conservation division within 10 days after the publication notice. In the event no protest is filed, the application shall be granted without further appearance or hearing.

(b) If the staff recommends that an application not be granted, a hearing shall be held. The applicant

(continued)

shall give notice of the hearing not less than 30 days before the hearing.

(c) The notice required in subsections (a) and (b) shall be given to all purchasers of the applicant's gas. The applicant shall also publish notice pursuant to K.A.R. 82-3-135.

(d) Proof of publication of notice shall be furnished to the commission by the applicant on or before the hearing date, or if no hearing is required, upon receipt of the notice from the publisher. The notice shall specify that, if a timely protest is filed, the hearing will be held at the next regularly scheduled hearings of NGPA matters that occurs at least 10 days following the filing of protest. If a timely protest is filed, protestants shall be notified immediately in writing of the time and place of the hearing. Notice provisions contained in this regulation shall pertain only to notices provided for hearing dates or to notices of the intent to grant applications for natural gas well classification under the Natural Gas Policy Act of 1978, Public Law 95-621 without hearing. (Authorized by K.S.A. 66-1,185; implementing K.S.A. 1986 Supp. 55-706, K.S.A. 66-1,185; effective, T-83-44, Dec. 8, 1982; effective May 1, 1983; amended, T-85-51, Dec. 19, 1984; amended May 1, 1988.)

82-3-602. Abandonment of surface ponds; drilling pit time limitation. (a) Upon the permanent cessation of the flow of fluids or emplacement of solids into any surface pond, or upon the revocation of any surface pond permit, the operator shall:

(1) Remove the liquid contents to a disposal well or other oil and gas operation approved by the commission or to road maintenance or construction locations approved by the department;

(2) dispose of the remaining solid contents in any manner required by the commission. In lieu of burial in place, the requirements may include:

(A) Burial in place of treated contents in accordance with grading and restoration requirements described under subsection (c) of this regulation;

(B) removing and placing the contents in an on-site disposal area approved by the commission; or

(C) removing the contents to a permitted off-site disposal area approved by the department.

(c) Upon abandonment of any surface pond, the operator shall grade the surface of the soil as soon as practical or as required by the commission. To the greatest extent possible, the surface of the soil shall be returned to same condition as existed prior to the construction of the surface pond.

(d) Drilling pits shall be abandoned and closed within a maximum of 365 calendar days after the spud date of a well. A drilling pit permit may be extended upon request by the operator and with the approval of the director. (Authorized by K.S.A. 1986 Supp. 55-152, 74-623; implementing K.S.A. 1986 Supp. 55-171, effective, T-87-46, Dec. 19, 1986; effective May 1, 1987; amended May 1, 1988.)

82-3-603. Spill notification and clean-up; lease maintenance. (a) Every operator shall notify the appropriate district office within 24 hours of discovery of a spill which is not confined in an authorized surface

pond. The notification shall include the following information:

(1) The operator's name and license number;

(2) the lease name and legal description, the approximate spill location, and the surface pond permit number;

(3) the time and the date the spill occurred;

(4) a description of the escaped materials including type and amount;

(5) a description of the circumstances creating the spill;

(6) the location of the spill with respect to the nearest fresh and usable water resource;

(7) the proposed method for containing and cleaning up the spill; and

(8) any other information that the commission may require.

(b) the district office may modify the operator's clean-up proposal and may witness the clean-up operation. A time frame within which clean-up is to occur shall be established by the district office.

(c) Each operator of an emergency pit shall empty fluids from the pit within 48 hours after the discharge is discovered or as authorized by the appropriate district office. (Authorized by K.S.A. 1986 Supp. 55-152; implementing K.S.A. 55-172, 74-623; effective, T-87-46, Dec. 19, 1986; effective May 1, 1987; amended May 1, 1988.)

Article 4.—MOTOR CARRIERS OF PERSONS AND PROPERTY

82-4-3. Motor carrier safety regulations. (a) The following parts of the federal rules and regulations promulgated by the U.S. department of transportation, federal highway administration, and bureau of motor carrier safety, are hereby incorporated by reference as the rules and regulations of the state corporation commission of the state of Kansas. The incorporation by reference shall cover the parts as they exist on November 30, 1987: (1) Federal motor carrier safety regulations: General, 49 CFR Part 390, except sections 49 CFR 390.1, 390.15, 390.16.

(2) Qualifications of drivers: 49 CFR Part 391, except sections 49 CFR 391.2, 391.3, 391.5, 391.7, 391.11(b)(1), 391.41, 391.43, 391.45, 391.47 and 391.49 and 391.69.

(3) Driving of motor vehicles: 49 CFR Part 392, except sections 49 CFR 392.1(c), (d), 392.2, 392.30, 392.31, 392.32, 392.40 and 392.41.

(4) Parts and accessories necessary for safe operation: 49 CFR Part 393, except sections 49 CFR 393.81, 393.87 and 393.95 (a) and (b).

(5) Notification and reporting of accidents: 49 CFR Part 394.

(6) Hours of service of drivers: 49 CFR Part 395, except sections 49 CFR 395.3(c), 395.8(k)(2) and 395.8(1)(2).

(7) Inspection, repair and maintenance: 49 CFR Part 396.

(8) Transportation of hazardous materials; driving and parking rules: 49 CFR Part 397.

(9) Transportation of migrant workers: 49 CFR Part 398.

(10) Employee safety and health standards: 49 CFR Part 399.

(b) Whenever the incorporated federal regulations refer to portions of the federal regulations that are not included under subsection (a), those references shall not be applicable to this regulation.

(c) The following terms as used in this regulation and the identified sections of the regulations adopted by reference are defined as follows:

(1) The term "special agent of FHWA or special agent of the federal highway administration and authorized representatives of the federal highway administration," as used in 49 CFR 394.15(a), 395.13(a), 396.9(a), 398.8(a) and 399 appendix B, means authorized representatives of the state corporation commission of Kansas, and troopers of the Kansas highway patrol and motor carrier inspectors of the department of revenue who have been certified in the inspection of motor carriers based on the motor carrier safety assistance program standards.

(2) The term "authorized FHWA personnel," as used in 49 CFR 396.9(b), means troopers of the Kansas highway patrol or authorized representatives of the state corporation commission of Kansas or motor carrier inspectors of the department of revenue who have been certified in the inspection of motor carriers based on the motor carrier safety assistance program standards.

(3) The term "associate regional administrator, motor carrier safety, federal highway administration," as used in 49 CFR 394.9(d), means superintendent, Kansas highway patrol.

(4) The term "director, regional motor carrier safety office of the federal highway administration," as used in 49 CFR 390.40, 391.51(g), 394.7(a), 394.9(a), 394.11(a) and 397.19(b) means the superintendent, Kansas highway patrol and the administrator of the transportation division of the state corporation commission of Kansas.

(5) The term "regional federal highway administrator," as used in 49 CFR 391.51(b)(2), means director of transportation, state corporation commission of Kansas.

(6) The term "department of transportation act," as used in 49 CFR 394.3(a), means the department of transportation act and the motor carrier act of the state of Kansas. (Authorized by and implementing K.S.A. 66-1,112, K.S.A. 66-1,112a, K.S.A. 66-1,112g, and K.S.A. 66-1,129; effective Jan. 1, 1971; modified, L. 1981, ch. 424, May 1, 1981; amended May 1, 1984; amended May 1, 1985; amended May 1, 1987; amended May 1, 1988.)

82-4-20. Transportation of hazardous materials by motor vehicles. (a) The following parts of the federal hazardous materials rules and regulations promulgated by the U.S. department of transportation are incorporated by reference as the rules and regulations of the state corporation commission of the state of Kansas: Title 49 CFR, Parts 107.103(b) and 107.105,

171, 172, 173, 177 and 178, except sections 49 CFR 171.7(d)(27), 177.825, 177.842, 177.843 and 177.861, as in effect on September 28, 1987.

(b) Whenever the incorporated federal regulations refer to portions of the federal regulations that are not included under subsection (a), those references shall not be applicable to this regulation.

(c) Any reference to the following publications listed in 49 CFR 171.7 (d)(1); (d) (3)(ii), (iii) and (iv); (d)(5)(i), (ii), (vi), (vii), (ix), (xix), (xx), (xxi), (xxii), (xxiii), (xxiv), (xxv), (xxvi), (xxvii), (xxviii), (xxix), (xxx), (xxxi), (xxxii) and (xxxiii); (d)(6); (d)(7) (i), (ii), (iii) and (iv); (d)(13); (d)(14); (d)(15)(i) and (ii); (d)(16)(i); (d)(17); (d)(18); (d)(19); (d)(20); (d)(21); (d)(22); (d)(25); (d) 26; (d) 27; (d) 28: "Manual on Roof Coverings," NFPA 203M-1970; and "Specifications, Properties, and Recommendations for Packaging, Transportation, Storage, and Use of Ammonium Nitrate" shall not be adopted by reference. (Authorized by K.S.A. 66-1,112, K.S.A. 66-1,112a, K.S.A. 66-1,112g and K.S.A. 66-1,129; implementing 66-1,112 and K.S.A. 66-1,129; effective Jan. 1, 1971; amended May 1, 1981; amended May 1, 1984; amended May 1, 1985; amended May 1, 1987; amended May 1, 1988.)

82-4-65. Protestants. Any protest against the granting of a permit, certificate, extension, abandonment, or transfer shall be considered under the following conditions:

(a) Any interested person who believes the public will be adversely affected by a proposed application may file a written protest. The protest shall clearly identify the name and address of the protestant and the title and docket number of the proceeding. The protest shall include specific allegations as to how the applicant is not fit, willing and able to perform such services or how the proposed services are otherwise inconsistent with the public convenience and necessity.

(b) If the protestant opposes only a portion of the proposed application, the protestant shall state with specificity the objectionable portion.

(c) The protest shall be filed in triplicate with the commission within 10 days after publication of the notice in the Kansas Register. Failure to file a timely protest shall preclude the interested person from appearing as a protestant.

(d) Each protestant shall serve the protest upon the applicant at the same time or before the protestant files the protest with the state corporation commission. The protest shall not be served on the applicant by the commission.

(e) To secure consideration of a protest, the protestant, intervenor or a designated representative, as defined in K.A.R. 82-4-63, shall offer evidence or a statement or participate in the hearing. (Authorized by K.S.A. 66-1,112, K.S.A. 66-1,112a; implementing K.S.A. 66-1,114; effective Jan. 1, 1971; amended May 1, 1981; amended May 1, 1985; amended May 1, 1987; amended May 1, 1988.)

KEITH R. HENLEY
Chairman

State of Kansas
DEPARTMENT OF COMMERCE
PERMANENT ADMINISTRATIVE
REGULATIONS
 (Effective May 1, 1988)

Article 1.—VENTURE CAPITAL
COMPANY CERTIFICATION

110-1-1. Application process. (a) Application to become a certified Kansas venture capital company shall be made upon the application form furnished by the secretary of the department of commerce.

(b) Each application form shall be signed by an authorized officer or partner, and shall contain, as a minimum, the following information:

- (1) the full, legal name of the company;
- (2) the address of the applicant's principal office for the state;
- (3) the names and addresses of the applicant's directors, officers, general partners and managing partners;
- (4) a certified copy of the certificate of incorporation and articles of incorporation, or a certified copy of the certificate of formation of a limited partnership, or trust documents, or other evidence that the company is organized or existing under the laws of Kansas;
- (5) adequate proof of a minimum level of equity capitalization of \$1,500,000 as required by K.S.A. 1986 Supp. 74-8306(b), as amended by L. 1987, Chapter 320, Section 3, and the level of capitalization the company expects to qualify for tax credits through cash investment in the venture capital company within the current calendar year. The cash investment shall be in the form of money or the equivalent of money. "Equivalent of money," for the purpose of cash investment in a certified Kansas venture capital company, shall mean instruments which are immediately convertible into U.S. currency of a readily determinable amount and which have equal worth as U.S. currency including checks, cashier's checks, money orders, and certificates of deposit with a term of 90 days or less;
- (6) the business history of the applicant; and
- (7) a statement of assurances which provides that:

(A) the applicant's purpose is to encourage and assist in the creation, development, and expansion of Kansas businesses and to provide maximum opportunities for the employment of Kansans;

(B) the applicant will disclose to all investors that the state of Kansas cannot be held liable for damages to an investor in a certified venture capital company as provided in K.S.A. 1986 Supp. 74-8311;

(C) the applicant will comply with all requirements of the Kansas venture capital company act, including the filing of annual reports.

(c) If an application is incomplete, the applicant, upon notification by the department, shall submit the required information within 10 working days. If the required information is not received within this time period, the application for certification shall be refused. Upon refusal of certification, a subsequent ap-

plication for certification may be submitted. (Authorized and implementing K.S.A. 1986 Supp. 74-8305, effective May 1, 1987, amended, T-88-53, Jan. 1, 1988; amended May 1, 1988.)

110-1-2. Annual report. (a) To determine program compliance and status for continuing certification, each certified Kansas venture capital company shall report annually to the secretary on forms provided by the department. Information reported shall include as a minimum:

(1) the name, address, and taxpayer identification number of each investor who has invested in that company and amounts invested by each;

(2) the name, address and taxpayer identification number of each taxpayer who acquires by transfer the income tax credits from investors exempt from income taxation;

(3) the name and location of each business in which the company has invested and the type and amount of investment. The names of the business owners shall be provided if required to determine their qualification for equity or tax credit purposes;

(4) the number of jobs created or preserved in each business; and

(5) a certification that all businesses in which the company has invested are eligible in accordance with K.S.A. 1986 Supp. 74-8307(d), as amended by L. 1987, Chapter 319, Section 3, if required to determine qualification for equity or tax credit purposes.

(b) The cost of the annual review for each Kansas venture capital company shall be \$100. The fee shall be paid by the Kansas venture capital company upon submission of the annual report to the secretary. (Authorized by and implementing K.S.A. 1986 Supp. 74-8305; effective May 1, 1987; amended, T-88-53, Jan. 1, 1988; amended May 1, 1988.)

Article 2.—LOCAL SEED CAPITAL
POOL CERTIFICATION

110-2-1. Application process. (a) Application to become a certified Kansas local seed capital pool shall be made upon the application form furnished by the secretary of the department of commerce.

(b) Each application form shall be signed by an authorized officer or partner, and shall contain, as a minimum, the following information:

(1) the full, legal name of the company;

(2) the address of the applicant's principal office in the state;

(3) the names and addresses of the applicant's directors, officers, general partners or managing partners;

(4) a certified copy of the certificate of incorporation and articles of incorporation, or a certified copy of the certificate of formation of partnership;

(5) adequate proof of a minimum level of \$200,000 capitalization as required by L. 1987, Chapter 365, Section 2(b) and the level of capitalization the company expects to qualify for tax credits;

(6) the source of money necessary to administer and operate the pool;

(7) the business history of the applicant; and

(8) a statement of assurances which provides that:

(A) the applicant's purpose is to encourage and assist in the creation, development, and expansion of Kansas businesses and to provide maximum opportunities for the employment of Kansans by making seed capital available to Kansas businesses;

(B) the funds invested by the local seed capital pool will be invested at 100 percent in Kansas businesses;

(C) the company will operate under the definition of a local seed capital pool in L. 1987, Chapter 365, Section 1(c);

(D) the public funds invested in a local seed capital pool will have a senior position to any private cash investment and that each cash dollar of public investment will be matched by at least two dollars of private cash investment; and

(E) the applicant will disclose to all investors that the state of Kansas cannot be held liable for damages to an investor in a local seed capital pool, as provided in L. 1987, Chapter 365, Section 6.

(c) If an application is incomplete, the applicant, upon notification by the department, shall submit the required information within 10 working days. If the required information is not received within this time period, the application for certification shall be refused. Upon refusal of certification, a subsequent complete application for certification may be submitted. (Authorized and implementing L. 1987, Chapter 365, Section 2; effective, T-88-53, Jan. 1, 1988; effective May 1, 1988.)

110-2-2. Annual report. (a) To determine program compliance and status for continuing certification, each certified Kansas local seed capital pool shall report annually to the secretary on forms provided by the department. Information reported shall include, as a minimum:

(1) the name, address, and taxpayer identification number of each taxpayer who has invested in the pool and amounts invested by each;

(2) the name and location of each business in which the pool has invested and amount and use of the investment; and

(3) an estimate of the number of jobs created or preserved in each business.

(b) The cost of the annual review for each certified Kansas local seed capital pool shall be \$100. The fee shall be paid by the seed capital pool upon submission of the annual report to the secretary. (Authorized by and implementing L. 1987, Chapter 365, Section 2; effective, T-88-53, Jan. 1, 1988; effective May 1, 1988.)

HARLAND E. PRIDDLE
Secretary of Commerce

Doc. No. 006318

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