



Kansas Register

Bill Graves, Secretary of State

Vol. 13, No. 49 December 8, 1994 Pages 1843-1906

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State of Kansas

Kansas Judicial Council

Notice of Meetings

The Kansas Judicial Council and its advisory committees will meet according to the following schedule at the Kansas Judicial Center, 301 W. 10th, Topeka:

Date	Committee	Time	Location
Dec. 2	Family Law	9:30 a.m.	2nd Floor, Court of Appeals Courtroom
Dec. 2	Probate Law	9:30 a.m.	Room 259
Dec. 8	Criminal Law	9:30 a.m.	Room 259
Dec. 9	Judicial Council	9:00 a.m.	Room 259
Dec. 16	Administrative Procedure	9:30 a.m.	Room 259
Dec. 19	Civil Code	9:00 a.m.	Room 259
Jan. 6	Criminal Law	9:30 a.m.	Room 259
Jan. 13	Judicial Council	9:00 a.m.	Room 259
Jan. 20	PIK	9:30 a.m.	Room 259

Justice Kay McFarland
Chair

Doc. No. 015680

State of Kansas

State Fair Board

Notice of Meeting

The State Fair Board will meet at 11 a.m. Thursday, December 15, in the board room of the Administration Building on the fairgrounds in Hutchinson. The meeting will continue December 16. For further information, contact Deana Novak at (316) 669-3612.

Deana K. Novak
Administrative Officer

Doc. No. 015675

State of Kansas

State Emergency Response Commission

Notice of Meeting

The State Emergency Response Commission will meet at 2 p.m. Friday, December 16, in the Landon Room of the Manhattan Ramada Inn, 17th and Anderson, Manhattan.

Robert C. Harder
Secretary of Health
and Environment

Doc. No. 015678

The Kansas Register (ISSN No. 0662-190) is an official publication of the State of Kansas, published by authority of K.S.A. 75-430. The Kansas Register is published weekly by the Kansas Secretary of State, State Capitol, Topeka, KS 66612-1594. One-year subscriptions are \$60 (Kansas residents must include \$3.54 state and local sales tax). Single copies may be purchased, if available, for \$2 each. Second class postage paid at Topeka, KS.

Postmaster. Send change of address form to Kansas Register, Secretary of State, State Capitol, Topeka, KS 66612-1594.

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PUBLISHED BY
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Secretary of State
2nd Floor, State Capitol
300 S.W. 10th Ave.
Topeka, KS 66612-1594
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Kansas Register Office:
235-N, State Capitol
(913) 296-3489

State of Kansas

Attorney General

Opinion No. 94-157

Elections—Filling Vacancies in Offices and Candidates—Application of Open Meetings Act to Precinct Committee.

State Departments; Public Officers and Employees—Public Officers and Employees; Open Public Meetings—Application to Precinct Committee. Representative Jim Morrison, 121st District, Colby, November 22, 1994.

A political party precinct committee is an integral part of the election mechanism; it is not a legislative or administrative agency of the state or local government, nor is it subordinate to such a body. Therefore, a political party precinct committee is not a public body within the meaning of the Kansas open meetings act and is therefore not subject to the act's requirements. Cited herein: K.S.A. 25-3801; 25-3807; 25-3808; 25-3902; 25-3904; 7-4318. NKF

Robert T. Stephan
Attorney General

Doc. No. 015689

State of Kansas

**Department of Administration
Division of Architectural Services**

**Notice of Commencement of Negotiations
for Technical Services**

Notice is hereby given of the commencement of negotiations for surveying and soil testing services for state construction projects for the six-month period from January 1 to June 30, 1995. Soil testing services would include testing and reporting prior to construction and inspection services during construction. Firms that provide concrete, welding, asphalt and steel testing are also being sought.

Firms interested in providing these services should submit an SF 255 form indicating their qualifications, fees for their services, and geographical areas of the state in which they are willing to work to Gary Grimes, Deputy Director of Planning and project management, Division of Architectural Services, 625 Polk, Topeka 66603-3288, (913) 233-9367. An original of the SF 255 form (plus attachments as required) should be submitted with letters of interest.

It is the intention of the division to preapprove a separate group of qualifying surveying and testing firms and award projects on a rotational basis. If a firm anticipates being limited to specific sized projects, by dollar volume or location in the state, that information should also be supplied with the response.

Any questions or expressions of interest should be directed to Gary Grimes on or before December 27.

J. David DeBusman
Director, Division of
Architectural Services

Doc. No. 015691

State of Kansas

Military Advisory Board

Notice of Meeting

The Kansas Military Advisory Board of the Adjutant General's Department meet at 10 a.m. Tuesday, December 20, in the State Defense Building, Conference Room 102, 2800 S.W. Topeka Blvd., Topeka. An agenda may be obtained by contacting Charles Bredahl, Office of the Adjutant General, (913) 274-1004.

Charles G. Bredahl
Special Assistant to
the Adjutant General

Doc. No. 015684

State of Kansas

**Department of Administration
Division of Architectural Services**

**Notice of Commencement of Negotiations
for Technical Services**

Notice is hereby given of the commencement of negotiations for air and water balancing services and commissioning of mechanical and electrical systems for state construction projects for the six-month period from January 1 to June 30, 1995. Negotiations are also commencing for infrared testing services.

Interested individuals or firms in the balancing field must be certified by the National Environmental Balancing Bureau or the Associated Air Balance Council. Said individuals or firms must be engaged in balancing work on a full-time basis. Balance agencies which are of the same parent company as the designers or contractors of a particular project will not be considered for that project.

Firms interested in providing these services should submit an SF 255 form indicating their qualifications, fees for their services, and geographical areas of the state in which they are willing to work to Robert Potoski, Division of Architectural Services, 625 Polk, Topeka 66603-3288, (913) 233-9367. An original of the SF 255 form (plus attachments as required) should be submitted with letters of interest.

It is the intention of the division to preapprove a separate group of qualifying balancing, commissioning and infrared contractors and award projects on a rotational basis. If a firm anticipates being limited to specific sized projects, by dollar volume or location in the state, that information should also be supplied with the response.

Any questions or expressions of interest should be directed to Robert Potoski on or before December 27.

J. David DeBusman
Director, Division of
Architectural Services

Doc. No. 015690

State of Kansas

Department of Administration

Public Notice

Under requirements of K.S.A. 65-34,117(b), records of the Division of Accounts and Reports show the unobligated balances are \$2,764,875.88 in the underground petroleum storage tank release trust fund and \$6,937,134.98 in the aboveground petroleum storage tank release trust fund at November 30, 1994.

Gloria M. Timmer
Secretary of Administration

Doc. No. 015696

State of Kansas

Department of Health
and EnvironmentNotice Concerning Request for Variance
From Hazardous Waste Regulations

The Kansas Department of Health and Environment is providing public notice that on September 8, 1994, Allco Chemical Corporation, Galena, submitted a request for renewal of a variance from specific hazardous waste regulations. The current request expired on January 31, 1994. The request for a variance has been submitted in accordance with K.A.R. 28-31-13(a).

The variance is requested from K.A.R. 28-31-4 and 40 CFR 265.176, which require the storage of containers holding ignitable hazardous waste must be located at least 15 meters (50 feet) from the facility's property line.

Allco operates a chemical manufacturing facility which primarily produces two chemical compounds which are used in epoxy resins and as coolant for electrical equipment. Small quantities of ignitable hazardous waste are generated during the manufacture of these chemicals. These wastes are temporarily stored prior to disposal in a permanent building located 30 feet from Allco's property line. No structures are within 50 feet of the building. The variance is requested because storage of the wastes 50 feet or more from the property line would require Allco to construct a new storage building. KDHE has reviewed the variance request and concluded that the variance is justified.

In accordance with K.A.R. 28-31-13(b), public notice was provided that KDHE considered the request for a variance justified and made a tentative decision to grant the variance. A public comment period to receive comments regarding this tentative decision was established between October 27-November 26, 1994. No public comments were received.

Therefore, in accordance with K.A.R. 28-31-13(b), KDHE announces its decision to approve this request for a variance and not to include any special conditions. The variance shall become effective on December 8, 1994, and shall remain in effect until December 8, 2001.

Robert C. Harder
Secretary of Health
and Environment

Doc. No. 015679

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. The following appointments were filed November 28-December 2:

District Judge, 18th Judicial District

Joseph Bribiesca, 713 Opal, Maize 67101. Term expires when a successor is elected and qualifies according to law. Succeeds Montie Deer, resigned.

Miami County Sheriff

Frank W. Kelley, 120 S. Pearl, Paola 66071. Term expires when a successor is elected and qualifies according to law. Succeeds Ken Davis, deceased.

Emergency Medical Services Board

Robert K. Kort, 1724 W. 3rd, Lawrence 66044. Term expires May 31, 1997. Succeeds Thomas Little.

James E. McClain, Bennington Ambulance Service, 121 N. Nelson, Box 66, Bennington 67422. Term expires May 31, 1998. Succeeds Thomas Miller.

Karen McCulloh, Office of the Riley County Commissioners, 110 Courthouse Plaza, Manhattan 66502. Term expires May 31, 1998. Succeeds Charles Benjamin.

Kansas Council on Employment and Training

Sharon Joseph, 6617 W. 73rd, Overland Park 66204. Serves at the pleasure of the Governor. Succeeds Michael Donnelly, resigned.

Kansas Statewide Independent Living Council

Brenda E. Weed, 6900 W. 51st, Mission 66202. Term expires August 17, 1997. Succeeds Terrance Harris, resigned.

Governor's Mental Health Services
Planning Council

(Terms expire September 30, 1998.)

Jane Adams, Keys for Networking, 700 S.W. Jackson, Suite 502, Topeka 66603. Succeeds Gloria O'Dell.

David Boyd, Community Mental Health Center of Crawford County, 30th and Michigan, P.O. Box 550, Pittsburg 66762. Succeeds Harriet Griffith.

Nadine Birch, Shawnee Mental Health Center, 2401 W. 6th, Topeka 66606. Succeeds Loretta Teagarden.

Sue Budd, P.O. Box 12821, Kansas City, KS 66112. Reappointment.

Jim Cain, West Franklin U.S.D. 287, P.O. Box 38, Pomona 66076. Succeeds Cindy Entriken.

Heather Cafferty-Wilson, Cornerstone of Topeka, Inc., 504 S.W. Fillmore, Topeka 66606. Succeeds Shelly Meadows.

Michelle C. Coker, Kansas Psychological Association, 12808 W. 70th Terrace, Shawnee 66216. Succeeds Hildy Hoffman.

Edward Davies, Office of the Marion County Sheriff, P.O. Box 219, Marion 66861. Reappointment.

Ron Denney, Four County Mental Health Center, 3701 W. Main, Independence 67301. Succeeds Kermit George.

Deborah J. Donaldson, Sedgwick County Department of Mental Health, 1801 E. 10th, Wichita 67214. Succeeds John Randolph.

Cecil Eyestone, 2055 Jay Court, Manhattan 66502. Reappointment.

Renee Gardner, Office of the Governor, Room 254-E, State Capitol, Topeka 66612. Reappointment.

Carolyn Risley Hill, Department of Social and Rehabilitation Services, 300 S.W. Oakley, West Hall, Topeka 66606. Succeeds John Alquest.

Lonny Lindquist, Kansas Mental Illness Awareness Council, P.O. Box 2264, Topeka 66603. Succeeds Tim Paul.

Gerry Litchi, 1425 N. Broadway, Wichita 67208. Succeeds Robert Chase.

Bob Marrin, 3119 Stafford, Topeka 66614. Reappointment.

J. Byron Meeks, P.O. Box 228, Kinsley 67547. Succeeds Phillip Vieux.

Roy Menninger, The Menninger Clinic, 5800 S.W. 6th, Topeka 66606. Succeeds Donald Brada.

Bryce Miller, 2548 S.W. Belle Ave., Topeka 66614. Reappointment.

Andrew O'Donovan, Department of Social and Rehabilitation Services, 2nd Floor, Biddle Building, 300 S.W. Oakley, Topeka 66606. Reappointment.

Randy Proctor, Department of Social and Rehabilitation Services, 5th Floor, Docking State Office Building, 915 S.W. Harrison, Topeka 66612. Succeeds Mani Lee.

Dave Seaton, Winfield Courier, 201 E. 9th, Winfield 67156. Term expires September 30, 1998. Reappointment.

Dennis Shockley, Department of Commerce and Housing, 700 S.W. Harrison, Suite 1300, Topeka 66603. Succeeds Canda Byrne.

Howard Snyder, 4811 W. 77th Place, Prairie Village 66208. Reappointment.

Betty Weithers, State Board of Education, 120 S.E. 10th, Topeka 66612. Succeeds Connie Hubbell.

Roger Werholtz, Department of Corrections, 4th Floor, Landon State Office Building, 900 S.W. Jackson, Topeka 66612. Reappointment.

Zella Ann Winters, 2914 Fleming, Apt. 413, Garden City 67846. Succeeds Barbara Miller.

Glen Yancey, Department of Social and Rehabilitation Services, 1st Floor, Biddle Building, 300 S.W. Oakley, Topeka 66606. Reappointment.

Grain Advisory Commission

Noel D. Rooney, People State Bank of Minneola, P.O. Box 67, Minneola 67865. Term expires June 30, 1997. Succeeds Phyllis Gray, resigned.

Information Network of Kansas, Inc.

Leroy M. Gattin, Hutchinson Public Library, 901 N. Main, Hutchinson 67501. Term expires September 30, 1997. Reappointment.

Marvin Maydew, 820 Quincy, Suite 600, Topeka 66612. Term expires September 30, 1997. Reappointment.

Charlotte Shawver, Riley County Register of Deeds, 110 Courthouse Plaza, Manhattan 66502. Term expires September 30, 1996. Succeeds Patricia Whetzel, who declined appointment.

Library Network Board

Ann Bailey, Northwest Kansas Regional Library System, P.O. Box 446, Norton 67654. Term expires June 30, 1997. Succeeds James Swan.

Nancy C. Soldner, Hutchinson Public Schools, P.O. Box 1908, Hutchinson 67504. Term expires June 30, 1997. Succeeds Diane Leupold.

Central Kansas Regional Library System

Virginia Krause, Route 2, Hays 67601. Term expires June 30, 1998. Reappointment.

Northeast Kansas Regional Library System

Almeda Edwards, Route 2, Box 258, Ottawa 66067. Term expires June 30, 1997. Reappointment.

Katherine Woodbury, Route 1, Box 14, Quenemo 66528. Term expires June 30, 1998. Reappointment.

South Central Regional Library System

Mary Sykes, 6721 S. 159th St. East, Rose Hill 67133. Term expires June 30, 1998. Reappointment.

Novalis Toews, Route 1, Box 181, Whitewater 67154. Term expires June 30, 1998. Reappointment.

Southeast Kansas Regional Library System

Roxie Armstrong, Route 5, Fort Scott 66701. Term expires June 30, 1997. Reappointment.

Bessie Chaussard, P.O. Box 542, Alma 66723. Term expires June 30, 1997. Reappointment.

Melinda Hall, Route 2, Box 201, Eureka 67045. Term expires June 30, 1998. Reappointment.

Sidna Small, Route 1, Neodesha 66757. Term expires June 30, 1998. Reappointment.

Sidnia Young, Route 1, Box 36, Cedar Vale 67024. Term expires June 30, 1998. Reappointment.

Southwest Kansas Regional Library System

Thelma Atwell, Rural Route, Utica 67584. Term expires June 30, 1997. Reappointment.

Tamie Hawes, Route 1, Ford 67842. Term expires June 30, 1998. Reappointment.

Bill Graves
Secretary of State

State of Kansas

Social and Rehabilitation Services

Notice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted at 9 a.m. Tuesday, January 3, in the SRS Staff Development Conference Room, 300 S.W. Oakley, Topeka, to consider the adoption of proposed changes in existing rules and regulations on a permanent basis effective April 1, 1995.

This 30-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed regulations. All interested parties may submit written comments prior to the hearing to the Secretary of Social and Rehabilitation Services, Room 603-N, Docking State Office Building, 915 S.W. Harrison, Topeka 66612. All interested parties will be given a reasonable opportunity to present their views orally on the proposed regulations during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request each participant to limit any oral presentation to five minutes.

The phrase "Federal Mandate" following an item indicates that the change is required by federal policy. Optional changes in regulations related to federal programs are subject to approval by the U.S. Department of Health and Human Services.

A summary of the proposed regulations and their economic impact follows:

Article 5.—PROVIDER PARTICIPATION, SCOPE OF SERVICES, AND REIMBURSEMENTS FOR THE MEDICAID (MEDICAL ASSISTANCE) PROGRAM

30-5-58. Definitions. This regulation is being updated to reflect the new timely filing limitation of 12 months.

Economic Impact: This change is administrative in nature and has no fiscal impact beyond the changes which were effective July 1, 1994, by statute.

39-5-59. Provider participation requirements. This regulation is being amended to allow out-of-state mail order pharmacies to receive Medicaid payment for services provided to a recipient with a third primary payer.

Economic Impact: This regulation change will produce a cost savings to the program by shifting certain pharmacy costs to liable third party payers. The extent of the cost savings will be dependent on the level of participation by out-of-state mail order providers that meet the billing criteria. There will be no cost to the program by allowing this group of providers limited participation in the Medicaid program.

30-5-106. Scope of ambulance services. This regulation is being amended to clearly state that non-emergency ambulance transportation of nursing facility residents is not covered. This limitation has previously appeared in the nursing facility regulations as the cost of this service is reflected in the nursing facility cost report. Placing the limitation in this regulation will make the limitation more accessible to ambulance providers.

Economic Impact: This change is administrative in nature and has no fiscal impact.

30-5-107. Scope of non-ambulance medical transportation. This regulation is being amended to state that non-emergency medical transportation of nursing facility residents is not covered. This limitation has previously appeared in the nursing facility regulations as the cost of this service is reflected in the nursing facility cost report. Placing the limitation in this regulation makes the information more accessible to nonambulance medical transportation providers.

Economic Impact: This change is administrative in nature and has no fiscal impact.

Article 10.—ADULT CARE HOME PROGRAM

30-10-20. Payment of claims. This regulation is being updated to reflect the 12 month timely filing limitation.

Economic Impact: This change is administrative in nature and has no fiscal impact beyond changes made July 1, 1994.

(New Article Title)**Article 12.—REHABILITATION SERVICES**

30-12-36. Hearing aid services. New regulation. Rehabilitation Services provides funding for hearing aids to persons with disabilities who are seeking employment. A vocational rehabilitation counselor discusses the service needs with each client and authorizes payments.

Economic Impact: There are no additional costs nor savings. It is common practice to purchase a screening exam prior to dispensation of hearing aids, both for new and experienced hearing aid users.

Copies of the regulations and their economic impact statements may be obtained from the Office of the Secretary, Room 603-N, Docking State Office Building, 915 S.W. Harrison, Topeka 66612, (913) 296-3271.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Barbara Conant at (913) 296-3271 or by calling the Kansas Relay Center at 1-800-766-3777.

The public is invited to this hearing. Telephone hook-ups are provided at the following locations of Social and Rehabilitation Services offices: Chanute, Emporia, Garden City, Hays, Hutchinson, Kansas City, Lawrence, Manhattan, Olathe, Salina, Topeka (area office), and Wichita.

The adoption of the April 1, 1995, permanent regulations will take place at 9 a.m. Thursday, January 19, in the SRS Executive Conference Room, 603-N, Docking State Office Building. Teleconference will not be available.

Donna L. Whiteman
Secretary of Social and
Rehabilitation Services

Doc. No. 015688

State of Kansas

Kansas State University

Notice to Bidders

Sealed bids for items listed below will be received by the Kansas State University Purchasing Office, Manhattan, until 2 p.m. local time on the date indicated and then will be publicly opened. Interested bidders may call (913) 532-6214 or FAX (913) 532-5632 for additional information.

Tuesday, December 20, 1994

50093

Transmitter and related equipment

William H. Sesler
Director of Purchasing

Doc. No. 015682

State of Kansas

University of Kansas

Notice to Bidders

Sealed bids for the item listed below will be received by the University of Kansas Purchasing Office, Lawrence, until 2 p.m. local time on the date indicated and then will be publicly opened. Interested bidders may call (913) 864-3416 or FAX (913) 864-3454 for additional information.

Monday, December 19, 1994

RFQ 95 0357

Electro-spray atmospheric pressure chemical ionization (ESI/APCI) Auto-Spec-Q upgrade

Gene Puckett, C.P.M.
Director of Purchasing

Doc. No. 015697

State of Kansas

Legislature

Interim Committee Schedule

The following committee meetings have been scheduled during the period of December 12 through December 25:

Date	Room	Time	Committee	Agenda
December 12	514-S	10:00 a.m.	Joint Committee on Administrative Rules and Regulations	Agenda not available.
December 12	531-N	11:30 a.m.	Workers Compensation Fund	Review final report and make final recommendations.
December 12	527-S	9:00 a.m.	Telecommunications Strategic Planning Committee	Technical overview of the telecommunications industry.
December 12	519-S	10:00 a.m.	Joint Committee on Children and Families	Agenda not available.
December 13	519-S	9:00 a.m.	Joint Committee on Special Claims Against the State	Hearings on claims filed to date.
December 13	531-N	10:00 a.m.	Joint Committee on State Building Construction	Cancelled.
December 14	Cancelled		Joint Committee on State Building Construction	Cancelled.
December 15	Cancelled		Joint Committee on State Building Construction	Cancelled.
December 16	Kansas Inc. Office 632 S.W. Van Buren, Topeka	10:00 a.m.	Kansas Council on Privatization	Review and approve final report of council.
December 19	519-S	1:30 p.m.	Legislative Coordinating Council	Legislative matters.
December 19	Garden City Dodge City	Morning Afternoon	Blue Highway Committee— Urban Revitalization	Agenda to be announced.
December 20	Hutchinson Wichita	Morning Afternoon		
December 21	Topeka Leavenworth	Morning Afternoon		
December 22	Kansas City Kansas City	Morning Afternoon		Committee discussion.

Emil Lutz
Director of Legislative
Administrative Services

Doc. No. 015687

State of Kansas

Kansas Inc.

Notice of Meeting

The Kansas Inc. Action Planning Committee on Business Finance will meet from 1:30 to 4 p.m. Tuesday, December 13, at Kansas Inc., 632 S.W. Van Buren, Suite 100, Topeka. The meeting is open to the public.

Charles R. Warren
President, Kansas Inc.

Doc. No. 015673

State of Kansas

Kansas Arts Commission

Notice of Meetings

The Kansas Arts Commission will convene its quarterly business meeting from 9 a.m. to 4 p.m. Friday, December 9, in Room 234 of the Cultural Education Center at Johnson County Community College, 12345 College Boulevard at Quivira, Overland Park.

On the agenda is adoption of the five-year long-range plan for the commission. During their business meeting, the commissioners will review the fiscal year 1995 (July 1, 1994-June 30, 1995) budget and the proposed budget for FY 96.

Action will be taken on proposed members for advisory panels to review FY 95 grant applications, the rosters of artists for the FY 96 Arts In Education program and the Kansas Touring Program, and the advisory panel recommendations for funding of FY 95 salary assistance grants to arts organizations and for professional development grants to individual artists.

The commissioners also will act upon the advisory panel recommendations for the 1995 Kansas Artist Fellowships in the performing arts and will announce the recipients of these \$5,000 fellowships.

The advisory panel for the fellowships will meet on Thursday, December 8, from 10 a.m. to noon and from 1 to 3 p.m. in the conference room at the commission offices in Topeka.

Meetings of the Kansas Arts Commission, a state agency, and its advisory panels are open to public observation. Applicants are encouraged to attend the panel meetings and hear the critiques of their applications and programs during the evaluation discussions. Applicants do not make presentations to the panels but may answer questions posed at the request of the panelists.

The panels are comprised of knowledgeable individuals from across the state. Each panel is chaired by a member of the commission and includes at least one other commissioner.

For more information or to request accommodation for a person with a disability at a meeting, contact the Kansas Arts Commission, 700 S.W. Jackson, Suite 1004, Topeka 66603-3758, (913) 296-3335; TTY via Kansas Relay Service, 1-800-766-3777.

Dorothy L. Ilgen
Executive Director

Doc. No. 015692

State of Kansas

Private Industry Council

Request for Proposals

The Kansas Private Industry Council, Inc. (PIC) administering the Job Training Partnership Act (JTPA) in Service Delivery Area III (SDA III) is releasing a request for proposals soliciting offers from any group, agency or institution, public or private, to provide youth in Wyandotte, Johnson and Leavenworth counties with Summer Youth Employment and Training Program services. All services and training are for the summer of 1995.

Requests for proposals may be obtained by contacting the PIC office at 4th and State Ave., Gateway Centre II, Suite 1020, Kansas City, KS 66101, or by calling Monique Sheldon or Teresa Slater at (913) 371-1607. The deadline for proposal submission is 3 p.m. January 13.

Shirley Robinson
Executive Secretary

Doc. No. 015674

State of Kansas

Department of Administration
Division of Purchases

Notice to Bidders

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

Monday, December 12, 1994

00477

Wichita State University—Labor and materials to refinish stage floor

Monday, December 19, 1994

30822

Winfield State Hospital—Janitorial supplies

30824

Department of Administration, Division of Facilities Management—Insulating glass windows, Docking State Office Building

30829

Kansas Correctional Industries—Lead free paint pigment

30830

Kansas State University—Fiber optic ethernet transceivers

30837

University of Kansas—HVAC maintenance

30840

Statewide—Stock sizes of computer paper

30850

Kansas Highway Patrol—Natural gas services, Salina

00448

Kansas State University—Mass spectrometer

00449

Norton Correctional Facility—Heating materials

00467

Department of Administration, Central Motor Pool—Automobile

Tuesday, December 20, 1994

A-7599

University of Kansas—Construct computer teaching lab, Room 420, Summerfield Hall

A-7606

University of Kansas—Stephenson Hall windows

30777

Department of Administration, Division of Facilities Management—HVAC maintenance

30821

Statewide—Industrial V-belts

30827

Shawnee County agencies—Fire extinguisher service for Shawnee County agencies

30828

Kansas Correctional Industries—One-gallon and five-gallon plastic containers

30849

Department of Social and Rehabilitation Services—Service of process and investigation services

30851

University of Kansas Medical Center—Miscellaneous groceries

30852

Kansas State University—January (1995) meat products

00225 Rebid

Ellsworth Correctional Facility—Heating A/C equipment

00470

University of Kansas—35mm HMI slide projector system and lamps

Wednesday, December 21, 1994

A-7623

University of Kansas—Burge Union, convert Room 306 to office

30650 Rebid

Statewide—Office supplies, storage files, Group 28 only

30797

University of Kansas Medical Center—Patient room furniture and nurse call systems

30823

University of Kansas—Floor care products

30825

University of Kansas Medical Center—Floor care products

30839

University of Kansas Medical Center—Personal computer repair service

30847

Statewide—Carbonless paper

00455

Department of Administration, Central Motor Pool—Automobiles

Thursday, December 22, 1994

30838

Statewide—PC software

00457

University of Kansas—Paper, printing, and binding: Mr. Social Security

00463

Department of Transportation—Aggregate (Douglas County)

00464

Kansas State University—Tablet chairs

00469

Kansas State University—Laundry equipment

00476

Kansas State University—Variable speed drive

Tuesday, December 27, 1994

30841

Department of Social and Rehabilitation Services—Mechanical maintenance, Salina

30848

Statewide—Magnetic media

Wednesday, December 28, 1994

A-7468

Department of Administration, Division of Facilities Management—Backup power system, Cedar Crest

Thursday, December 29, 1994

A-7396 Rev.

Department of Wildlife and Parks—Campground buildings, Glen Elder State Park

Friday, December 30, 1994

30846

Department of Health and Environment—Infant formula, WIC

Request for Proposals

Wednesday, December 21, 1994

30844

Professional consultation services regarding environmental permit development for the Department of Health and Environment

30845

Professional psychiatric services for the Department of Social and Rehabilitation Services

Thursday, December 22, 1994

00458

Postage accounting systems for Kansas State University

Wednesday, December 28, 1994

00475

Software development services for the office of the State Bank Commissioner

Jack R. Shipman
Director of Purchases

Doc. No. 015693

State of Kansas

Office of the State Treasurer

Notice of Investment Rates

The following rates are published in accordance with K.S.A. 1993 Supp. 75-4210, as amended. These rates and their uses are defined in K.S.A. 75-4201(1), 12-1675(b)(c)(d) and 75-4209(a)(1)(B), as amended.

Effective 12-12-94 through 12-18-94

Term	Rate
0-90 days	5.55%
3 months	5.65%
6 months	6.28%
9 months	6.79%
12 months	7.06%
18 months	7.35%
24 months	7.38%
36 months	7.61%
48 months	7.72%

Sally Thompson
State Treasurer

Doc. No. 015685

State of Kansas

Department of Transportation

Notice to Contractors

Sealed proposals for the construction of road work in the following Kansas counties will be received at the office of the Chief of Construction and Maintenance, KDOT, Topeka, or at the Ramada Inn Airport in Wichita, until 2 p.m. December 14, and then publicly opened:

District Two—Northcentral

Clay—15-14 M-1791-01—K-15, KDOT mixing strip 5 miles south of Clay Center, bituminous stockpiling (State Funds)

Clay-Dickinson—15-106 K-5590-01—K-15, from the Dickinson-Clay county line, north to the south city limits of Clay Center; K-15, from the east junction of K-18, north to the Dickinson-Clay county line, 23.1 miles, re-cycle. (State Funds)

Michael L. Johnston
Secretary of Transportation

Doc. No. 015683

State of Kansas

Office of Judicial Administration

Court of Appeals Docket

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

Kansas Court of Appeals

Court of Appeals Courtroom, Second Floor, Kansas Judicial Center
Topeka, Kansas

Tuesday, December 13, 1994

Before Briscoe, C.J.; Brazil, J.; and Richard W. Wahl,
District Judge Retired, assigned.

9:30 a.m.

Case No.	Case Name	Attorneys	County
71,604	Jerry King, Appellant, v. Ralph Pimental, et al., Appellees.	Keith E. Renner Neil Roach Rene M. Netherton	Shawnee

Summary Calendar—No Oral Argument

71,150	State of Kansas, Appellee, v. Elenda E. Darr, Appellant.	District Attorney Attorney General Rebecca Woodman	Shawnee
71540	State of Kansas, Appellee, v. Harold E. Richardson Jr., Appellant.	District Attorney Attorney General Thomas Jacquinet	Shawnee
71,402	State of Kansas, Appellee, v. Michael Russ, Appellant.	District Attorney Attorney General Edward Collister Jr.	Shawnee

Before Brazil, P.J.; Pierron, J.; and Richard W. Wahl,
District Judge Retired, assigned.

11:00 a.m.

71,217	Timothy Gonzales, Appellant, v. State of Kansas, Appellee.	Kimberley Kellogg Attorney General Jean M. Schmidt	Finney
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70,838	State of Kansas, Appellee, v. Otis Earl Goodale, Appellant.	County Attorney Attorney General Debra Wilson	Franklin
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Summary Calendar—No Oral Argument

71,820	Gerald Ladd Hersh, Appellant, v. Joan Finney, et al., Appellees.	Gerald Hersh, pro se John J. Knoll Linden G. Appel	Miami
70,856	David and Jan Vanderbilt, Appellees, v. Gerald D. Long, Appellant.	Edwin A. Van Petten Kenneth F. Crockett	Pottawatomie

Before Briscoe, C.J.; Pierron, J.; and Richard W. Wahl,
District Judge Retired, assigned.

2:00 p.m.

71,062	Dennis Newton, Appellant, v. Cromwell Constr. Inc., et al., Appellees.	Richard F. Waters David G. Shriver Mickey W. Mosier	WC Board
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Summary Calendar—No Oral Argument

70,882	Jay Creacy, Appellant, v. Dept. Corrections, et al., Appellees.	Jay Creacy, pro se Linden G. Appel	Miami
71,365	Raymond Earl Morris, Appellant, v. Workforce, Inc., et al., Appellees.	Frank D. Taff Gary R. Terrill	WC Board
71,858	David Jackson, Appellant, v. David McKune, et al., Appellees.	David Jackson, pro se Kevin D. Case Linden G. Appel	Leavenworth
70,820	In the Interest of R.B.	William D. Peters Jr. Nick A. Tomasic Craig Lubow Michael G. Highland John Knudsen	Wyandotte

Wednesday, December 14, 1994

Before Pierron, P.J.; Brazil, J.; and Ron Rogg,
District Judge, assigned.

9:30 a.m.

Case No.	Case Name	Attorneys	County
71,600	Golconda Screw, Inc., Appellee, v. West Bottoms Ltd., Appellant.	Charles J. Hyland Curt D. Hoover Dean D. Garland	Wyandotte

Summary Calendar—No Oral Argument

72,093	In the Interest of V.Y.	Mark Davis District Attorney	Wyandotte
71,332	Hiram Sparks, Appellant, v. State of Kansas, Appellee.	Rebecca Woodman Attorney General District Attorney	Wyandotte
71,645	Douglas McLeod, Appellee, v. Dept. Revenue, Appellant.	Michael D. Reed James G. Keller	Johnson

(continued)

Before Briscoe, C.J.; Pierron, J.; and Ron Rogg,
District Judge, assigned.

10:30 a.m.

71,408	Tiny Sampel, Appellant, v. Robert Balbernie, Appellee.	Thea Rademacher Robert Balbernie, pro se	Wyandotte
71,738	Home Builders Ass'n, Appellee, v. Johnson Co. Water Dist. #1, et al., Appellants.	Mark E. Jones Wilson E. Speer	Johnson

Summary Calendar—No Oral Argument

71,603	In the Matter of the Marriage of Monica M. York and Steven L. York.	Keith C. Sevedge Bruce W. Beye	Johnson
70,416	State of Kansas, Appellee, v. Maria Garcia Duenas, Appellant.	District Attorney Attorney General Jeffrey Shaw	Johnson

Before Briscoe, C.J.; Brazil, J.; and Ron Rogg,
District Judge, assigned.

2:00 p.m.

70,944	Edward Lange, Appellant, v. Sherwin Epstein, Appellee.	Veronica Johnson James D. Griffin	Johnson
71,137	Charles and Marilyn Jones, Appellants, v. Jerry Hagen, et al., Appellees.	James M. Sheeley James O. Schwinn	Johnson

Summary Calendar—No Oral Argument

71,143	State of Kansas, Appellee, v. Eric E. Stennis, Appellant.	District Attorney Attorney General Edward Collister Jr.	Douglas
71,252	State of Kansas, Appellee, v. Jack L. Vaughn, Appellant.	District Attorney Attorney General Jeffrey Shaw	Douglas

Kansas Court of Appeals
Court of Appeals Courtroom, Third Floor
Old Sedgwick County Courthouse, 510 N. Main
Wichita, Kansas

Tuesday, December 13, 1994

Before Elliott, P.J.; Royse, J.; and John J. Bukaty, Jr.,
District Judge, assigned.

9:00 a.m.

Case No.	Case Name	Attorneys	County
71,103	Douglas Sumner, Appellant, v. Law Offices of Jerry L. Berg, Appellee.	Martin D. Geeding	Sedgwick
71,128	Christine Bradley, Appellant, v. Butler County Comm., et al., Appellees.	Jack Peggs Steven J. Rupp	Sedgwick
71,124	State of Kansas, Appellee, v. Scott A. Rivard, Appellant.	Debra S. Peterson Attorney General Rick Kittel	Sedgwick

71,409	State of Kansas, Appellee, v. Charles W. Maltbie, Sr., Appellant.	County Attorney Attorney General John Black	Saline
Before Elliott, P.J.; Larson, J.; and John J. Bukaty, Jr., District Judge, assigned.			
11:00 a.m.			
71,459	James Chapman, Appellant, v. Mobile Manor, Inc., Appellee.	Jack Shelton E. Craig Kennedy	Sedgwick
71,031	Isaac Stegall, et al., Appellants, v. Farmers Ins. Co., Inc., Appellee.	M. Steven Wagle Christopher Randall	Sedgwick
Summary Calendar—No Oral Argument			
71,375	State of Kansas, Appellee, v. Keith L. McCormick, Appellant.	County Attorney Attorney General Edward Collister Jr.	Rice
71,624	State of Kansas, Appellee, v. Ronald L. Dunn, Appellant.	County Attorney Attorney General Edward Collister Jr.	Kingman
Before Royse, P.J.; Larson, J.; and John J. Bukaty, Jr., District Judge, assigned.			
1:30 p.m.			
72,222	Janelle Edwards, Appellant, v. Kansas Gas & Electric Co., Appellee.	Jim L. Lawing Gary E. Laughlin Thomas L. Green	WC Board
71,790	In the Matter of the Estate of Frank E. Wise, deceased.	Dennis D. Depew Gaylord I. Maples Sally Pokorny	Montgomery
71,160	Crescent Oil Co., Inc. Appellant, v. Federated Mut. Ins. Co., Appellee.	Jon R. Viets Timothy J. Finnerty Karen R. Glickstein John C. Yang	Montgomery
3:00 p.m.			
71,289	Michael Francis Reeh, Appellant, v. Wichita Center for Graduate Medical Education, Appellee.	Joel W. Riggs Patricia M. Dengler	Sedgwick
Summary Calendar—No Oral Argument			
71,482	State of Kansas, Appellee, v. Paul Wesley Myers, Appellant.	County Attorney Attorney General Jeffrey Shaw	Montgomery
Wednesday, December 14, 1994			
Before Larson, P.J.; Elliott, J.; and Jean F. Shepherd, District Judge, assigned.			
9:00 a.m.			
Case No.	Case Name	Attorneys	County
71,081	Phil and Gina Blanton, Appellants, v. Winona F. Kite, et al., Appellees.	James Z. Hernandez Don D. Gribble II Kelly J. Rundell	Sedgwick

(continued)

71,211 In the Interest of L.D.B., et al. Gerald Domitrovic Sedgwick
William Griffith
Pamela Guizlo
Shawn Elliott

70,801 Andrew J. Fann, Appellant, Cortland E. Berry Lyon
v.
White Corp., d/b/a Emporia Gazette, Ted Hollebenak
Appellee.

Summary Calendar—No Oral Argument

71,857 Lloyd Hill, Appellant, Steven C. Sherwood Butler
v.
Micah A. Ross, et al., Appellees. John J. Knoll

**Before Larson, P.J.; Royse, J.; and Jean F. Shepherd,
District Judge, assigned.**

11:00 a.m.

71,832 John Hall, Appellant, Jeff Kennedy Reno
v.
JFW, Inc., Appellee. Tina M. Monaldo

71,055 Tad Garrison, Appellant, Larry D. Tittel Ness
v.
State Farm Mutual Auto. Insurance Co., Stephen M. Kerwick
et al., Appellees. Arthur S. Chalmers

Summary Calendar—No Oral Argument

71,521 In the Interest of L.B. Shirley K. Calvin Hamilton
Robert H. Gale Jr.
Wade Dixon
Curtis E. Bolt

71,224 Kevin W. Ewing, Appellant, Julie Gorenc Reno
v.
State of Kansas, Appellee. Attorney General
County Attorney

70,918 Deborah Walker, Appellant, C.A. Menghini Cherokee
v.
U.S.D. 499, Appellee. Fred W. Rausch Jr.
Larry A. Prauser

71,192 Federal Debt Mgmt. Inc., Appellee, Blake Hudson Neosho
v.
David G. Orr, Appellant. Stephen J. Jones

Summary Calendar—No Oral Argument

71,862 Michael Coberly, Appellant, Joseph L. McCarville III Reno
v.
Gary Stotts, et al., Appellees. John J. Knoll

71,904 Gary Harjo, Appellant, Gary Harjo, pro se Reno
v.
Parole Board, et al., Appellees. Mary Ann Shirley
John J. Knoll

Carol G. Green
Clerk of the Appellate Courts

State of Kansas

Kansas Sentencing Commission**Notice of Meeting**

The Kansas Sentencing Commission will meet at 1:30 p.m. Friday, December 16, in the Senate Room at the Jayhawk Tower, 700 Jackson, Topeka.

Lisa Moots
Executive Director

Doc. No. 015681

State of Kansas

Secretary of State**Certificate of the State Board
of Canvassers****General Election, November 8, 1994**

We the undersigned, constituting the State Board of Canvassers of the State of Kansas, do hereby certify that we have examined the certified abstracts of votes on file in the office of the Secretary of State, as prescribed by law, and we find the statement given therein of the whole number of votes cast for the several candidates for the various National and State offices therein named, the votes for retention in office of Justices of the Supreme Court, Court of Appeals Judges, District Judges and District Magistrate Judges is true and correct as shown by the abstract.

We further certify and declare that each of the following named persons were duly elected, or retained, to the respective offices above their name at the General Election held on the eighth day of November, A.D. 1994.

U.S. House of Representatives, District 1
Pat Roberts, Dodge City, Republican

U.S. House of Representatives, District 2
Sam Brownback, Topeka, Republican

U.S. House of Representatives, District 3
Jan Meyers, Overland Park, Republican

U.S. House of Representatives, District 4
Todd Tiaht, Goddard, Republican

Governor/Lieutenant Governor
Bill Graves, Salina, and
Sheila Frahm, Colby, Republican

Secretary of State
Ron Thornburgh, Republican

Attorney General
Carla J. Stovall, Topeka, Republican

Commissioner of Insurance
Kathleen Sebelius, Topeka, Democratic

State Treasurer
Sally Thompson, Topeka, Democratic

Kansas House of Representatives, District 1
Tim Shallenburger, Baxter Springs, Republican

Kansas House of Representatives, District 2
Dee Yoh, Pittsburg, Republican

Kansas House of Representatives, District 3
Ed McKechnie, Pittsburg, Democratic

Kansas House of Representatives, District 4
Andrew Howell, Fort Scott, Republican

Kansas House of Representatives, District 5
Bill Feuerborn, Garnett, Democratic

Kansas House of Representatives, District 6
Jene Vickrey, Louisburg, Republican

Kansas House of Representatives, District 7
Vern W. Correll, Oswego, Democratic

Kansas House of Representatives, District 8
Richard R. Reinhardt, Erie, Democratic

Kansas House of Representatives, District 9
Douglass R. Lawrence, Burlington, Republican

Kansas House of Representatives, District 10
Ralph M. Tanner, Baldwin City, Republican

Kansas House of Representatives, District 11
Jim D. Garner, Coffeyville, Democratic

Kansas House of Representatives, District 12
Cindy Empson, Independence, Republican

Kansas House of Representatives, District 13
Rochelle Beach Chronister, Neodesha, Republican

Kansas House of Representatives, District 14
Kay O'Connor, Olathe, Republican

Kansas House of Representatives, District 15
John M. Toplikar, Olathe, Republican

Kansas House of Representatives, District 16
Tim Carmody, Overland Park, Republican

Kansas House of Representatives, District 17
Lisa L. Benlon, Shawnee, Republican

Kansas House of Representatives, District 18
Phill Kline, Shawnee, Republican

Kansas House of Representatives, District 19
Phil Kline, Overland Park, Republican

Kansas House of Representatives, District 20
Gary Merritt, Overland Park, Republican

Kansas House of Representatives, District 21
Barbara P. Allen, Prairie Village, Republican

Kansas House of Representatives, District 22
Britt Nichols, Prairie Village, Republican

Kansas House of Representatives, District 23
Cliff Franklin, Merriam, Republican

Kansas House of Representatives, District 24
Robert "Bob" Tomlinson, Roeland Park, Republican

Kansas House of Representatives, District 25
Al Lane, Mission Hills, Republican

Kansas House of Representatives, District 26
Vincent K. Snowbarger, Olathe, Republican

Kansas House of Representatives, District 27
Phyllis Gilmore, Olathe, Republican

(continued)

Kansas House of Representatives, District 28

David Adkins, Leawood, Republican

Kansas House of Representatives, District 29

Dennis M. Wilson, Overland Park, Republican

Kansas House of Representatives, District 30

Gary Haulmark, Lenexa, Republican

Kansas House of Representatives, District 31

Pat Huggins Pettey, Kansas City, Democratic

Kansas House of Representatives, District 32

Herman G. Dillon, Kansas City, Democratic

Kansas House of Representatives, District 33

Richard J. "Dick" Edlund, Kansas City, Democratic

Kansas House of Representatives, District 34

David Haley, Kansas City, Democratic

Kansas House of Representatives, District 35

Broderick Henderson, Kansas City, Democratic

Kansas House of Representatives, District 36

Doug Spangler, Kansas City, Democratic

Kansas House of Representatives, District 37

Bill Reardon, Kansas City, Democratic

Kansas House of Representatives, District 38

Jim Long, Kansas City, Democratic

Kansas House of Representatives, District 39

Ray L. Cox, Bonner Springs, Republican

Kansas House of Representatives, District 40

L. Candy Ruff, Leavenworth, Democratic

Kansas House of Representatives, District 41

Clyde D. Graeber, Leavenworth, Republican

Kansas House of Representatives, District 42

Kenny A. Wilk, Lansing, Republican

Kansas House of Representatives, District 43

John Ballou, Gardner, Republican

Kansas House of Representatives, District 44

Barbara W. Ballard, Lawrence, Democratic

Kansas House of Representatives, District 45

Tom Sloan, Lawrence, Republican

Kansas House of Representatives, District 46

Troy Findley, Lawrence, Democratic

Kansas House of Representatives, District 47

Joann Flower, Oskaloosa, Republican

Kansas House of Representatives, District 48

Jerry Henry, Cummings, Democratic

Kansas House of Representatives, District 49

Galen Weiland, Bendena, Democratic

Kansas House of Representatives, District 50

Becky J. Hutchins, Holton, Republican

Kansas House of Representatives, District 51

Greg A. Packer, Topeka, Republican

Kansas House of Representatives, District 52

Tom Bradley, Topeka, Republican

Kansas House of Representatives, District 53

Dixie E. Toelkes, Topeka, Democratic

Kansas House of Representatives, District 54

Doug Mays, Topeka, Republican

Kansas House of Representatives, District 55

Jill Grant, Topeka, Republican

Kansas House of Representatives, District 56

Nancy Kirk, Topeka, Democratic

Kansas House of Representatives, District 57

Vaughn L. Flora, Topeka, Democratic

Kansas House of Representatives, District 58

Rocky Nichols, Topeka, Democratic

Kansas House of Representatives, District 59

Joe D. Humerickhouse, Osage City, Republican

Kansas House of Representatives, District 60

James E. Lowther, Emporia, Republican

Kansas House of Representatives, District 61

Edward W. Pugh, Wamego, Republican

Kansas House of Representatives, District 62

Kent Glasscock, Manhattan, Republican

Kansas House of Representatives, District 63

Bruce F. Larkin, Baileyville, Democratic

Kansas House of Representatives, District 64

Steve Lloyd, Clay Center, Republican

Kansas House of Representatives, District 65

Gerald G. Geringer, Junction City, Republican

Kansas House of Representatives, District 66

Sheila Hochhauser, Manhattan, Democratic

Kansas House of Representatives, District 67

Joe Kejr, Brookville, Republican

Kansas House of Representatives, District 68

Shari Weber, Herington, Republican

Kansas House of Representatives, District 69

Deena L. Horst, Salina, Republican

Kansas House of Representatives, District 70

Duane Goossen, Goessel, Republican

Kansas House of Representatives, District 71

Carol Edward Beggs, Salina, Republican

Kansas House of Representatives, District 72

Garry Boston, Newton, Republican

Kansas House of Representatives, District 73

Delbert Crabb, McPherson, Republican

Kansas House of Representatives, District 74

Ellen Banman Samuelson, Write-in

Kansas House of Representatives, District 75

William G. Mason, El Dorado, Republican

Kansas House of Representatives, District 76

Ray Luthi, Lamont, Democratic

Kansas House of Representatives, District 77

Kenneth R. King, Leon, Republican

Kansas House of Representatives, District 78

Greta Hall Goodwin, Winfield, Democratic

Kansas House of Representatives, District 79

Joe D. Shriver, Arkansas City, Democratic

- Kansas House of Representatives, District 80**
Robert H. Miller, Wellington, Republican
- Kansas House of Representatives, District 81**
Ted Powers, Mulvane, Republican
- Kansas House of Representatives, District 82**
Don V. Myers, Derby, Republican
- Kansas House of Representatives, District 83**
Jo Ann Pottorff, Wichita, Republican
- Kansas House of Representatives, District 84**
Jonathan "Joe" Wells, Wichita, Democratic
- Kansas House of Representatives, District 85**
Tony Powell, Wichita, Republican
- Kansas House of Representatives, District 86**
Henry M. Helgeson, Jr., Wichita, Democratic
- Kansas House of Representatives, District 87**
Mike Farmer, Wichita, Republican
- Kansas House of Representatives, District 88**
Gwen Welshimer, Wichita, Democratic
- Kansas House of Representatives, District 89**
Ruby Gilbert, Wichita, Democratic
- Kansas House of Representatives, District 90**
Darlene Cornfield, Valley Center, Republican
- Kansas House of Representatives, District 91**
Brenda Landwehr, Wichita, Republican
- Kansas House of Representatives, District 92**
Belva Ott, Wichita, Republican
- Kansas House of Representatives, District 93**
Daniel J. Thimesch, Cheney, Democratic
- Kansas House of Representatives, District 94**
Les Donovan, Wichita, Republican
- Kansas House of Representatives, District 95**
Tom Sawyer, Wichita, Democratic
- Kansas House of Representatives, District 96**
George R. Dean, Wichita, Democratic
- Kansas House of Representatives, District 97**
Dale Swenson, Wichita, Republican
- Kansas House of Representatives, District 98**
Joel Rutledge, Wichita, Democratic
- Kansas House of Representatives, District 99**
Susan Wagle, Wichita, Republican
- Kansas House of Representatives, District 100**
Carlos Mayans, Wichita, Republican
- Kansas House of Representatives, District 101**
Robert E. Krehbiel, Pretty Prairie, Democratic
- Kansas House of Representatives, District 102**
Janice L. Pauls, Hutchinson, Democratic
- Kansas House of Representatives, District 103**
Sabrina Standifer, Wichita, Democratic
- Kansas House of Representatives, District 104**
Michael R. (Mike) O'Neal, Hutchinson, Republican
- Kansas House of Representatives, District 105**
Richard Alldritt, Harper, Democratic
- Kansas House of Representatives, District 106**
Bill Bryant, Washington, Republican
- Kansas House of Representatives, District 107**
Joann Freeborn, Concordia, Republican
- Kansas House of Representatives, District 108**
Dennis McKinney, Greensburg, Democratic
- Kansas House of Representatives, District 109**
Clay Aurand, Courtland, Republican
- Kansas House of Representatives, District 110**
Carol Dawson, Russell, Republican
- Kansas House of Representatives, District 111**
Delbert L. Gross, Hays, Democratic
- Kansas House of Representatives, District 112**
John Edmonds, Great Bend, Republican
- Kansas House of Representatives, District 113**
Jack Wempe, Little River, Democratic
- Kansas House of Representatives, District 114**
Melvin G. Minor, Stafford, Democratic
- Kansas House of Representatives, District 115**
Melvin J. Neufeld, Ingalls, Republican
- Kansas House of Representatives, District 116**
Don C. Smith, Dodge City, Democratic
- Kansas House of Representatives, District 117**
Robin L. Jennison, Healy, Republican
- Kansas House of Representatives, District 118**
Gayle Mollenkamp, Russell Springs, Republican
- Kansas House of Representatives, District 119**
Laura McClure, Osborne, Democratic
- Kansas House of Representatives, District 120**
Fred Gatlin, Atwood, Republican
- Kansas House of Representatives, District 121**
Jim Morrison, Colby, Republican
- Kansas House of Representatives, District 122**
Gary K. Hayzlett, Lakin, Republican
- Kansas House of Representatives, District 123**
David J. Heinemann, Garden City, Republican
- Kansas House of Representatives, District 124**
Eugene L. Shore, Johnson, Republican
- Kansas House of Representatives, District 125**
Carl D. Holmes, Liberal, Republican
- District Court Judge, District 13, Division 1**
John E. Sanders, Eureka, Republican
- District Court Judge, District 14, Division 1**
Rawley J. (Judd) Dent, Independence, Republican
- District Court Judge, District 14, Division 2**
Jack L. Lively, Coffeyville, Republican
- District Court Judge, District 16, Division 1**
Daniel L. Love, Dodge City, Democratic
- District Court Judge, District 18, Division 4**
David W. Kennedy, Wichita, Republican

(continued)

- District Court Judge, District 18, Division 5
Greg Waller, Wichita, Democratic
- District Court Judge, District 18, Division 7
David W. Dewey, Wichita, Republican
- District Court Judge, District 18, Division 8
Tim Lahey, Wichita, Republican
- District Court Judge, District 18, Division 14
Rebecca L. Pilshaw, Wichita, Democratic
- District Court Judge, District 18, Division 15
Paul Buchanan, Wichita, Republican
- District Court Judge, District 18, Division 17
Tom Malone, Wichita, Democratic
- District Court Judge, District 18, Division 18
James G. Beasley, Wichita, Republican
- District Court Judge, District 18, Division 19
Mark A. Vining, Wichita, Republican
- District Court Judge, District 19, Division 3
J. Michael Smith, Arkansas City, Republican
- District Court Judge, District 20, Division 1
Barry A. Bennington, St. John, Democratic
- District Court Judge, District 22, Division 1
James A. Patton, Hiawatha, Republican
- District Court Judge, District 24
J. Byron Meeks, Kinsley, Republican
- District Court Judge, District 26, Division 1
Tom R. Smith, Liberal, Republican
- District Court Judge, District 27, Division 1
Richard J. Rome, Hutchinson, Democratic
- District Court Judge, District 27, Division 3
Steven R. Becker, Buhler, Republican
- District Court Judge, District 29, Division 2
Thomas L. Boeding, Kansas City, Democratic
- District Court Judge, District 29, Division 3
John J. McNally, Kansas City, Democratic
- District Court Judge, District 29, Division 4
George A. Groneman, Kansas City, Democratic
- District Court Judge, District 29, Division 5
J. Dexter Burdette, Kansas City, Democratic
- District Court Judge, District 29, Division 6
Cordell D. Meeks, Jr., Kansas City, Democratic
- District Court Judge, District 29, Division 10
Matthew G. Podrebarac, Kansas City, Democratic
- District Court Judge, District 29, Division 11
Bill D. Robinson, Jr., Kansas City, Democratic
- District Court Judge, District 29, Division 12
Philip L. Sieve, Kansas City, Democratic
- District Court Judge, District 29, Division 15
Michael G. Moroney, Kansas City, Democratic
- District Magistrate Judge, District 17, Position 3
Wilda June Brown, Norton, Republican
- District Magistrate Judge, District 22, Position 3
James B. (Jim) O'Connor, Seneca, Democratic
- District Magistrate Judge, District 23, Position 1
Lawrence H. Litson, Gove, Republican
- District Magistrate Judge, District 26, Position 4
Mary P. (Polly) Plummer, Johnson, Democratic
- State Board of Education Member, District 1
Mildred G. McMillon, Tonganoxie, Democratic
- State Board of Education Member, District 3
Kevin P. Gilmore, Olathe, Republican
- State Board of Education Member, District 5
I. B. Sonny Rundell, Syracuse, Republican
- State Board of Education Member, District 7
Wanda Morrison, Hutchinson, Republican
- State Board of Education Member, District 9
Mandy Specht, Iola, Republican
- State Board of Education Member, District 10
Steve E. Abrams, Arkansas City, Republican
- Kansas Supreme Court, Position 6, Retention
Donald L. Allegrucci, Pittsburg
- Kansas Supreme Court, Position 7, Retention
Robert E. Davis, Leavenworth
- Kansas Court of Appeals, Position 1, Retention
Edward Larson, Hays
- Kansas Court of Appeals, Position 4, Retention
Kay Royse, Wichita
- Kansas Court of Appeals, Position 5, Retention
Mary Beck Briscoe, Council Grove
- Kansas Court of Appeals, Position 6, Retention
Robert J. Lewis, Jr., Atwood
- Kansas Court of Appeals, Position 7, Retention
Henry W. Green, Jr., Leavenworth
- Kansas Court of Appeals, Position 8, Retention
Jerry G. Elliott, Wichita
- Kansas Court of Appeals, Position 9, Retention
Gary W. Rulon, Emporia
- Kansas Court of Appeals, Position 10, Retention
Robert L. Gernon, Hiawatha
- District Court Judge, District 1, Division 1, Retention
Patrick J. Reardon, Leavenworth
- District Court Judge, District 1, Division 2, Retention
Maurice P. O'Keefe, Jr., Atchison
- District Court Judge, District 1, Division 4, Retention
David J. King, Leavenworth
- District Court Judge, District 1, Division 5, Retention
Philip C. Lacey, Atchison
- District Court Judge, District 3, Division 2, Retention
Fred S. Jackson, Topeka
- District Court Judge, District 3, Division 3, Retention
Marla J. Luckert, Topeka
- District Court Judge, District 3, Division 4, Retention
Eric S. Rosen, Topeka
- District Court Judge, District 3, Division 5, Retention
James M. Macnish, Jr., Topeka

District Court Judge, District 3, Division 6, Retention
Terry L. Bullock, Topeka

District Court Judge, District 3, Division 10, Retention
Daniel L. Mitchell, Topeka

District Court Judge, District 3, Division 12, Retention
James P. Buchele, Topeka

District Court Judge, District 5, Division 1, Retention
John O. Sanderson, Emporia

District Court Judge, District 6, Division 1, Retention
Stephen D. Hill, Paola

District Court Judge, District 6, Division 2, Retention
Richard M. Smith, Mound City

District Court Judge, District 6, Division 3, Retention
Gerald W. Hart, Fort Scott

District Court Judge, District 7, Division 3, Retention
Jean F. Shepherd, Lawrence

District Court Judge, District 8, Division 2, Retention
Larry E. Bengtson, Junction City

District Court Judge, District 8, Division 5, Retention
David R. Platt, Junction City

District Court Judge, District 9, Division 2, Retention
Richard B. Walker, Newton

District Court Judge, District 10, Division 1, Retention
Peter V. Ruddick, Olathe

District Court Judge, District 10, Division 2, Retention
Sam K. Bruner, Overland Park

District Court Judge, District 10, Division 7, Retention
Janice D. Russell, Olathe

District Court Judge, District 10, Division 8, Retention
Steve Leben, Overland Park

District Court Judge, District 10, Division 9, Retention
James W. Bouska, Overland Park

District Court Judge, District 10, Division 10, Retention
Larry McClain, Overland Park

District Court Judge, District 10, Division 11, Retention
Thomas H. Bornholdt, Lenexa

District Court Judge, District 11, Division 3, Retention
Charles J. Sell, Altamont

District Court Judge, District 12, Division 1, Retention
Thomas M. Tuggle, Concordia

District Court Judge, District 25, Division 1, Retention
J. Stephen Nyswonger, Garden City

District Court Judge, District 28, Division 1, Retention
Daniel L. Hebert, Salina

District Court Judge, District 28, Division 2, Retention
David S. Knudson, Salina

District Court Judge, District 28, Division 3, Retention
Gene B. Penland, Salina

District Court Judge, District 30, Division 3, Retention
R. Scott McQuin, Wellington

District Court Judge, District 30, Division 4, Retention
Larry T. Solomon, Kingman

District Court Judge, District 31, Division 2, Retention
C. Fred Lorentz, Fredonia

District Magistrate Judge, District 2, Position 2, Retention
Steven M. Roth, Westmoreland

District Magistrate Judge, District 8, Position 2, Retention
Thomas H. Ball, Council Grove

District Magistrate Judge, District 12, Position 3, Retention
Ardith I. Von Fange, Lincoln

District Magistrate Judge, District 12, Position 4, Retention
Bonnie J. Wilson, Beloit

District Magistrate Judge, District 12, Position 5, Retention
William Edgar Thompson, Belleville

District Magistrate Judge, District 12, Position 6, Retention
Terry N. Taylor, Washington

District Magistrate Judge, District 25, Position 2, Retention
Donna L. J. Blake, Syracuse

District Magistrate Judge, District 25, Position 5, Retention
Claude S. Heath, Leoti

District Magistrate Judge, District 30, Position 1, Retention
Scott L. McGuire, Medicine Lodge

District Magistrate Judge, District 30, Position 3, Retention
James D. Mathis, Kingman

District Magistrate Judge, District 31, Position 1, Retention
Thomas M. Saxton, Jr., Iola

District Magistrate Judge, District 31, Position 2, Retention
Ronald L. Call, Yates Center

In testimony whereof, we have hereunto subscribed our names this 30th day of November, A.D. 1994.

Joan Finney
Governor

Bill Graves
Secretary of State

Robert T. Stephan
Attorney General

Doc. No. 015677

State of Kansas

Secretary of State

Usury Rate for December

Pursuant to the provisions of K.S.A. 16-207, the maximum effective rate of interest per annum for notes secured by all real estate mortgages and contracts for deed for real estate executed during the period of December 1, 1994 through December 31, 1994, is 10.97 percent.

Bill Graves
Secretary of State

Doc. No. 015676

State of Kansas

Kansas Racing Commission

Request for Proposals

The Kansas Racing Commission will accept applications for research grant monies from qualified applicants who propose to conduct research within the state of Kansas relating to the prevention of injury to and disease of greyhounds, as authorized by K.S.A. 74-8831(b)(2). Commission regulations governing the research grant procedure appear at K.A.R. 112-15-1 through and including K.A.R. 112-15-7. A copy of the full text of the regulations may be reviewed or obtained at the commission office.

Each application proposal must meet the requirements of K.A.R. 112-15-2, 112-15-3 and 112-15-6. The grant committee will conduct its review of each application in accordance with K.A.R. 112-15-4.

Applications must be submitted by January 15 to the executive director of the Kansas Racing Commission, 3400 S.W. Van Buren, Topeka 66611-2228, (913) 296-5800.

Art Neuhechel
Interim Executive Director

Doc. No. 015695

(Published in the Kansas Register, December 8, 1994.)

Summary Notice of Bond Sale

City of Chanute, Kansas

\$425,000

General Obligation Bonds, Series 1994-B

(General obligation bonds payable from unlimited ad valorem taxes)

Sealed Bids

Subject to the notice of bond sale dated December 5, 1994, sealed bids will be received by the clerk of the city of Chanute, Kansas (the issuer), on behalf of the governing body at City Hall, 1st and Lincoln, Chanute, KS 66720, until 2 p.m. C.S.T. on December 15, 1994, for the purchase of \$425,000 principal amount of General Obligation Bonds, Series 1994-B. No bid of less than the entire par value of the bonds and accrued interest thereon to the date of delivery will be considered.

Bond Details

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof.

The bonds will be dated December 1, 1994, and will become due November 1 in the years as follows:

Serial Bonds

Year	Principal Amount
1995	\$30,000
1996	35,000
1997	35,000
1998	40,000
1999	40,000
2000	45,000
2001	45,000
2002	50,000
2003	50,000
2004	55,000

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semi-annually on May 1 and November 1 in each year, beginning May 1, 1995.

Paying Agent and Bond Registrar

Kansas State Treasurer, Topeka, Kansas.

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 \$8,500 (2 percent of the principal amount of the bonds).

Delivery

The issuer will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or before December 29, 1994, at such bank or trust company in the contiguous United States of America as may be specified by the successful bidder.

Assessed Valuation and Indebtedness

The equalized assessed tangible valuation for computation of bonded debt limitations for the year 1994 is \$33,482,286. The total general obligation indebtedness of the issuer as of the date of the bonds, including the bonds being sold, is \$4,100,000.

Approval of Bonds

The bonds will be sold subject to the legal opinion of Gilmore & Bell, P.C., Wichita, Kansas, bond counsel, whose approving legal opinion as to the validity of the bonds will be furnished and paid for by the issuer, printed on the bonds and delivered to the successful bidder as and when the bonds are delivered.

Additional Information

Additional information regarding the bonds may be obtained from the clerk, (316) 431-5200.

Dated December 5, 1994.

City of Chanute, Kansas

Doc. No. 015686

(Published in the Kansas Register, December 8, 1994.)

Notice of Bond Sale
\$300,000
Osage County, Kansas
General Obligation Bonds
Series 1994 (Transfer Station)

Sealed Bids

Sealed bids for the purchase of \$300,000 principal amount of General Obligation Bonds, Series 1994 (Transfer Station) of the county hereinafter described, will be received by the undersigned county clerk of Osage County, Kansas, on behalf of the governing body of the county at the Osage County Courthouse, 717 Topeka Ave., Lyndon, KS 66451, until 10 a.m. on Wednesday, December 14, 1994. All bids will be publicly opened and read at said time and place and will be acted upon by the county 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 December 1, 1994, and will become due serially on October 1 in the years as follows:

Year	Principal Amount
1996	\$30,000
1997	30,000
1998	30,000
1999	30,000
2000	30,000
2001	30,000
2002	30,000
2003	30,000
2004	30,000
2005	30,000

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 October 1, 1995.

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

bond registrar, will be the responsibility of the bondholders.

Redemption of Bonds Prior to Maturity

At the option of the county, bonds maturing on October 1, 2001, and thereafter will be subject to redemption and payment prior to maturity on October 1, 2000, and thereafter in whole on any date 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, without premium.

Whenever the county 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 county shall elect to call any bond for redemption and payment prior to the maturity thereof, the county 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 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 45 days prior to the redemption date. Thereafter, the paying agent and bond registrar will notify the owners of the bonds of the county's redemption call by United States mail, postage prepaid. 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 $\frac{1}{8}$ or $\frac{1}{20}$ of 1 percent. No interest rate shall exceed index of treasury bonds published by *The Bond Buyer* 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 county 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 county on the basis of such bid. Each bid shall also specify the average annual net interest rate to the county 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

(continued)

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 county, which will be determined by subtracting the amount of the premium bid, if any, from the total interest cost to the county. 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 county shall determine which bid, if any, shall be accepted, and its determination shall be final.

Security for the Bonds

The bonds will be general obligations of the county 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 county.

Internal Revenue Code of 1986

The Internal Revenue Code of 1986 imposes requirements on the county which must be met subsequent to the issuance of the bonds by the county and, as a result, the county will and does hereby covenant that it will diligently undertake those steps necessary to maintain the tax-exempt status of the bonds. The county'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 county'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 current earnings of certain corporations in the calculation of alternative minimum taxable income, with certain other adjustments. Furthermore, Section 59A of the code, as added by the Superfund Amendments and Reauthorization Act of 1986, provides for an 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 may subject certain bondowners to additional taxation for interest earned on the bonds.

The code also requires property and casualty insurance companies to reduce the amount of their deductible underwriting losses by a percentage of the amount of tax-exempt interest received or accrued on such obligations. 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. The county 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 county, 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 county with the provisions of the resolution authorizing the issuance of the bonds and the code, under existing law, the interest on the bonds is exempt from federal income taxation. Interest on the bonds will also be excluded from the computation of Kansas adjusted gross income.

Delivery and Payment

The county will pay for printing the bonds and will deliver the bonds, without cost to the successful bidder, properly prepared, executed and registered, on or about December 29, 1994, at such bank or trust company in the state of Kansas or greater Kansas City, Missouri, metropolitan area as may be specified by the successful bidder. Delivery elsewhere will be at the bidder's expense. 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 county. 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 county and bond registrar not later than 3 p.m. C.S.T. on December 20, 1994. In the absence of such information, the county will deliver bonds in the denomination of each maturity registered in the name of the successful bidder.

The successful bidder shall furnish the county by 3 p.m. C.S.T. on December 20, 1994, a certificate acceptable to the county'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 \$6,000, payable to the order of the county to secure the county 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 county until the bidder shall have complied with all of the terms and conditions of this notice, at which time said check shall, at the option of the county, be returned to the successful bidder or deducted from the purchase price. If a bid is accepted but the county 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 forfeited to the county, and the county reserves the right to pursue any consequential damages as a result of such default.

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 county.

Bid Forms

All bids must be made on forms which may be procured from the county clerk. No additions or alterations in such forms shall be made and any erasures may cause rejection of any bid. The county 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 county 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 the Osage County Courthouse and must be received by the undersigned prior to 10 a.m. C.S.T. on Wednesday, December 14, 1994.

Assessed Valuation and Indebtedness

The total assessed valuation of the taxable tangible property within the county for the year 1994 is \$75,585,183. The total general obligation bonded indebtedness of the county as of the date of the bonds, including the bonds, is \$300,000.

Dated December 1, 1994.

Osage County, Kansas
Karen Persinger
County Clerk
Osage County Courthouse
717 Topeka Ave.
Lyndon, KS 66451
(913) 828-4812

Doc. No. 015694

State of Kansas

Department of Health and Environment

Permanent Administrative Regulations

Article 19.—AMBIENT AIR QUALITY STANDARDS AND AIR POLLUTION CONTROL

28-19-7. General provisions; definitions. All terms and abbreviations used in the Kansas air quality regulations shall have the following meanings unless otherwise defined in an individual regulation or unless the context clearly requires otherwise.

(a) "Affected facility" or "facility" means any air pollutant emitting activity to which an emissions limitation or standard applies.

(b) "Affected source" means a stationary source that includes one or more affected units subject to emission reduction requirements or limitations under title IV, acid deposition control, of the federal clean air act, 42 USC 7401 et seq.

(c) "Affected state" means any state:

(1) which is contiguous with Kansas and whose air quality may be affected by emissions from a stationary source or proposed stationary source in Kansas; or

(2) which is within 50 miles of a permitted stationary source located in Kansas.

(d) "Agricultural-related activity."

(1) "Agricultural-related activity" means processes used in the production of:

(A) popcorn that is packaged but not popped;

(B) ornamental floriculture and nursery products;

(C) shortening, table oils and margarine;

(D) prepared feeds and feed ingredients for animals and fowl;

(E) molasses, which is mixed or blended;

(F) cotton ginnings; and

(G) flour and other grain mill products.

(2) "Agricultural-related activity" also means sunflower oil reclaiming, seed cleaning and operations related to alfalfa dehydrators, sun-cured alfalfa plants, soybean oil mills and grain elevators.

(e) "Applicable requirement," for purposes of class I operating permits, means:

(1) the standards or other requirements set out in the Kansas air quality regulations which are part of the approved state implementation plan or part of any applicable federally promulgated implementation plan;

(2) any term or condition of a construction permit issued pursuant to:

(A) K.A.R. 28-19-16 through 16m, and amendments thereto, nonattainment area requirements;

(B) K.A.R. 28-19-17 through 17q, and amendments thereto, prevention of significant deterioration requirements; or

(C) any permit issued by the USEPA pursuant to part C of title I of the federal clean air act;

(3) any standard or other requirement under section 111, standards of performance for new stationary sources, of the federal clean air act, including section 111(d);

(continued)

(4) any standard or other requirement under section 112, hazardous air pollutants, of the federal clean air act, including any requirement concerning accident prevention under section 112(r)(7);

(5) any standard or other requirement of the acid rain program under title IV, acid deposition control, of the federal clean air act or regulations promulgated thereunder;

(6) any requirement established pursuant to section 504(b), permit requirements and conditions, monitoring and analysis, of the federal clean air act or section 114(a)(3), inspections, monitoring and entry, enhanced monitoring and compliance certification, of the federal clean air act;

(7) any standard or other requirement governing solid waste incineration under section 129, solid waste combustion, of the federal clean air act;

(8) any standard or other requirement for consumer and commercial products under section 183(e), federal ozone measures, control of emissions from certain sources, of the federal clean air act;

(9) any standard or other requirement for tank vessels under section 183(f), federal ozone measures, tank vessel standards, of the federal clean air act;

(10) any standard or other requirement of the regulations promulgated to protect stratospheric ozone under title VI, stratospheric ozone protection, of the federal clean air act, unless the USEPA has determined that such requirements need not be contained in a class I operating permit; and

(11) any national ambient air quality standard or increment or visibility requirement under part C, prevention of significant deterioration of air quality, of the title I, air pollution prevention and control, of the federal clean air act, but only as it would apply to temporary sources permitted pursuant to requirements adopted to enable the department to administer a program developed to implement the provisions of section 504(e), permit requirements and conditions, temporary sources, of the federal clean air act.

(f) "Application" or "application form" means the application form and all supporting documentation unless the context clearly indicates otherwise.

(g) "Area source" means a stationary source of hazardous air pollutants which is not a major source.

(h) "ASTM" means the American society for testing and materials.

(i) "Begin actual construction" means the initiation of physical on-site construction activities on an emissions unit that are of a permanent nature. These activities include but shall not be limited to, installation of building supports and foundations, laying of underground pipe-work, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(j) "Building, structure, facility, or installation" means all of the air pollutant emitting activities that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Air pollutant emitting activities shall be consid-

ered as part of the same industrial grouping if they have the same two-digit code as described in the "Standard Industrial Classification Manual 1987," as published by the U.S. governing printing office, as adopted at K.A.R. 28-19-303(f).

(k) "Calendar quarter" means January through March, April through June, July through September, or October through December of any calendar year.

(l) "Capture efficiency" (CE) means the amount of an air contaminant emitted from an emissions unit which is directed to an air emissions control device (ce) divided by the total emissions of the air contaminant from the emissions unit (te) expressed as a two decimal number between 0.00 and 1.00. (CE = ce/te)

(m) "Class I or class II substance" means a substance subject to a standard promulgated under or established by title VI, stratospheric ozone protection, of the federal clean air act, 42 USC 7401 et seq.

(n) "Class I, II or III area" means a classification assigned to any area of the state under the provisions of sections 162 and 164 of the act, 42 USC 7472 and 7474, as amended.

(o) "Commercial or medical waste incinerator" means incinerator used to dispose of waste from any commercial operation or used to dispose of any medical services waste as defined at K.A.R. 28-29-27.

(p) "Construction" means any physical change or change in the method of operation, including fabrication, erection, installation, demolition, or modification of an emissions unit.

(q) "Control device" means any equipment, device or other article that is designed, installed or both for the purpose of reducing or preventing the discharge of contaminant emissions to the air.

(r) "Control device efficiency (CDE)" means the amount of an air contaminant directed to an air emissions control device or devices (ce) minus the emissions of the air contaminant emitted from the air emissions control device or devices, or otherwise released into the atmosphere (re), divided by the amount of the air contaminant directed to the air emissions control device or devices (ce), expressed as a two decimal number between 0.00 and 1.00. (CDE = (ce-re)/ce)

(s) "De minimis emissions" means air emissions of hazardous air pollutants which do not exceed the following levels:

CAS#	Chemical Name	De Minimis Level (tons/year)
57147	1,1-Dimethyl hydrazine	0.008
79005	1,1,2-Trichloroethane	1
79345	1,1,2,2-Tetrachloroethane	0.3
96128	1,2-Dibromo-3-chloropropane	0.01
122667	1,2-Diphenylhydrazine	0.09
106887	1,2-Epoxybutane	1
75558	1,2-Propylenimine (2-Methyl aziridine)	0.003
120821	1,2,4-Trichlorobenzene	10
106990	1,3-Butadiene	0.07
542756	1,3-Dichloropropene	1
1120714	1,3-Propane sultone	0.03
106467	1,4-Dichlorobenzene(p)	3

123911	1,4-Dioxane (1,4-Diethyleneoxide)	6	95487	o-Cresol	1
53963	2-Acetylaminofluorine	0.005	108394	m-Cresol	1
532274	2-Chloroacetophenone	0.06	106445	p-Cresol	1
79469	2-Nitropropane	1	98828	Cumene	10
540841	2,2,4-Trimethylpentane	5	334883	Diazomethane	1
1746016	2,3,7,8-Tetrachlorodibenzo-p-dioxin	6E-07	132649	Dibenzofuran	5
584849	2,4-Toluene diisocyanate	0.1	72559	DDE (p,p'-Dichlorodiphenyldi-chloroethylene)	0.01
51285	2,4-Dinitrophenol	1	84742	Dibutylphthalate	10
121142	2,4-Dinitrotoluene	0.02	111444	Dichloroethyl ether (Bis(2-chloroethyl)ether)	0.06
94757	2,4-D, salts, esters(2,4-dichlorophenoxy acetic acid)	10	62737	Dichlorvos	0.2
95807	2,4-Toluene diamine	0.02	11422	Diethanolamine	5
95954	2,4,5-Trichlorophenol	1	64675	Diethyl sulfate	1
88062	2,4,6-Trichlorophenol	6	60117	Dimethyl aminoazobenzene	1
91941	3,3-Dichlorobenzidene	0.2	79447	Dimethyl carbamoyl chloride	0.02
119904	3,3'-Dimethoxybenzidine	0.1	68122	Dimethyl formamide	1
119937	3,3'-Dimethyl benzidine	0.008	131113	Dimethyl phthalate	10
92671	4-Aminobiphenyl	1	77781	Dimethyl sulfate	0.1
92933	4 - Nitrobiphenyl	1	106898	Epichlorohydrin	2
100027	4 - Nitrophenol	5	140885	Ethyl acrylate	1
101144	4,4-Methylene bis(2-chloroaniline)	0.2	100414	Ethyl benzene	10
101779	4,4'-Methylenedianiline	1	51796	Ethyl carbamate (Urethane)	0.8
534521	4,6-Dinitro-o-cresol, and salts	0.1	75003	Ethyl chloride	10
75070	Acetaldehyde	9	106934	Ethylene dibromide (Dibromethane)	0.1
60355	Acetamide	1	107062	Ethylene dichloride (1,2-Dichloroethane)	0.8
75058	Acetonitrile	4	107211	Ethylene glycol	10
98862	Acetophenone	1	151564	Ethylene imine (Aziridine)	0.003
107028	Acrolein	0.04	75218	Ethylene oxide	0.1
79061	Acrylamide	0.02	96457	Ethylene thiourea	0.6
79107	Acrylic acid	0.6	75343	Ethylidene dichloride (1,1-Dichloroethane)	1
107131	Acrylonitrile	0.3	50000	Formaldehyde	2
107051	Allyl chloride	1	76448	Heptachlor	0.02
62533	Aniline	1	118741	Hexachlorobenzene	0.01
71432	Benzene	2	87683	Hexachlorobutadiene	0.9
92875	Benzidine	0.0003	77474	Hexachlorocyclopentadiene	0.1
98077	Benzotrichloride	0.006	67721	Hexachloroethane	5
100447	Benzyl chloride	0.1	822060	Hexamethylene-1, 6 -diisocyanate	0.02
57578	beta-Propiolactone	0.1	680319	Hexamethylphosphoramide	0.01
92524	Biphenyl	10	110543	Hexane	10
117817	Bis(2-ethylhexyl)phthalate (DEHP)	5	302012	Hydrazine	0.004
542881	Bis(chloromethyl)ether	0.0003	7647010	Hydrochloric acid	10
75252	Bromoform	10	7664393	Hydrogen fluoride	0.1
156627	Calcium cyanamide	10	123319	Hydroquinone	1
105602	Caprolactam	10	78591	Isophorone	10
133062	Captan	10	58899	Lindane (hexachlorocyclohexane, gamma)	0.01
63252	Carbaryl	10	108316	Maleic anhydride	1
75150	Carbon disulfide	1	67561	Methanol	10
56235	Carbon tetrachloride	1	72435	Methoxychlor	10
463581	Carbonyl sulfide	5	74839	Methyl bromide (Bromomethane)	10
120809	Catechol	5	74873	Methyl chloride (Chloromethane)	10
133904	Chloramben	1	71556	Methyl chloroform (1,1,1-Trichloroethane)	10
57749	Chlordane	0.01	78933	Methyl ethyl ketone (2-Butanone)	10
7782505	Chlorine	0.1	60344	Methyl hydrazine	0.06
79118	Chloroacetic acid	0.1	74884	Methyl iodide (Iodomethane)	1
108907	Chlorobenzene	10	108101	Methyl isobutyl ketone	10
510156	Chlorobenzilate	0.4			
67663	Chloroform	0.9			
107302	Chloromethyl methyl ether	0.1			
126998	Chloroprene	1			
1319773	Cresols/Cresylic acid (isomers and mixture)	1			

(continued)

624839	Methyl isocyanate	0.1	7783702	Antimony pentafluoride	0.1
80626	Methyl methacrylate	10	28300745	Antimony potassium tartrate	1
1634044	Methyl tert-butyl ether	10	-	Beryllium compounds (except Beryllium salts)	0.008
12108133	Methylcyclopentadienyl manganese	0.1	-	Beryllium salts	0.00002
75092	Methylene chloride (Dichloromethane)	10	130618	Cadmium compounds	0.01
101688	Methylene diphenyl diisocyanate	0.1	-	Cadmium oxide	0.01
91203	Naphthalene	10	-	Chromium compounds (except Hexavalent and Trivalent)	5
98953	Nitrobenzene	1	-	Hexavalent Chromium compounds	0.002
62759	N-Nitrosodimethylamine	0.001	-	Trivalent Chromium compounds	5
69892	N-Nitrosomorpholine	1	10025737	Chromic chloride	0.1
684935	N-Nitroso-N-methylurea	0.0002	744084	Cobalt metal (and compounds, except those specifically listed)*	0.1
121697	N,N-Dimethylaniline	1	10210681	Cobalt carbonyl	0.1
90040	o-Anisidine	1	62207765	Fluomine	0.1
95534	o-Toluidine	4	-	Coke oven emissions	0.03
56382	Parathion	0.1	-	Cyanide compounds (except those specifically listed)*	5
82688	Pentachloronitrobenzene (Quintobenzene)	0.3	143339	Sodium cyanide	0.1
87865	Pentachlorophenol	0.7	151508	Potassium cyanide	0.1
108952	Phenol	0.1	-	Glycol ethers (except those specifically listed)*	5
75445	Phosgene	0.1	110805	2-Ethoxy ethanol	10
7803512	Phosphine	5	111762	Ethylene glycol monobutyl ether	10
7723140	Phosphorous	0.1	108864	2-Methoxy ethanol	10
85449	Phthalic anhydride	5	-	Lead compounds (except those specifically listed)*	0.01
1336363	Polchlorinated biphenyls (Aroclors)	0.009	75741	Tetramethyl lead	0.01
106503	p-Phenylenediamine	10	78002	Tetraethyl lead	0.01
123386	Propionaldehyde	5	7439965	Manganese and compounds (except those specifically listed)*	0.8
114261	Propoxur (Baygone)	10	12108133	Methylcyclopentadienyl manganese	0.1
78875	Propylene dichloride (1,2-Dichloropropane)	1	-	Mercury compounds (except those specifically listed)*	0.01
75569	Propylene oxide	5	10045940	Mercuric nitrate	0.01
91225	Quinoline	0.006	748794	Mercuric chloride	0.01
106514	Quinone	5	62384	Phenyl mercuric acetate	0.01
100425	Styrene	1	-	Elemental Mercury	0.01
96093	Styrene oxide	1	-	Mineral fiber compounds (except those specifically listed)*	10
127184	Tetrachloroethylene (Perchloroethylene)	10	1332214	Asbestos	.01
7550450	Titanium tetrachloride	0.1	-	Erionite	.01
108883	Toluene	10	-	Silica (crystalline)	1
8001352	Toxaphene (chlorinated camphene)	0.01	-	Talc (containing asbestos form fibers)	.01
79016	Trichloroethylene	10	-	Glass wool	10
121448	Triethylamine	10	-	Rock wool	10
1582098	Trifluralin	9	-	Slag wool	10
108054	Vinyl acetate	1	-	Ceramic fibers	1
593602	vinyl bromide (bromoethene)	0.6	-	Nickel compounds (except those specifically listed)*	1
75014	Vinyl chloride	0.2	13463393	Nickel Carbonyl	0.1
75354	Vinylidene chloride (1,1-Dichloroethylene)	0.4	12035722	Nickel refinery dust	0.08
1330207	Xylenes (isomers and mixture)	10	-	Nickel subsulfide	0.04
108383	m-Xylenes	10	-	Polycyclic organic matter-POM (except those specifically listed)*	0.01
95476	o-Xylenes	10	56553	Benz(a)anthracene	0.01
106423	p-Xylenes	10	50328	Benzo(a)pyrene	0.01
	Chemical Compound Classes		205992	Benzo(b)fluoranthene	0.01
-	Arsenic and inorganic arsenic compounds	0.005			
7784421	Arsine	0.005			
-	Antimony compounds (except those specifically listed)*	5			
1309644	Antimony trioxide	1			
1345046	Antimony trisulfide	0.1			

57976	7,12-Dimethylbenz(a)anthracene	0.01
225514	Benz(c)acridine	0.01
218019	Chrysene	0.01
53703	Dibenz(ah)anthracene	0.01
189559	1,2:7,8-Dibenzopyrene	0.01
193395*	Indeno(1,2,3-cd)pyrene	0.01
-	Dioxins & Furans (TCDD equivalent) **	-
7782492	Selenium and compounds (except those specifically listed)*	0.1
7488564	Selenium sulfide (mono and di)	0.1
7783075	Hydrogen selenide	0.1
10102188	Sodium selenite	0.1
13410010	Sodium selenate	0.1
99999918	Radionuclides (including radon)	***

Notes:

* For this chemical group, specific compounds or sub-groups are listed in this table. For the remainder of the chemicals of the chemical group, a single de minimis value is listed, which applies to compounds that are not listed.

** The "toxic equivalent factor" method in EPA/625/3-89-106, U.S. EPA, Interim procedures for estimating risk associated with exposure to mixtures, 1989 shall be used for PCDD/PCDF mixtures. A different de minimis level will be determined for each mixture depending on the equivalency factors used which are compound specific.

*** Subpart B and I, and Appendix E of 40 CFR part 61 has been relied upon to assign a de minimis level based on an effective dose equivalent of 0.3 millirem per year for a 7 year exposure period that would result in a cancer risk of 1 per million. The individual radionuclides subject to de minimis levels used for section 112(g) are also contained in 40 CFR part 61.

(t) "Department" means the Kansas state department of health and environment or an authorized representative of the department.

(u) "Direct heating equipment" means any device in which fuel is burned in direct contact with, and for the purpose of heating, air that comes in direct contact with the material being processed.

(v) "Director" means the secretary of health and environment or a designated representative of the secretary.

(w) "Emission limitation and standard" means a requirement established pursuant to the Kansas air quality regulations.

(x) "Emission source" means any machine, equipment, device or other article or operation that directly or indirectly releases contaminants into the outdoor atmosphere.

(y) "Emission unit" means any part or activity of a stationary source that emits or would have the potential-to-emit any regulated pollutant or any pollutant listed under section 112(b) of the federal clean air act.

(z) "Existing" means that a processing machine, equipment, device or other article, or any combination of the above, or any indirect heating equipment or incinerator is completed, under construction, or under purchase contract on the effective date of any applicable regulation.

(aa) "Existing facility" means a facility which is completed, under construction or under purchase contract at the time an emission limitation or standard becomes applicable to such facilities.

(bb) "Facility" or "affected facility" means any air pollutant emitting activity to which an emissions limitation or standard applies.

(cc) "Federal clean air act" means 42 USC 7401 et seq., and amendments thereto.

(dd) "Federally designated fugitive emissions source" means:

- (1) coal cleaning plants, with thermal dryers;
- (2) kraft pulp mills;
- (3) portland cement plants;
- (4) primary zinc smelters;
- (5) iron and steel mills;
- (6) primary aluminum ore reduction plants;
- (7) primary copper smelters;
- (8) municipal incinerators capable of charging more than 250 tons of refuse per day;
- (9) hydrofluoric, sulfuric, or nitric acid plants;
- (10) petroleum refineries;
- (11) lime plants;
- (12) phosphate rock processing plants;
- (13) coke oven batteries;
- (14) sulfur recovery plants;
- (15) carbon black plants that use a furnace process;
- (16) primary lead smelters;
- (17) fuel conversion plants;
- (18) sintering plants;
- (19) secondary metal production plants;
- (20) chemical process plants;
- (21) fossil-fuel boilers, or a combination thereof, totaling more than 250 million british thermal units per hour heat input;
- (22) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (23) taconite ore processing plants;
- (24) glass fiber processing plants;
- (25) charcoal production plants;
- (26) fossil-fuel-fired steam electric plants of more than 250 million british thermal units per hour heat input; or
- (27) any other stationary source categories regulated by a standard promulgated as of August 7, 1980, under section 111, new source performance standards, or section 112, hazardous air pollutants, of the federal clean air act, 42 USC 7401 et seq., but only with respect to those air pollutants that have been regulated for that category.

(ee) "Federally enforceable" means:

- (1) all limitations and conditions that are enforceable by the administrator of the U.S. environmental protection agency;
- (2) requirements of regulations included in the federally approved state implementation plan; and
- (3) any permit requirements established pursuant to these requirements.

(ff) "Fugitive emissions" means those emissions that directly result from operation of an emissions unit or stationary source but that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(continued)

(gg) "Hazardous air pollutant" means one or more of the following chemical pollutants:

CAS number	Chemical name		
75070	Acetaldehyde	111444	Dichloroethyl ether(Bis(2-chlorethyl)ether)
60355	Acetamide	542756	1,3-Dichloropropene
75058	Acetonitrile	62737	Dichlorvos
98862	Acetophenone	111422	Diethanolamine
53963	2-Acetylaminofluorene	121697	N,N-Diethyl aniline (N,N-Dimethylaniline)
107028	Acrolein	64675	Diethyl sulfate
79061	Acrylamide	119904	3,3-Dimethoxybenzidine
79107	Acrylic acid	60117	Dimethyl aminoazobenzene
107131	Acrylonitrile	119937	3,3-Dimethyl benzidine
107051	Allyl chloride	79447	Dimethyl carbamoyl chloride
92671	4-Aminobiphenyl	68122	Dimethyl formamide
62533	Aniline	57147	1,1-Dimethyl hydrazine
90040	o-Anisidine	131113	Dimethyl phthalate
1332214	Asbestos	77781	Dimethyl sulfate
71432	Benzene (including benzene from gasoline)	534521	4,6-Dinitro-o-cresol, and salts
92875	Benzidine	51285	2,4-Dinitrophenol
98077	Benzotrichloride	121142	2,4-Dinitrotoluene
100447	Benzyl chloride	123911	1,4-Dioxane (1,4-Diethyleneoxide)
92524	Biphenyl	122667	1,2-Diphenylhydrazine
117817	Bis(2-ethylhexyl)phthalate (DEHP)	106898	Epichlorohydrin (1-Chloro-2,3-epoxypropane)
542881	Bis(chloromethyl)ether	106887	1,2-Epoxybutane
75252	Bromoform	140885	Ethyl acrylate
106990	1,3-Butadiene	100414	Ethyl benzene
156627	Calcium cyanamide	51796	Ethyl carbamate (Urethane)
105602	Caprolactam	75003	Ethyl chloride (Chloroethane)
133062	Captan	106934	Ethylene dibromide (Dibromoethane)
63252	Carbaryl	107062	Ethylene dichloride (1,2-Dichloroethane)
75150	Carbon disulfide	107211	Ethylene glycol
56235	Carbon tetrachloride	151564	Ethylene imine (Aziridine)
463581	Carbonyl sulfide	75218	Ethylene oxide
120809	Catechol	96457	Ethylene thiourea
133904	Chloramben	75343	Ethylidene dichloride (1,1-Dichloroethane)
57749	Chlordane	50000	Formaldehyde
7782505	Chlorine	76448	Heptachlor
79118	Chloroacetic acid	118741	Hexachlorobenzene
532274	2-Chloroacetophenone	87683	Hexachlorobutadiene
108907	Chlorobenzene	77474	Hexachlorocyclopentadiene
510156	Chlorobenzilate	67721	Hexachloroethane
67663	Chloroform	822060	Hexamethylene-1,6-diisocyanate
107302	Chloromethyl methyl ether	680319	Hexamethylphosphoramide
126998	Chloroprene	110543	Hexane
1319773	Cresols/Cresylic acid (isomers and mixture)	302012	Hydrazine
95487	o-Cresol	7647010	Hydrochloric acid
108394	m-Cresol	7664393	Hydrogen fluoride (Hydrofluoric acid)
106445	p-Cresol	123319	Hydroquinone
98828	Cumene	78591	Isophorone
94757	2,4-D, salts and esters	58899	Lindane (all isomers)
3547044	DDE	108316	Maleic anhydride
334883	Diazomethane	67561	Methanol
132649	Dibenzofurans	72435	Methoxychlor
96128	1,2-Dibromo-3-chloropropane	74839	Methyl bromide (Bromoethane)
84742	Dibutylphthalate	74873	Methyl chloride (Chloromethane)
106467	1,4-Dichlorobenzene(p)		
91941	3,3-Dichlorobenzidine		

71556	Methyl chloroform (1,1,1-Trichloroethane)	120821	1,2,4-Trichlorobenzene
78933	Methyl ethyl ketone (2-Butanone)	79005	1,1,2-Trichloroethane
60344	Methyl hydrazine	79016	Trichloroethylene
74884	Methyl iodide (Iodomethane)	95954	2,4,5-Trichlorophenol
108101	Methyl isobutyl ketone (Hexone)	88062	2,4,6-Trichlorophenol
624839	Methyl isocyanate	121448	Triethylamine
80626	Methyl methacrylate	1582098	Trifluralin
1634044	Methyl tert butyl ether	580841	2,2,4-Trimethylpentane
101144	4,4-Methylene bis(2-chloroaniline)	108054	Vinyl acetate
75092	Methylene chloride (Dichloromethane)	593602	Vinyl bromide
101688	Methylene diphenyl diisocyanate (MDI)	75014	Vinyl chloride
101779	4,4-Methylenedianiline	75354	Vinylidene chloride (1,1-Dichloroethylene)
91203	Naphthalene	1330207	Xylenes (isomers and mixture)
98953	Nitrobenzene	95476	o-Xylenes
92933	4-Nitrobiphenyl	108383	m-Xylenes
100027	4-Nitrophenol	106423	p-Xylenes
79469	2-Nitropropane	0	Antimony Compounds
684935	N-Nitroso-N-methylurea	0	Arsenic Compounds (inorganic including arsine)
62759	N-Nitrosodimethylamine	0	Beryllium Compounds
59892	N-Nitrosomorpholine	0	Cadmium Compounds
56382	Parathion	0	Chromium Compounds
82688	Pentachloronitrobenzene (Quintobenzene)	0	Cobalt Compounds
87865	Pentachlorophenol	0	Coke Oven Emissions
108952	Phenol	0	Cyanide Compounds *1
106503	p-Phenylenediamine	0	Glycol ethers *2
75445	Phosgene	0	Lead Compounds
7803512	Phosphine	0	Manganese Compounds
7723140	Phosphorus	0	Mercury Compounds
85449	Phthalic anhydride	0	Fine mineral fibers *3
1336363	Polychlorinated biphenyls (Aroclors)	0	Nickel Compounds
1120714	1,3-Propane sultone	0	Polycyclic Organic Matter *4
57578	beta-Propiolactone	0	Radionuclides (including radon) *5
123386	Propionaldehyde	0	Selenium Compounds
114261	Propoxur (Baygon)		
78875	Propylene dichloride (1,2-Dichloropropane)		
75569	Propylene oxide		
75558	1,2-Propylenimine (2-Methyl aziridine)		
91225	Quinoline		
106514	Quinone		
100425	Styrene		
96093	Styrene oxide		
1746016	2,3,7,8-Tetrachlorodibenzo-p-dioxin		
79345	1,1,2,2-Tetrachloroethane		
127184	Tetrachloroethylene (Perchloroethylene)		
7550450	Titanium tetrachloride		
108883	Toluene		
95807	2,4-Toluene diamine		
584849	2,4-Toluene diisocyanate		
95534	o-Toluidine		
8001352	Toxaphene (chlorinated camphene)		

NOTE: For all listings above which contain the word "compounds" and for glycol ethers, the following applies: Unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemical as part of that chemical's infrastructure.

*1 X'CN where X = H' or any other group where a formal dissociation may occur. For example KCN or Ca(CN)₂

*2 Includes mono- and di-ethers of ethylene glycol, diethylene glycol, and triethylene glycol R-(OCH₂CH₂)_n-OR' where

n = 1, 2, or 3

R = alkyl or aryl groups

R' = R, H, or groups which, when removed, yield glycol ethers with the structure: R-(OCH₂CH₂)_n-OH. Polymers are excluded from the glycol category.

*3 Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers, (or other mineral derived fibers) of average diameter 1 micrometer or less.

*4 Includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100-C.

(continued)

*5 A type of atom which spontaneously undergoes radioactive decay.

(hh) "Incinerator" means any device or structure used for the destruction, or volume reduction of garbage, rubbish, or other liquid or solid waste materials, by combustion, for the purpose of disposal or salvage.

(ii) "Indirect heating equipment" means any device in which fuel is burned to produce heat that is transferred through a heat conducting materials barrier or by a heat storage medium to a material that is to be heated so that the material being heated is not contacted by, and adds no substance to, the products of combustion.

(jj) "Kansas air quality regulations" means those regulations appearing at article 28-19 of the Kansas administrative regulations adopted by the secretary pursuant to K.S.A. 65-3001 et seq., and amendments thereto.

(kk) "Modified open burning operation" means an open burning operation in which the contaminants emitted to the ambient air as a result of combustion are reduced, controlled or both through positive regulation of fuel to air ratios, air screens or other control techniques. Combustion devices used solely for the purpose of disposing of flammable gases shall not be considered to be modified open burning operations.

(ll) "Major source" means any stationary source, or any group of stationary sources that are located on one or more contiguous or adjacent properties and are under common control of the same person, or persons who are under common control, belonging to a single major industrial grouping and that are described in paragraphs (1), (2), (3) or (4) or this subsection. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same major group with the same two-digit code as described in the Standard industrial classification manual, 1987.

(1) For pollutants other than radionuclides, major source shall include any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential-to-emit, in the aggregate, 10 tons per year or more of any hazardous air pollutant, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the secretary may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well, with its associated equipment, and emissions from any pipeline compressor station or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources.

(2) For radionuclides, major source shall have the meaning specified by the secretary by regulation.

(3) Major source shall include a major stationary source of air pollutants, as defined in section 302 of the federal clean air act, that directly emits or has the potential-to-emit, 100 tons per year or more of any air pollutant, including any major source of fugitive emissions of any such pollutant from a federally designated fu-

gitive emissions source. The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source unless the source is a federally designated fugitive emissions source.

(4) Major source shall include a major stationary source as defined in part D of title I of the federal clean air act.

(mm) "National ambient air quality standard," "national primary ambient air quality standard" and "national secondary ambient air quality standard" mean those standards promulgated at 40 CFR Part 50, as in effect on July 1, 1993, which are adopted by reference.

(nn) "Official observer."

(1) "Official observer" means a designated representative of the department who has been certified by the department as being trained, and qualified on the basis of actual testing, to determine the degree of opacity of visible plumes by direct visual observation. The testing procedure shall be established and published by the department. Each certified individual shall be required to be re-tested at least once every six months to maintain certification.

(2) The term "official observer" shall also include a representative of the USEPA that has been properly certified pursuant to 40 CFR Part 60, appendix A, method 9.

(oo) "Opacity" means the degree to which a contaminant emission obscures an official observer's view of transmitted light passing through that contaminant. Zero percent opacity is perfect transparency and 100 percent opacity is impenetrable to light.

(pp) "Open burning operation" means the burning of any materials in which contaminants resulting from combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. A chamber shall be considered enclosed when only those apertures, ducts, stacks, flues or chimneys that are required to supply combustion air and to permit the escape of exhaust gases are open during the combustion process.

(qq) "Organic material" means a chemical compound of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates and ammonium carbonate.

(rr) "Owner or operator" means any person who owns, leases, operates, controls, or supervises an affected facility, emissions unit or stationary source subject to any standard or requirement of the Kansas air quality act, K.S.A. 65-3001 et seq., or any rule and regulation promulgated thereunder.

(ss) "Particulate matter" means any airborne finely divided solid or liquid material, except uncombined water, including PM10.

(tt) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, or any legal successor, representative, agent or agency of the foregoing.

(uu) "PM10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based

on appendix J of 40 CFR Part 50 and designated in accordance with 40 CFR 53.8 or by an equivalent method designated by the administrator of the U.S. environmental protection agency on or before the effective date of this regulation in accordance with 40 CFR 53.8, as amended on July 31, 1993. Appendix J of 40 CFR Part 50 and 40 CFR 53.8, as amended on July 31, 1993 are adopted by reference.

(vv) "Portable source" means an emissions unit or stationary source which, due to the design of the emissions unit or stationary source, is capable of being moved from one location to another and which, except for storage purposes, remains at one location no longer than 180 days during any 365 day period unless otherwise approved in writing by the department. A mobile source shall not be considered a portable source.

(ww) "Potential contaminant emission rate" means the total weight of a contaminant that is or, in the absence of control equipment, would be emitted from an air contaminant source when that source is operating at its maximum capacity. The potential contaminant emissions rate shall be determined by:

(1) sampling in a flue or duct prior to the inlet of any control device serving the flue or duct;

(2) estimating such emissions by performing a "material balance" calculation that indicates the difference between processing input weight and output weight of materials;

(3) using potential contaminant emission factors as recognized by the department; or

(4) using any other estimating technique mutually agreeable to the department and the person responsible for operation of the source.

(xx) "Potential-to-emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions shall not be considered in determining the potential-to-emit of a stationary source.

(yy) "Premises" means one or more contiguous or adjacent parcels of land and any structures or equipment located on the parcels under one ownership. For the purpose of this definition, a parcel of land that is bordering another parcel solely divided by a public roadway or a railroad right of way shall be considered to be adjacent.

(zz) "Processing" means any operation related to the handling, storage, treatment or conversion of input materials to produce a saleable or usable end product.

(aaa) "Regulated pollutant" means:

(1) nitrogen oxides or any volatile organic compounds;

(2) any pollutant for which a national ambient air quality standard has been promulgated;

(3) any pollutant that is subject to any standard promulgated under section 111, standards of performance for new stationary sources, of the federal clean air act;

(4) any class I or II substance subject to a standard promulgated under or established by title VI, stratospheric ozone protection, of the federal clean air act; or

(5) any pollutant subject to a standard promulgated under section 112, hazardous air pollutants, or other requirements established under section 112 of the federal clean air act, including sections 112(g), (j), and (r) of the federal clean air act, including the following:

(A) any pollutant subject to requirements under section 112(j) of the federal clean air act. If the administrator of the USEPA fails to promulgate a standard by the date established pursuant to section 112(e) of the federal clean air act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to section 112(e) of the federal clean air act; and

(B) any pollutant for which the requirements of section 112(g)(2) of the federal clean air act have been met, but only with respect to the individual source subject to section 112(g)(2) requirement.

(bbb) "Responsible official" means one of the following:

(1) For a corporation, a president, secretary, treasurer or vice-president in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production or operating facilities applying for or subject to permit or other relevant regulatory requirement and either:

(A) the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million, in second quarter, 1980 dollars; or

(B) the delegation of authority to such representative is approved in advance by the department;

(2) for a partnership or sole proprietorship, a general partner or the proprietor, respectively;

(3) for a municipality, or a state, federal or other public agency, a principal executive officer or ranking elected official. For purposes of this definition, a principal executive officer of a federal agency shall include the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency; or

(4) for affected sources, the designated representative under title IV, acid deposition control, of the federal clean air act, 42 USC 7401 et seq.

(ccc) "Secondary emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. Secondary emissions shall include emissions from any off-site support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions shall not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

(ddd) "Significant" means in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

(continued)

- (1) 100 tons per year of carbon monoxide;
- (2) 40 tons per year of nitrogen oxides;
- (3) 40 tons per year of sulfur dioxide;
- (4) 25 tons per year of particulate matter emissions;
- (5) 15 tons per year of PM10 emissions;
- (6) 40 tons per year of volatile organic compounds for ozone; or

(7) 0.6 tons per year of lead.

(eee) "Smoke" means particulate matter emissions, resulting from incomplete combustion, that consist primarily of carbon, ash and other material and that form a visible plume in the ambient atmosphere.

(fff) "Startup" means the setting in operation of a stationary source for any purpose.

(ggg) "State implementation plan" means any documents, including state or locally adopted regulations, submitted by a state to, and approved by, the U.S. environmental protection agency as required by the provisions of Section 110 of the federal clean air act, 42 U.S.C. 7410 and any regulations promulgated by the administrator of the U.S. environmental protection agency pursuant to the provisions of that section.

(hhh) "Stationary source" or "source" means any building, structure, facility, or installation which emits or may emit any air pollutant subject to any emission limitation or standard or which is required to obtain a permit pursuant to the Kansas air quality regulations.

(iii) "Temporary" means, in relation to the emissions from a source, that the emissions will not occur at a particular location for a period of more than two years unless a longer time is approved by the secretary or an authorized representative of the secretary.

(jjj) "Total suspended particulate" means particulate matter as measured by the method described in appendix B of 40 CFR Part 50, as in effect on July 31, 1993, which is adopted by reference.

(kkk) "USEPA" means the United States environmental protection agency, or its successor.

(lll) "Volatile organic compounds (VOC)" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions including any organic compound other than those which have been designated by the department as having negligible photochemical reactivity. The following organic compounds have been designated by the department as negligibly reactive:

- (1) methane;
- (2) ethane;
- (3) 1,1,1-trichloroethane (methyl chloroform);
- (4) methylene chloride;
- (5) trichlorofluoromethane (CFC-11);
- (6) dichloro-difluoromethane (CFC-12);
- (7) chlorodifluoromethane (CFC-22);
- (8) trifluoromethane (FC-23);
- (9) trichlorotrifluoroethane (CFC-113);
- (10) dichlorotetrafluoroethane (CFC-114);
- (11) chloropentafluoroethane (CFC-115);
- (12) dichlorotrifluoroethane (HCFC-123);
- (13) tetrafluoroethane (HCFC-134a);
- (14) dichlorodifluoroethane (HCFC-141b);

- (15) chlorodifluoroethane (HCFC-142b);
- (16) chlorotetrafluoroethane (HCFC-124);
- (17) pentafluoroethane (HCFC-125);
- (18) tetrafluoroethane (HCFC-134);
- (19) trifluoroethane (HCFC-143a);
- (20) difluoroethane (HCFC-152a); and
- (21) The following classes of perfluorocarbon compounds:

(A) cyclic, branched, or linear, completely fluorinated alkanes;

(B) cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(C) cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturation; and

(D) sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(mmm) "Waste" means garbage, refuse and other discarded materials including, but not limited to solids, semisolids, sludges, liquids and contained gaseous waste materials resulting from industrial, commercial, agricultural and domestic activities. The term "waste" shall not include hazardous wastes which is defined in K.A.R. 28-31-3. (Authorized by and implementing K.S.A. 65-3005; effective Jan. 1, 1971; amended Jan. 1, 1972; amended, E-73-8, Dec. 27, 1972; amended Jan. 1, 1974; amended May 1, 1975; amended, T-84-39, Dec. 21, 1983; amended May 1, 1984; amended, T-85-29, Nov. 14, 1984; amended May 1, 1985; amended May 1, 1988; amended Oct. 16, 1989; amended Nov. 22, 1993; amended Jan. 23, 1995.)

28-19-8. Reporting required. The references in K.A.R. 28-19-9 (a) and K.A.R. 28-19-16b to reporting requirements under this regulation, the reference in K.A.R. 28-19-16b to the information required to be included in a permit application by K.A.R. 28-19-8(a), and any other reference in these regulations to the requirements of K.A.R. 28-19-8, shall be interpreted to require compliance with K.A.R. 28-19-300 through K.A.R. 28-19-304. (Authorized by K.S.A. 65-3005; implementing K.S.A. 65-3005, 65-3007, 65-3010; effective Jan. 1, 1971; amended Jan. 1, 1972; amended, E-73-8, Dec. 27, 1972; amended Jan. 1, 1974; amended May 1, 1975; amended, T-84-39, Dec. 21, 1983; amended May 1, 1984; amended, T-85-29, Nov. 14, 1984; amended May 1, 1985; amended May 1, 1988; amended Oct. 16, 1989; amended Jan. 23, 1995.)

28-19-14. Permits required. The reference in K.A.R. 28-19-19 to a permit condition under this regulation, the reference in K.A.R. 28-19-31 to a permit issued under this regulation, and any other reference in these rules to a permit under this regulation, shall be interpreted to include permits issued under K.S.A. 28-19-300 through 28-19-304 and K.A.R. 28-19-500 through 28-19-578. (Authorized by K.S.A. 65-3005; implementing K.S.A. 65-3005, 65-3008; effective, E-78-8, Dec. 27, 1972; effective Jan. 1, 1974; amended, T-84-39, effective Dec. 21, 1983; amended May 1, 1984; amended May 1, 1986; amended May 1, 1987; amended Oct. 16, 1989; amended Jan. 24, 1994; amended Jan. 23, 1995.)

28-19-14a. (Authorized by and implementing K.S.A. 65-3005, and K.S.A. 1984 Supp. 65-3008; effective,

T-84-39, Dec. 21, 1983; effective May 1, 1984; amended May 1, 1986; revoked Jan. 23, 1995.)

28-19-202. Annual emissions fee. (a) The owner or operator of each stationary source of air emissions that has actual emissions of the type and quantity specified in subsection (b) of this regulation shall pay an annual emissions fee to the department.

(b) The types of air emissions and the quantity of air emissions, determined on a calendar year basis according to K.A.R. 28-19-210, for which annual emissions fees shall be assessed are:

(1) air emissions of 100 tons per year or more of any of the following:

(A) sulfur oxides measured as sulfur dioxide;

(B) particulate matter calculated as PM10, except if no emission factor or approvable method for calculating PM10 is available, annual emissions fees shall be assessed for total suspended particulate emissions;

(C) nitrogen oxides expressed as nitrogen dioxide; and

(D) total volatile organic compounds;

(2) air emissions of hazardous air pollutants, from source categories other than source categories specifically excluded from the USEPA notice entitled "Initial list of categories of sources under section 112(c)(1) of the clean air act amendments of 1990," 57 FR 31576, July 16, 1992:

(A) of 10 tons per year or more of any single hazardous air pollutant; or

(B) of 25 tons per year or more of any combination of hazardous air pollutants, whichever is greater.

For purposes of this subsection, actual emissions shall include fugitive emissions from federally designated fugitive emission sources. Actual emissions shall also include fugitive emissions required to be reported under the provisions of section 313 of the federal emergency planning and community right-to-know act of 1986, Title III, P.L. 99-499.

(c) The annual emissions fee shall equal the sum of the actual emissions of the pollutant or pollutants specified in subsection (b) of this regulation, rounded to the nearest ton, multiplied by \$20.00 per ton of emissions, subject to the following:

(1) pollutants emitted from the stationary source shall not be required to be included in the fee calculation more than one time;

(2) emissions of any pollutant of 500 pounds per year or less from any emissions source shall not be required to be included in the fee calculation unless total emissions of the pollutant from similar sources at the stationary source equal or exceed 2000 pounds per year;

(3) emissions in excess of 4000 tons per year of any single pollutant from any stationary source shall not be required to be included in the fee calculation; and

(4) annual emission fees for a portable emissions unit or stationary source which operates both in Kansas and out-of-state may be calculated only for emissions from the emissions unit or stationary source while operating in Kansas.

(d) Calculations of actual emissions and calculation of the annual emissions fee shall be completed on forms provided or approved by the department.

(1) The completed forms shall be signed by a responsible official or the person most directly responsible for the compilation of the submitted information.

(2) The annual emissions fee payment shall be submitted to the department by April 1 of the year following the calendar year for which the actual emissions were determined unless a subsection (e) election is made. Timeliness of submissions shall be determined by the postmark if submitted by mail.

(3) Annual emissions fee payments shall be made by check, draft, or money order payable to the department.

(4) For purposes of liability to the department, payment of emission fees shall be the responsibility of the person or persons who are the owners or operators of the emissions unit or stationary source on the date the emissions fee is due. For purposes of calculating actual emissions during a period someone other than the current owner or operator was the owner or operator of the stationary source, the owner or operator responsible for paying the fee may assume operations of the facility were identical to the operation of the facility by the current owner or operator if the current owner or operator has been unable, after reasonable and diligent inquiry, to obtain the actual operating information from the previous owner or operator.

(e) The owner or operator of a stationary source of hazardous air pollutant emissions subject to this regulation, that is also required to report hazardous air pollutant emissions under the provisions of section 313 of the federal emergency planning and community right-to-know act of 1986, Title III, P.L. 99-499, and K.A.R. 28-65-3, may apply to the department for approval to submit the annual emission fee payment required by subsection (d) of this regulation for those actual emissions subject to fees under this regulation by July 1 of each year at the time of submission of the section 313 report form. Any person who requests authority to delay submission of an annual emission fee as authorized by this subsection shall request approval from the department prior to April 1 of the year for which the annual emission fee is due. The annual emissions fee imposed by this regulation for any hazardous air pollutant may be reduced, but not below zero, by the amount of any fee paid pursuant to K.A.R. 28-65-4, or amendments thereto, that is assessed for that specific air emission of that specific pollutant.

(f) Any owner or operator which fails to timely pay the annual emissions fee:

(1) shall pay an additional fee of \$100.00 or 1% of the annual emissions fee, whichever is greater; and

(2) beginning seven days after the department notifies the permittee in writing that the department has not received the annual emissions fee, shall pay an additional \$10 per day or .05% of the annual emissions fee per day, whichever is greater.

(g) The amount of any overpayment, as determined by the department, made by the owner or operator of a stationary source shall be credited to the annual emissions fee for subsequent years for that stationary source. (Authorized by K.S.A. 65-3005; implementing K.S.A. 1993 Supp. 65-3024; effective Nov. 22, 1993; amended Jan. 23, 1995.)

(continued)

28-19-204. General provisions; permit issuance and modification; public participation. (a) The public shall be provided the opportunity to participate in the permit development or modification process prior to issuance of a construction permit for an affected facility, a class I or class II operating permit, or a significant modification of a class I or class II operating permit.

(b) Prior to the issuance of a permit or permit modification which requires public participation or prior to any public hearing held pursuant to K.S.A. 1993 Supp. 65-3008a, a notice shall be placed in the Kansas Register and a newspaper of general circulation in the area where the facility is, or will be located.

(c) The notice shall:

(1) identify the facility which is the subject matter of the permit action, except in the case of a general permit;

(2) state the name and address of the owner or operator of the facility, except in the case of a general permit;

(3) state the address of the facility, except in the case of a general permit;

(4) describe the activity or activities involved in the permit action;

(5) describe the air emissions from any proposed new facility or involved in any permit modification;

(6) state the name, address and telephone number of a person from whom interested persons may obtain additional information which is not confidential, including:

(A) copies of the proposed permit or permit modification;

(B) the application;

(C) all relevant supporting materials including any monitoring and compliance certification and compliance plan; and

(D) all other materials available to the department that are relevant to the permitting decision;

(7) state the department's name and address;

(8) include a brief description of the procedures for submitting written comments including a date which is 30 or more days after the notice is first published by which comments shall be submitted to the department; and

(9) include a statement of the procedures to request a public hearing or specify the time and place of the public hearing if a public hearing has been scheduled. If a public hearing has been scheduled, notice of the hearing shall be published at least 30 or more days in advance of the hearing.

(d) The notice shall state that a copy of the proposed permit and all supporting documentation is available for public review at the department's central office and at the appropriate district office or local agency, and shall provide the name, address and telephone number of a contact person at the central office and at the appropriate district office or local agency.

(e) The notice may describe more than one permit action or public hearing.

(f) Written comments timely received by the department during the public comment period and written comments and oral testimony received during a public hearing shall become part of the permit record. All such written and oral comments which are relevant to the per-

mit decision and which are within the jurisdiction established by the permit action shall be considered in making a final decision on the proposed permit action.

(g) A response to the comments shall be issued at the time any final permit decision is issued. The response to the comments shall be available to the public and shall:

(1) specify any changes made to the proposed permit as a result of any public comments; and

(2) briefly respond to any significant comments received during the public comment period or during the public hearing.

(h) Copies of the proposed permit, the application, all relevant supporting materials including any compliance plan and compliance certification, and all other materials available to the permitting authority that are relevant to the permitting decision shall, upon request, be furnished without charge to the USEPA and to any affected state. Any other person requesting copies of such documentation shall pay a fee equal to that regularly charged by the department for copying documents unless some other provision of law provides otherwise. (Authorized by K.S.A. 1993 Supp. 65-3005 and implementing K.S.A. 1993 Supp. 65-3008a; effective Jan. 23, 1995.)

28-19-211. Reserved.

28-19-212. General provisions; approved test methods and emission compliance determination procedures. (a) The following test methods shall be approved for demonstrating compliance or non-compliance with an appropriate emission standard or limitation:

(1) those test methods specified at 40 CFR part 60, appendix A, as in effect on July 1, 1993;

(2) those test methods specified at 40 CFR part 60, appendix B, as in effect on July 1, 1993;

(3) those test methods specified at 40 CFR part 60, appendix F, as in effect on July 1, 1993;

(4) those test methods specified at 40 CFR part 60, appendix J, as in effect on July 1, 1993;

(5) those test methods specified at 40 CFR part 61, appendix B, as in effect on July 1, 1993;

(6) those test methods specified at 40 CFR part 51, as in effect on July 1, 1993;

(7) those test methods specified at 40 CFR part 63, appendix A, as in effect on July 1, 1993;

(8) any alternative or miscellaneous test procedures currently approved by the USEPA and published in the federal register prior to the effective date of this regulation;

(9) ASTM D 1186-06.01—thickness of paints/related coatings dry film thickness of non-magnetic coatings applied to a ferrous base, as in effect on July 1, 1994;

(10) ASTM D 1200-06.01—standard test method for determining the viscosity of paints and related coatings by the Ford viscosity cup test, as in effect on July 1, 1994;

(11) ASTM D 3794-06.01—standard test method for determining the viscosity of coil coatings by the Zahn cup method test, as in effect on July 1, 1994;

(12) ASTM D 1475-60—standard test method for determining the density of paint, varnish, lacquer and related products, as in effect on July 1, 1994;

(13) ASTM D 2369-81—standard test method for determining the volatile content of coatings using a one hour bake, as in effect on July 1, 1994;

(14) ASTM D 3792-79—standard test method for determining the water content of water reducible paint by direct injection into a gas chromatograph, as in effect on July 1, 1994;

(15) ASTM D 4017-81—standard test method for determining the water content in paints by the Karl Fischer titration method, as in effect on July 1, 1994;

(16) ASTM D-244-83—standard methods of testing emulsified asphalts, as in effect on July 1, 1994;

(17) ASTM D-323-82—vapor pressure of petroleum products (Reid method), as in effect on July 1, 1994;

(18) ASTM D-97-66—test for pour point of petroleum oils, as in effect on July 1, 1994;

(19) the procedures in 40 CFR, Part 80, Appendix D, as in effect on July 1, 1993, for the sampling of reid vapor pressure of gasoline to be used as a fuel for motor vehicles;

(20) the procedures in 40 CFR, Part 80, Appendix E, as in effect on July 1, 1993, for the testing of reid vapor pressure of gasoline to be used as a fuel for motor vehicles; and

(21) an alternate sampling or testing procedure approved by the department and developed or approved by the U.S. environmental protection agency as an equivalent or improved procedure.

(b) Notwithstanding any other provision of these regulations, data from continuous emission monitoring systems may be used for purposes of determining compliance with any emission limitation or standard only if:

(1) the emissions are from an affected source and the continuous emission monitoring system is subject to, and in compliance with, the requirements 40 CFR part 75; or

(2) the continuous emission monitoring system is not subject to 40 CFR part 75 and:

(A) a written quality assurance and quality control plan is maintained by the owner or operator of the emission source;

(B) the plan includes the more stringent of either all recommendations of the manufacturer or manufacturers of the continuous emission monitoring system components or all applicable quality assurance and quality control requirements required by any state or federal regulation or air quality permit;

(C) the owner or operator maintains records demonstrating adherence to the quality assurance and quality control plan; and

(D) the quality assurance and quality control plan is reviewed and updated annually.

Data from a continuous emission monitoring system which satisfies the requirements of this subsection and which demonstrates compliance with the relevant emission limitation or standard, shall create a rebuttable presumption of compliance with the relevant emission limitation or standard.

(c) Notwithstanding any other provisions of these regulations, data which demonstrates non-compliance with an emission limitation or standard shall create a rebuttable presumption of non-compliance if the data is from continuous emission monitoring systems or any

other sampling or monitoring protocols, and the systems or protocols are required by:

(1) any applicable requirement;

(2) any air quality regulation;

(3) any compliance plan;

(4) any order or consent agreement issued pursuant to the authorities specified in the Kansas air quality act;

(5) the provisions of any air quality construction or operating permit; or

(6) any other provision or authority of the Kansas air quality act or air quality regulation.

(d) Notwithstanding any other provision of this regulation, any credible evidence may be used for the purpose of establishing non-compliance with an emission limitation or standard.

(e) Notwithstanding any other provision of these regulations, the owner or operator is not prohibited from using the following in addition to any specified compliance methods for the purpose of submission of compliance certifications:

(1) an enhanced monitoring protocol approved by the department; or

(2) any other monitoring method approved for the source incorporated into any federally enforceable operating permit. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3007; effective Jan. 23, 1995.)

28-19-213 through 28-19-274. Reserved.

28-19-275. Special provisions; acid rain deposition. (a) The provisions of this regulation are in addition to any construction or operating permit requirements specified elsewhere in the Kansas air quality regulations. For stationary sources or emissions units subject to this regulation, the requirements of this regulation take precedence in cases of conflicts with other Kansas air quality regulations applicable to the stationary source or emissions unit.

(b) Where applicable, the terms used in the federal regulations adopted by reference herein shall have the definition specified at 40 CFR 72.2 as in effect on July 1, 1994, with the following exception. "Permitting authority" shall mean the secretary of health and environment.

(c) 40 CFR part 72 as applicable to phase II of the federal acid rain program and as in effect on July 1, 1994, is adopted by reference. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-276 through 28-19-299. Reserved.

28-19-300. Construction permits and approvals; applicability. (a) Any person who proposes to construct or modify a stationary source or emissions unit shall obtain a construction permit before commencing such construction or modification if:

(1) the potential-to-emit of the proposed stationary source or emissions unit, or the increase in the potential-to-emit resulting from the modification, equals or exceeds the following:

(A) either 25 tons per year of particulate matter or 15 tons per year of PM10, except for any agricultural-re-

(continued)

lated activity, in which case the emission level is 100 tons per year of particulate matter, including but not limited to PM10;

(B) 40 tons per year of sulfur dioxide or sulfur trioxide or a combination thereof;

(C) 100 tons per year of carbon monoxide;

(D) 40 tons per year of volatile organic compounds;

(E) 40 tons per year of oxides of nitrogen; or

(F) 0.6 tons per year of lead or lead compound;

(2) the emissions unit or stationary source is an affected source;

(3) the emissions unit or stationary source is a major source of hazardous air pollutants;

(4) the emissions unit or stationary source is an incinerator used to dispose of refuse by burning or pyrolysis or used for the processing of salvageable materials, except incinerators installed on residential premises that contain less than six dwelling units and that are used to burn waste materials associated with normal habitation of those dwelling units; or

(5) the emissions unit or stationary source is required to apply for a construction approval pursuant to K.A.R. 28-19-300(b)(2) and the secretary or an authorized representative of the secretary determines air emissions from the emissions unit or stationary source require that the permit issuance procedures be implemented.

(b) Any person who proposes to construct or modify a stationary source or emissions unit who is not required to obtain a construction permit pursuant to K.A.R. 28-19-300(a), shall, before commencing construction or modification of the stationary source or emissions unit, obtain an approval from the department to commence such construction or modification if:

(1) the potential-to-emit of the proposed stationary source or emissions unit, or the increase in the potential-to-emit resulting from the modification, equals or exceeds one or more of the following:

(A) either 5 pounds per hour of particulate matter or 2 pounds per hour of PM10, except for any agricultural-related activity in which case the emission level is 5 pounds per hour of particulate matter, including but not limited to PM10;

(B) 2 pounds per hour of sulfur dioxide or sulfur trioxide or a combination thereof;

(C) 50 pounds per 24 hour period of carbon monoxide;

(D) 50 pounds per 24 hour period of volatile organic compounds, except when the stationary source or emissions unit is located in an area designated as a nonattainment area at 40 CFR 81.317 as in effect on July 1, 1989 in which case approval is required if the emission level exceeds either 15 pounds per 24 hour period or 3 pounds per hour;

(E) 50 pounds per 24 hour period of oxides of nitrogen calculated as nitrogen dioxide; or

(F) 0.1 pounds per hour of lead or lead compound;

(2) the secretary or an authorized representative of the secretary determines any other air contaminant emissions from the emissions unit or stationary source may cause or contribute to air pollution within the state because of its specific chemical or physical nature or because of the quantity discharged and if the department

notifies the owner or operator of the emissions unit or stationary source of such determination prior to the commencement of the construction or modification of the emissions unit or stationary source;

(3) the source is not otherwise required to obtain a construction permit pursuant to K.A.R. 28-19-30(a) but is subject to:

(A) an emissions limitation or standard pursuant to K.A.R. 28-19-720, new source performance standards, except the standards of performance for new residential wood heaters, 40 CFR part 60, subpart AAA;

(B) K.A.R. 28-19-735, national emission standards for hazardous air pollutants, except the national emissions standard for asbestos, standard for demolition and renovation, 40 CFR 61.145; or

(C) K.A.R. 28-19-750 *et seq.*, hazardous air pollutants; or

(4) the source is seeking an approval with operational restrictions pursuant to K.A.R. 28-19-302(b).

(c) For the purpose of this regulation, the following shall not be considered a modification:

(1) routine maintenance or parts replacement; or

(2) an increase or decrease in operating hours or production rates if:

(A) production rate increases do not exceed the originally approved design capacity of the stationary source or emissions unit; and

(B) the increased potential-to-emit resulting from the change in operating hours or production rates do not exceed any emission or operating limitations imposed as a condition to any permit issued under these regulations. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-301. Construction permits and approvals; application and issuance.

(a) Application for a permit or approval to construct or modify a stationary source or emissions unit shall be made by the owner or operator on forms provided or approved by the department. The owner or operator may be required to furnish additional information to determine compliance with the Kansas air quality regulations.

(b) A construction permit shall not be issued to a source whose potential-to-emit equals or exceeds that specified at K.A.R. 28-19-500(a) or K.A.R. 28-19-500(b) without first satisfying the public participation requirements of K.A.R. 28-19-204.

(c) Each permit or approval issued for the construction or modification of a source shall become void if the construction or modification has not commenced within 18 months after permit issuance or if the activity required to complete the modification or construction has been discontinued for 18 months or more.

(d) No construction permit or approval shall be issued if the department determines that the air contaminant emissions from the source will interfere with the attainment or maintenance of any ambient air quality standard that has been established under the provisions of the federal clean air act, as amended, or under the provisions of state law.

(e) Each construction permit or approval that is issued may be conditioned upon compliance by the owner or

operator with any special restrictions that are deemed necessary to insure compliance with these regulations or otherwise prevent air pollution.

(1) The restrictions may include, but need not be limited to, special requirements concerning methods of operation, emissions limitations or control procedures to be implemented.

(2) Each restriction shall be in writing as part of or as an attachment to, the permit or approval.

(f) Each construction permit or approval that is issued may identify one or more air contaminant emission sources that are approved to be constructed, modified, used, or operated.

(1) The sources shall be located on the same premises, shall be under one ownership, and shall be considered as part of the same industrial grouping as determined by the department.

(2) The major industrial grouping shall be identified by using the industrial titles and descriptions provided in the "standard industrial classification manual 1987," as published by the U.S. government printing office, stock number 041-001-00314-2, which is adopted by reference. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-302. Construction permits and approvals; additional provisions; construction permits. (a) The owner or operator of any source which is required to obtain a construction permit pursuant to K.A.R. 28-19-16 through 28-19-16m, nonattainment area requirements, or K.A.R. 28-19-17 through 28-19-17q, prevention of significant deterioration requirements, shall comply with any applicable construction permit requirements of the regulations in addition to the requirements set forth herein.

(b) The owner or operator submitting an application for the construction of a new source or modification of an existing source may request a federally enforceable operational restriction be included in the construction permit which, either alone or in conjunction with a federally enforceable permit condition regarding properly maintained and operated air pollution control equipment, reduces the potential-to-emit of the emissions unit or stationary source or otherwise results in avoidance of any requirement of the federal clean air act. Such permit restriction shall meet the requirements of K.A.R. 28-19-501(b) to be considered federally enforceable.

(c) Any owner or operator which would otherwise be required to submit an application for the construction of a new source may, in lieu of applying for a construction permit, request an operational restriction be included in a construction approval which, either alone or in conjunction with properly maintained and operated air pollution control equipment, reduces the potential emissions of the source below the threshold requiring a construction permit if:

(1) the potential-to-emit is less than the threshold requiring a permit pursuant to any applicable requirements of:

(A) K.A.R. 28-19-16 through 28-19-16m, nonattainment area requirements;

(B) K.A.R. 28-19-17 through 28-19-17c, prevention of significant deterioration requirements;

(C) K.A.R. 28-19-510 *et seq.*, class I operating permits; and

(D) K.A.R. 28-19-540 *et seq.*, class II operating permits;

(2) the owner or operator specifies and quantifies the operational restrictions which will reduce the potential emissions of the source and agrees to operate the source in compliance with such operational restrictions;

(3) the owner or operator specifies a procedure for maintaining records that demonstrate compliance with the operational restrictions; and

(4) the owner or operator complies with the requirements of K.A.R. 28-19-501(d) in regards to any air pollution control equipment relied upon to reduce potential emissions of the source.

(d) Any failure to comply with an operational restriction, record-keeping requirement or control equipment requirement which provided the basis for issuance of an approval pursuant to subsection (c) of this regulation shall be deemed a violation of this regulation.

(e) For purposes of the Kansas air quality act, a construction permit shall be an approval to construct or modify an air contaminant emission stationary source. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-303. Construction permits and approvals; additional provisions; construction approvals. (a) A construction approval shall not contain conditions that allow a source to avoid any requirement of the federal clean air act. Any person requesting an operational restriction that would result in avoidance of a federal requirement shall apply for and obtain a construction permit prior to the construction or modification of the relevant stationary source or emissions unit.

(b) If the potential-to-emit of the proposed construction or modification may cause or contribute to a violation of a national ambient air quality standard, a construction approval shall not be issued for the construction or modification of an emissions unit or stationary source. An application for a construction permit shall be required for the construction or modification.

(c) A construction approval issued pursuant to this regulation, regarding an emissions unit or stationary source which is subject to any requirement of the Kansas air quality act or the federal clean air act, shall contain provisions requiring operation of the emissions unit or stationary source in compliance with all requirements of the Kansas air quality act and the federal clean air act which are applicable to the emissions unit or stationary source.

(d) For purposes of the Kansas air quality act, an approval issued pursuant to this regulation shall be considered to be an approval to construct or modify an air contaminant emission stationary source. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-304. Construction permits and approvals; fees. (a) An application for an approval or a permit to construct or modify an emissions unit or stationary source shall not be reviewed until the department has received an application fee that has been determined pursuant to the requirements of this regulation.

(continued)

(b) Construction permit application fees shall be determined as follows.

(1) The base fee shall be in the amount of 0.05% of the estimated capital cost of the activity for which application is made.

(A) The applicant shall provide a certified estimate of the capital cost of the activity with the application unless the fee is determined under the provisions of subsection (3) of this regulation.

(B) A minimum fee of \$100.00 shall be charged when the estimated capital cost is less than \$200,000.00 and a maximum fee of \$4,000.00 shall be charged when the estimated capital cost is more than \$8,000,000.00.

(2) If the proposed construction or modification is subject to review and approval under the provisions of K.A.R. 28-19-16 through 28-19-16m, pertaining to non-attainment area requirements, or K.A.R. 28-19-17 through 28-19-17q, pertaining to prevention of significant deterioration, there shall be an additional fee of \$1,500.00 added to the fee established by paragraph (c)(1) of this regulation.

(3) If no estimate of the capital cost of the activity is included with the application, a base fee of \$4,000.00 shall be paid.

(4) The estimated capital cost of the activity means the estimated total cost of equipment and services that would normally be capitalized according to generally accepted accounting procedures. Certification of the estimated capital cost of the activity may be evaluated during the review period. If the department determines that the certified capital cost is not correct, the department shall either recover an adjusted fee based upon the correct cost or deny the permit.

(C) The non-refundable fee shall be remitted in the form of a check or money order made payable to the Kansas department of health and environment. Receipt of any check for the fee that is not covered by sufficient funds shall be cause for the denial of the construction permit or approval. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-305 through 28-19-399. Reserved.

28-19-400. General permits; general requirements.

(a) A general permit applicable to a similar category of emissions units or stationary sources required to obtain a permit by the Kansas air quality regulations may be adopted by the department subject to the following conditions:

(1) the department determines there are a sufficient number of potentially eligible sources to justify adoption of a general permit;

(2) the general permit requires compliance with all requirements of the Kansas air quality statutes, Kansas air quality regulations, and federal clean air act which are applicable to the category of sources covered by the general permit; and

(3) the general permit adoption process complies with all procedures and requirements applicable to the issuance of the corresponding class of construction or operating permit.

(b) A general permit shall have the same term as the corresponding class of construction or operating permit.

(c) Affected sources under title IV, acid deposition control, of the federal clean air act, shall not be eligible to operate under the terms of a general permit. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-401. General permits; adoption by the secretary. (a) Any source that is within the category of sources to which a general permit would apply may petition the secretary to adopt a general permit applicable to that category of sources.

(b) The petition for the adoption of a general permit shall be made on forms provided or approved by the department.

(c) Contents of the petition shall include, but not be limited to:

(1) all information required in the application for issuance of the class of construction or operating permit applicable to the category of sources covered by the proposed general permit;

(2) a description of the category of emissions units or stationary sources which would qualify for the general permit; and

(3) an estimate, and the basis for the estimate, of the number of stationary sources which would qualify for the general permit.

(d) The applicant shall provide such other information as is requested by the department.

(e) A general permit may be adopted by the secretary on the secretary's own motion.

(f) Filing a petition for the adoption of a general permit shall not be considered the filing of an application for the corresponding construction or operating permit in regards to any emissions unit or stationary source of the applicant.

(g) Before any person may apply to construct an emissions unit or stationary source pursuant to the terms of a general construction permit, the general construction permit shall be submitted to, and approved by, the USEPA as a modification to the state implementation plan pursuant to the requirements of section 110 of the federal clean air act. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-402. General permits; availability of copies; lists of sources to which permits issued. (a) Any person may obtain a copy of a general permit by making a request for a copy of the permit from the department.

(b) Any owner or operator who is constructing or operating an emissions unit or stationary source pursuant to the terms of a general permit shall be specified on a list maintained by the department stating:

(1) the name of the owner or operator;

(2) the category of emissions unit or stationary source operating pursuant to the general permit; and

(3) the permit number assigned by the department to the stationary source. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-403. General permits; application to construct or operate pursuant to terms of general permit.

(a) Any person may apply to the department requesting

authorization to construct or operate an emissions unit or stationary source pursuant to the terms of a general permit adopted by the secretary.

(b) The application shall be on forms provided or approved by the department.

(c) The application shall include, but not be limited to:

(1) information necessary to determine whether the emissions unit or stationary source qualifies for the general permit;

(2) a statement that the emissions unit or stationary source shall remain in compliance with all conditions, limitations and requirements of the general permit, and all other applicable requirements; and

(3) submission of the applicable application fee.

(d) The owner or operator of the emissions unit or stationary source shall provide such additional information as is requested by the department.

(e) The application shall be certified by a responsible official.

(f) The timely and complete submission of an application to construct or operate under the terms of a general permit adopted by the secretary shall be considered equivalent to the timely and complete filing of an application for the issuance of the appropriate construction or operating permit.

(g) The owner or operator of an emissions unit or stationary source which has been granted approval to construct or operate pursuant to a general permit shall not be shielded from enforcement action if it is subsequently determined that the emissions unit or stationary source did not qualify for the general permit.

(h) The grant or denial of an application to construct or operate under the terms of a general permit shall not be considered final agency action with regard to the terms of the general permit within the meaning of K.S.A. 77-601 through 77-627, the act for judicial review and civil enforcement of agency actions. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-404. General permits; modification; revocation. If a general permit is modified or revoked, the owner or operator of an emissions unit or stationary source which is authorized to operate pursuant to a general permit shall reapply for the general permit or submit a complete application for the appropriate permit within 12 months of the date of modification or revocation of the general permit unless a different time frame is specified by the department. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-405 through 28-19-499. Reserved.

28-19-500. Operating permit; applicability. (a) A stationary source shall obtain a class I operating permit in accordance with the provisions of K.A.R. 28-19-510 if the stationary source is:

(1) a major source, except that a source is not required to obtain a permit if it would be classified as a major source solely because it has the potential-to-emit major amounts of a pollutant listed pursuant to section 112(r)(3) of the federal clean air act and is not otherwise required to obtain a permit under this regulation;

(2) an affected source;

(3) a solid waste incinerator unit required to obtain a permit pursuant to section 129(e) of the federal clean air act;

(4) subject to an emission limitation or standard under section 111 of the federal clean air act, new source performance standards, except for a stationary source which is exempt as provided in paragraph (h) of this regulation;

(5) subject to an emission limitation or standard under section 112 of the federal clean air act, hazardous air pollutants, except for a stationary source which is exempt as provided in paragraph (h) of this regulation. This provision shall not require a source to get a class I operating permit solely because it is subject to regulations or requirements under section 112(r) of the federal clean air act, prevention of accidental releases; or

(6) not a major source but is within a source category designated by the secretary as requiring a class I operating permit.

(b) A stationary source may avoid obtaining a class I operating permit by electing to reduce its potential-to-emit through any physical or operational limitation or use of pollution control equipment required by a class II operating permit. The potential-to-emit shall not be considered to be reduced until a class II permit has been issued to the source. A class II operating permit may be obtained in accordance with K.A.R. 28-19-540 by:

(1) submitting an application for a class II operating permit that contains operational restrictions or requirements for air pollution control equipment, or both;

(2) submitting an application to operate in accordance with the terms of a class II general operating permit issued pursuant to K.A.R. 28-19-400; or

(3) for those source categories identified in K.A.R. 28-19-561 through K.A.R. 28-19-563, submitting an application for a permit-by-rule in accordance with K.A.R. 28-19-542.

(c) Each commercial or medical waste incinerator which is not otherwise required to obtain an operating permit shall obtain a class III operating permit in accordance with the provisions of K.A.R. 28-19-575.

(d) Each stationary source which is not otherwise required to obtain an operating permit but which is subject to any air quality regulatory emission limitation or standard shall obtain a class III operating permit in accordance with the provisions of K.A.R. 28-19-575. However, a stationary source shall not be required to obtain a class III operating permit pursuant to the terms of this subsection if the only emission limitations or standards applicable to the source are one or more of the following:

(1) K.A.R. 28-19-20 through K.A.R. 28-19-26, processing operation emissions;

(2) K.A.R. 28-19-30 through K.A.R. 28-19-32, indirect heating equipment emissions;

(3) K.A.R. 28-19-50, opacity requirements;

(4) K.A.R. 28-19-69, cutback asphalt;

(5) K.A.R. 28-19-70, leaks from gasoline delivery vessels and vapor collection systems;

(6) K.A.R. 28-19-72, gasoline dispensing facilities;

(7) 40 CFR part 60, subpart AAA, standards of performance for new residential wood heaters;

(continued)

(8) 40 CFR 61.145, national emissions standard for asbestos, standard for demolition and renovation; or

(9) K.A.R. 28-19-750, hazardous air pollutants, if the source is an area source.

(e) Class I, II, and III permits.

(1) For purposes of the Kansas air quality act, a class I operating permit is a permit to operate an air contaminant emission stationary source.

(2) For purposes of the Kansas air quality act, a class II operating permit or a class III operating permit is an approval, rather than a permit, to operate an air contaminant emission stationary source.

(f) After the date an application for a class I, class II or class III operating permit is due, a person shall not operate an emissions unit or stationary source for which the operating permit is required unless:

(1) an appropriate, valid operating permit has been issued for the air emissions unit or stationary source; or

(2) a complete application, including any required fee, for the appropriate operating permit is pending with the agency.

(g) An application for an operating permit for an emissions unit or stationary source may be submitted and processed simultaneously with the application for a construction permit or construction approval filed pursuant to K.A.R. 28-19-300 *et seq.* for that emissions unit or stationary source.

(h) Unless otherwise required by an applicable requirement, a stationary source which is not a major source, but which would be required to obtain a class I operating permit solely because of the provisions of paragraph (a)(4) or (a)(5) of this regulation, or both, is exempt from the requirement to obtain a class I operating permit until otherwise required by the department. Nothing in these regulations shall be interpreted to preclude any such air emission source from applying for and operating under the terms of a class I operating permit.

(i) Until such time as a stationary source is required to apply for a class I, class II, or class III operating permit, the stationary source shall be considered in compliance with this regulation if the source has a valid construction permit or approval or valid operating permit issued pursuant to the requirements of K.A.R. 28-9-300 *et seq.*, or its predecessor K.A.R. 28-19-14. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-501. Operating permits; emissions limitations and pollution control equipment for class I and class II operating permits; conditions. (a) The owner or operator of an emissions unit or stationary source may request an operational permit restriction or a permit condition requiring the use of air pollution control equipment, or both, which reduce the potential-to-emit of an emissions unit or stationary source.

(b) Operational restrictions specified in an operating permit shall reduce the potential-to-emit of an emissions unit or stationary source if:

(1) all restrictions imposed in the operating permit are at least as stringent as any other applicable limitations or restrictions contained in the state implementation plan;

(2) the restrictions do not waive, or make less stringent, any limitations, restrictions or requirements contained in or issued pursuant to the state implementation plan or that are otherwise federally enforceable; and

(3) the restrictions are permanent, quantifiable and otherwise enforceable as a practical matter.

(c) The owner or operator of an emissions unit or stationary source which is subject to operational restrictions set forth in a class I or class II operating permit, except as otherwise specifically required, shall maintain at the stationary source records demonstrating that the operational restrictions imposed have not been exceeded. Records shall be updated monthly, no later than the last day of the following calendar month.

(1) If, at the end of any calendar quarter, the monitored operational parameters demonstrate that actual operations have exceeded 85% of the operational restrictions for the past four calendar quarters, including the most recently completed calendar quarter, the owner or operator shall report the actual operations to the department for that period of time. The actual operations shall be reported in the same units as the operational restrictions specified in the operating permit. The report shall be submitted to the department within 45 days of the last day of the month following the conclusion of the calendar quarter.

(2) Exceeding operational restrictions.

(A) If, at any time, the actual operations of the emissions unit or stationary source exceed the operational restrictions specified in the operating permit, the owner or operator shall notify the department in writing, the notice to be mailed or delivered the first working day following discovery of exceeding any operating permit operational restriction.

(B) Within 60 days of discovery of exceeding the operational restrictions, the owner or operator of the stationary source shall submit to the department a compliance plan, signed by a responsible official, stating those actions being taken by the owner or operator to assure future compliance with the operational restrictions or to otherwise bring the stationary source into compliance with the permit or the Kansas air quality statutes and regulations.

(C) If appropriate, the owner or operator shall also file the appropriate application for a permit modification or a class I operating permit within 180 days of discovery of exceeding any operating permit operational restriction.

(D) Compliance with the requirements of subsection (c)(2) of this regulation does not shield the owner or operator from enforcement action for exceeding any operating permit operational restriction or for other violations of the Kansas air quality act or regulations.

(d) Except as otherwise authorized by the Kansas air quality regulations or the operating permit issued to the source, air pollution control equipment identified in an operating permit shall reduce the potential-to-emit of an emissions unit or stationary source, either alone or in conjunction with an operational restriction, if the owner or operator of the emission unit or stationary source:

(1) continuously operates the air pollution control equipment while operating the associated emissions unit or units;

(2) develops, implements and maintains on-site a written maintenance plan to assure proper operation of the air pollution control equipment; and

(3) maintains a log showing the date of all routine or other maintenance, malfunction or repair of the air pollution control equipment, the nature of the action taken on such date, and any corrective action or preventative measures taken.

(e) Except in the case of a permit-by-rule issued pursuant to K.A.R. 28-9-542, when calculating the potential-to-emit, reductions in emissions due to operational restrictions or to air pollution control equipment shall reduce the potential-to-emit only if:

(1) the provisions of K.A.R. 28-19-204 have been satisfied;

(2) notice soliciting comments on the proposed restrictions is:

(A) given to the USEPA;

(B) placed in the Kansas Register; and

(C) except in the case of a general permit, placed in a newspaper of general circulation in the area in which the emissions unit or stationary source is, or will be, located, at least 30 days prior to issuance of the operating permit; and

(3) the USEPA is provided, in a timely manner, with a copy of the proposed and final class II operating permit. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23 1995.)

28-19-502. Operating permits; identical procedural requirements. (a) Upon the written request of the applicant and as approved by the department, procedural requirements for the issuance of an initial operating permit or modification of an operating permit which are identical to procedural requirements for the issuance of the construction permit for the new stationary source or the relevant modification, may be considered satisfied if accomplished during the construction permit issuance process.

(b) This regulation shall not be interpreted to relieve an applicant from the requirement to timely file a complete application, appropriate application fee or any other information required by the department, when applying for an operating permit or modification to an operating permit. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-503 through 28-19-509. Reserved.

28-19-510. Class I operating permits; application timetable. A complete application, including any applicable application fee, shall be submitted to the department by the owner or operator of any stationary source specified in subsection (a) of K.A.R. 28-19-500, within the following time schedules:

(a) on or before the date specified by the department as published in the Kansas Register for any source which is existing on such date except as specified at subsection

(b) of this regulation;

(b) for initial phase II acid rain permits as addressed in title IV, acid deposition control, of the federal clean air act, by January 1, 1996 for sulfur dioxide, and by January 1, 1998 for nitrogen oxides;

(c) on or before the date specified at K.A.R. 28-19-541(a) when applicable to any stationary source operating under a class II operating permit;

(d) within one year of the initial startup of any modification to an existing source that is not required to operate under a class I or class II operating permit if the modification increases the potential-to-emit of the stationary source above any major source threshold or if the modification would otherwise require the source to obtain a class I operating permit;

(e) within one year of the initial startup of any other stationary source which is required to obtain class I operating permit;

(f) within one year after commencing operation for any stationary source required to meet the requirements of section 112(g) of the federal clean air act or for any stationary source required to have a construction permit pursuant to a requirement of the state implementation plan submitted to fulfill the requirements of part C or part D of title I of the federal clean air act. If an existing class I operating permit prohibits such construction or change in operation, a permit revision to the class I operating permit shall be issued before commencing such operation. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-511. Class I operating permits; application contents. (a) Applications for class I operating permits and renewals of class I operating permits shall be submitted in writing on forms provided or approved by the department.

(1) The original and two copies of the application, including all supporting documentation, shall be submitted to the department.

(2) An additional copy shall be submitted for each affected state.

(b) An application for a class I operating permit shall include, but is not limited to, the following information:

(1) identifying information, including:

(A) company name and address or plant name and address if different from the company name;

(B) the owner's name and agent;

(C) the name and address of the responsible official; and

(D) the telephone number and names of plant site manager or contact person;

(2) a description of the stationary source's processes and products, by standard industrial classification code, including any associated with each alternate scenario identified by the applicant;

(3) all emissions, including fugitive emissions, of pollutants for which the source is major and all emissions of regulated pollutants.

(A) A permit application shall describe all emissions of regulated pollutants emitted from any emissions unit, except for insignificant activities or insignificant emission levels.

(B) For insignificant activities which are exempt because of size or production rate, a list of such insignificant activities shall be included in the application.

(C) Information regarding an insignificant activity or emission shall not be omitted if the information is nec-

(continued)

essary to determine whether an applicable requirement applies or should be imposed.

(D) Additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source may be required by the department.

(E) For purposes of this subsection, insignificant emission levels include those from emissions units which do not have a potential-to-emit in excess of the following and for which no applicable requirement exists:

(i) the de minimis level for any hazardous air pollutant;

(ii) one hundred tons per year of carbon monoxide;

(iii) forty tons per year of nitrogen oxides;

(iv) forty tons per year of sulfur dioxide;

(v) twenty-five tons per year of particulate matter emissions;

(vi) fifteen tons per year of PM10 emissions;

(vii) forty tons per year of volatile organic compounds; or

(viii) 0.6 tons per year of lead;

(4) identification and description of all points of emissions described in paragraph (b)(3) of this regulation in sufficient detail to establish the applicability of requirements of the Kansas air quality act;

(5) emissions rates stated in tons per year and in such terms as are necessary to establish compliance consistent with any applicable standard reference test methods;

(6) the following information to the extent it is needed to determine or regulate emissions;

(A) fuels;

(B) fuel use;

(C) raw materials;

(D) production rates; and

(E) operating schedules;

(7) identification and description of air pollution control equipment and compliance monitoring devices or activities;

(8) limitations on source operations affecting emissions or any work practice standards where applicable, for all regulated pollutants at the emissions unit or stationary source;

(9) any other information required by any applicable requirement, including information related to stack height limitations developed pursuant to K.A.R. 28-19-18 through 28-19-18f;

(10) calculations on which the information in paragraphs (b)(3) through (b)(9) of this regulation is based;

(11) the citation and a description of all applicable requirements and a description of or reference to any applicable test method for determining compliance with each applicable requirement;

(12) other specific information that may be necessary to implement and enforce other applicable requirements or to determine the applicability of such requirements;

(13) an explanation of any proposed exemptions from otherwise applicable requirements;

(14) additional information as determined to be necessary by the department to define alternative operating scenarios identified by the applicant or to define other permit terms and conditions;

(15) a statement of whether the stationary source is obligated to register and submit a risk management plan

pursuant to section 112(r) of the federal clean air act and, if so, whether the required subtotal has been prepared and submitted to the appropriate authorities;

(16) a compliance plan for all emissions units or stationary sources. The compliance plan content requirements shall be applicable to affected sources under title IV, acid deposition control, of the federal clean air act unless specifically superseded by statute or regulation. A compliance plan shall contain all of the following:

(A) a description of the compliance status of the emissions unit or stationary source with respect to all applicable requirements;

(B) a description as follows:

(i) for applicable requirements with which the emissions unit or stationary source is in compliance, a statement that the emissions unit or stationary source will continue to comply with such requirements;

(ii) for applicable requirements that will become effective during the permit term, a statement that the emissions unit or stationary source will meet such requirements on a timely basis;

(iii) for requirements for which the emissions unit or stationary source is not in compliance at the time of permit issuance, a narrative description of how the emissions unit or stationary source will achieve compliance with such requirements;

(iv) for any source that fails to verify in its application pursuant to K.A.R. 28-19-511(b)(15) that it has submitted a risk management plan in accordance with section 112(r) of the federal clean air act, a statement that the source will submit the required plan by a date specified in the permit;

(C) a compliance schedule as follows:

(i) for applicable requirements with which the emissions unit or stationary source is in compliance, a statement that the emissions unit or stationary source will continue to comply with such requirements;

(ii) for applicable requirements that will become effective during the permit term, a statement that the emissions unit or stationary source will meet such requirements on a timely basis. A statement that the emissions unit or stationary source will comply in a timely manner with any applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement;

(iii) a schedule of compliance or emissions units or stationary sources that are not in compliance with all applicable requirements at the time of permit issuance. The schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements or which the emissions unit or stationary source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the emissions unit or stationary source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based;

(D) a schedule for submission of certified progress reports no less frequently than every 6 months for emis-

sions units or stationary sources required to have a schedule of compliance to remedy a violation; and

(E) a statement that failure to comply with any term of a compliance plan or compliance schedule shall be considered a violation of this regulation; and

(17) requirements for compliance certification, including the following:

(A) a certification of compliance with all applicable requirements by a responsible official consistent with paragraph (e) of this regulation and K.S.A. 65-3008(b) and amendments thereto;

(B) a statement of methods used for determining compliance, including a description of monitoring, record-keeping, and reporting requirements and test methods;

(C) a schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently is specified by the underlying applicable requirement or the department;

(D) a statement indicating the compliance status of the emission unit or stationary source with any applicable enhanced monitoring requirements and applicable compliance certification requirements; and

(E) a statement indicating that the stationary source is properly implementing any required risk management plan in accordance with section 112(r) of the federal clean air act.

(c) The owner or operator of the stationary source shall provide additional information requested by the department.

(d) The owner or operator of the stationary source may apply for restrictions of operating hours or restrictions on the type or amount of material combusted, stored or processed. The restrictions may be incorporated into the class I operating permit. The calculation of the potential-to-emit of the stationary source shall take into consideration such operational restrictions if the procedures set out at K.A.R. 28-19-501 were followed during the issuance of the construction or class I operating permit.

(e) Any application form, report, or compliance certification submitted pursuant to these regulations shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under the Kansas air quality act, and regulations promulgated thereunder, shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

(f) Any person who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the stationary source after the date a complete application was filed but prior to the solicitation of public comments regarding the proposed permit.

(g) Failure to comply with any term of a compliance plan or compliance schedule shall be considered a violation of this regulation. (Authorized by K.S.A. 1993

Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-512. Class I operating permits; permit content. (a) The owner or operator of a stationary source which is authorized to operate pursuant to a class I operating permit shall assure that the stationary source operates in compliance with the terms and conditions of the class I operating permit, which shall include, but are not limited to:

(1) emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance;

(2) all applicable requirements for all relevant emissions units for a major source;

(3) all applicable requirements applicable to emissions units that cause a non-major source to require a class I operating permit;

(4) a description of fugitive emissions in the same manner as stack emissions, regardless of whether the source is a federally designated fugitive emissions source;

(5) specification and reference to the origin of and authority for each term or condition, identifying any difference in form as compared to the applicable requirement upon which the term or condition is based;

(6) where an applicable requirement of any other title of the federal clean air act is more stringent than an applicable requirement of regulations promulgated under title IV, acid deposition control, of the federal air act, both provisions;

(7) where a permit contains an emission limitation which is an alternative to an emission limitation contained in the state implementation plan, provisions to ensure that any resulting emissions limitation has been demonstrated to be quantifiable, enforceable, and based on replicable procedures;

(8) specification of a fixed term of the class I operating permit determined pursuant to K.A.R. 28-19-514;

(9) emissions monitoring and related recordkeeping and reporting requirements, including:

(A) all emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods adopted to comply with the requirements of section 504(b), permit requirements and conditions, or section 114(a)(3), enhanced monitoring and compliance certifications, of the federal clean air act;

(B) periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to paragraph (a)(8) of this regulation where the applicable requirement does not require periodic testing or instrumental or non-instrumental monitoring, which may consist of recordkeeping designed to serve as monitoring. The monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement; and

(C) as necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods;

(continued)

(10) applicable recordkeeping requirements and required monitoring information, including:

(A) the date, place as defined in the permit, and time of sampling or measurements of required monitoring information;

(B) the date or dates analyses were performed;

(C) the company or entity that performed the analyses;

(D) the analytical techniques or methods used;

(E) the results of such analyses;

(F) the operating conditions as existing at the time of sampling or measurement; and

(G) the retention of records of all required monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application. Support information shall include all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit;

(11) applicable reporting requirements, including:

(A) submittal of reports of any required monitoring at least every 6 months. All instances of deviations from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official consistent with K.A.R. 28-19-511(e); and

(B) as specified in the permit, prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken;

(12) conditions prohibiting emissions exceeding any allowances that the emissions unit or stationary source lawfully holds under title IV, acid deposition control, of the federal clean air act or the regulations promulgated thereunder.

(A) A permit revision shall not be required for increases in emissions that are authorized by allowances acquired pursuant to title IV, acid deposition control, of the federal clean air act, provided that such increases do not require a permit revision under any other applicable requirement.

(B) A limit shall not be placed on the number of allowances held by the emissions unit or stationary source. The emissions unit or stationary source shall not, however, use allowances as a defense to noncompliance with any other applicable requirement.

(C) Any allowance shall be accounted for according to the procedures established in regulations promulgated under title IV, acid deposition control, of the federal clean air act;

(13) a severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portion of the permit;

(14) provisions stating that:

(A) the permittee must comply with all conditions of the permit. Any permit noncompliance shall constitute a violation of the Kansas air quality act and shall be grounds for enforcement action, for permit revocation or amendment, or for denial of a permit renewal application;

(B) it shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit;

(C) the permit may be modified, revoked, reopened and reissued, or terminated for cause. An action for a permit modification or amendment, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition;

(D) the permit does not convey any property rights of any sort, or any exclusive privilege; and

(E) the permittee shall furnish to the department, within a reasonable time, any information that the department may request in writing to determine whether cause exists for amending or revoking the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the department copies of records required to be kept by the permit;

(15) a provision to ensure that the owner or operator of a permitted emissions unit or stationary source pays fees to the permitting authority consistent with the fee schedule set out in these regulations;

(16) a provision stating that no permit revision shall be required under any approved economic incentives, pollution prevention incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit;

(17) terms and conditions for reasonably anticipated operating scenarios identified by the owner or operator of the emissions unit or stationary source in its application as approved by the department. The terms and conditions:

(A) shall require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating;

(B) may extend the permit shield described in paragraph (b) of this regulation to all terms and conditions under each such operating scenario; and

(C) shall ensure that the terms and conditions of each such alternative scenario meet all applicable requirements and the requirements of this part;

(18) terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for such trading without a case-by-case approval of each emissions trade. The terms and conditions:

(A) shall include all terms required under subsection (a) of this regulation to determine compliance;

(B) may extend the permit shield described in paragraph (b) of this regulation to all terms and conditions that allow such increases and decreases in emissions; and

(C) shall meet all applicable requirements and requirements of the Kansas air regulations;

(19) provisions that designate as not being federally enforceable under the federal clean air act any terms and conditions included in the permit that are not required under the federal clean air act or under any of its applicable requirements;

(20) a statement of all federally enforceable permit restrictions;

(21) consistent with other relevant subsections of this regulation, certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document, including reports, required by the permit shall contain a certification by a responsible official that meets the requirements of K.A.R. 28-19-511(e);

(22) inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow the department or an authorized representative to:

(A) enter upon the permittee's premises where the emissions unit or stationary source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(B) have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(C) inspect at reasonable times any facilities, equipment including monitoring and air pollution control equipment, practices, or operations regulated or required under the permit; and

(D) as authorized by the Kansas air quality act, sample or monitor at reasonable times substances of parameters for the purpose of assuring compliance with the permit or applicable requirements;

(23) a schedule of compliance consistent with the requirements of K.A.R. 28-19-511(b)(16)(C);

(24) progress reports consistent with any applicable schedule of compliance established pursuant to K.A.R. 28-19-511(b)(16)(D) to be submitted at least semiannually, or at a more frequent period if specified in the applicable requirement or by the permitting authority. The progress reports shall contain:

(A) dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and

(B) an explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted;

(25) requirements for compliance certification with the terms and conditions contained in the permit, including:

(A) emission limitations, standards or work practices, and risk management plan implementation; and

(B) a means of monitoring the compliance of the emissions unit or stationary source with its emissions limitations, standards, and work practices in accordance with the relevant provisions of this regulation;

(26) requirements to submit compliance certifications annually or more frequently as specified in the applicable requirement or by the department, which shall include:

(A) the identification of each term or condition of the permit that is the basis of the certification;

(B) the compliance status;

(C) whether compliance was continuous or intermittent;

(D) the method or methods used for determining the compliance status of the emissions unit or stationary source, currently and over the reporting period, consistent with relevant provisions of this regulation; and

(E) other facts as the department may require to determine the compliance status of the source;

(27) a requirement that all compliance certifications be submitted to the USEPA as well as to the department;

(28) a requirement for additional monitoring as may be required by the federal clean air act; and

(29) other provisions as the department deems necessary to accomplish the purposes of the Kansas air quality act.

(b) Permit shield.

(1) Except as otherwise provided in the air quality regulations, the department may expressly include in a class I operating permit a permit shield stating that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance, provided that:

(A) the applicable requirements are included and are specifically identified in the permit; or

(B) the department, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the emissions unit or stationary source, and the permit includes the determination or a concise summary thereof.

(2) A permit that does not expressly state that a permit shield exists shall be presumed not to provide a shield.

(3) Nothing in this regulation or in any permit shall alter or affect:

(A) the provisions of section 303, emergency orders, of the federal clean air act, including the authority of the administrator of the USEPA under that section or the air pollution emergency provisions of the Kansas air quality regulations, K.A.R. 28-19-55 through 28-19-58;

(B) the liability of an owner or operator of an emissions unit or stationary source for any violation of applicable requirements prior to or at the time of permit issuance;

(C) the applicable requirements of title IV, acid deposition control, of the federal clean air act, consistent with section 408(a) of the federal clean air act; or

(D) the ability of the USEPA to obtain information from a source pursuant to section 114, inspections, monitoring and entry, of the federal clean air act.

(c) Portable sources. A permit for a portable emissions unit or stationary source may authorize similar operations by the same source owner or operator at multiple temporary locations. The operation shall be temporary and involve at least one change of location during the term of the permit. An affected source shall not be permitted as a portable source. Permits for portable sources shall include:

(1) conditions that will assure compliance with all applicable requirements at all authorized locations;

(2) requirements that the owner or operator notify the permitting authority at least 10 days in advance of each change in location; and

(3) conditions that assure compliance with all other provisions of the Kansas air quality regulations.

(d) Emergencies.

(1) An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the

(continued)

control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

(2) An emergency shall constitute an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of paragraph (d)(3) of this regulation are met.

(3) The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:

(A) an emergency occurred and that the permittee can identify the cause or causes of the emergency;

(B) the permitted facility was at the time being properly operated;

(C) during the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards or other requirements in the permit; and

(D) the permittee submitted notice of the emergency to the department within two working days of the time when emission limitations were exceeded due to the emergency. This notice shall fulfill the requirement of paragraph (a)(11)(B) of this regulation. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

(4) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency shall have the burden of proof.

(5) This provision shall be in addition to any emergency or upset provision contained in any applicable requirement. Whenever the provisions of this regulation regarding emergencies conflict with the provisions of K.A.R. 28-19-11, the provisions of this regulation shall control. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-513. Class I operating permits; permit amendment, modification or reopening and changes not requiring a permit action. (a) The provisions of this subsection shall apply to administrative permit amendments.

(1) An "administrative permit amendment" is a permit revision that:

(A) corrects typographical errors;

(B) identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;

(C) requires more frequent monitoring or reporting by the permittee;

(D) allows for a change in ownership or operational control of a source where the department determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability

between the current and new permittee has been submitted to the department; or

(E) incorporates into the class I operating permit the requirements from a preconstruction review permit authorized under K.A.R. 28-19-300 *et seq.*, construction permits and approvals, provided that the preconstruction review procedural requirements are substantially equivalent to the requirements applicable to a permit modification; and compliance requirements substantially equivalent to those contained in K.A.R. 28-19-512.

(2) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed, by regulations promulgated under title IV, acid deposition control, of the federal clean air act.

(3) Any other revision to a permit shall be considered a permit modification or reopening.

(4) An administrative permit amendment may be made by the department without providing notice to the public or affected states provided that it designates any such permit amendment as having been made pursuant to this subsection (a).

(5) The emissions unit or stationary source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

(6) The department may, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in K.A.R. 28-19-513(b) for administrative permit amendments made pursuant to paragraph (a)(1)(E) of this regulation which meet the relevant requirements pertaining to permit requirements, permit amendment, modification, reopening or change, or review by the USEPA and affected states for significant permit modifications.

(b) (1) Any revision to a permit that is not accomplished as an administrative permit amendment or reopening shall be considered a permit modification.

(A) A permit modification may be either minor or significant.

(B) A permit modification for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under title IV, acid deposition control, of the federal clean air act.

(2) A permit modification may be issued only if all of the following conditions have been met:

(A) Except for modifications qualifying for minor permit modification procedures, compliance with the requirements for public participation pursuant to K.A.R. 28-19-515(a);

(B) compliance with the requirements for affected state participation pursuant to K.A.R. 28-19-515(b);

(C) the permit, as modified, provides for compliance with all applicable requirements and the requirements of the Kansas air quality regulations; and

(D) compliance with the requirements for USEPA participation pursuant to K.A.R. 28-19-515(c) and K.S.A. 1993 Supp. 65-3008(7)(g).

(c) The provisions of this subsection shall apply to minor permit modifications.

(1) Minor permit modification procedures shall only be used for those permit modifications that:

(A) do not violate any applicable requirement;

(B) do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;

(C) do not require or change a case-by-case determination of an emission limitation or other standard, a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(D) do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. The terms and conditions shall include:

(i) a federally enforceable emissions cap assumed to avoid classification as a modification under any provision of title I, air pollution prevention and control, of the federal clean air act; and

(ii) an alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5), early reductions, of the federal clean air act;

(E) are not modifications under any provision of title I, air pollution prevention and control, of the federal clean air act; and

(F) are not required to be processed as a significant modification.

(2) Minor permit modification procedures may also be used for permit modifications involving the use of economic incentives, marketable permits, pollution prevention incentives, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in the state implementation plan.

(3) An application requesting the use of minor permit modification procedures shall meet the requirements of K.A.R. 28-19-511 and shall include the following:

(A) a description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

(B) the suggested draft permit for the emissions unit or stationary source;

(C) certification by a responsible official, consistent with K.A.R. 28-19-511(d), that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used; and

(D) completed forms for the department to use to notify the administrator of the USEPA and any affected states.

(4) The emissions unit or stationary source may make the change proposed in its minor permit modification application immediately after it files such application with the department. After the emissions unit or stationary source makes that change, and until the department takes any action in regard to the minor permit modification application, the emissions unit or stationary source shall comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the emissions unit or stationary source shall not be required to comply with the existing permit terms and conditions it seeks to modify. However, if the emissions unit or stationary source fails to comply with its proposed per-

mit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it. This subsection shall also apply to modifications eligible for group processing.

(5) The permit shield provisions of K.A.R. 28-19-512(b) shall not extend to minor permit modifications.

(6) The procedure outlined in paragraph (c)(3) of this regulation may be modified by the department to process groups of an emission unit's or stationary source's applications for certain modifications eligible for minor permit modification processing. Group processing of modifications shall only be used for those permit modifications that meet the criteria for minor permit modification procedures and that are collectively below whichever of the following amounts is the least:

(A) 10 percent of the emissions allowed by the permit for the emissions unit for which the change is requested;

(B) 20 percent of the applicable definition of major source in 40 CFR §70.2, as in effect July 1, 1993; or

(C) 5 tons per year.

(7) Each application requesting the use of group processing procedures shall meet the requirements of K.A.R. 28-19-511(b) and shall include the following:

(A) a description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

(B) the suggested draft permit of the emission unit or stationary source;

(C) certification by a responsible official, consistent with K.A.R. 28-19-511(e), that the proposed modification meets the criteria for use of group processing procedures and a request that such procedures be used;

(D) a list of any other pending applications of that emission unit or stationary source that are awaiting group processing and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the threshold;

(E) certification, consistent with the requirement of K.A.R. 28-19-511(e), that the source has notified the USEPA of the proposed modification. The notification shall only be required to contain a brief description of the requested modification; and

(F) completed forms for the department to use to notify the administrator of the USEPA and affected states.

(8) The permit shield shall not apply to modifications eligible for group processing.

(9) An application for a minor permit modification shall be acted upon within 90 days of receipt by the department. An application for group processing of minor permit modifications shall be acted upon within 180 days of receipt by the department.

(d) The provisions of this subsection shall apply to significant permit modifications.

(1) Significant permit modification procedures shall be used for each application requesting any permit modification that does not qualify as a minor permit modification, an administrative amendment or a reopening.

(2) Significant permit modifications shall include, but shall not be limited to, every significant change in existing monitoring permit terms or conditions and every relaxation of reporting or recordkeeping permit terms or

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conditions. Nothing herein shall be construed to preclude the permittee from making changes consistent with this article that would render existing permit compliance terms and conditions irrelevant.

(3) Each significant permit modification application shall be subject to the provisions of K.A.R. 28-19-511.

(4) Each significant permit modification shall meet all requirements of the Kansas air quality regulations, including those for applications, public participation, review by affected states, and review by EPA, as they apply to class I operating permit issuance and permit renewal.

(e) The provisions of this subsection shall apply to reopening of a permit.

(1) Each issued permit shall be subject to provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:

(A) additional applicable requirements under the federal clean air act become applicable to an emissions unit or stationary source with a remaining permit term of 3 or more years. A reopening shall not be required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended;

(B) additional requirements, including excess emissions requirements, become applicable to an affected source under title IV, acid deposition control, of the federal clean air act. Upon approval by the administrator of the USEPA, excess emissions offset plans shall be deemed to be incorporated into the permit;

(C) it is determined by the department that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit;

(D) it is determined by the department that it is necessary to revise or revoke a permit in order to assure compliance with the applicable requirements.

(2) Proceedings to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists.

(3) Reopenings under this subsection (e) shall not be initiated before a notice of intent to reopen is provided to the owner or operator of the emissions unit or stationary source by the department at least 30 days in advance of the date that the permit is to be reopened, except that the department may provide a shorter time period in the case of an emergency.

(f) (1) A source which is operating pursuant to a class I operating permit may, without making application for a permit amendment or modification, make changes within the facility that:

(A) are not modifications under any provision of title I, air pollution prevention and control, of the federal clean air act;

(B) do not cause emissions in excess of any emissions limit stated in the class I operating permit; and

(C) do not alter conditions of the permit that address requirement for:

(i) monitoring (including test methods);

(ii) record-keeping;

(iii) reporting; or

(iv) compliance certification requirements.

(2) Prior to making a change pursuant to the preceding paragraph, the facility shall provide the department and the USEPA written notification at least seven days in advance of implementing the proposed change.

(A) The stationary source, the department and the USEPA shall attach the notice to their copy of the relevant permit.

(B) For each such change, the written notification required above shall include:

(i) a brief description of the change within the permitted facility;

(ii) the date on which the change will occur;

(iii) any change in emissions;

(iv) and any permit term or condition that is no longer applicable as a result of the change.

(3) The permit shield provisions of K.A.R. 28-19-512(b) shall not apply to any change made under the provisions of subsection (f) of this regulation.

(g) (1) A stationary source which is operating pursuant to a class I operating permit may, without a permit modification, make changes to the stationary source if the changes are either:

(A) not subject to any requirement under any provision of title IV of the federal clean air act, acid deposition control; or

(B) not modifications under any provision of title I of the federal clean air act, air pollution prevention and control.

(2) Each change made at the stationary source without a permit modification pursuant to this subsection shall be subject to the following provisions.

(A) The change shall meet all applicable requirements and shall not violate any existing permit term or condition.

(B) The owner or operator shall provide contemporaneous written notice to the department and the USEPA of the change, except for changes that qualify as insignificant under the provisions or K.A.R. 28-19-511(b)(3). The written notice shall describe the change, including the date of the change, all regulated pollutants emitted, any change in emissions, and any applicable requirement that would apply as a result of the change.

(3) The change shall not qualify for the permit shield under K.A.R. 28-19-512(b).

(4) The owner or operator shall keep a record describing changes made at the stationary source that result in emissions of a regulated pollutant subject to an applicable requirement that are not otherwise regulated under the permit, and the emissions resulting from those changes. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-514. Class I operating permits; permit term; renewal. (a) Permit term. Each class I operating permit shall specify the expiration date of the permit.

(1) Class I operating permits issued to solid waste incineration units combusting municipal waste subject to standards under section 129(e) of the federal clean air

act, shall have a maximum term of 12 years from the date of issuance and shall be reviewed by the department every five years.

(2) Class I operating permits issued to affected sources shall have a term of five years.

(3) All other class I operating permits shall have maximum term of five years from the date of issuance.

(b) The class I operating permit shall not expire on the expiration date if a complete application, as defined at K.A.R. 28-9-518, for renewal of the current permit, including any applicable application fee, has been submitted to the department not less than six months and not more than eighteen months before the expiration date of the permit. In such case, the class I operating permit shall expire on the earliest of the following dates:

(1) any date the application is determined incomplete subsequent to the expiration date;

(2) the date the permit is renewed;

(3) the effective date of any new operating permit if a different class of operating permit is issued for the stationary source;

(4) the date the department determines the stationary source does not require an operating permit; or

(5) if the department's action on the application is unfavorable, the last day for seeking judicial review of the department's action.

(c) The application for renewal of a class I operating permit shall be in writing and made on forms provided or approved by the department.

(d) An application for renewal of a class I operating permit shall be consistent with the requirements of K.A.R. 28-19-511. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-515. Class I operating permits; public participation, affected state participation, and USEPA participation. (a) Except for administrative permit amendment or modifications qualifying for minor permit modification procedures, all permit proceedings, including initial permit issuance, significant modifications, and renewals, shall provide adequate procedures for public notice including offering an opportunity for public comment and an opportunity for a public hearing on the proposed permit. In addition to procedures specified at K.A.R. 28-19-204, the procedures shall include the following requirements.

(1) Notice shall be given to persons on a mailing list developed by the department, including those who request in writing to be on the list and by other means if necessary to assure adequate notice to the affected public.

(2) The notice shall identify the emissions change involved in any permit modification.

(3) The notice shall state that prior to the issuance of the permit, permit modification, or permit renewal, the USEPA has the right to object to issuance of the permit. The notice shall further state that if the USEPA fails to object to issuance of the permit within 45 days of receipt of the permit which the department proposes to issue, a person may petition the administrator of the USEPA to review the permit by filing a petition with the ad-

ministrator of the USEPA within 60 days of the expiration of the USEPA's 45 day review period.

(4) Notice and opportunity for participation by affected states shall be provided pursuant to subsection (b) of this regulation.

(5) A record of the commenters and of the issues raised during the public participation process shall be made so that the USEPA may fulfill its obligation under section 505(b)(2) of the federal clean air act to determine whether a citizen petition may be granted, and such records shall be available to the public.

(b) (1) Notice of each proposed permit, permit renewal, or permit modification shall be provided to any affected state on or before the time that notice is provided to the public under subsection (a) of this regulation, except to the extent minor permit modification procedures or group processing of minor permit modification procedures require the timing of the notice to be different.

(2) As part of the submittal of the proposed permit to the USEPA, or as soon as possible after the submittal for minor permit modification procedures allowed under K.A.R. 28-19-513(c), the USEPA and any affected state shall be notified by the department in writing of any refusal to accept all recommendations for the proposed permit that the affected state submitted during the public or affected state review period.

(A) The notice shall include the reasons for not accepting any such recommendation.

(B) The department shall not be required to accept recommendations that are not based on applicable requirements, the requirements of 40 CFR part 70, or the requirements of the Kansas air quality regulations.

(c) Unless waived by the USEPA, the USEPA shall be provided a copy of each permit application including any application for permit modification, each proposed permit, and each final class I operating permit. The applicant may be required by the department to submit a copy of the permit application, including the compliance plan, directly to the USEPA.

(d) Any person may request a copy of the statement developed by the department and submitted to the USEPA that sets forth the legal and factual basis for the proposed permit conditions, including references to the applicable statutory or regulatory provisions.

(e) Copies of the proposed permit, the application, all relevant supporting materials, including any compliance plan and compliance certification, and all other materials available to the department that are relevant to the permit decision shall, upon request, be furnished without charge to the USEPA and any affected state. Any other person requesting copies of such documentation shall pay a fee equal to that regularly charged by the department for copying of documents. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-516. Class I operating permits; application fee. (a) Except as provided in paragraph (b) of this regulation, an application pertaining to a class I operating permit shall not be deemed complete unless accompanied by the appropriate fee.

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(b) Fees.

(1) The fee for an initial application for a class I operating permit other than a general permit shall be \$1,000.00.

(2) The fee for a class I operating permit renewal application other than a general permit renewal application shall be \$1,000.00.

(3) The fee for a class I operating permit application for a significant modification shall be \$500.00.

(4) The fee for a class I general operating permit petition submitted under the provisions of K.A.R. 28-19-401 shall be \$750.00.

(5) The fee for a class I general operating permit application submitted under the provisions of K.A.R. 28-19-403 shall be \$250.00.

(c) The application fee required by this regulation, including any application fee involving a class I general operating permit, may be reduced by the amount of any annual emission fee paid pursuant to K.A.R. 28-19-202 if:

(1) the annual emission fee was due and paid within the 12 month period immediately preceding payment of the application fee;

(2) the application fee involves the same stationary source for which the annual emission fee was paid;

(3) the entity responsible for paying the application fee is the same entity responsible for paying the annual emission fee; and

(4) the total of the application fees reduced during any relevant 12 month period does not exceed the corresponding annual emissions fee paid. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-517. Class I operating permits; annual emission inventory. (a) Except as provided at subsection (b) of this regulation, the owner or operator of any stationary source which is required by these regulations to apply for a Class I operating permit shall, on or before April 1 of each year, submit to the department all operating or other relevant information deemed necessary by the department to estimate actual air emissions from the stationary source for the preceding year.

(b) The owner or operator of any stationary source which is authorized to submit the annual emissions fee payment required by K.A.R. 28-19-202 by July 1 shall submit the emissions inventory required by subsection (a) of this regulation by April 1 of each year or the date the annual emission fee is paid, whichever is later.

(c) Such information shall be submitted on forms provided or approved by the department. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3007; effective Jan. 23, 1995.)

28-19-518. Class I operating permits; complete applications. (a) An application for the issuance, renewal or significant modification of a class I operating permit that is deemed complete shall have the effect of allowing the emissions unit or stationary source to continue to operate in the same legal capacity as on the date the application is deemed complete until such time as final agency action is taken on the application or until such time as the application is subsequently deemed incomplete.

(b) An application for a class I or class II operating permit shall be deemed complete as of the date the application was submitted to the department if:

(1) the department notifies the applicant, in writing within 60 days after the application was submitted, that the application has been deemed complete;

(2) after an application has been deemed complete, the applicant submits additional information requested in writing by the department within the time-frame specified by the department or within 60 days of the date of the request if no time-frame is specified by the department; or

(3) the department fails to notify the applicant that the application is not complete within the time-frames specified in paragraphs (b)(1) and (b)(2) of this regulation.

(c) The department may request additional information from the applicant even though the department has previously deemed the application to be complete. Failure of the applicant to submit any additional information the department has requested in writing within the time-frame specified in the request, or within 60 days of the date of the request if no time-frame is specified, shall result in the application being deemed incomplete as of the date the requested information was to be submitted, even though the application may have been deemed complete prior to the date the additional information was to be submitted to the department.

(d) For purposes of this regulation, a document shall be considered submitted to the department on the day it is physically delivered to the department or the date of the post mark if the document is mailed to the department.

(e) Any person who fails to submit any relevant facts or who has submitted incorrect information in an application for the issuance, renewal or significant modification of a class I operating permit shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, the owner or operator shall submit to the department such additional information as is necessary to address any requirements that become applicable to the emissions unit or stationary source after the date a complete application was filed but prior to the date the permit is placed on public notice. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-519 through 28-19-539. Reserved.

28-19-540. Class II operating permits; applicability. The owner or operator of a stationary source which would otherwise require a class I operating permit may submit an application for a class II operating permit for the stationary source requesting the potential-to-emit of the stationary source be limited below the major source threshold. The potential-to-emit of the stationary source may be limited:

(a) through:

(1) the reduction of emissions by restricting operating hours or the type or amount of material combusted, stored or processed in accordance with K.A.R. 28-19-501;

(2) a permit restriction pursuant to K.A.R. 28-9-300, or its predecessor K.A.R. 28-19-14;

(3) the reduction of emissions by air pollution control equipment maintained in accordance with the requirements of K.A.R. 28-19-501; or

(4) any combination of operational restrictions and air pollution control equipment;

(b) for those source categories identified at K.A.R. 28-19-561 through K.A.R. 28-19-563, by operating the stationary source in accordance with the applicable restrictions contained in those regulations and in K.A.R. 28-19-542, and in accordance with all other requirements for class II operating permits, unless any requirements for class II operating permits are identified in these rules as inapplicable to class II operating permits by rule; or

(c) by operating the source in compliance with a general class II operating permit issued pursuant to K.A.R. 28-19-400. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 65-3008; effective Jan. 23, 1995.)

28-19-541. Class II operating permits; application timetable and contents. (a) Any stationary source that has been issued a construction permit with federally enforceable permit restrictions pursuant to K.A.R. 28-19-302(b), shall file a complete initial application for a class II operating permit in accordance with K.A.R. 28-19-518 subsections (b) through (e), within one year of commencing operations or within one year of the effective date of this regulation, whichever is later. Any other stationary source that seeks a class II operating permit or a class II operating permit-by-rule shall file a complete initial application in accordance with K.A.R. 28-19-518 no later than 180 days before the date by which the applicant seeks issuance of the permit.

(b) The initial application for any class II operating permit, including a permit-by-rule pursuant to K.A.R. 28-19-542, shall be in writing and on forms provided or approved by the department. Until the department issues a class II operating permit to the source, the potential-to-emit of that source shall not be considered to be reduced.

(c) An application for a class II operating permit, other than an application for a permit-by-rule pursuant to K.A.R. 28-19-542, shall be accompanied by:

(1) sufficient information for the department to determine the potential-to-emit of the stationary source;

(2) any air pollution control equipment maintenance plan required by the provisions of K.A.R. 28-19-501;

(3) any proposed operational restrictions which would reduce the potential-to-emit of the stationary source, including:

(A) specification of any proposed operating restrictions;

(B) proposed methods for quantifying such restrictions;

(C) proposed methods for monitoring such restrictions; and

(4) the appropriate application fee.

(d) The owner or operator of the source shall provide any additional information requested by the department.

(e) The application shall be certified by a responsible official.

(f) Any person who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure

or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the stationary source after the date a complete application was filed but prior to the solicitation of public comments regarding the proposed permit.

(g) A stationary source to which a class I operating permit has been issued shall not be eligible for a class II operating permit until the class I operating permit has expired. A stationary source that holds a class I operating permit and seeks a class II operating permit shall submit an application for a class II operating permit no later than 180 days prior to expiration of the class I permit. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-542. Class II operating permits; permit-by-rule. (a) The owner or operator of any stationary source that is within a source category specified in K.A.R. 28-19-561 through K.A.R. 28-19-563, may submit an application to the department for an operating permit-by-rule. A permit-by-rule shall require that the stationary source comply with this regulation, the requirements of K.A.R. 28-19-561 through K.A.R. 28-19-563 that pertain to the source, and all other requirements of these regulations pertaining to class II operating permits, unless any requirement is specifically stated to be inapplicable to permits-by-rule.

(b) An application for a permit-by-rule shall be on forms provided or approved by the department and shall contain information sufficient for the department to determine that applicability of the requirements of K.A.R. 28-19-561 through K.A.R. 28-19-563 to the stationary source and the eligibility of the source to obtain a permit-to-rule.

(c) The department shall maintain a list of those stationary sources which are authorized to operate pursuant to this regulation. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-543. Class II operating permits; permit term and content; operational compliance. A class II operating permit shall remain valid until modified, revoked or otherwise determined invalid. A stationary source for which a class II operating permit has been issued shall comply with all applicable air quality regulations, whether or not addressed in the class II operating permit, unless specific provision is made within the class II operating permit specifying the stationary source is not required to comply with an otherwise applicable regulation. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-544. Class II operating permits; modification of source or operations. (a) Any stationary source operating pursuant to a class II operating permit shall not modify the stationary source in any manner which increases the potential-to-emit of any pollutant included in the categories listed at K.A.R. 28-19-500 without first

(continued)

obtaining a written approval from the department authorizing such modification pursuant to K.A.R. 28-19-300 *et seq.*, construction permits and approvals.

(b) The owner or operator of a stationary source shall submit to the department a complete application for modification of a class II operating permit, including any applicable application fee, within 180 days of the initial startup of any modification if the modification increases the potential-to-emit of the stationary source.

(c) The application for modification shall be in writing and made on forms provided or approved by the department.

(d) An application for modification of a class II operating permit shall be accompanied by:

(1) sufficient information for the department to determine the potential-to-emit of the stationary source;

(2) any air pollution control equipment maintenance plan required by the provisions of K.A.R. 28-19-501;

(3) any proposed operational restrictions which would reduce the potential-to-emit of the stationary source, including:

(A) specification of any proposed operating restrictions;

(B) proposed methods for quantifying such restrictions; and

(C) proposed methods for monitoring such restrictions; and

(4) the appropriate application fee.

(e) The owner or operator of the source shall provide any additional information requested by the department.

(f) The application shall be certified by a responsible official. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-545. Class II operating permits; application fee. (a) An application pertaining to a class II operating permit shall not be deemed complete unless accompanied by the appropriate fee.

(b) Fees.

(1) The fee for an initial application for a class II operating permit other than a general permit or a permit-by-rule shall be \$200.00.

(2) The fee for a class II operating permit modification application shall be \$100.00.

(3) The fee for a class II general operating permit petition shall be \$750.00.

(4) The fee for a class II general operating permit application shall be \$50.00.

(5) The fee for a class II operating permit-by-rule application shall be \$50.00. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-546. Class II operating permits; annual emission inventory. (a) The owner or operator of any stationary source which is required by these regulations to apply for a Class II operating permit shall, except as may be otherwise specifically required, on or before April 1 of each year, submit to the department all operating or other relevant information deemed necessary by the department to estimate actual air emissions from the stationary source for the preceding year. Such in-

formation shall be submitted on forms provided or approved by the department.

(b) For sources that submit a report to the department by April 1 of each year pursuant to K.A.R. 28-19-561 through K.A.R. 28-19-563, that report shall be in lieu of the information required to be submitted under this regulation. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3007; effective Jan. 23, 1995.)

28-19-547 through 28-19-559. Reserved.

28-19-561. Class II operating permits: permit-by-rule; reciprocating engines. (a) For purposes of this regulation, a reciprocating engine stationary source shall be a source with one or more stationary reciprocating engines of any design of fuel type, which does not contain other emission units that alone or in combination with the reciprocating engines, would require that the source obtain a class I operating permit solely because of its potential-to-emit. For purposes of this regulation, a reciprocating engine stationary source shall be presumed to operate without emission controls, whether or not the source has emission controls.

(b) A reciprocating engine stationary source with a capacity of less than 730 horsepower, 550 kilowatts per hour, or 5.1 million Btu per hour fuel input, shall be presumed to have a potential-to-emit of less than 100 tons of any regulated pollutant per year and may elect to operate pursuant to this regulation in lieu of obtaining a class I or class II operating permit, provided that the source complies with the requirements of subsection (e) of this regulation if it exceeds this capacity.

(c) A reciprocating engine stationary source with a capacity of more than 730 horsepower, 550 kilowatts per hour, or 5.1 million Btu heat input per hour, may operate pursuant to this regulation and K.A.R. 28-19-542 if the owner or operator:

(1) limits the operations of the source during each consecutive twelve-month period to 5,800,000 horsepower hours, 4,300,000 kilowatt hours, or 40,000 million Btu fuel input;

(2) maintains on-site records demonstrating that the restrictions specified in this regulation have not been exceeded. Records shall be updated monthly, no later than the last day of the month following the month to which the records relate; and

(3) annually submits to the department by April 1 of each year, on forms provided or approved by the department, a report of the actual horsepower hours, kilowatt hours or Btu fuel input for the preceding calendar year.

(d) If, at the end of any calendar quarter, operations for the past four calendar quarters, including the most recent calendar quarter, have exceeded 85% of the restrictions specified in subsection (c)(1) of this regulation, the owner or operator shall report the actual operations for the past four quarters to the department.

(1) The actual operations shall be reported in the same units as the restrictions specified in this regulation.

(2) The report shall be submitted to the department within 45 days of the last day of the month following the end of the calendar quarter.

(e) If, at any time, a reciprocating engine stationary source that has elected to operate in accordance with the terms of this regulation fails to meet any of the applicable requirements of this regulation, the owner or operator shall notify the department in writing, the notice to be mailed or delivered the first working day following discovery of the failure to meet any requirement. Within 60 days of discovery of any failure to meet a requirement, the owner or operator shall submit to the department a compliance plan identifying those actions being taken by the owner or operator to assure future compliance with the applicable requirements or to otherwise bring the source into compliance with this regulation or the Kansas air quality statutes and regulations. The owner or operator shall also file an application for any required operating permit within 180 days of discovery of an exceedance of a restriction. Compliance with the requirements of this subsection shall not shield the owner or operator from enforcement action for exceeding any applicable restriction or for other violations of the Kansas air quality act or regulations.

(f) A source that elects to operate in accordance with this rule shall continue to be subject to all other applicable requirements of the Kansas air quality statutes and regulations. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-562. Class II operating permits; permit-by-rule; organic solvent evaporative sources. (a) For purposes of this regulation, an organic solvent evaporative source is any stationary source that:

(1) purchases or uses materials that contain volatile organic compounds, hazardous air pollutants, or both, used in cleaning solvents, printing operations, adhesives, or surface coatings; and

(2) does not contain emission units, other than organic solvent evaporative sources, that alone, or in combination with all organic solvent evaporative sources, would require that the source obtain a class I operating permit solely because of its potential-to-emit.

(b) Any organic solvent evaporative source that purchases all of the materials containing volatile organic compounds and hazardous air pollutants used at the source may demonstrate compliance with this regulation by keeping records of the volatile organic compounds and hazardous air pollutants purchased or used. Any source that uses materials containing volatile organic compounds or hazardous air pollutants that were not purchased by the source shall demonstrate compliance with this regulation by keeping records of the volatile organic compounds and hazardous air pollutants used at the source, unless otherwise authorized by the department in writing.

(c) An organic solvent evaporative source that in any consecutive twelve-month period either purchases or uses materials that contain less than a total of nine tons of volatile organic compounds or hazardous air pollutants, or both, shall be presumed to have a potential-to-emit of less than 100 tons of volatile organic compounds per year, less than 25 tons of any combination of hazardous air pollutants per year, and less than ten tons of a single hazardous air pollutant per year. Such a source

may elect to operate pursuant to this regulation in lieu of obtaining a class I or class II operating permit, provided that the source complies with the requirements of subsection (f) if it either purchases or uses materials that contain nine tons or more of volatile organic compounds, hazardous air pollutants, or both in any consecutive twelve-month period.

(d) An organic solvent evaporative source that in any consecutive twelve-month period either purchases or uses materials that contain less than a total of 90 tons of volatile organic solvents, less than a total of 22.5 tons of any combination of hazardous air pollutants, or less than a total of nine tons of any single hazardous air pollutant, may operate pursuant to this regulation and K.A.R. 28-19-542 if the owner or operator:

(1) maintains on-site records demonstrating that the restrictions specified in this regulation have not been exceeded. Records shall be updated monthly, no later than the last day of the month following the month to which the records relate; and

(2) annually submits to the department by April 1 of each year, on forms provided or approved by the department, a report of the tons of volatile organic solvents, total hazardous air pollutants, and single hazardous air pollutants purchased or used by the source during the preceding calendar year.

(e) If, at the end of any calendar quarter, the purchase or use for the past four calendar quarters, including the most recent calendar quarter, has exceeded 85% of any of the restrictions on the purchase or use of volatile organic solvents and hazardous air pollutants specified in this regulation under which the owner or operator has elected to operate, the owner or operator shall report to the department the amount purchased or used in the past four calendar quarters. The actual amount purchased or used shall be reported in the same units as the limitations specified in this regulation. The report shall be submitted to the department within 45 days of the last day of the month following the end of the calendar quarter.

(f) If, at any time, an organic solvent evaporative source that has elected to operate in accordance with the terms of this regulation fails to meet any of the applicable requirements of this regulation, the owner or operator shall notify the department in writing, the notice to be mailed or delivered the first working day following discovery of the failure to meet any requirement. Within 60 days of discovery of any failure to meet a requirement, the owner or operator of the elevator shall submit to the department a compliance plan identifying those actions being taken by the owner or operator to assure future compliance with the applicable restrictions or to otherwise bring the source into compliance with this regulation or the Kansas air quality statutes and regulations. The owner or operator shall also file an application for any required operating permit within 180 days of discovery of an exceedance of any applicable restriction. Compliance with the requirements of this subsection does not shield the owner or operator from enforcement action for exceeding any applicable restriction or for other violations of the Kansas air quality act or regulations.

(continued)

(g) A source that elects to operate in accordance with this rule shall continue to be subject to all other applicable requirements of the Kansas air quality statutes and regulations. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-563. Class II operating permits; permit by rule; hot mix asphalt facilities. (a) For purposes of this regulation, a hot mix asphalt facility shall be a facility used to manufacture hot mix asphalt by heating and drying aggregate and mixing it with asphalt cement and that does not contain other emission sources, which alone or in combination with the hot mix asphalt facility, would require the source to obtain a class I operating permit solely because of its potential-to-emit.

(b) A hot mix asphalt facility may operate pursuant to this regulation and K.A.R. 28-19-542 if:

(1) the facility is of a continuous drum mixing design, which uses venturi scrubbers, a baghouse, or equivalent particulate emission controls to limit particulate emissions to 0.04 grains per dry standard cubic foot of exhaust gas; and

(2) the owner or operator of the facility;

(A) limits production at the facility to no more than 250,000 tons of hot mix asphalt during any consecutive 12 month period;

(B) maintains on-site records demonstrating that the production restrictions and particulate emission limits set forth in this regulation have not been exceeded. Records shall be updated monthly no later than the last day of the month following the month to which the records relate; and

(C) annually submits to the department by April 1 of each year, on forms provided or approved by the department, a report of the actual tons of hot mix asphalt produced at the source during the preceding calendar year.

(c) If, at the end of any calendar quarter, operations for the past four calendar quarters, including the most recent calendar quarter, have exceeded 85% of any of the production restriction specified in this regulation, the owner or operator shall report to the department the actual production for the past four calendar quarters.

(1) The actual production shall be reported in the same units as the restriction specified in this regulation.

(2) The report shall be submitted to the department within 45 days of the last day of the month following the end of the calendar quarter.

(d) If, at any time, a hot mix asphalt facility that has elected to operate in accordance with the terms of this regulation fails to meet any of the requirements of this regulation, the owner or operator shall notify the department in writing, the notice to be mailed or delivered the first working day following discovery of the failure to meet any requirement. Within 60 days of discovery of a failure to meet a requirement, the owner or operator shall submit to the department a compliance plan identifying those actions being taken by the owner or operator to assure future compliance with applicable restrictions or to otherwise bring the source into compliance with this regulation or the Kansas air quality statutes and regulations. The owner or operator shall

also file an application for any required operating permit within 180 days of discovery of an exceedance of any applicable restriction. Compliance with the requirements of this subsection does not shield the owner or operator from enforcement action for exceeding any applicable restriction or for other violations of the Kansas air quality act or regulations.

(e) A source that elects to operate in accordance with this rule shall continue to be subject to all other applicable requirements of the Kansas air quality statutes and regulations. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-564 through 28-19-574. Reserved.

28-19-575. Class III operating permits; initial application. (a) The owner or operator of any stationary source required to obtain a class III operating permit shall submit a complete application for the class III operating permit, including any applicable application fee:

(1) within 180 days of the effective date of this regulation for an existing source;

(2) within one year of the initial startup of the stationary source for a new source;

(3) within one year of the effective date of any regulation establishing an emission limitation which was not in effect on the effective date of this regulation; or

(4) as otherwise specifically required by regulation.

(b) The initial application shall be in writing and made on forms provided or approved by the department.

(c) The owner or operator of the stationary source shall provide any additional information requested by the department.

(d) Any person who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the stationary source after the date a complete application was filed but prior to the solicitation regarding public comments regarding the proposed permit. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-576. Class III operating permits; permit content; operational compliance. A class III operating permit shall remain valid until modified, revoked or otherwise determined invalid. A stationary source for which a class III operating permit has been issued shall comply with all applicable air quality regulations, whether or not addressed in the class III operating permit, unless specific provision is made within the class III operating permit specifying the stationary source is not required to comply with an otherwise applicable regulation. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-577. Class III operating permits; modification of source or operations. A stationary source operating pursuant to a class III operating permit shall not

be modified in any manner which subjects the stationary source to any requirement not addressed in the class III operating permit without the owner or operator first notifying the department in writing. The notification shall not waive any other requirement of the Kansas air quality act or regulations. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-578. Class III operating permits; application fee. (a) An application pertaining to a class III operating permit shall not be deemed complete unless accompanied by the appropriate fee.

(b) Fees.

(1) The fee for an initial application for a class III operating permit other than a general permit shall be \$50.00.

(2) The fee for a class III operating permit modification application shall be \$25.00.

(3) The fee for a class III general operating permit petition shall be \$25.00.

(4) The fee for a class III general operating permit application shall be \$25.00. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-579 through 28-19-719. Reserved.

28-19-720. New source performance standards. (a) 40 CFR part 60, as in effect on July 1, 1994, is adopted by reference except for the following:

- (1) 40 CFR 60.4;
- (2) 40 CFR 60.9;
- (3) 40 CFR 60.10; and
- (4) 40 CFR 60.16.

(b) Unless the context clearly indicates otherwise, the following meanings shall be given to these terms as they appear in 40 CFR part 60.

(1) The term "administrator" shall mean the secretary or the secretary's authorized representative.

(2) The term "United States environmental protection agency" or any term referring to the United States environmental protection agency shall mean the department.

(3) The term "state" shall mean the state of Kansas. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-721 through 28-19-734. Reserved.

28-19-735. National emission standards for hazardous air pollutants. (a) 40 CFR part 61, as in effect on July 1, 1994, is adopted by reference except for the following:

- (1) 40 CFR 61.04;
- (2) 40 CFR 61.16;
- (3) 40 CFR 61.17;
- (4) 40 CFR 61 subpart H;
- (5) 40 CFR 61 subpart I; and
- (6) 40 CFR 61 subpart K.

(b) Unless the context clearly indicates otherwise the following meanings shall be given to these terms as they appear in 40 CFR part 61.

(1) The term "administrator" shall mean the secretary or the secretary's authorized representative.

(2) The term "United States environmental protection agency" or any term referring to the United States environmental protection agency shall mean the department.

(3) The term "state" shall mean the state of Kansas. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-736 through 28-19-749. Reserved.

28-19-750. Hazardous air pollutants; maximum achievable control technology. 40 CFR part 63 and appendices thereto, as in effect on July 1, 1994, is adopted by reference except for the following:

- (a) 40 CFR 63.12;
- (b) 40 CFR 63.13;
- (c) 40 CFR 63.15; and

(d) 40 CFR subpart E. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-751. Hazardous air pollutants; limitations applicable to modification of major sources. (a) This regulation shall be effective on and after the date the USEPA approves the Kansas operating permit program pursuant to section 502(d) of the federal clean air act and shall continue in effect for an emissions unit or stationary source until a standard has been proposed which is applicable to such source pursuant to section 112(d) of the federal clean air act.

(b) This regulation shall apply whenever a modification to a major source of hazardous air pollutants is proposed which will result in an increase in actual emissions of any hazardous air pollutant in excess of the de minimis level of that air pollutant.

(c) As part of the construction permit application, the owner or operator shall:

(1) determine the applicable emission limitation for the source pursuant to subsection (d) of this regulation;

(2) specify how the applicable emission limitation was determined;

(3) specify the manner in which the emissions unit or stationary source will meet the applicable emission limitation; and

(4) commit to test methods and procedures to demonstrate compliance with the applicable emission limitation.

(d) The applicable emission limitation shall be either:

(1) for stationary sources within a category or subcategory listed at 57 FR 31576, July 16, 1992, with 30 or more sources, the average emission limitation achieved by the best performing 12 percent of the existing sources, for which the administrator of the USEPA has emissions information, in such category or subcategory; or

(2) for stationary sources within a category or subcategory listed at 57 FR 31576, July 16, 1992, with fewer than 30 sources, the average emission limitation achieved by the best performing 5 sources, for which administrator of the USEPA has or could reasonably obtain emissions information, in such category or subcategory. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

(continued)

28-19-752. Hazardous air pollutants; limitations applicable to construction of new major sources or reconstruction of existing major sources. (a) This regulation shall be effective on and after the date the USEPA approves the Kansas operating permit program pursuant to section 502(d) of the federal clean air act and shall continue in effect for an emissions unit or stationary source until a standard has been promulgated which is applicable to such source pursuant to section 112(d) of the federal clean air act.

(b) This regulation shall apply whenever a new major source of hazardous air pollutants is proposed or reconstruction of an existing major source of hazardous air pollutants is proposed. The term "new source" shall include an existing non-major source which will become a major source because of emissions increases due to modifications.

(c) As part of the construction permit application, the owner or operator shall:

(1) determine the applicable emission limitation for the source pursuant to subsection (d) of this regulation;

(2) specify how the applicable emission limitation was determined;

(3) specify the manner in which the emissions unit or stationary source will meet the applicable emission limitation; and

(4) commit to test methods and procedures to demonstrate compliance with the applicable emission limitation.

(d) The applicable emission limitation shall be the maximum degree of reduction in emissions that is achieved in practice by the best controlled similar source. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

28-19-753. Hazardous air pollutants; limitations applicable to sources for which the USEPA fails to meet certain deadlines. (a) This regulation shall be applicable to a source only if the USEPA fails to promulgate an emission standard for the category or subcategory applicable to the source within the time-frame scheduled by the USEPA at 58 FR 63941, December 3, 1993.

(b) Within 18 months after the date the emission limitation was to be promulgated by the USEPA, the owner or operator of a major source to which the emission limitation would apply, shall file with the department an application to modify the operating permit of the major source. As part of the application to modify the operating permit, the owner or operator shall:

(1) determine the applicable emission limitation for the source pursuant to subsection (c) of this regulation;

(2) specify how the applicable emission limitation was determined;

(3) specify the manner in which the emissions unit or stationary source will meet the applicable emission limitation; and

(4) commit to test methods and procedures to demonstrate compliance with the applicable emission limitation.

(c) The applicable emission limitation shall be either:

(1) for stationary sources within a category or subcategory listed at 57 FR 31576, July 16, 1992, with 30 or more sources. The average emission limitation achieved by the best performing 12 percent of the existing sources, for which the administrator of the USEPA has emissions information, in such category or subcategory; or

(2) for stationary sources within a category or subcategory listed at 57 FR 31576, July 16, 1992, with fewer than 30 sources, the average emission limitation achieved by the best performing 5 sources, for which the administrator of the USEPA has or could reasonably obtain emissions information, in such category or subcategory.

(d) If the USEPA promulgates an emission standard pursuant to section 112(d) of the federal clean air act that is applicable to the major source prior to the date on which a permit application is approved, the emission limitation in the operating permit shall reflect the promulgated standard rather than the emission limitation proposed in the application, provided that the source shall have the compliance period provided at section 112(i) of the federal clean air act.

(e) If, after a permit is issued approving the application to modify the major source filed pursuant to this regulation, the USEPA promulgates an emissions standard pursuant to section 112(d) of the federal clean air act that would be applicable to the major source in lieu of the emission limitation established in the permit, the operating permit of the major source shall be revised upon the next renewal to reflect the standard promulgated by the USEPA. The renewed permit shall also provide the owner or operator of the major source a reasonable time to comply with the applicable standard promulgated by the USEPA, which shall be no longer than eight years after such standard is promulgated or eight years after the date on which the source is first required to comply with the emissions limitations established under this regulation, whichever is earlier.

(f) Each application for a permit modification under this regulation shall be:

(1) subject to the provisions of K.A.R. 28-19-518;

(2) submitted on forms provided or approved by the department; and

(3) considered significant permit modifications subject to the provisions of K.A.R. 28-19-513. (Authorized by K.S.A. 1993 Supp. 65-3005; implementing K.S.A. 1993 Supp. 65-3008; effective Jan. 23, 1995.)

Robert C. Harder
Secretary of Health
and Environment

Doc. No. 015651

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111-7-66	Amended	V. 13, p. 1049
111-7-66a	Revoked	V. 13, p. 340
111-7-76 through		
111-7-78	New	V. 11, p. 1478-1480
111-7-79	Revoked	V. 13, p. 340
111-7-80 through		
111-7-83	New	V. 11, p. 1478-1480
111-7-81	Amended	V. 13, p. 1406
111-7-84 through		
111-7-90	New	V. 12, p. 677, 678
111-7-91 through		
111-7-94	Revoked	V. 13, p. 340
111-7-98	New	V. 12, p. 914
111-7-99 through		
111-7-105	New	V. 12, p. 1376, 1377
111-7-106 through		
111-7-112	New	V. 13, p. 1568, 1569
111-8-1	New	V. 7, p. 1633
111-8-2	New	V. 7, p. 1633
111-8-3	Amended	V. 10, p. 886
111-8-4	New	V. 7, p. 1714
111-8-4a	Revoked	V. 13, p. 1406
111-8-5 through		
111-8-13	New	V. 7, p. 1634
111-8-14	New	V. 13, p. 881
111-8-15	New	V. 13, p. 881
111-9-1 through		
111-9-12	New	V. 7, p. 1714-1716

111-9-1 through		
111-9-6	Revoked	V. 9, p. 1680
111-9-13 through		
111-9-18	Revoked	V. 9, p. 1680
111-9-25 through		
111-9-30	New	V. 9, p. 699, 700
111-9-31 through		
111-9-36	New	V. 10, p. 262
111-9-37 through		
111-9-48	New	V. 10, p. 1439, 1440
111-9-49 through		
111-9-54	New	V. 12, p. 318, 319
111-9-55 through		
111-9-60	New	V. 12, p. 1263, 1264
111-10-1 through		
111-10-9	New	V. 8, p. 136-138
111-10-7	Amended	V. 8, p. 301

AGENCY 112: KANSAS RACING COMMISSION

Reg. No.	Action	Register
112-4-1	Amended	V. 12, p. 1152, 1369
112-4-24	New	V. 12, p. 1153, 1370
112-4-25	New	V. 13, p. 1088
112-5-10	New	V. 13, p. 1088
112-6-1	Amended	V. 13, p. 1088
112-6-2	Amended	V. 13, p. 1088
112-6-9	New	V. 13, p. 1089
112-6-10	New	V. 13, p. 1089
112-7-24	New	V. 13, p. 843, 1090
112-8-13	New	V. 13, p. 1090
112-9-1	New	V. 13, p. 1090
112-9-2	Amended	V. 12, p. 975, 1211
112-9-18a	Amended	V. 12, p. 355, 378
112-9-30	Amended	V. 12, p. 975, 1211
112-9-39a	Amended	V. 12, p. 356, 378
112-9-40a	Amended	V. 12, p. 356, 379
112-9-41a	Amended	V. 12, p. 358, 380
112-9-42	Amended	V. 12, p. 359, 382
112-9-43	Amended	V. 12, p. 361, 383
112-9-44	New	V. 12, p. 361, 384
112-11-21	Amended	V. 13, p. 1090
112-12-1	New	V. 12, p. 50
112-12-2 through		
112-12-11	Amended	V. 12, p. 50-53
112-12-10	Amended	V. 12, p. 1816
112-12-14	New	V. 13, p. 962, 1091
112-15-2	Amended	V. 13, p. 1091
112-15-3	Amended	V. 13, p. 1091
112-15-5	Amended	V. 13, p. 1091
112-15-6	Amended	V. 13, p. 1091
112-17-15	New	V. 12, p. 1034, 1211
112-18-9	Amended	V. 13, p. 1092
112-18-11	Amended	V. 13, p. 1092
112-18-17	Amended	V. 13, p. 1092
112-18-18	Amended	V. 13, p. 1092
112-18-20	New	V. 13, p. 1093

AGENCY 115: DEPARTMENT OF WILDLIFE AND PARKS

Reg. No.	Action	Register
115-2-1	Amended	V. 13, p. 1062
115-4-1	Amended	V. 12, p. 570
115-4-3	Amended	V. 12, p. 570
115-4-5	Amended	V. 12, p. 571
115-4-6	Amended	V. 13, p. 592
115-4-7	Amended	V. 13, p. 594
115-4-12	Amended	V. 13, p. 1286
115-5-1	Amended	V. 12, p. 1490
115-5-2	Amended	V. 13, p. 1286
115-5-3	New	V. 13, p. 1287
115-8-3	Amended	V. 13, p. 1680
115-8-22	New	V. 13, p. 233
115-9-1	Revoked	V. 12, p. 1702
115-9-5	Amended	V. 13, p. 980
115-9-7	New	V. 13, p. 1287
115-14-1	Amended	V. 13, p. 980
115-14-2	Amended	V. 13, p. 980
115-14-8	Amended	V. 13, p. 980
115-14-9	Amended	V. 13, p. 980
115-14-10	Amended	V. 13, p. 981
115-17-15	New	V. 12, p. 1702
115-17-16 through		
115-17-20	New	V. 13, p. 234-236
115-18-4	Amended	V. 12, p. 1491
115-18-9	New	V. 12, p. 1702
115-18-10	New	V. 12, p. 1702
115-18-12	New	V. 12, p. 1491
115-18-13	New	V. 13, p. 981
115-18-14	New	V. 13, p. 1680
115-21-3	New	V. 12, p. 1703
115-30-8	Amended	V. 12, p. 1703
115-30-10	New	V. 13, p. 595

AGENCY 116: STATE FAIR BOARD

Reg. No.	Action	Register
116-3-1	New	V. 12, p. 1175
116-3-2	New	V. 12, p. 1175
116-4-1	New	V. 13, p. 934
116-4-2	New	V. 13, p. 934

AGENCY 117: REAL ESTATE APPRAISAL BOARD

Reg. No.	Action	Register
117-1-1	Amended	V. 13, p. 974
117-2-1	Amended	V. 12, p. 528
117-2-2	Amended	V. 13, p. 913
117-2-4	Amended	V. 12, p. 529
117-3-1	Amended	V. 12, p. 529
117-3-2	Amended	V. 13, p. 913
117-4-1	Amended	V. 12, p. 1699
117-4-2	Amended	V. 13, p. 913
117-4-4	Amended	V. 12, p. 530
117-5-1	New	V. 13, p. 975
117-6-1	Amended	V. 13, p. 914
117-6-2	Amended	V. 12, p. 531
117-8-1	Amended	V. 12, p. 531

AGENCY 120: HEALTH CARE DATA GOVERNING BOARD

Reg. No.	Action	Register
120-1-1	New	V. 13, p. 1682

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