

# Kansas Register

Ron Thornburgh, Secretary of State

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State of Kansas  
State Conservation Commission

Notice of Meeting

The State Conservation Commission will meet at 2 p.m. Sunday, November 24, in the Consulate II Room of the Airport Hilton in Wichita. A copy of the agenda may be obtained by contacting Cathy Greene, State Conservation Commission, 109 S.W. 9th, Suite 500, Topeka, 66612-1215, (785) 296-3600. Individuals needing special accommodations should contact the agency at least three days in advance of the meeting date.

Tracy Streeter  
Executive Director

Doc. No. 028596

State of Kansas  
Pooled Money Investment Board

Notice of Investment Rates

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

Effective 11-4-02 through 11-10-02

Term	Rate
1-89 days	1.76%
3 months	1.37%
6 months	1.32%
1 year	1.38%
18 months	1.56%
2 years	1.76%

Derl S. Treff  
Director of Investments

Doc. No. 028588

State of Kansas  
Kansas State University

Notice to Bidders

Sealed bids for the item listed below will be received by the Kansas State University Purchasing Office, Manhattan, until 2 p.m. on the date indicated and then will be publicly opened. Interested bidders may call (785) 532-6214 or fax (785) 532-5577 for additional information:

Friday, November 22, 2002  
#40077

Lane Overlay of Bowling Alley

William H. Sesler  
Director of Purchasing

Doc. No. 028591

(Published in the Kansas Register November 7, 2002.)

USDA—Natural Resources  
Conservation Service

Notice of Kansas Technical Committee Meeting

The Kansas Technical Committee will meet from 9:30 a.m. to 3 p.m. Wednesday, December 4, at the NRCS Conference Center, 747 Duvall, Salina, to discuss the following for fiscal year 2003: Environmental Quality Incentive Program (EQIP) allocation distribution and evaluation and assessment; Wetland Reserve Program implementation; and Wildlife Habitat Incentives Program implementation.

For additional information, contact Steve Parkin, USDA-Natural Resources Conservation Service, 760 S. Broadway, Salina, 67401-4642, (785) 823-4568, fax (785) 823-4540, e-mail [steve.parkin@ks.nrcs.usda.gov](mailto:steve.parkin@ks.nrcs.usda.gov).

Mary D. Shaffer  
Public Affairs Specialist

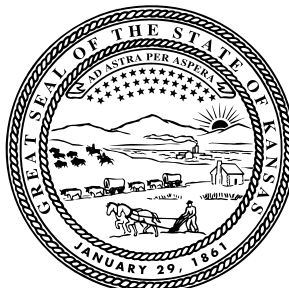
Doc. No. 028605

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**Ron Thornburgh**  
Secretary of State  
1st Floor, Memorial Hall  
120 S.W. 10th Ave.  
Topeka, KS 66612-1594  
(785) 296-4564  
[www.kssos.org](http://www.kssos.org)



**Register Office:**  
1st Floor, Memorial Hall  
(785) 296-3489  
Fax (785) 368-8024

## State of Kansas

**Legislature**  
**Interim Committee Schedule**

The following committee meetings have been scheduled during the period of November 11-24. Requests for accommodation to participate in committee meetings should be made at least two working days in advance of the meeting by contacting Legislative Administrative Services at (785) 296-2391 or TTY (785) 296-8430. When available, agendas can be found at <http://skyways.lib.ks.us/ksleg/KLRD/klrd.html>.

Date	Room	Time	Committee	Agenda
November 12 (Rescheduled to November 19)			Joint Committee on Pensions, Investments and Benefits	Agenda not available.
November 12	514-S	10:00 a.m.	Joint Committee on Administrative Rules and Regulations	Review of rules and regulations proposed by the Department of Agriculture, Department of Revenue, State Corporation Commission, State Bank Commissioner, Board of Nursing, Department of Education, Adult Care Home Administrators, and the Kansas Racing and Gaming Commission.
November 14	519-S	9:00 a.m.	Special Committee on Assessment and Taxation	Committee discussion and final decisions on all topics not completed in October; hearing on sales taxation of customized software; and hearing on property tax exemption for farm/construction machinery and equipment.
November 14	123-S	10:00 a.m.	Joint Committee on	Agenda not available.
November 15	123-S	9:00 a.m.	Economic Development	
November 15	519-S	10:00 a.m.	Joint Committee on Arts and Cultural Resources	Agenda not available.
November 18	313-S	10:00 a.m.	Special Committee on Judiciary	Agenda not available.
November 19 (Rescheduled from Nov. 12)	123-S	10:00 a.m.	Joint Committee on Pensions, Investments and Benefits	KPERS reports; review and possible recommendations for interim study topics.
November 19	519-S	10:00 a.m.	Joint Committee on	<b>19th:</b> KDOC issues, EDCF tour.
November 20	519-S	9:00 a.m.	Corrections and Juvenile Justice	<b>20th:</b> Juvenile and Adult Corrections, Sedgwick County, sentencing issues.
November 20	423-S	9:00 a.m.	Legislative Post Audit	Audit Reports: - Valuing commercial buildings for property tax purposes - Meat processing plants - Soldiers' and Veterans' Homes consideration of audit topics
November 20	514-S	10:00 a.m.	Joint Committee on	Agenda not available.
November 21	514-S	9:00 a.m.	Children's Issues	
November 21	519-S	10:00 a.m.	Special Committee on	Agenda not available.
November 22	519-S	9:00 a.m.	Kansas Security	

Jeff Russell  
Director of Legislative  
Administrative Services

State of Kansas
Department of Administration
Division of Purchases

Notice to Bidders

Sealed bids for the following items will be received by the Director of Purchases, Room 102, Landon State Office Building, 900 S.W. Jackson, Topeka, 66612, until 2 p.m. on the date indicated and then will be publicly opened. Interested bidders may call (785) 296-2377 for additional information:

Monday, November 18, 2002

05610

University of Kansas Medical Center—FTIR Spectrometer with Microscope

Tuesday, November 19, 2002

05597

Statewide—Industrial V-Belts

Wednesday, November 20, 2002

05598

Statewide—Automotive Batteries

Monday, November 25, 2002

05608

Ellsworth Correctional Facility—Laundry Chemicals and Dispensing System

Tuesday, December 3, 2002

A-9254 (A)

Osawatomie State Hospital—Rebuild South Sewer Lift Station

Wednesday, December 4, 2002

05606

Statewide—Facsimile Equipment

Thursday, December 5, 2002

A-9402

Hutchinson Correctional Facility—Kitchen/Dining Remodel

Wednesday, December 11, 2002

3957-R

Department of Social and Rehabilitation Services—Sale of Land, Stafford County

\*\*\*\*\*

Request for Proposals

Wednesday, November 27, 2002

05595

Gift Shop Operation for Kansas State University

Tuesday, December 3, 2002

03744 R

PeopleSoft Consulting Services for the University of Kansas and University of Kansas Medical Center

John T. Houlihan
Director of Purchases

Doc. No. 028612

State of Kansas
Natural Resources Legacy Alliance

Notice of Meeting/Open Forum

The Kansas Natural Resources Legacy Alliance will meet at 9 a.m. Tuesday, November 19, at the Hughes Metropolitan Complex, Sudermann Room, 5015 E. 29th, Wichita. The meeting is open to the public. An open forum to receive public comments regarding natural resource concerns and issues will be held at the following times and locations: 7 p.m. Monday, November 18, at the Kansas Regional Office Complex, 1500 W. 7th, Chanute; 7 p.m. Tuesday, November 19, at the Hughes Metropolitan Complex, Sudermann Room, 5015 E. 29th, Wichita; and 2 p.m. Wednesday, November 20, at the Great Bend Senior Center, 2005 Kansas Ave., Great Bend. If special accommodations are needed, individuals should contact the State Conservation Commission at (785) 296-3600.

Tracy Streeter
Executive Director
State Conservation Commission

Doc. No. 028595

State of Kansas
Department of Administration
Division of Facilities Management

Notice of Commencement of
Negotiations for Engineering Services

Notice is hereby given of the commencement of negotiations for engineering services for the remodeling of 9,000 square feet of existing laboratories in Malott Hall at the University of Kansas, Lawrence. The total project budget is \$2,800,000.

For information regarding the scope of services, contact Jim Modig or Gary Lawson at the University of Kansas, (785) 864-3431.

If interested, an original and six copies (seven total) of the SF 255 form (plus relevant attachments of information regarding similar projects) should be submitted. These submittals should be concise, relevant to the project and follow the State Building Advisory Commission guidelines for submittal. Copies of the guidelines have previously been distributed to firms; if copies of the guidelines are required, contact Gary Grimes, Division of Facilities Management, 900 S.W. Jackson, Room 152, Landon State Office Building, Topeka, 66612, (785) 368-7471. Submittals not complying with the guidelines will be returned without consideration.

Expressions of interest and the SF 255 submittals should be received by Gary Grimes before 5 p.m. November 22.

Joe Fritton, P.E.
Director, Division of
Facilities Management

Doc. No. 028611

## State of Kansas

## State Corporation Commission

## Notice of Motor Carrier Applications

The following motor carriers have filed various applications. All applications listed herein are for statewide authority, unless otherwise stated.

Requests to inspect and copy the notices provided to the parties and questions in regard to these applications should be addressed to the State Corporation Commission, Transportation Division, 1500 S.W. Arrowhead Road, Topeka, 66604-4027, (785) 271-3225 or 271-3151. For general inquiries, contact Vickie Berg at (785) 271-3225. To lodge an official complaint, submit your protest in writing, supported by relevant facts, to Mike Hoeme, Director of Transportation, at the address above within 10 days of the date of publication of this notice.

**Applications for Certificate of Public Service:**

- Air Capitol Express: Airport Services, Inc.**, 2301 S. Mead, Wichita, KS 67211; MC ID No. 159955; Stan Singleton, Attorney; General commodities (except household goods and hazardous materials)
- Jarred Clark, dba Independent Custom Hauling**, 300 W. Albert, #48, Maize, KS 67101; MC ID No. 159957; General commodities (except household goods and hazardous materials)
- Mary Etta Cornett, dba JC Trucking**, 13640 100th Road, Erie, KS 66733; MC ID No. 156093; General commodities (except household goods and hazardous materials)
- Deaton, Inc.**, 317 Ave. W, Birmingham, AL 35214; MC ID No. 159960; General commodities (except household goods and hazardous materials)
- Kirk J. Duensing, dba KED Farms**, Route 1, Box 83, Byron, NE 68325; MC ID No. 156829; Livestock, grain and seed
- Eitzmann Trucking, Inc.**, Route 1, Box 70, Hardy, NE 68943; MC ID 155889; General commodities (except household goods and hazardous materials)
- Rodimiro Espino, dba Espino Trucking**, 712 W. Hamline, Garden City, KS 67846; MC ID No. 159929; General commodities (except household goods and hazardous materials)
- H & A Express, Inc.**, 11095 Hwy. 16, Blaine, KS 66549; MC ID No. 159961; Clyde Christey, Attorney; General commodities (except household goods and hazardous materials)
- Myron Huber, dba Myron Huber Trucking**, 3605 D Road, Garden City, KS 67846; MC ID No. 159946; General commodities (except household goods and hazardous materials)
- Bruce T. Hutchinson, dba Hutchinson Oil Service**, 17862 Fairview Road, Paradise, KS 67658; MC ID No. 159963; Salt water and fresh water
- J & J Express LLC**, 2522 Stevens, Parsons, KS 67357; MC ID No. 159956; General commodities (except household goods)
- Terry L. and Stephanie Kinderknecht, dba Kinderknecht Hay**, Route 1, Box 180, Almena, KS 67622; MC ID No. 159952; General commodities (except household goods and hazardous materials)
- L C Company of Nowata, LLC**, 2 miles west of Nowata on Hwy. 60, Nowata, OK 74048; MC ID No. 159951; Wilburn Williamson, Attorney; Salt water and fresh water
- Pur-Stuff Trucking LLC**, 514 N. 1st, Medford, OK 73759; MC ID No. 159954; General commodities (except household goods and hazardous materials)
- RC Express, Inc.**, 1509 W. 2nd, Haysville, KS 67060; MC ID No. 260160; Michael Case, Attorney; General commodities (except household goods and hazardous materials)
- Smoky Hill Tank Service, L.L.C.**, 613 N. First, Natoma, KS 67651; MC ID No. 159958; Salt water and fresh water

- Larry D. Sorensen, dba D & D Towing Service**, 9208 N. Lorraine, Hutchinson, KS 67502; MC ID No. 159948; Wrecked, disabled, repossessed and replacement vehicles
- Stericycle, Inc.**, 28161 N. Keith Drive, Lake Forest, IL 60045; MC ID No. 159959; General commodities (except household goods)
- Howard and Lee Van Slyke, dba Van Slyke Body Shop**, 40162 N. 281 Hwy., Pratt, KS 67124; MC ID No. 159966; General commodities (except household goods and hazardous materials)
- Douglas and Tanya West, dba DJW Trucking**, 1103 U.S. Hwy. 83, Colby, KS 67701; MC ID No. 159965; General commodities (except household goods and hazardous materials)
- Russell D. Wiley, dba Wiley Trucking**, 860 S. Martinson, Wichita, KS 67213; MC ID No. 159962; General commodities (except household goods and hazardous materials)

**Applications for Transfer of Certificate of Public Service:**

- Johnny Gean, dba John's Auto & Body**, 429 S. Leavenworth, Coldwater, KS 67029, MC ID No. 146791, to: Protown Glass & Body, Inc., 201 N. Broadway, Protection, KS 67127; Used vehicles, wrecked vehicles, automotive equipment, salvage vehicle parts
- Mark S. Graham, dba Graham Trucking**, 101 Thomas, Prairie View, KS 67664, MC ID No. 159571, to: Graham Trucking LLC, 101 Thomas, Prairie View, KS 67664; General commodities (except household goods, passengers and hazardous materials)
- Larry Jones, dba Larry Jones Trucking**, 131 S.E. Golden, Topeka, KS 66607, MC ID No. 158555, to: Larry Jones Trucking, Inc., 131 S.E. Golden, Topeka, KS 66607; General commodities (except household goods and hazardous materials)
- Debbie Wells, dba Killin Time Trucking**, 35141 Road 2.5, Wiley, CO 81092, MC ID No. 158527, to: Killin Time Trucking LLC, 35141 Road 2.5, Wiley, CO 81092; General commodities (except household goods and hazardous materials)

**Application for Transfer and Extension of Certificate of Public Service:**

- Neal D. Keeler, Brian F. Keeler and Kirk W. Keeler, dba Keeler Farms**, 16236 K-9 Hwy., Whiting, KS 66552, MC ID No. 156146, to: Keeler Trucking, Inc., 16236 K-9 Hwy., Whiting, KS 66552; William Barker, Attorney; General commodities (except household goods)

**Application for Name Change of Certificate of Public Service:**

- Emery Expedite!, Inc.**, 10881 Lowell, Overland Park, KS 66210, MC ID No. 155181, to: Menlo Worldwide Expedite!, Inc., dba Menlo Worldwide Expedite!, 10881 Lowell, Overland Park, KS 66210; General commodities (except household goods)
- Vopak USA Inc.**, 6100 Carillon Point, Kirkland, WA 98033, MC ID No. 107528, to: Univar USA Inc., 6100 Carillon Point, Kirkland, WA 98033; General commodities including hazardous materials as defined in 49 CFR 171 (except household goods)

Mike J. Hoeme, Director  
Transportation Division

Doc. No. 028613

## State of Kansas

Department of Health  
and Environment

## Request for Comments

The Kansas Department of Health and Environment has received and reviewed a permit application from Scott Road Landfill, L.L.C. to construct and operate a construction and demolition landfill and yard waste composting facility in Labette County. KDHE is providing public notice of its intent to issue a construction and demolition landfill and yard waste composting facility permit to Scott Road Landfill, L.L.C. The landfill would be located at 25000 Scott Road in the Southeast Quarter of Section 10, Township 31 South, Range 20 East, northeast of Parsons. Only construction and demolition wastes, as defined by Kansas statutes, would be allowed for disposal into the construction and demolition landfill. The total area of the landfill would be about 6 acres, with an estimated capacity of 80,000 cubic yards. With this capacity, the landfill would be expected to operate approximately 15 years. Only yard waste materials, as defined by the Kansas solid waste regulations, will be processed at the yard waste composting facility that will have a total area of about 3 acres.

A copy of the administrative record, which includes the draft permit, permit application, engineering drawings and other information regarding this permit action, is available for public review through December 17 during normal business hours at the following locations:

Kansas Department of Health and Environment  
Bureau of Waste Management  
1500 W. 7th  
Chanute, 66720  
Contact: Charles Bowers  
(620) 431-2390

Parsons Public Library  
311 S. 17th  
Parsons, 67357  
Contact: Dana Williams-Capone  
(620) 421-5920

Anyone wishing to comment on the landfill and yard waste composting permit should submit written statements postmarked not later than December 17 to Charles Bowers of KDHE (at the address listed above). All comments received during this public notice shall become part of the permit record and shall be considered in making a final decision on the proposed permit action.

In addition, an informational meeting and public hearing will be held in conjunction with the public comment period Tuesday, December 10, at the Parsons Public Library, 311 S. 17th, Parsons. The informational meeting will be at 6 p.m. At the meeting, concerned individuals can ask KDHE personnel questions regarding the construction and demolition landfill and composting operations in an informal setting. At 6:30 p.m., immediately following the informational meeting, a public hearing will be held to provide a format for individuals to make formal comments that will be recorded by KDHE. KDHE will subsequently respond to all formal comments in writing.

After consideration of all comments received at the formal hearing and all written comments received during the public notice period, KDHE will make a final decision on whether to issue the permit. Notice of the decision will be given to the applicant, to anyone who submitted written comments during the comment period, to those who commented during the public hearing and to those who requested notice of the final permit decision.

Clyde D. Graeber  
Secretary of Health  
and Environment

Doc. No. 028598

## State of Kansas

## State Corporation Commission

## Notice of Motor Carrier Hearings

The following motor carriers have filed various applications and are scheduled for hearing at 9:30 a.m. November 26 before the commission at its offices, 1500 S.W. Arrowhead Road, Topeka, as indicated below. All applications listed herein are for statewide authority unless otherwise stated. This list does not include cases that have been continued from earlier assigned hearing dates for which parties of record have received notice.

Requests to inspect and copy the notices provided to the parties and questions in regard to these hearings should be addressed to the State Corporation Commission, Transportation Division, 1500 S.W. Arrowhead Road, Topeka, 66604-4027, (785) 271-3225 or 271-3151. The presiding officer for these matters is Paula Lentz, Assistant General Counsel, (785) 271-3279. Anyone needing special accommodations should give notice to the commission 10 days prior to the scheduled hearing date.

Attention should be directed to Kansas Administrative Regulation 82-1-228, Rules of Practice and Procedure Before the Commission.

**Applications for Abandonment of Certificate of Public Service:**

**JJ Trucking Co., Inc.**, 2900 Hillcrest Drive, Hays, KS 67601; MC ID No. 158467

**Mitchell W. Sherman, dba Sherman Trucking**, 3103 Millwood, Hutchinson, KS 67502; MC ID No. 159821

**Chad B. Sneath, dba Sneath Trucking**, 811 Kansas St., Fowler, KS 67844; MC ID No. 156308

**Application for Transfer of Certificate of Public Service:**

**Three Bo's, Inc.**, 6 miles south of Lakin on Highway 50, Lakin, KS 67860, MC ID No. 160824, to: Three Bo's Trucking LLC, 6 miles south of Lakin on Highway 25, Lakin, KS 67860; General commodities (except household goods and hazardous materials)

**Application for Name Change of Certificate of Public Service:**

**American Freightways, Inc.**, 2200 Forward Drive, Harrison, AR 72601, MC ID No. 105528, to: Fedex Freight East, Inc., 2200 Forward Drive, Harrison, AR 72601; Ken Reeves, Attorney; General commodities

Mike J. Hoeme, Director  
Transportation Division

Doc. No. 028614

## State of Kansas

**Department of Health  
and Environment****Request for Comments**

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality operating permit. Enbridge, Inc. - KPC has applied for a Class I operating permit in accordance with the provisions of K.A.R. 28-19-510 et seq. The purpose of a Class I permit is to identify the sources and types of regulated air pollutants emitted from the facility; the emission limitations, standards and requirements applicable to each source; and the monitoring, record keeping and reporting requirements applicable to each source as of the effective date of permit issuance.

Enbridge, Inc. - KPC, Houston, Texas, owns and operates Ottawa natural gas compressor station located at Section 32, Township 16 South, Range 20 East, Franklin County, Kansas.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during the permit application review process is available for a 30-day public review during normal business hours at the KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka; and at the KDHE Northeast District Office, 800 W. 24th, Lawrence. To obtain or review the proposed permit and supporting documentation, contact Michael J. Parhomek, (785) 296-1580, at the KDHE central office; or Pat Simpson, (785) 842-4600, at the KDHE Northeast District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Michael J. Parhomek, KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366. In order to be considered in formulating a final permit decision, written comments must be received by the close of business December 9.

A person may request a public hearing be held on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, not later than the close of business on December 9 in order for the Secretary of Health and Environment to consider the request.

The U.S. Environmental Protection Agency has a 45-day review period, which will start concurrently with the 30-day public comment period, within which to object to the proposed permit. If the EPA has not objected in writing to the issuance of the permit within the 45-day review period, any person may petition the administrator of the EPA to review the permit. The 60-day public petition period will directly follow the EPA 45-day review period. If the EPA waives its 45-day review period, the 60-day public petition period will start directly after the 30-day public comment period. Interested parties may contact KDHE to determine if the EPA's 45-day review period has been waived.

Any such petition shall be based only on objections to the permit that were raised with reasonable specificity

during the public comment period provided for in this notice, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. Contact Gary Schlicht, U.S. EPA, Region VII, Air Permitting and Compliance Branch, 901 N. 5th St., Kansas City, KS 66101, (913) 551-7097, to determine when the 45-day EPA review period ends and the 60-day petition period commences.

Clyde D. Graeber  
Secretary of Health  
and Environment

Doc. No. 028597

## State of Kansas

**Department of Health  
and Environment****Request for Comments**

The Kansas Department of Health and Environment has received a permit application from the Lyon County Hazardous Waste Department to operate a household hazardous waste collection facility (HHW). The HHW facility will be located at 3000 W. South Ave., Emporia, in the West 1/2 of the South 1/2 of the Northwest 1/4 of Section 17, Township 19S, Range 11E, Lyon County. KDHE is providing public notice of its intent to issue a solid waste processing facility permit to Lyon County, which recently made submittals that place this household hazardous waste facility in compliance with state regulations for solid waste processing facilities of this type. KDHE has drafted a permit to reflect these submittals.

A copy of the administrative record, which includes the permit application and all information regarding this permit action, is available for public review through December 6 during normal business hours, Monday through Friday, at the Kansas Department of Health and Environment, Bureau of Waste Management, 1000 S.W. Jackson, Suite 320, Topeka, 66612-1366, Contact: Steve Sellmeyer, (785) 296-1613.

Anyone wishing to comment on the permit application and attached information should submit written statements postmarked not later than December 6 to Steve Sellmeyer (KDHE). After consideration of all comments received, the director of the Division of Environment will make a final decision on whether to issue the permit. Notice of the decision will be provided to anyone who submitted written comments during the comment period and to those who requested notice of the final permit decision.

Clyde D. Graeber  
Secretary of Health  
and Environment

Doc. No. 028604

## State of Kansas

**Department of Health  
and Environment**

**Request for Comments**

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality operating permit. ONEOK Field Services Company has applied for a Class I operating permit in accordance with the provisions of K.A.R. 28-19-510 et seq. The purpose of a Class I permit is to identify the sources and types of regulated air pollutants emitted from the facility; the emission limitations, standards and requirements applicable to each source; and the monitoring, record keeping and reporting requirements applicable to each source as of the effective date of permit issuance.

ONEOK Field Services Company, Tulsa, Oklahoma, owns and operates a natural gas compressor station located at Section 13, Township 28 South, Range 8 West, Kingman County, Kansas.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during the permit application review process is available for a 30-day public review during normal business hours at the KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka; and at the KDHE South Central District Office, 130 S. Market, Suite 6050, Wichita. To obtain or review the proposed permit and supporting documentation, contact Xiao Wu, (785) 296-1615, at the KDHE central office; or David Butler, (316) 337-6020, at the KDHE South Central District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Xiao Wu, KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366. In order to be considered in formulating a final permit decision, written comments must be received by the close of business December 9.

A person may request a public hearing be held on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, not later than the close of business December 9 in order for the Secretary of Health and Environment to consider the request.

The U.S. Environmental Protection Agency has a 45-day review period, which will start concurrently with the 30-day public comment period, within which to object to the proposed permit. If the EPA has not objected in writing to the issuance of the permit within the 45-day review period, any person may petition the administrator of the EPA to review the permit. The 60-day public petition period will directly follow the EPA 45-day review period. If the EPA waives its 45-day review period, the 60-day public petition period will start directly after the 30-day public comment period. Interested parties may contact KDHE to determine if the EPA's 45-day review period has been waived.

Any such petition shall be based only on objections to the permit that were raised with reasonable specificity

during the public comment period provided for in this notice, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. Contact Gary Schlicht, U.S. EPA, Region VII, Air Permitting and Compliance Branch, 901 N. 5th St., Kansas City, KS 66101, (913) 551-7097, to determine when the 45-day EPA review period ends and the 60-day petition period commences.

Clyde D. Graeber  
Secretary of Health  
and Environment

Doc. No. 028609

## State of Kansas

**Department of Health  
and Environment**

**Request for Comments**

The Kansas Department of Health and Environment and the Unified Government of Wyandotte County/Kansas City, Kansas' Department of Air Quality (DAQ) are soliciting comments regarding a proposed air quality operating permit. Unimark Oil Company has applied for a Class II operating permit in accordance with the provisions of K.A.R. 28-19-544 et seq. The purpose of a Class II permit is to limit the potential-to-emit of hazardous air pollutant methanol below 10 tons per year.

Unimark Oil Company, El Dorado, Arkansas, owns and operates a lubricating oil and grease manufacturing facility located at 2727 Roe Lane, Kansas City, Kansas.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during review of the permit application is available for public inspection for a period of 30 days from the date of publication during normal business hours at the KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka; and at the DAQ, 619 Ann Ave., Kansas City, Kansas. To obtain or review the proposed permit and supporting documentation, contact Connie Carreno, (785) 296-6422, at the KDHE central office; or Andrew Beard, (913) 573-6700, at the DAQ. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Andrew Beard, DAQ, 619 Ann Ave., Kansas City, KS 66101. In order to be considered in formulating a final permit decision, written comments must be received by the close of business December 9.

A person may request a public hearing be held on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, KDHE, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366, not later than the close of business December 9 in order for the Secretary of Health and Environment to consider the request.

Clyde D. Graeber  
Secretary of Health  
and Environment

Doc. No. 028608



## State of Kansas

Department of Health  
and Environment

## Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality operating permit. Poli-Tron, Inc. has applied for a Class I operating permit in accordance with the provisions of K.A.R. 28-19-510 et seq. The purpose of a Class I permit is to identify the sources and types of regulated air pollutants emitted from the facility; the emission limitations, standards and requirements applicable to each source; and the monitoring, record keeping and reporting requirements applicable to each source as of the effective date of permit issuance.

Poli-Tron, Inc. owns and operates a facility that manufactures livestock feeding equipment and leasureware products located at 3001 N. Rouse, Pittsburg.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during the permit application review process is available for a 30-day public review during normal business hours at the KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka; and at the KDHE Southeast District Office, 1500 W. 7th, Chanute. To obtain or review the proposed permit and supporting documentation, contact Xiao Wu, (785) 296-1615, at the KDHE central office; or Lynelle Stranghoner, (620) 431-2390, at the KDHE Southeast District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Xiao Wu, KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366. In order to be considered in formulating a final permit decision, written comments must be received by the close of business December 9.

A person may request a public hearing be held on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, not later than the close of business December 9 in order for the Secretary of Health and Environment to consider the request.

The U.S. Environmental Protection Agency has a 45-day review period, which will start concurrently with the 30-day public comment period, within which to object to the proposed permit. If the EPA has not objected in writing to the issuance of the permit within the 45-day review period, any person may petition the administrator of the EPA to review the permit. The 60-day public petition period will directly follow the EPA 45-day review period. If the EPA waives its 45-day review period, the 60-day public petition period will start directly after the 30-day public comment period. Interested parties may contact KDHE to determine if the EPA's 45-day review period has been waived.

Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in this notice, unless the petitioner demonstrates that it was im-

practicable to raise such objections within such period, or unless the grounds for such objection arose after such period. Contact Gary Schlicht, U.S. EPA, Region VII, Air Permitting and Compliance Branch, 901 N. 5th St., Kansas City, KS 66101, (913) 551-7097, to determine when the 45-day EPA review period ends and the 60-day petition period commences.

Clyde D. Graeber  
Secretary of Health  
and Environment

Doc. No. 028599

## State of Kansas

Department of Health  
and Environment

## Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding an air quality construction permit. Johns Manville, Inc. has applied for an air quality construction permit in accordance with the provisions of K.A.R. 28-19-300 for Line 123 refeed operation. Emissions of particulate matter (PM) and particulate matter equal to or less than 10 microns in diameter (PM<sub>10</sub>) were evaluated during the permit review process.

Johns Manville, Inc. owns and operates the stationary source located at County Road 319, McPherson, McPherson County.

A copy of the permit, permit application, all supporting documentation and all information relied upon during review of the permit application is available for public inspection for a period of 30 days from the date of publication during normal business hours at the KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka; and at the KDHE North Central District Office, 2501 Market Place, Suite D, Salina. To obtain or review the permit and supporting documentation, contact Michael Stewart, (785) 296-1994, at the KDHE central office, or Rick Brunetti, (785) 827-9639, at the KDHE North Central District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the permit to Michael Stewart, KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366. In order to be considered in formulating a final permit decision, written comments must be received by the close of business December 9.

A person may request a public hearing be held on the permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, not later than the close of business December 9 in order for the Secretary of Health and Environment to consider the request.

Clyde D. Graeber  
Secretary of Health  
and Environment

Doc. No. 028601

## State of Kansas

Department of Health  
and Environment

## Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality operating permit. Northern Natural Gas Company has applied for a Class I operating permit in accordance with the provisions of K.A.R. 28-19-510 et seq. The purpose of a Class I permit is to identify the sources and types of regulated air pollutants emitted from the facility; the emission limitations, standards and requirements applicable to each source; and the monitoring, record keeping and reporting requirements applicable to each source as of the effective date of permit issuance.

Northern Natural Gas Company, Liberal, owns and operates a natural gas compressor station located at Section 3, Township 34 South, Range 37 West, Stevens County.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during the permit application review process is available for a 30-day public review during normal business hours at the KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka; and at the KDHE South Central District Office, 130 S. Market, sixth floor, Wichita. To obtain or review the proposed permit and supporting documentation, contact Michael J. Parhomek, (785) 296-1580, at the KDHE central office; or Don Mies, (316) 337-6107, at the KDHE South Central District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Michael J. Parhomek, KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366. In order to be considered in formulating a final permit decision, written comments must be received by the close of business December 9.

A person may request a public hearing be held on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, not later than the close of business December 9 in order for the Secretary of Health and Environment to consider the request.

The U.S. Environmental Protection Agency has a 45-day review period, which will start concurrently with the 30-day public comment period, within which to object to the proposed permit. If the EPA has not objected in writing to the issuance of the permit within the 45-day review period, any person may petition the administrator of the EPA to review the permit. The 60-day public petition period will directly follow the EPA 45-day review period. If the EPA waives its 45-day review period, the 60-day public petition period will start directly after the 30-day public comment period. Interested parties may contact KDHE to determine if the EPA's 45-day review period has been waived.

Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in this

notice, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. Contact Gary Schlicht, U.S. EPA, Region VII, Air Permitting and Compliance Branch, 901 N. 5th St., Kansas City, KS 66101, (913) 551-7097, to determine when the 45-day EPA review period ends and the 60-day petition period commences.

Clyde D. Graeber  
Secretary of Health  
and Environment

Doc. No. 028594

## State of Kansas

Department of Health  
and Environment

## Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding an air quality operating permit. Funk Manufacturing Company has applied for a Class II operating permit in accordance with the provisions of K.A.R. 28-19-540. Emissions of oxides of nitrogen (NOx) and carbon monoxide (CO) were evaluated during the permit review process. The purpose of a Class II permit is to limit the potential-to-emit for these pollutants to below major source thresholds.

Funk Manufacturing Company, Coffeyville, owns and operates diesel engine test cells located at Industrial Park, Highway 169 N., Coffeyville.

A copy of the permit, permit application, all supporting documentation and all information relied upon during the permit application review process is available for public review for a period of 30 days from the date of publication during normal business hours at the KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka; and at the KDHE Southeast District Office, 1500 W. 7th, Chanute. To obtain or review the permit and supporting documentation, contact Michael Stewart, (785) 296-1994, at the KDHE central office; or Lynelle Stranghoner, (620) 431-2390, at the KDHE Southeast District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the permit to Michael Stewart, KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366. In order to be considered in formulating a final permit decision, written comments must be received by the close of business December 9.

A person may request a public hearing be held on the permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, not later than the close of business December 9 in order for the Secretary of Health and Environment to consider the request.

Clyde D. Graeber  
Secretary of Health  
and Environment

Doc. No. 028600

State of Kansas

Department of Health and Environment

Request for Comments

The Kansas Department of Health and Environment has drafted a permit for Chamness Technology, Inc. to operate a source-separated organic waste composting facility, located on approximately 11.5 acres in the South 1/2 of Section 15, Township 25S, Range 25W, .5 mile west of the intersection of Denim Road and 110 Road, Dodge City, Ford County. KDHE is providing public notice of its intent to issue a source-separated organic waste composting facility permit for Chamness Technology, Inc. The perspective permittee recently made submittals that place this source-separated organic waste composting facility in compliance with state regulations for solid waste processing facilities.

A copy of the administrative record, which includes the draft permit and all information regarding this permit action, is available for public review through December 13 during normal business hours, Monday through Friday, at the following locations:

Kansas Department of Health and Environment
Permits Section
Bureau of Waste Management
1000 S.W. Jackson, Suite 320
Topeka, 66612-1366
Contact: Ken Powell
(785) 296-1121

Ford County Clerk's Office
Ford County Government Center
100 Gunsmoke, 4th Floor
Dodge City, 67801
Contact: Victoria Wells
(620) 227-4550

In addition, an informational meeting and public hearing will be held in conjunction with the public comment period Tuesday, December 10, in the City Commission Room of City Hall, 806 2nd Ave., Dodge City. The informational meeting will be at 6 p.m. At the meeting, concerned individuals can ask KDHE personnel questions regarding the source-separated composting facility in an informal setting. At 6:30 p.m., immediately following the informational meeting, a public hearing will be held to provide a format for individuals to make formal comments that will be recorded by KDHE. KDHE will subsequently respond to all formal comments in writing.

Anyone wishing to comment in writing on the draft permit information should submit written statements postmarked not later than December 13 to Ken Powell (KDHE). After consideration of all comments received, the director of the Division of Environment will make a final decision on whether to issue the permit. Notice of the decision will be given to anyone who submitted written comments during the comment period and to those who requested notice of the final permit decision.

Clyde D. Graeber
Secretary of Health and Environment

Doc. No. 028610

State of Kansas

Secretary of State

Code Mortgage Rate for November

Pursuant to the provisions of K.S.A. 2001 Supp. 16a-1-301, Section 11, the code mortgage rate during the period of November 1, 2002 through November 30, 2002, is 12 percent.

Ron Thornburgh
Secretary of State

Doc. No. 028593

State of Kansas

Secretary of State

Usury Rate for November

Pursuant to the provisions of K.S.A. 2001 Supp. 16-207, the maximum effective rate of interest per annum for notes secured by all real estate mortgages and contracts for deed for real estate (except where the note or contract for deed permits adjustment of the interest rate, the term of the loan or the amortization schedule) executed during the period of November 1, 2002 through November 30, 2002, is 7.24 percent.

Ron Thornburgh
Secretary of State

Doc. No. 028592

State of Kansas

Kansas Development Finance Authority

Notice of Hearing

A public hearing will be conducted at 9 a.m. Thursday, November 21, in the conference room in the offices of Kansas Development Finance Authority, 555 S. Kansas Ave., Suite 202, Topeka, regarding the proposed issuance by the Authority of its Health Facilities Revenue Bonds in a principal amount not to exceed \$13,000,000 for the purpose of making a loan to Susan B. Allen Memorial Hospital, a Kansas nonprofit corporation (the corporation), (1) to finance, refinance and reimburse the costs of certain healthcare facilities of the institution (the project); (2) to fund a debt service reserve for the bonds; and (3) to pay related expenses incurred in connection with the issuance of the bonds for the acute care hospital and related facilities owned and operated by the corporation as Susan B. Allen Memorial Hospital and located at 720 W. Central, El Dorado, Butler County, Kansas 67042 .

All individuals who appear at the hearing will be given an opportunity to express their views, and all written comments previously filed with the Authority at its offices at Suite 202, 555 S. Kansas Ave., Topeka, 66603, will be considered. Additional information regarding the project may be obtained by contacting the Authority or the Authority's general counsel, Rebecca Floyd, (785) 357-4445, ext. 303.

Jack H. Brier
President

Doc. No. 028603

## 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. A complete listing of Kansas state agencies, boards and commissions, and county officials are included in the Kansas Directory, published by the Secretary of State. The directory also is available on the Secretary of State's Web site at [www.kssos.org](http://www.kssos.org). The following appointments were recently filed with the Secretary of State:

**District Judge, 11th Judicial District,  
Division 1**

**Andrew J. Wachter**, 2002 E. 8th, Pittsburg, 66762. Succeeds Nelson Toburen, resigned.

**Kingman County Attorney**

**Bradford L. Williams**, Kingman County Courthouse, 130 N. Spruce, Kingman, 67068. Term expires when a successor is elected and qualifies according to law. Succeeds Charles W. Banks, resigned.

**Kingman County Treasurer**

**Donna Rohlman**, Kingman County Courthouse, 130 N. Spruce, Kingman, 67068. Term expires when a successor is elected and qualifies according to law. Succeeds Deanna Krehbiel, resigned.

**Kansas Agricultural Remediation Board**

**Roger Long**, 96 N.E. 25 Road, Great Bend, 67530. Term expires June 30, 2006. Reappointed.

**Laura J. Pearl**, 101 E. Lasley St., St. Marys, 66536. Term expires June 30, 2006. Reappointed.

**State Civil Service Board**

**Kent Hurn**, 3221 N.W. 34th St., Topeka, 66618. Term expires March 15, 2005. Succeeds Thomas Corcoran.

**State Board of Cosmetology**

**Marie Plinsky**, 1028 S.W. Western Ave., Topeka, 66604. Term expires June 30, 2003. Succeeds Stephen Hudson, resigned.

**State Energy Resources Coordination Council**

(Established by Executive Order 2002-04)

**Lee Allison, Chair**, c/o Kansas Geological Survey, 1930 Constant Ave., Campus West, Lawrence, 66047.

**David M. Dayvault**, Grant Thornton LLP, 8300 Thorn Drive, Wichita, 67226. Term expires June 30, 2006.

**Spencer L. Depew**, Depew & Gillen, 151 N. Main, Wichita, 67202. Term expires June 30, 2004.

**Lee C. Gerhard**, Gerhard & Associates, 1628 Alvamar Drive, Lawrence, 66047. Term expires June 30, 2004.

**Colin M. Hansen**, Kansas Municipal Utilities, 101-1/2 N. Main, McPherson, 67460. Term expires June 30, 2005.

**Barry Hart**, Kansas Electric Cooperatives, Inc., 7332 S.W. 21st St., Topeka, 66615. Term expires June 30, 2005.

**Galen B. Menhard**, National Cooperative Refinery Association, 1391 Iron Horse Road, McPherson, 67460. Term expires June 30, 2005.

**David R. Phelps**, Executive Director, Generation, Westar Energy, Topeka, 66601. Term expires June 30, 2005.

**Alex Silver**, Black & Veatch, 11401 Lamar, Overland Park, 66211. Term expires June 30, 2006.

**Michael J. Volker**, Midwest Energy, Inc., 1330 Canterbury Road, Hays, 67601. Term expires June 30, 2006.

**John R. Wine, Vice Chair**, c/o State Corporation Commission, 1500 S.W. Arrowhead, Topeka, 66604.

**Stan Zaremba**, Zarco Inc., 718 E. 1300 Road, Lawrence, 66046. Term expires June 30, 2006.

**Kansas State Historical Society  
Executive Committee**

**William Avery**, 902 10th St., Wakefield, 67487. Term expires November 4, 2005. Reappointed.

**Governor's Commission on Housing**

**Karen Davis**, 2394 Grandview Terrace, Manhattan, 66502. Term expires March 3, 2005. Succeeds Janet Lloyd-Williams.

**Craig Meader**, 2051 N.E. Highway 31, Waverly, 66871. Term expires March 3, 2005. Reappointed.

**Martin Nohe**, 12003 Reinhardt, Leawood, 66209. Term expires March 3, 2005. Reappointed.

**State Library Advisory Commission**

**Stella Bentley**, 5922 Longleaf Circle, Lawrence, 66049. Term expires June 30, 2003. Succeeds Ruth Jackson.

**Marcella Kille**, Hutchinson Public Library, 901 N. Main St., Hutchinson, 67501. Term expires June 30, 2006. Reappointed.

**Kansas Library Network Board**

**Joe McKenzie**, 2120 Fairdale Court, Salina, 67401. Term expires June 30, 2005. Succeeds Mona Carmack.

**Gayle K. Willard**, College of Veterinary Medicine, Kansas State University, Manhattan, 66506. Term expires June 30, 2005. Succeeds Edwin Burgess.

**Northwest Kansas Regional Library System**

**Stephanie Brock**, P.O. Box 36, Wallace, 67761. Term expires June 30, 2006. Succeeds Wilma Mai.

**Southeast Kansas Regional Library System**

**Laura Kirk**, 1514 S.E. 20th St., Columbus, 66725. Term expires June 30, 2005. Succeeds Doris Naylor.

**Kansas Technology Enterprise Corporation**

**David W. Brant**, 9029 Westlawn, #1, Wichita, 67212. Term expires January 15, 2004. Succeeds Richard Danforth.

**Lindsay Olsen**, 9600 Manor, Leawood, 66206. Term expires January 15, 2006. Succeeds Tracy Taylor.

**Council on Travel and Tourism**

**Larry D. Berg**, 1401 W. 42nd, Hays, 67601. Term expires September 30, 2005. Reappointed.

**Barbara Hansen**, 1223 N. Rock Road, Bldg. G, Suite 200, Wichita, 67206. Term expires September 30, 2005. Reappointed.

**Michael Pickering**, 629 E. North St., Lincoln, 67455. Term expires September 30, 2005. Reappointed.

**Reba M. Smothermon**, 318 Harvard Ave., Liberal, 67905. Term expires September 30, 2005. Succeeds Patty Markley.

**Mary Lynn Stevenson**, Route 5, Fort Scott, 66701. Term expires September 30, 2005. Succeeds Bob Barker.

**Terry Tietjens**, 1105 N. Buckeye, Abilene, 67410. Term expires September 30, 2005. Reappointed.

**University of Kansas Hospital Authority**

**John B. Payne**, 12116 Wenonga Road, Leawood, 66209. Term expires March 15, 2004. Succeeds Ramon Murguia, resigned.

Ron Thornburgh  
Secretary of State

Doc. No. 028590

**State of Kansas**

**Department of Wildlife and Parks**

**Permanent Administrative  
Regulations**

**Article 17.—WILDLIFE, COMMERCIAL  
USES AUTHORIZED**

**115-17-6. Commercial mussel fishing license; license application and requirements, authority, reports, general provisions, and license revocation.** (a) A commercial mussel fishing license shall be required for commercial mussel fishing purposes.

(b) Any person may apply to the secretary for a commercial mussel fishing license. The application shall be submitted on forms provided by the department, and each applicant shall provide the following information, except that no commercial license shall be issued on and after January 1, 2003 through December 31, 2012:

- (1) The name of the applicant;
- (2) the address and telephone number of the applicant;
- (3) the business locations and telephone numbers of the applicant;
- (4) the location for mussel storage and processing; and
- (5) other information as required by the secretary.

(c) Each licensee shall maintain a current record of activity and shall submit quarterly reports to the department on forms provided by the department. The reports shall be submitted not later than 15 days following the end of the quarter for which the reports are prepared. A license shall not be renewed until all reports due have been received by the department.

(d) The records and reports shall include the following information:

- (1) The name of the licensee;
- (2) the address and telephone number of the licensee;
- (3) the license number of the licensee;
- (4) the total weight or total shell weight of each mussel species harvested;

(5) the total weight or total shell weight of each mussel species sold, including the following information:

- (A) A separate entry for each sale stating the total weight or total shell weight of each mussel species sold;
- (B) the date of each sale;
- (C) the name, address, and license number of the person to whom the mussels were sold; and
- (D) the name of the state where harvested; and
- (6) other information as required by the secretary.

(e) A commercial mussel fishing licensee shall sell mussels only to a person legally authorized to purchase mussels under subsection (f) of this regulation, or pursuant to K.A.R. 115-17-14.

(f) Any person may purchase mussels from a commercial mussel fishing licensee if the mussels are not purchased for use as fish bait, are not purchased for resale, are not purchased for other commercial use, and are not sold.

(g) In addition to other penalties prescribed by law, a commercial mussel fishing application or license may be revoked or denied issuance by the secretary if any of the following conditions is met:

- (1) The application is incomplete or contains false information.
- (2) The licensee fails to meet license requirements or violates license conditions.
- (3) The licensee violates any provision of law, rules, or regulations related to the commercial use of mussels.

(h) Each commercial mussel fishing license shall expire on December 31 of the year for which the license was issued.

(i) A commercial mussel fishing license shall permit possession of mussels harvested for commercial purposes by that licensee for no more than 48 hours after the close of the mussel season.

(j) A licensee may submit a written request to the secretary to possess mussels for commercial purposes beyond the possession period specified above in subsection (i). Each request shall specify the number of each species of mussels possessed and the applicant's name, address, and commercial mussel fishing license number. Authorization of possession beyond the possession period shall be issued in writing and shall include a date on which the authorization expires. Receipts of this authorization by the licensee shall allow the licensee's sale of shells pursuant to subsection (e) of this regulation. Any mussel sale during the authorized time period shall be reported to the department within 48 hours of the sale by both the licensee and the purchaser. (Authorized by K.S.A. 32-807 and K.S.A. 32-941; implementing K.S.A. 32-807, K.S.A. 32-941, and K.S.A. 32-1002; effective Jan. 1, 1991; amended June 8, 1992; amended Nov. 30, 1998; amended Nov. 22, 2002.)

**115-17-7. Commercial harvest of mussels; legal species, seasons, size restrictions, daily limits, and possession limits.** (a) The following listed mussel species may be taken for commercial purposes, except that no mussels may be commercially harvested on and after January 1, 2003 through December 31, 2012:

- (1) Threeridge, *Amblema plicata*;

(continued)

- (2) monkeyface, *Quadrula metanevra*;
- (3) mapleleaf, *Quadrula quadrula*;
- (4) bleufer (purple shell), *Potamilus purpuratus*; and
- (5) Asian clam, *Corbicula fluminea*.

(b) The season for the commercial harvest of mussels shall be on and after April 1 through September 30. However, mussels shall not be commercially harvested on and after January 1, 2003 through December 31, 2012.

(c) Harvesting requirements shall include the following:

(1) The minimum size of mussels shall be measured by passing the mussel shell through a circular measuring device with the appropriate inside diameter.

(2) Measurement shall occur immediately upon removal of the mussel from the water.

(3) If the mussel passes through the appropriate circular measuring device from any angle or direction, the mussel shall not be deemed to meet the minimum size requirement and shall be immediately returned to the water.

(4) The minimum shell size for mussel species shall be the following:

- (A) Threeridge: 3 inch diameter;
- (B) monkeyface: 2¾ inch diameter;
- (C) mapleleaf and bleufer: 3 inch diameter; and
- (D) Asian clam: no minimum size.

(d) There shall be no maximum daily or possession limits for mussels. (Authorized by K.S.A. 32-807 and K.S.A. 32-941; implementing K.S.A. 32-807, K.S.A. 32-941 and K.S.A. 32-1002; effective Jan. 1, 1991; amended June 8, 1992; amended Nov. 22, 2002.)

**115-17-8. Commercial harvest of mussels; legal equipment, taking methods, and general provisions.** (a) Legal equipment and taking methods permitted for commercial harvest of mussels shall be the following:

- (1) By hand; and
- (2) by other methods as approved by the department.

(b) (1) Boats with or without mechanical propulsion methods may be used.

(2) Depth-recording or fish-locating devices may be used.

(3) Underwater breathing equipment may be used while taking mussels, if a diver's flag is prominently displayed while using the underwater breathing equipment.

(4) Holding bags, holding baskets, and holding cages may be used if the name and permit number of the permittee is attached to each such bag, basket, and cage.

(c) No mussels may be commercially harvested on and after January 1, 2003 through December 31, 2012. (Authorized by K.S.A. 32-807 and K.S.A. 32-941; implementing K.S.A. 32-807, K.S.A. 32-941, and K.S.A. 32-1002; effective Jan. 1, 1991; amended Nov. 22, 2002.)

**115-17-9. Commercial mussel fishing; open areas.** Waters of the state open for commercial mussel fishing shall be the following, except that all waters of the state shall be closed on and after January 1, 2003 through December 31, 2012:

(a) Federal reservoirs;

(b) impoundments operated by other governmental entities, if authorized by the governmental entity;

(c) Fall River from below Fall River Dam to its junction with the Verdigris River, except for the stretch of the Fall River from the county road ford located 1.2 miles east of state highway K-96, 3.2 miles south of Fredonia, Kansas, downstream to the Dun Dam located 2.5 miles west and 2.25 miles north of Neodesha, Kansas, which is a total of 9.89 stream miles including 3.27 impounded miles;

(d) Verdigris River from below Toronto Dam to the state line, except for the stretch of the Verdigris River from the Whitehair bridge located 2.5 miles east of federal highway US-75 on the Wilson-Montgomery county line road, downstream to the Montgomery county road bridge located 1.47 miles east of Sycamore, Kansas, which is a total of 6.66 stream miles; and

(e) Neosho River from below John Redmond Dam to the state line, except for the stretch of the Neosho River from the Neosho Falls dam, at Neosho Falls, Kansas, downstream to the mouth of Rock Creek in the NW ¼, NW ¼, Section 11, T24S, R17E, Allen County, Kansas, which is a total of 3.35 stream miles; and

(f) Elk River. (Authorized by K.S.A. 32-807 and K.S.A. 32-941; implementing K.S.A. 32-807, K.S.A. 32-941 and K.S.A. 32-1002; effective Jan. 1, 1991; amended June 8, 1992; amended Nov. 22, 2002.)

**115-17-14. Commercial mussel dealer permit; permit application and requirements, authority, reports, general provisions, and permit revocation.** (a) Each person desiring to purchase or import wild mussels for resale, for export from the state, or for any other commercial use shall make application to the secretary for a commercial mussel dealer permit.

(b) Applications shall be submitted on forms provided by the department, and each applicant shall provide the following information:

- (1) The name of the applicant;
- (2) the address and telephone number of the applicant;
- (3) the business locations and the phone numbers of the applicant;
- (4) the location for mussel storage and processing; and
- (5) other information as required by the secretary.

(c) Any commercial mussel dealer may buy, sell, or trade in those species listed in K.A.R. 115-17-7. A commercial mussel dealer shall not buy, sell, or trade any mussel species for use as fish bait.

(d) Each commercial mussel dealer shall purchase mussels only from sources authorized pursuant to K.A.R. 115-17-6, from a commercial mussel dealer authorized pursuant to this regulation, or from a person authorized by another state to sell mussels.

(e) A commercial mussel dealer shall sell mussels only to the following:

- (1) A commercial mussel dealer authorized pursuant to this regulation; or
- (2) a person legally authorized by another state to purchase mussels.

(f) When a commercial mussel dealer ships, exports, or otherwise sells mussels commercially, the dealer shall provide a bill of lading with each sale. The bill of lading written be on a form provided by the department and shall include the following information:

- (1) The name, address and telephone number of the commercial mussel dealer;

- (2) the dealer permit number and expiration date;
- (3) the shipping date;
- (4) the name of the recipient;
- (5) the address and telephone number of the recipient;

and

- (6) the total weight of each species on shipment.

(g) Each permittee shall maintain a commercial mussel dealer record book and shall submit a quarterly report to the department. The record book and quarterly report shall be maintained and submitted on forms provided by the department and shall be subject to inspection upon demand by any conservation officer. The report shall be submitted not later than 15 days following the end of the quarter for which the report is prepared. A permit shall not be renewed until all reports have been received by the department.

(h) The record book and report shall include the following information:

- (1) The name of the permittee;
- (2) the address and telephone number of the permittee;
- (3) the permit number of the permittee;
- (4) the total shell weight of each mussel species purchased or imported, including the following information:
  - (A) A separate entry for each purchase or importation, stating the total shell weight of each mussel species purchased;
  - (B) the date of each purchase or importation;
  - (C) the name of the state where harvested; and
  - (D) the name, address, and permit number of each person from whom mussels were purchased or imported;
- (5) a copy of each bill of lading accompanying each sale and shipment; and
- (6) other information as required by the secretary.

(i) In addition to other penalties prescribed by law, a commercial mussel dealer permit may be revoked or denied issuance by the secretary if any of these conditions is met:

- (1) The application is incomplete or contains false information.
- (2) The permittee fails to meet reporting requirements or violates permit conditions.
- (3) The permittee violates any provision of law, rule, or regulation related to the commercial use of mussels.

(j) Each commercial mussel dealer permit shall expire on December 31 of the year for which the permit was issued.

(k) Any commercial mussel dealer may possess and sell legally acquired mussels no more than 30 days after the expiration date of the permit. (Authorized by K.S.A. 32-807 and K.S.A. 32-941; implementing K.S.A. 32-941 and K.S.A. 32-1002; effective June 8, 1992; amended Nov. 30, 1998; amended Nov. 22, 2002.)

#### Article 20.—MISCELLANEOUS REGULATIONS

**115-20-2.** Certain wildlife; legal equipment, taking methods, possession, and license requirement. (a) Subject to federal and state laws and rules and regulations, wildlife listed below in subsection (b) may be taken for personal use on a noncommercial basis.

(b) For purposes of this regulation, wildlife shall include the following, excluding any species listed in K.A.R. 115-15-1 or K.A.R. 115-15-2:

- (1) Prairie dog;
- (2) ground squirrel;
- (3) woodchuck;
- (4) mole;
- (5) gopher;
- (6) kangaroo rat;
- (7) wood rat;
- (8) armadillo;
- (9) porcupine;
- (10) feral pigeon;
- (11) commensal and other rodents, excluding game and furbearing animals;
- (12) invertebrates;
- (13) amphibians; except bullfrogs; and
- (14) reptiles, except common snapping turtles and soft-shelled turtles.

(c) Wildlife listed above in subsection (b) shall be taken only with any of the following legal equipment or methods:

- (1) Firearms, except fully automatic firearms;
- (2) bow and arrow;
- (3) pellet and BB guns;
- (4) crossbow;
- (5) falconry;
- (6) projectiles hand-thrown or propelled by a sling-shot;
- (7) trap;
- (8) deadfall;
- (9) snare or noose;
- (10) net or seine;
- (11) glue board;
- (12) hand;
- (13) dogs; or
- (14) poison, poisonous gas, or smoke, if the toxicant is registered and labeled for that use and if all permit requirements for use of the poison, poisonous gas, or smoke have been met.

(d) The open season for the taking of wildlife listed above in subsection (b) shall be year round.

(e) There shall be no maximum daily bag or possession limit for wildlife listed above in subsection (b), except that no more than five of any one species of amphibian, reptile, or mussel may be possessed and no more than five live specimens of mussels may be possessed. Two opposing shells shall constitute one mussel.

(f) Legally taken wildlife listed above in subsection (b) may be possessed without limit in time.

(g) A hunting license shall not be required to take invertebrates. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807, K.S.A. 32-919, K.S.A. 32-1002, and K.S.A. 32-1003; effective Sept. 10, 1990; amended Nov. 30, 1998; amended July 13, 2001; amended Nov. 22, 2002.)

#### Article 30.—BOATING

**115-30-8.** Boating; accident reports. (a) Each accident resulting either in property damage in excess of \$2000 or in the total loss of any vessel shall be reported to the department by the operator of the vessel. This requirement shall include all collision type accidents involving other vessels, floating objects, and fixed objects,

(continued)

except that an accident report shall not be required when a collision with a floating object or fixed object results in lower unit skeg or propeller damage.

(b) Each accident report required under K.S.A. 32-1177 and amendments thereto and each accident as specified in subsection (a) shall be filed with the department by the operator of the vessel within five days after the time of the accident, except that the accident report shall be filed with the department by the operator of the vessel within 48 hours after the time of the accident involving the vessel or its equipment if any of the following occurs:

- (1) A person dies.
- (2) A person is injured and requires medical treatment beyond first aid.
- (3) A person disappears from a vessel under circumstances that indicate death or injury.

(c) Each accident report shall be submitted on forms provided by the department and shall contain the following information:

- (1) The names, addresses, and telephone numbers of the vessel operator and any passengers in the operator's vessel;
- (2) the names, addresses, and telephone numbers of vessel operators and any passengers in any other vessels involved;
- (3) the registration number and a description of the operator's vessel;
- (4) the registration number and a description of any other vessels involved in the accident;
- (5) a complete description of the accident, including any injuries or deaths; and
- (6) other information as required by the secretary.

(d) Any individual with knowledge of the accident, including the reporting officer, may file the required accident report if the operator is unable to file the report due to injury or death. (Authorized by and implementing K.S.A. 32-1177; effective Oct. 22, 1990; amended Dec. 27, 1993; amended Nov. 22, 2002.)

J. Michael Hayden  
Secretary of Wildlife and Parks

Doc. No. 028606

## State of Kansas

### Department of Health and Environment

#### Permanent Administrative Regulations

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

**28-19-17. Prevention of significant deterioration of air quality; cross-reference.** Each reference in this article to K.A.R. 28-19-17 through K.A.R. 28-19-17q, individually or collectively, shall be interpreted to refer to K.A.R. 28-19-350. (Authorized by and implementing K.S.A. 2001 Supp. 65-3005, 65-3008, and K.S.A. 65-3010; effective May 1, 1983; amended May 1, 1986; amended May 1, 1987; amended June 8, 1992; amended Nov. 22, 2002.)

**28-19-17a.** (Authorized by K.S.A. 65-3005; implementing K.S.A. 65-3005, 65-3008 and 65-3010; effective May 1, 1983; amended May 1, 1986; amended Oct. 16, 1989; amended June 8, 1992; revoked Nov. 22, 2002.)

**28-19-17b.** (Authorized by K.S.A. 65-3005, as amended by L. 1993, Ch. 13, Sec. 3; implementing K.S.A. 65-3005, as amended by L. 1993, Ch. 13, Sec. 3; 65-3008, as amended by L. 1993, Ch. 13, Sec. 5; 65-3010; effective May 1, 1983; amended May 1, 1986; amended Oct. 16, 1989; amended June 8, 1992; amended March 21, 1994; revoked Nov. 22, 2002.)

**28-19-17c.** (Authorized by K.S.A. 65-3005, as amended by L. 1993, Ch. 13, Sec. 3; implementing K.S.A. 65-3005, as amended by L. 1993, Ch. 13, Sec. 3; 65-3008, as amended by L. 1993, Ch. 13, Sec. 5; 65-3010; effective May 1, 1983; amended Oct. 16, 1989; amended June 8, 1992; amended March 21, 1994; revoked Nov. 22, 2002.)

**28-19-17d.** (Authorized by and implementing K.S.A. 65-3002, 65-3008, 65-3010; effective May 1, 1983; amended June 8, 1992; revoked Nov. 22, 2002.)

**28-19-17e.** (Authorized by and implementing K.S.A. 65-3005, 65-3008, 65-3010; effective May 1, 1983; amended June 8, 1992; revoked Nov. 22, 2002.)

**28-19-17f.** (Authorized by and implementing K.S.A. 65-3005, as amended by L. 1993, Ch. 13, Sec. 3; 65-3008, as amended by L. 1993, Ch. 13, Sec. 5; 65-3010; effective May 1, 1983; amended May 1, 1988; amended June 8, 1992; amended March 21, 1994; revoked Nov. 22, 2002.)

**28-19-17g.** (Authorized by K.S.A. 65-3005; implementing K.S.A. 65-3005, 65-3008, 65-3010; effective May 1, 1983; amended Oct. 16, 1989; amended June 8, 1992; revoked Nov. 22, 2002.)

**28-19-17h.** (Authorized by and implementing K.S.A. 65-3005, 65-3008, 65-3010; effective May 1, 1983; amended June 8, 1992; revoked Nov. 22, 2002.)

**28-19-17i.** (Authorized by K.S.A. 65-3005; implementing K.S.A. 65-3005, 65-3008, 65-3010; effective May 1, 1983; amended Oct. 16, 1989; amended June 8, 1992; revoked Nov. 22, 2002.)

**28-19-17j through 28-19-17l.** (Authorized by and implementing K.S.A. 65-3005, 65-3008, 65-3010; effective May 1, 1983; amended June 8, 1992; revoked Nov. 22, 2002.)

**28-19-17m.** (Authorized by K.S.A. 65-3005, as amended by L. 1993, Ch. 13, Sec. 3; implementing K.S.A. 65-3008, as amended by L. 1993, Ch. 13, Sec. 5; 65-3010; effective June 8, 1992; amended March 21, 1994; revoked Nov. 22, 2002.)

**28-19-17n through 28-19-17q.** (Authorized by K.S.A. 65-3005; implementing K.S.A. 65-3008, 65-3010; effective June 8, 1992; revoked Nov. 22, 2002.)

**28-19-350. Prevention of significant deterioration of air quality.** (a) The requirements of this regulation shall apply to the construction of major stationary sources and major modifications of stationary sources as defined in 40 C.F.R. 52.21 in areas of the state designated as at-



tainment areas or unclassified areas for any pollutant under the procedures prescribed by section 107(d) of the federal clean air act, 42 U.S.C. 7407(d).

(b) 40 C.F.R. 52.21, as in effect on July 1, 2000, is adopted by reference except for the following subsections:

- (1) 52.21(a);
- (2) 52.21(f);
- (3) 52.21(h);
- (4) 52.21(m)(1)(v);
- (5) 52.21(q);
- (6) 52.21(s);
- (7) 52.21(t);
- (8) 52.21(u); and
- (9) 52.21(w).

(c) When used in any provision adopted from 40 C.F.R. 52.21, each reference to "administrator" shall mean the "secretary of health and environment or an authorized representative of the secretary," except for the following:

(1) In subsections 52.21(b)(3)(iii) and 52.21(p)(2), "administrator" shall mean both the "secretary of health and environment" and the "administrator of the U.S. environmental protection agency."

(2) In subsections 52.21(b)(17), 52.21(b)(37)(i), and 52.21(l)(2), "administrator" shall mean only the "administrator of the U.S. environmental protection agency."

(d) Any reference within an adopted provision of 40 C.F.R. 52.21 to any other federal regulation shall not be considered an adoption by reference of that federal regulation if that federal regulation has not been specifically adopted in this regulation.

(e) For the purposes of this regulation, the following definitions shall apply:

(1) "Act" shall mean the federal clean air act, 42 U.S.C. 7401 et seq.

(2) "Class I, II or III area" shall mean a classification assigned to any area of the state under the provisions of sections 162 and 164 of the act, 42 U.S.C. 7472 and 7474, and amendments thereto.

(3) "State" shall mean the state of Kansas.

(f) In relation to ambient air ceilings, the following requirements shall apply:

(1) Except as stated in paragraph (f)(2) of this regulation, a permit shall not be issued for any new major stationary source or major modification as defined in 40 C.F.R. 52.21(b) if the source or modification will be located in an attainment area or an unclassifiable area for any national ambient air quality standard and if the source or modification would cause or contribute to a violation of any national ambient air quality standard. A major source or major modification shall be considered to cause or contribute to a violation of a national ambient air quality standard if the air quality impact of the source or modification would exceed the following levels at any locality that does not or would not meet the applicable national standard:

Pollutant	Averaging Time				
	Annual	24 hrs.	8 hrs.	3 hrs.	1 hr.
Sulphur dioxide	1.0 µg/m <sup>3</sup>	5 µg/m <sup>3</sup>	-----	25 µg/m <sup>3</sup>	-----
PM <sub>10</sub>	1.0 µg/m <sup>3</sup>	5 µg/m <sup>3</sup>	-----	-----	-----
Nitrogen dioxide	1.0 µg/m <sup>3</sup>	-----	-----	-----	-----
Carbon monoxide	-----	-----	0.5 mg/m <sup>3</sup>	-----	2 mg/m <sup>3</sup>

(2) A permit may be granted for a major source or major modification as identified in paragraph (f)(1) of this regulation if the impact of the major source's or major modification's emissions upon air quality is reduced by a sufficient amount to compensate for any adverse impact at the location where the major source or modification would otherwise cause or contribute to a violation of any national ambient air quality standard. Subsection (f) of this regulation shall not apply to a major source or major modification with respect to a particular pollutant if the owner or operator demonstrates that the source is located in an area that has been identified as not meeting either the national primary or secondary ambient air quality standard for that particular pollutant.

(g) K.A.R. 28-19-18 through K.A.R. 28-19-18f, regarding stack height requirements, shall apply to sources subject to this regulation.

(h) Each application for a permit shall be submitted on the form or forms provided by the department.

(i) If the emissions from any proposed major stationary source or major modification subject to this regulation will affect any federal class I area, a copy of the permit application for the source or modification shall be immediately transmitted by the secretary or an authorized representative of the secretary to the administrator of the U.S. environmental protection agency through the appropriate regional office. The administrator, through the appropriate regional office, shall also be notified of every action taken concerning this application.

(j) Any permit issued under this regulation may be suspended or revoked by the secretary upon a finding that the owner or operator has failed to comply with any requirement specified in the permit or with any other statutory or regulatory requirement. This subsection shall not be interpreted to preclude any other remedy provided by law to the secretary.

(k) In addition to the requirements of K.A.R. 28-19-204, the following public participation requirements shall be met before issuance of the permit:

(1) The public notice shall state the portion of the applicable maximum allowable increment that is expected to be consumed by the source or modification.

(2) A copy of the public notice shall be mailed to the following:

- (A) The applicant;
- (B) the administrator of the U.S. environmental protection agency through the appropriate regional office;
- (C) any state or local air pollution control agency having jurisdiction in the air quality control region in which the new or modified installation will be located;
- (D) the chief executives of the city and county where the source is to be located;
- (E) any comprehensive regional land use planning agency having jurisdiction where the source is to be located; and

(F) any state, federal land manager, or Indian governing body whose lands may be affected by emissions from the new construction or modification.

(3) In addition to those materials required to be available for public review at the appropriate district office or local agency, a summary analysis and discussion of those

(continued)

materials as they relate to establishing compliance with the requirements of this regulation shall be made available for public review.

(4) Copies of all comments received and the written determination of the secretary shall be made available for public inspection at the appropriate district office or local agency. (Authorized by K.S.A. 2001 Supp. 65-3005; implementing K.S.A. 2001 Supp. 65-3008; effective Nov. 22, 2002.)

Clyde D. Graeber  
Secretary of Health  
and Environment

Doc. No. 028607

## State of Kansas

### Kansas Parole Board

#### Permanent Administrative Regulations

##### Article 1.—MEANING OF TERMS

**45-1-1.** (Authorized by K.S.A. 1985 Supp. 22-3717; effective, E-79-36, Jan. 1, 1979; effective, E-80-5, April 17, 1979; effective May 1, 1980; amended May 1, 1982; amended May 1, 1986; amended May 1, 1987; revoked Nov. 22, 2002.)

##### Article 4.—PAROLE HEARINGS

**45-4-4.** (Authorized by and implementing K.S.A. 1985 Supp. 22-3717; effective, E-79-36, Jan. 1, 1979; effective, E-80-5, April 17, 1979; effective May 1, 1980; amended May 1, 1982; amended May 1, 1986; amended May 1, 1987; revoked Nov. 22, 2002.)

**45-4-5 and 45-4-6.** (Authorized by and implementing K.S.A. 1984 Supp. 22-3717; effective, E-79-36, Jan. 1, 1979; effective, E-80-5, April 17, 1979; effective May 1, 1980; amended May 1, 1986; revoked Nov. 22, 2002.)

**45-4-7.** (Authorized by and implementing K.S.A. 1986 Supp. 22-3717; effective, E-79-36, Jan. 1, 1979; effective, E-80-5, April 17, 1979; effective May 1, 1980; amended May 1, 1986; amended May 1, 1988; revoked Nov. 22, 2002.)

**45-4-9.** (Authorized by and implementing K.S.A. 1984 Supp. 22-3717; effective, E-79-36, Jan. 1, 1979; effective, E-80-5, April 17, 1979; effective May 1, 1980; amended May 1, 1986; revoked Nov. 22, 2002.)

##### Article 6.—DOCKET

**45-6-1.** (Authorized by and implementing K.S.A. 1984 Supp. 22-3717; effective, E-79-36, Jan. 1, 1979; effective, E-80-5, April 17, 1979; effective May 1, 1980; amended May 1, 1982; amended May 1, 1986; revoked Nov. 22, 2002.)

**45-6-2 and 45-6-3.** (Authorized by and implementing K.S.A. 1984 Supp. 22-3717; effective May 1, 1982; amended May 1, 1986; revoked Nov. 22, 2002.)

**45-6-5.** (Authorized by and implementing K.S.A. 1984 Supp. 22-3717; effective May 1, 1982; amended May 1, 1986; revoked Nov. 22, 2002.)

##### Article 7.—PAROLE RELEASE

**45-7-1.** (Authorized by and implementing K.S.A. 1986 Supp. 22-3717; effective, E-79-36, Jan. 1, 1979; effective, E-80-5, April 17, 1979; effective May 1, 1980; amended May 1, 1982; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; revoked Nov. 22, 2002.)

**45-7-2.** (Authorized by and implementing K.S.A. 1984 Supp. 22-3717; effective, E-79-36, Jan. 1, 1979; effective, E-80-5, April 17, 1979; effective May 1, 1980; amended May 1, 1986; revoked Nov. 22, 2002.)

**45-7-3.** (Authorized by and implementing K.S.A. 1985 Supp. 22-3717; effective, E-79-36, Jan. 1, 1979; effective, E-80-5, April 17, 1979; effective May 1, 1980; amended May 1, 1982; amended May 1, 1986; amended May 1, 1987; revoked Nov. 22, 2002.)

**45-7-4 and 45-7-5.** (Authorized by and implementing K.S.A. 1984 Supp. 22-3717; effective May 1, 1982; effective May 1, 1986; revoked Nov. 22, 2002.)

##### Article 9.—PAROLE VIOLATORS

**45-9-1.** (Authorized by K.S.A. 1998 Supp. 22-3717, as amended by L. 1999, Ch. 164, Sec. 20; implementing K.S.A. 1998 Supp. 75-5217, as amended by L. 1999, Ch. 54, Sec. 1, as further amended by L. 1999, Ch. 164, Sec. 35; effective, E-79-36, Jan. 1, 1979; effective, E-80-5, April 17, 1979; effective May 1, 1980; amended May 1, 1982; amended May 1, 1986; amended May 1, 1988; amended Nov. 5, 1999; revoked Nov. 22, 2002.)

**45-9-2.** (Authorized by K.S.A. 1998 Supp. 22-3717, as amended by L. 1999, Ch. 164, Sec. 20; implementing K.S.A. 1998 Supp. 75-5217, as amended by L. 1999, Ch. 54, Sec. 1, as further amended by L. 1999, Ch. 164, Sec. 35; effective May 1, 1986; amended May 1, 1987; amended, T-45-8-29-97, Aug. 29, 1997; amended Feb. 20, 1998; amended Nov. 5, 1999; revoked Nov. 22, 2002.)

**45-9-3.** (Authorized by K.S.A. 1998 Supp. 22-3717, as amended by L. 1999, Ch. 164, Sec. 20; implementing K.S.A. 1998 Supp. 75-5217, as amended by L. 1999, Ch. 54, Sec. 1, as further amended by L. 1999, Ch. 164, Sec. 35; effective May 1, 1986; amended May 1, 1987; amended Nov. 5, 1999; revoked Nov. 22, 2002.)

**45-9-4.** (Authorized by K.S.A. 1998 Supp. 22-3717, as amended by L. 1999, Ch. 164, Sec. 20 and K.S.A. 1998 Supp. 75-5217, as amended by L. 1999, Ch. 54, Sec. 1, as further amended by L. 1999, Ch. 164, Sec. 35; implementing K.S.A. 1998 Supp. 75-5217, as amended by L. 1999, Ch. 54, Sec. 1, as further amended by L. 1999, Ch. 164, Sec. 35; effective, T-45-7-8-99, July 8, 1999; effective Nov. 5, 1999; revoked Nov. 22, 2002.)

##### Article 10.—CONDITIONAL RELEASE

**45-10-1.** (Authorized by and implementing K.S.A. 1985 Supp. 22-3717; effective, E-79-36, Jan. 1, 1979; effective,

tive, E-80-5, April 17, 1979; effective May 1, 1980; amended May 1, 1982; amended May 1, 1986; amended May 1, 1987; revoked Nov. 22, 2002.)

#### Article 11.—DISCHARGE

**45-11-1.** (Authorized by and implementing K.S.A. 1984 Supp. 22-3717; effective, E-79-36, Jan. 1, 1979; effective, E-80-5, April 17, 1979; effective May 1, 1980; amended May 1, 1982; amended May 1, 1986; revoked Nov. 22, 2002.)

#### Article 14.—EXECUTIVE CLEMENCY

**45-14-1.** (Authorized by K.S.A. 22-3701; and implementing K.S.A. 1984 Supp. 22-3717; effective, E-79-36, Jan. 1, 1979; effective, E-80-5, April 17, 1979; effective May 1, 1980; amended May 1, 1982; amended May 1, 1986; revoked Nov. 22, 2002.)

#### Article 16.—ORDERS OF RESTITUTION

**45-16-2.** (Authorized by and implementing K.S.A. 1985 Supp. 22-3717; effective May 1, 1982; amended May 1, 1986; amended May 1, 1987; revoked Nov. 22, 2002.)

**45-16-3.** (Authorized by and implementing K.S.A. 1984 Supp. 22-3717; effective May 1, 1986; revoked Nov. 22, 2002.)

**45-16-4.** (Authorized by and implementing K.S.A. 1984 Supp. 22-3717; effective May 1, 1986; revoked Nov. 22, 2002.)

#### Article 100.—MEANING OF TERMS

**45-100-1. Definitions.** (a) "Board" means the Kansas parole board established by K.S.A. 22-3707 and amendments thereto.

(b) "Conditional release," for offenders serving indeterminate sentences for offenses committed before July 1, 1993, means release subject to supervision under terms and conditions determined by the board after serving the maximum sentence less all projected good time credits, subject to adjustment for any forfeiture of good time credits.

(c) "Correctional facility" means any of the facilities identified in K.S.A. 75-5202 and amendments thereto.

(d) "Docket" means the board's prearranged schedule of hearings.

(e) "Executive clemency" means the power of the governor to commute or pardon a criminal sentence.

(1) "Commute a criminal sentence" means to reduce the penalty imposed on a convicted person.

(2) "Pardon" means to forgive completely the punishment of a person convicted of a crime.

(f) "Good time credits" means the statutorily authorized reduction in time on an inmate's sentence as specified by K.S.A. 21-4706, K.S.A. 21-4722, and K.S.A. 22-3717, and amendments thereto, and department of corrections regulations.

(g) "In absentia" means a status in which an inmate is committed to the custody of the secretary of corrections

and is serving the sentence out of state or in another jurisdiction.

(h) "Parole" means, for crimes committed before July 1, 1993, the release of an inmate to the community by the Kansas parole board before the expiration of the inmate's sentence, subject to conditions imposed by the board and administered under the secretary of correction's supervision.

(i) "Parole officer" means a full-time, salaried officer or employee under the jurisdiction of the secretary of corrections whose duties include the following:

(1) Investigating, supervising, arresting, and controlling persons on parole or postrelease supervision and enforcing the conditions of parole or postrelease supervision; and

(2) providing services that relate to probationers, parolees, or persons on postrelease supervision and that are required by the uniform act for out-of-state parolee supervision.

(j) "Postrelease supervision" means, for crimes committed on or after July 1, 1993, the release of an inmate, subject to conditions imposed by the Kansas parole board, to the secretary of correction's supervision and to the community after the inmate has served a period of imprisonment or after the inmate has served equivalent time in a facility where credit for time served is awarded as set forth by the court.

(k) "Public comment session" means the board's regular, scheduled meeting with interested parties in the community for the purpose of receiving comments concerning the publicly announced listing of persons to be considered for parole by the board.

(l) "Secretary" means the secretary of corrections.

(m) "Unit team" means the group of correctional facility staff that is responsible for monitoring the overall management, supervision, custody, and rehabilitation plan of an inmate, as initiated by the classification committee, and that recommends custody changes and prepares progress summaries.

(n) "Warden" means the person in charge of the operation and supervision of a correctional facility. (Authorized by and implementing K.S.A. 2001 Supp. 22-3701 and 22-3717, as amended by L. 2002, Ch. 163, Sec. 5; effective Nov. 22, 2002.)

#### Article 200.—PAROLE HEARING PROCEEDINGS

**45-200-1. Attendance at hearings.** (a) Except as provided in subsection (b), attendance at any parole hearing held at a correctional institution shall be limited to the following:

(1) Any individual who is on the board's staff;

(2) the inmate;

(3) the person responsible for coordination of the parole plan for that inmate;

(4) a representative of the inmate's unit team or another designated institution staff member;

(5) any additional employee of the department of corrections who wishes to attend the hearing and who receives prior approval from the board; and

(continued)

(6) if the parole applicant does not offer an objection, a limited number of persons who have a professional interest in parole procedures and who have received prior approval from the board.

(b) Any individual who is authorized to attend a parole hearing under subsection (a) may be denied access to the meeting if the board determines that attendance by that individual is not in the interest of the state. (Authorized by and implementing K.S.A. 2001 Supp. 22-3717, as amended by L. 2002, Ch. 163, Sec. 5; effective Nov. 22, 2002.)

**45-200-2. Single board member hearings; review and appeals.** (a) If a single board member conducts a parole hearing, the findings of that member shall be reviewed and approved in accordance with K.S.A. 22-3709, and amendments thereto, before the findings and decision become final. If there is a disagreement between the member who conducted the hearing and the member who reviewed the findings, the decision shall be submitted for review by another board member. The presence of the inmate shall not be required at either of these reviews.

(b) A request to reconsider a board decision shall be granted only on the basis that the inmate has new information that was unavailable at the prior hearing. Each request for reconsideration shall be made to the board in writing and shall detail the new evidence that was unavailable at the prior hearing. The presence of the inmate shall not be required when the matter is reconsidered.

(c) An inmate who is appealing a sentence or conviction shall not be adversely affected in the parole process or deliberations. However, the parole hearing may be continued by the board for a reasonable time for the purpose of clarifying the status of the appeal to make certain that the board is considering the applicant's parole suitability with respect to the proper sentence. (Authorized by K.S.A. 2001 Supp. 22-3717, as amended by L. 2002, Ch. 163, Sec. 5; implementing K.S.A. 2001 Supp. 22-3709 and 22-3717, as amended by L. 2002, Ch. 163, Sec. 5; effective Nov. 22, 2002.)

#### Article 300.—DOCKETS

**45-300-1. Docketing regular parole hearings.** (a) Each case shall be docketed by the board for a regular parole hearing when all of the following prerequisites have been met:

(1) The inmate has achieved parole eligibility status under the requirements of K.S.A. 21-4608 and K.S.A. 22-3717, and amendments thereto, and department of corrections regulations.

(2) The preparole investigation has been completed.

(3) During the month preceding the proposed docketing of the parole hearing, a public comment session has been conducted by the board.

(b) If an offender has achieved parole eligibility status but has not been placed on the docket for a public comment session, the parole hearing may be conducted by the board if the decision is deferred until the public comment session has been held. (Authorized by and implementing K.S.A. 2001 Supp. 22-3717, as amended by L. 2002, Ch. 163, Sec. 5; effective Nov. 22, 2002.)

#### **45-300-2. Absence of inmate at docketed hearing.**

If an inmate is unable to appear for a scheduled hearing due to a physical or mental condition, absence from the facility, in absentia status, or other reasons, the inmate's hearing shall be rescheduled for the next regularly scheduled hearing date at that facility after the inmate becomes available, unless otherwise ordered by the board. (Authorized by and implementing K.S.A. 2001 Supp. 22-3717, as amended by L. 2002, Ch. 163, Sec. 5; effective Nov. 22, 2002.)

#### Article 400.—RELEASE TO SUPERVISION

**45-400-1. General provisions.** (a) Following each parole hearing, the parole board's findings and recommendations shall be prepared in writing. These findings and recommendations shall be used to prepare a final action notice. Appropriate department of corrections personnel shall be provided with copies of the final action notice. The final action notice shall not be divulged to any other party until notice of the board's action has been sent to the inmate.

(b) The release condition or conditions established by the board, if any, shall not be modified or waived except by order of the board.

(c) If the board needs additional information after the parole hearing concerning the inmate or the inmate's parole plan, the decision on the inmate's parole hearing may be delayed for a reasonable length of time so the necessary information can be obtained.

(d) Each inmate who is on postrelease supervision or parole shall remain in the legal custody of the secretary of corrections and subject to orders of the secretary. (Authorized by and implementing K.S.A. 2001 Supp. 22-3717, as amended by L. 2002, Ch. 163, Sec. 5; effective Nov. 22, 2002.)

**45-400-2. Parole plan.** Each inmate who has been granted parole subject to an approved parole plan shall remain in confinement until the board or its designee approves a satisfactory parole plan. (Authorized by and implementing K.S.A. 2001 Supp. 22-3717, as amended by L. 2002, Ch. 163, Sec. 5; effective Nov. 22, 2002.)

#### **45-400-3. Release.** (a) Release dates.

(1) Any inmate who has been granted parole and has been assigned to a specific parole office may receive a release date when placement arrangements are completed and approved.

(2) A specific release date may be designated by the board in order to comply with statutory parole eligibility or for any other special cause as determined on a case-by-case basis. Requests for advance release may be considered by the board for valid reasons, subject to investigation and confirmation by proper authorities.

(3) If an inmate's release date falls on a Saturday or Sunday, or on a holiday observed by the department of corrections, the inmate may be released on the last workday before the computed release date.

(b) Interstate compact release. Each inmate who has been granted parole for out-of-state supervision under an interstate compact agreement shall remain in confine-

ment until the receiving state has entered its report with the compact administrator of the secretary, who shall refer it to the board for final determination and authorization of release. If the interstate compact agreement is disapproved, the decision to parole the inmate under the compact agreement shall be deemed void. A notice shall then be issued by the board advising the inmate that the interstate compact agreement has been disapproved and the inmate's parole suitability will be reconsidered at a scheduled parole hearing.

(c) Changes in parole plan. Each inmate who is on continued status and who elects to change the parole plan shall present this information to the unit team, which shall forward it to the board for its approval and advice.

(d) Release to detainer.

(1) Each inmate who has been granted parole to a detainer only shall remain in confinement until sufficient arrangements have been made to determine when the detaining authority will assume custody.

(2) Unless otherwise ordered by the board, a decision to parole an inmate to a detainer only shall be deemed void if the detainer is thereafter cancelled. A notice to the inmate shall be issued by the board stating that the detainer has been cancelled and the inmate's parole suitability will be reconsidered at a scheduled parole hearing. (Authorized by and implementing K.S.A. 2001 Supp. 22-3717, as amended by L. 2002, Ch. 163, Sec. 5; effective Nov. 22, 2002.)

**45-400-4. Deferred release.** (a) The release of any inmate who has been granted parole may be deferred or the parole may be rescinded on the basis of any one or more of the following factors:

(1) Department of corrections staff finds that there is probable cause to believe that the inmate committed a facility infraction before being released.

(2) The parole plan does not provide for sufficient supervision or does not adequately provide for public safety or for the successful integration of the inmate.

(3) Information that was not available at the hearing indicates that the inmate cannot reasonably lead a law-abiding life.

(b) If the board so orders, the inmate shall not be released until the facility's fact-finding or disciplinary process is completed and the board is provided copies of the findings and recommendations. The report may contain a recommendation to the board concerning the inmate's parole status.

(c) If probable cause is found to believe that an inmate committed a facility infraction before being released, the board's decision to reconsider the inmate's parole suitability may also take into account the following factors:

(1) The date of the alleged infraction;

(2) the nature of the alleged violation charged and its penalty classification; and

(3) the facility's report containing recommendations concerning the inmate's parole status.

(d) If the board is considering whether or not to rescind a decision to grant an inmate's parole, defer the inmate's established release date, or both, the inmate shall be provided with the following by the board:

(1) A special hearing before the board or one or more of its members;

(2) written notice, at least 24 hours before the hearing, of the purpose of the hearing and the grounds upon which the board is considering the proposed action;

(3) an opportunity for each of the following:

(A) To appear;

(B) to respond to the allegations which are the basis for the board's proposed action.

(e) Following the special hearing, a written statement of the board's order, including the reasons for its determination, shall be issued by the board. (Authorized by and implementing K.S.A. 2001 Supp. 22-3717, as amended by L. 2002, Ch. 163, Sec. 5; effective Nov. 22, 2002.)

#### Article 500.—PAROLE VIOLATORS

**45-500-1. General provisions.** Each offender who is returned on a violator warrant issued by the secretary of corrections shall be brought before the board as soon as practical for a final revocation hearing, unless the offender is eligible for and chooses to waive the right to the hearing as provided in K.A.R. 45-500-4. At any time before a final revocation hearing is held under K.A.R. 45-500-2, the warrant may be withdrawn at the request of the secretary of corrections, and the offender may be re-released on parole, conditional release, or postrelease supervision. At that time, new conditions may be established, or the conditions of parole, conditional release, or postrelease supervision may be modified by the board. (Authorized by and implementing K.S.A. 2001 Supp. 22-3717, as amended by L. 2002, Ch. 163, Sec. 5, and K.S.A. 2001 Supp. 75-5217; effective Nov. 22, 2002.)

**45-500-2. Final revocation hearings.** (a) After an offender is returned to a correctional facility under K.A.R. 45-500-1, the offender may request a hearing before the final decision on revocation by the board. Any offender on postrelease supervision may waive the final revocation hearing as provided in K.A.R. 45-500-4. The final revocation hearing shall be held without unnecessary delay and shall be conducted by the board or any member of the board. After considering all pertinent evidence, an appropriate order shall be entered by the board. If the violation is established to the satisfaction of the board, the parole or conditional release may be reinstated or revoked by the board.

(b) Before the final revocation hearing, the following information shall be provided to the offender by the board:

(1) Written notice of the alleged violations of the conditions of release; and

(2) the evidence against the offender. If the board finds that there are additional violations other than those contained in the written notice, the hearing shall be continued so that a written notice of the additional violations and a statement of the evidence against the offender can be prepared.

(c) Each offender shall have the right to confront and cross-examine adverse witnesses, unless the board finds good cause for not allowing confrontation. If the board does not allow the offender to confront a witness, the evidence relied upon and the reasons for this determi-

(continued)

nation shall be specified by the board. If the offender had the opportunity to cross-examine a witness at the probable cause hearing provided in K.A.R. 44-9-105, the record may be relied upon by the board, in lieu of calling that witness.

(d) The offender shall have an opportunity to be heard in person and to present documentary evidence and witnesses who can provide information relevant to the allegations of the violation of the conditions of release. The attendance of witnesses favorable to the offender shall be the responsibility of the offender and shall be at the offender's expense. The hearing may be continued to allow for the attendance of witnesses.

(e) All relevant evidence, including letters and affidavits, shall be received by the board. If the violation of the conditions of release results from a conviction for a new felony or misdemeanor, the only question considered by the board shall be whether or not the new conviction warrants revocation.

(f) Each offender shall be entitled to have legal counsel present at the hearing, at the offender's expense.

(1) Legal counsel may be appointed by the board upon the request of the inmate or on the board's own motion. The appointment of legal counsel shall be based upon either of the following claims by the offender, which shall be timely and colorable:

(A) A claim that the offender has not committed the alleged violation of the conditions of release; or

(B) a claim that there are substantial reasons that justify or mitigate the violation and make revocation inappropriate.

The board's decision regarding the appointment of counsel shall take into account whether or not the offender is capable of speaking effectively for that individual and whether or not the circumstances are complex or otherwise difficult to develop or present.

(2) In all cases in which a request for appointed counsel at a preliminary hearing or final revocation hearing is denied, the grounds for denial shall be stated in writing.

(g) If the offender's release is revoked, a written statement as to the evidence relied upon and reasons for revoking the release shall be given to the offender by the board. (Authorized by and implementing K.S.A. 2001 Supp. 22-3717, as amended by L. 2002, Ch. 163, Sec. 5, and K.S.A. 2001 Supp. 75-5217; effective Nov. 22, 2002.)

**45-500-3. Computation of time.** (a)(1) Any offender whose parole has been revoked may be required by the board to serve all or any part of the remaining time on the sentence up to the original conditional release date, plus all good time forfeited by the board.

(2) Any offender whose conditional release has been revoked may be required by the board to serve all or any part of the remaining time on the sentence.

(3) Each offender whose postrelease supervision has been revoked for reasons other than conviction of a new crime shall serve a six-month period of confinement beginning on the date of the final revocation hearing or the effective date of the waiver of the final revocation hearing under K.A.R. 45-500-4. The six-month period of confinement may be reduced by not more than three months based on the offender's conduct, work, and program par-

ticipation during this incarceration period, in accordance with regulations adopted by the secretary of corrections.

(4) Each parole violator with a new conviction and sentence shall achieve parole eligibility on the new sentence or sentences as determined by K.S.A. 22-3717 and K.S.A. 21-4608, and amendments thereto, and in accordance with regulations adopted by the secretary of corrections.

(5) Each postrelease violator whose postrelease supervision has been revoked due to conviction of a new crime shall serve one of the following periods of time:

(A) If the new crime is a felony, a period of confinement equal to the entire remaining balance of postrelease supervision; or

(B) if the new crime is a misdemeanor, a period of confinement to be determined by the board, which shall not exceed the entire remaining balance of the period of post-release supervision.

(b) Good time credits earned while on parole, before the parole revocation date, may be forfeited upon order of the board. Upon order of the board, the good time credits earned while on postrelease supervision may likewise be forfeited, before the postrelease supervision revocation date or the effective date of the waiver of the final revocation hearing.

(c) If the secretary has issued a warrant for the return of a released offender and it is determined that the warrant cannot be served, the released offender shall be deemed to be a fugitive from justice. If it appears that this fugitive has violated provisions of release, the time from the violation of the provision to the date of arrest, as determined by the department of corrections, shall not be counted as time served under the sentence unless approved by the board. (Authorized by and implementing K.S.A. 2001 Supp. 22-3717, as amended by L. 2002, Ch. 163, Sec. 5, and K.S.A. 2001 Supp. 75-5217; effective Nov. 22, 2002.)

**45-500-4. Waiver of final revocation hearing.** (a)(1) For purposes of this regulation, "misdemeanor" means a class A, B, or C misdemeanor or a criminal charge of an equivalent class under a city ordinance.

(2) For purposes of this regulation, "detainer" means a warrant, teletype, or written correspondence from a law enforcement or correctional agency citing a misdemeanor or felony charge or conviction in that jurisdiction that results from criminal activity that occurred during the current period of parole or postrelease supervision.

(b) Each supervised offender who is serving only a determinate sentence and who meets all of the following conditions shall be eligible to waive the final revocation hearing before the board:

(1) The offender is not charged with a condition violation alleging conviction of a new crime.

(2) The offender is not the subject of any pending criminal misdemeanor charge, felony charge, or detainer for a misdemeanor or felony. If an offender is arrested on a new felony charge and formal criminal charges are not filed by the county or district attorney within 10 days of the offender's arrest, the offender shall be eligible to waive the final revocation hearing.

(3) The offender is detained in a Kansas correctional facility, jail, or detention center.

A supervised offender serving an indeterminate sentence shall not be permitted to waive the final revocation hearing before the board.

(c) Any eligible offender may waive the final revocation hearing at the time the statement of condition violations is served, if the eligible offender simultaneously waives the preliminary hearing on those violations provided by K.A.R. 44-9-105. If the offender elects not to waive the preliminary hearing, the revocation proceeding shall advance to a preliminary hearing. If, after that hearing, probable cause is established in regard to at least one of the alleged condition violations, the offender shall again be afforded the opportunity to waive the final revocation hearing before the board.

(d) If, before the final revocation hearing, the board receives notice that the criminal charges or a pending detainer has been dismissed, the offender shall again be given the opportunity to waive the final revocation hearing.

(e) At the time of presentation of the written waiver form by parole services staff, each offender shall be orally advised of the following:

(1) Execution of the waiver form signifies that the offender admits to guilt on all condition violations charged, unless the hearing officer specifically finds that a condition violation is not supported by probable cause.

(2) The offender waives the right to counsel and the right to present witnesses or the offender's own testimony to the board because no hearing will be held if the offender executes the waiver form.

(3) Upon receipt of the waiver form, the board may continue or revoke the offender's postrelease supervision or enter other orders as the board sees fit.

(f) Each offender shall make an election by indicating in writing upon the waiver form whether or not the offender desires to accept the offer of waiver. The waiver shall be executed in the presence of parole services staff, or the offender shall acknowledge to parole services staff the authenticity of the offender's signature upon the form, which shall then be executed by parole services staff in the capacity of witness. If the offender refuses to accept the waiver form or to execute it, the waiver shall be deemed rejected, and the revocation proceeding shall advance to the final revocation hearing before the board.

(g) Upon execution of the waiver form, the penalty period of incarceration prescribed by K.S.A. 75-5217(b) and amendments thereto shall begin, unless the board continues the offender's postrelease supervision. If a waiver is executed under circumstances described in subsection (d) of this regulation, the penalty period of incarceration shall begin on the date the criminal charge or pending detainer was dismissed. If an offender is detained on the basis of a felony arrest for which no formal charges are filed within a 10-day time frame, the penalty period of incarceration shall begin on the date the waiver is signed by the offender or an earlier date determined by the board, which shall not precede the date on which that felony arrest warrant was issued.

(h) Each offender who is serving only a determinate sentence and who either was supervised in a foreign jurisdiction under terms of the uniform act for out-of-state

parolee supervision, K.S.A. 22-4101 and amendments thereto, or was apprehended in another state after absconding from Kansas supervision shall be afforded the opportunity to waive the final revocation hearing as provided in subsection (c). This opportunity shall be afforded upon the offender's return to a Kansas correctional facility. Presentation of the waiver form, the formalities of its execution, and the effect of the waiver shall be governed in all respects by the provisions of subsections (e), (f), and (g) above.

(i) A signed waiver of a final revocation hearing shall be deemed invalid if it is discovered that the offender has been convicted of a new misdemeanor or felony that occurred during a period of postrelease supervision on the current active sentence. Under these circumstances, the offender shall be docketed for a hearing before the board.

(j)(1) An offender shall not rescind a written waiver of final revocation hearing that is before the board unless the offender petitions the board, in writing and in the form that the board may direct, and proves any of the following to the satisfaction of the board:

(A) The offender was under duress at the time of execution of the waiver form.

(B) The offender's execution of the waiver form was procured through fraud.

(C) The offender was not advised that execution of the waiver form constitutes admission of guilt of the charged condition violation or violations.

(D) The offender was not advised of the rights that the offender would forego by execution of the waiver form. The petition for rescission shall be submitted to the board postmarked by a date no later than 14 calendar days after the date of the allegedly defective waiver.

(2) If the board grants the offender's petition, the charge of any condition violation shall be rescheduled for a preliminary hearing or a final revocation hearing, as applicable. If postrelease supervision is revoked by the board at the final hearing and the offender is ordered to serve an incarceration penalty period, this penalty period shall begin on the date of the revocation. (Authorized by and implementing K.S.A. 2001 Supp. 22-3717, as amended by L. 2002, Ch. 163, Sec. 5, and K.S.A. 2001 Supp. 75-5217; effective Nov. 22, 2002.)

#### Article 600.—CONDITIONAL RELEASE

**45-600-1. General provisions.** (a) Each inmate who has served the maximum sentence, less all projected good time credits and subject to adjustment for any forfeiture of good time credits, shall be placed on conditional release.

(b) Each offender on conditional release status shall be placed under parole supervision in the same manner as that for other parolees and shall be subject to the same terms and conditions as those for other parolees. If the parole officer establishes probable cause that an offender has violated the conditions of conditional release, the offender may be returned to confinement, subject to the opportunity for a final revocation hearing and to an order of the board, which shall be considered in the same manner as that for a parole violator. The offender shall have

*(continued)*

the same rights at the final revocation hearing as those of a parolee under K.A.R. 45-500-2.

(c) Each parolee who achieves conditional release status while on parole shall continue under supervision of the parolee's parole officer. The conditions of parole shall not be changed by the fact that the parolee reached conditional release status. (Authorized by K.S.A. 2001 Supp. 22-3717, as amended by L. 2002, Ch. 163, Sec. 5, and K.S.A. 2001 Supp. 75-5217; implementing K.S.A. 2001 Supp. 22-3717, as amended by L. 2002, Ch. 163, Sec. 5, K.S.A. 2001 Supp. 22-3718, and 75-5217; effective Nov. 22, 2002.)

#### Article 700.—RELEASE OF FUNCTIONALLY INCAPACITATED INMATES

**45-700-1. Application for release.** (a) If the secretary believes that an inmate is functionally incapacitated, an application for release may be submitted to the board by the secretary. The application shall be accompanied by documentation attesting to and describing the inmate's functional incapacity. This documentation shall be prepared by a medical doctor and, as needed, by a mental health professional. The documentation shall include a comprehensive description of the inmate's condition and prognosis.

(b) For the purposes of this article, "functional incapacitation" means that an inmate has a condition caused by injury, disease, or illness, including dementia, that is determined, to a reasonable degree of medical certainty, to permanently render the inmate physically or mentally incapacitated to the extent that the inmate lacks effective capacity to cause physical harm.

(c) The application shall include a release plan, which shall provide details about where the inmate will reside and shall identify all treatment providers and facilities to be used by the inmate. Before the inmate's release, this release plan shall be subject to review and approval by department of corrections (DOC) staff in the same manner as any other release plan.

(d) All medical and treatment records pertaining to the inmate shall be available for review by the board, upon its request. If deemed necessary by the board, a second medical opinion may be requested. (Authorized by and implementing L. 2002, Ch. 57, Sec. 1; effective, T-45-7-26-02, July 26, 2002; effective Nov. 22, 2002.)

**45-700-2. Review and consideration of application for release.** (a) On receipt of the secretary's application for release of a functionally incapacitated inmate, a member of the board shall review the application and, with assistance from DOC staff, shall ensure that the following steps are taken:

(1) The written notification of the application provided by the secretary to each prosecuting attorney and the judge of each court in which the inmate was convicted shall include confidential copies of each medical or mental health report documenting the incapacitating condition. The confidentiality of these reports shall be maintained.

(2) The written notification of the application provided by the secretary to each victim or, if any victim is de-

ceased, to one or more members of the victim's family with known addresses shall not include any of the confidential medical or mental health reports documenting the incapacitating condition. However, a general description of the inmate's incapacity shall be included in the written notification.

(b)(1) At the discretion of the board member reviewing the application, the final decision on the application may be entered with or without a formal hearing after considering all available information, including the following:

(A) The documentation required by subsection (a) of K.A.R. 45-700-1;

(B) any comments received from any prosecuting attorney, judge, crime victim, or member of the victim's family; and

(C) the factors identified in paragraph (a)(8) of L. 2002, Ch. 57, Sec. 1, and amendments thereto, and the following additional factors:

(i) The inmate's age and medical condition;

(ii) the health care needs of the inmate;

(iii) the inmate's custody classification and level of risk of violence; and

(iv) the inmate's effective capacity to cause physical harm.

An inmate's need for long-term care may be considered in reaching a determination that an inmate has a functional incapacitation, but shall not be determinative in itself.

(2) If a hearing is scheduled, additional information or evidence may be requested from any of the medical or mental health providers who prepared reports for the application, or from any other person or persons having relevant information or knowledge.

(c) If the board finds that the inmate is functionally incapacitated and does not represent a risk to public safety, the release of the inmate may be ordered by the board under the terms of the approved release plan and any additional terms and conditions of release deemed necessary by the board, subject to the following voting requirements:

(1) The statutory requirements for voting to parole inmates sentenced for a class A or class B felony or for off-grid crimes committed on or after July 1, 1993; and

(2) a vote to release the inmate by a majority of the members of the board under either of the following circumstances:

(A) The inmate is serving a sentence for a severity level 1, 2, or 3 felony on the sentencing guidelines grid for non-drug crimes.

(B) A formal hearing regarding the application for release, with the inmate present, has not been held. (Authorized by and implementing L. 2002, Ch. 57, Sec. 1; effective, T-45-7-26-02, July 26, 2002; effective Nov. 22, 2002.)

#### Article 800.—DISCHARGE

**45-800-1. General provisions.** (a) Each offender on release status who meets at least one of the following conditions shall be discharged from supervision:

(1) The offender has served the maximum term or sentence as determined by K.S.A. 22-3722 and amendments thereto.



(2) Discharge is recommended by the parole officer and approved by the board as provided in K.S.A. 22-3722 and amendments thereto.

(b) A final order of discharge also may be generated by the board on its own initiative, as provided in K.S.A. 22-3722 and amendments thereto, if the board is satisfied that final release is not incompatible with the best interests of society and the welfare of the offender. (Authorized by K.S.A. 2001 Supp. 22-3717, as amended by L. 2002, Ch. 163, Sec. 5; implementing K.S.A. 22-3722; effective Nov. 22, 2002.)

#### Article 900.—EXECUTIVE CLEMENCY

**45-900-1. Procedures.** (a) Each inmate who desires to apply to the governor for executive clemency shall make the request to a facility representative designated by the warden.

(b) The applicant shall prepare, on forms furnished by the board, a written statement of the reasons for requesting clemency and shall complete all additional information requested on the forms. The applicant shall return the completed application to the facility representative. If the applicant prefers not to disclose the reasons for the request to facility officials, the forms may be sent, in a sealed envelope, directly to the board.

(c) The review by the board shall include an examination of pertinent records, reports, and other information that may be available, and a personal interview with the applicant, if requested by the board.

(d) Any person who has been convicted of a crime in any court of this state, but who is not in confinement, may apply for executive clemency by making application to the board. On request, the instructions and the form needed to initiate the application shall be provided to that person by the board. (Authorized by and implementing K.S.A. 2001 Supp. 22-3701; effective Nov. 22, 2002.)

#### Article 1000.—ORDERS OF RESTITUTION AND EXPENSES

**45-1000-1. Restitution.** As a condition of parole or postrelease supervision, any inmate may be ordered by the board to pay restitution in the amount and manner provided in the journal entry of the sentencing court.

If at any time before issuing a certificate of discharge under K.S.A. 22-3722 and amendments thereto the board finds any compelling circumstance that would render a plan of restitution unworkable as provided in K.S.A. 22-3717(n) and amendments thereto, notice of the board's finding shall be given to the court that sentenced the inmate. (Authorized by and implementing K.S.A. 2001 Supp. 22-3717, as amended by L. 2002, Ch. 163, Sec. 5; effective Nov. 22, 2002.)

**45-1000-2. Transportation expenses.** If transportation expenses are incurred as a result of returning any parolee or offender on postrelease supervision to this state to answer criminal charges, or a probation, parole, or conditional release violation warrant, the agency or department that has incurred these expenses may submit a statement of the expenses to the board before the final

revocation hearing or before the initial parole hearing. If the board finds that the statement of expenses is reasonable and necessary, the parolee or offender may be ordered by the board to pay that amount as a condition of parole or postrelease supervision. (Authorized by and implementing K.S.A. 2001 Supp. 22-3717, as amended by L. 2002, Ch. 163, Sec. 5; effective Nov. 22, 2002.)

**45-1000-3. Manner of payments.** If payments have been ordered as a condition of parole, the parole officer may monitor the payments in the same manner as that for any other condition of parole. If a change of circumstances makes payments according to the established schedule unworkable, the parole officer may change the schedule as long as the adjusted schedule still makes it possible for the offender to make all payments before the inmate's discharge. If compelling circumstances develop that render the plan of reparation and the schedule of payment unworkable, the parolee may apply to the board to be released from the payment order. (Authorized by and implementing K.S.A. 2001 Supp. 22-3717, as amended by L. 2002, Ch. 163, Sec. 5; effective Nov. 22, 2002.)

Marilyn Scafe  
Chairperson

Doc. No. 028589

#### State of Kansas

#### Board of Accountancy

#### Permanent Administrative Regulations

(Editor's Note: The following regulation, which was adopted and filed simultaneously with a number of other regulations on October 22, 2002, was inadvertently omitted from publication in the October 31, 2002 Kansas Register. K.A.R. 74-4-9 will be effective November 22, 2002.)

#### Article 4.—PERMITS TO PRACTICE

**74-4-9. Continuing professional education controls and reporting.** (a) At the time of applying for renewal of the permit to practice, each applicant shall sign a statement provided by the board showing the continuing professional education obtained during the months preceding the renewal date, unless the applicant qualifies for the exemption outlined in K.S.A. 1-310 and amendments thereto. This statement shall include the following information:

- (1) The organization, school, firm, or other sponsor conducting the program;
- (2) the location of the program attended;
- (3) the title of the program or course, or a brief description;
- (4) the dates attended or the date the program was completed; and
- (5) the number of minutes in which the applicant participated.

(b) The applicant may be required by the board to verify the information specified in subsection (a) or to provide additional information as a part of the application for renewal of a permit to practice.

(continued)

(c) Each applicant shall retain documentation of completion of any continuing professional education program for five years from the end of the year in which the program was completed. (Authorized by and implementing K.S.A. 1-202, K.S.A. 1-310, and K.S.A. 75-1119; effective, E-82-27, Dec. 22, 1981; effective May 1, 1982;

amended May 1, 1985; amended Sept. 25, 1998; amended Nov. 22, 2002.)

Susan L. Somers  
Executive Director

Doc. No. 028619

**INDEX TO ADMINISTRATIVE REGULATIONS**

This index lists in numerical order the new, amended and revoked administrative regulations and the volume and page number of the *Kansas Register* issue in which more information can be found. Temporary regulations are designated with a (T) in the Action column. This cumulative index supplements the 2000 Volumes and 2002 Supplement to the *Kansas Administrative Regulations*.

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