

## Agency 49

# Department of Labor

**Editor's Note:**

The Kansas Department of Human Resources was renamed the Kansas Department of Labor by Executive Reorganization Order No. 31. See L. 2004, Ch. 191.

**Editor's Note:**

This agency was formerly entitled "Labor Department." The Labor Department was reorganized into the Department of Human Resources by Executive Reorganization Order No. 14, see L. 1976, ch. 354.

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**Article 1.—HOURS AND WORKING  
 CONDITIONS; WOMEN AND MINORS**

**49-1-1 to 49-1-5.** (Authorized by K.S.A. 44-601(a), 44-608, 44-645, 75-3402; effective Jan. 1, 1966; revoked May 1, 1979.)

**49-1-6 to 49-1-49.** Reserved.

**49-1-50. Designation of rules constituting prohibited employment for minors.** These rules shall be known as the hazardous work, trade, or occupations which constitute prohibited employment for minors under eighteen (18) years of age. (Authorized by K.S.A. 38-602; effective May 1, 1975.)

**49-1-51. Occupations declared hazardous; prohibitions.** No child under eighteen (18) years of age shall be at any time employed in any of the occupations declared hazardous in Kansas administrative regulations 49-1-52 through 49-1-68. (Authorized by K.S.A. 38-602; effective May 1, 1975.)

**49-1-52. Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components.** (1) *Occupations.* (a) All occupations in or about any plant or establishment (other than retail establishments or plants or establishments of the type described in subparagraph (2) (a) of this paragraph) manufacturing or storing of explosives or articles containing explosive components except where the occupation is performed in a “nonexplosives area” as defined in subparagraph (2) (c) of this section.

(b) The following occupations in or about any plant or establishment manufacturing or storing small-arms ammunition not exceeding .60 caliber

in size, shotgun shells, or blasting caps when manufactured or stored in conjunction with the manufacture of small-arms ammunition: (1) All occupations involved in the manufacturing, mixing, transporting, or handling of explosive compounds in the manufacture of small-arms ammunition and all other occupations requiring the performance of any duties in the explosives area in which explosive compounds are manufactured or mixed. (2) All occupations involved in the manufacturing, transporting, or handling of primers and all other occupations requiring the performance of any duties in the same building in which primers are manufactured. (3) All occupations involved in the priming of cartridges and all other occupations requiring the performance of any duties in the same workroom in which rim-fire cartridges are primed. (4) All occupations involved in the plate loading of cartridges and in the operation of automatic loading machines. (5) All occupations involved in the loading, inspecting, packing, shipping and storage of blasting caps.

(2) *Definitions.* (a) The term “plant or establishment manufacturing or storing explosive or articles containing explosive components” means the land with all the buildings and other structures thereon used in connection with the manufacturing or processing or storing of explosives or articles containing explosive components.

(b) The terms “explosives” and “articles containing explosive components” mean and include ammunition, black powder, blasting caps, fireworks, high explosives, primers, smokeless powder, and all goods classified and defined as explosives by the interstate commerce commission in regulations for the transportation of explosives and other dangerous substances by common carriers.

(c) An area meeting all of the following criteria shall be deemed a "nonexplosives area": (1) None of the work performed in the area involves the handling or use of explosives;

(2) The area is separated from the explosives area by a distance not less than that prescribed in the American table of distances for the protection of inhabited buildings;

(3) The area is separated from the explosives area by a fence or is otherwise located so that it constitutes a definite designated area; and

(4) Satisfactory controls have been established to prevent employees under 18 years of age within the area from entering any area in or about the plant which does not meet criteria (1) through (3). (Authorized by K.S.A. 38-602; effective May 1, 1975.)

**49-1-53. Occupations of motor-vehicle driver and outside helper.** (1) *Occupations.* Except as provided in paragraph (2). The occupations of motor-vehicle driver and outside helper on any public road, highway, in or about any mine (including open-pit mine or quarry), place where logging or sawmill operations are in progress, or in any excavation of the type identified in 49-1-68.

(2) *Exemptions.* Incidental and occasional driving. The finding and declaration in paragraph (1) shall not apply to the operation of automobiles or trucks not exceeding 6,000 pounds gross vehicle weight if such driving is restricted to daylight hours: *Provided*, Such operation is only occasional and incidental to the child's employment; that the child holds a state license valid for the type of driving involved in the job which he performs and has completed a state-approved driver education course: *And provided further*, That the vehicle is equipped with a seat belt or similar device for the driver and for each helper, and the employer has instructed each child that such belts or other devices must be used. This subparagraph shall not be applicable to any occupation of motor-vehicle driver which involves the towing of vehicles.

(3) *Definitions.* (a) The term "motor vehicle" shall mean any automobile, truck, truck-tractor, trailer, semitrailer, motorcycle, or similar vehicle propelled or drawn by mechanical power and designed for use as a means of transportation but shall not include any vehicle operated exclusively on rails.

(b) The term "driver" shall mean any individual who, in the course of his employment, drives a motor vehicle at any time.

(c) The term "outside helper" shall mean any individual, other than a driver, whose work includes riding on a motor vehicle outside the cab for the purpose of assisting in transporting or delivering goods.

(d) The term "gross vehicle weight" includes the truck chassis with lubricants, water and full tank or tanks of fuel, plus the weight of the cab or driver's compartment, body, and special chassis and body equipment, and payload. (Authorized by K.S.A. 38-602; effective May 1, 1975.)

**49-1-54. Coal mine occupations.** (1) *Occupations.* All occupations in or about any coal mine, except the occupation of slate or other refuse picking at a picking table or picking chute in a tippie or breaker and occupations requiring the performance of duties solely in offices or in repair or maintenance shops located in the surface part of any coal-mining plant.

(2) *Definitions.* (a) The term "coal" shall mean any rank of coal, including lignite, bituminous, and anthracite coals.

(b) The term "all occupations in or about any coal mine" shall mean all types of work performed in any underground working, open pit, or surface part of any coal-mining plant that contributes to the extraction, grading, cleaning, or other handling of coal. (Authorized by K.S.A. 38-602; effective May 1, 1975.)

**49-1-55. Logging occupations and occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill.** (1) Exceptions applying to logging. (a) Work in offices or in repair or maintenance shops.

(b) Work in the construction, operation, repair, or maintenance of living and administrative quarters of logging camps.

(c) Work in timber cruising, surveying, or logging-engineering parties; work in the repair or maintenance of roads, railroads or flumes; work in forest protection, such as clearing fire trails or roads, piling and burning slash, maintaining fire-fighting equipment, constructing and maintaining telephone lines, or acting as fire lookout or fire patrolman away from the actual logging operations: *Provided*, That the provisions of this paragraph shall not apply to the felling or bucking of timber, the collecting or transporting of logs, the operation of power-driven machinery, the handling or use of explosives, and work on trestles.

(d) Peeling of fence posts, pulpwood, chemical wood, excelsior wood, cordwood, or similar prod-

ucts, when not done in conjunction with and at the same time and place as other logging occupations declared hazardous by this section.

(e) Work in the feeding or care of animals.

(2) Exceptions applying to the operation of any permanent sawmill or the operation of any lath mill, shingle mill, or cooperage-stock mill: *Provided*, That these exceptions do not apply to a portable sawmill the lumber yard of which is used only for the temporary storage of green lumber and in connection with which no office or repair or maintenance shop is ordinarily maintained: *And provided further*, That these exceptions do not apply to work which entails entering the sawmill building.

(a) Work in offices or in repair or maintenance shops.

(b) Straightening, marking, or tallying lumber on the dry chain or the dry drop sorter.

(c) Pulling lumber from the dry chain.

(d) Clean-up in the lumber yard.

(e) Piling, handling, or shipping of cooperage stock in yards or storage sheds, other than operating or assisting in the operation of power-driven equipment.

(f) Clerical work in yards or shipping sheds, such as done by ordermen, tallymen, and shipping clerks.

(g) Clean-up work outside shake and shingle mills, except when the mill is in operation.

(h) Splitting shakes manually from pre-cut and split blocks with a froe and mallet, except inside the mill building or cover.

(i) Packing shakes into bundles when done in conjunction with splitting shakes manually with a froe and mallet, except inside the mill building or cover.

(j) Manual loading of bundles of shingles or shakes into trucks or railroad cars, provided that the employer has on file a statement from a licensed doctor of medicine or osteopathy certifying the minor capable of performing this work without injury to himself.

(3) *Definitions*. (a) The term "all occupations in logging" shall mean all work performed in connection with the felling of timber; the bucking or converting of timber into logs, poles, piles, ties, bolts, pulpwood, chemical wood, excelsior wood, cordwood, fence posts, or similar products; the collecting, skidding, yarding, loading, transporting, and unloading of such products in connection with logging; the constructing, repairing, and maintaining of roads, railroads, flumes, or camps

used in connection with logging; the moving, installing, rigging, and maintenance of machinery or equipment used in logging; and other work performed in connection with logging. The term shall not apply to work performed in timber culture, timberstand improvement, or in emergency firefighting.

(b) The term "all occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill" shall mean all work performed in or about any such mill in connection with storing of logs and bolts; converting logs or bolts into sawn lumber, laths, shingles, or cooperage stock; storing, drying, and shipping lumber, laths, shingles, cooperage stock, or other products of such mills; and other work performed in connection with the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill. The term shall not include work performed in the planing-mill department or other remanufacturing departments of any sawmill, or in any planing mill or remanufacturing plant not a part of a sawmill. (Authorized by K.S.A. 38-602; effective May 1, 1975.)

**49-1-56. Occupations involved in the operation of power-driven woodworking machines.** (1) *Occupations*.

(a) The occupation of operating power-driven woodworking machines including supervising or controlling the operation of such machines, feeding material into such machines, and helping the operator to feed material into such machines, but not including the placing of material on a moving chain or in a hopper or slide for automatic feeding.

(b) The occupations of setting up, adjusting, repairing, oiling, or cleaning power-driven woodworking machines.

(c) The operations of off-bearing from circular saws and from guillotine-action veneer clippers.

(2) *Definitions*. (a) The term "power-driven woodworking machines" shall mean all fixed or portable machines or tools driven by power and used or designed for cutting, shaping, forming, surfacing, nailing, stapling, wire stitching, fastening, or otherwise assembling, pressing, or printing wood or veneer.

(b) The term "off-bearing" shall mean the removal of material or refuse directly from a saw table or from the point of operation. Operations not considered as off-bearing within the intent of this section include: (1) The removal of material or refuse from a circular saw or guillotine-action

vener clipper where the material or refuse has been conveyed away from the saw table or point of operation by a gravity chute or by some mechanical means such as a moving belt or expulsion roller, and

(2) The following operations when they do not involve the removal of material or refuse directly from a saw table or from a point of operation: the carrying, moving, or transporting of materials from one machine to another or from one part of a plant to another; the piling, stacking, or arranging of materials for feeding into a machine by another person; and the sorting, tying, bundling, or loading of materials. (Authorized by K.S.A. 38-602; effective May 1, 1975.)

**49-1-57. Occupations involving exposure to radioactive substances and to ionizing radiations.** (1) *Occupations.* (a) Any work in any workroom in which: (1) Radium is stored or used in the manufacture of self-luminous compound; (2) Self-luminous compound is made, processed, or packaged; (3) Self-luminous compound is stored, used, or worked upon; (4) Incandescent mantles are made from fabric and solutions containing thorium salts, or are processed or packaged; (5) Other radioactive substances are present in the air in average concentrations exceeding 10 percent of the maximum permissible concentrations in the air recommended for occupational exposure by the national committee on radiation protection, as set forth in the 40-hour week column of table one of the national bureau of standards handbook No. 69 entitled "maximum permissible body burdens and maximum permissible concentrations of radionuclides in air and in water for occupational exposure," issued June 5, 1959.

(b) Any other work which involves exposure to ionizing radiations in excess of 0.5 rem per year.

(2) *Definitions.* As used in this section: (a) The term "self-luminous compound" shall mean any mixture of phosphorescent material and radium, mesothorium, or other radioactive element.

(b) The term "workroom" shall include the entire area bounded by walls of solid material and extending from floor to ceiling.

(c) The term "ionizing radiations" shall mean alpha and beta particles, electrons, protons, neutrons, gamma, and x-ray and all other radiations which produce ionizations directly or indirectly, but does not include electromagnetic radiations other than gamma and x-ray. (Authorized by K.S.A. 38-602; effective May 1, 1975.)

**49-1-58. Occupations involved in the operation of elevators and other power-driven hoisting apparatus.** (1) *Occupations.* (a)

Work of operating an elevator, crane, derrick, hoist, or high-lift truck, except operating an unattended automatic-operation passenger elevator or an electric or air-operated hoist not exceeding 1-ton capacity.

(b) Work which involves riding on a manlift or on a freight elevator, except a freight elevator operated by an assigned operator.

(c) Work on assisting in the operation of a crane, derrick, or hoist performed by crane hookers, crane chasers, hookers-on, riggers, rigger helpers, and like occupations.

(2) *Definitions.* (a) The term "elevator" shall mean any power-driven hoisting or lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction. The term shall include both passenger and freight elevators, (including portable elevators or tiering machines) but shall not include dumbwaiters.

(b) The term "crane" shall mean a power-driven machine for lifting and lowering a load and moving it horizontally, in which the hoisting mechanism is an integral part of the machine. The term shall include all types of cranes, such as cantilever gantry, crawler, gantry, hammerhead, ingot-pouring, jib, locomotive, motor truck, overhead traveling, pillar jib, pintle, portal, semigantry, semiportal, storage bridge, tower, walking jib, and wall cranes.

(c) The term "derrick" shall mean a power-driven apparatus consisting of a mast or equivalent members held at the top by guys or braces, with or without a boom, for use with a hoisting mechanism and operating ropes. The term shall include all types of derricks, such as A-frame, breast, Chicago boom, gin-pole, guy, and stiff-leg derricks.

(d) The term "hoist" shall mean a power-driven apparatus for raising or lowering a load by the application of a pulling force that does not include a car or platform running in guides. The term shall include all types of hoists, such as base-mounted electric, clevis suspension, hook suspension, monorail, overhead electric, simple drum, and trolley suspension hoists.

(e) The term "high-lift truck" shall mean a power-driven industrial type of truck used for lateral transportation that is equipped with a power-operated lifting device usually in the form of a fork or platform capable of tiering loaded pallets or

skids one above the other. Instead of a fork, or platform, the lifting device may consist of a ram, scoop, shovel, crane, revolving fork, or other attachments for handling specific loads. The term shall mean and include high-lift trucks known under such names as forklifts, fork trucks, forklift trucks, tiering trucks, or stacking trucks, but shall not mean low-lift trucks or low-lift platform trucks, that are designed for the transportation of, but not the tiering of, material.

(f) The term "manlift" shall mean a device intended for the conveyance of persons which consists of platforms or brackets mounted on, or attached to, an endless belt, cable, chain or similar method of suspension; such belt, cable, or chain operating in a substantially vertical direction and being supported by and driven through pulleys, sheaves or sprockets at the top or bottom.

(3) *Exception.* This section shall not prohibit the operation of an automatic elevator and an automatic signal-operation elevator provided that the exposed portion of the car interior (exclusive of vents and other necessary small openings), the car door, and the hoistway doors are constructed of solid surfaces without any opening through which a part of the body may extend; all hoistway openings at floor level have doors which are interlocked with the car door so as to prevent the car from starting until all such doors are closed and locked; the elevator (other than hydraulic elevators) is equipped with a device which will stop and hold the car in case of overspeed or if the cable slackens or breaks; and the elevator is equipped with upper and lower travel limit devices which will normally bring the car to rest at either terminal and a final limit switch which will prevent the movement in either direction and will open in case of excessive over-travel by the car.

Definitions as used in this exception: (a) For the purpose of this exception the term "automatic elevator" shall mean a passenger elevator, a freight elevator, or a combination passenger-freight elevator, the operation of which is controlled by pushbuttons in such a manner that the starting, going to the landing selected, leveling and holding, and the opening and closing of the car and hoistway doors are entirely automatic.

(b) For the purpose of this exception, the term "automatic signal-operation elevator" shall mean an elevator which is started in response to the operation of a switch (such as a lever or pushbutton) in the car which when operated by the operator actuates a starting device that automatically closes

the car and hoistway doors—from this point on, the movement of the car to the landing selected, leveling and holding when it gets there, and the opening of the car and hoistway doors are entirely automatic. (Authorized by K.S.A. 38-602; effective May 1, 1975.)

**49-1-59. Occupations involved in the operation of power-driven metal forming, punching, and shearing machines.** (1) *Occupations.*

(a) All rolling machines, such as beading, straightening, corrugating, flanging, or bending rolls; and hot or cold rolling mills.

(b) All pressing or punching machines, such as punch presses, except those provided with full automatic feed and ejection and with a fixed barrier guard to prevent the hands or fingers of the operator from entering the area between the dies; power presses; and plate punches.

(c) All bending machines, such as apron brakes and press brakes.

(d) All hammering machines, such as drop hammers and power hammers.

(e) All shearing machines, such as guillotine or squaring shears; alligator shears; and rotary shears.

(f) The occupations of setting up, adjusting, repairing, oiling, or cleaning these machines including those with automatic feed and ejection.

(2) *Definitions.* (a) The term "operator" shall mean a person who operates a machine covered by this order by performing such functions as starting or stopping the machine, placing materials into or removing them from the machine, or any other functions directly involved in the operation of the machine.

(b) The term "helper" shall mean a person who assists in the operation of a machine covered by this order by helping place materials into or remove them from the machine.

(c) The term "forming, punching, and shearing machines" shall mean power-driven metal-working machines, other than machine tools, which change the shape of or cut metal by means of tools, such as dies, rolls, or knives which are mounted on rams, plungers, or other moving parts. Types of forming, punching, and shearing machines enumerated in this section are the machines to which the designation is by custom applied.

(3) *Exemptions.* This order does not apply to a very large group of metal-working machines known as machine tools. Machine tools are de-

defined as “power-driven complete metal-working machines having one or more tool- or work-holding devices, and used for progressively removing metal in the form of chips.” Since the order does not apply to machine tools, the 18-year age minimum does not apply. They are classified below so that they can be readily identified.

*Milling function machines*

- Horizontal milling machines
- Vertical milling machines
- Universal milling machines
- Planer-type milling machines
- Gear hobbing machines
- Profilers
- Routers
- Circular saws

*Turning function machines*

- Engine lathes
- Turret lathes
- Hollow spindle lathes
- Automatic lathes
- Automatic screw machines

*Planing function machines*

- Planers
- Shapers
- Slotters
- Broaches
- Keycasters
- Hack saws
- Band saws

*Grinding function machines*

- Grinders
- Abrasive wheels
- Abrasive belts
- Abrasive disks
- Abrasive points
- Polishing wheels
- Buffing wheels
- Stroppers
- Lapping machines

*Boring function machines*

- Vertical boring mills
- Horizontal boring mills
- Jig borers
- Pedestal drills
- Radial drills
- Gang drills
- Upright drills
- Drill press, etc.
- Centering machines
- Reamers
- Honers

(Authorized by K.S.A. 38-602; effective May 1, 1975.)

**49-1-60. Occupations in connection with mining, other than coal.** (1) *Occupations.*

(a) Work in offices, in the warehouse or supply house, in the change house, in the laboratory, and

in repair or maintenance shops not located underground.

(b) Work in the operation and maintenance of living quarters.

(c) Work outside the mine in surveying, in the repair and maintenance of roads, and in general clean-up about the mine property such as clearing brush and digging drainage ditches.

(d) Work of track crews in the building and maintaining of sections of railroad track located in these areas of open-cut metal mines where mining and haulage activities are not being conducted at the time and place that such building and maintenance work is being done.

(e) Work in or about surface placer mining operations other than placer dredging operations and hydraulic placer mining operations.

(f) The following work in metal mills other than in mercury-recovery mills or mills using the cyanide process: (1) Work involving the operation of jigs, sludge tables, flotation cells, or drier-filters. (2) Work of hand sorting at picking table or picking belt. (3) General clean-up work: *Provided, however,* That nothing in this section shall be construed as permitting employment of minors in any occupation prohibited by any other hazardous occupation order.

(2) *Definitions.* As used in this section: The term “all occupations in connection with mining, other than coal” shall mean all work performed underground in mines and quarries; on the surface at underground mines and underground quarries; in or about open-cut mines, open quarries, clay pits, and sand and gravel operations; at or about placer mining operations; at or about dredging operations for clay, sand or gravel; at or about bore-hole mining operations; in or about all metal mills, washer plants, or grinding mills reducing the bulk of the extracted minerals; and at or about any other crushing, grinding, screening, sizing, washing or cleaning operations performed upon the extracted minerals except where such operations are performed as a part of a manufacturing process. The term shall not include work performed in subsequent manufacturing or processing operations, such as work performed in smelters, electro-metallurgical plants, refineries, reduction plants, cement mills, plants where quarried stone is cut, sanded and further processed, or plants manufacturing clay, glass, or ceramic products. Neither shall the term include work performed in connection with coal mining, in petroleum production, in natural-gas production, nor

in dredging operations which are not a part of mining operations, such as dredging for construction or navigation purposes. (Authorized by K.S.A. 38-602; effective May 1, 1975.)

**49-1-61. Occupations involving slaughtering, meat packing or processing, or rendering.** (1) *Occupations.* (a) All occupations on the killing floor, in curing cellars, and in hide cellars, except the work of messengers, runners, hand-truckers, and similar occupations which require entering such workrooms or workplaces infrequently and for short periods of time.

(b) All occupations involved in the recovery of lard and oils, except packaging and shipping of such products and the operations of lard-roll machines.

(c) All occupations involved in tankage or rendering of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients, and similar products.

(d) All occupations involved in the operation or feeding of the following power-driven meat-processing machines, including the occupation of setting up, adjusting, repairing, oiling, or cleaning such machines: Meat-patty-forming machines, meat- and bone-cutting saws, knives (except bacon-slicing machines,) head splitters, and guillotine cutters; snout pullers and jaw pullers; skinning machines; horizontal rotary washing machines; casing-cleaning machines such as crushing, stripping, and finishing machines; grinding, mixing, chopping, and hashing machines; and presses (except belly-rolling machines).

(e) All boning occupations.

(f) All occupations that involve the pushing or dropping of any suspended carcass, half carcass, or quarter carcass.

(g) All occupations involving hand-lifting or hand-carrying any carcass or half carcass of beef, pork, or horse, or any quarter carcass of beef or horse.

(2) *Definitions.* (a) The term "slaughtering and meat-packing establishments" shall mean places in or about which cattle, calves, hogs, sheep, lambs, goats, or horses are killed, butchered, or processed. The term shall also include establishments which manufacture or process meat products or sausage casings from such animals.

(b) The term "rendering plants" shall mean establishments engaged in the conversion of dead animals, animal offal, animal fats, scrap meats,

blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients, and similar products.

(c) The term "killing floor" shall include that workroom or workplace where cattle, calves, hogs, sheep, lambs, goats, or horses are immobilized, shackled, or killed, and the carcasses are dressed prior to chilling.

(d) The term "curing cellar" shall include that workroom or workplace which is primarily devoted to the preservation and flavoring of meat by curing materials. It does not include that workroom or workplace where meats are smoked.

(e) The term "hide cellar" shall include that workroom or workplace where hides are graded, trimmed, salted, and otherwise cured.

(f) The term "boning occupations" shall mean the removal of bones from meat cuts. It shall not include work that involves cutting, scraping, or trimming meat from cuts containing bones.

(3) *Exemptions.* This order shall not apply to the killing and processing of poultry, rabbits, or small game in areas physically separated from the killing floor. (Authorized by K.S.A. 38-602; effective May 1, 1975.)

**49-1-62. Occupations involved in the operation of certain power-driven bakery machines.** (1) *Occupations.* (a) The occupations of operating, assisting to operate, or setting up, adjusting, repairing, oiling, or cleaning any horizontal or vertical dough mixer; batter mixer; bread dividing, rounding, or molding machine; dough brake; dough sheeter; combination bread-slicing and -wrapping machine; or cake-cutting band saw.

(b) The occupation of setting up or adjusting a cooky or cracker machine.

(2) *Exemptions.* This order does not apply to the following list of bakery machines which may be operated by 16- and 17-year-old minors:

*Ingredient preparation and mixing*

Flour-sifting machine operator  
Flour-blending machine operator  
Sack-cleaning machine operator

*Product forming and shaping*

Roll-dividing machine operator  
Roll-making machine operator  
Batter-sealing machine operator  
Depositing machine operator  
Cooky or cracker machine operator  
Wafer machine operator  
Pretzel-stick machine operator  
Pie-dough sealing machine operator  
Pie-dough rolling machine operator  
Pie-crimping machine operator

*Finishing and icing*

Depositing machine operator  
 Enrobing machine operator  
 Spray machine operator  
 Icing-mixing machine operator

*Slicing and wrapping*

Roll-slicing and -wrapping machine operator  
 Cake-wrapping machine operator  
 Carton-packing and -sealing machine operator

*Pan washing*

Spray-type pan-washing machine operator  
 Tumbler-type pan-washing machine operator

(Authorized by K.S.A. 38-602; effective May 1, 1975.)

**49-1-63. Occupations involved in the operation of certain power-driven paper-products machines.** (1) *Occupations.* (a) Arm-type wire stitcher or stapler, circular or band saw, corner cutter, or mitering machine, corrugating and single or double-facing machine, envelope die-cutting press, guillotine paper cutter or shear, horizontal bar scorer, laminating or combining machine, sheeting machine, scrap-paper baler, or vertical slotter.

(b) Platen die-cutting press, platen printing press, or punch press which involves hand feeding of the machine.

(c) The occupations of setting up, adjusting, repairing, oiling, or cleaning these machines including those which do not involve hand feeding.

(2) *Definitions.* (a) The term "operating or assisting to operate" shall mean all work which involves starting or stopping a machine covered by this order, placing materials into or removing them from the machine, or any other work directly involved in operating the machine.

(b) The term "paper-products machine" shall mean power-driven machines used in the remanufacture or conversion of paper or pulp into a finished product. The term is understood to apply to such machines whether they are used in establishments that manufacture converted paper or pulp products, or in any other type of manufacturing or nonmanufacturing establishment.

(3) *Exemptions.* There are many machines not covered by this order and they may therefore be operated by minors 16 and 17. The most important of these machines are the following:

Bag machine, bag-making machine  
 Bottoming machine (bags)  
 Box-making machine (collapsible boxes)  
 Bundling machine  
 Calendar roll and plating machines  
 Cigarette carton-opener and tax-stamping machine

Clasp machine  
 Counting, stacking, and ejecting machine  
 Corner stayer  
 Covering, lining or wrapping machines (set-up boxes)  
 Creping machine  
 Dornbusch machine (wall paper)  
 Ending machine (set-up boxes)  
 Envelope machine  
 Folding machine  
 Gluing, scaling, or gumming machine  
 Interfolding machine  
 Jogging machine  
 Lacer machine  
 Parchmentizing, waxing, or coating machines  
 Partition-assembling machine  
 Paper cup machine  
 Quadruple stayer  
 Rewinder  
 Rotary printing press  
 Ruling machine  
 Slitting machine  
 Straw winder  
 Stripping machine  
 Taping machine  
 Tube-cutting machine  
 Tube winder  
 Tube machine (paper bags)  
 Window-patch machine  
 Wire or tag-stringing machine

(Authorized by K.S.A. 38-602; effective May 1, 1975.)

**49-1-64. Occupations involved in the manufacture of brick, tile, and kindred products.** (1) *Occupations.* (a) All work in or about establishments in which clay construction products are manufactured, except: (1) Work in storage and shipping; (2) Work in offices, laboratories, and storerooms; and (3) Work in the drying departments of plants manufacturing sewer pipe.

(b) All work in or about establishments in which silica brick or other silica refractories are manufactured, except work in offices.

(c) Nothing in this section shall be construed as permitting employment of minors in any occupation prohibited by any other hazardous occupation order.

(2) *Definitions.* (a) The term "clay construction products" shall mean the following clay products: Brick, hollow structural tile, sewer pipe and kindred products, refractories, and other clay products such as architectural terra cotta, glazed structural tile, roofing tile, stove lining, chimney pipes and tops, wall coping, and drain tile. The term shall not include the following nonstructural-bearing clay products: Ceramic floor and wall tile, mosaic tile, glazed and enameled tile, faience, and similar tile, nor shall the term include nonclay

construction products such as sand-lime brick, glass brick, or nonclay refractories.

(b) The term "silica brick or other silica refractories" shall mean refractory products produced from raw materials containing free silica as their main constituent. (Authorized by K.S.A. 38-602; effective May 1, 1975.)

**49-1-65. Occupations involved in the operation of circular saws, band saws, and guillotine shears.** (1) *Occupations.* (a) The occupations of operator or of helper on the following power-driven fixed or portable machines except machines equipped with full automatic feed and ejection: (1) Circular saws. (2) Band saws. (3) Guillotine shears.

(b) The occupations of setting up, adjusting, repairing, oiling, or cleaning circular saws, band saws, and guillotine shears.

(2) *Definitions.* (a) The term "operator" shall mean a person who operates a machine covered by this order by performing such functions as starting or stopping the machine, placing materials into or removing them from the machine, or any other functions directly involved in the operation of the machine.

(b) The term "helper" shall mean a person who assists in the operation of a machine covered by this order by helping place materials into or remove them from the machine.

(c) The term "machines equipped with full automatic feed and ejection" shall mean machines covered by this order which are equipped with devices for full automatic feeding and ejection and with a fixed barrier guard to prevent completely the operator or helper from placing any part of his body in the point-of-operation area.

(d) The term "circular saw" shall mean a machine equipped with a thin steel disc having a continuous series of notches or teeth on the periphery, mounted on shafting, and used for sawing materials.

(e) The term "bandsaw" shall mean a machine equipped with an endless steel band having a continuous series of notches or teeth, running over wheels or pulleys, and used for sawing materials.

(f) The term "guillotine shear" shall mean a machine equipped with a moveable blade operated vertically and used to shear materials. The term shall not include other types of shearing machines, using a different form of shearing action, such as alligator shears or circular shears. (Authorized by K.S.A. 38-602; effective May 1, 1975.)

**49-1-66. Occupations involved in wrecking, demolition, and shipbreaking operations.** *Definitions.* The term "wrecking, demolition, and shipbreaking operations" shall mean all work, including clean-up and salvage work, performed at the site of the total or partial razing, demolishing, or dismantling of a building, bridge, steeple, tower, chimney, other structure, ship or other vessel. (Authorized by K.S.A. 38-602; effective May 1, 1975.)

**49-1-67. Occupations involved in roofing operations.** *Definitions.* The term "roofing operations" shall mean all work performed in connection with the application of weatherproofing materials and substances (such as tar or pitch, asphalt-prepared paper, tile, slate, metal, translucent materials, and shingles of asbestos, asphalt or wood) to roofs of buildings or other structures. The term shall also include all work performed in connection with: (1) The installation of roofs, including related metal work such as flashing, and

(2) Alterations, additions, maintenance and repair, including painting and coating, of existing roofs.

The term shall not include gutter and downspout work; the construction of the sheathing or base of roofs, or the installation of television antennas, air conditioners, exhaust and ventilating equipment, or similar appliances attached to roofs. (Authorized by K.S.A. 38-602; effective May 1, 1975.)

**49-1-68. Occupations in excavation operations.** *Occupations.* (1) Excavating, working in, or backfilling (refilling) trenches, except: (a) Manually excavating or manually backfilling trenches that do not exceed four feet in depth at any point, or

(b) Working in trenches that do not exceed four feet in depth at any point.

(2) Excavating for buildings or other structures or working in such excavations, except: (a) Manually excavating to a depth not exceeding four feet below any ground surface adjoining the excavation, or

(b) Working in an excavation not exceeding such depth, or

(c) Working in an excavation where the side walls are shored or sloped to the angle of repose.

(3) Working within tunnels prior to the completion of all driving and shoring operations.

(4) Working within shafts prior to the comple-

tion of all sinking and shoring operations. (Authorized by K.S.A. 38-602; effective May 1, 1975.)

**49-1-69. Permitted occupations for 14- and 15-year-old minors in retail, food service, and gasoline service establishments.** (1) Office and clerical work (including operation of office machines).

(2) Cashiering, selling, modeling, art work, work in advertising departments, window trimming and comparative shopping.

(3) Price marking and tagging by hand or by machine, assembling orders, packing and shelving.

(4) Bagging and carrying out customers' orders.

(5) Errand and delivery work by foot, bicycle, and public transportation.

(6) Clean-up work, including the use of vacuum cleaners and floor waxers, and maintenance of grounds, but not including the use of power-driven mowers or cutters.

(7) Kitchen work and other work involved in preparing and serving food and beverages, including the operation of machines and devices used in the performance of such work, such as, but not limited to, dishwashers, toasters, dumbwaiters, popcorn poppers, milk shake blenders, and coffee grinders.

(8) Work in connection with cars and trucks if confined to the following: (a) Dispensing gasoline and oil.

(b) Courtesy service.

(c) Car cleaning, washing and polishing.

(d) Other occupations permitted by this section. But not including work involving the use of pits, racks or lifting apparatus or involving the inflation of any tire mounted on a rim equipped with a removable retaining ring.

(9) Cleaning vegetables and fruits, and wrapping, sealing, labeling, weighing, pricing and stocking goods when performed in areas physically separate from areas where meat is prepared for sale and outside freezers or meat coolers. (Authorized by K.S.A. 38-602; effective May 1, 1975.)

**49-1-70. Prohibited occupations for 14- and 15-year-old minors in any other place of employment.** (1) Any manufacturing occupation.

(2) Any mining occupation.

(3) Processing occupations such as filleting of fish, dressing poultry, cracking nuts, or laundering as performed by commercial laundries, and dry cleaning (except in a retail, food service, or gaso-

line service establishment in those specific occupations expressly permitted there in accordance with the foregoing list).

(4) Occupations requiring the performance of any duties in workrooms or workplaces where goods are manufactured, mined, or otherwise processed (except to the extent expressly permitted in retail, food service, or gasoline service establishments in accordance with the foregoing list).

(5) Operation or tending of hoisting apparatus or of any power-driven machinery (other than office machines and machines in retail, food service, and gasoline service establishments which are specified in the foregoing list as machines which such minors may operate in such establishments).

(6) Occupations in connection with: (a) Transportation of persons or property by rail, highway, air, on water, pipeline, or other means.

(b) Warehousing and storage.

(c) Communications and public utilities.

(d) Construction (including repair). Except office or sales work in connection with these occupations (not performed on transportation media or at the actual construction site).

(7) Any of the following occupations in a retail, food service, or gasoline service establishment: (a) Work performed in or about boiler or engine rooms.

(b) Work in connection with maintenance or repair of the establishment, machines or equipment.

(c) Outside window washing that involves working from window sills, and all work requiring the use of ladders, scaffolds or their substitutes.

(d) Cooking (except at soda fountains, lunch counters, snack bars, or cafeteria serving counters) and baking.

(e) Occupations which involve operating, setting up, adjusting, cleaning, oiling, or repairing power-driven food slicers and grinders, food choppers and cutters, and bakery-type mixers.

(f) Work in freezers and meat coolers and all work in preparation of meats for sale (except wrapping, sealing, labeling, weighing, pricing and stocking when performed in other areas).

(g) Loading and unloading goods to and from trucks, railroad cars or conveyors.

(h) All occupations in warehouses except office and clerical work. (Authorized by K.S.A. 38-602; effective May 1, 1975.)

**Article 2.—MEANING OF TERMS  
(BOILER INSPECTION)**

**49-2-1.** (Authorized by K.S.A. 44-902, 44-904; effective Jan. 1, 1966; amended, E-67-20, Sept. 28, 1967; amended Jan. 1, 1968; revoked May 1, 1979.)

**Article 3.—ADMINISTRATION  
(BOILER INSPECTION)**

**49-3-1.** (Authorized by K. S.A. 44-902, 44-904; effective Jan. 1, 1966; amended, E-67-20, Sept. 28, 1967; amended Jan. 1, 1968; revoked May 1, 1979.)

**49-3-2 to 49-3-17.** (Authorized by K.S.A. 44-901, 44-902, 44-904, 44-906; effective Jan. 1, 1966; revoked May 1, 1979.)

**Article 4.—CONSTRUCTION AND USE  
(BOILER INSPECTION)**

**49-4-1 to 49-4-3.** (Authorized by K.S.A. 44-904; effective Jan. 1, 1968; revoked May 1, 1979.)

**49-4-3a.** (Authorized by K.S.A. 44-902, 44-904; effective, E-67-20, Sept. 28, 1967; effective Jan. 1, 1968; revoked May 1, 1979.)

**49-4-4.** (Authorized by K.S.A. 44-904; effective Jan. 1, 1966; revoked May 1, 1979.)

**49-4-4a.** (Authorized by K.S.A. 44-902, 44-904; effective, E-67-20, Sept. 28, 1967; effective Jan. 1, 1968; revoked May 1, 1979.)

**49-4-5 to 49-4-7.** (Authorized by K.S.A. 44-904; effective Jan. 1, 1966; revoked May 1, 1979.)

**Article 5.—RESERVED**

**Article 6.—COLLECTIVE BARGAINING  
UNIT; SELECTION**

**49-6-1. Collective bargaining units in existence.** If there has been a collective bargaining unit established and recognized by its employer prior to the taking effect of this act, an employee or labor organization may, upon filing with the office of the commissioner a short resumé of its existence or contractual life with its employer, be certified by the commissioner as being an appropriate collective bargaining unit as defined in the Kansas labor relations act.

The commissioner will make whatever addi-

tional investigation he cares to make and feels is necessary to ascertain the correctness of the petitioning organization's assertion. The commissioner will make available a petition form for such organization or representatives of the same. (Authorized by K.S.A. 44-816; effective Jan. 1, 1966.)

**49-6-2. Petition for collective bargaining unit.** Any employee, labor organization, or the agent of either of them may petition the commissioner to determine a collective bargaining unit for all employees in a unit appropriate for such purpose, and for a determination of said unit whenever such a question arises. The petition shall be prepared on a form furnished by the commissioner and the original and three (3) copies shall be signed and filed with the commissioner. The petition shall include:

(a) A full name and address of a petitioner.

(b) The name and address of the employer, the general nature of his business, and the approximate number of his employees.

(c) A description of the bargaining unit claimed to be appropriate, the approximate number of the employees constituting such unit, and the approximate number of employees on whose behalf the petition is filed.

(d) The names of any known persons or organizations of employees who claim to represent any of the employees in the alleged bargaining unit other than the petitioner.

(e) A brief statement setting forth the desire of the employees to organize themselves into a collective bargaining unit.

(f) A description of the employer's business with particular questions and answers relative to interstate commerce which shall show in each case that the employer is within the jurisdiction of the commissioner.

(g) Evidence of interest of at least thirty percent (30%) of the employees in the proposed appropriate collective bargaining unit or units which may be evidenced to the commissioner by the use of signed authorization cards, membership cards, or in petition form.

(h) Any other relevant facts.

If it appears to the commissioner that the petition presents a question relative to the selection of a collective bargaining unit, the commissioner shall thereupon hold and conduct an election by secret ballot in accordance with rules and regulations hereinafter set out. (Authorized by K.S.A. 44-816; effective Jan. 1, 1966.)

**49-6-3. Referendum for decertification election.** If a collective bargaining unit has been established by election procedure or has been established prior to the effective date of this act and it is the desire of said unit to change its designation of a union representative for such collective bargaining unit or to disband the collective bargaining unit, any employee, labor organization, or the agent of either of them may petition the commissioner to hold such an election. The petition shall be similar in form to the petition for determination of a collective bargaining unit and shall be prepared on a form furnished by the commissioner and submitted in quintuplicate (5) and filed with the commissioner. Said petition must show a thirty percent (30%) interest in the members of the collective bargaining unit and may be evidenced by authorization cards, membership cards, or by petition form. It is suggested by the commissioner that these petitions should be presented within thirty (30) days prior to the expiration period or renegotiation date of the existing contract between the present union representative of the collective bargaining unit and the employer.

If it appears to the commissioner that the petition presents a question relative to the designation of a new representative of the collective bargaining unit or the disbandment of the collective bargaining unit, the commissioner will thereupon hold and conduct an election by secret ballot in accordance with rules and regulations hereinafter set out. (Authorized by K.S.A. 44-816; effective Jan. 1, 1966.)

**49-6-4. Type of election determined by commissioner.** The commissioner will determine whether or not a manual ballot, mail ballot, or jointly conducted union-management election will be held pursuant to rules and regulations for each of such elections as hereinafter set out. (Authorized by K.S.A. 44-816; effective Jan. 1, 1966.)

**49-6-5. Commissioner to certify election results; bar to subsequent election.** If a majority of the employees in the proposed collective bargaining unit have voted in such election to organize themselves into a collective bargaining unit and designate a union representative of such unit, the same shall thereafter be considered as a collective bargaining unit by the employer and the department of labor, and another such election shall not be held for one year except under the most unusual circumstances. In the event the employees in the proposed collective bargaining unit

do not vote to organize themselves into a collective bargaining unit, no subsequent petition will be entertained by the commissioner before the expiration of at least one year from the date of the prior election if presented by the same proposed collective bargaining unit's union representative. The commissioner will certify in writing to the employer and union representative of the collective bargaining unit the results of the said election, in form to be determined by the commissioner. (Authorized by K.S.A. 44-802(3), 44-816; effective Jan. 1, 1966.)

**49-6-6. Majority of votes necessary; runoff election at discretion of commissioner.** If two or more labor unions have competed in the representation election so that none of the labor organizations received a majority of the votes necessary to carry such an election, and if in the commissioner's determination the situation warrants it, he may hold a runoff election to be held in similar form to the first election and use the eligible voter list of the first election in the runoff election. (Authorized by K.S.A. 44-802(3), 44-816; effective Jan. 1, 1966.)

#### Article 7.—SECRET BALLOT ELECTION; ALL-UNION AGREEMENT

**49-7-1. Petition; who may file.** A petition for authority to enter into an all-union agreement may be filed by representatives of a labor organization when employees have organized themselves into a collective bargaining unit. The labor organization may file the petition at any time. The commissioner suggests that the petition be filed at least thirty (30) days before negotiations are to start (except in cases of new bargaining units) so that the petition may be processed before the beginning of negotiations. (Authorized by K.S.A. 44-802(5), 44-809(4) and (5), 44-816; effective Jan. 1, 1966.)

**49-7-2. Petition; contents.** The collective bargaining unit shall file its petition in quadruplicate (4) in form as prescribed by the commissioner. Said petition shall contain:

(a) Evidence of all-union agreement authorization by at least thirty percent (30%) of the employees in the appropriate collective bargaining unit.

(b) An alphabetical listing of the names and addresses of the employees in the appropriate collective bargaining unit.

(c) Three (3) copies of the current or most recently expired contract between the employer and the collective bargaining unit. (Authorized by K.S.A. 44-802(5), 44-809(4) and (5), 44-816; effective Jan. 1, 1966.)

**49-7-3. Prerequisites to election.** The commissioner will order that an all-union agreement authorization election be held if his investigation has revealed that:

(a) No question concerning representation is pending.

(b) The petitioning labor union is the presently designated representative of the collective bargaining unit.

(c) The petition filed shows interest by thirty percent (30%) of the employees in the appropriate collective bargaining unit.

(d) No valid secret ballot election authorizing an all-union agreement has been conducted in the past twelve (12) months among the employees in the unit covered by the petition. (Authorized by K.S.A. 44-802(5), 44-809(4) and (5), 44-816; effective Jan. 1, 1966.)

**49-7-4. Employer notified by mail.** Upon the commissioner determining to order an all-union agreement secret ballot election, he will forward a letter to the employer informing him of his decision. (Authorized by K.S.A. 44-802(5), 44-809(4) and (5), 44-816; effective Jan. 1, 1966.)

**49-7-5. Commissioner elects type of vote.** The commissioner will determine whether or not to hold a manual ballot, mail ballot, or jointly conducted union-management election pursuant to rules and regulations for each of such types of elections as hereinafter set out. (Authorized by K.S.A. 44-802(5), 44-809(4) and (5), 44-816; effective Jan. 1, 1966.)

**49-7-6. Election results reported.** On the election being completed, the results shall be announced and a report of the election will be made in writing by the commissioner's office to the interested parties. (Authorized by K.S.A. 44-802(5), 44-809(4) and (5), 44-816; effective Jan. 1, 1966.)

**Article 8.—SECRET BALLOT  
ELECTION; STRIKE, WALKOUT  
AND CESSATION OF WORK**

**49-8-1. Prepetition duties of parties.** In the event an existing contract between an employer of the collective bargaining unit is due to

expire of its own terms or in the event the contract is subject to renegotiation or revision pursuant to its terms and the collective bargaining unit does desire the commissioner to hold a secret strike ballot, it shall be the duty of the officers of the collective bargaining unit to transmit to the commissioner a report of the negotiations had to that time. The report shall outline the offers and counter offers made by both parties to the other, the dates of such offers, and other pertinent information and shall request the commissioner to hold and conduct a secret strike ballot of the collective bargaining unit. The commissioner's office will then notify the employer on receipt of this report and request and upon such notification the employer shall, within 72 hours, transmit to the commissioner a report of negotiations to date including the offers and counter offers made by both parties to the other, the dates of such offers and other pertinent information. (Authorized by K.S.A. 44-816; effective Jan. 1, 1966.)

**49-8-2. Contractual relations.** In the event a labor organization contends that there has been a major breach of its contract with its employer or in the event a collective bargaining unit properly certified by the commissioner's office has no contract with its employer and, in either case, said certified collective bargaining unit desires to have a secret strike ballot taken by the commissioner, it shall be the duty of the officers of the collective bargaining unit to transmit to the commissioner a request to hold an election. Said request shall also include an alleged breach of contract or the fact that no contract exists with the employer at that time. Upon receipt of such request, the commissioner's office will notify the employer and request from the employer a transmittal report giving the employer's version of the dispute. (Authorized by K.S.A. 44-816; effective Jan. 1, 1966.)

**49-8-3. Settlement negotiations.** In the event a new contract is signed or negotiated by the parties prior to the conducting of the secret strike ballot by the commissioner, it shall be the duty of the officers of the collective bargaining unit and the employer to notify the commissioner by telegram of the settlement of the labor dispute. (Authorized by K.S.A. 44-816; effective Jan. 1, 1966.)

**49-8-4. Employer notified.** Upon the commissioner determining to order a secret strike

ballot he will write a letter to the employer informing him of his decision. (Authorized by K.S.A. 44-816; effective Jan. 1, 1966.)

**49-8-5. Commissioner elects type of vote.** The commissioner will determine whether or not to hold a manual ballot, mail ballot, or jointly conducted union-management election pursuant to rules and regulations for each of such types of elections as hereinafter set out. (Authorized by K.S.A. 44-816; effective Jan. 1, 1966.)

**49-8-6. Election results reported.** After the election is completed the results shall be announced and a report of the election will be made in writing by the commissioner's office to the interested parties. (Authorized by K.S.A. 44-816; effective Jan. 1, 1966.)

**49-8-7. Election results; period of validity.** If a majority of the employees in the collective bargaining unit do not vote in favor of a strike, any strike called in that unit will be considered an unlawful strike. Strike election results shall be valid for a period of sixty (60) days after receipt of the notice of certification of said results. This time may be extended by order of the commissioner. (Authorized by K.S.A. 44-809(3) and (5), 44-816; effective Jan. 1, 1966.)

#### Article 9.—ALL TYPES OF ELECTIONS

**49-9-1. Voters eligibility cutoff date.** In every case, upon decision of the commissioner to hold an election of any type he will request from the collective bargaining unit and/or the employer that they each submit a list of eligible voters of the collective bargaining unit, which list shall be certified under oath by proper officials or officers. The commissioner, in each case, shall inform the parties in his request for such list of the cutoff date or payroll period necessary for eligibility of the voters. If there is any dispute or question as to who is an eligible voter, the commissioner or his representative shall determine the eligibility of that voter. (Authorized by K.S.A. 44-816; effective Jan. 1, 1966.)

**49-9-2. Eligibility in general.** Generally, the commissioner will determine that eligible voters shall be those employees included within the collective bargaining unit who were employed during the payroll period on the cutoff date established by the commissioner, including employees who did not work during said payroll period

because they were ill or temporarily laid off or employees in the military service who appear in person at the polls, but will exclude any employees who have quit or been discharged for good cause and have not been reinstated prior to the date of the election. If necessary, the commissioner shall determine the sufficiency of the good cause alleged for discharge. If the merits of the employee's discharge have not been determined by the time of the election, he shall be allowed to vote a challenged ballot. Supervisors, foremen, and guards, or other personnel in an administrative or supervisory capacity that are part of the collective bargaining unit will be construed as eligible voters by the commissioner. (Authorized by K.S.A. 44-816; effective Jan. 1, 1966.)

**49-9-3. Posting of election notice.** In all types of elections there shall be posted in prominent places about the employer's establishment, notice of the election prior to the time and date of the election, and such notice shall include among other necessary and pertinent information the purpose of the election. (Authorized by K.S.A. 44-816; effective Jan. 1, 1966.)

**49-9-4. Secret ballot; general.** In every case, the commissioner's office shall prepare ballots for the holding of the election. The voter must make a cross in the block designating his choice in the election. The intent of the voter will be followed as closely as possible in the marking of the ballot. If the ballot is defaced, torn, or marked in such a manner that it is impossible to determine the voter's intent the ballot will be construed to be spoiled. If any ballot is signed or identifying marks appear on the ballot, that ballot shall not be counted. (Authorized by K.S.A. 44-816; effective Jan. 1, 1966.)

**49-9-5. Contested elections; grounds for voiding election.** In case of a contested election, the contestants shall notify the commissioner within ten (10) calendar days after the close of the election that they do contest the election, setting forth by petition their reasons for contesting the same, which petition shall be duly verified. Immediately upon receipt of that notice the commissioner or his representative shall investigate the charges made by the party contesting the election and shall determine the merits of the charges and make findings therein, which findings shall be binding on all of the parties. At the commissioner's option, in the event he deems necessary,

he may conduct a hearing upon the contestant's petition and take evidence and consider the same to aid him in making his decision. Generally, the commissioner will consider only those petitions which the charges therein, if proved true, could upset the results of the election. The commissioner may consider coercion, undue influence, compulsion, and threats among other practices as good and sufficient reason for voiding the results of an election. (Authorized by K.S.A. 44-802(3) and (5), 44-809(3), (4) and (5), 44-816; effective Jan. 1, 1966.)

#### Article 10.—HOLDING A MANUAL BALLOT

**49-10-1. Commissioner or representative to conduct election; supervisors.** If a voter inadvertently spoils the ballot, he shall return the ballot to the supervisor of his polling place who shall deliver to him another ballot, preserving the spoiled ballot for the time of counting. The counting of the ballots shall take place as soon as the polls have been closed or as soon as it is practical to count the same: Provided, however, That the commissioner may on his own motion through his representative, keep the polls open as long as he deems necessary. The commissioner or his representative may announce the results of the election as soon as the complete results have been tabulated. At each voting station, the commissioner shall furnish a supervisor to supervise the election. The voter shall fold his ballot so that no part of the face thereof shall be exposed and, upon leaving the polling booth, return his ballot to the supervisor at the polling station who shall then deposit the ballot in the ballot boxes. All ballot boxes shall be examined and locked before the opening of the polls, not to be opened until the time of counting. If the election is to take several days, the ballot boxes shall be locked and remain so until the time of counting of said ballots. (Authorized by K.S.A. 44-816; effective Jan. 1, 1966.)

**49-10-2. Observers; other election participation.** The collective bargaining unit and the employer may each designate a person to observe that the ballots are properly cast and voting properly conducted at each voting station. There shall be not more than one observer for each party. These observers are subject to such limitations as the commissioner or his supervisor may prescribe. Employer observers are limited to people in a nonsupervisory capacity. Collective bargaining

unit observers shall not be union officials or business agents. Any authorized observer or the commissioner or his representative may challenge for good cause the eligibility of any person to participate in the election. There shall be no campaigning within fifty (50) feet of any voting station while the election is being conducted. (Authorized by K.S.A. 44-816; effective Jan. 1, 1966.)

**49-10-3. Absentees voting; limitations.** A ballot will be mailed to an individual eligible to vote upon notification to the commissioner in writing of his inability because of sickness, physical disability, geographical location due to his employment, leave of absence granted by the employer, or vacation granted by the employer, the same making it impossible for him to be physically present at the time of the election. This ballot shall be mailed by the voter to the address of the labor commissioner and the envelope containing the ballot will be opened at the time of the counting of the ballots and placed in the ballot box. Such ballots must be in the commissioner's office at least twenty-four (24) hours prior to the election or delivered to the election supervisor before the closing of the polls at the place of balloting in order to be counted. Whenever a voter at an election states under oath that he is physically unable or because of his inability to read or write that he cannot mark his ballot, the supervisor shall assist him in the marking of the ballot. (Authorized by K.S.A. 44-816; effective Jan. 1, 1966.)

**49-10-4. Challenged voters; determination of qualifications binding.** In an election, if any person has been challenged as an unqualified voter, he shall be permitted to vote and the supervisor of that election shall set aside the ballot with appropriate markings. At the close of the election the commissioner shall determine the merits of the challenged ballots and decide whether or not that person is a qualified voter. The results of this finding shall be binding upon all parties. The supervisor shall deliver or mail all challenged ballots to the commissioner's office immediately. (Authorized by K.S.A. 44-802(3) and (5), 44-809(3), (4) and (5), 44-816; effective Jan. 1, 1966.)

#### Article 11.—CONDUCT OF MAIL REFERENDUM BALLOT

**49-11-1. Commissioner elects mode of balloting.** In most cases, the commissioner will

not order a mail ballot election taken unless approval is given by the interested parties. If in the commissioner's determination a mail ballot is proper, he will so advise interested parties. (Authorized by K.S.A. 44-816; effective Jan. 1, 1966.)

**49-11-2. Return of ballot; date.** The commissioner will attempt to secure the unanimous agreement of interested parties as to the date by which mail ballots must be received by the commissioner, his representative, or a local postmaster. (Authorized by K.S.A. 44-816; effective Jan. 1, 1966.)

**49-11-3. Commissioner to provide ballots by mail.** The commissioner will mail to each eligible voter at his own voting address:

- (a) Ballot.
- (b) An unmarked envelope.
- (c) An unstamped addressed envelope, larger than the plain envelope with a space for the voter's signature.
- (d) A notice of the election and instructions to the voter. (Authorized by K.S.A. 44-816; effective Jan. 1, 1966.)

**49-11-4. Canvassing of ballots.** The return envelope will be checked against the eligible voters list. The large envelopes which are found to have been signed by an eligible voter will be opened and destroyed and the unsigned envelope extracted. Before counting, the unmailed envelopes shall be shuffled and their ballots then extracted. These ballots will be counted and, as in manual elections, observers will participate in checking the eligibility of the voters and the accuracy of the counting. (Authorized by K.S.A. 44-802(3) and (5), 44-809(3), (4) and (5), 44-816; effective Jan. 1, 1966.)

## Article 12.—JOINTLY CONDUCTED UNION-MANAGEMENT ELECTION

**49-12-1. Degree of commissioner's authority at stipulated elections.** If a voter inadvertently spoils his ballot, he shall return the ballot to the observers of his polling place who shall deliver to him another ballot, preserving the spoiled ballot for the time of counting. The counting of the ballots shall take place as soon as the polls have been closed or as soon as it is practical to count the same: Provided, however, That the commissioner may on his own motion through his representative, keep the polls open as long as he deems necessary. The commissioner or his rep-

resentative may announce the results of the election as soon as the complete results have been tabulated. The voter shall fold his ballot so that no part of the face thereof shall be exposed and, upon leaving the polling booth, return his ballot to the supervisor at the polling station who shall then deposit the ballot in the ballot boxes. All ballot boxes shall be examined and locked before the opening of the polls, not to be opened until the time of counting. If the election is to take several days, the ballot boxes shall be locked and remain so until the time of counting of said ballots. The commissioner reserves the privilege to have an observer or supervisor at each election to generally observe the manner the election is conducted and to insure the intent of the legislature in providing for secret elections. (Authorized by K.S.A. 44-816; effective Jan. 1, 1966.)

**49-12-2. Observers qualifications; waiver.** The collective bargaining unit and the employer may each designate a person to observe that the ballots are properly cast and voting properly conducted at each voting station. There shall be not more than one observer for each party. These observers are subject to such limitations as the commissioner or his supervisor may prescribe. Employer observers are limited to people in a nonsupervisory capacity. Collective bargaining unit observers shall not be union officials or business agents. However, either interested party may waive these restrictions and limitations as to the other. Any authorized observer or the commissioner or his representative may challenge for good cause the eligibility of any person to participate in the election. (Authorized by K.S.A. 44-816; effective Jan. 1, 1966.)

**49-12-3. Absentee balloting; assistance for disabled voter.** A ballot will be mailed to an individual eligible to vote upon notification to the commissioner in writing of his inability because of sickness, physical disability, geographical location due to his employment, leave of absence granted by the employer, or vacation granted by the employer, the same making it impossible for him to be physically present at the time of the election. This ballot shall be mailed by the voter to the address of the labor commissioner and the envelope containing the ballot will be opened at the time of the counting of the ballots and placed in the ballot box. Such ballots must be in the commissioner's office at least twenty-four (24) hours prior to the election or delivered to the election super-

visor before the closing of the polls at the place of balloting in order to be counted. Whenever a voter at an election states under oath that he is physically unable or because of his inability to read or write that he cannot mark his ballot, the observers may assist him in the marking of the ballot. (Authorized by K.S.A. 44-816; effective Jan. 1, 1966.)

**49-12-4. Challenged voter.** In an election, if any person has been challenged as an unqualified voter, he shall be permitted to vote and the observers of that election shall set aside the ballot with appropriate markings. (Authorized by K.S.A. 44-816; effective Jan. 1, 1966.)

**49-12-5. Affidavit of compliance.** Immediately following the conclusion of balloting and prior to tabulating and counting of the ballots both interested parties, by responsible officers or officials of each, shall file an affidavit of compliance which affidavit shall be prepared and furnished by the commissioner's office and shall generally state that the election was conducted jointly pursuant to the rules of the commissioner and that in their opinion, the election was fairly conducted and held, but providing in said affidavit a listing for any specific complaints either party might have. Upon the affidavit being signed and sworn to before a notary public or official authorized to administer oaths, the affidavit of compliance shall be directed to the commissioner's representative or observer present at the election, if any. If not, a representative of each interested party shall jointly mail said affidavit in a sealed envelope addressed first-class mail to the commissioner at Topeka, Kansas. (Authorized by K.S.A. 44-816; effective Jan. 1, 1966.)

**49-12-6. Results forwarded to commissioner; contested ballot procedure.** After said affidavit of compliance has been mailed or delivered the parties shall then jointly count and tabulate the ballots. The results of said counting of ballots shall be certified to by both parties with any differences to be noted by special affidavit by either party that feels aggrieved, and a joint tally sheet shall be signed by both parties. The results of the election shall be placed in a sealed envelope and mailed first-class mail to the commissioner at Topeka. All contested ballots or challenged ballots shall be mailed to the commissioner by separate parcel or delivered to his supervisor or observer present at the election without being ruled upon

by the interested parties' observers present at the election. The ballots shall be sealed and mailed to the commissioner's office under procedure to be given by the commissioner to the interested parties.

The commissioner shall certify the results of the election upon receipt of the various affidavits of compliance, tally sheets, ballots, and challenged ballots. (Authorized by K.S.A. 44-816; effective Jan. 1, 1966.)

**49-12-7. Savings clause.** Should any section, subsection, sentence, clause, phrase, provision, or exemption of these rules and regulations be declared invalid for any reason, such invalidity shall not affect the remaining portions or provisions hereof. (Authorized by K.S.A. 44-802(3) and (5), 44-809(3), (4) and (5), 44-816; effective Jan. 1, 1966.)

#### Article 13.—MEANING OF TERMS

**49-13-1.** (Authorized by K.S.A. 1970 Supp. 44-1102, 44-1104; effective, E-70-43, Sept. 23, 1970; effective Jan. 1, 1971; revoked May 1, 1979.)

#### Article 14.—PROCEDURE

**49-14-1 to 49-14-4.** (Authorized by K.S.A. 1970 Supp. 44-1104; effective, E-70-43, Sept. 23, 1970; effective Jan. 1, 1971; revoked May 1, 1979.)

#### Article 15.—ENFORCEMENT

**49-15-1. Investigation.** The commissioner will not investigate charges when the parties are bound to the terms of a written agreement for the term of the agreement or July 1, 1973, whichever first occurs; or unless the legislature amends section 5(c) [44-1105 (c)]. (Authorized by K.S.A. 1970 Supp. 44-1104; effective, E-70-43, Sept. 23, 1970; effective Jan. 1, 1971.)

**49-15-2. Suit by commissioner, when.** Suits for restraint of violations of section 3 [K.S.A. 1970 Supp. 44-1103] of the act will not be maintained by the labor commissioner unless the commissioner has determined that a practice exists in an establishment of discrimination affecting a group of employees as a class. The commissioner will not bring an action in behalf of an individual, unless he has reason to believe a previous settlement agreement is being violated. In this event the commissioner may petition as provided in section 5 [K.S.A. 1970 Supp. 44-1105]. Therefore,

individual complainants will be advised that after conciliation efforts by the commissioner have failed, the party should consult private counsel to initiate private litigation. (Authorized by K.S.A. 1970 Supp. 44-1104; effective, E-70-43, Sept. 23, 1970; effective Jan. 1, 1971.)

#### **Article 16.—RECORDS AND RETENTION**

**49-16-1. Wages and wage rates.** Retain all records including personal identifying information including name, age, address and gender. Record regular rate of pay and hourly rate when overtime hours are worked. Record total overtime excess compensation. Record total wages paid. Date of payment and pay period covered. (Authorized by K.S.A. 1970 Supp. 44-1104; effective, E-70-43, Sept. 23, 1970; effective Jan. 1, 1971.)

**49-16-2. Posting of notice.** Every employer shall post the notice prescribed by the commissioner in a conspicuous place in every establishment where such employees are employed so they may readily observe the copy on the way to or from place of employment. (Authorized by K.S.A. 1970 Supp. 44-1104; effective, E-70-43, Sept. 23, 1970; effective Jan. 1, 1971.)

**49-16-3. Preserve for two years.** From last date of entry, all those payroll or other records containing the payroll information and data concerning wages and wage rates, payment in kind and any other benefits and copies of collective bargaining agreements, plans, trusts, employment contracts, that provide pay benefits that are in addition to the regular rate of pay. (Authorized by K.S.A. 1970 Supp. 44-1104; effective, E-70-43, Sept. 23, 1970; effective Jan. 1, 1971.)

**49-16-4.** (Authorized by K.S.A. 1970 Supp. 44-1104; effective, E-70-43, Sept. 23, 1970; effective Jan. 1, 1971; revoked May 1, 1979.)

#### **Article 17.—CONSTRUCTION OF RULES AND REGULATIONS**

**49-17-1.** (Authorized by K.S.A. 1970 Supp. 44-1104; effective, E-70-43, Sept. 23, 1970; effective Jan. 1, 1971; revoked May 1, 1979.)

#### **Article 18.—AVAILABILITY OF RULES AND REGULATIONS**

**49-18-1.** (Authorized by K.S.A. 1970 Supp. 44-1104; effective, E-70-43, Sept. 23, 1970; effective Jan. 1, 1971; revoked May 1, 1979.)

#### **Article 19.—ADOPTION, AMENDMENT AND RESCISSION**

**49-19-1.** (Authorized by K.S.A. 44-1104; effective, E-70-43, Sept. 23, 1970; effective Jan. 1, 1971; revoked May 1, 1979.)

#### **Article 20.—WAGE PAYMENTS AND PROCEDURES FOR ENFORCEMENT**

**49-20-1. Definitions.** (a) Authorized deductions, “accruing to the benefit of the employee”, as used in K.S.A. 44-319(a)(3), shall mean deductions from an employee’s pay for which the employer has received a signed authorization from the employee for lawful deductions that do not in any way waive, set aside or contravene any rights created in K.S.A. 44-313 *et seq.*, as amended.

(1) Authorized deductions shall include:

(A) Contributions to and recovery of overpayments under employee welfare and pension plans;

(B) contributions made under a collective bargaining agreement to employee welfare and pension plans that are not subject to the federal welfare and pension plans disclosure act. Such plans include, but are not limited to, group insurance plans, hospitalization insurance, life insurance plans approved by the Kansas commissioner of insurance, group hospitalization and medical service programs offered by nonprofit hospitalization and medical service organizations, and group medical insurance plans;

(C) deductions authorized in writing by employees or deduction by employers under a collective bargaining agreement for payments into:

(i) Company-operated thrift plans; or

(ii) stock option or stock purchase plans to buy securities of the employing or an affiliated corporation at market price or less, provided such securities are listed on a stock exchange or are marketable over the counter;

(D) deductions by employers for payment into employee personal savings accounts. Such payments include, but are not limited to, payments into credit unions, savings fund societies, savings and loan associations, building and loan associations, savings departments of banks for Christmas, vacations or other purposes, and payments for United States government bonds;

(E) contributions by the employee for charitable purposes;

(F) contributions to labor organizations for

purposes of dues, assessments, initiation fees and other charges; and

(G) the actual cost to the employer of meals and lodging obtained from the employer, if the cost is not wages earned.

(2) The following deductions shall not be considered authorized deductions "accruing to the benefit of the employee" within the meaning of K.S.A. 44-319(a)(3):

(A) Deductions made for cash and inventory shortages; breakage; returned checks or bad credit card sales; losses to employers resulting from burglaries, robberies, or alleged negligent acts.

(B) deductions made for uniforms, special tools or special equipment which are not necessary to the performance of the assigned duties and are customarily supplied by the employer;

(C) any other deduction not set out by K.S.A. 44-313 *et seq.* or permitted by these rules and regulations.

(3) The following deductions shall not require written authorization by the employee as provided by K.S.A. 44-319(a)(3):

(A) Deductions which the employer is required or empowered to make:

(i) By state or federal law; or

(ii) by court order lawfully issued, to the extent permitted by that law (K.S.A. 44-319(a)(1));

(B) deductions for medical, surgical, or hospital care and services paid for by the employer which are without any financial benefit to the employer and which are duly recorded in accounts maintained by the employer (K.S.A. 44-319(a)(2));

(C) deductions made to correct wage overpayments resulting from employer error when the error alone has resulted in the overpayment. However, if the deduction rate is to exceed the overpayment rate, the employer shall be required to obtain signed authorization of the employee before making any such deduction;

(D) deduction for cash advances made upon the written request or by signed agreement of the employee and made as part payment of future wages to be earned;

(E) deduction for excess cash expense allowances or advances made to the employee which are not justified by expense receipts returned to the employer, to the extent of any unexpended cash expense advances not returned to the employer.

(b) "Plan of payment," as used in K.S.A. 44-314, shall mean a method agreed to in advance by

an employee in which the employer makes bank deposits for the employee on or before the regular payday in an amount equal to the payroll amount, plus any additional amount required by the depository as a service charge, upon which the employee may draw an amount equivalent to the employee's wages less authorized deductions. Under such a plan of payment, the employer shall give a statement of earnings to the employee and the bank shall provide one free check to the employee.

(c) "Binding settlement agreement," as contemplated by K.S.A. 44-316(b), shall mean an agreement approved by the secretary of human resources or the secretary's authorized representative either prior to or subsequent to an administrative hearing conducted pursuant to K.S.A. 44-322a. Once an appeal from an administrative order has been filed with the district court pursuant to K.S.A. 60-2101, and prior to court decision, any binding settlement agreement between the parties, as defined herein shall be valid only if approved by the hearing officer or that officer's authorized representative.

(d) "Or other basis," within the meaning of K.S.A. 44-313(c), shall include all agreed compensation for services for which the conditions required for entitlement, eligibility, accrual or earning have been met by the employee. Such compensation may include, but is not limited to, profit sharing, fringe benefits, or compensation due as a result of services performed under an employment contract that has a wage rate required or implied by state or federal law. Conditions subsequent to such entitlement, eligibility, accrual or earning resulting in a forfeiture or loss of such earned wage shall be ineffective and unenforceable.

(e) "Allowed or permitted to work", within the meaning of K.S.A. 44-313(b), shall not include an independent contractor, as defined by rules, regulations, and interpretations of the United States secretary of labor for the purposes of the fair labor standards act. (Authorized by K.S.A. 44-325; implementing K.S.A. 44-313 to 44-315, 44-316 to 44-321, 44-322, 44-322a, 44-323, 44-324, 44-325, 44-326; effective, E-73-23, July 7, 1973; amended, E-73-29, Sept. 28, 1973; effective Jan. 1, 1974; amended, E-78-38, Dec. 29, 1977; amended May 1, 1978; amended May 1, 1983.)

**49-20-2.** (Authorized by K.S.A. 44-319, 44-321, K.S.A. 1977 Supp. 44-313, 44-325; effective,

E-73-23, July 7, 1973; effective Jan. 1, 1974; revoked, E-78-38, Dec. 29, 1977; revoked May 1, 1978.)

**Article 21.—PROCEDURES**

**49-21-1. Filing of complaints.** (a) Any complainant may file a claim, stating the details of the alleged nonpayment of earned wages, on official forms of the division of labor-management relations and employment standards. Any claim or claims filed by an attorney on behalf of the employee or employees shall constitute a proper filing.

(b) An assignment of the complainant’s claim and an agreement to settle the claim with the employer shall be accepted from the complainant. That assignment shall take effect only after the claim is determined to be valid and after an amount owed, including damages if applicable, has been determined.

(c) There shall be no limit on the amount of claim in trust that may be accepted by the secretary of human resources.

(d) A fee for each claim in trust assigned to the Kansas department of human resources shall be collected by the secretary or the secretary’s designee for enforcement of the claim. The fee shall be charged on the basis of the amount of wages found due and owing the employee, exclusive of penalties and interest, as follows:

Amount of claims for wages	Fee
\$200.00 or less .....	\$1.00
More than \$200.00, but less than or equal to \$500.00 .....	\$2.00
More than \$500.00, but less than or equal to \$1,000.00 .....	\$5.00
More than \$1,000.00.....	\$10.00

(Authorized by K.S.A. 44-325; implementing K.S.A. 44-324; effective, E-73-23, July 7, 1973; effective Jan. 1, 1974; amended, E-78-38, Dec. 29, 1977; amended May 1, 1978; amended May 1, 1983; amended May 1, 1987.)

**49-21-2. Processing claims.** (a) Service of claim. A copy of the claim shall be mailed to the employer by United States mail.

(b) Investigation. (1) The investigator shall determine that each claim is within jurisdiction of the Kansas wage payment statutes to the best extent possible prior to service of the claim upon the employer.

(2) The notice of claim shall contain citation of

the statute alleged to have been violated with a brief description of the nature of the violation.

(3) The employer shall be notified of a specified date on which a response is required, not to exceed 20 days. Extensions of the response period may be extended for good and sufficient reasons at the discretion of the secretary or the secretary’s authorized representative.

(4) The employer shall respond on forms provided by the division of labor-management relations and employment standards within the time specified in the notice of claim or within 10 days of receipt of the claim, whichever is longer. Any response which is incomplete and that does not answer the allegations of the claim shall not be considered to have satisfied the response requirement.

(5) Failure on the part of the employer to respond to a claim shall be considered as establishing a dispute and a hearing may be set without further investigation. The investigator in all claims shall have the full authority and power of the secretary as provided in K.S.A. 44-322.

(6) When the evidence shows there is probable cause to believe that a violation has occurred, the investigator shall attempt to obtain payment or settlement through conciliation of the parties to the dispute.

Determination of an alleged violation shall be based upon:

(A) The lawful provisions of the employment agreement or contract between the employer and employee;

(B) evidence of work performed; and

(C) proof of payment for work performed under the agreement or contract.

Any agreement by the parties or any requirement by the employer to contravene, set aside or waive any provision or any right created under the act shall be in violation of the act and equivalent to nonpayment of earned wages. Any provision contained in the employment agreement or contract that violates any provision or right created by this act shall not be enforceable, regardless of whether the parties have mutually assented to the provision.

Any conditional wage payment requiring a release from further claim for balances alleged to be owed by the employer shall be a violation of K.S.A. 44-321 and therefor null and void unless that release is part of a binding settlement agreement as described in the act and defined herein.

(7) When evidence fails to support the alleged

claim, the investigator, after giving 30 days notice to the claimant of the need for further evidence, may dismiss such claim as unmeritorious if such evidence is not submitted.

(8) In claims where a dispute has been determined to exist and payment or settlement is not obtained, the investigator shall prepare the case for hearing. (Authorized by K.S.A. 44-325; implementing K.S.A. 44-321, 44-322, 44-322a, 44-324; effective, E-73-23, July 7, 1973; effective Jan. 1, 1974; amended, E-78-38, Dec. 29, 1977; amended May 1, 1978; amended May 1, 1983.)

**49-21-3. Hearings.** (a) Authority of the hearing officer.

(1) The hearing officer shall be appointed by the secretary and shall have the power and authority, in conducting hearings in the name of the secretary, as provided in K.S.A. 44-322:

(A) To administer oaths and examine witnesses under oath;

(B) to issue compulsory process to compel the attendance of witnesses or the production of papers, books, accounts, records, payrolls, documents, or other exhibits relating to claims for unpaid wages; and

(C) to receive depositions and affidavits in the process of the hearing.

(2) The hearing officer shall conduct the hearing, rule on the admissibility of evidence and the examination of witnesses, and determine the extent to which the rules of evidence will apply.

(3) The hearing officer shall weigh the evidence presented, make findings of fact and conclusions of law, and issue orders based on those findings and conclusions. The hearing officer shall explain the decision in memorandum form and the memorandum shall accompany the order.

(4) The hearing officer may require good and sufficient reason before granting any continuance or postponement of any hearing for which proper service has been made. The hearing officer may refuse any such request when, in the hearing officer's judgment, the request:

(A) Would cause hardship or undue delay on the adverse party; or

(B) would not allow time for reasonable notice to each party and witness.

(b) Notice of hearing.

(1) Each party to the dispute shall be given not less than 10 days written notice of the time and place of the hearing by personal service or by first class mail. The notice shall contain a brief descrip-

tion of the alleged violations to be determined and shall state that each party may be represented by counsel, may call witnesses on its behalf, may cross-examine adverse witnesses, and may introduce evidence in support of its position.

(2) Subpoenas issued to require the attendance of witnesses or the production of evidence shall be served personally. Either party may request the use of a subpoena to require the production of evidence or the appearance of a witness by making the request no later than five days before the hearing date. Each request shall be specific so as to properly identify the evidence or person to be subpoenaed. Failure to obtain service of any such subpoena shall not be cause for a continuance or postponement of any hearing if improper service is made by the parties to the dispute, or if the requesting party has failed to provide accurate or complete information so as to allow such service or if the request does not allow sufficient time to obtain proper service. Final determination of the merits of any such request shall rest with the hearing officer.

(c) Hearing procedures.

(1) The burden of proof that services were performed within an established employment agreement for which payment has not been made shall rest with the claimant. The burden shall be satisfied by testimony or other evidence. Once the claimant has established that an employment agreement existed and that services were performed, the burden of proof to establish payment for those services shall rest with the respondent.

(2) Strict rules of evidence shall not apply and the hearing officer may rule on questions of evidence. All evidence shall be relevant and material to the dispute, and the hearing officer shall determine when a party exceeds the bounds of relevancy. In such a case, the hearing officer may request that the evidence be made relevant to the dispute.

(3) A transcript of the hearing shall be made and maintained by a certified shorthand reporter, or the hearing officer shall make a record by means of a tape recording, until the record is duly transcribed and certified to the court as required. Any party desiring a copy of the transcript may make a request to the agency, and upon payment of a reasonable fee as established by the secretary, a transcript shall be furnished to the party by the department of human resources. Any party to the hearing wishing to make a separate record may do so at the party's own expense, if the party fur-

nishes a copy to the secretary of human resources and to the adverse party as soon as it is available from the person making such a record.

(4) Either party to the dispute may be represented by counsel and may call any witnesses or cross-examine any witness.

(5) The record on appeal shall consist of the complaint, any response thereto by the employer, any reply by the claimant to the employer's response, the transcript of the proceedings before the administrative tribunal, any exhibits introduced at the hearing, and the order entered by the hearing officer.

That portion of the entire record which is to be filed with the clerk of the district court shall be determined and prepared for filing in accordance with these regulations, but the district court may order any or all additional parts of the entire record to be filed.

(6) The cost of reproducing the record for filing with the district court shall be borne by the appellant. Upon ascertaining the cost of the duplication and the payment thereof in advance by the party making the request, the agency shall effect such duplication and transmit the record to the clerk of the district court for filing.

(d) Findings of fact, conclusions of law, and order.

(1) The findings of fact shall set forth all facts:

(A) That are supported by the evidence;

(B) which are relevant to the issues of the claim; and

(C) that are necessary to support conclusions of law.

(2) The order shall be issued by the hearing officer within 45 days of the hearing and shall include, if required by the facts, any damages assessed because of respondent's willful violation. The order shall contain a certificate of service and shall be served upon each party to the dispute either personally or by first class mail. The order shall contain a statement that, unless the order is satisfied, or an appeal is taken to the district court in accordance with K.S.A. 60-2101 within 30 days after entry of the decision, the case will be:

(A) Referred to the secretary of human resources or the secretary's authorized representative for enforcement; or

(B) reassigned to the claimant for enforcement through judicial proceedings. (Authorized by K.S.A. 44-325; implementing K.S.A. 1983 Supp. 44-322a, K.S.A. 44-324, 44-327; effective, E-73-23, July 7, 1973; effective Jan. 1, 1974; amended,

E-78-38, Dec. 29, 1977; amended May 1, 1978; amended May 1, 1983; amended May 1, 1984.)

**49-21-4. Reciprocal enforcement agreement with other states.** The secretary of human resources may enter into agreement with other states to collect wages from out-of-state employers, and to perform reciprocal services in the state of Kansas for those other states, as follows:

(a) To the extent allowed in K.S.A. 44-322, the secretary may agree to assist other states in the investigation of claims filed in the foreign state claiming unpaid wages from a Kansas employer.

(b) The secretary may request other states that are party to the reciprocal agreement to assist in the investigation of Kansas claims filed by employees performing services in Kansas when the employer is located in a foreign state.

(c) The secretary may agree:

(1) to enforce judgments for wage payment in Kansas for other states when the employer is a Kansas employer; and

(2) to request other states who are party to the agreement to execute Kansas judgments for wages in those foreign states when the services were performed in Kansas and the employer is located in a foreign state.

(d) The secretary may agree to enforce claims of an employee in a foreign state:

(1) when the employee is represented by a private attorney; and

(2) when the attorney has made application through the office having jurisdiction in that state over the wage payment laws to certify the claim to the secretary of human resources for enforcement.

(e) Determination of claims shall be made by the state having jurisdiction according to the lawful requirements of that state. (Authorized by K.S.A. 44-325; implementing K.S.A. 44-327; effective May 1, 1984.)

## Article 22.—GENERAL PROVISIONS

**49-22-1. Definitions.** (a) "Act" means the professional negotiations act, as defined in K.S.A. 72-5413 *et seq.* and amendments thereto.

(b) Computation of time. Whenever the time limit in these rules, for any act, is seven days or more, Saturdays, Sundays and legal holidays shall be included in making the computation. Whenever the time limit is less than seven days, Saturdays, Sundays and legal holidays shall be excluded. Whenever the last day of any time period falls on

a Saturday, Sunday or legal holiday, that day shall be omitted from the computation. The secretary, for good cause shown, may extend any time limitation prescribed in these rules other than those time limitations fixed by statute. Computation of time shall commence when service to a party is made by the secretary, except as otherwise provided by these rules and regulations.

(c) "Party" means any professional employee, professional employee organization, or board of education named as a party in a petition filed under the act or these rules, or any professional employee, professional employee organization or board of education whose timely motion to intervene in a proceeding has been granted.

(d) "Memorandum of agreement" means an agreement entered into, pursuant to the provisions of K.S.A. 72-5421 (a), between a board of education and a professional employee organization.

(e) "Proof or showing of interest" means, in the case of a representation election pursuant to K.S.A. 72-5418, a signed card or petition form indicating an employee's interest in questions raised in a petition form filed with the secretary. In the case of a professional employee organization filing a petition with the secretary for a representation election pursuant to K.S.A. 72-5416, proof or showing of interest means a membership list.

(f) "Hearing examiner" means the secretary or the person designated by the secretary to conduct a hearing. (Authorized by K.S.A. 72-5432; implementing K.S.A. 72-5413, 72-5416, 72-5418, 72-5421, 72-5426, 72-5427, 72-5428, 72-5430a; effective, E-78-37, Dec. 29, 1977; effective May 1, 1978; amended, E-81-38, Dec. 10, 1980; amended May 1, 1981; amended May 1, 1984.)

#### Article 23.—PROCEDURE

**49-23-1.** (Authorized by K.S.A. 72-5413 et seq.; effective, E-78-37, Dec. 29, 1977; effective May 1, 1978; revoked, E-81-38, Dec. 10, 1980; revoked May 1, 1981.)

**49-23-2 and 49-23-3.** (Authorized by K.S.A. 72-5416 to 72-5418; effective, E-78-37, Dec. 29, 1977; effective May 1, 1978; revoked, E-81-38, Dec. 10, 1980; revoked May 1, 1981.)

**49-23-4. Notification of recognition.** (a) All boards of education shall be required to file with the secretary, on a form to be provided by the secretary, annual notification of the status of

recognition of any recognized employee organization, a description of the appropriate unit and the current memorandum of agreement status. The annual notification shall be filed no later than July 1 of each calendar year. A copy of the notification shall be filed by the secretary with the appropriate professional organization. No employee organization recognized as a bargaining representative of the unit shall lose its recognition and status by failure of a board of education to file.

(b) In the event a board of education fails to file as required by this section, the previously recognized bargaining representative may file with the secretary, on a form to be provided by the secretary, notification of the recognition and a description of the unit for whom the organization is or has been the recognized representative.

(c) Once a board of education has granted recognition to a professional employee organization the recognition shall remain in force and effect until changed by procedures specified by K.S.A. 72-5413 et seq. (Authorized by K.S.A. 72-5432; implementing K.S.A. 72-5417; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981.)

**49-23-5. (a) Service of papers.** Petitions, complaints and other papers filed with the secretary shall be served by personal service, by certified mail, by telegraph or by leaving a copy thereof in the office or place of business of the person to be served.

(1) If service is by personal service or by leaving a copy of the paper in the office or place of business of the person to be served, a written return shall be made by the person serving the paper. The return shall state the time, place and manner of service, and shall be signed by the person serving the paper.

(2) If service is by certified mail or by telegraph, the signed post office receipt or telegraph receipt shall constitute proof of service.

(b) Any person, association or entity wishing to file a petition, complaint or other paper with the secretary shall submit the original petition, complaint or other paper and two copies to the secretary.

(c) Service upon attorney. If a party is represented by an attorney, all papers other than the complaint, notice of original hearings, decisions and orders may be served as herein provided upon the attorney and the service shall have the same force and effect as though served upon the party.

(d) Notice by the secretary. The secretary shall provide to all parties to an action copies of pleadings duly filed with the secretary.

(e) Intervention. Any third party having a legitimate interest in any proceeding before the secretary may file a motion to intervene setting forth facts sufficient to establish such interest and requesting the secretary to allow it to intervene in the matter. The secretary shall serve a copy of the motion to intervene on all parties, granting the parties five (5) days in which to respond, then issue an order either allowing or disallowing the motion to intervene. Any organization which is recognized as the representative of a unit shall be considered to have a legitimate interest in any proceeding involving said unit or any portion thereof. (Authorized by K.S.A. 72-5432; implementing K.S.A. 72-5417, 72-5418, 72-5419, 72-5420, 72-5427, 72-5430; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981.)

**49-23-6. Petition filing.** (a) A petition form to be provided by the secretary, may be filed with the secretary by a professional employee organization, board of education, or a professional employee for the following purposes:

- (1) Unit determination;
- (2) Representation election;
- (3) Impasse declaration; and
- (4) Prohibited practice.

The original of the petition shall be signed by the petitioner or his or her authorized representative and the original and two (2) copies shall be filed with the secretary.

(b) Amendment or withdrawal of petitions. A petition may be amended, in whole or in part, or withdrawn by the petitioner at any time prior to the filing of an answer by an interested party. A petition may be amended or withdrawn by the petitioner after the filing of an answer only with the approval of the secretary.

(c) Answers to unit determination and prohibited practice petitions. All parties shall file an answer to a petition within twenty (20) days after receipt of the petition from the secretary. The secretary may extend the time for filing an answer upon written motion showing good cause for the extension. Failure to answer or deny within twenty (20) days shall be deemed an admission by the party to any allegation in the petition not answered or denied. Answers may be amended only with the approval of the secretary. (Authorized by K.S.A. 72-5432; implementing K.S.A. 72-5417,

72-5418, 72-5419, 72-5420, 72-5427, 72-5430; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981.)

**49-23-7. Hearings, procedures.** (a) Notice of hearing.

(1) Following the filing of a petition, complaint or other paper with the secretary, if it appears to the secretary that a hearing is authorized and warranted, the secretary shall fix a time and place for a hearing and shall notify each of the parties and all individuals or employee organizations known by the secretary to represent employees directly affected in the matter, of the time and place of the hearing. The hearing shall not be held less than seven (7) days after issuance of the notice by the secretary, except by agreement of the parties or in unusual circumstances.

(2) The time and place of the hearing may be changed by the secretary prior to the beginning of the hearing. Reasonable notice of the alternate time and place of the hearing shall be given to all interested parties.

(b) Objections to appointment. Upon notification of appointment by the secretary of an agent to perform any function, the parties shall file, within three (3) days of notification, any objection they might have to the agent appointed. The objection shall contain a specific statement of the reasons for the objection.

(c) Conduct of the hearings.

(1) All hearings shall be conducted by a hearing examiner. In the event the hearing examiner is unable to continue a hearing, the hearing may be reconvened at a later date, when the examiner is available, or, with the consent of all parties, another hearing examiner may be substituted.

(2) It shall be the duty of the hearing examiner to inquire fully into all matters at issue and to obtain a full and complete record.

(3) The hearing examiner may, at his or her discretion, continue the hearing from day to day or adjourn it to a later date or another place, by announcement at the hearing or by other appropriate notice.

(d) Motions.

(1) All motions made during a hearing shall be made part of the record of the proceedings and shall be ruled upon by the examiner.

(2) All motions and answers, other than those made during a hearing, shall be made in writing to the secretary, shall briefly state the relief sought, and may be accompanied by affidavits set-

ting forth the grounds upon which they are based. Any response to the motion shall be filed with the secretary within five (5) days after service of the moving papers, unless the secretary directs otherwise. The secretary shall rule upon all motions. The secretary may decide to hear oral arguments or to accept written testimony on any motion and the secretary shall notify the parties of the fact and of the time and place of the arguments or the methods of submission of written testimony. The secretary shall issue rulings and orders to decide all matters and all motions and rulings shall be part of the record of the proceedings.

(e) Objections. An objection not made before the hearing examiner or the secretary shall be deemed waived unless the failure to make the objection shall be excused by the secretary because of extraordinary circumstances.

(f) Introduction of evidence; the rights of parties at hearings. Any party shall have the right to appear at a hearing in person or by counsel, and any party and the hearing examiner shall have the power to call and examine witnesses, and to introduce into the record documentary and other evidence. A party shall, upon offering an exhibit into evidence at a hearing, simultaneously furnish copies to all other parties, unless excused by the hearing examiner. Witnesses shall be examined orally under oath. Compliance with the technical rules of evidence shall not be required. Stipulations of fact may be introduced as evidence with respect to any issue.

(g) The refusal of a witness at a hearing to answer a question which has been ruled proper by the hearing examiner shall be noted in the record. Such refusal shall go to the weight of the witness' previous testimony, but shall not be grounds for striking all previous testimony of the witness.

(h) Findings of fact; conclusion of law; orders or recommendations.

(1) Upon conclusion of a hearing any party to the hearing may, within a time period specified by the hearing examiner file suggested findings of fact, conclusion of law, and order.

(2) In the event the secretary appoints a hearing examiner to conduct a hearing the hearing examiner shall as expeditiously as possible after the conclusion of the hearings, issue his or her findings of fact, conclusions of law and recommendations. The findings, conclusions, and recommendations shall be in writing and in a form as the secretary may direct.

(A) The hearing examiner's findings, conclu-

sions and recommendations shall be served upon the parties, by the secretary, granting all parties ten (10) days from receipt in which to file written exceptions.

(B) The secretary shall, based upon the evidence produced at the hearing, and after reviewing the findings of fact, conclusions, recommendations of the hearing examiner, and any written exceptions, issue a final order.

(3) In the event the secretary serves as hearing examiner, the secretary shall, as expeditiously as possible after the close of the hearing, issue findings of fact, conclusions of law and a final order. (Authorized by K.S.A. 72-5432; implementing K.S.A. 72-5417, 72-5418, 72-5419, 72-5420, 72-5427, 72-5430; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981.)

#### Article 24.—UNITS

**49-24-1 and 49-24-2.** (Authorized by K.S.A. 72-5413 et seq.; effective, E-78-37, Dec. 29, 1977; effective May 1, 1978; revoked, E-81-38, Dec. 10, 1980; revoked May 1, 1981.)

**49-24-3.** (Authorized by K.S.A. 72-5417 to 72-5420; effective, E-78-37, Dec. 29, 1977; effective May 1, 1978; revoked, E-81-38, Dec. 10, 1980; revoked May 1, 1981.)

**49-24-4. Determining appropriate units.** Petitions for unit determination may be filed by a board of education, professional employee organization, or a professional employee(s). In the event a board of education has recognized a professional employee organization, unit determination or clarification questions shall be governed by the memorandum of agreement unless the secretary determines that the agreement is unclear or that the agreement is silent with regard to the positions in question. (Authorized by K.S.A. 72-5432; implementing K.S.A. 72-5420; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981.)

#### Article 25.—ELECTIONS

**49-25-1 and 49-25-2.** (Authorized by K.S.A. 72-5413 et seq.; effective, E-78-37, Dec. 29, 1977; effective May 1, 1978; revoked, E-81-38, Dec. 10, 1980; revoked May 1, 1981.)

**49-25-3.** (Authorized by K.S.A. 72-5417 to 72-5419; effective, E-78-37, Dec. 29, 1977; effective May 1, 1978; revoked, E-81-38, Dec. 10, 1980; revoked May 1, 1981.)

**49-25-4. Eligibility and conditions.** A petition may be filed by a professional employees' organization, board of education, or professional employees requesting the secretary to investigate and rule on the question(s) raised by a petition. (a) The secretary shall investigate all the questions but may postpone a representation election if a unit determination question is in issue.

(b) A petition calling for a certification or decertification election shall be dismissed by the secretary if there is an existing memorandum of agreement, and the expiration date of the agreement is more than twelve (12) months subsequent to the date upon which the petition was filed with the secretary.

(c) Elections called pursuant to sufficient petitions filed after December 1 in any calendar year will be conducted as expeditiously as possible subsequent to July 1 of the next ensuing calendar year. (Authorized by K.S.A. 72-5432; implementing K.S.A. 72-5417, 72-5418, 72-5419; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981.)

**49-25-5. Membership lists, petition.** (a) Evidence of membership shall be by verified membership list. Showing of interest may be by petition or authorization cards. A petition shall name the board of education, shall show the employee's address, and shall be signed and dated by the professional employee specifying that the employee supports the questions raised by the petition. A card or petition signed and dated by a professional employee less than one hundred and eighty (180) days prior to the date on which the petition was filed shall constitute prima facie evidence of continuation of the authorization. Membership lists shall contain each member's name alphabetically and show the member's address. The list shall be verified on each page by an officer or representative of the organization.

(b) The proof of interest submitted shall not be furnished to any of the parties.

(c) The professional employees eligible to vote on the question(s) raised by the petition shall be those in the appropriate unit on the payroll on the date of validation and who remain on the payroll on the date of the election. (Authorized by K.S.A. 72-5432; implementing K.S.A. 72-5418, 72-5419; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981.)

**49-25-6. Listing of employees.** (a) Upon the filing of a petition with the secretary requesting a certification or decertification election, the

secretary shall request, in writing, the appropriate board of education to furnish the secretary an alphabetical listing of all employees within the affected unit. The board of education shall furnish the listing to the secretary as expeditiously as possible not to exceed twenty (20) days following the date of the request by the secretary, unless otherwise directed by the secretary.

(b) Upon a determination by the secretary that an election shall be conducted, the secretary shall furnish a list of the names and addresses of all eligible professional employees in the appropriate unit to any professional employee organization currently recognized to represent the employees, and to all professional employee organizations or groups of professional employees who have submitted sufficient proof of interest to the secretary. (Authorized by K.S.A. 72-5432; implementing K.S.A. 72-5419; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981.)

**49-25-7. Notice of election.** (a) At least fifteen (15) days prior to an election, the secretary shall cause a notice of election and sample ballot to be posted in conspicuous areas where professional employees in the affected unit assemble.

(b) A motion for intervention for representation on an election ballot shall not be entertained during the ten (10) day period immediately preceding an election. (Authorized by K.S.A. 72-5432; implementing K.S.A. 72-5419; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981.)

**49-25-8. Procedure.** (a) All elections shall be by secret ballot and shall be conducted at times and places and in a manner prescribed by the secretary. All elections shall be conducted by the secretary or a designated agent of the secretary. Determinations by the secretary on any question regarding an election shall be final. Determinations by the secretary's agent on any question regarding an election shall be subject to review by the secretary.

(b) Ballots shall be prepared and issued by the secretary.

(c) The place of priority on the ballot shall be determined by the chronological filing or appearance on the docket of the secretary but with the petitioner taking first priority, except that a currently recognized organization shall always take priority.

(d) In a runoff election, the place of priority shall be determined by the sequence of the ballot at the prior inclusive election. All runoff elections

shall be conducted as expeditiously as possible not to exceed thirty (30) days following the first election unless otherwise ordered by the secretary. (Authorized by K.S.A. 72-5432; implementing K.S.A. 72-5419; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981.)

**49-25-9. Observers, eligibility, challenged ballots.** (a) Each organization named on a ballot and the board of education shall be entitled to be represented by an observer at each polling place. Observers for each organization shall be a professional employee eligible to vote, and the board of education's observer shall be a non-supervisory person unless otherwise agreed to by all parties.

(b) Prior to the commencement of the election, the agent of the secretary shall designate the polling area and no advocating, soliciting, promoting, or otherwise supporting, in any manner, the election or defeat of a professional employees' organization or the choice of "no representation" shall be permitted within this area. A violation of this rule by any party or its representative or agent may be grounds for setting aside the election.

(c) Any prospective voter may be challenged for cause.

(d) All professional employees whose names do not appear on the list certified by the secretary as being a complete list of professional employees within the defined appropriate unit, shall be challenged by the agent of the secretary.

(e) A challenged voter shall be permitted to vote but the voter's ballot shall not be cast; instead it shall be sealed in a separate, unmarked envelope under the supervision of an agent of the secretary and inserted in a special, identifiable form envelope provided by the secretary for the purpose and return to the election agent.

(f) Prior to counting the ballots, questions regarding challenged voters shall be resolved by the election agent, if the agent is able to do so. If the election agent cannot resolve all questions regarding challenged voters, the agent shall seal the ballot box, and all questions shall be resolved by the secretary. The results of the election will be certified by the secretary in accordance with K.A.R. 49-25-9a. (Authorized by K.S.A. 72-5432; implementing K.S.A. 72-5418, 72-5419; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981.)

**49-25-10. Absentee ballots.** Absentee ballots shall be available from the secretary upon written request by an eligible voter showing good

and proper cause for obtaining the ballot. The secretary shall rule on the sufficiency of the cause and shall prescribe the method and timeliness of application for absentee ballots on the notice of election as required by K.A.R. 49-25-4a. Ballots shall be mailed to voters by the secretary and shall be returned to the secretary's office within the time limits specified on the election notice. (Authorized by K.S.A. 72-5432; implementing K.S.A. 72-5418, 72-5419; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981.)

**49-25-11. Tally of balloting, objections.**

(a) A tally of ballots shall be made by the election agent immediately following the closing of the polls except in the case of unresolved challenged ballots. A tally sheet shall be furnished to all parties to the election.

(b) Each party to the election shall be permitted to observe the count of the ballots.

(c) All objections to a party's conduct or third person's conduct to the election shall be filed with the secretary within five (5) days of the election and the secretary shall immediately conduct an investigation of the objection and shall determine the sufficiency of the election. (Authorized by K.S.A. 72-5432; implementing K.S.A. 72-5418, 72-5419; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981.)

**49-25-12. Certification of election results.**

(a) Certification. The secretary shall issue to the parties a certification of the results of the elections, including certification of the representative, if appropriate. All professional employee organizations shall be certified as of the next February 1 following the election in which they were selected, except where a postponement has occurred in accordance with Article 25 of these rules and regulations causing the election to be conducted after February 1. In that event, certification shall be effective as of the next February 1 following the filing of the petition for the representation election.

(b) Upon receipt of the certification of election results, the board of education shall grant official recognition to the professional employee organization selected by the professional employees if the employees in fact have selected an exclusive representative. The recognition shall become effective on the date of certification by the secretary. (Authorized by K.S.A. 72-5432; implementing K.S.A. 72-5419, 72-5423; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981.)

**Article 26.—IMPASSE DECLARATION  
AND NOTIFICATION**

**49-26-1.** (Authorized by K.S.A. 72-5413 *et seq.*; effective, E-78-37, Dec. 29, 1977; effective May 1, 1978; revoked, E-81-38, Dec. 10, 1980; revoked May 1, 1981.)

**49-26-2. Petition; contents.** (a) A petition for impasse declaration shall state:

(1) Name, address, telephone number, and representative to contact for both the recognized employee organization and the board of education;

(2) Approximate number of employees in unit;

(3) Number of negotiation sessions;

(4) Number of issues in dispute; and

(5) Description of issues in dispute. (Authorized by K.S.A. 72-5432; implementing K.S.A. 72-5426; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981.)

**49-26-3. Determination of impasse; duties of secretary.** (a) If the secretary determines that an impasse exists, the secretary shall:

(1) If a federal mediator is available, appoint a mediator from the federal mediation and conciliation service; or

(2) If a federal mediator is not available within fourteen (14) days after the secretary's request the secretary shall appoint a mediator from a list of qualified persons maintained by the secretary. All mediators shall receive an amount of compensation determined to be appropriate by the secretary.

(b) A mediator appointed pursuant to these rules shall be required to notify the secretary as to the date, time and location of his or her first meeting with the parties.

(c) The effective date of appointment for a mediator shall be the date of the first meeting with the parties. (Authorized by K.S.A. 72-5432; implementing K.S.A. 72-5427; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981.)

**49-26-4. Mediator authority.** The mediator may hold separate or joint meetings with the parties or their representatives, but any meeting shall be private and non-public. The meetings shall be conducted at the time and place determined by the mediator. (Authorized by K.S.A. 72-5432; implementing K.S.A. 72-5427; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981.)

**49-26-5. Costs incurred in mediation.**

When the impasse is resolved or when a fact-finding board is appointed, the secretary shall submit a statement to the parties for the costs incurred by the appointment and service of a mediator. (Authorized by K.S.A. 72-5432; implementing K.S.A. 72-5427, 72-5429; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981.)

**Article 27.—FACT-FINDING**

**49-27-1.** (Authorized by K.S.A. 72-5413 *et seq.*; effective, E-78-37, Dec. 29, 1977; effective May 1, 1978; revoked, E-81-38, Dec. 10, 1980; revoked May 1, 1981.)

**49-27-2. Failure to resolve impasse; appointment of fact-finding board.** (a) If a board of education or a recognized employee organization determines, after the seven (7) day period following the appointment of the mediator, that mediation has failed to resolve an impasse, the board of education or recognized employee organization shall file with the secretary notice of the failure. The secretary shall furnish a copy of the notification to the remaining party to the impasse.

(b) The party filing notice of the failure of mediation may, within ten (10) days of the filing date, request the secretary to appoint a fact-finding board.

(c) The party receiving the notice from the secretary stating the failure of mediation may, within ten (10) days from receipt of the notice, state their concurrence that mediation has failed and request the secretary to appoint a fact-finding board.

(d) Requests for appointment of fact-finding boards shall be considered timely if the request is postmarked by the U.S. Postal Service no later than the tenth day. (Authorized by K.S.A. 72-5432; implementing K.S.A. 72-5428; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981.)

**49-27-3. Request for fact-finding.** (a) A request for the appointment of a fact-finding board shall be in writing and may be filed with the secretary by either party. Both parties to the impasse shall be granted three (3) days from receipt of a written notification from the secretary to respond to the secretary, setting out:

(1) All issues at impasse;

(2) The party's final position on each issue at impasse; and

(3) The party's desire for the appointment of an individual fact-finder or for the appointment of

a panel of three (3) fact-finders or certification by the secretary of a roster of five (5) fact-finders from which the parties may recommend a fact-finding board.

(b) In the event the parties agree upon the number of fact-finders to be appointed, the secretary shall appoint the number of persons agreed upon.

(c) In the event the parties cannot agree upon the number of fact-finders, the secretary shall determine the number of members to serve on the fact-finding board.

(d) Prior to commencing the fact-finding hearings, the secretary shall furnish the fact-finder(s) and both parties at impasse the respective positions of the parties on each issue at impasse. However, in no event shall the secretary provide position papers of one party to the other party prior to receipt of position papers from both parties. (Authorized by K.S.A. 72-5432; implementing K.S.A. 72-5428; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981.)

**49-27-4. Fact-finder requirements.** (a) The person or persons appointed by the secretary to serve as a fact-finding board shall notify the secretary of the date, time and location of the first meeting with the parties at impasse.

(b) The person or persons appointed by the secretary to serve as a fact-finding board shall be compensated at a rate determined by the secretary.

(c) The effective date of the appointment of a person to serve on a fact-finding board shall be the date on which the fact-finding board first meets with the parties.

(d) The secretary shall submit a statement to the parties for all costs incurred by the fact-finding board. (Authorized by K.S.A. 72-5432; implementing K.S.A. 72-5428, 72-5429; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981.)

#### **Article 28.—PROHIBITED PRACTICES**

**49-28-1. Who may file.** An allegation of a violation of K.S.A. 72-5430 may be filed with the secretary by a board of education, professional employee organization, or a professional employee. (Authorized by K.S.A. 72-5432; implementing K.S.A. 72-5430; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981.)

**49-28-2. Form and filing, content.** (a)

Complaint forms shall be provided by the secretary.

(b) An answer filed by a party accused of a prohibited practice shall contain the following:

(1) A specific admission, denial, or explanation of each allegation of the complaint, or if the answering party is without knowledge thereof, he or she shall so state and the statement shall serve as a denial. Admissions or denials may be to all or part of an allegation but shall fairly meet the substance of the allegation.

(2) A clear and concise statement of the facts and matters of law relied upon. Any allegation in the complaint not specifically denied in the answer shall be deemed to be true and may be so found by the secretary, unless the respondent shall state in the answer that the respondent is without knowledge and the reasons he or she is without knowledge. (Authorized by K.S.A. 72-5432; implementing K.S.A. 72-5430; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981.)

#### **Article 29.—RESERVED**

#### **Article 30.—MINIMUM WAGE AND MAXIMUM HOURS**

**49-30-1. Definitions.** The definitions herein contained are in addition to those expressed in K.S.A. 1978 Supp. 44-1201 through 44-1213:

(a) “Wage” means money due an employee from an employer whether determined on a time, task, piece rate, commission, bonus, or other basis.

(b) “Allowances” mean items that by these regulations may be credited in whole or in part to “wages” due an employee.

(c) “Workweek” means any period of time consisting of seven (7) consecutive days or one hundred sixty-eight (168) hours. The beginning of such period shall be at the discretion of the employer. In the case of employees who work in fire protection agencies or law enforcement agencies, a work period of not less than seven (7) days or more than twenty-eight (28) days may be established at the discretion of the employer.

(d) “Designated time” means the actual time the employee is required to report at a designated location regardless of whether a job assignment is made after the employee has reported.

(e) “Employer” means the state of Kansas and any county, city, improvement district, township,

school district, or other forms of public administration.

(f) "Employee" means an individual employee who performs work not covered under the fair labor standards act of 1938 (29 U.S.C.A. § 201 *et seq.*, as amended) regardless of whether or not other employees of the same employer perform work covered under the fair labor standards act of 1938.

(g) "Agriculture" means an operation cultivating the soil, or the harvesting of crops, or the raising and feeding of livestock, bees, fur-bearing animals, fish, poultry, or the preparation, packing, packaging or transporting to market of crops or products when such is an integral part of the ordinary agricultural operations.

(h) "Domestic service" means an individual employed by an owner or tenant in a private home to clean, repair or maintain the private home or the property on which the private home is located, but does not include an individual employed by a person contracting to perform the service.

(i) "Executive" means: (1) any individual who owns at least twenty (20) percent interest in the enterprise and is in sole charge of an independent establishment or a physically separated branch establishment; or (2) an individual employed in the capacity of an executive paid in excess of one hundred fifty-five dollars (\$155) per week and who does not devote more than twenty (20) percent, (forty (40) percent in the case of employees in a retail or service establishment) of his or her hours of work in a workweek to employment activities which are included in the coverage of these regulations.

(j) "Administrative capacity" means an individual employed in an administrative position, public or otherwise, when performance is of office or nonmanual work directly related to office management policies, or general business operations when: (1) such individual supervises at least two (2) other employees; and (2) does not devote more than twenty (20) percent (forty (40) percent in case of employees in retail or service establishments), of his or her hours of work in a workweek to employment activities which are included in the coverage of these regulations; (3) performs functions in the administration of a school system, educational establishment or institution, where the work is directly related to academic instruction or training; (4) an individual who exercises discretion and independent judgment regularly and directly to assist a bona fide executive or administrative

person as herein defined, and is subject to the same qualifying requirements.

(k) "Professional capacity" means an individual so employed which: (1) Requires advanced scientific knowledge and learning, customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education. (2) Requires work of an original, creative nature, using invention, imagination, and talent of the employee. (3) Requires the individual to teach, tutor, instruct or lecture. (4) Requires consistent exercise of discretion and judgment and is of such character that the work product cannot be standardized in relation to a given period of time. (5) Does not devote more than twenty (20) percent of hours worked in a workweek to activities which are not an essential and necessary incident to the work and who is paid at least one hundred seventy dollars (\$170) per week.

(l) "Outside commission paid salesman" means a salesperson who is customarily and regularly engaged away from his or her employer's place(s) of business while making sales, obtaining orders, or contracts for services, merchandise, or facilities for which a consideration is paid by the customer, and who does not devote more than twenty (20) percent of his or her work hours in a workweek to employment activities covered by these regulations.

(m) "Service gratuitously for a nonprofit organization" means performing services gratuitously on a voluntary basis which is not directly related to the primary job functions within his or her own employing agency and such is performed for:

(1) A nonprofit organization that is subject to the approval of the federal internal revenue service or the secretary of state.

(2) A public employer, including fire protection or law enforcement employee, when such individual employee responds to the call of need of a mutual neighboring jurisdiction.

(3) A public employer who pays an employee a reasonable expense allowance for such services and the amount of expense payment does not exceed seven dollars and fifty cents (\$7.50) per call.

(n) "Occasional or part-time basis" means hours worked shall not be forty hours or more per week. Students eighteen (18) years of age and under working between academic terms when school is not in session shall not be considered to be covered by the act regardless of the number of hours worked. Individuals nineteen (19) years of

age through fifty-nine (59) years of age shall be covered by the provisions of the minimum wage and maximum hours law regardless of the number of hours worked.

(o) "Handicapped workers" means a person disadvantaged by reason of age, physical or mental disability.

(p) "Patient laborers" means a person confined to a state institution or hospital who, under the orders of a doctor, has been assigned to perform services within such state institution or hospital which are considered rehabilitative or therapeutic in nature.

(q) "Learners and apprentices" means an employee who is employed in a progressively more difficult, learning or working process, on the job, which is not part of a formal program recognized under the Kansas apprenticeship council or bureau of apprenticeship and training.

(r) "Tips and gratuities customarily constitute part of the remuneration," means an employee has received tips and gratuities in a calendar month which exceed twenty dollars (\$20). (Authorized by K.S.A. 1978 Supp. 44-1202, 44-1203, 44-1207; effective, E-79-26, Oct. 19, 1978; effective May 1, 1979.)

**49-30-2. Wages; commissions or bonuses; average hourly rate.** (a) "Wage" shall include the following: (1) The reasonable cost to the employer for meals or lodging when customarily furnished the employee or paid for by the employer for the employee. Should a dispute develop, the secretary of human resources shall determine such reasonable cost based upon the average employer cost for meals and lodging in the area where incurred.

(2) Commissions or bonuses earned and due to employees shall be calculated as a percentage of the dollar amount of his or her transactions. To determine the average hourly wage paid to such employees, the total amount of commission or bonus earned by an employee during a designated work period shall be added to other wages earned during same period and divided by number of hours worked by the employee in such period.

$$\text{Average hourly wage for a period} = \frac{\text{Commission or bonus plus wages earned}}{\text{Number of hours worked}}$$

(3) The total salary for a specified work period whether earned on the basis of time, task, piece rate, or salary shall be divided by the hours

worked in such period to determine the average hourly rate:

$$\text{Average hourly rate} = \frac{\text{Total salary}}{\text{Hours worked}}$$

(4) The average hourly rate of an employee employed in more than one position with the same employer shall be the total earnings for the period divided by the total hours worked:

$$\text{Average hourly rate for a period} = \frac{\text{Total earnings}}{\text{Total hours}}$$

(Authorized by K.S.A. 1978 Supp. 44-1202, 44-1207; effective, E-79-26, Oct. 19, 1978; effective May 1, 1979.)

**49-30-3. Hours worked; on call time; period of paid employment.** (a) "Hours worked" means any period of time during which the employee is performing services for an employer or is required to wait or remain on call by an employer when:

(1) The employee is required to report at a specified time for duty or at a specified work place, even if he or she does nothing but wait for a work assignment.

(2) The time is spent in a sleeping period, of not more than eight (8) hours, which has been agreed to by the employee and the employer, occurring during a work period of twenty-four (24) hours or more when the employee is not permitted at least five (5) continuous hours of sleep.

(3) The period of time is less than thirty (30) minutes occurring between the required report time and the end of the required hours of work.

(4) The employer or anyone having management responsibilities of the employer has made any actual inferred or implied requirement that work be performed, shall cause any designated period of nonpaid employment to be considered as a paid period of employment.

(5) The time is spent in walking, riding, or traveling to and from the actual place the employee is required to report when the period of time is compensable by express contract, custom or practice.

(6) The time is spent by an employee who is on call and required to remain at a specified place to await possible call to perform a work assignment for the employer and is prevented from using the time for his or her own personal benefit by such employer requirement.

(7) The period of employment is used for training, lectures or meetings that occur either during the employee's regular working hours, or outside

regular working hours when the subject matter is directly related to the employee's job and attendance is required; or when nonattendance would have an adverse effect on the employment relationship.

(b) Periods of nonpaid employment. (1) Periods of time when the employer has required the employee to leave work at his or her home or with company officials where he or she may be reached.

(2) Any period of thirty (30) minutes or more when the employee has been previously advised that such is a nonpaid period and no services are required to be performed, such as:

(A) Lunch periods of thirty (30) minutes or more.

(B) Time between split shifts if the employee is free to use the period of time for his or her own benefit.

(C) Periods of time when the employee is waiting to be engaged due to delay, loading, unloading, during which no services are expected from the employee and the employee is free to use the time to his or her own use.

(3) The time is for lectures, training, or meetings outside required working hours, is voluntary and to the benefit of the employee not directly related to the employee's assigned job and no productive work is performed.

(4) Time spent by an employee (outside his or her required working hours) at an employer's work site pursuing his or her own private interests. (Authorized by K.S.A. 1978 Supp. 44-1202, 44-1207; effective, E-79-26, Oct. 19, 1978; effective May 1, 1979.)

**49-30-4. Fire protection; law enforcement activities; rescue and ambulance services; exceptions.** (a) Fire protection activities shall include all activities, and those related thereto, in the prevention, control or extinguishment of any fire which is performed by an organized fire department or fire protection district within the authority and responsibility of state statutes or local ordinances including: housekeeping, equipment maintenance, lecturing, community fire drills, fire inspections or other essential functions.

(b) Law enforcement activities shall include governmental agencies which are empowered to: (1) Enforce laws designed to maintain public peace and order; (2) to protect life and property from willful injury; or (3) to prevent or detect

crimes. Employees who shall be considered as being employed in law enforcement activities are persons employed as:

(A) City police, district or local police, sheriffs, undersheriffs, deputy sheriffs regularly employed, court marshals and deputy marshals, constables, deputy constables, state troopers, and highway patrol officers.

(B) Other law enforcement employees such as: fish and game wardens, criminal investigative agents of the district attorney, attorney general's office, or other law enforcement agencies concerned with keeping public peace and order.

(C) Employees who are employed as security personnel at correctional institutions and who control and maintain custody of inmates at a facility maintained as part of a penal system. These facilities include: Penitentiaries, prisons, prison farms, county, city and village jails, precinct house lockups and reformatories.

(c) Fire protection activities shall include rescue and ambulance service functions which are part of the public agency's fire protection activities.

(d) Employees who shall not conduct law enforcement activities are: (1) Private ambulance employees and rescue service employees shall not come within the special exemption for fire protection and law enforcement activities of public agencies. (2) Services performed by: building and equipment maintenance persons, janitors, clerks, stenographers, instructors, and culinary service personnel in correctional institutions.

(e) When an employee who is entitled to the fire protection or law enforcement exemption is also normally assigned non-exempt duties, the total number of hours worked at both exempt and non-exempt activities shall be considered in determining the overtime rate to be paid. When an exempt employee voluntarily agrees to accept non-exempt duties during his or her off duty hours, the time spent in each activity shall be considered separately in determining eligibility for overtime. If the employee's non-exempt duties exceed thirty (30) percent of total hours worked the employee shall be disqualified for the fire prevention or law enforcement exemption and overtime shall be paid for hours worked in excess of forty-six (46) hours. (Authorized by K.S.A. 1978 Supp. 44-1202, 44-1207; effective, E-79-26, Oct. 19, 1978; effective May 1, 1979.)

**Article 31.—MINIMUM WAGE  
AND MAXIMUM HOURS**

**49-31-1 to 49-31-4. Reserved.**

**49-31-5. Minimum wage; tips and gratuities; permits; handicapped workers; learners and apprentices; revocation.** (a) Tips and gratuities received by an employee shall amount to twenty (\$20) dollars or more per month before such tips and gratuities customarily constitute part of the remuneration of such employee. The employer shall have the burden of proof, through substantial evidence, that the allowances taken for tips and gratuities are factual. The employer shall have the right to require the employee to certify a factual accounting of all tips and gratuities received by the employee.

(b) Employers may make written application to the secretary of human resources for permits to employ handicapped workers, patient laborers at state institutions or hospitals, at a wage rate not lower than eighty-five (85) percent of the minimum wage rate herein required. No reduced wage shall be paid unless and until the employer has such permit from the secretary. Each permit shall expire one (1) year after it is issued. The following organizations may apply to the secretary of human resources for a blanket permit which allows the employment of handicapped persons at a reduced rate: state vocational rehabilitation agencies, state institutions and hospitals, and county or city hospitals. Any such application shall certify that no person will be so employed, unless it is approved and ordered by a staff doctor of the institution or hospital. A handicapped person may be employed beyond one (1) year at the reduced rate when a reevaluation by such agency, institution or hospital, determines that continued reduced wage rate is warranted.

(c) Employers may make written application to the secretary of human resources for permits to employ learners and apprentices at wages lower than the minimum wage. These learners and apprentices shall not be a part of a formalized apprenticeship program approved by the Kansas apprenticeship council or the bureau of apprenticeship and training. Permits may be obtained as follows:

(1) The secretary shall furnish for such applications forms which shall require:

(A) A description of the type and kind of training to be given each apprentice or learner.

(B) The employer agrees that he or she shall

endeavor to continue each apprentice or learner in employment following completion of the training.

(C) The employer agrees to keep a copy of the permit in the employee's pay records.

(2) Rates and the duration thereof shall be as follows:

Upon hiring—80% of minimum wage  
after 2 months—90% of minimum wage  
after 3 months—minimum wage

(3) The number of learners or apprentices hired at any one time may not exceed one (1) apprentice or learner for each five (5) regular employees, except that each employer may employ at least one (1) learner or apprentice.

(4) No apprentice or learner may be hired on a part-time or occasional basis for less than forty (40) hours per week.

(d) The secretary may revoke or refuse to issue a permit for employment at reduced rates if he or she finds permits are being abused or the employer has no intention to employ the learner or apprentice beyond three (3) months without unjustifiable reasons. (Authorized by K.S.A. 1978 Supp. 44-1203, 44-1204, 44-1207; effective, E-79-26, Oct. 19, 1978; effective May 1, 1979.)

**49-31-6. Maximum hours before overtime; computations; schedule consecutive working days with corresponding maximum hours at regular rates; trading time.** (a) Employees who are covered by the maximum hours provision of the law and who are engaged in fire protection or law enforcement activities shall be paid overtime compensation at a rate of not less than 1½ times the regular rate at which the employee is employed. Overtime compensation shall be paid for all hours worked which exceed the hours worked shown opposite the number of consecutive days in the pay period, as follows:

Consecutive work period (days)	Maximum hours at regular rates
28	258.00
27	248.75
26	239.50
25	230.50
24	221.25
23	212.00
22	202.75
21	193.50
20	184.25
19	175.00
18	165.75
17	156.75
16	147.50

Consecutive work period (days)	Maximum hours at regular rates
15	138.25
14	129.00
13	119.75
12	110.50
11	101.25
10	92.25
9	83.00
8	73.75
7	64.50

(b) Calculations of pay rates for the overtime requirements of the act shall be based on an hourly rate regardless of the form of the wage payment. Use of the label “salary” to describe wage payments shall not determine coverage under or exemption from the act. All forms of wage payments shall be converted to an average hourly wage and may be computed as follows:

$$\text{Monthly pay} = \frac{\text{Monthly rate} \times 12}{52 \text{ weeks} \times \text{hours worked during the week}}$$

$$\text{Weekly pay, piece rate, unit bonus, commission or other} = \frac{\text{Total amount paid during work period}}{\text{Total hours worked during period}}$$

(c) Fire protection or law enforcement activities employees may trade time, with the employer’s permission, by one employee substituting for another on a regularly scheduled tour of duty, or for some part thereof, to permit an employee to absent himself or herself from work to attend to purely personal pursuits, if:

(1) The trading of time is done voluntarily by the employees participating in the program and not at the behest of the employer;

(2) The reason for trading time is due, not to the employer’s business operations, but to the employee’s desire or need to attend to personal matters;

(3) A record is maintained by the employer of all time traded by employees; and

(4) The period during which time is traded and paid back does not exceed 12 months. The employer shall assure that traded time is paid back or that proper wage payments are made as required. (Authorized by K.S.A. 44-1207; implementing K.S.A. 44-1203, 44-1204; effective, E-79-26, Oct. 19, 1978; effective May 1, 1979; amended May 1, 1984.)

**49-31-7. Employment records.** In addition to the records specifically required by the minimum wage and maximum hours law, employers shall maintain records which reflect the following:

(1) The beginning dates and hours of the work-week or work period of each employee.

(2) The date of paydays and all wage payments made during each pay period including all deductions or credits made in computing the wage.

(3) Tips or gratuities received by employees which are claimed as credit within the provisions of K.S.A. 1978 Supp. 44-1203.

(4) Policy setting out any seniority system, merit system, system to measure earnings by quantity or quality of production or other differential basis on which differing wage payments are computed for employees assigned to perform like or similar work functions. (Authorized by K.S.A. 1978 Supp. 44-1207, 44-1209; effective, E-79-26, Oct. 19, 1978; effective May 1, 1979.)

**49-31-8. Joint employment by public employers in fire prevention and law enforcement activities; overtime.** (a) A joint employment relationship exists between two (2) or more public employers when they agree to share the services of an employee when one employer shall act directly or indirectly in the interest of the other employer in relations with the employee when:

(1) The employers each have the right to control the job activities of the employee.

(2) The second employer is required by local ordinance or otherwise to hire the employee and such employment benefits both employers.

(b) The employees not otherwise exempt from K.S.A. 1978 Supp. 44-1201 through 44-1213 shall be paid overtime compensation by the primary employer for combined hours of work performed under joint employment relationships, except that employment with private employers shall not constitute a joint employment relationship under K.S.A. 1978 Supp. 44-1201 through 44-1213. (Authorized by K.S.A. 1978 Supp. 44-1204, 44-1207; effective, E-79-26, Oct. 19, 1978; effective May 1, 1979.)

**49-31-9. Employee complaints under the minimum wage and maximum hours law.**

Employee complaints under the minimum wage and maximum hours law may be in the form of a letter addressed to the secretary of human resources. (Authorized by K.S.A. 44-1207; implementing K.S.A. 44-1206; effective, E-79-26, Oct. 19, 1978; effective May 1, 1979; amended May 1, 1984.)

**Articles 32 to 44.—RESERVED****Article 45.—BOILER SPECIFICATIONS AND INSPECTIONS**

**49-45-1. Rules for construction of power boilers.** Section I of the American society of mechanical engineers (ASME) boiler and pressure vessel code, including the appendices, an international code and American national standard, 2007 edition, published July 1, 2007, is hereby adopted by reference. (Authorized by and implementing K.S.A. 44-916; effective, E-79-27, Oct. 19, 1978; effective May 1, 1979; amended May 1, 1984; amended May 1, 1987; amended April 28, 2000; amended Nov. 3, 2006; amended Oct. 10, 2008.)

**49-45-2. Part A: ferrous material specifications.** Section II, part A of the American society of mechanical engineers (ASME) boiler and pressure vessel code, including the appendices, an international code and American national standard, 2007 edition, published July 1, 2007, is hereby adopted by reference. (Authorized by and implementing K.S.A. 44-916; effective, E-79-27, Oct. 19, 1978; effective May 1, 1979; amended May 1, 1984; amended May 1, 1987; amended April 28, 2000; amended Nov. 3, 2006; amended Oct. 10, 2008.)

**49-45-3. Part B: nonferrous material specifications.** Section II, part B of the American society of mechanical engineers (ASME) boiler and pressure vessel code, including the appendices, an international code and American national standard, 2007 edition, published July 1, 2007, is hereby adopted by reference. (Authorized by and implementing K.S.A. 44-916; effective, E-79-27, Oct. 19, 1978; effective May 1, 1979; amended May 1, 1984; amended May 1, 1987; amended April 28, 2000; amended Nov. 3, 2006; amended Oct. 10, 2008.)

**49-45-4. Part C: specifications for welding rods, electrodes, and filler metals.** Section II, part C of the American society of mechanical engineers (ASME) boiler and pressure vessel code, including the appendix, an international code and American national standard, 2007 edition, published July 1, 2007, is hereby adopted by reference. (Authorized by and implementing K.S.A. 44-916; effective, E-79-27, Oct. 19, 1978; effective May 1, 1979; amended May 1, 1984;

amended May 1, 1987; amended April 28, 2000; amended Nov. 3, 2006; amended Oct. 10, 2008.)

**49-45-4a. Part D: properties (customary).** Section II, part D, “properties (customary)” of the American society of mechanical engineers (ASME) boiler and pressure vessel code, including the appendices, an international code and American national standard, 2007 edition, published July 1, 2007, is hereby adopted by reference. (Authorized by and implementing K.S.A. 44-916; effective April 28, 2000; amended Nov. 3, 2006; amended Oct. 10, 2008.)

**49-45-4b. Part D—properties (metric).** Section II, part D, “properties (metric)” of the American society of mechanical engineers (ASME) boiler and pressure vessel code, including the appendices, an international code and American national standard, 2004 edition, published July 1, 2004, is hereby adopted by reference. (Authorized by and implementing K.S.A. 44-916; effective Nov. 3, 2006.)

**49-45-5. Rules for construction of heating boilers.** Section IV of the American society of mechanical engineers (ASME) boiler and pressure vessel code, including the appendices, an international code and American national standard, 2007 edition, published July 1, 2007, is hereby adopted by reference. (Authorized by and implementing K.S.A. 44-916; effective, E-79-27, Oct. 19, 1978; effective May 1, 1979; amended May 1, 1984; amended May 1, 1987; amended April 28, 2000; amended Nov. 3, 2006; amended Oct. 10, 2008.)

**49-45-6. Nondestructive examination.** Section V of the American society of mechanical engineers (ASME) boiler and pressure vessel code, including the appendices, an international code and American national standard, 2007 edition, published July 1, 2007, is hereby adopted by reference. (Authorized by and implementing K.S.A. 44-916; effective, E-79-27, Oct. 19, 1978; effective May 1, 1979; amended May 1, 1984; amended May 1, 1987; amended April 28, 2000; amended Nov. 3, 2006; amended Oct. 10, 2008.)

**49-45-7. Recommended rules for the care and operation of heating boilers.** Section VI of the American society of mechanical engineers (ASME) boiler and pressure vessel code, including the appendices, an international code and American national standard, 2007 edition,

published July 1, 2007, is hereby adopted by reference. (Authorized by and implementing K.S.A. 44-916; effective, E-79-27, Oct. 19, 1978; effective May 1, 1979; amended May 1, 1984; amended May 1, 1987; amended April 28, 2000; amended Nov. 3, 2006; amended Oct. 10, 2008.)

**49-45-8. Recommended guidelines for the care of power boilers.** Section VII of the American society of mechanical engineers (ASME) boiler and pressure vessel code, including the appendices, an international code and American national standard, 2007 edition, published July 1, 2007, is hereby adopted by reference. (Authorized by and implementing K.S.A. 44-916; effective, E-79-27, Oct. 19, 1978; effective May 1, 1979; amended May 1, 1984; amended May 1, 1987; amended April 28, 2000; amended Nov. 3, 2006; amended Oct. 10, 2008.)

**49-45-9. Qualification standard for welding and brazing procedures, welders, brazers, and welding and brazing operators.** Section IX of the American society of mechanical engineers (ASME) boiler and pressure vessel code, including the appendices, an international code and American national standard, 2007 edition, published July 1, 2007, is hereby adopted by reference. (Authorized by and implementing K.S.A. 44-916; effective, E-79-27, Oct. 19, 1978; effective May 1, 1979; amended May 1, 1984; amended May 1, 1987; amended April 28, 2000; amended Nov. 3, 2006; amended Oct. 10, 2008.)

**49-45-10 to 49-45-19.** (Authorized by and implementing K.S.A. 1985 Supp. 44-916; effective, E-79-27, Oct. 19, 1978; effective May 1, 1979; amended May 1, 1984; amended May 1, 1987; revoked Nov. 22, 1996.)

**49-45-20. National board inspection code (ANSI/nb23).** The national board inspection code (NBIC), which consists of parts 1, 2, and 3, 2007 edition, an American national standard, published by the national board of boiler and pressure vessel inspectors, is hereby adopted by reference. (Authorized by and implementing K.S.A. 44-916; effective, E-79-27, Oct. 19, 1978; effective May 1, 1979; amended May 1, 1984; amended May 1, 1987; amended April 28, 2000; amended Nov. 3, 2006; amended Oct. 10, 2008.)

**49-45-21 through 49-45-26.** (Authorized by and implementing K.S.A. 1998 Supp. 44-

916; effective May 1, 1984; amended May 1, 1987; amended April 28, 2000; revoked Nov. 3, 2006.)

**49-45-27. Controls and safety devices for automatically fired boilers.** ASME CSD-1, controls and safety devices for automatically fired boilers, 1998 edition, published July 1998 and effective January 1, 1999, is adopted by reference. (Authorized by and implementing K.S.A. 1998 Supp. 44-916; effective May 1, 1987; amended April 28, 2000.)

**49-45-28. Power piping.** ASME B31.1-2007, "power piping," the American society of mechanical engineers (ASME) code for pressure piping, including the appendices, 2007 edition, is adopted by reference. (Authorized by and implementing K.S.A. 44-916; effective May 1, 1987; amended April 28, 2000; amended Nov. 3, 2006; amended Oct. 10, 2008.)

**49-45-29. Rules for construction of pressure vessels; division 1.** Section VIII, division 1 of the American society of mechanical engineers (ASME) boiler and pressure vessel code, including the appendices, an international code and American national standard, 2007 edition, published July 1, 2007, is hereby adopted by reference. (Authorized by and implementing K.S.A. 44-916; effective April 28, 2000; amended Nov. 3, 2006; amended Oct. 10, 2008.)

**49-45-29b. Rules for construction of pressure vessels; division 2, alternative rules.** Section VIII, division 2 of the American society of mechanical engineers (ASME) boiler and pressure vessel code, including the annexes, an international code and American national standard, 2007 edition, published July 1, 2007, is hereby adopted by reference. (Authorized by and implementing K.S.A. 44-916; effective Oct. 10, 2008.)

**49-45-30.** (Authorized by and implementing K.S.A. 1998 Supp. 44-916; effective April 28, 2000; revoked Nov. 3, 2006.)

**49-45-31. Rules for construction of pressure vessels; division 3, alternative rules for construction of high pressure vessels.** Section VIII, division 3 of the American society of mechanical engineers (ASME) boiler and pressure vessel code, including the appendices, an international code and American national standard, 2007 edition, published July 1, 2007, is hereby adopted by reference. (Authorized by and imple-

menting K.S.A. 44-916; effective April 28, 2000; amended Nov. 3, 2006; amended Oct. 10, 2008.)

**49-45-32. Uniform mechanical code.** The uniform mechanical code, including the appendices, an international code and American national standard, 2000 edition, published November 1999 by the international association of plumbing and mechanical officials, is hereby adopted by reference. (Authorized by and implementing K.S.A. 44-916; effective April 28, 2000; amended Nov. 3, 2006.)

**49-45-33. International plumbing code.** The international plumbing code, an American national standard, 1997 edition, published February 1997 by the international conference of building officials, is hereby adopted by reference. (Authorized by and implementing K.S.A. 1998 Supp. 44-916; effective April 28, 2000.)

**49-45-34. Fiber-reinforced plastic pressure vessels.** Section X of the American society of mechanical engineers (ASME) boiler and pressure vessel code, including the appendices, an international code and American national standard, 2007 edition, published July 1, 2007, is hereby adopted by reference. (Authorized by and implementing K.S.A. 44-916; effective April 28, 2000; amended Nov. 3, 2006; amended Oct. 10, 2008.)

**49-45-35. Rules for construction and continued service of transport tanks.** Section XII of the American society of mechanical engineers (ASME) boiler and pressure vessel code, including the appendices, an international code and American national standard, 2007 edition, published July 1, 2007, is hereby adopted by reference. (Authorized by and implementing K.S.A. 44-916; effective Nov. 3, 2006; amended Oct. 10, 2008.)

**49-45-36. Uniform plumbing code.** The following portions of the uniform plumbing code, an American national standard, 2000 edition, published by the international association of plumbing and mechanical officials, are hereby adopted by reference:

- (a) Chapter 5;
- (b) chapter 6, except parts 603.4.6, 603.4.8, 603.4.10, 603.4.17, 603.4.18, 603.4.19, and 603.20;
- (c) chapter 7;
- (d) chapter 12; and
- (e) appendices A and C and the applicable por-

tions of appendix I. (Authorized by and implementing K.S.A. 44-916; effective Nov. 2, 2007.)

**49-45-37. Boiler and combustion systems hazards code.** NFPA 85, “boiler and combustion systems hazards code,” including the annexes, 2007 edition, published by the national fire protection association (NFPA), is hereby adopted by reference. However, the following paragraphs are not adopted:

- (a) 2.3.1;
- (b) 2.3.3;
- (c) 2.3.5;
- (d) 2.3.6;
- (e) 2.3.7; and
- (f) 2.4. (Authorized by and implementing K.S.A. 44-916; effective Nov. 3, 2006; amended Oct. 10, 2008.)

**49-45-38. Standard for the prevention of furnace explosions in fuel oil- and natural gas-fired single burner boiler-furnaces.** NFPA 85A, “standard for the prevention of furnace explosions in fuel oil- and natural gas-fired single burner-furnaces,” including the appendices, 1987 edition, published by the national fire protection association (NFPA), is hereby adopted by reference. (Authorized by and implementing K.S.A. 44-916; effective Nov. 3, 2006.)

#### Article 45a.—DEFINITIONS

**49-45a-1. Definitions.** (a) “The act” means the Kansas boiler safety act and regulations pertaining to the laws of boiler and pressure vessel safety.

(b) “Alteration” means any change in the item described on the original manufacturer’s data report that affects the pressure-containing capability of the boiler or pressure vessel. Each nonphysical change, including an increase in the maximum allowable internal or external working pressure or the design temperature of a boiler or pressure vessel, shall be considered an alteration. Any reduction in minimum temperature so that additional mechanical tests are required shall also be considered an alteration.

(c) “ANSI” means the American national standards institute.

(d) “ASME” means the American society of mechanical engineers.

(e) “Authorized inspection agency” means either of the following:

- (1) A department or division established by a

government jurisdiction that has adopted one or more sections of the ASME code and whose chief inspector holds a valid commission issued by the national board of boiler and pressure vessel inspectors; or

(2) an inspection agency of an insurance company that is authorized to insure and is insuring boilers and pressure vessels in those jurisdictions that have examined the agency inspectors' qualifications to represent that jurisdiction, resulting in the issuance of a valid certificate of competency to the inspector by the national board of boiler and pressure vessel inspectors.

(f) "BTUH" means British thermal units of heat per hour.

(g) "Chief inspector" means the chief boiler inspector of the Kansas department of labor.

(h) "Column, fluid relief" means piping that is connected from the top of a hot water heating boiler to either an open or a closed expansion tank, providing for the thermal expansion of water.

(i) "High pressure, high temperature water boiler" means a water boiler operating at pressures exceeding 160 pounds per square inch gauge or at a temperature exceeding 250°F.

(j) "High pressure power boiler" means a boiler in which steam or other vapor is generated at a pressure of more than 15 pounds per square inch gauge.

(k) "Hot water heating boiler" means a boiler in which no steam is generated, from which hot water is circulated for heating purposes and then returned to the boiler, and which operates at a pressure not exceeding 160 psig or a temperature of 250°F at or near the boiler outlet.

(l) "Hot water supply boiler" means a boiler completely filled with water that furnishes hot water, to be used externally, at pressures not exceeding 160 psig or at temperatures not exceeding 210°F at or near the boiler outlet.

(m) "Lapseam crack" means a crack found in lapseams extending parallel to the longitudinal joint and located either between or adjacent to rivet holes.

(n) "Low pressure heating boiler" means a steam or vapor boiler operating at pressures not exceeding 15 pounds per square inch gauge or a hot water boiler operating at pressures not exceeding 160 pounds per square inch gauge or at temperatures not exceeding 250°F.

(o) "Makeup water" means water introduced

into the boiler to replace the water lost or removed from the system.

(p) "National board" means the national board of boiler and pressure vessel inspectors, whose membership is composed of the chief inspectors of each jurisdiction charged with the administration and enforcement of the provisions of the ASME code.

(q) "Nonstandard boiler" means a boiler that does not bear the ASME stamp or the stamp of any jurisdiction that has adopted a standard of construction equivalent to that required by these regulations.

(r) "Owner or user" means any person, firm, or corporation subject to the provisions of the Kansas boiler safety act and responsible for the safe operation of any boiler within this state.

(s) "PSIG" means pounds per square inch gauge.

(t) "Reinstalled boiler" means a boiler removed from its original setting and reinstalled at the same location or at a new location without change of ownership.

(u) "Repair" means any work necessary to restore a boiler or pressure vessel to a safe and satisfactory operating condition without changing the original design, as defined in part RC of the national board inspection code, which is adopted by reference in K.A.R. 49-45-20.

(v) "Secondhand boiler" means a boiler that has changed both location and ownership since its initial use.

(w) "Secretary" means the secretary of the Kansas department of labor.

(x) "Standard boiler" means a boiler that bears the ASME code symbol stamp or a stamp of another approved and recognized code of construction and that is registered with the national board of boiler and pressure vessel inspectors.

(y) "T & P safety relief valve" means the temperature and pressure safety relief valve designed for use on storage water heaters and hot water storage tanks. The temperature and pressure safety relief valve shall actuate upon pressure and in all instances at temperatures not exceeding 210°F.

(z) "Traction boiler" means a steam-powered traction engine mounted on wheels and capable of being self-propelled.

(aa) "Water gauge glass" means a glass-enclosed, visible indicator of the water level in a boiler. (Authorized by and implementing K.S.A.

44-916; effective May 1, 1987; amended April 28, 2000; amended Nov. 3, 2006.)

**49-45a-2 to 49-45a-27.** (Authorized by and implementing K.S.A. 1985 Supp. 44-916; effective May 1, 1987; revoked April 28, 2000.)

#### **Article 46.—BOILER INSURANCE AND ADMINISTRATION**

**49-46-1. Insurance company requirements.** (a) Each company insuring one or more boilers or pressure vessels located in this state shall perform an inspection, as prescribed in K.S.A. 44-923, and amendments thereto, or K.A.R. 49-48-1, of each boiler or pressure vessel insured by the company.

(b) If an insurance company fails or refuses to inspect a boiler or pressure vessel insured by that company, as required by K.S.A. 44-923(c), and amendments thereto, and subsection (a) of this regulation, the boiler or pressure vessel shall be required by the secretary to be inspected by the chief inspector or a deputy inspector. The appropriate fee specified in K.S.A. 44-926, and amendments thereto, shall be charged for any inspection conducted under this subsection and shall be paid by the owner or user of the boiler or pressure vessel, or the insurance company that insures the boiler or pressure vessel.

(c) All insurance companies shall notify the chief inspector immediately if insurance is suspended because of unsafe conditions.

(d) In the event that a boiler or pressure vessel water or fireside explosion or severe overheating occurs, the owner, user, insurance inspector, or emergency personnel shall promptly notify the chief inspector. Neither the boiler nor pressure vessel, or any parts of either, shall be removed or disturbed before permission has been given by the chief inspector, except for the purpose of saving human life, limiting consequential damage, or arson investigation.

(e) For all accidents or incidents involving boilers or pressure vessels that cause property damage in excess of 10 percent of the boiler or pressure vessel's worth, serious injury, or death, the owner, user, insurance inspector, or emergency personnel shall promptly notify the chief inspector. Neither the boiler nor pressure vessel, or any parts of either, shall be removed or disturbed before permission has been given by the chief inspector, except for the purpose of saving human life, limiting

consequential damages, or conducting an arson investigation.

(f) Upon request by the chief inspector, the insurance company shall submit within five days an accident or incident report to the chief inspector. (Authorized by K.S.A. 1999 Supp. 44-916; implementing K.S.A. 1999 Supp. 44-920, 44-923; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981; amended, T-83-41, Nov. 23, 1982; amended May 1, 1983; amended April 28, 2000.)

#### **Article 47.—INSPECTORS**

**49-47-1. Requirements of special inspectors.** (a) All special inspectors commissioned by the secretary pursuant to K.S.A. 44-920, and amendments thereto, shall serve upon the owner or user, operator, or other person or persons having charge or care of a boiler or pressure vessel, a billing for the certificate required by K.S.A. 44-926(b), and amendments thereto. Billing forms shall be provided by the secretary and shall provide a space for the signature of the person receiving the billing form. The special inspector shall notify the secretary in the event that the inspector is unable to serve the billing.

(b) Each special inspector shall conduct a thorough inspection of the boilers and pressure vessels and all of the components in the system. The safety or safety relief valves shall be set no higher than the lowest maximum allowable working pressure (MAWP) of components in the system.

(c) Each special inspector shall note the house-keeping conditions in the boiler room. Equipment and flammable materials not related to the operation of the boilers or pressure vessels shall not be stored in the boiler or mechanical room.

(d) Each special inspector shall report any scrapped or out-of-service boilers or pressure vessels. Failure to report these units shall result in a charge back to the insurance company equal to an inspection fee, if the state boiler inspectors have to follow up on discontinued insurance or canceled policies. (Authorized by K.S.A. 1998 Supp. 44-916; implementing K.S.A. 1998 Supp. 44-920, 44-921; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981; amended April 28, 2000.)

**49-47-1a. Special inspector.** Each special inspector shall be registered with the state of Kansas and shall have a valid Kansas commission before performing any inspection, including in-service, repair or alteration, or work, in any ASME code shop in the state. (Authorized by and imple-

menting K.S.A. 1998 Supp. 44-916; effective April 28, 2000.)

**49-47-1b. Organizations with special inspectors of antique and exhibition boilers.** (a) Any organization of antique engines, scale models, locomotives, and other boilers used for exhibition purposes shall register annually its inspection procedures with the department for approval by the chief inspector.

(b) (1) The organization shall register each special inspector with the Kansas department of human resources, office of the chief inspector, and each special inspector shall be subject to periodic monitoring of procedures and inspection by the chief inspector or deputy inspectors. In order for the organization to register its special inspectors, the organization shall establish the following procedures:

(A) A qualifying exam on the type of equipment that will be inspected;

(B) establishment of different levels of competency among the special inspectors;

(C) periodic training and exams to ensure each special inspector's level of competency; and

(D) monitoring by other special inspectors within the organization to ensure competency.

(2) The organization shall provide documentation that each special inspector meets the following criteria:

(A) Is experienced and receives periodic training on the type of equipment inspected;

(B) inspects only vessels for which the inspector is qualified; and

(C) attains a score of at least 70% on the qualifying exam.

(3) The chief inspector shall make the final decision on who will receive special inspector cards from the state.

(c) The organization inspection procedures shall be subject to periodic monitoring by the chief boiler inspector or deputy inspectors. (Authorized by and implementing K.S.A. 1998 Supp. 44-915, 44-916, and 44-920; effective April 28, 2000.)

**49-47-2. Application of state serial numbers.** (a) Upon completion of the installation of a new boiler or pressure vessel or at the time of the initial certificate inspection of an existing installation, each boiler or pressure vessel shall be stamped by the inspector with a serial number of the state or affixed with a one-inch by four-inch, corrosion-resistant metal tag with the serial num-

ber of the state, consisting of letters and figures to be not less than 5/16 inch in height and arranged as follows:

High Pressure KS 1,000

Low Pressure KS 1,000 H

Pressure Vessels KS 1,000 U

Antique Hobby KS 1,000 A

(b) All cast iron and low pressure heating boilers or pressure vessels shall have securely attached to the casing, water column, or gauge or other appliance of the boiler or pressure vessel, a corrosion-resistant metal tag on which is stamped the serial number of the state. The tag shall be not less than one inch by four inches in size. (Authorized by K.S.A. 44-916; implementing K.S.A. 44-924; effective May 1, 1987; amended April 28, 2000; amended Nov. 3, 2006.)

**Article 48.—FREQUENCY OF INSPECTION**

**49-48-1. Certificate inspections; type and frequency.** Certificate inspections shall be made pursuant to the following schedule:

(a) Power boilers and high pressure, high temperature water boilers shall receive an annual certificate inspection that shall be an internal inspection where construction permits, or as complete an inspection as possible where construction does not permit internal inspection. However, an external inspection may, at the discretion of the inspector, serve as a certificate inspection during the initial year of operation for any new boiler. These boilers shall also be externally inspected while under pressure, if possible, once a year. Upon written request by the owner or user of a power boiler or high pressure, high temperature water boiler, an extension may be granted by the secretary between internal inspections, not to exceed 24 months, with the external inspection on alternate years to be accepted as a certificate inspection, if all of the following conditions are met:

(1) Agreement is reached between the secretary and the insurance company responsible for the inspection that an extension be granted.

(2) A continuous boiler water treatment program under competent supervision is in effect for the purpose of controlling and limiting corrosion and deposits on the waterside surfaces.

(3) Complete records are available showing the dates the boilers have been out of service, and the reason for this, since the last internal inspection.

The records shall show the nature of any repair or repairs and the reasons for the repairs.

(4) The report of the last certificate inspection shows no reason why the boiler cannot be operated safely.

(b) Any indication of problems noted during the certificate inspection shall void any extension or written request for an extension and the boiler or pressure vessel shall be shut down and an internal inspection performed.

(c) Low pressure steam and steel hot water heating boilers, as defined by K.S.A. 44-914, and amendments thereto, shall receive an annual external certificate inspection, except that low pressure steam heating boilers, the construction of which allows internal inspection, shall receive an internal certificate inspection every three years.

(d) Low pressure hot water supply boilers of 85 gallons and over shall receive an external certificate inspection every three years. Boilers over 400,000 BTUH shall receive an external certificate inspection annually.

(e) Upon written request of an insurance company and with the agreement of the owner or user of a boiler, the period of validity of a certificate may be extended by the secretary for a period not to exceed two months.

(f) Each pressure vessel measuring 15 or more cubic feet shall receive a certificate inspection upon installation or replacement of each vessel in new and existing installations.

(g) All sizes of swimming pool heaters shall be subject to an external certificate inspection every three years. However, pool heaters of 400,000 BTUH and over shall be inspected annually.

(h) Each steam kettle and steam chef shall receive an annual certificate inspection.

(i) Each autoclave shall receive an annual certificate inspection, if it has a steam generator attached to the system or if the autoclave is a part of the system.

(j) Each waste heat boiler constructed to the requirements of section I of the ASME code shall receive an annual internal certificate inspection.

(k) Each waste heat boiler constructed to the requirements of section VIII of the ASME code shall receive an external certificate inspection every year, and, if construction permits, this boiler shall receive an internal inspection every three years, unless operating conditions warrant a more frequent inspection.

(l) Each steam generator that meets any of the

following conditions shall receive an annual inspection:

(1) Produces steam for any process;  
 (2) is fitted with safety valves installed at the factory; or

(3) is modified in the field to require safety valves. (Authorized by and implementing K.S.A. 1998 Supp. 44-916; implementing K.S.A. 1998 Supp. 44-923; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981; amended, T-83-41, Nov. 23, 1982; amended May 1, 1983; amended April 28, 2000.)

**Article 49.—FEE SCHEDULE FOR BOILER INSPECTIONS**

**49-49-1. Boiler inspection and certificate fees.** (a) Inspection fees.

(1) Internal inspections of power boilers and high-pressure, high-temperature water boilers:

Mini-boilers .....	\$50.00
Boilers with 50 sq. ft. of heating surface or less .....	\$115.00
Boilers with more than 50 sq. ft. of heating surface, but less than 500 sq. ft. of heating surface .....	\$140.00
Boilers with 500 sq. ft. of heating surface or more, but less than 4,000 sq. ft. of heating surface .....	\$150.00
Boilers with 4,000 sq. ft. of heating surface or more, but less than 8,000 sq. ft. of heating surface .....	\$175.00
Boilers with 8,000 sq. ft. of heating surface or more, but less than 10,000 sq. ft. of heating surface .....	\$200.00
Boilers with 10,000 sq. ft. of heating surface or more .....	\$400.00

(2) Internal inspections of heating boilers:

Heating boilers without a manhole .....	\$85.00
Heating boilers with a manhole .....	\$100.00

(3) External inspections of heating boilers:

Heating boilers without a manhole .....	\$60.00
Heating boilers with a manhole .....	\$75.00
Hot water supply boilers .....	\$50.00

(4) External inspections of power boilers:

Boilers with 50 sq. ft. of heating surface or less .....	\$55.00
Boilers with more than 50 sq. ft. of heating surface, but less than 500 sq. ft. of heating surface .....	\$65.00
Boilers with 500 sq. ft. of heating surface or more, but less than 1,000 sq. ft. of heating surface .....	\$90.00

Boilers with 1,000 sq. ft. of heating surface or more, but less than 4,000 sq. ft. of heating surface .....	\$175.00
Boilers with 4,000 sq. ft. of heating surface or more, but less than 8,000 sq. ft. of heating surface .....	\$225.00
Boilers with 8,000 sq. ft. of heating surface or more, but less than 10,000 sq. ft. of heating surface .....	\$300.00
Boilers with 10,000 sq. ft. of heating surface or more .....	\$400.00

(5) Hydrostatic tests. If it is necessary for an inspector to make a trip in addition to the inspector's routine, regularly scheduled trips in order to witness the application of a hydrostatic test, a fee shall be charged based on the scale of fees applicable to the issuance of a certificate of inspection of the boiler, as set out in paragraphs (a)(1) through (a)(4) of this regulation.

(6) The fee for all inspections performed by the chief or deputy inspector, including shop inspections, shop reviews, inspections performed at the request of the boiler operator, inspections conducted due to a determination that a boiler operator is not operating a boiler in compliance with boiler operation regulations, and inspections of secondhand or used boilers, shall be \$500.00 per day. If a state boiler inspector participates in a national board "R" stamp review conducted by the national board of boiler and vessel inspectors or if a state boiler inspector inspects welded repairs to a boiler, the fee shall be \$500.00 per day.

(b) Certificate fee.

(1) The certificate of inspection fee shall be \$30.00.

(2) Replacement of lost or misplaced certificates shall be \$10.00. (Authorized by and implementing K.S.A. 2004 Supp. 44-926; effective, T-83-41, Nov. 23, 1982; effective May 1, 1983; amended May 1, 1984; amended May 1, 1987; amended, T-88-41, Oct. 24, 1987; amended May 1, 1988; amended June 25, 1990; amended July 18, 1997; amended Jan. 27, 2006.)

**49-49-1a. Pressure vessel inspection fees.**

(a) External inspections of pressure vessels:

	Per day:
Pressure vessels with a capacity of less than 500 gallons .....	\$55.00
Pressure vessels with a capacity of 500 gallons or more, but less than 2,000 gallons .....	\$65.00
Pressure vessels with a capacity of 2,000 gallons or more, but less than 5,000 gallons .....	\$75.00

Pressure vessels with a capacity of 5,000 gallons or more, but less than 10,000 gallons .....	\$90.00
Pressure vessels with a capacity of 10,000 gallons or more, but less than 20,000 gallons .....	\$125.00
Pressure vessels with a capacity of 20,000 gallons or more, but less than 30,000 gallons .....	\$175.00
Pressure vessels with a capacity of 30,000 gallons or more, but less than 50,000 gallons .....	\$225.00
Pressure vessels with a capacity of 50,000 gallons or more .....	\$275.00

(b) Internal inspections of pressure vessels:

Per day:

Pressure vessels with a capacity of less than 500 gallons .....	\$75.00
Pressure vessels with a capacity of 500 gallons or more, but less than 2,000 gallons .....	\$90.00
Pressure vessels with a capacity of 2,000 gallons or more, but less than 5,000 gallons .....	\$125.00
Pressure vessels with a capacity of 5,000 gallons or more, but less than 10,000 gallons .....	\$175.00
Pressure vessels with a capacity of 10,000 gallons or more, but less than 20,000 gallons .....	\$250.00
Pressure vessels with a capacity of 20,000 gallons or more, but less than 30,000 gallons .....	\$325.00
Pressure vessels with a capacity of 30,000 gallons or more, but less than 50,000 gallons .....	\$350.00
Pressure vessels with a capacity of 50,000 gallons or more .....	\$400.00

(Authorized by and implementing K.S.A. 2004 Supp. 44-926; effective April 28, 2000; amended Jan. 27, 2006.)

**49-49-2. Failure to pay fees.** (a) An inspection certificate shall not be issued or a certificate issued at the time of inspection shall be cancelled if the owner or user fails to pay the proper inspection fee.

(b) The appropriate county or district attorney shall be notified by the secretary of any boiler that is operated in violation of the act. (Authorized by K.S.A. 1985 Supp. 44-916; implementing K.S.A. 44-925, effective May 1, 1987.)

**Article 50.—GENERAL REQUIREMENTS FOR ALL BOILERS**

**49-50-1. Major repair to boilers and pressure vessels.**

(a) Boiler and pressure vessel repairs or alterations shall be made so that each boiler or pressure vessel conforms to original specifications. Any repairs or alterations not covered by this regulation shall be subject to the requirements for new construction.

(b) Welding.

(1) Repairs or alterations by fusion welding

shall be approved by an authorized inspector before beginning the work. All welding repairs or alterations shall be made in accordance with the appropriate section of "repairs and alterations to boilers and pressure vessels by welding," part RC, of the national board inspection code.

(2) All welding shall be done by either of the following:

(A) An organization holding the applicable ASME certificate of authorization or the national board "R" or "NR" stamp; or

(B) an owner or user who has demonstrated to the satisfaction of the chief state boiler inspector all of the following:

(i) The owner or user maintains an acceptable quality control system.

(ii) Welding work completed by the owner or user is in compliance with ASME standards for welding.

(iii) Before the welding operations, the owner or user has assured that all welders are qualified by compliance with ASME standards.

(iv) The owner or user has notified the applicable insurance company boiler inspector or state boiler inspector before doing any welding.

The organization performing the repair shall be responsible for filing the national board's repair or alteration form with the office of the chief state boiler inspector.

(c) Each welder or welding operator shall qualify for each welding process used in the repair or alteration of a boiler or pressure vessel. The qualifications for welders shall be those established in section IX of the ASME code, and by a qualified welding procedure specification of the organization making the repair or alteration.

(d) Each organization making repairs or alterations under this regulation shall list the parameters applicable to welding that are to be performed in the welding procedure specification (WPS) documents. The documents shall have been qualified by the organization as required by the applicable section of the ASME code. The organization shall qualify its WPS by the welding of test coupons, the testing of specimens, and recording the welding data and test results in its procedure qualification record (PQR) document.

(e)(1) The organization making the repair or alteration shall adopt specific procedures for performing welding operations in the shop or the field. The procedure specification shall comply with the requirements of section IX of the ASME code and the national board inspection code.

(2) The procedure specifications shall be written and shall provide all pertinent details about the methods and procedure to be used, including the following:

(A) The type of electrode or rod to be used;

(B) the shape of the welding groove;

(C) the number and sequence of the beads;

(D) the manner in which slag is to be cleaned;

(E) peening and current characteristics, if electric welding; and

(F) if gas welding, the size of the tip, the nature of the flame, and the designation of forehand or backhand technique used.

(3) The procedure specification shall ensure that weld metal and welded joints comply with the characteristics required by section IX of the ASME code and the national board inspection code.

(4) A test demonstrating the sufficiency of the procedure specification shall be witnessed by the inspector, or authentic evidence documenting the sufficiency of the specifications shall be provided to the inspector.

(f) The material used for patches shall be of the same general quality, shall have, at least, the minimum physical properties of the plate to be patched and shall be traceable. The thickness of any patch shall be at least equal to, but not more than, 1/8 inch greater than the plate being patched. Flush or butt-welded patches in unstayed shells, drums, or headers shall be radiographed and stress-relieved to conform to the requirements of the national board inspection code, part RC, 1998 edition. (Authorized by and implementing K.S.A. 1998 Supp. 44-916; effective May 1, 1987; amended April 28, 2000.)

**49-50-2. Combustion air supply and ventilation of boiler room.** (a) A permanent source of outside air shall be provided for each boiler room to permit satisfactory combustion of the fuel as well as proper ventilation of the boiler room under normal operating conditions. One opening shall be 12 inches above floor level, and one opening shall be 12 inches below ceiling level. The opening 12 inches below ceiling level shall be at least 1/3 of the area of the lower opening. The size of the lower opening shall not be less than is required in subsection (b) below, or as required in NFPA 31, 1997 edition, and NFPA 54, 1996 edition, both of which are hereby adopted by reference.

(b) The total requirements of the burners in

the boiler room shall be used to determine the louver sizes, whether fired by coal, oil, or gas. However, the minimum net free-louvered area of the lower opening shall not be less than one square foot. The following table or either of the following formulas shall be used to determine the net louvered area of the lower opening in square feet, or as required in NFPA 31 and NFPA 54:

INPUT BTU/Hour	REQUIRED AIR CU. FT./MIN.	MIN. NET LOUVERED AREA SQ. FT.
500,000	125	1.0
1,000,000	250	1.0
2,000,000	500	1.6
3,000,000	750	2.5
4,000,000	1,000	3.3
5,000,000	1,250	4.1
6,000,000	1,500	5.0
7,000,000	1,750	5.8
8,000,000	2,000	6.6
9,000,000	2,250	7.5
10,000,000	2,500	8.3

$$\frac{(\text{BTUH} \div 100) \times 1.5 \text{ MIN. NET AREA}}{60 \div 300} = \text{REQ. SQ. Ft.}$$

(c) When mechanical ventilation is used in lieu of the requirements of subsection (b), the supply of combustion and ventilation air to the boiler room and the firing device shall be interlocked with the fan so that the firing device will not operate with the fan off. The velocity of the air through the ventilating fan shall not exceed 500 feet per minute, and the total air delivered shall be equal to or greater than that shown in subsection (b) above. (Authorized by and implementing K.S.A. 1998 Supp. 44-916; effective May 1, 1987; amended April 28, 2000.)

**49-50-3. Boiler combustion chamber vents.** Each boiler shall be equipped with vents to convey the products of combustion safely from the boiler furnace to the outside atmosphere. Flue piping, draft hoods, draft diverters, and chimney connections shall be installed according to the boiler manufacturer’s instructions and the provisions of the national fire codes NFPA 31, “standard for the installation of oil-burning equipment,” and NFPA 54, “national fuel gas code,” as adopted by reference in K.A.R. 49-50-2. (Authorized by and implementing K.S.A. 44-916; effective May 1, 1987; amended April 28, 2000; amended Nov. 3, 2006.)

**49-50-4. Cross-connection control.** (a) A person shall not install any water-operated equipment or mechanism, or use any water-treating

chemical or substance, if it is found that this equipment, mechanism, chemical, or substance may cause pollution of the domestic water supply. The equipment or mechanism may be permitted only when equipped with an approved backflow prevention device.

(b) Each backflow prevention device installed in a potable water supply system shall be maintained in good working condition by the person or persons having control of the device. The devices may be inspected by authorized inspectors and, if found to be defective or inoperative, shall be repaired or replaced as directed by the inspector. A device shall not be removed from use or relocated or another device substituted without formal notification to the office of the responsible authorized inspection agency.

(c) Potable water piping shall not be installed or maintained within any piping or device conveying sewage, wastes, or other materials hazardous to health and safety.

(d) Each hot water heating and steam boiler connection shall be protected by an approved backflow prevention device as set forth in subsection (e) of this regulation and shall be tested and inspected by a qualified inspector.

(e) Nonpotable water piping. If it is impractical to correct individual cross-connections on the domestic water line, the line supplying these outlets shall be considered a nonpotable water line. Drinking or domestic water outlets shall not be connected to the nonpotable water line. Backflow or back-siphonage from the nonpotable water line into the domestic water line shall be prevented by the installation of a gravity tank or by a tank having a pump designated for nonpotable water. The domestic water inlets to the nonpotable water tank shall have an approved air gap as specified within the ASME code and the international plumbing code. Whenever it is impractical to install this tank, an approved pressure-type backflow or back-siphonage prevention device shall be installed as follows:

(1) If reverse flow is possible only as a result of gravity or a vacuum within the line, an approved pressure-type vacuum breaker unit or other approved backflow prevention device shall be installed in the supply line.

(2) Each pressure-type vacuum breaker unit shall be installed at a height of at least 12 inches (.3m) above the highest tank, equipment, or other point at which the nonpotable water is used. Other approved backflow prevention devices shall

be installed in a manner satisfactory to the responsible authorized inspection agency, but in no case less than 12 inches (.3m) above the surrounding ground or floor.

(3) If backflow can occur, creating a higher pressure in the nonpotable water line, an approved backflow prevention device shall be installed in the supply line. The backflow prevention device shall be installed at least 12 inches (.3m) above the surrounding ground or floor, or higher than five feet above the floor or surrounding ground, unless a work platform and ladder are provided.

(f) Whenever possible, all portions of the nonpotable water line shall be exposed, and all exposed portions shall be properly identified in a manner satisfactory to the responsible authorized inspection agency. Each outlet on the nonpotable water line that could be used for drinking or domestic purposes shall be posted with the following sign: DANGER—WATER UNSAFE.

(g) An approved backflow prevention device shall conform to the requirements of the American society of sanitary engineering (ASSE) publication 1013, as revised October 1993, and the American water works association (AWWA) publication C511-97, effective February 1, 1998, which are hereby adopted by reference. (Authorized by and implementing K.S.A. 1998 Supp. 44-916; effective May 1, 1987; amended April 28, 2000.)

**49-50-5. Excessive water pressure control for hot water supply systems.** When local water pressure is in excess of 80 pounds per square inch (55.2kPa), an approved pressure-type regulator preceded by an adequate strainer shall be installed and the pressure shall be reduced to 80 pounds per square inch (55.2kPa) or less. Potable water systems, up to and including 1½ inch (31.1mm) regulators, shall be constructed to prevent pressure, on the building side of the regulator, from exceeding the main supply pressure. Approved regulators with integral by-passes shall be acceptable. Each regulator and strainer shall be in an accessible location. The strainer shall be readily accessible for cleaning without removing the regulator or strainer body or disconnecting the supply piping. All pipe size determinations shall be based on 80 percent of the reduced pressure. (Authorized by and implementing K.S.A. 1985 Supp. 44-916; effective May 1, 1987.)

**49-50-6. Hydrostatic pressure tests and**

**inspection.** (a) When there is doubt as to the extent of a defect or deterioration found in a pressure vessel or boiler, a pressure test may be required by the inspector. A pressure test shall not be required as part of a normal periodic inspection. A pressure test shall be required when either of the following conditions is met:

(1) Forms of deterioration are found that could affect the safety of a vessel.

(2) Major repairs have been completed.

(b) Pressure test considerations shall be as follows:

(1) To determine tightness, the test pressure shall not be required to be greater than the set pressure of the safety valve having the lowest setting.

(2) The pressure test shall not exceed 1½ times the maximum allowable working pressure, as adjusted for temperature. When the original test pressure included consideration of corrosion allowance, the test pressure may be further adjusted based on the remaining corrosion allowance and other requirements set forth in part RC of the national board inspection code, which is adopted by reference in K.A.R. 49-45-20.

(3) If the test pressure will exceed the set pressure of the safety valve having the lowest setting, the safety relief valve or valves shall be removed during the test or each disc held down by means of a test clamp and not by applying additional load to the valve spring by turning the compression screw.

(4) The temperature of the water used to apply a hydrostatic test shall not be less than 60° F, unless the owner provides information on the toughness characteristics of the vessel material to indicate the acceptability of a lower test temperature. The metal temperature shall not exceed 120° F, unless the owner specifies the requirements for a higher test temperature that are acceptable to the inspector.

(5) When contamination of the vessel contents by any other medium is prohibited or when a hydrostatic test is not possible, other testing media may be used if the precautionary requirements of the applicable sections of the ASME code and the national board inspection code (NBIC), as adopted in these regulations, are followed. In these cases, there shall be agreement as to the testing procedure among the owner, repair organization, the inspector, and the chief inspector.

(c) Each boiler log, record of maintenance, corrosion rate record, and any other examination

results shall be reviewed by the inspector. The owner or user shall consult with the inspector regarding repairs, if any, made since the last internal inspection. The records of the repairs shall be reviewed for compliance with applicable requirements.

(d) Any defects or deficiencies in condition, maintenance practices, or misuse of the boiler shall be identified and documented by the inspector and owner, and, if necessary, corrective action shall be taken by the owner. All repairs shall be carried out in accordance with the requirements of part RC of the national board inspection code. (Authorized by K.S.A. 44-916; implementing K.S.A. 44-916 and 44-923; effective May 1, 1987; amended April 28, 2000; amended Nov. 2, 2007.)

**49-50-7. Boiler blowoff equipment; general requirements.** (a) The blowdown from a boiler or boilers that enters a sanitary sewer system or blowdown that is considered a hazard to life or property shall pass through some form of blowoff equipment that will reduce pressure and temperature as required by this regulation.

(b) The temperature of the water leaving the blowoff equipment shall not exceed 140°F.

(c) The pressure of the blowdown leaving any type of blowoff equipment shall not exceed 5 psig.

(d) The blowoff piping and fitting between the boiler and boilers and the blowoff tank or tanks shall meet the requirements of paragraphs PG-58 and PG-59 of the ASME boiler and pressure vessel code, section I, which is adopted in K.A.R. 49-45-1. Blowdown piping shall not be galvanized.

(e) All blowoff tank construction shall meet the requirements of the ASME pressure vessel code, section VIII, division 1, as adopted in K.A.R. 49-45-29, and all materials used in the fabrication of boiler blowoff equipment shall meet the requirements of section II of the ASME boiler and pressure vessel code, as adopted in K.A.R. 49-45-2, K.A.R. 49-45-3, K.A.R. 49-45-4, and K.A.R. 49-45-4a.

(f) When a steam separator is used, it shall be designed to withstand at least twice the operating pressure of the boiler. The steam separator shall be equipped with a vent, an inlet and outlet, and a pressure gauge.

(g) All blowoff equipment shall be fitted with openings to facilitate cleaning and inspection.

(h) In addition to meeting the other requirements in these regulations, all blowoff equipment

shall meet the requirements in “a guide for blow-off vessels,” as published by the national board of boiler and pressure vessel inspectors and adopted by reference in K.A.R. 49-51-11, a copy of which may be obtained from the national board of boiler and pressure vessel inspectors or from the chief inspector. (Authorized by and implementing K.S.A. 44-916; effective May 1, 1987; amended April 28, 2000; amended Nov. 3, 2006.)

**49-50-8. Piping system.** (a) Piping connected to the outlet of a boiler shall be attached by one of the following methods:

(1) Screwing into a tapped opening with a screwed fitting or a valve at the other end;

(2) screwing each end into tapered flanges, fittings, or valves with or without rolling or peening;

(3) bolted joints, including those of the van stone type; or

(4) expanding into grooved holes, seal welded, if desired.

(b) Pipe that is expanded, rolled, or peened shall be made from open-hearth or electric-furnace steel. Blowoff piping of fire-tube boilers that is exposed to products of combustion shall be attached by the method in paragraph (a)(1). The attachment methods in paragraphs (a)(2), (3), or (4) may be used for blowoff piping of fire-tube boilers that is not exposed to combustion products. Fusion welding may be used for sealing purposes at the junction of bolted joints.

(c) Welding may be used to attach piping to nozzles or fittings if the rules adopted for fusion welding or forge welding at K.A.R. 49-50-1(b)(1) are followed. All welded piping that is external to the boiler, from the boiler out to the first stop valve, in a single installation, and out to the second stop valve when two or more boilers with man-holes are connected to a common steam or high temperature water main or header, shall be installed by a manufacturer or contractor authorized to use any one of the American society of mechanical engineers code symbol stamps for pressure piping (“PP”), power boilers (“S”), or assembly stamp (“A”). The piping or fittings that are adjacent to the welded joint farthest from the boiler shall be stamped with the pressure piping, power boiler, or assembly code symbol stamp of the American society of mechanical engineers when approved by the inspector.

(d) Power boiler piping shall be inspected in all segments of the system carrying substantially the same pressures and temperature encountered

in the boiler. The piping shall be inspected to the extent necessary to assure compliance with engineering design, material specifications, fabrication, assembly, and test requirements of section I of the ASME boiler and pressure vessel code, "rules for construction of power boilers," for the piping between the boiler and the first stop valve in a single boiler installation, or the second stop valve in a multiple boiler installation. Power piping and piping beyond these limits shall be installed as required by the appropriate section of ASME B31.1 power piping.

(e) When welded assembly is used, the contractor who welded the pipe shall present welding procedure specification and proof of the welder's qualifications to the inspector for review. The contractor shall be responsible for the quality of the welding performed by the contractor's organization.

(f) Visual inspection of welding performed by qualified welders shall be deemed sufficient unless codes or engineering specifications state otherwise or unless the inspector wishes to augment this visual inspection with other non-destructive tests, including radiography. All tests or retests required by the inspector shall be at the owner's or contractor's expense.

(g) Signed certification of the contractor regarding satisfactory hydrostatic tests performed on piping may be accepted by the inspector. These tests may be required by the inspector to be performed in the inspector's presence.

(h) Heating boiler piping shall be inspected in all segments of the piping system carrying substantially the same pressure and temperatures as the boiler. The piping shall be inspected to the extent necessary to insure good fit-up, assembly, tightness, and support of the system. Welded joints shall be visually inspected for soundness of the weld and freedom from undercutting, cracking, and other surface imperfections. All inspections of piping shall be conducted to the first stop valve on a single boiler installation or the second stop valve in a multiple boiler installation.

(i) Hot water supply boiler installations shall be inspected for conformance with section IV of the ASME heating boiler code. (Authorized by and implementing K.S.A. 1998 Supp. 44-916; effective May 1, 1987; amended April 28, 2000.)

**49-50-9. Notification of inspection requirements.** (a) A certificate inspection shall be carried out before the expiration date of the cer-

tificate. Each owner or user shall ensure that the boiler or pressure vessel is inspected on or before the date on which the inspection is due. Internal certificate inspections shall be scheduled in advance by the inspector. External inspections may be performed by the inspector during normal business hours without prior notification to the owner or user.

(b) An internal inspection, appropriate pressure test, or both may be requested by the inspector when an external inspection or determination by other objective means indicates that continued operation of the boiler constitutes a menace to public safety. In these instances, the owner or user shall prepare the boiler for the inspections, tests, or both as the inspector designates.

(c) All boilers and pressure vessels that are not exempted by the act and that are subject to regular inspections shall be prepared for inspection as required in subsection (d).

(d) The owner or user shall prepare each boiler for inspection. The owner or user shall prepare for and apply a hydrostatic pressure test on the date arranged by the inspector. The date shall not be fewer than seven days after the date of notification. The owner or user shall prepare a boiler for internal inspection in the following manner:

(1) Water shall be drawn off, and the boiler shall be washed thoroughly.

(2) The manhole and handhole plates, washout plugs, and inspection plugs in water column connections shall be removed as required by the inspector. The furnace and combustion chambers shall be cooled and thoroughly cleaned.

(3) All grates of internally fired boilers shall be removed.

(4) The insulation or brickwork shall be removed as required by the inspector in order to determine the condition of the boiler, headers, furnace, supports, or other parts.

(5) The pressure gauge shall be removed for testing, as required by the inspector.

(6) The leakage of steam or hot water into the boiler shall be prevented by disconnecting the pipe or valve at the most convenient point or by any other appropriate means approved by the inspector.

(7) The nonreturn and steam stop valves shall be closed, tagged, and preferably padlocked, and the valves drained or the cocks between the two valves opened. Before opening the manhole or handhole covers and entering any part of the

steam-generating unit connected to a common header with other boilers, the feed valves shall be closed, tagged, and preferably padlocked, and the valves drained or the cocks located between the two valves opened. After draining the boiler, the blowoff valves shall be closed, tagged and preferably padlocked. Blowoff lines, where practicable, shall be disconnected between pressure parts and valves. All drains and vent lines shall be opened.

(e) If a boiler has not been properly prepared for an internal inspection or if the owner or user has failed to comply with the requirements for a pressure test as specified in these regulations, the inspection or test may be postponed, and the inspection certificate shall be withheld or the right to operate revoked until the owner or user complies with the requirements.

(f) If the boiler is jacketed so that the longitudinal seams of shells, drums, or domes cannot be seen, sufficient jacketing, setting wall, or other form of casting or housing shall be removed to permit reasonable inspection of the seams and other areas necessary to determine the condition and safety of the boiler, if this information cannot be determined by other means.

(g) If a lapseam crack is discovered along a longitudinal riveted joint in the shell or drum of a boiler, the use of that shell or drum shall be immediately discontinued. Patching shall be prohibited.

(h) All lock-out, tag-out, and confined space entry procedures shall be observed. (Authorized by K.S.A. 44-916; implementing K.S.A. 44-916 and 44-923; effective May 1, 1987; amended April 28, 2000; amended Nov. 3, 2006.)

**49-50-10. Safety valve repair.** (a) All national board capacity-certified ASME code section I, "V" stamped safety and safety relief valves and section VIII "UV" safety relief valves, in addition to all other coded piping systems using code-constructed safety and safety relief valves, shall be repaired in accordance with the national board of boiler and pressure vessel inspectors "VR" program specified in NBIC ANSI/NB-23, which is adopted by reference to K.A.R. 49-45-20. Each repair shall be performed by an organization in possession of a "VR" certificate of authorization issued by the national board of boiler and pressure vessel inspectors.

(b) Repair of a safety valve or safety relief valve shall be considered to be the replacement, re-

machining, or cleaning of any critical part, lapping of the seat and disc, or any other operation that could affect the flow pressure, capacity, function, or pressure-retaining integrity of the valve. Disassembly and either reassembly or adjustments, or both, that affect the safety valve or safety relief valve function shall be considered repairs.

(c) The initial installation, testing, and adjustments of a new safety valve or a safety relief valve on a boiler or pressure vessel shall not be considered a repair if made by the manufacturer or assembler of the valve.

(d) Each valve intended for steam services shall be tested on steam. Each valve intended for air or gas service shall be tested on air or gas. All ASME code section IV "HV" and "V" stamped safety valves and relief valves designed for use on low pressure boilers shall be repaired only by the original manufacturer. (Authorized by and implementing K.S.A. 44-916; effective May 1, 1987; amended April 28, 2000; amended Nov. 3, 2006.)

**49-50-11. Condemned boilers and pressure vessels.** Any boiler or pressure vessel that is inspected and declared unfit for further service by the chief inspector or deputy inspector shall be stamped by the inspector with an arrowhead stamp having an overall length of  $\frac{1}{2}$  inch and width of  $\frac{3}{8}$  inch on either side of the letters "XXX" and the letters of the state, as shown by the following facsimile: XXX KXXX. Each condemned boiler or pressure vessel shall be immediately taken out of service by shutting off the boiler's or pressure vessel's source of energy, followed by total disconnection of gas, electrical, and system piping. Any person, firm, partnership, or corporation installing or using a condemned boiler or pressure vessel within this state shall be subject to the penalties provided by K.S.A. 44-925, and amendments thereto. (Authorized by K.S.A. 1998 Supp. 44-916; implementing K.S.A. 1998 Supp. 44-925; effective May 1, 1987; amended April 28, 2000.)

**49-50-12. Reinstalled boiler or pressure vessel.** When a stationary boiler or pressure vessel is moved and reinstalled, it shall be brought up to code and shall be subject to immediate certification inspection upon reinstallation. The owner, user, or installer shall notify the chief inspector of the reinstallation. However, a pressure vessel shall not require inspection if moved to a different location or reinstalled by the same owner. (Authorized by K.S.A. 1998 Supp. 44-916;

implementing K.S.A. 1998 Supp. 44-917; effective May 1, 1987; amended April 28, 2000.)

**49-50-13. Reinstalled boiler or pressure vessel at same location.** If a boiler or pressure vessel located in this state is moved for temporary use or repair, it shall be subject to immediate certification inspection upon reinstallation. The reinstalled boiler or pressure vessel shall be brought up to the current code requirements. The boiler or pressure vessel shall have a certification inspection if the boiler or pressure vessel has not been previously registered. The owner, user, or installer shall notify the chief inspector of the reinstallation. (Authorized by K.S.A. 44-916; implementing K.S.A. 44-917; effective May 1, 1987; amended April 28, 2000; amended Nov. 3, 2006.)

**49-50-14. Shipment of nonstandard boilers or pressure vessels into the state.** Shipment of nonstandard, nonexempt boilers or pressure vessels into this state for use shall be prohibited unless a variance and an operating permit have been granted by the secretary or the secretary's designee. (Authorized by K.S.A. 1998 Supp. 44-916; implementing K.S.A. 1998 Supp. 44-917; effective May 1, 1987; amended April 28, 2000.)

**49-50-15. Installation of used or secondhand boilers or pressure vessels.** A used or secondhand boiler or pressure vessel may be shipped for installation in this state only following an inspection by an inspector qualified by an examination equal to that required by this state or by an inspector holding a national board commission, at the location where originally installed. Data submitted by the inspector shall be filed by the owner, user, or installer of the boiler with the chief inspector of this state for the chief inspector's approval. The boilers or pressure vessels, when installed in the state, shall be subject to inspection by the chief inspector or deputy inspector and shall meet current safety codes as set forth in these regulations. (Authorized by K.S.A. 1998 Supp. 44-916; implementing K.S.A. 1998 Supp. 44-923; effective May 1, 1987; amended April 28, 2000.)

**49-50-16. Working pressure for existing installations.** (a) The working pressure on any existing installation may be decreased by the inspector if the boiler condition warrants it.

(b) If the owner or user does not concur with the inspector's decision, the owner or user may appeal to the secretary who may request a joint

inspection by the chief inspector and the deputy inspector or special inspector. Each inspector shall render a report to the secretary. The secretary shall render the final decision, based upon the data contained in the inspector's reports. (Authorized by K.S.A. 1985 Supp. 44-916; implementing K.S.A. 1985 Supp. 44-916 and K.S.A. 44-928; effective May 1, 1987.)

**49-50-17. Steam cleaners and hot water power washers.** (a) Each steam cleaner or hot water power washer in which water can flash into steam when released directly to the atmosphere through a manually operated nozzle, on which adequate controls and safety devices are installed, and on which safety relief valves are installed shall be subject to the boiler safety act if the cleaner or washer exceeds any of the limitations or conditions specified in section I, part PG-2.3 in the ASME boiler and pressure vessel code, which is adopted by reference in K.A.R. 49-45-1.

(b) Each steam cleaner and each hot water power washer subject to this regulation shall meet the requirements in "high-pressure cleaning machines," UL 1776, third edition, published on June 7, 2002 by underwriters laboratories, inc. and hereby adopted by reference, including the appendix. (Authorized by K.S.A. 44-916; implementing K.S.A. 2005 Supp. 44-915; effective May 1, 1987; amended April 28, 2000; amended Nov. 3, 2006.)

**49-50-18. Minimum construction standards for all boilers and pressure vessels.** (a) Each new boiler or pressure vessel installed for operation in this state, unless otherwise exempt, shall be designed, constructed, inspected, stamped, and installed in accordance with the applicable ASME code and addenda thereto and these regulations. Each boiler or pressure vessel shall bear the manufacturer's NB number as registered with the national board. A copy of the manufacturer's data report, signed by the manufacturer's representative and the national board-commissioned inspector, shall be filed with the chief inspector through the national board of boiler and pressure vessel inspectors.

(b) Variance. If a boiler or pressure vessel cannot bear the ASME and national board stamping, details of the proposed construction material specifications and calculations shall be submitted to the chief inspector by the owner and user, and approval as a variance shall be obtained before construction is started. Design drawings and cal-

culations shall be certified by a professional engineer currently registered in the state of Kansas. The boiler or pressure vessel shall be constructed and inspected as required by the national board inspection code (NBIC). (Authorized by and implementing K.S.A. 1998 Supp. 44-916; effective May 1, 1987; amended April 28, 2000.)

**49-50-19. Combustion safeguards and waterside control appurtenances.** (a) Each automatically fired boiler shall be protected against the perils of low water, furnace explosion, overpressure, and overtemperature by equipping the boiler with controls and safety devices in accordance with the requirements of ASME CSD-1, ASME CSD-1 and the national board inspection code, which are adopted by reference in K.A.R. 49-45-27 and K.A.R. 49-45-20, shall apply to new installations, used or secondhand boilers, boilers moved and relocated, retrofitting of any boiler system having experienced incidental failure of its control equipment, major alterations of existing installations, and any boiler that could lack controls and safety devices.

(b) To implement the provisions of ASME CSD-1 and the national board inspection code, manufacturers of new boilers shall provide documentation to installing contractors verifying that the boiler was constructed in compliance with CSD-1, Part CG-510. The testing and maintenance instructions obtained by the installing contractor and presented to the boiler owner or user shall be filed with the installation report and made available to the inspector upon request.

(c) Combustion and waterside controls and safety devices for boilers with burner inputs that exceed the 12,500,000 BTUH input limit of CSD-1 shall meet the requirements of all applicable ASME and NFPA standards and the national board inspection code, as adopted by reference in these regulations. Applicable flame safeguard requirements for the prevention of furnace explosions shall be those set forth in the national fire code, sections 85, 85A, 85F, and 86, which are adopted by reference in K.A.R. 49-45-37, K.A.R. 49-45-38, K.A.R. 45-49-39, and K.A.R. 49-45-40. Combustion and waterside controls and safety devices for existing boiler installations with burner inputs that exceed the 12,500,000 BTUH limit of CSD-1 shall meet the applicable provisions of the edition of the ASME and NFPA standards in effect when they were constructed and installed. Whenever existing installations are considered un-

safe, undergo extension repair due to accidental damage, major alteration due to accidental damage, or lack a qualified 24-hour attendant, flame safeguard and other pertinent controls and safety devices shall be brought up to the current code requirements.

(d) Each owner, user, or installer of boilers using flame safeguard equipment shall document the results of combustion safety testing. The frequency of testing shall be in accordance with the equipment manufacturer's recommendations but shall be conducted at least upon the initial start-up and shutdown of the boiler. An inspection and maintenance schedule shall be established and performed to comply with the boiler and combustion system manufacturer's recommendations. Documentation relative to the combustion safety testing shall be kept on permanent file at the boiler location and shall be made available to the authorized inspector upon request. The use of rebuilt or remanufactured flame safeguard equipment shall not be allowed. Each boiler control shall be listed as UL (underwriters laboratories), FM (factory mutual), or AGA (American gas association).

(e) Each boiler that operates continuously for more than 24 hours shall have a self-checking scanner that is compatible with the type of fuel being burned. (Authorized by and implementing K.S.A. 44-916; effective May 1, 1987; amended April 28, 2000; amended Nov. 3, 2006.)

**49-50-20. New boilers, new pressure vessels, new boiler rooms, and boiler clearances.** (a) Each owner, user, and installer of a new boiler or pressure vessel shall be responsible for notifying the office of the chief inspector within 72 hours of a boiler or pressure vessel installation. Each new boiler or pressure vessel shall be inspected at the time of installation by an inspector duly commissioned in accordance with K.S.A. 44-918 through K.S.A. 44-922, and amendments thereto.

(b) Each new boiler or pressure vessel shall have adequate clearance for repair, inspection, maintenance, and operation. Each new boiler that is not enclosed in a separate building or separate room shall be isolated from the public and employees by a fire-rated wall as determined by occupancy in chapter 8 in NFPA 101, "life safety code," 2000 edition, excluding sections 8.4.4 and 8.4.5, which is published by the national fire pro-

tection association and hereby adopted by reference.

(c) Each new boiler room shall have one or more means of exit as determined by the chief boiler inspector. Where more than one exit is provided, each exit shall be remotely located from the other. Each elevation of runway shall have at least two means of egress, each remotely located from the other.

(d) Each new boiler or pressure vessel shall be located so that adequate space will be provided for the proper operation of the boiler or pressure vessel, and its appurtenances, for the inspection of all surfaces, tubes, water walls, economizers, piping, valves, hand holes, manholes, and other equipment, and for their necessary maintenance and repair. Specifications for all minimum clearances shall be provided by each boiler or pressure vessel manufacturer and shall be listed in the manual provided to the installing contractor. In no case shall clearance for access to any boiler or pressure vessel be less than that listed in section 1014.0 of the uniform mechanical code, 2000 edition as adopted by reference in K.A.R. 49-45-32 and the installation requirements of the national board inspection code as adopted by reference in K.A.R. 49-45-20. The installation instruction manual shall remain available to the authorized inspector upon the inspector's request. (Authorized by and implementing K.S.A. 44-916; effective May 1, 1987; amended April 28, 2000; amended Nov. 2, 2007.)

**49-50-21. Boilers and other appliances fired with LP gas.** Boilers and other appliances fired with LP gas shall not be installed below grade, or in pits or other depressions where LP gas could accumulate. This prohibition shall apply unless the system meets the following conditions:

(a) Is equipped with an alarm system that sounds an alarm or with other approved alerting devices;

(b) shuts down all of the equipment in the space; and

(c) is equipped with an approved exhaust system. (Authorized by and implementing K.S.A. 1998 Supp. 44-916; effective April 28, 2000.)

**49-50-22. Venting of atmospheric vents, gas vents, and bleed or relief lines.** (a) Each gas pressure regulator, pressure switch, safety shutoff valve, and any other gas control that has a threaded fitting shall be vented to the outdoors to

a safe point of discharge. The material for each vent line shall be metallic, in accordance with the standards in NFPA 54, which is adopted in K.A.R. 49-50-2.

(b) The atmospheric vent lines shall not be connected to any common gas vent, to any threaded gas vent, or to any bleed or relief line on any double-block-and-bleed fuel train. Each boiler shall be vented separately.

(c) Each atmospheric vent line that has a threaded connection shall be manifolded together in a common atmospheric vent line having a cross-sectional area that is not less than the area of the largest vent line plus 50% of the total areas of the additional vent lines.

(d) Each gas regulator and each pressure interlock switch, as well as any other fuel train component that requires atmospheric pressure to balance diaphragms or other similar devices, shall be provided with a pipe-threaded connection for its vent line. The vent line shall be extended outdoors to a safe point of discharge. A means shall be provided at the vent line's terminating point to prevent blockage of the line by foreign material, moisture, or insects.

(e) Each vent line and actuating line inside boiler casings shall be made of metallic material. (Authorized by and implementing K.S.A. 44-916; effective April 28, 2000; amended Nov. 3, 2006.)

**49-50-23. Certificate of inspection.** The current certificate of inspection for each stationary boiler shall be posted under a clear covering on the boiler room wall in a conspicuous location. The current certificate of inspection for each portable boiler shall be attached to the boiler. A utility power plant's certificate current certificate of inspection shall be posted under a clear covering in the control room of the utility power plant or another suitable location accessible to the inspector. (Authorized by K.S.A. 44-916; implementing K.S.A. 44-924; effective Nov. 3, 2006.)

**49-50-24. Installer qualifications.** Each person who installs, repairs, or tests boilers that have the capacity to generate 1,250,000 BTUH or more shall be authorized by the chief boiler inspector before proceeding with the installation, repair, or testing of that type of boiler. If the chief boiler inspector confirms that the person meets the applicable requirements in the standards and codes for the installation, repair, or testing, the chief boiler inspector shall authorize the person

to install, repair, or test that type of boiler. The person shall inform the chief boiler inspector before the boiler installation, repair, or testing begins and after it is completed. (Authorized by and implementing K.S.A. 44-916; effective Nov. 3, 2006.)

**Article 51.—HIGH PRESSURE BOILERS**

**49-51-1. Age limit of existing boilers.** (a) Any boiler of nonstandard construction installed before calendar year 1977 shall be removed from service at the age limit of 30 years except when both of these requirements are met:

(1) After a thorough internal and external inspection of such a nonstandard boiler and when required by the inspector, a hydrostatic pressure test of 1½ times the allowable working pressure held for a period of at least 30 minutes shall be performed. If no distress or leakage develops, any boiler having other than a lap-riveted longitudinal joint may be continued in operation past the 30-year age limit at the working pressure determined by K.A.R. 49-51-3.

(2) The age limit of any nonstandard boiler having lap-riveted longitudinal joints and operating at a pressure in excess of 50 psig shall be 20 years. This type of boiler, when removed from an existing setting, shall not be reinstated for a pressure in excess of 15 psig. A reasonable time for replacement, not to exceed one year, may be granted by the chief boiler inspector.

(b) The age limit of boilers of standard construction installed before the date this law became effective shall be dependent on the results of thorough internal and external inspection and, when required by the inspector, a hydrostatic pressure test not exceeding 1½ times the allowable working pressure. If the boiler, under these test conditions, exhibits no distress or leakage, it may be continued in operation at the working pressure determined by K.A.R. 49-51-2.

(c) The shell or drum of a boiler in which a lapseam crack develops along a longitudinal lap-riveted joint shall be condemned. (Authorized by and implementing K.S.A. 1998 Supp. 44-916; effective May 1, 1987; amended April 28, 2000.)

**49-51-2. Maximum allowable working pressure for standard boilers and pressure vessels.** The maximum allowable working pressure for standard boilers and pressure vessels shall be determined in accordance with the applicable provisions of the edition of the ASME code under

which they were constructed and stamped. (Authorized by and implementing K.S.A. 1998 Supp. 44-916; effective May 1, 1987; amended April 28, 2000.)

**49-51-3. Maximum allowable working pressure for nonstandard boilers.** (a) The maximum allowable working pressure of a nonstandard boiler shall be determined by the application of the following formula:

$$\frac{TStE}{RFS} = \text{maximum allowable working pressure psig}$$

where:

- TS = ultimate tensile strength of shell plates, psig
- t = minimum thickness of shell plate, in the weakest course, in inches
- E = efficiency of longitudinal joint:  
For tube ligaments, E shall be determined by the rules given in section I of the ASME code. For riveted construction, refer to the national board inspection code, 1998 edition. For seamless construction, E shall be considered to be 100 percent.
- R = inside radius of the weakest course of the shell, in inches.
- FS = factor of safety permitted.

Nonstandard boilers with welded seams shall not be operated at pressures exceeding 15 psig for steam or 30 psig for water.

(b) Tensile strength. When the tensile strength of steel or wrought iron shell plates is not known, it shall be deemed to be 55,000 psig for steel and 45,000 psig for wrought iron.

(c) Crushing strength of mild steel. The resistance to crushing of mild steel shall be deemed to be 95,000 psig.

(d) Strength of rivets in shear. When computing the ultimate strength of rivets in shear, the following values in pounds per square inch of the cross-sectional area of the rivet shank shall be used:

	PSIG
Iron rivets in single shear .....	38,000
Iron rivets in double shear .....	76,000
Steel rivets in single shear .....	44,000
Steel rivets in double shear .....	88,000

When the diameter of the rivet holes in the longitudinal joints of a boiler is not known, the diameter and cross-sectional area of rivets, after driving, may be selected from the following table, or as ascertained by cutting out one rivet in the body of the joint:

Table sizes of rivets based on plate thickness

thickness of plate- inch .....	1/4	9/32	5/16	11/32	3/8	13/32
diameter of rivet after driving-inch .....	11/16	11/16	3/4	3/4	13/16	13/16
thickness of plate- inch .....	7/16	15/32	1/2	9/16	5/8	
diameter of rivet after driving-inch .....	15/16	15/16	15/16	11/16	11/16	

(Authorized by and implementing K.S.A. 1998 Supp. 44-916; effective May 1, 1987; amended April 28, 2000.)

**49-51-3a. Safety factors for boilers and pressure vessels.** The department's inspector shall decrease the working pressure if the condition and safety of the boiler or pressure vessel warrant it. The following safety factors shall represent the minimum values to be used:

(a) The lowest safety factor permissible on existing boilers and pressure vessels and newly installed boilers shall be 4.0.

(b) The safety factor shall be eight for horizontal-return tubular boilers that have continuous longitudinal lapseams that are more than 12 feet in length. If this type of boiler is removed from its existing setting, it shall not be reinstalled in a manner that allows the boiler to operate at pressures in excess of 15 psig.

(c) The lowest permissible safety factor for new pressure vessels shall be no less than 3.5.

(d) If an existing boiler or pressure vessel is constructed to operate with a higher safety factor than a safety factor required by this regulation, the higher safety factor shall not be lowered for any reason. (Authorized by and implementing K.S.A. 44-916; effective April 28, 2000; amended Nov. 3, 2006.)

**49-51-4. Cast iron headers and mud drums.** The maximum allowable working pressure on a water tube boiler with tubes which are secured to cast iron or malleable iron headers or which have cast iron mud drums shall not exceed 160 psig. (Authorized by and implementing K.S.A. 1985 Supp. 44-916; effective May 1, 1987.)

**49-51-5. Pressure on cast iron boilers.** The maximum allowable working pressure for any cast iron boiler, except hot water boilers, shall be 15 psig. (Authorized by and implementing K.S.A. 1985 Supp. 44-916; effective May 1, 1987.)

**49-51-6. Safety valves.** (a) Weighted-lever

safety valves or safety valves that have either a seat or a disk that is made of cast iron shall not be used. The owner, user, or installer of the boiler shall replace any valve of this type of construction, when found, with a direct, spring-loaded, pop-type valve that conforms to the applicable standards of the following:

(1) ASME code, section I, rules for construction of power boilers, which is adopted in K.A.R. 49-45-1;

(2) ASME code, section IV, rules for construction of heating boilers, which is adopted in K.A.R. 49-45-5; and

(3) ASME code, section VIII, rules for construction of pressure vessels, division 1, which is adopted in K.A.R. 49-45-29.

(b) Each high pressure boiler shall have at least one safety valve that is approved and certified by the ASME and the national board. If the boiler has more than 500 square feet of water-heating surface or an electric power input of more than 500 kw, the boiler shall have two or more safety valves of the same type.

(c) Each safety valve required in subsection (b) shall be connected to the boiler in a vertical position, shall be independent of any other steam connection, and shall be attached as close as possible to the boiler without unnecessary intervening pipe or fittings. If an alteration is required to conform to this requirement, the owner, user, or installer of the boiler shall be allowed a reasonable period of time in which to complete the work as permitted by the chief inspector.

(d) No valves of any type shall be placed between the safety valve and the boiler or on any escape pipe. If an escape pipe is used, its size shall be at least the same size of the safety valve discharge, and the pipe shall be fitted with an open drain to prevent water from lodging in the upper part of the safety valve or in the escape pipe. Horizontal escape piping that provides adequate gravity drainage shall not normally require the fitting of an open drain. If an elbow is placed on a safety valve escape pipe, the elbow shall be located close to the safety outlet, or the escape pipe shall be anchored and supported securely. All safety discharges shall be so located or piped to be carried clear of walkways or platforms. If discharge piping is directed downward, the pipe shall terminate no more than six inches above floor level. Plastic discharge piping shall not be used on any safety valve discharge line.

(e) The safety valve capacity of each boiler shall

be sufficient to discharge all of the steam that can be generated by the boiler without allowing the pressure of the boiler to rise more than six percent above the boiler's highest pressure to which any valve is set. The pressure of the boiler shall not be allowed to rise more than six percent above the boiler's maximum allowable working pressure.

(f) Each boiler shall have one or more safety valves that are set at or below the maximum allowable working pressure of the boiler. The remaining valves may be set within a range of three percent above the maximum allowable working pressure of the boiler. The range of the settings for all of the safety valves on a boiler shall not exceed 10% of the highest pressure to which any valve is set.

(g) When two or more interconnected boilers are operating at different pressures and with different safety valve settings, the lower-pressure boilers or the interconnected piping shall be equipped with safety valves that have a sufficient capacity to prevent overpressure, considering the maximum generating capacity of all of the boilers.

(h) If a boiler is supplied with feedwater directly from water mains without the use of a feeding apparatus, excluding return traps, a safety valve shall not be set at a pressure greater than 94% of the lowest pressure obtained in the water supply main feeding the boiler. The relieving capacity of all of the safety valves on that boiler shall be checked by one of the three following methods, and, if their relieving capacity is found to be insufficient, additional valves shall be provided:

(1) By making an accumulation test. An accumulation test shall consist of shutting off all other steam discharge outlets from the boiler and forcing the fires to the maximum. The safety valve's relieving capacity shall be sufficient to prevent a rise of pressure in excess of six percent of the boiler's maximum allowable working pressure. This method shall not be used on a boiler with a superheater or reheater;

(2) by measuring the maximum amount of fuel that can be burned and by computing the corresponding steam-generating capacity upon the basis of the heating value of this fuel. These computations shall be made as outlined in the appendix of the ASME code, section I, which is adopted in K.A.R. 49-45-1; or

(3) by measuring the maximum amount of feedwater that can be evaporated.

If either of the methods outlined in paragraphs (h)(1) and (h)(2) is employed, the sum of the

safety valve capacities shall be equal to or greater than the maximum evaporative capacity, which is the maximum steam-generating capacity of the boiler.

(i) Top-discharge safety valves shall not be used on any steam boiler. (Authorized by and implementing K.S.A. 44-916; effective May 1, 1987; amended April 28, 2000; amended Nov. 3, 2006.)

**49-51-7. Boiler feeding.** (a) Each boiler shall have a feed supply that will permit it to be fed at any time while under pressure.

(b) Each boiler having more than 500 square feet of water-heating surface shall have at least two suitable means of feeding, at least one of which shall be a feed pump. A source of feed at a pressure three percent greater than the set pressure of the safety valve with the highest setting may be considered one of the means. Boilers fired by gaseous, liquid, or solid fuel in suspension may be equipped with a single means of feeding water, if means are furnished for the shutoff of heat input before the water level reaches the lowest safe level.

(c) The feedwater shall be introduced into the boiler in a manner preventing it from discharge close to riveted joints of shell or furnace sheets, directly against surfaces exposed to products of combustion, or to direct radiation from the fire.

(d) The feed piping to the boiler shall be provided with a check valve near the boiler and a valve or cock between the check valve and the boiler. When two or more boilers are fed from a common source, there shall also be a valve on the branch to each boiler between the check valve and the source of supply. Whenever a globe valve is used on feed piping, the inlet shall be under the disk of the valve.

(e) In all cases in which returns are fed back to the boiler by gravity, there shall be a check valve and stop valve in each return line. The stop valve shall be placed between the boiler and the check valve. Both shall be located as close to the boiler as is practicable.

(f) If deaerating heaters are not employed, the temperature of the feedwater shall not be less than 120 degrees F. to avoid the possibility of setting up localized stress. If deaerating heaters are employed, the minimum feedwater temperature shall not be less than 215 degrees F. so that dissolved gases may be thoroughly released. (Authorized by and implementing K.S.A. 1998 Supp.

44-916; effective May 1, 1987; amended April 28, 2000.)

**49-51-8. Water level indicators.** (a) No outlet connections, except for any damper regulator, feedwater regulator, low water fuel cutout, drain, gauge, or other apparatus that does not permit the escape of an appreciable amount of steam or water from it, shall be placed on the piping that connects the water column to the boiler. The water column shall be provided with a valved drain of at least  $\frac{3}{4}$  inch pipe size. The discharge shall be piped to a safe location.

(b) For all installations in which the water gauge glass or glasses are more than 30 feet above the boiler operating floor, remote water level indicating or recording gauges shall be installed at eye height above the operating floor. (Authorized by and implementing K.S.A. 1998 Supp. 44-916; effective May 1, 1987; amended April 28, 2000.)

**49-51-9. Steam gauges.** (a) Each steam boiler shall have a steam gauge with dial range not less than  $1\frac{1}{2}$  or more than  $3\frac{1}{2}$  times the maximum allowable working pressure connected to the steam space or to the steam connection to the water column. The steam gauge shall be connected to a siphon or equivalent device of sufficient capacity to keep the gauge tube filled with water. The steam gauge shall be arranged so that the gauge cannot be shut off from the boiler except by a cock placed near the gauge. The cock shall be provided with a tee or lever handle arranged to be parallel to the pipe in which it is located when the cock is open.

(b) When a steam gauge connection longer than eight feet becomes necessary, a shut-off valve may be used near the boiler if the valve is the outside-screw-and-yoke type and is locked open. The line shall be of ample size with provision for free blowing.

(c) Each boiler shall be provided with a  $\frac{1}{2}$ -inch nipple and globe valve connected to the steam space for the exclusive purpose of attaching a test gauge when the boiler is in service so that the accuracy of the boiler steam gauge may be ascertained. (Authorized by and implementing K.S.A. 1998 Supp. 44-916; effective May 1, 1987; amended April 28, 2000.)

**49-51-10. Stop valves.** (a) Each steam outlet from a boiler, except safety valve and water column connections, shall be fitted with a stop valve located as close as practicable to the boiler.

(b) When a stop valve is so located that water can accumulate, ample drains shall be provided. The drainage shall be piped to a safe location and shall not be discharged on the top of the boiler or its setting.

(c) When boilers provided with manholes are connected to a common steam main, the steam connection from each boiler shall be fitted with two stop valves that have an ample free blow drain between them. The discharge of the drain shall be visible to the operator while manipulating the valves and shall be piped clear of the boiler setting. One of the stop valves shall be an automatic nonreturn valve that is set next to the boiler, and the second valve shall be the outside-screw-and-yoke type and shall meet the requirements of sections I, IV, and VIII of the ASME code. All piping, fittings, and valves shall meet the requirements of the current code of construction. (Authorized by and implementing K.S.A. 1998 Supp. 44-916; effective May 1, 1987; amended April 28, 2000.)

**49-51-11. Blowoff connection.** (a) The construction of the setting around each blowoff pipe shall permit free expansion and contraction. These setting openings shall be sealed without restricting the movement of the blowoff piping.

(b) All blowoff piping exposed to furnace heat shall be protected by fire brick or other heat-resistant material constructed to provide access to the piping for inspection.

(c) Each boiler shall have a blowoff pipe that is fitted with a valve or cock that is directly connected to the lowest water space. Each cock shall be a gland or guard cock and shall be suitable for the pressure allowed. Globe valves shall not be used. If the maximum allowable working pressure of the boiler exceeds 100 psig, each blowoff pipe shall be provided with either two valves or a valve and a cock.

(d) If the maximum allowable working pressure of the boiler exceeds 100 psig, the portion of the boiler's blowoff piping from the boiler to the valve or valves shall consist of extra heavy steel. The blowoff piping shall be full size, and reducers or bushings shall not be used in the piping. The piping shall not be galvanized.

(e) All fittings between the boiler and blowoff valve shall consist of steel. If blowoff pipes or fittings are renewed, they shall be installed in accordance with the regulations for new installations contained within these regulations.

(f) Each blowdown from a boiler or boilers that

enters a sanitary sewer system and any blowdown that is determined by the chief boiler inspector to be a hazard to life or property shall pass through some form of blowoff equipment that will reduce pressure and temperature as required in this subsection.

(1) The temperature of the water leaving the blowoff equipment shall not exceed 140°F.

(2) The pressure of the blowdown leaving any type of blowoff equipment shall not exceed 5 psig.

(3) The blowoff piping and fittings between the boiler and the blowoff tank shall meet the requirements of paragraphs PG-58 and PG-59 of the ASME boiler and pressure vessel code, section I, as adopted in K.A.R. 49-45-1.

(4) All materials used in the fabrication of boiler blowoff equipment shall meet the requirements of the material specifications in section II of the ASME boiler and pressure vessel code, as adopted in K.A.R. 49-45-2, K.A.R. 49-45-3, K.A.R. 49-45-4, and K.A.R. 49-45-4a.

(5) Blowdown tanks shall be constructed to meet the requirements of section VIII of the ASME code, rules for the construction of pressure vessels, division I, as adopted in K.A.R. 49-45-29, K.A.R. 49-45-30, and K.A.R. 49-45-31.

(6) All blowoff equipment shall be fitted with openings to facilitate cleaning and inspection.

(7) All blowoff equipment shall be installed in accordance with "a guide for blowoff vessels," 2004 edition, NB-27, rev. 2, which is hereby adopted by reference. (Authorized by and implementing K.S.A. 44-916; effective May 1, 1987; amended April 28, 2000; amended Nov. 3, 2006.)

**49-51-12. Repairs and renewals of boiler and pressure vessel fittings and appliances.** If repairs are made to any fittings or appliances of a boiler or pressure vessel or if it becomes necessary to replace them, the repairs or replacements shall meet the provisions of the following standards:

(a) ASME code sections I and VIII, as adopted in K.A.R. 49-45-1, K.A.R. 49-45-29, K.A.R. 49-45-30, and K.A.R. 49-45-31;

(b) ASME B 31.1, as adopted in K.A.R. 49-45-28;

(c) ASME CSD-1, as adopted in K.A.R. 49-45-27;

(d) NFPA sections 85, 85A, 85F, and 86, as adopted in K.A.R. 49-45-37, K.A.R. 49-45-38, K.A.R. 49-45-39, K.A.R. 49-45-40; and

(e) the national board inspection code, as

adopted in K.A.R. 49-45-20. (Authorized by and implementing K.S.A. 44-916; effective May 1, 1987; amended April 28, 2000; amended Nov. 3, 2006.)

**49-51-13. Conditions not covered by these requirements.** All cases not specifically covered by these requirements shall be treated as new installations or may be referred to the chief inspector for instructions concerning the requirements. (Authorized by and implementing K.S.A. 1985 Supp. 44-916; effective May 1, 1987.)

**49-51-14.** (Authorized by and implementing K.S.A. 1985 Supp. 44-916; effective May 1, 1987; revoked April 28, 2000.)

#### Article 52.—LOW PRESSURE HEATING BOILERS

**49-52-1. Standard boilers.** The maximum allowable working pressure of standard boilers shall in no case exceed the pressure indicated by the manufacturer's identification stamped or cast on the boiler or on a plate secured to it. (Authorized by and implementing K.S.A. 1985 Supp. 44-916; effective May 1, 1987.)

**49-52-2. Nonstandard riveted boilers.** The maximum allowable working pressure on the shell of a nonstandard riveted heating boiler shall be determined in accordance with K.A.R. 49-51-3. The maximum working pressure of a steam heating boiler shall be 15 psig and the maximum working pressure or temperature of a hot water boiler shall be 160 psig or 250°F temperature. (Authorized by and implementing K.S.A. 1985 Supp. 44-916 and K.S.A. 44-914; effective May 1, 1987.)

**49-52-3. Nonstandard welded boilers.** The maximum allowable working pressure of a nonstandard steel or wrought iron heating boiler of welded construction shall not exceed 15 psig for steam. For other than steam service, the maximum allowable working pressure shall be calculated in accordance with section IV of the ASME code (in effect on January 1, 1987), but in no case shall it exceed 30 psig. (Authorized by and implementing K.S.A. 1985 Supp. 44-916; effective May 1, 1987.)

**49-52-4. Nonstandard cast iron boilers.** (a) The maximum allowable working pressure of a nonstandard boiler composed principally of cast

iron shall not exceed 15 psig for steam service or 30 psig for hot water service.

(b) The maximum allowable working pressure of a nonstandard boiler having cast iron shell or heads and steel or wrought iron tubes shall not exceed 15 psig for steam service or 30 psig for hot water service. (Authorized by and implementing K.S.A. 1985 Supp. 44-916; effective May 1, 1987.)

**49-52-5. Safety valves.** (a) Each steam boiler shall have one or more ASME or national board-approved and certified safety valves of the spring pop-type adjusted and sealed to discharge at a pressure not to exceed 15 psig. Seals shall be attached in a manner that prevents the valve from being taken apart without breaking the seal. The safety valves shall be arranged so that they cannot be reset to relieve at a higher pressure than the maximum allowable working pressure of the boiler. A body drain connection below seat level shall be provided by the manufacturer, and this drain shall not be plugged during or after field installation. For valves exceeding two inches of pipe size, the drain hole or holes shall be tapped not less than 3/8 inch pipe size. For valves less than two inches, the drain hole shall not be less than 1/4 inch in diameter.

(b) A safety valve for a steam boiler shall not be smaller than 1/2 inch unless the boiler and radiating surfaces consist of a self-contained unit. A safety valve shall not be larger than 4 1/2 inches. The inlet opening shall have an inside diameter equal to or greater than the seat diameter.

(c) The minimum relieving capacity of the valve or valves shall be governed by the capacity marking on the boiler.

(d)(1) The minimum valve capacity in pounds per hour shall be the greater of the valves determined by either of the following:

(A) Dividing the maximum BTUH output at the boiler nozzle obtained by the firing of any fuel for which the unit is installed by 1,000; or

(B) using the pounds of steam generated per hour per square foot of boiler heating surface as given in the following table:

minimum pounds of steam per hour per square foot of heating surface		
Boiler heating surface:	Firetube boilers	Watertube boilers
Hand-fired	5	6
Stoker-fired	7	6
Oil, gas, or pulverized fuel-fired	8	10

Waterwall heating surface:

Hand-fired	8	8
Stoker-fired	10	12
Oil, gas, or pulverized fuel-fired	14	16

(2) When a boiler is fired only by gas with a heat value not in excess of 200 BTUH per cubic feet, the minimum safety valve or safety relief valve relieving capacity shall be based on the value given for hand-fired boilers above.

(3) The minimum safety valve or safety relief valve relieving capacity for electric boilers shall be 3 1/2 pounds per hour per kilowatt input.

(4) The amount of heating surface in a boiler shall be determined according to the provisions of ASME code section IV, paragraph HG-403.

(e) The safety valve capacity for each steam boiler shall be such that, with the fuel-burning equipment installed and operating at maximum capacity, the pressure cannot rise more than 5 psig above the maximum allowable working pressure.

(f) When operating conditions are changed or additional boiler heating surface is installed, the valve capacity shall be increased, if necessary, to meet the new conditions in accordance with subsection (e). When additional valves are required, they may be installed on the outlet piping if there is no intervening valve.

(g) If there is any doubt as to the capacity of the safety valve, an accumulation test shall be run in accordance with the ASME code, section VI.

(h) No valve of any description shall be placed between the safety valve and the boiler nor on the discharge pipe between the safety valve and the atmosphere. The safety valve shall be installed in a vertical position.

(i) The discharge pipe shall be at least full size and shall be fitted with an open drain to prevent water lodging in the upper part of the safety valve or in the discharge pipe. When an elbow is placed on the safety valve discharge pipe, the elbow shall be located close to the safety valve outlet, or the discharge pipe shall be securely anchored and supported. All safety valve discharges shall be located or piped in a manner that will not endanger persons working in the area. When discharge piping is directed downward, the pipe shall terminate six inches above floor level. Plastic discharge piping shall not be used.

(j) When two or more safety valve discharge lines are connected together, the cross-sectional area of the common discharge line shall equal or exceed the cross-sectional area of the combined

safety valve discharge outlets. (Authorized by and implementing K.S.A. 1998 Supp. 44-916; effective May 1, 1987; amended April 28, 2000.)

**49-52-6. Safety relief valve requirements for hot water boilers and hot water supply boilers.** (a)(1) Each hot water heating boiler shall have at least one ASME-certified or national board-certified safety relief valve set to relieve at or below the maximum allowable working pressure of the boiler. Each hot water supply boiler of the water tube or coil type shall have at least one safety relief valve that is approved and certified by ASME or the national board. The safety relief valve shall be of the automatic reseating type and shall be set to relieve at or below the maximum allowable working pressure of the boiler. If the capacity of the safety relief valve is certified by the ASME or the national board, the safety relief valve shall have pop action when tested by steam.

(2) If more than one safety relief valve is used on either a hot water heating boiler or a hot water supply boiler, the additional valve or valves shall be ASME-rated. The additional valves shall be set to relieve at or below the maximum allowable working pressure of the vessel or any component in the system.

(3) Each safety relief valve shall be spring-loaded. A safety relief valve shall not be capable of being reset at a higher pressure than the maximum allowable working pressure of the boiler or pressure vessel.

(b) Materials that can fail due to deterioration or vulcanization when subjected to saturated steam temperatures corresponding to the maximum capacity test pressure shall not be used for safety relief valves.

(c) A safety relief valve shall not be smaller than  $\frac{3}{4}$  inch or larger than  $4\frac{1}{2}$  inches standard pipe size, except that boilers having a heat input not greater than 15,000 BTUH may be equipped with a safety relief valve of  $\frac{1}{2}$ -inch standard pipe size. The inlet opening shall have an inside diameter that is approximately equal to or greater than the seat diameter. The minimum opening through any part of the valve shall not be less than  $\frac{1}{2}$  inch in diameter or its equivalent area.

(d) The steam-relieving capacity, in pounds per hour, of each pressure-relieving device on a boiler shall be the greater of the steam-relieving capacity determined by either of the following methods:

(1) Dividing the maximum output in BTUH by

1,000, where the maximum output is the output obtained at the boiler nozzle by the firing of any fuel the unit is capable of using; or

(2) using the number of pounds of steam generated per hour per square foot of boiler heating surface as specified in the table in K.A.R. 49-52-5 (d)(1).

(e) If operating conditions are changed or additional boiler heating surface is installed, the valve capacity shall be increased, if necessary, to meet the new conditions in accordance with subsection (f). The additional valves required because of the changed conditions or additional heating surfaces may be installed on the outlet piping if there is no intervening valve.

(f) The safety relief valve capacity for each boiler shall be sufficient to prevent the pressure from rising more than 5 psig above the boiler's maximum allowable working pressure with the fuel-burning equipment installed. Each storage water heater and each hot water supply boiler shall have T & P relief valves with a relieving capacity and an American gas association rating that is equal to or exceeds the burner BTUH input or the electrical power kilowatt input. Each hot water supply boiler that is of the coil or water tube type shall be equipped with a safety relief valve. The connecting hot water storage tank shall have a pressure and temperature safety relief valve with a temperature-relieving capacity equivalent to the total burner BTUH input.

(g)(1) Each safety relief valve shall be installed in a vertical position, except for T & P relief valves that are installed on storage water heaters equipped with side tappings to accommodate the insertion of the T & P valve thermostat. The T & P valve thermostat shall be immersed in the water and located in the top six inches of the vessel. No valve of any type shall be placed between the safety relief valve and the boiler or on the discharge pipe between the safety relief valve and the atmosphere.

(2) The diameter of the discharge pipe shall not be less than the diameter of the safety discharge opening and shall be fitted with an open drain to prevent water from lodging in the upper part of the safety relief valve or in the discharge pipe. Horizontal discharge piping that provides adequate gravity drainage shall not require the fitting of an open drain, except as specified in this paragraph. If an elbow is placed on the safety relief valve discharge pipe, the elbow shall be located close to the safety relief valve outlet, or the

discharge pipe shall be securely anchored and supported.

(3) All safety relief valve discharges shall be located or piped in a manner that does not endanger persons working in the area. If discharge piping is directed downward, the pipe shall terminate no more than six inches above floor level. Plastic discharge piping shall not be used on any safety relief valve discharge line, including discharge lines for domestic hot water heaters of any size.

(4) If two or more safety relief valve discharge lines are connected together, the cross-sectional area of the common discharge line shall equal or exceed the combined cross-sectional areas of all of the connected safety relief valve outlets. (Authorized by and implementing K.S.A. 44-916; effective May 1, 1987; amended April 28, 2000; amended Nov. 3, 2006.)

**49-52-7. Steam gauges.** (a) Each steam boiler shall have a steam gauge connected to its water column or a steam connection by means of a siphon or equivalent device exterior to the boiler. The siphon shall be of sufficient capacity to keep the gauge tube filled with water and shall be arranged so that the gauge cannot be shut off from the boiler except by a cock with tee or lever handle placed in the pipe near the gauge. The handle of the cock shall be parallel to the pipe in which it is located when the cock is open.

(b) The scale on the dial of a steam gauge shall be graduated to not less than 30 psig or more than 3½ times the maximum allowable working pressure. The gauge shall be provided with effective stops for the indicating pointer at the zero point and at the maximum pressure point. The pointer shall travel at least three inches from the zero to 30 psig pressure mark. (Authorized by and implementing K.S.A. 1998 Supp. 44-916; effective May 1, 1987; amended April 28, 2000.)

**49-52-8. Pressure or altitude gauge and thermometers.** (a) Each hot water boiler shall have a pressure or altitude gauge connected to it or to its flow connection in such a manner that it cannot be shut off from the boiler except by a cock with tee or lever handle placed on the pipe near the gauge. The handle of the cock shall be parallel to the pipe in which it is located when the cock is open.

(b) The scale on the dial of the pressure or altitude gauge shall display approximate graduation to not less than 1½ or more than three times the maximum allowable working pressure.

(c) Piping or tubing for pressure altitude gauge connections shall be of nonferrous metal when smaller than one inch of pipe size.

(d) Each hot water boiler shall have a thermometer that is located and connected in such a manner that both of the following conditions are met:

(1) The thermometer is easily readable during observation of the water pressure or altitude gauge.

(2) The thermometer will at all times indicate the temperature, in degrees Fahrenheit, of the water in the boiler at or near the outlet.

(e) Each hot water supply boiler shall have a thermometer installed in the hot water supply line. (Authorized by and implementing K.S.A. 1998 Supp. 44-916; effective May 1, 1987; amended April 28, 2000.)

**49-52-9. Water gauge glasses.** (a) Each steam boiler shall have one or more water gauge glasses attached to the water column or boiler by means of valved fittings. The lower fitting shall be provided with a drain valve of the straightway type with an opening not less than ¼ inch in diameter to facilitate cleaning. Gauge glass replacement shall be possible while the boiler is under pressure.

(b) Transparent material, other than glass, may be used for the water gauge if the material has proven suitable for the pressure, temperature, and corrosive conditions encountered in service.

(c) Gauge glasses shall be installed to show a water level in the boiler at or above the lowest permissible level as defined by the manufacturer of the boiler, and the low water cutoffs shall be installed accordingly. (Authorized by and implementing K.S.A. 1998 Supp. 44-916; effective May 1, 1987; amended April 28, 2000.)

**49-52-10. Stop valves and check valves.**

(a) If a boiler can be closed off from the heating system by closing a steam stop valve, there shall be a check valve in the condensate return line between the boiler and the system.

(b) If any part of a heating system can be closed off from the remainder of the system by closing a steam stop valve, there shall be a check valve in the condensate return pipe from that part of the system.

(c) If multiple steam boilers with manholes are functionally connected to each other through a manifold, each boiler shall have two stop valves with a free blow drain between the two valves.

(Authorized by and implementing K.S.A. 44-916; effective May 1, 1987; amended Nov. 3, 2006.)

**49-52-11. Feedwater connections, automatic low water fuel cutoff, and water-feeding devices.** (a) Feedwater, makeup water, or water treatment materials shall be introduced into a boiler through the return piping system or through an independent feedwater connection that does not discharge against parts of the boiler exposed to direct radiant heat from the fire. Feedwater, makeup water, or water treatment materials shall not be introduced through openings or connections provided for any of the following:

- (1) inspection or cleaning;
- (2) safety valves or safety relief valves; or
- (3) surface blowoff, or the water column, water gauge glass, pressure gauge, or temperature gauge.

(b) The feedwater pipe shall be provided with a check valve near the boiler and a stop valve or cock between the check valve and the boiler or return pipe system.

(c) Each automatically fired steam or vapor system boiler shall be equipped with an automatic low water fuel cutoff located in a manner that will automatically cut off the fuel supply when the surface of the water falls to the lowest safe water line. The boiler shall also have a secondary low water cutoff that will cut off the fuel supply and lock out the burner and shall be equipped with a manual reset. If a water-feeding device is installed, it shall be constructed so that the water inlet valve cannot feed water into the boiler through the float chamber. The interfeeding device shall be located to supply requisite feedwater. The lowest safe water line shall not be lower than the lowest visible part of the water glass.

(d) A fuel or feedwater control device may be attached directly to a low pressure boiler on the tapped openings in low pressure boilers that are provided for attaching a water glass directly to the boiler. The connections between the boiler and the water glass shall be nonferrous tees or Y's of not less than 1/2 inch pipe size. The water glass shall be attached directly, and as closely as possible, to the boiler. The water glass fittings shall be attached to the straightway topping of the Y or T. The fuel cutoff or water-feeding device shall be attached to the side outlet of the Y or T. The ends of all nipples shall be reamed to full-size diameter.

(e) Designs using a float and float bowl shall have a vertical, straight-away valve drain pipe at

the lowest point in the water-equalizing pipe. The connections in this installation shall permit the bowl and the equalizing pipe to be flushed and the device tested. A low water fuel cutoff control device shall be installed in all hot water heating systems with inputs exceeding 400,000 BTUH. Blowdown valves and pipe attachments shall be a minimum of 3/4 inches.

(f) A low water fuel cutoff shall be installed on all hot water heating systems, including systems under 400,000 BTUH that are not exempted. The low water cutoff shall be a float type, flow switch, or probe type installed in the boiler or piping above the boiler.

(g) Low water cutoffs installed on all hot water heating boilers shall be installed above the boiler and shall be equipped with a manual reset, with no intervening valves between the boiler and the low water cutoff. (Authorized by and implementing K.S.A. 1998 Supp. 44-916; effective May 1, 1987; amended April 28, 2000.)

**49-52-12. Return pump.** Each boiler equipped with a condensate return pump shall be provided with a water level control arranged to automatically maintain the water level in the boiler within the range of the gauge glass. (Authorized by and implementing K.S.A. 1985 Supp. 44-916; effective May 1, 1987.)

**49-52-13. Provisions for thermal expansion in hot water systems.** (a) All hot water heating systems incorporating hot water tanks or fluid relief columns shall be installed in a manner that will prevent freezing under normal operating conditions.

(b) Systems with open expansion tank. If the system is equipped with an open expansion tank, an indoor overflow from the upper portion of the expansion tank shall be provided in addition to an open vent. The indoor overflow shall be carried within the building to a suitable plumbing fixture or the basement.

(c) Closed systems. If the system is closed, an airtight tank or other suitable air cushion shall be installed that will be consistent with the volume and capacity of the system, and it shall be suitably designed for a hydrostatic test pressure of 2 1/2 times the allowable working pressure of the system. Expansion tanks for systems designed to operate above 30 psig shall be constructed in accordance with section VIII, division 1, as required by section IV of the ASME code. Provisions shall

be made to drain the tank without emptying the system, except for prepressurized tanks.

(d) Non-code expansion tanks installed on hot water heating systems shall be restricted to no more than 30 psi working pressure. (Authorized by and implementing K.S.A. 1998 Supp. 44-916; effective May 1, 1987; amended April 28, 2000.)

**49-52-14. Repair and replacement of fittings and appliances.** (a) If repairs are made to fittings or appliances or if it becomes necessary to replace them, the repairs shall meet the following standards:

(1) Sections I, IV, and VIII of the ASME code for new construction, as adopted in K.A.R. 49-45-1, K.A.R. 49-45-5, K.A.R. 49-45-29, K.A.R. 49-45-30, and K.A.R. 49-45-31;

(2) ASME CSD-1, as adopted in K.A.R. 49-45-27;

(3) NFPA 85, 85A, 85F, and 86, as adopted in K.A.R. 49-45-37 through K.A.R. 49-45-40; and

(4) the national board inspection code, as adopted in K.A.R. 49-45-20.

(b) Each electrical control and each safety device shall bear a label and shall be listed by a nationally recognized agency, including UL (underwriters laboratories), FM (factory mutual), or AGA (American gas association), and shall bear an identification label from one of these agencies. (Authorized by and implementing K.S.A. 44-916; effective May 1, 1987; amended April 28, 2000; amended Nov. 3, 2006.)

**49-52-15.** (Authorized by and implementing K.S.A. 1985 Supp. 44-916; effective May 1, 1987; revoked April 28, 2000.)

**49-52-16. Provisions for thermal expansion in hot water supply systems.** If the system is equipped with a check valve or pressure-reducing valve in the cold water inlet line, an airtight expansion tank or other suitable air cushion shall be used. If provided, the tank shall be constructed according to the requirements of section VIII, division 1 of the ASME code, with a maximum allowable working pressure to equal or exceed the working pressure of the hot water supply boiler. (Authorized by and implementing K.S.A. 1998 Supp. 44-916; effective April 28, 2000.)

**49-52-17. Emergency shutoff switches.** An emergency shutoff switch shall be installed on each hot water supply boiler, on each boiler of any size that is equipped with power burners, and on

each boiler with a BTUH input of 400,000 or more, regardless of burner type. Each heating and power boiler shall have an emergency shutdown switch installed by each exit to meet the requirements of NFPA 70, "national electrical code," 2002 edition, which is adopted by reference, and ASME CSD-1, as adopted in K.A.R. 49-45-27. Each boiler with an input of 12,500,000 BTUH or more shall meet the requirements of NFPA 70 and NFPA 85, 85A, 85F, and 86, as adopted in K.A.R. 49-45-37 through K.A.R. 49-45-40. Each emergency shutdown switch shall be marked for easy identification. (Authorized by and implementing K.S.A. 44-916; effective April 28, 2000; amended Nov. 3, 2006.)

**49-52-18. Hot water supply boilers.** (a) No hot water supply boiler or commercial or domestic type of water heater of any size shall be used for any type of comfort heat. This prohibition shall include floor heat and closed-loop hot water heating systems of any kind. Each boiler that is used for heating purposes and is not made of cast iron shall be code-stamped and registered with the national board of boiler and pressure vessel inspectors.

(b) No hot water heating system shall be connected with any domestic hot water system or be used in combination as a building heating system and domestic hot water system.

(c) No hot water supply boiler code-stamped "HLW" shall be used for any kind of comfort heat.

(d) For the purposes of each boiler certification inspection, when a hot water supply boiler is connected to a hot water supply tank, this combination shall be considered one unit.

(e) Each hot water supply boiler that requires electricity to power burners, to stack dampers, or to start an electronic ignition shall be hardwired into the facility's electrical system. (Authorized by and implementing K.S.A. 44-916; effective Nov. 3, 2006.)

**49-52-19. Pool heaters.** (a) Each pool heater shall have the following controls and safety devices that meet the following requirements:

(1) A safety relief valve, with a set pressure not to exceed the maximum allowable working pressure of the lowest rated component in the system; and

(2) a pressure switch or a flow switch that prevents the burner from operating if the circulating pump is not in operation and that maintains ade-

quate temperature controls conforming to the generally acceptable standards for pool heaters.

(b) Each pool heater that can generate at least 400,000 BTUH shall be constructed to meet the requirements of ASME section IV, as adopted by reference in K.A.R. 49-45-5, and shall be registered with the national board. Each pool heater shall be equipped with the controls and safety devices required for heating boilers. (Authorized by and implementing K.S.A. 44-916; effective Nov. 3, 2006.)

**Article 53.—NUCLEAR POWER  
PLANT COMPONENTS**

**49-53-1 to 49-53-2.** (Authorized by and implementing K.S.A. 1985 Supp. 44-916; effective May 1, 1987; revoked Nov. 22, 1996.)

**Article 54.—HEARINGS**

**49-54-1 to 49-54-3.** (Authorized by K.S.A. 1985 Supp. 44-916; implementing K.S.A. 44-928 and as amended by L. 1986, Ch. 318, § 63; effective May 1, 1987; revoked April 28, 2000.)