

# KANSAS REGISTER

State of Kansas

**JACK H. BRIER**  
Secretary of State

Vol. 4, No. 7

February 14, 1985

Pages 145-200

## IN THIS ISSUE . . . .

Page

<b>Department of Transportation</b>	
Special Notice to Contractors . . . . .	146
Special Notice to Contractors . . . . .	146
Notice to Contractors . . . . .	146
Notice to Contractors . . . . .	147
Notice to Consulting Engineers . . . . .	147
<b>State Employees Health Care Commission</b>	
Notice of Commencement of Negotiations for Health Care Benefits . . . . .	147
<b>Kansas Fish and Game Commission</b>	
Notice of Meeting . . . . .	147
<b>Kansas Council on Employment and Training</b>	
Notice of Meeting . . . . .	147
<b>Department of Health and Environment</b>	
Public Notice . . . . .	148
<b>Northwest Kansas Groundwater Management District No. 4</b>	
Notice of Meeting . . . . .	148
<b>Kansas Water Authority</b>	
Notice of Meeting . . . . .	148
<b>Department of Administration</b>	
Notice of Commencement of Negotiations for Engineering Services . . . . .	148
<b>Attorney General</b>	
Opinion No. 85-13 . . . . .	149
<b>Secretary of State</b>	
Public Disclosure Commissioner's Opinions No. 85-1 and 85-2 . . . . .	149
<b>Department of Human Resources</b>	
Grant Applications in Review . . . . .	149
<b>Notice to Bidders for State Purchases</b> . . . . .	151
<b>Legislative Bills Introduced</b> . . . . .	153
<b>Court of Appeals Docket</b> . . . . .	156
<b>Permanent Administrative Regulations</b>	
Alcoholic Beverage Control Board of Review . . . . .	160
Kansas Fish and Game Commission . . . . .	160
State Board of Agriculture . . . . .	164
<b>Temporary Administrative Regulations</b>	
Department of Health and Environment . . . . .	168

## State of Kansas

## DEPARTMENT OF TRANSPORTATION

## SPECIAL NOTICE TO CONTRACTORS

A pre-bid conference for Project 235-87 K-2515-01, Sedgwick County is scheduled for March 7, 1985 at 1:30 p.m. at the Highway Patrol Building, 3200 E. 45th St. N in Wichita. The project begins approximately at the interchange of I-235 and US-54, then northeast on I-235 for approximately 8.899 miles, grading, concrete pavement bridge repair on Bridge Nos. 235-87-16.20, 16.30, 16.90, 17.90, 19.30, 20.40, 21.90, 24.33, 24.40, 24.90 and seeding. Contractors wishing to bid on the project are *required* to attend this pre-bid conference in accordance with the provisions of 80P-207 dated December 19, 1984. The project is scheduled to be let for bid on March 21, 1985.

JOHN B. KEMP  
Secretary of Transportation

Doc. No. 002863

## State of Kansas

## DEPARTMENT OF TRANSPORTATION

## SPECIAL NOTICE TO CONTRACTORS

A pre-bid conference for Project 435-46 K 0456-06, Johnson County, is scheduled for Tuesday, March 5, 1985, at 10:00 a.m. at the KDOT Area 6 Office, 309 N. Rogers Road (K-150 and Rogers Road) in Olathe. The project begins approximately at the interchange of I-435 and I-35 in the city of Lenexa, grading, surfacing, concrete pavement, bridges, seeding and signing. Contractors wishing to bid on the project *are* required to attend this pre-bid conference in accordance with the provisions of 80P-207-R1 dated January 31, 1985. The project is scheduled to be let on March 21, 1985.

JOHN B. KEMP  
Secretary of Transportation

Doc. No. 002879

(Published in the KANSAS REGISTER, February 14, 1985.)

## State of Kansas

## DEPARTMENT OF TRANSPORTATION

## NOTICE TO CONTRACTORS

It is the intent that sealed proposals for the construction of road and bridge work in the following Kansas counties will be received at the Office of the Chief of Construction and Maintenance, K.D.O.T., Topeka, Kansas, until 10:00 a.m., March 21, 1985 and then publicly opened:

## DISTRICT V

Sedgwick—235-87 K 2515-01—I-235, 8.899 miles begins approximately at the interchange of I-235 and US-54, then northeast on I-235, grading, concrete pavement, seeding and bridge repair on Bridge Nos. 235-87-16.20, 16.30, 16.90, 17.90, 19.30, 20.40, 21.90, 24.33, 24.40, 24.90. (Federal Funds).

Proposals will be issued upon request to all prospective bidders who have been prequalified by the Kansas Department of Transportation on the basis of financial condition, available construction equipment, and experience. Also, a statement of unearned contracts (Form No. 284) must be filed. There will be no discrimination against anyone regardless of race, religion, color, sex, physical handicap, national origin or ancestry in the award of contracts.

Plans and specifications for the project(s) may be examined at the offices of the respective County Clerks at the Kansas Department of Transportation district offices responsible for the work.

JOHN B. KEMP  
Secretary of Transportation

Doc. No. 002887

The *Kansas Register* is an official publication of the State of Kansas, published by authority of K.S.A. 75-430. The *Kansas Register* is published weekly by the Kansas Secretary of State, State Capitol, Topeka, KS 66612. One-year subscriptions are \$47.50. Single copies may be purchased, if available, for \$2.00 each. Second class postage paid at Topeka, KS.

ISSN No. 0744-2254.

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

© Secretary of State of the State of Kansas 1985. Reproduction of this publication in its entirety or for commercial purposes is prohibited without prior permission. Official enactments of the Kansas Legislature and proposed and adopted administrative regulations of state agencies may be reproduced in any form without permission.

PUBLISHED BY  
JACK H. BRIER  
Secretary of State  
State Capitol  
Topeka, KS 66612



PHONE: 913/296-3489

(Published in the KANSAS REGISTER, February 14, 1985.)

**State of Kansas  
DEPARTMENT OF TRANSPORTATION**

**NOTICE TO CONSULTING ENGINEERS**

The Kansas Department of Transportation (KDOT) is seeking to engage a qualified engineering firm for the design of the following projects.

**MONTGOMERY COUNTY**

169-63 K-1797-01/F-BRF 083-1(44), reconstruction of US-169 from the state line to the south city limits of Coffeyville, including the replacement of two bridges.

**PAWNEE COUNTY**

56-73 K-2595-01/F-BRF 020-3(12), replacement of the Arkansas River drainage bridge 1.76 miles southwest of US-156.

Firms expressing interest in these projects must respond in writing and complete the Consulting Engineers Qualification Questionnaire (if not already prequalified) by March 1, 1985.

It is the policy of the KDOT to use the following criteria as the basis for selection of engineering consultant firms.

1. Size and professional qualifications of firm.
2. Experience of staff.
3. Location of firm with respect to proposed project.
4. Work load of firm.
5. Firm's performance.

**JOHN B. KEMP**  
Secretary of Transportation

Doc. No. 002888

(Published in the KANSAS REGISTER, February 14, 1985.)

**State of Kansas  
DEPARTMENT OF TRANSPORTATION**

**NOTICE TO CONTRACTORS**

Notice is hereby given that sealed proposals for the construction of road and bridge work in the following Kansas counties will be received at the Highway Patrol Building, 3200 E. 45 St. N. in Wichita, until 10:00 a.m., March 7, 1985 and then publicly opened:

**DISTRICT V-Southcentral**

**Sedgwick—54-87 K-0764-02—**Beginning approximately at the interchange of US-54 and I-235, then east on US-54 (Kellogg Avenue) approximately 1.392 miles in the city of Wichita, grading, surfacing (1.290 miles) and Bridge No. 54-87-23.13 and 23.14 Sta. 146+49.20 152'28"-152' Cont. Comp. Steel Box Girder Span. (State Funds)

Proposals will be issued upon request to all prospective bidders who have been prequalified by the Kansas Department of Transportation on the basis of financial condition, available construction equipment, and experience. Also, a statement of unearned contracts (Form No. 284) must be filed. There will be no discrimination against anyone regardless of race, religion, color, sex, physical handicap, national origin or ancestry in the award of contracts.

Plans and specifications for the project(s) may be examined at the offices of the respective County Clerks or at the Kansas Department of Transportation district offices responsible for the work.

**JOHN B. KEMP**  
Secretary of Transportation

Doc. No. 002862

**State of Kansas  
HEALTH CARE COMMISSION**

**NOTICE OF COMMENCEMENT  
OF NEGOTIATIONS FOR  
HEALTH CARE BENEFITS**

Notice is hereby given of commencement of negotiations for contracts for a state health care benefits program to be effective August 1, 1985.

The Kansas State Employees Health Care Commission will receive proposals until 5:00 p.m., March 15, 1985. Actual negotiations will occur between March 25 and April 5, 1985.

Health insurance carriers and health maintenance organizations wishing to be considered should contact Steve Porter, Health Benefits Administrator, Room 126-S, State Office Building, Topeka, KS 66612, telephone (913) 296-7483, prior to 5:00 p.m., March 15, 1985.

**MARVIN A. HARDER**  
Chairman

Doc. No. 002874

**State of Kansas  
FISH AND GAME COMMISSION**

**NOTICE OF MEETING**

A meeting of the Kansas Fish and Game Commission, by conference call, is scheduled for February 18, 1985 at 1:30 p.m. The conference call will be initiated from the Fish and Game Commission Headquarters in Pratt, KS. The agency's lease agreement for oil and gas exploration on the Pratt Sandhills Area will be discussed.

**JOHN OSTMEYER**  
Commission Chairman

Doc. No. 002872

**State of Kansas  
DEPARTMENT OF HUMAN RESOURCES  
KANSAS COUNCIL ON  
EMPLOYMENT AND TRAINING**

**NOTICE OF MEETING**

The Kansas Council on Employment and Training will meet from 9:00 a.m.-Noon on Friday, February 15, 1985, in the Centennial Room, Stormont-Vail Regional Medical Center, 1500 S.W. 10th St., Topeka, KS. The meeting scheduled for February 1 was cancelled due to inclement weather conditions. The meeting agenda includes the following:

(continued)

- I. JTPA Status Report
- II. State Plan Development Committee Report
- III. Dislocated Worker Committee Report
- IV. Orientation to Carl Perkins Vocational Education Act

The meeting is open to the public.

LARRY E. WOLGAST, Ed.D.  
Secretary of Human Resources

Doc. No. 002881

**State of Kansas**

**DEPARTMENT OF HEALTH  
AND ENVIRONMENT**

**PUBLIC NOTICE**

A Certificate of Need Application from Maxi-Scan, Inc. to develop mobile CT scanning services in Southeast Kansas for \$2,600,000 has been filed on January 28, 1985, by the Kansas Department of Health and Environment for initiation of the 90 day review cycle. The application will be available for public examination at the Health Systems Agency of Southeast Kansas, Inc., 355 N. Waco, Suite 209, Wichita, KS, and the Kansas Department of Health and Environment, Building 321, Forbes Field, Topeka, KS.

A Certificate of Need Application from Riverside Hospital, Wichita, KS, for the renovation and replacement of its facility, in the amount of \$1,773,786, has been filed on January 28, 1985 for the initiation of the 90 day review cycle. The application will be available for public examination at the Health Systems Agency of Southeast Kansas, Inc., 355 N. Waco, Suite 209, Wichita, KS and the Kansas Department of Health and Environment, Building 321, Forbes Field, Topeka, KS.

A Certificate of Need Application from the Northwest Kansas Regional Medical Center, Goodland, KS for the expansion of its outpatient services in the amount of \$1,500,000, was filed on January 28, 1985 for initiation of the 90 day review cycle. This application will be available for public examination at the Office of Health and Environmental Planning, Building 321, Forbes Field, Topeka, KS.

BARBARA J. SABOL  
Secretary of Health and Environment

Doc. No. 002877

**State of Kansas**

**NORTHWEST KANSAS GROUNDWATER  
MANAGEMENT DISTRICT No. 4**

**NOTICE OF MEETINGS**

The February board meeting of the Northwest Kansas Groundwater Management District No. 4 will be held February 19, 1985 beginning at 10:00 a.m. in the district office, 1175 South Range, Colby, KS. General administrative matters and other business will be discussed.

Beginning at 1:30 p.m. on this same day the Board of

Directors will hold its 10th annual meeting at the Ramada Inn, 1950 South Range, Colby, KS. The agenda includes consideration of the 9th annual meeting minutes, a Keynote address by Michael Lennen, Chairman of the Kansas Corporation Commission, presentation of the 1984 calendar year audit, presentation of the 1986 proposed operating budget, election of 4 board positions, an issues comment sheet and other business.

Also, during the annual meeting the board will convene into a public hearing on the proposed revised Management Program per K.S.A. 82a-1029.

WAYNE A. BOSSERT  
Manager

Doc. No. 002871

**State of Kansas**

**KANSAS WATER AUTHORITY**

**NOTICE OF MEETING**

The February meeting of the Kansas Water Authority will be held February 21 and 22, 1985, in the Conference Room, Bldg. 321, Department of Health and Environment, Forbes Field, Topeka. The meeting will begin at 9:00 a.m. on February 21 and if a session is necessary on February 22, it will begin at 8:30 a.m.

An agenda for the meeting will be available February 11. Persons not on the Authority's mailing list may request a copy of the agenda by writing or calling Bruce W. Janssen, 702 Broadway, Box D, Larned, KS 67550, 316/285-6514.

H. PHILIP MARTIN  
Chairman

Doc. No. 002873

**State of Kansas**

**DEPARTMENT OF ADMINISTRATION  
DIVISION OF ARCHITECTURAL SERVICES**

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

Notice is hereby given of the commencement of negotiations for engineering services for the design of a direct burial steam and condensate return conduit system between the Biddle Tunnel junction and Perry Building, Topeka State Hospital, Topeka, KS. The system will require approximately 700 lineal feet of underground piping and the estimated construction cost is \$139,000.

Interested firms must be permitted by law to practice engineering in the State of Kansas.

Any questions or expressions of interest should be directed to Norman Moody, Division of Architectural Services, 625 Polk, Topeka, KS 66603, telephone (913) 233-9367, prior to April 1, 1985.

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

Doc. No. 002886

## State of Kansas

## ATTORNEY GENERAL

## Opinion No. 85-13

**Intoxicating Liquors and Beverages—Licensing and Related Provisions—Farm Winery; Serving of Samples in Tasting Room.**

**Constitution of the State of Kansas—Miscellaneous—Intoxicating Liquors; Prohibition on Open Saloon. Senator Joseph C. Harder, Twenty-Fifth District, Moundridge, January 31, 1985.**

A farm winery licensed under K.S.A. 1984 Supp. 41-308a may manufacture, store and sell domestic table wines. While a provision which would have allowed a farm winery to provide free samples of its products was included in a 1983 bill (Substitute for House Bill No. 2551), such a provision was deleted before the measure became law. L. 1983, ch. 161, § 3. In view of Article 15, Section 10 of the Kansas Constitution and cases which have interpreted its prohibition against the operation of an "open saloon" in this state, samples of wine could not be distributed, even on a complimentary basis, to persons who were not "guests" of the owner. As used in the intoxicating liquor laws, the term "guest" is defined to exclude those individuals who are not personally known to the owner. Therefore, only a private party organized by the owner of the winery to which guests are invited would be in compliance with the constitution and with provisions of Kansas liquor laws dealing with consumption of liquor in public and private places. Cited herein: K.S.A. 1984 Supp. 41-102; 41-308a; K.S.A. 41-719; 41-803; 41-2602; 41-2604; K.A.R. 1983 Supp. 14-18-4; L. 1983, ch. 161; Kan. Const., Art. 15, § 10. JSS.

ROBERT T. STEPHAN  
Attorney General

Doc. No. 002883

## State of Kansas

## SECRETARY OF STATE

## KANSAS PUBLIC DISCLOSURE COMMISSION

## Advisory Opinion No. 85-1

Written January 23, 1985 to The Honorable Paul "Bud" Burke, 8229 Cherokee Circle, Shawnee Mission, KS 66206.

This opinion is in response to your letter of December 28, 1984, in which you request an opinion from the Kansas Public Disclosure Commission.

We note at the outset that our jurisdiction in this matter is limited to the application of K.S.A. 46-215 *et seq.* Thus, whether some other common law, statutory system or rule and regulation applies to your question is not covered by this opinion.

We understand you request this opinion in your capacity as Senate Majority Leader-Elect. You ask whether members of your staff may also be paid a salary from the Kansas Senate PAC fund for travel and

expenses incurred for political activities performed on their own time.

We have reviewed K.S.A. 46-215 *et seq.* in its entirety and it is our opinion, based on the factual situation you have provided, so long as the amounts received by the staff for political work are reasonable in amount for the services provided, that these sections do not prohibit the situation you have described.

## Advisory Opinion No. 85-2

Written January 23, 1985 to Guy Ellis, 1339 NW Glick Rd., Topeka, KS 66615.

This opinion is in response to your letter of January 4, 1985, in which you request an opinion from the Kansas Public Disclosure Commission.

We note at the outset that our jurisdiction in this matter is limited to the application of K.S.A. 46-215 *et seq.* Thus, whether some other common law, statutory system or rule and regulation applies to your question is not covered by this opinion.

We understand you request this opinion in your capacity as a Hydrologist III with Division of Water Resources, Kansas State Board of Agriculture. You advise us that you may accept a role as a member of a partnership in a company that sells and installs water flow meters on irrigation systems, municipal water supply systems and industrial water systems.

You ask whether you may accept a position with the company while serving as a state employee.

It is our opinion so long as you do not participate as a state employee in the making of contracts with the business and do not participate in licensing, regulating, inspecting or administering rules and regulations concerning the business, that the situation you have described is permissible.

Filed with the Secretary of State February 6, 1985.

RICHARD E. DIETZ  
Chairman

By Direction of the Commission

Doc. No. 002876

## State of Kansas

## DEPARTMENT OF HUMAN RESOURCES

## GRANT APPLICATIONS IN REVIEW

Below are listed applications which have been submitted to the Kansas Review Process. For those requiring review, comments should be sent to the Kansas Single Point of Contact, Judy Krueger, Kansas Department of Human Resources, Office of the Secretary, 401 Topeka Ave., Topeka, KS 66603. The due date for comments is indicated.

**KS850124-001-13264WY**—Application to the Department of Health and Human Services for \$110,716 to support a Migrant Health Program for migrants and farmworkers in the five counties in Kansas with a clinic facility in Kansas City, Kansas and services for the migrants located in Lexington and west Kansas City, MO areas. Contact Darrel Newkirk, M.D., Kansas City-Wyandotte County Health Dept., 619 Ann

(continued)

Ave., Kansas City, KS 66101, 913/321-4803. Comments due by February 18, 1985.

**KS850124-002-11550MO**—Application to the Department of Commerce for \$216,520 to establish a public telecommunications facilities program. Contact Barbara Blake, Mid-Coast Radio Project, Inc., 2800 McGee Trafficway, Kansas City, MO, 64108, 816/842-2329. No review required.

**KS850124-003-13600SG**—Application to the Department of Health and Human Services for \$333,429 to continue Head Start funding in Wichita, Grant, Finney, Sherman, Scott and Seward counties. Contact Jerry Coppel, Kansas Children's Service League, Box 517, Wichita, KS, 67201, 316/942-4261. Comments due by February 18, 1985.

**KS850125-001-11800KS**—Application to the Department of Commerce for \$105,964 to increase sales of goods and services by minority firms and vendors to Kansas, to promote the growth and expansion of minority businesses, and to develop a more favorable business condition for minority businesses in the State. Contact Billy McCray, Director of Minority Business, Kansas Department of Economic Development, 503 Kansas Ave., 6th floor, Topeka, KS 66603, 913/296-3805. Comments due by February 19, 1985.

**KS850128-001-20106DK**—Preapplication to the Department of Transportation for \$918,876 to make the following improvements: overlay stub taxiway and partial parallel taxiway, expand apron, install visual approach slope equipment, and acquire aviation easements. Contact Stan Stewart, City Manager, City of Abilene, 419 Broadway, Abilene, KS 67410, 913/263-2550. Comments due by March 9, 1985.

**KS850129-001-13BIAOK**—Application to the Department of Health and Human Services for \$150,000 to provide training and technology transfer. Training activities will include workshops, on-site assistance and the technology transfer will assist the 150 tribal programs. Contact Antonia Dobrec, President, Three Feathers Associates, Box 5508, Norman, OK, 73070. No review required.

**KS850129-002-84123KS**—Application to the Department of Education for \$78,048 for a state-wide inservice program designed to assure the institutionalization of law-related education within the elementary schools of Kansas. Contact Stuart Ervay, Kansas Department of Education, 120 E. 10th St., Topeka, KS 66612. No review required.

**KS850201-001-84123SG**—Application to the Department of Education for \$77,538 for a law-related education program which will provide instruction to 50-70 low-income disadvantaged tenth, eleventh and twelfth grade students. The program will provide students with an awareness and understanding of practical law and legal system; current issues and controversies, etc. Contact Frederick Suderman, Wichita State University, Division of Student Affairs, Box 94, Wichita, KS 67208, 316/689-3285.

**KS850201-002-20106AT**—Application to the Department of Transportation for \$27,000 to develop an airport master plan to improve the Amelia Earhart Municipal Airport in Atchison, Kansas. Contact W. H. Sachs, Jr., City Manager, City of Atchison, 515 Kansas

Ave., Atchison, KS 66002, 913-367-5081. Comments due by March 13, 1985.

**KS850201-003-1724KS**—Application to the Department of Labor for \$1,192,945 to provide alternatives to migrant and seasonal agricultural labor through training or direct employment placements. This service will be provided in all counties in Kansas. Contact Richard Lopez, SER Corporation of Kansas, 709 E. 21st, Wichita, KS 67214, 316/264-5372. Comments due by March 13, 1985.

**KS850201-004-20509KS** and **KS850201-005-20500KS**—Applications to the Department of Transportation totaling \$1,682,583 for the elderly and handicapped capital assistance program which will purchase vehicles and equipment for minority organizations to operate. Contact Kathy Marion, Kansas Department of Transportation, State Office Building, Topeka, KS 66612, 913/296-7416. Comments due by February 8, 1985.

**KS850204-001-20106ME**—Preapplication to the Department of Transportation for \$667,440 to update the airport master plan and environmental assessment and to acquire land for construction of a runway extension. Contact Carrol Webber, City of Meade, 132 S. Fowler, Meade, KS 67964, 316/873-2091. Comments due by March 1, 1985.

**KS850205-001-11300WY**—Application to the Department of Commerce for \$1,250,000. The project is part of an overall redevelopment strategy to upgrade the City's three major industrial districts. The proposed project would involve street resurfacing, curb reconstruction, new traffic signals and install new storm water system. Contact LaVert Murray, Director, Division of Economic Development, Room 720, 701 N. 7th St., Municipal Office Bldg., Kansas City, KS 66101. Comments due by March 17, 1985.

**KS850206-001-13600FR**—Application to the Department of Health and Human Services for \$14,237 for a cost of living grant. Contact Bill Campbell, East Central Kansas Economic Opportunity Corp., Box 200, Ottawa, KS 66067, 913/242-5481. No review required.

**KS850206-002-84029KS**—Application to the Department of Education for \$48,000 to provide coordination in establishing a statewide network for training facilitators to train volunteers to provide classroom, community, and advocacy services for handicapped children and youth. Contact Mary Sue Kretsch, Kansas Department of Education, 120 E. 10th St., Topeka, KS 66612, 913/296-4944. No review required.

**KS850206-003-USPOSSN**—Request for direct development from the United States Postal Service to renovate and modify Building No. 2 and Section "D" of Building No. 5 situated at Forbes Industrial Park, in Topeka, Kansas. This project will enhance the Forbes Industrial Park in general and lengthen the life of the building and make more suitable and efficient operations for the Western Area Supply Center's support role to the U.S. Postal Service. Contact Edward J. Beins, General Manager, United States Postal Service, 5700 Broadmoor, Suite 920, Mission, KS 66202-2462. Comments due by March 1, 1985.

The following grant has been awarded:

**KS840614-005-15916EW**—The Kansas Department of Park and Resources Authority was awarded \$112,000. The project will consist of a bituminous overlay on existing asphalt roads in Kanopolis, KS. Keith Springer, Kansas Park and Resources Authority, Box 977, Topeka, KS 66601.

**NOTICE:** The Environmental Assessment for project 43-21, K-1888-01, BRS-1047 (5), Replacement of Smokey Hill River Bridge at Enterprise, Kansas in Dickinson County is available for public inspection at the following offices:

Mr. Robert Morrissey  
Division Administrator, FHA  
444 S.E. Quincy, Topeka, KS 66683  
Attention: Arthur Murphree, and at

Mr. Mark T. Roberts, Chief Bureau, KDOT,  
9th floor, State Office Building  
Topeka, KS 66612  
Attention: Al Stallard.

LARRY E. WOLGAST, Ed.D  
Secretary of Human Resources

Doc. No. 002882

### State of Kansas

## DEPARTMENT OF ADMINISTRATION DIVISION OF PURCHASES

### NOTICE TO BIDDERS

Sealed bids for items hereinafter listed will be received by the Director of Purchases, State Office Bldg., Topeka, KS, until 2:00 p.m., CST or DST, whichever is in effect on the date indicated, and then will be publicly opened. Interested bidders may call (913) 296-2377 for additional information.

**MONDAY, FEBRUARY 25, 1985**

#26423

Statewide—MAINFRAME/MICROCOMPUTER  
INTERFACE HARDWARE AND SOFTWARE

#26425

Kansas Highway Patrol, Topeka and  
Statewide—OFFICERS LEATHER UNIFORM  
ACCESSORIES

#26426

Department of Transportation, Various Locations  
and Statewide—WIPING RAGS

#60274-A

Wichita State University, Wichita—LASER  
PRINTER

#60657

Larned State Hospital, Larned—  
JANITORIAL/PERSONAL HYGIENE SUPPLIES

#60658

Kansas State Industrial Reformatory,  
Hutchinson—MISCELLANEOUS MEATS

#60659

Department of Transportation, Various  
Locations—TRAILERS

#60660

Kansas State University, Manhattan—  
MICROBUFFERS

#60671

KANSAS STATE UNIVERSITY, Manhattan—  
DENSITOMETER/POWER SUPPLY/MONITOR

#60672

University of Kansas, Lawrence—BEHAVIORAL  
APPARATUS

#60702

Pittsburg State University, Pittsburg—COMPUTER  
SYSTEM-PRIME COMPATIBLE

#60709

Kansas State University, Manhattan—CLINICAL  
AUDIOMETER

**TUESDAY, FEBRUARY 26, 1985**

#A-4977

Winfield State Hospital and Training Center,  
Winfield—REROOF POWER PLANT

#26403

Statewide—ACETYLENE, OXYGEN AND LIQUID  
NITROGEN

#26418

Adjutant General's Department, Topeka—BOILER  
WATER CHEMICALS AND SERVICES

#26429

University of Kansas, Lawrence—DESIGN AND  
ARTWORK FOR PAPER JACKETS AND COVERS

#60310-A

Emporia State University, Emporia—PLAIN PAPER  
COPIER RENTAL

#60661

Department of Transportation, Hutchinson—  
FURNISH AND INSTALL OVERHEAD DOORS,  
Greensburg

#60662

Department of Transportation, Various Locations—  
STEEL AND WOOD SIGN POSTS

#60664

Wichita State University, Wichita—TRACTOR

#60665

Kansas State University, Manhattan—SOYBEAN  
MEAL

#60666

Pittsburg State University, Pittsburg—TESTING  
MACHINE

#60673

Department of Transportation, Hutchinson—  
AUTOMATIC TRANSMISSION FLUID

#60674

University of Kansas, Lawrence—HPLC  
APPARATUS

#60686

University of Kansas Medical Center, Kansas City—  
ECG/BLOOD PRESSURE MONITOR RECORDER

#60687

University of Kansas, Lawrence—OFFICE  
SUPPLIES

#60703

University of Kansas Medical Center, Kansas City—  
MAINTENANCE ON IBM DEVICES

#60712

Department of Transportation, Salina—FASTENERS

#60713

Winfield State Hospital and Training Center,  
Winfield—WASHER EXTRACTOR

#60714

Kansas Wheat Commission, Manhattan—  
PROMOTIONAL "HEAD OF WHEAT" PLASTIC  
LAPEL PIN

(continued)

#60717  
Department of Health and Environment, Topeka  
and Department of Revenue, Topeka—CONTINUOUS  
FORMS

#60718  
Fort Hays State University, Hays—LOUNGE  
FURNITURE

#60741  
University of Kansas, Lawrence—VAN

#60742  
Kansas State Library, Topeka—AUDIO VISUAL  
EQUIPMENT, Library Services to the Blind, Emporia

**WEDNESDAY, FEBRUARY 27, 1985**

#A-0000—PR 147

Pittsburg State University, Pittsburg—PROVIDE  
NEW SURFACING FOR THE EXISTING  
SYNTHETIC SPORTS FLOORING SYSTEM IN  
THE GYMNASIUM AREA, Weede Physical  
Education Facility

#A-4973  
Topeka State Hospital, Topeka—INSPECTION  
AND REPAIR OF ELECTRICAL SWITCHGEAR

#A-5093  
University of Kansas, Lawrence—REMOVE  
CONTAMINATED SAND FROM RIFLE RANGE,  
Military Service Building

#A-5146  
Department of Social and Rehabilitation Services,  
Topeka—NEW ASPHALT OVERLAYMENT, Kansas  
Industries for the Blind, Kansas City

#A-5192  
Kansas State Fair Grounds, Hutchinson—  
CONSTRUCTION OF RABBIT EXHIBIT  
BUILDING

#60675  
Kansas State University, Manhattan—EQUINE  
TREADMILL

#60676  
University of Kansas, Lawrence—MICROSCOPE

#60678  
Kansas State Penitentiary, Lansing—CHAIN LINK  
FENCE-GATE POSTS AND ACCESSORIES

#60679  
Fort Hays State University, Hays—DIESEL  
TRACTOR

#60680  
Kansas State Industrial Reformatory, Hutchinson—  
TOILET ROOM PARTITIONS AND ACCESSORIES

#60690  
University of Kansas Medical Center, Kansas  
City—TEMPERATURE RECORDER/CONTROLLER

#60695  
University of Kansas Medical Center, Kansas  
City—DRAW SHEETS

#60696  
University of Kansas Medical Center, Kansas,  
City—ANESTHESIOLOGY GAS MACHINE

#60697  
Department of Social and Rehabilitation Services,  
Topeka—ALUMINUM COATED QUILTED FABRIC

#60699  
University of Kansas Medical Center, Kansas City—  
DISK STORAGE DEVICE-IBM COMPATIBLE

#60700  
University of Kansas Medical Center, Kansas City—  
COLOR PRINTER AND DISPLAY STATION

#60701  
Kansas Fish and Game Commission, Pratt—FISH  
TANKS, Junction City

#60710  
Kansas State University, Manhattan—TRAILER  
#60711

Kansas State Penitentiary, Lansing—COMPUTER  
CARDS

#60715  
Kansas State Penitentiary, Lansing—  
HANDI-TALKIES

#60729  
University of Kansas Medical Center, Kansas City—  
FROZEN FOODS

#60734  
Kansas Neurological Institute, Topeka—BABY  
FOOD

**THURSDAY, FEBRUARY 28, 1985**

#A-4653(b)

Kansas Fish and Game Commission, Pratt—BULK  
FEED STORAGE FACILITY, Milford Fish Hatchery,  
Geary County

#26420  
Osawatomie State Hospital, Osawatomie—SILVER  
RECOVERY SERVICE AND EQUIPMENT

#26424  
Department of Transportation, Various  
Locations—ASPHALTIC MATERIALS

#60677  
Kansas State University, Manhattan—CLINICAL  
ANALYZER REAGENTS AND ACCESSORIES

#60692  
University of Kansas Medical Center, Kansas  
City—CHROMATOGRAPHY APPARATUS

#60716  
Department of Transportation, Various  
Locations—VEHICLES

#60730  
Kansas State University, Manhattan—BALLED AND  
BURLAPPED TREES AND SHRUBS

#60735  
University of Kansas Medical Center, Kansas City—  
MISCELLANEOUS MEAT, APRIL (1985)

#60736  
Department of Health and Environment, Topeka—  
HAZARDOUS WASTE REMOVAL AND DISPOSAL,  
Winfield

#60743  
University of Kansas, Lawrence—FURNISH AND  
INSTALL WINDOW AND DOOR UNITS

#60744  
Kansas State University, Manhattan—PRINTER  
AND PLOTTER—SELANAR TERMINAL  
COMPATIBLE

**FRIDAY, MARCH 1, 1985**

#A-5112  
University of Kansas Medical Center, Kansas  
City—EXTERIOR WALL RESTORATION  
BUILDING #13 and C.R.U. BUILDING #18

#26422  
University of Kansas, Lawrence—MEAT  
PRODUCTS, APRIL (1985)

#26430  
Statewide—MEAT PRODUCTS, APRIL (1985)

#26431  
University of Kansas, Lawrence—CONCRETE  
CURING COMPOUND, EXPANSION JOINT  
MATERIAL, 400 BAGS CEMENT AND READY MIX  
CEMENT

#60731  
University of Kansas, Lawrence—CENTRIFUGE  
ROTORS

TUESDAY, MARCH 5, 1985

#26428

Department of Administration, Division of Accounts and Reports, Topeka—CONTINUOUS WARRANTS, Payroll, CenPay, Miscellaneous and Income Tax

THURSDAY, MARCH 14, 1985

#26421

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

NICHOLAS B. ROACH  
Director of Purchases

Doc. No. 002884

## State of Kansas

## LEGISLATURE

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

Copies of bills and resolutions are available free of charge from the Legislative Document Room, State Capitol, Topeka, KS 66612, (913) 296-7394. There is a limit of 25 copies of any one item.

*Bills Introduced January 31-February 6:*

**SB 123**, by Committee on Financial Institutions and Insurance: An act amending the uniform consumer credit code; relating to finance charges; amending K.S.A. 1984 Supp. 16a-2-201, 16a-2-202 and 16a-2-401 and repealing the existing sections.

**SB 124**, by Committee on Education: An act establishing the state council on vocational education; abolishing the state advisory council for vocational education; amending K.S.A. 72-4410 and K.S.A. 1984 Supp. 72-4409, and repealing the existing sections.

**SB 125**, by Senator Frey: An act concerning midwifery; providing for the licensure of midwives; establishing a regulatory council on midwifery; imposing certain duties on the secretary of health and environment; creating the midwifery fee fund.

**SB 126**, by Committee on Federal and State Affairs: An act concerning crimes and punishments; relating to penalties for certain crimes involving alcoholic beverages; amending K.S.A. 41-715 and K.S.A. 1984 Supp. 41-2721 and repealing the existing sections.

**SB 127**, by Committee on Federal and State Affairs: An act concerning crimes and punishments; relating to driving under the influence of alcohol or drugs; amending K.S.A. 1984 Supp. 8-1567 and repealing the existing section.

**SB 128**, by Committee on Federal and State Affairs: An act concerning alcoholic beverages; prohibiting certain practices with relation to sales thereof; providing penalties for violations.

**SB 129**, by Committee on Federal and State Affairs: An act concerning criminal procedure; relating to diversion in lieu of criminal proceedings for certain alcohol and drug-related offenses; amending K.S.A. 12-4416 and K.S.A. 1984 Supp. 22-2909 and repealing the existing sections.

**SB 130**, by Committee on Public Health and Welfare: An act concerning children; prohibiting the depriving of nutrition or medical treatment from certain handicapped children.

**SB 131**, by Committee on Public Health and Welfare: An act concerning social welfare; relating to penalties for welfare fraud; amending K.S.A. 1984 Supp. 39-709 and repealing the existing section.

**SB 132**, by Committee on Public Health and Welfare: An act repealing K.S.A. 75-5629, abolishing the advisory committee on food service and lodging standards.

**SB 133**, by Senator Warren: An act relating to local retailers' sales and compensating use taxes; concerning the taxation of certain motor vehicles thereunder; amending K.S.A. 12-190 and 12-198 and repealing the existing sections.

**SB 134**, by Committee on Judiciary: An act amending the uniform commercial code; relating to investment securities; amending K.S.A. 84-8-102 through 84-8-302 and 84-8-304 through 84-8-406 and repealing the existing sections.

**SB 135**, by Committee on Elections: An act concerning elections; relating to campaign finance and advertising; amending K.S.A. 25-4153, 25-4156, 25-4169 and 25-4170 and repealing the existing sections; also repealing K.S.A. 25-2407 and K.S.A. 1984 Supp. 25-1709.

**SB 136**, by Committee on Elections: An act amending the campaign finance act; prohibiting contributions by certain corporations and stockholders thereof; amending K.S.A. 25-4154 and repealing the existing section; also repealing K.S.A. 1984 Supp. 25-1709.

**SB 137**, by Committee on Elections: An act concerning the campaign finance act; relating to the filing and signing of certain reports and statements; amending K.S.A. 25-4150 and K.S.A. 1984 Supp. 25-4148 and repealing the existing sections.

**SB 138**, by Committee on Elections: An act concerning elections; relating to campaign contributions; repealing K.S.A. 25-1710 and K.S.A. 1984 Supp. 25-1709.

**SB 139**, by Committee on Financial Institutions and Insurance: An act concerning public moneys; relating to deposits and investments by governmental subdivisions; amending K.S.A. 1984 Supp. 9-1401, 9-1402, 9-1403, 9-1405, 9-1406, 12-1675, 12-1676 and 17-5002 and repealing the existing sections.

**SB 140**, by Committee on Financial Institutions and Insurance: An act concerning securities; certain exemptions from securities registration requirements; amending K.S.A. 1984 Supp. 17-1262a and repealing the existing section.

**SB 141**, by Committee on Financial Institutions and Insurance: An act concerning financial institutions; relating to deposit accounts payable on death of the owners;

amending K.S.A. 1984 Supp. 9-1215, 9-1216, 17-5828 and 17-5829 and repealing the existing sections.

**SB 142**, by Senator Daniels: An act concerning public pools; requiring life-saving personnel and equipment; providing penalties for violation and declaring certain violations to be a public nuisance.

**SB 143**, by Senator Norvell: An act concerning state educational institutions under the control and supervision of the state board of regents; relating to tuition charged at such institutions; amending K.S.A. 76-719 and repealing the existing section.

**SB 144**, by Committee on Transportation and Utilities: An act concerning motor vehicles; requirement for use of safety belts.

**SB 145**, by Senator Anderson: An act concerning the act for judicial review and civil enforcement of agency actions; exempting agency actions of the commission on civil rights from the provisions thereof; amending K.S.A. 77-618 and repealing the existing section.

**SB 146**, by Senator Anderson: An act creating the surety bond guarantee program for small contractors.

**SB 147**, by Committee on Federal and State Affairs: An act amending the Kansas law enforcement training act; amending K.S.A. 1984 Supp. 74-5602 and 74-5607a and repealing the existing sections.

**SB 148**, by Committee on Assessment and Taxation: An act relating to taxation; concerning the interest rate on delinquent taxes; amending K.S.A. 79-2968 and repealing the existing section.

**SB 149**, by Senators Yost, Anderson, Hayden, Hoferer, Morris, Mulich, Strick, Thiessen, Walker and Warren: An act concerning employment of former members of the state corporation commission.

**SB 150**, by Senators Hayden and Martin: An act relating to income taxation; limiting the federal income tax liability deduction; amending K.S.A. 79-32.120 and repealing the existing section.

**SB 151**, by Senators Norvell and Frey: An act concerning speed limits on highways; amending K.S.A. 8-1336 and K.S.A. 1984 Supp. 8-1558 and repealing the existing sections.

**SB 152**, by Senators Allen, Daniels, Ehrlich, Feleciano, Gordon, Harder, Montgomery, Mulich, Walker, Werts and Yost: An act amending the Kansas retailers' sales tax act; exempting sales of certain mobile homes; amending K.S.A. 79-3606 and repealing the existing section.

**SB 153**, by Senator Winter: An act concerning courts; relating to qualifications of justices and judges; amending K.S.A. 12-4105, 20-105, 20-334 and 20-3002 and repealing the existing sections.

**SB 154**, by Senators Johnston, Anderson, Feleciano, Francisco, Gaines, Gannon, Hayden, Karr, Martin, Norvell, Parrish, Steineger and Strick: An act requiring the use of nontechnical language and prescribing certain requirements in the form of written agreements involving certain consumer transactions and providing penalties for failure to comply with such requirements.

**SB 155**, by Committee on Transportation and Utilities: An act concerning motor vehicle registration fees; county treasurers' apportioned amounts; amending K.S.A. 8-145 and 8-145d and repealing the existing sections.

**SB 156**, by Committee on Transportation and Utilities: An act concerning motorcycles and motorized bicycles; equipment of operators and riders; amending K.S.A. 8-1598 and repealing the existing section.

**SB 157**, by Senators Martin, Anderson, Francisco, Gannon, Johnston, Karr, Mulich, Parrish, Steineger and Warren: An act relating to property taxation; requiring property of cable television companies to be appraised by the director of property valuation; amending K.S.A. 79-5a01 and repealing the existing section.

**SB 158**, by Senators Martin, Johnston and Parrish: An act defining cable television service companies as public utilities subject to jurisdiction of the state corporation commission; amending K.S.A. 66-104 and repealing the existing section.

**SB 159**, by Committee on Education: An act concerning the Kansas public employees retirement system and the board of regents; relating to purchase of retirement annuities; amending K.S.A. 1984 Supp. 74-4927a and repealing the existing section.

**SB 160**, by Committee on Education: An act concerning educational institutions under the control and supervision of the state board of regents; relating to the reduced-service program; amending K.S.A. 76-746 and repealing the existing section.

**SB 161**, by Committee on Ways and Means: An act making and concerning appropriations for the fiscal year ending June 30, 1985, for the attorney general, department of economic development, Kansas public employees retirement system, department of human resources, Fort Hays state university, state library, university of Kansas and university of Kansas medical center; authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain receipts and disbursements and acts incidental to the foregoing.

**SB 162**, by Committee on Public Health and Welfare: An act relating to the annual review by the secretary of health and environment of the procedure for licensing and regulating food service establishments, lodging establishments and food vending machine companies; amending K.S.A. 1984 Supp. 46-1212c and repealing the existing section; and also repealing K.S.A. 36-514.

**SB 163**, by Senator Winter: An act concerning the Kansas police and firemen's retirement system; relating to disability benefits; amending K.S.A. 1984 Supp. 74-4960 and repealing the existing section.

**SB 164**, by Committee on Assessment and Taxation: An act relating to the taxation of tangible property; mandating a program of statewide reappraisal of real property; providing for the administration of such program and duties of certain state and county officers; prescribing limitations upon the levy of taxes upon tangible property by taxing districts after implementation of valuations determined under such reappraisal program and providing for exemptions therefrom; amending K.S.A. 79-1412a, 79-1460 and 79-1602 and repealing the existing sections; also repealing K.S.A. 79-1437b, 79-1440 and 79-1452 to 79-1454, inclusive.

**SB 165**, by Committee on Agriculture: An act concerning dairy products; relating to the components of milk; amending K.S.A. 1984 Supp. 65-707 and repealing the existing section.

**SB 166**, by Committee on Ways and Means: An act making and concerning appropriations for the fiscal year ending June 30, 1986, for Fort Hays state university, Kansas state university, Kansas state university veterinary medical center, Emporia state university, Pittsburg state university, university of Kansas, Wichita state university, university of Kansas medical center, Kansas technical institute and state board of regents; authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain receipts and disbursements and acts incidental to the foregoing.

**SB 167**, by Committee on Judiciary: An act concerning evidence; providing for admissibility of certain prerecorded statements and televised or videotaped testimony by certain children in certain actions.

**SB 168**, by Committee on Judiciary: An act concerning the community corrections act;

(continued)

relating to chargebacks to counties; concerning custody; amending K.S.A. 75-52,104 and repealing the existing section.

**SB 169**, by Committee on Judiciary: An act concerning crimes and punishments; relating to sentences; amending K.S.A. 1984 Supp. 21-4608 and repealing the existing section.

**SB 170**, by Committee on Judiciary: An act concerning the secretary of corrections; relating to the issuance of subpoenas for certain purposes; amending K.S.A. 75-5251 and repealing the existing section.

**SB 171**, by Committee on Judiciary: An act concerning the secretary of corrections; relating to officers and employees; amending K.S.A. 75-5250 and repealing the existing section.

**SB 172**, by Committee on Agriculture: An act establishing a farm assistance, counseling and training program.

**SB 173**, by Senator Mulich: An act relating to insurance; concerning property insurance; relating to cancellation and nonrenewal; providing certain limitations.

**HB 2118**, by Representatives Hayden, Apt, Braden, C. Campbell, Chronister, Crumbaker, Kline, R. D. Miller, Nichols, Polson, Pottorff, Walker and Williams: An act concerning contracts of employment entered into by boards of education, as therein defined, and employees thereof; amending K.S.A. 72-5410, 72-5412a and 72-5413 and K.S.A. 1984 Supp. 72-5411, 72-5436 and 72-5437, and repealing the existing sections.

**HB 2119**, by Representative Hayden: An act concerning tax liens on personal property voluntarily transferred.

**HB 2120**, by Committee on Judiciary: An act relating to artificial insemination; repealing K.S.A. 23-128, 23-129 and 23-130.

**HB 2121**, by Representative Foster (by request): An act amending and supplementing the Kansas consumer protection act; providing for the regulation of health spas; establishing certain requirements and prohibitions; providing for certification of certain individuals; amending K.S.A. 50-624 and repealing the existing section.

**HB 2122**, by Committee on Pensions, Investments and Benefits: An act concerning public moneys; relating to securities for deposits thereof; amending K.S.A. 75-4218 and K.S.A. 1984 Supp. 9-1402 and repealing the existing sections.

**HB 2123**, by Representative Francisco: An act relating to real estate brokers and salespersons; concerning deactivated licenses; amending K.S.A. 58-3049 and repealing the existing section.

**HB 2124**, by Representatives Johnson, Adam, Baker, Barr, Blumenthal, Branson, Brown, Dillon, Fox, Fuller, Guldner, Jenkins, Justice, Laird, Moomaw, Sifers, Sutter and Whitman: An act concerning motor vehicles; automobile warranties; commonly called the lemon law.

**HB 2125**, by Committee on Ways and Means: An act concerning the Kansas civil service act; personnel policies and procedures; powers, duties and functions of director of personnel services and secretary of administration; amending K.S.A. 75-2929d, 75-2929g, 75-2940, 75-2942, 75-2945, 75-2949, 75-2949f, 75-2961, 75-3746 and 75-3747 and repealing the existing sections; also repealing K.S.A. 75-2951.

**HB 2126**, by Committee on Ways and Means: An act concerning the division of information systems and communications; relating to the purchase of certain property and casualty insurance on certain property; amending K.S.A. 75-4109 and K.S.A. 1984 Supp. 74-4702 and repealing the existing sections.

**HB 2127**, by Committee on Ways and Means: An act concerning the payment of tuition and other educational expenses of certain personnel of state agencies; amending K.S.A. 75-5519 and repealing the existing section.

**HB 2128**, by Committee on Ways and Means: An act making and concerning appropriations for the fiscal year ending June 30, 1986, for the youth center at Topeka, youth center at Beloit, youth center at Atchison, Kansas neurological institute, Larned state hospital, Osawatimie state hospital, Rainbow mental health facility, Parsons state hospital and training center, Norton state hospital, mental health and retardation services, Topeka state hospital and Winfield state hospital and training center; authorizing certain transfers, imposing certain restrictions and limitations; and directing or authorizing certain receipts and disbursements and acts incidental to the foregoing.

**HB 2129**, by Committee on Ways and Means: An act establishing a state surplus property program; prescribing powers, duties and functions relating thereto; disposition of revenues.

**HB 2130**, by Committee on Ways and Means: An act relating to the state civil service board; concerning qualifications and compensation of members; amending K.S.A. 75-2929a and 75-2929b and repealing the existing sections.

**HB 2131**, by Committee on Ways and Means: An act authorizing the secretary of administration to enter into certificate of participation financing arrangements.

**HB 2132**, by Committee on Ways and Means: An act concerning state tax levies for institutions; prescribing certain accounting procedures therefor.

**HB 2133**, by Committee on Ways and Means: An act concerning the Kansas civil service act; relating to performance ratings of persons in the classified service thereunder; amending K.S.A. 75-2943 and 75-2949e and repealing the existing sections.

**HB 2134**, by Committee on Ways and Means: An act making and concerning appropriations for the fiscal year ending June 30, 1986, for the department of administration, state finance council, state park and resources authority, Kansas fish and game commission, state corporation commission and state historical society; authorizing certain transfers and fees, imposing certain restrictions and limitations, and directing or authorizing certain disbursements and acts incidental to the foregoing.

**HB 2135**, by Representatives Graeber, Apt, Aylward, Bideau, Buehler, Bunten, C. Campbell, Chronister, DeBaun, Eckert, Foster, Freeman, Friedeman, Green, Guldner, Harper, Hayden, Holmes, Jenkins, King, Littlejohn, Long, Louis, Lowther, D. Miller, R. D. Miller, R. H. Miller, Mollenkamp, O'Neal, B. Ott, K. Ott, Patrick, Patterson, Piller, Roe, Roenbaugh, Rofls, Roper, Sallee, Sand, Sifers, Smith, Spaniol, Vancrum, Wilbert and Wunsch: An act concerning crimes and punishments and procedures relating thereto; defining and classifying certain crimes; providing for a sentence of death for certain crimes under certain circumstances; relating to counsel for persons charged with or convicted of crimes for which a sentence of death may be imposed; concerning the procedure for carrying out a sentence of death; amending K.S.A. 21-3401, 22-4002, 22-4003, 22-4004, 22-4005, 22-4009, 22-4011, 22-4012, 22-4013 and 22-4014 and K.S.A. 1984 Supp. 21-4501, 21-4603, 21-4604, 22-4503, 22-4505, 22-4507 and 22-4511 and repealing the existing sections; also repealing K.S.A. 22-4001 and 22-4010.

**HB 2136**, by Committee on Commercial and Financial Institutions: An act amending the uniform consumer credit code; concerning certain charges; relating to written agreements; amending K.S.A. 16a-2-501 and K.S.A. 1984 Supp. 16a-2-401 and repealing the existing sections.

**HB 2137**, by Committee on Commercial and Financial Institutions: An act relating to interest rates; concerning applicability of contract rate to certain loans; amending K.S.A. 1984 Supp. 16-207 and repealing the existing section.

**HB 2138**, by Committee on Commercial and Financial Institutions: An act relating to

banks and banking; concerning the distribution of assets of an insolvent bank or trust company; amending K.S.A. 9-1906 and repealing the existing section.

**HB 2139**, by Committee on Commercial and Financial Institutions: An act relating to banks and banking; concerning the organization thereof; relating to the powers thereof; concerning examinations; amending K.S.A. 9-801, 9-1112 and 9-1303 and K.S.A. 1984 Supp. 9-1101 and repealing the existing sections.

**HB 2140**, by Representative Hensley: An act relating to elections; concerning applications for absentee ballots; amending K.S.A. 1984 Supp. 25-1122d and repealing the existing section.

**HB 2141**, by Representative Hamm: An act concerning the Kansas fish and game commission; relating to the regulation of falconry.

**HB 2142**, by Representative Teagarden: An act concerning school districts; requiring the provision of programs on alcohol and drug abuse problems for pupils; amending K.S.A. 1984 Supp. 72-8164 and repealing the existing section.

**HB 2143**, by Committee on Education: An act concerning school districts relating to bilingual education programs; amending K.S.A. 72-9501, 72-9504 and 72-9507 and K.S.A. 1984 Supp. 72-9508, and repealing the existing sections.

**HB 2144**, by Committee on Education: An act concerning the school district equalization act; affecting the definition of "pupil" and the definition of "taxable income" for the purposes thereof; imposing limitations on budgets of operating expenses per pupil for the 1985-86 school year; authorizing an increase in budget limitations under certain conditions; relating to the disposition of certain revenues; amending K.S.A. 1984 Supp. 72-7033, 72-7041, 72-7055 and 72-7062, and repealing the existing sections.

**HB 2145**, by Committee on Public Health and Welfare: An act prohibiting the maintaining of certain homes for children by certain persons; amending K.S.A. 1984 Supp. 65-516 and repealing the existing section.

**HB 2146**, by Representatives Acheson, Barr, DeBaun, Hayden, Mayfield, R. D. Miller, Mollenkamp, Sand, Shore and Walker: An act concerning fish and game; relating to hunting licenses; amending K.S.A. 1984 Supp. 32-401 and 32-405 and repealing the existing sections.

**HB 2147**, by Committee on Education (by request): An act concerning the school district equalization act; authorizing the deposit of miscellaneous revenues in the general fund of a district under certain conditions; amending K.S.A. 1984 Supp. 72-7062 and repealing the existing section.

**HB 2148**, by Representatives Hamm, Friedeman, Guldner, King, Neufeld, Shore and Sughrue: An act concerning fences; making certain electric fences legal and sufficient fences; amending K.S.A. 29-104 and repealing the existing section.

**HB 2149**, by Representatives Braden, Acheson, Apt, Aylward, Brown, C. Campbell, Cloud, Crumbaker, Douville, Dyck, Eckert, Flottman, Fox, Friedeman, Fuller, Goossen, Graeber, Hassler, Holmes, Kline, Knopp, Littlejohn, Lowther, Mayfield, R. D. Miller, Moomaw, Nichols, Patterson, Pottorff, Roe, Rofls, Sand, Sifers, Snowbarger, Spaniol, Vancrum, Walker, Williams and Wunsch: An act relating to the taxation of tangible property; mandating a program of statewide reappraisal of real property; providing for the administration of such program and duties of certain state and county officers; prescribing limitations upon the levy of taxes upon tangible property by taxing districts after implementation of valuations determined under such reappraisal program and providing for exemptions therefrom; amending K.S.A. 79-1460 and 79-1602 and repealing the existing sections; also repealing K.S.A. 79-1437b, 79-1440 and 79-1452 to 79-1454, inclusive.

**HB 2150**, by Committee on Assessment and Taxation: An act relating to income taxation; concerning the contents of tax computation tables; amending K.S.A. 79-32,112a and repealing the existing section.

**HB 2151**, by Committee on Assessment and Taxation: An act amending the Kansas compensating tax act; relating to the collection thereof; amending K.S.A. 79-3705a and repealing the existing section.

**HB 2152**, by Committee on Assessment and Taxation: An act relating to the taxation of personal property; requiring proof of payment upon application for registration of certain vehicles; amending K.S.A. 8-173 and 8-175 and repealing the existing sections.

**HB 2153**, by Representatives Aylward and B. Ott: An act enacting the Kansas plumbing licensure act.

**HB 2154**, by Committee on Ways and Means: An act making and concerning appropriations for the fiscal year ending June 30, 1985, for the department of administration, state finance council, state corporation commission, department of revenue — homestead property tax refunds, department of social and rehabilitation services, Kansas correctional institution at Lansing, state industrial reformatory, Kansas state penitentiary, department of health and environment, Norton state hospital, Winfield state hospital and training center, Rainbow mental health facility and state park and resources authority; authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain receipts and disbursements and acts incidental to the foregoing.

**HB 2155**, by Representative D. Miller: An act concerning elections and political parties; restrictions on certain activities by certain corporations; amending K.S.A. 1984 Supp. 25-1709 and repealing the existing section.

**HB 2156**, by Representative Erne: An act concerning highways; design of guardrails installed or replaced by the Kansas department of transportation.

**HB 2157**, by Representative Nichols: An act concerning domestic relations; relating to child support orders; amending K.S.A. 60-1610 and repealing the existing section.

**HB 2158**, by Representative Vancrum: An act concerning certain handicapped persons; relating to motor vehicle license plates and identification cards; amending K.S.A. 1984 Supp. 8-132a and repealing the existing section.

**HB 2159**, by Committee on Assessment and Taxation: An act relating to income taxation; providing for refundable credits therefrom for merchants' and manufacturers' and livestock inventory ad valorem taxes; amending K.S.A. 79-32,105, 79-32,120 and 79-32,138 and repealing the existing sections.

**HB 2160**, by Committee on Local Government: An act concerning county extension councils; relating to the filing of the budget and other documents; amending K.S.A. 2-610 and repealing the existing section.

**HB 2161**, by Representative C. Campbell: An act relating to farm tenancies; concerning termination thereof; amending K.S.A. 58-2506 and 58-2506a and repealing the existing sections.

**HB 2162**, by Representative Bideau: An act concerning district magistrate judges; amending K.S.A. 20-334 and K.S.A. 1984 Supp. 20-336 and 20-2908 and repealing the existing sections.

**HB 2163**, by Representative Branson: An act relating to hospital boards of trustees of cities of the first class; concerning the investment of certain moneys.

**HB 2164**, by Representative Bunten: An act relating to elections; concerning political parties; amending K.S.A. 25-3802 and repealing the existing section.

**HB 2165**, by Committee on Education: An act relating to postsecondary education; concerning community college and municipal university finance; increasing rates of state

aid entitlements and out-district tuition payments; amending K.S.A. 1984 Supp. 71-301, 71-602 and 72-6503, and repealing the existing sections.

**HB 2166**, by Committee on Insurance (by request): An act concerning insurance; relating to unearned premiums or reserves; amending K.S.A. 40-234 and 40-234a and repealing the existing sections.

**HB 2167**, by Committee on Insurance (by request): An act concerning insurance; relating to apportionment or assignment of risk for accident and sickness insurance policies; amending K.S.A. 40-2111 and K.S.A. 1984, Supp. 40-19c09 and repealing the existing sections.

**HB 2168**, by Committee on Insurance (by request): An act concerning insurance; relating to fraudulent insurance acts; concerning immunity from liability.

**HB 2169**, by Committee on Insurance (by request): An act concerning insurance; relating to medicare supplement policies; amending K.S.A. 40-2221 and repealing the existing section.

**HB 2170**, by Committee on Insurance (by request): An act concerning insurance; relating to reimbursement or indemnity for treatment of alcoholism and drug abuse; amending K.S.A. 40-2.105 and repealing the existing section.

**HB 2171**, by Committee on Insurance (by request): An act concerning insurance; relating to reinsurance of risks; amending K.S.A. 40-221a and repealing the existing section.

**HB 2172**, by Committee on Insurance (by request): An act concerning insurance; relating to the health care provider insurance availability act; concerning the annual premium surcharge; providing penalty for failure of company to timely remit; amending K.S.A. 1984 Supp. 40-3404 and repealing the existing section.

**HB 2173**, by Representative Hoy: An act concerning motor vehicles; checks of vehicle identification numbers not required in certain cases; amending K.S.A. 1984 Supp. 8-116a and repealing the existing section.

**HB 2174**, by Committee on Ways and Means: An act making and concerning appropriations for the fiscal year ending June 30, 1985, for Larned state hospital; authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain receipts and disbursements and acts incidental to the foregoing.

**HB 2175**, by Representatives D. Miller, Aylward, Barr, Braden, Brown, Buehler, Buntin, Cloud, Crowell, DeBaun, Douville, Dyck, Eckert, Flottman, Foster, Fox, Friedeman, Fuller, Goossen, Graeber, Guldner, Harper, Hassler, Hoy, King, Kline, Long, Louis, Lowther, Mayfield, R.D. Miller, Moomaw, Neufeld, Nichols, O'Neal, B. Ott, K. Ott, Patrick, Polson, Roe, Roenbaugh, Rolfs, Sand, Sifers, Smith, Spowbarger, Spaniol, Vancrum, Walker, Williams and Wunsch: An act concerning the budget of expenditures of the state; relating to the budget report of the governor and consensus revenue estimates; amending K.S.A. 75-3721 and repealing the existing section.

**HB 2176**, by Representatives Welb, Dean, Grotewiel and Jarchow: An act concerning public utilities; relating to the powers and duties of the state corporation commission; amending K.S.A. 66-110 and repealing the existing section.

**HB 2177**, by Committee on Federal and State Affairs: An act concerning the adjutant general; relating to promotions; amending K.S.A. 48-203 and repealing the existing section.

**HB 2178**, by Representative Louis (by request): An act relating to compulsory attendance of children at school; providing for certain exemptions; imposing conditions; amending K.S.A. 1984 Supp. 21-3612, 38-614, 38-1502, 72-1111 and 72-1113, and repealing the existing sections.

**HB 2179**, by Committee on Local Government: An act concerning cities; relating to the appointment and removal of certain officers; amending K.S.A. 15-204 and repealing the existing section.

**HB 2180**, by Committee on Local Government: An act concerning cemetery corporations; relating to permanent maintenance funds; amending K.S.A. 17-1311 and repealing the existing section.

**HB 2181**, by Representatives Guldner, Acheson, Baker, Buehler, C. Campbell, DeBaun, Friedeman, Fry, Fuller, Johnson, Leach, R.D. Miller, Moomaw, Polson, Roenbaugh, Schmidt and Smith: An act relating to financial institutions; requiring certain information to be printed on checks.

**HB 2182**, by Committee on Pensions, Investments and Benefits: An act concerning the Kansas public employees retirement system; relating to optional death benefit plan; amending K.S.A. 1984 Supp. 74-4927 and repealing the existing section.

**HB 2183**, by Representative Harper: An act authorizing hospital district No. 1, Linn and Bourbon counties, to enter into a contract to borrow money for the purpose of building an addition to an existing home for the aged; placing certain conditions upon such contract.

**HB 2184**, by Committee on Elections: An act relating to elections; concerning the contest of elections; amending K.S.A. 25-1436 and 25-1448 and repealing the existing sections.

**HB 2185**, by Committee on Public Health and Welfare: An act concerning screening tests administered to infants to determine whether conditions exist which cause mental retardation; amending K.S.A. 1984 Supp. 65-180 and repealing the existing section.

**HB 2186**, by Committee on Public Health and Welfare: An act concerning public health; relating to mental health clinics; amending K.S.A. 65-211 and repealing the existing section.

**HB 2187**, by Representatives Douville and Sifers: An act concerning counties; relating to planning and zoning; amending K.S.A. 1984 Supp. 19-2960 and repealing the existing section.

**HB 2188**, by Committee on Transportation: An act concerning motor vehicles; requirement for use of safety belts.

**HB 2189**, by Committee on Local Government: An act concerning roads and bridges in counties; relating to the special bridge fund; authorizing construction of culverts; amending K.S.A. 68-1135 and 68-1136 and repealing the existing sections.

**HB 2190**, by Representative Knopp: An act concerning domestic relations; relating to change of venue in certain actions; amending K.S.A. 60-607 and repealing the existing section.

**HB 2191**, by Representatives Braden and Sand: An act concerning improvement districts; relating to the powers and duties thereof; amending K.S.A. 1984 Supp. 19-2765 and repealing the existing section.

**HB 2192**, by Committee on Elections: An act concerning elections; relating to voting places; amending K.S.A. 1984 Supp. 25-2909 and repealing the existing section.

**HB 2193**, by Committee on Elections: An act concerning elections; relating to voting places; amending K.S.A. 25-2703 and repealing the existing section.

**HB 2194**, by Committee on Local Government: An act concerning cities; relating to the designation of an official city newspaper; amending K.S.A. 12-1651 and repealing the existing section; also repealing K.S.A. 12-1651a.

**HB 2195**, by Representative Cribbs, Baker, Barkis, Duncan, Francisco, Gjerstad, Grotewiel, Helgeson, Jarchow, Johnson, Justice, Luzzati, K. Ott, Pottorff, Welb and Williams: An act designating Interstate 135 in Wichita as "the Dr. Martin Luther King, Jr., memorial highway" and providing for signing thereof.

**HB 2196**, by Committee on Assessment and Taxation: An act relating to city and countywide retailers' sales taxes; concerning the effective date for the commencement of collection of such taxes; amending K.S.A. 1984 Supp. 12-191 and repealing the existing section.

**HB 2197**, by Representative Hensley: An act relating to elections; concerning state committees of political parties; concerning alternate members; amending K.S.A. 25-3805 and repealing the existing section.

**HB 2198**, by Representative Jarchow: An act concerning state and local retailers' sales and use taxes; increasing the state sales and use tax rate; exempting sales of food for human consumption from state and certain local sales and use taxes; amending K.S.A. 12-189a, 79-3603, 79-3606 and 79-3703 and repealing the existing sections; also repealing K.S.A. 79-3632 to 79-3639, inclusive.

**HB 2199**, by Representative Jarchow: An act relating to income taxation; concerning the standard deduction of an individual; amending K.S.A. 79-32,119 and repealing the existing section.

**HB 2200**, by Representative Ramirez: An act relating to purchasers of crude oil; requiring the furnishing of a certain bond to engage in the business of purchasing crude oil; providing for certain exemptions.

**HB 2201**, by Representatives Hayden, Braden, Acheson, Baker, Blumenthal, Bowden, Branson, Charlton, Cloud, Cribbs, Crumbaker, Duncan, Dyck, Fox, Friedeman, Goossen, Harper, Hoy, Justice, Lacey, Long, Lowther, Luzzati, D. Miller, R. H. Miller, Moomaw, Neufeld, O'Neal, K. Ott, Pottorff, Roe, Roenbaugh, Rolfs, Sallee, Shore, Smith, Snowbarger, Wilbert and Williams: An act concerning driving under the influence of alcohol or drugs; providing for suspension of a driver's license or permit under certain conditions by a law enforcement officer; providing for a hearing and notice thereof; relating to prosecution and penalties for such driving; providing limitations upon diversion agreements relating thereto; amending K.S.A. 8-1001, 8-1005 and 12-4415 and K.S.A. 1984 Supp. 8-1567 and 22-2908 and repealing the existing sections.

**HB 2202**, by Committee on Transportation: An act concerning natural gas; certain regulation by the state corporation commission; amending K.S.A. 66-104 and repealing the existing section.

**HB 2203**, by Representatives Bideau, Acheson, Apt, Freeman, Goossen, Graeber, Holmes, Moomaw, Roenbaugh and Walker: An act amending the uniform controlled substances act; relating to penalties for certain sales to minors; amending K.S.A. 1984 Supp. 65-4127b and repealing the existing section.

**HB 2204**, by Representative Laird: An act relating to abortion; concerning the abortion of a viable fetus; providing for certain exemptions; imposing conditions and requirements; prohibiting certain acts and prescribing penalties for violations; amending K.S.A. 21-3407 and repealing the existing section; and also repealing K.S.A. 65-445.

**HB 2205**, by Representatives Crowell, Guldner, King, Littlejohn, Long and Smith: An act concerning the rate of interest on delinquent or unpaid taxes; amending K.S.A. 79-2968 and repealing the existing section.

**HB 2206**, by Committee on Local Government: An act concerning fire protection in certain cities of the first class; authorizing such cities to establish city fire departments on contract for fire protection; providing for the dissolution of certain fire districts.

**HB 2207**, by Representative Sughue (by request): An act concerning registration and insurance of motor vehicles; recreational motor vehicles; amending K.S.A. 1984 Supp. 8-143 and repealing the existing section.

**HB 2208**, by Representative Hensley: An act relating to medical treatment and transportation to medical care facilities; prohibiting certain persons from requiring acceptance thereof by persons objecting thereto on religious grounds.

**HB 2209**, by Representative Hensley: An act concerning public employer-employee relations; amending K.S.A. 75-4321 and repealing the existing section.

**HB 2210**, by Representative Rolfs: An act relating to local retailers' sales and compensating use taxes; concerning the taxation of certain motor vehicles thereunder; amending K.S.A. 12-190 and 12-198 and repealing the existing sections.

**HB 2211**, by Committee on Assessment and Taxation: An act concerning certificate of value forms used for assessment-sales ratio study purposes; amending K.S.A. 58-2223d and repealing the existing section.

**HB 2212**, by Representatives Spaniol, Baker, Bowden, Cribbs, Dean, Grotewiel, Helgeson, Luzzati, Webb and Williams: An act concerning the school district equalization act; affecting definitions; relating to the date provided as the basis for making certain computations thereunder; amending K.S.A. 72-7034 and 72-7038 and K.S.A. 1984 Supp. 72-7033, 72-7039, 72-7043, 72-7047, 72-7050 and 72-7053, and repealing the existing sections.

**SR 1810**, by Senator Winter: A resolution congratulating and commending the Lawrence High School girls' volleyball team and its coach, Joan Wells, on winning the 1984 Class 6A State Volleyball Tournament in Kansas.

**SR 1811**, by Senator Winter: A resolution congratulating and commending the Lawrence High School girls' golf team and its coach, Ted Juneau, on winning the 1984 State Golf Championship in Kansas.

**SR 1812**, by Senator Winter: A resolution congratulating and commending the Lawrence High School football team and its coach, Bill Freeman, on winning the 1984 Class 6A State Football Championship in Kansas.

**SR 1813**, by Senator Winter: A resolution congratulating and commending the Lawrence High School boys' gymnastics team and its coach, Bob Manning, on winning the 1984 State Gymnastics Meet in Kansas.

**SCR 1612**, by Committee on Federal and State Affairs: A proposition to amend section 10 of article 15 of the constitution of the state of Kansas, relating to intoxicating liquors.

**SCR 1613**, by Committee on Education: A concurrent resolution encouraging boards of education to institute life development education programs in schools; requesting the state board of education in cooperation with the state department on aging, the state department of health and environment and the state board of regents to provide assistance to schools in developing such programs.

**HR 6029**, by Representative Blumenthal: A resolution urging that the movie *Return to Oz* premiere in Kansas City.

**HR 6030**, by Representative Acheson: A resolution congratulating Topeka West High School on being selected as one of the 114 best high schools in the nation.

**HR 6031**, by Representative Neufeld: A resolution congratulating and commending Mrs. C. E. (Dee) McKee III on winning the 1984 Agriwoman of the Year award.

**HCR 5004**, by Representatives Braden, Aylward, Crowell, Crumbaker, Dyck, Friedeman, Graeber, Hassler, Littlejohn, Lowther, Rolfs and Sand: A proposition to amend section 1 of article 11 of the constitution of the state of Kansas, relating to the taxation of property.

**HCR 5005**, by Representative Crowell: A proposition to amend sections 1 and 11 of article 1 of the constitution of the state of Kansas, relating to constitutional officers of the executive department of the state.

**MCR 5006**, by Representative Crowell: A proposition to amend sections 1 and 11 of

(continued)

article 1 of the constitution of the state of Kansas, relating to constitutional officers of the executive department of the state.

HCR 5007, by Representative Crowell: A proposition to amend sections 1 and 11 of article 1 of the constitution of the state of Kansas, relating to constitutional officers of the executive department of the state.

HCR 5008, by Committee on Education: A concurrent resolution encouraging boards of education to institute life development programs in schools; requesting the state board of education in cooperation with the state department on aging, the state department of health and environment and the state board of regents to provide assistance to schools in developing such programs.

Doc. No. 002880

## State of Kansas

### OFFICE OF JUDICIAL ADMINISTRATION

#### COURT OF APPEALS DOCKET

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

#### KANSAS COURT OF APPEALS

COURT OF APPEALS COURTROOM, 2ND FLOOR, KANSAS JUDICIAL CENTER  
301 WEST TENTH, TOPEKA, KANSAS

Before FOTH, C.J., SWINEHART and BRISCOE, JJ.

Wednesday, February 20, 1985

Case No.	Case Name	Attorney	County
9:00 a.m.			
56,952	State of Kansas, appellee,	Atty. Gen.; Arthur R. Weiss.	Shawnee
	v.		
	Robert L. Blevins, appellant.	William K. Rork.	
56,230	Deborah J. Brown, appellant,	John C. Fay.	Pottawatomie
	v.		
	Michael W. Flanagan and David J. Schoemann, appellees.	Thomas V. Murray.	
56,913 S.C.	State of Kansas, appellee,	Atty. Gen.; Rodney H. Symmonds, Co. Atty.	Lyon
	v.		
	Tracy M. Smith, appellant.	Patricia Finney.	
56,841	State of Kansas, appellee,	Atty. Gen.; Phillip E. Winter, Asst. Co. Atty.	Lyon
	v.		
	Vuanta Sterkel, appellant.	Roger W. McLean.	
57,380	State of Kansas, appellee,	Atty. Gen.; William T. North, Co. Atty.	Chase
	v.		
	Kirk D. Purcell, appellant.	William L. Fowler.	
1:30 p.m.			
56,871	Terry P. Morrand, appellant,	Charles S. Scott.	Saline
	v.		
	State of Kansas, appellee.	Atty. Gen.; William Rex Lorson, Co. Atty.	
56,848	Noel Stephenson, appellant,	Robert S. Jones.	Saline
	v.		
	Graves Truck Line, Inc., appellee.	John W. Mize.	
56,721	John Locke, appellant,	George R. Robertson.	Saline
	v.		
	Kansas Fire and Cas. Co., Robert L. Kitt, Gay & Taylor, Inc., appellees.	Larry G. Pepperdine; John Conderman.	
56,214	Doris R. Pettinger, appellee,	Thomas Brooks.	Labette
	v.		
	Consumers Market, Inc., appellant.	Eldon Boisseau.	

Thursday, February 21, 1985

9:00 a.m.

- 56,634 In the Matter of the Adoption of Michael Ray Montgomery, a Minor. Pantaleon Florez, Jr. Shawnee  
Phil Wilkes.
- 56,773 Full Vision, Inc., appellee, David C. Burns. Shawnee  
v.  
Kansas Depart. of Human Resources, Harold B. Gleason, appellant. Jean S. Sagan;  
Ronald H. Baxter.
- 56,652 John A. Lynch, M.D., appellant, Gregory A. Whittmore. Shawnee  
v.  
Roy B. Coffey, M.D., appellee. Thomas E. Wright.
- 56,614 Linda Dupuis, appellant, Jerold E. Berger. Shawnee  
v.  
St. Francis Hospital and Medical Center, Inc., a corporation, appellee. Myron Listrom;  
Thomas Theis.
- 56,644 Veronica Sue Hallett, appellee, Sterling Waggener. Shawnee  
v.  
Gerald Harding Hallett, appellant. Darcy D. Williamson.

1:30 p.m.

- 56,942 Mellissa A. Warnkin, appellee, Darrell D. Meyer. Lyon  
S.C.  
v.  
IBP, Inc., appellant. Michael W. Merriam;  
Michael J. Unrein.
- 56,592 James A. McDonald and Betty A. McDonald, appellees, Merlin Wheeler. Lyon  
v.  
Emporia-Lyon County Joint Bd. of Zoning Appeals; The City of Emporia, KS, a municipal corp., and Benedict J. Janacek and Virginia L. Janacek, husband & wife, appellants. Michael G. Patton;  
Dale Bell.
- 56,406 Nancy L. Stoughton, now Nancy L. Craig, appellant, Gary L. Sloan. Linn  
v.  
Gregory L. Stoughton, appellee. Gregory A. Stoughton, *pro se*.
- 56,678 First National Bank and Trust Co. of Oklahoma City, OK, appellee, B. Keith Kocher. Atchison  
v.  
Atchison County Auction Co., Inc., Atchison, KS, appellant. Steve R. Fabert.

Friday, February 22, 1985

9:00 a.m.

- 56,651 State of Kansas, *ex rel.*, Johnnie A. Augustine, appellee, Hal E. Des Jardins. Shawnee  
v.  
Matthew Bradberry, Jr., appellant. Fred W. Rausch, Jr.
- 56,760 In the Matter of the Marriage of Josephine T. Hunt and Cecil L. Hunt. Matthew B. Works. Shawnee  
Chris Nelson.
- 56,884 In the Matter of the Marriage of Janice Potter and Kyle Kent Potter. Alan D. Weber. Allen  
Orville J. Cole.

(continued)

56,931	Linda R. Jones, appellant, v. David C. Hanson, appellee.	Janet Jo Smith; Jerry K. Levy.  Duncan A. Whittier; Randall D. Palmer.	Allen
57,384 S.C.	Paul Justyna, appellant, v. Logan Const. Co. & Bituminous Cas. Co. & Workers' Compensation Fund, appellees.	John M. Ostrowski.  Mark E. Kolich; Brock R. McPherson.	Cloud
57,317	Steven R. Larson, appellee, v. Guerdon Industries, Inc. and Home Indemnity Co. and Workers' Compensation Fund, appellants.	Steven R. Larson.  Rodney C. Olsen; Gregory A. Lee.	Riley

## KANSAS COURT OF APPEALS

COURT OF APPEALS COURTROOM, 3RD FLOOR, OLD SEDGWICK COUNTY COURTHOUSE  
541 NORTH MAIN, WICHITA, KANSAS

Before ABBOTT, PARKS and MEYER, JJ.

Monday, February 25, 1985

9:00 a.m.

56,664 S.C.	Cynthia R. Winkler, appellee, v. Robert D. Winkler, appellant.	James F. Richey.  Robert D. Winkler, <i>pro se</i> .	Sedgwick
56,347	Betty Killion, appellant, v. Vernon H. Dicke, D.D.S., appellee.	Kiehl Rathbun.  Charles Hill.	Sedgwick
56,679	Kenneth E. Tatum and Barbara J. Tatum, appellants, v. Michael D. Lymer and Robin L. Lymer, appellees.	Jack Peggs.  Otto Koerner.	Sedgwick
56,881	Ronald L. Leytem, appellee, v. Kansas Dept. of Revenue, appellant.	Craig Shultz.  William L. Edds; Thomas E. Hatten.	Sedgwick
56,553	Mary Sue Barnard, appellant, v. James A. Barnard, appellee.	Phyllis F. Wendler; Michael J. Friesen; Don Lambdin.  Charles E. Owen; Paul L. Thomas.	Sedgwick

1:30 p.m.

57,039	Eugene Townsend, appellee, v. City of Hutchinson and USF&G, and Workers' Compensation Fund, appellants.	John M. Ostrowski.  Michael R. O'Neal; Brock McPherson.	Reno
56,593	Western Food Products Co., Inc., appellant, v. United States Fire Ins. Co., appellee.	Dennis O. Smith; Michael R. O'Neal.  John F. Hayes.	Reno
56,777	City of Hutchinson, appellee, v. Barbara J. Norcross, appellant.	Atty. Gen., David E. (Rick) Roberts, Asst. Co. Atty.  Richard J. Rome.	Reno

56,979	State of Kansas, appellee,	Atty. Gen., Timothy Chambers, Co. Atty.	Reno
	v.		
	Garry Allen Bishop, appellant.	Jerry L. Ricksecker.	

Tuesday, February 26, 1985

9:00 a.m.

57,434 S.C.	Freda F. Keeny, appellee,	Paul D. Hogan.	Sedgwick
	v.		
	St. Francis Regional Medical Center, appellant and Employers Fire Ins. Co. and Workers' Compensation Fund.	Alexander B. Mitchell.	

57,020	Royal P. Kennedy, appellant,	Robert L. Nicklin.	Sedgwick
	v.		
	Beech Aircraft Corp. and Travel Air Ins. (Kansas), appellees.	David S. Wooding.	

57,201	Allan T. Osmundson, appellant,	Tom Clarkson.	Sedgwick
	v.		
	Sedan Floral, Inc. and Florists Mut. Ins. Co., appellees.	Stephen J. Jones.	

56,495	Alicia L. Klingman and Roger M. Klingman, appellees,	Paul Dugan.	Sedgwick
	v.		
	Horace Mann Ins. Co., Louise M. Whiters, appellants.	Randall E. Fisher.	

56,205	Capital Services, Inc., appellee,	James A. Walker.	Sedgwick
	v.		
	Dahlinger Pontiac-Cadillac, Inc. and Kansas State Bank and Trust Co., Garnishee, appellants.	John R. Morse.	

1:30 p.m.

57,205	State of Kansas, appellee,	Atty. Gen.; Morgan Metcalf, Co. Atty.	Butler
	v.		
	Said Aminmadani, appellant.	Ray L. Connell.	
56,715	In the Matter of the Estate of Delbert M. Sloyer, dec'd.	Tim Connell.	Sedgwick

56,324	John B. Hermes and Jack Back, appellants,	Ervin Grant; Roy U. Jordan.	Butler
	v.		
	Fred Stackley, Jr., Chester Doombos, Harriett Hull, Kenneth Autry, and Ima Jean Autry, appellees.	Robert D. Myers.	
		Tim Connell.	

56,470	Dick Hatfield Chevrolet Co., Inc., appellee,	David L. McClure.	Kingman
	v.		
	Bob Watson Motors, Inc. and First National Bank of Kingman, KS, appellants.	Larry T. Solomon; Robert E. Nugent III.	

Wednesday, February 27, 1985

9:00 a.m.

56,980	Willie McKinney, appellant,	Steven C. Sherwood.	Sedgwick
	v.		
	State of Kansas, appellee.	Atty. Gen.;	
		Geary Gorup, Asst. D.A.	

(continued)

56,960	State of Kansas, appellee, v. Frank P. Fields, appellant.	Atty. Gen.; Geary Gorup, Asst. D.A.	Sedgwick
57,025	State of Kansas, appellee, v. Thomas C. Smith, appellant.	Charles A. O'Hara. Atty. Gen.; Geary Gorup, Asst. D.A.	Sedgwick
57,179	Oldrich Brozek, v. Lincoln Co. Hwy Dept. and Commercial Union Ins. Co., appellees, v. Kansas Workers' Compensation Fund, appellant.	Daniel E. Monnat. Richard Boeckman; Wendell A. Uhland. John C. Nodgaard.	Lincoln
56,547	Dewey Dean Haddon and Loren D. Haddon, appellants, v. Lola A. Klein, Irene E. Burns and George R. Robl, appellees.	Timothy R. Keenan. Greg Bauer.	Stafford
56,257	Hall & Associates, Inc., appellant, v. Capital Services, Inc., and J. F. Glenn Companies, Inc., appellees.	Robert A. Vohs. Warner Moore; Curt T. Schneider.	Sedgwick

LEWIS C. CARTER  
Clerk of the Appellate Courts

Doc. No. 002868

State of Kansas

**ALCOHOLIC BEVERAGE CONTROL  
BOARD OF REVIEW**

**PERMANENT ADMINISTRATIVE  
REGULATIONS**

(Effective May 1, 1985)

**Article 5.—PRICE, FREIGHT DETERMINATION**

**13-5-2. Freight determination.** (a) The price listings filed by each licensed distributor with the director shall:

(1) be the cash price f.o.b. the distributor's warehouse;

(2) show the place from which shipments will be made and the price per case and per bottle for each size of original packages of each particular brand or kind of alcoholic liquor other than beer sold or offered for sale by such distributor; and

(3) contain any other information the director may require.

(b) Each distributor shall pay the transportation costs and charges upon any shipment of alcoholic liquor to any licensed retailer. (Authorized by K.S.A. 41-1118; implementing K.S.A. 1983 Supp. 41-1101, and K.S.A. 41-1112; effective Jan. 1, 1966; amended, E-80-27, Dec. 12, 1979; amended May 1, 1980; amended May 1, 1985.)

ALBERT D. CAMPBELL  
Chairman

Doc. No. 002832

State of Kansas

**FISH AND GAME COMMISSION**

**PERMANENT ADMINISTRATIVE  
REGULATIONS**

(Effective May 1, 1985)

**Article I.—GAME BIRDS**

**23-1-10. Turkey, season restrictions.** (a) Carcass tag. Each turkey hunter shall have a carcass tag in the hunter's possession when hunting turkey. The carcass tag shall be dated and signed when attached to the carcass by the permittee.

(b) Informational cards. All successful hunters shall report the results of their hunt within 48 hours after the kill is made. Unsuccessful hunters shall report within 48 hours after the close of the season.

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

(d) Legal hunting equipment.

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

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

(e) Archery turkey hunters shall not have any type of firearm on their person while hunting turkey.

(continued)

(f) No permit, once issued, shall be transferable nor shall a refund be granted. A refund may be given if the permittee dies prior to the opening date of the season.

(g) The commission shall reserve the right to reject a permit application or revoke a permit at any time if there is false representation or misrepresentation in completing or obtaining the application or permit.

(h) Any person who did not receive a spring turkey hunting permit in the prior year shall be considered first in the drawing for a current year's permit unless the management unit or permit category for which they applied is undersubscribed or the management unit for which applied has unlimited permits available.

(i) Any person submitting more than one turkey permit application for any one season shall be ineligible to receive any turkey hunting permit for that season.

(j) Persons who are not landowners, tenants, or members of their immediate family who reside with the landowners or tenants as described in K.S.A. 32-179 shall be ineligible to apply for landowner-tenant permits for turkey. Non-residents shall be ineligible to apply for turkey permits. (Authorized by K.S.A. 32-215; implementing K.S.A. 32-178; effective, T-81-32, Oct. 8, 1980; effective May 1, 1981; amended May 1, 1984; amended May 1, 1985.)

## Article 2.—GAME ANIMALS

### 23-2-14. Antelope and deer; season restrictions. (a) Equipment definitions.

(1) Long bows and compound bows are those bows that have at least 45 pounds pull up to or at full draw. All arrows shall be equipped with broadhead points. A crossbow shall not be considered to be a long bow or a compound bow.

(2) Centerfire rifles, including single shot, bolt action, lever action, slide action and semi-automatic rifles, are those rifles that fire a bullet which is greater than .23 inch in diameter and use a cartridge (case and bullet) greater than two inches in length. Only soft point, hollow point, or other expanding bullets shall be used.

(3) Muzzleloading rifles are those rifles that fire a bullet of .40 inch in diameter or larger and that are capable of using only components loaded separately through the front of the firing chamber.

(4) Shotguns are those shotguns that are 20 gauge or larger and that use only rifled slugs.

(5) Handguns, including single shot, revolver, bolt action and semi-automatic handguns, are those handguns that fire a centerfire bullet greater than .23 inch in diameter and that have a cartridge case length of 1.280 inches or greater. The .30 M1 carbine cartridge shall not be used in handguns for deer and antelope hunting. Only soft point, hollow point or other expanding bullets shall be used.

(b) Carcass tag. Each permittee shall have in possession a carcass tag whenever hunting antelope or deer. Removal of the carcass tag from the permit shall invalidate that permit for future hunting. The carcass tag shall be dated and signed when attached to the

carcass by the permittee. Legally acquired antelope or deer meat may be given to and processed by another, if a written notice accompanies the meat which includes the donor's name and address.

(c) Informational cards. Within 48 hours after the close of the season, each hunter shall report the results of the hunt on the informational card.

(d) Legal archery equipment for taking antelope or deer with an archery permit shall be long bows and compound bows.

(e) Legal hunting equipment for the firearm antelope season shall be centerfire rifles, muzzleloading rifles, handguns, long bows and compound bows.

(f) Legal hunting equipment for the firearm deer season shall be centerfire rifles, muzzleloading rifles, handguns and shotguns. A .44 magnum shall be a legal cartridge in a rifle or carbine under a firearms deer permit.

(g) The holders of an archery deer or archery antelope permit shall not have any type of firearms on their persons when hunting antelope or deer.

(h) The holders of a muzzleloader deer or muzzleloader antelope permit shall not have a rimfire or centerfire firearm on their persons when hunting deer or antelope.

(i) No permit, once issued, shall be transferable and a refund shall not be granted. A refund may be granted in the case of death prior to the opening date of the season.

(j) The commission shall reserve the right to reject a permit application or revoke a permit at any time if there is false representation or misrepresentation in completing or obtaining the application or permit.

(k) A person shall not submit more than one application for an antelope permit or apply for both an archery and a firearm permit. Applicants applying for more than one antelope permit shall be ineligible to receive any antelope hunting permit for the year in which the applications were made.

(l) A person shall not submit more than one deer application for a permit or apply for both an archery and a firearm permit. Applicants applying for more than one deer permit shall be ineligible to receive any deer hunting permit for the year in which the applications were made. Residents may apply for an archery permit if unsuccessful in the firearms deer application drawing, if application is authorized by the commission.

(m) Persons who are not landowners, tenants, or members of their immediate family who reside with the landowners or tenants as described in K.S.A. 32-179 shall be ineligible to apply for landowner-tenant permits for deer or antelope. Non-residents shall be ineligible to apply for deer or antelope permits.

(n) All persons who received firearms deer permits in the previous open season shall not be eligible to receive firearms deer permits in the next open season unless the management unit and permit category for which they applied is under-subscribed.

(o) Persons who received antelope permits in either of the previous two seasons shall not be eligible to receive antelope permits in the next open season

(continued)

unless the management unit and permit category for which they applied is under-subscribed.

(p) Persons unsuccessful in obtaining a firearms deer permit through the drawing process during the previous four firearm deer seasons shall be granted priority in the permit drawing for the succeeding year. This provision shall be in effect commencing with the 1984 firearms deer seasons. (Authorized by and implementing K.S.A. 32-164, 32-178, 32-179; effective May 1, 1981; amended May 1, 1983; amended May 1, 1985.)

**23-2-15. Elk; season restrictions.** (a) Equipment definitions:

(1) Long bows and compound bows are those bows that have at least 45 pounds pull up to or at full draw. All arrows shall be equipped with broadhead points.

(2) Centerfire rifles, including single shot, bolt action, lever action, slide action and semi-automatic rifles, are those rifles that fire a bullet which is greater than .23 inch in diameter and that use a cartridge (case and bullet) greater than two inches in length. Only soft point, hollow point, or other expanding bullets shall be used.

(3) Muzzleloading rifles are those rifles that fire a bullet of .50 inch in diameter or larger and that are capable of using only components loaded separately through the front of the firing chamber.

(b) Carcass tag. Each permittee shall have in possession a carcass tag whenever hunting elk. Removal of the carcass tag from the permit shall invalidate that permit for future hunting. The carcass tag shall be dated and signed when attached to the carcass by the permittee. Legally acquired elk meat may be given to and processed by another, if a written notice accompanies the meat which includes the donor's name and address.

(c) Informational cards. Within 48 hours after the close of the season, each hunter shall report the results of the hunt on the informational card.

(d) Legal hunting equipment for elk season in Kansas shall be centerfire rifles, muzzleloading rifles, long bows and compound bows.

(e) No permit, once issued, shall be transferable and a refund shall not be granted. A refund may be granted in the case of death prior to the opening date of the season.

(f) The commission shall reserve the right to reject a permit application or revoke a permit at any time if there is false representation or misrepresentation in completing or obtaining the application or permit.

(g) A person shall not submit more than one application for an elk permit. Applicants applying for more than one permit shall be ineligible to receive any elk hunting permit for the year in which the applications were made.

(h) Persons who are not landowners, tenants, or members of their immediate family who reside with the landowners or tenants as described in K.S.A. 32-179 shall be ineligible to apply for landowner-tenant elk permits. Non-residents shall be ineligible to apply for elk permits.

(i) All persons who receive an elk hunting permit

shall not be eligible to receive an elk hunting permit in subsequent seasons. (Authorized by and implementing K.S.A. 32-164, 32-178, and 32-179; effective May 1, 1985.)

### Article 3.—FISH

**23-3-10. Fishing methods.** (a) Each person may operate or set two lines with not more than two baited hooks or artificial lures per line, one trotline, or eight setlines. Trotlines and setlines shall not be used on state fishing lakes unless the lake is posted to allow their use. All lines, trotlines and setlines shall be checked at least once every 24 hours.

(b) Each trotline, setline, tip-up and unattended line shall have a tag or label securely attached designating the name and address of the operator. A trotline or setline shall be set at least 150 yards from any dam or 150 yards from the mouth of any stream.

(c) Fish are legally taken by hook and line when hooked within the mouth. Fish hooked elsewhere shall be returned unrestrained to the water immediately or such fish shall be deemed to have been snagged.

(d) Eight tip-ups may be used for ice fishing in addition to the allowed two lines except on state fishing lakes. Two tip-ups may be used for ice fishing on state fishing lakes instead of the allowed two lines. Tip-ups shall have a maximum of two hooks each.

(e) Except as otherwise expressly provided, it shall be lawful for a person to take fish through the ice provided the hole used is no larger than 12 inches in diameter or 12 inches square. (Authorized by K.S.A. 32-215; implementing K.S.A. 32-189; effective, T-83-3, Jan. 7, 1982; effective May 1, 1983; amended May 1, 1985.)

### Article 4.—COMMERCIAL FISHING

**23-4-1. Issuance of warning citations.** Game protectors and deputy game protectors shall be authorized to issue warning citations or tickets, which may be issued at their discretion. An officer may decide to warn or arrest based upon the officer's assessment of the circumstances surrounding a particular incident. The officer shall take into account applicable statutes and rules and regulations, degree of intent and culpability, gravity of the violation, age of the violator, and other relevant factors. (Authorized by K.S.A. 1983 Supp. 74-3302 and implementing K.S.A. 32-164 and 82a-815; effective T-85-17, June 20, 1984; effective May 1, 1985.)

### Article 8.—WILDLIFE AREAS

**23-8-2. Certain acts prohibited in wildlife areas.** The following acts or activities shall be prohibited in wildlife areas: (a) Possessing loaded firearms or discharging firearms for any purpose in wildlife areas except:

(1) Hunting in areas that may be designated as hunting areas by the commission;

(2) During an authorized field trial event;

(3) During a special activity authorized in writing by the director; or

(4) Target practice in areas designated by the director;

(b) Fishing in any wildlife area, except those areas or portions of areas that may be opened to fishing by the commission by posted notice;

(c) Throwing trash, waste, or refuse on the ground or in the waters; misusing or abusing property; or using area facilities as toilets or for refuse disposal, except those facilities provided for those purposes;

(d) Starting or building a fire in a posted, non-fire area, allowing a fire to cause damage to grounds or facilities, or leaving a fire unattended;

(e) Except as otherwise provided, failing to control dogs with a chain or leash or failing to confine dogs to a motor vehicle, trailer, or cabin. Dogs not so confined or controlled shall be permitted on those portions of the areas which are open for hunting during legal open seasons, authorized field trial events or non-commercial dog training, as prescribed by rules and regulations;

(f) Operating any vehicle within wildlife areas at speeds exceeding 25 miles per hour, except where otherwise posted;

(g) Horseback riding and operating automobiles and other vehicles in wildlife areas other than on maintained roads and parking areas, unless posted otherwise;

(h) Camping or remaining in a wildlife area for a period longer than seven consecutive days. Each person, and that person's equipment and vehicles, shall be absent for at least 24 hours between each camping period of seven consecutive days;

(i) Disorderly conduct in wildlife areas, including drunkenness, vile language, fighting, disturbing the public peace, and personal exposure by removal or change of clothing in any place where a person is not properly sheltered;

(j) Destroying or injuring any sign, guidepost, property, vegetation or habitat in a wildlife area;

(k) Bathing, swimming or wading in state fishing lakes except in areas posted for this activity. However, wading shall not be illegal as part of fishing, hunting, bull-frogging and trapping activity;

(l) Discharging or using fireworks in a wildlife area, except with the written consent of the fish and game commission and under conditions specified by the commission for special events;

(m) Drinking, displaying or selling alcoholic liquors within a wildlife area. The director may post a notice closing certain areas to the use of beer or malt beverages containing not more than 3.2% percent of alcohol by weight for such periods as is necessary;

(n) Except as authorized by the uniform controlled substances act, possessing or using any controlled substance within a wildlife area.

(o) Catching or taking minnows in any manner from any wildlife area. However, bait minnows may be taken from Cheyenne Bottoms Wildlife Area under conditions prescribed by the director, and from federal reservoir waters; or

(p) Private construction of a building, boat dock, fishing dock, launching ramp, tables, or other equipment or facilities on wildlife areas, except as permit-

ted by commission regulation or by special permit from the director. (Authorized by and implementing K.S.A. 32-224; effective Jan. 1, 1966; amended Feb. 15, 1977; amended May 1, 1980; amended, T-83-3, Jan. 7, 1982; amended May 1, 1983; amended May 1, 1985.)

**Article 11.—BOATING**

**23-11-1. Display of number and decal.** The registration number shall be painted on or secured to each side of the forward half of the vessel and shall be maintained in a legible condition. The numbers shall read from left to right and shall be preceded by the decal. Numbers shall be in block characters of good proportion, shall not be less than three inches in height and shall be of a color that contrasts with the background. A hyphen or equivalent space shall separate arabic numerals and capital letters occurring in the number. (Authorized by and implementing K.S.A. 82a-804; effective Jan. 1, 1966; amended, E-71-20, April 28, 1971; amended Jan. 1, 1972; amended May 1, 1980; amended May 1, 1985.)

**23-11-3. Certificate number and registration decals—expiration date.** (a) The original certificate of number and registration decals awarded by the fish and game commission shall be valid for a period ending three years from date of issuance. Each renewal shall be valid for a period ending three years from the date of the expiration of the certificate of number renewed.

(b) Upon the issuance of an original certificate of number or upon renewal, two new registration decals shall be issued.

(c) Each application for renewal of the certificate of number shall be received by the fish and game commission prior to the expiration date of the current certificate in order to retain the previously issued identification number. Any application received subsequent to the expiration date shall be treated as an original application and a new number shall be issued. (Authorized by and implementing K.S.A. 82a-804; effective Jan. 1, 1966; amended, E-71-20, April 28, 1971; amended Jan. 1, 1972; amended May 1, 1985.)

**Article 18.—FEES**

**23-18-2. Hatchery stamp fee and stamp.** (a) The following fees shall be in effect:

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

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

Calendar Year	Fee
1985	\$15.00
1986	\$13.00
1987	\$11.00
1988	\$ 9.00

(continued)

1989 .....	\$ 6.00
1990 .....	\$ 3.00

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

FRED WARDERS  
Administrative Assistant

Doc. No. 002824

## State of Kansas

### BOARD OF AGRICULTURE

#### PERMANENT ADMINISTRATIVE REGULATIONS

(Effective May 1, 1985)

#### Article 13.—PESTICIDES

**4-13-11. Categories and subcategories of commercial applicator certification.** (a) Category 1—agricultural pest control. This category shall include commercial applicators using or supervising the use of restricted use pesticides in the production of agricultural crops and animals.

(1) Subcategory 1a—agricultural plant pest control. This subcategory shall include commercial applicators using or supervising the use of restricted use pesticides on grasslands and non-crop agricultural lands and in production of agricultural crops, including but not limited to, tobacco, peanuts, cotton, feed grains, soybeans and forage; vegetables; small fruits, tree fruits and nuts.

(2) Subcategory 1b—agricultural animal pest control. This subcategory shall include commercial applicators using or supervising the use of restricted use pesticides for places on or in which animals are confined and on animals, including, but not limited to, beef cattle, dairy cattle, swine, sheep, horses, goats, poultry, and livestock. Doctors of veterinary medicine who engage in the business of applying pesticides for hire, who publicly hold themselves out as pesticide applicators, or who engage in large-scale use of pesticides shall be included in the agricultural animal pest control category.

(3) Subcategory 1c—wildlife damage control. This subcategory shall include commercial applicators using or supervising the use of restricted use pesticides for the management and control of wildlife in rangeland and agricultural areas. Wildlife shall mean non-domesticated vertebrate species which hinder agricultural and rangeland production.

(b) Category 2—forest pest control. This category shall include commercial applicators using or super-

vising the use of restricted use pesticides in forests, forest nurseries, and forest seed producing areas.

(c) Category 3—ornamental and turf pest control. This category shall include commercial applicators using or supervising the use of restricted use pesticides to control pests in the maintenance and production of ornamental trees, shrubs, flowers, and turf.

(1) Subcategory 3a—ornamental pest control. This subcategory shall include commercial applicators using or supervising the use of restricted use pesticides to control pests in the maintenance and production of ornamental trees, shrubs and flowers.

(2) Subcategory 3b—turf pest control. This subcategory shall include commercial applicators using or supervising the use of restricted use pesticides to control pests in the maintenance and production of turf.

(d) Category 4—seed treatment. This category shall include commercial applicators using or supervising the use of restricted use pesticides on seeds.

(e) Category 5—aquatic pest control. This category shall include commercial applicators using or supervising the use of any restricted use pesticide purposefully applied to standing or running water, excluding applicators engaged in public health related activities included under subsection h.

(f) Category 6—right-of-way pest control. This category shall include commercial applicators using or supervising the use of restricted use pesticides in the maintenance of public roads, electric powerlines, pipelines, railway rights-of-way or other similar areas, excluding applicators engaged in regulatory activities under subsection i.

(g) Category 7—industrial, institutional, structural and health related pest control. This category shall include commercial applicators using or supervising the use of restricted use pesticides for the protection of stored, processed or manufactured products and in, on, or around food handling establishments, human dwellings, institutions, schools and hospitals, industrial establishments, including warehouses and grain elevators, and any other structures and adjacent areas, public or private.

(1) Subcategory 7a—wood destroying pest control. This subcategory shall include commercial applicators using or supervising the use of restricted use pesticides in the control of termites, powder post beetles, wood borers, wood rot fungus and any other wood destroying pest.

(2) Subcategory 7b—stored products pest control. This subcategory shall include commercial applicators using or supervising the use of restricted use pesticides in the control of pests in stored grain and food products.

(3) Subcategory 7c—industrial weed control. The subcategory shall include commercial applicators using or supervising the use of restricted use pesticides in the control of pest weeds.

(4) Subcategory 7d—health related pest control. This subcategory shall include commercial applicators using or supervising the use of restricted use pesticides in health programs for the management and

control of pests having medical and public health significance.

(5) Subcategory 7e—structural pest control. This subcategory shall include commercial applicators using or supervising the use of restricted use pesticides in structures for control of any pest not covered in paragraph (g)(1) of this regulation.

(h) Category 8—public health pest control. This category shall include state, federal, or other governmental employees using or supervising the use of restricted use pesticides in public health programs for the management and control of pests having medical and public health significance.

(i) Category 9—regulatory pest control. This category shall include state, federal, or other governmental employees who use or supervise the use of restricted use pesticides in the control of federal and state regulated pests.

(1) Subcategory 9a—noxious weed control. This subcategory shall include state or other governmental employees who use or supervise the use of restricted use pesticides in the control of weed pests regulated under the Kansas noxious weed law.

(2) Subcategory 9b—regulated pest control. This subcategory shall include state, federal or other governmental employees who use or supervise the use of restricted use pesticides in the control of federal or state regulated pests not covered by paragraph (i)(1).

(j) Category 10—demonstration and research pest control. This category shall include:

(1) individuals who demonstrate to the public the proper use of and techniques for application of restricted use pesticides or who supervise such a demonstration. Such individuals shall include extension specialists, county agents, commercial representatives demonstrating pesticide products, and those individuals demonstrating methods used in public programs; and

(2) persons conducting field research with pesticides, and who, in doing so, use or supervise the use of restricted use pesticides. Such persons shall include state, federal, and commercial employees and other persons conducting field research regarding or utilizing restricted use pesticides; and

(3) qualified laboratory personnel using restricted use pesticides while engaged in pesticide research in areas where environmental factors beyond their control, such as wind, rain or similar factors, can affect the safe use of the pesticide or cause it to have an adverse impact on the environment. Such personnel listed in paragraphs (j)(2) and (3) shall not be considered exempt from certification under the provisions of K.S.A. 2-2441(d). (Authorized by K.S.A. 2-2467a; implementing K.S.A. 2-2444a and 2-2467a; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended May 1, 1985.)

**4-13-13. Commercial applicator examination.** (a) Examinations for commercial applicator certification shall test the applicant's knowledge in the following subjects in addition to those subjects set out in K.S.A. 2-2443a (a) through (h).

(1) Each examination shall test the applicant's

practical knowledge in the following general areas of pesticide application:

(A) The general format and terminology of pesticide labels and labeling, the instructions, warnings, symbols and other information appearing on pesticide labels, the classification designation on pesticide labels and the necessity of using each pesticide in a manner which is consistent with information and instructions on its label;

(B) Safety factors, including pesticide toxicity, types and causes of pesticide accidents, precautionary measures which are necessary to guard against injury to the applicator and other individuals, symptoms of pesticide poisoning, first aid and other procedures to follow in case of a pesticide accident, proper identification, storage, transporting, mixing and handling of pesticides;

(C) The potential for damage to the environment from use and misuse of pesticides as influenced by such factors as types of terrain, soil and other substrata and drainage patterns;

(D) Pest development and biology as it may be relevant to pest identification and control;

(E) Types of pesticides and pesticide formulations used, compatibility, synergism, persistence and animal and plant toxicity of pesticides, practices resulting in pesticide resistance and dilution procedures.

(F) Types of equipment used and the limitations of each, equipment use, maintenance and calibration.

(G) Proper application techniques for various pesticides and formulations of pesticide in given situations, relationship of placement of pesticides to proper use, unnecessary pesticide use and pesticide misuse, and prevention of pesticide loss into the environment through drift and other means; and

(H) requirements which must be met by a certified applicator in supervising non-certified applicators of restricted pesticides, including practical knowledge of federal and state supervisory requirements; requirements found on labeling; requirements regarding verifiable instruction of such non-certified applicator and availability of certified applicator during application; and any added restrictions which may be imposed for specific pesticides through labeling including the required physical presence of the supervising applicator during the application.

(2) Each examination shall test the applicant's practical knowledge of the category and subcategory of applicator certification in which the applicant wishes to be certified.

(A) Agricultural pest control.

(i) Each examination for agricultural plant pest control applicators shall test the applicant's practical knowledge of the crops grown in Kansas and the specific pests commonly associated with these crops, potential soil and water damage, preharvest intervals, re-entry intervals, phytotoxicity, environmental contamination, non-target injury and potential adverse effects on the community which are related to the use of restricted pesticides in agricultural areas.

(ii) Each examination for agricultural animal pest control applicators shall test the applicant's practical

(continued)

knowledge of Kansas agricultural animals and their pests, specific pesticide toxicity levels, residue potential and relative hazards associated with various pesticide formulations, application techniques, ages of animals, stress and extent of treatment.

(iii) Each examination for wildlife damage control applicators shall test the applicant's practical knowledge of vertebrate species pests and damage associated with each, methods useful in damage prevention, products used in damage control, the potential for direct poisonings of nontarget species, the potential for secondary poisonings, effects upon threatened and endangered species, specific pesticide toxicity and residue levels, and methods of application necessary to minimize hazards to humans, environment, pets, and domestic animals.

(B) Forest pest control. Each examination for forest pest control applicators shall test the applicant's practical knowledge of types of forests, forest nurseries and forest seed production in Kansas and of the pests associated with them, pest cycles and population dynamics as they influence control programming, biotic agents and their relative vulnerability to pesticides, and proper use of specialized equipment as it relates to adjacent land use.

(C) Ornamental and turf pest control.

(i) Each examination for ornamental pest control applicators shall test the applicant's practical knowledge of pest and pesticide problems associated with the production of ornamental trees, shrubs and flowers in Kansas, potential phytotoxicity problems related to the large variety of plants in treated areas, pesticide persistence beyond the intended period of control, and the application methods which minimize hazards to humans, pets and domestic animals.

(ii) Each examination for turf pest control applicators shall test the applicant's practical knowledge of pest and pesticide problems associated with the production of turf in Kansas, potential phytotoxicity problems related to the wide variety of plants in treated areas, pesticide persistence beyond the intended period of control and application methods which minimize hazards to humans, pets and domestic animals.

(D) Seed treatment. Each examination for seed treatment applicators shall test the applicant's practical knowledge of the types of seeds that require protection against pests, factors which may affect germination, including seed coloration, carriers and surface active agents, hazards associated with handling, storing, mixing and misuse of treated seeds and proper disposal of unused treated seed.

(E) Aquatic pest control. Each examination for aquatic pest control applicators shall test the applicant's practical knowledge of secondary effects caused by improper application rates, incorrect formulations, and faulty aquatic pesticide applications, knowledge of various water use situations and the potential of downstream effects, and knowledge of potential effects on plants, fish, birds, beneficial insects and other organisms in the aquatic environment and of the principles of limited area application.

(F) Right-of-way control. Each examination for

right-of-way pest control applicators shall test the applicant's practical knowledge of the wide variety of environments traversed by rights-of-way, problems of runoff, drift and excessive foliage destruction, the nature of herbicides, the need for containment of herbicides within the right-of-way area and the impact of applicator's activities on adjacent areas and communities.

(G) Industrial, institutional, structural and health related pest control.

(i) Each examination for wood destroying pest control applicators shall test the applicant's practical knowledge of wood destroying pests, their life cycles, pesticide formulations appropriate for their control, methods of application that avoid exposure of people and pets and specific factors which may lead to hazardous conditions, including continuous exposure to the pesticide use.

(ii) Each examination for stored products pest control shall test the applicant's practical knowledge of pests found in stored grain and food processing areas, their life cycles, pesticide formulations appropriate for their control, methods of application that avoid contamination of food products and exposure of people, and specific factors which may lead to a hazardous condition, including continuous exposure.

(iii) Each examination for industrial weed control applicators shall test the applicant's practical knowledge of weed pests found in industrial areas, pesticide formulations appropriate for their control, methods of application that avoid contamination of habitat and exposure of people and pets, and environmental conditions particularly related to this activity.

(iv) Each examination for health related pest control applicators shall test the applicant's practical knowledge of vector-disease transmission as it relates to and influences application programs, pests which adversely affect public health, their life cycles and habitats and the variety of environments in which they are encountered.

(v) Each examination for structural pest control applicators shall test the applicant's practical knowledge of the wide variety of pests found in buildings, including their life cycles; types of pesticide formulations appropriate for their control and methods of application that avoid contamination of food, damage and contamination of habitat and exposure of people and pets; specific factors which may lead to a hazardous condition, including continuous exposure in the various situations encountered in this category; and environmental conditions particularly related to this activity.

(H) Public health pest control. Each examination for public health pest control applicators shall test the applicant's practical knowledge of vector-disease transmission as it relates to and influences application programs, pests which adversely affect public health, their life cycles and habitats, the variety of environments in which they are encountered and the importance of such non-chemical control methods as sanitation, waste disposal and drainage.

(I) Regulatory pest control.

(i) Each examination for noxious weed control ap-

plicators shall test the applicant's practical knowledge of pest weeds as regulated by the Kansas noxious weed law, the potential impact on the environment of restricted use pesticides used in suppression and eradication programs, and factors influencing introductions, spread, and population dynamics of those pest weeds.

(ii) Each examination for regulated pest control applicators shall test the applicant's practical knowledge of federal and state regulated pests, applicable laws relating to quarantine and other regulations regarding pests, the potential impact on the environment of restricted use pesticides used in suppression and eradication programs, factors influencing introductions, spread and population dynamics of relevant pests.

(J) Demonstration and research pest control. Each examination for demonstration and research pest control applicators shall test the applicant's practical knowledge of the many different pest problems encountered in the course of activities associated with demonstration, field research and method improvement work, pesticide-organism interactions and the importance of integrating pesticide use with control methods. Such applicators shall meet the examination requirements for application in the other categories which are applicable to their particular activity.

(b) Any emergency examination administered to applicants for temporary commercial applicator permits under provisions of K.S.A. 2-2442 shall be the same examination as is required under provisions of K.S.A. 2-2443 and the preceding portions of this regulation.

(c) A grade of 70% correct answers shall be required to pass any commercial applicator examination. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 2-2443a and 2-2467a; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended May 1, 1985.)

#### **4-13-25. Bulk pesticide storage and handling of pesticides.** (a) Definitions.

(1) Bulk pesticide means any nongaseous pesticide registered pursuant to the Kansas agricultural chemicals act which is held in a non-mobile storage container in undivided quantities of greater than 55 U.S. gallons liquid measure or 100 pounds dry weight.

(2) Secondary containment facility means a structure which is constructed to confine any spilled or discharged pesticide within a specified area.

(3) Rinsate means materials formed as the result of cleaning pesticide containers by using an appropriate solvent.

(4) Site means the location of the bulk pesticide storage and handling facility.

(b) Each site shall comply with those ordinances and regulations enacted by the city or county affected by such location that relate to the location of such sites. In addition, each site shall comply with 40 C.F.R. 162.10(a)(4)(ii) and 40 C.F.R. 165.10 as in effect on July 1, 1983.

(c) Each non-mobile bulk storage container facility shall be constructed with a means of secondary containment.

(1) Each secondary containment facility shall be constructed of materials that are of a sufficient thickness and density and of an appropriate composition which is sufficient to confine any discharged or spilled liquid or solid material. The materials used in the construction of the secondary containment facility shall be compatible with the pesticide to be stored and the conditions of storage.

(2) Each secondary containment facility for outside storage shall have a minimum capacity of not less than 110% of the capacity of the largest single container enclosed by the secondary containment facility. Suitable measures shall be used for containment of tanks stored under a roof or within other enclosures.

(3) All rinsate or spillage within a secondary containment facility shall be disposed of as required by the product's label and labeling. If the pesticide is classified as a hazardous waste, such rinsate or spillage shall be disposed of in a permitted hazardous waste facility according to existing state and federal regulations.

(d) To prevent ready access by unauthorized persons to the bulk containers when unattended, bulk storage containers and handling facilities shall be equipped with locking devices. The power supply used to operate the loading or unloading pump devices shall be controlled by a master switch located in locked building or safety box.

(e) Bulk pesticides shall be handled according to the manufacturer's label. Any provisions in the manufacturer's label or labeling regarding the following topics shall be strictly followed:

(1) Materials used for construction of the bulk container;

(2) Materials used in equipment for handling the pesticide; and

(3) Methods used in cleaning bulk pesticide containers before refilling.

(f) Each bulk pesticide storage and handling facility constructed after the effective date of this regulation shall comply with this regulation prior to its use for storage of any pesticide.

(g) Each existing bulk pesticide storage and handling facility and each such facility presently under construction shall comply with this regulation on or before the third anniversary of the effective date of this regulation. On or before the first anniversary date of the effective date of this regulation, each owner or operator of such a bulk pesticide storage facility shall notify the agency of the location and size of the plant and of any proposed changes which are necessary to effect compliance. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 2-2467a; effective May 1, 1985.)

#### **4-13-40. Types of hearings.** (a) A conference adjudicative hearing may be used for the following types of action:

(1) Suspension or revocation of a pesticide business license for the licensee's failure to maintain acceptable insurance or bond continuously during the licensing period as required by K.S.A. 2-2448.

(2) Suspension or revocation of the pesticide business license or governmental registration for the li-

(continued)

censee's failure to employ a certified commercial applicator for each category of business operations in which a license has been issued.

(3) Suspension of a pesticide business license, governmental registration or applicator's certificate, whether commercial or private, which has been issued when fees were paid by an insufficient fund check.

(4) Suspension or revocation of a pesticide business license, governmental agency registration or any certificate for multiple or repeated violations of the Kansas pesticide law or of the rules and regulations promulgated thereunder when no material issue of fact is involved.

(5) Such other instances as designated in section 33 of the Kansas administrative procedures act.

Nothing in this subsection shall prohibit the conversion of another type of hearing to a conference adjudicative hearing. Conversion procedures shall conform with section six of the Kansas administrative procedures act.

(b) The summary adjudicative hearing may be used for the following types of action:

(1) A reprimand, warning or disciplinary report pertaining to a violation of the Kansas pesticide law or rule or regulation promulgated thereunder.

(2) Any matter which may be resolved solely on the basis of inspections, examinations or tests made by the agency or its personnel.

All other hearings, except those which are emergency adjudicative hearings or which have been initiated as or converted to conference adjudicative hearings or summary adjudicative hearings shall be formal adjudicative hearings as defined in the Kansas administrative procedures act.

(c) This regulation shall be in effect from and after July 1, 1985. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 1984 Supp. 2-2449, 2451, and K.S.A. 77-509, 77-512, 77-513, 77-533, 77-537; effective May 1, 1985.)

**4-13-41. Summary adjudicative hearing procedure.** (a) The secretary or, in the secretary's absence, the assistant secretary shall appoint a presiding officer to conduct each summary adjudicative hearing. The hearing procedures shall conform to the provisions of sections 37 through 41, inclusive, of the Kansas administrative procedures act.

(b) This regulation shall be in effect from and after July 1, 1985. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 1984 Supp. 2-2449, 2451, and K.S.A. 77-513, 77-537, 77-538, 77-539, 77-540, 77-541; effective May 1, 1985.)

**4-13-42. Conference adjudicative procedure.** (a) The secretary or, in the secretary's absence, assistant secretary shall appoint a presiding officer to conduct each conference adjudicative hearing. The hearing procedures shall conform to the provisions of sections 34 to 35, inclusive, of the Kansas administrative procedures act.

(b) This rule and regulation shall take effect and be in force from and after July 1, 1985. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 1984 Supp. 2-

2449, 2451, and K.S.A. 77-513, 77-534, 77-535; effective May 1, 1985.)

## Article 16.—MEAT AND MEAT PRODUCTS INSPECTION

### Part 1.—DEFINITIONS

**4-16-1b. Adoption by reference.** (a) The following sections of title 9 of the code of federal regulations are hereby adopted by reference:

(1) 9 CFR parts 305, 308, 309, 310, 311, 314, 315, 316, 318.7 and 381, except section 381.10, as in effect on January 1, 1981; and

(2) 9 CFR parts 318.19 and 319.104 through 319.107, inclusive, as in effect on April 13, 1984.

(b) Copies of this material or the pertinent portions thereof are available from the meat and poultry inspection division of the state board of agriculture, Topeka, Kansas. (Authorized by K.S.A. 65-6a44; implementing K.S.A. 65-6a20, 65-6a21, 65-6a22, 65-6a23, 65-6a25 and 65-6a30; effective May 1, 1982; amended May 1, 1985.)

**4-16-180.** (Authorized by K.S.A. 65-6a18, 65-6a44, and L. 1981, ch. 243; implementing K.S.A. 65-6a44 and L. 1981, ch. 243; effective, E-70-4, Dec. 1, 1969; effective Jan. 1, 1971; amended Jan. 1, 1974; amended August 12, 1981, E-82-15; amended May 1, 1982; revoked May 1, 1985.)

**4-16-181.** (Authorized by K.S.A. 1970 Supp. 65-6a18, 65-6a44; effective, E-70-4, Dec. 1, 1969; effective Jan. 1, 1971; revoked May 1, 1985.)

HARLAND E. PRIDDLE  
Secretary of Agriculture

Doc. No. 002829

## State of Kansas

### DEPARTMENT OF HEALTH AND ENVIRONMENT

#### TEMPORARY ADMINISTRATIVE REGULATIONS

(Approved by the State Rules and Regulations Board December 19, 1984. Will expire May 1, 1985.)

### Article 4.—MATERNAL AND CHILD HEALTH

**28-4-400. Definitions.** (a) "Cash assets" means money, savings accounts, saving certificates, checking accounts and stocks and bonds.

(b) "Diagnostic service" means an evaluation to identify a handicapping disease or disease process.

(c) "Emergency" means an unanticipated, urgent event requiring immediate medical treatment.

(d) Family.

(1) "Family," for an eligible person who resides with the person's parents, stepparents or legal guardian or who is considered to be a dependent of that person's parents, stepparents or legal guardian for income tax purposes, means the person, the person's parents, stepparents or legal guardian and all other persons who reside in the same home as the person.

Family shall not include persons who lease or rent a portion of the residence.

(2) "Family," for an eligible person who has established a separate residence and is no longer considered a dependent of the person's parents, stepparents or legal guardian for income tax purposes, means the person, the person's spouse, children and relatives and all other persons who reside in the same home as that person. Family shall not include persons who lease or rent a portion of the residence.

(e) "Family income" means the total amount of adjusted gross income reported for federal income tax purposes on the most recent federal income tax return filed by each adult member of the family, with the addition of non-taxable benefits from whatever source.

(f) "Family living allowance" means the amount established by the secretary as specified in K.A.R. 28-4-403(b).

(g) "Individual service plan" means documents prepared by the crippled and chronically ill children's program which state a plan of treatment, authorized services, approved providers of service, time frame for provision of services and party responsible for payment for services.

(h) "Prior authorization" means the approval of a request to provide a specific service before the provision of the service, or in an emergency, within two working days after the emergency occurs.

(i) "Medical treatment" means any medical or surgical services and any medical equipment, devices or supplies provided to a person who is eligible for assistance under the crippled and chronically ill children's program.

(j) "Resident" means a person who is living in the state with the intention of making a permanent home.

(k) "Secretary" means the secretary of the department of health and environment or the secretary's designee. (Authorized by and implementing K.S.A. 65-5a08, as amended by L. 1984, ch. 226, sec. 3; effective, E-82-10, April 27, 1981; effective May 1, 1982; amended May 1, 1983; amended, T-85-41, Dec. 19, 1984.)

**28-4-401. Responsibilities of individuals who apply for or who receive services.** (a) Each applicant shall supply, insofar as possible, information essential to the establishment of eligibility within 30 days of the request for service.

(b) Each applicant shall give written permission on forms prescribed by the secretary for release of information needed to determine medical and financial eligibility.

(c) Each applicant or eligible person shall report changes in address, number of children living in the home, marital status, custody of children, insurance coverage, family income or cash assets of more than \$500.00 per year or other circumstances that affect the special health care needs of the applicant or eligible person, within 10 working days of the change.

(d) Each eligible person shall:

(1) Apply for insurance benefits, title XIX medicicaid program benefits, supplemental security income benefits or benefits from other sources, when requested;

(2) assign the insurance benefits to hospitals and other providers of service for any medical treatment provided by the crippled and chronically ill children's program;

(3) apply the benefits of any non-assignable insurance by making payments to hospitals or other providers of service for items ordered by the attending physician; and

(4) reimburse the crippled and chronically ill children's program for any insurance proceeds sent directly to the recipient if the insurance payment is made for medical treatment provided by the crippled and chronically ill children's program. (Authorized by and implementing K.S.A. 65-5a08, as amended by L. 1984, ch. 226, sec. 3; effective, E-82-10, April 27, 1981; effective May 1, 1982; amended May 1, 1983; amended, T-85-41, Dec. 19, 1984.)

**28-4-402. Responsibilities of the secretary to persons who apply for or receive services.** The secretary shall: (a) Inform eligible persons of program requirements;

(b) develop an individual service plan for each person accepted into the program;

(c) issue a statement of prior authorization to the eligible person and to the approved provider(s) of service stipulating what services, products and items will be paid for by the crippled and chronically ill children's program. The statement of prior authorization shall also designate the time period for which services are authorized;

(d) inform the eligible person or the parents, stepparents or legal guardian of each person accepted into the program of that portion of costs for medical treatment to be paid by the eligible person, the parents, stepparents or legal guardian and of that portion of costs to be paid by the program;

(e) redetermine, at least once each 12 months, eligibility for each person accepted into the program; and

(f) terminate crippled and chronically ill children's program services for persons who fail to meet one or more of the requirements of K.A.R. 28-4-401, and any amendments to that rule and regulation. Notification of termination shall be sent to the eligible person or to the parents, stepparents or legal guardian of the person and to providers of service. (Authorized by and implementing K.S.A. 65-5a08, as amended by L. 1984, ch. 226, sec. 3; effective, E-82-10, April 27, 1981; effective May 1, 1982; amended May 1, 1983; amended, T-85-41, Dec. 19, 1984.)

**28-4-403. Financial eligibility.** (a) The following persons shall be exempt from the uniform standards for eligibility:

(1) Those persons who are eligible under K.S.A. 65-180 through 65-183 for:

(A) Screening, diagnostic and treatment control tests; and

(B) The provision of the necessary treatment product for diagnosed cases, for as long as medically indicated, when the product is not available through other state agencies; and

(continued)

(2) Those persons who are eligible\* under K.S.A. 65-1,105 through 65-1,106 for blood tests and counseling for sickle cell trait and sickle cell anemia.

(b)(1) The uniform standard for determining eligibility shall be the annual margin as calculated in paragraph (2) below. If the annual margin is zero or below, the person shall be eligible for financial assistance for medical treatment. If the annual margin is above zero, the person shall not be eligible for financial assistance, except as provided in subsections (e) and (f) below. The factors to be utilized in calculating the annual margin shall be: family income, cash assets, family living allowance, anticipated specialized health care expenditures for the person and the health insurance coverage of the person.

(2) The annual margin shall be calculated by:

(A) Adding the amount of the family income to the amount of cash assets above the maximum allowed under subsection (d) below; and

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

(i) The family living allowance as determined in subsection (c) below, and

(ii) The amount of the anticipated health care expenditures for the person that will not be paid by the person's health insurance coverage.

(c) The following table shall be used to determine the family living allowance.

Persons in Family (Per Year)				
1	2	3	4	5
\$9,213	\$12,432	\$15,651	\$18,870	\$22,089

For each additional person, \$3,219 shall be added to \$22,089.

(d) The following table shall be used to determine the maximum cash assets allowed a family.

Persons in Family (Per Year)				
1	2	3	4	5
\$1,034	\$1,366	\$1,699	\$2,028	\$2,359

For each additional person, \$331 shall be added to \$2,359.

(e) If within twelve months after application the annual margin is spent down per subsection (f) to zero or below by the family's actual or obligated expenditures for medical care, the person shall be, at that time, financially eligible for assistance for the remainder of the twelve-month period. These expenditures shall be in addition to any expenditure or reimbursement made by health insurance or other third party payor.

(f) In order to spend the annual margin down to zero, the family shall agree to:

(1) pay for medical expenses and travel expenses related to medical treatment or for health support services, supplies or equipment; or

(2) pay for a portion of actual or anticipated medical expenses, and travel expense related to medical treatment or for a portion of health support services, supplies or equipment as documented in the individual service plan. (Authorized by K.S.A. 65-5a08, as amended by L. 1984, ch. 226, sec. 3; implementing K.S.A. 65-5a12, as amended by L. 1984, ch. 226, sec. 6;

effective, E-82-10, April 27, 1981; effective May 1, 1982; amended, T-85-41, Dec. 19, 1984.)

**28-4-404. Diagnostic services.** (a) Diagnostic services shall be made available to any eligible person who is a resident of this state and who is believed to have a severely handicapping disease or disease process.

(b) Diagnostic services shall be authorized before the services are rendered and shall be provided in facilities and by providers approved by the secretary. (Authorized by K.S.A. 65-5a08, as amended by L. 1984, ch. 226, sec. 3; implementing 65-5a10, as amended by L. 1984, ch. 226, sec. 4; effective May 1, 1982; amended, T-85-41, Dec. 19, 1984.)

**28-4-405. Providers of service.** (a) Application. Each person or corporation desiring to supply services or sell prosthetic devices, equipment, appliances or supplies shall file an application with the secretary. The secretary shall approve or disapprove each application, notify interested parties of the action taken and maintain a list of approved providers of service.

(b) Designation of hospitals. Each hospital approved to provide medical and surgical services for the care and treatment of eligible persons shall:

- (1) Be licensed as a hospital in Kansas;
- (2) be certified by the joint commission on accreditation of hospitals;
- (3) have a social work department;
- (4) have staff physicians certified by specialty boards in the specialty appropriate for the needs of the eligible person;

(5) have facilities to isolate persons with communicable diseases or other conditions requiring isolation or separation;

(6) have available consultation in other specialty areas for the cases being treated;

(7) have adequate operating facilities for the specialty for which the hospital is approved;

(8) have persons qualified to give anesthesia;

(9) have hematologic, chemistry, microbiology and serologic laboratory facilities appropriate for the needs of the eligible person;

(10) have x-ray facilities appropriate for the needs of the eligible person;

(11) have facilities for the application of plaster or other cast material for orthopedic cases;

(12) have a physical therapy department with qualified personnel to treat eligible persons;

(13) have regularly scheduled in-service programs; and

(14) have the following services for children:

(A) a separate department for pediatrics and for adult medicine, with qualified nurses assigned to each area;

(B) at least one pediatrician on the hospital staff, with a designated chief of pediatrics; and

(C) a separate area for children, with provisions made for parents who wish to live in with their child, non-restrictive visiting hours for parents and suitable recreational facilities for children.

(c) Designation of other providers. Other providers approved to provide medical, surgical and other ser-

vices for the care and treatment of eligible persons shall meet the following standards:

(1) Audiologists shall have an American speech and hearing certification, or its equivalent, and professional experience.

(2) Dentists shall be licensed by the Kansas dental board and dental specialists shall be licensed to practice their specialty by the Kansas dental board.

(3) Hearing aid dealers shall be licensed by the Kansas board of examiners in fitting and dispensing of hearing aids.

(4) Nurses shall be registered with the Kansas state board of nursing.

(5) Nutritionists shall be registered with the American dietetic association.

(6) Occupational therapists shall have completed the requirements necessary to be registered by the national registry of the American occupational therapy association.

(7) Pharmacists shall be licensed by the Kansas state board of pharmacy.

(8) Physical therapists shall be licensed by the Kansas state board of healing arts.

(9) Physicians shall be licensed by the Kansas state board of healing arts and shall be certified by their respective specialty board.

(10) Prosthetic and orthotic appliance facilities shall have employees who meet the requirements for certification by the American board of certification in orthotics and prosthetics and shall have an approved physical plant.

(11) Social workers shall have a master's degree in social work and shall be licensed by the behavioral sciences regulatory board.

(d) Responsibilities. Each provider of service shall agree:

(1) That race, color, religion, national origin or ancestry will not be a basis for refusing to provide service;

(2) to submit reports requested by the crippled and chronically ill children's program;

(3) to accept personal responsibility for the care and treatment provided to persons under the crippled and chronically ill children's program;

(4) to accept payment in accordance with the fees established by the secretary as payment in full and not to bill families for any crippled and chronically ill children's program covered service without permission of the secretary;

(5) to obtain prior authorization from the crippled and chronically ill children's program for services provided; and

(6) to notify the secretary of withdrawal from the crippled and chronically ill children's program. (Authorized by K.S.A. 65-5a08, as amended by L. 1984, ch. 226, sec. 3; implementing K.S.A. 65-5a09; effective May 1, 1982; amended May 1, 1983; amended, T-85-41, Dec. 19, 1984.)

**28-4-405a. Payment.** (a) Service shall not be paid for without prior authorization. The secretary shall specify in the prior authorization for service the number and types of service, including days of hospi-

talization, for which the crippled and chronically ill children's program shall be responsible for payment. Services in excess of those having prior authorization shall not be paid for under the crippled and chronically ill children's program unless a provider of service, patient, parent, stepparent or guardian requests an extension which is granted by the secretary.

(b) Insurance, title XIX, and other coverage. For persons receiving funding from both the title XIX medicaid program and the crippled and chronically ill children's program, the medicaid program shall have primary funding responsibility. The crippled and chronically ill children's program shall not pay for services eligible for title XIX medicaid reimbursement. Private insurance shall have primary funding responsibility over the crippled and chronically ill children's program and every effort shall be made to utilize insurance benefits. When insurance fails to pay or pays only a portion of the total bill, the providers shall file a crippled and chronically ill children's program claim. If the insurance payment is less than the crippled and chronically ill children's program allowable rate, additional payment may be made up to the allowable rate. If the insurance payment exceeds or equals the maximum crippled and chronically ill children's program allowable rate, an additional payment shall not be made.

(c) Any person who provides a prior-authorized service, product or item shall submit a claim for payment.

(d) Each claim submitted for payment shall state the eligible person's name and address and the date service was provided. The claim submitted also shall give a description of the services provided and indicate the appropriate procedure code. The claim also shall specify one of the following:

(1) The services provided were covered by a policy of insurance;

(2) a claim on a policy of insurance was made but rejected by the insurer;

(3) a policy of insurance was not available for the services provided;

(4) the services provided were covered by a policy of insurance, but the costs of the services were not paid in full by the insurer; or

(5) a claim for the services provided was filed under the medicaid program but was rejected. The reason for the rejection of the claim by medicaid shall be stated if known to the claimant.

(e) The secretary may allow claims by individuals or hospitals who do not meet the requirements of subsections (a) to (c), inclusive, of K.A.R. 28-4-405, and any amendments thereto, if the individual or hospital provides emergency medical treatment for an eligible person or, with the prior authorization of the secretary, provides specialized medical treatment for an eligible person. (Authorized by and implementing K.S.A. 65-5a08, as amended by L. 1984, ch. 226, sec. 3; effective, T-85-41, Dec. 19, 1984.)

**28-4-405b. Termination.** The secretary may terminate a provider's participation in the crippled and

(continued)

chronically ill children's program for one or more of the following reasons:

- (1) Voluntary withdrawal of the provider from participation in the program;
- (2) non-compliance with applicable state laws or regulations;
- (3) unethical or unprofessional conduct; or
- (4) suspension or termination of license or certificate. (Authorized by K.S.A. 65-5a08, as amended by L. 1984, ch. 226, sec. 3; implementing K.S.A. 65-5a09; effective, T-85-41, Dec. 19, 1984.)

**28-4-406. Conditions eligible for treatment.** For a person to be eligible for financial assistance under the crippled and chronically ill children's program, the person shall be afflicted with one or more of the following conditions:

- (a) Myelomeningocele;
- (b) Cleft palate, cleft lip and related problems;
- (c) Cardiovascular conditions, including the following congenital and acquired heart disease or anomalies of the major blood vessels:
  - (1) Congenital heart defects, including ventricular septal defect, atrial septal defect, tetralogy of Fallot, transposition of the great arteries, complete heart block, aortic stenosis with or without regurgitation, coarctation of the aorta, patent ductus arteriosus, mitral stenosis, pulmonary stenosis, cor triatriatum, endocardial fibroelastosis, Ebstein's anomaly, tricuspid or pulmonary atresia, truncus arteriosus, pulmonary arteriovenous fistula or hypoplastic left heart;
  - (2) Rheumatic fever;
  - (3) Congestive heart failure;
  - (4) Arrhythmias, including Stokes-Adams, paroxysmal atrial tachycardia and heart block; or
  - (5) Conditions related to heart disease requiring hospitalization, including measures to treat or prevent pneumonia or congestive failure;
- (d) Neurosurgical conditions, including spinal injury as a result of accident or hydrocephalus related to myelomeningocele;
- (e) Orthopedic conditions, including:
  - (1) Congenital anomalies leading to physical handicaps, including club foot, congenital dislocated hips, progressive scoliosis which is severe enough that it is likely to become a functional disability in the patient's lifetime, osteogenesis imperfecta, dwarfisms, phocomelia, polydactyly and syndactyly of hands and feet, arthrogryposis multiplex congenita, osteopetrosis or cerebral palsy;
  - (2) Acquired conditions leading to physical handicaps, including Legg-Calve-Perthes, Scheuermann's, vitamin D-resistant rickets, Osgood-Schlatter's, Pott's, neurofibromatosis or idiopathic scoliosis;
  - (3) Fractures in which there is a complication in healing;
  - (4) Joint conditions, including hemarthrosis and juvenile rheumatoid arthritis;
  - (5) Developmental problems, including internal tibial torsion, femoral anteversion, knock knees or bowlegs, the correction of which requires surgery; or
  - (6) Muscle problems that are of a disabling nature,

including muscular dystrophies, myostitis ossificans progressiva or poliomyelitis;

(f) Genetic and metabolic conditions, including phenylketonuria, cystic fibrosis and sickle cell disease;

(g) Hearing problems which lead to or which present a high risk for permanent hearing loss;

(h) Gastrointestinal problems requiring surgery, including tracheoesophageal fistula, intestinal atresia, Hirschsprung's disease, imperforate anus, meconium ileus, diaphragmatic hernia, omphalocele and gastroschisis, gastro-esophageal reflux, or tracheo-malacia;

(i) Genitourinary problems, including exstrophy of bladder or urethral valves which require surgery;

(j) Burns requiring plastic surgery; or

(k) Seizures. (Authorized by and implementing K.S.A. 65-5a14, as amended by L. 1984, ch. 226, sec. 8; effective May 1, 1982; amended, T-85-41, Dec. 19, 1984.)

**28-4-407. System of priorities.** Because assistance under the crippled and chronically ill children's program is constrained by the amount of funds appropriated for this assistance, a system of priorities for assistance shall be established as follows: priority for assistance shall be given to persons afflicted with the condition specified in subsection (a) of K.A.R. 28-4-406, with priorities for assistance established in descending order for conditions listed in subsection (b) through (k), inclusive. Persons afflicted with that condition specified in subsection (k) of K.A.R. 28-4-406 shall be assigned the lowest priority for assistance. (Authorized by and implementing K.S.A. 65-5a14, as amended by L. 1984, ch. 226, sec. 8; effective May 1, 1982; amended, T-85-41, Dec. 19, 1984.)

**28-4-410. Definitions.** (a) "Blood bank" means a licensed facility that supplies blood or blood products.

(b) "Blood product" means a substance derived from human blood. Blood products provided by the hemophilia program shall be limited to the following:

(1) Purified anti-hemophilic fraction—Factor VIII—heat treated;

(2) purified anti-hemophilic fraction—Factor VIII—non-heat treated;

(3) purified anti-hemophilic fraction—Factor IX—heat treated;

(4) purified anti-hemophilic fraction—Factor IX—non-heat treated; and

(5) fresh frozen plasma and cryoprecipitate.

(c) "Cash assets" means money, savings accounts, savings certificates, checking accounts and stocks and bonds.

(d) "Comprehensive centers" means The Children's Mercy Hospital and St. Luke's Hospital in Kansas City, Missouri and Halstead Hospital in Halstead, Kansas.

(e) "Emergency" means an unanticipated, urgent event requiring immediate medical treatment.

(f) Family.

(1) "Family," for an eligible person who resides with the person's parents, stepparents or legal guardian or who is considered to be a dependent of that person's parents, stepparents or legal guardian for

income tax purposes, means the person who has hemophilia, that person's parents, stepparents or legal guardian and all other persons who reside in the same home as the person who has hemophilia. Family shall not include persons who lease or rent a portion of the residence.

(2) "Family," for an eligible person who has established a separate residence and is no longer considered a dependent of that person's parents, stepparents or legal guardian for income tax purposes, means the person who has hemophilia, that person's spouse, children and relatives and all other persons who reside in the same home as the person who has hemophilia. Family shall not include persons who lease or rent a portion of the residence.

(g) "Family income" means the total amount of adjusted gross income reported for federal income tax purposes on the most recent federal income tax return filed by each adult member of the family, with the addition of non-taxable benefits from whatever source.

(h) "Family living allowance" means the amount established by the secretary as specified in K.A.R. 28-4-413.

(i) "Hemophilia" means a bleeding tendency that results from a genetically determined deficiency factor in the blood.

(j) "Hemophilia program" means services that are provided for the care and treatment of persons with hemophilia and that are administered by the crippled and chronically ill children's program.

(k) "Home therapy," or "self therapy," means the administration of transfusions of blood concentrates or blood derivatives in a home setting.

(l) "Individual service plan" means documents prepared by the crippled and chronically ill children's program that state a plan of treatment, authorized services, providers of service, time frame for provision of services and party responsible for payment for services.

(m) "Infusion" means therapeutic introduction of a fluid into a vein.

(n) "Infusion supplies" means syringes, needles and hemophilia infusion sets.

(o) "Prior authorization" means the approval of a request to obtain blood, blood derivatives and concentrates and other efficacious agents or educational services pertaining to hemophilia before the provision of the service, or in an emergency, within two working days after the emergency occurs.

(p) "Secretary" means the secretary of the department of health and environment or the secretary's designee. (Authorized by L. 1984, ch. 217, sec. 4; implementing L. 1984, ch. 217, sec. 2, 3; effective, T-85-41, Dec. 19, 1984.)

**28-4-411. Responsibilities of individuals who apply for or who receive assistance.** (a) Each applicant shall supply, insofar as possible, information essential to the establishment of eligibility within 30 days of the request for assistance.

(b) Each applicant shall give written permission on forms prescribed by the secretary for release of infor-

mation needed to determine medical and financial eligibility.

(c) Each applicant or eligible person shall report changes in address, number of children living in the home, marital status, custody of children, insurance coverage, family income or cash assets of more than \$500.00 per year or other circumstances that affect the special health care needs of the applicant or eligible person within 10 working days of the change.

(d) Each eligible person shall:

(1) Apply for insurance benefits, title XIX medicaid program benefits, supplemental security income benefits or benefits from other sources when requested;

(2) assign the insurance benefits to hospitals and other providers of service for any medical treatment provided by the hemophilia program;

(3) apply the benefits of any non-assignable insurance by making payments to hospitals or other providers of service for items ordered by the attending physician; and

(4) reimburse the hemophilia program for any insurance proceeds sent directly to the recipient if the insurance payment is made for medical treatment provided by the hemophilia program.

(e) Each eligible person shall obtain from one of the comprehensive centers initial and annual evaluations of medical eligibility for the hemophilia program.

(f) Each eligible person shall obtain from one of the comprehensive centers a written prescription for blood, blood derivatives and concentrates or other efficacious agents and shall provide a copy of the current prescription to the hemophilia program. (Authorized by and implementing L. 1984, ch. 217, sec. 2; effective, T-85-41, Dec. 19, 1984.)

**28-4-412. Responsibilities of the secretary to individuals who apply for or receive assistance.** The secretary shall: (a) Inform eligible persons of program requirements;

(b) develop an individual service plan for each person accepted into the program;

(c) issue a statement of prior authorization to the eligible person and to the approved provider(s) of service stipulating what blood, blood derivatives and concentrates, other efficacious agents or educational services pertaining to hemophilia will be paid for by the hemophilia program. The statement of prior authorization shall also designate the time period for which services are authorized.

(d) inform the eligible person or the parents, stepparents or legal guardian of each person accepted into the program of that portion of costs for medical treatment to be paid by the eligible person, the parents, stepparents or legal guardian and of that portion of costs to be paid by the program;

(e) redetermine, at least once each 12 months, eligibility for each person accepted into the program; and

(f) terminate hemophilia program assistance for individuals who fail to meet one or more of the requirements of K.A.R. 28-4-411. Notification of termination shall be sent to the eligible person or to the parents,

(continued)

stepparents or legal guardian of the person and to providers of service. (Authorized by and implementing L. 1984, ch. 217, sec. 2; effective, T-85-41, Dec. 19, 1984.)

**28-4-413. Financial eligibility.** (a) (1) The uniform standard for determining eligibility shall be the annual margin as calculated in paragraph (2) below. If the annual margin is zero or below, the person shall be eligible for financial assistance under the hemophilia program. If the annual margin is above zero, the person shall not be eligible for financial assistance, except as provided in subsections (d) and (e) below. The factors to be utilized in calculating the annual margin shall be: family income, cash assets, family living allowance, anticipated specialized health care expenditures for the person and the health insurance coverage of the person.

(2) The annual margin shall be calculated by:

(A) Adding the amount of the family income to the amount of cash assets above the maximum allowed under subsection (c) below; and

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

(i) The family living allowance as determined in subsection (b) below, and

(ii) The amount of the anticipated health care expenditures for the person that will not be paid by the person's health insurance coverage.

(b) The following table shall be used to determine the family living allowance:

Persons In Family (Per Year)				
1	2	3	4	5
\$9,213	\$12,432	\$15,651	\$18,870	\$22,089

For each additional person, \$3,219 shall be added to \$22,089.

(c) The following table shall be used to determine the maximum cash assets allowed a family:

Persons In Family (Per Year)				
1	2	3	4	5
\$1,034	\$1,366	\$1,699	\$2,028	\$2,359

For each additional person, \$331 shall be added to \$2,359.

(d) If within twelve months after application the annual margin is spent down per subsection (e) to zero or below by the family's actual or obligated expenditures for medical care, the person shall be at that time, financially eligible for assistance for the remainder of the twelve-month period. These expenditures shall be in addition to any expenditure or reimbursement made by health insurance or other third-party payor.

(e) In order to spend the annual margin down to zero, the family shall agree to:

(1) pay for medical expenses and travel expenses related to medical treatment, or for health support services, supplies or equipment; or

(2) pay for a portion of actual or anticipated medical expenses, and travel expenses related to medical treatment or for a portion of health support services, supplies or equipment as documented in the individual service plan. (Authorized by and implementing L. 1984, ch. 217, sec. 2; effective, T-85-41, Dec. 19, 1984.)

**28-4-414. Payment.** (a) Assistance shall not be provided without prior authorization. The secretary shall specify in the prior authorization for assistance the products or services for which the hemophilia program shall be responsible for payment.

(b) Insurance, title XIX, and other coverage. For persons receiving funding from both the title XIX medicaid program and the hemophilia program, the medicaid program shall have primary funding responsibility. The hemophilia program shall not pay for services eligible for title XIX medicaid reimbursement. Private insurance shall have primary funding responsibility over the hemophilia program and every effort shall be made to utilize insurance benefits. When insurance fails to pay or pays only a portion of the total bill, the providers shall file a hemophilia program claim. If the insurance payment is less than the hemophilia program's allowable rate, additional payment may be made up to the allowable rate. If the insurance payment exceeds or equals the maximum hemophilia program's allowable rate, an additional payment shall not be made.

(c) Any person who provides a prior-authorized blood product or service shall submit a claim for payment.

(d) Each claim submitted for payment shall state the name of the person who has hemophilia, that person's address and the date service was provided. The claim submitted also shall give a description of the services provided and indicate the appropriate procedure code. The claim also shall specify one of the following:

(1) The services provided were covered by a policy of insurance;

(2) a claim on a policy of insurance was made but rejected by the insurer;

(3) a policy of insurance was not available for the services provided;

(4) the services provided were covered by a policy of insurance, but the costs of the services were not paid in full by the insurer; or

(5) a claim for the services provided was filed under the medicaid program but was rejected. The reason for the rejection of the claim by medicaid shall be stated if known to the claimant.

(e) The secretary may allow claims for payment by individuals who provide emergency medical treatment for a person who has hemophilia even though this treatment was not prior-authorized. (Authorized by L. 1984, ch. 217, sec. 4; implementing L. 1984, ch. 217, sec. 3; effective, T-85-41, Dec. 19, 1984.)

**28-4-415. Conditions eligible for treatment.** For a person who has hemophilia to be eligible for financial assistance under the hemophilia program, that person shall meet one or more of the following conditions:

(a) The person requires continuing home therapy with blood or blood derivatives to avoid extensive hospitalization and other crippling effects associated with this chronic bleeding condition; or

(b) the person requires education concerning the administration and management of home therapy for hemophilia. (Authorized by and implementing L.

1984, ch. 217, sec. 4; implementing L. 1984, ch. 217, sec. 2, 3; effective, T-85-41, Dec. 19, 1984.)

**28-4-416. System of priorities.** Because assistance under the hemophilia program is constrained by the amount of funds appropriated for this assistance, provision of blood products and infusion supplies for home therapy shall be the highest priority for assistance, education for persons who have hemophilia and for families of persons who have hemophilia shall be the second-highest priority for assistance, and education for physicians, dentists, nurses and other professionals who assist persons with hemophilia shall be the lowest priority for assistance. (Authorized by L. 1984, ch. 217, sec. 4; implementing L. 1984, ch. 217, sec. 2, 3; effective, T-85-41, Dec. 19, 1984.)

**28-4-425. Transportation.** (a) Facility-owned or leased vehicles.

(1) When a vehicle used for transportation of children is owned or leased by the facility, the driver shall be 18 years of age or older, and shall hold an operator's license of a type appropriate for the vehicle being used.

(2)(A) Each transporting vehicle shall be in safe operating condition.

(B) The transporting vehicle shall have a yearly mechanical safety check of tires, lights, windshield wipers, horn, signal lights, steering, suspension, glass, brakes, tail lights and exhaust system. A record of the date of the annual safety check and corrections made shall be kept on file at the facility or in the vehicle.

(3) Children shall not be transported in campers, vehicle-drawn recreation vehicles or in the back of a truck.

(4) The vehicle shall be covered by accident and liability insurance as required by K.S.A. 40-3104 and 40-3118, and any amendments thereof.

(5) Emergency release forms, and health assessment records, as specified in K.A.R. 28-4-430 and 28-4-432(e), shall be carried in the vehicle when children are transported. A first aid kit shall be available.

(6) Each vehicle shall be equipped with an individual restraint for each child as follows:

(A) An infant unable to sit up without support shall be provided with an infant car carrier which faces the rear.

(B) A child able to sit up without support shall be provided with one of the following restraints:

(i) a shield-type device; or

(ii) a car seat facing the front that is designed to hold a child weighing up to 40 pounds; or

(iii) a safety harness.

(C) A child four years of age or older, or weighing 40 pounds or more, shall have a lap belt. Shoulder straps shall be used if they do not cross the child's neck or face.

(D) Not more than one child shall be restrained in each lap belt.

(E) School-type buses transporting school-age children shall not be required to be equipped with individual restraints.

(b) The safety of the children riding in the vehicle shall be protected as follows:

(1) All doors shall be locked while the vehicle is in motion.

(2) Discipline shall be maintained at all times.

(3) All parts of the child's body shall remain inside the vehicle at all times.

(4) Children shall not enter nor exit the vehicle into a lane of traffic.

(5) Children shall not be left in a vehicle unattended by an adult. When the vehicle is vacated, the driver shall make certain no child is left in the vehicle.

(6) Smoking in the vehicle shall be prohibited while children are being transported.

(7) A second adult shall ride in the vehicle when more than five children under five years of age or more than three infants are being transported, or when the route exceeds 30 minutes.

(c) The driver shall deliver the child to the responsible person, agency or institution as designated by the child's parent or legal guardian, or by the person legally responsible for the care and custody of the child.

(e) Privately-owned, non-facility vehicles, volunteered without remuneration, shall meet all of the foregoing requirements except those of paragraph (a)(2)(B).

(f) Each driver shall be informed of this transportation regulation. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended, T-85-41, Dec. 19, 1984.)

## Article 31.—HAZARDOUS WASTE MANAGEMENT STANDARDS AND REGULATIONS

**28-31-2. Definitions.** (a) Incorporation. 40 CFR section 260.10, as in effect on October 1, 1984, is adopted by reference.

(b) "Disposal authorization" means approval from the secretary to dispose of hazardous waste in Kansas.

(c) "Hazardous waste disposal application" means the written information which a hazardous waste generator, transporter or disposal facility is required to submit to the department in order to obtain disposal authorization.

(d) "Kansas generator" means any person who generates more than 75 kilograms and less than 1,000 kilograms of hazardous waste in a calendar month. Effective July 1, 1985, the minimum quantity shall decrease to 50 kilograms and, effective July 1, 1986, the minimum quantity shall decrease to 25 kilograms.

(e) Differences between state and federal definitions. When the same word is defined both in the Kansas statutes and in any federal regulation adopted by reference in these rules and regulations and the definitions are not identical, the definition prescribed in the Kansas statutes shall control. (Authorized by and implementing K.S.A. 1983 Supp. 65-3431, as amended by L. 1984, ch. 240, sec. 2; effective May 1, 1982; amended, T-84-5, February 10, 1983; amended, May 1, 1984; amended, T-85-42, Dec. 19, 1984.)

**28-31-3. Identification of characteristics and listing of hazardous waste.** (a) Incorporation. 40 CFR Part 261, as in effect on October 1, 1984, is adopted by

(continued)

reference, except for section 261.5 (a) which shall read, "A generator is a small quantity generator if less than 75 kilograms of hazardous waste is generated in a calendar month." Effective July 1, 1985, the minimum quantity shall decrease to 50 kilograms and, effective July 1, 1986, the minimum quantity shall decrease to 25 kilograms.

(b) Delisting procedure. Any person seeking to exclude a waste at a particular generating facility from the list maintained by the secretary may petition the secretary in accordance with the provisions of 40 CFR sections 260.20 and 260.22, as in effect on October 1, 1984. (Authorized by and implementing K.S.A. 1983 Supp. 65-3431, as amended by L. 1984, ch. 240, sec. 2; effective May 1, 1982; amended, T-84-5, Feb. 10, 1983; amended, May 1, 1984; amended, T-85-42, Dec. 19, 1984.)

**28-31-7. Standards for routing of hazardous waste.**

(a) Standards for preferred routes. Each transporter of hazardous waste shall ensure that any vehicle containing hazardous waste is operated over routes that minimize risk to public health and safety. The transporter shall consider available information on accident rates, transit time, population density and activities, time of day, and day of week during which transportation will occur to select a preferred route. Any transporter of hazardous waste may deviate from a preferred route under any of the following circumstances:

- (1) Emergency conditions which make continued use of the preferred route unsafe;
- (2) To make necessary rest, fuel, and vehicle repair stops; or
- (3) To the extent necessary to pick up, deliver, or transfer hazardous wastes.

(b) Transporter responsibility. Each transporter shall bear the responsibility of confining the carriage of hazardous wastes to preferred routes. Unless notice to the contrary is given to the transporter or published in the "Kansas Register," all portions of the major highway system may be used. The major highway system is considered to be all interstate routes, U.S. highways, state highways, and temporary detours designated by the Kansas department of transportation. An interstate system bypass or beltway around a city shall be used when available. (Authorized by and implementing K.S.A. 1983 Supp. 65-3431, as amended by L. 1984, ch. 240, sec. 2; effective May 1, 1982; amended, T-85-42, Dec. 19, 1984.)

**28-31-8a. Treatment of hazardous waste for energy recovery.** Any method, technique or process used to recover energy shall be considered hazardous waste treatment and shall comply with the requirements of K.A.R. 28-31-8, if the waste meets any of the following specifications:

- (a) Heat value is less than 8000 BTU/pound;
- (b) Ash content is greater than 7 percent;
- (c) Total sulfur is greater than .3 percent;
- (d) PCB's are greater than 50 ppm; or
- (e) Halogenated organics are greater than 5 percent.

This regulation shall not apply if the facility generates less than 100 kilograms of hazardous waste per

month and the waste is burned on site to recover useful energy in a device determined by the department to have sufficient destruction and removal efficiency to protect human health and environment. (Authorized by and implementing K.S.A. 1983 Supp. 65-3431, as amended by L. 1984, ch. 240, sec. 2; effective, T-85-42, Dec. 19, 1984.)

**28-31-10. Hazardous waste monitoring fees.** (a) Hazardous waste storage facility. Each hazardous waste storage facility shall pay an annual monitoring fee of \$1,500. This fee shall be paid prior to March 1 of each year.

(b) Hazardous waste treatment facility. Each hazardous waste treatment facility shall pay an annual monitoring fee of \$2,500. This fee shall be paid prior to March 1 of each year.

(c) Hazardous waste disposal facility. Each hazardous waste disposal facility other than a landfill shall pay an annual monitoring fee of \$5,000. Each landfill shall pay \$10,000. This fee shall be paid prior to March 1 of each year.

(d) Hazardous waste transporters. Each hazardous waste transporter shall pay an annual monitoring fee of \$250. This fee shall be paid at the time the transporter notifies the department, in accordance with K.A.R. 28-31-6, and prior to March 1 for each year thereafter.

(e) Hazardous waste generators. Each hazardous waste generator shall pay an annual monitoring fee for all hazardous waste generated during the previous calendar year. This fee shall be based upon the following schedule:

Total Yearly Quantity Generated	Monitoring Fee
Less than 2 tons	\$100
Greater than 2 tons and less than 10 tons	\$200
Greater than 10 tons and less than 100 tons	\$500
Greater than 100 tons and less than 500 tons	\$1000
Greater than 500 tons and less than 1000 tons	\$3000
Greater than 1000 tons	\$5000

This fee shall not apply to hazardous wastes which are exempt from regulation by 40 CFR section 261.6(a), as in effect on October 1, 1984. This fee shall be paid prior to March 1 of each year. (Authorized by and implementing K.S.A. 1983 Supp. 65-3431, as amended by L. 1984, ch. 240, sec. 2; effective May 1, 1982; amended, T-84-5, February 10, 1983; amended, T-85-2, January 13, 1984; amended May 1, 1984; amended, T-85-42, Dec. 19, 1984.)

**28-31-11. Hazardous waste perpetual care trust fund fees.** (a) Hazardous waste disposal facilities. Each hazardous waste disposal facility shall pay a monthly perpetual care trust fund fee, based on the cubic feet of hazardous waste disposed at the facility. The cubic feet of waste shall be determined prior to addition of those materials which are added at the disposal facility to treat the wastes. The fee shall be 25¢ per cubic foot for hazardous waste, disposed in landfills, 0.02¢ per wet cubic foot for hazardous waste disposed by deep well injection and 5¢ per cubic foot for waste disposed by other methods. All calculations of this fee shall apply to the total waste volume.

(b) Monthly reports. On or before the 20th day of each month, the operator of any hazardous waste dis-

posal facility shall prepare and submit to the department a statement giving the following information:

- (1) The name and location of the operator;
- (2) The total cubic feet of hazardous waste disposed at the facility during the preceding calendar month; and
- (3) A check for the calculated fee which is payable to the department and designated for the hazardous waste perpetual care trust fund. (Authorized by and implementing K.S.A. 1983 Supp. 65-3431, as amended by L. 1984, ch. 240, sec. 2; effective May 1, 1982; amended, T-85-42, Dec. 19, 1984.)

**28-31-12. Inspections.** (a) Upon presentation of credentials and stating the purpose of the visit, the secretary or any duly authorized representative of the secretary may at any reasonable hour of the day:

- (1) Enter any factory, plant, construction site, hazardous waste storage, treatment, or disposal facility, or other location where hazardous wastes may potentially be generated, stored, treated, or disposed, and inspect the premises to gather information regarding existing conditions and procedures;
- (2) obtain samples of actual or potential hazardous waste from any person or from the property of any person, including samples from any vehicle in which hazardous wastes are being transported;
- (3) stop and inspect any vehicle, if there is reasonable cause to believe the vehicle is transporting hazardous wastes;
- (4) conduct tests, analyses, and evaluations of wastes to determine whether the wastes are hazardous wastes and whether the requirements of these rules and regulations are being met;
- (5) obtain samples from any containers or facsimiles of container labels;
- (6) inspect and copy any records, reports, information, or test results relating to wastes generated, stored, transported, treated, or disposed; and
- (7) photograph any hazardous waste management facility, device, structure, or equipment.

(b) If, during the inspection, unsafe or unpermitted hazardous waste management procedures are discovered, the secretary's representative may instruct the operator of the facility to retain and properly store hazardous wastes, pertinent records, samples, and other items. These materials shall be retained by the operator until the waste has been identified and the department determines the proper procedure to be used in handling the waste.

(c) When obtaining samples, the secretary's representative shall allow the facility operator to collect duplicate samples for separate analyses.

(d) During the inspection, the secretary's representative shall comply with all reasonable security, safety, and sanitation measures employed at the facility.

(e) A written report listing any deficiencies found during the inspection and stating the measures required to correct the deficiencies shall be prepared and sent to the operator. (Authorized by and implementing K.S.A. 1983 Supp. 65-3431, as amended by L.

1984, ch. 240, sec. 2; effective May 1, 1982; amended, T-85-42, Dec. 19, 1984.)

**28-31-13. Variances.** (a) Application. Any person may request a variance from specific provisions of these rules and regulations by submitting an application on a form furnished by the department. The person shall state the reasons and circumstances which support the request and shall submit any other pertinent data to support the request.

(b) Review. The secretary, or a designee of the secretary, shall review the variance application, determine whether the granting of the variance would endanger human health or safety or the environment, and notify the person within 60 days of receipt that the application is approved or denied, or that additional information is required. If approved, the secretary shall specify any conditions or time limitations needed to comply with all applicable state or federal laws or to protect human health or safety or the environment. The secretary shall prescribe a date upon which the variance shall no longer be valid.

(c) Extension of a prior or existing variance. Any person may submit a request in writing to extend a prior or existing variance. The person shall demonstrate need for a continuation of the variance. The secretary may reissue or extend the variance for another period upon finding that the reissuance or extension of the variance would not endanger human health or safety or the environment.

(d) Termination of a variance. Any variance may be terminated if the secretary finds that:

- (1) the person is in violation of any requirement, condition, schedule or limitation of the variance;
- (2) operation under the variance does not meet the minimum requirements established by state or federal law or rules and regulations; or
- (3) operation under the variance is unreasonably threatening human health or safety or the environment. Written notice of termination shall be provided to the person granted the variance.

(e) Emergency variances. If an incident involving hazardous waste requires immediate action to protect human health or safety or the environment, an emergency variance may be granted by the department from all or any specific requirement of these rules and regulations. The emergency variance shall remain in effect until the incident no longer presents an immediate hazard to human health or safety or the environment. (Authorized by and implementing K.S.A. 1983 Supp. 65-3431, as amended by L. 1984, ch. 240, sec. 2; effective May 1, 1982; amended, T-85-42, Dec. 19, 1984.)

## Article 35.—RADIATION

### PART 1—GENERAL

**28-35-133. Persons protected.** These regulations state the requirements that shall be applied in the use of all radiation, radiation machines, and radioactive materials to ensure the maximum protection of the public health and the maximum safety to all persons at, or in the vicinity of, the place of use, storage, or

(continued)

disposal of sources of radiation. These regulations are intended to be consistent with the best use of radiation machines and radioactive materials, and to encourage the constructive uses of radiation. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607, effective Jan. 1, 1970; amended May 1, 1976; amended, T-85-43, Dec. 19, 1984.)

**28-35-134. Persons regulated and exempted.** Except as otherwise specified, the regulations shall apply to all persons who receive, possess, use, transfer, own or acquire any source of radiation. However, nothing in these regulations shall apply to any person to the extent that the person is subject to regulation by the United States nuclear regulatory commission. Regulation by the secretary of source material, by-product material, and special nuclear material in quantities not sufficient to form a critical mass is subject to the provisions of the agreement between the department and the U.S. nuclear regulatory commission and to part 150 of the commission's regulations (10 CFR Part 150), as in effect on January 29, 1982. The provisions of part 4 of these regulations shall not limit the exposure of patients to radiation for the purpose of diagnosis or therapy, by persons licensed to practice one or more of the healing arts within the authority granted to them by the Kansas healing arts statutes, or by persons licensed to practice dentistry or podiatry within the authority granted to them by Kansas licensing laws applying to dentists and podiatrists. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended May 1, 1976; amended, T-85-43, Dec. 19, 1984.)

**28-35-135. Definitions.** As used in these regulations:

(a) "Accelerator produced material" means any material made radioactive by excluding it in a particle accelerator.

(b) "Act" means the "nuclear energy development and radiation control act," K.S.A. 48-1601 *et seq.*, as amended.

(c) "Agreement state" means any state with which the United States nuclear regulatory commission enters, or has entered, into an effective agreement under Section 274b of the atomic energy act of 1954, as amended (73 Stat. 689), as in effect on November 1, 1982.

(d) "Airborne radioactive material" means any radioactive material dispersed in the air in the form of dusts, fumes, mists, vapors, or gases.

(e) "Areas":

(1) "Airborne radioactive area" means:

(A) any room, enclosure, or operating area in which airborne radioactive material exists in concentrations in excess of the amounts specified in K.A.R. 28-35-232, Appendix A, Table I, Column 1, and any amendment of that rule and regulation; or

(B) any room, enclosure, or operating area in which airborne radioactive material exists in concentrations which, when averaged over the number of hours in any week during which individuals are in the area, exceed 25 percent of the amounts specified in K.A.R.

28-35-232, Appendix A, Table I, Column 1, and any amendment of that rule and regulation.

(2) "Controlled area" means any area the access to which is controlled by the licensee or registrant for the purpose of protecting individuals from exposure to radiation and radioactive material. Controlled area shall not mean any area used as residential quarters. A separate room or rooms in a residential building may be set apart as a controlled area.

(3) "High radiation area" means any area which is accessible to individuals, in which there exists radiation at such levels that an individual could receive, in any one hour, a dose to the whole body in excess of 100 millirems.

(4) "Radiation area" means any area which is accessible to individuals, in which there exists radiation at such levels that an individual could receive:

(A) in any one hour, a dose to the whole body in excess of five millirems; or

(B) in any five consecutive days, a dose to the whole body in excess of 100 millirems.

(5) "Uncontrolled area" means any area, the access to which is not controlled by the licensee or registrant for the purpose of protecting individuals from exposure to radiation and radioactive material, and any area used as residential quarters.

(f) "Calendar quarter" means not less than 12 nor more than 14 consecutive weeks. The first calendar quarter of each year shall begin in January and subsequent calendar quarters shall be arranged so that no day is included in more than one calendar quarter and no day in any one year is omitted from inclusion within a calendar quarter. No licensee or registrant shall change the method of determining calendar quarters for purposes of these regulations except at the beginning of a calendar year.

(g) "Curie" means a unit of measurement of radioactivity. One curie (Ci) is that quantity of radioactive material which decays at the rate of  $3.7 \times 10^{10}$  disintegrations per second (dps). Commonly used submultiples of the curie are the millicurie and the microcurie. One millicurie (mCi) = 0.001 curie =  $3.7 \times 10^7$  dps. One microcurie ( $\mu$ Ci) = 0.000001 curie =  $3.7 \times 10^4$  dps.

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

(i) "Depleted uranium" means source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium shall not include special nuclear material.

(j) "Dose" means an absorbed dose or dose equivalent, as appropriate.

(1) "Absorbed dose" means the energy imparted to matter by ionizing radiation per unit mass of irradiated material at the place of interest. The special unit of absorbed dose is the rad.

(2) "Dose equivalent" means a quantity that expresses, on a common scale for all radiation, a measure of the postulated effect on a given organ. It is defined as the absorbed dose in rads times certain modifying factors. The special unit of dose equivalent is the rem.

(3) "Occupational dose" means any dose received

by an individual in any controlled area or in the course of the individual's employment when the individual's duties involve exposure to radiation. It shall not include any dose received by an individual if the exposure to radiation is for the purpose of diagnosis or therapy of that individual by persons licensed to practice one or more of the healing arts, dentistry, or podiatry.

(4) "Rad" means the unit of absorbed radiation dose. One rad is the dose corresponding to the absorption of 100 ergs per gram. One millirad (mrad) equals 0.001 rad.

(5) "Rem" means a measure of the dose of any radiation to the body tissue in terms of its estimated biological effects relative to an exposure of one roentgen (R) of X-rays or gamma rays. One millirem (mrem) equals 0.001 rem. For the purpose of these regulations, any of the following is considered to be equivalent to one rem:

- (A) One roentgen due to X-rays or gamma rays;
- (B) One rad due to X-rays, gamma rays, or beta particles;
- (C) 0.1 rad due to neutrons or high energy protons;
- (D) 0.05 rad due to particles heavier than protons and with sufficient energy to reach the lens of the eye; or
- (E)  $14 \times 10^6$  neutrons per square centimeter, or in accordance with the following table if the energy of the neutrons is known:

Neutron energy (MeV)	Number of neutrons per square centimeter equivalent to a dose of one rem
Thermal	$970 \times 10^6$
.0001	$720 \times 10^6$
.005	$820 \times 10^6$
.02	$400 \times 10^6$
.1	$120 \times 10^6$
.5	$43 \times 10^6$
1.0	$26 \times 10^6$
2.5	$29 \times 10^6$
5.0	$26 \times 10^6$
7.5	$24 \times 10^6$
10	$24 \times 10^6$
10 to 30	$14 \times 10^6$

(6) "Exposure" means the quotient of dQ by dm. "dQ" is the absolute value of the total charge of the ions of one sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a volume element of air having mass "dm" are completely stopped in air. [The special unit of exposure is the roentgen (R).]\* One roentgen equals  $2.58 \times 10^4$  coulombs/kilogram of air.

(7) "Exposure rate" means the exposure per unit of time, such as R/min or mR/hr.

(k) "Dose commitment" means the total radiation dose to a part of the body that will result from retention in the body of radioactive material. For purposes of estimating the dose commitment, it is assumed that, from the time of intake, the period of exposure to retained material will not exceed 50 years.

(l) "Half-life" means the time required for any given radioisotope to decay to one-half of its original activity.

(m) (1) "Healing arts" means the activities authorized pursuant to K.S.A. 65-2801 *et seq.*, and any amendments to those statutes.

(2) "Dentistry" means the activities authorized pursuant to K.S.A. 65-1421 *et seq.*, and any amendments to those statutes.

(3) "Podiatry" means the activities authorized pursuant to K.S.A. 65-2001 *et seq.*, and any amendments to those statutes.

(n) "Human use" means the intentional internal or external administration of radiation or radioactive material to any individual.

(o) "Individual" means any human being.

(p) "Inspection" means an official examination or observation including, but not limited to, tests, surveys, and monitoring to determine compliance with rules, regulations, orders, requirements and conditions of the department.

(q) "Installation" means the location where one or more sources of radiation are used, operated, or stored.

(r) "Interlock" means a device for precluding access by an individual to an area of radiation hazard without warning, either by preventing admission, or by automatically removing the hazard.

(s) "License" means a license issued pursuant to these regulations, except where otherwise specified.

(t) "Licensee" means any person who is licensed in accordance with these regulations and the act.

(u) "Particle accelerator" means any machine capable of accelerating electrons, protons, deuterons or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of one MeV.

(v) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this or any other state or political subdivision or agency thereof. The term includes also any legal successor, representative, agent or agency of the foregoing, other than the United States nuclear regulatory commission, or any successor thereto, and other than federal government agencies licensed by the United States nuclear regulatory commission, or any successor thereto.

(w) "Personnel monitoring equipment" means any device designed to be carried or worn by an individual and used to measure the exposure of that individual to radiation.

(x) "Pharmacist" means any individual registered under K.S.A. 65-1626 *et seq.*, and any amendments to those statutes, to practice pharmacy.

(y) "Physician" means any individual licensed to practice the healing arts pursuant to K.S.A. 65-2869 or 65-2870, or any amendments to these statutes.

(z) "Protective barrier" means a barrier of attenuating materials used to reduce radiation exposure to the required degree.

(1) "Primary protective barrier" means a barrier of attenuating materials used to reduce the useful X-ray beam to the required degree.

(2) "Secondary protective barrier" means a barrier sufficient to attenuate stray radiation to the required degree.

(aa) "Qualified expert" means, with reference to radiation protection, a person having the knowledge

(continued)

and training to measure ionizing radiation, to evaluate safety techniques, and to advise regarding radiation protection needs. With reference to the calibration of radiation therapy equipment, it means a person having, in addition to the above qualifications, training and experience in the clinical applications of radiation physics to radiation therapy.

(bb) "Radiation."

(1) "Ionizing radiation" means gamma rays and X-rays, alpha and beta particles, high speed electrons, neutrons, and other nuclear particles;

(2) "nonionizing radiation" means sound or radio waves, or visible, infrared, or ultra-violet light.

(cc) "Radiation safety officer" means a person directly responsible for radiation protection.

(dd) "Radioactivity" means the disintegration of unstable atomic nuclei by the emission of radiation.

(ee) "Radiographer" means any individual who performs non-medical radiographic operations or who, in attendance at the site where those radiographic operations are being performed, personally supervises the operations and is responsible to the licensee or registrant or both for assuring compliance with the requirements of regulations or the conditions of the license or both.

(ff) "Radiographer's assistant" means any individual who, under the personal supervision of a radiographer, uses radiation machines, radiographic exposure devices, sealed sources, or related handling tools or survey instruments, in industrial radiography.

(gg) Radiographic devices.

(1) "Radiographic exposure device" means any instrument with a sealed source fastened or contained in the instrument in which the sealed source or shielding of the source may be moved or otherwise changed from a shielded to unshielded position for purposes of making a radiographic exposure.

(2) "Source changer" means a device designed and used for replacement of sealed sources in radiographic exposure devices, including those also used for transporting and storage of sealed sources.

(3) "Shielded position" means the location within the radiographic exposure device or storage container which, by manufacturer's design, is the proper location for storage of the sealed source.

(hh) "Radiography (non-medical)."

(1) "Industrial radiography" means the examination of the macroscopic structure of materials by nondestructive methods utilizing sources of radiation.

(2) "Cabinet radiography using radiation machines" means industrial radiography, using radiation machines, which is conducted in an enclosed, interlocked cabinet such that the radiation machine will not operate unless all openings are securely closed, and in which the cabinet is so shielded that every location on the exterior meets conditions for an uncontrolled area as specified in K.A.R. 28-35-214, and any amendment to that rule and regulation.

(A) "Cabinet x-ray system" means an x-ray system with the x-ray tube installed in an enclosure (termed "cabinet") which, independently of existing architectural structures except the floor on which it may be placed, is intended to contain at least that portion of a material being irradiated, provide radiation attenuation, and exclude personnel from its interior during generation of x-rays. Included are all x-ray systems

designed primarily for the inspection of carry-on baggage at airline, railroad, and bus terminals, and in similar facilities. An x-ray tube used within a shielded part of a building, or x-ray equipment which may temporarily or occasionally incorporate portable shielding, is not considered a cabinet x-ray system.

(B) "Certified cabinet x-ray system" means a cabinet x-ray system which has been certified in accordance with 21 CFR 1010.2 as being manufactured and assembled pursuant to the provisions of 21 CFR 1020.40.

(3) "Shielded room radiography using radiation machines" means industrial radiography using radiation machines which:

(A) is conducted in an enclosed room, the interior of which is not occupied during radiographic operations;

(B) is so shielded that every location on the exterior meets conditions for an uncontrolled area as specified in K.A.R. 28-35-214, and any amendment to that rule and regulation; and

(C) is only accessible through openings which are interlocked so that the radiation machine will not operate unless all openings are securely closed.

(4) "Permanent radiographic installation" means a shielded installation or structure designed or intended for radiography and in which radiography is regularly performed.

(ii) "Registrable item" means any radiation machine as defined in subsection (pp)(2) of this rule and regulation.

(jj) "Registrant" means any person who is registered with the department and is legally obligated to register with the department pursuant to these regulations and the Act.

(kk) "Registration" means completing and filing forms required by these regulations with the department in accordance with these regulations.

(ll) "Regulations of the U.S. department of transportation" means the regulations in 49 CFR Parts 100-189, as in effect on December 31, 1982.

(mm) "Research and development" means:

(1) theoretical analysis, exploration, or experimentation; or

(2) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and development, as used in these regulations, does not include the internal or external administration of radiation or radioactive materials to any individual.

(nn) "Sealed source" means any radioactive material that is permanently encased in a container or matrix designed to prevent the leakage or escape of such radioactive material under foreseeable conditions of use and wear.

(oo) "Stray radiation" means the sum of leakage and scattered radiation.

(1) "Leakage radiation" means all radiation, except the useful beam, coming from within the source housing.

(2) "Scattered radiation" means radiation that, during passage through matter, has been deviated in direction.

(pp) "Source of radiation" means any material, de-

vice, or equipment emitting, or capable of producing, radiation.

(1) "Radioactive material" means any material, in any chemical or physical form, which emits radiation spontaneously.

(A) "By-product material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to radiation incident to the process of producing or utilizing special nuclear material.

(B) "Source material" means:

(i) uranium or thorium, or any combination thereof, in any physical or chemical form; or

(ii) ores which contain, by weight, 0.05 percent or more of uranium, thorium or any combination thereof. Source material shall not include special nuclear material.

(C) "Special nuclear material in quantities not sufficient to form a critical mass" means:

(i) uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235;

(ii) uranium enriched in the isotope uranium-235 in quantities not exceeding 200 grams of contained U-233;

(iii) plutonium not exceeding 200 grams; or

(iv) any combination of these special nuclear materials in accordance with the following formula:

$$\frac{\text{grams of contained U-235}}{350} + \frac{\text{grams of contained U-233}}{200} + \frac{\text{gram of Pu}}{200} \leq 1$$

The sum of such ratios for all of the kinds of special nuclear material in combination shall not exceed "1" (i.e. unity).

(D) "Natural radioactivity" means radioactivity of naturally occurring nuclides.

(2) "Radiation machine" means:

(A) any device which is primarily intended to produce, and is capable of producing, ionizing radiation as defined in subsection (bb) of this rule and regulation; or

(B) any device which is not primarily intended to, but does, produce ionizing radiation at a level greater than 0.5 mR/hr at any point five centimeters from its surface. Radiation machine shall not mean any device which produces ionizing radiation only by use of radioactive materials.

(qq) "Special form" means any of the following physical forms of licensed material of any transport group:

(1) Material, in solid form, having no dimension less than 0.5 millimeter or at least one dimension greater than five millimeters, which does not melt, sublime, or ignite in air at a temperature of 1,000°F, does not shatter or crumble if subjected to the percussion test described in Appendix B of this part, and is not dissolved or converted into dispersible form to the extent of more than 0.005 percent by weight by immersion for one week in water at 68°F. or in air at 86°F.; or

(2) Material, securely contained in a capsule, having no dimension less than 0.5 millimeter or at least one dimension greater than five millimeters, which will retain its contents if subjected to the tests prescribed in Appendix B of this part, and which is constructed of materials which do not melt, sublime, or ignite in air at 1,475°F., and do not dissolve or

convert into dispersible form to the extent of more than 0.005 percent by weight by immersion for one week in water at 68°F. or in air at 86°F.

(rr) "Storage container" means a device in which radioactive materials are transported or stored.

(ss) "Survey" means an evaluation of the radiation hazard incident to the production, use, release, disposal, or presence of sources of radiation under a specific set of conditions. When appropriate, such evaluation includes a physical survey of the location of materials or equipment or both and measurements of levels of radiation or concentrations of radioactive materials present.

(tt) "Test" means a method for determining the characteristics or condition of sources of radiation or components of the sources.

(uu) "These regulations" mean K.A.R. 28-35-133 to 28-35-337, inclusive, and any amendments to those rules and regulations.

(vv) "Transport group" means any one of seven groups into which radionuclides in normal form are classified, according to their toxicity and their relative potential hazard in transport, in Appendix A of this part.

(1) Any radionuclide not specifically listed in one of the groups in Appendix A is assigned to one of the groups in accordance with the following table:

Radionuclide	Radioactive Half-life		
	0 to 1000 days	1000 days to 10 <sup>6</sup> years	Over 10 <sup>6</sup> years
Atomic number 1-81	Group III	Group II	Group III
Atomic number 82 and over	Group I	Group I	Group III

(2) For mixtures of radionuclides the following shall apply:

(A) If the identity and respective activity of each radionuclide are known, the permissible activity of each radionuclide shall be such that the sum, for all groups present, of the ratio between the total activity for each group to the permissible activity for each group will not be greater than unity.

(B) If the groups of the radionuclides are known but the amount in each group cannot be reasonable determined, the mixture shall be assigned to the most restrictive group present.

(C) If the identity of all or some of the radionuclides cannot be reasonably determined, each of those unidentified radionuclides shall be considered as belonging to the most restrictive group which cannot be positively excluded.

(D) Mixtures consisting of a single radioactive decay chain where the radionuclides are in the naturally occurring proportions shall be considered as consisting of a single radionuclide. The group and activity shall be that of the first member present in the chain, except that if a radionuclide "X" has a half-life longer than that of the first member and an activity greater than that of any other member, including the first, at any time during transportation, the transport group of the nuclide "X" and the activity of the mixture shall be the maximum activity of that nuclide "X" during transportation.

(continued)

(ww) "U.S. department of energy" means the department of energy established by the department of energy organization act (public law 95-91, August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 *et seq.*), to the extent that the department exercises functions formerly vested in the U.S. atomic energy commission under the energy reorganization act of 1974 (public law 93-438, October 11, 1974, 88 Stat. 1233 at 1237, effective January 19, 1975) and retransferred to the secretary of energy pursuant to section 301(a) of the department of energy organization act (public law 95-91, August 4, 1977, 91 Stat. 565 at 577-578, 42 U.S.C. 7151, effective October 1, 1977).

(xx) "Unrefined and unprocessed ore" means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or refining.

(yy) "Useful beam" means that part of the radiation which passes through a window, aperture, cone, or other collimating device.

(zz) "Whole body," as used in K.A.R. 28-35-162 and 28-35-212, and any amendments to those rules and regulations, means entire human body, or the head and trunk, active blood-forming organs, the gonads, or lenses of the eyes. This definition is not applicable to the phrase "skin of the whole body."

(aaa) "Worker" means an individual engaged in work under a license or registration or both issued by the department and controlled by a licensee or registrant or both. Worker shall not include any licensee or registrant.

(bbb) "X-ray equipment standard definitions."

(1) "Accessible surface" means the external surface of the enclosure or housing provided by the manufacturer.

(2) "Added filter" means the filter added to the inherent filtration.

(3) "Aluminum equivalent" means the thickness of aluminum (type 1100 alloy) affording the same attenuation, under specified conditions, as the material in question. The nominal chemical composition of type 1100 aluminum alloy is 99.00 percent minimum aluminum, 0.12 percent copper.

(4) "Attenuation block" means a block or stack, having dimensions of 20 cm by 20 cm by 3.8 cm, of type 1100 aluminum alloy or other materials having equivalent attenuation.

(5) "Automatic exposure control" means a device which automatically controls one or more technique factors in order to obtain, at a preselected location or locations, a required quantity of radiation. (See also "Phototimer.")

(6) "Beam axis" means a line from the source through the centers of the X-ray fields.

(7) "Changeable filters" means any filter, exclusive of inherent filtration, which can be removed from the useful beam through any electronic, mechanical or physical process.

(8) "Contact therapy" means that the X-ray tube port is put in contact with, or in five centimeters of, the surface being treated.

(9) "Control panel" means that part of the X-ray control upon which are mounted the switches, knobs, pushbuttons, and other hardware necessary for manually setting the technique factors.

(10) "Deadman switch" means a switch constructed

so that circuit closing can be maintained only by continuous pressure by the operator.

(11) "Diagnostic-type tube housing" means an X-ray tube housing constructed so that the leakage radiation, at a distance of one meter from the target, does not exceed 100 milliroentgens in one hour when the tube is operated at its maximum rated continuous tube current and maximum rated tube potential.

(12) "Diagnostic X-ray system" means an X-ray system designed for irradiation of any part of the human body for the purpose of diagnosis or visualization.

(13) "Entrance exposure rate" means the roentgens per unit time at the point where the center of the useful beam enters any individual.

(14) "Filter" means material placed in the path of the useful beam of X-rays to absorb, preferentially, the less penetrating radiations.

(15) "Fluoroscopic imaging assembly" means a component which comprises a reception system in which X-ray photons produce a fluoroscopic image. It includes equipment housings, electrical interlocks if any, the primary protective barrier, and structural material providing linkage between the image receptor and the diagnostic source assembly.

(16) "Gonadal shield" means a protective barrier for the testes or ovaries.

(17) "Half-value layer (HVL)" means the thickness of specified material which attenuates the beam of radiation to an extent that the exposure rate is reduced to one half of its original value. In this definition the contribution of all scattered radiation, other than any which might be present initially in the beam concerned, is deemed to be excluded.

(18) "Image intensifier" means a device which converts, instantaneously by means of photoemissive surfaces and electronic circuiting, an X-ray pattern into a light pattern of greater intensity than would have been provided by the original X-ray pattern.

(19) "Image receptor" means any device, such as a fluorescent screen or radiographic film, which transforms incident X-ray photons into a visible image or into another form which can be made into a visible image by further transformations.

(20) "Inherent filtration" means the filtration permanently in the useful beam including the window of the X-ray tube and any permanent tube or source enclosure.

(21) "Kilovolts peak (kVp)" means the same as "peak tube potential."

(22) "Lead equivalent" means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.

(23) "Leakage radiation" means radiation emanating from the diagnostic or therapeutic source assembly except for:

(A) the useful beam; and

(B) radiation produced when the exposure switch or timer is not activated.

(24) "Leakage technique factors" means the technique factors associated with the tube housing assembly which are used in measuring leakage radiation. They are defined as follows:

(A) For capacitor energy storage equipment, the maximum rated number of exposures in an hour for

operation at the maximum rated peak tube potential, with the quantity of charge per exposure being 10 millicoulombs (mAs) or the minimum obtainable from the unit, whichever is larger;

(B) for field emission equipment rated for pulsed operation, the maximum rated number of X-ray pulses in an hour for operation at the maximum rated peak tube potential; and

(C) for all other equipment, the maximum rated continuous tube current for the maximum rated peak tube potential.

(25) "Peak tube potential" means the maximum value of the potential differences across the X-ray tube during an exposure.

(26) "Phototimer" means a method for controlling radiation exposures to image receptors by limiting the amount of radiation which reaches a radiation monitoring device or devices. The radiation monitoring device or devices are part of an electronic circuit which controls the duration of time the tube is activated. (See also "Automatic exposure control.")

(27) "Position indicating device (PID)" means a device on dental X-ray equipment used to indicate the beam position and to establish a definite source to surface (skin) distance. It may or may not incorporate or serve as a beam-limiting device.

(28) "Protective apron" means an apron made of radiation absorbing materials, used to reduce radiation exposure.

(29) "Protective glove" means a glove made of radiation absorbing materials used to reduce radiation exposure.

(30) "Radiograph" means an image receptor on which the image is created directly or indirectly by an X-ray pattern, which results in a permanent record.

(31) "Radiographic imaging system" means any system whereby a permanent or semi-permanent image is recorded on an image receptor by the action of ionizing radiation.

(32) "Recording" means producing a permanent form of an image resulting from X-ray photons such as film or video tape.

(33) "Source" means the focal spot of the X-ray tube.

(34) "Shutter" means a device, generally of lead, fixed to an X-ray tube housing to intercept the useful beam.

(35) "Source-image receptor distance (SID)" means the distance from the source to the center of the input surface of the image receptor.

(36) "Spot film" means a radiograph which is made during a fluoroscopic examination to permanently record conditions which exist during that fluoroscopic procedure.

(37) "Therapeutic-type tube housing" means:

(A) For X-ray equipment not capable of operating at 500 kVp or above, an X-ray tube housing so constructed that the leakage radiation, at a distance of one meter from the source, does not exceed one roentgen in an hour when the tube is operated at its maximum rated continuous current for the maximum rated tube potential; and

(B) For X-ray equipment capable of operating at 500 kVp or above, an X-ray tube housing so constructed that the leakage radiation, at a distance of one meter

from the source, does not exceed 0.1 percent of the useful beam dose rate at one meter from the source for any of its operating conditions.

(C) In either case, areas of reduced protection are acceptable providing the average reading over any 100 cm<sup>2</sup> area, at one meter distance from the source, does not exceed the values given in paragraphs (A) or (B), above.

(38) "Tube" means an X-ray tube, unless otherwise specified.

(39) "Visible area" means that portion of the input surface of the image receptor over which incident X-ray photons produce a visible image.

(40) "X-ray equipment" means an X-ray system, subsystem, or component thereof, which may be either mobile or stationary.

(A) "Mobile X-ray equipment" means X-ray equipment mounted on a permanent base with wheels or casters or both for moving while completely assembled.

(B) "Stationary X-ray equipment" means X-ray equipment which is installed in a fixed location.

(41) "X-ray field" means that area of the intersection of the useful beam and any one of the set of planes parallel to and including the plane of the image receptor, whose perimeter, as established by the beam limiting device, is the locus of points at which the exposure rate is one-fourth of the maximum in the intersection.

(42) "X-ray system" means an assemblage of components for the controlled production of X-rays. It includes, at a minimum, an X-ray high-voltage generator, an X-ray control, a tube housing assembly, a beam limiting device, and supporting structures. Additional components which function with the system are considered integral parts of the system.

(43) "X-ray tube" means any electron tube which is designed for the conversion of electrical energy into X-ray energy.

(44) "X-ray, analytical."

(A) "Analytical X-ray equipment" means equipment used for X-ray diffraction or fluorescence analysis.

(B) "Analytical X-ray system" means a group of local and remote components utilizing X-rays to determine the elemental composition, or to examine the microstructure, of materials. "Local components" include those that are struck by X-rays such as radiation source housings, port and shutter assemblies, collimators, sample holders, cameras, goniometers, detectors and shielding. "Remote components" include power supplies, transformers, amplifiers, readout devices, and control panels.

(C) "Fail-safe characteristics" means a design feature which causes beam port shutters to close, or otherwise prevents emergence of the primary beam, upon the failure of a safety or warning device.

(D) "Normal operating procedures" mean operating procedures for conditions suitable for analytical purposes with shielding and barriers in place. These do not include maintenance procedures, but do include routine alignment procedures. Routine and emergency radiation safety considerations are part of these procedures.

(E) "Open-beam configuration" means an analytical

(continued)

cal X-ray system in which an individual could accidentally place some part of the individual's body in the primary beam path during normal operation.

(F) "Primary beam" means ionizing radiation which passes through an aperture of the source housing by a direct path from the X-ray tube or a radioactive source located in the radiation source housing.

(ccc) "Secretary" means the secretary of the department of health and environment. (Authorized by K.S.A. 1984 Supp. 48-1607; implementing K.S.A. 1984 Supp. 48-1603, 48-1607; effective January 1, 1970; amended May 1, 1976; amended, T-85-43, Dec. 19, 1984.)

**28-35-136. Communications.** All communications concerning these regulations shall be addressed to:

Department of Health & Environment  
Bureau of Air Quality and Radiation Control  
Attention: Radiation Control  
Topeka, Kansas 66620

(Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended Jan. 1, 1972; amended May 1, 1976; amended, T-85-43, Dec. 19, 1984.)

**28-35-137. Records.** Each licensee or registrant shall keep records showing the receipt, transfer, and disposal of all sources of radiation, and any other records specifically required by these regulations. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-138. Inspections.** (a) Each licensee or registrant shall afford, at reasonable times, the secretary or the secretary's duly authorized representative the opportunity to inspect sources of radiation and the premises and installations in which such sources of radiation are used or stored.

(b) Each licensee or registrant, upon reasonable notice, shall make available, for inspection by the secretary or the secretary's duly authorized representative records maintained pursuant to these regulations. (Authorized by K.S.A. 1984 Supp. 48-1607; implementing K.S.A. 1984 Supp. 48-1607, 48-1609; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-139. Testing and surveys.** (a) Each licensee or registrant shall make, or cause to be made, those surveys that are necessary for the licensee or registrant to comply with these regulations.

(b) Each licensee or registrant shall perform, upon instructions from the department, or shall permit the department to perform, such reasonable tests as the department deems appropriate or necessary, including, but not limited to, tests of:

- (1) Sources of radiation;
- (2) installations in which sources of radiation are used or stored;
- (3) radiation detection and monitoring instruments; and
- (4) other equipment and devices employed during use or storage of licensed or registered sources of radiation. (Authorized by and implementing K.S.A.

1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-140. Exemptions.** (a) *General provision.* The secretary, upon application for an exemption or upon the secretary's own initiative, may grant exemptions or exceptions from the requirements of these regulations, if it is determined that the exemption will not result in an undue hazard to public health and safety, or to property.

(b) *Carriers.* Common and contract carriers, freight forwarders, and warehousemen, who are subject to the rules and regulations of the U.S. department of transportation or the U.S. postal service (39 CFR Parts 14 and 15), shall be exempt from these regulations to the extent that they transport or store sources of radiation in the regular course of their carriage for another. Private carriers who are subject to the rules and regulations of the U.S. department of transportation shall be exempt from these regulations to the extent that they transport sources of radiation. Common, contract, and private carriers who are not subject to the rules and regulations of the U.S. department of transportation or the U.S. postal service shall be subject to applicable sections of these regulations.

(c) *U.S. department of energy contractors and U.S. nuclear regulatory commission contractors.* Any U.S. department of energy contractor or subcontractor and any U.S. nuclear regulatory commission contractor or subcontractor operating within this state shall be exempt from these regulations to the extent that the contractor or subcontractor, under the contract, receives, possesses, uses, transfers or acquires sources of radiation, and the contractor or subcontractor is included in one of the following categories:

(1) Prime contractors performing work for the U.S. department of energy at U.S. government-owned or controlled sites, including the transportation of sources of radiation to or from such sites and the performance of contract services during temporary interruptions of such transportation;

(2) prime contractors of the U.S. department of energy performing research in, or development, manufacture, storage, testing or transportation of, atomic weapons or components of atomic weapons;

(3) prime contractors of the U.S. department of energy using or operating nuclear reactors or other nuclear devices in a United States government-owned vehicle or vessel; and

(4) any other prime contractor or subcontractor of the U.S. department of energy or the U.S. nuclear regulatory commission when the secretary determines that, under the terms of the contract or subcontract, there is adequate assurance the work can be accomplished without undue risk to the public health and safety. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-141. Additional requirements.** At the time of registration, at the time of action upon application for license or amendment to the license, or upon inspection, the department shall specify any requirements or conditions of use, or both, that are necessary

to ensure compliance with these regulations under the particular usage to which the licensee or registrant proposes to put the source of radiation. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-142.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective Jan. 1, 1970; amended May 1, 1976; revoked, T-85-43, Dec. 19, 1984.)

**28-35-143. Appendix A—Transport grouping of radionuclides.**

Element <sup>1</sup>	Radionuclide <sup>2</sup>	Group
Actinium (89)	Ac-277	I
	Ac-228	I
Americium (95)	Am-241	I
	Am-243	I
Antimony (51)	Sb-122	IV
	Sb-124	III
	Sb-125	III
Argon (18)	Ar-37	VI
	Ar-41	II
Arsenic (33)	Ar-41 (uncompressed) <sup>3</sup>	V
	As-73	IV
	As-74	IV
	As-76	IV
Astatine (85)	As-77	IV
	At-211	III
Barium (56)	Ba-131	IV
	Ba-133	II
	Ba-140	III
Berkelium (97)	Bk-249	I
Beryllium (4)	Be-7	IV
Bismuth (83)	Bi-206	IV
	Bi-207	III
	Bi-210	II
	Bi-212	III
Bromine (35)	Br-82	IV
	Bromine (35)	IV
Cadmium (48)	Cd-109	IV
	Cd-115m <sup>4</sup>	III
	Cd-115	IV
Calcium (20)	Ca-45	IV
	Ca-47	IV
Californium (98)	Cf-249	I
	Cf-250	I
	Cf-252	I
Carbon (6)	C-14	IV
	Cerium (59)	IV
Cesium (55)	Ce-141	IV
	Ce-143	IV
	Ce-144	III
	Cs-131	IV
	Cs-134m <sup>4</sup>	III
	Cs-134	III
	Cs-135	IV
Cs-136	IV	
Chlorine (17)	Cs-137	III
	Cl-36	III
	Cl-38	IV
Chromium (24)	Cr-51	IV
	Cobalt (27)	III
Cobalt (27)	Co-56	III
	Co-57	IV
	Co-58m <sup>4</sup>	IV
	Co-58	IV
	Co-60	III
	Copper (29)	Cu-64
Curium (96)	Cm-242	I
	Cm-243	I
	Cm-244	I
	Cm-245	I
	Cm-246	I
	Dysprosium (66)	Dy-154
	Dy-165	IV
	Dy-166	IV

Erbium (68)	Er-169	IV	
	Er-171	IV	
Europium (63)	Eu-150	III	
	Eu-152m <sup>3</sup>	IV	
	Eu-152	III	
	Eu-154	II	
	Eu-155	IV	
Fluorine (9)	F-18	IV	
	Gadolinium (64)	IV	
Gadolinium (64)	Gd-153	IV	
	Gd-159	IV	
	Gallium (31)	Ga-67	III
Gallium (31)	Ga-72	IV	
	Germanium (32)	Ge-71	IV
Gold (79)	Au-193	III	
	Au-194	III	
	Au-195	III	
	Au-196	IV	
	Au-198	IV	
	Au-199	IV	
Hafnium (72)	Hf-181	IV	
	Holmium (67)	Ho-166	IV
Hydrogen (1)	H-3 (see tritium)		
	Indium (49)	In-133m <sup>4</sup>	IV
Indium (49)	In-114m <sup>4</sup>	III	
	In-115m <sup>4</sup>	IV	
	In-115	IV	
	Iodine (53)	I-124	III
I-125		III	
I-126		III	
I-129		III	
I-131		III	
I-132		IV	
I-133		III	
I-134		IV	
I-135		IV	
Iridium (77)		Ir-190	IV
		Ir-192	III
	Ir-194	IV	
Iron (26)	Fe-55	IV	
	Fe-59	IV	
Krypton (36)	Kr-85m <sup>4</sup>	III	
	Kr-85m <sup>4</sup> (uncompressed) <sup>3</sup>	V	
	Kr-85	III	
	Kr-85 (uncompressed) <sup>3</sup>	IV	
	Kr-87	II	
Lanthanum (57)	Kr-87 (uncompressed) <sup>3</sup>	V	
	La-140	IV	
	Lead (32)	Pb-203	IV
Lead (32)	Pb-210	II	
	Pb-212	II	
	Lutetium (71)	Lu-172	III
Lutetium (71)	Lu-177	IV	
	Magnesium (12)	Mg-28	III
Manganese (25)	Mn-52	IV	
	Mn-54	IV	
	Mn-56	IV	
Mercury (80)	Hg-197m <sup>4</sup>	IV	
	Hg-197	IV	
	Hg-203	IV	
Mixed fission products (MFP)		II	
	Molybdenum (42)	Mo-99	IV
Neodymium (60)	Nd-147	IV	
	Nd-149	IV	
Neptunium (93)	Np-237	I	
	Np-239	I	
	Nickel (28)	Ni-56	III
Nickel (28)	Ni-59	IV	
	Ni-63	IV	
	Ni-65	IV	
	Niobium (41)	Nb-93m <sup>4</sup>	IV
		Nb-95	IV
Niobium (41)	Nb-97	IV	
	Nb-97	IV	
	Osmium (76)	Os-185	IV
		Os-191m <sup>4</sup>	IV
Osmium (76)	Os-191	IV	
	Os-193	IV	

(continued)

Palladium (46)	Pd-103	V			
	Pd-109	IV			
Phosphorus (15)	P-32	IV	Therbiun (65)	Te-132	IV
Platinum (78)	Pt-191	IV		Tb-160	III
	Pt-193	IV		Tl-200	IV
	Pt-193m <sup>4</sup>	IV		Tl-201	IV
	Pt-197m <sup>4</sup>	IV		Tl-202	IV
	Pt-197	IV	Thorium (90)	Tl-204	III
Plutonium (94)	Pu-238 (F) <sup>5</sup>	I		Th-227	II
	Pu-239 (F) <sup>5</sup>	I		Th-228	I
	Pu-240	I		Th-230	I
	Pu-241 (F) <sup>5</sup>	I		Th-231	I
	Pu-242	I		Th-232	III
Polonium (84)	Po-210	I		Th-234	II
Potassium (19)	K-42	IV	Thulium (69)	Th-Natural	III
	K-43	III		Tm-168	III
Praseodymium (59)	Pr-142	IV		Tm-170	III
	Pr-143	IV		Tm-171	IV
Promethium (61)	Pm-147	IV	Tin (50)	Sn-113	IV
	Pm-149	IV		Sn-117m <sup>4</sup>	III
Protactinium (91)	Pa-230	I		Sn-121	III
	Pa-231	I	Tritium (1)	Sn-125	IV
	Pa-233	II		H-3	IV
Radium (88)	Ra-223	II		H-3 (as a gas, as a luminous paint, or absorbed on solid material)	VII
	Ra-224	II	Tungsten (74)	W-181	IV
	Ra-226	I		W-185	IV
	Ra-228	I		W-187	IV
Radon (86)	Rn-220	IV	Uranium (92)	U-230	II
	Rn-222	II		U-232	I
Rhenium (75)	Re-183	IV		U-233 (F) <sup>5</sup>	II
	Re-186	IV		U-234	II
	Re-187	IV		U-235 (F) <sup>5</sup>	III
	Re-188	IV		U-236	II
	Re-Natural	IV		U-238	III
Rhodium (45)	Rh-103m <sup>4</sup>	IV	Vanadium (23)	U-Natural	III
	Rh-105	IV		U-Enriched (F) <sup>5</sup>	III
Rubidium (37)	Rb-86	IV		U-Depleted	III
	Rb-87	IV		V-48	IV
	Rb-Natural	IV	Xenon (54)	V-49	III
Ruthenium (44)	Ru-97	IV		Xe-125	III
	Ru-103	IV		Xe-131m <sup>4</sup>	II
	Ru-105	IV		Xe-131m <sup>4</sup> (uncompressed) <sup>3</sup>	V
	Ru-106	III		Xe-133	III
Samarium (62)	Sm-145	III		Xe-133 (uncompressed) <sup>3</sup>	VI
	Sm-147	III		Xe-135	II
	Sm-151	IV		Xe-135 (uncompressed) <sup>3</sup>	V
	Sm-153	IV	Ytterbium (70)	Yb-175	IV
Scandium (21)	Sc-46	III	Yttrium (39)	Y-88	III
	Sc-47	IV		Y-90	IV
	Sc-48	IV		Y-91m <sup>4</sup>	III
Selenium (34)	Se-75	IV		Y-91	III
Silicon (14)	Si-31	IV		Y-92	IV
Silver (47)	Ag-105	IV		Y-93	IV
	Ag-110m <sup>4</sup>	III	Zinc (30)	Zn-65	IV
	Ag-111	IV		Zn-69m <sup>4</sup>	IV
Sodium (11)	Na-22	III		Zn-69	IV
	Na-24	IV	Zirconium (40)	Zr-93	IV
Strontium (38)	Sr-85m <sup>4</sup>	IV		Zr-95	III
	Sr-85	IV		Zr-97	IV
	Sr-89	III			
	Sr-90	II			
	Sr-91	III			
	Sr-92	IV			
Sulfur (16)	S-35	IV			
Tantalum (73)	Ta-182	III			
Technetium (43)	Tc-96m <sup>4</sup>	IV			
	Tc-96	IV			
	Tc-97m <sup>4</sup>	IV			
	Tc-97	IV			
	Tc-99m <sup>4</sup>	IV			
	Tc-99	IV			
Tellurium (52)	Te-125m <sup>4</sup>	IV			
	Te-127m <sup>4</sup>	IV			
	Te-127	IV			
	Te-129m <sup>4</sup>	III			
	Te-129	IV			
	Te-131m <sup>4</sup>	III			

1 Atomic number shown in parentheses.

2 Atomic mass number shown after the element symbol.

3 Uncompressed means at a pressure not exceeding one atmosphere.

4 Metastable state.

5 Fissile material.

(Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective May 1, 1976; amended, T-85-43, Dec. 19, 1984.)

PART 2—REGISTRATION OF RADIATION  
PRODUCING DEVICES

**28-35-144. Appendix B—Tests for special form licensed material.**

(a) "Free Drop" means releasing material, without

thrust, from a point 30 feet above a flat, essentially unyielding, horizontal surface, so that the material strikes the surface.

(b) "Percussion" means impacting material with the flat, circular end of a one inch diameter steel rod weighing three pounds, by releasing the steel rod a distance of forty inches above the surface of the material. The material shall be placed on a sheet of lead, of hardness number 3.5 to 4.5 on the Vickers scale, and not more than one inch thick, supported by a smooth, essentially unyielding surface.

(c) Heating: heating in air to a temperature of 1,475°F. and remaining at that temperature for a period of 10 minutes.

(d) Immersion: immersion for 24 hours in water at room temperature. The water shall be at pH 6—pH 8, with a maximum conductivity of 10 micromhos per centimeter. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective May 1, 1976; amended, T-85-43, Dec. 19, 1984.)

**28-35-152. Persons registered.** Any person possessing a registrable item shall register with the department in accordance with the rules and regulations in this part. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended May 1, 1976; amended, T-85-43, Dec. 19, 1984.)

**28-35-153. Initial registration.** Any person who is not registered and who acquires possession of a registrable item shall register with the department, within 30 days of the date of acquiring the item. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-154. Renewal of registration.** Each registrant shall reregister with the department. This registration shall be completed within 60 days of the date on which a registration form is sent to the registrant. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-155. Registration form.** Registration shall be made upon forms devised and furnished by the department. Each registrant shall provide all the information called for by the form and any additional information requested by the department. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-156. Separate installations.** Except as otherwise provided in K.A.R. 28-35-157, and any amendment to that rule and regulation, a separate registration form shall be completed for each installation. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-157. Special registration.** If the reporting of each installation, or other information called for, is impractical, the secretary, upon the written request of a person and upon a finding that the public health and safety would not be adversely affected, may approve registration in such special form as the secretary may prescribe. (Authorized by and implementing K.S.A.

1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-158. Report of change:** If a change is made on any x-ray equipment or other device producing radiation, or to any installation, so that information on file with the department is no longer accurate, the registrant shall notify the department, in writing, of the change, within 30 days of the date the change was made. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-159. Registration shall not imply approval.** A person shall not refer, in any form of advertisement, to the fact a registrable item is registered with the department, or state or imply that any installation registered with the department is approved by the department. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-160. Vendor notification.** Any distributor, retailer, or other person who sells, leases, transfers, or lends registrable items shall notify the department at 90 day intervals of:

(a) The names and addresses of persons who have received these items;

(b) the name of the manufacturer and model number of the source or device transferred; and

(c) the date on which the registrable item, or items, were transferred. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-161. Discontinuance of use.** If a registrant ceases to use a registrable item or items, for any reason, the registrant or the duly authorized representative of the registrant's estate shall give written notice to the department of the cessation of use. The notice shall be provided within 30 days of the date that the registrant ceases to use the registrable item or items, and shall state the date on which use of the item or items was discontinued and the manner in which the registrable item or items were disposed. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-162. Exclusion from registration.** The following equipment shall not be required to be registered:

(a) Electrical or electronic equipment, which:

- (1) is not intended primarily to produce radiation;
- (2) does not produce a radiation level greater than 0.5 mR/hr, at any point five centimeters from the surface; and

(3) is used or handled in such a manner that any individual cannot receive a dose to the whole body of 0.5 or more rems in a year, and

(b) radiation-producing equipment which is in transit or which is in storage incident to transit. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

(continued)

**28-35-163. Excluded possessors.** (a) Except as provided in subsection (b), a common carrier or contract carrier operating within this state who is in possession of a registrable item or items shall be exempt from the provisions of these regulations, if the carrier possesses the registrable item or items for another person, solely for the purpose of transporting or storing the item or items.

(b) Each common carrier or contract carrier shall be subject to the provisions of K.A.R. 28-35-228a and 28-35-229a, and any amendments of those rules and regulations. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-164. Temporary use or storage of registrable items.** Any person desiring to bring a registrable item into this state for temporary use or storage shall give written notice to the department before bringing the item into this state. The notice shall be given to the department at least five days before the item is to be brought into this state and shall include the type and energy of the radiation source, the nature and scope of the use or storage, the proposed duration of use or storage, and the exact location where the radiation source is to be used or stored. If, in a specific case, the five day period would impose an undue hardship on the person, the person, upon application by letter or telegram to the department, may obtain permission to proceed at an earlier date.

In addition, the person shall:

(a) Comply with all applicable regulations for the department; and

(b) supply the department with such other information as it may request.

If a registrable item is kept in the state for a total of 30 days, in a period of 12 consecutive months, it shall be considered to be permanently located in the state and shall be subject to the registration provision of these regulations. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-165. Disposal of registered items.** Whenever any person disposes of a registrable item, or items, by any method, the person, or in the event of the person's death, the representative of the person's estate, shall give written notice to the department of the disposal within 30 days. The notice shall include the date of disposal, the method of disposal, and, if transferred to another person, the name and address of the recipient. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-166. Shoe fitting, fluoroscopic machines; prohibition of.** No person shall install, operate or maintain any device or machine within the state of Kansas which uses fluoroscopic, X-ray or radiation principles for the purpose of fitting shoes. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-211.** (Authorized by K.S.A. 48-1607; effective Jan. 1, 1970; revoked, T-85-43, Dec. 19, 1984.)

**28-35-211a. Persons to whom the standards apply.** This part establishes standards for protection against hazards associated with the use of radiation. Except as otherwise specifically provided, this part applies to all licensees and registrants. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984.)

**28-35-211b. General provisions.** (a) Any incorporation by reference in the rules and regulations in this part of any standard, procedure or requirement in 10 CFR Parts 20 or 30 shall constitute a full adoption by reference of the section so referenced, including any notes and appendices associated with the section, unless otherwise specifically stated in these rules and regulations.

(b) Definitions. As used in provisions adopted from 10 CFR Parts 20 and 30, the following terms shall be defined as follows.

(1) "United States" means the state of Kansas.

(2) "Commission" means the secretary of the Kansas department of health and environment.

(3) "Director of the appropriate nuclear regulatory commission inspection and enforcement regional office listed in appendix D," "director, office of nuclear material safety and safeguards," and "administrator of the appropriate NRC regional office listed in appendix D of this part" mean the bureau manager of the bureau of air quality and radiation control.

(4) "Restricted area" means a controlled area.

(5) "Unrestricted area" means an uncontrolled area.

(6) "The act" means the Kansas nuclear energy development and radiation control act.

(7) "Licensed material" means naturally occurring, accelerator-produced source, special nuclear or by-product material received, possessed, used or stored under a general or specific license issued by the department.

(8) "Licensee" means licensee or registrant.

(9) "Form NRC-4" means department form RH-4.

(10) "Form NRC-5" means department form RH-5.

(11) "Form NCR-314" means department form RH-23.

(12) "This part" means K.A.R. 28-35-211a through 28-35-233a, inclusive. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984.)

#### PART 4—STANDARDS FOR PROTECTION AGAINST RADIATION

**28-35-212.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective Jan. 1970; amended May 1, 1976; revoked, T-85-43, Dec. 19, 1984.)

**28-35-212a. Occupational dose limits from external exposure.** 10 CFR sections 20.101 and 20.102, and subsection (a) of section 20.104, as in effect on July 1, 1984, are adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984.)

**28-35-213.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective Jan. 1970; amended May 1, 1976; revoked, T-85-43, Dec. 19, 1984.)

**28-35-213a.** Exposure of individuals to concentrations of radioactive materials in controlled areas. 10 CFR section 20.103 and subsection (b) of section 20.104, as in effect on July 1, 1984, are adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984.)

**28-35-214.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective Jan. 1, 1970; amended May 1, 1976; revoked, T-85-43, Dec. 19, 1984.)

**28-35-214a.** Permissible levels of radiation in uncontrolled areas. Subsections (a) and (b) of 10 CFR section 20.105, as in effect on July 1, 1984, are adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984.)

**28-35-215.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective Jan. 1, 1970; amended May 1, 1976; revoked, T-85-43, Dec. 19, 1984.)

**28-35-215a.** Release of concentrations in effluents to uncontrolled areas. Subsections (a) through (f), inclusive, of 10 CFR section 20.106, as in effect on July 1, 1984, are adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984.)

**28-35-216.** (Authorized by K.S.A. 48-1607; effective Jan. 1, 1970; revoked, T-85-43, Dec. 19, 1984.)

**28-35-216a.** Leak tests. (a) Each sealed radioactive source possessed under the provisions of a specific license, other than hydrogen 3 (tritium), that has a half-life greater than 30 days and that is in any form other than gas, shall be tested for leakage, contamination or both prior to initial use, and at intervals specified by the license. If there is reason to suspect that a sealed source might have been damaged, it shall be tested for leakage before further use.

(b) Leak tests shall be capable of detecting the presence of 0.005 microcurie of removable contamination. Any test conducted pursuant to subsection (a) of this regulation which reveals the presence of 0.005 microcurie or more of removable contamination shall be considered evidence that the sealed source is leaking. The licensee shall immediately withdraw the source from use and shall cause it to be decontaminated and repaired or to be disposed of in accordance with K.A.R. 28-35-190. When sealed sources are permanently mounted in devices or equipment, tests for contamination and leakage may be made by wiping appropriate accessible surfaces and measuring these wipes for transferred contamination. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984.)

**28-35-217.** (Authorized by K.S.A. 48-1607; effective Jan. 1, 1970; revoked, T-85-43, Dec. 19, 1984.)

**28-35-217a.** Personnel monitoring. 10 CFR section 20.202, as in effect on July 1, 1984, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984.)

**28-35-218.** (Authorized by K.S.A. 48-1607; effective Jan. 1, 1970; revoked, T-85-43, Dec. 19, 1984.)

**28-35-218a.** Bioassays. 10 CFR section 20.108, as in effect on July 1, 1984, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984.)

**28-35-219.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective Jan. 1, 1970; amended May 1, 1976; revoked, T-85-43, Dec. 19, 1984.)

**28-35-219a.** Caution signs and labels. (a) Subsections (a), (b), (c)(1), (d), (e); and (f) of 10 CFR section 20.203, as in effect on July 1, 1984, are adopted by reference.

(b) All radiation machines shall be labeled in a manner which cautions individuals that radiation is produced when the machine is being operated. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984.)

**28-35-220.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective Jan. 1, 1970; amended Jan. 1, 1972; amended May 1, 1976; revoked, T-85-43, Dec. 19, 1984.)

**28-35-220a.** Entrance or access point control devices. Paragraphs (2) through (7), inclusive, of subsection (c) of 10 CFR section 20.203, as in effect on July 1, 1984, are adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984.)

**28-35-221.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective May 1, 1976; revoked, T-85-43, Dec. 19, 1984.)

**28-35-221a.** Procedures for picking up, receiving and opening packages. 10 CFR section 20.205, as in effect on July 1, 1984, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984.)

**28-35-222.** (Authorized by K.S.A. 48-1607; effective Jan. 1, 1970; revoked, T-85-43, Dec. 19, 1984.)

**28-35-222a.** Security of sources of radiation in uncontrolled areas. 10 CFR section 20.207, as in effect on July 1, 1984, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984.)

**28-35-223.** (Authorized by K.S.A. 48-1607; effective Jan. 1970; revoked, T-85-43, Dec. 19, 1984.)

**28-35-223a.** Waste disposal: general requirements. (a) Except as provided in subsection (b) of this regulation, a licensee shall not dispose of any radioactive material except:

(1) By transfer to an authorized recipient as provided in K.A.R. 28-35-190; or

(2) as authorized by K.A.R. 28-35-215a, 28-35-224a or 28-35-225a.

(b) Any person may apply to the department for approval of proposed procedures to dispose of radioactive material in a manner not otherwise authorized in this part. Each applicant shall include a description of the radioactive material, including the quantities and kinds of radioactive material and the levels of radioactivity involved, and the proposed manner and

(continued)

conditions of disposal. The application, when appropriate, shall also include an analysis and evaluation of pertinent information as to the nature of the environment, including topographical, geological, meteorological, and hydrological characteristics; usage of ground and surface waters in the general area; the nature and location of other potentially affected facilities; and procedures to be observed to minimize the risk of unexpected or hazardous exposures. The department shall not approve any application for a license to receive radioactive material from other persons for disposal on land not owned by a state or the federal government.

(c) (1) Any licensee may dispose of the following licensed material without regard to its radioactivity;

(A) 0.05 microcuries or less of hydrogen-3 or carbon-14, per gram of medium, used for liquid scintillation counting; and

(B) (1) 0.05 microcuries or less of hydrogen-3 or carbon-14, per gram of animal tissue averaged over the weight of the entire animal. Tissue shall not be disposed of under this section in a manner that would permit its use either as food for humans or as animal feed.

(2) This section shall not relieve any licensee of the duty to maintain records showing the receipt, transfer and disposal of such radioactive material as specified in K.A.R. 28-35-227a.

(3) This section shall not relieve any licensee of the duty of complying with other applicable federal, state and local regulations governing any other toxic or hazardous property of these materials. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607, effective, T-85-43, Dec. 19, 1984.)

**28-35-224.** (Authorized by K.S.A. 48-1607; effective Jan. 1, 1970; revoked, T-85-43, Dec. 19, 1984.)

**28-35-224a.** Disposal by release into sanitary sewerage systems. 10 CFR section 20.303, as in effect on July 1, 1984, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984.)

**28-35-225.** (Authorized by K.S.A. 48-1607; effective Jan. 1, 1970; revoked, T-85-43, Dec. 19, 1984.)

**28-35-225a.** Alternative disposal procedures. Subsection (a) of 10 CFR section 20.302, as in effect on July 1, 1984, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984.)

**28-35-226.** (Authorized by K.S.A. 48-1607; effective Jan. 1, 1970; revoked, T-85-43, Dec. 19, 1984.)

**28-35-226a.** Treatment or disposal by incineration. 10 CFR section 20.305, as in effect on July 1, 1984, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984.)

**28-35-227.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective Jan. 1, 1970; amended Jan. 1, 1972; amended May 1, 1976; revoked, T-85-43, Dec. 19, 1984.)

**28-35-227a.** Records. (a) Each licensee or registrant shall maintain accurate and complete written records showing:

(1) The results of each survey required by K.A.R. 28-35-139, disposals made pursuant to K.A.R. 28-35-224a, 28-35-225a, and 28-35-223a(b), and each leak test required by these regulations or the license, in units as set forth in these regulations and as set forth in the license (curies, millicuries, microcuries, rem or milirem);

(2) each receipt, transfer, or disposal of sources of radiation;

(3) radiation exposures of all individuals for whom personnel monitoring is required under K.A.R. 28-35-217a. Exposure records shall be kept on department form RH-5, or a clear and legible record containing all the information required on said form, and shall be for periods of time not exceeding one calendar quarter; and

(4) results of bioassays pursuant to K.A.R. 28-35-218a.

(b) Records of the results of surveys and monitoring which must be maintained pursuant to subsection (a) of this regulation shall be preserved for two years after completion of the survey except that the following records shall be maintained until the department authorized their disposition:

(1) Records of the results of surveys to determine compliance with K.A.R. 28-35-213a;

(2) in the absence of personnel monitoring data, records of the results of surveys to determine external radiation dose; and

(3) records of the results of surveys used to evaluate the release of radioactive effluents to the environment.

(c) Records of disposal of licensed material made pursuant to K.A.R. 28-35-223a, 28-35-224a, or 28-35-225a shall be maintained until the department authorizes their disposition.

(d) Records which must be maintained pursuant to this part may be the original, a reproduced copy, or microform if that reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage.

(e) If there is a conflict between the regulations in this part, and a license condition, or other written department approval or authorization pertaining to the retention period for the same type of record, the retention period specified in the regulations in this part for those records shall apply unless the department, pursuant to K.A.R. 28-35-227a, has granted a specific exemption from the record retention requirements specified in the regulations in this part.

(f) The discontinuance of or curtailment of activities does not relieve the licensee or registrant of responsibility for retaining all records required by this regulation. A licensee or registrant may, however, request the department to accept those records. The acceptance of the records by the department relieves the licensee or registrant of subsequent responsibility only in respect to the preservation of those records, as

required by this regulation. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984.)

**28-35-228.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective Jan. 1, 1970; amended Jan. 1, 1972; amended May 1, 1976; revoked, T-85-43, Dec. 19, 1984.)

**28-35-228a.** Reports of theft or loss of sources of radiation. Paragraphs (a)(1) and (a)(2)(ii) and subsections (b) through (d), inclusive, of 10 CFR section 20.402, as is effective on July 1, 1984, are adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984.)

**28-35-229.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective Jan. 1, 1970; amended Jan. 1, 1972; amended May 1, 1976; revoked, T-85-43, Dec. 19, 1984.)

**28-35-229a.** Notification of incidents. Subsections (a), (b) and (c), and paragraph (d)(2) of 10 CFR section 20.403, as in effect on July 1, 1984, are adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984.)

**28-35-230.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective Jan. 1, 1970; amended Jan. 1, 1972; amended May 1, 1976; revoked, T-85-43, Dec. 19, 1984.)

**28-35-230a.** Reports of overexposures and excessive levels and concentrations. Subsections (a) and (b) of 10 CFR section 20.405, as in effect on July 1, 1984, are adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984.)

**28-35-231.** (Authorized by K.S.A. 48-1607; effective Jan. 1, 1970; revoked, T-85-43, Dec. 19, 1984.)

**28-35-231a.** Vacating installations. Licensees, before vacating any installation which may have been contaminated by radioactive material as a result of the licensee's activities, shall, no less than 15 days prior to such vacating, notify the department in writing of intent to vacate. The department may require that the licensee decontaminate, or have decontaminated, the installation to a degree consistent with subsequent use as an uncontrolled area, the details to be specified in each case by the department. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984.)

**28-35-232.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective Jan. 1, 1970; amended May 1, 1976; revoked, T-85-43, Dec. 19, 1984.)

**28-35-232a.** Appendix A; Protection factors for respirators. 10 CFR Part 20-Appendix A, as in effect on July 1, 1984, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984.)

**28-35-233.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective Jan. 1, 1970; amended Jan. 1, 1972; amended May 1, 1976; revoked, T-85-43, Dec. 19, 1984.)

**28-35-233a.** Appendix B; Concentrations in air and water above natural background. 10 CFR Part 20-Appendix B, as in effect on July 1, 1984, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984.)

**28-35-234.** (Authorized by K.S.A. 1975 Supp. 48-1607; effective May 1, 1976; revoked, T-85-43, Dec. 19, 1984.)

**28-35-234a.** Appendix C; Quantities. (a) Exempt from requirement for labeling, section 28-35-219a, and (b) for calculation of limitations for disposal under provisions of 28-35-224a and 28-35-225a. 10 CFR Part 20-Appendix C, as in effect July 1, 1984, is adopted by reference. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective, T-85-43, Dec. 19, 1984.)

PART 6—USE OF SEALED RADIOACTIVE SOURCES IN THE HEALING ARTS

**28-35-261.** Persons required to meet the requirements of this part. The provisions of this part apply to all licensees who use sealed sources in medicine or veterinary medicine, and are in addition to, and not in substitution for, other applicable provisions of these regulations. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-262.** Interstitial, intracavatory, and superficial applications. (a) Accountability, storage and transit.

(1) Except as otherwise specifically authorized by the department, each licensee shall keep a record of the issue and return of all sealed sources to their place of storage.

(2) Each licensee shall conduct a quarterly physical inventory to account for all sources and devices received and possessed. Records of the inventories shall be maintained for inspection by the department and shall include the quantities and kinds of radioactive material, location of sources and devices, and the date of the inventory.

(3) Each licensee shall follow the radiation safety and handling instructions approved by the department, and furnished by the manufacturer on the label attached to the source, device or permanent container thereof, or in the leaflet or brochure which accompanies the source or device. Each licensee shall maintain the instructions in a legible and conveniently available form.

(4) Each licensee shall assure that needles or standard medical applicator cells containing radium-226, or cobalt-60 as wire, are not opened while in the licensee's possession, unless specifically authorized by the department.

(b) Testing sealed sources for leakage and contamination.

(1) All sealed sources containing more than 100 microcuries of radioactive material with a half-life greater than 30 days, except iridium-192 seeds encased in nylon ribbon, shall be tested for contamination and leakage. The tests shall be conducted at intervals not to exceed six months or at other intervals

(continued)

that are approved by the department, and described by the manufacturer on the label attached to the source, device, or permanent container thereof, or in the leaflet or brochure which accompanies the source or device. Each source or device shall be tested prior to its first use unless the supplier furnishes a certificate that the source or device has been tested within six months of such use.

(2) Leak tests shall be capable of detecting the presence of 0.005 microcurie of radioactive material on the test sample, except that in the case of radium, the test shall be capable of detecting the escape of radon at the rate of 0.001 microcurie per 24 hours. The test sample shall be taken from the source or from the surfaces of the device in which the source is mounted or stored.

(3) Leak test results shall be recorded in units of microcuries and maintained for inspection by the department.

(4) If any leak test conducted pursuant to subsection (b)(1) reveals the presence of 0.005 microcurie or more of removable contamination, or in the case of radium, the escape of radon at a rate equal to or greater than 0.001 microcurie per 24 hours, the licensee shall immediately withdraw the source from use and cause it to be decontaminated and repaired or to be disposed of in accordance with department regulations. A report shall be filed with the department, within five days of the test. The report shall describe the equipment involved, state the test results, and indicate the corrective action taken.

(c) Radiation surveys.

(1) The maximum radiation level at a distance of one meter from the patient in whom brachytherapy sources have been inserted shall be determined by measurement and calculation. This radiation level shall be entered on the patient's chart and on signs as required under subsection (d) of this rule and regulation.

(2) The radiation levels in the patient's room and the surrounding area shall be determined, recorded, and maintained for inspection by the department.

(3) The licensee shall require that patients treated with cobalt-60, cesium-137, iridium-192, or radium-226 implants remain hospitalized until a source count and a radiation survey of the patient confirm that all implants have been removed.

(d) Signs and records.

(1) In addition to the requirements of K.A.R. 28-35-219a, and amendments to that rule and regulation, the bed and cubicle or room of each brachytherapy patient of a hospital shall be marked with a sign indicating the presence of brachytherapy sources. This sign shall incorporate the radiation symbol and specify that radionuclide, the activity, date, and the individual or individuals to contact for radiation safety instructions.

(2) The following information shall be included on the patient's chart:

(A) The radionuclide administered, number of sources, activity in millicuries and time and date of administration;

(B) the exposure rate at one meter from the source, the time the determination was made, and by whom;

(C) the radiation symbol; and

(D) the precautionary instructions necessary to assure that the exposure of individuals does not exceed that permitted under K.A.R. 28-35-212a, and amendments to that rule and regulation. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended May 1, 1976; amended, T-85-43, Dec. 19, 1984.)

**28-35-263. Teletherapy. (a) Equipment.**

(1) The housing shall be constructed so that, at one meter from the source, the maximum exposure rate does not exceed 10 milliroentgens per hour when the beam control mechanism is in the "off" position. The average dose rate measured at a representative number of points about the housing, each at one meter from the source, shall not exceed two milliroentgens per hour.

(2) Certification shall be obtained from the manufacturer or distributor that the leakage radiation measured at one meter from the source, when the beam control mechanism is on the "on" position, does not exceed the larger of one roentgen per hour or 0.1 percent of the useful beam.

(3) Adjustable or removable beam-defining diaphragms shall allow transmission of not more than five percent of the useful beam exposure rate.

(4) Each beam control mechanism shall be of a positive design, capable of acting in any position of the housing. In addition, each beam control mechanism shall have an automatic closing device and shall be designed so that it can be returned manually to the "off" position with a minimum risk of exposure.

(5) Each closing device shall be designed to return automatically to the "off" position in the event of any breakdown or interruption of the activating force and to stay in the "off" position until activated from the control panel.

(6) When any door to the treatment room is opened, the beam control mechanism shall, automatically and rapidly, restore the unit to the "off" position and cause it to remain there until the unit is reactivated from the control panel.

(7) There shall be, at the housing and at the control panel, a warning device that plainly indicates whether the beam is on or off.

(8) All equipment shall be provided with a locking device to prevent unauthorized use.

(9) Each control panel shall be provided with a timer that automatically terminates the exposure after a preset time.

(10) Each source shall be tested for leakage and contamination in accordance with K.A.R. 28-35-262(b), and amendments to that rule and regulation. The tests for leakage may be made by wiping accessible surfaces of the housing port or collimator while the source is in the "off" position and measuring these wipes for transferred contamination.

(b) Shielding.

(1) Primary protective barriers shall be provided for any area that the useful beam may strike when using the largest possible diaphragm opening. The barriers

shall extend at least one foot beyond the useful beam for any possible orientation.

(2) Secondary protective barriers shall be provided for all occupied areas exposed to leakage or scattered radiation.

(3) Provision shall be made to permit continuous observation of patients during irradiation.

(c) Operation.

(1) No individual who is occupationally exposed to radiation shall be in the treatment room during irradiation unless that individual is the patient.

(2) No individual, other than the patient, shall be in the treatment room, except when clinically necessary.

(d) Calibration measurements.

(1) Full calibration measurements shall be performed by licensees on each teletherapy unit:

(A) Prior to the first use of the unit for treating humans;

(B) prior to treating humans;

(i) whenever spot-check measurements indicate that the output value differs by more than 5 percent from the value obtained at the last full calibration corrected mathematically for physical decay;

(ii) following replacement of the radiation source or following reinstallation of the teletherapy unit in a new location; and

(iii) following any repair of the teletherapy unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and

(C) at intervals not exceeding one year.

(2) Full calibration measurements shall include determinations of:

(A) The exposure rate or dose rate to an accuracy within plus or minus three percent for the range of field of distances, or for the axis distance used in radiation therapy;

(B) the congruence between the radiation field and the field indicated by the light beam localizing device;

(C) the uniformity of the radiation field and its dependence upon the orientation of the useful beam;

(D) timer accuracy; and

(E) the accuracy of all distance measuring devices used for treating humans.

(3) Full calibration measurements shall be made in accordance with the procedures recommended by the scientific committee on radiation dosimetry of the American association of physicists in medicine as prescribed in Physics in Medicine and Biology, Vol. 16, No. 3, 1971, pp. 379-396.

(4) The exposure rate or dose rate values shall be corrected mathematically for physical decay for intervals not exceeding one month.

(5) Full calibration measurements and physical decay corrections shall be performed by an expert who meets the requirements prescribed in K.A.R. 28-35-135(aa), and amendments to that rule and regulation.

(6) Full calibration measurements shall be performed using a dosimetry system that has been calibrated in accordance with standards approved by the department. The dosimetry system shall have been

calibrated within the previous two years and after any servicing that may have affected system calibration.

(e) Spot check.

(1) Spot check measurements shall be performed at intervals not exceeding one month.

(2) Spot check measurements shall include determinations of:

(A) Timer accuracy;

(B) the congruence between the radiation field and the field indicated by the light beam localizing device;

(C) the accuracy of all distance measuring devices used for treating humans;

(D) the exposure rate, dose rate, or a quantity related in a known manner to these rates for one typical set of operating conditions; and

(E) the difference between the measurement made in paragraph (e)(2)(D) and the anticipated output, expressed as a percentage of the anticipated output.

(3) Spot check measurements shall be performed by an expert who meets the requirements prescribed in K.A.R. 28-35-135(aa), and amendments to that rule and regulation.

(4) Spot check measurements shall be performed using a dosimetry system that has been calibrated in accordance with subsection (d)(6) or by using a dosimetry system used solely for spot check measurements, calibrated by direct intercomparison with a system that has been calibrated in accordance with subsection (d)(6). This alternative calibration method shall have been performed within the previous one year and after each servicing that may have affected system calibration. Dosimetry systems calibrated by this alternative method shall not be used for full calibration measurements. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended May 1, 1976; amended, T-85-43, Dec. 19, 1984.)

#### PART 7—SPECIAL REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHIC OPERATIONS

**28-35-273.** (Authorized by K.S.A. 48-1607; effective Jan. 1, 1970; revoked, T-85-43, Dec. 19, 1984.)

**28-35-274. Applicability of this part.** (a) The regulations in this part shall apply to all persons who utilize sources of radiation for industrial radiography, except those persons who are licensed or registered in the state of Kansas to engage in the practice of the healing arts, dentistry, podiatry, or veterinary medicine. The requirements of this part shall be in addition to, and not in substitution for, other requirements of these regulations.

(b) The requirements of K.A.R. 28-35-275, 28-35-277, 28-35-279, 28-35-280, and 28-35-287 shall apply to sealed radioactive sources only. The requirements of the other regulations of this part shall apply to both radiation machines and sealed radioactive sources. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-275. Limits on levels of radiation for radio-**

(continued)

**graphic exposure devices and storage containers.** Radiographic exposure devices measuring less than four inches from the sealed source storage position to any exterior surface of the device shall have no radiation level in excess of 50 milliroentgens per hour at six inches from any exterior surface of the device. Radiographic exposure devices measuring four or more inches from the sealed source storage position to any exterior surface of the device, and all storage containers for sealed sources or outer containers for radiographic exposure devices, shall have no radiation level in excess of 200 milliroentgens per hour at any exterior surface, or in excess of 10 milliroentgens per hour at one meter from any exterior surface. The radiation level emanating from a device or container shall be measured with the sealed source in the shielded position. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended Jan. 1, 1976; amended, T-85-43, Dec. 19, 1984.)

**28-35-276. Locking sources of radiation.** (a) Each source of radiation shall be provided with a lock, or an outer-locked container designed to prevent unauthorized or accidental exposure. Each source shall be kept locked at all times, except when under the direct surveillance of a radiographer or radiographer's assistant, or as may be otherwise authorized under K.A.R. 28-35-285. Each storage container and source changer shall be provided with a lock and kept locked when containing sealed sources, except when the container is under the direct surveillance of a radiographer or radiographer's assistant.

(b) Radiographic exposure devices, source changers, and storage containers, prior to being moved from one location to another and also prior to being secured at a given location, shall be locked and the sealed source placed in the shielded position. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-277. Storage precautions.** Locked radiographic exposure devices, storage containers and source changers shall be physically secured to prevent tampering or removal by unauthorized personnel. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-278. Radiation survey instruments.** (a) Each licensee or registrant shall maintain calibrated and operable radiation survey instruments to make physical radiation surveys as required by this part. The instrumentation required by this subsection shall have a range capable of measuring two milliroentgens per hour to one roentgen per hour, inclusive.

(b) Each radiation survey instrument shall be calibrated:

- (1) At energies appropriate for use;
- (2) at intervals not to exceed three months and after each instrument servicing;
- (3) such that accuracy within plus or minus 20 percent can be demonstrated; and
- (4) at two or more widely separated points, other than zero, on each scale.

(c) Records shall be maintained of these calibrations for two years after the calibration date. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-279. Leak testing, repair, tagging, opening, modification and replacement of sealed sources.** (a) The replacement of any sealed source fastened to, or contained in, a radiographic exposure device, leak testing, repair, tagging, opening, or any other action involving a sealed source shall be performed only by persons specifically authorized to do so by the department, the United States nuclear regulatory commission, or an agreement state.

(b) Each sealed source shall be tested for leakage at intervals not to exceed six months. In the absence of a certificate from a transferor that a leak test has been made within the six month period prior to transfer, the sealed source shall not be put into use until leak tested.

(c) The leak test shall be capable of detecting the presence of 0.005 microcuries of removable contamination. Leak tests shall be made, by wiping appropriate accessible surfaces and measuring the level of transferred contamination on the wipes. Records of leak test results shall be kept in units of microcuries and maintained for a period of two years.

(d) If any leak test reveals the presence of 0.005 microcuries or more of removable radioactive material, it shall be conclusively presumed that the sealed source is leaking. The licensee shall immediately withdraw the equipment involved from use and shall cause it to be decontaminated and repaired, or to be disposed of, in accordance with regulations of the department. Within five days after obtaining results of any leak test, the licensee shall file a report with the department describing the equipment involved, the test results, and the corrective action taken, if any.

(e) Any sealed source which is not fastened to, or contained in, a radiographic exposure device shall have permanently attached to it a durable tag, at least one inch square, bearing the radiation symbol described in K.A.R. 28-35-219a and, at least, the instructions: "Danger—Radioactive Material—Do Not Handle—Notify Civil Authorities if Found." (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended May 1, 1976; amended, T-85-43, Dec. 19, 1984.)

**28-35-280. Quarterly inventory.** Each licensee shall conduct a quarterly inventory to account for all radioactive material sources received or possessed by the licensee. The records of the inventories shall be maintained for a period of two years following the date of the inventory, and shall include the quantities and kinds of radioactive material inventoried, the location of radioactive material sources at the time of inventory, and the date the inventory was conducted. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-281. Utilization logs.** Each licensee or registrant shall maintain a log for each source of radiation which shall contain the following information:

(a) The make and model number, or a detailed description, of the source of radiation or storage container to which the log pertains;

(b) the name of the radiographer to whom the source or container is assigned;

(c) the plant or site where the source or container is used;

(d) the date or dates when the source or container is used; and

(e) the voltage, current, and exposure time for each radiographic exposure made with a radiation machine. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-282. Limitations.** (a) A licensee or registrant shall not permit any person to act as a radiographer, until that person:

(1) Has been instructed in the subjects listed in K.A.R. 28-35-289;

(2) has received copies of and been given instructions regarding the regulations contained in this part, the applicable sections of Part 4 and Part 10, the license or licenses issued to the licensee, and the licensee's or registrant's operating and emergency procedures;

(3) has demonstrated the competence to use the source of radiation, related handling tools, and survey instruments which are employed in the person's assignment; and

(4) has demonstrated comprehension of the matters referenced in this subsection, by successfully completing a written test and a field examination on those subjects. The test and field examination shall be reviewed and approved by the secretary.

(b) A licensee or registrant shall not permit any person to act as a radiographer's assistant, until that person:

(1) Has received copies of and been given instructions regarding the licensee's or registrant's operating and emergency procedures;

(2) has demonstrated the competence to use, under the personal supervision of a radiographer, the sources of radiation, related handling tools, and radiation survey instruments which are employed in the person's assignment; and

(3) has demonstrated comprehension of the matters referenced in this subsection by successfully completing a written or oral test and a field examination on those subjects. The test and examination shall be reviewed and approved by the secretary.

(c) When a radiographer's assistant uses radiographic exposure devices, sealed sources or related source handling tools, or when any such assistant conducts any of the radiation surveys required by K.A.R. 28-35-287(b) and (c) to determine that a sealed source has returned to the shielded position after an exposure, the radiographer's assistant shall be under the personal supervision of a radiographer. This personal supervision shall include:

(1) The radiographer's personal presence at the site where any sealed source is being used;

(2) The ability of the radiographer to give immediate assistance, if required; and

(3) Actual surveillance by the radiographer of the assistant's performance of the operations referred to in this subsection.

(d) Each licensee or registrant shall maintain records which indicate that the instruction and testing requirements of this rule and regulation have been met. These records shall be kept for a period of two years following the end of the year to which the records pertain. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended May 1, 1976; amended, T-85-43, Dec. 19, 1984.)

**28-35-283. Operating and emergency procedures.** The operating and emergency procedures of each licensee or registrant shall include instructions in at least the following areas:

(a) Proper and authorized handling and use of sources of radiation;

(b) methods of, and occasions for, conducting radiation surveys;

(c) methods of controlling access to areas where radiography is being performed;

(d) methods of, and occasions for, locking and securing sources of radiation;

(e) personnel monitoring and the use of personnel monitoring equipment, including steps that must be taken immediately by radiography personnel in the event a pocket dosimeter is found to be off-scale;

(f) transporting sources of radiation to field locations, including packing sources of radiation in a vehicle, posting of a vehicle in which a source of radiation is to be transported, and control of sources of radiation during transportation;

(g) procedures for minimizing exposure of individuals in the event of an accident;

(h) procedures for notifying proper persons in the event of an accident;

(i) maintenance of records; and

(j) inspection and maintenance of radiographic exposure devices and storage containers. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended Jan. 1, 1972; amended, T-85-43, Dec. 19, 1984.)

**28-35-284. Personnel monitoring control.** (a) A licensee or registrant shall not permit any individual to act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, the individual is wearing a film or TLD badge and a pocket dosimeter. Pocket dosimeters shall be capable of measuring doses ranging from zero to at least 200 milliroentgens. Each film or TLD badge shall be assigned to, and worn by, only one individual.

(b) Each pocket dosimeter shall be read and the dose shown by such reading shall be recorded daily. An individual's film or TLD badge shall be processed immediately if a pocket dosimeter is discharged beyond its range. The film or TLD badge reports received from the film badge processor, and records of pocket dosimeter readings, shall be maintained for inspection by the department.

(c) Pocket dosimeters shall be checked, at intervals

(continued)

not exceeding one year, for correct response to radiation. Acceptable dosimeters shall read within plus or minus 30 percent of the true radiation exposure. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended Jan. 1, 1972; amended, T-85-43, Dec. 19, 1984.)

**28-35-285. Security.** During each radiographic operation, the radiographer or radiographer's assistant shall maintain direct surveillance of the operation to protect against unauthorized entry into the high radiation area, except:

(a) When the high radiation area is equipped with a control device or an alarm system as described in K.A.R. 28-35-219a; or

(b) when the high radiation area is locked to protect against unauthorized or accidental entry. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-286. Posting.** Any area in which radiography is being performed shall be conspicuously posted in the manner required by K.A.R. 28-35-219a. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-287. Radiation surveys and survey records.**

(a) No radiographic operation shall be conducted unless calibrated and operable radiation survey instruments, as described in K.A.R. 28-35-278, are available and used at each site where radiographic exposures are made.

(b) A survey, with a radiation survey instrument, shall be made after each radiographic exposure to determine that the sealed source has been returned to its shielded position. The entire circumference of the radiographic exposure device shall be surveyed. If the radiographic exposure device has a source guide tube, the survey shall include the guide tube.

(c) Prior to securing any radiographic exposure device or storage container in the manner required by K.A.R. 28-35-276, a survey, with a radiation survey instrument, shall be made to determine that each sealed source is in the shielded position.

(d) Records shall be kept of the surveys performed to comply with this rule and regulation.

(e) (1) The licensee shall check for obvious defects in radiographic exposure devices, storage containers, and source changers prior to use each day the equipment is used.

(2) The licensee shall conduct a program for inspection and maintenance of radiographic exposure devices, storage containers, and source changers at intervals not to exceed three months, or prior to the first use after three months from the previous inspections, to assure proper functioning of the device, especially the components concerning radiation safety. All parts of each device shall be maintained in accordance with the manufacturer's specifications. Records of inspection and maintenance shall be maintained until the department authorizes the disposal of these records.

(3) If any inspection conducted pursuant to para-

graph (1) or (2) of this subsection reveals damage to any component of the device concerning radiation safety, the device shall not be used until fully repaired. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended Jan. 1, 1972; amended, T-85-43, Dec. 19, 1984.)

**28-35-288. Special requirements and exemptions for enclosed radiography.** (a) Systems for enclosed radiography, which are designed to allow admittance of individuals, shall:

(1) if not a certified cabinet x-ray system, comply with all applicable requirements of this part and K.A.R. 28-35-214a;

(2) if a certified cabinet x-ray system, comply with all applicable requirements of this part and 21 CFR 1020.40, as in effect on April 30, 1984; and

(3) be evaluated, at intervals not to exceed one year, to assure compliance with the applicable requirements specified in paragraphs (1) or (2). Records of these evaluations shall be maintained for a period of two years after the evaluation.

(b) Cabinet x-ray systems designed to exclude individuals shall be exempt from the requirements of this part with the following exceptions:

(1) Operating personnel shall be provided with either a film badge or a thermoluminescent dosimeter. Reports of the film badge or TLD analysis shall be made, and the results shall be maintained for inspection by the department.

(2) No registrant shall permit any individual to operate a cabinet x-ray system until that individual has received a copy of and instruction in the operating procedures for the unit and has demonstrated competence in its use. Records which demonstrate compliance with this paragraph shall be maintained for inspection by the department until disposition is authorized by the department.

(3) Tests for proper operation of high radiation area control devices or alarm systems, where applicable, shall be conducted and recorded in accordance with K.A.R. 28-35-289.

(4) The registrant shall perform an evaluation, at intervals not to exceed one year, to determine compliance with K.A.R. 28-35-214a. If such a system is a certified cabinet x-ray system, it shall be evaluated at intervals not to exceed one year to determine compliance with 21 CFR 1020.40, as in effect on April 30, 1984. Records of these evaluations shall be maintained for inspection by the department for a period of two years after the evaluation.

(c) Certified cabinet x-ray systems shall be maintained in compliance with 21 CFR 1020.40, as in effect on April 30, 1984, unless otherwise specified pursuant to K.A.R. 28-35-140(a).

(d) Permanent radiographic installations having high radiation area entrance controls of the types described in K.A.R. 28-35-220a shall also meet the following requirements:

(1) Each entrance that is used for personnel access to the high radiation area in a permanent radiographic installation shall have both visible and audible warning signals to warn of the presence of radiation.

(2) The visible signal shall be activated by radiation whenever the source is exposed. The audible signal shall be actuated when an attempt is made to enter the installation while the source is exposed.

(e) The control device or alarm system shall be tested for proper operation at the beginning of each period of use. Records of the tests shall be prepared quarterly, or prior to the first use thereafter. These records shall be maintained for inspection by the department until it authorizes their disposal. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended, T-85-43, Dec. 19, 1984.)

**28-35-289.** The following subjects shall be included in training radiographers.

- (a) Fundamentals of radiation safety.
  - (1) Characteristics of gamma and X-radiation;
  - (2) units of radiation dose (mrem) and quantity of radioactivity (curie);
  - (3) hazards of excessive exposure of radiation;
  - (4) levels of radiation from sources of radiation; and
  - (5) methods of controlling radiation dose;
- (A) Working time;
- (B) working distances; and
- (C) shielding.
- (b) Radiation detection instrumentation to be used.
  - (1) Use of radiation survey instruments;
- (A) Operation;
- (B) calibration; and
- (C) limitations;
- (2) survey techniques; and
- (3) use of personnel monitoring equipment;
- (A) Film or TLD badges; and
- (B) pocket dosimeters.
- (c) Radiographic equipment to be used.
  - (1) Remote handling equipment;
  - (2) radiographic exposure devices and sealed sources;
  - (3) storage containers; and
  - (4) operation and control of X-ray equipment.
- (d) The requirements of federal and state regulations.
- (e) The licensee's or registrant's written operating and emergency procedures.
- (f) Case histories of radiography accidents. (Authorized by and implementing K.S.A. 1984 Supp. 48-1607; effective Jan. 1, 1970; amended May 1, 1976; amended, T-85-43, Dec. 19, 1984.)

PART 10—NOTICES, INSTRUCTIONS AND REPORTS TO WORKERS: INSPECTIONS

**28-35-331.** Persons required to meet the requirements of this part. The requirements of this part apply to all persons who receive, possess, use, own or transfer material licensed by or registered with the department pursuant to part 2 or 3 of these regulations. (Authorized by K.S.A. 1984 Supp. 48-1607; implementing K.S.A. 1984 Supp. 48-1604, 48-1607, 48-1609; effective May 1, 1976; amended, T-85-43, Dec. 19, 1984.)

**28-35-332.** Posting of notices to workers. (a) Each licensee or registrant shall post current copies of the following documents:

- (1) The regulations in this part and part 4;
  - (2) the license, or certificate of registration, including any conditions on the license and any document or documents incorporated into the license by reference and also any amendment to the license;
  - (3) the operating procedures applicable to work under the license or registration; and
  - (4) any notice of violation involving radiological working conditions, any order issued pursuant to Part 1, and any response from the licensee or registrant.
- (b) If the posting of a document specified in paragraph (a)(1), (2), or (3) is not practicable, the licensee or registrant may post a notice which describes the document and states where it may be examined.
- (c) Department form RH-3 shall be posted by each licensee or registrant where individuals work in or frequent any portion of a controlled area.

(d) Documents, notices or forms shall be posted to allow individuals engaged in work under the license or registration to observe them on the way to or from any particular work location to which the document applies, shall be conspicuous, and shall be replaced if defaced or altered.

(e) Department documents posted pursuant to paragraph (a)(4) shall be posted within two working days after receipt of the documents from the department; the licensee's or registrant's response, if any, shall be posted within two working days after dispatch from the licensee or registrant. The documents shall remain posted for a minimum of five working days or until action correcting the violation has been completed, whichever is longer. (Authorized by K.S.A. 1984 Supp. 48-1607; implementing K.S.A. 1984 Supp. 48-1604, 48-1607, 48-1609; effective May 1, 1976; amended, T-85-43, Dec. 19, 1984.)

**28-35-333.** Instructions to workers. All individuals working in or frequenting any portion of a controlled area shall be:

- (a) Kept informed of the storage, transfer, or use of radioactive material or of radiation in the controlled area;
- (b) instructed in the health protection problems associated with exposure to radioactive material or radiation, precautions or procedures to minimize exposure, and in the purposes and functions of protective devices employed;
- (c) instructed in, and instructed to observe, to the extent within the worker's control, the provisions of these regulations and of any license which concern the protection of personnel from exposures to radiation or radioactive material;
- (d) informed of their responsibility to report promptly to the licensee or registrant any condition which has caused or may cause a violation of these regulations or a condition of a license, or which has caused or may cause unnecessary exposure to radiation or radioactive material;
- (e) instructed in the appropriate response to warnings made in the event of any unusual occurrence or malfunction that may involve exposure to radiation or radioactive material; and
- (f) informed of the radiation exposure reports which

(continued)

workers may request pursuant to K.A.R. 28-35-334, and any amendments to that rule and regulation. (Authorized by K.S.A. 1984 Supp. 48-1607; implementing K.S.A. 1984 Supp. 48-1604, 48-1607, 48-1609; effective May 1, 1976; amended, T-85-43, Dec. 19, 1984.)

**28-35-334. Notifications and reports to individuals.** (a) Radiation exposure data for an individual and the results of any measurements, analyses, and calculations of radioactive material deposited or retained in the body of an individual shall be reported to the individual as specified in this section. The information reported shall include data and results obtained pursuant to the requirements of these regulations, any order of the secretary or any license condition. Each notification and report shall:

- (1) Be in writing;
- (2) include the name of the licensee or registrant, the name of the individual, and the individual's social security number;
- (3) include the individual's exposure information; and
- (4) contain the following statement:

"This report is furnished to you under the provisions of Kansas Administrative Rule and Regulation 28-35-334. You should preserve this report for further reference."

(b) At the request of any worker, each licensee or registrant shall advise the worker annually of the worker's exposure to radiation or radioactive material as shown in records maintained by the licensee or registrant pursuant to K.A.R. 28-35-227a.

(c) At the request of a worker formerly engaged in work controlled by the licensee or registrant, each licensee or registrant shall furnish to the worker a report of the worker's exposure to radiation or radioactive material. The report shall be furnished within 30 days from the time the request is made, or within 30 days after the exposure of the individual has been determined by the licensee or registrant, whichever is later.

The report shall cover, within the period of time specified in the request, each calendar quarter in which the worker's activities involved exposure to radiation from radioactive material licensed by, or radiation machines registered with, the department. The report shall also include the dates and locations of work under the license or registration in which the worker participated during this period.

(d) When a licensee or registrant is required to report to the department any exposure of an individual to radiation or radioactive material, the licensee or the registrant shall also provide to the individual a report of the individual's exposure data included in the report. These reports shall be transmitted at a time not later than the transmittal to the department.

(e) At the request of a worker who is terminating employment with the licensee or registrant that involves exposure to radiation in a given calendar quarter, or at the request of a worker who, while employed by another person, is terminating assignment to work involving radiation dose in the li-

censee's facility in that calendar quarter, each licensee or registrant shall provide to the worker, or to the worker's designee, a written report regarding the radiation dose received by that worker from operations of the licensee or registrant during that specifically identified calendar quarter or fraction of the quarter. The report shall be provided at the worker's termination. The licensee or registrant may provide a written estimate of that dose if the finally determined personnel monitoring results are not available at that time. Estimated doses shall be clearly indicated as such. (Authorized by K.S.A. 1984 Supp. 48-1607; implementing K.S.A. 1984 Supp. 48-1604, 48-1607, 48-1609; effective May 1, 1976; amended, T-85-43, Dec. 19, 1984.)

**28-35-335. Presence of representatives of licensee or registrants and workers during inspection.** (a) Each licensee or registrant shall afford to the department, at all reasonable times, opportunity to inspect materials, machines, activities, facilities, premises, and records maintained by the licensee or registrant.

(b) During an inspection, department inspectors may consult privately with workers as specified in K.A.R. 28-35-336 and any amendment to that rule and regulation. The licensee or registrant may accompany department inspectors during other phases of an inspection.

(c) If, at the time of inspection, an individual has been authorized by the workers to represent them during department inspections, the licensee shall give the workers' representative an opportunity to accompany the inspectors during the inspection of physical working conditions.

(d) Each workers' representative shall be routinely engaged in work under control of the licensee or registrant and shall have received the instructions specified in K.A.R. 28-35-333 and any amendment of that rule and regulation.

(e) Different representatives of licensees or registrants and workers may accompany the inspectors during different phases of an inspection if there is no resulting interference with the conduct of the inspection. However, only one workers' representative at a time shall accompany the inspectors.

(f) With the approval of the licensee or registrant and the workers' representative, an individual who is not routinely engaged in work under control of the licensee or registrant shall be afforded the opportunity to accompany the department inspectors during the inspection of physical working conditions.

(g) Department inspectors may refuse to permit accompaniment by an individual who deliberately interferes with a fair and orderly inspection. If an area to be inspected is a restricted area, the workers' representative for that area shall be an individual previously authorized by the licensee or registrant to enter that area. (Authorized by K.S.A. 1984 Supp. 48-1607; implementing K.S.A. 1984 Supp. 48-1604, 48-1607, 48-1609; effective May 1, 1976; amended, T-85-43, Dec. 19, 1984.)

**28-35-336. Consultation with workers during inspections.** (a) Department inspectors may consult pri-

vately with workers concerning matters of occupational radiation protection and other matters related to the provisions of these regulations or any condition of a license, to the extent the inspectors deem necessary for the conduct of an effective and thorough inspection.

(b) During the course of an inspection, any worker may bring privately to the attention of the inspectors, either orally or in writing, any past or present condition which that worker has reason to believe may have contributed to or caused any violation of the act, these regulations, or any license condition, or any unnecessary exposure of an individual to radiation from licensed radioactive material or a registered radiation machine under the licensee's or registrant's control. Any such notice in writing shall state clearly the condition complained of and be signed by the worker.

(c) The provisions of 28-35-336 subsection (b) shall not be interpreted as authorizing disregard of instructions given pursuant to K.A.R. 28-35-333 and any amendments of that rule and regulation. (Authorized by K.S.A. 1984 Supp. 48-1607; implementing K.S.A. 1984 Supp. 48-1604, 48-1607, 48-1609; effective May 1, 1976; amended, T-85-43, Dec. 19, 1984.)

**28-35-337. Requests by workers for inspections.**

(a) Any worker or representative of workers who believes that a violation of the act, these regulations or a license conditions exists or has occurred in work under a license or registration with regard to radiological working conditions in which the worker is engaged may request an inspection by giving notice of the alleged violation to the department. Any such notice shall be in writing, shall set forth the specific grounds for the notice, and shall be signed by the worker or representative of the workers. A copy shall be provided to the licensee or registrant by the department no later than at the time of inspection except that, upon the request of the worker giving the notice, the worker's name and the name of individuals referred to shall not appear in the copy or on any record published, released, or made available by the department, except for good cause shown.

(b) If, upon receipt of the notice, the department determines that the complaint meets the requirements of subsection (a), and that there are reasonable grounds to believe that the alleged violation exists or has occurred, an inspection shall be made as soon as practicable, to determine if the alleged violation exists or has occurred. Inspections pursuant to this section need not be limited to matters referred to in the complaint.

(c) No licensee or registrant shall discharge or in any manner discriminate against any worker because the worker has filed any complaint, or instituted or caused to be instituted any proceeding under these regulations, or has testified or is about to testify in any proceeding, or because of the exercise by the worker on behalf of the worker or others of any option afforded by this part. (Authorized by K.S.A. 1984 Supp. 48-1607; implementing K.S.A. 1984 Supp. 48-1604, 48-1607, 48-1609; effective May 1, 1976; amended, T-85-43, Dec. 19, 1984.)

**28-35-338. Inspections not warranted; informal review.** (a) If the department determines, with respect to a complaint filed under K.A.R. 28-35-337, and any amendments to that rule and regulation that an inspection is not warranted because there are no reasonable grounds to believe that a violation exists or has occurred, the department shall notify the complainant in writing of that determination. The complainant may obtain a review of the determination by submitting a written statement of position to the secretary, who will provide the licensee or registrant with a copy of the statement by certified mail, excluding, at the request of the complainant, the name of the complainant. The licensee or registrant may submit an opposing written statement of position to the secretary, who will provide the complainant with a copy of that statement by certified mail. Upon the request of the complainant, the secretary or the secretary's designee may hold an informal conference in which the complainant and the licensee or registrant may orally present their views. An informal conference may also be held at the request of the licensee or registrant, but disclosure of the identity of the complainant shall be made only following receipt of written authorization from the complainant. After considering all written or oral views presented, the secretary shall affirm, modify, or reverse the determination of the department and furnish the complainant and the licensee or registrant a written notification of the decision and the reason for the decision.

(b) If the secretary determines that an inspection is not warranted because the requirements of K.A.R. 28-35-337(a) have not been met, the secretary shall notify the complainant in writing of the determination. That determination shall be without prejudice to the filing of a new complaint meeting the requirements of K.A.R. 28-35-337(a). (Authorized by K.S.A. 1984 Supp. 48-1607; implementing K.S.A. 1984 Supp. 48-1604, 48-1607, 48-1609; effective May 1, 1976; amended, T-85-43, Dec. 19, 1984.)

BARBARA J. SABOL  
Secretary of Health  
and Environment

Doc. No. 002802

**KANSAS REGISTER**  
**Secretary of State**  
**State Capitol**  
**Topeka, Kansas 66612**

Second Class  
postage paid  
at  
Topeka, Kansas

**Use this form (or a copy of it) to enter a  
SUBSCRIPTION**

\_\_\_\_\_ One-year subscriptions @ \$47.50 ea.  
**TOTAL ENCLOSED** \_\_\_\_\_  
(Make checks payable to Kansas Register)

**SEND TO:** \_\_\_\_\_  
(Please, no  
more than  
4 address  
lines.) \_\_\_\_\_  
\_\_\_\_\_

Zip code must be included

**THIS SPACE FOR REGISTER OFFICE  
USE ONLY, PLEASE**

CODE \_\_\_\_\_ REC. NO. \_\_\_\_\_  
EXPIRES \_\_\_\_\_ ENTERED BY \_\_\_\_\_

Mail Form With Payment to: Kansas Register, Secretary of State, State Capitol, Topeka, KS 66612

**Use this form (or a copy of it) for  
CHANGE OF ADDRESS**

Remove your mailing label (above) and affix it here:

Indicate change or correction of name or address  
here:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Mail to: Kansas Register, Secretary of State, State Capitol, Topeka, KS 66612