

MINUTES

JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS

August 22-23, 2005
Room 514–Statehouse

Members Present

Representative Carl Holmes, Chairman
Senator Dennis Wilson, Vice Chairman
Senator Don Betts
Senator Karin Brownlee
Senator Ralph Ostmeyer
Senator Chris Steineger
Representative Lance Kinzer
Representative Jan Pauls
Representative Scott Schwab
Representative Sharon Schwartz
Representative Josh Svaty
Representative Mark Treaster

Staff Present

Raney Gilliland, Kansas Legislative Research Department
Melissa Calderwood, Kansas Legislative Research Department
Martha Dorsey, Kansas Legislative Research Department
Kenneth Wilke, Revisor of Statutes Office
Diana Lee, Revisor of Statutes Office
Judy Glasgow, Secretary

Others Present

Thomas Conley, Bureau of Air and Radiation, Kansas Department of Health and Environment
Sandy McAdam, Kansas Department of Health and Environment
David J. Whitfill, Kansas Department of Health and Environment
Ron Seeber, Hein Law Firm
Bill Brady, Kansas Governmental Consulting
Deborah Stern, Kansas Hospital Association
Tom Bruno, Bruno & Associates
Debra Billingsley, Board of Pharmacy
Mack Smith, Board of Mortuary Arts
Cheryl Magathan, Real Estate Appraisal Board
David Owen, Homeless Come Home
Chris Tymeson, Kansas Department of Wildlife and Parks
Nicole Romine, Secretary of State
Tina Langley, Department on Aging
Vera Van Bruggen, Department on Aging
Nialson Lee, Division of Health Policy and Finance, Department of Administration

**August 22, 2005
Morning Session**

Chairman Holmes called the meeting to order at 10:10 a.m. Chairman Holmes noted that there were two new committee members in attendance, Representative Josh Svaty and Representative Mark Treaster.

The Chairman introduced Tom Conley, Chief Radiation and Asbestos Control Section, Bureau of Air and Radiation, to address the proposed rules and regulations noticed for hearing by the Department of Health and Environment (Attachment 1). KAR 28-35-135, revoked; KAR 28-35-135a, definitions; KAR 28-35-135b, definitions; KAR 28-35-135c, definitions; KAR 28-35-135d, definitions; KAR 28-35-135e, definitions; KAR 28-35-135f, definitions; KAR 28-35-135g, definitions; KAR 28-35-135h, definitions; KAR 28-35-135i, definitions; KAR 28-35-135k, definitions; KAR 28-35-135l, definitions; KAR 28-35-135m, definitions; KAR 28-35-135n, definitions; KAR 28-35-135o, definitions; KAR 28-35-135p, definitions; KAR 28-35-135q, definitions; KAR 28-35-135r, definitions; KAR 28-35-135s, definitions; KAR 28-35-135t, definitions; KAR 28-35-135u, definitions; KAR 28-35-135v, definitions; KAR 28-35-135w, definitions; KAR 28-35-135x, definitions; KAR 28-35-135y, definition; KAR 28-35-136, revoked; KAR 28-35-148, deliberate misconduct; KAR 28-35-154, renewal of registration; KAR 28-35-160, vendor notification; KAR 28-35-162, exclusion from registration; KAR 28-35-167, shielding plan for radiation-producing devices; KAR 28-35-168, information on radiation shielding required for plan reviews; KAR 28-35-169, design requirements for an operator's booth; KAR 28-35-175a, persons licensed; KAR 28-35-176a, types of licenses; KAR 28-35-177a, general licenses; source material; KAR 28-35-178a, general license; certain ionization devices; KAR 28-35-178b, general license; certain detecting, measuring gauging or controlling devices and certain devices for producing light or an ionized atmosphere; KAR 28-35-178j, general license for use of byproduct material for certain in vivo clinical or laboratory testing; KAR 28-35-180a, general requirements for the issuance of specific licenses; KAR 28-35-180b, financial assurance for decommissioning; KAR 28-35-181e, specific licenses for certain items containing radioactive material other than source, byproduct, or special nuclear material; KAR 28-35-181g, licensing for industrial radiography operations; KAR 28-35-181h, specific licenses to manufacture and distribute the devices specified in KAR 28-35-178b; KAR 28-35-181i, specific licenses to manufacture and distribute industrial products and devices containing depleted uranium; KAR 28-35-181m, specific licenses to manufacture and, prepare, or distribute radiopharmaceuticals containing radioactive material for medical use under group licenses; KAR 28-35-181s, specific licenses for well logging; KAR 28-35-184a, specific conditions on all licenses; KAR 28-35-184b, reporting requirements; KAR 28-35-185a, expiration of licenses; KAR 28-35-193b, revoked; KAR 28-35-195a, intrastate transportation of radioactive materials; KAR 28-35-199a, revoked; KAR 28-35-204, decommissioning plan; KAR 28-35-205, termination of a license without restriction; KAR 28-35-205a, license termination under restricted conditions; KAR 28-35-205b, alternate criteria for license termination; KAR 28-35-206, applicability of decommissioning requirements following license termination; KAR 28-35-211c, application of new regulations; KAR 28-35-211d, radiation protection programs; KAR 28-35-212a, occupational dose limits for adults; KAR 28-35-212b, compliance with requirements for summation of external and internal doses; KAR 28-35-212d, determination of internal exposure; KAR 28-35-212e, determination of prior occupational dose; KAR 28-35-213b, dose to an embryo or fetus; KAR 28-35-216a, testing for leakage or contamination of sealed sources; KAR 28-35-217a, conditions requiring individual monitoring of external and internal occupational dose; KAR 28-35-219a, caution signs and labels; KAR 28-35-220a, exceptions from posting, labeling, and color requirements; KAR 28-35-222a, storage security and control of sources of radiation; KAR 28-35-223a, waste disposal; general requirements; KAR 28-35-224a, disposal by release into sanitary sewage systems; KAR 28-35-227d, records of surveys; KAR 28-35-227f, records of prior occupational dose; KAR 28-35-227g, records of planned special exposures; KAR 28-35-227h, records of individual monitoring results; KAR 28-35-227j, records of waste disposal; KAR 28-35-228a, reports of theft or loss of sources of radiation; KAR 28-35-230a, reports of overexposures and

excessive levels and concentrations; KAR 28-35-230b, revoked; KAR 28-35-230d, reports of individual monitoring; KAR 28-35-231a, vacating installations; KAR 28-35-231c, transfer for disposal; manifests; KAR 28-35-241, purpose and scope applicability; KAR 28-35-242, general requirements; KAR 28-35-242a, administrative requirements; KAR 28-35-242b, general requirements for all diagnostic x-ray systems; KAR 28-35-243, revoked; KAR 28-35-243a, fluoroscopic x-ray systems; KAR 28-35-244, revoked; KAR 28-35-244a, radiographic systems other than fluoroscopic, dental intraoral, or computed tomography x-ray systems; KAR 28-35-247, revoked; KAR 28-35-247a, intraoral dental radiographic systems; KAR 28-35-248a, computed tomography (CT) x-ray systems; KAR 28-35-249, revoked; KAR 28-35-250a, revoked; KAR 28-35-251, veterinary medicine radiographic installation radiography; KAR 28-35-252, revoked; KAR 28-35-253, revoked; KAR 28-35-254, revoked; KAR 28-35-255, healing arts screening; KAR 28-35-256, training for x-ray system operators; KAR 28-35-261, revoked; KAR 28-35-262, revoked; KAR 28-35-263, revoked; KAR 28-35-264, general requirements; KAR 28-35-274, applicability; KAR 28-35-276, locking sources of radiation; KAR 28-35-277, revoked; KAR 28-35-277a, conducting industrial radiographic operations; KAR 28-35-278, radiation survey instruments; KAR 28-35-279, leak testing, repair, tagging, opening, modification, and replacement of sealed sources; KAR 28-35-280, quarterly inventory; KAR 28-35-281, utilization logs; KAR 28-35-282, limitations general requirements; KAR 28-35-282a, inspection and maintenance of radiation machines, radiographic exposure devices, transport and storage containers, associated equipment, source changers, and survey instruments; KAR 28-35-282b, permanent radiographic installations; KAR 28-35-282c, labeling, storage, and transportation; KAR 28-35-282d, radiation safety officer; KAR 28-35-283, operating and emergency procedures; KAR 28-35-284, personnel monitoring; KAR 28-35-285, surveillance; KAR 28-35-287, radiation surveys and survey records; KAR 28-35-288, special requirements and exemptions for enclosed radiography; KAR 28-35-289, training requirements; KAR 28-35-290, reports of incidents, or of lost or stolen sources; KAR 28-35-291, performance requirements for radiography equipment; KAR 28-35-292, location of documents and records; KAR 28-35-293, requirements for an independent certifying organization; KAR 28-35-298, area requirements; KAR 28-35-299, operating requirements; KAR 28-35-308, applicability; KAR 28-35-312, revoked; KAR 28-35-314, shielding and safety design requirements; KAR 28-35-316, warning devices; KAR 28-35-318, radiation monitoring requirements; KAR 28-35-319, ventilation systems; KAR 28-35-333, instructions to workers; KAR 28-35-342, preoperational and use requirements; KAR 28-35-343, storage precautions; KAR 28-35-345, radiation survey instruments; KAR 28-35-346, leak testing of sealed sources; KAR 28-35-349, design, performance, and certification criteria for sealed sources used in downhole operations; KAR 28-35-350, labeling; KAR 28-35-351, repair, opening, or modification; KAR 28-35-352, training requirements; KAR 28-35-353, operating and emergency procedures; KAR 28-35-354, personnel monitoring; KAR 28-35-355, security; KAR 28-35-357, subsurface tracer studies; KAR 28-35-359, radiation surveys; KAR 28-35-359a, radioactive contamination control; KAR 28-35-360, documents and records required to be maintained at field stations; KAR 28-35-375, general requirements; KAR 28-35-400, applicability, additional requirements; KAR 28-35-401, dose evaluation and contingency plan; KAR 28-35-402, evaluation of potential dose; KAR 28-35-403, contents of contingency plan; KAR 28-35-404, comment from off-site response organizations; KAR 28-35-405, certification of compliance; KAR 28-35-406, training; KAR 28-35-407, conduct of drills and exercises; KAR 28-35-408, plan implementation; KAR 28-35-409, contingency plan revision; KAR 28-35-410, documentation and recordkeeping; KAR 28-35-411, table of quantities of radioactive material; need for contingency plan; KAR 28-35-450, general requirements; KAR 28-35-500, general license: NRC-approved packages; KAR 28-35-501, previously approved type B package; KAR 28-35-502, air transport of plutonium; KAR 28-35-503, package-opening instructions; KAR 28-35-504, advance notification of shipment of certain types of licensed or registered material; and KAR 28-35-505, quality assurance requirements.

Mr. Conley gave an overview of the rules and regulations to the Committee and presented a brief background about the need to update these regulations and why there is such a large number of them. The State of Kansas regulates radioactive material under an agreement with the Nuclear Regulatory Commission (NRC). The current Kansas regulations are not in compliance with the federal requirements or compatible with the other agreement states' regulations. The NRC

regulations, agreement states regulations, and the current Kansas regulations were compared one-on-one to bring these regulations up to date and comply with the NRC requirements.

The Committee staff members had several questions concerning terms used in the definition section of the regulations that were different from the definitions in statute. It was suggested that the agency review these and make the statutory definition conform to the definitions in the regulations. A question arose in KAR 28-35-135a, dealing with "alert" and about which events could cause an alert. Mr. Conley stated that there were four different events and explained each of them. After discussion, it was noted that the term "unusual event" was not included in the definition section and should be added. Mr. Conley stated that this would be done. Staff noted that in KAR 28-35-135p subsection (e), the definition of "patient" includes reference to the healing arts. This term may need to be removed if medical professions not included in the healing arts definition are covered. Mr. Conley stated that he would look into this. There was a question concerning KAR 28-35-162(c) and the term "domestic" television receivers and whether the term "domestic" covered the agency's intent. There was a question on KAR 28-35-167(b) concerning the phrase "qualified expert" and it was suggested that this term should be further defined to avoid confusion. A Committee member had a question concerning KAR 28-35-178b (15), with the words "store," "hold," and "standby," and what the intent was. Mr. Conley stated that he would have to review this section and get back to the Committee. It was the Committee's recommendation in KAR 28-35-180a, that the term "public health and safety and the environment" should be standardized throughout the section for consistency. Staff noted in KAR 28-35-184b, a specific citation of printed material had been included for a second time and it was suggested that this item be adopted by reference and then cross referenced throughout the regulations for uniformity and ease in updating.

Mr. Conley stated that KAR 28-35-178b, concerning licensing of devices, is one regulation where Kansas is more restrictive than the NRC regulations. This regulation covers the issuance of a license for general devices. He explained that after "September 11," NRC was concerned that some general license devices were potential targets for terrorists and believed that it should license these devices to track them. Several states, including Kansas, began issuing licenses to these devices. However, when this proposed regulation went to the commissioners for approval, it was changed back so that no tracking and licenses were to be issued. All 33 agreement states are working with NRC to change this so that states will license and track general license devices, which would make Kansas in compliance with NRC regulations.

The meeting was recessed until 1:30 p.m.

Afternoon Session

The Chairman reconvened the meeting at 1:40 p.m. Mr. Conley continued his presentation of the radiation rules and regulations, beginning with Part 4.

In response to a question from the Committee, Mr. Conley stated that the agency does inspect all facilities holding a license on a scheduled basis to insure that they are following the regulations. Operators of facilities also may do tests themselves, or may contract them out to persons who have a license to perform these tests.

Committee members questioned the title in Part 5, and suggested that the phrase "In The Healing Arts" be removed since the regulations cover a broader listing than what is covered by the definition of healing arts. Mr. Conley agreed and stated that this would be done.

In KAR 28-35-242 (2), staff had questions regarding the inclusion of the definition of

“screening” and “healing arts screening,” and if these two were used in the same sense. Mr. Conley stated that the definitions were meant to be identical. The Committee suggested that the agency review this to see if it was necessary to use both terms. Mr. Conley stated that agency staff would look at this and get back to the Committee. A question arose from Committee members regarding the word “lighttight.” It was suggested that the agency check to see if this is a term defined by the industry in this format or if it should be two words.

Mr. Conley responded to a question from the Committee concerning penalties for failure to keep documents and records. He stated that the agency has several levels of enforcement actions that can be imposed, ranging from non-sited violation all the way to being able to assess civil penalties. The monetary penalty can go up to \$10,000 per violation per day. The agency also can revoke a license.

Staff recommended that in KAR 28-35-349, the phrase “without failure” in part (3) (A) through (E) be moved to state the “test source shall not fail . . .” to avoid ambiguity. Mr. Conley said that the agency would review this regulation as suggested. In KAR 28-35-351, it was suggested by Committee members that the “and” should be changed back to “or” unless all three items were required. Mr. Conley stated that it was not the agency’s intent that all three had to occur. In KAR 28-35-354, paragraph one, the small (a) should be inserted after “Personnel monitoring.” Staff also suggested that in KAR 28-35-355 (a), the phrase “except when radiation sources are below ground or in shipping or storage containers” should be moved to the beginning of the sentence to comply with the regulatory legal style. It was noted that there were several incidents where items were set off with commas throughout the regulations, which need to be changed.

Staff noted that in KAR 28-35-450 the history section needs to be changed and updated to reference the Radiologic Technologists Practice Act. Mr. Conley stated that this would be done.

In KAR 28-35-504, paragraph (1), the Committee suggested that the term “responsible individual” in the Governor’s Office be clarified. Mr. Conley stated that the agency would look at this, since it is necessary for the contacting person to identify a particular person.

After responding to other general questions from the Committee, Mr. Conley was thanked by the Chairman for his presentation before the Committee.

Chairman Holmes requested action by the Committee on the minutes from the July 11, 2005 meeting. *Senator Ostmeyer moved the July 11, 2005, minutes be approved, Representative Schwartz seconded the motion. Motion carried.*

August 23, 2005 Morning Session

Chairman Holmes called the meeting to order at 9:10 a.m. on August 23, 2005. He recognized Mack Smith, Board of Mortuary Arts, to speak to the proposed rule and regulation noticed for hearing. KAR 63-4-1, payment of fees.

Mr. Smith stated that this regulation is to increase fees charged by the Kansas State Board of Mortuary Arts. He stated that the fees had not been raised for six years. There were no questions from the Committee, and the Chairman thanked Mr. Smith for his appearance before the Committee.

Debra Billingsley, Executive Secretary, Board of Pharmacy, was recognized by Chairman

Holmes to address the proposed rules and regulations noticed for hearing by the Kansas Board of Pharmacy. KAR 68-2-22, electric prescription transmission; and KAR 68-5-16, ratio of pharmacy technicians to pharmacists.

Ms. Billingsley explained the need for the regulations and answered questions from Committee members of a general nature. A concern was raised by the Committee with KAR 68-2-22 (1), as to the written limits of the transmission to the pharmacist. The suggestion was made that the term "pharmacist technician" should be added. Ms. Billingsley stated that she would take the suggestion back to the Board. Ms. Billingsley stated that KAR 68-5-16 is the result of 2005 HB 2156, which amended the statute and deleted the language that set the ratio of pharmacy technicians to pharmacists at two to one and authorized the Board to set the ratio by rule and regulation. This regulation makes no change in that ratio, setting the ratio of pharmacy technicians to pharmacists at two to one. Upon answering all the Committee questions, the Chairman thanked Ms. Billingsley for appearing before the Committee.

The Chairman introduced Cheryl Magathan, to address the proposed rules and regulations noticed for hearing by the Kansas Real Estate Appraisal Board. KAR 117-2-3, licensed classification; examination requirement; KAR 117-3-3, General classification; examination requirement; and KAR 117-4-3, residential classification; examination requirement.

Ms. Magathan stated that the three regulations were approved as temporary regulations effective July 1, 2005. She stated that 2005 SB 215 deleted that statutory requirement setting the examination requirements for five years. Ms. Magathan noted that these regulations bring Kansas into compliance with the federal examination requirement time frame of two years for an applicant to take and pass the required examinations. There being no questions from the Committee, Ms. Magathan was thanked for her presentation.

The Chairman welcomed Chris Tymeson, Chief Counsel for the Kansas Department of Wildlife and Parks, to speak to the proposed exempt rule and regulation noticed for hearing by Wildlife and Parks. KAR 115-25-20, sandhill crane; management unit, hunting season, shooting hours, bag and possession limits, and permit validation (exempt regulation); KAR 115-21-1, KAR 115-21-2, and KAR 115-21-3 be revoked on and after January 1, 2006; KAR 115-2-1, amount of fees; KAR 115-2-4, boat fees; and KAR 115-18-14, nontoxic shot; statewide.

Mr. Tymeson explained that KAR 115-25-20 is an exempt regulation, and moves the opening sandhill crane season back four days from the first Saturday in November to the Wednesday following the first Saturday. It is estimated that by moving the season back four days, 90 percent of the sandhill cranes will be through the State of Kansas before the season opens. In response to a Committee member's question whether or not these birds were hunted for the meat, Mr. Tymeson stated that sandhill cranes were considered the "ribeye of the sky."

Mr. Tymeson explained that KAR 115-21-1, 115-21-2, and 115-21-3 are being revoked due to legislation passed during the 2005 Legislative Session deregulating commercial guides. After responding to Committee members' questions, Chairman Holmes thanked Mr. Tymeson for his appearance before the Committee.

Tina Langley, Senior Manager of Program and Policy, Department on Aging, was introduced by the Chairman to speak to the proposed rules and regulations noticed for hearing by the Department on Aging. KAR 26-39-144, definitions; KAR 26-39-243, resident functional capacity screening; KAR 26-39-278, resident functional capacity screening; and KAR 26-39-427, resident functional capacity screening.

Staff noted that the rules and regulations from Kansas Department of Health and Environment that previously covered these proposed rules and regulations are not in the notice for revocation.

Ms. Langley stated that they were submitted to the Department of Administration and the Attorney General's Office and were approved for revocation at the same time these proposed new rules and regulations were approved. Ms. Langley stated that she would check into this and get back to the Committee. Staff noted that the agency would have to set the publication for public hearing for revoked rules and regulations from the Department of Health and Environment and would have to come before the Committee again. Tina Langley was thanked by the Chairman for her appearance before the Committee.

The Chairman introduced Nicole Romine, Office of the Secretary of State, to address the proposed rules and regulations noticed for hearing by the Secretary of State. KAR 7-42-1, charitable organizations; registration; KAR 7-42-2, professional fund raisers; registration; and KAR 7-42-3, professional fund raisers; annual report.

Nicole Romine stated that KAR 7-42-1 allows charitable organizations to register by completing the unified registration statement (URS) or the office's prepared form. By allowing organizations to use the URS the organizations could save money, since they may use the same form to register in multiple states, rather than filling out separate forms for each state.

Staff noted that in KAR 7-42-1(b), the exclusion of parts of income tax returns as stated in paragraph (b) was deleted by the 2005 Legislative Session when they amended KSA 17-1763. Ms. Romine stated that she would take this back to the agency for its determination and get back to the Committee. Staff noted that the history section should be updated. There being no other questions for Ms. Romine, Chairman Holmes thanked her for her appearance before the Committee.

A Committee member noted that in KAR 7-42-2, (6) and KAR 7-42-3, (1) the word "any" should be changed to "all" to make the intent clearer.

Linda Kenney, Director of Bureau for Children, Youth, and Family, was welcomed by Chairman Holmes to address the proposed rules and regulations noticed for hearing by the Kansas Department of Health and Environment (Attachment 2). KAR 28-4-1400, grant program application and procedures.

Ms. Kenney gave an overview of the Senator Stan Clark Pregnancy Maintenance Initiative grant program (PMI). She stated that the program is operating under temporary regulations dated July 1, 2005.

Staff noted that the history section needed to be updated to reflect session laws. Chairman Holmes thanked Linda Kenney for appearing before the Committee.

The Chairman welcomed Nialson Lee, Division of Health Policy and Finance, to address the proposed rules and regulations noticed for hearing by the Division of Health Policy and Finance, Department of Administration. KAR 30-5-64, revoked; and KAR 129-5-1, prior authorization.

Mr. Lee stated that 2005 SB 272 transferred these rules and regulations to the Division of Health Policy and Finance, Department of Administration, effective July 1, 2005. KAR 30-5-64 is being revoked and is being replaced by KAR 129-5-1. Staff noted that the history section in KAR 30-5-64 needs to be updated to include reference to KSA 39-7,120 and KSA 39-6-121a, as amended by the 2005 Legislature. Mr. Lee stated that this would be corrected. Mr. Lee answered general questions from the Committee. Chairman Holmes thanked him for his presentation.

Julene Miller, Deputy Attorney General, was recognized by the Chairman to speak to the proposed rules and regulations noticed for hearing by the Office of the Attorney General (Attachment 3). KAR 16-10-1, definitions; KAR 16-10-2, preservation and submission of fetal tissue; and KAR 16-10-3, disposal of fetal tissue.

Ms. Miller explained that 2005 HB 2380 requires the Attorney General to adopt rules and regulations as proposed.

Ms. Miller answered questions from Committee members concerning the procedures to be followed under these proposed regulations. Chairman Holmes thanked Julene Miller for appearing before the Committee.

The Chairman recognized Christy Davis, Acting Director, Cultural Resources Division, to speak to the proposed rules and regulations noticed for hearing by the Kansas State Historical Society (Attachment 4). KAR 118-5-10, fees.

Ms. Davis stated that the proposed changes would increase the fees charged for reviewing and processing applications for the rehabilitation tax credit program. She stated that the fee increase also would allow the program to become self sufficient. After responding to general questions from Committee members, Ms. Davis was thanked by the Chairman for appearing before the Committee.

Chairman Holmes reviewed the schedule for the remainder of the year and stated that only one day would be needed in October. The next meeting will be October 3, beginning at 9:00 a.m. The meeting was adjourned.

COMMITTEE COMMENTS ON PROPOSED RULES AND REGULATIONS

Kansas State Board of Mortuary Arts. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning payment of fees and had no comment.

Kansas Pharmacy Board. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning electronic prescription transmission, and ratio of pharmacy technicians to pharmacists, and had no comment.

Kansas Real Estate Appraisal Board. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning license classification, examination requirement; general classification, examination requirement; and residential classification and examination requirement, and had no comment.

Kansas Department of Wildlife and Parks. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning amount of fees; boat fees; nontoxic shot, statewide; and revocations, and had no comment.

Kansas Department on Aging. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning definitions; resident functional capacity screening; resident functional capacity screening; and resident functional capacity screening, and had the following comment.

General Comment. The Committee recommends that there be a separate hearing on the appropriate revocation hearing on the former Kansas Department of Health and Environment regulations.

Kansas Secretary of State. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning charitable organizations, registration;

professional fund raisers, registration; professional fund raisers, annual report; professional solicitors, registration; and changes to registration, and had the following comments.

KAR 7-42-1. The Committee expresses concern about the authority of the agency to limit the filing of the tax return to only those portions which are open to public inspection. It does not appear that Chapter 83 of the 2005 Session Laws authorizes this authority. The Committee recommends the agency review the Kansas Open Records Act to determine if it contains an applicable exemption.

General Comment. The Committee suggests clarification in KAR 7-42-2 and 7-42-3 that references to "any other" be changed to "all other" states or names.

Kansas Department of Health and Environment. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning grant program application and procedures and had no comment.

Kansas Attorney General. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning definitions; preservation and submission of fetal tissue; and disposal of fetal tissue, and had no comment.

Kansas State Historical Society. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning fees and had no comment.

Division of Health Policy and Finance. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning prior authorization and had no comment.

Kansas Department of Health and Environment. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning revocation; revocation; definitions; definitions; definitions; definitions; definitions; definitions; definitions; definitions; definitions; definitions; definitions; definitions; definitions; definitions; definitions; definitions; definition; deliberate misconduct; renewal of registration; vendor notification; exclusion from registration; shielding plan for radiation-producing devices; information on radiation shielding required for plan reviews; design requirements for an operator's booth; persons licensed; types of licenses; general licenses, source material; general license, certain ionization devices; general license, certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere; general license for use of byproduct material for certain in vivo clinical or laboratory testing; general requirements for the issuance of specific licenses; financial assurance for decommissioning; specific licenses for certain items containing radioactive material other than source, byproduct, or special nuclear material; licensing for industrial radiography operations; specific licenses to manufacture and distribute the devices specified in KAR 28-35-178b; specific licenses to manufacture and distribute industrial products and devices containing depleted uranium; specific licenses to manufacture, prepare, or distribute radiopharmaceuticals containing radioactive material for medical use; specific licenses for well logging; specific conditions on all licenses; reporting requirements; expiration of licenses; revocation; intrastate transportation of radioactive materials; revocation; decommissioning plan; termination of a license without restriction; license termination under restricted conditions; alternate criteria for license termination; applicability of decommissioning requirements following license termination; revocation; radiation protection programs; occupational dose limits for adults; compliance with requirements for summation of external and internal doses; determination of internal exposure; determination of prior occupational dose; dose to an embryo or fetus; testing for leakage or contamination of sealed sources; conditions requiring individual

monitoring of external and internal occupational dose; caution signs and labels; exceptions from posting, labeling, and color requirements; security and control of sources of radiation; waste disposal, general requirements; disposal by release into sanitary sewage systems; records of surveys; records of prior occupational dose; records of planned special exposures; records of individual monitoring results; records of waste disposal; reports of theft or loss of sources of radiation; reports of overexposures and excessive levels and concentrations; revocation; reports of individual monitoring; vacating installations; revocation; transfer for disposal, manifests; applicability; general requirements; administrative requirements; general requirements for all diagnostic X-ray systems; revocation; revocation; fluoroscopic X-ray systems; radiographic systems other than fluoroscopic, dental intraoral, or computed tomography X-ray systems; revocation; intraoral dental radiographic systems; computed tomography (CT) X-ray systems; revocation; revocation; veterinary medicine radiography; revocation; revocation; revocation; healing arts screening; training for X-ray system operators; revocation; revocation; revocation; general requirements; applicability; locking sources of radiation; revocation; conducting industrial radiographic operations; radiation survey instruments; leak testing, repair, tagging, opening, modification, and replacement of sealed sources; quarterly inventory; utilization logs; general requirements; inspection and maintenance of radiation machines, radiographic exposure devices, transport and storage containers, associated equipment, source changers, and survey instruments; permanent radiographic installations; labeling, storage, and transportation; radiation safety officer; operating and emergency procedures; personnel monitoring; surveillance; radiation surveys and survey records; special requirements and exemptions for enclosed radiography; training requirements; reports of incidents, or of lost or stolen sources; performance requirements for radiography equipment; location of documents and records; requirements for an independent certifying organization; area requirements; operating requirements; applicability; revocation; shielding and safety design requirements; warning devices; radiation monitoring requirements; ventilation systems; instructions to workers; preoperational and use requirements; storage precautions; radiation survey instruments; leak testing of sealed sources; design, performance, and certification criteria for sealed sources used in downhole operations; labeling; repair, opening, or modification; training requirements; operating and emergency procedures; personnel monitoring; security; subsurface tracer studies; radiation surveys; radioactive contamination control; documents and records required to be maintained at field stations; general requirements; applicability, additional requirements; dose evaluation and contingency plan; evaluation of potential dose; contents of contingency plan; comment from off-site response organizations; certification of compliance; training; conduct of drills and exercises; plan implementation; contingency plan revision; documentation and recordkeeping; table of quantities of radioactive material, need for contingency plan; general requirements; general license: NRC-approved packages; previously approved type B package; air transport of plutonium; package-opening instructions; quality assurance requirements; and advance notification of shipment of certain types of licensed or registered material, and had the following comments.

KAR 28-35-135e. Consider placing the second sentence under the definition of "alert" with the definition of "event." The Committee notes that there is no definition for the term "unusual event" and the other three levels of events are found in the radiation regulations.

KAR 28-35-135p. Consider removing the phrase "healing arts" from the term "patient," as it has a specific meaning under the law.

KAR 28-35-162. Clarify the term "domestic television receiver," since no definition appears to be provided in this set of regulations.

KAR 28-35-167. The Committee is concerned with the use of the term "may" and that the use of this term implies that there may be standards in place for the use of a qualified expert. When would a business know that it will be necessary to use a qualified expert?

KAR 29-8-35-178b(b)(15). The Committee requests clarification of the terms "hold," "stored," and "standby." For example, can a device be stored for more than two years?

KAR 28-35-184b(B). This appears to be a second adoption by reference of a document, please review all of these regulations for similar adoptions and use appropriate cross references.

KAR 28-35-204. The Committee is concerned with the authority of the agency to require decommissioning plans. Please review appropriate statutes to determine authority.

K.A.R.28-35-242. The Committee questions whether the definition of "screening" in (c)(2) is necessary, as the definition for "healing arts screening" is already provided.

KAR 28-35-242a. The Committee is unfamiliar with the word "lighttight" and asks the agency to reconfirm whether this is actually a word.

KAR 28-35-349. The Committee is concerned that the use of the term "without failure" creates ambiguity.

KAR 28-35-351. In subsection (d), the Committee is concerned that the proposed change from "or" to "and" should not be made.

KAR 28-35-354. Please correct the placement of the title of the regulation.

KAR 28-35-355. Consider placing the exception phrase at the beginning of the sentence, since its current placement does not indicate significance. This same sentence construction appears elsewhere. Please review for this sentence structure and make appropriate modifications.

KAR 28-35-450. Please update the reference to the Radiologic Technologists Practice Act.

K.A.R.28-35-504. In subsection (e)(1), the Committee requests clarification as to how the responsible individual in the Governor's Office is designated.

General Comment. The Committee notes that there are several definitions which are inconsistent with their statutory definitions. The Committee believes that these should be reconciled and that perhaps statutory changes may need to be made. For example, definitions with inconsistencies include, "byproduct material," "person," "radioactivity," and "radiation." (Part 1)

General Comment. Consider clarifying and making consistent throughout the regulations the term "public health and safety and the environment" with the term "health and safety of the public and the environment." Example regulations include KAR 28-35-180a, 28-35-205, and 28-35-206. (Part 3)

General Comment. The Committee is concerned with the use of the term "in the healing arts" in Part 5, since there are parts of the regulations which apply to other diagnostic procedures lying outside of the scope of the Healing Arts Act. The Committee recommends titling Part 5, "Use of Diagnostic X-Rays."

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Approved by Committee on:

October 3, 2005

(date)