

KANSAS REGISTER

State of Kansas

JACK H. BRIER
Secretary of State

Vol. 6, No. 1

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

The Kansas Council on Employment and Training (KCET) will meet from 9 a.m. to noon Thursday, January 8, in the Pozez Education Center, Stormont-Vail Regional Medical Center, 1500 S.W. 10th, Topeka.

The agenda includes:

1. Proposal to amend bylaws to include subcommittees on targeted groups and JSEC
2. Distributed information systems report
3. Remarks from the secretary
4. Remarks from the chair
5. JSEC subcommittee report

The meeting is open to the public.

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

Doc. No. 004918

State of Kansas
SOCIAL AND REHABILITATION SERVICES
KANSAS CITIZENS ADVISORY
COMMITTEE ON ALCOHOL AND OTHER
DRUG ABUSE
NOTICE OF MEETING

The quarterly meeting of the Kansas Citizens Advisory Committee on Alcohol and Other Drug Abuse will be held from 8:30 a.m. to 3:30 p.m. Friday, January 9, in the Topeka Room of the Park Inn South, 3802 S.W. Topeka Blvd., Topeka.

Items to be addressed will include plans for both federal and state funding for the alcohol and drug field in Kansas, legislative issues, initiatives with the private sector, association reports, reports from the special KCAC task forces, training model for the field, and a report from the Department of Education on new federal monies. The public is invited to attend.

JAMES A. McHENRY, JR.
 Commissioner of Alcohol and
 Drug Abuse Services

Doc. No. 004919

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PUBLISHED BY
 JACK H. BRIER
 Secretary of State
 2nd Floor, State Capitol
 Topeka, KS 66612-1594



Phone: (913) 296-3489

State of Kansas
KANSAS WATER AUTHORITY
NOTICE OF MEETING

The Management Committee of the Kansas Water Authority will conduct an open meeting by conference telephone call to discuss the preliminary draft of the stream rehabilitation subsection of the State Water Plan.

The meeting will begin at 2 p.m. Monday, January 5, in the Kansas Water Office, 109 S.W. 9th, Suite 200, Topeka.

H. PHILIP MARTIN, Chairman
 Kansas Water Authority

Doc. No. 004927

State of Kansas
ATTORNEY GENERAL

Opinion No. 86-174

Counties and County Officers—County Commissioners; County Counselor—Duties; Who May Hold Public Office. Gayle Landoll, Marshall County Clerk, Marysville, December 18, 1986.

The responsibilities assigned to the county counselor under K.S.A. 1985 Supp. 19-247 necessarily involve the exercise of sovereign authority. Therefore, the position of county counselor should be considered a county office. Further, only natural persons may hold public office. In that a partnership is accordingly ineligible to hold public office, a law firm may not be designated as county counselor without naming an individual who will assume the title of county counselor. Cited herein: K.S.A. 17-2706; 19-101; K.S.A. 1985 Supp. 19-101a, as amended by L. 1986, ch. 203, § 1; K.S.A. 1985 Supp. 19-247; K.S.A. 40-2302(c); K.S.A. 1985 Supp. 79-2801, as amended by L. 1986, ch. 379, § 1. BPA

Opinion No. 86-175

Criminal Procedure—Code; Trials and Incidents Thereto—Grant of Immunity by County or District Attorney. Keith Hoffman, Dickinson County Attorney, Abilene, December 18, 1986.

Immunity granted by a county attorney pursuant to a plea bargaining agreement is not necessarily binding on another county attorney. Evidence independent of that testified to by the defendant may be used by another county attorney in a prosecution of the defendant. Cited herein: K.S.A. 1985 Supp. 19-702; K.S.A. 22-3415. BLB

ROBERT T. STEPHAN
 Attorney General

Doc. No. 004929

State of Kansas
DEPARTMENT OF ADMINISTRATION
EMPLOYEE AWARD BOARD

NOTICE OF MEETING

The Employee Award Board will meet at 1:30 p.m. Tuesday, January 6, in Room 132-S, Docking State Office Building, Topeka.

DEBRA L. MILLER
 Chairperson

Doc. No. 004922

State of Kansas
KANSAS JUDICIAL COUNCIL

NOTICE OF MEETINGS

The Kansas Judicial Council and its advisory committees will meet according to the following schedule in Room 259, Kansas Judicial Center, 301 W. 10th, Topeka.

Date	Committee	Time
Jan. 9	Judicial Council	9:00 a.m.
Jan. 16	Probate Law	9:00 a.m.

DAVID PRAGER, Chairman
 Kansas Judicial Council

Doc. No. 004917

State of Kansas
DEPARTMENT OF ADMINISTRATION
DIVISION OF PURCHASES

NOTICE TO BIDDERS

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

MONDAY, JANUARY 12, 1987

- #27497
 Department of Transportation and Department of Revenue—REPRODUCTION ROOM SUPPLIES
- #27498
 Larned State Hospital—BAKERY SNACKS
- #27501
 Statewide—CONTINUOUS PRESSURE SENSITIVE DATA PROCESSING LABELS
- #27502
 Statewide—THERMAL AND SPIRIT MASTERS AND SPIRIT FLUID
- #67433-A
 Pittsburg State University—DISHWASHER AND MODIFICATIONS
- #67560-A
 University of Kansas—CONSTRUCTION OF BORE HOLE—CASED, Ellis County
- #67893
 Department of Administration, Division of Information Systems and Communications—NETWORKING SOFTWARE—IBM MAINFRAME

(continued)

#67911
Department of Social and Rehabilitation Services—
LIGHT FIXTURES, Salina

#67913
Kansas State University—FERTILIZER, Parsons
#67914

Kansas Public Employee Retirement System—
FURNISH AND INSTALL UNINTERRUPTIBLE
POWER SUPPLY

#67915
Department of Transportation—LIGHT POLE
SHEAR BASES, Wichita

#67916
University of Kansas Medical Center—NURSERY
STOCK

#67921
Department of Transportation—LUBRICATING
OIL, Garden City

#67925
Kansas State Penitentiary—VIDEO EQUIPMENT
#67928

University of Kansas Medical Center—FIBEROPTIC
ENDOSCOPE

#67929
University of Kansas Medical Center—
CARDIOGRAPH

#67930
Department of Administration, Division of
Printing—PRINTING EQUIPMENT

#67931
University of Kansas—SPECTROPHOTOMETER
#67939

Department of Administration, Division of
Printing—SALE OF USED AUTOMATIC
STITCHER-TRIMMER AND KODAK AUTOMATIC
LITHO FILM PROCESSOR

TUESDAY, JANUARY 13, 1987

#A-5639
Department of Transportation—REMODELING OF
AREA BUILDING, Oakley

#A-5672
University of Kansas Medical Center—PROVIDE
CARDIAC CATHETER LAB MODIFICATIONS 1st
Floor, E. Building

#27500
Statewide—COFFEE AND TEA

#27503
Various state agencies—GRAPHIC ART SUPPLIES
#67912

Kansas State University—MILO
#67923

University of Kansas—#5 FUEL OIL
#67924

Emporia State University—MOWERS
#67935

State Corporation Commission—COMPUTERIZED
SURVEYING EQUIPMENT, Pittsburg
#67936

Kansas Highway Patrol—BREATH ANALYSIS
ITEMS

#67937
Pittsburg State University—MEMORY UPGRADE/
COMMUNICATIONS SUBSYSTEM—PRIME
COMPATIBLE

#67938
Department of Transportation—LOGGING TAPE
RECORDER, Norton

#67940
University of Kansas—MICROCOMPUTER/
PRINTER

#67941
Pittsburg State University—COLLATOR
#67942

Adjutant General's Department—EXCAVATING,
CONCRETE WORK AND INSTALLATION OF
FENCING

#67949
University of Kansas Medical Center—DICTATION
EQUIPMENT

#67950
Department of Human Resources and Department of
Revenue—CONTINUOUS MAILERS

#67951
Department of Transportation—
COMMUNICATIONS CONSOLES

#67952
Kansas State University—CLINICAL CHEMISTRY
ANALYZERS

#67953
Kansas Correctional Industries—HIGH PRESSURE
LAMINATE

#67954
Winfield State Hospital and Training Center—
FURNISH AND INSTALL EQUIPMENT FOR FIRE
ALARM SYSTEM

WEDNESDAY, JANUARY 14, 1987

#27495
Department of Transportation—PARTS WASHER
SERVICE AND SOLVENT DISPOSAL

#27496
University of Kansas—SNOW REMOVAL
#27499

University of Kansas Medical Center—
MISCELLANEOUS GROCERIES
#67956

University of Kansas Medical Center—
ENDOSCOPIC INSTRUMENTS
#67957

University of Kansas—SWING STAGE SCAFFOLD
#67958

Department of Transportation—
COMMUNICATIONS SERVICE MONITOR, Salina
#67959

Kansas State University—FIRE ALARM SYSTEM
#67960

Kansas Highway Patrol—BREATH ANALYZER
#67961

University of Kansas Medical Center—
MICROTOME

#67964
Emporia State University—MICROCOMPUTER
SYSTEM

#67965
Wichita State University—MINI-VAN

WEDNESDAY, JANUARY 21, 1987

#67934
Kansas State University—SALE OF USED
COMPUTER EQUIPMENT

NICHOLAS B. ROACH
Director of Purchases

Doc. No. 004923

State of Kansas

DEPARTMENT OF TRANSPORTATION

SPECIAL NOTICE TO CONTRACTORS

A pre-bid conference for Project 166-10 K-0171-01, Chautauqua County, is scheduled for 10 a.m. Friday, January 16, at the Kansas Department of Transportation District 4 conference room, 411 W. 14th, Chanute. The project begins at the east junction of U.S. 166 and K-99 then east on U.S. 166 approximately 9.556 miles, grading, concrete pavement, two bridges and seeding.

Contractors wishing to bid on this project are required to attend the pre-bid conference in accordance with the provisions of 80 P-207-R1, dated January 31, 1985. The project is tentatively scheduled to be let for bid on January 29 at a special construction bid letting at the K.D.O.T. District 4 conference room, 411 W. 14th, Chanute.

JOHN B. KEMP
Secretary of Transportation

Doc. No. 004906

State of Kansas

DEPARTMENT OF TRANSPORTATION

NOTICE TO CONTRACTORS

Sealed proposals for the construction of road and bridge work in the following Kansas county will be received at the office of the Chief of Construction and Maintenance, Kansas Department of Transportation, Topeka, until 10 a.m. C.D.T. January 15, 1987, and then publicly opened:

DISTRICT THREE—Northwest

Ellis—70-26 M-1463-01—I-70, U.S. 183 east to the Ellis/Russell county line, 15.6 miles, slurry seal. (State Funds)

Proposals will be issued upon request to all prospective bidders who have been prequalified by the K.D.O.T. 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, age, religion, color, sex, handicap or national origin in the award of contracts.

Each bidder shall file a sworn statement executed by or on behalf of the person, firm, association or corporation submitting the bid, certifying that such person, firm, association or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the submitted bid. This sworn statement shall be in the form of an affidavit executed and sworn to by the bidder before a person who is authorized by the laws of the state to administer oaths. The required form of the affidavit will be provided by the state to each prospective bidder. Failure to submit the sworn statement as part of the bid-approval package will make the bid nonresponsive and not eligible for award consideration.

Plans and specifications for the project may be examined at the office of the respective county clerk or at the K.D.O.T. district office responsible for the work.

JOHN B. KEMP
Secretary of Transportation

Doc. No. 004905

State of Kansas

DEPARTMENT OF TRANSPORTATION

NOTICE TO CONTRACTORS

Sealed proposals for the construction of road and bridge work in the following Kansas county will be received at the office of the Chief of Construction and Maintenance, K.D.O.T., Topeka, until 10 a.m. C.S.T. January 15, 1987, and then publicly opened:

DISTRICT FOUR—Southeast

Cherokee—69-11 K-0173-02—U.S. 69, Little Shawnee Creek, 1.7 miles north of K-96, grading and bridge demolition. (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, age, religion, color, sex, handicap or national origin in the award of contracts.

Each bidder shall file a sworn statement executed by or on behalf of the person, firm, association or corporation submitting the bid, certifying that such person, firm, association or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the submitted bid. This sworn statement shall be in the form of an affidavit executed and sworn to by the bidder before a person who is authorized by the laws of the state to administer oaths. The required form of the affidavit will be provided by the state to each prospective bidder. Failure to submit the sworn statement as part of the bid-approval package will make the bid nonresponsive and not eligible for award consideration.

Plans and specifications for the project may be examined at the office of the respective county clerk or at the K.D.O.T. district office responsible for the work.

JOHN B. KEMP
Secretary of Transportation

Doc. No. 004920

State of Kansas

DEPARTMENT OF TRANSPORTATION

NOTICE TO CONTRACTORS

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, until 10 a.m. C.S.T. January 29, 1987, and then publicly opened:

DISTRICT TWO—Northcentral

Saline—4-85 K-2088-01—K-4, Dry Creek bridge 107, 1.8 miles northeast of the north junction of I-135, bridge replacement. (Federal Funds)

DISTRICT FOUR—Southeast

Chautauqua—166-10 K-0171-01—U.S. 166, east junction of U.S. 166 and K-99 east to the west city limits of Niotaze, 9.4 miles, grading and surfacing. (State Funds)

DISTRICT FIVE—Southcentral

Sedgwick—87 C-1944-01—County road, 2.0 miles east of Maize, then north, 3.9 miles, surfacing. (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, age, religion, color, sex, handicap or national origin in the award of contracts.

Each bidder shall file a sworn statement executed by or on behalf of the person, firm, association or corporation submitting the bid, certifying that such person, firm, association or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the submitted bid. This sworn statement shall be in the form of an affidavit executed and sworn to by the bidder before a person who is authorized by the laws of the state to administer oaths. The required form of the affidavit will be provided by the state to each prospective bidder. Failure to submit the sworn statement as part of the bid-approval package will make the bid nonresponsive and not eligible for award consideration.

Plans and specifications for the projects may be examined at the office of the respective county clerk or at the K.D.O.T. district office responsible for the work.

JOHN B. KEMP
Secretary of Transportation

Doc. No. 004921

(Published in the KANSAS REGISTER, January 1, 1987.)

NOTICE OF REDEMPTION
CITY OF DELPHOS, KANSAS
INDUSTRIAL REVENUE BONDS
SERIES 1977
(TRI-RIVER CABLE, INC.)

Notice is hereby given that pursuant to Section 3 of Ordinance 847, the First National Bank and Trust Co. of Salina, as trustee and paying agent, will redeem on February 1, 1987 for the city, \$34,000 principal amount of the Series 1977 industrial revenue bonds of the city of Delphos (Tri-River Cable, Inc.) at a price equal to the principal amount thereof plus accrued interest thereon to February 1, 1987, plus a premium of 1 percent.

All bonds are to be redeemed and are listed as follows:

Table with 2 columns: Bond Number and Amount. Lists bond numbers 32 through 65, each with an amount of 1,000.

On February 1, 1987, the bonds described above will be due and payable at the First National Bank and Trust Company, 101 N. Santa Fe, P. O. Box 800, Salina, KS 67402-0800.

Bonds should be surrendered with all unmaturing interest coupons attached. After February 1, 1987, interest on the aforesaid bonds will cease to accrue.

First National Bank and Trust Co. of Salina
Trustee and Paying Agent

Doc. No. 004928

State of Kansas

LEGISLATURE

INTERIM AGENDA

The following committee meetings have been scheduled during the period of January 8 through January 12, 1987:

Date	Room	Time	Committee	Agenda
Jan. 5	519-S		Joint Committee on	Agenda to be determined.
Jan. 6	519-S		Administrative Rules and	
Jan. 7	519-S		Regulations	
Jan. 6	514-S	10:00 a.m.	House Standing Committee	Committee study of
Jan. 7	514-S	10:00 a.m.	on Ways and Means	Governor-elect Hayden's 3.8 percent lapse of state general fund appropriations.
Jan. 8	423-S	10:00 a.m.	Joint Committee on State	Staff review and tentative
Jan. 9	423-S	9:00 a.m.	Building Construction	committee recommendations on projects funded from the educational building fund.
Jan. 8	514-S	10:00 a.m.	Senate Standing Committee	Committee study of
Jan. 9	514-S	10:00 a.m.	on Ways and Means	Governor-elect Hayden's 3.8 percent lapse of state general fund appropriations.

WILLIAM R. BACHMAN
 Director of Legislative
 Administrative Services

Doc. No. 004926

State of Kansas

OFFICE OF JUDICIAL ADMINISTRATION

SUPREME COURT DOCKET

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

Tuesday, January 13, 1987
 9:30 a.m.

Case No.	Case Name	Attorneys	County
59,472	State of Kansas, Appellant,	Robert T. Stephan, Attorney General Geary N. Gorup, Assistant District Attorney	Sedgwick
	v. Sally A. Clayton, Appellee.	Benjamin C. Wood	
Consolidated with			
59,473	State of Kansas, Appellant,	Robert T. Stephan, Attorney General Geary N. Gorup, Assistant District Attorney	Sedgwick
	v. Tracy J. Bryant, Appellee.	Benjamin C. Wood	
59,575	State of Kansas, Appellee,	Robert T. Stephan, Attorney General Geary N. Gorup, Assistant District Attorney	Sedgwick
	v. Benjamin Holcomb, Appellant.	Benjamin C. Wood	

(continued)

59,031	State of Kansas, Appellee,	Robert T. Stephan, Attorney General Geary N. Gorup, Assistant District Attorney	Sedgwick
	v. Martin Priest, Appellant.	Benjamin C. Wood	
59,623	State of Kansas, Appellant,	Robert T. Stephan, Attorney General Geary N. Gorup, Assistant District Attorney	Sedgwick
	v. Danell J. Magness, Appellee.	Benjamin C. Wood	
59,191	State of Kansas, Appellee,	Robert T. Stephan, Attorney General Geary N. Gorup, Assistant District Attorney	Sedgwick
	v. William Charles Gray, Appellant.	Benjamin C. Wood	
		1:30 p.m.	
59,201	The Cricket Alley Corporation, Appellee,	Alexander Mitchell	Sedgwick
	v. Data Terminal Systems, Inc., Appellant.	James T. McIntyre	
59,249	John Hysell, Appellant,	Benjamin C. Wood Steven R. Zinn	Leavenworth
	v. State of Kansas, Appellee.	Frank E. Kohl, County Attorney	
Consolidated with			
59,353	State of Kansas, Appellee,	Robert T. Stephan, Attorney General Frank E. Kohl, County Attorney	Leavenworth
	v. John W. Hysell, Jr., Appellant.	Benjamin C. Wood Steven R. Zinn	
59,808	Evan J. Unger and Ronald Temple, Appellants,	Allen Shelton	Decatur
	v. Marilyn Horn, County Clerk and Election Officer of Decatur County, Kansas, Appellee.	Terry L. Rogers	
59,019	Harris Enterprises, Inc., Appellant,	Barry W. McCormick	Johnson
	v. Dennis W. Moore, Defendant, and City of Olathe, Kansas, and Carole and John Duffield, Intervenors, Appellees.	James T. Wigglesworth G. Stephen Long Amy E. Hackler	

Wednesday, January 14, 1987
9:30 a.m.

Case No.	Case Name	Attorneys	County
59,380	State of Kansas, Appellee,	Robert T. Stephan, Attorney General Steven J. Obermeier, Assistant District Attorney	Johnson
	v. Derrick W. Davis, Appellant.	Benjamin C. Wood	
59,325	James A. Corral, Appellant,	Jeffrey L. Lauersdorf Paul Hasty, Jr.	Johnson
	v. Rollins Protective Services Company, <i>et al.</i> , Appellee.	Jeffrey S. Nelson	

59,393 The Board of County Commissioners of the County of Johnson, *et al.*, Appellants.
 v.
 Mary R. Greenhaw, *et al.*, Appellees. Bernis G. Terry Johnson
 Robert C. Londerholm
 David Cunningham

59,214 State of Kansas, Appellee, Robert T. Stephan, Attorney General Johnson
 Stephen R. Tatum, Assistant
 District Attorney
 v.
 Steven D. Maupin, Appellant. Benjamin C. Wood
 Steven R. Zinn

1:30 p.m.

59,327 State of Kansas, Appellee, Robert T. Stephan, Attorney General Johnson
 Rick Guinn, Assistant District
 Attorney
 v.
 Fred E. Jameision, Appellant. Benjamin C. Wood

59,253 State of Kansas, Appellee, Robert T. Stephan, Attorney General Johnson
 Michael E. Buser, Assistant
 District Attorney
 v.
 Eugene McAlister, Appellant. Kim Daniel Richey

58,649 Gene R. Mohr and Tri-County Farm Equipment Company, Appellees, Randolph G. Willis Johnson
 Kenneth C. Jones
 v.
 State Bank of Stanley, Appellant, R. Scott Beeler
 v.
 James B. Loyd. Alan V. Johnson

Thursday, January 15, 1987
 9:30 a.m.

Case No.	Case Name	Attorneys	County
59,783	State of Kansas, Appellant, v. Max W. Miller, Appellee.	Robert T. Stephan, Attorney General Kenneth R. Smith, Assistant District Attorney Michael Harris	Shanwee
59,135	State of Kansas, Appellee, v. John F. Clements, Jr., Appellant.	Robert T. Stephan, Attorney General Morgan Metcalf, County Attorney Benjamin C. Wood	Butler
59,336	State of Kansas, Appellee, v. Nathan Lee Haggard, Appellant.	Robert T. Stephan, Attorney General Mickey W. Mosier, County Attorney Benjamin C. Wood	Saline
56,176	State of Kansas, Appellee, v. Steven Thomas Bishop, Appellant.	Robert T. Stephan, Attorney General Mark Ward, County Attorney Benjamin C. Wood	Bourbon
59,827	State of Kansas, Appellant, v. Paul D. Higgins, Appellee.	Robert T. Stephan, Attorney General Arthur S. Weiss, Assistant District Attorney O. W. Bobo	Shawnee

(continued)

1:30 p.m.

59,528 State of Kansas, Appellee, Robert T. Stephan, Attorney General Cowley
Douglas Wright, County Attorney
v.
Michael A. Anderson, Appellant. Benjamin C. Wood

Friday, January 16, 1987

9:30 a.m.

Case No.	Case Name	Attorneys	County
59,577	State of Kansas, Appellee, v. Fredricka A. Hooper, Appellant.	Robert T. Stephan, Attorney General Steven Opat, County Attorney Benjamin C. Wood	Geary
59,646	Everett Glenn, Appellant, v. Dale Fleming, Appellee.	Jerry R. Palmer Gene H. Sharp	Finney
58,318	A. M. Stauth, <i>et al.</i> , Appellees, v. William F. Brown, Jr., <i>et al.</i> , Appellants.	David H. Snapp Harry A. Waite Terry J. Malone	Ford On Petition for Review
59,271	North Central Kansas Production Credit Association, Appellee, v. Curtis Hansen, <i>et al.</i> , Appellants, v. Federal Intermediate Credit Bank of Wichita.	Don W. Noah Doug Thompson Mark B. Pilley Frank G. Spurney, Jr. Barbara J. Coen Richard V. Gose Charles S. Arthur	Republic
59,431	Billy Oil, Inc., <i>et al.</i> , Appellants, v. The Board of County Commissioners of Leavenworth County, Kansas, <i>et al.</i> , Appellees.	Bernard F. Weinand John P. Jennings, Jr. Patrick J. Reardon	Leavenworth

LEWIS C. CARTER
Clerk of the Appellate Courts

Doc. No. 004915

State of Kansas
STATE CORPORATION COMMISSION

NOTICE OF HEARING

Enron Liquids Pipeline Company, Omaha, Nebraska, in docket number 152,968-R, has filed an application for a certificate of convenience and authority to transport natural gas liquids by pipeline between Bushton, Conway, Hutchinson and Wichita, Kansas.

This application has been set for hearing before the State Corporation Commission at 10 a.m. Thursday, January 22, in the commission's hearing room, fourth floor, Docking State Office Building, Topeka.

The commission's rule provides that anyone who has an interest may appear and represent himself or herself; however, an organization or corporation must be represented by an attorney who is a resident of Kansas and regularly admitted to practice in the courts of record of this state or by an attorney sponsored by Kansas counsel.

Copies of the application are on file with the State Corporation Commission in its offices in Topeka. Questions regarding the application may be directed to V. L. Wenger, rate supervisor, (913) 296-4334.

MICHAEL LENNEN
Chairman

Doc. No. 004924

State of Kansas
STATE CORPORATION COMMISSION

NOTICE OF
MOTOR CARRIER HEARINGS

Applications set for hearing are to be heard at 9:30 a.m. before the State Corporation Commission, State Office Building, fourth floor, Topeka, unless otherwise noticed.

This list does not include cases previously assigned hearing dates for which parties of record have received notice.

Questions concerning applications for hearing dates should be addressed to the State Corporation Commission, 4th Floor, Docking State Office Building, Topeka 66612, (913) 296-3808 or 296-2110.

Your attention is invited to Kansas Administrative Regulations (K.A.R.) 82-1-228, "Rules of Practice and Procedure Before the Commission."

Application set for January 13, 1987

Renoticed Application for Extension of Certificate of Convenience and Necessity:

Bingham Transportation,) Docket No. 105,615 M
Inc.)
P.O. Box 728)
Baxter Springs, KS 66713) MC ID No. 101582

Applicant's Attorney: Clyde Christey, Southwest Plaza Building, Suite 202, 3601 W. 29th, Topeka, KS 66614

*Dry commodities in bulk (except flour and cement),
Between all points and places in Kansas.*

Applications set for January 22, 1987

Application for Certificate of Convenience and Necessity:

Ronald K. Burns, dba) Docket No. 153,390 M
Ronald Burns Trucking)
East Highway 50)
Cimarron, KS 67835)

Applicant's Attorney: None

Grains, alfalfa hay, dry feed ingredients, hay and dry fertilizer,

Between all points and places in the state of Kansas.

Application for Certificate of Convenience and Necessity:

Terry L. Allen) Docket No. 153,391 M
P.O. Box 115)
Windom, KS 67491)

Applicant's Attorney: None

Wrecked, disabled, repossessed and replacement motor vehicles and trailers,

Between all points and places in McPherson County, Kansas.

Also,

Between all points and places in McPherson County, Kansas, on the one hand, and all points and places in the state of Kansas, on the other.

Application for Abandonment of Certificate of Convenience and Necessity:

Gary and Carol Kingsbury) Docket No. 145,084 M
Route 2)
Smith Center, KS 66967) MC ID No. 121144

Applicant's Attorney: None

Application for Certificate of Convenience and Necessity:

High C Farms, Inc.) Docket No. 153,388 M
Route 1)
Seward, KS 67577)

Applicant's Attorney: Clyde Christey, Southwest Plaza Building, Suite 202, 3601 W. 29th, Topeka, KS 66614

Livestock,

Between points and places in Meade, Gray, Finney, Wichita, Scott, Lane, Ness, Hodgeman, Ford, Clark, Comanche, Kiowa, Edwards, Barton, Stafford, Pratt, Barber, Harper, Kingman, Reno, Rice, Rush, Pawnee and Sedgwick counties.

(continued)

Also,

Between the above named counties, on the one hand, and points and places in the state of Kansas, on the other hand.

Hay, grain, dry feed, dry feed ingredients, salt, building and fencing materials, dry fertilizer, seeds and machinery,

Between points and places in Wichita, Kearny, Grant, Stevens, Seward, Haskell, Finney, Scott, Lane, Gray, Meade, Clark, Ford, Hodgeman, Ness, Trego, Ellis, Rush, Pawnee, Edwards, Kiowa, Comanche, Barber, Pratt, Stafford, Barton, Russell, Lincoln, Ellsworth, Rice, Reno, Kingman, Harper, Sumner, Sedgwick, Cowley, Harvey, McPherson, Saline, Lyon, Shawnee and Wyandotte counties.

Also,

Between the above named counties, on the one hand, and points and places in the state of Kansas, on the other hand.

Application for Certificate of Convenience and Necessity:

Copp Trucking Co., Inc.) Docket No. 153,387 M
1830 Jasper)
N. Kansas City, MO 64116)

Applicant's Attorney: Clyde Christey, Southwest Plaza Building, Suite 202, 3601 W. 29th, Topeka KS 66614

General commodities (except household goods, classes A and B explosives, bulk flour and/or bulk liquid products),

Between points and places in Brown, Doniphan, Jackson, Atchison, Jefferson, Leavenworth, Wyandotte, Shawnee, Douglas, Johnson, Osage, Lyon, Franklin, Miami, Saline, Reno and Sedgwick counties.

Also,

Between points and places in the above described territory, on the one hand, and points and places in the state of Kansas, on the other hand.

Applications set for January 27, 1987

Application for Extension of Certificate of Convenience and Necessity:

R. C. Williams, Inc.) Docket No. 18,098 M
North Highway 183)
P.O. Box 550)
Hays, KS 67601-0550) MC ID No. 100038

Applicant's Attorney: None

General commodities (except classes A and B explosives, household goods and commodities in bulk),

Between all points and places in the state of Kansas.

Application for Certificate of Convenience and Necessity:

Robert H. Stover) Docket No. 153,389 M
3931 N.W. 44th Terrace)
Topeka, KS 66618)

Applicant's Attorney: None

Packing house by-products,

Between all points and places in Lyons, Coffey, Osage, Shawnee, Franklin, Douglas, Jefferson, Leavenworth, Miami, Johnson and Wyandotte counties, Kansas.

Application for Certificate of Convenience and Necessity:

Transit Homes of) Docket No. 153,386 M
America, Inc.)
5305 S. Diamond)
Boise, IO 83705)

Applicant's Attorney: None

Mobile homes, sectional and modular buildings, office trailers, travel trailers, pickup campers and trailers of all types,

Between all points and places in the state of Kansas.

Application for Extension of Certificate of Convenience and Necessity:

American Cargo) Docket No. 152,493 M
Express, Inc.)
2205A Air Cargo Road)
Wichita, KS 67209) MC ID No. 125280

Applicant's Attorney: Jim Parrish, Suite 101, 1301 Gage, Topeka, KS 66604

General commodities (except classes A and B explosives, household goods, commodities in bulk, hazardous materials in bulk as defined in 49 C.F.R. § 172.101 and commodities requiring refrigeration),

Between all points in Kansas.

Application for Certificate of Convenience and Necessity:

Chester M. Rhodes &) Docket No. 153,392 M
Jolene Rhodes, dba)
Rhodes Trucking)
Route 1, Box 23)
Americus, KS 66835)

Applicant's Attorney: None

Grain, fertilizer, livestock and hay,

Between all points and places in Lyon, Marion, Morris, Chase, Wabaunsee, Greenwood, Coffey, Geary and Dickinson counties, Kansas.

Also,

Between all points and places in the above described territory, on the one hand, and all points and places in the state of Kansas, on the other hand.

Application for Transfer of Certificate of Convenience and Necessity:

Wayne E. Windholz, dba) Docket No. 147,062 M
I-70 Phillips 66)
13 S. Fossil)
Russell, KS 67665) MC ID No. 115749

TO:
Jack A. Yost, dba
I-70 Phillips 66
South 281 Highway
Russell, KS 67665

Applicant's Attorney: None

Wrecked, disabled, repossessed and replacement motor vehicles and trailers,

Between all points and places in Russell, Trego, Rooks, Osborne, Mitchell, Ellis, Lincoln, Rush, Barton, Ellsworth, Pawnee, Stafford and Rice counties, Kansas.

Also,

Between all points and places within said counties, on the one hand, and all points and places in the state of Kansas, on the other.

Application for Abandonment of Contract Carrier Permit:

Jay Lines, Inc.) Docket No. 104,787 M
P.O. Box 619467)
DFW Airport, TX 75261) MC ID No. 101542

Applicant's Attorney: None

Applications set for January 29, 1987

Application for Extension of Certificate of Convenience and Necessity:

Martin Trucking, Inc.) Docket No. 113,621 M
P.O. Box M)
Hugoton, KS 67951) MC ID No. 118128

Applicant's Attorney: William Barker, 3401 S.W. Harrison, Topeka, KS 66611

Feed and seed,

Between points in Kansas.

Fertilizer and fertilizer ingredients,

Between points in Barber, Pratt, Stafford, Barton, Comanche, Kiowa, Edwards, Pawnee, Rush, Clark, Ford, Hodgeman, Ness, Meade, Gray, Finney, Lane, Seward, Haskell, Scott, Stevens, Grant, Kearny, Wichita, McPherson, Morton, Stanton, Hamilton and Greeley counties, Kansas, on the one hand, and the state of Kansas, on the other.

Salt,

Between points in Ellsworth, Rice and Reno counties, Kansas, on the one hand, and on the other, all points and places in Kansas.

Application for Certificate of Convenience and Necessity:

Larry Kaster, dba) Docket No. 153,394 M
Buz's Mufflers)
5030 Leavenworth Road)
Kansas City, KS 66104)

Applicant's Attorney: None

Wrecked, disabled, repossessed and replacement motor vehicles and trailers,

Between all points and places in Wyandotte, Johnson, Douglas and Leavenworth counties, Kansas.

Application for Extension of Certificate of Convenience and Necessity:

Larry Turner, dba) Docket No. 136,679 M
L & J Trucking)
Route 1)
St. John, KS 67576) MC ID No. 106198

Applicant's Attorney: Clyde Christey, Southwest Plaza Building, Suite 202, 3601 W. 29th, Topeka, KS 66614

Grain, dry feed, dry feed ingredients, dry fertilizer, seeds, construction and fencing materials,

Between points and places in Trego, Ellis, Russell, Lane, Ness, Rush, Ellsworth, Rice, Saline, McPherson, Lyon, Shawnee, Wyandotte, Finney, Hodgeman, Reno, Sedgwick, Gray, Ford, Kiowa, Kingman, Meade, Clark, Comanche, Barber, Harper, Sumner and Cowley counties.

Also,

Between points and places in the above described territory, on the one hand, and points and places in the state of Kansas, on the other hand.

Application for Certificate of Convenience and Necessity:

Travelers Charters, Inc.) Docket No. 153,395 M
5315 S.W. 21st)
Topeka, KS 66604)

Applicant's Attorney: Bob Storey, Shadow Wood Office Park, 5863 S.W. 29th, Topeka, KS 66614-2461

Passengers and their baggage in charter party service only,

Between all points and places in the state of Kansas.

Applications set for February 26, 1987

Application for Certificate of Convenience and Necessity:

Stillwagoner Trucking, Inc.) Docket No. 153,393 M
1901 Willow)
Great Bend, KS 67530)

Applicant's Attorney: John Jandera, 1610 S.W. Topeka Blvd., Topeka, KS 66612

(continued)

Oilfield commodities, material and supplies, iron and steel products and machinery,

Between points in Kansas lying on and west of U.S. 81 and on and east of U.S. 83.

Also,

Between the above described area, on the one hand, and on the other, points in the state of Kansas.

Application for Transfer of Certificate of Convenience and Necessity:

Larry Kline and) Docket No. 136,059 M
 Robert Paige, dba)
 K & P Trucking)
 P.O. Box 287)
 Delphos, KS 67436) MC ID No. 106343
 TO:
 Harry Lee Ponton, dba
 Ponton Trucking
 Route 1
 Delphos, KS 67436

Applicant's Attorney: John Jandera, 1610 S.W. Topeka Blvd., Topeka, KS 66612

Grain, feed, feed ingredients and dry fertilizer,

Between points in Ottawa, Cloud, Saline and Mitchell counties, Kansas.

Also,

Between points in Ottawa, Cloud, Saline and Mitchell counties, Kansas, on the one hand, and points in Kansas, on the other.

Application for Extension of Certificate of Convenience and Necessity:

Harry Lee Ponton, dba) Docket No. 136,059 M
 Ponton Trucking)
 Route 1)
 Delphos, KS 67436)

Applicant's Attorney: John Jandera, 1610 S.W. Topeka Blvd., Topeka, KS 66612

Grain, feed, feed ingredients and dry fertilizer,

Between points in the Kansas counties of Republic, Jewell, Lincoln, Ellsworth, Ottawa, Cloud, Saline and Mitchell.

Also,

Between the above Kansas counties, on the one hand, and on the other, points in Kansas.

WILLIAM E. GREEN
 Administrator
 Transportation Division

Doc. No. 004925

State of Kansas

OFFICE OF SECURITIES COMMISSIONER

TEMPORARY ADMINISTRATIVE
 REGULATIONS

Article 3.—LICENSING; BROKER-DEALERS,
 AGENTS

81-3-2. Broker-Dealer, investment adviser and agents; fees. The fee for original registration of each broker-dealer and each investment adviser, other than an investment adviser who does not have custody of customers' moneys, securities or other property, shall be \$100 and the fee for renewal of each broker-dealer registration and each investment adviser shall be \$50. The fee for original registration of an investment adviser who does not have custody of customers' moneys, securities or other property and of an agent shall be \$15, and the fee for renewal of any investment adviser who does not have custody of customers' moneys, securities or other property and of any agent's registration, shall be \$10. (Authorized by K.S.A. 1985 Supp. 17-1270 (f); implementing K.S.A. 1985 Supp. 17-1254; effective, E-82-24, Dec. 9, 1981; effective May 1, 1982; amended T-87-41, Dec. 8, 1986.)

Article 5.—EXEMPTIONS

81-5-3. Isolated transaction exemption. A security or securities shall be deemed to have been offered and sold in an isolated transaction pursuant to K.S.A. 1985 Supp. 17-1262(a), as amended by L. 1986, Ch. 332, sec. 16, provided:

(a) no twelve-month period in which the date of the sale can be excluded contains more than five sales of the securities in Kansas by the seller and affiliates, or by or for the benefit of the issuer;

(b) no public offering as defined by K.A.R. 81-1-1 occurred in connection with the offer or sale unless an application for registration of the security or securities under the federal Securities Act of 1933 had been filed prior to the public offering;

(c) no reasonable cause existed for the seller to believe that any purchaser of the securities was purchasing from the seller for resale in Kansas and not for investment; and

(d) no intent by the seller to at any time exceed subsection (a) above existed.

In calculating the number of sales in a twelve-month period, sales made in violation of K.S.A. 17-1255, and sales exempt from registration pursuant to paragraphs (a), (h), (m) or (p) of K.S.A. 1985 Supp. 17-1262, as amended by L. 1986, Ch. 332, sec. 16, shall be taken into account.

For purposes of this exemption, a husband and wife shall be considered as one purchaser. A corporation, partnership, association, joint stock company, trust or unincorporated organization shall be considered as one purchaser unless it was organized for the purpose of acquiring the purchased securities. In such a case each beneficial owner of equity interest or equity securities in the entity shall be considered a separate purchaser. (Authorized by K.S.A. 1985 Supp. 17-

1270(f); implementing K.S.A. 1985 Supp. 17-1262(a), as amended by L. 1986, Ch. 332, Sec. 16; effective, T-83-40, November 23, 1982; effective May 1, 1983; amended, T-87-41, Dec. 8, 1986.)

JOHN R. WURTH
Securities Commissioner

Doc. No. 004913

State of Kansas
DEPARTMENT OF HUMAN RESOURCES
DIVISION OF EMPLOYMENT
TEMPORARY ADMINISTRATIVE
REGULATIONS

Article 2.—UNEMPLOYMENT INSURANCE;
CONTRIBUTING, REIMBURSING AND
RATED GOVERNMENTAL EMPLOYMENT

50-2-23. Payments under employers' plans on account of sickness or accident disability. (a) Payment by third parties.

(1) Any third party making a payment on account of sickness or accident disability when the payment is not excluded from the term "wages" under paragraph (2) of K.S.A. 44-703(o) shall be treated as the employer with respect to the wages, unless the third party promptly notifies the employer for whom the services are normally rendered of the amount of wages paid. Thereafter, the employer, and not the third party, shall be required to report and pay the contributions due with respect to the wages. The written notice shall be provided by the third party promptly following the end of each calendar quarter so the employer for whom services are normally rendered may report the wages and pay contributions when due each quarter. The written notice shall contain the following information:

- (A) The name of the employee paid sick pay; and
- (B) The social security account number of the employee paid the sick pay; and
- (C) The total amount of sick pay paid to the employee during the calendar quarter.

(2) A third party making a payment on account of sickness or accident disability to an employee as an agent for the employer or making such a payment directly to the employer shall not be treated as the employer under paragraph (1) with respect to the payment unless the agreement between the third party and the employer so provides. The third party shall not be considered an agent of the employer if the third party bears an insurance risk. If the third party bears no insurance risk and is reimbursed on a cost plus fee basis, the third party shall be considered an agent of the employer whether or not the third party is responsible for making determinations regarding the eligibility of the employer's individual employees for payments. If the third party is paid an insurance premium and is not reimbursed on a cost plus fee basis, the third party shall not be considered an agent of the employer, and shall be treated as the employer as provided in paragraph (1).

(b) Special rules.

(1) For the purposes of paragraph (1) of subsection (a), the last employer for whom the employee worked prior to becoming sick or disabled or for whom the employee was working at the time the employee became sick or disabled shall be deemed to be the employer for whom services are normally rendered, if the employer made contributions on behalf of the employee to the plan or system under which the employee is being paid.

(2) For purposes of subsection (a), when payments on account of sickness or accident disability are made to employees by a third party insurer pursuant to a contract of insurance with a multi-employer plan which is obligated to make payments on account of sickness or accident disability to the employees pursuant to a collective bargaining agreement, and if the third party insurer making the payments complies with the requirements of paragraph (1) of subsection (a) and notifies the plan of the amount of wages paid each employee within the time required for notification of the employer, then the plan, not the third party insurer, shall be required to report and pay the contributions due with respect to the wages. If the plan notifies the employer for whom services are normally rendered of the amount of wages paid each employee within six business days of receipt of the notification, the employer, not the plan, shall be required to report and pay the contributions due with respect to the wages. (Authorized by K.S.A. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-703, as amended by L. 1986, Ch. 190, Sec. 1; effective, T-87-40; Dec. 8, 1986.)

50-2-24a. Levy and distraint; Requirement of notice before levy. (a) A levy upon the salary, wages or other property of any employer may be made with respect to any unpaid tax as described in K.S.A. 1985 Supp. 44-717, as amended, only after the secretary or the secretary's designee has notified the employer in writing of the secretary's intention to make the levy.

(b) Not less than 10 days before the day of the levy the notice required under subsection (a) shall be:

- (1) made by personal service;
- (2) left at the dwelling, or usual place of abode, or place of business of the employer; or
- (3) sent by first class U.S. mail to the employer's last known address.

(c) If the secretary has made a finding under K.S.A. 44-717(e) that the collection of tax is in jeopardy, the 10-day period provided in subsection (b) shall not be required. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40; Dec. 8, 1986.)

50-2-24b. Levy and distraint; Service of levy. (a) The levy shall be served upon an employer or third party by personal service or by mail in accordance with the following requirements.

- (1) Personal service.
 - (A) Individual service. Service upon an individual, other than a minor or incapacitated person, shall be made by:

(continued)

(i) delivering a copy of the notice of levy to the individual personally;

(ii) leaving a copy of the individual's dwelling or usual place of abode with some person of suitable age and discretion then residing there;

(iii) leaving a copy at the business establishment with an officer or employee of the establishment; or

(iv) delivering a copy to an agent authorized by appointment or by law to receive service of process. If the agent is one designated by a statute to receive service, any additional notice required by statute shall be given. If service as prescribed above cannot be made with due diligence, the secretary or the secretary's designee may order service to be made by leaving a copy of the notice of levy at the dwelling house, usual place of abode or business establishment.

(B) Corporations and partnerships. Service upon a domestic or foreign corporation or upon a partnership or other unincorporated association, when by law it may be sued as such, shall be made by delivering a copy of the notice of levy to an officer, partner or resident, managing or general agent of it or them by leaving a copy at any business office with the person in charge or by delivering a copy to any other agent authorized by appointment or required by law to receive service of process. If the agent is one authorized by law to receive service, and if the law so requires, any additional notice required by statute shall be given.

(C) The "certification of service" on the notice of levy form shall be completed by the secretary's representative who serves the levy and the person served shall acknowledge receipt of the certification by signing and dating it.

(2) Service by mail. Upon the direction of the secretary or the secretary's designee, the notice of levy may be served upon a third party holding property of the employer by registered or certified mail to the third party's address. The return receipt shall be the certificate of service of the notice of levy. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40; Dec. 8, 1986.)

50-2-24c. Levy and distraint; Continuing levy on salary and wages. (a) A levy upon a third party pertaining to the salary, wages or other income payable to or to be received by an employer shall be effective from the date the levy is first made until the liability out of which the levy arose is satisfied.

(b) A levy shall be released promptly when the liability out of which the levy arose is satisfied and the employer and third party shall be promptly notified that the levy has been released. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40; Dec. 8, 1986.)

50-2-24d. Levy and distraint; Surrender of property subject to levy. Any person in possession of or obligated with respect to property or rights to property that is subject to levy and upon which a levy has been

made shall, upon demand of the secretary, surrender the property or rights or discharge the obligation to the secretary, except the part of the property or rights which is, at the time of the demand, subject to an attachment or execution under any judicial process. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40; Dec. 8, 1986.)

50-2-24e. Levy and distraint; Enforcement of levy. (a) Any employer who fails or refuses to surrender any property or rights to property that is subject to levy, upon demand by the secretary, shall be subject to proceedings to enforce the amount of the levy.

(b) Any third party who fails or refuses to surrender any property or rights to property subject to levy, upon demand by the secretary, shall be subject to proceedings to enforce the amount of the levy or any lesser amount the third party may owe the employer. A final demand shall be served on any third party who fails or refuses to surrender property. Proceedings shall not be initiated by the secretary until five days after service of the final demand.

(c) When a third party who is in possession of or obligated with respect to property or rights to property that is subject to levy and upon which a levy has been made surrenders the property or rights to property on demand of the secretary or discharges such obligations to the secretary, the third party shall be discharged from any obligation or liability to the delinquent employer with respect to the property or rights to property arising from the surrender or payment to the secretary or the secretary's designee.

(d) Person defined. The term "person," as used in K.S.A. 44-717(e)(2), is an individual, or an officer or employee of a corporation, or a member or employee of a partnership, who is under a duty to surrender the property or rights to property, or to discharge the obligation. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40; Dec. 8, 1986.)

50-2-24f. Levy and distraint; Production of books. If a levy has been made or is about to be made on any property, or right to property, any third party having custody or control of any books or records that contain evidence or statements relating to the property or right to property subject to levy shall, upon demand of the secretary, produce and exhibit the books or records to the secretary. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40; Dec. 8, 1986.)

50-2-24g. Levy and distraint; Appraisal of property. Any representative of the secretary seizing property shall appraise and set aside to the employer the amount of property declared to be exempt. If the employer objects at the time of the seizure to the valuation fixed by the secretary's representative making the seizure, the secretary shall appoint three disinterested individuals who shall make the valuation.

(Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40; Dec. 8, 1986.)

50-2-24h. Levy and distraint; Sale of seized property. (a) Notice of seizure. As soon as practical after the seizure of property, notice in writing shall be:

(1) given by the secretary to the employer owning the property and in the case of personal property, any possessor of the property; or

(2) left at the usual place of abode or business of the employer or possessor. If the employer cannot be readily located, or has no dwelling or place of business within the state, the notice may be mailed to the employer's last known address as shown on the Department's records. The notice shall specify the sum demanded, and shall contain a listing of any personal property seized and a description, with reasonable certainty, of any real property seized.

(b) Notice of sale. The secretary shall, as soon as practical after the seizure of the property:

(1) give notice to the employer, in the manner prescribed in subsection (a);

(2) publish a notification in some newspaper published or generally circulated in the county in which the property is seized; and

(3) post a notice at the post office nearest the place where the seizure is made and in at least two other public places. The notice shall specify the property to be sold and the time, place, manner and conditions of the sale. Whenever a levy is made without regard to the 10-day period provided in K.S.A. 44-717(e)(2), public notice of the sale of the property seized shall not be made prior to 10 days following seizure unless the goods seized are perishable.

(c) Sale of indivisible property. If any property subject to levy is not divisible, the whole property shall be sold.

(d) Time and place of sale. The time of sale shall not be less than 10 days nor more than 40 days from the time of giving public notice. The sale may be postponed for good reason as determined by the chief of contributions. The postponement may not be more than 30 days from the original date of the sale. The place of sale shall be within the county in which the property is seized, except by special order of the secretary.

(e) Manner and conditions of sale.

(1) Rules applicable to sale.

(A) The sale shall be conducted by public auction or public sale under sealed bids.

(B) If several items of property are seized, the notice of sale shall state whether:

(i) the items will be offered separately, in groups, or in the aggregate; or

(ii) the property will be offered both separately, in groups and in the aggregate, and sold under whichever method produces the highest aggregate amount.

(C) The announcement of the minimum price determined by the secretary may be delayed until the receipt of the highest bid.

(D) Payment in full may be required at the time of

the acceptance of a bid, or in the alternative part of the payment may be deferred for not more than one month.

(E) The sale may be advertised as appropriate in order to attract the largest number of prospective bidders.

(F) The secretary may adjourn the sale from time to time for a period not to exceed one month.

(2) Payment of amount bid.

(A) If payment in full is required at the time of acceptance of a bid and the purchaser fails to do so the secretary shall immediately sell the property again. If the conditions of the sale permit part of the payment to be deferred, and if the part deferred is not paid within the prescribed period, suit may be instituted against the purchaser for the purchase price or the part of it that has not been paid or the sale may be declared by the secretary to be null and void for failure to make full payment of the purchase price and the property may be advertised again and sold.

(B) If the property is readvertised and sold again, the new purchaser shall receive the property or the rights to the property, free and clear of any claim or any right of the defaulting purchaser. The amount paid upon the bid price by the defaulting purchaser shall be forfeited. The amount forfeited shall be applied first to sale expenses and then to the original tax debt. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40; Dec. 8, 1986.)

50-2-24i. Levy and distraint; Sale of perishable goods. If the secretary determines any property seized is likely to perish or become greatly reduced in price or value by selling it in accordance with 50-2-24h or the property cannot be kept without great expense, the value of such property shall be appraised by the secretary and shall be returned or sold as provided below:

(a) Return to employer. If the employer owning the property can be readily found, the employer shall be given notice of the determination of the appraised value of the property. The property shall be returned to the employer if the employer pays to the secretary an amount equal to the appraised value within the time specified in the notice.

(b) Immediate sale. If the employer does not pay the appraised price of the seized property, the property shall be sold publicly as soon as practical. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40; Dec. 8, 1986.)

50-2-24j. Levy and distraint; Redemption of property. (a) Before sale. Any employer whose property has been the subject of levy shall have the right to pay the amount due, together with the expenses of the proceeding, to the secretary at any time prior to the sale. Upon full payment, the property shall be restored to the employer by the secretary, and all proceedings in connection with the levy on the property shall cease from the time of the payment.

(continued)

(b) Redemption of real estate after sale.

(1) Period for redemption. The employer whose real property is sold, the heirs, executors, administrators, or any other person having any interest in the property, or having a lien upon it, or any person acting on their behalf, shall be permitted to redeem the property sold, or any particular tract of the property, at any time within 180 days after the sale.

(2) Price. Any property or tract of property may be redeemed upon payment to the purchaser of the amount paid by the purchaser together with accrued interest computed at the rate of 18 percent per annum.

(3) Record of redemption. When any lands are redeemed, an appropriate entry of the redemption shall be made upon the record mentioned in K.A.R. 50-2-24m, and the entry on the record shall be evidence of such redemption. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40; Dec. 8, 1986.)

50-2-24k. Levy and distraint; Certificate of sale; deed of real property. (a) Certificate of sale. When property is sold, a certificate of sale shall be given by the secretary to the purchaser upon payment in full of the purchase price. The certificate for real property sold shall set forth the legal description of the real property, the name of the defaulting employer, the name of the purchaser, and the price paid.

(b) Deed to real property. When any real property is sold and not redeemed within the time provided, a quit-claim deed to the purchaser of the real property shall be executed by the secretary upon the surrender of the certificate of sale. The deed shall recite the facts set forth in the certificate. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40; Dec. 8, 1986.)

50-2-24l. Levy and distraint; Legal effect of certificate of sale of personal property and deed of real property. (a) Certificate of sale of property other than real property. In all cases of the sale of property other than real property, the certificate of sale shall have the following legal effect:

(1) As evidence. The certificate shall be prima facie evidence of the right of the secretary to make the sale and conclusive evidence of the regularity of the proceedings in making the sale.

(2) As conveyance. The certificate shall transfer to the purchaser all right, title, and interest of the delinquent employer in and to the property sold.

(3) As authority for transfer of corporate stock. If the property consists of stock, the secretary's certificate shall be notice to any corporation, company, or association of the transfer, and shall be authority for the corporation, company, or association to record the transfer on its books and records in the same manner as if the stocks were transferred or assigned by the party holding the same. The certificate shall be in lieu of any original or prior certificate which shall be void whether canceled or not.

(4) As receipt. If the subject of sale is securities or other evidences of debt, the secretary's certificate shall be a good and valid receipt to the person holding them against any person holding or claiming to hold possession of the securities or other evidences of debt.

(5) As authority for transfer of title to motor vehicle. If the property consists of a motor vehicle, the secretary's certificate shall be notice to any public official charged with the registration of title to motor vehicles of the transfer and shall be authority to the official to record the transfer on the appropriate books and records in the same manner as if the certificate of title to the motor vehicle were transferred or assigned by the party holding it. The certificate shall be in lieu of any original or prior certificate which shall be void whether canceled or not.

(b) Deed of real property.

(1) Deed as evidence. The deed given shall be prima facie evidence of the facts stated in it.

(2) Deed as conveyance of title. If the proceedings of the secretary as set forth have been substantially in accordance with the provisions of law, the deed shall be considered and operate as a conveyance of all the right, title, and interest the delinquent employer had in and to the real property sold at the time the lien of the department attached to it.

(c) Effect on junior encumbrances. A certificate of sale of personal property or a deed to real property shall discharge the property from all liens, encumbrances, and titles over which the lien and levy of the department had priority. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40; Dec. 8, 1986.)

50-2-24m. Levy and distraint; Records of Sale. (a) Requirement. A record of all sales and redemptions of real property shall be kept by the secretary. The record shall set forth the tax for which any sale was made, the dates of seizure and sale, the name of the employer, all proceedings in making the sale, the amount of expenses, the names of the purchasers and the date of the deed.

(b) Copy as evidence. A copy of the record, or any part thereof, certified by the secretary, shall be evidence in any court of the truth of the facts stated. (Authorized by K.S.A. 1985 Supp. 44-714 as amended L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40; Dec. 8, 1986.)

50-2-24n. Levy and distraint; Expense of levy and sale. The secretary shall determine the expenses to be allowed in all cases of levy and sale. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40; Dec. 8, 1986.)

50-2-24o. Levy and distraint; Application of proceeds of levy. When the department has an interest in property in the form of a lien arising under the provisions of K.S.A. 44-717(e) and the department receives

money through seizure, surrender or sale of the property, or by redemption of the property prior to its sale by the department, the money realized by these actions shall:

(a) First, be applied toward the expenses of the proceedings;

(b) Second, be applied toward the employer's liability; and

(c) Third, be refunded or credited by the secretary upon written application. The application shall state there is a surplus remaining in the hands of the secretary and the applicant is legally entitled to receive it. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40; Dec. 8, 1986.)

50-2-24p. Levy and distraint; Authority to release levy and return property. (a) Release of levy. It shall be lawful for the secretary to release the levy upon all or part of the property or rights to property subject to levy when the secretary determines that a release will facilitate the collection of the liability. Such a release shall not prevent any subsequent levy.

(b) Return of property. If the secretary determines that a levy has been placed wrongfully upon the property, it shall be lawful for the secretary to return:

(1) the specific property subject to levy;

(2) an amount of money equal to the amount of money levied upon; or

(3) an amount of money equal to the amount of money received by the department from a sale of such property. (Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40; Dec. 8, 1986.)

LARRY E. WOLGAST
Secretary of Human Resources

Doc. No. 004914

State of Kansas

DEPARTMENT OF HEALTH AND ENVIRONMENT

TEMPORARY ADMINISTRATIVE REGULATIONS

Article 23.—SANITATION; FOOD, DRUG ESTABLISHMENTS

28-23-88. Permit to operate, inspections, examination and condemnation of food, review of plans, procedure when infection is suspected, remedies.

(a) Chapters 8-101 through 8-601, with the exceptions of 8-101, 8-102, 8-103, 8-104, 8-105, 8-106, 8-107, 8-201, 8-203, 8-204(a)(4) and 8-601 of the 1982 retail food store sanitation code of the department of health and human services, public health service, food and drug administration, are hereby incorporated as rules and regulations of the department. Chapters 8-201, 8-203, 8-204(a)(4), and 8-601 shall be adopted as follows:

(1) 8-201 Inspection frequency. An inspection of each retail food store shall be performed at least annually. Additional inspections shall be performed as often as necessary for the efficient and effective enforcement of this code.

(2) 8-203 Report of inspections. Whenever an inspection is made of a retail food store, the findings shall be recorded on the inspection report form set out in Section 8-205 of this code. The inspection report form shall summarize the requirements of this code and shall set forth a weighted point value for each requirement. The rating score of the establishment shall be the total of the weighted point values for all violations, subtracted from 100. A copy of the completed inspection report form shall be given to the person in charge of the establishment at the conclusion of the inspection. The completed inspection report form constitutes an official notice of inspection findings. File copies of the inspection forms shall be considered public information as provided by K.S.A. 1985 Supp. 45-215 et. seq.

(3) 8-204(a)(4) Correction of violations. When the rating score of the establishment is less than 70, the establishment shall immediately cease retail food operations.

(4) 8-601 Penalties. Any person who operates a retail food store, and who creates a public health hazard because of a failure to correct: (a) All 4- or 5-point violations within the time specified by the regulatory authority or violations of the code within a specified time when the retail food store rating score falls below 70 is subject to prosecution, and upon conviction, shall be fined an amount not to exceed \$100. (Authorized by K.S.A. 65-626; implementing K.S.A. 65-673; effective May 1, 1986; amended, T-87-36; Nov. 19, 1986.)

Article 32.—TESTING HUMAN BREATH FOR LAW ENFORCEMENT PURPOSES

28-32-1. General provisions. (A) Application. Each law enforcement agency performing or planning to

(continued)

perform evidential breath testing for alcohol for law enforcement purposes shall apply to the Kansas department of health and environment for:

(1) Certification of test equipment; and
(2) approval of procedures, performance standards and training.

(b) Test equipment and devices.

(1) Evidential breath test devices certified in Kansas shall meet the specifications determined by the department of health and environment.

(2) Testing of breath alcohol for evidential purposes in traffic law enforcement and highway crash investigations shall be conducted according to the approved procedures, and using the equipment and devices certified by the department of health and environment.

(3) Equipment shall be operated strictly according to description provided by the manufacturer and approved by the department of health and environment.

(4) Reliability of instrument performance shall be assured by weekly testing with alcohol standards furnished by the department of health and environment. These results shall be reported monthly to the department of health and environment.

(c) Training of personnel performing tests. Personnel may be trained to perform evidential breath tests by any of the following:

(1) The department of health and environment;
(2) the law enforcement agency providing breath testing; or

(3) a college or university.

Any training conducted outside of the department of health and environment shall be approved by the department.

(d) Inspection.

(1) When an application has been received from a law enforcement agency, a field inspection will be made within 30 days by a representative of the department of health and environment.

(2) One or more operators may be required to demonstrate testing procedures at the time of the inspection or at any time deemed necessary.

(3) Agency inspections shall be made at least once each year. During inspections quality control and preventive maintenance records shall be evaluated and the proper operation of equipment and procedures validated.

(e) Reports. A quarterly report on the number of persons tested by each operator shall be submitted to the department of health and environment on forms provided by the department. (Authorized by K.S.A. 65-1,107; implementing L. 1986, Ch. 40, Sec. 7; effective, E-74-11, Dec. 14, 1973; effective, E-76-2, Jan. 1, 1975; effective May 1, 1976; amended, T-87-35, Nov. 19, 1986.)

28-32-2. Evaluation study. Each law enforcement agency performing evidential breath alcohol tests shall participate in a performance evaluation program conducted or approved by the department of health and environment.

(a) Each certified operator shall test and report the number of proficiency test specimens specified by the secretary.

(1) Reports are to be submitted to the department of health and environment, on forms provided by the department. Only original copies shall be accepted. Reports shall be submitted within one week of receipt of the specimens.

(2) Forms must be properly completed, dated and signed by the operator. Failure to properly document proficiency results shall result in an unsatisfactory evaluation.

(3) The department of health and environment shall provide each participating agency with results of the proficiency tests as determined by the participant mean.

(b) Failure to test and report proficiency specimens or unsatisfactory results from such testing shall constitute reason for revoking certification of an operator. (Authorized by K.S.A. 65-1,107; implementing L. 1986, Ch. 40, Sec. 7; effective, E-74-11, Dec. 14, 1973; effective, E-76-2, Jan. 1, 1975; effective May 1, 1976; amended, T-87-35, Nov. 19, 1986.)

28-32-4. Certification of law enforcement agencies. (a) Each participating law enforcement agency that meets the standards for test equipment, procedures and standards of performance, as determined by the department of health and environment, shall be issued an annual certificate.

(b) All certification of facilities shall expire at 12 o'clock midnight, December 31 of the year of its issue. When application and approval have been timely, the certification will be considered renewed even though the applicant does not have physical possession of the renewal certificate. (Authorized by K.S.A. 65-1,107; implementing L. 1986, Ch. 40, Sec. 7; effective, E-74-11, Dec. 14, 1973; effective, E-76-2, Jan. 1, 1975; effective May 1, 1976; amended, T-87-35, Nov. 19, 1986.)

28-32-5. Certification of breath alcohol instrument operators. (a) In order to perform evidential breath alcohol tests for law enforcement purposes, a person:

(1) shall be a duly appointed Kansas law enforcement officer or be authorized in writing by the law enforcement agency to conduct such tests as a part of its own program;

(2) shall receive adequate training in breath alcohol testing;

(3) shall successfully test four proficiency test specimens supplied by the department of health and environment; and

(4) if applying after July 1, 1986, shall successfully complete a written examination prescribed by the department of health and environment.

(b) An operator holding a valid certificate to perform evidential breath alcohol tests for law enforcement purposes on December 31 of the year of its issue, may be recertified upon application by his employing agency if all agency requirements are met and the performance evaluations are satisfactory.

(c) All certification of personnel shall expire at 12 o'clock midnight, December 31 of the year of its issue. When application and approval have been timely, the certification shall be considered renewed even though the operator does not have physical possession of the

renewal certification. (Authorized by K.S.A. 65-1,107; implementing L. 1986, Ch. 40, Sec. 7; effective, E-74-11, Dec. 14, 1973; effective, E-76-2, Jan. 1, 1975; effective May 1, 1976; amended, T-87-35, Nov. 19, 1986.)

28-32-6. Criteria for preliminary screening devices. The following criteria shall be used for approval of preliminary screening devices for the testing of human breath for law enforcement purposes:

(a) Health considerations. Reusable breath test devices shall have a disposable mouthpiece.

(b) Performance. The breath test device shall specifically detect alcohol and shall be capable of reproducible results. Preliminary breath test devices shall meet the manufacturers' performance criteria when operated according to the written operating instructions.

(c) Operating instructions. Specific instructions for each instrument shall be provided by the manufacturer describing the proper operating procedure in clear, concise and accurate language. (Authorized by K.S.A. 65-1,107; implementing L. 1986, Ch. 40, Sec. 7; effective T-87-35, Nov. 19, 1986.)

28-32-7. Preliminary screening devices approved for testing of breath for law enforcement purposes. (a) Preliminary breath test devices shall be submitted to the Kansas department of health and environment for evaluation and approval for law enforcement purposes. The devices shall be operated according to the manufacturers' written directions and shall meet the criteria prescribed in K.A.R. 28-32-6. Devices are as follows:

- (1) Alcometer S-D2
- (2) Alco-sensor
- (3) Alco-sensor III
- (4) Alco-sensor, pass-warn-fail
- (5) Alcotest

and any other devices that upon evaluation by the department of health and environment meet the stated criteria in K.A.R. 28-32-6.

(b) Training of preliminary breath test operators shall be the responsibility of law enforcement agencies. Training shall strictly adhere to the operational instructions supplied by the manufacturer. (Authorized by K.S.A. 65-1,107; implementing L. 1986, Ch. 40, Sec. 7; effective, T-87-35, Nov. 19, 1986.)

Article 55.—PCB FACILITY CONSTRUCTION PERMIT STANDARDS AND REGULATIONS

28-55-1. Applicability. (a) Facilities that are regulated by these regulations include any off-site facility used to treat, store or dispose of PCB, including any such facility which handles or stores PCB under contract prior to disposal.

(b) Substances that are regulated by these regulations include dielectric fluids, contaminated solvents, oils, waste oils, heat transfer fluids, hydraulic fluids, paints, sludges, slurries, dredge spoils, soils, materials contaminated as a result of spills, and any other chemical substances or combination of substances which contain a total PCB concentration of 50 parts

per million (ppm) or more. (Authorized by and implementing K.S.A. 65-3481 as enacted by L. 1986, ch. 226, sec. 2; effective T-87-37, Nov. 19, 1986.)

28-55-2. PCB facility construction permit application. (a) Application for construction permits. After July 1, 1986 no person shall modify or construct an off-site PCB treatment, storage or disposal facility without a permit issued by the secretary. Any person desiring to obtain a permit shall file an application with the secretary at least 360 days before the date construction or modification is to begin.

(b) Contents of application. In addition to other required information the permit application shall include the following specific information:

(1) Facilities that store PCB shall provide the information required by 40 CFR 761.65, as in effect on November 1, 1986;

(2) Facilities that dispose of PCB by incineration shall provide the information required by 40 CFR 761.70, as in effect on November 1, 1986; or

(3) Facilities that dispose of PCB in landfills shall provide the information required by 40 CFR 761.75, as in effect on November 1, 1986.

(c) Background investigation. The applicant shall submit a disclosure statement along with the information required in subsection (b). The disclosure statement shall include the following information: the name of the corporation, past corporate names, the place or places of incorporation, the names of officers, the names of former officers and directors, partnership or joint venture information, ownership and debt liability, subsidiaries and stock holdings, financial history, employee data, experience and credentials, licenses and permits, environmental violations history, environmental judgements and litigation, and criminal proceedings. This information shall be submitted on forms provided by the department. (Authorized by and implementing K.S.A. 65-3481 as enacted by L. 1986, ch. 226, sec. 2; effective T-87-37, Nov. 19, 1986.)

28-55-3. Procedures for review of PCB facility permit applications. (a) Draft permits. Once an application is determined to be complete, the secretary shall tentatively decide whether to prepare a draft permit or to deny the application. If the secretary decides to prepare a draft permit, the draft permit shall contain all conditions and requirements necessary for construction of the facility. The secretary may require any special construction conditions or procedures which are necessary to comply with these or other state or federal regulations.

(b) Public notice and public comment period. Upon completing the draft permit the secretary shall prepare a public notice and allow at least 45 days for public comment. The public notice shall be published in a daily or weekly local newspaper of general circulation and the Kansas Register. The public notice shall contain the following information:

(1) Name and address of the agency processing the permit application;

(2) name and address of the permittee or permit applicant;

(continued)

(3) a brief description of the PCB treatment, storage or disposal facility;

(4) name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit; and

(5) date, time and place of the public hearing, including a brief description of the nature and purpose of the hearing.

(c) Public hearings. The notice of the public hearing shall be given at least 30 days before the hearing. The public hearing shall be conducted at a location near the facility. The secretary may designate a hearing officer who shall be responsible for its scheduling and orderly conduct. Any person may submit oral or written comments and data concerning the permit application. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. A tape recording or written transcript of the hearing shall be made available to the public upon request. The hearing officer shall submit a report to the secretary detailing all written and oral comments submitted during the public comment period. The report may also recommend findings and determinations.

(d) Approval or denial of permit application. After the close of the public comment period, the secretary shall recommend approval to the hazardous waste disposal facility approval board or shall deny the construction permit application. The secretary shall notify the applicant and each person who has submitted written comments of the decision. Notice of the final decision shall also be placed in the Kansas Register.

(e) Monitoring required. As a condition for issuing a construction permit, the secretary may require the approval, installation, and operation of environmental quality monitoring systems. Approval of monitoring systems will be based on the following factors used to measure environmental quality:

(1) The location of groundwater monitoring wells, air monitoring stations, and other required sampling points;

(2) plans and specifications for the construction of the monitoring systems;

(3) the constituents being monitored and concentration limits;

(4) frequency of sampling; and

(5) analyses to be performed.

(f) Notation on the deed. Within 60 days of receiving a construction permit the owner or operator shall record in accordance with state law, a notation on the deed to the facility property that will in perpetuity notify any potential purchaser that the land has been used to treat, store or dispose PCB, and that copies of all permits are available at the offices of the department.

(g) Final inspection of construction. Upon completing construction of a permitted facility the permittee shall notify the secretary in writing. Within 30 days the secretary or designee shall conduct an inspection of the facility to assure construction was completed in accordance with the approved permit application and final permit. The permittee shall not begin operation until the secretary approves of the construction in

writing. (Authorized by and implementing K.S.A. 65-3481 as enacted by L. 1986, ch. 226, sec. 2; effective T-87-37, Nov. 19, 1986.)

28-55-4. Modification or transfer of permits. (a) The permittee shall notify the department in writing before any proposed modifications of construction from that described in the construction plans, permit application or permit. The permittee shall not proceed with any such modifications without written approval from the department.

(b) The department may, at any time, modify a permit or any term or condition of a permit to include the following:

(1) Special conditions required to comply with the requirements of these regulations;

(2) conditions to avoid hazards to public health or the environment;

(3) conditions to abate a public nuisance; or

(4) modifications proposed by the permittee and approved by the department.

(c) Transfer of permits. Before any assignment, sale, conveyance, or transfer of all or any part of the property upon which a PCB facility is located, and before any change in the responsibility for operation of a facility is made, the permittee shall notify the department, in writing, of the intent to transfer title or operating responsibility, at least 30 days in advance of the date of transfer. The person to whom transfer is made shall submit a disclosure statement as required by K.A.R. 28-55-2(c) and any other information required by the secretary. If no reason exists to deny the permit, the secretary shall issue a permit to the new permittee. (Authorized by and implementing K.S.A. 65-3481 as enacted by L. 1986, ch. 226, sec. 2; effective T-87-37, Nov. 19, 1986.)

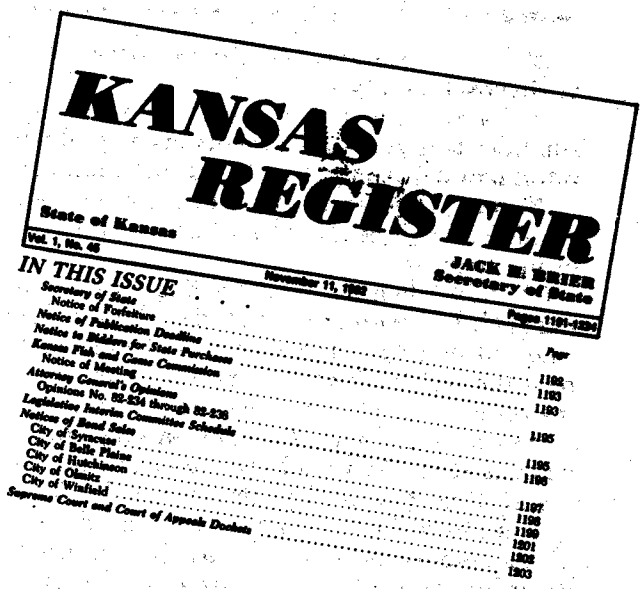
28-55-5. Standards for PCB facilities. (a) PCB treatment, storage and disposal facilities shall comply with all applicable requirements of 40 CFR 761 subpart D, as in effect on November 1, 1986 and 40 CFR 264 subparts B, C, D, G and H, as in effect on November 1, 1986. (Authorized by and implementing K.S.A. 65-3481 as enacted by L. 1986, ch. 226, sec. 2; effective T-87-37, Nov. 19, 1986.)

BARBARA J. SABOL
Secretary of Health
and Environment

Doc. No. 004916

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