

Kansas Register

Bill Graves, Secretary of State

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State of Kansas

Kansas Council on Privatization

Notice of Meeting

The Kansas Council on Privatization will meet from 9 a.m. to 3 p.m. Friday, August 12, at the Kansas Chamber of Commerce and Industry, 835 S.W. Topeka Blvd., Topeka. The meeting is open to the public.

Charles R. Warren
President, Kansas Inc.

Doc. No. 015211

State of Kansas

Employee Award Board

Notice of Meeting

The Employee Award Board will meet at 9 a.m. Tuesday, August 16, in the Division of Personnel Services, Room 951-S, Landon State Office Building, 900 S.W. Jackson, Topeka.

Ben Barrett
Chairperson

Doc. No. 015213

State of Kansas

Kansas Agricultural Value-Added Processing Center

Notice of Meetings

The Executive Committee of the Kansas Agricultural Value-Added Processing Center will meet at 9 a.m. and the By-Law Committee will meet at 1 p.m. Thursday, August 18, at Tullis Hall on the KSU-Salina campus. For further information, contact David Hurt at (913) 532-7033.

David Hurt
President

Doc. No. 015222

State of Kansas

Kansas Advocacy and Protective Services

Notice of Meeting

The Kansas Advocacy and Protective Services will conduct a meeting of the Protection and Advocacy for Individuals with Mental Illness Advisory Council at 3 p.m. Wednesday, August 17, at the Washburn University Law School, Room 119, 17th and MacVicar, Topeka. Opportunity is provided for oral or written public comment on the priorities established by and activities of the protection and advocacy system. For more information, call (913) 776-1541.

Joan Strickler
Executive Director

Doc. No. 015217

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235-N, State Capitol
(913) 296-3489

State of Kansas

Kansas Insurance Department

Notice of Hearing

A formal hearing will be conducted at 9 a.m. Wednesday, August 24, in the offices of the Kansas Commissioner of Insurance, 420 S.W. 9th, Topeka, to determine whether the application for the proposed merger of Kansas Group Life Insurance Company with and into Advance Insurance Company should be approved by the Commissioner of Insurance.

Kansas Group Life Insurance Company and Advance Insurance Company have requested that the Commissioner of Insurance approve the merger of the two companies pursuant to K.S.A. 40-281 and K.S.A. 40-309.

All interested parties may attend and will be given the opportunity to hear the details of the proposed merger, to present either oral or written testimony in favor of or in opposition to the proposed merger, and to ask any questions relative to the merger.

Ron Todd
Commissioner of Insurance

State of Kansas

Office of the State Treasurer

Notice of Investment Rates

The following rates are published in accordance with K.S.A. 1993 Supp. 75-4210. These rates and their uses are defined in K.S.A. 75-4201(1), 12-1675(b)(c)(d) and 75-4209(a)(1)(B), as amended.

Effective 8-15-94 through 8-21-94

Term	Rate
0-90 days	4.27%
3 months	4.55%
6 months	5.14%
9 months	5.43%
12 months	5.63%
18 months	6.00%
24 months	6.23%
36 months	6.54%
48 months	6.77%

Sally Thompson
State Treasurer

Doc. No. 015220

Doc. No. 015226

State of Kansas

Legislature

Interim Committee Schedule

The following committee meetings have been scheduled during the period of August 15 through August 28:

Date	Room	Time	Committee	Agenda
August 17	123-S	10:00 a.m.	Joint Committee on Pensions,	17th: Staff reports; TIAA/CREF
August 18	123-S	9:00 a.m.	Investment and Benefits	report (p.m.). 18th: KP&F hearing.
August 18	514-S	10:00 a.m.	Legislative Educational	Regents institutions
August 19	514-S	9:00 a.m.	Planning Committee	appropriations, faculty salaries, and peer comparisons; discussion of master planning activities; other matters.
August 19	519-S	10:00 a.m.	Telecommunications Strategic Planning Committee	Presentations on existing and anticipated telecommunications services, applications, and infrastructure in Kansas.
August 22	519-S	10:00 a.m.	Special Committee on	22nd: Update on new federal
August 23	519-S	9:00 a.m.	Judiciary	crime bill; tour of YCAT. 23rd: Judicial branch efficiency and need for more judges.
August 25	514-S	10:00 a.m.	Joint Committee on	Agenda not available.
August 26	514-S	9:00 a.m.	Administrative Rules and Regulations	

Emil Lutz
Director of Legislative
Administrative Services

Doc. No. 015225

State of Kansas

Social and Rehabilitation Services

Request for Proposals

The Department of Social and Rehabilitation Services is soliciting grant proposals from interested units of local government and public and private not-for-profit agencies that will assist communities to comply with state and federal laws relating to youth, juvenile offenders and status offenders. Applications must be approved by local governing bodies.

The purpose of these projects is to promote improvements in the juvenile justice system and facilitate the most effective allocation of system resources; to promote community-based alternatives for each stage of a child's contact with the juvenile justice system, emphasizing options which are least restrictive and promote positive ties with the child's family, school and community; and to promote programs which prevent or preclude minor, serious and violent delinquency from occurring. Projects may be developed to assist areas in complying with the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974. These are: 1) the deinstitutionalization of status offenders; 2) sight and sound separation of juvenile and adult offenders; 3) removal of juveniles from adult jails and lock-ups; and 4) strategies to address the over-representation of minorities in the area juvenile justice system. Preference will be given to multi-jurisdictional projects.

Following are the major areas of project development:

1. Alternatives to Incarceration/Detention—\$110,717
2. Delinquency Prevention—\$75,000
3. Serious Crime—\$50,000

Alternatives to incarceration/detention projects should be designed to limit the need for secure custody detention beds, reduce the number of juveniles held in adult jails and lock-ups, and expand community-based, non-secure incarceration alternatives/intermediate sanctions, particularly for pre-adjudicatory juveniles.

Delinquency prevention projects should be designed to reduce the onset of delinquency among youth who might otherwise have begun on a pathway to serious, violent and chronic delinquency.

Serious crime projects are to be developed for a model program that will work with juvenile sex offenders and should be designed to reduce the likelihood that a youth may be involved in a sexual offense.

Complete FY 1993 JJDP RFP application materials are available from the Community Resource Development Unit, SRS Youth and Adult Services, 300 S.W. Oakley, West Hall, Topeka 66606, (913) 296-2023. Application deadline is 5 p.m. September 27.

Carolyn Risley Hill
Commissioner of Youth and
Adult Services

Doc. No. 015210

State of Kansas

Kansas Inc.

Notice of Meeting

The Kansas Inc. Board will have its annual retreat from 8 a.m. to 3 p.m. Friday, August 19, at The Cottage House in Council Grove. The meeting is open to the public.

Charles R. Warren
President

Doc. No. 015212

State of Kansas

University of Kansas Medical Center

Notice to Bidders

Sealed Bids for the items listed below will be received by the University of Kansas Medical Center, Purchasing Department, 3901 Rainbow Blvd., Kansas City, KS 66160-7162, until 2 p.m. on the date indicated and then will be publicly opened. Interested bidders may call Peggy Davis at (913) 588-1115 for additional information.

Thursday, August 25, 1994

725048

Radioactive cobalt flood sources

Peggy Davis
Procurement Officer

Doc. No. 015219

State of Kansas

Secretary of State

Executive Appointments

Executive appointments made by the Governor, and in some cases by other state officials, are filed with the Secretary of State's office. The following appointments were filed August 1-5:

Kansas Arts Commission

Dennis L. Rogers, 2417 Everingside Drive, Topeka 66614. Term expires June 30, 1998. Succeeds NedRa Bonds.

Karen T. Rogers, 2028 Arthur Drive, Manhattan 66502. Term expires June 30, 1998. Succeeds Callie Seaton.

Donna Schroeder, Schroeder Realty, 3949 W. Douglas, Wichita 67213. Term expires June 30, 1998. Succeeds Rosemary Dugan.

Shane L. Windmeyer, 1005 Merchant St., Emporia 66801. Term expires June 30, 1997. Succeeds Robert Quinn Rohde.

Delta Dental Plan of Kansas, Inc.

Wilbur J. Leiker, 11521 S.W. Frontage Road, Topeka 66615. Term expires June 30, 1995. Reappointment.

Export Loan Guarantee Review Committee

Thomas R. Zarda, 6770 Mize, Shawnee 66226. Subject to Senate confirmation. Term expires September 30, 1998. Reappointment.

Grain Advisory Commission

Phyllis Gray, State Bank of Satanta, P.O. Box 39, Satanta 67870. Term expires June 30, 1997. Reappointment.

Dave Warrington, Smoot Grain Company, Inc., P.O. Box 320, Salina 67402. Term expires June 30, 1997. Succeeds Philip Walters.

Board of Healing Arts

C. J. Conrady, 1102 N. Anthony, Anthony 67003. Term expires June 30, 1998. Succeeds John Peterson.

Law Enforcement Training Commission on Peace Officers' Standards and Training

Brett S. Cloutier, 6819 S.W. 33rd, Topeka 66614. Term expires July 1, 1998. Reappointment.

James R. Garrison, Office of the Stanton County Sheriff, P.O. Box 520, Johnson 67855. Term expires July 1, 1998. Reappointment.

Danny Lynn Fields, Office of the Crawford County Sheriff, P.O. Box 157, Girard 66743. Term expires July 1, 1998. Reappointment.

Larry G. Leslie, Office of the Reno County Sheriff, 210 W. 1st, Hutchinson 67501. Term expires July 1, 1998. Reappointment.

Public Employees Relations Board

George E. McCullough, 4336 S.E. 26th, Topeka 66605. Subject to Senate confirmation. Term expires July 1, 1998. Reappointment.

Kansas Sports Hall of Fame Board of Trustees

Michael A. Lindsey, 1844 S. Silver, Wichita 67213. Term expires April 30, 1998. Succeeds Charles Lower.

Bill Graves
Secretary of State

State of Kansas**State Corporation Commission****Notice of Hearing**

The State Corporation Commission has directed that a hearing be conducted pursuant to K.S.A. 1993 Supp. 55-603, 55-604, 55-703 and K.S.A. 55-703a to allow the following to show cause as to why their basic proration orders should not be dissolved:

- In the matter of the application of BHP Petroleum (Americas) Inc. for an order establishing 40 acre spacing for portions of Sections 29, 30, 31 and 32, all in Township 20 South, Range 25 West, Ness County, Kansas, affecting in the SW/4 of Section 29, SE/4 of Section 30, E/2 of Section 31, and the W/2 of Section 32, Township 20 South, Range 25 West, Ness County, Kansas.
Docket No. 148,837-C (C-21,435)
- In the matter of the application of TXO Production Corporation for an order amending the basic proration order for the Stockholm S.W. Morrow Oil Pool in Greeley County, Kansas, by extending the geographical limits of said pool, affecting the S/2 of Sections 19 and 20, all of Section 29, all but the W/2 of

the SE/4 of Section 32, and the W/2 of Section 33, Township 15 South, Range 42 West; the S/2 of Section 24 and the N/2 of Section 25, Township 15 South, Range 43 West, in Wallace County, Kansas; the SW/4 and NE/4 of Section 7, and all but the W/2 of the SW/4 of Section 6, Township 16 South, Range 42 West; all of Sections 11 and 12 along with the E/2 of Section 1, Township 16 South, Range 43 West, Greeley County, Kansas.

Docket No. 121,908-C (C-19,500)

- In the matter of the application of Anadarko Production Company for an order establishing rules and regulations relating to formation of drilling units, well spacing and location, and the production, sale and conservation of oil in a described area in Kiowa County, Kansas, affecting all of Sections 4, 5, 6, 7, 8 and 9, Township 29 South, Range 19 West; all of Sections 19, 20, 29, 30, 31 and 32, Township 28 South, Range 19 West; all of Sections 24, 25 and 36, Township 28 South, Range 20 West; all of Section 1, Township 29 South, Range 20 West, Kiowa County, Kansas.
Docket No. 90,260-C (C-15,777)
- In the matter of establishing rules and regulations relating to the production, sale and conservation of crude oil and natural gas in the Viola Pool of the Goetz Field, Kingman County, Kansas, affecting Sections 19, 20, SW/4 of 21, W/2 of 28, 29, 30, N/2 of 31, NW/32, and NW/4 of Section 33, Township 29 South, Range 9 West, Kingman County, Kansas.
Docket No. 53,829-C (C-5389)
- In the matter of an investigation to ascertain whether determinable common sources of supply of natural gas exist in the Panoma Field of Grant and Stevens counties, Kansas, and whether the commission should adopt a basic proration order respecting the field, affecting all of Sections 31, 32 and 33, Township 30 South, Range 37 West in Grant County, Kansas, and all of Sections 5, 6, 7 and 8 in Township 31 South, Range 37 West and all of Section 1 and that portion of Section 12 described as the N/2 and the E/2 of the SE/4, Township 31 South, Range 38 West, Stevens County, Kansas.
Docket No. 60,331-C (C-7345)
- In the matter of establishing rules and regulations relating to the production, sale and conservation of natural gas in the Morrow Sandstone reservoir of the Panoma Gas Field in Stevens County, Kansas.
Docket No. 60,251-C (C-7114)

The hearing will be at 9 a.m. Friday, September 2, at the University of Kansas School of Medicine, 1010 N. Kansas Ave., Wichita. Additional information can be obtained by contacting William J. Wix, Assistant General Counsel, State Corporation Commission, Conservation Division, Room 2078, Wichita State Office Building, 130 S. Market, Wichita 67202, (316) 337-6200.

Judith McConnell
Executive Director

Doc. No. 015215

State of Kansas

Department of Administration

Public Notice

Under requirements of K.S.A. 65-34,117(b), records of the Division of Accounts and Reports show the unobligated balances are \$2,376,184.20 in the underground petroleum storage tank release trust fund and \$7,322,188.30 in the aboveground petroleum storage tank release trust fund at July 31, 1994.

Gloria M. Timmer
Secretary of Administration

Doc. No. 015209

State of Kansas

University of Kansas

Notice to Bidders

Sealed bids for the items listed below will be received by the University of Kansas Purchasing Office, Lawrence, until 2 p.m. local time on the date indicated and then will be publicly opened. Interested bidders may call (913) 864-3416 or FAX (913) 864-3454 for additional information.

Monday, August 22, 1994

RFQ 95 0108

Two (2) stereo binocular microscopes

RFQ 95 0109

Two (2) stereo binocular microscopes

Gene Puckett
Director of Purchasing

Doc. No. 015218

State of Kansas

Attorney General

Opinion No. 94-92

Public Health—Secretary of Health and Environment, Activities; Water Supply and Sewage—Prevention of Water Pollution; Standards; Permits; Exemptions; Orders; Hearings; Appeals; Fees; Right of Ingress and Egress; Confined Feeding Facilities. Representative Laura L. McClure, 119th District, Osborne/Robert C. Harder, Secretary, Department of Health and Environment, Topeka, July 29, 1994.

An existing facility pursuant to K.S.A. 65-171d(k)(2) as amended by L. 1994, ch. 213, § 1 is one that has been erected or is in place prior to July 1, 1994, and is capable of meeting the definition of a confined feeding facility. This provision of the statute is an exception or a grandfather clause. A facility which exists prior to the effective date of this act can expand as long as the provisions of K.S.A. 65-171d(k)(3), as amended by L. 1994, ch. 213, § 1, are observed. Cited herein: K.S.A. 65-171d, as amended by L. 1994, ch. 213, § 1. MJS

Opinion No. 94-93

State Departments; Public Officers and Employees—Public Officers and Employees; Open Public Meet-

ings—Application to the Consensus Estimating Group. Representative Doug Lawrence, 9th District, Burlington, August 3, 1994.

The consensus estimating group is not a "public body" within the meaning of the KOMA, but an independent group which has no statutory authority or duties. Therefore, it is not subject to the requirements of the KOMA. Cited herein: K.S.A. 75-4318; 75-6701. NKF

Opinion No. 94-94

Schools—Community Colleges—Community College Elections—Member Districts and Member Positions; Residence of Members. Representative Joe Shriver, 79th District, Arkansas City, August 3, 1994.

K.S.A. 71-1407 requires that a member of a board of trustees for a community college reside in the district which the member was elected to represent. If a member of the board of trustees removes his or her residence from the district, the member is no longer qualified to serve and a vacancy occurs. Cited herein: K.S.A. 15-209; 19-202; 71-1403; 71-1407; 72-8009. RS

Opinion No. 94-95

Cities and Municipalities—Ordinances of Cities; Initiative and Referendum Ordinances—Petition for Proposed Ordinance; Requirements.

Elections—Sufficiency of Petitions—Determination of Legality of Form; Application of Other Statutes. Philip E. Winter, Lyon County Counselor, Emporia, August 3, 1994.

The form of the question set forth in the herein referenced petition meets the requirements set forth in K.S.A. 12-3013 and 25-3602. Cited herein: K.S.A. 12-3005; 12-3013; 25-620; 25-3601; 25-3602; Kan. Const., art. 12, § 5. RDS

Opinion No. 94-96

Public Records, Documents and Information—Records Open to Public—County Appraiser's Records on Individually Owned Real Property. Nola Foulston, Sedgwick County District Attorney, Wichita, August 3, 1994.

If the disclosure is requested during the course of an administrative proceeding or on appeal from agency action, then the county appraiser's office must comply with the request and disclose the records on individually owned real property. However, in other cases, identifying portions of the questionnaires such as the name, address, and phone numbers of the owner and financial information of a taxpayer should be deleted before the disclosure of any remaining portions. Cited herein: K.S.A. 45-216; 45-217; as amended by L. 1994, ch. 293, § 4; 45-221, as amended by L. 1994, chs. 89, 101, 107, 138; K.S.A. 79-1458. NKF

Robert T. Stephen
Attorney General

Doc. No. 015221

(Published in the Kansas Register, August 11, 1994.)

**Summary Notice of Note Sale
City of Manhattan, Kansas
\$797,500**

**Temporary Notes, Series 1994-12 through 1994-14
(General obligation notes payable from
unlimited ad valorem taxes)**

Sealed Bids

Subject to the notice of note sale dated August 10, 1994, sealed bids will be received by the accounting/treasury officer of the city of Manhattan, Kansas (the issuer), on behalf of the governing body at City Hall, 1101 Poyntz, Manhattan, KS 66502-5460, until 2 p.m. C.D.T. on August 18, 1994, for the purchase of \$797,500 principal amount of Temporary Notes, Series 1994-12 through 1994-14. No bid of less than the entire par value of the notes, except a discount of not greater than 1 percent of the par value of the notes, and accrued interest thereon to the date of delivery will be considered.

Note Details

The notes will consist of bearer notes in denominations to be specified by the bidder, as specified in the notice of note sale. The notes will be dated September 1, 1994, and will become due June 15, 1995.

The notes will bear interest from the date thereof at rates to be determined when the notes are sold as hereinafter provided, which interest will be payable at maturity or earlier redemption.

Paying Agent

A financial institution located within the state of Kansas, to be designated by the successful bidder (which shall not be the issuer).

Delivery

The issuer will pay for printing the notes and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or before September 13, 1994, at such bank or trust company in the state of Kansas or Kansas City, Missouri, as may be specified by the successful bidder.

Assessed Valuation and Indebtedness

The equalized assessed tangible valuation for computation of bonded debt limitations for the year 1993 is \$159,435,637. The total general obligation indebtedness of the issuer as of the date of the notes, including the notes being sold, is \$32,090,800.

Approval of Notes

The notes will be sold subject to the legal opinion of Gilmore & Bell, P.C., Wichita, Kansas, bond counsel, whose approving legal opinion as to the validity of the notes will be furnished and paid for by the issuer and delivered to the successful bidder as and when the notes are delivered.

Additional Information

Bidders desiring a copy of the notice of note sale, official bid form and preliminary official statement, or requesting additional information regarding the notes, should contact Laura Oakley, accounting/treasury officer, (913) 537-0056.

Dated August 10, 1994.

City of Manhattan, Kansas

State of Kansas

**Department of Health
and Environment**

**Notice of Hearing on Proposed
Administrative Regulations**

The Kansas Department of Health and Environment will conduct a public hearing at 9 a.m. Thursday, September 15, in the fourth floor conference room, Mills Building, 109 S.W. 9th, Topeka, to consider new regulations K.A.R. 28-67-1 through K.A.R. 28-67-11 pertaining to the health care database.

These regulations, as approved by the Health Care Data Governing Board, address the collection/submission, release and rerelease, access, confidentiality, fees charged, record and system security, eligible contractors and data validation of the health care database authorized by K.S.A. 65-6801 to K.S.A. 65-6808.

The fiscal impact for establishing the database and implementing these rules and regulations are estimation based on information provided by organizations that collect health care data. The database is still in its development stages and the full economic impact to the state as well as private organizations may not be realized. However, current estimations of the cost of health care database development range from \$504,250-\$702,000.

Copies of the regulations and the economic impact statement may be obtained from the Kansas Department of Health and Environment, Office of Health Care Information, Mills Building, Suite 400A, 109 S.W. 9th, Topeka 66612-2219. Questions pertaining to these proposed rules and the economic impact statement should be directed to Elizabeth W. Saadi, Ph.D., at (913) 296-8084.

The time period between the publication of this notice and the scheduled hearing constitutes a 30-day public comment period for the purpose of receiving written comments prior to the hearing. All interested parties will be given reasonable opportunity during the hearing to present their views, orally or in writing, concerning the adoption of the regulations. Following the hearing, all comments will be considered in determining whether to make changes to the proposed regulations.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and fiscal impact statements in an accessible format. Requests should be made at least five working days in advance of the hearing by contacting Sandy McAdam at (913) 296-6917.

Robert C. Harder
Secretary of Health
and Environment

Doc. No. Doc. No. 015223

Doc. No. 015229

State of Kansas

Department of Health and Environment

Notice Concerning Kansas Water Pollution Control Permits

In accordance with state regulations 28-16-57 through 63, 28-18-1 through 4, and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, tentative permits have been prepared for discharges to the waters of the United States and the state of Kansas for the applicants described below. The tentative determinations for permit content are based on preliminary staff review, applying the appropriate standards, regulations, and effluent limitations of the state of Kansas and the EPA, and when issued will result in a state water pollution control permit and national pollutant discharge elimination system authorization to discharge subject to certain effluent limitations and special conditions.

Public Notice No. KS-AG-94-72/75

Name and Address of Applicant	Legal Description	Receiving Water
Robert Sproul 915 Pratt Almena, KS 67622	E/2, SW/4 and W/2, SW/4, Sec. 25, T1S, R21W, Norton County	Upper Republican River Basin

Kansas Permit No. A-URNT-C002 Federal Permit No. KS-0091014

The feedlot has capacity for approximately 5,000 cattle and a contributing drainage area of approximately 59 acres. This is a new facility.

Runoff Control Facilities: Feedlot runoff is impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity is provided in excess of 16.7 acre-feet.

Compliance Schedule:

1. The waste management plan developed by Reh and Associates, Inc. and approved by the department shall be adhered to as a condition of this permit. The plan calls for nutrient analysis of both liquid and solids with applications to meet crop nutrient needs. If wastes are not analyzed for nutrient content, wastewater shall be applied at not greater than 4 acre inch per acre per year and solids shall be applied at no greater than 20 ton per acre.
2. Dewatering equipment shall be obtained within 60 days after issuance of this permit through purchase, rental or custom application agreement. It shall be capable of pumping at least 850 gallons per minute and dispersing the wastewater over 75 acres of land suitable for waste application. Written verification of the acquisition of the equipment shall be submitted to the department.

Name and Address of Applicant	Legal Description	Receiving Water
Albert Hog Farm Steven M. Albert Route 1, Box 101A Natoma, KS 67651	NW/4, Sec. 27, T9S, R16W, Rooks County	Saline River Basin

Kansas Permit No. A-SARO-S002

The proposed facility will have capacity for approximately 510 swine.

Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity is provided in excess of minimum requirements.

Compliance Schedule:

A livestock waste management plan for the facility shall be developed. The plan shall cover, but not be limited to, the following: handling and disposal equipment for both solid and liquid wastes, land application practices used to protect against runoff and leaching, waste application rates based on crop nutrient utilization, and identification of adequate land areas of application of all wastes. Detailed guidance and requirements will be provided by the department. A plan shall be sub-

mitted to the department within six months following receipt of detailed requirements. The approved plan will become part of this permit.

Name and Address of Applicant	Legal Description	Receiving Water
Charlie May 9439 S.W. Wanamaker Wakarusa, KS 66546	SE/4, Sec. 33, T13S, R13E, Wabaunsee County	Kansas River Basin

Kansas Permit No. A-KSWB-S005

The existing facility has the capacity for approximately 490 swine.

Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity is provided in excess of minimum requirements.

Compliance Schedule:

A livestock waste management plan for the facility shall be developed. The plan shall cover, but not be limited to, the following items: handling and disposal equipment for both solid and liquid wastes, land application practices used to protect against runoff and leaching, waste application rates based on crop nutrient utilization, and identification of adequate land areas of application of all wastes. Detailed guidance and requirements will be provided by the department. A plan shall be submitted to the department within six months following receipt of detailed requirements. The approved plan will become part of this permit.

Name and Address of Applicant	Legal Description	Receiving Water
Rainbow Jersey Farm Elwood Schmidt 10570 Anderson Ave. Riley, KS 66531	NW/4, Sec. 21, T9S, R6E, Riley County	Kansas River Basin

Kansas Permit No. A-KSRL-M002

The proposed expanded facility will have capacity for approximately 150 dairy cattle.

Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity is provided in excess of minimum requirements.

Compliance Schedule: None, existing controls adequate.

Written comments on the proposed determinations may be submitted to Bethel Spotts, Permit Clerk, or Dorothy Geisler (agricultural permits), Kansas Department of Health and Environment, Division of Environment, Bureau of Water, Forbes Field, Topeka 66620. All comments postmarked or received on or before September 9 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate public notice number (KS-AG-94-72/75) and the name of applicant as listed when preparing comments.

If no objections are received during the public notice period, the Secretary of Health and Environment will issue the final determinations. If response to this notice indicates significant public interest, a public hearing may be held in conformance with state regulation 28-16-61. Media coordination (newspapers, radio) for publication and/or announcement of the public notice or public hearing is handled by the Kansas Department of Health and Environment.

The application, proposed permit, including proposed effluent limitations and special conditions, fact sheets as appropriate, comments received, and other information, are on file and may be inspected at the Kansas Department of Health and Environment offices, Building 283, Forbes Field, Topeka, from 8 a.m. to 4:30 p.m. Monday through Friday. The documents are available upon re-

quest at the copying cost assessed by KDHE. Additional copies of this public notice also may be obtained at the Division of Environment.

Robert C. Harder
Secretary of Health
and Environment

Doc. No. 015224

State of Kansas

Department of Transportation

Notice to Contractors
Special Letting

Sealed proposals for the construction of road work in the following Kansas county will be received at the office of the Chief of Construction and Maintenance, KDOT, Topeka, until 10 a.m. August 25, and then publicly opened:

District Three - Northwest

Smith - 36-92 K-5620-01 - U.S. 36, from east of Smith Center east to the Smith-Jewell county line, 14.5 miles, cold recycling and bituminous overlay. (State Funds)

Proposals will be issued upon request to all prospective bidders who have been prequalified by the Kansas Department of Transportation on the basis of financial condition, available construction equipment, and experience. Also, a statement of unearned contracts (Form No. 284) must be filed. There will be no discrimination against anyone because 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 KDOT district office responsible for the work.

Michael L. Johnston
Secretary of Transportation

Doc. No. 015216

State of Kansas

Department of Administration
Division of Purchases

Notice of Bidders

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

Monday, August 22, 1994

30622

Department of Wildlife and Parks—Sand, Hillsdale State Park

30625

University of Kansas Medical Center—Cleaning chemicals and janitorial supplies

30628

Kansas State University—September (1994) meat products

30635

Statewide—Printing and offset duplicating supplies

30636

University of Kansas—Printing, binding and mailing of Kansas Law Review

99654

Kansas State University—Laminar airflow workstations and bio safety cabinets

99655

Kansas State University—Water purifying/polishing stations

99656

Kansas State University—Glassware washers

99657

Department of Wildlife and Parks—15' batwing mower, Clinton State Park

99658

Ellsworth Correctional Facility—Building materials

99659

Department of Wildlife and Parks—Furnish all labor and materials to construct vault toilet, Cheney State Park

99721

Department of Transportation—Luminaires, Wichita

Tuesday, August 23, 1994

30626

University of Kansas—Miscellaneous groceries

30627

University of Kansas—Frozen foods

99662

Board of Agriculture—Portable octane meter

99663

Kansas State University—Microscopes

99672

Department of Wildlife and Parks—Printing of boat safety books

99673

University of Kansas Medical Center—Furnish and install windows

(continued)

Thursday, September 8, 1994

30644

Drug testing for the Department of Transportation

Jack R. Shipman
Director of Purchases

Doc. No. 015227

State of Kansas

Board of Agriculture

Notice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted at 9:30 a.m. Tuesday, September 13, in the board room of the Kansas State Board of Agriculture, 901 S. Kansas Ave., Topeka, at which time all interested persons will have an opportunity to be heard regarding the adoption of proposed permanent rules and regulations of the Kansas State Board of Agriculture. The proposed permanent rules and regulations will become effective 45 days after their publication in the Kansas Register unless a specified date is contained in the regulation.

All interested persons may attend the hearing and will be given an opportunity to express comments either orally or in writing, or both. In addition, the period of at least 30 days notice constitutes a public comment period for the purpose of receiving public comments on the proposed rules and regulations.

Written comments and requests for copies of the regulations and the complete economic impact statement should be sent to Kenneth M. Wilke, Chief Counsel, Kansas State Board of Agriculture, 901 S. Kansas Ave., Topeka 66612-1280, at or before the time of the hearing. If you intend to present testimony in person at the hearing, prior notice to this office would be helpful in arranging the agenda. In order to give all parties an opportunity to present their views, it may be necessary to request each participant to limit any oral presentations to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests should be made at least five working days in advance of the hearing by contacting Kenneth M. Wilke, Chief Counsel, (913) 296-3848, or Carole Jordan, Public Information Officer, (913) 296-3571. Such requests also may be made through the Kansas Relay Center (1-800-766-3777).

A summary of the proposed regulations follows:

- K.A.R. 4-2-4 will be revoked.
- K.A.R. 4-2-5 will be revoked.
- K.A.R. 4-2-6 will be revoked.
- K.A.R. 4-2-8 updates the "Rules for Seed Testing" as published by the Association of Official Seed Analysts to the October 1993 edition.
- K.A.R. 4-2-20 adopts by reference certain sections of title 7 of the Code of Federal Regulations published on January 1, 1994, pertaining to seed sampling procedures.
- K.A.R. 4-3-47 updates the definitions of feed ingredients and feed terms adopted by reference from the

99674
Lansing Correctional Facility—Lumber and plywood

Wednesday, August 24, 1994

30633

Department of Social and Rehabilitation Services—
Janitorial services, Concordia

99680

Department of Social and Rehabilitation Services—
Furnish all labor for remodeling building

99681

University of Kansas Medical Center—Water
softener resin

99685

University of Kansas Medical Center—Liquid
chromatography system

99686

Kansas State University—Centrifuge, ultra

Thursday, August 25, 1994

30630

University of Kansas—Student record exchange
software

30634

Department of Social and Rehabilitation Services—
Janitorial services, Abilene

99691

Kansas State University—Furnish and install satellite
system

99696

Emporia State University—Switch gear

Friday, August 26, 1994

A-7373

University of Kansas—HVAC improvements,
Ellsworth Annex

30629

Department of Wildlife and Parks—Rainbow trout,
various locations

30632

Statewide—Computer output microfiche

99704

Department of Health and Environment—
Continuous particulate monitor

99705

Emporia State University—Macintosh token ring
card and nubus adapters

99706

Kansas State University—Laboratory sterilizers

99717

Department of Health and Environment—Air testing
and sampling equipment

Request for Proposals

Wednesday, August 31, 1994

30631

Telemarket survey and report for the Department of
Wildlife and Parks

Tuesday, September 6, 1994

30577

Automated tax systems, Kansas Tax 2000 for the
Department of Revenue

"Association of American Feed Control Officials Incorporated" to the January 1, 1991 edition.

K.A.R. 4-3-49 updates the federal regulations establishing good manufacturing practices for production of commercial feeding stuffs to the April 1, 1993 edition.

K.A.R. 4-7-900 makes technical language changes only.

K.A.R. 4-7-901 removes obligation for respondent to file an answer.

K.A.R. 4-7-904 makes technical changes to correspond to changes in K.A.R. 4-7-901.

K.A.R. 4-7-905 eliminates the requirement that a proposed civil penalty cannot be reduced more than 40 percent.

K.A.R. 4-16-1a increases the dollar limitation for exemption from \$30,000 to \$33,000.

K.A.R. 4-16-1c updates the federal meat inspection regulations previously adopted by reference to the January 1, 1994 edition as further amended by Federal Register publications dated February 14, 1994; March 17, 1994; March 28, 1994; and April 26, 1994.

K.A.R. 4-16-300 makes technical language changes only.

K.A.R. 4-16-301 removes the obligation for respondent to file an answer.

K.A.R. 4-16-304 makes technical changes to correspond to changes in K.A.R. 4-16-301.

K.A.R. 4-16-305 eliminates the requirement that a proposed civil penalty cannot be reduced more than 40 percent.

K.A.R. 4-17-1c updates the federal poultry inspection regulations previously adopted by reference to the January 1, 1994 edition as further amended by Federal Register publication dated March 28, 1994.

K.A.R. 4-17-5a increases the dollar limitation for exemption from \$30,000 to \$33,000.

K.A.R. 4-17-300 makes technical language changes only.

K.A.R. 4-17-301 removes obligation for respondent to file an answer.

K.A.R. 4-17-304 makes technical changes to correspond to changes in K.A.R. 4-17-301.

K.A.R. 4-17-305 eliminates the requirement that a proposed civil penalty cannot be reduced more than 40 percent.

K.A.R. 99-40-100 makes technical language changes only.

K.A.R. 99-40-101 removes the obligation for respondent to file an answer.

K.A.R. 99-40-104 makes technical changes to correspond to changes in K.A.R. 99-40-101.

K.A.R. 99-40-105 eliminates the requirement that a proposed civil penalty cannot be reduced more than 40 percent.

Regarding the economic impact of proposed regulation K.A.R. 4-2-20 and the revocation of K.A.R. 4-2-4, 4-2-5 and 4-2-6, there will be minimal, if any, fiscal or economic impact on this agency or other governmental agencies, individuals, private businesses or the general public.

Regarding the economic impact of proposed regulation K.A.R. 4-2-8, there will be minimal, if any, fiscal or economic impact on this agency or other governmental

agencies, individuals, private businesses or the general public.

Regarding the economic impact of proposed regulations K.A.R. 4-3-47 and K.A.R. 4-3-49, there will be minimal, if any, fiscal or economic impact on this agency or other governmental agencies, individuals, private businesses or the general public.

Regarding the economic impact of proposed regulations K.A.R. 4-7-900, K.A.R. 4-7-901, K.A.R. 4-7-904, and 4-7-905, there will be minimal, if any, fiscal or economic impact on this agency or other governmental agencies, individuals, private businesses or the general public.

Regarding the economic impact of proposed regulations K.A.R. 4-16-1a and K.A.R. 4-16-1c, there will be minimal fiscal impact on other governmental agencies, individuals, private businesses or the general public except for those businesses which have not started using safe handling labels. The agency estimates that the cost of safe handling labels to be approximately \$.005 each depending upon the volume used. In some cases, this information can be incorporated into other labels at little or no additional cost. The agency does not anticipate losing any registration fees due to the increase in the dollar limitation for retail store exemption.

Regarding the economic impact of proposed regulations K.A.R. 4-16-300, K.A.R. 4-16-301, K.A.R. 4-16-304, and K.A.R. 4-16-305, there will be minimal, if any, fiscal or economic impact on this agency or other governmental agencies, individuals, private businesses or the general public.

Regarding the economic impact of proposed regulations K.A.R. 4-17-1c and K.A.R. 4-17-5a, there will be minimal fiscal impact on other governmental agencies, individuals, private businesses or the general public except for those which have not started using safe handling labels. The agency estimates that the cost of safe handling labels to be approximately \$.005 each depending upon the volume used. In some cases this information can be incorporated into other labels at little or no additional cost. The agency does not anticipate losing any registration fees due to the increase in the dollar limitation for retail store exemption.

Regarding the economic impact of proposed regulations K.A.R. 4-17-300, K.A.R. 4-17-301, K.A.R. 4-17-304, and K.A.R. 4-17-305, there will be minimal, if any, fiscal or economic impact on this agency or other governmental agencies, individuals, private businesses or the general public.

Regarding the economic impact of proposed regulations K.A.R. 99-40-100, K.A.R. 99-40-101, K.A.R. 99-40-104 and K.A.R. 99-40-105, there will be minimal fiscal impact on other governmental agencies, individuals, private businesses or the general public.

Regarding K.A.R. 4-16-1a, K.A.R. 4-16-1c, K.A.R. 4-17-1c and K.A.R. 4-17-5a, adoption of these regulations or more stringent regulations are necessary for the state of Kansas to maintain its "equal to" status under the Federal Wholesome Meat Act in order to receive federal matching funding for its meat and poultry inspection program.

Regarding all other regulations referred to in this notice of hearing, none of these regulations are mandated

(continued)

by federal law as a requirement for participating in or implementing a federally subsidized or assisted program.

In promulgating all of the regulations mentioned in this notice of hearing, the Kansas State Board of Agriculture chose the least costly and least intrusive method for achieving the stated purpose of these regulations.

Copies of these regulations and the current fiscal impact statement may be obtained by writing to Kenneth M. Wilke at the address above. Fiscal impact information may be updated at the time of the hearing after consultation with or receiving input from the League of Municipalities, the Association of Kansas Counties and the Association of School Boards as required by L. 1994, Ch. 232.

Phillip A. Fishburn
Acting Secretary of Agriculture

Doc. No. 015228

State of Kansas

Board of Accountancy

Permanent Administrative
Regulations

Article 5.—CODE OF PROFESSIONAL CONDUCT

74-5-202. Auditing standards. A certified public accountant or a licensed municipal public accountant shall not permit his or her name to be associated with financial statements in such a way as to imply that the accountant is acting as an independent certified public accountant or licensed municipal public accountant with respect to the financial statements unless the accountant has complied with applicable, generally accepted auditing standards as interpreted by statements on auditing standards issued by the American institute of certified public accountants in Volumes 1 and 2, dated June 1, 1994, and the minimum standard audit program of the Kansas state municipal accounting board. Any accountant who does not conform to those standards shall provide justification for such a departure. (Authorized by and implementing K.S.A. 1-202(c)(1); K.S.A. 75-1119(a); effective Jan. 1, 1966; amended Jan. 1, 1972; amended Jan. 1, 1974; amended May 1, 1978; amended, E-82-27, Dec. 22, 1981; amended May 1, 1982; amended May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended May 22, 1989; amended Jan. 7, 1991; amended July 13, 1992; amended Aug. 23, 1993; amended Sept. 26, 1994.)

74-5-203. Accounting principles. (a) A certified public accountant or a licensed municipal public accountant shall not express an opinion that financial statements are presented in conformity with generally accepted accounting principles if the financial statements contain any departure from those accounting principles that has a material effect on the financial statements taken as a whole. However, any certified public accountant or licensed municipal public accountant may express such an opinion if the accountant can demonstrate that, due to unusual circumstances, the financial statement would otherwise have been misleading. In

those cases, the accountant's report shall describe the departure, the approximate effects, if practicable, and the reasons why compliance with the principle would result in a misleading statement.

(b) For purposes of this regulation, "generally accepted accounting principles" are considered to be pronouncements issued by the financial accounting standards board in its general and industry standards publications, dated June 1, 1994. (Authorized by and implementing K.S.A. 1-202 (c)(1); K.S.A. 75-1119(a); effective Jan. 1, 1966; amended Jan. 1, 1974; amended May 1, 1978; amended, E-82-27, Dec. 22, 1981; amended May 1, 1982; amended May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended May 22, 1989; amended Jan. 7, 1991; amended July 13, 1992; amended Aug. 23, 1993; amended Sept. 26, 1994.)

Article 12.—FEES

74-12-1. Fees. Each applicant shall submit the appropriate application form and fee as shown in the following schedule.

- (a) Kansas certified public accountant certificate, including initial examination when required \$150.00
- (b) Complete re-examination \$125.00
- (c) Partial re-examination for:
 - (1) Any two subjects \$100.00
 - (2) One subject \$ 50.00
- (d) Initial permit to practice as certified public accountant:
 - (1) For more than one year of a biennial period \$ 90.00
 - (2) For one year or less of a biennial period \$ 45.00
- (e) Renewal of biennial permit to practice as certified public accountant:
 - (1) If received on or before July 1 of the renewal year in which the permit expires \$ 90.00
 - (2) If received after July 1 of the renewal year in which the permit expires \$135.00
- (f) Reinstatement of permit to practice as a certified public accountant which has lapsed:
 - (1) For more than one year of a biennial \$135.00
 - (2) For one year or less of a biennial \$ 67.50
- (g) Renewal of a biennial permit to practice as a licensed municipal public accountant:
 - (1) If received on or before July 1 of the odd-numbered renewal years \$ 50.00
 - (2) If received after July 1, or for reinstatement of a permit to practice which has been lapsed for one or more years \$ 75.00

- (h) Temporary permit to practice as an out-of-state certified public accountant..... \$ 50.00

(Authorized by and implementing K.S.A. 1-301 and K.S.A. 75-1119a; effective May 1, 1988; amended May 22, 1989; amended Dec. 18, 1989; amended Sept. 26, 1994.)

Glenda S. Moore
Executive Secretary

Doc. No. 015214

State of Kansas

Department of Health and Environment

Permanent Administrative Regulations

Article 15.—APPLICATION FOR PERMITS; DOMESTIC WATER SUPPLY

28-15-11. Definitions. (a) "Public water supply system" or "system" means a system for delivery to the public of piped water for human consumption, that has at least 10 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. This term shall include any source, treatment, storage or distribution facilities used in connection with the system.

(b) "Community water supply system" means a public water supply system which has at least 10 service connections used by year-round residents or that regularly serves 25 year-round residents.

(c) "Non-community water supply system" means a public water supply system which is not a community water supply system.

(d) "Non-transient non-community water supply system" means a public water supply system that is not a community water supply system and that regularly serves at least 25 of the same persons at least six months per year.

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

(f) "Secretary" means the secretary of health and environment.

(g) "Laboratory tests" means all bacteriological, chemical, physical or radiological tests made by either the departmental laboratory or an approved laboratory on water samples which were submitted by the operator of a system to confirm the quality of the water.

(h) "Operating records and reports" means the daily record and the monthly report of data connected with the operation of the system facilities.

(i) "Sanitary survey" means an on-site appraisal of a public water supply system for the purpose of evaluating the adequacy of the water source, facilities, equipment, operation and maintenance.

(j) "Approved laboratory" means a laboratory certified and approved by the department to analyze water samples to determine compliance with maximum contaminant levels, or to perform other required analyses.

(k) "Maximum contaminant level" (MCL) means the maximum permissible level of a contaminant in water which is delivered to any user of a public water supply

system, or measured at other locations specified in these regulations.

(l) "Distribution system" means the system of conduits and appurtenances by which a water supply is distributed to consumers.

(m) "Turbidity" means the cloudy condition of water caused by the presence of finely suspended matter such as clay, silt, plankton, and microscopic organisms, resulting in the scattering and absorption of light rays. Measured in nephelometric turbidity units (NTU).

(n) "Point-of-entry treatment device" means a treatment device applied to the drinking water entering a house or building for the purpose of reducing contaminants in the drinking water distributed throughout the house or building.

(o) "Point-of-use treatment device" means a treatment device applied to a single tap used for the purpose of reducing contaminants in drinking water at that particular tap.

(p) "Confluent growth" means a continuous bacterial growth covering the entire filtration area of a membrane filter, or a portion thereof, in which bacterial colonies are not discrete.

(q) "Domestic or non-distribution system plumbing problem" means a coliform contamination problem in a public water system with more than one service connection that is limited to the specific service connection from which the coliform-positive sample was taken.

(r) "System with a single service connection" means a system which supplies drinking water to consumers via a single service line.

(s) "Too numerous to count" means that the total number of bacterial colonies exceeds 200 on a 47-mm diameter membrane filter used for coliform detection.

(t) "Coagulation" means a process using coagulant chemicals and mixing by which colloidal and suspended materials are destabilized and agglomerated into flocs.

(u) "Conventional filtration treatment" means a series of processes including coagulation, flocculation, sedimentation, and filtration resulting in substantial particulate removal.

(v) (1) "CT or CT Calc" means the product of "C" x "T," where:

(A) "C" equals the residual disinfectant concentration measured in mg/l and determined before or at the first customer; and

(B) "T" equals the corresponding disinfectant contact time measured in minutes.

(2) If a public water system applies disinfectants at more than one point prior to the first customer, it shall determine the CT of each disinfectant sequence before or at the first customer to determine the total percentage of inactivation or "total inactivation ratio." In determining the total inactivation ratio, the public water system shall determine the residual disinfectant concentration of each disinfection sequence and corresponding disinfectant contact time before any subsequent disinfection application point.

(3) "CT_{99.9}" means the CT value required for 99.9 percent, or 3-log, inactivation of *Giardia lamblia* cysts. CT_{99.9} for a variety of disinfectants and conditions appears in

(continued)

Tables 1.1-1.6, 2.1 and 3.1 of 40 CFR 141.74(b)(3) as in effect on July 1, 1992.

(4) $CT_{calc}/CT_{99.9}$ is the inactivation ratio.

(5) The sum of the inactivation ratios, or "total inactivation ratio," shown as $(CT_{calc})/(CT_{99.9})$, is calculated by adding together the inactivation ratio for each disinfection sequence. A total inactivation ratio equal to or greater than 1.0 shall be assumed to provide a 3-log inactivation of *Giardia lamblia* cysts.

(w) "Diatomaceous earth filtration" means the process resulting in substantial particulate removal in which:

(1) a precoat cake of diatomaceous earth filter media is deposited on a support membrane called a septum; and

(2) additional filter media known as body feed are continuously added to the feed water to maintain the permeability of the filter cake while the water is filtered by passing through the cake on the septum.

(x) "Direct filtration" means a series of processes, including coagulation and filtration but excluding sedimentation, resulting in substantial particulate removal.

(y) "Disinfectant contact time," which is referred to as "T" in CT calculations, means the time in minutes that it takes for water to move from the point of disinfectant application or the previous point of disinfectant residual measurement to a point before or at the point where residual disinfectant concentration "C" is measured. Where only one "C" is measured, "T" shall be the time in minutes that it takes for water to move from the point of disinfectant application to a point before or at the point where "C" is measured. Where more than one "C" is measured, "T" shall be:

(1) for the first measurement of "C," the time in minutes that it takes for water to move from the first or only point of disinfectant application to a point before or at the point where the first "C" is measured; and

(2) for subsequent measurements of "C" the time in minutes that it takes for water to move from the previous "C" measurement point to the "C" measurement point for which the particular "T" is being calculated.

Disinfectant contact time in pipelines shall be calculated based on "plug flow" by dividing the internal volume of the pipe by the maximum hourly flow rate through the pipe. Disinfectant contact time within mixing basins and storage reservoirs shall be determined by tracer studies or an equivalent demonstration.

(z) "Disinfection" means a process which inactivates pathogenic organisms in water by chemical oxidants or equivalent agents.

(aa) "Filtration" means a process for removing particulate matter from water by passage through porous media.

(bb) "Flocculation" means a process to enhance agglomeration or collection of smaller floc particles into larger, more easily settleable particles through gentle stirring by hydraulic or mechanical means.

(cc) "Ground water under the influence of surface water" means any water beneath the surface of the ground with:

(1) significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as *Giardia lamblia*; or

(2) significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions.

Direct influence shall be determined for individual sources in accordance with criteria established by the department. The department determination of direct influence may be based on site-specific measurements of water quality, documentation of well construction characteristics and geology, or both, with field evaluation.

(dd) "Legionella" means a genus of bacteria, some species of which have caused a type of pneumonia called legionnaires disease.

(ee) "Point of disinfectant application" means the point where the disinfectant is applied and water downstream of that point is not subject to recontamination by surface water runoff.

(ff) "Residual disinfectant concentration," which is referred to as "C" in CT calculations, means the concentration of disinfectant measured in mg/l in a representative sample of water.

(gg) "Sedimentation" means a process for removal of solids before filtration by gravity or separation.

(hh) "Slow sand filtration" means a process involving passage of raw water through a bed of sand at a low velocity of generally less than 0.4 m/h, resulting in substantial particulate removal by physical and biological mechanisms.

(ii) "Surface water" means all water which is open to the atmosphere and subject to surface runoff.

(jj) "Waterborne disease outbreak" means the significant occurrence of acute infectious illness, epidemiologically associated with the ingestion of water from a public water system which is deficient in treatment, as determined by the appropriate local or state agency.

(kk) "Virus" means a virus of fecal origin which is infectious to humans by waterborne transmission.

(ll) "Action level" means the concentration of lead or copper in water specified in 40 CFR 141.80(c) as in effect on July 1, 1993, which determines, in some instances, the treatment procedures contained in 40 CFR 141.80 through 141.91 as in effect on July 1, 1992, that a public water supply system is required to complete.

(mm) "Corrosion inhibitor" means a substance capable of reducing the corrosivity of water towards metal plumbing materials by forming a protective film on the interior surface of those materials.

(nn) "Effective corrosion inhibitor residual" means a concentration sufficient to form a passivating film on the interior walls of a pipe.

(oo) "First draw sample" means a one-liter sample of tap water, collected in accordance with 40 CFR 141.86(b)(2) as in effect on July 1, 1992, that has been standing in plumbing pipes at least six hours and is collected without flushing the tap.

(pp) "Large water system" means a public water supply system which serves more than 50,000 persons when used in 40 CFR 141, as adopted in K.A.R. 28-15-22.

(qq) "Lead service line" means a service line made of lead which connects the water main to the building inlet and any lead pigtail, gooseneck or other fitting which is connected to the lead line.

(rr) "Medium-sized water system" when used in 40 CFR 141, as adopted in K.A.R. 28-15-22, means a public water supply system that serves greater than 3,300 persons and less than or equal to 50,000 persons.

(ss) "Optimal corrosion control treatment" when used in 40 CFR 141, as adopted in K.A.R. 28-15-22, means the corrosion control treatment that minimizes the lead and copper concentrations at the users' tap while insuring that the treatment does not cause the system to violate any national primary drinking water regulation.

(tt) "Service line sample" means a one-liter sample of water collected in accordance with 40 CFR 141.86(b)(3) as in effect on July 1, 1992, that has been standing at least six hours in service line.

(uu) "Single family structure" for the purpose of K.A.R. 28-15-22 only, means a building constructed as a single-family residence that is currently used as either a residence or a place of business.

(vv) "Small water system" for the purpose of K.A.R. 28-15-22 only, means a public water supply system that serves 3,300 persons or less. (Authorized by and implementing K.S.A. 65-171m; effective May 1, 1982; amended Sept. 21, 1992; amended June 21, 1993; amended Sept. 26, 1994.)

28-15-13. Standards for bacteriological, chemical, physical and radiological quality. (a) Maximum contaminant microbiological level (MCL).

(1) A public water supply system which collects 39 or fewer samples per monitoring period shall be considered to be in compliance with the MCL if total coliforms are not detected in more than one sample.

(2) A public water supply system which collects 40 or more samples per monitoring period shall be considered to be in compliance with the MCL if total coliforms are not detected in more than 5% of the samples.

(3) A public water supply system which collects any fecal coliform positive or E. coli positive repeat sample, or any total coliform positive repeat sample following a fecal coliform positive or E. coli positive routine sample shall be considered to be in violation of the MCL and may be considered to pose an acute health risk for the purposes of public notification.

(4) Each public water supply shall, for every monitoring period, determine whether it is in compliance with the applicable microbiological MCL.

(5) Variances and exemptions from the maximum contaminant level for coliform bacteria shall not be granted, unless the public water supply system demonstrates to the department that the violation of the maximum contaminant level is due to a persistent growth of total coliforms in the distribution system rather than:

- (A) fecal or pathogenic contamination;
- (B) a treatment lapse or deficiency; or
- (C) a problem in operation or maintenance of the distribution system.

(b) (1) Maximum contaminant levels for inorganic chemicals shall be:

Constituent	Level, in milligrams, per liter
Arsenic	0.05
Barium	1
Cadmium	0.010

Chromium	0.05
Mercury	0.002
Nitrate (as N)	10
Selenium	0.01
Silver	0.05
Fluoride	4.0

(2) The nitrate MCL shall apply to all public water supply systems except that non-community public water supply systems may be allowed an MCL for nitrate of 20 mg/l if:

(A) the water is not available to persons under six months of age;

(B) there is continuous posting of the fact that nitrate levels exceed 10 mg/l and the potential health effects of exposure;

(C) local health authorities are notified annually that nitrate levels exceed 10 mg/l; and

(D) there are not adverse health effects.

(c) Maximum contaminant levels for organic chemicals shall be:

	Level, in milligrams, per liter
(1) Chlorinated hydrocarbons:	
(A) Endrin (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-1,4-endo, endo-5,8-dimethano naphthalene).	0.0002
(B) Lindane (1,2,3,4,5,6-hexachlorocyclohexane, gamma isomer).	0.004
(C) Methoxychlor (1,1,1-Trichloro-2,2-bis [p-methoxyphenyl] ethane).	0.1
(D) Toxaphene (C ₁₀ H ₁₀ Cl ₆ -Technical chlorinated camphene, 67-69 percent chlorine).	0.005
(2) Chlorophenoxy:	
(A) 2,4-D, (2,4-Dichlorophenoxyacetic acid).	0.1
(B) 2,4,5-TP Silvex (2,4,5-Trichlorophenoxypropionic acid).	0.01
(3) Total trihalomethanes consisting of the sum of trichloromethane (chloroform), bromodichloromethane, dibromochloromethane and tribromomethane (bromoform).	0.10
(4) Volatile Organic Compounds:	
(A) Benzene	0.005
(B) Vinyl Chloride	0.002
(C) Carbon Tetrachloride	0.005
(D) 1,2-Dichloroethane	0.005
(E) Trichloroethylene	0.005
(F) para-Dichlorobenzene	0.075
(G) 1,1-Dichloroethylene	0.007
(H) 1,1,1-Trichloroethane	0.2

(d) (1) Maximum contaminant levels for radiological contaminants shall be:

Constituent	Level, in pCi per liter
Combined radium-226 and radium-228	5
Gross alpha particle activity (including radium-226 but excluding radon and uranium)	15
Tritium	20,000
Strontium-90	8
Gross beta radioactivity	50

(2) The average annual concentration of beta particle and photon radioactivity from man-made radionuclides in drinking water shall not produce an annual dose equivalent to the total body or to any internal organ greater than four millirem per year.

(e) Maximum contaminant levels for turbidity shall apply only to public water supply systems which use surface water or groundwater under the influence of surface water in whole or in part.

(continued)

(1) Prior to the date set out in paragraph (2) of this subsection, the maximum contaminant levels for turbidity in drinking water, measured daily at representative entry points to the distribution system, shall be:

(A) one nephelometric turbidity unit (NTU), as determined by a monthly average, except that five or fewer turbidity units may be allowed if the supplier of water can demonstrate to the department that the higher turbidity does not:

- (i) interfere with disinfection;
- (ii) prevent maintenance of an effective disinfectant agent throughout the distribution system; or
- (iii) interfere with microbiological determinations; and

(B) five turbidity units based on an average for two consecutive days. Daily turbidity readings shall be taken and recorded. If the maximum turbidity level exceeds one NTU for two consecutive days, the supplier of water shall notify the department within 48 hours after the turbidity readings are taken. Daily turbidity readings shall be reported to the department by the 10th day of the month following the month in which the readings were taken.

(2) K.A.R. 28-15-13(e)(1) and (2) shall be effective until filtration treatment equipment is installed for public water supply systems using ground water under the influence of surface water, after which date the requirements of K.A.R. 28-15-21 shall apply.

(f) (1) Inorganic analyses for the following constituents shall be required from each community water supply system with its own source of supply.

Calcium	Manganese
Magnesium	pH
Sodium	Specific conductance
Potassium	Total dissolved solids
Total Phosphorus	Total alkalinity
Chloride	Sodium bicarbonate alkalinity
Sulfate	Total hardness
Silica	Carbonate hardness
Iron	Non-carbonate hardness

(2) An inorganic chemical analysis for the above constituents may be required by the department from a non-community water supply system with its own source of supply.

(3) The above analyses shall be required to determine the potability of the source of supply and to monitor the corrosivity characteristics of the water. The corrosive indices shall be calculated in accordance with 40 CFR 141.42, as in effect on July 1, 1992, which is adopted by reference.

(g) Each analysis to determine compliance shall be done in an approved laboratory according to methods established by "Standard Methods for the Examination of Water and Wastewater," 16th edition, 1985, or as specified in 40 CFR 141.21-141.25 and 141.30, as in effect on July 1, 1992, or the equivalents outlined in 40 CFR 141.27, as in effect on July 1, 1992. Each analysis shall be made on treated water as furnished to the consumer to insure potability or at specified locations as prescribed in K.A.R. 28-15-14. (Authorized by and implementing K.S.A. 65-171m; effective May 1, 1982; amended Sept. 21, 1992; amended June 21, 1993; amended Sept. 26, 1994.)

28-15-15a. Public notice requirements. (a) If a public water supply system violates a maximum con-

taminant level or prescribed treatment technique, or fails to comply with a schedule contained in a variance or exemption, the supplier of water shall give notice to its customers as follows.

(1) Notice shall be given:

(A) by publication in a daily newspaper serving the area, or a weekly newspaper if the area is not served by a daily newspaper, within 14 days after learning of the violation or failure;

(B) by mail delivery with a water bill, by direct mail or by hand delivery within:

(i) 45 days after learning of the violation or failure if the violation or failure has not been corrected within 45 days; or

(ii) 45 days after learning of the violation or failure if directed to do so by the department; and

(C) by furnishing a copy of the public notice to radio and television stations serving the area of the public water supply system within 72 hours after learning of a violation of a maximum contaminant level which may pose an acute risk to public health. The following violations shall be considered acute violations:

(i) any violation specified by the department as posing an acute risk to human health;

(ii) violation of the maximum contaminant level for nitrate;

(iii) violation of the maximum contaminant level for total coliforms, when fecal coliforms or E. coli are identified as specified in K.A.R. 28-15-13(a)(3); or

(iv) occurrence of a waterborne-disease outbreak attributed to the public water supply.

(2) Notification shall be repeated every three months by the methods specified in paragraph (1)(B) above, for as long as the violation or failure continues.

(3) In lieu of the requirements specified in paragraphs (1) or (2) above, the owner or operator of a non-community public water supply system may give notice either by hand delivery or by continuous posting in conspicuous places throughout the area served by the system. Notice shall be made within 72 hours after learning of an acute violation listed in paragraph (1)(c) above, or within 14 days after learning of any other violation or failure. Posting shall continue for as long as the violation or failure continues and hand delivery shall be repeated every three months as long as the violation or failure continues.

(b) If a public water supply system fails to monitor its water supply as required in K.A.R. 28-15-14, 28-15-21 or 28-15-22, or fails to have the analysis performed in an approved laboratory, or is granted a variance or exemption, the supplier of water shall give notice to its customers as follows.

(1) Notices shall be given:

(A) by publication in a daily newspaper serving the area, or a weekly newspaper if the area is not served by a daily newspaper, within three months after receiving the variance or exemption or learning of the violation; and

(B) by mail delivery, either with a water bill or by direct mail, or by hand delivery, every three months as long as the violation continues or the variance or exemption remains in effect.

(2) In lieu of the requirements specified in paragraphs (1)(A) and (B) above, the owner or operator of a non-community public water supply system may give notice either by hand delivery or by continuous posting in conspicuous places throughout the area served by the system within three months of the violation or receiving a variance or exemption. Posting shall continue for as long as the violation continues or a variance or exemption remains in effect, and hand delivery shall be repeated every three months as long as the violation continues or a variance or exemption remains in effect.

(c) Proof that public notice has been completed shall be provided to the department.

(d) The owner or operator of a community public water supply system shall provide a copy of the most recent public notice for any continuing violation of a maximum contaminant level or treatment technique, or any variance or exemption schedule, to each new customer at the time service begins.

(e) (1) Each notice required by this regulation shall provide a clear and readily understandable explanation of the violation, any potential adverse health effects, the population at risk, the steps that the public water system is taking to correct such violation, the necessity for seeking alternative water supplies, if any, and any preventive measures the consumer should take until the violation is corrected.

(2) Each notice shall be conspicuous and shall not contain unduly technical language, unduly small print, or similar problems that frustrate the purpose of notice.

(3) Each notice shall include the telephone number of the owner, operator, or designee of the public water system as a source of additional information concerning the notice.

(4) Where appropriate, the notice shall be multilingual.

(f) The owner or operator of a public water supply system shall include mandatory health-effects language for the appropriate contaminant, specified in 40 CFR 141.32(e), as in effect July 1, 1992, in any public notice issued for violation of a maximum contaminant level or treatment technique, or related to a variance or exemption. If the public notice is for fluoride, the mandatory health-effects language specified in 40 CFR 143.5(b), as in effect July 1, 1992, shall be used. (Authorized by and implementing K.S.A. 65-171m; effective Sept. 21, 1992; amended Sept. 26, 1994.)

28-15-19. Disinfection of drinking water. (a) All drinking water supplied to the public from a public water supply system shall be disinfected.

(b) When chlorination is employed, a sufficient amount of chlorine shall be added to the water to maintain a distribution system chlorine residual of at least 0.2 mg/l of free chlorine or 1.0 mg/l of combined chlorine.

(1) Failure to maintain a residual as specified above in more than five percent of measurements taken each month, in any two consecutive months shall be deemed a violation of this regulation.

(2) Each day the public water supply system serves water to its customers, the operator shall make a determination of the chlorine residual. The data shall be recorded in such a manner that the department can de-

termine whether the requirements of this rule and regulation have been met. (Authorized by and implementing K.S.A. 65-171m; effective May 1, 1982; amended Sept. 26, 1994.)

28-15-20. Exemptions and variances. (a) Any supplier of water may be granted a variance or exemption from the requirements of K.A.R. 28-15-11 to 28-15-22, inclusive, under the provisions of K.S.A. 65-171p or 65-171q.

(b) The provisions set forth in the national primary drinking water regulations, 40 CFR 142.40-142.62, as in effect on July 1, 1992, are adopted by reference and shall be used in the consideration and issuance of exemptions and variances. (Authorized by and implementing K.S.A. 65-171m; effective May 1, 1982; amended Sept. 21, 1992; amended Sept. 26, 1994.)

28-15-22. Lead and copper; general requirements. The requirements of this regulation shall constitute the drinking water regulation and treatment technique for lead and copper.

(a) Unless otherwise indicated, each of the provisions of this regulation shall apply to community water systems and non-transient non-community public water supply systems hereinafter referred to as "water system" or "systems."

(b) Lead and copper action levels.

(1) If the concentration of lead in more than 10 percent of tap water samples collected during any monitoring period conducted in accordance with 40 CFR 141.86 as in effect on July 1, 1992, is greater than 0.015 mg/L, the lead action level shall be deemed to have been exceeded.

(2) If the concentration of copper in more than 10 percent of tap water samples collected during any monitoring period conducted in accordance with 40 CFR 141.86 as in effect on July 1, 1992, is greater than 1.3 mg/L, the copper action level shall be deemed to have been exceeded.

(3) The 90th percentile lead and copper levels shall be computed using one of the following methods.

(A) For systems serving 100 or more people, the following method shall be used.

(i) The results of all lead or copper samples taken during a monitoring period shall be placed in ascending order from the sample with the lowest concentration to the sample with the highest concentration. Each sampling result shall be assigned a number, ascending by single integers beginning with the number one for the sample with the lowest contaminant level. The number assigned to the sample with the highest contaminant level shall be equal to the total number of samples taken.

(ii) The number of samples taken during the monitoring period shall be multiplied by 0.9.

(iii) The contaminant concentration in the numbered sample yielded by the calculation in K.A.R. 28-15-22(c)(3)(B) shall be deemed the 90th percentile contaminant level.

(B) For water systems serving fewer than 100 people that collect five samples per monitoring period, the 90th percentile shall be computed by taking the average of the highest and second highest concentrations.

(continued)

- (c) Corrosion control treatment requirements.
- (1) All water systems shall install and operate a system of optimal corrosion control treatment as defined in K.A.R. 28-15-11.
- (2) Any water system that complies with the applicable corrosion control treatment requirements specified by the department under 40 CFR 141.81 and 40 CFR 141.82 as in effect on July 1, 1992 shall be deemed in compliance with the treatment requirement contained in K.A.R. 28-15-22(d)(1).
- (d) Source water treatment requirements. Any system exceeding the lead or copper action level shall implement all applicable source water treatment requirements specified by the department under 40 CFR 141.83 as in effect on July 1, 1992.
- (e) Lead service line replacement requirements. Any system exceeding the lead action level after implementation of applicable corrosion control and source water treatment requirements shall complete the lead service line replacement requirements contained in 40 CFR 141.84 as in effect on July 1, 1992.
- (f) Public education requirements. Any system exceeding the lead action level shall implement the public education requirements contained in 40 CFR 141.85 as in effect on July 1, 1992.
- (g) Monitoring and analytical requirements. Tap water monitoring for lead and copper, monitoring for water quality parameters, source water monitoring for lead and copper, and analyses of the monitoring results under this regulation shall be completed in compliance with 40 CFR 141.86, 141.87, 141.88 and 141.89 as in effect on July 1, 1992.
- (h) Reporting requirements. Systems shall report to the department any information required by the provisions of 40 CFR 141.90 as in effect on July 1, 1992.
- (i) Recordkeeping requirements. Systems shall maintain records in accordance with 40 CFR 141.91 as in effect on July 1, 1992.
- (j) Violation of drinking water regulations. Failure to comply with the applicable requirements of this regulation shall constitute a violation of the drinking water regulations for lead, copper or both. (Authorized by and implementing K.S.A. 65-171m; effective Sept. 26, 1994.)

Article 59.—DIETITIAN

- 28-59-5. License renewal.** (a) Each applicant for renewal of a license shall submit a completed, department-prescribed application form and any requested supporting documentation with the license renewal fee set by K.A.R. 28-59-7.
- (b) Each applicant for renewal of a license shall have completed 15 clock hours of documented and approved continuing education during each two-year renewal period. Approved continuing education clock hours completed in excess of the 15-hour requirement shall not be carried over to the subsequent renewal period.
- (c) Methods of accruing continuing education hours.
- (1) Continuing education may be accrued from:
- academic courses;
 - workshops, seminars, or poster sessions;
 - self-directed study materials; or
 - presentations.

(2) Academic courses shall be from a regionally accredited college or university.

(3) Self-study materials may include audio tapes, study kits, and video tapes.

(d) The content and objective of the continuing education activity shall be primarily related to the practice of dietetics as defined by K.S.A. 65-5902(d). The educational activity:

(1) shall be for the purpose of furthering the applicant's education; and

(2) shall not be a part of the applicant's job responsibilities.

(e) Each applicant shall have requested and received approval by the department for continuing education activities prior to submission of the license renewal application and license renewal fee.

(f) Approval for a continuing education activity may be obtained by:

(1) the instructor or sponsor of a continuing education activity submitting information and documentation on forms prescribed by the department prior to the activity's occurrence; or

(2) the applicant submitting information and documentation on forms prescribed by the department requesting approval for an activity that has already taken place.

(g) Assignment of clock hours to approved continuing education activities shall be determined by the following criteria.

(1) One academic-semester credit hour course shall be equivalent to 15 clock hours of continuing education. One academic-trimester credit hour course shall be equivalent to 14 clock hours of continuing education. One academic-quarter credit hour course shall be equivalent to 10 clock hours of continuing education.

(2) One academic-semester credit hour course audited shall be equivalent to eight clock hours of continuing education. One academic-trimester credit hour course audited shall be equivalent to seven clock hours of continuing education. One academic-quarter credit hour course audited shall be equivalent to five clock hours of continuing education.

(3) One clock hour of contact between a presentation instructor and the applicant shall be equivalent to one clock hour of continuing education for the applicant.

(A) Contact time shall be rounded down to the nearest one-half hour interval.

(B) The presenting instructor may be given two clock hours of continuing education for every one clock hour of contact between the instructor and the attendees for each first-time preparation and presentation of a new workshop, seminar, or poster session.

(C) If the presentation was presented by more than one instructor, the continuing education clock hours shall be prorated among the instructors.

(4) One clock hour of time required to complete the self-directed study material, as specified by the sponsor of the material, shall be equivalent to one clock hour of continuing education.

(A) Contact time shall be rounded down to the nearest one-half hour interval.

(B) Each applicant shall provide validation of actual completion of the material.

(h) Each applicant shall maintain individual records of information and documentation on approved continuing education hours. A verification of these records shall be submitted to the department as part of the license renewal application.

(i) Each application for renewal of a license shall be filed before the last day of February of the calendar year in which the license expires. All licenses shall be renewable on a biennial basis, with the day of expiration being the last day of February of the applicable year. (Authorized by and implementing K.S.A. 65-5904 and 65-5909, as amended by 1994 S.B. 555, sec. 1; effective Feb. 18, 1991; amended Sept. 26, 1994.)

28-59-5a. Reinstatement of license. Each applicant for reinstatement of a license shall:

(a) submit an application on department prescribed forms accompanied by the appropriate fee set forth in K.A.R. 28-59-7; and

(b) document and verify the accumulation of 15 hours of approved continuing education as required in K.A.R. 28-59-5 for every complete or partial licensure period in which the license was expired. (Authorized by and implementing K.S.A. 65-5904 and 65-5909, as amended by 1994 S.B. 555, sec. 1; effective Sept. 26, 1994.)

28-59-7. Fees. (a) The license application fee shall be \$140.00.

(b) The license renewal fee shall be \$135.00.

(c) The license renewal late fee shall be \$50.00.

(d) The temporary license application fee shall be \$70.00.

(e) The temporary license renewal fee shall be \$70.00.

(f) The application fee for reinstatement of a lapsed or revoked license shall be \$100.00 in addition to the license renewal fee established above in subsection (b) of this regulation. (Authorized by and implementing K.S.A. 65-5913, as amended by 1994 S.B. 555, sec. 4; effective Feb. 18, 1991; amended Dec. 7, 1992; amended Sept. 26, 1994.)

Robert C. Harder
Secretary of Health
and Environment

Doc. No. 015208

State of Kansas

Social and Rehabilitation Services

Permanent Administrative Regulations

Article 2.—GENERAL

30-2-16. Permanency planning goals for title IV-E of the federal social security act. (a) The agency's permanency planning goal for the federal fiscal year commencing on October 1, 1994 shall be to have no more than 450 children who have been in foster care placements in excess of 24 consecutive months receive federal funding during the course of the year.

(b) The following steps shall be taken by the agency to achieve the above stated goal.

(1) A reasonable effort shall be made to make adoption assistance available on behalf of eligible children; and

(2) a case review shall be initiated and a plan shall be developed for each child in the custody of the agency.

(c) The effective date of this regulation shall be September 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective, T-83-26, Sept. 22, 1982; effective May 1, 1983; amended, T-85-24, Sept. 18, 1984; amended May 1, 1985; amended, T-87-5, May 1, 1986; amended, T-87-29, Oct. 22, 1986; amended May 1, 1987; amended May 1, 1988; amended Sept. 26, 1988; amended July 30, 1990; amended Oct. 1, 1990; amended Oct. 28, 1991; amended Oct. 5, 1992; amended Oct. 1, 1993; amended Sept. 30, 1994.)

Article 4.—PUBLIC ASSISTANCE PROGRAM

30-4-96. Eligibility factors specific to the burial assistance (BA) program. Assistance may be provided for funeral, cemetery, and outside container expenses upon the death of a recipient. (a) Definitions.

(1) "Funeral expenses" means all costs associated with the:

(A) preparation of the body;

(B) purchase of a minimum casket;

(C) transportation within the trade area; and

(D) a service.

(2) "Cemetery expenses" means all costs connected with the interment of the body in a cemetery, including the opening and closing of the grave, purchase of a cemetery lot, and a grave marker, if required. Whenever a cemetery lot has been purchased or acquired for a person, either before or after the death, and the cemetery lot was purchased or acquired with public funds, the cemetery expense shall not include the portion of the expense allocated to a cemetery lot. Expenses for cremation may be substituted in lieu of the cemetery expenses.

(3) "Outside container expense" means the cost associated with the purchase of an outside container in which the casket is placed. This expense shall only be allowed when the cemetery requires an outside container.

(b) Application. A request for burial assistance shall be made within six months from either the date of death or the date the body is released by a county coroner. A separate application shall not be required.

(c) Treatment of resources.

(1) When a decedent was not living with a legal dependent or legally responsible person at the time of death, the total estate of the decedent shall be considered as available. This provision shall not be applicable in situations where there were separate living arrangements because of the need for institutional care. The estate shall not be allowed any exemptions.

(2) When a decedent was living with a legal dependent or legally responsible person at the time of death, or in situations where there were separate living arrangements because of the need for institutional care, the eligibility for assistance of the decedent's assistance family group, based upon need and property limitations, shall be determined for the calendar month in which the decedent died. Assistance shall be based upon 100 percent of need without pro rata. Only the income and

(continued)

property of the decedent and any person who was legally responsible for the decedent shall be considered. Income in excess of budgetary requirements, less the amount obligated for the cost of institutional care, and property in excess of allowable limitations shall be considered as available in determining eligibility and payment.

(3) Cash contributions or partial payment of funeral and cemetery expenses by relatives or friends shall be considered as available.

(4) Death benefits from SSA, VA, railroad retirement, or other burial insurance policy shall be considered as available.

(d) Assistance provided. The amount of assistance provided shall be determined by subtracting available resources from the cost of the funeral expenses and the cemetery expenses. The cost of the funeral and cemetery expenses shall not exceed the maximum allowances set forth in K.A.R. 30-4-121. The agency shall not participate in either the funeral expenses or the cemetery expenses if the costs exceed the applicable maximum allowances.

(e) The effective date of this regulation shall be September 30, 1994. (Authorized by K.S.A. 39-708c; implementing K.S.A. 39-708c and 39-709, as amended by 1994 HB 2929, Sec. 8; effective May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended April 1, 1990; amended Sept. 30, 1994.)

30-4-113. Income exempt as applicable income. The following income shall be exempt as applicable income in the determination of the budgetary deficit:

(a) Earned income of a recipient child if the child is under the age of 18 years and a full-time student or if the child is a part-time student and is not a full-time employee;

(b) earned income of a recipient child who is 18 years of age and a full-time student;

(c) irregular, occasional or unpredictable monetary gifts which do not exceed \$30.00 per person in any calendar quarter;

(d) unearned income-in-kind;

(e) shelter cost participation payments. In shared living arrangements in which two families contribute toward the shelter obligations, any cash paid toward the shared shelter obligation by one family to the second family in the shared arrangement shall not be considered as income to the second family. This exemption shall not be applicable in a bona fide, commercial landlord-tenant arrangement;

(f) tax refunds and rebates, except for earned income tax credits in accordance with K.A.R. 30-4-112(y);

(g) incentive payments received by renal dialysis patients;

(h) home energy assistance furnished by a federal or state regulated entity whose revenues are primarily derived on a rate-of-return basis, by a private, nonprofit organization, by a supplier of home heating oil or gas, or by a municipal utility company which provides home energy, if the assistance provided is based on need;

(i) income of a child received from a youth program funded by the job training partnership act of 1982, except that earned income received under the program shall only be exempt for a period of six months;

(j) housing assistance from federal housing programs;

(k) assistance payments in the month received;

(l) the first \$50.00 of child support or child support in combination with spousal support received in a month;

(m) support payments received following the effective date of the assignment of support rights to the agency. However, reported current support which is in excess of the amount exempted in subsection (l) of this section and which, if prospectively treated as nonexempt income, would result in ineligibility, or a support refund disbursed by the agency to the recipient, shall not be exempt income; and

(n) up to \$2,000.00 per year of income received by an individual Indian which is derived from leases or other uses of an individually-owned trust or restricted lands.

(o) The effective date of this regulation shall be September 30, 1994. (Authorized by K.S.A. 39-708c; implementing K.S.A. 39-708c and 39-709, as amended by 1994 HB 2929, Sec. 8; effective May 1, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended May 1, 1983; amended, T-84-11, July 1, 1983; amended, T-84-25, Sept. 19, 1983; amended May 1, 1984; amended, T-85-26, Oct. 15, 1984; amended May 1, 1985; amended, T-87-15, July 1, 1986; amended May 1, 1987; amended, T-88-59, Dec. 16, 1987; amended May 1, 1988; amended Sept. 26, 1988; amended July 1, 1989; amended Oct. 1, 1989; amended May 1, 1991; amended July 1, 1991; amended Sept. 30, 1994.)

Article 6.—MEDICAL ASSISTANCE PROGRAM—CLIENTS' ELIGIBILITY FOR PARTICIPATION

30-6-52. Act in own behalf. (a) Emancipated minor. An emancipated minor is a person who is age 16 or 17 and who is or has been married, or a person who is under the age of 18 and who has been given or acquired the right to manage personal affairs:

(1) by court action which conferred the rights of majority on the minor;

(2) by an oral or written agreement which terminates the rights of parental control, the parents' right to claim the minor's earnings, and the parents' legal obligation to support the minor, unless the actions of the parties are contrary to the agreement; or

(3) by actions of the minor which terminate the rights mentioned in paragraph (2) above.

(b) Ability to act in own behalf. Each applicant or recipient shall be legally capable of acting on his or her own behalf. Incapacitated persons or minors shall not be eligible for medical assistance unless assistance on that person's behalf is applied for by a legal custodian, guardian, conservator, medical representative, representative payee for social security benefits, caretaker relative, or a responsible adult with whom a child resides as a result of an approved social service plan. Emancipated minors shall be eligible for medical assistance on their own behalf. When there has been no court action or marriage and an emancipated minor becomes dependent on a parent for support or comes under parental control, the minor shall no longer be considered emancipated.

(c) The effective date of this regulation shall be September 30, 1994. (Authorized by and implementing K.S.A. 39-708c and 39-709, as amended by 1994 HB 2929, Sec. 8; effective May 1, 1981; amended May 1, 1984; amended Jan. 4, 1993; amended Sept. 30, 1994.)

30-6-77. Poverty level pregnant women and children; determined eligibles. Each applicant or recipient shall meet the general eligibility requirements of K.A.R. 30-6-50 and the specific eligibility requirements set forth below. (a) Pregnant women. Each eligible woman shall be medically determined to be pregnant. Assistance under this provision shall continue for two calendar months following the month in which the pregnancy terminates.

(b) Infants. Each eligible infant shall be under one year of age. Assistance under this provision shall continue:

(1) through the month in which the child turns age one; or

(2) if receiving inpatient services in the month in which the child turns age one:

(A) through the calendar month in which that inpatient care ends; or

(B) through the calendar month following the month the care begins, whichever is sooner. If the inpatient care will exceed that time period, eligibility for the child under this provision shall end on the last day of the calendar month in which the child turns age one.

(c) Other young children. Each eligible child shall be at least one year of age, but no older than six years of age. Assistance under this provision shall continue:

(1) through the month in which the child turns age six; or

(2) if receiving inpatient services in the month in which the child turns age six:

(A) through the calendar month in which that inpatient care ends; or

(B) through the calendar month following the month the care begins, whichever is sooner. If the inpatient care will exceed that time period, eligibility for the child under this provision shall end on the last day of the calendar month in which the child turns age six.

(d) Older children. Each eligible child shall be at least six years of age but under the age of 18 and be born on or after October 1, 1979.

(e) Persons whose needs are to be considered in determining eligibility.

(1) For pregnant women, the needs of the pregnant woman, the unborn child and the father if living with the pregnant woman shall be considered. If the pregnant woman is a minor and lives with her parents, the needs of her parents shall also be included.

(2) For all children, if the child lives with a parent or parents, the needs of the child and the child's parents shall be considered.

(3) Other pregnant women and children in the family group for whom assistance is requested shall be included in the assistance plan if otherwise eligible.

(f) Financial eligibility. A percentage of the official federal poverty income guidelines as established in K.A.R. 30-6-103 shall be used as the protected income level for the number of persons in the plan and any other

persons in the family whose income is being considered. Total applicable income to be considered in the eligibility base period shall be compared against the poverty level for the base period. To be eligible under this provision, the total applicable income shall not exceed the poverty level established for the base period. Ownership of excess nonexempt real or personal property shall not result in ineligibility.

(g) Continuous eligibility. A pregnant woman who becomes eligible for assistance under this regulation shall continue to be eligible throughout her pregnancy and the two calendar months following the month her pregnancy terminates without regard to any changes in family income.

(h) The effective date of this regulation shall be September 30, 1994. (Authorized by K.S.A. 39-708c; implementing K.S.A. 39-708c and 39-709, as amended by 1994 HB 2929, Sec. 8; effective, T-30-7-1-88, July 1, 1988; effective Sept. 26, 1988; amended July 1, 1989; amended, T-30-3-29-90, April 1, 1990; amended, T-30-7-2-90, Aug. 1, 1990; revoked, T-30-8-14-90, Oct. 1, 1990; amended Oct. 1, 1990; amended, T-30-12-28-90, Jan. 2, 1991; amended May 1, 1991; amended July 1, 1991; amended Sept. 30, 1994.)

30-6-113. Income exempt as applicable income. The following income shall be exempt as applicable income in the determination of eligibility: (a) unearned income-in-kind;

(b) shelter cost participation payments. In shared living arrangements in which two families contribute toward the shelter obligations, any cash paid toward the shared shelter obligation by one family to the second family in the shared arrangement shall not be considered as income to the second family. This exemption shall not be applicable in a bona fide, commercial landlord-tenant arrangement;

(c) assistance payments in the month received;

(d) home energy assistance furnished by a federal or state regulated entity whose revenues are primarily derived on a rate-of-return basis, by a private, nonprofit organization, by a supplier of home heating oil or gas, or by a municipal utility company which provides home energy, if the assistance provided is based on need;

(e) income of a child received from a youth program funded by the job training partnership act of 1982, except that earned income received under the program shall only be exempt for a period of six months;

(f) incentive payments received by renal dialysis patients;

(g) irregular, occasional, or unpredictable monetary gifts which do not exceed \$30.00 per person in any calendar quarter;

(h) tax refunds and rebates, except for earned income tax credits for non-SSI in accordance with K.A.R. 30-6-112 (y);

(i) up to \$2,000.00 per year of income received by an individual Indian which is derived from leases or other uses of an individually-owned trust or restricted lands;

(j) for non-SSI, earned income of a recipient child if the child is under the age of 18 years and a full-time student or if the child is a part-time student and is not a full-time employee;

(continued)

(k) for non-SSI, earned income of a recipient child who is 18 years of age and a full-time student;

(l) for non-SSI, support payments covered by an assignment of support rights related to ADC and ADC-FC and forwarded to the agency. However, a support refund, disbursed by the agency to the client, shall not be exempt;

(m) for non-SSI, housing assistance from federal housing programs;

(n) for non-SSI, the first \$50.00 of child support or child support in combination with spousal support received in a month;

(o) for SSI, refund of taxes paid on real property or on food purchases;

(p) for SSI, one-third of child support payments received by an eligible child from an absent parent;

(q) for SSI, earnings of an unmarried child who is a student under 22 years of age up to \$400.00 a month. This exemption shall not exceed \$1,620.00 a year;

(r) for SSI, work expenses of a blind recipient;

(s) for SSI, impairment-related work expenses of a disabled recipient;

(t) for SSI, incentive allowances and reimbursements for individuals in training to provide support services under the jobs training partnership act (JTPA) program administered by state and local subdivisions;

(u) for SSI, the difference between the social security benefit entitlement in August, 1972, and the entitlement in September, 1972, for persons who were receiving cash assistance through the programs of AABD or ADC in September, 1972 and who were entitled to a social security benefit in September, 1972. This exemption shall apply only if the exemption establishes eligibility without a spenddown;

(v) for SSI, the amount of all social security cost of living adjustments for a person who was concurrently receiving SSI and social security after April, 1977 and who would be eligible for SSI if the cost of living adjustments received since that person was last eligible for SSI were not considered as income;

(w) for SSI, income allocated and expended by an adult in an institutional living arrangement for the support of the adult's minor children if the adult does not have a spouse who continues to live in the community. The income allocation shall not exceed the amount necessary to bring their income up to the protected income level appropriate to their living arrangement;

(x) for SSI, SSI payments to which the person is not legally entitled that are subject to SSI recovery;

(y) for SSI, child support collected by the agency and paid as a \$50.00 or less pass-through of child support;

(z) for SSI, the amount of the December, 1983 increase in social security disabled widow or widower benefits resulting from the changes in the actuarial reduction formula and all subsequent cost of living adjustments for a person who was concurrently receiving SSI and social security disabled widow and widower benefits under section 202(e) or 202(f) of the social security act, provided that:

(1) the person became ineligible for SSI due solely to the 1983 actuarial increase;

(2) the person has continuously received social security disabled widow or widower benefits since the 1983 actuarial increase was first received;

(3) the person would be currently eligible for SSI if it were not for the 1983 actuarial increase and all subsequent cost of living adjustments; and

(4) the person applied for medical assistance under this provision prior to July 1, 1988;

(aa) for SSI, reparation payments made under the Republic of Germany's federal law for compensation of nationalist socialist persecution;

(bb) for SSI, the amount of the social security adult disabled child benefit for an otherwise eligible SSI person age 18 or older who:

(1) was receiving SSI benefits that began prior to age 22; and

(2) lost SSI eligibility due solely to the person becoming eligible for the adult disabled child benefits or an increase in the adult disabled child benefits;

(cc) for SSI, the amount of social security early or disabled widow or widower benefits under section 202(e) or (f) of the social security act, provided that:

(1) the person became ineligible for SSI because of the receipt of such benefits;

(2) the person would be currently eligible for SSI in the absence of such benefits; and

(3) the person is not entitled to hospital insurance benefits under Part A of title XVIII of the social security act;

(dd) for SSI, the income of an SSI recipient which exceeds the protected income level for institutionalized persons for three months following the month of admission when the social security administration determines that the stay in the institution is temporary and the person needs to continue to maintain and provide for the expenses of the home or other living arrangement to which the person may return;

(ee) for SSI, the income of an applicant's or recipient's spouse or parent which was counted or excluded in determining the amount of a public assistance payment, if such spouse or parent is not an applicant for or recipient of SSI;

(ff) for SSI, the income of an applicant's or recipient's spouse or parent which is used to make support payments under a court order or title IV-D support order, if such spouse or parent is not an applicant for or recipient of SSI;

(gg) for SSI, the amount of VA pension received by a single veteran with no dependents or a surviving spouse with no children, if the pension has been reduced to \$90.00 or less because the veteran or spouse resides in a medicaid-approved nursing facility;

(hh) for SSI, foster care and adoption support payments;

(ii) for SSI, Austrian social insurance payments based, in whole or in part, on wage credits granted under the Austrian general social insurance act; and

(jj) for SSI, hostile fire pay received while in active military service.

(kk) The effective date of this regulation shall be September 30, 1994. (Authorized by and implementing K.S.A. 39-708c and 39-709, as amended by 1994 HB 2929, Sec. 8; effective May 1, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended May 1, 1983; amended, T-84-11, July 1, 1983; amended, T-84-25, Sept.

19, 1983; amended May 1, 1984; amended, T-85-26, Oct. 15, 1984; amended May 1, 1985; amended May 1, 1986; amended, T-87-15, July 1, 1986; amended May 1, 1987; amended, T-88-14, July 1, 1987; amended, T-88-59, Jan. 1, 1988; amended May 1, 1988; amended, T-89-13, April 26, 1988; amended, T-30-7-1-88, July 1, 1988; amended Sept. 26, 1988; amended July 1, 1989; amended Oct. 1, 1989; amended, T-30-12-28-90, Jan. 2, 1991; amended May 1, 1991; amended July 1, 1991; amended, T-30-6-10-92, July 1, 1992; amended Oct. 1, 1992; amended Jan. 4, 1993; amended May 3, 1993; amended, T-30-11-16-93, Dec. 1, 1993; amended Jan. 3, 1994; amended Sept. 30, 1994.)

Article 10.—ADULT CARE HOME PROGRAM

30-10-1a. Nursing facility program definitions. (a)

The following words and terms, when used in this part, shall have the following meanings, unless the context clearly indicates otherwise.

(1) "Accrual basis of accounting" means that revenue of the provider is reported in the period when it is earned, regardless of when it is collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid.

(2) "Active treatment for individuals with mental retardation or related condition" means a continuous program for each client, which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services and related services that is directed towards:

(A) the acquisition of the behaviors necessary for the client to function with as much self-determination and independence as possible; and

(B) the prevention or deceleration of regression or loss of current optimal functional status.

(3) "Agency" means the department of social and rehabilitation services.

(4) "Ancillary services and other medically necessary services" means those special services or supplies for which charges are made in addition to routine services.

(5) "Case mix" means a measure of the intensity of care and services used by a group of residents in a facility.

(6) "Case mix index" means a numeric score with a specific range that identifies the relative resources used by a particular group of residents and represents the average resource consumption across a population or sample.

(7) "Change of ownership" means a transfer of rights and interests in real and personal property used for nursing facility services through an arms-length transaction between unrelated persons or legal entities.

(8) "Change of provider" means a change of ownership or lessee specified in the provider agreement.

(9) "Common ownership" means an entity holds a minimum of five percent ownership or equity in the provider facility and in the company engaged in business with the provider facility.

(10) "Control" means that an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or facility.

(11) "Cost and other accounting information" means adequate data, including source documentation, that is accurate, current, and in sufficient detail to accomplish the purposes for which it is intended. Source documentation, including petty cash pay out memoranda and original invoices, shall be valid only if it originated at the time and near the place of the transaction. In order to provide the required cost data, financial and statistical records shall be maintained in a manner that is consistent from one period to another. This requirement shall not preclude a beneficial change in accounting procedures when there is a compelling reason to effect a change of procedures.

(12) "Cost finding" means the process of recasting the data derived from the accounts ordinarily kept by a provider to ascertain costs of the various types of services rendered.

(13) "Costs not related to resident care" means costs which are not appropriate, necessary or proper in developing and maintaining the nursing facility operation and activities. These costs are not allowable in computing reimbursable costs.

(14) "Costs related to resident care" means all necessary and proper costs, arising from arms-length transactions in accordance with general accounting rules, which are appropriate and helpful in developing and maintaining the operation of resident care facilities and activities. Specific items of expense shall be limited pursuant to K.A.R. 30-10-23a, K.A.R. 30-10-23b, K.A.R. 30-10-23c, K.A.R. 30-10-24, K.A.R. 30-10-25, K.A.R. 30-10-26, K.A.R. 30-10-27 and K.A.R. 30-10-28.

(15) "Cost report" means the nursing facility financial and statistical report.

(16) "Educational activities" means an approved, formally organized or planned program of study usually engaged in by providers in order to enhance the quality of resident care in an institution. These activities shall be licensed when required by state law.

(17) "Educational activities—net cost" means the cost of approved educational activities less any grants, specific donations or reimbursements of tuition.

(18) "Hospital-based nursing facility" means a facility that is attached or associated with a hospital. An allocation of expenditures between the hospital and the long-term care facility shall be required through a step-down process.

(19) "Inadequate care" means any act or failure to act which potentially may be physically or emotionally harmful to a recipient.

(20) "Mental illness" means a clinically significant behavioral or psychological syndrome or pattern that is typically associated with either a distressing symptom or impairment of function. Relevant diagnoses shall be limited to schizophrenia, major affective disorders, atypical psychosis, bipolar disorder, paranoid disorders or schizoaffective disorder.

(21) "Mental retardation" means subaverage general intellectual functioning which originates in the developmental period and which is associated with an impairment in adaptive behavior.

(22) "Non-working owners" means any individual or organization having five percent or more interest in the

(continued)

provider who does not perform a resident-related function for the nursing facility.

(23) "Non-working related party or director" means any related party as defined in K.A.R. 30-10-1a who does not perform a resident-related function for the nursing facility.

(24) "Nursing facility (NF)" means a facility which meets state licensure standards and which provides health-related care and services, prescribed by a physician, to residents who require 24-hour-a-day, seven-day-a-week, licensed nursing supervision for ongoing observation, treatment, or care for long-term illness, disease, or injury.

(25) "Nursing facility for mental health" means a nursing facility which meets state licensure standards and provides structured mental health rehabilitation services, in addition to health-related care, for individuals with a severe and persistent mental illness who require 24-hours-per-day, seven-days-per-week, licensed nursing supervision. The nursing facility shall have been operating in accordance with a provider agreement with social and rehabilitation services on June 30, 1994.

(26) "On-going entity" means a change in the provider has not been recognized.

(27) "Organization costs" means those costs directly incidental to the creation of the corporation or other form of business. These costs shall be considered to be intangible assets representing expenditures for rights and privileges which have value to the business.

(28) "Owner-related party compensation" means salaries, drawings, consulting fees, or other payments paid to or on behalf of any owner with a five percent or greater interest in the provider or any related party as defined in K.A.R. 30-10-1a, whether the payment is from a sole proprietorship, partnership, corporation, or non-profit organization.

(29) "Ownership" means the person or legal entity that has the rights and interests of the real and personal property used to provide the nursing facility services.

(30) "Plan of care for nursing facilities" means a document which states the need for care, the estimated length of the program, the methodology to be used, and expected results.

(31) "Projected cost report" means a cost report submitted to the agency by a provider prospectively for a 12-month period of time. The projected cost report shall be based on an estimate of the costs, revenues, resident days, and other financial data for that 12-month period of time.

(32) "Provider" means the operator of the nursing facility specified in the provider agreement.

(33) "Recipient" means a person determined to be eligible for medicaid/medikan services in a nursing facility.

(34) "Related parties" means any relationship between two or more parties in which one party has the ability to influence another party to the transaction in a way that:

(A) one or more of the transacting parties might fail to pursue its own separate interests fully; or

(B) is designed to inflate medicaid/medikan costs. Related parties shall include parties related by family, busi-

ness or financial association, or by common ownership or control. Transactions between related parties shall not be considered to have arisen through arms-length negotiations.

(35) "Related to the nursing facility" means that the facility is significantly associated or affiliated with, has control of, or is controlled by the organization furnishing the services, facilities, or supplies.

(36) "Representative" means:

(A) a legal guardian, conservator or representative payee as designated by the social security administration; or

(B) any person designated in writing by the resident to manage the resident's personal funds, and who is willing to accept the designation.

(37) "Resident assessment form" means the document which:

(A) is jointly specified by the Kansas department of health and environment and the agency;

(B) is approved by the health care finance administration; and

(C) includes the minimum data set.

(38) A "resident day" means that period of service rendered to a patient or resident between census-taking hours on two successive days and all other days for which the provider receives payment, either full or partial, for any medicaid/medikan or non-medicaid/medikan resident who was not in the home. Census-taking hours shall consist of 24 hours beginning at midnight.

(39) "Routine services and supplies" means services and supplies that are commonly stocked for use by or provided to any resident. The services and supplies shall be included in the provider's cost report.

(40) "Severe and persistent mental illness" means that an individual:

(A) meets one of the following criteria:

(i) the individual has undergone psychiatric treatment more intensive than outpatient care more than once in a lifetime;

(ii) the individual has experienced a single episode of continuous, structured supportive residential care other than hospitalization for a duration of at least two months; and

(B) meets at least two of the following criteria, on a continuing or intermittent basis, for at least two years:

(i) the individual is unemployed, is employed in a sheltered setting, or has markedly limited skills and a poor work history;

(ii) the individual requires public financial assistance for out-of-hospital maintenance and may be unable to procure such assistance without help;

(iii) the individual shows severe inability to establish or maintain a personal social support system;

(iv) the individual requires help in basic living skills; or

(v) the individual exhibits inappropriate social behavior which results in a need for intervention by the mental health or judicial system.

(41) "Specialized mental health rehabilitation services" means one of the specialized rehabilitative services which provides ongoing treatment for mental health problems aimed at attaining or maintaining the highest

level of mental and psychosocial well-being. The specialized rehabilitative services include but are not limited to:

- (A) crisis intervention services;
- (B) drug therapy or monitoring of drug therapy;
- (C) training in medication management;
- (D) structured socialization activities to diminish tendencies toward isolation and withdrawal;
- (E) development and maintenance of necessary daily living skills, including grooming, personal hygiene, nutrition, health and mental health education, and money management; and
- (F) maintenance and development of appropriate personal support networks.

(42) "Specialized services" means inpatient psychiatric care for the treatment of an acute episode of mental illness.

(43) "Swing bed" means a hospital bed that can be used interchangeably as either a hospital bed or nursing facility bed with reimbursement based on the specific type of care provided.

(44) "Twenty-four hour nursing care" means the provision of 24-hour licensed nursing services with the services of a registered nurse for at least eight consecutive hours a day, seven days a week.

(45) "Working trial balance" means the summary from the provider's general ledger that was used in completing the cost report.

(b) The effective date of this regulation shall be September 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended Jan. 2, 1989; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended Oct. 28, 1991; amended April 1, 1992; amended Nov. 2, 1992; amended Jan. 3, 1994; amended July 1, 1994; amended Sept. 30, 1994.)

30-10-1b. Nursing facilities. (a) The nursing facility program shall include the following types of care facilities:

- (1) nursing facilities; and
 - (2) nursing facilities for mental health which had a provider agreement with the agency on June 30, 1994.
- (b) Change of provider.

(1) The current provider or prospective provider shall notify the agency in writing by certified mail of a proposed change of providers at least 60 days in advance of the closing transaction date. Failure to submit a timely notification shall result in the new provider assuming responsibility for any overpayment made to the previous provider before the transfer. This shall not release the previous provider of responsibility for such overpayment.

(2) Before the dissolution of the provider business entity, or a transaction involving a change of ownership of the nursing facility or the change of lessee of the nursing facility, the provider shall notify the agency in writing at least 60 days before the change. Failure to submit a timely notification shall result in the new provider assuming responsibility for any overpayment made to the previous provider before the transfer. This shall not release the previous provider of responsibility for such

overpayment. Other overpayment recovery terms may be expressly agreed to in writing by the secretary.

(3) The provider shall submit an application to be a provider of services to the agency for any addition or substitution to a partnership or any change of provider resulting in a completely new partnership. An application shall not be required when a partnership is dissolved and at least one member of the partnership remains as the provider of services.

(4) If a sole proprietor, not incorporated under applicable state law, transfers title and property to another party, a change of ownership shall be deemed to have occurred. An application to be a provider of services shall be submitted to the agency.

(5) A transfer of participating provider corporate stock shall not constitute a change of provider.

(6) A merger of one or more corporations with the participating provider corporation surviving shall not constitute a change of provider.

(7) A consolidation of two or more unrelated corporations which creates a new corporate entity through an arms-length transaction shall constitute a change of provider. The new corporate entity resulting from the consolidation shall submit an application to be a provider of services to the agency.

(8) The change or creation of a new lessee, acting as a provider of services, shall constitute a change of provider. The new lessee shall submit an application to be a provider of services to the agency. If the lessee of the facility purchases the facility, the purchase shall not constitute a change of provider. The change or creation of a sublessee, acting as the provider of services, shall not constitute a change of provider.

(9) The change or creation of a management firm, acting as the provider of services, shall not constitute a change of provider.

(10) Only changes or creations of a provider of service through bona fide transactions or agreements shall be recognized.

(11) An owner of the real and personal property shall not be considered a change of provider when the owner takes over the operations from a lessee. In this situation, the facility shall be treated as an on-going entity.

(c) Each new provider shall be subject to a certification survey by the department of health and environment. If certified, the period of certification shall be as established by the Kansas department of health and environment.

(d) The effective date of this regulation shall be September 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective May 1, 1982; amended May 1, 1984; amended May 1, 1986; amended May 1, 1988; amended Jan. 2, 1989; amended Jan. 2, 1990; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended May 1, 1992; amended Nov. 2, 1992; amended Jan. 3, 1994; amended July 1, 1994; amended Sept. 30, 1994.)

30-10-2. Standards for participation; nursing facilities and nursing facilities for mental health. As a prerequisite for participation in the medicaid/medikan program as a provider of nursing facility services, each nursing facility shall:

(continued)

- (a) provide nursing services;
 - (b) meet the requirements of Title IV, subtitle C, part 2, pp 190-230, of the federal omnibus budget reconciliation act of 1987, effective October 1, 1990, which is adopted by reference;
 - (c) be certified for participation in the program for all licensed beds by the Kansas department of health and environment or the federal department of health and human services;
 - (d) have been operating with a provider agreement with the agency on June 30, 1994 if the certification is for a nursing facility for mental health;
 - (e) submit an application for participation in the program on forms prescribed by the secretary;
 - (f) update provided information as required by the application forms;
 - (g) within 30 days of any request, furnish full and complete ownership information concerning any subcontractor with whom the provider has had business transactions in an aggregate amount exceeding \$25,000.00 during the previous 12 months;
 - (h) furnish and allow inspection of any information that the agency, its designee, or the department of health and human services may request in order to assure proper payment by the medicaid/medikan program;
 - (i) inform all new residents of the availability of potential eligibility assessment under the federal spousal impoverishment law. The assessment shall be completed by the area or local agency offices; and
 - (j) for each resident, submit to the agency a copy of the resident assessment form.
- (1) The initial assessment shall be conducted during the first seven days of admission, completed by the eighth day of admission, and submitted to the agency within 14 days of admission.
 - (2) A second assessment shall be completed between day 30 and day 44 of admission and submitted to the agency within 51 days of admission.
 - (3) A full quarterly reassessment shall be completed at least every 90 days and shall be submitted to the agency within seven days of completion. An annual reassessment shall substitute for a quarterly assessment.
 - (4) A significant change reassessment shall be completed within 14 days after determination that such a change has occurred and shall be submitted to the agency within seven days of completion.
 - (5) A reassessment upon return from a hospital stay of more than 72 hours shall be performed within 14 days of the return and submitted within 21 days of the return.
 - (6) A significant change reassessment, or reassessment on return from a hospital may be used to meet the requirement for the quarterly reassessment.
 - (7) Resident assessment forms may be submitted on paper, computer disc or by electronic transmission. A resident assessment form shall be considered timely submitted by mailing paper or computer disc or through electronic transmission.
 - (8) An extension of no more than one month may be obtained for good cause, if approved by the agency. The requests shall be in writing and shall be received by the agency prior to the submission date. Requests received after the due date shall not be approved.

- (9) Penalty for non-submission of assessment forms.
- (A) If assessments are not completed and submitted as required, all further payments to the provider shall be suspended until the forms have been submitted. Thirty days before suspending payment to a provider, written notice shall be sent by the agency to the provider which states the agency's intent to suspend payments. The notice shall explain the basis for the agency's determination and shall explain the necessary corrective action that must be completed before payments are released.
- (B) Assessments found to be incorrectly completed shall be returned to the facility for correction through an edit check letter. This letter and request for correction shall be returned to the agency within 14 days from date of notification.
- (10) Any assessment that cannot be classified shall be assigned to the lowest classification group.
- (k) The effective date of this regulation shall be September 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective, E-74-43, Aug. 16, 1974; effective, E-74-63, Dec. 4, 1974; effective May 1, 1975; amended, E-76-34, July 1, 1975; amended May 1, 1976; amended Feb. 15, 1977; amended, E-78-35, Dec. 30, 1977; amended May 1, 1978; amended, E-80-13, Aug 8, 1979; amended May 1, 1980; amended May 1, 1982; amended May 1, 1983; amended May 1, 1985; amended May 1, 1987; amended May 1, 1988; amended Jan. 2, 1990; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended Nov. 2, 1992; amended Jan. 3, 1994; amended July 1, 1994; amended Sept. 30, 1994.)

30-10-7. Screening, evaluation, and referral for nursing facilities. (a) Each individual seeking admission to a nursing facility or nursing facility for mental health providing care under title XIX of the federal social security act, or referral to home- and community-based services (HCBS) shall receive a preadmission assessment, evaluation, and referral to all available community resources, including nursing facilities, prior to admission, with the following exceptions:

- (1) a patient who has entered an acute care facility from a nursing facility and is returning to a nursing facility;
- (2) a resident transferred from another adult care home other than from:
 - (A) a boarding care home;
 - (B) an intermediate personal care home; or
 - (C) a one-to-five-bed adult care home;
- (3) individuals whose length of stay is expected to be 30 days or less based on a physician's certification. The nursing facility shall arrange for a complete assessment from an authorized provider of assessment if the length of stay exceeds 30 days from the date of admission;
- (4) individuals who are admitted to a nursing facility on an emergency basis based on a physician's certification of the emergency, if an assessment occurs within 10 days subsequent to such an admission. Emergency situations shall include medical, financial or social emergencies. A nursing facility which admits a medicaid eligible individual on an emergency basis may be reimbursed for a maximum of 13 days if the preadmission assessment determines the individual to be inappropri-

ate for nursing facility level of care. Reimbursement shall be based upon the facility's applicable medicaid daily rate;

(5) individuals entering a nursing facility conducted by and for the adherents of a recognized church or religious denomination for the purpose of providing care and services for those who depend upon spiritual means, through prayer alone, for healing; or

(6) individuals who have made written request for assessment and referral services from an authorized provider of assessment and who do not receive those services within 10 calendar days, if the assessment occurs within 10 days following admission.

(b) The preadmission assessment shall be valid for one year from the date of the assessment. Reimbursement for the assessment shall be limited to one assessment annually per individual, unless in the judgment of a qualified professional, the person's physical, emotional, social, or cognitive status has changed to the extent that another assessment is warranted.

(c) Each individual choosing to enter a nursing facility following a preadmission assessment identifying no need for nursing facility placement shall do so as a private-paying resident. Medicaid/medikan shall not participate in the cost of care unless and until a preadmission assessment determines there is a need for nursing facility placement with the exception noted in K.A.R. 30-10-7(a)(4) above.

(d) The effective date of this regulation shall be September 30, 1994. (Authorized by and implementing K.S.A. 39-708c, 39-785; effective, E-74-59, Oct. 24, 1974; effective May 1, 1975; amended May 1, 1976; amended, E-78-35, Dec. 30, 1977; amended May 1, 1978; amended, E-80-13, Aug. 8, 1979; amended May 1, 1980; amended May 1, 1981; amended May 1, 1982; amended May 1, 1983; amended, T-84-11, July 1, 1983; amended May 1, 1984; amended, T-85-28, Nov. 14, 1984; amended May 1, 1985; amended May 1, 1986; amended Jan. 2, 1989; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended May 1, 1991; amended Jan. 4, 1993; amended July 1, 1994; amended Sept. 30, 1994.)

30-10-18. Rates of reimbursement. (a) Rates for existing nursing facilities.

(1) The determination of per diem rates shall be made, at least annually, on the basis of the cost information submitted by the provider and retained for cost auditing. The cost information for each provider shall be compared with other providers that are similar in size, scope of service and other relevant factors to determine the allowable per diem cost.

(2) Per diem rates shall be limited by cost centers, except where there are special level of care facilities approved by the United States department of health and human services. The limits shall be determined by the median in each cost center plus a percentage of the median. The percentage factor applied to the median shall be determined by the secretary.

(A) The cost centers shall be as follows:

- (i) administration;
- (ii) property;
- (iii) room and board; and
- (iv) health care.

(B) The property cost center maximum shall consist of the plant operating costs and an adjustment for the real and personal property fees.

(C) The percentile limits shall be determined from an annual array of the most recent historical costs of each provider in the data base.

(3) To establish a per diem rate for each provider, a factor for incentive, historical inflation, and estimated inflation shall be added to the allowable per diem cost.

(4) Resident days in the rate computation.

(A) Each provider which has been in operation for 12 months or longer and has an occupancy rate of less than 85 percent for the cost report period shall have the resident days calculated at the minimum occupancy of 85 percent.

(B) The 85 percent minimum occupancy rule shall be applied to the resident days and costs reported for the 13th month of operation and after. The 85 percent minimum occupancy requirement shall be applied to the interim rate of a new provider unless the provider is allowed to file a projected cost report.

(C) The minimum occupancy rate shall be determined by multiplying the total number of licensed beds by 85 percent. In order to participate in the medicaid/medikan program, each nursing facility provider shall obtain proper certification for all licensed beds.

(D) Each provider with an occupancy rate of 85 percent or greater shall have actual resident days for the cost report period used in the rate computation.

(5) Each provider shall be given a detailed listing of the computation of the rate determined for the provider's facility.

(6) The effective date of the rate for existing providers shall be in accordance with K.A.R. 30-10-19.

(7) Effective January 1, 1994, the case mix payment rate shall be phased in for dates of service through June 30, 1994.

(A) Each provider will receive 50 percent of the rate under the previous system and 50 percent of the rate under the case mix methodology.

(B) Under the case mix methodology, all features of the reimbursement system shall remain with the exception of the health care cost center. The allowance in the health care cost center shall be adjusted by the average case mix index for each facility and based on the resident assessment and classification.

(C) There shall be a "hold harmless" provision for each provider who experiences a rate reduction based on the case mix adjustment for the period for January 1 through June 30, 1994. The rate from the previous payment methodology shall continue if the case mix adjusted rate is less.

(D) Rates shall be adjusted quarterly by the average case mix index for each facility.

(E) Each provider shall be given a detailed listing of the computation of the rate determined for the provider's facility.

(8) Effective July 1, 1994, each provider shall receive rates based strictly on the case mix methodology.

(A) There shall be no "hold harmless" provision.

(B) New limits and rates shall be determined on the basis of cost information submitted by the provider and retained for cost auditing.

(continued)

(C) Rates shall continue to be adjusted quarterly by the case mix index and applied to the health care cost center for each facility.

(D) Detailed computations of the rate for each facility shall be sent to the provider.

(9) Effective January 1, 1994, resident assessments that cannot be classified shall be assigned to the lowest case mix index.

(b) Comparable service rate limitations.

(1) For each nursing facility and nursing facility for mental health, the per diem rate for care shall not exceed the rate charged for the same type of service to residents not under the medicaid/medikan program.

(2) The agency shall maintain a registry of private pay rates submitted by providers.

(A) Providers shall notify the agency by certified mail of any private pay rate change and the effective date of that change.

(B) The private pay rate registry shall be updated based on the notification from the providers.

(C) The registry shall become effective on the first day of the third month after the regulation is adopted. The providers shall have the same length of time to notify the agency of the provider's private pay rate or the registry shall reflect the last private pay rate on file.

(3) The average private pay rate for comparable services shall be included in the registry. The average private pay rate may consist of the following variables.

(A) A differential for a private room may be included in the average private pay rate when medicaid/medikan residents are placed in a private room at no extra charge and the private room is not medically necessary.

(B) Extra charges for ancillaries, routine supplies and other items included in the medicaid/medikan rate or payment outside of the rate may be included in the average private pay rate.

(C) If a level of care system is used to determine the average private pay rate, the level of care used to compute the private pay rate shall be that which best characterizes the entire medicaid/medikan population in the facility.

(4) The average private pay rate shall be based on what the provider reasonably expects to receive from the resident. If the private pay charges are consistently higher than what the provider receives from the residents for services, then the average private pay rate for comparable services shall be based on what is actually received from the residents.

(5) When providers are notified of the effective date of the medicaid/medikan rate, the following procedures shall be followed.

(A) If the private pay rate indicated on the agency register is lower, the medicaid/medikan rate, beginning with its effective date, shall be lowered to the private pay rate reflected on the registry.

(B) Providers who subsequently notify the agency by certified mail of the private pay rate shall have the medicaid/medikan rate adjusted on the first day of the month following the date of the certified letter.

(c) Rate for new construction or new facility to the program.

(1) The per diem rate for newly constructed nursing facilities or a new facility to the medicaid/medikan pro-

gram shall be based on a projected cost report submitted in accordance with K.A.R. 30-10-17.

(2) No rate shall be paid until a nursing facility financial and statistical report is received and processed to determine a rate.

(d) Change of provider.

(1) The payment rate for the first 12 months of operation shall be based on the rate established from the historical cost data of the previous owner or provider. If the 85 percent minimum occupancy requirement was applied to the previous provider's rate, the 85 percent minimum occupancy requirement shall also be applied to the new provider's rate.

(2) When the care of the residents may be at risk because the per diem rate of the previous provider is not sufficient for the new provider to provide care and services in conformity with applicable state and federal laws, regulations, and quality and safety standards, and the old provider's rate is less than the average statewide rate, the new provider may submit a request in writing to the agency to file a projected cost report. The provisions of this subparagraph shall not apply when capital improvements, applicable to all providers, are required by new state or federal regulations.

(e) Per diem rate errors.

(1) When the per diem rate, whether based upon projected or historical cost data, is audited by the agency and found to contain an error, a direct cash settlement shall be required between the agency and the provider for the amount of money overpaid or underpaid. If a provider no longer operates a facility with an identified overpayment, the settlement shall be recouped from a facility owned or operated by the same provider or provider corporation unless other arrangements have been made to reimburse the agency. A net settlement may occur when a provider has more than one facility involved in settlements.

(2) The per diem rate for a provider may be increased or decreased as a result of a desk review or audit on the provider's cost reports. Written notice of this per diem rate change and of the audit findings shall be sent to the provider. Retroactive adjustment of the rate paid from a projected cost report shall apply to the same period of time covered by the projected rate.

(3) Each provider shall have 30 days from the date of the audit report cover letter to request an administrative review of an audit adjustment that results in an overpayment or underpayment. The request shall specify the finding or findings that the provider wishes to have reviewed.

(4) An interim settlement, based on a desk review of the historical cost report covering the projected cost report period, may be determined after the provider is notified of the new rate determined from the cost report. The final settlement shall be based on the rate after an audit of the historical cost report.

(5) A new provider that is not allowed to submit a projected cost report for an interim rate shall not be entitled to a retroactive settlement for the first year of operation.

(f) Out-of-state providers. The rate for out-of-state providers certified to participate in the Kansas medicaid/

medikan program shall be the rate approved by the agency. Out-of-state providers shall obtain prior authorization by the agency.

(g) Determination of the rate for nursing facility providers re-entering the medicaid program.

(1) The per diem rate for each provider re-entering the medicaid program shall be determined from:

(A) a projected cost report in those cases where the provider has not actively participated in the program by the submission of any current resident service billings to the program for 24 months or more; or

(B) the last historic cost report filed with the agency, if the provider has actively participated in the program during the most recent 24 months. The appropriate historic and estimated inflation factors shall be applied to the per diem rate determined in accordance with this paragraph.

(2) Where the per diem rate for a provider re-entering the program is determined in accordance with paragraph (1)(A) of this subsection, a settlement shall be made in accordance with K.A.R. 30-10-18(e).

(3) Where the per diem rate for a provider re-entering the program is determined in accordance with paragraph (1)(B) of this subsection, a settlement shall be made only on those historic cost reports with fiscal years beginning after the date on which the provider re-entered the program.

(h) The effective date of this regulation shall be September 30, 1994. (Authorized by and implementing K.S.A. 39-708c; effective May 1, 1985; amended May 1, 1986; amended, T-87-29, Nov. 1, 1986; amended May 1, 1987; amended, T-89-5, Jan. 21, 1988; amended Sept. 26, 1988; amended Jan. 2, 1989; amended Jan. 2, 1990; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended Oct. 28, 1991; amended May 1, 1992; amended Nov. 2, 1992; amended Jan. 3, 1994; amended July 1, 1994; amended Sept. 30, 1994.)

Donna L. Whiteman
Secretary of Social and
Rehabilitation Services

Doc. No. 015230

INDEX TO ADMINISTRATIVE REGULATIONS

This index lists in numerical order the new, amended and revoked administrative regulations and the volume and page number of the *Kansas Register* issue in which more information can be found. This cumulative index supplements the index found in the 1993 Supplement to the *Kansas Administrative Regulations*.

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1-2-30	Amended	V. 12, p. 902
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1-5-15	Amended	V. 12, p. 1705
1-5-28	Amended	V. 12, p. 902
1-6-22a	New	V. 12, p. 1706
1-6-23	Amended	V. 12, p. 1706
1-7-4	Amended	V. 12, p. 1707
1-9-5	Amended	V. 12, p. 902
1-9-6	Amended	V. 12, p. 1708
1-9-13	Amended	V. 12, p. 1709
1-9-21	Amended	V. 12, p. 903
1-9-23	Amended	V. 12, p. 903
1-9-24	New	V. 12, p. 1709, 1779
1-10-6	Amended	V. 12, p. 1709
1-13-1a	Amended	V. 12, p. 1709
1-14-6	Amended	V. 12, p. 1817
1-14-7	Amended	V. 12, p. 1817
1-14-8	Amended	V. 12, p. 1710
1-14-10	Amended	V. 12, p. 1818
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1-16-2	Amended	V. 12, p. 721, 864
1-16-2a	Amended	V. 12, p. 721, 864
1-16-2b	Amended	V. 12, p. 721, 864
1-16-2d	Amended	V. 12, p. 721, 864
1-16-2f	Revoked	V. 12, p. 722, 865
1-16-2k	Amended	V. 12, p. 722, 865
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1-17-13	Amended	V. 13, p. 720
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1-49-1	Amended	V. 13, p. 720
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4-4-983	New	V. 13, p. 1018, 1043
4-4-984	New	V. 13, p. 1018, 1043
4-7-716	Amended	V. 13, p. 1018
4-7-719	Amended	V. 13, p. 1018
4-8-14a	Amended	V. 12, p. 1212
4-8-28	Amended	V. 12, p. 1212
4-8-32	Amended	V. 12, p. 1213
4-13-60	Amended	V. 13, p. 1018
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5-3-5e	New	V. 13, p. 493
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17-21-1	Amended	V. 12, p. 314
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17-22-1	Amended	V. 12, p. 1015
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91-1-80	Amended	V. 12, p. 580
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91-1-102a	Amended	V. 13, p. 308
91-1-104	Revoked	V. 13, p. 367
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105-5-2	Amended	V. 13, p. 184
105-5-6	Amended	V. 12, p. 977, 1013
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105-5-9	New	V. 12, p. 1014
105-9-5	New	V. 12, p. 1014
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111-2-15	Revoked	V. 10, p. 881
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111-2-17	Revoked	V. 10, p. 1210
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111-3-29	Revoked	V. 11, p. 1149
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AGENCY 116: STATE FAIR BOARD

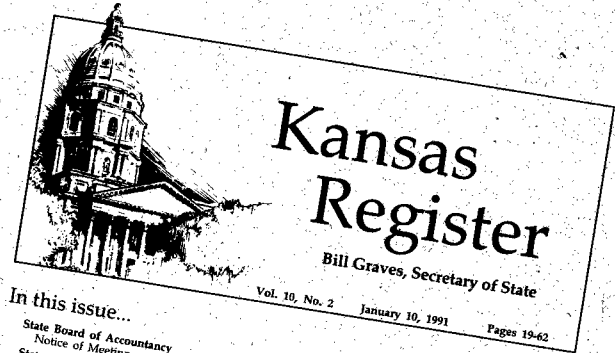
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117-6-1	Amended	V. 13, p. 914
117-6-2	Amended	V. 12, p. 531
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