



Kansas Register

Ron Thornburgh, Secretary of State

Vol. 16, No. 16 April 17, 1997 Pages 559-622

In this issue . . .	Page
Kansas Continuing Legal Education Commission	
Notice of meeting.....	561
Attorney General	
Notice of hearing on proposed administrative regulations.....	561
Opinions No. 97-22 through 97-33	564
Department of Administration—Division of Architectural Services	
Notices of commencement of negotiations for architectural services	561, 562
Pooled Money Investment Board	
Notice of investment rates.....	562
Office of the Governor	
Executive Order No. 97-5.....	562
Social and Rehabilitation Services	
Notice of hearings on child care and development fund state plan.....	562
State Board of Tax Appeals	
Notice of hearing on proposed administrative regulations.....	563
University of Kansas Medical Center	
Notice to bidders.....	563
Legislative bills and resolutions introduced April 3-9.....	563
Wildlife and Parks Commission	
Notice of hearing on proposed administrative regulations.....	564
Wichita State University	
Notice to bidders.....	567
Department of Administration—Division of Purchases	
Notice to bidders for state purchases.....	567
State Grain Inspection Department	
Notice of Grain Advisory Commission meeting.....	568
State Corporation Commission	
Notice of motor carrier hearings.....	568
Historic Sites Board of Review	
Notice of meeting.....	568
Kansas Racing and Gaming Commission	
Notice of hearing on proposed administrative regulations.....	569
Department of Health and Environment	
Requests for comments on proposed air quality permits	569, 570, 572
Notice of hearing on project priority list and intended use plan.....	573
Notice concerning Kansas water pollution control permits	573
Notice of hearing on state air quality implementation plan.....	576

(continued on next page)

State Board of Accountancy	
Notice of hearing on proposed administrative regulations.....	570
City of Wichita—Human Services Department	
Notice of job training plan modification.....	571
State Banking Board	
Notice of meeting.....	572
Notice of Bond Sale	
City of Merriam.....	577
Morris County.....	578
Department of Transportation	
Request for proposals.....	578
New State Laws	
House Bill 2389, concerning Kansas State University; authorizing the State Board of Regents to convey title to certain real estate located in Clay and Washington counties.....	579
Senate Bill 10, concerning health care data; relating to the performance audit of the health care database.....	579
House Bill 2123, designating bridge no. 013 located on United States Highway 59 in Atchison County as the Amelia Earhart memorial bridge.....	580
Senate Bill 123, concerning regulation of discharges of sewage.....	580
Senate Bill 205, concerning certain municipalities; relating to the powers, duties and functions of the governing bodies thereof.....	581
Senate Bill 244, concerning the State Board of Healing Arts; relating to fees paid to the board.....	582
Senate Bill 280, concerning tax increment financing.....	583
Senate Bill 12, concerning social welfare; relating to identifying health care and other medical benefits provided under medical benefit plans for beneficiaries of federal medicaid benefits.....	584
House Bill 2484, concerning the Kansas Bureau of Investigation; relating to the powers, duties and functions thereof.....	584
Permanent Administrative Regulations	
Department of Health and Environment.....	584
Department of Health and Environment (Mined-Land Conservation and Reclamation).....	585
Index to administrative regulations	615

The Kansas Register (ISSN No. 0662-190) is an official publication of the State of Kansas, published by authority of K.S.A. 75-430. The Kansas Register is published weekly by the Kansas Secretary of State, State Capitol, Topeka, KS 66612-1594. One-year subscriptions are \$70 (Kansas residents must include \$4.31 state and local sales tax). Single copies may be purchased, if available, for \$2 each. Periodicals postage paid at Topeka, KS.

Postmaster: Send change of address form to Kansas Register, Secretary of State, State Capitol, 300 S.W. 10th Ave., Topeka, KS 66612-1594.

© Kansas Secretary of State 1997. Reproduction of this publication in its entirety or for commercial purposes is prohibited without prior permission. Official enactments of the Kansas Legislature and proposed and adopted administrative regulations of state agencies may be reproduced in any form without permission.

PUBLISHED BY
Ron Thornburgh
 Secretary of State
 2nd Floor, State Capitol
 300 S.W. 10th Ave.
 Topeka, KS 66612-1594
 (913) 296-4564



Register Office:
 Room 233-N, State Capitol
 (913) 296-3489
 Fax (913) 291-3051

State of Kansas

**Kansas Continuing Legal
Education Commission****Notice of Meeting**

The Kansas Continuing Legal Education Commission will meet at 1 p.m. Friday, April 25, at the Heritage House, 3535 S.W. 6th, Topeka.

Nancy Anstaett
Chair

Doc. No. 018990

State of Kansas

Attorney General**Notice of Hearing on Proposed
Administrative Regulations**

A public hearing will be conducted at 9 a.m. Monday, June 16, in the Attorney General's second floor conference room, Kansas Judicial Center, 301 S.W. 10th Ave., Topeka, to consider adoption of a proposed regulation of the Attorney General.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed regulation. Interested parties may submit written comments prior to the hearing to the Court Debt and Restitution Collection Program, Office of Attorney General, 300 S.W. 10th Ave., Topeka, 66612. Interested parties will be given reasonable opportunity to present their views orally on the adoption of the proposed regulation during the hearing. A complete copy of the economic impact statement may be received by requesting it at the above address. While the hearing location meets ADA requirements, individuals with disabilities may request special accommodation to enable participation by writing the above address or contacting (913) 296-2215 or (913) 291-3767 (TTY) at least five days prior to the hearing.

K.S.A. 1996 Supp. 75-719 authorizes the Attorney General to enter into contracts with contracting agents to collect debts owed the Kansas district courts and restitution owed to beneficiaries of orders of restitution. As a part of the "cost of collection," subsection (b)(3) authorizes the Attorney General to prescribe administrative costs pursuant to rules and regulations. The entire proposed regulation and a summary of its economic impact follows.

16-9-1. Administrative costs. Each contracting agent who collects debts owed to district courts or restitution pursuant to K.S.A. 1996 Supp. 75-719 shall pay monthly to the attorney general an amount for administrative costs as established by contract, which shall not exceed one percent of the amount collected by that contracting agent that month. As needed, each contract shall specify other terms and conditions appropriate to facilitate collections and to ensure that these contracts for collection can be monitored statewide. (Authorized by and implementing K.S.A. 1996 Supp. 75-719; effective P-_____.)

Data provided by the district courts reveal that the amount of debt owed the district courts and restitution owed statewide is approximately \$100 million. If 10 per-

cent of the total is collected over a two-year period, total collections would be \$10 million. The amount payable to the Attorney General as administrative costs would be \$100,000 over the two-year period. If the collection rate for the debts is 10 percent, as projected above, sufficient revenue will be generated to pay the costs of monitoring the program. If the rate is greater than that, the Attorney General maintains the option, through contracts, of charging a lower administrative cost rate than 1 percent.

Through sampling data provided by the district courts, it was determined the average account for collection would be \$946. If such an account would be paid in full, the Attorney General could receive no more than \$9.46 for establishing the program to collect this debt and for monitoring collections. Analysis of data also disclosed that 67 percent of the outstanding debt reported by district courts was restitution owed to crime victims and 33 percent was debt owed to the courts.

Carla J. Stovall
Attorney General

Doc. No. 018974

State of Kansas

**Department of Administration
Division of Architectural Services****Notice of Commencement of
Negotiations for Architectural Services**

Notice is hereby given of the commencement of negotiations for architectural design services for the renovation of Horace Mann Hall at Pittsburg State University, Pittsburg. The building's current use as a storage facility will be converted to house the Admission and Retention Office, Career Services, Student Financial Assistance Office, University Housing, Cashier's Office, Registrar's Office and Continuing Studies. Program emphasis will include general building renovation, including the addition of a new elevator, and compliance with ADA and fire and life safety codes. Estimated construction cost is \$2,445,000.

For information regarding the scope of services, contact Kerry F. Beyeler, Director of Facilities Planning, Pittsburg State University, (316) 235-4130.

If interested, an original and six copies of the SF 255 form (plus relevant attachments of information regarding similar projects) should be submitted. These submittals should be concise, relevant to the project and follow the State Building Advisory Commission guidelines for submittal. Copies of the guidelines have previously been distributed to firms; if copies of the guidelines are required, contact Gary Grimes, Division of Architectural Services, 625 Polk, Topeka, 66603, (913) 233-9367. Submittals not complying with the guidelines will be returned without consideration.

Expressions of interest and the SF 255 submittals should be received by Gary Grimes before 5 p.m. May 2.

Thaine Hoffman, AIA
Director, Division of
Architectural Services

Doc. No. 018970

State of Kansas

Pooled Money Investment Board

Notice of Investment Rates

The following rates are published in accordance with K.S.A. 1996 Supp. 75-4210. These rates and their uses are defined in K.S.A. 1996 Supp. 12-1675(b)(c)(d), and K.S.A. 1996 Supp. 75-4201(l) and 75-4209(a)(1)(B).

Effective 4-21-97 through 4-27-97

Term	Rate
0-90 days	5.40%
3 months	5.49%
6 months	5.86%
9 months	6.05%
12 months	6.12%
18 months	6.41%
24 months	6.51%
36 months	6.71%
48 months	6.80%

William E. Lewis
Chairman

Doc. No. 018978

State of Kansas

Department of Administration
Division of Architectural Services

Notice of Commencement of
Negotiations for Architectural Services

Notice is hereby given of the commencement of negotiations for architectural design services for the renovation of Willard Hall at Pittsburg State University, Pittsburg. Renovation of the building will return it to a residential housing facility. Program emphasis will include general renovation of the building, including addition of an elevator, and compliance with ADA and fire and life safety codes. Demolition of Mitchell Hall is included in the scope of work. Estimated construction cost is \$3,440,000.

For information regarding the scope of services, contact Kerry F. Beyeler, Director of Facilities Planning, Pittsburg State University, (316) 235-4130.

If interested, an original and six copies of the SF 255 form (plus relevant attachments of information regarding similar projects) should be submitted. These submittals should be concise, relevant to the project and follow the State Building Advisory Commission guidelines for submittal. Copies of the guidelines have previously been distributed to firms; if copies of the guidelines are required, contact Gary Grimes, Division of Architectural Services, 625 Polk, Topeka, 66603, (913) 233-9367. Submittals not complying with the guidelines will be returned without consideration.

Expressions of interest and the SF 255 submittals should be received by Gary Grimes before 5 p.m. May 2.

Thaine Hoffman, AIA
Director, Division of
Architectural Services

Doc. No. 018969

State of Kansas

Office of the Governor

Executive Order No. 97-5

WHEREAS, the body of Roger D. Kent was found in his home in Olathe, Kansas, on or about March 27, 1997; and

WHEREAS, the offer of a reward will enhance the efforts of the agencies and officers involved in the investigation of this heinous crime;

NOW, THEREFORE, by virtue of the authority vested in me by K.S.A. 75-113, I, Bill Graves, Governor of the State of Kansas, do hereby offer a reward of five thousand dollars (\$5,000) for information leading to the arrest and conviction of the murderer or murderers of Roger D. Kent.

This document shall be filed with the Secretary of State as Executive Order No. 97-5, and shall become effective immediately.

Dated April 10, 1997.

Bill Graves
Governor

Attest: Ron Thornburgh
Secretary of State

Doc. No. 018997

State of Kansas

Social and Rehabilitation Services

Notice of Public Hearings

Public hearings will be conducted statewide to receive comments and suggestions for the Department of Social and Rehabilitation Services to develop the Child Care and Development Fund State Plan for the Child Care Assistance Program. The state plan describes the policies and guidelines that Kansas will use to implement welfare reform. The plan will be completed and submitted for approval by June 30. Hearings will be held in the following locations:

Garden City	May 13 6:30-8:30 p.m.	Finney County Public Library 605 E. Walnut
Hays	May 14 6:30-8:30 p.m.	Hays Public Library 1205 Main
Olathe	May 15 6:30-8:30 p.m.	Johnson County Central Resources Library 9875 W. 87th, Overland Park
Wichita	May 20 6:30-8:30 p.m.	Finney State Office Building Room 3080 230 E. William
Chanute	May 21 6:30-8:30 p.m.	Chanute Area SRS Office 1500 W. 7th

For additional information or comments, please contact Jean Morgan at (913) 296-3374.

Rochelle Chronister
Secretary of Social and
Rehabilitation Services

Doc. No. 018961

State of Kansas

Board of Tax Appeals

Notice of Hearing on Proposed Administrative Regulations

A public hearing will be conducted at 1:30 p.m. Friday, June 27, in Hearing Room A, Suite 451, Docking State Office Building, 915 S.W. Harrison, Topeka, to consider the adoption of proposed changes in administrative regulations of the Board of Tax Appeals, K.A.R. 94-2-1 through 94-2-18 and 94-3-1 and 94-3-2.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed regulations. All interested parties may submit written comments prior to the hearing to the chairman of the Board of Tax Appeals, Docking State Office Building, Suite 451, 915 S.W. Harrison, Topeka, 66612-1505. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation 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. Speech/hearing disabled Kansans may access the Kansas Relay Center by calling 1-800-766-3777. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Roberta Allen at (913) 296-2388. Handicapped parking is located at the north end of state parking lot No. 2, which is located immediately south of the Docking Building. The north end of the building has a drive-through drop-off ramp which is accessible to individuals with disabilities, and both the south and east entrances to the building are accessible.

These regulations represent all regulations which govern and control the tax appeals procedures of the Board of Tax Appeals and are proposed for adoption on a permanent basis. In brief summary, these proposed amendments are intended to simplify and streamline the tax appeals process, be more informative, achieve consistency with applicable state statutes, and more clearly define the board's position and direction on administrative and policy issues.

There is no estimated economic impact on governmental agencies or units with the exception of a slight increase in funds generated by the board by increasing the filing fee which must accompany the filing of an information statement for the issuance of economic development revenue bonds. This fee is ultimately paid through the proceeds of the bonds. The board foresees no other economic impact to other persons subject to these proposed regulations nor to the general public.

Copies of the regulations and their economic impact statement may be obtained by contacting the Board of Tax Appeals at the address and phone number listed above.

August Bogina, Jr., P.E.
Chairman

Doc. No. 018966

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.

Monday, May 5, 1997

727124

Provide and install ADA vertical platform lifts
(Pre-bid on April 22, 1997)

Barbara Lockhart
Purchasing Director

Doc. No. 018991

State of Kansas

Legislature

Legislative Bills and Resolutions Introduced

The following numbers and titles of bills and resolutions were recently introduced by the 1997 Legislature. Copies of bills and resolutions are available free of charge from the Legislative Document Room, 145-N, State Capitol, 300 S.W. 10th Ave., Topeka, 66612, (913) 296-4096.

Bills/Resolutions introduced April 3-9:

House Bills

HB 2574, An act requiring certain school districts to transfer amounts attributable to school facilities weighting from the supplemental general fund to the general fund, by Committee on Appropriations.

House Concurrent Resolutions

HCR 5025, A concurrent resolution relating to the adjournment of the senate and house of representatives for a period during the 1997 regular session of the legislature.

Senate Concurrent Resolutions

SCR 1613, A concurrent resolution establishing a task force on long-term care services to study services provided by the public and private sector to citizens of the state and laws and rules and regulations relating to such services.

Senate Resolutions

SR 1844, A resolution congratulating and commending The Salvation Army for 100 years of service to the Salina community.

SR 1845, A resolution congratulating and commending the Konza Prairie Research Natural Area.

SR 1846, A resolution congratulating and commending Lawrence Public Schools.

SR 1847, A resolution congratulating and commending Hazel Scott upon completion of 50 years of faithful service to the Tyro Christian Church.

SR 1848, A resolution congratulating and commending Betty Zumbrum.

SR 1849, A resolution congratulating and commending George T. Johnson.

SR 1850, A resolution congratulating and commending Karla Burns for her success in the theater.

SR 1851, A resolution congratulating and commending Tara Dawn Holland.

SR 1852, A resolution congratulating and commending the 1996-97 University of Kansas men's basketball team.

Doc. No. 018977

State of Kansas

Wildlife and Parks Commission

Notice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted by the Wildlife and Parks Commission at 7 p.m. Thursday, June 26, at the City Hall, 433 Morton, Elkhart, to consider the approval and adoption of proposed department regulations.

A workshop meeting on business of the Wildlife and Parks Commission will begin at 1:30 p.m. June 26 at the location listed above. The meeting will recess at 5 p.m., then resume at 7 p.m. at the same location for the regulatory hearing. There will be public comment periods at the beginning of the afternoon and evening meetings for any issues not on the agenda, and additional comment periods will be available during the meeting on agenda items. Old and new business also may be discussed at this time. If necessary to complete the hearing or other business matters, the commission will reconvene at 9 a.m. June 27 at the same location.

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 for accommodation should be made at least five working days in advance of the hearing by contacting Cindy Baugh, commission secretary, at (316) 672-5911. Persons with a hearing impairment may call the TDD service at 1-800-766-3777 to request special accommodations.

This 60-day notice period prior to the hearing constitutes a public comment period for the purpose of receiving written public comments on the proposed regulations.

All interested parties may submit written comments prior to the hearing to the chairman of the commission, Kansas Department of Wildlife and Parks, Suite 502, Landon State Office Building, 900 S.W. Jackson, Topeka, 66612. All interested parties will be given a reasonable opportunity at the hearing to express their views orally in regard to the adoption of the proposed regulations. During the hearing, all written and oral comments submitted by interested parties will be considered by the commission as a basis for approving, amending and approving, or rejecting the proposed regulations.

The regulations that will be heard during the regulatory hearing portion of the meeting are as follows:

K.A.R. 115-14-3. Falconry permit classes and requirements. This regulation establishes the falconry permit classes and class requirements. The proposed amendment would eliminate the red-shouldered hawk from the list of species that an apprentice falconer may possess.

Economic Impact Summary: The proposed amendment is not expected to have an economic impact on the department, the public or other state agencies.

K.A.R. 115-14-9. Acquisition of raptors. This regulation establishes provisions for the acquisition of raptors by licensed falconers within the state. Proposed amendments to the regulation would address the season for taking passage and haggard raptors, as well as the requirement that a marker be affixed to the raptor by the

department or in the presence of a department representative. Other amendments would eliminate the red-shouldered hawk from the list of species eligible to be taken and specify that species on the list of species in need of conservation are not to be taken or used by falconers.

Economic Impact Summary: The proposed amendments are not expected to have significant economic impact on the department, the public or other state agencies.

Copies of the complete text of the regulations and their respective economic impact statements may be obtained by contacting the chairman of the commission at the address above or by calling (913) 296-2281.

John R. Dykes
Chairman

Doc. No. 018960

State of Kansas

Attorney General

Opinion No. 97-22

Public Records, Documents and Information—Records Open to Public—Certain Records Not Required to be Open.

Elections—Sufficiency of Petitions—Petition Documents; Where Filed. Representative Bruce F. Larkin, 63rd District, Baileyville, March 3, 1997.

Election petitions are generally open records under the Kansas Open Records Act. Cited herein: K.S.A. 25-3602, 45-216; K.S.A. 1996 Supp. 45-217; K.S.A. 45-218, K.S.A. 1996 Supp. 45-221, 72-6433, 72-6433a; K.S.A. 72-8801. SP

Opinion No. 97-23

Constitution of the State of Kansas—Miscellaneous—Intoxicating Liquors; Requirement for Licensure; Application to Facility Owned and Operated by Federally Recognized Tribe on Indian Land.

Intoxicating Liquors and Beverages—Licensure and Regulation of Sale of Liquor by the Drink—Drinking Establishment Licenses; Application to Facility Owned and Operated by Federally Recognized Tribe on Indian Land. Kevin Hill, Brown County Attorney, Hiawatha, March 17, 1997.

18 U.S.C. § 1161 and Section 26(C) of the Indian Gaming Compact between the State of Kansas and the Sac and Fox Nation of Missouri in Kansas and Nebraska each provide for regulation of tribal liquor sales in accordance with state law. The United States Supreme Court in *Rice v. Rehner* held that 18 U.S.C. § 1161 confers concurrent jurisdiction on the states and the tribes over liquor transactions in Indian country. This grant of authority has been held to include regulatory as well as substantive law. Thus, the Sac and Fox Nation will be required to obtain a state license before beginning liquor sales at the tribal casino. Because the casino is located in Brown County, which has not opted to allow drinking establishments within the county in accordance with Article 15, Section 10 of the Kansas Constitution and K.S.A. 1996 Supp. 41-2646, the tribe may not operate a drinking establishment

at the casino. The tribe may, however, apply for a Class B club license. Cited herein: K.S.A. 1996 Supp. 41-2601; K.S.A. 41-2634; K.S.A. 1996 Supp. 41-2641; 41-2642; K.S.A. 41-2646; Kan. Const., art. 15, § 10; 18 U.S.C. §§ 1151, 1154, 1156, 1161; 3113, 3488, 3669. JLM

Opinion No. 97-24

Intoxicating Liquors and Beverages—Cereal Malt Beverages—Revocation or Suspension of License; Grounds; Permitting Gambling on the Licensed Premises; Indian Gaming. Tracy T. Diel, Executive Director, Kansas State Gaming Agency, Topeka, March 17, 1997.

The term "gambling" as used in K.S.A. 1996 Supp. 41-2708(a)(7) refers to illegal gambling, not gaming, which is lawful and has been excluded from the definition of gambling found in K.S.A. 21-4303 and K.S.A. 1996 Supp. 21-4302. Cited herein: K.S.A. 1996 Supp. 21-4302; K.S.A. 21-4303; K.S.A. 1996 Supp. 22-2512; K.S.A. 41-101; 41-2701; K.S.A. 1996 Supp. 41-2708; K.S.A. 74-8708; K.S.A. 1996 Supp. 74-8813; 74-9802; K.S.A. 79-4703; K.S.A. 1996 Supp. 79-4706; 79-4712a. JLM

Opinion No. 97-25

Roads and Bridges; Roads—County and Township Roads—General Provisions.

Automobiles and Other Vehicles—Uniform Act Regulating Traffic; Powers of State and Local Authorities—Erection and Maintenance of Stop Signs, Yield Signs and Traffic-Control Devices.

State Departments; Public Officers and Employees—Kansas Tort Claims Act—Liability of Governmental Entities; Exception from Liability; Placement of Road Signs. Keith W. Sprouse, Marshall County Counselor, Marysville, March 17, 1997.

A county is a "local authority" within the context of the Uniform Act Regulating Traffic and therefore has the responsibility to erect and maintain traffic control signs within its jurisdiction in accordance with the manual and specifications adopted by the Secretary of Transportation. A township does not fall within the definition of "local authority" and therefore has no authority to erect or maintain traffic control signs. Whether there is a duty to place signs and whether the decision to place signs is an exercise of discretion excepted from liability under the Kansas Tort Claims Act are questions of fact for the court to determine based on the totality of the circumstances. Cited herein: K.S.A. 8-1401; 8-1432; 8-2003; 8-2005; 68-526; 75-6101; K.S.A. 1996 Supp. 75-6104. DMV

Opinion No. 97-26

Crimes and Punishments; Kansas Criminal Code—Crimes Against the Public Morals—Gambling; Definitions; Gambling Device; Ticket Dispensers. Representative Thomas M. Klein, 103rd District, Wichita, March 17, 1997.

If the element of consideration is absent from the Lucky Shamrock Phone Card game in that no purchase is necessary for participation in this sweepstakes promotion, it is our opinion that the game is not a lottery. Furthermore,

the Lucky Shamrock Phone Card Dispenser, as described herein, does not meet the statutory definition of a gambling device. This conclusion assumes that the machine and the game will be operated as described herein and not used in an illegal way. Cited herein: K.S.A. 1996 Supp. 21-4302; K.S.A. 21-4303; 21-4308. JLM

Opinion No. 97-27

Corporations—Agricultural Corporations—Swine Production Facilities; Establishment in County, Procedure. Craig S. Crosswhite, Hodgeman County Attorney, Jetmore, March 17, 1997.

Publication requirements for a county resolution permitting corporate swine production facilities under K.S.A. 17-5908 must be complied with in order for the resolution to become effective. Because the statute does not prescribe a specified time within which publication must be made, the lapse of more than two years between the approval of Hodgeman County Resolution No. 94-6 and proper publication thereof does not prohibit enactment of the resolution; however, the resolution does not become effective until 60 days after its proper publication and an opportunity for any protest to be resolved. The 60-day protest period does not begin until the final, proper publication of the resolution. Cited herein: K.S.A. 17-5908. DMV

Opinion No. 97-28

Elections—School District Elections—Change of Member District Boundary, Change of Residence of Board Member Within School District, No Vacancy; Recall.

Elections—Recall of Elected Officials—Recall of Local Officers; Petition; Affidavit, Form, Number of Signatures; Board of Education Members; Change in Member District Boundaries. Richard Raleigh, Barber County Attorney, Medicine Lodge, March 27, 1997.

The member districts represented by members serving in member position #2 and member position #3 of the board of education for Unified School District No. 254 are member district #2 and member district #3, respectively, as those districts exist after alteration of the member district boundaries. Electors residing in member district #2 and in member district #3 are qualified to sign the petitions seeking recall of the member representing their member districts. The number of signatures required on the petitions must equal not less than 40 percent of the vote cast for all candidates in the last general election for the member position served by the member sought to be recalled. Cited herein: K.S.A. 25-2003; 25-2020; 25-2022a; 25-4318; 25-4320; 25-4325; 72-8003; 72-8009; Kan. Const., art. 4, § 3. RDS

Opinion No. 97-29

Labor and Industries—Kansas Acts Against Discrimination—Unlawful Employment Practices; Legality of Questions Posed to Applicants for Appellate Court Positions. Carol G. Green, Clerk, Kansas Supreme Court, Topeka, March 27, 1997.

(continued)

The Supreme Court Nominating Commission is subject to the Kansas Acts Against Discrimination, the Kansas Age Discrimination in Employment Act and the Americans With Disabilities Act. A question regarding the age of the judicial applicant is appropriate in order to ensure that a judicial candidate is legally qualified to apply; however, the question should be narrowly tailored to avoid the appearance of age discrimination. A question regarding the candidate's marital status and family situation is inappropriate in the absence of a legally justifiable basis for the inquiry. A question which requests the religious affiliation of the candidate violates the First Amendment to the United States Constitution, Section 7 of the Kansas Bill of Rights and the Kansas Acts Against Discrimination. Finally, the mental health related questions, although appropriate under Title II of the Americans With Disabilities Act because they are reasonably related to job performance and are subject to reasonable time limitations, are not permissible under Title I of the ADA and the Kansas Acts Against Discrimination. Cited herein: K.S.A. 20-120; 20-124; 20-125; 20-132; 20-133; 20-137; 20-138; 20-2608; 20-3002; 20-3004; 20-3007; 44-1009; 44-1111; 44-1112; 44-1113; 29 U.S.C. § 621; 42 U.S.C. §§ 2000e, 12111, 12112; Kan. Const., art. 3, §§ 5, 7; Kan. Const., Bill of Rights, § 7; U.S. Const., Art. VI and Amendment I. MF

Opinion No. 97-30

Cities and Municipalities—Consolidation of Municipalities—Consolidation of Kansas City, Kansas, and Wyandotte County. Senator Chris Steineger, 6th District, Kansas City, March 27, 1997.

Under the Kansas City, Kansas/Wyandotte County consolidation plan submitted January 13, 1997, the members elected to the Unified Board of Commissioners are considered county commissioners for the purpose of Section 2 of Article 4 of the Kansas Constitution. Should the plan for consolidation be approved by the electorate, neither the plan nor any other law would require members of the Unified Board of Commissioners to be residents of the area served by the Unified Board of Commissioners. The locally elected boards of education for unified school districts located within the area served by the Unified Board of Commissioners remain governmental entities separate and distinct from the consolidated city-county. Any consolidation of unified school districts located in the area served by the Unified Board of Commissioners must follow the procedure set forth in K.S.A. 72-8701 *et seq.* Each entity comprising the consolidated government would remain solely responsible for any bond debt it had incurred prior to consolidation. The 30 percent debt limit established in K.S.A. 1996 Supp. 12-345 for the consolidated government includes all previous bonded indebtedness of the two separate entities comprising the consolidated government. Cited herein: K.S.A. 10-113; 10-118; K.S.A. 1996 Supp. 12-340; 12-342; 12-343; 12-345; K.S.A. 19-202; 19-212; 72-6732; 72-8701; 79-5037; Kan. Const., art. 4, § 2; Kan. Const., art. 6, § 5; G.S. 1899, ch. 25, art. 2, § 19; L. 1901, ch. 424, §§ 1, 2. RDS & NLU

Opinion No. 97-31

Cities and Municipalities—Code for Municipal Courts; General Provisions—Jurisdiction of Municipal Court; Ordinance Violations With No Statutory Counterpart.

Minors—Kansas Juvenile Offenders Code—Definitions; Definition of Juvenile Offender. Representative Tim Carmody, 16th District, Overland Park, March 27, 1997.

A juvenile who violates an ordinance that proscribes conduct that is not prohibited by statute has not committed an act that would constitute a felony or misdemeanor as defined by K.S.A. 1996 Supp. 21-3105 and thus may be prosecuted in municipal court. Cited herein: K.S.A. 1996 Supp. 21-3105; K.S.A. 21-3512; 21-3701; 21-4501; K.S.A. 1996 Supp. 21-4502; 21-4503a; 38-1602; K.S.A. 38-1604. MF

Opinion No. 97-32

Taxation—Sale of Personal Property for Taxes—Collection of Delinquent Taxes; K.S.A. 1996 Supp. 79-2101; Home Rule Authority.

Counties and County Officers—General Provisions—Home Rule Powers; Authority of Counties to Enact a Charter Resolution Changing the Time Limitations of K.S.A. 1996 Supp. 79-2101. William W. Jeter, Ellis County Counselor, Hays, March 31, 1997.

Because K.S.A. 1996 Supp. 79-2101 is nonuniform and the suggested changes would not trigger any of the other limitations imposed by K.S.A. 1996 Supp. 19-101a, Ellis County may enact a charter resolution containing deadlines different from those stated in the statute. Cited herein: K.S.A. 1996 Supp. 19-101a; 79-2017; 79-2101; L. 1977, ch. 109, §§ 39, 40; L. 1979, ch. 312, §§ 4, 5; L. 1980, ch. 308, §§ 5, 6; L. 1984, ch. 147, §§ 20, 21; L. 1985, ch. 319, §§ 1, 2; L. 1990, ch. 349, §§ 1, 2. JLM

Opinion No. 97-33

Counties and County Officers—County Commissioners—Awarding of Certain Contracts; Public Lettings; Notice of Letting Contracts; Bids.

Procedure, Civil—Liens for Labor and Material—Public Works Bond.

Townships and Township Officers—Hospitals and Health Care Facilities; Hospitals—Construction Projects; Contracts; Bids. Joel D. McMullen, Attorney for Ness County District Hospital, Great Bend, March 31, 1997.

A county district hospital board organized under K.S.A. 1996 Supp. 80-2501 *et seq.* should follow the procedures set forth in K.S.A. 80-2515 in letting bids for the construction of a hospital or an addition thereto. If all bids received exceed the architect's estimated cost of the project, the hospital board may negotiate with the lowest responsible bidder in an attempt to avoid rebidding the project as long as any negotiated changes are limited as outlined in Attorney General Opinion No. 92-118. Cited herein: K.S.A. 19-214; 19-215; 19-216; 60-1111; K.S.A. 1996 Supp. 80-2501; K.S.A. 80-2514; 80-2515. DMV

Carla J. Stovall
Attorney General

Doc. No. 018994

State of Kansas

Wichita State University

Notice to Bidders

Wichita State University is accepting bids on the following items:

Closing April 24, 1997

Quotation 970285-1

Temperature and humidity environmental conditioning chamber

Closing April 25, 1997

Quotation 970289-4

Studio Catia graphics workstation with upgrades and accessories

Bids must be submitted to Wichita State University, Office of Purchasing, Morrison Hall, Room 021, 1845 N. Fairmount, Wichita, 67260-0012, by 2 p.m. on the above specified closing dates. Please refer to the above quotation numbers on all correspondence. For additional information, contact the Office of Purchasing at (316) 978-3080.

Gary D. Link
Director of Purchasing

Doc. No. 018972

State of Kansas

Department of Administration
Division of Purchases

Notice to Bidders

Sealed bids for the following items will be received by the Director of Purchases, Landon State Office Building, 900 S.W. Jackson, Room 102, 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, April 28, 1997

32436

Department of Transportation—Automotive lubricants, statewide

32437

Department of Transportation—Mowing service (Pratt County)

32438

University of Kansas Medical Center—Polypropylene bags for a sterilizer/compactor

Tuesday, April 29, 1997

32423

Statewide—Flexible disks

32429

Statewide—Magnetic media

5736

Department of Health and Environment—Reclamation of Kings Highway, Crawford County

5737

Department of Health and Environment—Reclamation of Mineral West, Cherokee County

5742

University of Kansas—Paper, printing and binding

5743

Pittsburg State University—Fiber optic cable

5751

Emporia State University—Furnish and install automatic blanket cleaning system

Wednesday, April 30, 1997

5734

Lansing Correctional Facility—CCTV equipment

5735

Department of Human Resources—RJE software for IBM compatible PC, Print 370 option, 802.2 option

5750

Fort Hays State University—Furnish and set up digital piano

Friday, May 2, 1997

5744

Kansas State University—Furnish and install heating-air conditioning equipment

5745

Kansas State University—Furnish all labor and materials to install microprocessor

5746

Division of Printing—Kansas watermark cotton bond

5747

Department of Transportation—Self-propelled rock cutter

5748

Kansas State University—Agricultural tractor, Topeka

5749

Kansas State University—Boiler controls

5753

Department of Social and Rehabilitation Services—Handicapped van modification, Stilwell

Tuesday, May 6, 1997

32439

Department of Transportation—Rest area cleaning, Ruleton

32440

Department of Transportation—Rest area cleaning, Russell

Tuesday, May 13, 1997

A-8110

Osawatomie State Hospital—Lighting improvements, Biddle Building

A-8198

Kansas State University—A2 parking lot renovation

Request for Proposals

Monday, April 28, 1997

5752

Furnish and set up automatic scoring (bowling) system for Kansas State University

John T. Houlihan
Director of Purchases

Doc. No. 018992

State of Kansas

Grain Inspection Department

Notice of Meeting

The Kansas State Grain Inspection Department will conduct its quarterly Grain Advisory Commission meeting at 9:30 a.m. Friday, April 25, in the conference room at ADM Milling, 850 E. Pacific, Salina.

Gary M. Bothwell
Director

Doc. No. 018967

State of Kansas

State Corporation Commission

Notice of Motor Carrier Hearings

The following motor carriers have filed various applications and are scheduled for hearings before the commission at its offices, 1500 S.W. Arrowhead Road, Topeka, as indicated below. This list does not include cases which have been continued from earlier assigned hearing dates for which parties of record have received notice.

Requests to inspect and copy the notices provided to the parties and questions in regard to these hearings should be addressed to the State Corporation Commission, Transportation Division, 1500 S.W. Arrowhead Road, Topeka, 66604-4027, (913) 271-3225 or 271-3151. The presiding officer for these matters is Dan Riley, Assistant General Counsel, (913) 271-3159. Anyone needing special accommodations should give notice to the commission 10 days prior to the scheduled hearing date.

Attention should be directed to Kansas Administrative Regulation 82-1-228, "Rules of Practice and Procedure Before the Commission."

Applications for Certificate of Public Service:

- Larry L. Adams, dba Adams Farms, Belpre, KS;
MC ID No. 154543
- Auction Transport, Inc., Lee's Summit, MO;
MC ID No. 104468
- Dale DeLong Trucking, Inc., Emporia, KS;
MC ID No. 154519
- Dub Johnson & Sons Transportation, Inc., Minneapolis, KS; MC ID No. 154081
- Family, Inc., Topeka, KS; MC ID No. 154078
- Flying B Transportation, Inc., Meeker, OK;
MC ID No. 217710
- G & G Trucking Company, Inc., Minneapolis, KS;
MC ID No. 150322
- H & P Trucking, Inc., Coats, KS; MC ID No. 154510
- Eddie I. Mottin, dba Plains Harvesting & Trucking,
Miltonvale, KS, to: High Plains Trucking, L.L.C.,
Miltonvale, KS; MC ID No. 151396
- Savannah Transport, Inc., Topeka, KS; MC ID No. 154077
- Schwartz Trucking, Inc., Dighton, KS; MC ID No. 154080
- William D. Sisson, Mapleton, KS, to: Sisson Trucking
Company, Inc., Mapleton, KS; MC ID No. 100459
- Douglas & Jenny Tibbetts, dba Tibbetts Family
Enterprises, Norton, KS; MC ID No. 154442

Charles R. Wann, Sr., dba J & C Enterprises, Penrose,
Colorado; MC ID No. 117846

B & B Livestock Trucking, Inc., Pratt, KS;
MC ID No. 154082

Application for Certificate of Convenience and Necessity:

Donald W. Ivy, dba Ivy Transportation Co., Gridley, KS;
MC ID No. 154548

Normand J. Landry, dba Fun Time Adventures, Topeka,
KS; MC ID No. 154048

Steve Neville, dba Steve Neville Trucking, Odebolt, IA;
MC ID No. 220736

Renoticed Application for Certificate of Convenience and Necessity:

Duane D. Heeke, dba C & D Moving, Garden City, KS;
MC ID No. 154066

Applications for Abandonment of Certificate of Public Service:

Fred Jacobs, dba Fred Jacobs Water Hauling, Hays,
Kansas; MC ID No. 132474

Eldon Wiens, dba E & L Trucking, Hillsboro, KS;
MC ID 140113

Judith McConnell
Executive Director

Doc. No. 018995

State of Kansas

Historic Sites Board of Review

Notice of Meeting

The Kansas Historic Sites Board of Review will meet at 9 a.m. Saturday, May 17, at the Johnson County Museum, 6305 Lackman Road, Shawnee. The board will evaluate the following properties for the National Register of Historic Places and/or the Register of Historic Kansas Places:

- St. Patrick's Catholic Church, 2 miles west of U.S. Highway 75 on 234th Road, Atchison, Atchison County
- Horn-Vincent Peet Estate, 6624 Wenoga Road, Mission Hills, Johnson County
- Banner Hereford Farm, 19355 S. Berryton Road, Scranton, Osage County
- James Dixon House (Military View Farm), 8715 Old Highway 77, Milford, Riley County

The board also will vote on the selection of Heritage Trust Fund projects for 1997. The Kansas State Historical Society welcomes individuals with disabilities to participate in its activities. Please contact Sandy McDaniel of the Cultural Resources Division, Kansas State Historical Society, 6425 S.W. 6th Ave., Topeka, 66615-1099, (913) 272-8681, ext. 240, by May 9 to discuss the nature of your disability and what the Kansas State Historical Society can do to ensure participation in the activity.

Ramon Powers
Executive Director

Doc. No. 018968

State of Kansas

Racing and Gaming Commission

Notice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted at 9 a.m. Friday, June 27, in the conference room of the Kansas Racing and Gaming Commission office, 3400 Van Buren, Topeka, to consider adoption of proposed permanent regulations of the Kansas Racing and Gaming Commission. This 60-day notice constitutes a public comment period for the purpose of receiving written public comments on 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 economic impact statements in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting the Kansas Racing and Gaming Commission, 3400 Van Buren, Topeka, 66611-2228, (913) 296-5800.

A copy of the full text of the regulations and the economic impact statement may be reviewed or obtained at the commission office. The following is a summary of the proposed amendments:

K.A.R. 112-3-21, Race date fees, payment. This is a new regulation which sets up a procedure for the organization licensee to pay daily race date fees in advance at least monthly before the 25th day of the month preceding the month for which such fees are assessed.

Economic Impact: There are no costs anticipated as a result of this new regulation.

K.A.R. 112-4-1, Occupation licenses. The amendment to this regulation deletes the license category of conditional appointments. In the past, licensees were allowed to go to work conditionally before backgrounds were completed. This amendment complies with the agency's current policy.

In addition, the language in subsection (j) was amended to reflect that an ARCI computer check or substantially similar check of license records from other racing jurisdictions be run annually on licensees. This amendment was necessary in the event that the commission would no longer be a member of ARCI.

Economic Impact: The Racing Commission bears the expense of running an Association of Racing Commissioners' International (ARCI) computer check or substantially similar check of license records from other racing jurisdictions on each licensee, which is done on an annual basis. The commission pays \$13,000 per year for membership dues into the ARCI services. An additional monthly fee is based on the number of licensees processed through the service each month and, therefore, is not a set monthly fee. The commission also bears the expense of administrative processing of licenses, validation forms and validation stickers, as well as administrative costs for processing fingerprint cards. Administrative costs cannot be calculated.

Each licensee will bear the expense of purchasing an occupation license, which ranges from \$3 to \$75. The licensee also pays a \$41 fee for one set of fingerprint cards.

K.A.R. 112-4-26, Denial of an occupation license. This new regulation, as requested by the commission, allows the commission to deny a license based on moral character and reputation adverse to the integrity of racing and also on drug and alcohol addiction.

Economic Impact: There are no costs anticipated as a result of this new regulation.

K.A.R. 112-18-3, Application form for simulcasting applicant. This regulation amendment gives the commission authority to settle disputes regarding simulcast application disagreements pursuant to K.S.A. 74-8836(k).

Economic Impact: Because the parties involved would be corporations, they must be represented by legal counsel. The legal costs incurred would have to be paid by the parties.

Myron Scafe
Executive Director

Doc. No. 018993

State of Kansas

Department of Health
and Environment

Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding issuance of authorizations to operate under general Class I air quality operating permit for natural gas compressor stations. Authorizations to operate under the general Class I operating permit have been issued in accordance with the provisions of K.A.R. 28-19-400 et seq.

A copy of each permit application, authorization, and all supporting nonconfidential documentation is available for public review during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka. Information also is available at the KDHE district office indicated for each facility. To obtain or review the permit, an authorization and supporting documentation, contact Connie Carreno, (913) 296-6422, at the KDHE central office, or the indicated district representative. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding an authorization to Connie Carreno, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620.

A list of all major sources within the state which are authorized to operate under the terms of the general Class I operating permit will be maintained at the Topeka offices of KDHE.

Authorizations issued during the week of January 6, 1997:

Compressor Station: Haven Compressor Station
Location: S6, T25S, R4W, Reno County
KDHE District Rep.: David Butler, (316) 337-6020
Rep. Location: South Central District Office, Wichita

James J. O'Connell
Secretary of Health
and Environment

Doc. No. 018982

State of Kansas

Board of Accountancy

Notice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted at 10 a.m. Tuesday, June 24, in Room 106 of the Landon State Office Building, 900 S.W. Jackson, Topeka, to consider the adoption of proposed changes in existing rules and regulations of the Board of Accountancy.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to the executive director of the Board of Accountancy, Suite 556, Landon State Office Building, 900 S.W. Jackson, Topeka, 66612. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation 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 for accommodation should be made at least five working days in advance of the hearing by contacting Vickie Boose at (913) 296-2162. Handicapped parking is located on the south end of Landon State Office Building, and the north entrance to the building is accessible to individuals with disabilities.

These regulations are proposed for adoption on a permanent basis. A summary of proposed regulations and their economic impact follows.

K.A.R. 74-1-5. Credit for examination fees not used. This regulation is revoked for the reason that the entity administering the CPA examination does not allow for fee credits for future exams. There is no economic impact to governmental agencies, the general public or exam candidates as a result of this revocation.

K.A.R. 74-1-6. Refund of examination fees not used. This new regulation will allow for refunds of examination fees if a candidate is unable to sit, for acceptable reasons determined by the board. Governmental units, the general public and exam candidates will not be affected by this regulation.

K.A.R. 74-2-1. Filing date for applications. Amendments to this regulation allow for the examination administering entity to accept applications to sit for the CPA examinations and to change the deadline dates for filing said applications. Governmental units, the general public and exam candidates will not be affected by the changes in this regulation.

K.A.R. 74-12-1. Fees. Changes in this regulation set fees for: (1) refunds of examination application fees, when approved; (2) issuance of duplicate certificates and duplicate permits; and (3) initial and reinstated permits. There is no economic impact to governmental agencies or the general public. This change will result in an increase of

permit fees to certified public accountants, which will result in an increase of receipts to the Board of Accountancy.

Copies of the regulations and their economic impact statements may be obtained by contacting the Board of Accountancy at the address and phone number listed above.

Susan L. Somers
Executive Director

Doc. No. 018971

State of Kansas

Department of Health
and Environment

Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality construction permit. CertainTeed Corporation has applied for an air quality construction permit in accordance with the provisions of K.A.R. 28-19-300 to install and operate a new glass melt furnace and fiberglass manufacturing line. Emissions of oxides of nitrogen, sulfur dioxide, lead, volatile organic compounds, carbon monoxide, particulate matter, particulate matter with a diameter of 10 microns or less, and two hazardous air pollutants (phenol and formaldehyde) were evaluated during the permit review process.

CertainTeed Corporation, Blue Bell, Pennsylvania, owns and operates the stationary source located at 103 Funston Road, Kansas City, Kansas.

A copy of the proposed permit, permit application, all supporting nonconfidential documentation and all information relied upon during the permit review process is available for public review during normal hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the Wyandotte County Health Department, Department of Air Quality, 619 Ann Ave., Kansas City. To obtain or review the proposed permit and supporting documentation, contact Michael E. Lewis, (913) 573-6700, at the Wyandotte County Health Department, or Connie Carreno, (913) 296-6422, at the KDHE. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Michael E. Lewis, Wyandotte County Health Department, Department of Air Quality, 619 Ann Ave., Kansas City, KS 66101. Written comments must be received by the close of business May 19 in order to be considered in formulating a final permit decision.

A person may request a public hearing be conducted on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620, not later than the close of business May 19 in order for the Secretary of Health and Environment to consider the request.

James J. O'Connell
Secretary of Health
and Environment

Doc. No. 018998

(Published in the Kansas Register April 17, 1997.)

City of Wichita Human Services Department

Notice of Job Training Plan Modification

The Job Training Partnership Act (JTPA) provides funds to states to establish programs which prepare youth and adults for entry into the labor force. Under the JTPA, each state is divided into service delivery areas (SDAs). Within each SDA, a governing structure is established between local elected officials and private and public sector representatives who are appointed to a Private Industry Council (PIC). This governing structure is responsible for policy, program development and oversight of programs generated within the SDA. The PIC of SDA IV, which comprises Butler, Cowley, Harper, Kingman, Sedgwick and Sumner counties in south central Kansas, has selected the City of Wichita to be the grant recipient and program administrator for Title II-A, II-B and II-C Programs in SDA IV. The PIC of SDA IV also has selected the Kansas Department of Human Resources (KDHR) to be the grant recipient and program administrator for Title III Programs in SDA IV.

Section 104(a) of the JTPA specifies that no funds appropriated under Title II for any fiscal year may be provided to any SDA under this act, except pursuant to an approved job training plan. Section 105(a)(2) of the act mandates publishing any proposed modification of that job training plan or summary thereof. Section 161(b) of the act allows funds obligated for any program year to be spent during that program year and the two succeeding program years.

In accordance with Sections 104 and 105 of the JTPA, the Private Industry Council of Service Delivery Area IV, Inc. hereby gives public notice of its intention to modify its current Job Training Plan to incorporate the 1997 program year (PY). The proposed plan modification will revise the Title II-A, Title II-B, Title II-C, Title III and the local Wagner-Peyser job training programs. Summaries of each follow.

Title II-A Plan Subpart Summary

The purpose of the Title II-A Job Training Program is to prepare adults (age 22 or older) who are economically disadvantaged or face serious barriers to employment for participation in the labor force by increasing their occupational and educational skills, resulting in improved long-term employability, increased employment and earnings, and reduced welfare dependency.

The PY 1997 Title II-A Program begins July 1, 1997. The PY 1997 SDA IV allocation is \$695,541, and an estimated 286 adults will be served in SDA IV with those funds. Program activities may include on-the-job training, academic enrichment training, classroom occupational training, work experience, supportive services, counseling and inter-agency coordination of services.

Title II-B Plan Subpart Summary

The purpose of the Title II-B Job Training Program, which comprises the Summer Youth Employment and Training Programs (SYETP), is to enhance the basic educational skills of youth, encourage school completion or

enrollment in supplementary or alternative school programs, and provide eligible youth with exposure to the world of work.

The PY 1997 SYETP Program began October 1, 1996. The PY 1997 SDA IV allocation is \$827,443, which will serve an estimated 374 youth in SDA IV during the 1997 calendar year. Program activities may include work experience, classroom academic enrichment, generic employability training and supportive services.

Title II-C Plan Subpart Summary

The purpose of the Title II-C Job Training Program is to improve the long-term employability of youth (age 14 through 21) who are economically disadvantaged or face serious barriers to employment; enhance the educational, occupational and citizenship skills of youth; encourage school completion or enrollment in alternative school programs; increase the employment and earnings of youth; reduce welfare dependency; and assist youth in addressing problems that impair their ability to make successful transitions from school to work, apprenticeship, the military or postsecondary education and training.

The PY 1997 Title II-C Program begins July 1, 1997. The PY 1997 SDA IV allocation is \$106,062, and an estimated 74 youth will be served in SDA IV with those funds. Program activities may include on-the-job training, academic enrichment training, classroom occupational training, work experience, supportive services, counseling and inter-agency coordination of services.

Copies of the Title II-A, II-B and II-C Plan Subpart modifications are available for review from 8 a.m. to 5 p.m. Monday through Friday at the Human Services Department, second floor, City Hall, 455 N. Main, Wichita, 67202, (316) 268-4691. Written comments and/or questions regarding the Title II-A, II-B and II-C Plan Subpart revisions should be directed to Mike Reichenberger, Planning and Administration Director, at the above location.

Title III Plan Subpart Summary

The purpose of SDA IV's Title III Economic Dislocation and Worker Adjustment Assistance Act (EDWAA) Plan Subpart is to provide services to those individuals affected, through no fault of their own, by economic conditions such as reductions in the work force. The EDWAA Plan Subpart also allows for services to be provided to dislocated area farmers and ranchers. The EDWAA Plan Subpart states the service emphasis will be on retraining.

The PY 1997 Title III EDWAA Program begins July 1, 1997. The PY 1997 SDA IV allocation is \$1,058,345, and an estimated 315 program participants will be served in SDA IV with those funds. A request for a waiver to reduce the 50 percent minimum retraining cost limitation to 40 percent, for PY 1997 funds, is included in the modification.

Wagner-Peyser Plan Subpart

The Wagner-Peyser Plan Subpart describes activities to be performed by local employment and training offices. The SDA IV Wagner-Peyser Plan Subpart also identifies the state mission of the Kansas Job Service and the location of SDA IV Job Service offices. The PY 1997 Wagner-

(continued)

Peyser Program begins July 1, 1997, with \$917,403 available for program operation in SDA IV.

Copies of the EDWAA and Wagner-Peyser Plan Subpart modifications are available for review from 8 a.m. to 5 p.m. Monday through Friday at the KDHR Wichita office, 402 E. 2nd, P.O. Box 877, Wichita, 67201-0877, (316) 266-8613. Written comments and/or questions regarding the EDWAA and Wagner-Peyser Plan Subpart modifications should be directed to Fred Johnson, SDA IV Area Supervisor, at the above location.

Mike Reichenberger
Planning and Administration Director

Doc. No. 018962

State of Kansas

Department of Health and Environment

Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality operating permit. The City of Larned has applied for a Class II operating permit in accordance with the provisions of K.A.R. 28-19-540. Emissions of oxides of nitrogen, carbon monoxide and sulfur dioxide were evaluated during the permit review process. The purpose of a Class II permit is to limit the potential-to-emit for these pollutants to below major source thresholds.

The City of Larned owns and operates a municipal power plant located at 215 Main St., Larned.

A copy of the proposed permit, permit application, all supporting nonconfidential documentation and all information relied upon during the permit application review process is available for public review during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the KDHE southwest district office, 302 W. McArtor Road, Dodge City. To obtain or review the proposed permit and supporting documentation, contact Rick Bolfig, (913) 296-1576, at the KDHE central office, or Wayne Neese, (316) 225-0596, at the KDHE southwest district office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Rick Bolfig, KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620. Written comments must be received by the close of business May 19 in order to be considered in formulating a final permit decision.

A person may request a public hearing be conducted on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, not later than the close of business May 19 in order for the Secretary of Health and Environment to consider the request.

James J. O'Connell
Secretary of Health
and Environment

Doc. No. 018983

State of Kansas

State Banking Board

Notice of Meeting

The State Banking Board will meet at 9 a.m. Monday, May 19, in the conference room of the Office of the State Bank Commissioner, Suite 300, Jayhawk Tower, 700 S.W. Jackson, Topeka. The board reviews matters relating to its supervisory authority as set forth in K.S.A. 9-1801 et seq.

W. Newton Male
State Bank Commissioner

Doc. No. 018973

State of Kansas

Department of Health and Environment

Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality operating permit. The City of Minneapolis has applied for a Class II operating permit in accordance with the provisions of K.A.R. 28-19-540. Emissions of oxides of nitrogen, carbon monoxide and sulfur dioxide were evaluated during the permit review process. The purpose of a Class II permit is to limit the potential-to-emit for these pollutants to below major source thresholds.

The City of Minneapolis owns and operates a municipal power plant located at 110 Markley, Minneapolis.

A copy of the proposed permit, permit application, all supporting nonconfidential documentation and all information relied upon during the permit application review process is available for public review during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the KDHE north central district office, 2501 Market Place, Suite D, Salina. To obtain or review the proposed permit and supporting documentation, contact Rick Bolfig, (913) 296-1576, at the KDHE central office, or Beth Rowlands, (913) 827-9639, at the north central district office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Rick Bolfig, KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620. Written comments must be received by the close of business May 19 in order to be considered in formulating a final permit decision.

A person may request a public hearing be conducted on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, not later than the close of business May 19 in order for the Secretary of Health and Environment to consider the request.

James J. O'Connell
Secretary of Health
and Environment

Doc. No. 018984

State of Kansas

Department of Health and Environment

Notice of Hearing

A public hearing to discuss the proposed federal fiscal year 1997 project priority system and project priority list and the FFY 1997 intended use plan will be at 10:30 a.m. Thursday, May 22, at the Topeka-Shawnee County Health Department, 1615 W. 8th, Topeka. The Bureau of Water has made minor modifications and clarifications to the priority system.

Comments on the list and the intended use plan can be presented at the hearing or in writing prior to the hearing. Written comments should be addressed to Robert Nicholson, Kansas Department of Health and Environment, Bureau of Water, Forbes Field, Building 283, Topeka, 66620.

James J. O'Connell
Secretary of Health and Environment

Doc. No. 018980

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, 28-16-150 through 154, 28-46-7, and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, draft permits have been prepared for discharges to the waters of the United States and the State of Kansas for the class of dischargers described below. The determinations for permit content are based on 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 subject to certain conditions.

Public Notice No. KS-AG-97-89/93

Name and Address of Applicant	Legal Description	Receiving Water
Rocking E Feeders 439 E. Road 4 Ulysses, KS 67880	NW/4, Sec. 22, T27S, R37W, Grant County	Cimarron River Basin

Kansas Permit No. A-CIGT-C005 Federal Permit No. KS-0093670
This is an expansion facility for 8,200 head (8,200 animal units) of fat cattle.

Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity is provided which meets or exceeds KDHE 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 for application

of all wastes. A plan shall be submitted to the department within 12 months following receipt of detailed requirements. Upon the approval the approval plan will become part of this permit.

Name and Address of Applicant	Legal Description	Receiving Water
Koch Beef Co. Spring Creek Ranch Route 1, Box 157 Eureka, KS 67045	NE/4, Sec. 19, T26S, R9E, Greenwood County	Verdigris River Basin

Kansas Permit No. A-VEGW-BD01

This is an existing facility for 800 head (400 animal units) of lightweight cattle.

Wastewater Control Facilities: The diversions, settling channels, settling basin and the filter channel shall be maintained as required by the permit.

Compliance Schedule: None, existing controls adequate.

Name and Address of Applicant	Legal Description	Receiving Water
Prairie View Farms, Inc. c/o Melvin Stanford 1707 Road 370 Allen, KS 66833	NW/4, Sec. 2, T16S, R12E, Lyon County	Marais des Cygnes River Basin

Kansas Permit No. A-MCLY-S001

This is an existing facility that is expanding from 1,500 head (600 animal units) to 2,384 head (954 animal units) of swine.

Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity is provided which meets or exceeds KDHE minimum requirements.

Compliance Schedule: None, existing controls adequate.

Name and Address of Applicant	Legal Description	Receiving Water
Lynn Hanson d/b/a Hanson Farming Co. Route 1, Box 47 Pawnee Rock, KS 67567	NE/4, Sec. 15, T20S, R16W, Pawnee County	Upper Arkansas River Basin

Kansas Permit No. A-UAPN-C007 Federal Permit No. KS-0093688

This is an existing facility for 1,200 head (600 animal units) of cattle.

Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity is provided which meets or exceeds KDHE minimum requirements.

Compliance Schedule: None, existing controls adequate.

Name and Address of Applicant	Legal Description	Receiving Water
Joe Seiwert Seiwert Farms 1111 E. Boundary Road Pretty Prairie, KS 67570	NE/4, Sec. 30, T26S, R5W, Renø County	Lower Arkansas River Basin

Kansas Permit No. A-ARRN-BD02

This is a new facility for 150 head (75 animal units) of cattle.

Wastewater Control Facilities: Wastewater will be filtered by a grass strip before discharge.

Compliance Schedule: None, existing controls adequate.

Public Notice No. KS-97-041/055

Name and Address of Applicant	Waterway	Type of Discharge
City of LaHarpe P.O. Box 121 LaHarpe, KS 66751	Neosho River via Elm Creek via unnamed tributary	Treated domestic wastewater

Kansas Permit No. M-NE39-0001 Federal Permit No. KS-0115991

Facility Description: The proposed action is to re-issue an existing permit for operation of an existing wastewater treatment facility. The facility consists of an oxidation ditch and final clarifier treating domestic wastewater. The permit requirements are pursuant to Kansas

(continued)

surface water quality standards, K.A.R. 28-16-28(b-f), and federal surface water criteria, and are water quality based.

Name and Address of Applicant	Waterway	Type of Discharge
City of Oneida City Clerk Oneida, KS 66522	Missouri River via south fork Nemaha River via Harris Creek	Treated domestic wastewater

Kansas Permit No. M-MO15-0001 Federal Permit No. KS-0093467
 Facility Description: The proposed action is to issue a new permit for operation of a new three-cell lagoon for treatment of domestic wastewater. The permit requirements are pursuant to Kansas surface water quality standards, K.A.R. 28-16-28(b-f), and federal surface water criteria, and are technology based.

Name and Address of Applicant	Waterway	Type of Discharge
Osage County SD No 2 Osage County Commission Osage County Courthouse Lyndon, KS 66451	Marais des Cygnes River via Salt Creek via unnamed tributary	Treated domestic wastewater

Kansas Permit No. M-MC58-0001 Federal Permit No. KS-0093530
 Facility Description: The proposed action is to issue a new permit for operation of a new three-cell lagoon for treatment of domestic wastewater. The permit requirements are pursuant to Kansas surface water quality standards, K.A.R. 28-16-28(b-f), and federal surface water criteria, and are technology based.

Name and Address of Applicant	Waterway	Type of Discharge
Acme Brick Co. Sparks Mine P.O. Box 582590 Tulsa, OK 74158	Smoky Hill River via Alum Creek via unnamed tributary	Uncontaminated stormwater

Kansas Permit No. I-SH19-PO04 Federal Permit No. KS-0088340
 Facility Location: SW $\frac{1}{4}$, Section 19, Township 15S, Range 6W, Ellsworth County

Name and Address of Applicant	Waterway	Type of Discharge
Acme Brick Co. Boggs Mine P.O. Box 582590 Tulsa, OK 74158	Smoky Hill River via Ash Creek via unnamed tributary	Uncontaminated stormwater

Kansas Permit No. I-SH19-PO05 Federal Permit No. KS-0088358
 Facility Location: Section 34, Township 16S, Range 8W, Ellsworth County

Name and Address of Applicant	Waterway	Type of Discharge
Acme Brick Co. Remley Mine P.O. Box 582590 Tulsa, OK 74158	Saline River via East Elkhorn Creek via unnamed tributary	Uncontaminated stormwater

Kansas Permit No. I-SA22-PO03 Federal Permit No. KS-0088331
 Facility Location: Section 23, Township 14S, Range 7W, Ellsworth County

Facility Description: The proposed action is to issue existing permits for operation of existing clay mining operations. The permit requirements are pursuant to Kansas surface water quality standards, K.A.R. 28-16-28(b-f), and federal surface water criteria.

Name and Address of Applicant	Waterway	Type of Discharge
Midwest Minerals, Inc. Farlington Quarry #4 P.O. Box 412 Pittsburg, KS 66762	Marais des Cygnes River via west fork Drywood Creek	Uncontaminated stormwater and mine dewatering

Kansas Permit No. I-MC52-PO01 Federal Permit No. KS-0115533
 Facility Location: Section 31, Township 27S, Range 24E, Crawford County

Facility Description: The proposed action is to issue existing permits for operation of existing quarry operation. This is a limestone quarrying

and crushing operation with no washing. The operation is seasonal and portable equipment is used. The permit requirements are pursuant to Kansas surface water quality standards, K.A.R. 28-16-28(b-f), and federal surface water criteria.

Name and Address of Applicant	Waterway	Type of Discharge
Midwest Minerals, Inc. Quarry #3 P.O. Box 412 Pittsburg, KS 66762	Neosho River via Labette Creek via Bachelors Creek	Uncontaminated stormwater and mine dewatering

Kansas Permit No. I-NE55-PO01 Federal Permit No. KS-0115525
 Facility Location: NW $\frac{1}{4}$, Section 12, Township 32S, Range 19E, Labette County

Facility Description: The proposed action is to issue existing permits for operation of existing quarry operation. This is a limestone quarrying and crushing operation with no washing. The permit requirements are pursuant to Kansas surface water quality standards, K.A.R. 28-16-28(b-f), and federal surface water criteria.

Name and Address of Applicant	Waterway	Type of Discharge
Globe Engineering Co. P.O. Box 12407 Wichita, KS 67277	Arkansas River via storm sewer	Treated groundwater

Kansas Permit No. I-AR97-PO31 Federal Permit No. KS-0086703
 Facility Address: 1539 S. St. Paul, Wichita, KS 67213

Facility Description: The proposed action is to re-issue an existing permit for operation of an existing noncontact cooling water discharge through an airstripper. Groundwater from 11 wells is used to cool machinery. Flow from the machinery heat exchangers is collected in a tank and pumped to an air stripper to remove volatile organics prior to discharge to the city storm sewer. Total cooling water discharge is about 127,000 gpd. The permit requirements are pursuant to Kansas surface water quality standards, K.A.R. 28-16-28(b-f), and federal surface water criteria, and are water quality based.

Name and Address of Applicant	Waterway	Type of Discharge
Security Oil Co. 929 E. 14th Wichita, KS 67214	Arkansas River via Cowskin Creek via storm sewer	Treated groundwater

Kansas Permit No. I-AR94-PO33 Federal Permit No. KS-0086983
 Facility Address: 8730 W. Highway 54, Wichita, KS 67201

Facility Description: The proposed action is to re-issue an existing permit for operation of an existing groundwater remediation project. Gasoline contaminated groundwater is pumped out of two recovery wells and treated in an air stripper prior to discharge to a storm drain. Total discharge is about 138,240 gpd. The permit requirements are pursuant to Kansas surface water quality standards, K.A.R. 28-16-28(b-f), and federal surface water criteria, and are water quality based.

Name and Address of Applicant	Waterway	Type of Discharge
E & E Specialties, Inc. 910 E. 29th Lawrence, KS 66046	Kansas River via Wakarusa River	Noncontact cooling water

Kansas Permit No. I-KS31-CO05 Federal Permit No. KS-0091294

Facility Description: The proposed action is to re-issue an existing permit for operation of an existing noncontact cooling water discharge. Noncontact, additive free, once-through municipal water is used for cooling plastic extruders prior to discharge to the Wakarusa River. Flow is about 8,000 gpd. Domestic wastewater is discharged to the city sanitary sewer. The permit requirements are pursuant to Kansas surface water quality standards, K.A.R. 28-16-28(b-f), and federal surface water criteria.

Name and Address of Applicant	Waterway	Type of Discharge
Beard's 66/Bank IV Geotechnical Services 4503 E. 47th St. South Wichita, KS 67210-1651	Arkansas River via Dry Creek via storm sewer	Treated groundwater

Kansas Permit No. I-AR94-PO79 Federal Permit No. KS-0092401

Facility Description: The proposed action is to re-issue a modified permit for operation of the existing groundwater remediation project. Hydrocarbon-contaminated groundwater from the recovery well and the basement sump on Bank IV property is treated in a low profile air stripper prior to discharge to the city storm sewer. The design flow is 14,400 gpd. The permit requirements are pursuant to Kansas surface water quality standards, K.A.R. 28-16-28(b-f), and federal surface water criteria, and are water quality based.

Name and Address of Applicant	Waterway	Type of Discharge
Board of Public Utilities P.O. Box 1008 McPherson, KS 67460	Little Arkansas River via Dry Turkey Creek via Bull Creek	Treated groundwater

Kansas Permit No. I-LA11-PO09 Federal Permit No. KS-0088625

Facility Description: The proposed action is to re-issue an existing permit for operation of the existing groundwater remediation project. This facility is designed to remove volatile organic chemicals from groundwater prior to discharge to the City of McPherson's potable water system. Groundwater is treated with two airstripping towers and disinfected with chlorine prior to storage in a clear well. If problems develop in the operations, the clear-well water is treated with sodium sulfite to neutralize chlorine prior to discharge to the storm sewer and Bull Creek. Design flow is 4.03 million gpd. The permit requirements are pursuant to Kansas surface water quality standards, K.A.R. 28-16-28(b-f), and federal surface water criteria, and are water quality based.

Name and Address of Applicant	Waterway	Type of Discharge
BN & Santa Fe Railroad Newton Railyard % Ron Malleck 920 S.E. Quincy Topeka, KS 66612	Little Arkansas River via Sand Creek	Process wastewater, stormwater, treated groundwater

Kansas Permit No. I-LA13-PO01 Federal Permit No. KS-0001082

Facility Description: The proposed action is to re-issue an existing permit for operation of the existing wastewater treatment facility. Stormwater from turntable and track pans at the fueling site, diesel storage tank containment, recovered oil containment area, roof and yard drains, the engine wash water and the groundwater recovery well discharges are directed to a 1.5 million gallon above ground main storage tank. The wastewater is treated in a corrugated plate interceptor and an induced air flotation unit prior to discharge to Sandy Creek. Total discharge is about 225,300 gpd. Modifications to the sludge handling system and recovery oil tank containment area are planned. The permit requirements are pursuant to Kansas surface water quality standards, K.A.R. 28-16-28(b-f), and federal surface water criteria, and are water quality based.

Name and Address of Applicant	Waterway	Type of Discharge
Wilde Tool Co., Inc. P.O. Box 30 Hiawatha, KS 66434	Missouri River via Wolf River	Noncontact cooling water and stormwater

Kansas Permit No. I-MO08-PO01 Federal Permit No. KS-0081353

Facility Description: The proposed action is to re-issue an existing permit for operation of an existing wastewater retention lagoon discharge. This facility manufactures hand tools. The lagoon is utilized as a holding basin for roof drains, stormwater runoff and noncontact cooling water. This water is recycled and used as a supplemental water source in the facility's operations. Total flow is about 36,000 gpd. The permit requirements are pursuant to Kansas surface water quality standards, K.A.R. 28-16-28(b-f), and federal surface water criteria.

Public Notice No. KS-ND-97-025/027

Name and Address of Applicant	Legal Location	Type of Discharge
Penny's Concrete, Inc. Shawnee Facility 23400 W. 82nd Shawnee Mission, KS 66227	NE¼, S28, T12S, R23E, Johnson County	Nonoverflowing

Kansas Permit No. I-KS68-NO02

Name and Address of Applicant	Legal Location	Type of Discharge
Penny's Concrete, Inc. Lawrence Facility 23400 W. 82nd Shawnee Mission, KS 66227	NE¼, S31, T12S, R20E, Douglas County	Nonoverflowing

Kansas Permit No. I-KS31-NO13

Facility Descriptions: The proposed action is to re-issue existing permits for operation of existing ready-mix concrete facility wastewater treatment settling basins. These are ready-mix concrete facilities, which utilize a wet batch process. The drums of the concrete mixer trucks are washed out and wash water is collected in a series of four concrete settling basins. Excess water is removed from the wash water settling basins, if needed, and used in the ready-mix process. Settled solids are removed from the basins and are reclaimed.

Name and Address of Applicant	Legal Location	Type of Discharge
Sunflower Electric Co-op. Holcomb Station P.O. Box 980 Hays, KS 67601	S30 & 31, T24S, R33W, Finney County	Nonoverflowing

Kansas Permit No. I-UA18-NP02

Facility Descriptions: The proposed action is to re-issue an existing permit for operation of existing power plant wastewater treatment and retention basins. This facility generates electric power using a 280-megawatt coal-fired generating unit. The wastewater treatment system consists of numerous single-lined and double-lined treatment and retention basins. Process wastewater is stored in these basins and treated by a liquid waste treatment system for re-use. Station design is directed toward maximum water conservation.

Public Notice No. KS-PT-97-004/005

Name and Address of Applicant	Receiving Facility	Type of Discharge
Anodizing/Extrusions, Inc. P.O. Box 430 Fort Scott, KS 66701	Fort Scott WWTF	Process water

Kansas Permit No. P-MC11-0001

Facility Description: The proposed action is to re-issue an existing pretreatment permit for the above named facility. This facility extrudes aluminum alloy billets into various products. Aluminum is then processed in a metal finishing operation, consisting of metal cleaning, coloring, etching and anodizing. The aluminum parts are then fabricated and/or painted, as needed. Wastes from the aluminum extruding operation are not discharged to the sanitary sewer, but are hauled off-site for disposal. The permit limits are pursuant to state and federal pretreatment requirements.

Name and Address of Applicant	Receiving Facility	Type of Discharge
D.J. Extruding, Inc. P.O. Box 511 Conway Springs, KS 67031	Conway Springs WWTF	Process water

Kansas Permit No. P-AR25-0001

Facility Description: The proposed action is to issue a new pretreatment permit for the above named facility. This is a new facility which performs aluminum extruding. The permit limits are pursuant to state and federal pretreatment requirements.

Public Notice No. KS-EG-97-003/008

In accordance with K.A.R. 28-46-7 and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, draft permits have been prepared for the use of the wells described below within the State of Kansas.

(continued)

Name and Address of Applicant	Well Location
Vulcan Materials Co. Lonnie Roberts P.O. Box 12283 Wichita, KS 67277-2283	NE $\frac{1}{4}$, NE $\frac{1}{4}$, SE $\frac{1}{4}$, S19, T29S, R2W, Sedgwick County 2153' fsl and 618' fel from SE corner of Section
Well Identification #J88 KS Permit No. KS-03-173-230	
Well Identification #J89 KS Permit No. KS-03-173-231	NE $\frac{1}{4}$, NE $\frac{1}{4}$, SE $\frac{1}{4}$, S19, T29S, R2W, Sedgwick County 2445' fsl and 257' fel from SE corner of Section
Well Identification #J90 KS Permit No. KS-03-173-232	NE $\frac{1}{4}$, NE $\frac{1}{4}$, SE $\frac{1}{4}$, S19, T29S, R2W, Sedgwick County 2164' fsl and 300' fel from SE corner of Section
Well Identification #J91 KS Permit No. KS-03-173-233	SE $\frac{1}{4}$, NE $\frac{1}{4}$, SE $\frac{1}{4}$, S19, T29S, R2W, Sedgwick County 1872' fsl and 520' fel from SE corner of Section
Well Identification #J92 KS Permit No. KS-03-173-234	SW $\frac{1}{4}$, NE $\frac{1}{4}$, SE $\frac{1}{4}$, S19, T29S, R2W, Sedgwick County 1979' fsl and 856' fel from SE corner of Section
Well Identification #J93 KS Permit No. KS-03-173-235	NW $\frac{1}{4}$, NE $\frac{1}{4}$, SE $\frac{1}{4}$, S19, T29S, R2W, Sedgwick County 2332' fsl and 862' fel from SE corner of Section

Description: The facility is a salt production plant. The injection fluids are fresh water.

Written comments on the draft permits must be submitted to the attention of Lisa Duncan for agricultural permits or to the permit clerk for all other permits, Kansas Department of Health and Environment, Division of Environment, Bureau of Water, J Street and 2 North, Forbes Field, Building 283, Topeka, 66620. All comments post-marked or received on or before May 16 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate public notice number (KS-AG-97-89/93, KS-97-041/055, KS-ND-97-025/027, KS-PT-97-004/005, KS-EG-97-003/008) 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 determination. If response to this notice indicates significant public interest, a public hearing may be held in conformance with state regulation 28-16-61 (28-46-21 for UIC). Media coordination for publication and/or announcement of the public notice or public hearing is handled by the Kansas Department of Health and Environment.

The applications, proposed permits, 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 5 p.m. Monday through Friday. These documents are available upon request at the copying cost assessed by KDHE. Additional copies of this public notice also may be obtained at the Division of Environment.

James J. O'Connell
Secretary of Health
and Environment

State of Kansas

Department of Health and Environment

Notice of Hearing

The Kansas Department of Health and Environment, Bureau of Air and Radiation, will conduct a public hearing at 10 a.m. Tuesday, May 20, in Rooms A, B and C of the Johnson County Northeast Offices, 6000 Lamar, Mission, to receive public comments on proposed changes to the Kansas State Air Quality Implementation Plan (SIP). The SIP implements the state's air quality program under the federal Clean Air Act to assure and maintain the ambient air quality in the state in compliance with the national ambient air quality standards. That portion of the SIP being revised is the Ozone Maintenance Plan for the Kansas segment of the Kansas City metropolitan area's ozone planning area, consisting of Johnson and Wyandotte counties in Kansas.

Under the federal Clean Air Act, national ambient air quality standards for certain pollutants have been promulgated by the federal U.S. Environmental Protection Agency. One of the specific pollutants for which a standard was promulgated is ozone. Kansas City has experienced problems with ozone levels that have approached and occasionally exceeded the national standard. These past problems have resulted in the state being required to submit specific revisions to the Kansas State Implementation Plan to address the ozone problem. These SIP revisions describe the state strategies for maintaining air quality in compliance with the national ozone standard.

Most recently, in 1995, the Kansas City metropolitan area experienced a violation of the ozone standard that triggered the requirement to implement additional control measures and to revise the SIP. The proposed changes to the SIP include an update of data for the Kansas City metropolitan area, contingency measures for implementation in the event of additional violations of the standard, and measures to be implemented in Kansas City in response to the exceedances of the ozone standard during the summer of 1995.

The time period between the publication of this notice and the scheduled hearing constitutes a public comment period for the purpose of receiving written public comments on the proposed SIP revisions. All interested parties may submit written comments prior to the hearing to Ralph J. Kieffer, Kansas Department of Health and Environment, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620. All interested parties will be given a reasonable opportunity to present their views orally on the proposed SIP changes during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to require each participant to limit any oral presentations to five minutes.

Copies of the proposed SIP revisions may be reviewed during normal business hours at the Kansas Department of Health and Environment, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, or at any of the following offices:

Johnson County Environmental Department
11180 Thompson Ave., Lenexa

Wyandotte County Health Department
 Air Quality Division
 619 Ann Ave., Kansas City
 Kansas Department of Health and Environment
 Northeast District Office
 800 W. 24th, Lawrence

2007	355,000
2008	375,000
2009	395,000
2010	415,000
2011	435,000
2012	455,000

Questions pertaining to these proposed SIP revisions should be directed to Ralph J. Kieffer, (913) 296-6428, or Gary Miller, (913) 296-1547.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed SIP revisions in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Rob Bradford, (913) 296-1587.

James J. O'Connell
 Secretary of Health
 and Environment

Doc. No. 018981

(Published in the Kansas Register April 17, 1997.)

Statutory Notice of Bond Sale
City of Merriam, Kansas
\$5,000,000
Internal Improvement Bonds
Series 1997
(General obligations payable from unlimited
ad valorem taxes)

Sealed Bids

Sealed bids will be received by the chief financial officer of the City of Merriam, Kansas, at the City Hall, 9000 W. 62nd Terrace, Merriam, KS 66202, until 2 p.m. Monday, April 28, 1997, for the purchase of the city's \$5,000,000 principal amount of Internal Improvement Bonds, Series 1997. All bids will be publicly opened and read at said time and place and will be acted upon by the governing body at 7 p.m. the same day. No oral or auction bids will be considered. No bid of less than the par value of the bonds and accrued interest thereon to the date of delivery of the bonds will be considered.

Bond Details

The bonds will be in certificated, book entry or any other form acceptable to both the city and the successful bidder and authorized by state and federal law. The bonds will be issued in the denomination of \$5,000 or any integral multiple thereof; will be dated May 1, 1997; will be issued in the principal amount of \$5,000,000; and will become due serially on May 1 in each of the years as follows:

Maturity	Principal
May 1	Amount
1998	\$240,000
1999	250,000
2000	260,000
2001	270,000
2002	280,000
2003	295,000
2004	310,000
2005	325,000
2006	340,000

The bonds will bear interest from May 1 at the rates to be determined when the bonds are sold as herein provided, which interest will be payable semiannually on May 1 and November 1 in each year, commencing November 1, 1997.

Delivery and Payment

The bonds will be delivered to the successful bidder properly prepared, executed and registered without cost to the bidder within approximately 30 days after the date of their sale at such bank or trust company in the continental United States of America as may be specified by the successful bidder and which is acceptable to the city.

Good Faith Deposit

A good faith deposit in the form of a certified or cashier's check or financial surety bond in the amount of \$100,000 must accompany each bid for the bonds.

Costs

The city will pay the cost of printing the bonds and the expense of all legal services, including the opinion of McDowell, Rice, Smith & Gaar, a Professional Corporation, bond counsel, approving the legality of the bonds and the exclusion of the interest thereon (with specified minor exceptions) from federal and Kansas gross income taxes.

Assessed Valuation and Indebtedness

For the computation of the debt limitation relating to the bonds, the assessed valuation of the taxable tangible property within the city as of August 1996 is \$107,307,484. The total general obligation bonded indebtedness, including temporary notes being retired with the proceeds of the bonds, of the city as of the date of the bonds, including the bonds, is \$17,925,000. Following the issuance of the bonds and the retirement of temporary notes with a portion of the proceeds thereof, the total indebtedness of the city for purposes of debt limitations will be \$12,925,000, out of a total legal debt limitation of \$23,074,859.

Additional Information

A complete notice of bond sale, preliminary official statement and bid forms approved by the city will be mailed to all interested parties. Additional information regarding the bonds may be obtained from the chief financial officer at (913) 722-3330, or from McDowell, Rice, Smith & Gaar, a Professional Corporation, bond counsel, at (913) 338-5400.

City of Merriam, Kansas
 By J. Eric Wade
 City Administrator
 Merriam City Hall
 9000 W. 62nd Terrace
 Merriam, KS 66202
 (913) 722-3330

Doc. No. 018996

State of Kansas

Department of Transportation

Request for Proposals

The Kansas Department of Transportation is seeking to use its right-of-way for the building of fiber optic infrastructure, providing the agency with means for meeting current and future Intelligent Transportation System (ITS) needs. The goal of the project is to obtain a fiber optic infrastructure that can be used to support the various aspects of ITS deployments within the state.

KDOT is offering access-controlled right-of-way to interested companies with the intention of allowing these companies to install and operate fiber optic networks along the right-of-way in exchange for dedicated channel capacity, fiber optic services and infrastructure components to support ITS deployment.

A copy of KDOT's Fiber Optic Infrastructure System Proposal will be available on or about April 24 and may be requested via mail, fax or phone to the KDOT Bureau of Construction and Maintenance, 8th Floor, Docking State Office Building, 915 S.W. Harrison, Topeka, 66612-1568, (913) 296-3576, fax (913) 296-6944. Please refer to the Fiber Optic Proposal when making your request. Bids are due June 19.

Contact Mick Halter, KDOT Kansas City Metro Engineer, at (913) 677-5963, or Matthew Volz, ITS Coordinator for KDOT, at (913) 296-6356, for more information.

E. Dean Carlson
Secretary of Transportation

Doc. No. 018935

(Published in the Kansas Register April 17, 1997.)

Summary Notice of Bond Sale

\$1,500,000

Morris County, Kansas
General Obligation Bonds
Series 1997A (Bridges)

(General obligation bonds payable from
unlimited ad valorem taxes)

Sealed Bids

Subject to the official notice of bond sale and preliminary official statement dated April 10, 1997, sealed bids will be received by the county clerk of Morris County, Kansas (the issuer), on behalf of the governing body of the county at the Morris County Courthouse, 501 W. Main, Council Grove, KS 66846, until 10 a.m. Tuesday, April 29, 1997, for the purchase of \$1,500,000 principal amount of General Obligation Bonds, Series 1997A (Bridges). No bid of less than the entire par value of the bonds and accrued interest thereon to the date of delivery will be considered.

Bond Details

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof. The bonds will be dated May 1, 1997, and will become due on October 1 in the years as follows:

Year	Principal Amount
1998	\$115,000
1999	120,000
2000	130,000
2001	135,000
2002	145,000
2003	155,000
2004	160,000
2005	170,000
2006	180,000
2007	190,000

The bonds will be subject to optional redemption prior to maturity as provided in the official notice of bond sale and preliminary official statement.

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on April 1 and October 1 in each year, beginning April 1, 1998.

Paying Agent and Bond Registrar

The bank designated in the official notice of bond sale and preliminary official statement or the Kansas State Treasurer, Topeka, Kansas.

Good Faith Deposit

Each bid shall be accompanied by a cashier's or certified check drawn on a bank located in the United States of America in the amount of \$30,000 (2 percent of the principal amount of the bonds).

Delivery

The issuer will pay for printing the bonds and will deliver the same properly prepared, executed and registered at such bank or trust company in the contiguous United States of America as may be specified by the successful bidder without cost to the successful bidder within 45 days after the date of sale.

Assessed Valuation and Indebtedness

The total assessed valuation of taxable tangible property in the county for the year 1996 is \$42,997,048. The total general obligation indebtedness of the issuer as of the date of the bonds, including the bonds being sold, is \$2,300,000.

Approval of Bonds

The bonds will be sold subject to the legal opinion of Nichols and Wolfe Chartered, Topeka, Kansas, bond counsel, whose approving legal opinion as to the validity of the bonds will be furnished and paid for by the issuer and delivered to the successful bidder as and when the bonds are delivered.

Additional Information

Additional information regarding the bonds may be obtained from the county clerk, (913) 767-5518.

Dated April 10, 1997.

Morris County, Kansas
Michelle Garrett, County Clerk
Morris County Courthouse
501 W. Main
Council Grove, KS 66846
(316) 767-5518

Doc. No. 018987

State of Kansas

Secretary of State

I, Ron Thornburgh, Secretary of State of the State of Kansas, do hereby certify that each of the following bills is a correct copy of the original enrolled bill now on file in my office.

In Testimony Whereof, I have hereunto subscribed my name and affixed my official seal.

Ron Thornburgh
Secretary of State

(Published in the Kansas Register April 17, 1997.)

HOUSE BILL No. 2389

AN ACT concerning Kansas state university, authorizing the state board of regents to convey title to certain real estate located in Clay and Washington counties; providing for the disposition of proceeds.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) The state board of regents is hereby authorized and empowered, for and on behalf of Kansas state university of agriculture and applied science, to convey by warranty deed all of the right, title and interest in the Clay county tract and in the Washington county tract, which were both bequeathed to Kansas state university of agriculture and applied science from the estate of Della M. Serles, deceased, and which were received by the Kansas state university endowment association, inc., as recited in the order of final distribution of the estate by the district court of Clay county, Kansas, case no. 8528.

(b) The state board of regents shall convey by warranty deed the title to the Clay county tract to the purchaser thereof in accordance with the agreement to sell the Clay county tract which was entered into by Kansas state university foundation prior to the effective date of this act and shall convey by warranty deed the title to the Washington county tract to the purchaser thereof in accordance with the agreement to sell the Washington county tract which was entered into by the Kansas state university foundation prior to the effective date of this act. Prior to execution, each such warranty deed shall be reviewed and approved by the attorney general as to form and legality. The proceeds from the sales of the Clay county tract and the Washington county tract, and any earnings thereon, shall be transferred and credited to an account in the name of Kansas state university of agriculture and applied science under an investment agency agreement with the Kansas state university foundation pursuant to K.S.A. 76-156a, and amendments thereto.

(c) As used in this section,

(1) "Clay county tract" means: The Northwest Quarter (NW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of Section Four (4), Township Six (6) South, Range Three (3) East of the 6th P.M., and; the Southwest Quarter (SW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) and forty (40) acres off the East side of the Northwest Quarter (NW $\frac{1}{4}$), all in Section Four (4), Township Six (6) South, Range Three (3) East of the 6th P.M., Clay County, Kansas; and

(2) "Washington county tract" means: The South Half (S $\frac{1}{2}$) of the Northeast Quarter (NE $\frac{1}{4}$) and the Southeast Quarter (SE $\frac{1}{4}$) of Section Thirty-three (33), Township Four (4) South, Range Five (5) East of the 6th P.M., containing 240 acres, more or less; and Lots No. One (1) and No. Two (2) in the West Half (W $\frac{1}{2}$) of the Northeast Quarter (NE $\frac{1}{4}$) of Section Four (4), Township Five (5) South, Range Five (5) East of the 6th P.M. described as follows: Lot No. One (1) being a one acre tract of land in the West Half (W $\frac{1}{2}$) of the Northeast Quarter (NE $\frac{1}{4}$) of said Section Four (4) lying North of Coon Creek, and Lot No. Two (2) being four acres out of the Northwest Quarter (NW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of said Section Four (4) lying North of Coon Creek, and all five acres, more or less, Washington County, Kansas.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register April 17, 1997.)

SENATE BILL No. 10

AN ACT concerning health care data; concerning the health care data governing board; concerning legislative post audit; relating to the performance audit of the health care database; amending K.S.A. 1996 Supp. 65-6803 and 65-6808 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1996 Supp. 65-6803 is hereby amended to read as follows: 65-6803. (a) There is hereby created a health care data governing board.

(b) The board shall consist of seven *nine* members appointed as follows: One member shall be appointed by the Kansas medical society, one member shall be appointed by the Kansas hospital association, one member shall be appointed by the executive vice chancellor of the university of Kansas school of medicine, *one member who is a licensed professional nurse appointed by the Kansas state nurses association*, one member representing health care insurers or other commercial payors shall be appointed by the governor, one member representing adult care homes shall be appointed by the governor, one member representing the *institute associated with the university of Kansas department of health services administration Kansas health institute*, one member appointed by the state board of regents representing the health services research community and one member representing consumers of health care shall be appointed by the governor. The secretary of health and environment, or the designee of the secretary, shall be a nonvoting member who shall serve as chairperson of the board. The secretary of social and rehabilitation services and the insurance commissioner, or their designees, shall be nonvoting members of the board. Board members and task force members shall not be paid compensation, subsistence allowances, mileage or other expenses as otherwise may be authorized by law for attending meetings, or subcommittee meetings, of the board. The members appointed to the board shall serve for three-year terms, or until their successors are appointed and qualified.

(c) The chairperson of the health care data governing board may appoint a task force or task forces of interested citizens and providers of health care for the purpose of studying technical issues relating to the collection of health care data. At least one member of the health care data governing board shall be a member of any task force appointed under this subsection.

(d) The board shall meet at least quarterly and at such other times deemed necessary by the chairperson.

(e) The board shall develop policy regarding the collection of health care data and procedures for ensuring the confidentiality and security of these data.

Sec. 2. K.S.A. 1996 Supp. 65-6808 is hereby amended to read as follows: 65-6808. (a) ~~Three years after enactment of this act~~ A performance audit shall be conducted either by the legislative post auditor or by a firm, as defined by K.S.A. 46-1112, and amendments thereto, under contract with the legislative post auditor in accordance with the provisions of the legislative post audit act to identify total costs to the state and providers of data and the benefits of the program. The audit report shall be submitted to the legislature at the commencement of the regular session of the legislature held during 1997-1999.

(b) The auditor to conduct the audit work required under this section shall be specified in accordance with K.S.A. 46-1122, and amendments thereto. If the legislative post audit committee specifies under such statute that a firm is to perform such audit, such firm shall be selected and shall perform such audit as provided in K.S.A. 46-1123, and amendments thereto, and K.S.A. 46-1125 through 46-1127, and amendments thereto. If the audit work is conducted under contract with a firm, the contract cost of the audit shall be paid by the department of health and environment.

Sec. 3. K.S.A. 1996 Supp. 65-6803 and 65-6808 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register April 17, 1997.)

HOUSE BILL No. 2123

AN ACT designating bridge no. 013 located on United States highway 59 in Atchison county as the Amelia Earhart memorial bridge.

Be it enacted by the Legislature of the State of Kansas:

Section 1. Bridge no. 013 located on United States highway 59 in Atchison county is hereby designated as the Amelia Earhart memorial bridge in the state of Kansas. The secretary of transportation shall place suitable signs to indicate the bridge is the Amelia Earhart memorial bridge. The secretary of transportation may accept and administer gifts and donations to aid in obtaining and installing suitable signs.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register April 17, 1997.)

SENATE BILL No. 123

AN ACT concerning regulation of discharges of sewage; amending K.S.A. 65-164 and 65-165 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 65-164 is hereby amended to read as follows: 65-164. (a) No person, company, corporation, institution or municipality shall place or permit to be placed or discharge or permit to flow into any of the waters of the state any sewage, except as hereinafter provided. This act shall not prevent the discharge of sewage from any public sewer system owned and maintained by a municipality or sewerage company, if such sewer system was in operation and was discharging sewage into the waters of the state on March 20, 1907, but this exception shall not permit the discharge of sewage from any sewer system that has been extended subsequent to such date, nor shall it permit the discharge of any sewage which, upon investigation by the secretary of health and environment as hereinafter provided, is found to be polluting the waters of the state in a manner prejudicial to the health of the inhabitants thereof.

(b) For the purposes of this act, "sewage" means any substance that contains any of the waste products or excrementitious or other discharges from the bodies of human beings or animals, or chemical or other wastes from domestic, manufacturing or other forms of industry.

(c) Whenever a complaint is made to the secretary of health and environment by the mayor of any city of the state, by a local health officer or by a county or joint board of health, complaining of the pollution or of the polluted condition of any of the waters of the state situated within the county within which the city, local health officer or county or joint board of health is located, it shall be the duty of the secretary of health and environment to cause an investigation of the pollution or the polluted condition complained of. Also, whenever the secretary of health and environment otherwise has reason to believe that any of the waters of the state are being polluted in a manner prejudicial to the health of any of the inhabitants of the state, the secretary may initiate an investigation of such pollution.

(d) Whenever an investigation is undertaken by the secretary of health and environment, under subsection (c), it shall be the duty of any person, company, corporation, institution or municipality concerned in such pollution to furnish, on demand, to the secretary of health and environment such information as required relative to the amount and character of the polluting material discharged into the waters by such person, company, corporation, institution or municipality. If the secretary of health and environment finds that any of the waters of the state have been or are being polluted in a manner prejudicial to the health of any of the inhabitants of the state, the secretary of health and environment shall have the authority to make an order requiring: (1) Such pollution to cease within a reasonable time; (2) requiring such manner of treatment or of disposition of the sewage or other polluting material as, in the secretary's judgment, is necessary to prevent the future pollution of such waters; or (3) both. It shall be the duty of the person, company, corporation, institution or municipality to whom such order is directed to fully comply with the order of the secretary of health and environment.

(e) Any action of the secretary pursuant to subsection (d) is subject to review in accordance with the act for judicial review and civil enforcement of agency actions. The court on review shall hear the case without delay person, company, corporation, institution or municipality upon whom an order has been imposed pursuant to subsection (d) may appeal

to the secretary within 30 days after service of the order. If appealed, a hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

Sec. 2. K.S.A. 65-165 is hereby amended to read as follows: 65-165.

(a) Upon application made to the secretary of health and environment by the public authorities having by law the charge of the sewer system of any municipality, township, county or legally constituted sewer district, or any person, company, corporation, institution, municipality or federal agency, the secretary of health and environment shall consider the case of such a sewage discharge or sewer system, otherwise prohibited by this act from discharging sewage into any of the waters of the state, or the extension of a sewer system and whenever it is the secretary's opinion that the general interests of the public health would be served thereby, or that the discharge of such sewage would not detract from the quality of the waters of the state for their beneficial uses for domestic or public water supply, agricultural needs, industrial needs, recreational needs or other beneficial use and that such discharge meets or will meet all applicable state water quality standards and applicable federal water quality and effluent standards under the provisions of the federal water pollution control act and amendments thereto as in effect on January 1, 1989, the secretary of health and environment shall issue a permit for the extension of a sewer system or for the discharge of sewage, or both, and shall stipulate in the permit the conditions on which such discharge will be permitted and shall require such treatment of the sewage as determined necessary to protect beneficial uses of the waters of the state in accordance with the statutes and rules and regulations defining the quality of the water affected by such discharge and may require treatment of the sewage in accordance with rules and regulations predicated upon technologically based effluent limitations. Indirect dischargers shall comply with all applicable pretreatment regulations and water quality standards.

(b) If, in the opinion of the secretary of health and environment, issuance of general permits is more appropriate than issuance of individual permits, the secretary may establish, by rule and regulation, procedures for issuance of general permits to the following sources and facilities if such sources and facilities involve similar types of operations, discharge the same types of wastes or engage in the same types of sludge use or disposal practices, require similar monitoring requirements or require the same effluent limitations, operating conditions, or standards for sewage sludge use or disposal: (1) A category of point and nonpoint sources of sewage such as storm water; (2) other categories of point and nonpoint sources of sewage; or (3) categories of facilities treating domestic sewage. Availability of general permits shall be limited to areas defined by geographical or political boundaries such as, but not limited to, city, county or state boundaries, state or county roads and highways or natural boundaries such as drainage basins. The secretary may establish, by rule and regulation, procedures for the issuance, revocation, modification and change, reissuance or termination of general permits in the manner provided by law.

(c) Any permit application may be denied and every permit for the discharge of sewage shall be revocable, or subject to modification and change, by the secretary of health and environment, upon notice having been served on the public authorities having, by law, the charge of the sewer system any municipality, township, county or legally constituted sewer district or on the person, company, corporation, institution, municipality or federal agency owning, maintaining or using the sewage system. The length of time after receipt of the notice within which the discharge of sewage shall be discontinued may be stated in the permit, but in no case shall it be less than 30 days or exceed two years; if the length of time is not specified in the permit, it shall be 30 days. On the expiration of the period of time prescribed, after the service of notice of denial, revocation, modification or change from the secretary of health and environment, the right to discharge sewage into any of the waters of the state shall cease and terminate, and the prohibition of this act against such discharge shall be in full force, as though no permit had been granted, but a new permit may thereafter again be granted, as hereinbefore provided.

(d) Any permittee or permit applicant upon whom notice of denial, revocation, modification or change has been served pursuant to subsection (c) may appeal to the secretary within 30 days after service of the notice. All permit applications and requests for appeal are subject to the provisions of the Kansas administrative procedure act.

Sec. 3. K.S.A. 65-164 and 65-165 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register April 17, 1997.)

SENATE BILL No. 205

AN ACT concerning certain municipalities; relating to the powers, duties and functions of the governing bodies thereof; functions thereof; amending K.S.A. 68-102 and K.S.A. 1996 Supp. 80-410, 80-915 and 80-1501 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1996 Supp. 80-410 is hereby amended to read as follows: 80-410. (a) The treasurer of each township shall file with the county clerk a duly verified full and detailed statement of the receipts, expenditures and liabilities of the township for the preceding calendar year, on or before January 31 of the succeeding year.

(b) The treasurer of each township shall publish, or cause to be published, in a newspaper of general circulation in the township immediately following the annual settlement in December of each year, a summary which shows totals for categories of the receipts, expenditures and liabilities of such township for the year ending at the time of such annual settlement. Such publication shall include a notice that a detailed statement of such receipts, expenditures and liabilities is available for public inspection at the county clerk's office. Copies of the statement shall be made available upon request.

If the total of all expenditures is \$500 or less, the summary of receipts, expenditures and liabilities shall not be required to be published as provided by this subsection.

(c) The treasurer of the township shall file with the county clerk a full and detailed statement of the amount of money paid to each member of the township board pursuant to K.S.A. 80-207, and amendments thereto, during the preceding calendar year, on or before January 31 of the succeeding year.

Sec. 2. K.S.A. 1996 Supp. 80-915 is hereby amended to read as follows: 80-915. Whenever any cemetery association or corporation maintaining or owning a cemetery shall desire to convey such cemetery to the municipal township in which the cemetery is located for the purpose of making the cemetery a public burying ground, it shall be lawful for the township board to receive and take over the management and control of such cemetery upon such terms as may be agreed upon. When such cemetery becomes the property of the township it shall be the duty of the township to maintain the same at an annual expense of not less than \$25 nor more than \$100: Nothing in this act shall be construed to restrict or modify other public cemetery acts. Except as provided in K.S.A. 1996 Supp. 80-941 and section 3, and amendments thereto, no township board shall agree to take over any such cemetery where the township already has and maintains a public cemetery.

New Sec. 3. (a) The township board of Tecumseh township in Shawnee county is hereby authorized to acquire from the Bethel cemetery association, with the consent of such association, the following described cemetery property and any improvements thereon:

Beginning at a point on the south line 20 feet west of the southeast corner of the northwest quarter of section 13 in township 12 of range 16 west of the 6th P.M., Shawnee county, Kansas, thence running north 27 rods, thence west 12 rods, thence south 27 rods to the south line of such quarter, thence east to the point of beginning.

(b) Upon the conveyance of the cemetery property under subsection (a), title to all such property shall vest in Tecumseh township, and the permanent maintenance fund, if any, together with any investments then outstanding, and all books, records and papers of such cemetery shall be transferred to the treasurer of such township and shall become the property thereof. Upon the transfer of such property and funds, the township board shall care for and maintain such cemetery with any moneys of the cemetery corporation including the principal of and income from the permanent maintenance fund, if any; and, if such moneys are insufficient to properly maintain such cemetery, with funds of the township. The principal of and income from the permanent maintenance fund may be deposited in any appropriate fund of the township or may be invested in the manner provided for other township money, but shall be used exclusively for care and maintenance of such cemetery.

Sec. 4. K.S.A. 1996 Supp. 80-1501 is hereby amended to read as follows: 80-1501. (a) Any township or county may join with a municipality in the maintenance of a fire department for the prevention and fighting of fires within their boundaries. The cost of equipment and maintenance, the payment of compensation to firefighters, the rent or purchase of buildings shall be paid in such proportion as agreed upon by the parties. The supervision and control of the department shall be with the governing

body of the municipality if the municipality joins with a township or county. The fire department members may be paid or may be volunteers and shall be subject to such rules and regulations as the municipalities adopt. Such departments, when organized, may incorporate as firefighters' relief associations, and such associations shall come within the purview and be subject to the provisions of and entitled to the rights under article 17, chapter 40, of the Kansas Statutes Annotated and amendments thereto.

(b) When a municipality and a township join, the agreements shall be entered into by the municipality by ordinance and by the township or county by resolution, and the agreement as set out in the ordinance and resolution shall be signed by the mayor of the city and attested by the city clerk and, in the case of a township shall be signed by the township trustee and attested by the township clerk and, in the case of a county shall be signed by the chairperson of the board of county commissioners and attested by the county clerk. The agreement shall state the amount each party shall contribute, the rules and regulations governing the department, and such other matter as may be necessary to fully set out the duties and responsibilities of the parties, and the agreement may be amended or changed or added to by mutual agreement of the parties in the same manner as that in which the original contract was entered into. Such agreement may be terminated if one party passes or adopts an ordinance or resolution declaring its intention to carry out the agreement no longer. When an agreement is terminated, one party may pay the other for its share of the equipment or apparatus or the apparatus may be sold. Any money in the treasury shall be divided pro rata as it was paid in. No election shall be required to authorize the township board, board of county commissioners or governing body of any municipality to enter into such agreement, but the township board, board of county commissioners or governing body of a municipality shall have the power to decide whether to enter into such contract.

(c) The governing body of any joint fire department created pursuant to this section may reorganize itself as a consolidated fire district in the manner provided for the consolidation of fire districts pursuant to K.S.A. 1996 Supp. 12-3910 et seq., and amendments thereto.

Sec. 5. K.S.A. 68-102 is hereby amended to read as follows: 68-102. (a) Except as provided by subsection (b), applications for laying out roads, or for viewing, reviewing, altering or vacating any road, shall be by petition to the board of county commissioners, signed by at least twelve (12) householders of the county residing in the vicinity where said the road is to be laid out, viewed, reviewed, altered or vacated; and one or more of the signers of any petition presented as aforesaid shall enter into. At least one of the petitioners shall post a bond with sufficient sureties, payable to the state of Kansas for the use of the county, to be approved by the county commissioners, conditioned that the person signing such bond shall pay into the treasury of the county the amount of all costs and expenses accruing on said the location, view, review, alteration or vacation, in case the proceedings had in pursuance of said the petition shall not be finally confirmed and established; and on neglect. Upon the failure or refusal of the persons so bound, after a liability shall have accrued, the county clerk of the county shall collect or cause to be collected such costs and expenses, and pay the same into the county treasury: *Provided, That in counties having a population of not more than ninety thousand (90,000) and not less than twelve hundred (1,200) inhabitants, the board of county commissioners are hereby given authority to vacate any road of such county without such petition being signed and presented to them and without the signer of bond as provided herein when, in their judgment, said.*

*(b) The board of county commissioners may vacate any road in the county whenever the board determines such road is not a public utility by reason of neglect, nonuse, or inconvenience or from other cause or causes said such road has become practically impassable and the necessity for said such road as a public utility does not justify the expenditure of the necessary funds to repair said such road or put the same in condition for public travel: *Provided further, That no more than two consecutive miles of road shall be vacated at any one time.**

Sec. 6. K.S.A. 68-102 and K.S.A. 1996 Supp. 80-410, 80-915 and 80-1501 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register April 17, 1997.)

SENATE BILL No. 244

AN ACT concerning the state board of healing arts; relating to fees paid to the board, concerning compensation paid to review committee members; amending K.S.A. 65-2012, 65-2840c, 65-2896, 65-5409 and 65-5509 and K.S.A. 1996 Supp. 65-2852 and 65-6910 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 65-2012 is hereby amended to read as follows: 65-2012. The following fees shall be established by rules and regulations adopted by the board and shall be collected by the board:

- (a) For a license to practice podiatry, issued on the basis of an examination, an amount of not more than ~~\$150~~ \$300;
- (b) for a license to practice podiatry, issued without examination and by endorsement, an amount of not more than ~~\$150~~ \$300;
- (c) for a license to practice podiatry, issued upon request of an exempt licensee, an amount of not more than ~~\$150~~ \$300;
- (d) for an exempt license or renewal of an exempt license, an amount of not more than ~~\$150~~ \$300;
- (e) for the annual renewal of a license to practice podiatry, an amount of not more than ~~\$150~~ \$300;
- (f) for late renewal of any license, an amount of not more than \$100 \$200;
- (g) for reinstatement of a licensee whose license lapsed for failure to renew, an amount of not more than \$100 \$200;
- (h) for a temporary permit, an amount of not more than \$30 \$60;
- (i) for a temporary license, an amount of not more than \$25 \$50;
- (j) for any examination given by the board, an amount equal to the cost to the board of the examination and its administration;
- (k) for a certified statement from the board that a licensee is licensed to practice podiatry in this state, an amount of not more than ~~\$15~~ \$30; and
- (l) for any copy of any license issued by the board, an amount of not more than ~~\$15~~ \$30; and
- (m) for written verification of any license issued by the board, in an amount of not more than \$25.

Sec. 2. K.S.A. 1996 Supp. 65-2852 is hereby amended to read as follows: 65-2852. The following fees shall be established by the board by rules and regulations and collected by the board:

- (a) For a license, issued upon the basis of an examination given by the board, in a sum of not more than ~~\$150~~ \$300;
- (b) for a license, issued without examination and by endorsement, in a sum of not more than ~~\$150~~ \$300;
- (c) for a license, issued upon a certificate from the national boards, in a sum of not more than ~~\$150~~ \$300;
- (d) for the annual renewal of a license, the sum of not more than ~~\$150~~ \$300;
- (e) for a temporary permit, in a sum of not more than \$30 \$60;
- (f) for an institutional license, in a sum of not more than ~~\$150~~ \$300;
- (g) for a visiting professor temporary license, in a sum of not more than \$25 \$50;
- (h) for a certified statement from the board that a licensee is licensed in this state, the sum of not more than ~~\$15~~ \$30;
- (i) for any copy of any license issued by the board, the sum of not more than ~~\$15~~ \$30;
- (j) for any examination given by the board, a sum in an amount equal to the cost to the board of the examination;
- (k) for application for and issuance of a special permit under K.S.A. 65-2811a and amendments thereto, the sum of not more than \$30 \$60;
- (l) for an exempt or inactive license or renewal of an exempt or inactive license, the sum of not more than \$150;
- (m) for conversion of an exempt or inactive license to a license to practice the healing arts, the sum of not more than ~~\$150~~ \$300;
- (n) for reinstatement of a revoked license, in a sum of not more than \$1,000;
- (o) for a visiting clinical professor license, or renewal of a visiting clinical professor license, in a sum of not more than ~~\$150~~ \$300;
- (p) for a postgraduate permit in a sum of not more than \$30 \$60;
- (q) for a limited permit or renewal of a limited permit, the sum of not more than \$30 \$60; and
- (r) for a written verification of any license or permit, the sum of not more than \$25.

Sec. 3. K.S.A. 65-2896 is hereby amended to read as follows: 65-

2896. (a) The state board of healing arts shall maintain a register of the names of physicians' assistants registered in accordance with the provisions of K.S.A. 65-2896a and amendments thereto.

(b) All registrations, except temporary registration, shall expire on the date of expiration established by rules and regulations of the state board of healing arts and may be renewed annually upon request of the registrant. The request for renewal shall be on a form provided by the state board of healing arts and shall be accompanied by the renewal fee established pursuant to this section, which shall be paid not later than the expiration date of the registration.

(c) At least 30 days before the expiration of the registration of a physician assistant, except temporary registration, the state board of healing arts shall notify the registrant of the expiration by mail addressed to the registrant's last place of residence as noted upon the office records of the board. If the registrant fails to pay the renewal fee by the date of expiration of the registration, the registrant shall be given a second notice that the registrant's registration has expired and the registration may be renewed only if the renewal fee and the late renewal fee are received by the state board of healing arts within the 30-day period following the date of expiration and that, if both fees are not received within the 30-day period, the registration shall be considered to have lapsed for failure to renew and shall be reissued only after the physician assistant has been reinstated under subsection (d).

(d) Any registrant who allows the registrant's registration to lapse by failing to renew as herein provided may be reinstated upon recommendation of the state board of healing arts and upon payment of the renewal fee and the reinstatement fee and upon submitting evidence of satisfactory completion of any applicable continuing education requirements established by the board. The board shall adopt rules and regulations establishing appropriate continuing education requirements for reinstatement of persons whose registrations have lapsed for failure to renew.

(e) The following fees shall be fixed by rules and regulations adopted by the state board of healing arts and shall be collected by the board:

- (1) For registration as a physician assistant, the sum of not more than \$100 \$200;
- (2) for temporary registration as a physician assistant, the sum of not more than \$30;
- (3) for the renewal of registration as a physician assistant, the sum of not more than \$75 \$150;
- (4) for the late renewal of registration as a physician assistant, the sum of not more than \$250;
- (5) for reinstatement of a physician assistant whose name has been removed from the register, the sum of not more than \$250;
- (6) for a certified statement from the board that a physician assistant is registered in this state, the sum of not more than \$30; and
- (7) for a copy of the registration certificate of a physician assistant, the sum of not more than \$25; and
- (8) for written verification of any registration, the sum of not more than \$25.

(f) The state board of healing arts shall remit all moneys received by or for the board under the provisions of this act to the state treasurer and such money shall be deposited in the state treasury, credited to the state general fund and the healing arts fee fund and expended all in accordance with K.S.A. 65-2855 and amendments thereto.

(g) The state board of healing arts may adopt rules and regulations necessary to carry out the provisions of this act and the act of which this section is amendatory.

Sec. 4. K.S.A. 65-5409 is hereby amended to read as follows: 65-5409. (a) The board shall charge and collect in advance fees provided for in this act as fixed by the board by rules and regulations, subject to the following limitations:

Application fee, not more than	\$40 \$90
Temporary registration fee, not more than	40
Registration renewal fee, not more than	40 80
Registration late renewal fee, not more than	40 80
Registration reinstatement fee, not more than	40 80
Certified copy of registration, not more than	20 40
Written verification of registration, not more than	25

(b) The board shall charge and collect in advance fees for any examination administered by the board under the occupational therapy practice act as fixed by the board by rules and regulations in an amount equal to the cost to the board of the examination. If the examination is not administered by the board, the board may require that fees paid for any examination under the occupational therapy practice act be paid directly to the examination service by the person taking the examination.

Sec. 5. K.S.A. 65-5509 is hereby amended to read as follows: 65-5509. (a) The board shall charge and collect in advance fees provided for in this act as fixed by the board by rules and regulations, subject to the following limitations:

Application fee, not more than	\$40 \$80
Temporary registration fee, not more than	40
Special permit fee, not more than	40 80
Registration renewal fee, not more than	40 80
Registration late renewal fee, not more than	40 80
Registration reinstatement fee, not more than	40 80
Certified copy of registration, not more than	20 40
Written verification of registration, not more than	25

(b) The board shall charge and collect in advance fees for any examination administered by the board under the respiratory therapy practice act as fixed by the board by rules and regulations in an amount equal to the cost to the board of the examination. If the examination is not administered by the board, the board may require that fees paid for any examination under the respiratory therapy practice act be paid directly to the examination service by the person taking the examination.

Sec. 6. K.S.A. 1996 Supp. 65-6910 is hereby amended to read as follows: 65-6910. (a) The board shall charge and collect in advance fees provided for in this act as fixed by the board by rules and regulations, subject to the following limitations:

Application fee, not more than	\$50 \$100
Temporary registration fee, not more than	\$50
Registration renewal fee, not more than	\$50
Registration late renewal fee, not more than	\$50
Registration reinstatement fee, not more than	\$50
Certified copy of registration, not more than	\$20 \$40
Written verification of registration, not more than	\$25

(b) The board shall charge and collect in advance fees for any examination administered by the board under the athletic trainers registration act as fixed by the board by rules and regulations in an amount equal to the cost to the board of the examination and its administration. If the examination is not administered by the board, the board may require that fees paid for any examination under the athletic trainers registration act be paid directly to the examination service by the person taking the examination.

(c) The board shall remit all moneys received from fees, charges or penalties to the state treasurer at least monthly. Upon receipt of any such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury. Twenty percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the healing arts fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or by a person designated by the president of the board.

(d) Fees paid are not refundable.

Sec. 7. K.S.A. 65-2840c is hereby amended to read as follows: 65-2840c. Review committees shall be established and appointed by the state board of healing arts for each branch of the healing arts as necessary to implement advise the board in carrying out the provisions of this act. Each review committee shall be composed of three members and designated alternates. Two Each of the members and their designated alternates shall serve for a period of two years, all of whom shall be members of the same branch of the healing arts as the person whose conduct is being reviewed. The third member of the review committee shall be appointed on an ad hoc basis, and shall be of the same branch of the healing arts and specialty, if any, as the person whose conduct is being reviewed licensed by the board to practice the branch of the healing arts for which the review committee is established. Members of the state board of healing arts shall not be eligible to act as members of the review committee. Members of the review committee who are licensees of the state board of healing arts may be selected from names submitted by the state professional association for the branch of healing arts involved. The board of healing arts shall ensure that no conflict of interest exists by reason of geography, personal or professional relationship, or otherwise, between any of the review committee members and any person whose conduct is being reviewed. The members of such review committees attending meetings of such committees any review committees shall be paid compensation, subsistence allowances, mileage and expenses as provided by K.S.A. 75-3223 and amendments thereto.

Sec. 8. K.S.A. 65-2012, 65-2840c, 65-2896, 65-5409 and 65-5509 and K.S.A. 1996 Supp. 65-2852 and 65-6910 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register April 17, 1997.)

SENATE BILL No. 280

AN ACT concerning tax increment financing; amending K.S.A. 1996 Supp. 12-1773 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1996 Supp. 12-1773 is hereby amended to read as follows: 12-1773. (a) Any city which has adopted a redevelopment plan in accordance with the provisions of this act may purchase or otherwise acquire real property. Upon a 2/3 vote of the members of the governing body thereof a city may acquire by condemnation any interest in real property, including a fee simple title thereto, which it deems necessary for or in connection with any redevelopment plan of an area located within the redevelopment district. However no city shall exercise such eminent domain power to acquire real property in a conservation area. Any such city may exercise the power of eminent domain in the manner provided by K.S.A. 26-501 et seq., and amendments thereto. In addition to any compensation or damages allowed under the eminent domain procedure act, such city shall also provide for the payment of relocation assistance as provided in K.S.A. 12-1777, and amendments thereto.

(b) Any property acquired by a city under the provisions of this act may be sold or leased to any person, firm or corporation, hereinafter referred to as a developer, in accordance with the redevelopment plan and under such other conditions as may be agreed upon. Such city may use the proceeds of special obligation bonds issued under K.S.A. 12-1774, and amendments thereto, or full faith and credit tax increment bonds issued under K.S.A. 12-1774, and amendments thereto, or any uncommitted funds derived from those sources set forth in paragraph (1) of subsection (a) of K.S.A. 12-1774, and amendments thereto, to implement the redevelopment plan including, without limitation:

- (1) Acquisition of property within the project area;
- (2) payment of relocation assistance;
- (3) site preparation;
- (4) sanitary and storm sewers and lift stations;
- (5) drainage conduits, channels and levees;
- (6) street grading, paving, graveling, macadamizing, curbing, guttering and surfacing;
- (7) street lighting fixtures, connection and facilities;
- (8) underground gas, water, heating, and electrical services and connections located within the public right-of-way;
- (9) sidewalks and pedestrian underpasses or overpasses;
- (10) drives and driveway approaches located within public right-of-way;
- (11) water mains and extensions;
- (12) plazas and arcades;
- (13) parking facilities;
- (14) landscaping and plantings; fountains, shelters, benches, sculptures, lighting, decorations and similar amenities; and
- (15) all related expenses to redevelop, and finance the redevelopment project.

None of the proceeds from the sale of such bonds shall be used for the construction of buildings or other structures to be owned by or to be leased to such developer, except for proceeds of such bonds as may be issued under subsection (a)(1)(D) of K.S.A. 12-1774, and amendments thereto and except for proceeds of such bonds as may be issued for a redevelopment district including some or all of the land and buildings comprising a state mental institution closed pursuant to section 2 of chapter 219 of the 1995 Session Laws of Kansas.

Sec. 2. K.S.A. 1996 Supp. 12-1773 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register April 17, 1997.)

SENATE BILL No. 12

AN ACT concerning social welfare; relating to identifying health care and other medical benefits provided under medical benefit plans for beneficiaries of federal medicaid benefits; prescribing penalties for failure to provide certain information.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) Upon the request of the secretary of social and rehabilitation services, each medical benefit plan provider that provides or maintains a medical benefit plan, that provides any hospital or medical services or any other health care or other medical benefits or services, or both, in Kansas, shall provide the secretary with information, to the extent known by the medical benefit plan provider, identifying each person who is covered by such medical benefit plan or who is otherwise provided any such hospital or medical services or any other such health care or other medical benefits or services, or both, in Kansas under such medical benefit plan. The information shall be provided in such form as is prescribed by the secretary for the purpose of comparing such information with medicaid beneficiary information maintained by the secretary to assist in identifying other health care or medical benefit coverage available to medicaid beneficiaries. The secretary shall reimburse each medical benefit plan provider that provides information under this section for the reasonable cost of providing such information.

(b) All information provided by medical benefit plan providers under this section shall be confidential and shall not be disclosed pursuant to the provisions of the open records act or under the provisions of any other law. Such information may be used solely for the purpose of determining whether medical assistance has been paid or is eligible to be paid by the secretary for which a recovery from a medical benefit plan provider is due under K.S.A. 39-719a and amendments thereto.

(c) Failure to provide information pursuant to a request by the secretary of social and rehabilitation services under this section shall constitute a failure to reply to an inquiry of the commissioner of insurance and shall be subject to the penalties applicable thereto under K.S.A. 40-226 and amendments thereto. If a medical plan provider fails to provide information to the secretary of social and rehabilitation services pursuant to a request under this section, the secretary shall notify the commissioner of such failure. The commissioner of insurance may pursue each such failure to provide such information in accordance with K.S.A. 40-226 and amendments thereto.

(d) As used in this section:

(1) "Medical benefit plan" means any accident and health insurance or any other policy, contract, plan or agreement that provides benefits or services, or both, for any hospital or medical services or any other health care or medical benefits or services, or both, in Kansas, whether or not such benefits or services, or both, are provided pursuant to individual, group, blanket or certificates of accident and sickness insurance, any other insurance providing any accident and health insurance, or any other policy, contract, plan or agreement providing any such benefits or services, or both, in Kansas, and includes any policy, plan, contract or agreement offered in Kansas pursuant to the federal employee retirement income security act of 1974 (ERISA) that provides any hospital or medical services or any other health care or medical benefits or services, or both, in Kansas; and

(2) "medical benefit plan provider" means any insurance company, nonprofit medical and hospital service corporation, health maintenance organization, fraternal benefit society, municipal group-funded pool, group-funded workers compensation pool or any other entity providing or maintaining a medical benefit plan.

(e) No medicaid provider who rendered professional services to a medicaid beneficiary and was paid by the secretary for such services shall be liable to the medical benefit plan provider for any amounts recovered pursuant to this act or pursuant to the provisions of K.S.A. 39-719a and amendments thereto.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register April 17, 1997.)

HOUSE BILL No. 2484

AN ACT concerning the Kansas bureau of investigation; relating to the powers, duties and functions thereof; authorizing acceptance of gifts and grants; background investigations; amending K.S.A. 75-712 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 75-712 is hereby amended to read as follows: 75-712. (a) It shall be the duty of the members of the bureau to make full and complete investigations at the direction of the attorney general. Each member of the bureau shall possess all powers and privileges which are now or may be hereafter given to the sheriffs of the state of Kansas.

(b) The bureau shall be vested with the duty of acquiring, collecting, classifying, and preserving acquire, collect, classify and preserve criminal identification and other crime records, and the exchanging of said may exchange such criminal identification records with the duly authorized officials of governmental agencies, of states, cities and penal institutions.

(c) For purposes of carrying out the powers and duties of the bureau, the director may request and accept grants or donations from any person, firm, association or corporation or from the federal government or any federal agency and may enter into contracts or other transactions with any federal agency in connection therewith.

(d) Members of the bureau, at the direction of the director, may conduct background investigations of gubernatorial appointees at the request of the governor, subject to the appointee's approval. The bureau shall require the appointee to be fingerprinted. The fingerprints shall be submitted to the bureau and to the federal bureau of investigation for the identification of the appointee and to obtain criminal history record information, including arrest and nonconviction data. Background reports may include criminal intelligence information and information relating to criminal and background investigations. Information received pursuant to this subsection shall be confidential and shall not be disclosed except to the governor or members of the governor's staff as necessary to determine the appointee's qualifications.

(e) Reports of all investigations made by the members of the bureau shall be made to the attorney general of the state of Kansas.

Sec. 2. K.S.A. 75-712 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

State of Kansas

Department of Health
and EnvironmentPermanent Administrative
RegulationsArticle 19.—AMBIENT AIR QUALITY STANDARDS
AND AIR POLLUTION CONTROL

28-19-79. Fuel volatility. (a) The provisions of this regulation shall be applicable only to affected facilities located in areas that have been identified as not meeting the national primary ambient air quality standard for ozone in the manner prescribed by the provisions of section 107(d) of the federal clean air act, 42 U.S.C. 7407, as promulgated at 40 CFR part 81, as in effect on July 1, 1989.

(b) This regulation shall apply to facilities that dispense, supply, exchange in trade, offer for sale or supply, sell or store gasoline.

(c) For the period beginning June 1 through September 15 of each year, no person shall dispense, supply, exchange in trade, offer for sale or supply, sell, or store gasoline that is to be used as fuel for motor vehicles and that has a Reid vapor pressure (RVP) greater than these levels:

(1) 7.2 pounds per square inch (psi); or

(2) 8.2 psi for gasoline containing at least 9.0 percent by volume but not more than 10.0 percent by volume ethanol.

(d) (1) Volatility testing procedures shall comply with K.A.R. 28-19-212(a)(19) and K.A.R. 28-19-212(a)(20). Alternate methods may be authorized under K.A.R. 28-19-212(a)(8) or K.A.R. 28-19-212(a)(21).

(2) Fuel alcohol-content testing procedures pursuant to paragraph (c)(2) of this regulation shall comply with 40 CFR Part 80, Appendix F, "Test for Determining the Quantity of Alcohol in Gasoline," as in effect on July 1, 1995, which is adopted by reference.

(e) (1) The owner or operator of each affected facility other than a gasoline dispensing facility shall keep and maintain at the facility records of the information regarding the RVP of gasoline that is to be used as a fuel for motor vehicles, as determined in accordance with subsection (d).

(2) The records required by paragraph (e)(1) shall contain the following information for each load or shipment:

- (A) the RVP values;
- (B) the type of sampling procedure used;
- (C) the type of testing procedure used;
- (D) the dates of sampling and testing; and
- (E) the quantity of gasoline in stock at the time of testing.

(3) The owner or operator of each gasoline dispensing facility shall maintain records of the bills of lading, invoices, loading tickets, delivery tickets, or other documentation accompanying a shipment of gasoline that demonstrates that the motor vehicle fuel delivered to the gasoline dispensing facility during the defined RVP limit compliance period complies with the limits under this regulation.

(4) The records shall be maintained at the facility for two years following the date of the RVP test and shall be made available for inspection by the department.

(f) Exemptions.

(1) Gasoline used exclusively for fueling implements of agriculture shall be exempt from this regulation.

(2) Gasoline in any tank, reservoir, storage vessel, or other stationary container with a nominal capacity of 500 gallons or less shall be exempt from this regulation.

(3) Gasoline that is to be used as a motor vehicle fuel and that exceeds applicable RVP requirements shall be found not to have violated this regulation only under the following conditions:

(A) the motor vehicle fuel is separately stored, sealed, and clearly labeled as a motor vehicle fuel that is not to be dispensed, sold, supplied, offered for supply or transport, or exchange in trade until a designated date when such activity will be in compliance with this regulation; or

(B) the motor vehicle fuel is to be sold, exchanged in trade, dispensed, supplied, or offered for supply outside of the regulated area. (Authorized by K.S.A. 1995 Supp. 65-3005; implementing K.S.A. 65-3010; effective May 2, 1997.)

James J. O'Connell
Secretary of Health
and Environment

State of Kansas

Department of Health and Environment

Permanent Administrative Regulations

Article 1.—GENERAL

47-1-1. (Authorized by and implementing K.S.A. 1989 Supp. 49-405; effective, E-71-4, Nov. 20, 1970; effective Jan. 1, 1972; amended Feb. 11, 1991; revoked May 2, 1997.)

47-1-3. Communication. Each application for a surface mining permit required to be filed with the secretary shall be filed in the office of the surface mining section within the time limits for such filing. Each document so addressed or filed shall be deemed to be officially received by the secretary when actually delivered at the office of the surface mining section. Each application shall be accompanied by appropriate fees. (Authorized by K.S.A. 49-405; implementing K.S.A. 1989 Supp. 49-406; effective, E-71-4, Nov. 20, 1970; effective Jan. 1, 1972; amended May 1, 1980; amended, E-81-30, Oct. 8, 1980; amended May 1, 1981; amended Feb. 11, 1991; amended May 2, 1997.)

47-1-4. (Authorized by and implementing K.S.A. 1989 Supp. 49-405; effective, E-71-4, Nov. 20, 1970; effective Jan. 1, 1972; amended May 1, 1980; amended May 1, 1986; amended Feb. 11, 1991; revoked May 2, 1997.)

47-1-8. Petitions to initiate rulemaking. (a) Any person may petition the secretary to initiate a proceeding for the issuance, amendment, or repeal of any regulation under the state act. Each petition shall be submitted to the chief of the surface mining section.

(b) Each petition shall contain a concise statement of the facts, technical justification, and law that requires issuance, amendment, or repeal of a regulation and shall indicate whether or not the petitioner desires a public hearing.

(c) The secretary or the secretary's designee shall determine whether or not the petition sets forth facts, technical justification, and law that provides a reasonable basis for conducting a hearing to consider issuance, amendment, or repeal of a regulation. Facts, technical justification, or law previously considered in a petition or in rulemaking on the same issue shall not provide a reasonable basis.

(d) If the secretary or secretary's designee determines that the petition has a reasonable basis, a notice shall be published seeking comments from the public on the proposed change. A public hearing, an investigation, or other necessary action may be taken by the secretary or secretary's designee to determine whether or not the petition should be granted.

(e) A written decision either granting or denying the petition shall be issued by the secretary or secretary's designee within 90 days after its receipt by the surface mining section.

(1) If the petition is granted, the rulemaking process shall be initiated by the secretary.

(continued)

(2) If the petition is denied, the petitioner shall be notified in writing by the secretary, setting forth the reasons for denial. (Authorized by and implementing K.S.A. 49-405; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended Feb. 11, 1991; amended May 2, 1997.)

47-1-9. Notice of citizen suits. (a) Each person who intends to initiate a civil action on the person's own behalf under K.S.A. 49-426(a)(2) shall give notice of this intent as follows:

(1) a copy of the notice shall be sent by certified mail to the chief of the surface mining section and the secretary;

(2) a copy of the notice shall be sent by first-class mail to the field office director of the office of surface mining, United States department of the interior; and

(3) a copy of the notice shall be sent by certified mail to the alleged violator if the complaint alleges a violation of the state act or any regulation, order, or permit issued under the state act.

(b) Service of the notice shall be complete upon receipt by the person being notified.

(c) Each person giving notice regarding an alleged violation shall state the following to the extent known:

(1) Sufficient information to identify the provision of the state act, rule or regulation, order, or permit allegedly violated;

(2) the act or omission constituting the alleged violation;

(3) the name, address, and telephone numbers of the person or persons responsible for the alleged violation;

(4) the date, time, and location of the alleged violation;

(5) the name, address, and telephone number of the person giving notice; and

(6) the name, address, and telephone number of legal counsel, if any, of the person giving notice.

(d) Each person giving notice of an alleged failure by the secretary to perform a mandatory act or duty under the state act shall state the following to the extent known:

(1) the provision of the state act containing the mandatory act or duty allegedly not performed;

(2) sufficient information to identify the omission constituting the alleged failure to perform a mandatory act or duty;

(3) the name, address, and telephone number of the person giving notice; and

(4) the name, address, and telephone number of legal counsel, if any, of the person giving notice. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-426; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended Feb. 11, 1991; amended May 2, 1997.)

47-1-10. (Authorized by and implementing K.S.A. 49-405; effective May 1, 1984; amended Feb. 11, 1991; revoked May 2, 1997.)

47-1-11. Permittee; preparation and submission of reports. The secretary or secretary's designee may require a permittee to do the following:

(a) establish and maintain appropriate records;

(b) make appropriate monthly reports;

(c) install, use, and maintain any necessary monitoring equipment or methods and evaluate the results in accor-

dance with those methods, at the locations, intervals, and in the manner prescribed; and

(d) provide any other information relative to surface coal mining and reclamation operations that the secretary or secretary's designee deems reasonable and necessary. (Authorized by and implementing K.S.A. 49-405; effective May 1, 1985; amended Feb. 11, 1991; amended May 2, 1997.)

Article 2.—MEANING OF TERMS

47-2-14. (Authorized by K.S.A. 1989 Supp. 49-405, and K.S.A. 1989 Supp. 49-406; as amended by L. 1990, Ch. 194, sec. 1; implementing K.S.A. 1989 Supp. 49-405; effective May 1, 1980; amended Feb. 11, 1991; revoked May 2, 1997.)

47-2-21. Employee defined. "Employee" means a person employed by the department who performs any function or duty under the state act, or a consultant who performs decision-making functions under the authority of state law or these regulations. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-404; effective May 1, 1980; amended May 1, 1983; amended Feb. 11, 1991; amended May 2, 1997.)

47-2-53. "Regulatory authority" or "state regulatory authority" defined. "Regulatory authority" or "state regulatory authority" means the department of health and environment, or the secretary's designee. (Authorized by and implementing K.S.A. 49-405; implementing K.S.A. 49-405 and K.S.A. 49-406; effective May 1, 1980; amended, E-81-30, Oct. 8, 1980; amended May 1, 1981; amended May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997.)

47-2-53a. "Regulatory program" defined. "Regulatory program" means the state act and regulations adopted by the department and approved by the United States department of interior, office of surface mining reclamation and enforcement. (Authorized by and implementing K.S.A. 49-405; effective May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997.)

47-2-58. "Significant, imminent environmental harm to land, air or water resources" defined. A "significant, imminent environmental harm to land, air or water resources" shall include the following elements.

(a) An environmental harm is an adverse impact on land, air or water resources, including plant and animal life.

(b) An environmental harm is imminent if a condition, practice, or violation exists that is causing harm or may reasonably be expected to cause such harm at any time before the end of the reasonable abatement time that would be set under these regulations and the state law.

(c) An environmental harm is significant if that harm is appreciable and not immediately reparable. (Authorized by and implementing K.S.A. 49-405; effective May 1, 1980; amended May 2, 1997.)

47-2-64. "State act" defined. "State act" means the Kansas mined-land conservation and reclamation act and amendments thereto. (Authorized by and implementing K.S.A. 49-405, 49-406; effective May 1, 1980; amended May 2, 1997.)

47-2-67. "Surety bond" defined. "Surety bond" means an indemnity agreement, in a specific sum payable to the Kansas department of health and environment and executed by the permittee, which is supported by the performance guarantee of a corporation licensed to do business as a surety in the state of Kansas. (Authorized by and implementing K.S.A. 49-405, and K.S.A. 49-406; effective May 1, 1980; amended Feb. 11, 1991; amended May 2, 1997.)

47-2-74. "Public road" defined. "Public road" means a thoroughfare open to the public that has been and is being used by the public for vehicular travel. (Authorized by K.S.A. 49-405, and implementing K.S.A. 49-405b; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended May 2, 1997.)

47-2-75. Definitions; adoption by reference. The following regulations as in effect on July 1, 1995 are adopted by reference except as otherwise indicated in this regulation: (a) Definitions, 30 CFR 700.5, except:

(1) "regulatory authority" and "state regulatory authority" shall be defined in K.A.R. 47-2-53;

(2) "surface coal mining operations" shall be defined in K.S.A. 49-403(r);

(3) "surface coal mining and reclamation operations" shall be defined in K.S.A. 49-403(q);

(4) the following shall be deleted from the definition of "anthracite": "Notices of changes made to this publication will be periodically published by the Office of Surface Mining in the Federal Register. This ASTM standard is on file and available for inspection at the OSM office, U.S. Department of the Interior, South Interior Building, Washington, D.C. 20240, at each OSM Regional Office, District Office and Field Office, and at the central office of the applicable State Regulatory Authority, if any. Copies of this publication may also be obtained by writing to the above locations. A copy of this publication will also be on file for public inspection at the Federal Register Library, 1100 L St., N.W., Washington, D.C. Incorporation by reference provisions approved by the Director of the Federal Register February 7, 1979. The Director's approval of this incorporation by reference expires on July 1, 1981."

(5) "regulatory program" shall be defined in K.A.R. 47-2-53a;

(6) "director" means the director, office of surface mining reclamation and enforcement in the following instances:

(A) K.A.R. 47-3-42 (a)(37), adopting by reference 30 CFR 785.13;

(B) K.A.R. 47-14-7 (a)(1), adopting by reference 30 CFR 705.4 (a);

(C) K.A.R. 47-14-7 (a)(3), adopting by reference 30 CFR 705.11 (c) and (d);

(D) K.A.R. 47-14-7 (a)(4), adopting by reference 30 CFR 705.13;

(E) K.A.R. 47-14-7 (a)(5), adopting by reference 30 CFR 705.15;

(F) K.A.R. 47-14-7 (a)(8), adopting by reference 30 CFR 705.19 (a); and

(G) K.A.R. 47-14-7 (a)(9), adopting by reference 30 CFR 705.21. All other references to "the director" shall be re-

placed by "the secretary of the department of health and environment."

(7) "department" means the Kansas department of health and environment; and

(8) "secretary" means secretary of the Kansas department of health and environment.

(b) Definitions, 30 CFR 701.5, except:

(1) "imminent danger to the health and safety of the public" shall be defined in K.S.A. 49-403(m);

(2) "operator" shall be defined in K.S.A. 49-403(c);

(3) "permit" shall be defined in K.S.A. 49-403(n);

(4) "permit area" shall be defined in K.S.A. 49-403(o);

(5) "significant, imminent environmental harm to land, air or water resources" shall be defined in K.A.R. 47-2-58; and

(6) the following federal definitions shall be deleted entirely:

(A) "agricultural activities or farming";

(B) "alluvial valley floors";

(C) "arid and semiarid area";

(D) "essential hydrologic functions";

(E) "flood irrigation";

(F) "materially damage the quality and quantity of water";

(G) "rangeland";

(H) "special bituminous coal mines";

(I) "subirrigation";

(J) "undeveloped rangeland"; and

(K) "upland areas."

(c) Definitions, 30 CFR 705.5, except:

(1) "employee" shall be defined in K.A.R. 47-2-21; and

(2) "state regulatory authority" shall be defined in K.A.R. 47-2-53.

(d) Definitions, 30 CFR 773.5; and

(e) Definitions, 30 CFR 846.5, except:

(1) "federal program" shall be replaced by "state program";

(2) "section 521 of the act" shall be replaced by "K.S.A. 49-405";

(3) "act" shall be replaced by "state act";

(4) "secretary" shall be replaced by "secretary of the Kansas department of health and environment";

(5) "section 518(b)" shall be replaced by "K.S.A. 49-416a";

(6) "Section 703 of the act" shall be replaced by "K.S.A. 1995 Supp. 75-2973"; and

(7) "federal lands program. Federal enforcement pursuant to section 502 of the act and federal enforcement of a state program pursuant to section 521 of the act" shall be deleted. (Authorized by K.S.A. 49-404 and K.S.A. 49-405; implementing K.S.A. 49-401 *et seq.*; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended May 1, 1985; amended May 1, 1986; amended May 1, 1988; amended Feb. 11, 1991; amended May 2, 1997.)

Article 3.—APPLICATION FOR MINING PERMIT

47-3-1. Application for mining permit. Each person who conducts or expects to conduct surface or underground coal mining and reclamation operations shall file an original and four copies of a complete and accurate

(continued)

application for a permit for those operations with the secretary at least 90 days before permit decision. (Authorized by K.S.A. 49-405 and K.S.A. 49-406; implementing K.S.A. 49-406; effective, E-71-4, Nov. 20, 1970; effective Jan. 1, 1972; amended May 1, 1975; amended May 1, 1980; amended Feb. 11, 1991; amended May 2, 1997.)

47-3-2. Application for mining permit; adoption by reference. (a) Each permit application submitted with a request for variances from the applicable regulations shall contain an outline of the proposed variances. The outline shall be indexed to the regulations and be placed at the beginning of the application documents.

(b) The following regulations as in effect on July 1, 1995 are adopted by reference, except as otherwise indicated in these regulations:

- (1) format and contents, 30 CFR 777.11;
- (2) reporting of technical data, 30 CFR 777.13;
- (3) maps and plans; general requirements, 30 CFR 777.14. The phrase "in accordance with section 710.12 of this chapter" shall be deleted; and
- (4) completeness, 30 CFR 777.15.

(c) The following terms shall be replaced with the indicated terms wherever they appear in the text of the federal regulations adopted by reference under K.A.R. 47-3-2:

(1) "This chapter" or "this subchapter" shall be replaced by "these regulations."

(2) "Parts 778, 779, and 780 of this chapter" shall be replaced by "K.A.R. 47-3-42(a)(1) to (35), inclusive."

(3) "Part 785 of this chapter" shall be replaced by "K.A.R. 47-3-42(a)(36) to (41), inclusive."

(4) "Parts 778, 783, and 784 of this chapter" shall be replaced by "K.A.R. 47-3-42(a)(1) to (8), inclusive," and "K.A.R. 47-10-1." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-406; effective May 1, 1980; amended May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997.)

47-3-3a. Application for mining permit; maps. (a) Each map, plan, and cross section required for a permit application shall be certified by a qualified, licensed engineer and shall be updated as required by the secretary or secretary's designee.

(b) Each change in a facility or feature that would be caused by the proposed mining operations shall be shown in the maps and plans accompanying the permit application.

(1) A color code, or other method approved in writing by the secretary or secretary's designee, shall be used to indicate critical features of the permit area as follows:

- (A) green for areas of coal removal;
- (B) red for the boundary of the land affected, including access roads and haulageways;
- (C) brown for access roads and haulageways; and
- (D) blue for watercourses, impoundments, drainageways, and other water areas.

(2) A color code, or other method approved, in writing, by the secretary or secretary's designee, shall be used to indicate critical features of any reclamation plan as follows:

- (A) green for areas of proposed grassland;
- (B) red for the permit boundaries;

(C) brown for any roads to be left through the disturbed area;

(D) blue for proposed water impoundment and drainage;

(E) yellow for proposed cropland; and

(F) orange for proposed woodland. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-406; effective May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997.)

47-3-42. Application for mining permit; adoption by reference. (a) The following regulations as in effect on July 1, 1995 are adopted by reference except as otherwise indicated in these regulations:

- (1) identification of interests, 30 CFR 778.13;
- (2) violation information, 30 CFR 778.14. The term "act" shall mean "the surface mining control and reclamation act of 1977 (Pub. L. 95-87)" and amendments thereto;
- (3) right-of-entry information, 30 CFR 778.15;
- (4) status of unsuitability claims, 30 CFR 778.16;
- (5) permit term, 30 CFR 778.17(a);
- (6) insurance, 30 CFR 778.18;
- (7) proof of publication, 30 CFR 778.21;
- (8) facilities or structures used in common, 30 CFR 778.22;
- (9) responsibilities, 30 CFR 779.4. The phrase "this part" shall be replaced by "K.A.R. 47-3-42(a)(9) to (16), inclusive";
- (10) general requirements, 30 CFR 779.11;
- (11) general environmental resources information, 30 CFR 779.12;
- (12) climatological information, 30 CFR 779.18;
- (13) vegetation information, 30 CFR 779.19;
- (14) soil resources information, 30 CFR 779.21;
- (15) maps: general requirements, 30 CFR 779.24;
- (16) cross sections, maps, and plans, 30 CFR 779.25;
- (17) responsibilities, 30 CFR 780.4. The phrase "this part" shall be replaced by "K.A.R. 47-3-42(a)(17) to (35), inclusive";
- (18) operation plan: general requirements, 30 CFR 780.11;
- (19) operation plan: existing structures, 30 CFR 780.12;
- (20) operation plan: blasting, 30 CFR 780.13;
- (21) operation plan: maps and plans, 30 CFR 780.14;
- (22) air pollution control plan, 30 CFR 780.15;
- (23) fish and wildlife information, 30 CFR 780.16;
- (24) reclamation plan: general requirements, 30 CFR 780.18;
- (25) hydrologic information, 30 CFR 780.21;
- (26) geologic information, 30 CFR 780.22;
- (27) reclamation plan: land uses information, 30 CFR 780.23;
- (28) reclamation plan: siltation structures, impoundments, banks, dams, and embankments, 30 CFR 780.25;
- (29) reclamation plan: surface mining near underground mining, 30 CFR 780.27;
- (30) diversions, 30 CFR 780.29;
- (31) protection of public parks and historic places, 30 CFR 780.31;
- (32) relocation or use of public roads, 30 CFR 780.33;
- (33) disposal of excess spoil, 30 CFR 780.35;
- (34) road systems, 30 CFR 780.37;

- (35) support facilities, 30 CFR 780.38;
- (36) experimental practices mining, 30 CFR 785.13;
- (37) prime farmland, 30 CFR 785.17. The last sentence in 30 CFR 785.17(c)(1)(i) shall be deleted;
- (38) variances for delay in contemporaneous reclamation requirement in combined surface and underground mining activities, 30 CFR 785.18;
- (39) augering, 30 CFR 785.20;
- (40) coal preparation plants not located within the permit area of a mine, 30 CFR 785.21;
- (41) in situ processing activities, 30 CFR 785.22;
- (42) public participation in permit processing, 30 CFR 773.13. The phrase "section 503(a)(6) or section 504(h) of the act, or" in 30 CFR 773.13(a)(3)(ii) shall be deleted;
- (43) review of permit applications, 30 CFR 773.15. Only in paragraph 30 CFR 773.15(b) shall the term "act" mean "surface mining control and reclamation act of 1977 (Pub. L. 95-87)" and amendments thereto. All other references to the term "act" in 30 CFR 773.15 shall be replaced with "state act";
- (44) permit issuance and right of renewal, 30 CFR 773.19. The phrase "unless the requirements of 778.17 of this chapter are met" shall be deleted;
- (45) improvidently issued permits: general procedure, 30 CFR 773.20, except in subsection (c)(2) "43 CFR 4.1370 through 4.1377, where osm is the regulatory authority, or under the state program equivalent, where a state is the regulatory authority" shall be replaced by "K.A.R. 47-4-14a";
- (46) improvidently issued permits: rescission procedures, 30 CFR 773.21;
- (47) verification of ownership or control application information, 30 CFR 773.22;
- (48) review of ownership or control and violation information, 30 CFR 773.23;
- (49) procedures for challenging ownership or control links shown in avs, 30 CFR 773.24; except as otherwise indicated in this subsection:
 - (A) In subsection (b) "federal violation" shall be replaced by "state violation."
 - (B) In subsection (b) "osm, addressed to the chief of the avs office, office of surface mining reclamation and enforcement, U.S. department of the interior, Washington, D.C. 20240" shall be replaced by "Kansas department of health and environment, addressed to the chief of the surface mining section, Kansas department of health and environment, 4033 Parkview Dr., Frontenac, Kansas, 66713."
 - (C) In subsection (b), (c), and (d) "osm" shall be replaced by "Kansas department of health and environment."
 - (D) In subsection (d)(2)(i) "Rule 4 of the federal rules of civil procedure" shall be replaced by "K.A.R. 47-4-14a."
 - (E) In subsection (d)(2)(ii) "the department of the interior's office of hearings and appeals" shall be replaced by "the secretary of the Kansas department of health and environment in accordance with K.S.A. 49-416a."
- (50) standards for challenging ownership or control links and the status of violations, 30 CFR 773.25; except as otherwise indicated in this subsection:

(A) In subsection (a) "Part 775" shall be replaced by "K.A.R. 47-4-14a."

(B) Subsection b shall be replaced in its entirety by the following:

(b) The secretary of the Kansas department of health and environment or the secretary's designee shall have the authority to perform the following:

(1) make decisions with respect to ownership or control relationships contained within coal mining applications in the state of Kansas;

(2) make decisions with respect to the ownership or control relationships of a coal mining permit issued in the state of Kansas;

(3) make decisions with respect to the ownership or control relationship of a coal mining violation issued in the state of Kansas; and

(4) make decisions concerning the status of coal mining violations issued in the state of Kansas, i.e., whether the violation remains outstanding, has been corrected, is in the process of being corrected, or is the subject of a good faith appeal, within the meaning of §773.15(b)(1) of this part.

(C) In subsection (c) "responsible agency" shall be replaced by "Kansas department of health and environment."

(D) In subsection (d) "a state regulatory authority or other state agency" shall be replaced by "the Kansas department of health and environment."

(E) In subsection (d) "by an administrative or judicial tribunal reviewing such determination" shall be replaced by "of a judicial review of an agency action concerning the aforementioned Kansas department of health and environment determination";

(51) applicability, 30 CFR 701.11 subsection (e) only, subsections (a), (b), (c), (d) and (f) shall be deleted; and

(52) regulatory coordination with requirements under other laws, 30 CFR 773.12.

(b) The following terms shall be replaced with the indicated terms wherever they appear in the text of the federal regulations adopted by reference under K.A.R. 47-3-42:

(1) "Subchapter K" or "subchapter K of this chapter" shall be replaced by "K.A.R. 47-9-1."

(2) "This chapter," "this subchapter," or "subchapter G of this chapter" shall be replaced by "these regulations."

(3) "Act" shall be replaced by "state act."

(4) "Section 515," "section 515(b)," or "section 515(b)(22)" shall be replaced by "K.S.A. 49-405a, 49-408 to 49-413, inclusive, and 49-429."

(5) "Subchapter J of this chapter" or "part 800 of this chapter" shall be replaced by "article 8 of chapter 47 of the Kansas administrative regulations."

(6) "Section 502" and "section 508" shall be replaced by "K.S.A. 49-406."

(7) "Section 515(b)(16)" or "section 516" shall be replaced by "K.S.A. 49-429."

(8) "Subchapter R of this chapter" shall be replaced by "the office."

(9) "Subchapter B of this chapter" shall be replaced by "K.A.R. 47-9-4."

(continued)

(10) "Part 775 of this chapter" shall be replaced by "K.S.A. 49-407(d), 49-416a, 49-422a, and article 4 of chapter 47 of the Kansas administrative regulations."

(11) "Parts 762, 764, and 769 of this chapter" and "parts 764 and 769 of this chapter" shall be replaced by "K.A.R. 47-12-4."

(12) "Part 816" or "part 816 of this chapter" shall be replaced by "K.A.R. 47-9-1(c)."

(13) "Section 775.13" shall be replaced by "K.S.A. 49-422a."

(14) "Section 775.11" shall be replaced by "K.S.A. 49-407(d), 49-416a, and article 4 of chapter 47 of the Kansas administrative regulations and K.A.R. 47-5-5a(c)."

(15) "Part 785 of this chapter" shall be replaced by "K.A.R. 47-3-42(a)(36) to (41), inclusive." (Authorized by K.S.A. 49-405 and 49-427; implementing K.S.A. 49-405, 49-406, 49-407, and 49-427; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended May 1, 1985; amended May 1, 1986; amended May 1, 1988; amended Feb. 11, 1991; amended May 2, 1997.)

Article 4.—PUBLIC HEARINGS

47-4-14a. Administrative hearing procedure. (a) The following shall be the regulations that govern the procedure used in all administrative hearings resulting from the following:

(1) petitions for review of proposed civil penalty assessments issued by the secretary;

(2) applications for review of notices of violation and orders of cessation or modification, vacation or termination of notices of violation and orders of cessation;

(3) applications for review of the secretary's decision to disapprove, suspend, or revoke a permit;

(4) applications for temporary relief;

(5) applications for review of alleged discriminatory acts;

(6) petitions for award of costs and expenses;

(7) appeals from initial orders or decisions of presiding officers; and

(8) all other appeals and review procedures authorized by the act.

(b) Definitions. As used in these regulations, the following definitions shall apply.

(1) "Party" means the person to whom an order, notice of violation, civil penalty assessment, suspension of permit, revocation of permit, or petition for award of costs and expenses, is specifically directed; or

(2) a person named or allowed to intervene as a party to a state agency proceeding or allowed to intervene as a party in a proceeding.

(c) Rules of procedure.

(1) Hearings shall be held in the location designated by the presiding officer, giving due consideration to the convenience of the parties, their representatives and witnesses, except as otherwise provided by the state act.

(2) All documents that are to be filed in a proceeding governed by this section shall be filed with the administrative appeals section of the Kansas department of health and environment, suite 400D, 109 SW 9th, Topeka, Kansas 66612-1215.

(3) A person who has initiated a proceeding under this regulation shall file a proof of service in the form of a

registered receipt if by certified or registered mail, or acknowledgement by the party served or verified return when service is made personally. A certificate of service shall be contained in all other documents filed by a party.

(4) The effective filing date of a notice of appeal or petition for review shall be the date of receipt by the administrative appeals section if filed personally, or the postmark date if filed by mail. The burden of establishing the date of mailing shall be on the person filing the document.

(5) All documents shall be captioned with the following information:

(A) the name of the party;

(B) name of the facility, mine, or site to which the document pertains; and

(C) if appropriate, the following information:

(i) the number of the notice, order, or other agency decision or action to which the appeal pertains;

(ii) the case number assigned to the original agency action; and

(iii) any other identifying information, including permit number.

(6) Service.

(A) Copies of documents that initiate a proceeding shall be served upon all parties by registered or certified mail, return receipt requested.

(B) Copies of all subsequent documents shall be served personally or by first-class mail.

(C) Service of all documents shall be complete at the time of personal service, or, if by mail, upon receipt.

(D) When an attorney has entered an appearance on behalf of a party, thereafter service shall be made upon the attorney.

(7) Intervention. Any person may petition for leave to intervene in a proceeding. Each petition shall set out the interest of the petitioner and why the petitioner's interest is or may be affected.

(A) The presiding officer shall grant intervention if the petitioner fulfills these requirements:

(i) had a statutory right to initiate the proceeding into which the petitioner seeks intervention; or

(ii) has an interest that is or may be adversely affected by the outcome of the proceeding.

(B) If subsections (7) (A) (i) or (7) (A) (ii) of this regulation are not applicable, the presiding officer shall consider the following to determine if intervention is appropriate:

(i) the nature of the issues;

(ii) the adequacy of the representation of petitioner's interest provided by the existing parties;

(iii) the ability of the petitioner to present relevant evidence and argument; and

(iv) the effect of intervention on the agency's implementation of its statutory duties.

(C) Each person granted leave to intervene shall participate as a party.

(D) The presiding officer shall determine the extent and terms of limited participation by an intervenor.

(8) Voluntary dismissal. Any party who initiated a proceeding may withdraw it by moving to dismiss. The presiding officer may grant such a motion.

(9) Pleadings, motions, briefs; service. At appropriate stages of the proceeding, each party shall be given full opportunity to file pleadings, motions, and objections.

(A) Each pleading and motion shall be in writing and state concisely the supporting grounds.

(B) Each party shall have 15 days from the date of service of the pleading in which to file a response, unless otherwise ordered by the presiding officer.

(C) Failure to make a timely motion or response shall be construed as a waiver of objection.

(D) Each motion shall be ruled upon expeditiously.

(E) At appropriate stages, each party shall be given full opportunity to file briefs, proposed findings of fact and conclusions of law, and proposed initial and final orders.

(F) Each document filed pursuant to this subsection shall be served on all parties by mail or any other means prescribed in this regulation.

(10) Consolidation. When pending proceedings involve a common question of fact or law, they shall be consolidated pursuant to a motion by a party or the presiding officer.

(11) Waiver of hearing. Any person entitled to a hearing may waive such right in writing. Any person required to file a responsive pleading who fails to do so by the required time may be deemed to have waived the person's right to a hearing. Unless all parties who are entitled to a hearing waive such rights or are deemed to have waived such rights, a hearing shall be held.

(d) Formal hearings. When a statute provides for a hearing in accordance with these regulations, the hearing shall be governed by this subsection.

(1) Participation and representation.

(A) Each party shall participate in the hearing in person or, if the party is a corporation or other artificial person, by a duly authorized representative.

(B) Whether or not participating in person, each party may be represented at the party's own expense by counsel or, if permitted by law, other representative.

(C) Each corporation or other artificial person shall participate by counsel.

(2) Presiding officer.

(A) The secretary or one or more other persons designated by the secretary shall be the presiding officer.

(B) Each person serving or designated to serve alone or with others as presiding officer shall be subject to disqualification for administrative bias, prejudice, or interest.

(C) Any party may petition for the disqualification of a presiding officer promptly after receipt of notice indicating that the person will preside or promptly upon discovering facts establishing grounds for disqualification, whichever is later.

(D) A presiding officer whose disqualification is requested shall determine whether or not to grant the petition, stating facts and reasons for the determination. In the event that the presiding officer fails to grant a petition for disqualification, the petitioning party may file an affidavit of personal bias or disqualification with substantiating facts, and the matter of disqualification shall be determined by the secretary.

(E) If a substitute is required for a presiding officer who is disqualified or becomes unavailable for any rea-

son, each action taken by a duly appointed substitute for a disqualified or unavailable presiding officer shall be as effective as if taken by the disqualified or unavailable presiding officer.

(F) Agreements may be entered into by the department with another state agency to provide hearing officers the opportunity to conduct proceedings under these regulations.

(3) Prehearing conference; notice. The presiding officer designated to conduct the hearing may conduct a prehearing conference. If the conference is conducted, these shall apply:

(A) A presiding officer shall be assigned by the department for the prehearing conference, exercising the same discretion as is provided by subsection (d)(2) concerning the selection of a presiding officer for a hearing.

(B) The presiding officer for the prehearing conference shall set the time and place of the conference and give reasonable notice to all parties and to all persons who have filed written petitions to intervene in the matter.

(4) The prehearing conference notice shall include the following:

(A) the names and mailing addresses of all parties and other persons to whom notice is being given by the presiding officer;

(B) the name, official title, mailing address, and telephone number of any counsel or employee who has been designated to appear for the state agency;

(C) the official file or other reference number, the name of the proceeding, and a general description of the subject matter;

(D) a statement of the time, place, and nature of the prehearing conference;

(E) a statement of the legal authority and jurisdiction under which the prehearing conference and hearing are to be held;

(F) the name, official title, mailing address, and telephone number of the presiding officer for the prehearing conference;

(G) a statement that any party who fails to attend or participate in a prehearing conference, hearing, or other stage of an adjudicative proceeding shall be held in default; and

(H) a notice that may include any other matters that the presiding officer considers desirable to expedite the proceedings.

(5) Prehearing conference procedure; prehearing order.

(A) The presiding officer may conduct all or part of the prehearing conference by telephone or other electronic means if each participant in the conference has an opportunity to participate in the entire proceeding while it is taking place.

(B) The presiding officer shall conduct the prehearing conference, as shall be appropriate, to deal with such matters as the following:

(i) exploration of settlement possibilities;

(ii) preparation of stipulations;

(iii) clarification of issues;

(iv) rulings on identity and limitation of the number of witnesses;

(continued)

(v) objections to proffers of evidence;

(vi) determination of the extent to which direct evidence, rebuttal evidence, or cross-examination will be presented in written form and the extent to which telephone or other electronic means will be used as a substitute for proceedings in person;

(vii) order of presentation of evidence and cross-examination;

(viii) rulings regarding issuance of subpoenas;

(ix) discovery orders and protective orders; and

(x) such other matters as will promote the orderly and prompt conduct of the hearing.

(C) The presiding officer shall issue a prehearing order incorporating the matters determined at the prehearing conference.

(D) If a prehearing conference is not held, the presiding officer for the hearing shall issue a prehearing order, based on the pleadings, to regulate the conduct of the proceedings.

(6) Notice of administrative hearing.

(A) The time and place of the hearing shall be set by the presiding officer. Reasonable written notice at least 10 days before the hearing shall be given to all parties and to all persons who have filed written petitions to intervene in the matter. Service of notices shall be made in accordance with subsection (d) (18) of this regulation, as amended.

(B) The notice shall include a copy of any prehearing order rendered in the matter.

(C) To the extent not included in the prehearing order accompanying it, the notice shall include the following:

(i) the names and mailing addresses of all parties and other persons to whom notice is being given by the presiding officer;

(ii) the name, official title, mailing address, and telephone number of any counsel or employee who has been designated to appear for the state agency;

(iii) the official file or other reference number, the name of the proceeding, and a general description of the subject matter;

(iv) the time, place, and nature of the hearing;

(v) the legal authority and jurisdiction under which the hearing is to be held;

(vi) the name, official title, mailing address, and telephone number of the presiding officer;

(vii) the issues involved and, to the extent known to the presiding officer, the matters asserted by the parties; and

(viii) a statement that any party who fails to attend or participate in a prehearing conference, hearing, or other stage of an adjudicative proceeding shall be held in default.

(D) The notice may include any other matters that the presiding officer considers desirable to expedite the proceedings.

(E) The presiding officer shall cause notice to be given to any other person entitled to notice under any other provisions of law, who has not been given notice under subsection (d) (6) (A) of this regulation, as follows.

(i) Notice under this subsection shall be given in the manner specified by such provision of law or, if no such

manner is specified, in a manner determined by the agency.

(ii) If any person other than the agency is directed to give notice under this subsection, the agency shall require that the person furnish proof of service.

(iii) Notice under this subsection may include all types of information provided in subsections (d) (6) (A) through (D) of this regulation or may consist of a brief statement indicating the subject matter, parties, time, place where the hearing will be held, locations where the general public may meet for hearings that are conducted electronically, nature of the hearing, manner in which copies of the notice to the parties may be inspected and copied, and the name and telephone number of the presiding officer.

(iv) Notice of the hearing shall be posted by the department at the surface mining section office and, where practicable, shall be published in a newspaper of general circulation in the area of the mine at least seven days prior to the hearing.

(7) Default.

(A) If a party fails to attend or participate in a prehearing conference, hearing, or other adjudicative proceeding, the presiding officer may serve all parties with written notice of the proposed default order, including the grounds for default.

(B) Within seven days after service of a proposed default order, the party against whom it was issued may file a written motion requesting that the proposed default order be vacated, stating the grounds relied upon. During this period, the presiding officer may adjourn the proceedings or conduct them without the participation of the defaulting party, having due regard for the interests of justice and the orderly and prompt conduct of the proceedings.

(C) The proposed default order shall become effective seven days after service, unless vacated by the presiding officer.

(D) Once a default order becomes effective, the presiding officer may conduct any proceedings necessary to complete the adjudication and determine all issues in the adjudication, including those affecting the defaulting party without the defaulting party's participation. In lieu of determining the issues affecting the defaulting party, the presiding officer may dismiss such party's application for an adjudicative proceeding, unless otherwise prohibited by law.

(8) Certification of interlocutory ruling. On the presiding officer's or a party's motion, a ruling may be certified to the secretary if that ruling presents a controlling question of law and if immediate appeal would materially advance the ultimate disposition of the case.

(9) Summary judgment. Each party may move for summary decision, in whole or in part, after a proceeding has begun.

(A) The moving party shall verify each allegation of fact with a supporting affidavit or affidavits, unless reliance is upon depositions, answers to interrogatories, admissions, or documents produced upon request to verify each allegation.

(B) The presiding officer shall grant such a motion for summary judgment if the record, including pleadings,

depositions, answers to interrogatories, admissions, and affidavits, shows the following:

(i) there is no disputed issue as to any material fact; and

(ii) the moving party is entitled to a summary decision as a matter of law.

(C) If complete summary decision is not granted and an evidentiary hearing is necessary, the presiding officer shall, if practicable, perform the following:

(i) examine all relevant evidence and documents in the record;

(ii) ascertain what material facts are controverted in good faith;

(iii) issue an order specifying those facts that are not substantially controverted; and

(iv) direct any further proceedings that the presiding officer determines are necessary.

(10) The presiding officer shall perform these duties:

(A) shall regulate the proceedings;

(B) shall afford to each party the opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence, to the extent necessary for full disclosure of all relevant facts and issues, except as restricted by a limited grant of intervention or by the prehearing order;

(C) may, and when required by statute shall, give nonparties an opportunity to present oral or written statements. When the presiding officer proposes to consider a statement by a nonparty, the following apply:

(i) each party shall have an opportunity to challenge or rebut the statement; and

(ii) any party may, by motion, require the statement to be given under oath or confirmation;

(D) may conduct all or part of the hearing by telephone or other electronic means, if each participant in the hearing has an opportunity to participate in the entire proceeding;

(E) shall cause the hearing to be recorded at the state agency's expense. The state agency shall not be required, at its expense, to prepare a transcript, unless required to do so by any other provision of law. Each party, at the party's expense and subject to such reasonable conditions as the state agency may establish, may cause a person other than the state agency to prepare a transcript from the state agency's record, or cause additional recordings to be made during the hearing; and

(F) may close parts of the hearing from public observation only when a provision of the law expressly authorizes closure.

(11) Proposed findings of fact and conclusions of law. The presiding officer shall allow the parties to submit proposed findings of fact and conclusions of law with a supporting brief therefor at a time set forth by the presiding officer.

(12) Evidence; official notice.

(A) A presiding officer shall not be bound by the statutory rules of evidence, but shall give the parties reasonable opportunity to be heard and to present evidence, and the presiding officer shall act reasonably without partiality. The presiding officer shall give effect to the rules of privilege recognized by law. Evidence may not be excluded solely because it is hearsay.

(B) All testimony of parties and witnesses shall be made under oath or affirmation, and the presiding officer shall have the power to administer an oath or affirmation for that purpose.

(C) Statements presented by nonparties in accordance with subsection (d)(10)(C) of this regulation shall be received as evidence.

(D) Any part of the evidence may be received in written form if doing so will expedite the hearing without substantial prejudice to the interests of any party.

(E) Documentary evidence shall be received in the form of a copy or excerpt. Upon request, parties shall be given an opportunity to compare the copy with the original, if available.

(F) Official notice shall be taken of the following:

(i) any matter that could be judicially noticed in the courts of this state;

(ii) the record of other proceedings before the state agency;

(iii) technical or scientific matters within the state agency's specialized knowledge; and

(iv) codes of standards that have been adopted by an agency of the United States, of this state or of another state, or by a nationally recognized organization or association. Each party shall be notified before or during the hearing, or before the issuance of any initial or final order that is based in whole or in part on matters or material noticed, of the specific matters or material noticed and the source, including any staff memoranda and data. Each party shall be afforded an opportunity to contest and rebut the matters or material so noticed.

(13) Orders, initial and final.

(A) If the presiding officer is the agency head, the presiding officer shall render a final order.

(B) If the presiding officer is not the agency head, the presiding officer shall render an initial order, which shall become a final order unless reviewed in accordance with subsection (d)(14) of this regulation.

(C) A final order or initial order shall include, separately stated, findings of fact, conclusions of law, and policy reasons for the decision if it is an exercise of the state agency's discretion, for all aspects of the order, including the remedy prescribed and, if applicable, the action taken on a petition for stay of effectiveness. Findings of fact, if set forth in language that is no more than mere repetition or paraphrase of the relevant provision of law, shall be accompanied by a concise and explicit statement of the underlying facts of record to support the findings. The order shall also include a statement of the available procedures and time limits for seeking reconsideration, administrative review, or other administrative relief. An initial order shall include a statement of any circumstances under which the initial order, without further notice, may become a final order.

(D) Findings of fact shall be based exclusively upon the evidence of record in the adjudicative proceeding and on matters officially noticed in that proceeding.

(E) If a substitute presiding officer is appointed, the substitute presiding officer may use any existing record and may conduct any further proceedings appropriate in the interests of justice.

(continued)

(F) The presiding officer shall allow the parties to a proceeding to have an opportunity to submit proposed findings of fact and conclusions of law together with a supporting brief at a time designated by the presiding officer.

(G) A final order or initial order pursuant to this section shall be rendered in writing and served within 30 days after conclusion of the hearing or after submission of proposed findings in accordance with paragraph (d)(13)(F) of this regulation, unless this period is waived or extended with the written consent of all parties or for good cause shown.

(H) The presiding officer shall cause copies of the order to be served on each party and, if the order is an initial order, the agency head in the manner prescribed by subsection (d)(18) of this regulation.

(14) Review of initial order; exceptions to reviewability.

(A) The secretary or secretary's designee, upon the secretary or secretary's designee's own motion may, and upon petition by any party or when required by law shall, review an initial order, except to the extent that these conditions apply:

(i) a provision of law precludes or limits review of the initial order; or

(ii) the secretary or secretary's designee determines to review some but not all issues, or not to exercise any review, or delegates its authority to review the initial order to one or more persons, unless such delegation is expressly prohibited by law, or authorizes one or more persons to review the initial order, subject to further review by the secretary or secretary's designee.

(B) A petition for review of an initial order shall be filed with the secretary or secretary's designee, or with any person designated for this purpose by regulation of the department, within 15 days after service of the initial order. If the secretary or secretary's designee on the secretary or secretary's designee's own motion decides to review an initial order, the secretary or secretary's designee shall give written notice of the secretary or secretary's designee's intention to review the initial order within 15 days after the initial order is issued. If the secretary or secretary's designee determines not to review an initial order in response to a petition for review, the secretary or secretary's designee shall, within 20 days after filing of the petition for review, serve on each party an order stating that review will not be exercised.

(C) The petition for review shall state its basis. If the secretary or secretary's designee on the secretary or secretary's designee's own motion gives notice of its intent to review an initial order, the secretary or secretary's designee shall identify the issues that it intends to review.

(D) In reviewing an initial order, the secretary or secretary's designee shall exercise all the decision-making power that the secretary or secretary's designee would have had to render a final order had the secretary presided over the hearing, except to the extent that the issues subject to review are limited by a provision of law or by the secretary or secretary's designee upon notice to all parties.

(E) The secretary or secretary's designee shall afford each party an opportunity to present briefs and shall afford each party an opportunity to present oral argument.

(F) The secretary or secretary's designee shall render a final order disposing of the proceeding or remand the matter for further proceedings with instructions to the presiding officer who rendered the initial order. Upon remanding a matter, the secretary or secretary's designee shall order any temporary relief that is authorized and appropriate.

(G) A final order or an order remanding the matter for further proceedings shall be rendered in writing and served within 30 days after receipt of briefs and oral argument, unless that period is waived or extended with written consent of all parties or for good cause shown.

(H) A final order or an order remanding the matter for further proceedings under this section shall identify any difference between this order and the initial order and shall include, or incorporate by express reference to the initial order, all the matters required by paragraph (d)(13)(C) of this regulation.

(I) The secretary or secretary's designee shall cause copies of the final order or order remanding the matter for further proceedings to be served on each party in the manner prescribed by subsection (d)(18) of this regulation.

(15) Stay. A party may submit to the presiding officer or secretary or secretary's designee a petition for stay of effectiveness of an initial or final order until the time at which a petition for judicial review would no longer be timely, unless otherwise provided by statute or stated in the initial or final order. The presiding officer or secretary or secretary's designee may take action on the petition for stay, either before or after the effective date of the initial or final order.

(16) Reconsideration.

(A) Each party, within 15 days after service of a final order, may file a petition for reconsideration with the secretary or secretary's designee, stating the specific grounds upon which relief is requested. The filing of the petition shall not be a prerequisite for seeking administrative or judicial review.

(B) The secretary shall render a written order denying the petition, granting the petition and dissolving or modifying the final order, or granting the petition and setting the matter for further proceedings. The petition may be granted, in whole or in part, only if the secretary states, in the written order, findings of fact, conclusions of law, and policy reasons for the decision if it is an exercise of the department's discretion, to justify the order. The petition shall be deemed to have been denied if the secretary does not dispose of it within 20 days after the filing of the petition.

(C) An order under this section shall be served on the parties in the manner prescribed by subsection (d)(18) of this regulation.

(17) Orders, when effective.

(A) Unless a later date is stated in a final order or a stay is granted, a final order shall be effective upon service.

(B) Unless a later date in an initial order or a stay is granted, an initial order shall become effective and shall become the final order under these circumstances:

(i) when the initial order is served, if administrative review is unavailable;

(ii) when the secretary serves an order stating, after a petition for review has been filed, that review will not be exercised; or

(iii) when, 30 days after service if no party has filed a petition for review by the secretary and the secretary has not given written notice of its intent to exercise review, and review by the secretary is not otherwise required by law.

(18) Service of order. Service of an order or notice shall be made upon the party and the party's attorney of record, if any, by delivering a copy of the order or notice to the person to be served or by mailing a copy of the order or notice to the person at the person's last known address. Delivery of a copy of an order or notice means handing the order or notice to the person or leaving the order or notice at the person's principal place of business or residence and with a person of suitable age and discretion who works or resides therein. Service shall be presumed if the presiding officer, or a person directed to make service by the presiding officer, makes a written certificate of service. Service by mail shall be complete upon mailing. Whenever a party has the right or is required to do some act or file a petition within a prescribed period after service of a notice or order and the notice or order is served by mail, three days shall be added to the prescribed period.

(19) Record.

(A) The department shall maintain an official record of each formal hearing.

(B) The record shall consist only of these items:

- (i) notices of all proceedings;
- (ii) any prehearing order;
- (iii) any motions, pleadings, briefs, petitions, requests, and intermediate rulings;
- (iv) evidence received or considered;
- (v) a statement of matters officially noticed;
- (vi) proffers of proof and objections and rulings on the proffers;
- (vii) proposed findings, requested orders, and exceptions;
- (viii) the record prepared for the presiding officer at the hearing, together with any transcript of all or part of the hearing considered before final disposition of the proceeding;
- (ix) any final order, initial order, or order on reconsideration; and
- (x) staff memoranda or data submitted to the presiding officer.

(C) Except to the extent that these regulations or another statute provides otherwise, the department's record, excluding matters under subsection (d)(19)(B)(x) of this regulation, shall constitute the exclusive basis for the department's action in formal hearings and for judicial review of the department's action. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-405, 49-407, and 49-416a; effective Feb. 11, 1991; amended May 2, 1997.)

47-4-15. Administrative hearings; discovery. Discovery shall be permitted to the extent allowed by the presiding officer or as agreed to by the parties. (a) Requests for discovery shall be made in writing to the presiding officer, and a copy of each request for discovery

shall be served on the party or person against whom discovery is sought. The presiding officer may specify the times during which the parties may pursue discovery and respond to discovery requests. The presiding officer may issue subpoenas, discovery orders, and protective orders in accordance with the rules of civil procedure.

(b) Subpoenas issued by the presiding officer shall be served by a person designated by the presiding officer or any other person who is not a party and is not less than 18 years of age. Service shall be in person and at the expense of the requesting party. Proof of service shall be shown by affidavit.

(c) Subpoenas and orders issued by the presiding officer shall be enforced pursuant to the provisions of the act for judicial review and civil enforcement of agency actions pursuant to K.S.A. 77-601 *et seq.*, as amended.

(d) Discovery methods. Parties may obtain discovery by one or more of the following methods:

- (1) depositions upon oral examination or upon written interrogatories;
- (2) written interrogatories;
- (3) production of documents or items, or permission to enter upon land or other property for inspection and other purposes; and
- (4) requests for admission.

(e) Time for discovery. Following the initiation of a proceeding, the parties may initiate discovery at any time so long as it does not interfere with the conduct of the hearing.

(f) Scope of discovery.

(1) Unless otherwise limited by order of the presiding officer in accordance with these regulations, the parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the proceeding, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible items, and the identity and location of persons having knowledge of any discoverable matter.

(2) It shall not be grounds for objection that information sought will not be admissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(3) A party may obtain discovery of documents and tangible items otherwise discoverable under subsection (f)(1) of this regulation and prepared in anticipation of or for the hearing by or for another party's representative, including a party's attorney, consultant, surety, indemnitor, insurer, or agent. This discovery shall occur only upon a showing that the party seeking discovery has substantial need of the materials for the preparation of a party's case and that the party is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the presiding officer shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the proceeding.

(g) Protective order. Upon motion by a party or the person from whom discovery is sought, and for good

(continued)

cause shown, the presiding officer may make any order that justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

- (1) the discovery not be had;
 - (2) the discovery may be had only on specified terms and conditions, including a designation of the time or place;
 - (3) the discovery may be had only by a method of discovery other than the method selected by the party seeking discovery;
 - (4) certain matters not relevant may not be inquired into, or the scope of discovery be limited to certain matters;
 - (5) discovery be conducted with no one present except persons designated by the presiding officer; or
 - (6) a trade secret or other confidential research, development, or commercial information may not be disclosed or may be disclosed only in a designated way.
- (h) Sequence and timing of discovery. Unless the presiding officer upon motion, for the convenience of parties and witnesses and in the interests of justice, orders otherwise, methods of discovery may be used in any sequence. The fact that a party is conducting discovery, whether by deposition or otherwise, shall not operate to delay any other party's discovery.

(i) Supplementation of responses. A party who has responded to a request for discovery with a response that was complete when made is under no duty to supplement the party's response to include information thereafter acquired, except as follows.

(1) A party shall be under a duty to timely supplement the party's response with respect to any question directly addressed to the following:

(A) the identity and location of persons having knowledge of discoverable matters; or

(B) the identity of each person expected to be called as an expert witness at the hearing, the subject matter on which the expert witness is expected to testify, and the substance of the expert's testimony.

(2) A party shall timely amend a prior response if the party later obtains information upon the basis of which either condition applies:

(A) the party knows the response was incorrect when made; or

(B) the party knows that the response, though correct when made, is no longer true, and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

(3) A duty to supplement responses may be imposed by order of the presiding officer or agreement of the parties.

(j) Motion to compel discovery.

(1) If a deponent fails to answer a question propounded, or if a party upon whom a request is made pursuant to subsection (d)(3) of this regulation or a party upon whom answers to interrogatories are served fails to adequately respond or objects to the request, or any part thereof, or fails to permit inspection as requested, the discovering party may move the presiding officer for an order compelling a response or inspection in accordance with the request.

(2) The motion shall set forth the following:

- (A) the nature of the questions or request;
- (B) the response or objection of the party upon whom the request was served; and
- (C) arguments in support of the motion.

(3) For purposes of this section, an evasive answer or an incomplete answer or response shall be treated as a failure to answer or respond.

(4) In ruling on a motion made pursuant to this section, the presiding officer may make such protective orders as the presiding officer is authorized to make on a motion made pursuant to K.A.R. 47-4-15(g).

(k) Failure to comply with orders compelling discovery. If a party or an officer, director, or other agent of a party fails to obey an order to provide or permit discovery, the presiding officer before whom the action is pending may make such orders in regard to the failure as are just, including the following:

(1) an order that the matters sought to be discovered or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(2) an order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting the party from introducing designated matters into evidence; or

(3) an order striking out pleadings or parts of pleadings, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part of the action or proceeding, or rendering a judgment by default against the disobedient party.

(l) Depositions upon oral examination or upon written questions.

(1) Any party desiring to take the testimony of any other party or other person by deposition upon oral examination or written questions shall, without leave of the presiding officer, give reasonable notice in writing to every other party, to the person to be examined and to the presiding officer, of the following:

(A) the proposed time and place of taking the deposition;

(B) the name and address of each person to be examined, if known, or if the name is not known, a general description sufficient to identify the person or the particular group or class to which the person belongs;

(C) the matter upon which each person will be examined; and

(D) the name or descriptive title and address of the officer before whom the deposition is to be taken.

(2) A deposition may be taken before any officer authorized to administer oaths by the laws of the United States or by those of the place where the examination is held.

(3) The actual taking of the deposition shall proceed as follows.

(A) The deposition shall be on the record.

(B) The officer before whom the deposition is to be taken shall put the witness under oath or affirmation.

(C) Examination and cross-examination shall proceed as at a hearing.

(D) Each objection made at the time of the examination shall be noted by the officer.

(E) The officer shall not rule on objections to the evidence, but evidence objected to shall be taken subject to the objections.

(4) When the testimony is fully transcribed, the deposition shall be submitted to the deponent for examination and signature, unless examination and signature are waived by the deponent. The officer shall certify the deposition or, if the deposition is not signed by the deponent, shall certify the reasons for the failure to sign.

(5) When the deposition is to be taken on written questions, the party taking the deposition shall serve a copy of the questions, showing each question separately and consecutively numbered, on every other party with a notice stating the name and address of the person who is to answer the questions, and the name, description, title, and address of the officer before whom the questions are to be taken. Within 30 days after service, any other party may serve cross-questions. The questions, cross-questions, and answers shall be recorded and signed, and the deposition certified, as in the case of a deposition on oral examination.

(6) A deposition shall not become a part of the record in the hearing unless received in evidence. If only part of a deposition is offered in evidence by a party, any other party may introduce any other parts.

(7) A deponent whose deposition is taken and the officer taking a deposition shall be entitled to the same fees as are paid for like services in the district courts of the United States, to be paid by the party at whose request the deposition is taken.

(8) The deponent may be accompanied, represented, and advised by legal counsel.

(m) Use of depositions. At the hearing, any part or all of a deposition, so far as admissible, may be used against any party who was present or represented at the taking of the deposition, or who had reasonable notice of the deposition, in accordance with any of the following provisions.

(1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of a deponent as a witness.

(2) The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or managing agent or a person designated to testify on behalf of a public or private corporation, partnership, or association or governmental agency that is a party may be used by an adverse party for any purpose.

(3) The deposition of a witness, whether or not a party, may be used by a party for any purpose if the presiding officer finds that any of these conditions occur:

(A) the witness is dead;

(B) the witness is at a distance greater than 100 miles from the place of hearing, or is outside the United States, unless it appears that the absence of the witness was procured by the party offering the deposition;

(C) the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment;

(D) the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or

(E) such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to

the importance of presenting the testimony of witnesses orally at the hearing, to allow the deposition to be used.

(n) Written interrogatories to parties.

(1) Any party may serve upon any other party written interrogatories to be answered in writing by the party served, or if the party served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish the requested information that is available to the party. A copy of the interrogatories, answers, and all related pleadings shall be served on the presiding officer and upon all parties to the proceeding.

(2) Each interrogatory shall be answered separately and fully in writing under oath or affirmation, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answer and objections shall be signed by the person making them. The party upon whom the interrogatories were served shall serve a copy of the answers and objections upon all parties to the proceeding within 30 days after service of the interrogatories, or within a shorter or longer period that the presiding officer may allow.

(3) Interrogatories may relate to any matters that can be inquired into under subsection (f) of this regulation. An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact. However, the presiding officer may order that such an interrogatory need not be answered until after the completion of designated discovery or until a prehearing conference or other later time.

(o) Production of documents and items, and entry upon land for inspection and other purposes.

(1) Any party may serve on any other party a request to perform the following:

(A) produce and permit the party making the request, or a person acting on the party's behalf, to inspect and copy any designated document, or to inspect and copy, test, or sample any tangible items within the scope of subsection (f) above of this regulation, that are in the possession, custody, or control of the party upon whom the request is served; or

(B) permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property, including the air, water, and soil, or any designated object or operation on the land, within the scope of subsection (f) of this regulation.

(2) The request may be served on any party without leave of the presiding officer.

(3) The request shall fulfill these requirements:

(A) set forth the items to be inspected either by individual item or by category;

(B) describe each item or category with reasonable particularity; and

(C) specify a reasonable time, place, and manner of making the inspection and performing the related acts.

(4) The party upon whom the request is served shall serve a written response on the party submitting the request within 30 days after service of the request.

(continued)

(5) The response shall state the following, with respect to each item or category:

(A) that inspection and related activities will be permitted as requested; or

(B) that objection is made in whole or in part, in which case the reasons for objection shall be stated.

(p) Request for admissions.

(1) A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the genuineness and authenticity of any relevant document described in or attached to the request, or for the admission of the truth of any specified relevant matter of fact.

(2) Each matter of which an admission is requested shall be admitted unless, within 30 days after service of the request or shorter or longer time that the presiding officer may allow, the party to whom the request is directed serves on the requesting party the following:

(A) a sworn statement denying specifically the relevant matters of which an admission is requested;

(B) a sworn statement setting forth in detail the reasons why the party can neither truthfully admit nor deny the matters; or

(C) written objections on the grounds that some or all of the matters involved are privileged or irrelevant or that the request is otherwise improper in whole or in part.

(3) An answering party shall not give lack of information or knowledge as a reason for failure to admit or deny unless the party states that the party has made reasonable inquiry and that the information known or readily obtainable by the party is insufficient to enable the party to admit or deny.

(4) The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the presiding officer determines that an objection is justified, the presiding officer shall order that an answer be served. If the presiding officer determines that an answer does not comply with the requirements of this section, the presiding officer may order either that the matter is admitted or that an amended answer be served. The presiding officer may, in lieu of these orders, determine that final disposition of the request be made at a prehearing conference or at a designated time before hearing.

(5) Any matter admitted under this section shall be conclusively established unless the presiding officer on motion permits withdrawal or amendment of the admission.

(6) Any admission made by a party under this section shall be for the purpose of the pending action only and shall not be an admission by the party for any other purpose. The admission shall not be used against the party in any other proceeding. (Authorized by K.S.A. 49-405; and implementing K.S.A. 49-405, 49-407, and 49-416a; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997.)

47-4-16. Interim orders for temporary relief. (a) An interim order for temporary relief may be issued by the department or a presiding officer, on its own initiative or on written request, when there has been a showing of

good cause. An interim order shall not be granted in permit application cases in which the relief sought is issuance of a permit that has been denied in whole or in part by the department.

(b) Unless otherwise specified by statute, an interim order for temporary relief shall be effective for 30 days at most if a hearing is not held on the merits of the issues. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-405, 49-407, and 49-416a; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended Feb. 11, 1991; amended May 2, 1997.)

47-4-17. Administrative hearings; award of costs and expenses. (a) Any person may file a petition for award of costs and expenses, including attorney fees, reasonably incurred as a result of that person's participation in any administrative proceeding under the state act which results in a final order being issued by the department or its presiding officer. The petition shall be filed within 45 days of receipt of the order. Failure to make a timely filing of the petition may constitute a waiver of the right to an award.

(b) A petition filed under this section shall include the name of the person from whom costs and expenses are sought, and the following shall be submitted in support of the petition:

(1) an affidavit detailing all costs and expenses, including attorney fees, incurred as a result of participation in the proceeding;

(2) receipts or other evidence of the costs and expenses; and

(3) where attorney fees are claimed, the hours expended on the case, the customary commercial rate of payment for services in the locality, and evidence of the experience, reputation, and ability of the attorney or attorneys.

(c) Any person served with the petition shall have 30 days after the date of service to file an answer.

(d) Appropriate costs and expenses, including attorney fees, may be awarded as follows:

(1) from the permittee, if the person initiates any administrative proceedings, or participates in the proceedings, upon a finding that a violation of the state act, of these regulations, or of the permit has occurred, or that an imminent hazard existed, or to any person who participates in an enforcement proceeding in which such a finding is made if the department or its presiding officer determines that the person made a substantial contribution to the full and fair determination of the issues;

(2) from the department to anyone other than the permittee or permittee's representative, if the person initiates or participates in any proceeding under the act upon a finding that the person made a substantial contribution to a full and fair determination of the issues;

(3) from the department to the permittee when the permittee demonstrates that the department issued an order of cessation, a notice of violation or an order to show cause why a permit should not be suspended or revoked, in bad faith and for the purpose of harassing or embarrassing the permittee;

(4) to a permittee from any person when the permittee demonstrates that the person initiated a proceeding or

participated in such a proceeding in bad faith for the purpose of harassing or embarrassing the permittee; or

(5) to the department when it demonstrates that any person applied for review or participated in an administrative proceeding in bad faith and for the purpose of harassing or embarrassing the department or any person employed by the department.

(e) An award may include all costs and expenses, including attorney fees and expert witness fees, reasonably incurred as a result of initiation of or participation in a proceeding under the state act. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-405, 49-407 and 49-416a; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended Feb. 11, 1991; amended May 2, 1997.)

Article 5.—CIVIL PENALTIES

47-5-5a. Civil penalties; adoption by reference. (a) Subject to the provisions of subsection (c), the following regulations as in effect on July 1, 1995 are adopted by reference except as otherwise indicated:

- (1) how assessments are made, 30 CFR 845.11;
- (2) when penalty will be assessed, 30 CFR 845.12;
- (3) point system for penalties, 30 CFR 845.13;
- (4) determination of amount of penalty, 30 CFR 845.14;
- (5) assessment of separate violations for each day, 30 CFR 845.15;

(6) waiver of use of formula to determine civil penalty, 30 CFR 845.16;

(7) procedures for assessment of civil penalties, 30 CFR 845.17;

(8) procedures for assessment conference, 30 CFR 845.18;

(9) request for a hearing, 30 CFR 845.19; and

(10) individual civil penalties, 30 CFR part 846, deleting the phrase "a Federal lands program," and changing the phrase "Federal enforcement of a state program pursuant to section 521 of the act" to "enforcement of a state program pursuant to K.S.A. 49-405 of the state act" in 30 CFR 846.5. 30 CFR 870.15(e)(1)-(5); (f), deleting "This penalty is in addition to the interest described in paragraph (c) of this section"; and (g) shall be adopted by reference as they relate to 30 CFR 846.18(d).

(b) The following terms shall be replaced with the indicated terms wherever they appear in the text of the federal regulations adopted by reference under K.A.R. 47-5-5a(a):

(1) "Act" shall be replaced by "state act";

(2) "Director" or "director or his designee" shall be replaced by "secretary of health and environment or secretary's designee";

(3) "Secretary" shall be replaced by "secretary of health and environment";

(4) "Section 521(a)" shall be replaced by "K.S.A. 49-405(m)(2)";

(5) "Section 525(c)" shall be replaced by "K.S.A. 49-416a(c)";

(6) "Section 526" and "section 526(c)" shall be replaced by "K.S.A. 49-422a";

(7) "Section 518(e), 518(f), 521(a)(4), or 521(c)" shall be replaced by "K.S.A. 49-405c(e), 49-405c(f), 49-405(m)(3), or 49-405(m)(4), respectively";

(8) "Office" or "office of hearings and appeals" shall be replaced by "department";

(9) "Section 518, 521(a)(4), and 525" shall be replaced by "K.S.A. 49-405c, 49-405(m)(3), and 49-416a";

(10) "30 CFR 845.20" shall be replaced by "K.A.R. 47-5-16";

(11) "43 CFR 4,1300 et seq." and "rule 4 of the federal rules of civil procedure" shall be replaced by "K.A.R. 47-4-14a";

(12) "standard" shall be replaced with "state regulation or standard";

(13) "30 CFR 843.16" shall be replaced by "K.A.R. 47-4-14a";

(14) "Section 521" shall be replaced by "K.S.A. 49-405";

(15) "Section 502" shall be replaced by "K.S.A. 49-406";

(16) "Section 703" shall be replaced by "K.S.A. 1995 Supp. 75-2973";

(17) "Hearing's Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203 (Phone: 703-235-3800)" shall be replaced by "Administrative appeals coordinator, administrative appeals section, office of the secretary, Kansas department of health and environment, mills building, suite 400D, 109 sw 9th street, Topeka, Kansas 66612-1215";

(18) "Section 518(b)" shall be replaced by "K.S.A. 49-405c(b)";

(19) "Federal" shall be replaced by "state"; and

(20) The following terms shall be replaced in 30 CFR 870.15(g).

(A) "OSM" shall be replaced by "the surface mining section."

(B) "Solicitor, Department of Interior" shall be replaced by "office of legal services, Kansas department of health and environment."

(c) Review of proposed assessments of civil penalties. In the event a request for hearing is made pursuant to subsection (a)(9) of these regulations, the procedures set forth in K.A.R. 47-4-14a and the following shall apply.

(1) Time for filing petition.

(A) A petition for review of a proposed assessment of a civil penalty shall be filed within 30 days of receipt of the proposed assessment; or

(B) if a timely request for a conference has been made pursuant to subsection (a)(8) of this regulation, a petition for review shall be filed within 15 days after service of notice by the presiding officer that the conference is completed.

(C) No extension of time shall be granted for filing a petition for review of a proposed assessment of a civil penalty as required by paragraph (c)(1)(A) or (B). If a petition for review is not filed within the time period provided in paragraph (c)(1)(A) or (B), the appropriateness of the amount of the penalty, and the fact of the violation if there is no proceeding pending under K.S.A. 49-416a(a) to review the notice of violation or cessation order involved, shall be admitted, the petition shall be dismissed, and the civil penalty assessed shall become a final order of the secretary.

(continued)

- (2) Contents of petition; payment required.
- (A) The petition shall include the following:
- (i) a short and plain statement indicating the reasons why either the amount of the penalty or the fact of the violation is being contested;
 - (ii) if the amount of penalty is being contested based upon a misapplication of the civil penalty formula, a statement indicating how the civil penalty formula contained in K.A.R. 47-5-5a(a), adopting by reference 30 CFR Part 845 and 846, was misapplied, along with a proposed civil penalty utilizing the civil penalty formula;
 - (iii) identification by number of each violation being contested;
 - (iv) the identifying number of the cashier's check, certified check, bank draft, personal check, or bank money order accompanying the petition; and
 - (v) a request for a hearing.
- (B) The petition shall be accompanied by these items:
- (i) full payment of the proposed assessment in the form of a cashier's check, certified check, bank draft, personal check or bank money order made payable to the Kansas department of health and environment, to be placed in an escrow account pending final determination of the assessment; and
 - (ii) on the face of the payment an identification by number of the violations for which payment is being tendered.
- (C) As required by K.S.A. 49-405c(c), failure to make timely payment of the proposed assessment in full shall result in a waiver of all legal rights to contest the violation or the amount of the penalty.
- (D) No extension of time shall be granted for full payment of the proposed assessment. If payment is not made within the time period provided in paragraph (c)(1) (A) or (B), the appropriateness of the amount of the penalty, the fact of the violation, and if there is no review proceeding, the notice of violation or cessation order involved shall be deemed admitted; the petition shall be dismissed; and the civil penalty assessed shall become a final order of the secretary.
- (3) Answer. The department shall have 30 days from receipt of a copy of the petition within which to file an answer.
- (4) Review of waiver determination.
- (A) Within 10 days of the filing of a petition, the petitioner may move the presiding officer to review the granting or denial of a waiver of the civil penalty formula pursuant to paragraph (a)(6) of this regulation.
- (B) The motion shall contain a statement indicating all alleged facts relevant to the granting or denial of a waiver.
- (C) Review shall be limited to the written determination of the section granting or denying the waiver, the motion, and responses to the motion. The standard of review shall be abuse of discretion.
- (D) If the presiding officer finds that the section abused its discretion in granting or denying the waiver, the presiding officer shall hold a hearing on the petition for review of the proposed assessment and make a determination pursuant to paragraph (c)(7) of this regulation.
- (5) Burden of proof in civil penalty proceedings. In civil penalty proceedings, the department shall have the

burden of going forward to establish a prima facie case as to the fact of the violation, the amount of the civil penalty, and the ultimate burden of persuasion as to the amount of the civil penalty. The person who petitioned for review shall have the ultimate burden of persuasion as to the fact of the violation.

(6) Summary disposition.

(A) In a civil penalty proceeding in which the person against whom the proposed civil penalty is assessed fails to comply on time with any prehearing order of a presiding officer, the presiding officer shall issue an order to show cause for the following conditions:

(i) that person should not be deemed to have waived the person's right to a hearing; and

(ii) the proceedings should not be dismissed and the assessment become final.

(B) If the order to show cause is not satisfied as required, the presiding officer shall order the proceedings summarily dismissed and issue a final order.

(C) When the person against whom the proposed civil penalty is assessed fails to appear at a hearing, that person will be deemed to have waived the person's right to a hearing, and the presiding officer may assume for purposes of the assessment the following:

(i) the occurrence of each violation listed in the notice of violation; and

(ii) the truth of any facts alleged in such notice or order.

(D) In order to issue an initial order assessing the appropriate penalty when the person against whom the proposed civil penalty is assessed fails to appear at the hearing, a presiding officer shall either conduct an ex parte hearing or require the department to furnish proposed findings of fact and conclusions of law.

(E) Nothing in this section shall be construed to deprive the person against whom the penalty is assessed of the person's opportunity to have the surface mining section prove the violations charged in open hearing with confrontation and cross-examination of witnesses, except when that person fails to comply with a prehearing order or fails to appear at the scheduled hearing.

(7) Initial order of the presiding officer.

(A) The presiding officer shall incorporate in the presiding officer's decision concerning the civil penalty, findings of fact on each of the four criteria set forth in K.A.R. 47-5-5a(a)(3) and conclusions of law.

(B)(i) If the presiding officer finds that a violation occurred or that the fact of violation is uncontested, the presiding officer shall establish the amount of the penalty, but in so doing, the presiding officer shall adhere to the point system and conversion table contained in 30 CFR 845.13 and 845.14 adopted by reference in K.A.R. 47-5-5a(a)(3) and (4), except that the presiding officer may waive the use of such point system where the presiding officer determines that a waiver would further abatement of violations of the state act. However, the presiding officer shall not waive the use of the point system and reduce the proposed assessment on the basis of an argument that a reduction in the proposed assessment could be used to abate other violations of the act.

(ii) If the presiding officer finds that no violation occurred, the presiding officer shall issue an order that the proposed assessment be returned to the petitioner.

(C) If the presiding officer finds that no violation occurred or reduces the amount of the civil penalty below the proposed assessment and if a timely petition for review of the presiding officer's decision is not filed with the secretary or if the secretary refuses to grant the petition, the presiding officer shall order the department to remit the appropriate amount to the person who made the payment within 30 days of receipt of the order finding no violation or reducing the penalty paid.

(D) If the presiding officer increases the amount of the civil penalty above that of the proposed assessment, the presiding officer shall order payment of the appropriate amount within 15 days after the order increasing the civil penalty is mailed.

(8) Appeals.

(A) Any party may petition the secretary to review and reconsider the initial order of a presiding officer concerning an assessment pursuant to K.A.R. 47-4-14a(d) (14) and (16), respectively.

(B) Any party may appeal the final order of the secretary pursuant to the Kansas judicial review act, K.S.A. 77-601 *et seq.* and amendments thereto. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-405, 49-405c, 49-416a; effective May 1, 1985; amended Feb. 11, 1991; amended May 2, 1997.)

47-5-16. Civil penalties; final assessment and payment of civil penalty. (a) If any person to whom a notice of violation or cessation order is issued fails to request a hearing, the proposed assessment shall become a final order of the secretary. The assessment contained in the final order shall be due and payable upon expiration of the time allowed to request a hearing.

(b) If any party requests judicial review of a final order of the secretary, the proposed civil penalty assessment shall be held in escrow until completion of the review. Otherwise, subject to subsection (c) of this regulation, the escrowed funds shall be transferred to the department in payment of the civil penalty, and the escrow shall end.

(c) If the final decision in the administrative and judicial review results in an order reducing or eliminating the proposed civil penalty under these regulations, all or part of the escrowed amount shall be refunded to the person assessed within 30 days of receipt of the order and shall include any interest that has accrued from the date of payment into escrow to the date of the refund.

(d) If the review results in an order increasing the penalty, the person to whom the notice or order was issued shall pay the difference to the department within 15 days after the order is mailed to that person. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-405c; effective May 1, 1984; amended May 1, 1985; amended Feb. 11, 1991; amended May 2, 1997.)

Article 6.—PERMIT REVIEW

47-6-1. Permit review. Each permit issued and outstanding during the term of the permit shall be reviewed by the secretary or secretary's designee not later than the middle of that term. Reasonable revision or modification of the permit provisions may be ordered at any time to ensure compliance with the laws and regulations. A copy of the order and the written findings shall be sent to the

operator. The order shall be subject to provisions of K.S.A. 49-407(d) and 49-422a. (Authorized by K.S.A. 49-405, 49-410; implementing K.S.A. 49-406 and 49-410; effective May 1, 1980; amended Feb. 11, 1991; amended May 2, 1997.)

47-6-2. Permit revision. (a) An application made by an operator to amend or revise an existing permit shall be submitted at least 60 days before the date on which the operator desires to have the approval of the secretary.

(b) If the application for permit revision contains significant alterations or departures from the method of mining or reclamation operations covered by the original permit, all permit application information, requirements, and procedures shall be met. Whether or not a significant alteration or departure is involved shall be determined by the secretary or secretary's designee on a case-by-case basis upon review, unless a determination is requested in writing by the operator upon or before filing the application. On receiving this request, the operator shall be advised by the secretary or secretary's designee if a significant alteration or departure is involved for the purpose of submitting an application.

(c) Each application for permit revision shall be accompanied by a map, when it is required, that meets the general map requirements of these regulations. The proposed amendment shall be described in detail and supported by the technical data necessary to establish its impact and consequences on the surface coal mining and reclamation operation, the environment, and the public health and safety. Additional information may be requested when necessary to make an evaluation of the impact.

(d) No application for a permit revision shall be approved unless the applicant demonstrates and the regulatory authority finds that these conditions exist:

(1) the reclamation required by the state act and the regulatory program can be accomplished;

(2) applicable requirements under K.A.R. 47-3-42 (a) (43) pertinent to the revision are met; and

(3) the application for revision complies with all requirements of the state act and the regulatory program.

(e) Any extension to the area covered by the permit, except incidental boundary revisions, shall be made through an application for a new permit. (Authorized by K.S.A. 49-405, 49-410; implementing K.S.A. 49-406 and 49-410; effective May 1, 1980; amended Feb. 11, 1991; amended May 2, 1997.)

47-6-3. Permit renewals; adoption by reference. (a) Permit renewals, 30 CFR 774.15, as in effect on July 1, 1995 are hereby adopted by reference, except as otherwise indicated in this regulation. Subsection (c)(3) of 30 CFR 774.15 shall be deleted.

(b) The following terms shall be replaced with the indicated terms wherever they appear in the text of the federal regulations adopted by reference under K.A.R. 47-6-3:

(1) "Subchapter J of this chapter" shall be replaced by "article 8 of chapter 47 of the Kansas administrative regulations."

(2) "This chapter" shall be replaced by "these regulations."

(continued)

(3) "Act" shall be replaced by "state act."

(4) "Part 775 of this chapter" shall be replaced by "K.S.A. 49-407(d), 49-416a, 49-422a, and article 4 of chapter 47 of the Kansas administrative regulations."

(5) "Section 774.13" shall be replaced by "K.A.R. 47-6-2." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-406; effective May 1, 1980; amended, E-81-30, Oct. 8, 1980; amended May 1, 1981; amended May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997.)

47-6-4. Permit transfers, assignments, and sales; adoption by reference. (a) Each application for a new permit required for a person succeeding by transfer, sale, or assignment of rights granted under a permit shall be filed with the secretary not later than 30 days after that succession is approved by the secretary.

(b) Transfer, assignment, or sale of permit rights; 30 CFR 774.17 as in effect on July 1, 1995 is adopted by reference except as otherwise indicated in this regulation.

(c) The following terms shall be replaced with the indicated terms wherever they appear in the text of the federal regulations adopted by reference under K.A.R. 47-6-4:

(1) "This chapter" or "this subchapter" shall be replaced by "these regulations."

(2) "Part 778 of this chapter" shall be replaced by "K.A.R. 47-3-42(a)(1) to (8), inclusive."

(3) "Subchapter J of this chapter" shall be replaced by "article 8 of chapter 47 of the Kansas administrative regulations." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-410; effective May 1, 1980; amended, E-81-30, Oct. 8, 1980; amended May 1, 1981; amended May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997.)

47-6-6. Permit conditions; adoption by reference.

(a) Permit conditions, 30 CFR 773.17, as in effect on July 1, 1995 are adopted by reference except as otherwise indicated in this regulation.

(b) The following terms shall be replaced with the indicated terms wherever they appear in the text of the federal regulations adopted by reference under subsection (a) of this regulation:

(1) "Subchapter J of this chapter" shall be replaced by "article 8 of chapter 47 of the Kansas administrative regulations."

(2) "This chapter" shall be replaced by "these regulations."

(3) "Act" shall be replaced by "state act."

(4) "Parts 840 and 842" shall be replaced by "K.A.R. 47-15-1a."

(5) "Subchapter B or K of this chapter" shall be replaced by "K.A.R. 47-9-4 or K.A.R. 47-9-1."

(6) "Subchapter R of this chapter" or "that subchapter" shall be replaced by "the office." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-406; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997.)

47-6-7. Permit suspension or revocation. (a) A proceeding to suspend or revoke a permit shall begin with a show cause order issued by the secretary to the permittee. The show cause order shall set forth the following:

(1) a list of the unwarranted or willful violations that contribute to a pattern of violations;

(2) a copy of each order or notice containing one or more of the violations listed;

(3) the basis for determining the existence of a pattern of violations; and

(4) the recommendation that the permit be suspended or revoked and the length and terms of the recommended suspension.

(b) Answer. The permittee shall have 30 days after receipt of the order within which to file an answer.

(c) Contents of answer. The permittee's answer to a show cause order shall set forth the following:

(1) the reasons, in detail, why a pattern of violations does not exist or has not existed, including each reason for contesting the following:

(A) the fact of any violation alleged by the department;

(B) the willfulness of any violation; or

(C) whether or not any violation was caused by the unwarranted failure of the permittee.

(2) each mitigating factor the permittee believes exists in determining the terms of the revocation or the length and terms of the suspension;

(3) any other alleged relevant facts; and

(4) whether or not a hearing on the show cause order is desired.

(d) Burden of proof in suspension or revocation proceedings. In proceedings to suspend or revoke a permit, the department shall have the burden of going forward to establish a prima facie case for suspension or revocation of the permit. The permittee shall have the ultimate burden of persuasion that the permit should not be suspended or revoked.

(e) Procedure. Except as provided for in this regulation, the procedure set forth in K.A.R. 47-4-14a(d) shall be followed.

(f) Decision by the presiding officer.

(1) After determining that a pattern of violations exists or has existed, the presiding officer shall order the permit either suspended or revoked. It shall not be required that the presiding officer find that all the violations listed in the show cause order occurred in order to establish a pattern. However, the presiding officer shall find that sufficient violations occurred in order to establish a pattern.

(2) The minimum suspension period imposed shall be three working days, except when the presiding officer finds that this would result in manifest injustice and would not further the purposes of the act. The presiding officer may impose preconditions to lifting the suspension.

(3) The decision of the presiding officer shall be issued within 20 days of the following:

(A) after the closing date of the hearing record; or

(B) after receipt of the answer, if no hearing is requested by any party and the presiding officer determines that no hearing is necessary.

(4) At any stage of a suspension or revocation proceeding, the parties may enter into a settlement, subject to the approval of the presiding officer.

(g) Summary judgment. When the permittee fails to appear at a hearing, these conditions apply:

(1) the permittee shall be deemed to have waived his right to a hearing;

(2) the presiding officer may make these assumptions for purposes of the proceeding:

- (A) each violation listed in the order occurred;
- (B) each violation was willfully or negligently caused by the permittee; and
- (C) a pattern of violations exists.

(3) the presiding officer shall either conduct an ex parte hearing or require the department to furnish proposed findings of fact and conclusions of law in order to issue an initial decision.

(h) Appeals.

(1) Any party may appeal the initial order by filing a notice of appeal with the secretary within 15 days after receipt of the order.

(2) Except as provided for in this regulation, this appeal shall follow the procedure in K.A.R. 47-4-14(a)(d)(14). The secretary shall act immediately to issue an expedited briefing schedule. The decision of the secretary shall be issued within 60 days after the date the record is closed by the secretary or, the date the answer is filed.

(3) Any further appeal from the secretary's final order shall be taken pursuant to the Kansas judicial review act, K.S.A. 77-601 *et seq.* (Authorized by K.S.A. 49-405; implementing K.S.A. 49-406; effective Feb. 11, 1991; amended May 2, 1997.)

47-6-8. Termination of jurisdiction; adoption by reference. (a) Applicability, 30 CFR 700.11, as in effect on July 1, 1995, is adopted by reference except as otherwise indicated in this regulation, and subsections (a)(1) and (b) of 30 CFR 700.11 shall be deleted.

(b) The following terms shall be replaced with the indicated terms wherever they appear in the text of the federal regulations adopted by reference under K.A.R. 47-6-8(a).

(1) "The State or Federal program counterpart to Part 800 of this chapter" shall be replaced by "article 8 of chapter 47 of the Kansas administrative regulations."

(2) "This chapter" shall be replaced by "these regulations."

(3) "Subchapter B of this chapter" shall be replaced by "K.A.R. 47-9-4."

(4) "Part 707 of this chapter" shall be replaced by "K.A.R. 47-6-8." (Authorized by and implementing K.S.A. 49-405; effective Feb. 11, 1991; amended May 2, 1997.)

47-6-9. Exemption for coal extraction incident to government-financed highway or other construction; adoption by reference. (a) The following regulations as in effect on July 1, 1995 are adopted by reference except as otherwise indicated in this regulation:

- (1) responsibility, 30 CFR 707.4;
- (2) definitions, 30 CFR 707.5;
- (3) applicability, 30 CFR 707.11; and
- (4) information to be maintained on site, 30 CFR 707.12.

(b) The following terms shall be replaced with the indicated terms wherever they appear in the text of the federal regulations adopted by reference under K.A.R. 47-6-9(a):

- (1) "Act" shall be replaced by "state act."

(2) "This chapter" shall be replaced by "these regulations."

(3) "Parts 707.12" shall be replaced by "K.A.R. 47-6-9(d)." (Authorized by and implementing K.S.A. 49-405; effective Feb. 11, 1991; amended May 2, 1997.)

47-6-10. Exemption for coal extraction incidental to the extraction of other minerals; adoption by reference.

(a) The following regulations as in effect on July 1, 1995 are adopted by reference except as otherwise indicated in this regulation:

- (1) scope, 30 CFR 702.1;
- (2) definitions, 30 CFR 702.5;
- (3) information collection, 30 CFR 702.10;
- (4) application requirements and procedures, 30 CFR 702.11;
- (5) contents of application for exemption, 30 CFR 702.12;
- (6) public availability of information, 30 CFR 702.13;
- (7) requirements for exemption, 30 CFR 702.14;
- (8) conditions of exemption and right of inspection and entry, 30 CFR 702.15;
- (9) stockpiling of minerals, 30 CFR 702.16;
- (10) revocation and enforcement, 30 CFR 702.17; and
- (11) reporting requirements, 30 CFR 702.18.

(b) The following terms shall be replaced with the indicated terms wherever they appear in the text of the federal regulations adopted by reference under K.A.R. 47-6-10(a):

- (1) "Act" shall be replaced by "state act."
- (2) "This chapter" shall be replaced by "these regulations."
- (3) "43 CFR 4.1280" shall be replaced by "K.A.R. 47-4-14a."
- (4) "Section 701(28)" shall be replaced by "K.S.A. 49-431." (Authorized by and implementing K.S.A. 49-405; effective Feb. 11, 1991; amended May 2, 1997.)

Article 7.—COAL EXPLORATION

47-7-2. Coal exploration; adoption by reference. (a) The following regulations as in effect on July 1, 1995 are adopted by reference, except as otherwise indicated in this regulation:

- (1) notice requirements for exploration removing 250 tons of coal or less, 30 CFR 772.11;
- (2) permit requirements for exploration removing more than 250 tons of coal or occurring on lands designated as unsuitable for surface coal mining operations, 30 CFR 772.12;
- (3) coal exploration compliance duties, 30 CFR 772.13;
- (4) commercial use or sale, 30 CFR 772.14; and
- (5) public availability of information, 30 CFR 772.15.

(b) The following terms shall be replaced with the indicated terms wherever they appear in the text of the federal regulations adopted by reference under K.A.R. 47-7-2 (a):

- (1) "Part 815 of this chapter" shall be replaced by "K.A.R. 47-9-1(b)."
- (2) "This chapter" shall be replaced by "these regulations."

(continued)

(3) "Subchapter F of this chapter" shall be replaced by "article 12 of chapter 47 of the Kansas administrative regulations."

(4) "Part 775" shall be replaced by "K.S.A. 49-407(d), 49-416a, 49-422a, and article 4 of chapter 47 of the Kansas administrative regulations."

(5) "Section 518 of the act" shall be replaced by "K.S.A. 49-405c."

(6) "Subchapter 1" shall be replaced by "articles 5 and 15 of chapter 47 of the Kansas administrative regulations."

(7) "Parts 773-785 of this chapter" shall be replaced by "articles 3, 4, 6, and 10 of chapter 47 of the Kansas administrative regulations, K.S.A. 49-407(d), 49-416a, and 49-422a."

(8) "Section 518 of the act, and subchapter 1 of this chapter," shall be replaced by "K.S.A. 49-405c and article 5 of chapter 47 of the Kansas administrative regulations."

(9) "This part" shall be replaced by "K.A.R. 47-7-2." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-427; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended May 1, 1986; amended May 1, 1988; amended Feb. 11, 1991; amended May 2, 1997.)

Article 8.—BONDING PROCEDURES

47-8-9. Bonding procedures; adoption by reference.

(a) The following regulations as in effect on July 1, 1995 are adopted by reference except as otherwise indicated in this regulation:

- (1) regulatory authority responsibilities, 30 CFR 800.4;
- (2) definitions, 30 CFR 800.5, deleting subsection (c);
- (3) requirement to file a bond, 30 CFR 800.11, deleting subsection (e);
- (4) form of the performance bond, 30 CFR 800.12, deleting subsection (c);
- (5) period of liability, 30 CFR 800.13;
- (6) determination of bond amount, 30 CFR 800.14;
- (7) adjustment of amount, 30 CFR 800.15;
- (8) general terms and conditions of bond, 30 CFR 800.16;
- (9) bonding requirements for underground coal mines and long-term coal-related surface facilities and structures, 30 CFR 800.17;
- (10) surety bonds, 30 CFR 800.20;
- (11) collateral bonds, 30 CFR 800.21;
- (12) replacement of bonds, 30 CFR 800.30;
- (13) requirement to release performance bonds, 30 CFR 800.40;
- (14) forfeiture of bonds, 30 CFR 800.50; and
- (15) terms and conditions for liability insurance, 30 CFR 800.60, deleting subsection (d).

(b) The following terms shall be replaced with the indicated terms wherever they appear in the text of the federal regulations adopted by reference under K.A.R. 47-8-9(a):

- (1) "Act" shall be replaced by "state act."
- (2) "(Under parts 780 and 784 of this chapter)" shall be replaced by "[under K.A.R. 47-3-42(a)(17) through (35), inclusive, and K.A.R. 47-10-1]."
- (3) "This chapter" or "subchapter G of this chapter" shall be replaced by "these regulations."

(4) "This subchapter" shall be replaced by "article 8 of chapter 47 of the Kansas administrative regulations."

(5) "Section 515 of the act" or "section 515(b)(10)" shall be replaced by "K.S.A. 49-405a, K.S.A. 49-408 through K.S.A. 49-413, inclusive, K.S.A. 49-429, and the regulations promulgated thereunder."

(6) "Subchapter K of this chapter" shall be replaced by "article 9 of chapter 47 of the Kansas administrative regulations."

(7) "Section 507(b)(16) of the act" shall be replaced by "K.S.A. 49-407(c)."

(8) "Part 823 of this chapter" shall be replaced by "K.A.R. 47-9-1(f)."

(9) "Section 513(b) of the act" shall be replaced by "K.S.A. 49-407(d) and the regulations promulgated thereunder."

(10) "Application" shall be replaced by "complete and accurate application." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-406, 49-407, and 49-429; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended May 1, 1985; amended May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997.)

47-8-11. Use of forfeited bond funds. Funds collected from any bond forfeiture may only be used to perform the following:

- (a) complete the reclamation plan on the permit area on which bond was made for the surface mining operation for coal; and
- (b) cover associated administrative expenses. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-420; effective May 1, 1983; amended Feb. 11, 1991; amended May 2, 1997.)

Article 9.—PERFORMANCE STANDARDS

47-9-1. Adoption by reference. The following regulations as in effect on July 1, 1995 are adopted by reference, except as otherwise indicated in this regulation:

(a) The following portions of the permanent program performance standards—general provisions, 30 CFR Part 810 are hereby adopted by reference:

- (1) objective, 30 CFR 810.2, except "subchapter" shall be replaced by "K.A.R. 47-9-1(a)";
- (2) responsibility, 30 CFR 810.4, delete part "a";
- (3) applicability, 30 CFR 810.11, except "parts 815 through 828" shall be replaced by their counterpart in "K.A.R. 47-9-1";
- (4) "subchapter" shall be replaced by "K.A.R. 47-9-1(a)"; and
- (5) "every state program" and "the applicable regulatory program" shall be replaced by "the regulatory program."

(b) The following portions of the permanent program performance standards—coal exploration, 30 CFR Part 815 are hereby adopted by reference:

- (1) required documents, 30 CFR 815.13; and
- (2) performance standards for coal exploration, 30 CFR 815.15.

(c) Except as provided in subsection (d), the following portions of the permanent program standards—surface mining activities, 30 CFR Part 816 are hereby adopted by reference:

(1) signs and markers, 30 CFR 816.11. A subsection (g) shall be added to 30 CFR 816.11 that reads as follows: "Increment boundary markers. As deemed appropriate by the secretary or secretary's designee to ascertain increment boundaries, increment boundary markers shall be placed on each portion of a permit area on which a performance bond or other equivalent guarantee was or will be posted as provided by K.S.A. 49-406(h)";

(2) "subchapter" shall be replaced by "K.A.R. 47-9-1 (c)";

(3) casing and sealing of drilled holes: general requirements, 30 CFR 816.13;

(4) casing and sealing of drilled holes: temporary, 30 CFR 816.14;

(5) casing and sealing of drilled holes: permanent, 30 CFR 816.15;

(6) topsoil and subsoil, 30 CFR 816.22: The first paragraph of subsection (d) of 30 CFR 816.22 shall be replaced by the following:

Absent an approved schedule, topsoil and subsoil materials removed under paragraph (a) of this section shall be redistributed within 120 days following rough backfilling and grading in a manner that complies with the following:

(7) hydrologic-balance protection, 30 CFR 816.41;

(8) hydrologic balance: water quality standards and effluent limitations, 30 CFR 816.42;

(9) diversions, 30 CFR 816.43;

(10) hydrologic balance: sediment control measures, 30 CFR 816.45;

(11) hydrologic balance: siltation structures, 30 CFR 816.46;

(12) hydrologic balance: discharge structures, 30 CFR 816.47;

(13) impoundments, 30 CFR 816.49;

(14) postmining rehabilitation of sedimentation ponds, diversions, impoundments, and treatment facilities, 30 CFR 816.56;

(15) hydrologic balance: stream buffer zones, 30 CFR 816.57;

(16) coal recovery, 30 CFR 816.59;

(17) use of explosives: general requirements, 30 CFR 816.61. except "subchapter" shall not be replaced by K.A.R. 47-9-1 (c), and everything but the statement "all blasting operations shall be conducted under the direction of a certified blaster," shall be deleted from 30 CFR 816.61(c)(1);

(18) use of explosives: preblasting survey, 30 CFR 816.62;

(19) use of explosives: blasting schedule, 30 CFR 816.64;

(20) use of explosives: blasting signs, warnings, and access control, 30 CFR 816.66;

(21) use of explosives: control of adverse effects, 30 CFR 816.67;

(22) use of explosives: records of blasting operations, 30 CFR 816.68;

(23) disposal of excess spoil: general requirements, 30 CFR 816.71;

(24) disposal of excess spoil: preexisting benches, 30 CFR 816.74;

(25) protection of underground mining, 30 CFR 816.79;

(26) coal mine waste: general requirements, 30 CFR 816.81;

(27) coal mine waste: refuse piles, 30 CFR 816.83;

(28) coal mine waste: impounding structures, 30 CFR 816.84;

(29) coal mine waste: burning and burned waste utilization, 30 CFR 816.87;

(30) disposal of noncoal mine waste, 30 CFR 816.89;

(31) stabilization of surface areas, 30 CFR 816.95;

(32) protection of fish, wildlife, and related environmental values, 30 CFR 816.97;

(33) slides and other damage, 30 CFR 816.99;

(34) contemporaneous reclamation, 30 CFR 816.100;

(35) backfilling and grading: time and distance requirements, 30 CFR 816.101;

(36) backfilling and grading: general requirements, 30 CFR 816.102, deleting subsections (k)(3)(i) and (ii);

(37) backfilling and grading: thin overburden, 30 CFR 816.104;

(38) backfilling and grading: thick overburden, 30 CFR 816.105;

(39) backfilling and grading: previously mined area, 30 CFR 816.106;

(40) revegetation: general requirements, 30 CFR 816.111;

(41) revegetation: timing, 30 CFR 816.113;

(42) revegetation: mulching and other soil-stabilizing practices, 30 CFR 816.114;

(43) revegetation: standards for success, 30 CFR 816.116. A subsection (i) shall be added to 816.116 (c)(4), and a subsection (3) shall be added to 816.116(a).

(A) Subsection (c)(4)(i) shall read "(i) The regulatory authority may allow 90 days after the issuance of a notice of violation for the repair of any rills or gullies, or both, that may occur. If the rills or gullies, or both, are repaired using normal husbandry practices, approved by the department in consultation with the state conservationist or his designated representative, and the repairs are approved by the department, the period of responsibility shall not be restarted. The normal husbandry practices used to repair gullies shall be approved in advance by the United States department of interior, office of surface mining reclamation and enforcement. If the rills or gullies, or both, are not repaired and approved within 90 days, or if augmented seeding, fertilization, or irrigation was utilized to do the repairs, the regulatory authority will restart the period of liability, effective from the date the repair was completed and approved by the department."

(B) Subsection (a)(3) shall read "(3) Data being used for bond release shall be submitted to the department annually. This shall include data for the last augmented seeding, which shall start the extended liability period. The following timetable for submissions shall be followed:

(i) the planting reports, including soil tests, shall be submitted by March 31 of the year following the year in which the soil tests were performed;

(ii) the production and ground cover data shall be submitted within 30 days of the date that the production and ground cover were sampled. Ground cover shall include

(continued)

species identification. Raw field data may be submitted at this time to fulfill this requirement. The tabulated results shall then be submitted by March 31 of the following year; and

(iii) all data shall be clearly identified as to the bond release management area that it represents."

(44) cessation of operations: temporary, 30 CFR 816.131;

(45) cessation of operations: permanent, 30 CFR 816.132;

(46) postmining land use, 30 CFR 816.133, deleting subsection (d);

(47) roads: general, 30 CFR 816.150;

(48) primary roads, 30 CFR 816.151;

(49) utility installations, 30 CFR 816.180;

(50) support facilities, 30 CFR 816.181;

(51) interpretative rules related to general performance standards, 30 CFR 816.200; and

(d) The following federal regulations shall be deleted entirely from 30 CFR Part 816;

(1) disposal of excess spoil: valley fills/head-of-hollow fills, 30 CFR 816.72;

(2) disposal of excess spoil: durable rock fills, 30 CFR 816.73; and

(3) backfilling and grading: steep slopes, 30 CFR 816.107.

(e) The following portions of the permanent program performance standards—underground mining activities, 30 CFR Part 817 are hereby adopted by reference:

(1) signs and markers, 30 CFR 817.11. A subsection (g) shall be added to 30 CFR 817.11 that shall read as follows: "Increment boundary markers. Increment boundary markers shall be placed on each portion of a permit area on which a performance bond or other equivalent guarantee was or will be posted as provided by K.S.A. 49-406(h)";

(2) "subchapter" shall be replaced by "K.A.R. 47-9-1(d)";

(3) casing and sealing of exposed underground openings: general requirements, 30 CFR 817.13;

(4) casing and sealing of underground openings: temporary, 30 CFR 817.14;

(5) casing and sealing of underground openings: permanent, 30 CFR 817.15;

(6) topsoil and subsoil, 30 CFR 817.22;

(7) hydrologic-balance protection, 30 CFR 817.41;

(8) hydrologic balance: water quality standards and effluent limitations, 30 CFR 817.42;

(9) diversions, 30 CFR 817.43;

(10) hydrologic balance: sediment control measures, 30 CFR 817.45;

(11) hydrologic balance: siltation structures, 30 CFR 817.46;

(12) hydrologic balance: discharge structures, 30 CFR 817.47;

(13) impoundments, 30 CFR 817.49;

(14) postmining rehabilitation of sedimentation ponds, diversions, impoundments, and treatment facilities, 30 CFR 817.56;

(15) hydrologic balance: stream buffer zone, 30 CFR 817.57;

(16) coal recovery, 30 CFR, 817.59;

(17) use of explosives: general requirements, 30 CFR 817.61, except "Subchapter" shall not be replaced by K.A.R. 47-9-1(d), and everything but the statement "All blasting operations shall be conducted under the direction of a certified blaster." shall be deleted from 30 CFR 817.61(c)(1);

(18) use of explosives: preblasting survey, 30 CFR 817.62;

(19) use of explosives: general performance standards, 30 CFR 817.64;

(20) use of explosives: blasting signs, warnings, and access control, 30 CFR 817.66;

(21) use of explosives: control of adverse effects, 30 CFR 817.67;

(22) use of explosives: records of blasting operations, 30 CFR 817.68;

(23) disposal of excess spoil: general requirements, 30 CFR 817.71;

(24) disposal of excess spoil; preexisting benches, 30 CFR 817.74;

(25) coal mine waste: general requirements, 30 CFR 817.81;

(26) coal mine waste: refuse piles, 30 CFR 817.83;

(27) coal mine waste: impounding structures, 30 CFR 817.84;

(28) coal mine waste: burning and burn waste utilization, 30 CFR 817.87;

(29) disposal of noncoal mine wastes, 30 CFR 817.89;

(30) stabilization of surface areas, 30 CFR 817.95;

(31) protection of fish, wildlife, and related environmental values, 30 CFR 817.97;

(32) slides and other damage, 30 CFR 817.99;

(33) contemporaneous reclamation, 30 CFR 817.100;

(34) backfilling and grading: general requirements, 30 CFR 817.102;

(35) backfilling and grading: previously mined areas, 30 CFR 817.106;

(36) revegetation: general requirements, 30 CFR 817.111;

(37) revegetation: timing, 30 CFR 817.113;

(38) revegetation: mulching and other soil-stabilizing practices, 30 CFR 817.114;

(39) revegetation: standards for success, 30 CFR 817.116. A subsection (3) shall be added to 817.116(a). Subsection (a)(3) shall read "(3) Data being used for bond release shall be submitted to the department annually. This shall include data for the last augmented seeding, which shall start the extended liability period. The following timetable for submissions shall be followed:

(i) The planting reports, including soil tests, shall be submitted by March 31 of the year following the year in which the soil tests were performed;

(ii) The production and ground cover data shall be submitted within 30 days of the date that the production and ground cover were sampled. Ground cover shall include species identification. Raw field data may be submitted at this time to fulfill this requirement. The tabulated results shall then be submitted by March 31 of the following year; and

(iii) All data shall be clearly identified as to the bond release management area that it represents."

(40) subsidence control, 30 CFR 817.121;

- (41) subsidence control: public notice, 30 CFR 817.122;
- (42) cessation of operations: temporary, 30 CFR 817.131;
- (43) cessation of operations: permanent, 30 CFR 817.132;
- (44) postmining land use, 30 CFR 817.133, deleting subsection (d);
- (45) roads: general, 30 CFR 817.150;
- (46) primary roads, 30 CFR 817.151;
- (47) utility installations, 30 CFR 817.180;
- (48) support facilities, 30 CFR 817.181;
- (49) interpretative rules related to general performance standards, 30 CFR 817.200; and
- (50) the following federal regulations shall be deleted entirely:
- (A) disposal of excess spoil: valley fills/head-of-hollow fills, 30 CFR 817.72;
- (B) disposal of excess spoil: durable rock fills, 30 CFR 817.73; and
- (C) backfilling and grading: steep slopes, 30 CFR 817.107.
- (f) The following portions of the special permanent program performance standards—auger mining, 30 CFR Part 819 are hereby adopted by reference:
- (1) auger mining: general, 30 CFR 819.11;
- (2) auger mining: coal recovery, 30 CFR 819.13;
- (3) auger mining: hydrologic balance, 30 CFR 819.15;
- (4) auger mining: subsidence protection, 30 CFR 819.17;
- (5) auger mining: backfilling and grading, 30 CFR 819.19; and
- (6) auger mining: protection of underground mining, 30 CFR 819.21.
- (g) The following portions of the special permanent program performance standards—operations on prime farmland, 30 CFR Part 823 are hereby adopted by reference:
- (1) responsibilities, 30 CFR 823.4;
- (2) applicability, 30 CFR 823.11, deleting subsection (a);
- (3) soil removal and stockpiling, 30 CFR 823.12;
- (4) soil replacement, 30 CFR 823.14; and
- (5) revegetation and restoration of soil productivity, 30 CFR 823.15.
- (h) The following portions of the permanent program performance standards—coal preparation plants not located within the permit area of a mine, 30 CFR Part 827 are hereby adopted by reference:
- (1) general requirements, 30 CFR 827.11;
- (2) coal preparation plants: performance standards, 30 CFR 827.12; and
- (3) coal preparation plants: interim performance standards, 30 CFR 827.13.
- (i) The following portions of the special permanent program performance standards—in situ processing, 30 CFR Part 828 are hereby adopted by reference:
- (1) in situ processing: performance standards, 30 CFR 828.11; and
- (2) in situ processing: monitoring, 30 CFR 828.12.
- (j) The following terms shall be replaced with the indicated terms wherever they appear in the text of the regulations adopted by reference under K.A.R. 47-9-1:

- (1) "Subchapter K" shall be replaced by "K.A.R. 47-9-1."
- (2) "Director" or "regional director" shall be replaced by "secretary."
- (3) "Subchapter G" shall be replaced by "these rules and regulations."
- (4) "Subchapter J" shall be replaced by "article 8 of chapter 47 of the Kansas administrative rules and regulations."
- (5) "Subchapter B of this chapter" shall be replaced by "K.A.R. 47-9-4."
- (6) "This part" or "30 CFR Parts 816 through 828" shall be replaced by "K.A.R. 47-9-1."
- (7) "This chapter" or "subchapter C" shall be replaced by "these rules and regulations."
- (8) "Part 816" shall be replaced by "K.A.R. 47-9-1(c)."
- (9) "Part 817" shall be replaced by "K.A.R. 47-9-1(d)." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-405, 49-408, 49-409, 49-411, 49-413, 49-415, 49-429; effective May 1, 1980; amended, E-81-30, Oct. 8, 1980; amended May 1, 1981; amended May 1, 1985; amended May 1, 1986; amended May 1, 1988; amended Feb. 11, 1991; amended May 2, 1997.)

47-9-2. Revegetation. The permittee may be requested by the secretary or secretary's designee to cut the vegetative cover, remove rocks that are nine inches or larger, or carry out any other measures that promote the control and revegetation of the permit area, consistent with the approved postmining land use. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-409; effective May 1, 1985; amended Feb. 11, 1991; amended May 2, 1997.)

47-9-4. Interim performance standards; adoption by reference. (a) The following regulations as in effect on July 1, 1995 are adopted by reference except as indicated in this regulation:

- (1) definitions, 30 CFR 710.5;
- (2) applicability, 30 CFR 710.11(a);
- (3) signs and markers, 30 CFR 715.12;
- (4) postmining use of land, 30 CFR 715.13;
- (5) backfilling and grading, 30 CFR 715.14;
- (6) disposal of excess spoil, 30 CFR 715.15, deleting subsection (c);
- (7) topsoil handling, 30 CFR 715.16;
- (8) protection of the hydrologic system, 30 CFR 715.17;
- (9) dams constructed of or impounding waste material, 30 CFR 715.18;
- (10) revegetation, 30 CFR 715.20;
- (11) interpretative rules related to general performance standards, 30 CFR 715.200; and
- (12) prime farmland, 30 CFR 716.7.
- (b) "This part," "section 716.2 of this chapter," "part 715 of this chapter," or "this chapter" shall be replaced by "these regulations" wherever they appear.
- (c) Each operator shall comply with the interim performance standards in an interim permit area, unless the secretary has approved, in writing, that operator's request to adhere to an applicable permanent program performance standard or other applicable substantive regulation. (Authorized by and implementing K.S.A. 49-405;

(continued)

effective May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997.)

Article 10.—UNDERGROUND MINING

47-10-1. Adoption by reference; underground mining. (a) The following regulations as in effect on July 1, 1995 are adopted by reference except as otherwise indicated in this regulation:

(1) underground mining permit applications—minimum requirements for information on environmental resources, 30 CFR Part 783:

- (A) responsibilities, 30 CFR 783.4;
- (B) general requirements, 30 CFR 783.11;
- (C) general environmental resources information, 30 CFR 783.12;
- (D) climatological information, 30 CFR 783.18;
- (E) vegetation information, 30 CFR 783.19;
- (F) soil resources information, 30 CFR 783.21;
- (G) maps; general requirements, 30 CFR 783.24; and
- (H) cross sections, maps, and plans, 30 CFR 783.25;

(2) underground mining permit applications—minimum requirements for reclamation and operation plan, 30 CFR Part 784:

- (A) responsibilities, 30 CFR 784.4;
- (B) operation plan: general requirements, 30 CFR 784.11;
- (C) operation plan: existing structures, 30 CFR 784.12;
- (D) reclamation plan: general requirements, 30 CFR 784.13;
- (E) hydrologic information, 30 CFR 784.14;
- (F) reclamation plan: land use information, 30 CFR 784.15;

(G) reclamation plan: siltation structures, impoundments, banks, dams, and embankments, 30 CFR 784.16;

(H) protection of public parks and historic places, 30 CFR 784.17;

- (I) relocation or use of public roads, 30 CFR 784.18;
- (J) underground development waste, 30 CFR 784.19;
- (K) subsidence control plan, 30 CFR 784.20;
- (L) fish and wildlife information, 30 CFR 784.21;
- (M) geologic information, 30 CFR 784.22;
- (N) operation plan: maps and plans, 30 CFR 784.23;
- (O) road systems, 30 CFR 784.24;
- (P) return of coal processing waste to abandoned underground workings, 30 CFR 784.25;
- (Q) air pollution control plan, 30 CFR 784.25;
- (R) diversions, 30 CFR 784.29;
- (S) support facilities, 30 CFR 784.30; and
- (T) interpretive rules related to general performance standards, 30 CFR 784.200.

(b) The following terms shall be replaced with the indicated terms wherever they appear in the text of the federal regulations adopted by reference under K.A.R. 47-10-1(a):

- (1) "Subchapter K of this chapter" or "subchapter K" shall be replaced by "K.A.R. 47-9-1."
- (2) "Subchapter B of this chapter" or "subchapter B" shall be replaced by "K.A.R. 47-9-4."
- (3) "Section 515 and 516 of the act" shall be replaced by "K.S.A. 49-405a, 49-408 to 49-413, inclusive, and 49-429."

(4) "Subchapter J of this chapter" or "subchapter J" shall be replaced by "article 8 of chapter 47 of the Kansas administrative regulations."

(5) "This chapter" shall be replaced by "these regulations."

(6) "30 CFR Parts 773 and 775" shall be replaced by "K.A.R. 47-3-42(a)(42) to (46) and (48), inclusive, K.A.R. 47-6-6, K.S.A. 49-407(d), K.S.A. 49-416a, 49-422a, and article 4 of chapter 47 of the Kansas administrative regulations." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-429; effective May 1, 1980; amended, E-81-30, Oct. 8, 1980; amended May 1, 1981; amended May 1, 1986; amended May 1, 1988; amended Feb. 11, 1991; amended May 2, 1997.)

Article 11.—SMALL OPERATOR ASSISTANCE PROGRAM

47-11-8. Small operator assistance program; adoption by reference. (a) The following regulations as in effect on July 1, 1995 are adopted by reference, except as otherwise indicated in this regulation:

- (1) definitions, 30 CFR 795.3;
- (2) eligibility for assistance, 30 CFR 795.6;
- (3) filing for assistance, 30 CFR 795.7;
- (4) application approval and notice, 30 CFR 795.8;
- (5) program services and data requirements, 30 CFR 795.9;
- (6) qualified laboratories, 30 CFR 795.10;
- (7) assistance funding, 30 CFR 795.11; and
- (8) applicant liability, 30 CFR 795.12.

(b) The following terms shall be replaced with the indicated terms, wherever they appear in the text of the federal regulations adopted by reference under K.A.R. 47-11-8(a):

- (1) "Act" shall be replaced by "state act."
- (2) "This chapter" shall be replaced by "these regulations."
- (3) "This part" shall be replaced by "K.A.R. 47-11-8." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-406; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997.)

Article 12.—LANDS UNSUITABLE FOR SURFACE MINING

47-12-4. Lands unsuitable for surface mining; adoption by reference. (a) The following regulations as in effect on July 1, 1995 are adopted by reference, except as otherwise indicated in this regulation:

- (1) definitions, 30 CFR 761.5;
- (2) areas where mining is prohibited or limited, 30 CFR 761.11, deleting subsection (b);
- (3) procedures, 30 CFR 761.12, deleting subsection (c);
- (4) definitions, 30 CFR 762.5;
- (5) criteria for designating lands as unsuitable, 30 CFR 762.11;
- (6) additional criteria, 30 CFR 762.12, "secretary" shall mean the "secretary of the United States department of interior";
- (7) land exempt from designation as unsuitable for surface coal mining operations, 30 CFR 762.13;

(8) exploration on land designated as unsuitable for surface coal mining operations, 30 CFR 762.14;

(9) petitions, 30 CFR 764.13;

(10) initial processing, recordkeeping, and notification requirements, 30 CFR 764.15;

(11) hearing requirements, 30 CFR 764.17;

(12) decision, 30 CFR 764.19;

(13) data base and inventory system requirements, 30 CFR 764.21;

(14) public information, 30 CFR 764.23; and

(15) regulatory authority responsibility for implementation, 30 CFR 764.25.

(b) The following terms shall be replaced with the indicated terms wherever they appear in the text of the federal regulations adopted by reference under K.A.R. 47-12-4(a):

(1) "Sections 775.11 and 775.13 of this chapter" shall be replaced by "K.S.A. 49-407(d); 49-416a, 49-422a, and article 4 of chapter 47 of the Kansas administrative regulations."

(2) "Sections 522(a)(2) and (3)" shall be replaced by "K.S.A. 49-405b(a)(1) and (2)."

(3) "This chapter" shall be replaced by "these regulations."

(4) "Section 526(e) of the act and Section 775.13 of this chapter" shall be replaced by "K.S.A. 49-422a and K.S.A. 49-426."

(5) "Section 522 of the act" or "section 522(e) of the act" shall be replaced by "K.S.A. 49-405b."

(6) "Section 701(28) of the act" shall be replaced by "K.S.A. 49-403(s)."

(7) "Part 761, 762, or 764" shall be replaced by "K.A.R. 47-12-4."

(8) "Part 722 of this chapter" shall be replaced by "K.A.R. 47-7-2."

(9) "Act" shall be replaced by "state act."

(10) "This part" or "this subchapter" shall be replaced by "K.A.R. 47-12-4." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-405b, 49-422a and 49-426; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended May 1, 1986; amended May 1, 1988; amended Feb. 11, 1991; amended May 2, 1997.)

Article 13.—TRAINING, CERTIFICATION, AND RESPONSIBILITIES OF BLASTERS AND OPERATORS

47-13-4. Training and certification of blasters; adoption by reference. (a) 30 CFR part 850 as in effect on July 1, 1995 is adopted by reference, except as otherwise indicated in this regulation, and 30 CFR 850.10 and 850.12 shall be deleted.

(b) The following terms shall be replaced with the indicated terms wherever they appear.

(1) "Act" shall be replaced by "state act."

(2) For the purposes of 30 CFR 850.15(a) only, "regulatory authority" shall be replaced by "state fire marshal."

(3) For the purposes of 30 CFR 850.14 only, "regulatory authority" shall be replaced by "secretary-approved blaster training program director."

(c) The term "secretary-approved blaster training program director" means the person who is in charge of a given blaster training program that has been specifically approved by the secretary as being in accordance with the state act, the rules and regulations, and the state program. (Authorized by and implementing K.S.A. 49-405 and 49-405a; effective May 1, 1985; amended Feb. 11, 1991; amended May 2, 1997.)

47-13-5. Responsibilities of operators and blasters-in-charge. (a) Each operator shall perform the following:

(1) designate a blaster-in-charge for each blast to be detonated in surface coal mining and reclamation operations;

(2) ensure that the designated blaster-in-charge is properly certified;

(3) ensure that each employee who performs blasting tasks under the supervision of a blaster-in-charge has adequate training;

(4) limit the size of a blasting crew to 12 persons, supervised by a blaster-in-charge who is continuously and readily accessible to crew members in preparing and executing a blast. A larger blasting crew may be approved by the secretary if these conditions exist:

(A) unusual circumstances or mining methods are involved; and

(B) the operator ensures that the blaster-in-charge can perform the following:

(i) provide adequate, direct supervision to crew members;

(ii) remain in control of blast design, preparation, and execution; and

(iii) assure that blasting complies with the applicable regulations; and

(5) ensure that each blaster-in-charge shall supervise no more than one crew at any given time.

(b) Each blaster-in-charge shall fulfill these requirements:

(1) be certified by the state fire marshal for each blasting operation conducted in the state of Kansas;

(2) ensure that blast design and execution meet the applicable standards;

(3) directly supervise blast preparation and execution at the blast site to ensure that such standards are met;

(4) be present at the site when the blast is detonated;

(5) ensure that each member of each blasting crew has adequate training to perform assigned tasks in compliance with the applicable standards; and

(6) limit to 12 the number of persons being supervised at any given time in preparing and executing a blast at one operational pit at the site.

(c) After instructions from the blaster-in-charge and under the direct supervision of the blaster-in-charge, members of the blasting crew may engage in these activities:

(1) perform general blasting operations;

(2) load and unload explosives for use in blasting;

(3) transport explosives at or near the job site;

(4) load explosives into drill holes; and

(5) stem or otherwise prepare explosives for detonation.

(continued)

(d) The blaster-in-charge shall retain full responsibility for all blasting and for the use of explosives. These responsibilities shall include the following:

- (1) keeping blasting logs and records;
- (2) supervising the blasting-related activities of the workers over which the supervisor is in charge; and
- (3) ensuring that each person under the supervisor's charge has the training necessary to perform the person's assigned tasks safely and in accordance with the applicable regulations. (Authorized by K.S.A. 49-405 and 49-405a; implementing K.S.A. 49-405; effective May 1, 1985; amended Feb. 11, 1991; amended May 2, 1997.)

47-13-6. Training. (a) Each person seeking a blaster certification pursuant to K.A.R. 47-13-4 shall document successful completion of a department-approved blaster training program.

(b) Proof of completion of an approved blaster training program shall be filed with an applicant's application for certification by the state fire marshal. (Authorized by and implementing K.S.A. 49-405 and 49-405a; effective May 1, 1985; amended Feb. 11, 1991; amended May 2, 1997.)

Article 14.—EMPLOYEE FINANCIAL INTERESTS

47-14-7. Employee financial interest; adoption by reference. (a) The following regulations as in effect on July 1, 1995 are adopted by reference, except as otherwise indicated in this regulation:

- (1) responsibility, 30 CFR 705.4(a) and (c), deleting subsection (b);
- (2) penalties, 30 CFR 705.6(b), deleting subsection (a);
- (3) who shall file, 30 CFR 705.11(a), (b), (c), and (d), deleting subsection (e);
- (4) when to file, 30 CFR 705.13;
- (5) where to file, 30 CFR 705.15;
- (6) what to report, 30 CFR 705.17;
- (7) gifts and gratuities, 30 CFR 705.18;
- (8) resolving prohibited interests, 30 CFR 705.19(a), deleting subsection (b); and
- (9) appeals procedures, 30 CFR 705.21;

(b) The following terms shall be replaced with the indicated terms wherever they appear.

- (1) "Act" shall be replaced by the term "state act."
- (2) "Head of each state regulatory authority," and "head of the state regulatory authority" shall be replaced by the term "secretary of the Kansas department of health and environment." (Authorized by K.S.A. 49-404; implementing K.S.A. 49-405; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended Feb. 11, 1991; amended May 2, 1997.)

Article 15.—INSPECTION AND ENFORCEMENT

47-15-1a. Inspection and enforcement; adoption by reference. (a) The following regulations as in effect on July 1, 1995 are adopted by reference, except as otherwise indicated in this regulation:

- (1) inspections by state regulatory authority, 30 CFR 840.11;
- (2) availability of records, 30 CFR 840.14;
- (3) definitions, 30 CFR 843.5;

(4) right of entry, 30 CFR 840.12;

(5) review of adequacy and completeness of inspections, 30 CFR 842.14;

(6) review of decision not to inspect or enforce, 30 CFR 842.15, except that the phrase in subsection (b) of 30 CFR 842.15, "or disclosure is required under the freedom of information act or other federal law," shall be deleted;

(7) cessation orders, 30 CFR 843.11;

(8) notices of violations, 30 CFR 843.12, except for the following:

(A) the phrase in subsection (a) of 30 CFR 843.12, "carried out during the enforcement of a federal program or federal lands program or during federal enforcement of a state program under sections 504(b) or 521(b) of the act and part 733 of this chapter" shall be deleted; and

(B) paragraph (a)(2) of 30 CFR 843.12 shall be deleted;

(9) suspension or revocation of permits: pattern of violations, 30 CFR 843.13, except that the phrase in paragraph (a)(4)(i)(A) of 30 CFR 843.13, "or a federal lands program," and paragraphs (a)(4)(i)(B) and (C) of 30 CFR 843.13 shall be deleted;

(10) informal public hearings, 30 CFR 843.15;

(11) formal review of citations, 30 CFR 843.16;

(12) compliance conference, 30 CFR 843.20; and

(13) compliance conference, 30 CFR 840.16.

(b) The following terms shall be replaced with the indicated terms wherever they appear.

(1) "Act" shall be replaced by "state act."

(2) "This chapter" shall be replaced by "these regulations."

(3) "Federal" shall be replaced by "state."

(4) "Office" shall be replaced by "secretary or secretary's designee."

(5) "Regional director" shall be replaced by "secretary."

(6) "43 CFR Part 4" shall be replaced by "K.A.R. 47-4-14a."

(7) "Office of hearings and appeals" shall be replaced by "department."

(8) "30 CFR Part 845" shall be replaced by "article 5 of chapter 47 of the Kansas administrative rules and regulations."

(9) "43 CFR 4.1281" shall be replaced by "K.A.R. 47-4-14a (a)(1)-(8)."

(10) "Section 521(a)(5)" shall be replaced by "K.S.A. 49-405(m)(4)."

(11) "Section 521(a)(2)" shall be replaced by "K.S.A. 49-405(m)(1)."

(12) "Section 517" shall be replaced by "K.S.A. 49-404, 49-405, and 49-405d."

(13) "Section 518" shall be replaced by "K.S.A. 49-405c."

(14) "Section 521" shall be replaced by "K.S.A. 49-405(m)."

(15) "Section 518(b), 521(a)(4), or 525" shall be replaced by "K.S.A. 49-405c(b), 49-405(m)(3), or 49-416a, respectively."

(16) "30 CFR 842.12" or "842.12" shall be replaced by "K.A.R. 47-15-7 and K.A.R. 47-15-8."

(17) "Section 520" shall be replaced by "K.S.A. 49-426."

(18) "Section 525" shall be replaced by "K.S.A. 49-416a."

(19) "30 CFR 842.11" or "section 842.11" shall be replaced by "K.A.R. 47-15-1a(a)(1)."

(20) "Director" shall be replaced by "secretary."

(21) "30 CFR 843.15(e)" shall be replaced by "An informal public hearing shall be conducted in accordance with K.A.R. 47-4-14a." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-404, 49-405, 49-405c, 49-405d, 49-406, 49-416, 49-416a, and 49-427; effective May 1, 1985; amended May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997.)

47-15-3. Lack of information; inability to comply.

(a) A notice of violation, cessation order, show cause order, or order revoking or suspending a permit shall not be vacated because it is subsequently determined that the secretary did not have information sufficient to justify an inspection.

(b) A notice of violation or cessation order shall not be vacated because of inability to comply.

(c) Inability to comply shall not be considered in determining whether or not a pattern of violation exists.

(d) Unless caused by lack of diligence, inability to comply may be considered only in mitigation of the amount of the civil penalty and the duration of the suspension of a permit. (Authorized by K.S.A. 49-405, 49-405c; implementing K.S.A. 49-405 and 49-405c; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended Feb. 11, 1991; amended May 2, 1997.)

47-15-4. Injunctive relief. The attorney general may be requested by the secretary to institute any civil action for relief, including a permanent or temporary injunction, and a restraining order or any other order, whenever, in violation of the state act, these regulations, or any condition of an exploration approval or permit, anyone does the following:

(a) violates, fails to comply with, or refuses to comply with any order or decision of the secretary or secretary's designee;

(b) interferes with, hinders, or delays the secretary or secretary's designee in carrying out provisions of the state act or these regulations; or

(c) refuses to perform the following:

(1) admit the secretary or secretary's designee to a mine;

(2) permit inspection of a mine by the secretary or secretary's designee;

(3) furnish any required information or report;

(4) permit access to or copying of any required records; or

(5) permit inspection of monitoring equipment. (Authorized by and implementing K.S.A. 49-405; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended Feb. 11, 1991; amended May 2, 1997.)

47-15-7. State inspections. (a) Inspection of surface coal mining and reclamation operations shall be conducted by the secretary or secretary's designee as necessary to determine whether or not the permittee has complied with any notice of violation or cessation order issued during an inspection authorized under this regulation.

(b) A state inspection shall be conducted immediately by the secretary or secretary's designee to enforce any requirement of the state act, these regulations, the regulatory program, or any condition of a permit or an exploration approval.

(c) Appropriate action to have the violation abated shall be taken by the secretary or secretary's designee when, on the basis of information available to the department other than information available to the department other than information resulting from a previous state inspection, the secretary or secretary's designee has reason to believe that either of the following has occurred:

(1) the permittee has violated the state act, these regulations, the regulatory program, or any condition of a permit or an exploration approval; or

(2) any condition, practice, or violation creates an imminent danger to the health or safety of the public or is causing or can reasonably be expected to cause a significant, imminent environmental harm to land, air, or water resources. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-405, 49-405d; effective May 1, 1984; amended Feb. 11, 1991; amended May 2, 1997.)

47-15-8. Citizen's requests for state inspections. (a)

Any person may request a state inspection under K.A.R. 47-15-7(b) by furnishing the secretary or secretary's designee with a signed, written statement or an oral report followed by a signed, written statement. The statement shall include the following:

(1) the reasons that the person believes a violation, condition, or practice referred to in K.A.R. 47-15-7(b) exists; and

(2) a phone number and address at which the person can be contacted.

(b) Upon request by the person, the identity of any person supplying information to the secretary or secretary's designee relating to a possible violation or imminent danger or harm shall remain confidential, unless that person accompanies the inspector on the inspection.

(c) If a state inspection is conducted as a result of information provided to the secretary or secretary's designee as described in subsection (a) of this regulation, the person requesting the inspection shall be notified as far in advance as practicable as to when the inspection will occur. The person may accompany the secretary or secretary's designee. During the inspection, the person shall have a right of entry to, upon, and through the coal exploration or surface coal mining and reclamation operation about which that person supplied information. However, the person shall be in the presence of and under the control, direction, and supervision of the secretary or secretary's designee while on the mine property. This right of entry shall not include a right to enter buildings without consent of the person in control of the building or without a search warrant.

(d) Within 10 days after the state inspection or, if there is no inspection, within 15 days after receipt of the person's written statement, the secretary or secretary's designee shall send the person the following:

(1)(A) If an inspection was conducted, a description of the enforcement action taken. This description may con-

(continued)

sist of copies of the state inspection report and of all notices of violation and cessation orders issued as a result of the inspection or an explanation as to why no enforcement action was taken; or

(B) if no state inspection was conducted, an explanation of the reason why an inspection was not considered to be necessary; and

(2) an explanation of the person's right, if any, to informal review of the action or inaction of the secretary or secretary's designee under K.A.R. 47-15-1a(a)(6).

(e) Copies of all materials in paragraphs (d)(1) and (d)(2) of this regulation shall be given by the secretary or secretary's designee to the person alleged to be in violation within the time limits specified in those paragraphs. However, the name of the person requesting the inspection shall be removed unless disclosure of the person's identity is permitted under subsection (b) of this regulation. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-405, 49-405d; effective May 1, 1984; amended May 1, 1985; amended Feb. 11, 1991; amended May 2, 1997.)

47-15-15. Service of notices of violations and cessation orders. (a) Promptly after issuance, each notice of violation or cessation order shall be served on the person to whom it is directed or to that person's designated agent, as follows:

(1)(A) A copy of each notice of violation or cessation order may be tendered, at the coal exploration or surface coal mining and reclamation operation, to the designated agent or to the individual who, based upon reasonable inquiry by the authorized representative, appears to be in charge of the coal exploration or surface coal mining and reclamation operation referred to in the notice or order.

(B) If no one in charge can be found, the copy may be tendered to any individual at the site who appears to be an employee or agent of the person to whom the notice or order is issued.

(C) Service shall be complete upon tender of the notice or order and shall not be deemed incomplete because of refusal to accept.

(2)(A) In the alternative, service may be made by sending a copy of the notice or order by certified mail or by delivering the copy by hand to the person to whom it is issued or to the person's designated agent.

(B) Service shall be complete upon tender of the notice or order or upon certified mailing of the notice or order, and service shall not be deemed incomplete because of refusal to accept.

(b) A show cause order may be served on the person to whom it is issued in either manner provided in subsection (a) of this regulation.

(c) A person shall make any designation of an agent for service of notices and orders in writing and to the secretary or secretary's designee.

(d) The secretary or secretary's designee may furnish copies to any person having an interest in the coal exploration, surface coal mining and reclamation operation, or the permit area, including the owner of the fee, a corporate officer of the permittee or entity conducting coal exploration, or the bonding company. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-405, 49-405d; ef-

fective May 1, 1984; amended Feb. 11, 1991; amended May 2, 1997.)

47-15-17. Maintenance of permit areas. The permittee shall be required by the secretary or the secretary's designee to cut vegetative growth, if necessary to facilitate inspection of each permit area in order to insure compliance with the state act and regulations. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-405, 49-405d; effective May 1, 1985; amended Feb. 11, 1991; amended May 2, 1997.)

Article 16.—RECLAMATION

47-16-1. Eligible lands and water. (a) Coal mined lands and associated waters shall be eligible for reclamation activities if these conditions are met:

(1) they were mined or affected by mining processes;

(2) they were mined before August 3, 1977, and were left or abandoned in an unreclaimed or inadequately reclaimed condition; and

(3) there is no continuing responsibility for reclamation by the operator, permittee, or agent of the permittee under statutes of the state or federal government or a result of bond forfeiture. Bond forfeiture shall render lands or water ineligible only if the amount forfeited is sufficient to pay the total cost of the necessary reclamation.

(b) Lands and water that were mined or affected by mining for minerals and materials other than coal shall be eligible for reclamation activities if all reclamation with respect to abandoned coal mine land and water has been accomplished within the state.

(c) "Left or abandoned in an unreclaimed or inadequately reclaimed condition" means land and water that meet the following conditions:

(1) were mined or affected by such mining, waste-banks, processing, or other mining processes before August 3, 1977, and on which all mining has ceased;

(2) continue, in their present condition, to substantially degrade the quality of the environment, prevent or damage the beneficial use of land or water resources, or endanger the health and safety of the public; and

(3) are not subject to any continuing reclamation responsibility under state or federal laws. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-428; effective May 1, 1983; amended Feb. 11, 1991; amended May 2, 1997.)

47-16-2. Reclamation project evaluation. Proposed reclamation projects and completed reclamation work shall be evaluated using the factors stated in this section to determine whether or not proposed reclamation will be undertaken and to assign priorities to proposals intended to meet the objectives of K.S.A. 49-428. Completed reclamation shall be evaluated using the following factors to identify conditions that should be avoided, corrected, or improved in plans for future reclamation work:

(a) the need for reclamation work to accomplish one or more specific objectives stated in K.S.A. 49-428;

(b) the availability of technology to accomplish the reclamation work with reasonable assurance of success. In the case of research and demonstration projects, the research capability and plans shall provide reasonable as-

insurance of beneficial results without residual adverse impacts;

(c) the specific benefits of the reclamation work for the area including the following:

(1) protection of human life, health, or safety;

(2) protection of the environment, including air and water quality, fish and wildlife, plant habitat, visual beauty, historic, cultural or recreation resources, and abatement of erosion sedimentation;

(3) protection of public or private property;

(4) improvement of environmental conditions that may be considered to generally enhance the quality of human life;

(5) improvement of natural resource use, including:

(A) increasing productivity capability of the land;

(B) enhancing the use of surrounding lands consistent with existing land use plans;

(C) providing for construction or enhancement of public facilities; and

(D) providing for residential, commercial, or industrial developments consistent with the needs and plans of the community in which the site is located; and

(6) technologies that can be used to reclaim areas disturbed by mining;

(d) any additional adverse impacts to people or the environment during or after reclamation and of uncorrected conditions, if any, that will continue to exist after reclamation;

(e) the costs of reclamation. Consideration shall be given to both the economy and efficiency of the reclamation work and to the results obtained or expected as a result of reclamation;

(f) any additional coal or other mineral or material resources within the project area when either of the following conditions exists:

(1) a reasonable probability that the desired reclamation could be accomplished in conjunction with future mining; or

(2) a need to assure that the resource is not lost as a result of reclamation and the benefits of reclamation are not negated by subsequent, essential resource recovery operations;

(g) compatibility of post-reclamation land uses with the following:

(1) land uses in the surrounding area;

(2) applicable state, regional, and local land use plans and laws; and

(3) the needs and desires of the community where the project is located; and

(h) the probability that post-reclamation management, maintenance and control of the area will be consistent with the reclamation completed. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-428; effective May 1, 1983; amended Feb. 11, 1991; amended May 2, 1997.)

47-16-3. Consent to entry. (a) All reasonable actions that are necessary to obtain prior written consent from the owner of record of the land or property to be entered shall be taken by the secretary or secretary's designee.

(b) The consent shall consist of a signed statement by the owner or the owner's authorized agent that shall include the following:

(1) a legal description of the land to be entered;

(2) the nature of work to be performed on the lands; and

(3) any special conditions for entry.

(c) This statement shall not include any commitment by the secretary to perform reclamation work or compensate the owner for entry. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-432; effective May 1, 1983; amended Feb. 11, 1991; amended May 2, 1997.)

47-16-4. Entry for study or exploration. (a) Any property may be entered by the secretary or secretary's designee for the purpose of conducting studies or exploratory work to determine the following:

(1) the existence of adverse effects of past coal mining practices; and

(2) the feasibility of restoration, reclamation, abatement, control, or prevention of adverse effects.

(b) If the owner will not give consent to entry, notice shall be given to the owner in writing of the secretary's intent to enter for purposes of study and exploration to determine the existence of adverse effects of past coal mining practices that may be harmful to the public health, safety, or general welfare. The notice shall be provided by mail, return receipt requested, to the owner, if known, and shall include a statement of the reasons why entry is believed necessary. If the owner is not known, or the current mailing address of the owner is not known, or if the owner is not readily available, the notice shall be posted in one or more places on the property to be entered where it is readily visible to the public. In addition, the notice shall be published once in a newspaper of general circulation in the locality in which the land is located. Notice shall be given at least 30 days before entry. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-432; effective May 1, 1983; amended Feb. 11, 1991; amended May 2, 1997.)

47-16-5. Entry and consent to reclaim. (a) Notice shall be given of the secretary's intent to enter for purposes of conducting reclamation at least 30 days before entry upon the property. The notice shall be in writing and shall be mailed, return receipt requested, to the owner, if known, with a copy of the findings required by K.S.A. 49-432. If the owner is not known, or if the current mailing address of the owner is not known, notice shall be posted in one or more places on the property to be entered where it is readily visible to the public. In addition, the notice shall be published once in a newspaper of general circulation in the locality in which the land is located. The notice shall include a statement of where the findings required by K.S.A. 49-432 may be inspected or obtained.

(b) Any land where an emergency exists and on any other land necessary to gain access to the land where an emergency exists may be entered by the secretary to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices and to do all things necessary to protect the public health, safety, or general welfare.

(1) Before entry a written finding shall be made by the secretary with reasons supporting the following conclusions:

(continued)

(A) an emergency exists constituting a danger to the public health, safety, or general welfare; and

(B) no other person or agency will act expeditiously to restore, reclaim, abate, control, or prevent the adverse effects of coal mining practices.

(2) Notice to the owner shall not be required before entry for emergency reclamation. Reasonable efforts to notify the owner and obtain prior consent shall be made by the secretary. These efforts shall be consistent with the existing emergency conditions. Proper written notice shall be given to the owner as soon after entry as practical. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-432; effective May 1, 1983; amended Feb. 11, 1991; amended May 2, 1997.)

47-16-6. Liens. (a) A lien shall be placed by the secretary on land reclaimed if the reclamation results in a significant increase in the fair market value based on the pre- and post-reclamation appraisals, except that the lien may be waived by the secretary or the secretary's designee if these conditions are met:

(1) the lien amount would be less than the cost of filing the lien;

(2) the reclamation work primarily increases the health, safety, or environment of the community or area affected; or

(3) the reclamation is necessitated by an unforeseen occurrence, and the work performed to restore the land will not significantly increase the market value of the land as it existed immediately before the occurrence.

(b) A lien shall not be placed against land reclaimed if the current owner of the property acquired title before May 2, 1977 and did not consent to, participate in, or exercise control over the mining operation that caused or contributed to the unreclaimed conditions.

(c) If a lien is to be filed, within six months after completion of the reclamation work, a statement shall be filed by the secretary in the office having responsibility under applicable law for recording judgments and placing liens against land. The statement shall include the following:

(1) an account of monies expended for the reclamation work; and

(2) a notarized summary of the appraisal report.

(d) The increase in the appraised value of the property shall constitute the amount of the lien recorded and shall have priority second only to a real estate tax lien. The landowner shall be afforded the following:

(1) notified before the time of filing the lien of the amount of the proposed lien; and

(2) allowed a reasonable time to pay that amount in lieu of filing the lien. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-428; effective May 1, 1983; amended Feb. 11, 1991; amended May 2, 1997.)

47-16-7. Appraisals. (a) In order for a lien to be filed under K.A.R. 47-16-6, the following procedures shall be followed. (a) A notarized appraisal of the fair market value of the land shall be obtained from an independent, professional appraiser before any reclamation activities are started.

(b) A second, notarized appraisal of the fair market value of the land shall be obtained after all reclamation activities have been completed.

(c) The landowner shall receive a statement of any increase in market value, an itemized statement of reclamation expenses, and a notice that a lien will be filed against the property. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-428; effective May 1, 1983; amended Feb. 11, 1991; amended May 2, 1997.)

47-16-8. Satisfaction of liens. (a) A lien shall be satisfied to the extent of the value of the consideration received, at the time of transfer of ownership. Any unsatisfied portion shall remain as a lien on the property and shall be satisfied in accordance with this subsection.

(b) Liens shall be maintained or renewed by the secretary from time to time as may be required.

(c) Monies derived from the satisfaction of liens established under this subsection shall be deposited in the state abandoned mined-land fund. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-428; effective May 1, 1983; amended Feb. 11, 1991; amended May 2, 1997.)

47-16-9. Contractor responsibility. (a) Each successful bidder for an abandoned mine land reclamation project contract shall be eligible under 30 CFR 773.15(b)(1), as adopted by reference in K.A.R. 47-3-42(a)(44), at the time of contract award to receive a permit or conditional permit to conduct surface coal mining operations.

(b) For any contract to be awarded, bidder eligibility shall be confirmed by the office of surface mining's automated application violator system. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-428; effective May 2, 1997.)

47-16-10. Exclusion of certain noncoal reclamation sites. (a) Money from the abandoned mine land funds shall not be used for the following:

(1) the reclamation of sites and areas designated for remedial action pursuant to the uranium mill tailings radiation control act of 1978, 42 U.S.C. 7901 et seq. and amendments thereto; or

(2) sites listed for remedial action pursuant to the comprehensive environmental response compensation and liability act of 1980, 42 U.S.C. 9601 et seq. and amendments thereto.

(b)(1) Each successful bidder for an abandoned mine land contract for noncoal reclamation shall be eligible under 30 CFR 773.15(b)(1), as adopted by reference in K.A.R. 47-3-42(a)(44), at the time of contract award to receive a permit or conditional permit to conduct surface coal mining operations.

(2) Bidder eligibility shall be confirmed by the office of surface mining's automated applicant violator system for each contract to be awarded. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-428; effective May 2, 1997.)

47-16-11. Reports. (a) For each grant, cooperative agreement, or both, the agency shall semiannually submit to the office of surface mining reclamation and enforcement the following reports prepared according to the office of management and budget circular no. A-102, attachment h and i:

(1)(A) a financial status report, form sf-269, for the department's administrative grant, cooperative agreement, or both; and

(B) the performance report, form osm-51, covering the performance aspect of the grant, cooperative agreement, or both; and

(2)(A) the outlay report and request for reimbursement for construction programs, form sf-271; and

(B) the performance report, form osm-51, for each activity or project on which some work has occurred.

(b) For each grant, cooperative agreement, or both, the department shall annually submit to the office of surface mining reclamation and enforcement the following reports prepared according to office of management and budget circular a-102, attachments h and i:

(1)(A) a financial status report, form sf-269, for the department's administrative grant, cooperative agreement, or both; and

(B) a final performance report, form osm-51, covering the performance aspects of the grant, cooperative agreement, or both; and

(2)(A) an annual outlay report and request reimbursement for construction programs, form sf-271; and

(B) a cumulative annual performance report, form osm-51, that shall include the following:

(i) for each project or activity, a brief description, the type of reclamation performed, the project location, the landowner's name, the amounts of land or water reclaimed or being reclaimed, and a summary of achieved or expected benefits;

(ii) for any land previously acquired but not disposed of, a statement of current or planned uses, location and size in acres, and any revenues derived from use of the land; and

(iii) for any permanent facilities acquired or constructed but not disposed of, a description of the facility and a statement of current or planned uses, location, and revenues derived from the use of the facility.

(c) A form osm-76, "abandoned mine land problem area description," shall be submitted upon project completion to report the accomplishments achieved through the project. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-428; effective May 2, 1997.)

James J. O'Connell
Secretary of Health
and Environment

Doc. No. 018963

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 1996 Supplement to the *Kansas Administrative Regulations*.

AGENCY 1: DEPARTMENT OF ADMINISTRATION

Reg. No.	Action	Register
1-1-1	Amended	V. 15, p. 703
1-1-2	Revoked	V. 15, p. 704
1-1-3	Revoked	V. 15, p. 704
1-1-4	Revoked	V. 15, p. 704
1-2-53	Revoked	V. 15, p. 704
1-2-57	Amended	V. 15, p. 704
1-2-72	Amended	V. 15, p. 704
1-2-88	Amended	V. 15, p. 704
1-3-1	Revoked	V. 15, p. 704
1-3-3	Revoked	V. 15, p. 704
1-3-4	Revoked	V. 15, p. 704
1-4-2	Amended	V. 15, p. 704
1-4-6	Revoked	V. 15, p. 704
1-5-1	Amended	V. 15, p. 704
1-5-2	Revoked	V. 15, p. 704
1-5-3	Revoked	V. 15, p. 704
1-5-6	Revoked	V. 15, p. 704
1-5-7	Amended	V. 15, p. 704
1-5-12	Amended	V. 15, p. 705
1-5-15	Amended	V. 15, p. 705
1-5-22	Amended	V. 15, p. 706
1-5-24	Amended	V. 15, p. 706
1-5-26	Amended	V. 15, p. 707
1-6-22a	Amended	V. 15, p. 707
1-6-23	Amended	V. 15, p. 708
1-6-24	Amended	V. 15, p. 708
1-6-31	Amended	V. 15, p. 708
1-8-1	Revoked	V. 15, p. 709
1-8-5	Amended	V. 15, p. 709
1-8-7	Revoked	V. 15, p. 709
1-9-9	Revoked	V. 15, p. 709

1-9-15	Revoked	V. 15, p. 709
1-9-16	Revoked	V. 15, p. 709
1-9-19a	Amended	V. 15, p. 709
1-9-23	Amended	V. 15, p. 710
1-9-27	New	V. 15, p. 711
1-10-6	Amended	V. 15, p. 713
1-10-8	Revoked	V. 15, p. 713
1-10-9	Revoked	V. 15, p. 713
1-11-1	Amended	V. 15, p. 713
1-13-1a	Amended	V. 15, p. 713
1-13-2	Revoked	V. 15, p. 714
1-13-3	Revoked	V. 15, p. 714
1-13-4	Revoked	V. 15, p. 714
1-14-6	Revoked	V. 15, p. 714
1-14-7	Amended	V. 15, p. 714
1-14-10	Amended	V. 15, p. 715
1-14-11	Amended	V. 15, p. 715
1-14-12a	New	V. 16, p. 170
1-16-18a	Amended	V. 15, p. 317
1-17-10	Amended	V. 15, p. 1706
1-18-1a	Amended	V. 15, p. 1508
1-45-4	Amended	V. 15, p. 1706
1-45-7	Amended	V. 15, p. 1706
1-45-8	Amended	V. 15, p. 1706

AGENCY 5: DEPARTMENT OF AGRICULTURE—DIVISION OF WATER RESOURCES

Reg. No.	Action	Register
5-25-1		
through		
5-25-10	Amended	V. 15, p. 410-412
5-50-1	Amended	V. 15, p. 1861
5-50-2	Amended	V. 15, p. 1861
5-50-3	Revoked	V. 15, p. 1862
5-50-4	Amended	V. 15, p. 1862
5-50-5	Amended	V. 15, p. 1862
5-50-6	Amended	V. 15, p. 1863
5-50-7	New	V. 15, p. 1863
5-50-8	New	V. 15, p. 1863

AGENCY 7: SECRETARY OF STATE

Reg. No.	Action	Register
7-18-1	New	V. 15, p. 1508
7-18-2	New	V. 15, p. 1508
7-18-3	New	V. 15, p. 1508
7-23-2	Amended	V. 15, p. 1927
7-23-4	Amended	V. 15, p. 1927
7-23-8	Revoked	V. 15, p. 1927
7-38-1	New	V. 15, p. 1927
7-38-2	New	V. 15, p. 1927

AGENCY 9: ANIMAL HEALTH DEPARTMENT

Reg. No.	Action	Register
9-10-31	New	V. 15, p. 1671
9-10-32	New	V. 15, p. 1671
9-18-1	Amended	V. 15, p. 1671
9-19-1		
through		
9-19-11	Amended	V. 15, p. 1671-1677
9-25-1		
through		
9-25-15	New	V. 15, p. 1677-1684
9-26-1	New	V. 15, p. 1684

AGENCY 11: STATE CONSERVATION COMMISSION

Reg. No.	Action	Register
11-8-8	Amended	V. 15, p. 1401

AGENCY 16: ATTORNEY GENERAL

Reg. No.	Action	Register
16-2-1	Amended	V. 15, p. 375
16-5-1	Amended	V. 15, p. 375
16-5-4	Amended	V. 15, p. 375
16-5-5	Amended	V. 15, p. 376
16-6-1	Amended	V. 15, p. 376

AGENCY 17: STATE BANKING DEPARTMENT

Reg. No.	Action	Register
17-1-1	New	V. 15, p. 1130
17-9-1		
through		
17-9-10	New	V. 15, p. 1130, 1131
17-10-1	Revoked	V. 15, p. 1131
17-11-1		
through		
17-11-12	Revoked	V. 15, p. 1131
17-11-13	Amended	V. 15, p. 1131
17-11-14	Amended	V. 15, p. 1380
17-11-15		
through		
17-11-19	Amended	V. 15, p. 1131, 1132
17-11-20	Revoked	V. 15, p. 1132
17-11-21	Amended	V. 15, p. 1132
17-11-23	New	V. 15, p. 1132
17-12-1	Amended	V. 15, p. 1132
17-12-2	Amended	V. 15, p. 1132
17-16-1	Amended	V. 15, p. 1132
17-16-2	Amended	V. 15, p. 1132
17-16-3	Revoked	V. 15, p. 1133
17-16-4	Amended	V. 15, p. 1133

(continued)

17-16-5 through 17-16-8	Revoked	V. 15, p. 1133	28-17-5	Revoked	V. 15, p. 551	28-35-201	New	V. 15, p. 1598
17-16-9	Amended	V. 15, p. 1133	28-17-8	Revoked	V. 15, p. 551	28-35-202	New	V. 15, p. 1599
17-17-1 through 17-17-10	Amended	V. 15, p. 1133, 1134	28-19-45	Revoked	V. 15, p. 183	28-35-290	New	V. 15, p. 1601
17-18-1 through 17-18-4	Revoked	V. 15, p. 1134	28-19-46	Revoked	V. 15, p. 183	28-35-291	New	V. 15, p. 1601
17-21-1 through 17-21-6	Amended	V. 15, p. 1134, 1135	28-19-47	Revoked	V. 15, p. 183	28-35-362	Amended	V. 15, p. 1602
17-21-7	Revoked	V. 15, p. 1135	28-19-83 through 28-19-96	Revoked	V. 15, p. 551	28-37-10 through 28-37-14	Revoked	V. 15, p. 553
17-21-8	Amended	V. 15, p. 1135	28-19-96	Revoked	V. 15, p. 551	28-39-144	Amended	V. 16, p. 177
AGENCY 24: KANSAS WHEAT COMMISSION			28-19-98	Revoked	V. 15, p. 551	28-39-145	Amended	V. 16, p. 179
Reg. No.	Action	Register	28-19-98a	Revoked	V. 15, p. 551	28-39-146	Amended	V. 16, p. 181
24-1-1	Amended	V. 15, p. 703	28-19-99 through 28-19-108	Revoked	V. 15, p. 552	28-39-147	Amended	V. 16, p. 181
AGENCY 25: STATE GRAIN INSPECTION DEPARTMENT			28-19-108	Revoked	V. 15, p. 552	28-39-148	Amended	V. 16, p. 182
Reg. No.	Action	Register	28-19-108a	Revoked	V. 15, p. 552	28-39-149	Amended	V. 16, p. 183
25-1-1	Revoked	V. 15, p. 138	28-19-109	Revoked	V. 15, p. 552	28-39-150	Amended	V. 16, p. 184
25-3-3	Amended	V. 15, p. 138	28-19-119 to 28-19-121a	Revoked	V. 15, p. 552	28-39-151	Amended	V. 16, p. 184
25-4-1	Revoked	V. 15, p. 1380	28-19-121a	Revoked	V. 15, p. 552	28-39-152	Amended	V. 16, p. 185
25-4-4	Amended	V. 15, p. 1538	28-19-123	Revoked	V. 15, p. 552	28-39-153	Amended	V. 16, p. 187
AGENCY 26: DEPARTMENT ON AGING			28-19-124	Revoked	V. 15, p. 552	28-39-154	Amended	V. 16, p. 187
Reg. No.	Action	Register	28-19-125	Revoked	V. 15, p. 552	28-39-155	Amended	V. 16, p. 188
26-5-6	Amended	V. 15, p. 1625	28-19-127 through 28-19-131	Revoked	V. 15, p. 552	28-39-156	Amended	V. 16, p. 188
26-5-9	New	V. 15, p. 1626	28-19-131	Revoked	V. 15, p. 552	28-39-157	Amended	V. 16, p. 189
26-5-10	New	V. 15, p. 1626	28-19-133 through 28-19-141	Revoked	V. 15, p. 552	28-39-158	Amended	V. 16, p. 190
26-6-1 through 26-6-8	Revoked	V. 15, p. 1626	28-19-141	Revoked	V. 15, p. 552	28-39-159	Amended	V. 16, p. 192
AGENCY 28: DEPARTMENT OF HEALTH AND ENVIRONMENT			28-19-149 through 28-19-162	Revoked	V. 15, p. 552	28-39-160	Amended	V. 16, p. 192
Reg. No.	Action	Register	28-19-162	Revoked	V. 15, p. 552	28-39-161	Amended	V. 16, p. 192
28-1-9	Revoked	V. 15, p. 550	28-19-202	Amended	V. 15, p. 176	28-39-162	Amended	V. 16, p. 193
28-1-10	Revoked	V. 15, p. 550	28-19-202	Amended	V. 15, p. 176	28-39-162a	Amended	V. 16, p. 194
28-1-13	Amended	V. 15, p. 970	28-19-645	New	V. 15, p. 183	28-39-162b	Amended	V. 16, p. 199
28-1-14	Amended	V. 15, p. 970	28-19-646	New	V. 15, p. 183	28-39-162c	Amended	V. 16, p. 200
28-1-15	Amended	V. 15, p. 971	28-19-647	New	V. 15, p. 183	28-39-163	Amended	V. 16, p. 204
28-1-19	Revoked	V. 15, p. 550	28-19-648	New	V. 15, p. 184	28-39-240 through 28-39-256	New	V. 16, p. 206-213
28-1-21	Revoked	V. 15, p. 550	28-19-800	New	V. 15, p. 257	28-41-1 through 28-41-9	Revoked	V. 15, p. 553
28-1-22	Revoked	V. 15, p. 550	28-19-801	New	V. 15, p. 258	28-42-1	Revoked	V. 15, p. 553
28-3-5	Revoked	V. 15, p. 550	28-21-3	Revoked	V. 15, p. 552	28-42-3	Revoked	V. 15, p. 553
28-3-6	Revoked	V. 15, p. 550	28-21-90a	Revoked	V. 15, p. 552	28-42-7 through 28-42-9	Revoked	V. 15, p. 553
28-4-72	Revoked	V. 15, p. 551	28-21-91a	Revoked	V. 15, p. 552	28-42-16	Revoked	V. 15, p. 553
28-4-431	Revoked	V. 15, p. 551	28-21-91b	Revoked	V. 15, p. 552	28-49-1 through 28-49-8	Revoked	V. 15, p. 553
28-4-506	Revoked	V. 15, p. 551	28-21-92a	Revoked	V. 15, p. 552	28-68-1 through 28-68-9	New	V. 15, p. 1931-1934
28-4-507	Revoked	V. 15, p. 551	28-21-93a	Revoked	V. 15, p. 552	AGENCY 30: SOCIAL AND REHABILITATION SERVICES		
28-4-508	Revoked	V. 15, p. 551	28-21-94a	Revoked	V. 15, p. 552	Reg. No.	Action	Register
28-4-558 through 28-4-563	Amended	V. 15, p. 490-494	28-21-96a	Revoked	V. 15, p. 552	30-4-34	Amended	V. 16, p. 251
28-4-567	Amended	V. 15, p. 494	28-21-98a	Revoked	V. 15, p. 552	30-4-35w	Revoked	V. 16, p. 251
28-4-570	Amended	V. 15, p. 495	28-21-99a	Revoked	V. 15, p. 552	30-4-40	Amended	V. 16, p. 251
28-5-8	Revoked	V. 15, p. 551	28-21-102 through 28-21-112	Revoked	V. 15, p. 552	30-4-41	Amended	V. 16, p. 251
28-6-1	Revoked	V. 15, p. 551	28-23-5	Revoked	V. 15, p. 552	30-4-41w	Revoked	V. 16, p. 252
28-6-2	Revoked	V. 15, p. 551	28-23-8	Revoked	V. 15, p. 552	30-4-50	Amended	V. 16, p. 252
28-7-1 through 28-7-9	Revoked	V. 15, p. 551	28-23-14	Revoked	V. 15, p. 552	30-4-50w	Revoked	V. 16, p. 252
28-8-1	Revoked	V. 15, p. 551	28-23-15	Revoked	V. 15, p. 552	30-4-52	Amended	V. 16, p. 252
28-10-36	Revoked	V. 15, p. 551	28-23-25	Revoked	V. 15, p. 552	30-4-52w	Revoked	V. 16, p. 252
28-10-40	Revoked	V. 15, p. 551	28-23-33	Revoked	V. 15, p. 552	30-4-53	Revoked	V. 16, p. 252
28-10-41	Revoked	V. 15, p. 551	28-23-60 through 28-23-66	Revoked	V. 15, p. 552	30-4-53w	Revoked	V. 16, p. 252
28-11-1 through 28-11-6	Revoked	V. 15, p. 551	28-23-66	Revoked	V. 15, p. 552	30-4-54	Amended	V. 16, p. 339
28-13-10	Revoked	V. 15, p. 551	28-23-69	Revoked	V. 15, p. 552	30-4-54w	Revoked	V. 16, p. 252
28-13-11	Revoked	V. 15, p. 551	28-23-72	Revoked	V. 15, p. 553	30-4-55	Amended	V. 16, p. 252
28-16-50 through 28-16-54	Revoked	V. 15, p. 551	28-23-74	Revoked	V. 15, p. 553	30-4-55w	Revoked	V. 16, p. 253
28-16-56a	Revoked	V. 15, p. 1402	28-23-76	Revoked	V. 15, p. 553	30-4-58	Revoked	V. 16, p. 253
28-16-56b	Revoked	V. 15, p. 1402	28-23-77	Revoked	V. 15, p. 553	30-4-58w	Revoked	V. 16, p. 253
28-16-56c	New	V. 15, p. 1402	28-26-80 through 28-26-87	Revoked	V. 15, p. 553	30-4-59	Amended	V. 16, p. 253
28-16-56d	New	V. 15, p. 1403	28-26-90a	Revoked	V. 15, p. 553	30-4-59w	Revoked	V. 16, p. 253
28-16-59	Amended	V. 15, p. 1403	28-28-1	Revoked	V. 15, p. 553	30-4-60w	Revoked	V. 16, p. 253
28-16-65	Revoked	V. 15, p. 551	28-28-2	Revoked	V. 15, p. 553	30-4-61	Amended	V. 16, p. 253
28-16-67	Revoked	V. 15, p. 551	28-29-1	Revoked	V. 15, p. 553	30-4-61w	Revoked	V. 16, p. 253
			28-29-83	Revoked	V. 15, p. 553	30-4-63	Revoked	V. 16, p. 253
			28-29-98	Amended	V. 15, p. 1804	30-4-63w	Revoked	V. 16, p. 254
			28-29-100	Amended	V. 15, p. 1804	30-4-64	Amended	V. 16, p. 254
			28-29-103	Amended	V. 15, p. 1804	30-4-64w	Revoked	V. 16, p. 255
			28-31-4	Amended	V. 15, p. 297	30-4-65w	Revoked	V. 16, p. 255
			28-31-10	Amended	V. 15, p. 301	30-4-70	Amended	V. 16, p. 255
			28-33-1	Revoked	V. 15, p. 495	30-4-70w	Revoked	V. 16, p. 256
			28-33-11	Revoked	V. 15, p. 495	30-4-71	Revoked	V. 16, p. 256
			28-33-12	Amended	V. 15, p. 495	30-4-71w	Revoked	V. 16, p. 256
			28-34-11	Amended	V. 15, p. 497			
			28-35-178b	Amended	V. 15, p. 1592			
			28-35-180a	Amended	V. 15, p. 1593			
			28-35-184b	New	V. 15, p. 1596			
			28-35-193b	New	V. 15, p. 1596			

30-4-72	Revoked	V. 16, p. 256
30-4-72w	Revoked	V. 16, p. 256
30-4-73	Revoked	V. 16, p. 256
30-4-74	Revoked	V. 16, p. 256
30-4-74w	Revoked	V. 16, p. 256
30-4-78	Revoked	V. 16, p. 256
30-4-80	Amended	V. 16, p. 256
30-4-85a	Revoked	V. 16, p. 256
30-4-90	Amended	V. 16, p. 257
30-4-90w	Revoked	V. 16, p. 259
30-4-95	Amended	V. 16, p. 259
30-4-96	Amended	V. 16, p. 259
30-4-100	Amended	V. 16, p. 260
30-4-100w	Revoked	V. 16, p. 260
30-4-101	Amended	V. 16, p. 260
30-4-102	Amended	V. 16, p. 261
30-4-105	Revoked	V. 16, p. 261
30-4-105w	Revoked	V. 16, p. 261
30-4-106	Amended	V. 16, p. 261
30-4-106w	Revoked	V. 16, p. 262
30-4-108	Amended	V. 16, p. 262
30-4-109	Amended	V. 16, p. 262
30-4-109w	Revoked	V. 16, p. 263
30-4-110	Amended	V. 16, p. 263
30-4-110w	Revoked	V. 16, p. 264
30-4-111	Amended	V. 16, p. 264
30-4-111w	Revoked	V. 16, p. 265
30-4-112w	Revoked	V. 16, p. 265
30-4-113	Amended	V. 16, p. 265
30-4-113w	Revoked	V. 16, p. 266
30-4-120	Amended	V. 16, p. 266
30-4-120w	Revoked	V. 16, p. 266
30-4-121	Revoked	V. 15, p. 915
30-4-122a	Revoked	V. 16, p. 266
30-4-130	Amended	V. 16, p. 266
30-4-130w	Revoked	V. 16, p. 268
30-4-140	Amended	V. 16, p. 268
30-4-140w	Revoked	V. 16, p. 268
30-5-58	Amended	V. 15, p. 917
30-5-64	Amended	V. 15, p. 923
30-5-70	Amended	V. 15, p. 1017
30-5-81	Amended	V. 15, p. 925
30-5-88	Amended	V. 15, p. 925
30-5-101	Amended	V. 15, p. 1876
30-5-300		
through		
30-5-308	New	V. 15, p. 1877-1880
30-6-34	Amended	V. 16, p. 268
30-6-35w	Revoked	V. 16, p. 268
30-6-41	Amended	V. 16, p. 268
30-6-41w	Revoked	V. 16, p. 269
30-6-50w	Revoked	V. 16, p. 269
30-6-52	Amended	V. 16, p. 269
30-6-52w	Revoked	V. 16, p. 269
30-6-53	Amended	V. 15, p. 1880
30-6-53w	Revoked	V. 16, p. 269
30-6-54	Amended	V. 16, p. 340
30-6-54w	Revoked	V. 16, p. 270
30-6-55	Amended	V. 16, p. 270
30-6-55w	Revoked	V. 16, p. 270
30-6-56w	Revoked	V. 16, p. 270
30-5-59	Amended	V. 16, p. 270
30-6-59w	Revoked	V. 16, p. 270
30-6-60w	Revoked	V. 16, p. 270
30-6-65	Amended	V. 16, p. 270
30-6-65w	Revoked	V. 16, p. 271
30-6-70	Amended	V. 16, p. 271
30-6-70w	Revoked	V. 16, p. 271
30-6-72	Revoked	V. 16, p. 271
30-6-72w	Revoked	V. 16, p. 271
30-6-73	Revoked	V. 16, p. 271
30-6-77w	Revoked	V. 16, p. 272
30-6-78w	Revoked	V. 16, p. 272
30-6-79	Revoked	V. 16, p. 272
30-6-81w	Revoked	V. 16, p. 272
30-6-82w	Revoked	V. 16, p. 272
30-6-85w	Revoked	V. 16, p. 272
30-6-86w	Revoked	V. 16, p. 272
30-6-87w	Revoked	V. 16, p. 272
30-6-94w	Revoked	V. 16, p. 272
30-6-103	Amended	V. 15, p. 1882
30-6-103w	Revoked	V. 16, p. 272
30-6-105	Revoked	V. 16, p. 272
30-6-105w	Revoked	V. 16, p. 272
30-6-106	Amended	V. 16, p. 272

30-6-106w	Revoked	V. 16, p. 274
30-6-107w	Revoked	V. 16, p. 274
30-6-108	Amended	V. 16, p. 274
30-6-109	Amended	V. 16, p. 275
30-6-109w	Revoked	V. 16, p. 276
30-6-110	Amended	V. 16, p. 276
30-6-110w	Revoked	V. 16, p. 277
30-6-111	Amended	V. 16, p. 277
30-6-111w	Revoked	V. 16, p. 278
30-6-112w	Revoked	V. 16, p. 278
30-6-113	Amended	V. 16, p. 278
30-6-113w	Revoked	V. 16, p. 279
30-6-140	Amended	V. 16, p. 279
30-6-150w	Revoked	V. 16, p. 280
30-7-65	Amended	V. 16, p. 280
30-7-100	Amended	V. 16, p. 280
30-7-102	Amended	V. 15, p. 927
30-7-103	Amended	V. 15, p. 929
30-7-104	Amended	V. 15, p. 929
30-10-1a	Amended	V. 15, p. 1887
30-10-2	Amended	V. 15, p. 1890
30-10-7	Amended	V. 15, p. 1890
30-10-15a	Amended	V. 15, p. 1891
30-10-17	Amended	V. 15, p. 1892
30-10-19	Amended	V. 15, p. 1894
30-10-21	Amended	V. 15, p. 929
30-10-25	Amended	V. 15, p. 1894
30-10-217	Amended	V. 15, p. 930
30-10-218	Amended	V. 15, p. 550
30-41-1		
through		
30-41-5	Revoked	V. 15, p. 930
30-41-6a	Revoked	V. 15, p. 930
30-41-6b	Revoked	V. 15, p. 1895
30-41-6c		
through		
30-41-6h	Revoked	V. 15, p. 930, 931
30-41-7a		
through		
30-41-7i	Revoked	V. 15, p. 931
30-41-8	Revoked	V. 15, p. 931
30-41-10		
through		
30-41-20	Revoked	V. 15, p. 931
30-46-10	Amended	V. 15, p. 1895
30-46-13	Amended	V. 15, p. 1896
30-46-15	Amended	V. 15, p. 1896
30-46-16	Amended	V. 15, p. 1896
30-46-17	Amended	V. 15, p. 1896
30-63-1	New	V. 15, p. 931
30-63-10		
through		
30-63-14	New	V. 15, p. 931-933
30-63-20	New	V. 15, p. 933
30-63-21	New	V. 15, p. 933
30-63-22	New	V. 15, p. 934
30-63-23	New	V. 15, p. 1215
30-63-24		
through		
30-63-31	New	V. 15, p. 934-937
30-64-1	New	V. 15, p. 937
30-64-10		
through		
30-64-13	New	V. 15, p. 937
30-64-20		
through		
30-64-34	New	V. 15, p. 938-942

AGENCY 40: KANSAS INSURANCE DEPARTMENT

Reg. No.	Action	Register
40-1-42	New	V. 16, p. 41
40-1-43	New	V. 16, p. 41
40-1-44	New	V. 16, p. 41
40-2-24	New	V. 16, p. 482
40-4-17	Amended	V. 15, p. 77
40-4-35	Amended	V. 15, p. 622
40-4-37	Amended	V. 15, p. 77
40-4-37d	Amended	V. 15, p. 78
40-5-109	Amended	V. 15, p. 78
40-7-20a	Amended	V. 16, p. 483
40-7-21	Amended	V. 16, p. 484

AGENCY 49: DEPARTMENT OF HUMAN RESOURCES

Reg. No.	Action	Register
49-45-10		
through		
49-45-19	Revoked	V. 15, p. 1709
49-53-1	Revoked	V. 15, p. 1709

49-53-2 Revoked V. 15, p. 1709

AGENCY 50: DEPARTMENT OF HUMAN RESOURCES—DIVISION OF EMPLOYMENT

Reg. No.	Action	Register
50-2-21	Amended	V. 15, p. 1707

AGENCY 51: DEPARTMENT OF HUMAN RESOURCES—DIVISION OF WORKERS COMPENSATION

Reg. No.	Action	Register
51-9-7	Amended	V. 15, p. 345

AGENCY 60: BOARD OF NURSING

Reg. No.	Action	Register
60-1-104	New	V. 16, p. 436
60-2-101	Amended	V. 16, p. 437
60-2-102		
through		
60-2-108	New	V. 16, p. 437-440
60-3-106	Amended	V. 16, p. 440
60-9-109	Revoked	V. 15, p. 1807
60-11-103	Amended	V. 15, p. 1931
60-11-108	Amended	V. 15, p. 115
60-11-109	Revoked	V. 15, p. 115
60-11-112	Revoked	V. 15, p. 115
60-11-114	Revoked	V. 15, p. 115
60-11-117	Revoked	V. 15, p. 115
60-12-106	Amended	V. 15, p. 115
60-12-109	Revoked	V. 15, p. 116
60-13-112	Amended	V. 15, p. 116
60-13-115	Revoked	V. 15, p. 116
60-16-102	Amended	V. 15, p. 1807
60-16-104	Amended	V. 15, p. 1807

AGENCY 65: BOARD OF EXAMINERS IN OPTOMETRY

Reg. No.	Action	Register
65-5-6	Amended	V. 16, p. 300
65-5-9	New	V. 16, p. 249
65-5-10	New	V. 16, p. 250

AGENCY 66: BOARD OF TECHNICAL PROFESSIONS

Reg. No.	Action	Register
66-6-1	Amended	V. 15, p. 184
66-6-6	Amended	V. 15, p. 185
66-7-3	Amended	V. 15, p. 185
66-8-1	Amended	V. 15, p. 185
66-10-1	Amended	V. 15, p. 185
66-12-1	Amended	V. 15, p. 185
66-14-1		
through		
66-14-12	New	V. 15, p. 186, 187

AGENCY 69: BOARD OF COSMETOLOGY

Reg. No.	Action	Register
69-1-1	Amended	V. 15, p. 292
69-1-2	Amended	V. 15, p. 292
69-1-3	Revoked	V. 15, p. 292
69-1-4	Amended	V. 15, p. 292
69-1-7	Revoked	V. 15, p. 293
69-1-8	Amended	V. 15, p. 293
69-2-1	Revoked	V. 15, p. 293
69-3-1	Amended	V. 15, p. 293
69-3-2	Revoked	V. 15, p. 293
69-3-3	Amended	V. 15, p. 293
69-3-4	Amended	V. 15, p. 294
69-3-5	Revoked	V. 15, p. 294
69-3-6	Amended	V. 15, p. 294
69-3-7	Amended	V. 15, p. 294
69-3-8	Amended	V. 15, p. 742
69-3-9	Amended	V. 15, p. 294
69-3-10	Revoked	V. 15, p. 294
69-3-11	Revoked	V. 15, p. 294
69-3-17	Revoked	V. 15, p. 294
69-3-19	Revoked	V. 15, p. 294
69-3-22		
through		
69-3-25	Revoked	V. 15, p. 294
69-3-26	New	V. 15, p. 294
69-3-27	New	V. 15, p. 294
69-3-28	New	V. 15, p. 294

(continued)

69-4-2	Amended	V. 15, p. 294
69-4-6	Revoked	V. 15, p. 295
69-4-9	Amended	V. 15, p. 295
69-4-11	Revoked	V. 15, p. 295
69-4-12	Amended	V. 15, p. 295
69-5-2	Revoked	V. 15, p. 295
69-5-6	Amended	V. 15, p. 295
69-5-10	Revoked	V. 15, p. 295
69-5-13	Revoked	V. 15, p. 295
69-5-14	New	V. 15, p. 295
69-5-15	New	V. 15, p. 295
69-5-16	New	V. 15, p. 295
69-6-1	Revoked	V. 15, p. 295
69-6-2	Amended	V. 15, p. 295
69-6-5	Amended	V. 15, p. 295
69-6-6	Revoked	V. 15, p. 296
69-6-7	Amended	V. 15, p. 296
69-8-2	Revoked	V. 15, p. 296
69-8-3	Revoked	V. 15, p. 296
69-8-4	Revoked	V. 15, p. 296
69-8-6	Revoked	V. 15, p. 296
69-11-1	Amended	V. 15, p. 296
69-11-2	Amended	V. 15, p. 296
69-13-1	Amended	V. 15, p. 296
69-13-2	Amended	V. 15, p. 296
69-14-1		
through		
69-14-5	New	V. 15, p. 971, 972

AGENCY 70: BOARD OF VETERINARY MEDICAL EXAMINERS

Reg. No.	Action	Register
70-1-1	Amended	V. 16, p. 173
70-1-6	New	V. 16, p. 441
70-2-1	Revoked	V. 16, p. 173
70-2-2	Revoked	V. 16, p. 173
70-2-3	Revoked	V. 16, p. 173
70-4-1		
through		
70-4-7	Revoked	V. 16, p. 173
70-4-8	New	V. 16, p. 441
70-4-9	New	V. 16, p. 443
70-4-10	New	V. 16, p. 443
70-5-1	Amended	V. 16, p. 173
70-7-1	New	V. 16, p. 173
70-8-1	New	V. 16, p. 174
70-10-1	New	V. 16, p. 175

AGENCY 71: KANSAS DENTAL BOARD

Reg. No.	Action	Register
71-4-1	Amended	V. 15, p. 1860
71-4-3	Amended	V. 15, p. 1860

AGENCY 74: BOARD OF ACCOUNTANCY

Reg. No.	Action	Register
74-12-1	Amended	V. 15, p. 1215

AGENCY 75: CONSUMER CREDIT COMMISSIONER

Reg. No.	Action	Register
75-6-3	Revoked	V. 15, p. 1129
75-6-4	Revoked	V. 15, p. 1129
75-6-7	Revoked	V. 15, p. 1129
75-6-8	Revoked	V. 15, p. 1129
75-6-9	Amended	V. 15, p. 1379
75-6-10	Revoked	V. 15, p. 1129
75-6-11	Revoked	V. 15, p. 1129
75-6-16	Revoked	V. 15, p. 1129
75-6-17	Revoked	V. 15, p. 1129
75-6-18	Revoked	V. 15, p. 1129
75-6-25	Revoked	V. 15, p. 1129
75-6-26	Amended	V. 16, p. 301
75-6-29	Revoked	V. 15, p. 1129
75-8-1		
through		
75-8-11	Revoked	V. 15, p. 1129

AGENCY 80: KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM

Reg. No.	Action	Register
80-8-2	Amended	V. 15, p. 1832
80-8-3	Amended	V. 15, p. 1832
80-8-4	Amended	V. 15, p. 1833
80-8-7	Amended	V. 15, p. 1833

AGENCY 81: OFFICE OF THE SECURITIES COMMISSIONER

Reg. No.	Action	Register
81-1-1	Amended	V. 15, p. 697
81-2-1	Amended	V. 15, p. 698

81-3-1	Amended	V. 15, p. 698
81-3-4	Revoked	V. 15, p. 700
81-4-1	Amended	V. 15, p. 701
81-5-1	Revoked	V. 15, p. 701
81-5-2	Revoked	V. 15, p. 701
81-5-3	Amended	V. 15, p. 701
81-5-4	Amended	V. 15, p. 701
81-5-7	Amended	V. 15, p. 701
81-5-9	Amended	V. 15, p. 702
81-6-1	Amended	V. 15, p. 702
81-7-2	Amended	V. 15, p. 703
81-8-1	Revoked	V. 15, p. 703
81-9-1	Revoked	V. 15, p. 703
81-13-1	Revoked	V. 15, p. 703

AGENCY 82: STATE CORPORATION COMMISSION

Reg. No.	Action	Register
82-3-101	Amended	V. 15, p. 1538
82-3-103	Amended	V. 15, p. 1541
82-3-206	Amended	V. 15, p. 1670
82-3-307	Amended	V. 15, p. 1670
82-3-700		
through		
82-3-704	New	V. 15, p. 1542-1544

AGENCY 86: REAL ESTATE COMMISSION

Reg. No.	Action	Register
86-1-5	Amended	V. 15, p. 598
86-1-11	Amended	V. 15, p. 1831
86-3-25	Amended	V. 15, p. 1331

AGENCY 91: DEPARTMENT OF EDUCATION

Reg. No.	Action	Register
91-1-68c	Amended	V. 15, p. 1863
91-5-3	Amended	V. 15, p. 1864
91-10-2	Amended	V. 16, p. 409
91-12-22	Amended	V. 15, p. 226
91-12-61	Amended	V. 15, p. 230
91-31-1	Revoked	V. 15, p. 1864
91-31-2	Revoked	V. 15, p. 1864
91-31-3	Revoked	V. 15, p. 1864
91-31-4	Revoked	V. 15, p. 1864
91-31-4a	Revoked	V. 15, p. 1864
91-31-5	Revoked	V. 15, p. 1864
91-31-6	Revoked	V. 15, p. 1864
91-31-7	Revoked	V. 15, p. 1864
91-31-8	Revoked	V. 15, p. 1864
91-31-9	Revoked	V. 15, p. 1864
91-31-10	Revoked	V. 15, p. 1865
91-31-12a		
through		
91-31-12h	Revoked	V. 15, p. 1865
91-31-13	Revoked	V. 15, p. 1865
91-31-14	Revoked	V. 15, p. 1865
91-31-14a	Revoked	V. 15, p. 1865
91-31-14b	Revoked	V. 15, p. 1865
91-31-14c	Revoked	V. 15, p. 1865
91-31-15	Revoked	V. 15, p. 1865
91-31-16		
through		
91-31-30	New	V. 15, p. 1865-1869
91-33-1		
through		
91-33-8	Revoked	V. 15, p. 1869
91-34-1		
through		
91-34-5	Revoked	V. 15, p. 1870
91-34-7		
through		
91-34-14	Revoked	V. 15, p. 1870

AGENCY 98: KANSAS WATER OFFICE

Reg. No.	Action	Register
98-5-1	Amended	V. 15, p. 1708
98-5-8	New	V. 15, p. 1709

AGENCY 100: BOARD OF HEALING ARTS

Reg. No.	Action	Register
100-23-1	Amended	V. 15, p. 1952
100-29-1		
through		
100-29-14	New	V. 16, p. 380-384
100-34-3	Revoked	V. 16, p. 384

100-34-4	Revoked	V. 16, p. 384
100-35-1	Revoked	V. 16, p. 384
100-35-3	Revoked	V. 16, p. 384
100-35-6	Revoked	V. 16, p. 384
100-35-7	Revoked	V. 16, p. 384
100-36-1	Revoked	V. 16, p. 384
100-37-1	Revoked	V. 16, p. 384
100-37-2	Revoked	V. 16, p. 384
100-38-1	Revoked	V. 16, p. 385
100-39-1	Revoked	V. 16, p. 385
100-40-2	Revoked	V. 16, p. 385
100-42-2	Revoked	V. 16, p. 385
100-46-1	Revoked	V. 16, p. 385
100-46-2	Revoked	V. 16, p. 385
100-46-3	Revoked	V. 16, p. 385
100-46-5	Revoked	V. 16, p. 385
100-46-6	Revoked	V. 16, p. 385
100-47-1	Revoked	V. 16, p. 385
100-54-7	Amended	V. 16, p. 142
100-55-1		
through		
100-55-8	Amended	V. 15, p. 1928-1930
100-55-9	New	V. 15, p. 1930
100-55-10	New	V. 15, p. 1930
100-69-1		
through		
100-69-9	New	V. 15, p. 1021, 1022

AGENCY 104: STATE BANKING DEPARTMENT, CONSUMER CREDIT COMMISSIONER AND DEPARTMENT OF CREDIT UNIONS

Reg. No.	Action	Register
104-1-2	Amended	V. 15, p. 1129

AGENCY 105: BOARD OF INDIGENTS' DEFENSE SERVICES

Reg. No.	Action	Register
105-3-2	Amended	V. 15, p. 1583
105-3-12	New	V. 15, p. 1584
105-4-2	Amended	V. 15, p. 1584
105-5-4	Amended	V. 15, p. 1584

AGENCY 109: BOARD OF EMERGENCY MEDICAL SERVICES

Reg. No.	Action	Register
109-1-1	Amended	V. 16, p. 77
109-1-2	New	V. 16, p. 79
109-2-1	Amended	V. 16, p. 79
109-2-2	Amended	V. 16, p. 79
109-2-3	Revoked	V. 16, p. 79
109-2-4		
through		
109-2-9	Amended	V. 16, p. 79-84
109-2-11	Amended	V. 16, p. 85
109-2-12	Amended	V. 16, p. 86
109-2-13	New	V. 16, p. 87
109-2-14	New	V. 16, p. 89
109-3-1	Amended	V. 16, p. 89
109-4-1	Revoked	V. 16, p. 89
109-4-2	Revoked	V. 16, p. 89
109-4-3	Revoked	V. 16, p. 89
109-5-1	Amended	V. 15, p. 1585
109-6-1	Amended	V. 15, p. 1586
109-6-2	New	V. 15, p. 1586
109-7-1	Amended	V. 15, p. 1586
109-8-1	Amended	V. 15, p. 1625
109-10-1	Amended	V. 15, p. 1587
109-14-1	New	V. 16, p. 89

AGENCY 111: KANSAS LOTTERY

Reg. No.	Action	Register
111-1-2	Amended	V. 7, p. 1190
111-1-5	Amended	V. 15, p. 1304
111-2-1	Amended	V. 15, p. 881
111-2-2	Amended	V. 12, p. 1261
111-2-2a		
through		
111-2-2e	New	V. 14, p. 1633, 1634
111-2-4	Amended	V. 15, p. 1953
111-2-6	Revoked	V. 13, p. 149
111-2-7	Revoked	V. 10, p. 1210
111-2-13	Revoked	V. 10, p. 881
111-2-14	Amended	V. 14, p. 1634
111-2-15	Revoked	V. 10, p. 881

111-2-16	Revoked	V. 10, p. 1210	111-4-177			111-4-388		
111-2-17	Revoked	V. 10, p. 1210	through			through		
111-2-18	Revoked	V. 11, p. 413	111-4-212	Revoked	V. 9, p. 1677, 1678	111-4-391	Revoked	V. 12, p. 1373
111-2-19	Revoked	V. 11, p. 413	111-4-213			111-4-392		
111-2-20			through			through		
through			111-4-220	Revoked	V. 10, p. 1213	111-4-400	Revoked	V. 16, p. 252
111-2-26	Revoked	V. 13, p. 1401	111-4-221			111-4-401		
111-2-27	Revoked	V. 14, p. 972	through			through		
111-2-28	New	V. 12, p. 1844	111-4-224	Revoked	V. 10, p. 1585	111-4-404	Revoked	V. 12, p. 1373
111-2-29	Revoked	V. 14, p. 972	111-4-225			111-4-405		
111-2-30	Amended	V. 15, p. 1180	through			through		
111-2-31	New	V. 14, p. 170	111-4-228	Revoked	V. 10, p. 1585	111-4-413	Revoked	V. 16, p. 452
111-2-32			111-4-229			111-4-414		
through			through			through		
111-2-42	Revoked	V. 16, p. 448, 449	111-4-236	Revoked	V. 10, p. 1585, 1586	111-4-428	Revoked	V. 14, p. 8
111-2-43	New	V. 15, p. 287	111-4-237			111-4-429		
111-2-44	New	V. 15, p. 288	through			through		
111-2-45	New	V. 15, p. 288	111-4-240	Revoked	V. 11, p. 413	111-4-432	Revoked	V. 12, p. 1373
111-2-46	New	V. 15, p. 624	111-4-241			111-4-433		
111-2-47	Amended	V. 16, p. 449	through			through		
111-2-48	New	V. 15, p. 1055	111-4-244	Revoked	V. 12, p. 1371	111-4-436	Revoked	V. 12, p. 1374
111-2-49	New	V. 15, p. 1055	111-4-245			111-4-437		
111-2-50	New	V. 15, p. 1056	through			through		
111-2-51	New	V. 15, p. 1440	111-4-248	Revoked	V. 12, p. 1371	111-4-440	Revoked	V. 12, p. 1374
111-2-52	New	V. 15, p. 1441	111-4-249			111-4-441		
111-2-53	New	V. 15, p. 1710	through			through		
111-2-54	New	V. 15, p. 1920	111-4-256	Revoked	V. 12, p. 113, 114	111-4-444	Revoked	V. 14, p. 8
111-2-55	New	V. 15, p. 1953	111-4-257			111-4-445		
111-2-56	New	V. 16, p. 449	through			through		
111-2-57	New	V. 16, p. 449	111-4-286	Revoked	V. 11, p. 413, 414	111-4-448	Revoked	V. 12, p. 1374
111-3-1	Amended	V. 14, p. 908	111-4-287			111-4-449		
111-3-6	Amended	V. 12, p. 677	through			through		
111-3-9	Revoked	V. 11, p. 1793	111-4-290	Revoked	V. 12, p. 1371	111-4-453	Revoked	V. 14, p. 8
111-3-10			111-4-291			111-4-454		
through			through			through		
111-3-31	New	V. 7, p. 201-206	111-4-300	Revoked	V. 12, p. 114	111-4-465	Revoked	V. 12, p. 1664, 1665
111-3-11	Amended	V. 13, p. 35	111-4-301			111-4-466		
111-3-12	Amended	V. 13, p. 1826	through			through		
111-3-13	Amended	V. 11, p. 1148	111-4-307	Revoked	V. 13, p. 1402	111-4-469	Revoked	V. 12, p. 1665
111-3-14	Amended	V. 13, p. 1826	111-4-308			111-4-470		
111-3-16	Amended	V. 9, p. 1566	through			through		
111-3-19			111-4-317	Revoked	V. 16, p. 451	111-4-477	Revoked	V. 16, p. 452, 453
through			111-4-318			111-4-478		
111-3-22	Amended	V. 9, p. 30	through			through		
111-3-19	Revoked	V. 13, p. 1827	111-4-321	Revoked	V. 12, p. 114	111-4-492	Revoked	V. 14, p. 974, 975
111-3-20	Amended	V. 11, p. 1148	111-4-322			111-4-493		
111-3-21	Amended	V. 11, p. 1148	through			through		
111-3-22	Amended	V. 11, p. 1148	111-4-327	Revoked	V. 12, p. 1371	111-4-496	Revoked	V. 16, p. 453
111-3-23	Revoked	V. 10, p. 883	111-4-328			111-4-497		
111-3-25	Amended	V. 13, p. 1827	through			through		
111-3-26	Amended	V. 11, p. 1149	111-4-335	Revoked	V. 12, p. 114	111-4-512	Revoked	V. 14, p. 975
111-3-27	Amended	V. 11, p. 1149	111-4-336			111-4-513		
111-3-29	Revoked	V. 11, p. 1149	through			through		
111-3-31	Amended	V. 8, p. 209	111-4-340	Revoked	V. 16, p. 451	111-4-521	Revoked	V. 16, p. 453
111-3-32	Amended	V. 10, p. 883	111-4-341	Revoked	V. 11, p. 1473	111-4-522		
111-3-33	New	V. 7, p. 1434	111-4-341a	Revoked	V. 12, p. 1372	through		
111-3-34	New	V. 13, p. 149	111-4-341b	Revoked	V. 16, p. 451	111-4-522		
111-3-35	Amended	V. 14, p. 909	111-4-341c	Revoked	V. 16, p. 451	through		
111-3-36	New	V. 13, p. 877	111-4-342			111-4-571	Revoked	V. 14, p. 975-977
111-3-37	New	V. 13, p. 877	through			111-4-572		
111-4-1			111-4-345	Revoked	V. 16, p. 451	through		
through			111-4-346			111-4-585	New	V. 13, p. 878-880
111-4-5	Revoked	V. 12, p. 113	through			111-4-572	Amended	V. 15, p. 882
111-4-5a	Revoked	V. 12, p. 113	111-4-349	Revoked	V. 12, p. 114	111-4-574	Amended	V. 15, p. 882
111-4-6			111-4-350			111-4-575	Amended	V. 15, p. 882
through			through			111-4-576	Amended	V. 15, p. 882
111-4-15	Revoked	V. 12, p. 113	111-4-355	Revoked	V. 16, p. 452	111-4-577	Amended	V. 15, p. 883
111-4-66			111-4-356			111-4-579	Amended	V. 15, p. 883
through			through			111-4-581	Amended	V. 15, p. 883
111-4-77	New	V. 7, p. 207-209	111-4-361	Revoked	V. 14, p. 7	111-4-582	Amended	V. 15, p. 883
111-4-96			111-4-362			111-4-583	Amended	V. 15, p. 883
through			through			111-4-584	Amended	V. 15, p. 884
111-4-114	New	V. 7, p. 1606-1610	111-4-365	Revoked	V. 12, p. 114, 115	111-4-586		
111-4-100	Amended	V. 14, p. 972	111-4-366			through		
111-4-101			through			111-4-606	Revoked	V. 14, p. 977, 978
through			111-4-369	Revoked	V. 12, p. 1373	111-4-607		
111-4-106	Revoked	V. 16, p. 450	111-4-370			through		
111-4-106a	Revoked	V. 16, p. 450	through			111-4-619	New	V. 13, p. 1436-1438
111-4-107			111-4-379	Revoked	V. 14, p. 7, 8	111-4-607	Amended	V. 14, p. 1407
through			111-4-380			111-4-609	Amended	V. 14, p. 1407
111-4-114	Revoked	V. 16, p. 450, 451	through			111-4-610	Amended	V. 14, p. 1407
111-4-153			111-4-383	Revoked	V. 12, p. 1664	111-4-611	Amended	V. 14, p. 1407
through			111-4-384			111-4-613	Amended	V. 14, p. 1408
111-4-160	Revoked	V. 9, p. 1676, 1677	through					
			111-4-387	Revoked	V. 12, p. 1373			

(continued)

111-4-616 through 111-4-623	Revoked	V. 14, p. 978	111-5-21 through 111-5-33	New	V. 11, p. 415-418	111-7-79	Revoked	V. 13, p. 340
111-4-624 through 111-4-702	Revoked	V. 16, p. 453-455	111-5-21	Revoked	V. 15, p. 291	111-7-80 through 111-7-83	New	V. 11, p. 1478-1480
111-4-703 through 111-4-723	New	V. 14, p. 909-914	111-5-22	Amended	V. 13, p. 1438	111-7-81	Amended	V. 15, p. 1189
111-4-724 through 111-4-736	New	V. 14, p. 978-981	111-5-23	Amended	V. 15, p. 1059	111-7-83	Amended	V. 15, p. 1189
111-4-737 through 111-4-749	New	V. 14, p. 1095-1098	111-5-24	Amended	V. 11, p. 983	111-7-84 through 111-7-93	Revoked	V. 15, p. 291
111-4-750 through 111-4-757	New	V. 14, p. 1408, 1409	111-5-25	Amended	V. 15, p. 1059	111-7-94	Revoked	V. 13, p. 340
111-4-758 through 111-4-761	New	V. 14, p. 1502, 1503	111-5-27	Amended	V. 11, p. 482	111-7-95 through 111-7-118	Revoked	V. 15, p. 291, 292
111-4-762 through 111-4-778	New	V. 14, p. 1410-1414	111-5-28	Amended	V. 15, p. 1060	111-7-119 through 111-7-122	New	V. 15, p. 1189-1191
111-4-769	Amended	V. 14, p. 1503	111-5-29	Amended	V. 15, p. 1060	111-7-122	Amended	V. 15, p. 1477
111-4-779 through 111-4-791	New	V. 14, p. 1504-1507	111-5-34	New	V. 12, p. 318	111-7-123	Amended	V. 15, p. 1477
111-4-792 through 111-4-803	New	V. 14, p. 1635-1638	111-5-34a	Amended	V. 14, p. 1098	111-7-124	Amended	V. 15, p. 1304
111-4-804 through 111-4-816	New	V. 15, p. 116-119	111-5-35 through 111-5-39	Revoked	V. 13, p. 1439	111-7-126	Amended	V. 15, p. 1446
111-4-817 through 111-4-824	New	V. 15, p. 289, 290	111-5-44	New	V. 15, p. 1022, 1023	111-7-128	New	V. 15, p. 1633
111-4-825 through 111-4-838	New	V. 15, p. 449-452	111-5-45 through 111-5-50	New	V. 15, p. 1060-1062	111-8-1	New	V. 7, p. 1633
111-4-839 through 111-4-854	New	V. 15, p. 624-627	111-5-51	New	V. 16, p. 458, 459	111-8-2	New	V. 7, p. 1633
111-4-855 through 111-4-859	New	V. 15, p. 884, 885	111-6-1	through 111-6-15	V. 15, p. 1186	111-8-3	Amended	V. 10, p. 886
111-4-860 through 111-4-872	New	V. 15, p. 1056-1059	111-6-1	Amended	V. 15, p. 1477	111-8-4	New	V. 7, p. 1714
111-4-873 through 111-4-892	New	V. 15, p. 1181-1186	111-6-1	Amended	V. 7, p. 213-217	111-8-4a	Revoked	V. 13, p. 1406
111-4-893 through 111-4-910	New	V. 15, p. 1441-1445	111-6-1	Amended	V. 15, p. 1445	111-8-5 through 111-8-13	New	V. 7, p. 1634
111-4-911 through 111-4-918	New	V. 15, p. 1475, 1476	111-6-3	Amended	V. 14, p. 313	111-8-14	New	V. 13, p. 881
111-4-919 through 111-4-941	New	V. 15, p. 1710-1716	111-6-4	Amended	V. 10, p. 1413	111-8-15	New	V. 13, p. 881
111-4-942 through 111-4-965	New	V. 15, p. 1921-1926	111-6-5	Amended	V. 15, p. 1187	111-9-1 through 111-9-12	New	V. 7, p. 1714-1716
111-4-966 through 111-4-970	New	V. 15, p. 1954, 1955	111-6-6	Amended	V. 11, p. 1973	111-9-1 through 111-9-6	Revoked	V. 9, p. 1680
111-4-971 through 111-4-982	New	V. 16, p. 341-344	111-6-7	Amended	V. 11, p. 1477	111-9-6 through 111-9-13	Revoked	V. 9, p. 1680
111-4-983 through 111-4-991	New	V. 16, p. 456, 457	111-6-7a	Amended	V. 15, p. 1188	111-9-13 through 111-9-18	Revoked	V. 9, p. 1680
111-5-1 through 111-5-23	New	V. 7, p. 209-213	111-6-8	Revoked	V. 12, p. 1263	111-9-18 through 111-9-25	Revoked	V. 9, p. 1680
111-5-9 through 111-5-19	Revoked	V. 15, p. 291	111-6-9	Revoked	V. 14, p. 313	111-9-25 through 111-9-30	New	V. 9, p. 699, 700
			111-6-11	Revoked	V. 12, p. 1376	111-9-30 through 111-9-31	New	V. 10, p. 262
			111-6-12	Amended	V. 8, p. 212	111-9-31 through 111-9-36	New	V. 10, p. 262
			111-6-13	Amended	V. 8, p. 299	111-9-36 through 111-9-37	New	V. 10, p. 1439, 1440
			111-6-15	Amended	V. 12, p. 677	111-9-37 through 111-9-48	New	V. 10, p. 1439, 1440
			111-6-17	Revoked	V. 10, p. 1475	111-9-48 through 111-9-49	New	V. 12, p. 318, 319
			111-6-18	New	V. 13, p. 150	111-9-49 through 111-9-54	New	V. 12, p. 1263, 1264
			111-6-19	New	V. 13, p. 340	111-9-54 through 111-9-55	New	V. 12, p. 1263, 1264
			111-6-20	Amended	V. 15, p. 1716	111-9-55 through 111-9-60	New	V. 8, p. 136-138
			111-6-21	New	V. 13, p. 881	111-10-1 through 111-10-9	New	V. 8, p. 301
			111-6-22	New	V. 13, p. 881	111-10-9	Amended	V. 8, p. 301
			111-6-23	New	V. 13, p. 881			
			111-7-1 through 111-7-10	New	V. 7, p. 1192, 1193			
			111-7-1	Amended	V. 8, p. 212			
			111-7-3	Amended	V. 11, p. 1796			
			111-7-3a	Revoked	V. 13, p. 340			
			111-7-4	Amended	V. 9, p. 1367			
			111-7-5	Amended	V. 9, p. 986			
			111-7-6	Amended	V. 9, p. 987			
			111-7-9	Amended	V. 12, p. 1263			
			111-7-11	Amended	V. 15, p. 1188			
			111-7-12 through 111-7-32	New	V. 7, p. 1194-1196			
			111-7-33 through 111-7-43	New	V. 7, p. 1197, 1198			
			111-7-33a	New	V. 8, p. 300			
			111-7-44 through 111-7-54	Revoked	V. 13, p. 340			
			111-7-46	Amended	V. 11, p. 1152			
			111-7-54	Amended	V. 11, p. 1511			
			111-7-55 through 111-7-63	Revoked	V. 10, p. 1217			
			111-7-60	Amended	V. 10, p. 262			
			111-7-64 through 111-7-75	New	V. 11, p. 13, 14			
			111-7-66	Amended	V. 15, p. 1304			
			111-7-66a	Revoked	V. 13, p. 340			
			111-7-75 through 111-7-78	Amended	V. 15, p. 1188			
			111-7-76	New	V. 11, p. 1478-1480			
			111-7-78	New				

AGENCY 112: KANSAS RACING AND GAMING COMMISSION

Reg. No.	Action	Register
112-3-17	Amended	V. 15, p. 182
112-3-19	Amended	V. 15, p. 222
112-4-1	Amended	V. 15, p. 223
112-4-4a	New	V. 15, p. 182
112-4-4b	New	V. 15, p. 1709
112-4-14b	Amended	V. 15, p. 1379
112-5-1	Amended	V. 15, p. 1125
112-5-2	Amended	V. 15, p. 224
112-6-1	Amended	V. 15, p. 1126
112-6-2	Amended	V. 15, p. 224
112-7-18	Amended	V. 15, p. 1801
112-10-6	Amended	V. 16, p. 379
112-10-35	Amended	V. 15, p. 1126
112-10-38	Amended	V. 15, p. 887
112-11-13a	Amended	V. 15, p. 1127
112-11-20	Amended	V. 15, p. 1127
112-16-14	Amended	V. 16, p. 380
112-17-15	Amended	V. 15, p. 888
112-18-21	New	V. 15, p. 1589
112-18-22	New	V. 15, p. 1590

AGENCY 115: DEPARTMENT OF WILDLIFE AND PARKS

Reg. No.	Action	Register
115-2-1	Amended	V. 16, p. 248
115-2-5	Amended	V. 15, p. 1093
115-4-1	Amended	V. 15, p. 546
115-4-3	Amended	V. 15, p. 547
115-4-5	Amended	V. 15, p. 548
115-4-7	Amended	V. 15, p. 549
115-30-3	Amended	V. 16, p. 249
115-30-6	Amended	V. 16, p. 249

AGENCY 117: REAL ESTATE APPRAISAL BOARD

Reg. No.	Action	Register
117-1-1	Amended	V. 15, p. 489
117-2-2	Amended	V. 16, p. 302

117-3-2	Amended	V. 16, p. 303
117-4-2	Amended	V. 16, p. 304
117-6-3	Amended	V. 15, p. 489
117-8-1	Amended	V. 15, p. 490

AGENCY 121: DEPARTMENT OF CREDIT UNIONS

Reg. No.	Action	Register
121-2-1	New	V. 15, p. 887
121-3-1	New	V. 15, p. 1474
121-4-1 through 121-4-11	New	V. 16, p. 72-77

AGENCY 122: POOLED MONEY INVESTMENT BOARD

Reg. No.	Action	Register
122-2-2	Amended	V. 16, p. 42
122-3-1	Amended	V. 16, p. 42
122-3-2	Amended	V. 16, p. 43
122-3-3	Amended	V. 16, p. 43
122-3-4	Amended	V. 16, p. 43
122-3-5	Amended	V. 16, p. 43
122-3-7	Amended	V. 16, p. 43
122-3-9	Amended	V. 16, p. 44
122-3-10	Amended	V. 16, p. 44
122-3-11	Amended	V. 16, p. 44
122-4-1	Amended	V. 16, p. 44
122-5-1	Amended	V. 16, p. 44

**Kansas Register
Secretary of State
2nd Floor, State Capitol
300 S.W. 10th Ave.
Topeka, KS 66612-1594**

Use this form or a copy of it to enter a subscription:

_____ **One-year subscriptions @ \$70 ea.**
(Kansas residents must include
\$4.31 state and local sales tax.)

Total Enclosed _____
(Make checks payable to the Kansas Register)

Send to:

(Please, no
more than
4 address
lines.)

Zip code must be included

This space for Register office use only.
Rec. No. _____
Exp. _____
Code _____

Use this form or a copy of it to enter a name or address change:

Remove your mailing label (above) and affix it here:

Indicate change of name or address
here:

**Mail either form to: Kansas Register, Secretary of State, 2nd Floor,
State Capitol, 300 S.W. 10th Ave., Topeka, KS 66612-1594**