

# Kansas Register

Ron Thornburgh, Secretary of State

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## State of Kansas

## Kansas Development Finance Authority

## Notice of Hearing

A public hearing will be held at 9 a.m. Thursday, January 14, in the conference room in the offices of Kansas Development Finance Authority, Suite 1000, Jayhawk Tower, 700 S.W. Jackson, Topeka, on the proposal for the Kansas Development Finance Authority to issue its Agricultural Development Revenue Bond for the project numbered below in the respective maximum principal amount. The bond will be issued to assist the respective borrower (who will be the owner and operator of the project) to finance the cost in the amount of the bond of acquiring the project or for the purpose of refunding a bond previously issued to finance the project. The project shall be located as shown:

**Project No. 000404, Maximum Principal Amount: \$50,400.** Owner/Operator: Timothy Summervill. Description: Acquisition of 160 acres of agricultural land and related improvements and equipment to be used by the owner/operator for farming purposes. The project is located at the Southwest Quarter of Section 9, Township 20 South, Range 4 East of the 6th P.M., Centre Township, Marion County, Kansas, approximately 1.5 miles southeast from Marion on Timber Road to 170th.

The bond, when issued, will be a limited obligation of the Kansas Development Finance Authority and will not constitute a general obligation or indebtedness of the State of Kansas or any political subdivision thereof, including the Authority, nor will it be an indebtedness for which the faith and credit and taxing powers of the State of Kansas are pledged. The bond will be payable solely from amounts received from the respective borrower, the obligation of which will be sufficient to pay the principal of, interest and redemption premium, if any, on the bond when it becomes due.

All individuals who appear at the hearing will be given an opportunity to express their views for or against the proposal to issue the bond for the purpose of financing the respective project, and all written comments previously filed with the Authority at its offices at Suite 1000, Jayhawk Tower, 700 S.W. Jackson, Topeka, 66603, will be considered. Additional information regarding the project may be obtained by contacting the Authority.

Any individual affected by the above-described project may, at or prior to the hearing, file a written request with the Authority that a local hearing be held on the proposal to issue a bond to finance said project. A local hearing, if requested, would be conducted in county where the project in question is located.

Kenneth Frahm  
President

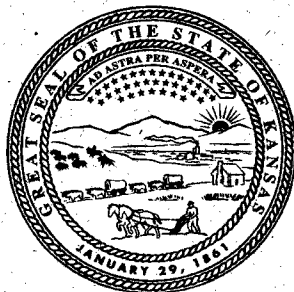
Doc. No. 023305

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State of Kansas

Department on Aging

Notice of Hearing on Proposed Administrative Regulations

A public hearing will be conducted at 2 p.m. Friday, March 5, in Room D of the K-NEA Building, 715 S.W. 10th, Topeka, to consider the adoption of proposed changes in existing rules and regulations and proposed new rules and regulations of the Kansas Department on Aging.

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 Secretary of Aging, New England Building, 503 S. Kansas Ave., Topeka, 66603. 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 Michelle Sweeney at (785) 296-5544 or (785) 291-3167 (TDD). Handicapped parking is located on the north and west sides of the K-NEA building, closest to the north entrance. The north entrance to the building is accessible to individuals with disabilities.

Copies of the regulations and their economic impact statements may be obtained from the Department on Aging, Policy and Planning Unit, New England Building, 503 S. Kansas Ave., Topeka, 66603, (785) 296-5544.

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

**K.A.R. 26-1-4** has been amended to meet the requirement of the Older Americans Act to hold a periodic state needs public hearing to determine the needs of older persons across the state.

**K.A.R. 26-1-6** has been amended to clarify who is affected by the regulation.

**K.A.R. 26-8-4** has been amended to update the annual Senior Care Act sliding fee scale when it is amended to meet the federal poverty guidelines.

These regulations do not exceed the current requirements of the Older Americans Act. There are no costs associated with the adoption of these regulations, except for whatever costs are associated with complying with Kansas statutes addressing adoption of regulations.

Thelma Hunter Gordon  
Secretary of Aging

Doc. No. 023295

State of Kansas

State Conservation Commission

Notice of Meeting

The State Conservation Commission will meet at 1 p.m. Monday, January 11, at the Holiday Inn West Holidome, Topeka. A copy of the agenda may be obtained by contacting Cathy Thompson, 109 S.W. 9th, Suite 500, Topeka, 66612-1299, (785) 296-3600. If special accommodations are needed, please contact the agency three days in advance of meeting date.

Tracy D. Streeter  
Executive Director

Doc. No. 023308

State of Kansas

State Conservation Commission

Notice to Contractors

Sealed bids for the construction of a 43,200 cubic yard detention dam with PVC primary spillway pipe, Site I-2 in Bourbon County, will be received by the Mill Creek Watershed District No. 98 at the office of Agricultural Engineering Associates, 102 E. 2nd, Uniontown, 66779, until 7 p.m. January 28, and then opened. A copy of the invitation for bids and plans and specifications can be obtained at the Agricultural Engineering Associates office, (316) 756-4845. Prospective bidders must complete a contractor pre-qualification form prior to obtaining contract documents and/or bidding.

Tracy D. Streeter  
Executive Director

Doc. No. 023307

State of Kansas

Pooled Money Investment Board

Notice of Investment Rates

The following rates are published in accordance with K.S.A. 75-4210. These rates and their uses are defined in K.S.A. 1997 Supp. 12-1675(b)(c)(d), and K.S.A. 75-4201(l) and 75-4209(a)(1)(B).

Effective 12-28-98 through 1-3-99	
Term	Rate
1-89 days	4.44%
3 months	4.57%
6 months	4.72%
9 months	4.75%
12 months	4.74%
18 months	4.79%
24 months	4.76%

Derl S. Treff  
Director of Investments

Doc. No. 023296

## State of Kansas

## State Fair Board

## Notice of Meeting

The Kansas State Fair Board will meet at 1 p.m. Saturday, January 9, at the Holiday Inn West, Topeka. For further information, contact Deana Novak at (316) 669-3612.

Brad Rayl  
President

Doc. No. 023301

## State of Kansas

## Kansas Turnpike Authority

## Notice to Bidders

The Kansas Turnpike Authority is requesting sealed proposals for furnishing all labor and materials and performing all work in accordance with the plans and specifications and other contract documents, known as KTA Contract No. 4006 (KDOT Contract 4-89 K 6252-02) and KTA Contract No. 4007 (KDOT Contract 4-89 K 6252-01). This work is being let by the Kansas Turnpike Authority and is a joint project with the Kansas Department of Transportation, the City of Topeka, and Shawnee County. This work is known as the Oakland Expressway Interchange with I-70 and the Kansas Turnpike. Work is located in Shawnee County, Kansas, near the East Topeka Interchange at M.P. 182, on the Kansas Turnpike.

## Type of Work

**Contract 4006 (4-89 K 6252-02):** New construction of grading and concrete pavement (0.479 miles) and two plate girder bridges (62'-126'-62').

**Contract 4007 (4-89 K 6252-01):** New construction of Kansas Turnpike Authority toll facilities, including buildings and toll plazas, and construction of grading and concrete pavement (1.955 mi.) and the following bridges:

Br. No. 40-89-20.21 (254) 140'-167'-179'-110' and 20.22 (256) 90'-130'-2@164'-144'-100'-125'-80' cont. comp. welded plate girder.

Br. No. 70-89-19.41 (249) 57'-2@82'-57' and 20.12 54'-4@99'-68' and 20.31 (255) 83'-2@ 98'-62' cont. prestressed conc. beam.

Br. No. 19-92 (250) 74'-133-146'-2@128'-174 and 21.26 (258) 92'-154'-108' and 21.45 (259) 75'-135'-78' and 2147 (260) 70'-126'-70' cont. comp. welded plate girder.

Br. No. 21.03 (257) 3-10×10×728' and Br. No. 22.30 (177) 2-12×12×40' RC box bridges.

Exts. and Br. No. 470-89-11.89 (251) 65'-98'-85- 2@ 98'-65' cont. prestressed conc. beam.

Br. No. 12.12 (253) 124'-192'-155'-188'-123' cont. comp. welded plate girder.

Br. No. 12.96 (176) 2-10'×10'×23' RC box bridge exts.

Bidding plans and proposals may be obtained from the Kansas Department of Transportation, Plans and Propos-

als Section of the Bureau of Construction and Maintenance, (785) 296-7181. Bidding proposal forms shall be issued up to, but not after, the close of business on the day preceding the opening of bids. Small plans are available at a charge of 15 cents per sheet. The charge for a large set of plans is 40 cents per sheet. The charge for proposals (bid and sample) is \$3 each.

Due to the very large number of plan sheets on Project 4007, plans will be made available per set, or by separate volumes. Each volume contains 250 to 300 sheets. A short description of the major items included in each volume is as follows:

Volume 1—Typical Sections, Plan and Profile sheets, and miscellaneous Standard Sheets.

Volume 2—Toll Plaza details and miscellaneous Standard Sheets.

Volume 3—Summary of Quantity Sheets and miscellaneous Standard Sheets.

Volume 4—Bridge Plans Sheets.

Volume 5—Bridge Plans Sheets.

Volume 6—Sequence of Construction/Traffic Control Sheets.

Volume 7—Signing/Lighting.

Earthwork Computations are available on request.

Cross Section Volumes also are available.

A computer diskette containing data on the bid items and estimated quantities is available on request.

## Mandatory Pre-Bid Conference

A pre-bid conference for projects 4006 and 4007, both located in Shawnee County, is scheduled for 10 a.m. Tuesday, February 2, at the Capital Plaza Hotel, 1717 S.W. Topeka Blvd., Topeka, (785) 431-7200. Contractors wishing to bid on these projects are required to attend the pre-bid conference in accordance with Special Provision 90P-36.(dated February 1, 1990).

## Pre-Qualification

Contractors wishing to bid these projects must be pre-qualified by the Kansas Department of Transportation.

## Sealed Proposals

Sealed proposals will be accepted at the Capital Plaza Hotel, 1717 S.W. Topeka Blvd., Topeka, from 10 a.m. to 2 p.m. March 10. Should a contractor wish to submit a proposal prior to that time, it will be accepted at the Kansas Turnpike Authority Topeka office at 3939 S. Topeka Blvd., Topeka, 66609, or at the Kansas Department of Transportation, Bureau of Construction and Maintenance, Docking State Office Building, Topeka, 66612, until 10 a.m. Wednesday, March 10. All proposals will be opened and read publicly at 2 p.m. at the Capital Plaza Hotel, Topeka.

The award of each contract shall be in accordance with the provisions of Section 103 of the Standard Specifications of the Kansas Department of Transportation, edition of 1990. The Kansas Turnpike Authority reserves the right to reject any or all bids, and to waive any irregularity therein, to determine which is the lowest responsible bid most suitable to the Authority.

Michael Johnston  
President/CEO

Doc. No. 023297



## State of Kansas

## Attorney General

## 1998 Update to Guidelines for Takings of Private Property

The following United States Supreme Court and Kansas Supreme Court cases and Kansas Attorney General Opinions, rendered after the completion of the Attorney General's 1997 update to the takings guidelines, contain private property takings analysis. Pursuant to K.S.A. 77-704 of the Private Property Protection Act, this summary of decisions constitutes the 1998 update to the Attorney General's Guidelines. The original guidelines may be found in Vol. 14, No. 51 of the Kansas Register, published December 15, 1995. The 1996 update may be found in Vol. 16, No. 1 of the Kansas Register, published January 2, 1997. The 1997 update may be found in Vol. 16, No. 52 of the Kansas Register, published December 25, 1997.

*Phillips v. Washington Legal Foundation*, 66 U.S.L.W. 4468, 141 L.Ed.2d 174, 118 S.Ct. 1925 (June 15, 1998)

The existence of a property interest protected by the Fifth Amendment to the United States Constitution is to be determined by reference to existing state or local law, or some federal provision independent of the Fifth Amendment. If a long-recognized traditional property interest exists, a state may not sidestep the Takings Clause by disavowing it. *Held*: Interest earned on client funds held in IOLTA accounts is "private property" of the client for purposes of the Takings Clause. There was no determination made as to whether there was a compensable taking in this case.

*Eastern Enterprises v. Apfel*, 66 U.S.L.W. 4566, 141 L.Ed.2d 451, 118 S.Ct. 2131 (June 25, 1998)

The aim of the Fifth Amendment Takings Clause is to prevent government from placing public burdens on one or a few persons that should be borne by the public as a whole. *Held*: In retroactively requiring a former coal operator to fund health benefits, to the tune of \$50 to \$100 million, for retired miners who had worked for the operator before 1996, "the Coal Industry Retiree Health Benefit Act (Coal Act) improperly placed a severe, disproportionate and extremely retroactive burden on the operator and, thus, as applied, effected an unconstitutional taking."

On at least three prior occasions, the Court has upheld federal legislation that retroactively imposed economic burdens on a few for the good of the many because the government action involved in those cases was temporary, less economically burdensome than in the present case, or was otherwise justified. Each non-*per se* Takings case must be decided on an ad hoc basis taking into consideration the factors of economic impact, interference with reasonable investment backed expectations and the character of the governmental action.

*Monterey, California v. Del Monte Dunes*, Case No. 97-1235

The United States Supreme Court heard oral arguments in this case on October 7, 1998. The issues presented were 1) whether an action under 42 U.S.C. § 1983 for a regulatory taking may be decided by a jury; 2)

whether a jury may reweigh evidence concerning the reasonableness of a public entity's land use decisions; and 3) whether the "rough proportionality" test was properly considered. The lower court's decision may be found at 95 F.3d 1422 (9th Cir. 1996), *cert. granted*, 66 U.S.L.W. 3509, 118 S.Ct. 1359, 140 L.Ed.2d 509 (U.S. March 30, 1998).

*City of Overland Park v. Dale F. Jenkins Revocable Trust*, 263 Kan. 470, 949 P.2d 1115 (1997)

A lessee is an owner of property entitled to just compensation if the leasehold interest is damaged from the exercise of eminent domain. Where leased property is taken by eminent domain, the compensation for the property taken or damaged, determined as though held in single ownership, is apportioned between the lessor and lessee according to their respective interests.

*Deisher v. Kansas Department of Transportation*, 264 Kan. 762, 948 P.2d 656 (1998)

Inverse condemnation, a proceeding recognized in Kansas, is an action brought by a party whose property is taken for public use without formal condemnation proceedings. In this case, however, the property damage incurred was found to have resulted from a tortious act rather than a taking.

*State, ex rel. Tomasic v. The Unified Government of Wyandotte County/Kansas City, Kansas*, 265 Kan. 779, 962 P.2d. 543 (1998)

The Fifth Amendment Takings Clause sets a minimum entitlement when private property is taken for public use; it does not prohibit a condemning authority from paying more than what is determined to be just compensation.

## Attorney General Opinion No. 98-10

Placing a moratorium on new water pollution control permits for new confined feeding facilities would not effect a *per se* compensable taking under the Fifth Amendment Takings Clause if no physical invasion of the property or elimination of all economically beneficial uses of the property are involved. Whether such a moratorium otherwise results in a compensable taking depends on 1) the nature of the governmental action, 2) the severity of any economic impact on the affected property owner, and 3) the degree of interference with the affected property owner's reasonable investment-backed expectations. Such determination is fact-intensive and must be made on an ad hoc basis.

Carla J. Stovall  
Attorney General

Doc. No. 023290

## 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 (785) 296-2377 for additional information:

**Monday, January 11, 1999**

33460

Kansas Correctional Industries—Rutile titanium dioxide

33461

Kansas Correctional Industries—Various paint resins

33462

Kansas Correctional Industries—Defoamer for paint production

**Tuesday, January 12, 1999**

8581

Kansas Department of Wildlife and Parks—Agricultural tractors, various locations

8582

Kansas State University—Plumbing materials

**Thursday, January 14, 1999**

33364

Statewide—Facsimile equipment

**Friday, January 22, 1999**

A-8726

Kansas State University—Fume hood relocation, Throckmorton Hall

**Thursday, January 28, 1999**

A-8593

Kansas Neurological Institute—Reroof power plant

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## Request for Proposals

**Tuesday, January 26, 1999**

33548

Fleet consultant services for the Department of Administration, Central Motor Pool

**Wednesday, January 27, 1999**

33463

Corrective action plan, Harbaugh Contamination Site, for the State Corporation Commission

John T. Houlihan  
Director of Purchases

Doc. No. 023306

## State of Kansas

## Department of Transportation

## Notice to Consulting Engineers

Consultant engineering firms not currently qualified that would like to become qualified to perform engineering services for the Kansas Department of Transportation are requested to submit information to KDOT.

To become qualified, firms may request a DOT Form No. 1050, Consulting Engineering Qualification Questionnaire, from Neil R. Rusch, P.E., Assistant to the Director, Division of Engineering and Design, Kansas Department of Transportation, Docking State Office Building, Room 1084-W, 915 S.W. Harrison, Topeka, 66612-1568.

The DOT Form No. 1050 also is available on KDOT's web page at <http://www.ink.org/public/kdot/prequal>. Also available on the same web page is KDOT's Listing of Professional Services for Consultant Qualifications categories booklet.

Seven signed copies of Form 1050 must be returned to the address above by January 27. Contact Neil Rusch at (785) 296-2270 for further information.

E. Dean Carlson  
Secretary of Transportation

Doc. No. 023256

## State of Kansas

## Department of Transportation

## Notice to Contractors

Sealed proposals for the construction of road and bridge work in the following Kansas counties will be received at the Bureau of Construction and Maintenance, KDOT, Topeka, or at the Ramada Inn Downtown, Topeka, until 2 p.m. January 13, and then publicly opened:

## District One—Northeast

**Atchison**—73-3 K-6964-01—U.S. 73, 0.1 mile (0.24 kilometer) northwest of the west junction of U.S. 59 then west 8.6 miles (13.9 kilometers), pavement patching. (State Funds).

**Jackson**—75-43 K-7366-01—U.S. 75 from the junction of K-16 north to 5th Street in Holton, 0.09 mile (0.16 kilometer), concrete pavement. (State Funds)

**Johnson-Wyandotte**—35-106 K-7365-01—I-35 from 95th Street north to Southwest Boulevard, 9.3 miles (15 kilometers), joint repair. (State Funds)

**Lyon**—56 C-3586-01—County road 4.8 miles (7.7 kilometers) south and 6.3 miles (10.1 kilometers) west of Olpe, 0.2 mile (0.32 kilometer), grading and bridge. (Federal Funds)

**Osage**—35-70 K-7371-01—I-35, 1.4 miles (2.3 kilometers) east of the Coffey-Osage county line east 5.1 miles (8.2 kilometers), slurry seal. (State Funds)

**Pottawatomie**—75 K-1428-05—River Pond, Fancy Creek and Randolph Area in Tuttle Creek State Park, road improvements. (State Funds)

**Wyandotte**—635-105 K-7364-01—I-635 Bridges 44 and 45 over the Kansas River, bridge repair. (State Funds)

**District Two—Northcentral**

**District Two**—106 K-5926-99—Various locations in District Two, 177.2 miles (285.1 kilometers), signing. (State Funds)

**Mitchell**—C-3245-01—County road from Hunter east 6 miles (9.7 kilometers), surfacing. (Federal Funds)

**Morris**—C-3587-01—County road 4.4 miles (7.1 kilometers) southeast of Council Grove, 0.2 mile (0.3 kilometer), grading and bridge. (Federal Funds)

**Saline**—104-85 K-2096-01—K-104, Dry Creek Bridge 116, 1.7 miles (2.8 kilometers) north of the junction of K-4, bridge replacement. (Federal Funds)

**District Three—Northwest**

**Norton**—69 C-03350-01—County road southeast of Edmond, 0.25 mile (0.4 kilometer), grading and bridge. (Federal Funds)

**Sheridan**—90 C-3557-01—County road 1 mile (1.6 kilometers) south and 1 mile (1.6 kilometers) southeast of Hoxie, 0.2 mile (0.3 kilometer), grading and bridge. (Federal Funds)

**District Four—Southeast**

**Crawford**—19 C-1775-01—County road 0.7 mile (1.1 kilometers) west of the junction of U.S. 69 at Pittsburg then west, 0.17 mile (0.27 kilometer), bridge replacement. (Federal Funds)

**Cherokee**—69-11 K-7021-01—U.S. 69 from the junction of U.S. 69a/K-96 north to the Cherokee-Crawford county line, 11.1 miles, (17.9 kilometers), slurry seal. (State Funds)

**Cherokee**—160-11 K-7029-01—U.S. 160, 0.06 mile (0.1 kilometer) east of the Labette-Cherokee county line east to the junction of U.S. 69/U.S. 400, 20.3 miles (32.7 kilometers), overlay. (State Funds)

**Greenwood**—54-37 K-5892-01—Safety rest area 2 miles (3.2 kilometers) west of K-105, rest area improvements. (State Funds)

**Miami**—61 K-5890-02—Roads and parking areas at Hillsdale State Park, overlay. (State Funds)

**Neosho**—67 C-3544-01—County road 7.6 miles (9.7 kilometers) east and 3.5 miles (5.6 kilometers) north of the junction of U.S. 169/K-39, 0.018 mile (0.03 kilometer), grading and bridge. (Federal Funds)

**Woodson**—75-104 K-5894-01—U.S. 75, 5 miles (8 kilometers) north of Yates Center, rest area improvements. (State Funds)

**District Five—Southcentral**

**Kingman**—48 C-3218-01—County road 8.5 miles (13.7 kilometers) south of Mt. Vernon then south, 0.039 mile (0.064 kilometer), grading, bridge and surfacing. (Federal Funds)

**Stafford**—50-93 K-5896-01—U.S. 50 safety rest area 6 miles (9.7 kilometers) west of Stafford, rest area improvements. (State Funds)

**Reno**—96-78 K-6247-01—K-96 and Hendricks Street in Hutchinson, 0.1 mile (0.2 kilometer), grading and surfacing. (State Funds)

**Sedgwick**—96-87 K-7060-01—K-96 from Maize Road southeast to the west city limits of Wichita, 6 miles (9.8 kilometers), slurry seal. (State Funds)

**Sedgwick**—163-87 K-7064-01—K-163 from the junction of U.S. 54 south to the north city limits of Garden Plain, 0.5 mile (0.9 kilometer), overlay. (State Funds)

**District Six—Southwest**

**Kearny**—47 C-2290-01—County road 10 miles (16.1 kilometers) south of Lakin then west 9 miles (14.5 kilometers), surfacing. (Federal Funds)

**Ness**—283-68 K-5391-01—U.S. 283 from the north city limits of Ness City north to the Ness-Trego county line, 16.8 miles (27.1 kilometers), grading, bridge and surfacing. (Federal Funds)

**Scott**—86 C-3577-01—County road 1 mile (1.6 kilometers) south of Scott City then 1 mile (1.6 kilometers) west and 1 mile (1.6 kilometers) north, 2 miles (3.1 kilometers), surfacing. (Federal Funds)

**Scott**—95-86 K-7089-01—K-95 from the south junction of U.S. 83 north and east to the north junction of U.S. 83, 6.6 miles (10.6 kilometers), overlay. (State Funds)

**Wichita**—102 C-3050-01—County road 6.7 miles (10.8 kilometers) east of Leoti, then north 6 miles (9.7 kilometers), surfacing. (Federal Funds)

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

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

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

E. Dean Carlson  
Secretary of Transportation

Doc. No. 023273

## State of Kansas

## Department of Transportation

## Notice to Consulting Engineers

The Kansas Department of Transportation is seeking qualified consulting engineering firms for the projects listed below. Responses must be received by 5 p.m. January 20 for the consulting engineering firm to be considered. Seven signed copies of the response should be mailed to Neil Rusch, P.E., Assistant to the Director, Division of Engineering and Design, KDOT, Room 1084-West, Docking State Office Building, 915 S.W. Harrison, Topeka, 66612-1568. Responses shall be limited to four pages.

From the firms expressing interest, the Consultant Selection Committee will select a list of the most highly qualified (not less than three, not more than five) and invite them to attend an individual interview conference. At this time, the consulting firms can more thoroughly discuss their experience related to the type of project at hand and will be expected to discuss, in some detail, their approach to this project and the personnel to be assigned to the project. Firms not selected to be short listed will be notified by letter.

The Consultant Negotiating Committee, appointed by the Secretary of Transportation, will conduct the discussions with the firms invited to the individual interview conferences. The committee will select the firm to perform the professional services required for completing the advertised project. After the selection of this firm, the remaining firms will be notified by letter of the outcome.

The scope of services includes providing for the discovery phase on the following projects. The discovery phase is intended to provide information about the projects that might impact their cost, scope or schedule. At the completion of the discovery phase, KDOT will determine whether to proceed with the design services.

**Project No. 50-78 K-7409-01**  
**Reno County**

The scope of services is to provide for the addition of two new lanes and the reconstruction of the existing two lanes to provide for a four-lane expressway on US-50 from K-96 to K-61 at Hutchinson. The project is scheduled for plan completion in fiscal year 2005. The estimated construction cost is \$12,884,000.

**Project No. 73-3 K-7414-01**  
**Atchison County**

The scope of services is to provide for the rehabilitation of US-73 from the west junction of US-59 in Atchison, west 14.0 km to RS 25 in Lancaster. The project is scheduled for plan completion in fiscal year 2005. The estimated construction cost is \$4,508,000.

**Project No. 77-57 K-7417-01**  
**Marion County**

The scope of services is to provide for the reconstruction of US-77 from US-50, north 14.2 km to US-56/K-150. The project is scheduled for plan comple-

tion in fiscal year 2005. The estimated construction cost is \$13,920,000.

**Project No. 7-19 K-7404-01**  
**Project No. 7-19 K-7405-01**  
**Crawford County**

The scope of services to provide for the reconstruction of K-7 from US-160, north 18.5 km to the south city limits of Girard. The project is scheduled for plan completion in fiscal year 2005. The estimated construction cost is \$21,246,000.

**Project No. 383-20 K-7423-01**  
**Decatur County**

The scope of services is to provide for the rehabilitation of K-383 from the east city limits of Jennings, northeast 10.9 km to the Decatur-Norton county line. The project is scheduled for plan completion in fiscal year 2005. The estimated construction cost is \$3,109,000.

**Project No. 14-53 K-7374-01**  
**Lincoln County**  
**Project No. 140-27 K-7391-01**  
**Ellsworth County**

The scope of services is to provide for the replacement of the Battle Creek Bridge (009) on K-14 in Lincoln County, 11.5 km north of K-18, and the replacement of Alum Creek Bridge (048) on K-140 in Ellsworth County, 9.5 km east of K-111. Project No. 14-53 K-7374-01 is scheduled for plan completion in fiscal year 2003, and the construction estimate is \$719,000.00. Project No. 140-27 K-7391-01 is scheduled for plan completion in fiscal year 2004, and the construction estimate is \$570,000.

**Project No. 160-25 K-6821-01**  
**Project No. 160-25 K-6822-01**  
**Elk County**

The scope of services is to provide for the replacement of Caney River Bridge (001), Caney River Drainage Bridge (002), Steam Creek Bridge (022), and Hitchen Creek Bridge (010) in Elk County. The Discovery Phase has been completed by KDOT. The project is scheduled for plan completion in fiscal year 2001. The estimated construction cost is \$3,943,000.

**Project No. 80-14 K-7380-10**  
**Clay County**

The scope of services is to provide for the replacement of Huntress Creek Bridge (024), 3.8 km west of K-15. The project is scheduled for plan completion in fiscal year 2003. The construction estimate is \$598,000.

**Project No. 92-44 K-7381-01**  
**Jefferson County**  
**Project No. 32-52 K-7388-01**  
**Leavenworth County**

The scope of services is to provide for the replacement of Prairie Creek Bridge (029) on K-92, 8.0 km north of K-16 in Jefferson County, and the replace-

ment of Stranger Creek Bridge (024) on K-32, 13.1 km east of the KTA in Leavenworth County. Project No. 92-44 K-7381-01 is scheduled for plan completion in fiscal year 2003 and the construction estimate is \$752,000. Project No. 32-52 K-7388-01 is scheduled for plan completion in fiscal year 2004 and the construction is \$1,479,000.

It is KDOT's policy to use the following criteria as the basis for selection of the consulting engineering firms:

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

E. Dean Carlson  
Secretary of Transportation

Doc. No. 023288

## State of Kansas

### Governmental Ethics Commission

#### Opinion No. 1998-34

Written December 17, 1998, to Jane J. Kelsey, Silver Lake.

This opinion is in response to your letter of December 3, 1998, in which you request an opinion from the Kansas Governmental Ethics Commission concerning the state level governmental ethics laws (K.S.A. 46-215 *et seq.*). We note at the outset that the commission's jurisdiction is limited to the application of K.S.A. 46-215 *et seq.*, and whether some other statutory system, common law theory or agency rule or regulation applies to your inquiry is not covered by this opinion.

#### Factual Statement

We understand that you request this opinion in your capacity as a classified employee of the Kansas State Historical Society. You have informed us that, as a Librarian I, you answer questions on topics relating to history and genealogy. In addition, you recommend titles for acquisition by the Society and evaluate materials for preservation. You have been elected to serve on the board of the Kansas Farm Bureau's Vote Farm Bureau Friends Political Action Committee (Vote FBF PAC). In this capacity, you will cast one of ten votes to select candidates for Vote FBF PAC support on the basis of the candidate's support of agricultural issues.

#### Question

May you, as a classified employee, serve on the board of the Vote FBF PAC?

#### Opinion

We have reviewed the state level conflict of interest laws and find nothing which prohibits you, as a classified employee, from serving on the board of the Vote FBF PAC. However, we suggest you contact the Department of Administration for further guidance concerning statutes under its jurisdiction.

#### Opinion No. 1998-35

Written December 17, 1998, to Marilyn J. Flannigan, Treasurer, Committee to Elect Sue Storm, Overland Park.

This opinion is in response to your letter of December 9, 1998, in which you request an opinion from the Kansas Governmental Ethics Commission concerning the Campaign Finance Act (K.S.A. 24-4142 *et seq.*). We note at the outset that this commission's jurisdiction is limited to the application of K.S.A. 25-4142 *et seq.*, and whether some other statutory system, common law theory, or agency rule or regulation applies to your inquiry is not covered by this opinion.

#### Factual Statement

We understand that you request this opinion in your capacity as treasurer of the Committee to Elect Sue Storm. You advise us that Ms. Storm has incurred legal fees as a result of a civil lawsuit brought against various supporters of her successful 1996 campaign for State Representative. You have also informed a member of our staff that Sue Storm is not a party to this litigation, but that she sought legal counsel to determine the validity of a demand for documents from her campaign which concerned this litigation. You would like to know whether these legal fees may be paid from campaign funds.

#### Question

May legal fees incurred by a candidate as a result of a civil law suit brought against campaign workers be paid for from the candidate's campaign funds?

#### Opinion

K.S.A. 1997 Supp. 25-4157a(a) as amended by 1998 Session Laws of Kansas, Chapter 117, is applicable to your question. In pertinent part, that section states:

No moneys received by any candidate or candidate committee of any candidate as a contribution under this act shall be used or be made available for the personal use of the candidate and no such moneys shall be used by such candidate committee of such candidate except for:

- (1) legitimate campaign purposes;
- (2) expenses of holding political office;

For the purpose of this section, expenditures for personal use shall include expenditures to defray normal living expenses for the candidate or the candidate's family and expenditures for the personal benefit of the candidate having no direct connection with or effect upon the campaign of the candidate or the holding of public office.

The issue is whether the expenses you have described are being used for the purpose "of holding political office."

In the particular factual scenario you have described, the candidate has not been accused of any wrongdoing. She was, however, required to seek legal assistance in order to respond to a demand for campaign related documents in a civil action involving the supporters of her campaign. Under these unique circumstances, these specific expenses have a direct connection to the holding of public office and, therefore, the candidate may use campaign funds to pay for the legal fees she has incurred.

Diane Gaede  
Chairwoman

Doc. No. 023304

State of Kansas

**Office of Judicial Administration  
Court of Appeals**

**No Oral Argument Docket**

(The following cases have recently been submitted to a panel of judges  
and an opinion on each will be forthcoming.)

Tuesday, December 8, 1998

Before Pierron, P.J.; Marquardt, J.; and Rogg, S.J.

Case No.	Case Name	Attorneys	County
79,318 79,319	State of Kansas, Appellee, v. Renee A. Williams, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Jessica R. Kunen, Chief A.D.	Sedgwick
80,053	Micah Murphy, Appellant, v. State of Kansas, Appellee.	Jessica R. Kunen, Chief A.D. Attorney General Tricia Barr, Asst. D.A.	Wyandotte
80,326	State of Kansas, Appellee, v. Scott D. Fasel, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Jessica R. Kunen, Chief, A.D.	Sedgwick
80,368	Jose V.P. Archuleta, Appellant, v. State of Kansas, Appellee.	Jessica R. Kunen, Chief A.D. Attorney General Debra S. Peterson, Asst. D.A.	Sedgwick
80,405	State of Kansas, Appellee, v. Gary L. Burt, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Jessica R. Kunen, Chief A.D.	Sedgwick
80,457	In the Matter of the Marriage of Gary A. Nelson, Appellee, and Janice L. Nelson, Appellant.	John C. Tillotson Janice L. Nelson, pro se	Leavenworth
80,501	City of Wichita, Appellee, v. Michael Talbot, Appellant.	Sharon L. Dickgrafe Kiehl Rathbun	Sedgwick
80,887	Judy Robb, v. D.S.K., Inc., d/b/a Mr. D's North, Appellees, (Lindemuth, Inc., Proposed Intervenor), Appellant.	James P. Davidson William R. Vincent Richard F. Hayse	Shawnee
81,226	Frank Kirtdoll, Appellant, v. The Board of County Commissioners, Appellee.	Frank L. Kirtdoll, pro se Sandra L. Jacquot	Shawnee
81,299	In the Matter of the Marriage of Dody U. Linin, now Ufford, Appellant, and Rex R. Linin, Appellee.	John T. Bird Todd R. Stramel Kari Milliken	Cheyenne
79,410 79,411	State of Kansas, Appellee, v. Kathy Ray Temple, Appellant.	Attorney General County Attorney Jessica R. Kunen, Chief A.D.	Seward
79,598	Darryl Bagley, Appellant, v. State of Kansas, Appellee.	Jessica R. Kunen, Chief A.D. Attorney General A.J. Stecklein, Asst. D.A.	Wyandotte
80,172	State of Kansas, Appellee, v. Eugene Jesus Hernandez, Appellant.	Attorney General County Attorney Jessica R. Kunene, Chief A.D.	Gray

80,484	In the Matter of the Marriage of Betty A. Siegmund (formerly Warner), Appellee, and Wilbur L. Warner, Appellee. First National Bank of Independence, Intervenor, Appellee, and Warner Farms, L.L.C., Intervenor, Appellant.	James R. McCabria Michael W. Hassenplug Wilbur Warner Paul D. Oakleaf	Montgomery
80,845	Rick's Appliance Services, Inc., Appellee, v. Cindy Tullis, Appellant.	Martin D. Geeding Robert E. Shaver	Sedgwick

Wednesday, December 9, 1998

Before Rulon, P.J.; Wahl, S.J.; and Paddock, S.J.

Case No.	Case Name	Attorneys	County
78,894	David G. Bartlett, Appellant, v. State of Kansas, Appellee.	Jessica R. Kunen, Chief A.D. Attorney General Timothy J. Chambers, C.A.	Reno
79,033	State of Kansas, Appellee, v. Bang Trieu, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Jessica R. Kunen, Chief A.D.	Sedgwick
79,181	State of Kansas, Appellee, v. Sandra L. Morton, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Jessica R. Kunen, Chief A.D.	Sedgwick
79,634	Bounthavy L. Mounivong, Appellant, v. State of Kansas, Appellee.	Jessica R. Kunen, Chief A.D. Attorney General Julie McKenna, C.A.	Saline
79,793	State of Kansas, Appellee, v. Allen B. Haymond, Jr., Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Jessica R. Kunen, Chief A.D.	Sedgwick
79,950	State of Kansas, Appellee, v. Robert L. Anderson, Appellant.	Attorney General E. Bernard Hurd, Asst. D.A. Jessica R. Kunen, Chief A.D.	Shawnee
80,198	State of Kansas, Appellee, v. Joshua J. Fontes, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Jessica R. Kunen, Chief A.D.	Sedgwick
80,199	State of Kansas, Appellee, v. James K. Nellans, Appellant.	Attorney General Kenneth W. McCracken, C.A. Jessica R. Kunen, Chief A.D.	Harvey
80,271	State of Kansas, Appellee, v. Max Osborn, d/b/a Osborn Grain, Appellee, Keith Ott, Appellant.	Stephen J. Smith Cortland E. Berry	Coffey
80,322	Darren E. Perkins, Appellant, v. State of Kansas, Appellee.	Stephen B. Plummer Attorney General Debra S. Peterson, Asst. D.A.	Sedgwick
80,395	State of Kansas, Appellee, v. Brian W. Morris, Appellant.	Attorney General County Attorney Jessica R. Kunen, Chief A.D.	Reno
80,419	State of Kansas, Appellee, v. Mark A. Hankerson, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Jessica R. Kunen, Chief A.D.	Sedgwick
80,461	In the Matter of the Marriage of Virginia Mae Calhoun, Appellee, and Duane E. Calhoun, Appellant.	Michael C. Helbert Phillip L. Turner Dan E. Turner	Lyon
80,506			

(continued)

80,570	In the Matter of the Marriage of Joyce C. Dunn, Appellee, and Michael J. Dunn, Appellant.	Frank B.W. McCollum E. John Edwards III Kevin P. Moriarty	Johnson
81,131	Pottberg, Dill, Gassman & Hoffman, Chtd., Appellee, v. Bayo Hassan, Appellant.	Ben J. Sexton S. Adebayo Hassan, pro se	Geary

Wednesday, December 16, 1998

Before Rulon, P.J.; Pierron and Marquardt, JJ.

Case No.	Case Name	Attorneys	County
80,263	City of Topeka, Appellee, v. Souheil Ibrahim, Appellant.	John J. Knoll, Asst. City Atty. Souheil Ibrahim, pro se	Shawnee
80,530	State of Kansas, Appellee, v. Danny C. Crawford, Appellant.	Attorney General William R. Mott, C.A. Jessica R. Kunen, Chief A.D.	Sumner
80,625	State of Kansas, Appellee, v. Randy L. McCollum, Appellant.	Attorney General County Attorney Randy L. McCollum, pro se	Greenwood
80,635	State of Kansas, Appellee, v. Dustin L. Allred, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Stephen T. Ariagno	Sedgwick
81,702	In the Interest of R.B., dob: 03/22/88; and A.B., dob: 12/30/89.	Timothy J. Arehart Donald W. Hymer, Asst. D.A. Donald S. Smith	Johnson
77,969	State of Kansas, Appellee, v. Gregory A. Lopez, Appellant.	Attorney General District Attorney Jessica R. Kunen, Chief A.D.	Johnson
79,526	State of Kansas, Appellee, v. Daniel R. Patton, Appellant.	Attorney General James A. Brown, Asst. D.A. Jessica R. Kunen, Chief A.D.	Shawnee
80,286	Dwight Porter, Appellant, v. State of Kansas, Appellee.	Jessica R. Kunen, Chief A.D. Attorney General Christopher L. Schneider, Asst. D.A.	Wyandotte
81,198	Felipe Flores, Appellant, v. National Beef Packing Co., L.P., and Wausau Ins. Companies, Appellees.	Diane F. Barger Shane Bangerter	Work Comp
81,676	In the Interest of: O.S.M., dob: 07/14/87 C.J.M., dob: 03/23/89 A.M.T., dob: 01/17/91 H.R.M., dob: 09/21/91 S.A.F., dob: 09/22/94 M.R.A., dob: 02/20/96	Shawn Elliott Timothy Henderson Verlin A. Ingram Karlin Gould	Sedgwick
79,302	Gerald D. Beal, Appellant, v. State of Kansas, Appellee.	Jessica R. Kunen, Chief A.D. Attorney General Mary A. McDonald, C.A.	Harvey
79,875	State of Kansas, Appellee, v. Darrell A. Lynch, Appellant.	Attorney General Steven J. Obermeier, Asst. D.A. Jessica R. Kunen, Chief A.D.	Johnson



80,332	State of Kansas, Appellee, v. Priscilla Pittman, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Jessica R. Kunen, Chief A.D.	Sedgwick
80,387 80,388	State of Kansas, Appellee, v. Matthew G. Robinson, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Jessica R. Kunen, Chief A.D.	Sedgwick
81,314	Jimmie Lee Gander, Appellant, v. Robert Hannigan, et al., Appellees.	Michael C. Robinson John D. Graves	Reno

Carol G. Green  
Clerk of the Appellate Courts

Doc. No. 023270

(Published in the Kansas Register December 31, 1998.)

**Summary Notice of Bond Sale  
Unified School District No. 307  
Saline County, Kansas (Ell-Saline)**

**\$1,680,000**

**General Obligation School Building Bonds  
Series 1999**

(General obligation bonds payable from  
unlimited ad valorem taxes)

**Sealed Bids**

Subject to the notice of bond sale dated December 14, 1998, sealed bids will be received by the clerk of Unified School District No. 307, Saline County, Kansas (Ell-Saline) (the issuer), on behalf of the governing body at the office of the Board of Education, 1757 N. Halstead, Salina, KS 67401, until 5 p.m. January 11, 1999, for the purchase of \$1,680,000 principal amount of General Obligation School Building Bonds, Series 1999. No bid of less than 100 percent of the principal amount 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 January 1, 1999, and will become due on September 1 in the years as follows:

Year	Principal Amount
2000	\$ 40,000
2001	115,000
2002	145,000
2003	160,000
2004	170,000
2005	180,000
2006	195,000
2007	210,000
2008	225,000
2009	240,000

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 March 1 and September 1 in each year, beginning March 1, 2000.

**Optional Book-Entry-Only System**

The successful bidder may elect to have the bonds registered under a book-entry-only system administered through DTC.

**Paying Agent and Bond Registrar**

Kansas State Treasurer, Topeka, Kansas.

**Good Faith Deposit**

Each bid shall be accompanied by a good faith deposit in the form of a cashier's or certified check drawn on a bank located in the United States or a qualified financial surety bond in the amount of \$33,600 (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 without cost to the successful bidder on or before January 28, 1999, at DTC for the account of the successful bidder or at such bank or trust company in the contiguous United States as may be specified by the successful bidder.

**Assessed Valuation and Indebtedness**

The equalized assessed tangible valuation for computation of bonded debt limitations for the year 1998 is \$13,248,860. The total general obligation indebtedness of the issuer as of the date of delivery of the bonds, including the bonds being sold, is \$2,330,000.

**Approval of Bonds**

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

**Additional Information**

Additional information regarding the bonds may be obtained from Susan K. Rose, clerk, (785) 827-1211; or from the financial advisor, Ranson & Associates, Inc., 250 N. Rock Road, Suite 150, Wichita, KS 67206, Attention: Stephen E. Shogren, (316) 681-3123.

Dated December 14, 1998.

Unified School District No. 307  
Saline County, Kansas (Ell-Saline)

Doc. No. 023292

State of Kansas

**Persian Gulf War Veterans  
Health Initiative Advisory Board**

**Notice of Meeting**

The Persian Gulf War Veterans Health Initiative Advisory Board will meet at 1:30 p.m. Friday, January 8, in the State Banking Department's conference room, third floor, Jayhawk Tower, 700 S.W. Jackson, Topeka. The public is invited to attend.

Don A. Myer  
Executive Director

Doc. No. 023298

State of Kansas

**Department of Wildlife and Parks**

**Request for Proposals**

A canoe rental concession agreement at Tuttle Creek State Park River Pond Area is currently open for bid. Interested individuals or parties should contact Allen Stoops, Purchasing Agent, Operations Office, Kansas Department of Wildlife and Parks, 512 S.E. 25th Ave., Pratt, 67124, (316) 672-5911, to obtain a bid packet. Questions about the concession should be directed to Todd Lovin, Tuttle Creek State Park Manager, (785) 539-7941. Final bids are due by 2 p.m. February 2.

Steven A. Williams  
Secretary of Wildlife and Parks

Doc. No. 023310

(Published in the Kansas Register December 31, 1998.)

**Summary Notice of Bond Sale  
Unified School District No. 455  
Republic County, Kansas (Cuba)  
\$675,000**

**General Obligation School Bonds, Series 1999-A**

(General obligation bonds payable from  
unlimited ad valorem taxes)

**Sealed Bids**

Subject to the notice of bond sale dated December 14, 1998, sealed bids will be received by the clerk of Unified School District No. 455, Republic County, Kansas (Cuba) (the issuer), on behalf of the governing body at the office of the Board of Education, 102 Linden St., Cuba, KS 66940, until 3 p.m. January 11, 1999, for the purchase of \$675,000 principal amount of General Obligation School Bonds, Series 1999-A. No bid of less than 100 percent of the principal amount 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 January 1, 1999, and will become due on September 1 in the years as follows:

Year	Principal Amount
2001	\$30,000

2002	35,000
2003	40,000
2004	40,000
2005	45,000
2006	45,000
2007	45,000
2008	50,000
2009	50,000
2010	55,000
2011	55,000
2012	60,000
2013	60,000
2014	65,000

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 March 1 and September 1 in each year, beginning March 1, 2000.

**Book-Entry-Only System**

The bonds will be registered under a book-entry-only system administered through DTC.

**Paying Agent and Bond Registrar**

Kansas State Treasurer, Topeka, Kansas.

**Good Faith Deposit**

Each bid shall be accompanied by a good faith deposit in the form of a cashier's or certified check drawn on a bank located in the United States or a qualified financial surety bond in the amount of \$13,500 (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 without cost to the successful bidder on or about January 28, 1999, at DTC for the account of the successful bidder.

**Assessed Valuation and Indebtedness**

The equalized assessed tangible valuation for computation of bonded debt limitations for the year 1998 is \$7,604,430. The total general obligation indebtedness of the issuer as of the date of delivery of the bonds, including the bonds being sold, is \$675,000.

**Approval of Bonds**

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

**Additional Information**

Additional information regarding the bonds may be obtained from the clerk, (785) 729-3816, or from the financial advisor, George K. Baum & Company, Twelve Wyandotte Plaza, 120 W. 12th, Kansas City, MO 64105, Attention: David G. Arteberry, (816) 474-1100.

Dated December 14, 1998.

Unified School District No. 455  
Republic County, Kansas (Cuba)

Doc. No. 023291

State of Kansas

**Juvenile Justice Authority**

**Notice of Kansas Advisory Group Meeting**

The Kansas Advisory Group on Juvenile Justice and Delinquency Prevention will meet from 10 a.m. to 4 p.m. Thursday, January 7, at the Top of the Towers, Nations Bank, 6th and Kansas Ave., Topeka. There is validated parking in the garage on the north side of the building, and lunch will be provided. For further information, contact the Juvenile Justice Authority at (785) 296-4213.

Albert R. Murray  
Commissioner of Juvenile Justice

Doc. No. 023289

(Published in the Kansas Register December 31, 1998.)

**Summary Notice of Bond Sale  
Unified School District No. 309  
Reno County, Kansas (Nickerson)  
\$6,313,552**

**General Obligation School Building Bonds  
Series 1999**

**(General obligation bonds payable from  
unlimited ad valorem taxes)**

**Sealed Bids**

Subject to the notice of bond sale dated December 14, 1998, sealed bids will be received by the clerk of Unified School District No. 309, Reno County, Kansas (Nickerson) (the issuer), on behalf of the governing body at the office of the Board of Education, 4510 W. 4th St., Hutchinson, KS 67501, until 7:30 p.m. January 11, 1999, for the purchase of \$6,313,552 principal amount of General Obligation School Building Bonds, Series 1999. No bid of less than 100 percent of the principal amount 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, except one bond in the denomination of \$8,552. The bonds will be dated January 1, 1999, and will become due on September 1 in the years as follows:

Year	Principal Amount
2001	\$148,552
2002	215,000
2003	225,000
2004	240,000
2005	250,000
2006	265,000
2007	275,000
2008	290,000
2009	305,000
2010	325,000
2011	340,000
2012	355,000
2013	375,000
2014	395,000
2015	415,000

2016	440,000
2017	460,000
2018	485,000
2019	510,000

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 March 1 and September 1 in each year, beginning March 1, 2000.

**Optional Book-Entry-Only System**

The successful bidder may elect to have the bonds registered under a book-entry-only system administered through DTC.

**Paying Agent and Bond Registrar**

Kansas State Treasurer, Topeka, Kansas.

**Good Faith Deposit**

Each bid shall be accompanied by a good faith deposit in the form of a cashier's or certified check drawn on a bank located in the United States or a qualified financial surety bond in the amount of \$126,271 (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 without cost to the successful bidder on or before January 28, 1999, at DTC for the account of the successful bidder or at such bank or trust company in the contiguous United States as may be specified by the successful bidder.

**Assessed Valuation and Indebtedness**

The equalized assessed tangible valuation for computation of bonded debt limitations for the year 1998 is \$54,446,410. The total general obligation indebtedness of the issuer as of the date of delivery of the bonds, including the bonds being sold, is \$6,683,552.

**Approval of Bonds**

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

**Additional Information**

Additional information regarding the bonds may be obtained from the clerk, (316) 663-7141, or from the financial advisor, Ranson & Associates, Inc., 250 N. Rock Road, Suite 150, Wichita, KS 67206, Attention: Stephen E. Shogren, (316) 681-3123.

Dated December 14, 1998.

Unified School District No. 309  
Reno County, Kansas (Nickerson)

Doc. No. 023293

(Published in the Kansas Register December 31, 1998.)

**Summary Notice of Bond Sale  
City of Wetmore, Kansas  
\$162,504**

**General Obligation Waterworks  
Improvement Bonds, Series 1999**

**(General obligation bonds payable from  
unlimited ad valorem taxes)**

**Sealed Bids**

Subject to the notice of bond sale dated December 9, 1998, sealed bids will be received by the clerk of the City of Wetmore, Kansas (the issuer), on behalf of the governing body at City Hall, P.O. Box 248, Wetmore, KS 66550, until 7 p.m. January 13, 1999, for the purchase of \$162,504 principal amount of General Obligation Waterworks Improvement Bonds, Series 1999. No bid of less than 100 percent of the principal amount 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, except one bond in the denomination of \$12,504. The bonds will be dated February 1, 1999, and will become due on February 1 in the years as follows:

Year	Principal Amount
2000	\$12,504
2001	15,000
2002	15,000
2003	15,000
2004	15,000
2005	15,000
2006	15,000
2007	20,000
2008	20,000
2009	20,000

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 August 1 and February 1 in each year, beginning August 1, 1999.

**Paying Agent and Bond Registrar**

Kansas State Treasurer, Topeka, Kansas.

**Good Faith Deposit**

Each bid shall be accompanied by a good faith deposit in the form of a cashier's or certified check drawn on a bank located in the United States or a qualified financial surety bond in the amount of \$3,250.08 (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 without cost to the successful bidder on or before February 9, 1999, at DTC for the account of the successful bidder or at such bank or trust company in the contiguous United States as may be specified by the successful bidder.

**Assessed Valuation and Indebtedness**

The equalized assessed tangible valuation for computation of bonded debt limitations for the year 1998 is \$1,210,261. The total general obligation indebtedness of the issuer as of the date of delivery of the bonds, including the bonds being sold, is \$162,504.

**Approval of Bonds**

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

**Additional Information**

Additional information regarding the bonds may be obtained from the clerk, (785) 866-2020, or from the financial advisor, Stifel, Nicolaus & Company, Inc., 250 N. Water, Suite 100, Wichita, KS 67202, Attention: Larry L. McKown, (316) 337-8498.

Dated December 9, 1998.

City of Wetmore, Kansas

Doc. No. 023294

(Published in the Kansas Register December 31, 1998.)

**Summary Notice of Bond Sale  
Wichita County, Kansas  
\$500,000**

**General Obligation Bonds  
Series 1999 (Swimming Pool)**

**(General obligation bonds payable from  
unlimited ad valorem taxes)**

**Sealed Bids**

Subject to the official notice of bond sale and preliminary official statement dated December 21, 1998, sealed bids will be received by the county clerk of Wichita County, Kansas (the issuer), on behalf of the governing body of the county at the Wichita County Courthouse, 206 S. 4th St., Leoti, KS 67861, until 11 a.m. Monday, January 11, 1999, for the purchase of \$500,000 principal amount of General Obligation Bonds, Series 1999 (Swimming Pool). 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 January 1, 1999, and will become due on October 1 in the years as follows:

Year	Principal Amount
2000	\$25,000
2001	25,000
2002	25,000
2003	25,000
2004	25,000
2005	25,000
2006	25,000
2007	25,000

2008	25,000
2009	25,000
2010	25,000
2011	25,000
2012	25,000
2013	25,000
2014	25,000
2015	25,000
2016	25,000
2017	25,000
2018	25,000
2019	25,000

(Published in the Kansas Register December 31, 1998.)

**Summary Notice of Bond Sale  
City of Wichita, Kansas  
\$21,900,000  
Aggregate Principal Amount  
General Obligation Bonds  
Series 754 and Series 755**

Subject to the terms and conditions of the complete official notice of sale dated December 15, 1998, of the City of Wichita, Kansas, in connection with the city's herein-after described series of general obligation bonds, sealed, written bids for the purchase of each of the series of bonds shall be received at the Office of the Mayor, First Floor, City Hall, 455 N. Main, Wichita, KS 67202, until 10:30 a.m. Tuesday, January 12, 1999. All bids shall be publicly opened and read aloud on said date and at said time and place. The bids will be considered and the bonds will be awarded by the city council in the city council chambers, City Hall, at 11:30 a.m. January 12, 1999.

No oral or auction bid for the bonds shall be considered, and no bid for less than the entire principal amount of a series of bonds shall be considered. Bids will be accepted only on the official bid forms that have been prepared for these series of bonds, which may be obtained from the city's Department of Finance. Bids may be submitted by mail or delivered in person, but must be received at the place and not later than the date and time hereinbefore specified. Each bid shall be accompanied by a good faith deposit in the form of a certified or cashier's check drawn on a bank located within the United States and made payable to the order of the city, or in the form of a financial surety bond payable to the order of the city and meeting requirements therefor as set forth in the official notice of bond sale, and shall be in an amount equal to 2 percent of the principal amount of the series of bonds for which the bid is submitted.

**Description of the Bonds**

The General Obligation Bonds, Series 754, will be issued in the aggregate principal amount of \$12,500,000; shall be issued as fully registered bonds in the denomination of \$5,000, or any integral multiple thereof not exceeding the principal amount maturing in each year; shall bear a dated date of February 1, 1999; and shall mature serially on September 1 in each of the years and principal amounts as follows:

**Maturity Schedule—Series 754 Bonds**

Principal Amount	Maturity Date
\$ 580,000	2000
610,000	2001
640,000	2002
670,000	2003
705,000	2004
740,000	2005
775,000	2006
815,000	2007
855,000	2008
900,000	2009
940,000	2010

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, 2000.

**Paying Agent and Bond Registrar**

The paying agent and bond registrar is 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 or a qualified financial surety bond in the amount of \$10,000 (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 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 1998 is \$27,474,873. The total general obligation indebtedness of the issuer as of the date of the bonds, including the bonds being sold, is \$500,000.

**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 when the bonds are delivered.

**Additional Information**

Additional information regarding the bonds may be obtained from the county clerk.

Dated December 21, 1998.

Wichita County, Kansas  
Karla Ridder, County Clerk  
Wichita County Courthouse  
206 S. 4th St.  
Leoti, KS 67861-0968  
(316) 375-2731

990,000	2011
1,040,000	2012
1,095,000	2013
1,145,000	2014

The Series 754 Bonds shall bear interest at the rates specified by the successful bidder, and interest shall be payable semiannually on March 1 and September 1 of each year, commencing March 1, 2000.

The **General Obligation Bonds, Series 755**, will be issued in the aggregate principal amount of \$9,400,000; shall be issued as fully registered bonds in the denomination of \$5,000, or any integral multiple thereof not exceeding the principal amount maturing in each year; shall bear a dated date of February 1, 1999; and shall mature serially on June 1 in each of the years and principal amounts as follows:

**Maturity Schedule—Series 755 Bonds**

Principal Amount	Maturity Date
\$940,000	2000
940,000	2001
940,000	2002
940,000	2003
940,000	2004
940,000	2005
940,000	2006
940,000	2007
940,000	2008
940,000	2009

The Series 755 Bonds shall bear interest at the rates specified by the successful bidder, and interest shall be payable semiannually on June 1 and December 1 of each year, commencing December 1, 1999.

**Forms of Bonds**

Each series of bonds will be issued in book-entry-only form.

**Paying Agent and Bond Registrar; Payment of Principal and Interest**

The Chase Manhattan Bank, New York, New York, shall serve as bond registrar and paying agent for the bonds. The principal amount of and the interest on the bonds shall be paid by the paying agent from funds made available by the city by wire transfer of same day funds to Cede & Co., nominee for the depository Trust Company, New York, New York. The transfer of principal and interest payments to the participants of DTC will be the responsibility of DTC, and the transfer of principal and interest payments to beneficial owners by participants of DTC will be the responsibility of such participants and other nominees of beneficial owners. (Reference is made to the official notice of bond sale for additional information regarding payment of principal and interest to owners of the bonds.)

**Redemption**

Certain of the bonds are subject to redemption as set forth in the official notice of bond sale.

**Delivery**

The bonds shall be delivered at the expense of the city on or about February 25, 1999. As a condition to delivery,

the successful bidders shall be required to deposit the bonds with DTC. (Reference is made to the official notice of bond sale for additional information regarding delivery.)

**Legal Opinion**

Hinkle, Eberhart & Elkouri, L.L.C., Wichita, Kansas. All fees and expenses of bond counsel shall be paid by the city. (Reference is made to the official notice of bond sale and the city's preliminary official statement for additional information regarding legal matters.)

**Security**

The bonds and the interest thereon constitute general obligations of the city, and the full faith, credit and resources of the city will be pledged to the payment thereof. (Reference is made to the official notice of bond sale and the city's preliminary official statement for a further discussion of the security for the bonds.)

**Ratings**

The city's outstanding general obligation bonds issued since 1975 have been rated by Moody's Investors Service, Inc. and by Standard & Poor's Corporation. The most recent ratings given to the city's general obligation bonds (sold July 21, 1998) by rating agencies were "Aa2" and "AA." The city has applied to both of said rating services for ratings on the bonds described herein.

**Financial Matters**

The city's equalized assessed tangible valuation for computation of bonded debt limitations is \$2,098,095,576. The total outstanding general obligation bonded indebtedness of the city, at February 1, 1999, will be \$293,345,366, not including the within described bonds and the following described pending indebtedness.

**Pending Indebtedness**

Concurrently with the public sale of the bonds described herein, the city will offer at public sale \$26,735,000 principal amount of General Obligation Renewal and Improvement Temporary Notes, Series 198.

**Official Statement**

The governing body of the city has authorized and directed preparation of a preliminary official statement in connection with the bonds. Said preliminary official statement is in a form "deemed final" by the city for purposes of the Securities and Exchange Commission Rule 15c2-12(b)(1), but is subject to revision, amendment and completion in the final official statement. Not later than seven business days after the date of the sale of the bonds, the city shall furnish the successful bidders with a reasonable number of copies of the final official statement, without cost.

**Continuing Disclosure**

The city has adopted an ordinance establishing a master undertaking to provide ongoing disclosure concerning the city in connection with its general obligation bonds for the benefit of owners of the bonds, as required under Section (b)(5)(i) of the Securities and Exchange Commission Rule 15c2-12. A copy of the ordinance is included as an appendix to the official statement.

**Additional Information**

Copies of the official notice of sale, official bid forms and preliminary official statement may be obtained from

the city's Department of Finance, City Hall, 12th Floor, 455 N. Main, Wichita, KS 67202-1679, Attn: Kristi Mc-Minnville, Debt Coordinator, (316) 268-4143.

City of Wichita, Kansas  
By Pat Burnett, City Clerk

Doc. No. 023309

(Published in the Kansas Register December 31, 1998.)

**Summary Notice of Bond Sale**  
**City of Osage City, Kansas**  
**\$825,000**  
**General Obligation Bonds**  
**Series 1999A**

**(General obligation bonds payable from unlimited ad valorem taxes)**

**Sealed Bids**

Subject to the official notice of bond sale and preliminary official statement dated December 22, 1998, sealed bids will be received by the city clerk of the City of Osage City, Kansas (the issuer), on behalf of the governing body of the city at City Hall, 201 S. 5th, Osage City, KS 66528, until 4 p.m. Tuesday, January 12, 1999, for the purchase of General Obligation Bonds, Series 1999A, in the aggregate principal amount of \$825,000. 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 initially be registered in the name of Cede & Co., as nominee of the Depository Trust Company, New York, New York, to which payments of principal of and interest on the bonds will be made. Individual purchases of bonds will be made in book-entry form only. Purchasers will not receive certificates representing their interest in bonds purchased. The bonds will be dated January 1, 1999, and will become due on September 1 in the years as follows:

Year	Principal Amount
2000	\$ 5,000
2001	30,000
2002	30,000
2003	30,000
2004	30,000
2005	35,000
2006	35,000
2007	35,000
2008	40,000
2009	40,000
2010	40,000
2011	45,000
2012	45,000
2013	45,000
2014	50,000
2015	50,000
2016	55,000

2017	60,000
2018	60,000
2019	65,000

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 March 1 and September 1 in each year, beginning March 1, 2000.

**Paying Agent and Bond Registrar**

The paying agent and bond registrar will be 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 or a qualified financial surety bond in the amount of \$16,500 (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 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 city for the year 1998 is \$11,998,730. The total general obligation indebtedness of the issuer as of the date of the bonds, including the bonds being sold, is \$2,631,742, which includes, as of the date of the bonds, temporary notes outstanding in the principal amount of \$350,000.

**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 when the bonds are delivered.

**Additional Information**

Additional information regarding the bonds may be obtained from the city clerk, (785) 528-3714, or from the financial advisor, Dennis V. Mitchell, Piper Jaffray Inc., 4600 Madison Ave., Suite 1200, Kansas City, MO 64112, (816) 360-3072.

Dated December 22, 1998.

City of Osage City, Kansas  
Linda C. Jones, City Clerk  
City Hall  
201 S. 5th  
Osage City, KS 66523

Doc. No. 023299



(Published in the Kansas Register December 31, 1998.)

**Notice of Conditional Call for Redemption  
to the Owners of  
City of Wichita, Kansas  
Industrial Revenue Bonds  
(Kinder-Care Learning Centers, Inc.)  
\$1,010,000 - Series XIII, 1981**

Notice is hereby given that pursuant to the provisions of Sec. 4 of the Ordinance No. 37-488 between the City of Wichita, Kansas (the issuer), and the Southwest National Bank of Wichita, Wichita, Kansas, as trustee, dated as of August 1, 1981, the above-mentioned bonds maturing August 1, 1999, and thereafter (the called bonds) have been called for redemption and the \$305,000 outstanding principal amount thereof shall be redeemed on February 1, 1999 (the redemption date), at the principal corporate trust office of the Southwest National Bank of Wichita, 400 E. Douglas, P.O. Box 1401, Wichita, KS 67201 (the paying agent). The called bonds are further described as follows:

Maturity Date	Principal Amount	Interest Rate
08/01/99	\$100,000	12.75%
08/01/00	\$100,000	12.75%
08/01/01	\$105,000	12.75%

On such redemption date, provided that funds are on hand to pay the called bonds as aforesaid, there shall become due and payable, upon the presentation and surrender of each such bond, the redemption price thereof equal to 100 percent on each bond together with interest accrued to the redemption date. Interest shall cease to accrue on the bonds so called for redemption from and after February 1, 1999. The bonds shall no longer be secured by the ordinance and the bonds shall not be deemed to be outstanding under the provisions of the ordinance. Please deliver your bonds to the paying agent two weeks before the redemption date to facilitate processing of the bonds.

In the event sufficient funds are not available by the redemption date, this notice shall be null and void and of no force and effect, the called bonds delivered for redemption shall be returned to the respective owners thereof, and said called bonds shall remain outstanding as though this conditional notice of redemption had not been given.

Under the provisions of the Interest and Dividend Tax Compliance Act of 1983, as amended and codified at Section 3406(a)(1) of the Internal Revenue Code of 1986, paying agents making payments of interest or principal on corporate securities or making payments of principal on municipal securities may be obligated to withhold a 31 percent tax from remittances to individuals who have failed to furnish the paying agent with a valid taxpayer identification number. Holders of the called bonds who wish to avoid the imposition of the tax should submit certified taxpayer identification numbers when presenting the bonds for payment.

Dated December 30, 1998.

Southwest National Bank of Wichita  
Paying Agent

Doc. No. 023311

**State of Kansas**

**Racing and Gaming Commission**

**Permanent Administrative  
Regulations**

**Article 10.—ANIMAL HEALTH**

**112-10-8. Testing.** (a) The stewards may require any horse entered in a race to submit to a blood test or other pre-race test. No horse shall be eligible to start in a race until the owner or trainer complies with the required test procedure.

(b) A blood, urine, or other sample shall be taken from the winner of each race and from each other horse designated by the stewards.

(c) Each blood, urine, or other sample specimen shall be taken under the supervision of the animal health officer or assistant animal health officer. Each sample shall be taken in the test barn unless approved otherwise by the animal health officer or assistant animal health officer.

(d) After each horse enters the test barn, it shall be cooled out for a minimum of 30 minutes before the sample is taken unless otherwise authorized by the animal health officer or assistant animal health officer.

(e) Each trainer, or authorized representative of the trainer, shall witness and confirm the taking of test samples and shall sign the confirmation card.

(f) A trainer or owner may waive the right to witness the collection of a test sample from a racing animal if the trainer's authorized representative witnessing the collection of the test sample is less than 18 years of age. The trainer shall execute a voluntary and knowing waiver of the right to witness the collection of the test sample before the time of collection. Each trainer waiving the right to witness the collection of a test sample from a racing animal shall be estopped from later claiming any defect in the process of collecting and identifying the test sample.

(g) When any horse has been in the test barn for more than one hour, the assistant animal health officer may take a blood sample in lieu of a urine sample and submit the blood plasma from the sample to the test laboratory for testing.

(h) Each test sample shall remain in the custody of the animal health officer or assistant animal health officer from the time it is secured until it is delivered for shipment to the test laboratory.

(i) No person shall tamper with, adulterate, add to, break the seal of, remove, or otherwise attempt to alter or violate any test sample taken, but preservatives or additives necessary for analysis of the sample may be added by the commission-approved test laboratory.

(j) The test laboratory or the animal health officer and assistant animal health officer may be directed by the commission to retain and preserve test samples for future analysis.

(k) The fact that purse money has been paid before the issuance of a laboratory report shall not be deemed a finding that no prohibited substance has been administered to the horse earning the purse money in violation of these racing regulations. (Authorized by K.S.A. 1997 Supp. 74-8804; implementing K.S.A. 1997 Supp. 74-8806 and 74-



8810, as amended by L. 1998, Ch. 178, Sec. 3, and K.S.A. 74-8811, as amended by L. 1998, Ch. 178, Sec. 4; effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993; amended Jan. 15, 1999.)

Myron Scafe  
Executive Director

Doc. No. 023303

## State of Kansas

### Board of Healing Arts

#### Permanent Administrative Regulations

#### Article 54.—OCCUPATIONAL THERAPY

**100-54-1. Application.** (a) Each applicant for registration as an occupational therapist or occupational therapy assistant shall submit the application on a form provided by the board. The form shall contain the following information in plain, legible writing:

- (1) The applicant's full name;
- (2) the applicant's residence and mailing address;
- (3) employment information for five years before the date of application;
- (4) a description of the applicant's post-high school education;
- (5) information regarding licenses, registrations, or certifications issued to the applicant to practice any health care profession; and
- (6) information regarding any prior acts constituting unprofessional conduct.

(b) Each applicant shall submit the following with the application:

- (1) The fee required by K.A.R. 100-54-4;
- (2) an official transcript from an educational program recognized by the board under K.A.R. 100-54-2 and a notarized copy of a diploma from a recognized educational program;
- (3) a verification on a form provided by the board of each license, registration, or certification issued to the applicant by any state or the District of Columbia relating to occupational therapy;
- (4) a current photograph of the applicant taken within 90 days of the date the application is received by the board; and
- (5) the results of a written examination recognized and approved by the board under K.A.R. 100-54-3, which shall be provided directly to the board from the testing entity.

(c) The application shall sign the application under oath.

(d) Any applicant who cannot provide the documents required by paragraph (b)(2) above may arrange for a certificate to be provided directly to the board by a recognized educational program showing the program attended, dates of attendance, degree obtained, and date of graduation.

(e) The occupational therapist council shall consider every application from persons who have neither been

engaged in an educational program recognized by the board nor engaged in the practice of occupational therapy during the five years preceding the date of the application. The council shall then make its recommendation to the board. (Authorized by K.S.A. 65-5405; implementing K.S.A. 65-5406; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 15, 1999.)

**100-54-2. Education requirements.** Recognition and approval of each educational program for occupational therapists and occupational therapy assistants shall rest with the board. A current list of recognized and approved educational programs shall be maintained by the board. Examinations, outside experts, opinions, and reports for advice on the sufficiency and correctness of the board's approval method may be employed to determine whether or not the educational programs should be recognized and approved. (Authorized by K.S.A. 65-5405; implementing K.S.A. 65-5406; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 15, 1999.)

**100-54-3. Examinations.** (a) The examination required and approved by the board for registration as an occupational therapist shall be the certification examination for initial certification as an occupational therapist prepared and administered by the national board for certification in occupational therapy, inc.

(b) The examination required and approved by the board for registration as an occupational therapy assistant shall be the examination for initial certification as an occupational therapy assistant prepared and administered by the national board for certification in occupational therapy, inc.

(c) To qualify for registration, each applicant for registration as an occupational therapist and occupational therapy assistant shall obtain a minimum criterion-scaled score of 450 on the required examination. (Authorized by K.S.A. 65-5405; implementing K.S.A. 65-5407; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 15, 1999.)

**100-54-5. Unprofessional conduct; defined.** "Unprofessional conduct" means any of the following: (a) Using fraudulent or false advertisements;

(b) engaging in occupational therapy under a false or assumed name, or by impersonating another person registered by the board as an occupational therapist or occupational therapy assistant;

(c) practicing occupational therapy without reasonable skill and safety because of illness; disability; excessive use of alcohol or drugs; illegal use of controlled substances, chemicals, or any other type of material; or as a result of any mental or physical condition;

(d) having an occupational therapy license, registration, or certification revoked, suspended, or limited, or an application for any of these denied by the proper regulatory authority of another state, territory, District of Columbia, or other country;

(e) cheating or attempting to subvert the validity of the examination required for registration;

(f) having been found either not guilty by reason of insanity or incompetent to stand trial by a court of competent jurisdiction;

(continued)

(g) failing to furnish the board, its investigators, or its representatives any information legally requested by the board;

(h) being sanctioned or disciplined by a peer review committee or medical care facility for acts or conduct that would constitute grounds for denial, refusal to renew, suspension, or revocation of a registration under K.S.A. 65-5410 and amendments thereto;

(i) surrendering a license, registration, or certification to practice occupational therapy in another state while disciplinary proceedings are pending for acts or conduct that would constitute grounds for denial, refusal to renew, suspension, or revocation of a registration under K.S.A. 65-5410 and amendments thereto;

(j) being professionally incompetent, as defined in K.S.A. 1997 Supp. 65-2837(a) and amendments thereto;

(k) representing to a patient that a manifestly incurable disease, condition, or injury can be permanently cured;

(l) providing occupational therapy to a patient without the consent of the patient, the attending physician, or the patient's legal representatives;

(m) willfully betraying confidential information;

(n) advertising a guarantee of any professional service related to occupational therapy;

(o) using any advertisement that is false, misleading, or deceptive in a material respect;

(p) committing conduct likely to deceive, defraud, or harm the public;

(q) making a false or misleading statement regarding the registrant's skill, which shall include providing any form of occupational therapy without appropriate education, training, and knowledge in the specific therapeutic methods used;

(r) committing any act of sexual, psychological, or physical abuse, or exploitation;

(s) obtaining any fee by fraud, deceit, or misrepresentation;

(t) charging an excessive fee for services rendered;

(u) failing to keep written records justifying the course of treatment of the patient; or

(v) delegating occupational therapy to a person who the registrant knows or has reason to know is not qualified by training or experience to perform it. (Authorized by K.S.A. 65-5405; implementing K.S.A. 65-5410; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 15, 1999.)

**100-54-6. Registration; renewal; late renewal.** (a) Each registration issued by the board shall expire on March 31 of each year.

(b) Each registration may be renewed annually. The request for renewal shall be on a form provided by the board and shall be accompanied by the following:

(1) the prescribed registration renewal fee; and

(2) proof of satisfactory completion of a program of continuing education as required by the board.

(c) Registrations not renewed by March 31 shall expire but may be renewed for a period of 30 days thereafter, upon request of the registrant. The request for late renewal shall be on the same form as a request for renewal and shall be accompanied by the following:

(1) the prescribed registration late renewal fee; and

(2) proof of satisfactory completion of a program of continuing education as required by the board. (Authorized by K.S.A. 65-5405; implementing K.S.A. 65-5412; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Dec. 27, 1993; amended Jan. 15, 1999.)

**100-54-8. Reinstatement; expired and revoked registrations.** (a) Any person may request reinstatement of a registration that has been expired for a period of more than 30 days. The request for reinstatement shall be submitted on a form provided by the board and shall be accompanied by the following:

(1) The prescribed registration reinstatement fee; and

(2) proof of satisfactory completion of a program of continuing education as required by the board.

(b)(1) If the time since the registration expired has been one year or less, no continuing education in addition to that which would have been necessary had the registration been renewed before expiration shall be required.

(2) If the time since the registration expired has been more than one year but fewer than three years, the applicant shall complete a minimum of 20 contact hours.

(3) If the time since the registration expired has been three or more years, the applicant shall complete or provide one of the following:

(A) A minimum of 20 contact hours for each year or portion of a year since the date the registration lapsed;

(B) proof that the registrant has passed the examination required under K.A.R. 100-54-3 within the past six months; or

(C) a program recommended by the board.

(c) Each occupational therapist and occupational therapy assistant whose registration has been reinstated within two years of a registration date in an odd-numbered year shall complete a minimum of 10 contact hours of continuing education for every six-month period from the date of reinstatement to the end of the next even-numbered calendar year. An occupational therapist or occupational therapy assistant whose registration was reinstated after July 1 in an even-numbered year shall not be required to obtain continuing education for the first renewal in an odd-numbered year.

(d) Each applicant seeking reinstatement of a revoked registration shall successfully complete a program approved by the board. (Authorized by K.S.A. 65-5405; implementing K.S.A. 65-5412; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 15, 1999.)

**100-54-9. Occupational therapy assistants; information to board.** Before an occupational therapist allows an occupational therapy assistant to work under the occupational therapist's direction, the occupational therapist shall inform the board of the following:

(a) The name of each occupational therapy assistant who intends to work under the direction of that occupational therapist;

(b) the occupational therapy assistant's place of employment; and

(c) the address of the employer. (Authorized by K.S.A. 65-5405 and implementing K.S.A. 65-5406; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 15, 1999.)

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Executive Director

Doc. No. 023300

## State of Kansas

Department of Health  
and EnvironmentPermanent Administrative  
RegulationsArticle 18.—ANIMAL AND RELATED  
WASTE CONTROL

**28-18-1. Definitions.** The following words, terms, phrases, and abbreviations shall have the following meanings, unless otherwise defined in an individual regulation or unless a different meaning of a word is clear from the context in which it is used. Words, terms, phrases, and abbreviations not provided in the regulations of this article shall have the meaning defined in K.S.A. 65-101 et seq. and amendments thereto, K.A.R. 28-5-1 et seq., K.A.R. 28-16-1 et seq., K.A.R. 28-18a-1 et seq., K.A.R. 28-30-1 et seq., or the clean water act (CWA). When the same word is defined both in Kansas statutes or the regulations of this article and in any federal regulation adopted by reference in these regulations or in state regulations referenced in this article, and the definitions are not identical, the definition prescribed in Kansas statutes or the regulations of this article shall control.

(a) "Animal unit" is as defined in K.S.A. 1997 Supp. 65-171d (c)(3), as amended by L. 1998, ch. 143, sec. 1, and amendments thereto.

(b) "Animal unit capacity" is as defined in K.S.A. 1997 Supp. 65-171d (c)(4), as amended by L. 1998, ch. 143, sec. 1, and amendments thereto.

(c) "Animal waste management system" means any land, structures, or practices utilized for the collection, containment, storage, distribution, land application, or disposal of animal or other process wastes generated by confined feeding operations. An animal waste management system includes the following:

(1) Site grading to divert extraneous, uncontaminated precipitation runoff around the confined feeding facility;

(2) structures designed and constructed to collect, control the flow of, and direct animal or other process wastes;

(3) vegetation cover utilized for controlling erosion or for filtering animal or other process wastes;

(4) tanks, manure pits, or other structures designed and constructed to collect or store animal or other process wastes;

(5) waste-retention lagoons or ponds;

(6) land used for the application, utilization, or disposal of animal or other process wastes; and

(7) waste treatment facilities.

(d) "Certification" means a document, in lieu of a water pollution permit, from the department indicating that the facility meets department requirements and does not represent a significant water pollution potential.

(e) "Change in operation" or "modification" means any of the following:

(1) Expansion or enlargement of a facility beyond the scope or boundaries established by registration, permit, certification, or approved plans and specifications;

(2) any increase in the animal unit capacity beyond that authorized by a permit or certification; or

(3) a change in construction or operation of a confined feeding facility that may affect the collecting, storage, handling, treatment, utilization, or disposal of animal or other process wastes.

(f) "Clean water act" or "CWA" means public law 92-500, as amended by public law 95-217, public law 95-576, public law 96-483, and public law 97-117, and 33 U.S.C. 1251 et seq., as in effect on February 4, 1987.

(g) "Confined feeding facility" is as defined in K.S.A. 1997 Supp. 65-171d (c)(2), as amended by L. 1998, ch. 143, sec. 1, and amendments thereto, exclusive of swine.

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

(i) "Director" means the director of the division of environment of the Kansas department of health and environment.

(j) "Division" means the division of environment, Kansas department of health and environment.

(k) "Environmental protection agency" or "EPA" means the United States environmental protection agency.

(l) "Federal permit" or "national pollutant discharge elimination system permit" or "NPDES permit" means an authorization, license, or equivalent control document issued by the EPA or an approved state to implement the requirements of 40 C.F.R. Parts 122, 123, 124, and 412.

(m) "Food animals" means animals, fish, or fowl produced for consumption.

(n) "Fur animals" means any animal raised for its skin, pelt, or fur.

(o) "Groundwater" means, as used in this article, water located under the surface of the land that is or can be the source of supply for wells, springs, or seeps, or that is held in aquifers.

(p) "Habitable structure" is as defined in K.S.A. 1997 Supp. 65-171d (c)(5), as amended by L. 1998, ch. 143, sec. 1, and amendments thereto.

(q) "Land application" means the distribution of animal or other process wastes onto, or incorporation into, the soil mantle for the purpose of disposal or utilization by crops or vegetation.

(r) "Liner" means any designed barrier in the form of in situ, layer, membrane, or blanket materials utilized or installed to reduce the potential for a significant hydrologic connection between animal or other process wastes that are controlled or retained by animal waste management systems and waters of the state.

(s) "Minimum standards of design, construction, and maintenance" means the following:

(1) Effluent standards and limitations;

(2) other performance standards for treatment or utilization; and

(3) other standards of design, construction, and maintenance for confined feeding facilities published by the department.

(t) "Monitoring" means all procedures using any of the following methods:

(1) Either systematic inspection or collection and analysis of data on the operational parameters of an animal feeding facility or its pollution controls; or

(continued)

(2) the systematic collection and analysis of data on the quality of the animal or other process wastes, groundwater, surface water, or soils on or in the vicinity of the animal feeding facility or areas utilized for land application of the animal or other process wastes.

(u) "National pollutant discharge elimination system" or "NPDES" means the national system for the issuance of permits under 42 U.S.C. section 1342, and includes any state or interstate program that has been approved by the EPA administrator, in whole or in part, pursuant to 42 U.S.C. section 1342.

(v) "Oil or gas well" shall have the meaning of the term "well" as defined in K.S.A. 1997 Supp. 55-150(i), and amendments thereto.

(w) "Operator" means an individual, association, company, corporation, municipality, group of individuals, joint venture, partnership, a state or federal agency or department, or any business owning, leasing, or having charge or control of one or more confined feeding facility.

(x) "Water pollution control permit" means an authorization, license, or equivalent control document issued by the department. A permit shall not include any document that has not yet been the subject of final action by the department, including a draft or proposed permit.

(y) "Pleasure animals" means dogs, cats, rabbits, horses, and exotic animals.

(z) "Point source" is as defined in K.A.R. 28-16-28b (mm).

(aa) "Pollution" is as defined in K.S.A. 1997 Supp. 65-171d (c)(1), as amended by L. 1998, ch. 143, sec. 1, and amendments thereto.

(bb) "Precipitation runoff" means the rainwater or the meltwater that is derived from snow, hail, sleet, or other forms of atmospheric precipitation and that flows by gravity over the surface of the land.

(cc)(1) "Process wastes" means any of the following:

(A) Excrement from animals, wastewater, animal carcasses;

(B) precipitation that comes into contact with any manure, litter, bedding, or other raw, intermediate, or final material or product used in or resulting from the production of animals or direct products, including meat, milk, or eggs;

(C) spillage or overflow from animal or poultry watering systems;

(D) wastes from washing, cleaning, or flushing pens, barns, manure pits, equipment, trucks, trailers, milking parlors, milking equipment, or other associated animal facilities;

(E) wastes from washing animals or spraying of animals for cooling;

(F) wastes from dust control;

(G) boiler blowdown and water softener regenerate wastes;

(H) precipitation runoff from confinement, loading, and unloading areas;

(I) spillage of feed, molasses, or animal wastes;

(J) discharges from land application fields that occur during application;

(K) precipitation runoff from land application fields, if liquid or liquid concentrated wastes are applied during

frozen, snow-covered, or saturated soil conditions without approval by the department;

(L) raw, intermediate, or finished materials associated with wastes or contaminated stormwater runoff from animal waste or dead animal composting operations;

(M) silo liquors; or

(N) flows or runoff from waste storage areas.

(2) Process wastes shall not include animal wastes spilled by trucks transporting livestock on city, township, county, state, or federal streets, roads, or highways.

(dd) "Registration" means any required fee and the properly completed and executed documents designated by the division and any additional required documents or information necessary for determining the need for a water pollution control permit.

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

(ff) "Maximum seepage rate" or "specific discharge" means the flow rate through the liner and is expressed as velocity (distance/time). The maximum seepage rate shall be calculated as  $v = k(h/d)$ , in which "k" is the hydraulic conductivity (coefficient of permeability) and "(h/d)" is the hydraulic gradient. The hydraulic gradient is the maximum vertical distance "h" measured from the liquid surface to the liner bottom divided by the thickness of the soil liner "d." When calculating the maximum seepage rate, the maximum operating depth, not considering design freeboard, shall be used.

(gg) "Sewage" is as defined in K.S.A. 1997 Supp. 65-164 (b), and amendments thereto.

(hh) "Significant water pollution potential" means any of the following, as determined by the secretary:

(1) A livestock or animal feeding operation that utilizes structures designed and constructed to collect, control the flow of, and direct animal or other process wastes, tanks, manure pits, or other structures designed and constructed to collect or store animal or other process wastes, waste-retention lagoons or ponds, or waste treatment facility or facilities;

(2) lots, pens, or concentrated feeding areas located with creeks, streams, intermittent waterways, or any other conveying channel or device running through or proximate to them;

(3) any operation that cannot retain or control animal or other process wastes on the operator's facility or property or adjacent property without the owner's permission; or

(4) a livestock or animal feeding operation determined to practice improper collection, handling, or disposal of animal or other process wastes that have the potential to degrade or impair the quality of any waters of the state.

(ii) "Surface waters," for water quality purposes, is as defined in K.A.R. 28-16-28b(ww).

(jj) "Variance" means the department's written approval or permit authorizing a proposed action that knowingly results in a lack of conformity with one or more provisions of these regulations or the minimum standards of design, construction, and maintenance. Any variance approved by the department shall be deemed to adequately protect public health and the environment and to comply with the general intent of these regulations and with federal NPDES permit requirements.

(kk) "Waste-retention lagoon or pond" means excavated or diked structures, or natural depressions provided for or used for the purpose of containing or detaining animal or other process wastes. Discharges from waste-retention lagoons or ponds shall not be allowed, except as authorized by a water pollution control permit.

(ll) "Waste treatment facilities" means structures or devices that collect, store, stabilize, treat, or otherwise control pollutants, so that after the discharge, disposal, or land application of treated wastes, water pollution will not occur, and the public health and waters of the state will be protected.

(mm) "Water quality standards" means Kansas surface water quality standards as defined in K.A.R. 28-16-28b et seq.

(nn) "Water well" is as defined in K.S.A. 82a-1203(f), and amendments thereto.

(oo) "Waters of the state" is as defined in K.S.A. 65-161 (a), and amendments thereto. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 65-170, 65-170b, 65-170c, 65-170d, 65-170g, 65-171a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, K.S.A. 65-171h, and L. 1998, ch. 143, sec. 2. [K.S.A. 1998 Supp. 65-1,178]; effective, E-67-5, May 31, 1967; effective Jan. 1, 1968; amended Jan. 15, 1999.)

**28-18-2. Registration and application requirements.** (a) Each operator shall register any confined feeding facility with the department, if any of the following requirements is met.

(1) The confined feeding facility has an animal unit capacity of 300 or more animal units.

(2) The department has determined that the confined feeding facility has significant water pollution potential.

(3) The department has determined that the confined feeding facility requires a permit.

(4) The operator of a confined feeding facility not required to obtain either a permit or certification desires to obtain either a permit or certification.

(b) Each registration submitted to the department shall be accompanied by a \$25 fee.

(c) Each operator shall submit to the department a water pollution control permit application for a confined feeding facility meeting any of the following criteria:

(1) Each confined feeding facility, regardless of size, determined by the secretary to present a significant water pollution potential;

(2) each confined feeding facility that has an animal unit capacity of 300 or more and that the department has determined represents a significant water pollution potential;

(3) each confined feeding facility with an animal unit capacity of 1,000 or more, regardless of water pollution potential;

(4) each proposed construction, expansion, modification, or change in operation of an existing permitted confined feeding facility;

(5) each proposed construction, expansion, modification, or change in operation of an existing certified con-

fining feeding facility, where the department determines that the proposed construction, expansion, modification, or change in operation represents a significant water pollution potential;

(6) each sale barn, collection center, or transfer station that has an average weekly capacity of more than 300 animal units or that is utilized more frequently than once per week or is determined to be a significant water pollution potential;

(7) each livestock truck wash facility. For the purpose of these regulations, only those facilities that wash trucks utilized for the purpose of transporting animals or livestock shall be included; or

(8) each operator of an animal feeding operation that elects to obtain a permit.

(d) Each application submitted to the department shall be accompanied by the annual permit fee or the difference between the fee for the original permitted capacity and that for the expanded permitted capacity, pursuant to K.A.R. 28-16-56c et seq.

(e) The animal unit capacity of a confined feeding facility, for species other than those included in the definition of animal unit, shall be determined by the department on a case-by-case basis, considering the quantity or concentration of animal waste produced by the species in comparison to those addressed in the animal unit definition.

(f) Each operator of a confined feeding facility that has an animal unit capacity of 1,000 animal units or more, or for which the department determines a federal permit is required, shall apply to the department for a federal permit. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and K.S.A. 65-171h; effective, E-67-5, May 31, 1967; effective Jan. 1, 1968; amended Jan. 15, 1999.)

**28-18-3. Separation distance requirements.** (a) Separation distances between confined feeding facilities and any habitable structure shall conform to the provisions and requirements of K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and amendments thereto:

(b) The operator shall provide to the department any information required to ascertain the distance to the nearest habitable structure or determine which habitable structure is the nearest to the proposed or existing confined feeding facility.

(c) When the animal unit capacity of a confined feeding facility is comprised of swine, in addition to other animals or fowl, the swine-specific separation distance requirements related to any habitable structure, wildlife refuge, or city, county, state or federal park shall be applied only to the animal unit capacity of the swine facility operation. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp.

(continued)



65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and K.S.A. 65-171h; effective, E-67-5, May 31, 1967; effective Jan. 1, 1968; amended Jan. 15, 1999.)

**28-18-4. Filing of applications and payment of fees.** (a) Applications shall be filed consistent with the provisions and requirements in K.A.R. 28-16-59.

(b) For the purpose of providing adequate public notice regarding a permit for any proposed new construction or proposed new expansion of a confined feeding facility, the operator shall provide to the department the name or names and mailing address or addresses of the following:

(1) The United States post office or offices serving the immediate area of the confined feeding facility; and

(2) each owner of a habitable structure or any property located within one mile of the confined feeding facility. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and K.S.A. 65-171h; effective, E-67-5, May 31, 1967; effective Jan. 1, 1968; amended Jan. 15, 1999.)

**28-18-5. Transfer of a permit or certification.** (a) The automatic transfer of a permit shall be prohibited. Each operator wanting to transfer a water pollution control permit of a confined feeding facility shall make application consistent with the provisions of the regulations in this article.

(b) The automatic transfer of a certification shall be prohibited. Each operator wanting to transfer a certification for a confined feeding facility shall register with the department, in accordance with this article.

(c) The existing permit or certification shall remain in effect until the department authorizes the transfer by letter or reissues the permit or certification. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and K.S.A. 65-171h; effective Jan. 15, 1999.)

**28-18-6. Development of a draft permit.** Development of each draft permit shall be consistent with the requirements of K.A.R. 28-16-60. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and K.S.A. 65-171h; effective Jan. 15, 1999.)

**28-18-7. Public notice of permit actions and public hearings.** Public notice of permit actions and public hearings shall be consistent with the requirements of K.A.R. 28-16-61. Public hearings scheduled by the department shall address only those matters for which the secretary has authority. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as

amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and K.S.A. 65-171h; effective Jan. 15, 1999.)

**28-18-8. Permit; terms and conditions.** (a) Terms and conditions of permits shall be consistent with the requirements of K.A.R. 28-16-62, as appropriate.

(b)(1) Animal waste management systems shall be designed, constructed, operated, and maintained in a manner that prevents pollution of waters of the state.

(2) Animal waste management systems for confined feeding facilities with an animal unit capacity of 1,000 or more shall be designed, constructed, operated, and maintained to prevent the discharge of animal or other process wastes to surface waters of the state. Animal or other process wastes from a waste-retention lagoon or pond or other storage structure may be discharged to surface waters of the state, whenever precipitation events, either chronic or catastrophic, cause an overflow of animal or other process wastes from an animal waste management system designed, constructed, operated, and maintained to contain all animal or other process wastes, plus the direct precipitation and the runoff from a 25-year, 24-hour precipitation event for the location of the confined feeding facility.

(3)(A) Except as provided in paragraph (3)(B), animal waste management systems for confined feeding facilities with an animal unit capacity of 999 or less shall be designed, constructed, operated, and maintained to prevent the discharge of animal or other process wastes to surface waters of the state as required in paragraph (b)(2).

(B) Animal waste management systems for confined feeding facilities with an animal unit capacity of 999 or less may discharge to surface waters of the state, consistent with the requirements of K.A.R. 28-16-28b through K.A.R. 28-16-28f, K.A.R. 28-16-57a, and K.A.R. 28-16-62, as appropriate, when specifically authorized by a permit.

(c) For each emergency or accidental discharge, overflow, or unplanned release of animal or other process wastes, each operator shall report the incident to the department within two hours of discovery. Each operator shall report any emergency, spill, accidental discharge, overflow, or unplanned release associated with animal or other process wastes to the department using telephone numbers as provided by the department. Each operator shall submit a written report to the department within three days of the incident.

(d) The operator shall retain a copy of the current permit issued by the department at the facility's site office.

(e) The operator shall report, within 72 hours to the department, whenever the required amount of land application area utilized by the facility is not available or accessible for use by the facility for land application, utilization, or disposal purposes because of a change in property ownership, lease, or agreement with the property owner.

(f) The operator shall be responsible for advising the department within 60 days of any changes in mailing address or telephone number regarding the facility or designated facility contact.

(g) The operator shall operate the facility in a manner to minimize or prevent any discharge that is in violation

of the permit and that has a potential to adversely affect human health or the environment.

(h) The operator shall, at all times, properly operate and maintain the animal waste management system and any related appurtenances that are installed or utilized by the operator to achieve compliance with the conditions of the permit. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and K.S.A. 65-171h; effective Jan. 15, 1999.)

**28-18-9. Certification; terms and conditions.** (a) Each operator shall comply with all conditions, requirements, limitations, and operating provisions stipulated in the certification.

(b) Operation of a confined feeding facility in violation of any conditions, requirements, limitations, and operating provisions of a certification, or in a manner that represents a significant water pollution potential, shall result in the revocation of the certification and issuance of a permit and any other appropriate enforcement action. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and K.S.A. 65-171h; effective Jan. 15, 1999.)

**28-18-10. Permits; monitoring and reporting.** (a) Any monitoring and reporting required by the department in the terms and conditions of a permit, certification, order, directive, or consent agreement shall be conducted consistent with the provisions of K.A.R. 28-16-63, as appropriate.

(b) The emergency or accidental discharge, overflow, or unplanned release of animal or other process wastes into surface waters of the state shall be reported to the department, pursuant to K.A.R. 28-16-27, within two hours of discovery. Each operator shall report any emergency, spill, accidental discharge, overflow, or unplanned release associated with animal or other process wastes to the department using telephone numbers as provided by the department. Each operator shall submit a written report to the department within three days of the incident.

(c) Any analysis required by a permit, certification, order, directive, or consent agreement of the department shall be performed in accordance with the provisions of 40 C.F.R. Part 136, as in effect on July 1, 1998, or as approved by the department.

(d) Each analysis shall be performed by a laboratory that has been certified by the department pursuant to K.S.A. 65-1711, and amendments thereto, or as approved by the department.

(e) 40 C.F.R. Part 136, as in effect on July 1, 1998, is adopted by reference. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as

amended by L. 1998, ch. 143, sec. 1, and K.S.A. 65-171h; effective Jan. 15, 1999.)

**28-18-11. Confined feeding facilities; federal requirements.** (a) For the purpose of issuing federal permits and administering NPDES program requirements, the definition of "point source" as defined in 40 C.F.R. 122.2, as in effect on July 1, 1998; is adopted by reference.

(b) For the purpose of issuing federal permits and administering NPDES program requirements, the concentrated animal feeding operation exclusions defined in 40 C.F.R. 122.3 (e) and 40 C.F.R. 122.3 (f), as in effect on July 1, 1998, are adopted by reference.

(c) For the purpose of issuing federal permits and administering NPDES program requirements, the provisions addressing concentrated animal feeding operations defined in 40 C.F.R. 122.23 and appendix B to 40 C.F.R. Part 122, as in effect on July 1, 1998, are adopted by reference.

(d) For the purpose of issuing federal permits and administering NPDES program requirements, the provisions addressing concentrated aquatic animal feeding operations defined in 40 C.F.R. 122.24 and appendix C to 40 C.F.R. Part 122, as in effect on July 1, 1998, are adopted by reference.

(e) For the purpose of issuing federal permits and administering NPDES program requirements, each operator shall comply with the provisions addressing effluent limitations as defined in 40 C.F.R. Part 412, as adopted by reference in K.A.R. 28-16-57a. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and K.S.A. 65-171h; effective Jan. 15, 1999.)

**28-18-12. Design and construction of animal waste management systems.** (a) If a confined feeding facility represents a significant water pollution potential or requires a permit, as determined by the department, the operator shall provide an animal waste management system that shall be designed in accordance with minimum standards of design, construction, and maintenance and constructed and operated in accordance with construction plans, specifications, and manure management plan approved by the department. If site topography, operating procedures, experience, and other available information indicate that more than the minimum standards of design, construction, and maintenance are required to effect adequate water pollution control, additional provisions may be required. A summary of approved standards of design shall be available from the division.

(b) The operator shall not initiate operation of the new confined feeding facility or animal waste management system or the expanded portions of any existing confined feeding facility or animal waste management system, until after issuance of the new or modified permit by the department. Initiation of construction before the issuance of a new or modified permit by the department shall be deemed to be solely at the risk of the operator.

(c) For the purpose of these regulations, any reference to a professional engineer or consultant shall be deemed

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to designate an individual offering a service for fee for the design of a confined feeding facility or animal waste management system, exclusive of any nutrient utilization plan, soils or cropping consultations, hydrologic work involved in conducting hydrologic or geologic investigations, or in the siting, design, or construction of groundwater monitoring wells. Any reference to a professional engineer shall be deemed to designate an individual licensed to practice engineering in Kansas by the Kansas state board of technical professions.

(d) Consultants that prepare plans and specifications for the new construction or new expansion of confined feeding facilities that are submitted to KDHE for approval shall provide KDHE with evidence that adequate general commercial liability insurance coverage addressing errors and omissions in the design plans and specifications has been obtained and is in effect.

(e) Each operator shall initiate any proposed new construction or new expansion of a confined feeding facility that has been approved by the department and for which the required permit or permit modification has been issued, within two years of the date on which the permit or permit modification is issued or pursuant to the department's requirements. Each operator shall complete any proposed new construction or new expansion of a confined feeding facility that has been approved by the department and for which the required permit or permit modification is issued, within three years of the date on which the permit or permit modification is issued or as required by the department. Failure to initiate the approved construction or expansion within two years and to complete the approved construction or expansion within three years of the date of issuance of the permit or permit modification shall void the department's approval of the construction plans, specifications, and other associated plans. In the event that phased construction is proposed, the initiation and completion of construction shall conform to the schedule stipulated in the department's approval. If the department's approval becomes void, the permit or permit modification shall remain in effect for the term of the permit, but the operator shall resubmit the construction plans, specifications, and other associated plans to the department for review and approval before initiating the construction or expansion of a confined feeding facility.

(f) Neither the approval of construction plans, specifications, or the manure management plan, nor the issuance of a permit or certification by the department shall prohibit the department from taking any enforcement action if the animal waste management system fails to protect the waters of the state, meet any specified effluent criteria, or comply with state surface water quality standards. In addition, this approval, permit, issuance, or certification shall not constitute a defense by the operator regarding violation of any statute, regulation, permit condition, or requirement.

(g) A new confined feeding facility or animal waste management system shall not be built in any stream, river, lake, reservoir, or water bodies meeting the definition of jurisdictional wetlands consistent with K.A.R. 28-16-28b(w)(3).

(h) Each operator, when directed by the department, shall notify the department a minimum of two days before performing any soil sample collection activities or liner integrity testing to allow opportunity for department staff to witness the activities.

(i) There shall be no deviation from plans and specifications submitted to and approved by the department, unless amended plans and specifications showing proposed changes have been submitted to and approved by the department.

(j) Each construction plan shall indicate the location of any active, abandoned, or plugged water, oil, or gas well within 600 feet of any planned location for a waste-retention lagoon or pond. If the operator is unable to confirm the exact location of any well or wells, the construction plan shall contain a note indicating the potential for the well or wells to be located in the vicinity of any proposed lagoon or pond. Any active, abandoned, or plugged water, oil, or gas well that is encountered during construction and that was not identified or located on the construction plan shall be reported to the department within 48 hours of discovery. Construction activities that would impact the well or wells or that would be in the immediate vicinity of the well or wells shall be immediately terminated until the department authorizes the construction to resume.

(k) Following the completion of construction, each operator proposing the construction of a new confined feeding facility or the expansion of an existing confined feeding facility that will utilize an animal waste management system shall submit to the department a certification and, when requested, any supporting documentation, acknowledging whether or not the animal waste management system was constructed in accordance with the plans and specifications approved by the department. The certification shall be signed either by a professional engineer or an approved consultant representing the operator, who monitored the construction or installation of the animal waste management system, including any liner. The certification shall be based on actual observations during construction and any field or laboratory data developed during or following construction. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and K.S.A. 65-171h; effective Jan. 15, 1999.)

**28-18-13. Operation of animal waste management systems.** (a) The animal waste management system shall be designed, constructed, maintained, and operated to prevent pollution of waters of the state and to protect public health and the environment.

(b) Each animal waste management system shall be operated consistent with waste management plans approved by the department.

(c) When a liner is installed or constructed, the operator shall maintain the liner to comply with the minimum standards of design, construction, and maintenance. When soil liners are utilized, no trees or other deep-rooted vegetation shall be allowed to grow within 100 feet



of the liner. Any mechanical or structural damage to the liner shall be reported to the department within two workdays of identification and shall be repaired in a time frame approved by the department.

(d) Each operator shall haul or transport animal or process wastes to land application sites in a manner that prevents loss or spillage during transport.

(e) When land application of animal or other process wastes is practiced, the application shall be conducted at agronomic rates.

(f) Irrigation practices shall be managed to minimize ponding or puddling of animal or other process wastes at the land application site. Irrigation practices shall be managed to ensure that animal or other process wastes are not discharged from the application sites.

(g) Adequate equipment and land application areas shall be available for removal of animal or other process wastes and contaminated stormwater runoff from the confined feeding facility to comply with the provisions of the permit and these regulations.

(h) Unless approved in advance by the department, liquid, liquid concentrated animal, or other liquid process wastes shall not be land applied when the ground is frozen, snow covered, or saturated, or during a precipitation event. Land application of animal or other process wastes during these periods may be authorized by the department for use in filtering animal or other process wastes from retention structures that are properly operated and maintained and that are in imminent danger of overflow to surface waters of the state due to chronic or catastrophic precipitation events. Solid animal or other process wastes may be applied to frozen ground only if the proposed application site and practices ensure that the wastes will be retained at the application site.

(i) Each operator, as directed by the department, shall conduct sampling and analysis of animal or process wastes or sites utilized for the application of animal or process wastes from confined animal feeding facilities, to determine nutrient and salinity levels, to confirm utilization of the animal or process wastes at agronomic rates, and to protect soil and water resources. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and K.S.A. 65-171h; effective Jan. 15, 1999.)

**28-18-14. Inspections.** (a) Each operator shall provide all necessary specialized equipment, clothing, or appurtenances to enable a department inspector to enter the facility for inspection.

(b) Each operator that utilizes bio-security protocols for the confined feeding facility and that requests KDHE conformance with the protocols shall submit a copy of the bio-security protocols to the department by September 1, 1999.

(c) Any operator that develops or modifies bio-security protocols and that requests KDHE conformance with the protocols shall submit a copy of the protocols to the department.

(d) Bio-security protocols shall not inhibit reasonable access to any department inspector. If any department

employee conducting an inspection of a confined feeding facility complies with the facility's bio-security protocol, that employee shall be allowed to access the animal waste management system to conduct inspections. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and K.S.A. 65-171h; effective Jan. 15, 1999.)

**28-18-15. Variance of specific requirements.** (a) Each operator seeking a variance from the regulations in this article shall submit to the department a written request for variance from the regulations in this article and shall provide information relevant to the request.

(b) Each request shall specifically set forth why the variance should be considered and how the requested variance addresses the intent of this article.

(c) A variance may be granted by the department whenever site-specific conditions or proposals are in keeping with the purpose and intent of this article. (Authorized by and implementing K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, and K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; effective Jan. 15, 1999.)

#### Article 18a.—SWINE AND RELATED WASTE CONTROL

**28-18a-1. Definitions.** The following words, terms, phrases, and abbreviations shall have the following meanings, unless otherwise defined in an individual regulation or unless a different meaning of a word is clear from the context in which it is used. Words, terms, phrases, and abbreviations not provided in the regulations of this article shall have the meaning defined in K.S.A. 65-101 et seq. and amendments thereto, K.A.R. 28-5-1 et seq., K.A.R. 28-16-1 et seq., K.A.R. 28-18-1 et seq., K.A.R. 28-30-1 et seq., or the clean water act (CWA). When the same word is defined both in Kansas statutes or the regulations of this article and in any federal regulation adopted by reference in these regulations or in state regulations referenced in this article, and the definitions are not identical, the definition prescribed in Kansas statutes or the regulations of this article shall control.

(a) "Agronomic application for swine wastes" is as defined in K.S.A. 1997 Supp. 2-3302 (k), as amended by L. 1998, ch. 143, sec. 23, and amendments thereto, and is regulated by the secretary of the Kansas department of agriculture.

(b) "Animal unit" is as defined in K.S.A. 1997 Supp. 65-171d (c)(3), as amended by L. 1998, ch. 143, sec. 1, and amendments thereto.

(c) "Animal unit capacity" is as defined in K.S.A. 1997 Supp. 65-171d (c)(4), as amended by L. 1998, ch. 143, sec. 1, and amendments thereto.

(d) "Best available technology for swine facilities" is as defined in L. 1998, ch. 143, sec. 2, and amendments thereto [K.S.A. 1998 Supp. 65-1,178 (b), and amendments thereto].

(e) "Best management practices for swine facilities" is as defined in L. 1998, ch. 143, sec. 2, and amendments

(continued)

thereto [K.S.A. 1998 Supp. 65-1,178 (c), and amendments thereto].

(f) "Certification" means a document, in lieu of a water pollution permit, from the department indicating that the facility meets department requirements and does not represent a significant water pollution potential.

(g) "Change in operation" or "modification" means any of the following:

(1) Expansion or enlargement of a facility beyond the scope or boundaries established by registration, permit, certification, or approved plans and specifications;

(2) any increase in the animal unit capacity beyond that authorized by a permit or certification; or

(3) a change in construction or operation of a confined feeding facility that may affect the collecting, storage, handling, treatment, utilization, or disposal of swine or other process wastes.

(h) "Clean water act" or "CWA" means public law 92-500, as amended by public law 95-217, public law 95-576, public law 96-483, and public law 97-117, and 33 U.S.C. 1251 et seq., as in effect on February 4, 1987.

(i) "Confined feeding facility" is as defined in K.S.A. 1997 Supp. 65-171d (c)(2), as amended by L. 1998, ch. 143, sec. 1, and amendments thereto.

(j) "Dead swine handling plan" means a written document that identifies the procedures by which the operator of a swine facility shall handle dead swine, to minimize the potential for the generation of nuisance, environmental, or public health threats.

(k) "Department" or "KDHE" means the Kansas department of health and environment.

(l) "Director" means the director of the division of environment of the Kansas department of health and environment.

(m) "Division" means the division of environment, Kansas department of health and environment.

(n) "Emergency response plan for swine" means a written document that identifies the following procedures to be implemented by the operator of a swine facility in the event of an emergency:

(1) Actions to contain or manage an unauthorized discharge, spill, or release of swine or other process wastes;

(2) notification of the department; and

(3) any actions required to mitigate the adverse effects of an emergency.

(o) "Environmental protection agency" or "EPA" means the United States environmental protection agency.

(p) "Existing swine facility" is as defined in L. 1998, ch. 143, sec. 2, and amendments thereto [K.S.A. 1998 Supp. 65-1,178 (e), and amendments thereto].

(q) "Federal permit" or "national pollutant discharge elimination system permit" or "NPDES permit" means an authorization, license, or equivalent control document issued by the EPA or an approved state to implement the requirements of 40 C.F.R. Parts 122, 123, 124, and 412.

(r) "Food animals" means swine produced for consumption.

(s) "Fur animals" means swine raised for its skin, pelt, or hair.

(t) "Groundwater" means, as used in this article, water located under the surface of the land that is or can be the

source of supply for wells, springs, or seeps, or that is held in aquifers.

(u) "Habitable structure" is as defined in K.S.A. 1997 Supp. 65-171d (c)(5), as amended by L. 1998, ch. 143, sec. 1, and amendments thereto.

(v) "Impermeable liner" means, for a swine waste-retention lagoon or pond, a liner with a maximum seepage rate of 1/8 inch per day or less.

(w) "Land application" means the distribution of swine or other process wastes onto, or incorporation into, the soil mantle for the purpose of disposal or utilization by crops or vegetation.

(x) "Liner" means any designed barrier in the form of in situ, layer, membrane, or blanket materials utilized or installed to reduce the potential for a significant hydrologic connection between swine or other process wastes that are controlled or retained by swine waste management systems and waters of the state.

(y) "Manure management plan for swine" means a written document that identifies the procedures by which the operator of a swine facility shall operate, manage, and maintain a swine waste management system. This plan shall describe the methods for the handling and disposal or utilization of all swine or other process wastes generated by the swine facility.

(z) "Maximum seepage rate" or "specific discharge" means the flow rate through the liner and is expressed as velocity (distance/time). The maximum seepage rate shall be calculated as  $v = k(h/d)$ , in which "k" is the hydraulic conductivity (coefficient of permeability) and "(h/d)" is the hydraulic gradient. The hydraulic gradient is the maximum vertical distance "h" measured from the liquid surface to the liner bottom divided by the thickness of the soil liner "d." When calculating the maximum seepage rate, the maximum operating depth, not considering design freeboard, shall be used.

(aa) "Minimum standards of design, construction, and maintenance" means the following:

(1) Effluent standards and limitations;

(2) other performance standards for treatment or utilization; and

(3) other standards of design, construction, and maintenance for confined feeding facilities published by the department.

(bb) "Monitoring" means all procedures using any of the following methods:

(1) Either systematic inspection or collection and analysis of data on the operational parameters of a swine feeding facility or its pollution controls; or

(2) the systematic collection and analysis of data on the quality of the swine or other process wastes, groundwater, surface water, or soils on or in the vicinity of the swine feeding facility or areas utilized for land application of the swine or other process wastes.

(cc) "National pollutant discharge elimination system" or "NPDES" means the national system for the issuance of permits under 42 U.S.C. section 1342, and includes any state or interstate program that has been approved by the EPA administrator, in whole or in part, pursuant to 42 U.S.C. section 1342.

(dd) "Nutrient utilization plan for swine" means a written document, on a form prescribed by the secretary

of the Kansas department of agriculture, addressing site-specific conditions for the land application of manure, wastewater, and other nutrient sources from swine facilities, at agronomic application rates.

(ee) "Odor control plan for swine" means a written document for swine facilities that summarizes site-specific and facility-specific design considerations, operational activities and procedures, maintenance activities and procedures, and management practices to be employed to minimize the potential for or limit odors from a swine facility, swine waste management, or swine pollution control system.

(ff) "Oil or gas well" shall have the meaning of the term "well" as defined in K.S.A. 1997 Supp. 55-150(i), and amendments thereto.

(gg) "Pleasure animals" means swine that are not produced for consumption or their skin, pelts or hair.

(hh) "Point source" is as defined in K.A.R. 28-16-28b (mm).

(ii) "Pollution" is as defined in K.S.A. 1997 Supp. 65-171d (c)(1), as amended by L. 1998, ch. 143, sec. 1, and amendments thereto.

(jj) "Precipitation runoff" means the rainwater or the meltwater that is derived from snow, hail, sleet, or other forms of atmospheric precipitation and that flows by gravity over the surface of the land.

(kk)(1) "Process wastes" means any of the following:

(A) Excrement from swine, wastewater, or swine carcasses;

(B) precipitation that comes into contact with any manure, litter, bedding, or other material used in or resulting from the production of swine;

(C) spillage or overflow from watering systems;

(D) wastes from washing, cleaning, or flushing pens, barns, manure pits, equipment, trucks, trailers, or other associated swine facilities;

(E) wastes from washing swine or spraying swine for cooling;

(F) wastes from dust control;

(G) boiler blowdown and water softener regenerate wastes;

(H) precipitation runoff from confinement, loading, and unloading areas;

(I) spillage of feed or swine wastes;

(J) discharges from land application fields that occur during application;

(K) precipitation runoff from land application fields, if liquid or liquid concentrated wastes are applied during frozen, snow-covered, or saturated soil conditions without approval by the department;

(L) raw, intermediate or finished materials associated with wastes or contaminated stormwater runoff from swine waste or dead swine composting operations; or

(M) flows or runoff from waste storage areas.

(2) Process wastes shall not include swine wastes spilled by trucks transporting livestock on city, township, county, state, or federal streets, roads, or highways.

(ll) "Registration" means any required fee and the properly completed and executed documents designated by the division and any additional required documents or information necessary for determining the need for a water pollution control permit.

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

(nn) "Sewage" is as defined in K.S.A. 1997 Supp. 65-164 (b), and amendments thereto.

(oo) "Significant water pollution potential" means any of the following, as determined by the secretary:

(1) A swine feeding operation that utilizes structures designed and constructed to collect, control the flow of, and direct swine or other process wastes, tanks, manure pits, or other structures designed and constructed to collect or store swine or other process wastes, waste-retention lagoons or ponds, waste treatment facility or facilities, or a swine waste management system;

(2) lots, pens, or concentrated feeding areas located with creeks, streams, intermittent waterways, or any other conveying channel or device running through or proximate to them;

(3) any operation that cannot retain or control swine or other process wastes on the operator's facility or property, or adjacent property without the owner's permission; or

(4) a swine feeding operation determined to practice improper collection, handling, or disposal of swine or other process wastes that have the potential to degrade or impair the quality of any waters of the state.

(pp) "Surface waters" is, for water quality purposes, as defined in K.A.R. 28-16-28b (ww).

(qq) "Suspend" or "suspension" means, as used in this article, the temporary abrogation of a water pollution control permit or certification issued to a swine facility.

(rr) "Swine facility" is as defined in L. 1998, ch. 143, sec. 2, and amendments thereto [K.S.A. 1998 Supp. 65-1,178, and amendments thereto].

(ss) "Swine facility closure plan" means a written document that identifies the procedures that the operator of a swine facility is required to follow when closing the facility to protect public health and safety and the environment, and to prevent the escape of swine or other process wastes from the facility.

(tt) "Swine operator" means an individual, association, company, corporation, municipality, group of individuals, joint venture, partnership, a state or federal agency or department, or any business owning, leasing, or having charge or control of one or more swine facilities.

(uu) "Swine pollution control system" means any land, structures, or practices utilized for the collection, containment, storage, distribution, land application, or disposal of swine or other process wastes generated by confined feeding operations. A swine pollution control system includes the following:

(1) Site grading to divert extraneous, uncontaminated precipitation runoff around the confined feeding facility;

(2) structures designed and constructed to collect, control the flow of, and direct swine or other process wastes;

(3) vegetation cover utilized for controlling erosion or for filtering swine or other process wastes;

(4) tanks, manure pits, or other structures designed and constructed to collect or store swine or other process wastes;

(5) waste-retention lagoons or ponds;

(continued)

(6) land used for the application, utilization, or disposal of swine or other process wastes; and

(7) waste treatment facilities.

(vv) "Swine waste management system" is as defined in L. 1998, ch. 143, sec. 2, and amendments thereto [K.S.A. 1998 Supp. 65-1,178 (k), and amendments thereto].

(ww) "Swine waste-retention lagoon or pond" is as defined in L. 1998, ch. 143, sec. 2, amendments thereto [K.S.A. 1998 Supp. 65-1,178 (l), and amendments thereto].

(xx) "Variance" means the department's written approval or permit authorizing a proposed action that knowingly results in a lack of conformity with one or more provisions of these regulations or the minimum standards of design, construction, and maintenance. Any variance approved by the department shall be deemed to adequately protect public health and the environment and to comply with the general intent of these regulations and with federal NPDES permit requirements.

(yy) "Waste-retention lagoon or pond" means excavated or diked structures, or natural depressions provided for or used for the purpose of containing or detaining swine or other process wastes. Discharges from waste-retention lagoons or ponds shall not be allowed, except as authorized by a water pollution control permit.

(zz) "Waste treatment facilities" means structures or devices that collect, store, stabilize, treat, or otherwise control pollutants, so that after the discharge, disposal, or land application of treated wastes, water pollution will not occur, and the public health and waters of the state will be protected.

(aaa) "Water pollution control permit" means an authorization, license, or equivalent control document issued by the department. A permit shall not include any document that has not yet been the subject of final action by the department, including a draft or proposed permit.

(bbb) "Water quality standards" means Kansas surface water quality standards as defined in K.A.R. 28-16-28b et seq.

(ccc) "Water well" is as defined in K.S.A. 82a-1203(f), and amendments thereto.

(ddd) "Waters of the state" is as defined in K.S.A. 65-161 (a), and amendments thereto.

(eee) "Wildlife refuge" is as defined in K.S.A. 1997 Supp. 65-171d (c)(6), as amended by L. 1998, ch. 143, sec. 1, and amendments thereto. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 65-170, 65-170b, 65-170c, 65-170d, 65-170g, 65-171a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, K.S.A. 65-171h, and L. 1998, ch. 143, secs. 2, 3, 4, 5, 6, 7, 8, 11, 12, 13 and 17 [K.S.A. 1998 Supp. 65-1,178, 65-1,179, 65-1,180, 65-1,181, 65-1,182, 65-1,183, 65-1,184, 65-1,187, 65-1,189, 65-1,190 and 65-1,188]; effective Jan. 15, 1999.)

**28-18a-2. Registration and application requirements.** (a) Each swine operator shall register any confined feeding facility with the department, if any of the following requirements is met.

(1) The confined feeding facility has an animal unit capacity of 300 or more animal units.

(2) The department has determined that the confined feeding facility has significant water pollution potential.

(3) The department has determined that the confined feeding facility requires a permit.

(4) The swine operator of a confined feeding facility not required to obtain either a permit or certification desires to obtain either a permit or certification.

(b) Each registration submitted to the department shall be accompanied by a \$25 fee.

(c) Each swine operator shall submit to the department a water pollution control permit application for a confined feeding facility meeting any of the following criteria:

(1) Each confined feeding facility, regardless of size, determined by the secretary to present a significant water pollution potential;

(2) each confined feeding facility that has an animal unit capacity of 300 or more and that the department has determined represents a significant water pollution potential;

(3) each confined feeding facility with an animal unit capacity of 1,000 or more, regardless of water pollution potential;

(4) each proposed construction, expansion, modification, or change in operation of an existing permitted confined feeding facility;

(5) each proposed construction, expansion, modification, or change in operation of an existing certified confined feeding facility, where the department determines that the proposed construction, expansion, modification, or change in operation represents a significant water pollution potential;

(6) each sale barn, collection center, or transfer station that has an average weekly capacity of more than 300 animal units or that is utilized more frequently than once per week or is determined to be a significant water pollution potential;

(7) each livestock truck wash facility. For the purpose of these regulations, only those facilities that wash trucks utilized for the purpose of transporting livestock shall be included; or

(8) each swine operator of a swine feeding operation that elects to obtain a permit.

(d) Each application submitted to the department shall be accompanied by the annual permit fee or the difference between the fee for the original permitted capacity and that for the expanded permitted capacity, pursuant to K.A.R. 28-16-56c et seq.

(e) Each swine operator of a confined feeding facility that has an animal unit capacity of 1,000 animal units or more, or for which the department determines a federal permit is required, shall apply to the department for a federal permit.

(f)(1) Each swine operator proposing either the construction of a new swine facility or the expansion of an existing swine facility that has an animal unit capacity of 300 or more shall submit a registration or application to the department before initiating construction or operation of a swine facility, swine waste management system, or swine pollution control system.

(2) Whenever the department determines that a permit or permit modification is required, the swine operator

shall not initiate construction until the department approves the application, construction plans, specifications, and manure management plan for swine. Initiation of construction before the issuance of a new or modified permit by the department shall be deemed to be solely at the risk of the operator.

(3) The swine operator shall not initiate operation of the new swine facility, swine waste management system, swine pollution control system, or the expanded portions of an existing swine facility, swine waste management system, or swine pollution control system, until after issuance of the new or modified permit by the department.

(4) The swine operator shall not initiate the stocking of a new swine facility or the expanded portion of an existing swine facility above the animal unit capacity authorized for the swine facility, until after issuance of the new or modified permit by the department.

(5) The swine operator shall not initiate the construction and operation of a swine facility for which the department has determined no permit is required, until after issuance of a certification by the department. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, K.S.A. 65-171h, and L. 1998, ch. 143, sec. 3 [K.S.A. 1998 Supp. 65-1,179]; effective Jan. 15, 1999.)

**28-18a-3. Separation distance requirements.** (a) Separation distances between confined feeding facilities and any habitable structure, wildlife refuge, or city, county, state or federal park shall conform to the provisions and requirements of K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, secs. 1, 15, and 18 and amendments thereto [K.S.A. 1998 Supp. 65-1,192 and 65-1,194 and amendments thereto].

(b) The swine operator shall provide to the department any information required to ascertain the distance to the nearest habitable structure or determine which habitable structure is the nearest to the proposed or existing confined feeding facility.

(c) The construction of a new swine facility or expansion of an existing swine facility shall comply with the separation distance requirements related to the 100-year floodplain, surface water bodies, private drinking water wells in active use, and publicly owned drinking water wells in active use, pursuant to L. 1998, ch. 143, secs. 4 and 18, and amendments thereto [K.S.A. 1998 Supp. 65-1,180 and 65-1,194, and amendments thereto]. The reference to any freshwater reservoir or pond pursuant to L. 1998, ch. 143, sec. 2, and amendments thereto [K.S.A. 1998 Supp. 65-1,178, and amendments thereto], shall refer only to a freshwater reservoir or pond for which a swine operator has charge or control.

(d) Each swine facility required to have a nutrient utilization plan shall comply with the separation distance requirements related to the sites utilized for the land application of swine or other process wastes, and the presence of any habitable structure, wildlife refuge, or city, county, state or federal park, pursuant to L. 1998, ch. 143, secs. 6, 15 and 18, and amendments thereto [K.S.A. 1998

Supp. 65-1,182, 65-1,192, and 65-1,194, and amendments thereto].

(e) When the animal unit capacity of a confined feeding facility is comprised of swine, in addition to other animals or fowl, the swine-specific separation distance requirements related to any habitable structure, wildlife refuge, or city, county, state or federal park shall be applied only to the animal unit capacity of the swine facility operation. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; K.S.A. 65-171h, and L. 1998, ch. 143, secs. 4, 6, 15, and 18 [K.S.A. 1998 Supp. 65-1,180, 65-1,182, 65-1,192, and 65-1,194]; effective Jan. 15, 1999.)

**28-18a-4. Filing of applications and payment of fees.** (a) Applications shall be filed consistent with the provisions and requirements in K.A.R. 28-16-59 or L. 1998, ch. 143, sec. 2 [K.S.A. 1998 Supp. 65-1,178], as applicable.

(b) For the purpose of providing adequate public notice regarding a permit for any proposed new construction or proposed new expansion of a confined feeding facility, the swine operator shall provide to the department the name or names and mailing address or addresses of the following:

(1) The United States post office or offices serving the immediate area of the confined feeding facility; and

(2) each owner of a habitable structure or any property located within one mile of the confined feeding facility, or for swine within one mile of the facility perimeter, as described by K.S.A. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and amendments thereto.

(c) In addition to the application requirements of K.A.R. 28-16-59, for any new construction or new expansion of a swine facility, a swine operator shall submit the following information:

(1) A map identifying the location and layout of the confined feeding facility or the facility perimeter;

(2) a map identifying the location of any habitable structure or city, county, state or federal park within one mile of the confined feeding facility or the facility perimeter;

(3) a map identifying the location of a wildlife refuge within 16,000 feet of the confined feeding facility or the facility perimeter;

(4) a map identifying water wells on the facility property;

(5) a map identifying any streams and bodies of surface water within one mile of the confined feeding facility or the facility perimeter;

(6) for swine facilities that utilize a waste-retention lagoon or pond, the swine operator shall provide to the department any information the operator may possess indicating the presence of any unplugged oil or gas wells located at the proposed or existing swine facility;

(7) for swine facilities with an animal unit capacity of 1,000 animal units or more where the swine at the facility are not owned by the operator at the facility, a copy of

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the executed contract between the facility operator and owner of the swine, specifying responsibility for management of the manure and wastewater generated at the facility;

(8) for swine facilities with an animal unit capacity of 1,000 animal units or more, the following plans:

- (A) Manure management plan;
  - (B) a nutrient utilization plan, for a facility that applies manure or wastewater to land, as required by the secretary of the Kansas department of agriculture;
  - (C) an emergency response plan;
  - (D) an odor control plan; and
  - (E) a dead swine handling plan; and
- (9) for swine facilities with an animal unit capacity of 3,725 animal units or more, a facility closure plan. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, K.S.A. 65-171h, and L. 1998, ch. 143, secs. 3, 5, 8, 11, 12, 13, and 17 [K.S.A. 1998 Supp. 65-1,179, 65-1,181, 65-1,184, 65-1,187, 65-1,189, 65-1,190 and 65-1,188]; effective Jan. 15, 1999.)

**28-18a-5. Transfer of a permit or certification.** (a) The automatic transfer of a permit shall be prohibited. Each swine operator wanting to transfer a water pollution control permit of a confined feeding facility shall make application consistent with the provisions of the regulations in this article.

(b) The automatic transfer of a certification shall be prohibited. Each swine operator wanting to transfer a certification for a confined feeding facility shall register with the department, in accordance with this article.

(c) The existing permit or certification shall remain in effect until the department authorizes the transfer by letter or reissues the permit or certification. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and K.S.A. 65-171h; effective Jan. 15, 1999.)

**28-18a-6. Development of a draft permit.** Development of each draft permit shall be consistent with the requirements of K.A.R. 28-16-60. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and K.S.A. 65-171h; effective Jan. 15, 1999.)

**28-18a-7. Public notice of permit actions and public hearings.** (a) Public notice of permit actions and public hearings shall be consistent with the requirements of K.A.R. 28-16-61. Public hearings scheduled by the department shall address only those matters for which the secretary has authority.

(b) A swine operator proposing either new construction of a swine facility or new expansion of an existing swine facility shall meet the following requirements:

(1) Publish a single notice of application in the official county newspaper and in a newspaper regularly published and generally circulated serving the county and general area of the proposed or existing swine facility, notifying the public of the proposal. If the official county newspaper is regularly published and generally circulated throughout the county and general area of the proposed or existing swine facility, a single notice in the official county newspaper shall be adequate. If a proposed or existing facility site is within one mile of an adjoining county, a single notification shall also be provided in the official newspaper serving the adjoining county.

(A) Publication of the notice in the newspaper or newspapers by the swine operator shall be made before the department can place the permit on public notice in the Kansas register. The operator shall be responsible for the cost of publication in the newspaper or newspapers.

(B) The notice that the swine operator shall publish in the newspaper or newspapers shall contain the information pursuant to L. 1998, ch. 143, sec. 3, and amendments thereto [K.S.A. 1998 Supp. 65-1,179 (c), and amendments thereto].

(2) Notify the department verbally or by facsimile within two working days after the date of publication of the notice in the newspaper or newspapers to confirm that the notice has been published. Within 20 calendar days following the date of publication, the operator shall provide the department a publisher's affidavit of publication or certified copy of the publication. The processing of the permit shall be terminated by the department until the operator provides the publisher's affidavit or certified copy of the publication.

(3) Provide a copy of the notice to be published in the newspaper or newspapers to owners of habitable structures located within the prescribed separation distance for the swine facility. The notification shall be provided before the department places the permit on public notice in the Kansas register. The notice shall be provided by certified mail. The swine operator shall provide proof of this notification to the department within 20 calendar days of the notice being mailed.

(4) Provide a copy of the notice to be published in the newspaper or newspapers to the county commission representing the county in which the swine facility is or will be located. In addition, a copy of the notice shall be directed to the mayor of each municipality whose municipal boundary is located three miles or less from the swine facility or facility perimeter. Notification shall be made by certified mail before the department places the permit on public notice in the Kansas register. The swine operator shall provide proof of this notification to the department within 20 calendar days of the date the notice is mailed.

(c) Owners of habitable structures located within the applicable separation distance pertaining to habitable structures and either a proposed new swine facility or the proposed expansion of an existing swine facility that seek a public hearing shall meet the following requirements:

(1) Request a public hearing either before or during the public comment period established in the public notice published in the Kansas register by the department;

(2) request a public hearing in conformance with the provisions set forth in the public notice and shall also include the mailing address and telephone number of the habitable structure owner; and

(3) provide proof, upon request and in a form satisfactory to the department, of ownership of the habitable structure. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and L. 1998, ch. 143, sec. 3 [K.S.A. 1998 Supp. 65-1,179]; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, K.S.A. 65-171h, and L. 1998, ch. 143, sec. 3; [K.S.A. 1998 Supp. 65-1,179] effective Jan. 15, 1999.)

**28-18a-3. Permit; terms and conditions.** (a) Terms and conditions of permits shall be consistent with the requirements of K.A.R. 28-16-62, as appropriate.

(b) (1) Swine waste management and pollution control systems shall be designed, constructed, operated, and maintained in a manner that prevents pollution of waters of the state.

(2) Swine waste management and pollution control systems for confined feeding facilities with an animal unit capacity of 1,000 or more shall be designed, constructed, operated, and maintained to prevent the discharge of swine or other process wastes to surface waters of the state. Swine or other process wastes from a waste-retention lagoon or pond or other storage structure may be discharged to surface waters of the state, whenever precipitation events, either chronic or catastrophic, cause an overflow of swine or other process wastes from a swine waste management or pollution control system designed, constructed, operated, and maintained to contain all swine or other process wastes, plus the direct precipitation and the runoff from a 25-year, 24-hour precipitation event for the location of the confined feeding facility.

(3)(A) Except as provided in paragraph (3)(B), swine waste management and pollution control systems for confined feeding facilities with an animal unit capacity of 999 or less shall be designed, constructed, operated, and maintained to prevent the discharge of swine or other process wastes to surface waters of the state as required in paragraph (b)(2).

(B) Swine waste management and pollution control systems for confined feeding facilities with an animal unit capacity of 999 or less may discharge to surface waters of the state, consistent with the requirements of K.A.R. 28-16-28b through K.A.R. 28-16-28f, K.A.R. 28-16-57a, and K.A.R. 28-16-62, as appropriate, when specifically authorized by a permit.

(c) For each emergency or accidental discharge, overflow, or unplanned release of swine or other process wastes, each swine operator shall report the incident to the department within two hours of discovery. Each operator shall report any emergency, spill, accidental discharge, overflow, or unplanned release associated with swine or other process wastes to the department using telephone numbers as provided by the department. Each operator shall submit a written report shall be submitted to the department within three days of the incident.

(d) The swine operator shall retain a copy of the current permit issued by the department at the facility's site office.

(e) The swine operator shall report, within 72 hours to the department, whenever the required amount of land application area utilized by the facility is not available or accessible for use by the facility for land application, utilization, or disposal purposes because of a change in property ownership, lease, or agreement with the property owners.

(f) The swine operator shall be responsible for advising the department within 60 days of any changes in mailing address or telephone number regarding the facility or designated facility contact.

(g) The swine operator shall operate the facility in a manner to minimize or prevent any discharge that is in violation of the permit and that has a potential to adversely affect human health or the environment.

(h) The swine operator shall, at all times, properly operate and maintain the swine waste management and pollution control system and any related appurtenances that are installed or utilized by the swine operator to achieve compliance with the conditions of the permit.

(i) The operator of a swine facility with an animal unit capacity of 1,000 or more shall comply with the manure management plan, emergency response plan, odor control plan, and dead swine handling plan, as approved by the department. The swine operator shall amend these plans whenever warranted by changes in the swine facility or in other conditions affecting the facility, as established pursuant to L. 1998, ch. 143, secs. 5, 8, 11, and 17, and amendments thereto [K.S.A. 1998 Supp. 65-1,181, 65-1,184, 65-1,187 and 65-1,188, and amendments thereto].

(j) The operator of a swine facility with an animal unit capacity of 1,000 or more shall notify the department whenever the swine operator does not own all the swine at the facility, pursuant to L. 1998, ch. 143, sec. 5, and amendments thereto [K.S.A. 1998 Supp. 65-1,181, and amendments thereto].

(k) The operator of a swine facility with an animal unit capacity of 1,000 or more shall notify the department before the operator sells or gives manure or wastewater to a person that is not employed by the swine facility and whenever disposal is by means other than land application on areas covered by the swine facility's nutrient utilization plan. When the approved manure management plan for the swine facility addresses the requirements in L. 1998, ch. 143, sec. 5, and amendments thereto [K.S.A. 1998 Supp. 65-1,181, and amendments thereto], notification to the department shall not be required.

(l) The operator of a swine facility with an animal unit capacity of 1,000 or more who land applies manure or wastewater shall comply with the nutrient utilization plan approved by the Kansas department of agriculture, pursuant to L. 1998, ch. 143, sec. 6, and amendments thereto [K.S.A. 1998 Supp. 65-1,182, and amendments thereto].

(m) The operator of a swine facility with an animal unit capacity of 1,000 or more who land applies manure or wastewater and is required to develop or amend and implement a nutrient utilization plan, as prescribed by

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the secretary of the Kansas department of agriculture, shall file the plan and any amendments to the plan with KDHE.

(n) The operator of a swine facility with an animal unit capacity of 3,725 or more shall comply with the swine facility closure plan, as approved by the department. The operator shall amend the facility closure plan whenever warranted by changes in the facility or in other conditions affecting the facility, pursuant to L. 1998, ch. 143, sec. 12, and amendments thereto [K.S.A. 1998 Supp. 65-1,189, and amendments thereto].

(o) Each swine facility required to be permitted by the department, with an animal unit capacity of 1,000 or more, shall be staffed by a department-certified operator or an operator in training. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and L. 1998, ch. 143, sec. 5 [K.S.A. 1998 Supp. 65-1,181]; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, K.S.A. 65-171h, and L. 1998, ch. 143, secs. 5, 6, 7, 8, 9, and 17 [K.S.A. 1998 Supp. 65-1,181, 65-1,182, 65-1,183, 65-1,184, 65-1,185 and 65-1,188]; effective Jan. 15, 1999.)

**28-18a-9. Certification; terms and conditions.** (a) Each swine operator shall comply with all conditions, requirements, limitations, and operating provisions stipulated in the certification.

(b) Operation of a confined feeding facility in violation of any conditions, requirements, limitations, and operating provisions of a certification, or in a manner that represents a significant water pollution potential, shall result in the revocation of the certification and issuance of a permit and any other appropriate enforcement action. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and K.S.A. 65-171h; effective Jan. 15, 1999.)

**28-18a-10. Permits; monitoring and reporting.** (a) Any monitoring and reporting required by the department in the terms and conditions of a permit, certification, order, directive, or consent agreement shall be conducted consistent with the provisions of K.A.R. 28-16-63, as appropriate.

(b) The emergency or accidental discharge, overflow, or unplanned release of swine or other process wastes into surface waters of the state shall be reported to the department, pursuant to K.A.R. 28-16-27, within two hours of discovery. Each operator shall report any emergency, spill, accidental discharge, overflow, or unplanned release associated with swine or other process wastes to the department using telephone numbers as provided by the department. Each operator shall submit a written report to the department within three days of the incident.

(c) Any analysis required by a permit, certification, order, directive, or consent agreement of the department shall be performed in accordance with the provisions of 40 C.F.R. Part 136, as in effect on July 1, 1998, or as approved by the department.

(d) Each analysis shall be performed by a laboratory that has been certified by the department pursuant to K.S.A. 65-171i, and amendments thereto, or as approved by the department.

(e) 40 C.F.R. Part 136, as in effect on July 1, 1998, is adopted by reference. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and K.S.A. 65-171h; effective Jan. 15, 1999.)

**28-18a-11. Confined feeding facilities; federal requirements.** (a) For the purpose of issuing federal permits and administering NPDES program requirements, the definition of "point source" as defined in 40 C.F.R. 122.2, as in effect on July 1, 1998, is adopted by reference.

(b) For the purpose of issuing federal permits and administering NPDES program requirements, the concentrated animal feeding operation exclusions defined in 40 C.F.R. 122.3 (e) and 40 C.F.R. 122.3 (f), as in effect on July 1, 1998, are adopted by reference.

(c) For the purpose of issuing federal permits and administering NPDES program requirements, the provisions addressing concentrated animal feeding operations defined in 40 C.F.R. 122.23 and appendix B to 40 C.F.R. Part 122, as in effect on July 1, 1998, are adopted by reference.

(d) For the purpose of issuing federal permits and administering NPDES program requirements, each swine operator shall comply with the provisions addressing effluent limitations as defined in 40 C.F.R. Part 412, as adopted by reference in K.A.R. 28-16-57a. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and K.S.A. 65-171h; effective Jan. 15, 1999.)

**28-18a-12. Design and construction of swine waste management and pollution control systems.** (a) If a confined feeding facility represents a significant water pollution potential or requires a permit, as determined by the department, the operator shall provide a swine waste management or pollution control system that shall be designed in accordance with minimum standards of design, construction, and maintenance and constructed and operated in accordance with construction plans, specifications, and manure management plan approved by the department. If site topography, operating procedures, experience, and other available information indicate that more than the minimum standards of design, construction, and maintenance are required to effect adequate water pollution control, additional provisions may be required. A summary of approved standards of design shall be available from the division.

(b) The operator shall not initiate operation of the new confined feeding facility, swine waste management or pollution control system until after issuance of the new or modified permit by the department. Initiation of construction before the issuance of a new or modified permit



by the department shall be deemed to be solely at the risk of the swine operator.

(c) For the purpose of these regulations, any reference to a professional engineer or consultant shall be deemed to designate an individual offering a service for fee for the design of Kansas Department of Health and Environment a confined feeding facility, swine waste management system, or pollution control system, exclusive of the nutrient utilization plan, soils or cropping consultations, hydrologic work involved in conducting hydrologic or geologic investigations, or in the siting, design, or construction of groundwater monitoring wells. Any reference to a professional engineer shall be deemed to designate an individual licensed to practice engineering in Kansas by the Kansas state board of technical professions.

(d) Consultants that prepare plans and specifications for the new construction or new expansion of confined feeding facilities that are submitted to KDHE for approval shall provide KDHE with evidence that adequate general commercial liability insurance coverage addressing errors and omissions in the design plans and specifications has been obtained and is in effect.

(e) Each operator shall initiate any proposed new construction or new expansion of a confined feeding facility that has been approved by the department and for which the required permit or permit modification has been issued, within two years of the date on which the permit or permit modification is issued or pursuant to the department's requirements. Each operator shall complete any proposed new construction or new expansion of a confined feeding facility that has been approved by the department and for which the required permit or permit modification is issued, within three years of the date on which the permit or permit modification is issued or as required by the department. Failure to initiate the approved construction or expansion within two years and to complete the approved construction or expansion within three years of the date of issuance of the permit or permit modification shall void the department's approval of the construction plans, specifications, and other associated plans. In the event that phased construction is proposed, the initiation and completion of construction shall conform to the schedule stipulated in the department's approval. If the department's approval becomes void, the permit or permit modification shall remain in effect for the term of the permit, but the operator shall resubmit the construction plans, specifications, and other associated plans to the department for review and approval before initiating the construction or expansion of a confined feeding facility.

(f) Neither the approval of construction plans, specifications, or the manure management plan, nor the issuance of a permit or certification by the department shall prohibit the department from taking any enforcement action if the swine waste management or pollution control system fails to protect the waters of the state, meet any specified effluent criteria, or comply with state surface water quality standards. In addition, this approval, permit issuance, or certification shall not constitute a defense by the operator regarding violation of any statute, regulation, permit condition, or requirement.

(g) A new confined feeding facility, swine waste management system, or pollution control system shall not be built in any stream, river, lake, reservoir, or water bodies meeting the definition of jurisdictional wetlands consistent with K.A.R. 28-16-28b(ww)(3).

(h) Each operator, when directed by the department, shall notify the department a minimum of two days before performing any soil sample collection activities or liner integrity testing to allow opportunity for department staff to witness the activities.

(i) There shall be no deviation from plans and specifications submitted to and approved by the department, unless amended plans and specifications showing proposed changes have been submitted to and approved by the department.

(j) Each construction plan shall indicate the location of any active, abandoned, or plugged water, oil, or gas well within 600 feet of any planned location for a waste-retention lagoon or pond. If the operator is unable to confirm the exact location of any well or wells, the construction plan shall contain a note indicating the potential for the well or wells to be located in the vicinity of any proposed lagoon or pond. Any active, abandoned, or plugged water, oil, or gas well that is encountered during construction and that was not identified or located on the construction plan shall be reported to the department within 48 hours of discovery. Construction activities that would impact the well or wells or that would be in the immediate vicinity of the well or wells shall be immediately terminated until the department authorizes the construction to resume.

(k) Following the completion of construction, each swine operator proposing the construction of a new swine facility or the expansion of an existing swine facility that will utilize a swine waste management or pollution control system shall submit to the department a certification and, when requested, any supporting documentation acknowledging whether or not the swine waste management and pollution control system was constructed in accordance with the plans and specifications approved by the department. The certification shall be signed either by a professional engineer or an approved consultant representing the operator, who monitored the construction or installation of the swine waste management and pollution control system, including any liner. The certification shall be based on actual observations during construction and any field or laboratory data developed during or following construction. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and L. 1998, ch. 143, sec. 5 [K.S.A. 1998 Supp. 65-1,181]; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, K.S.A. 65-171h, and L. 1998 ch. 143, sec. 5 [K.S.A. 1998 Supp. 65-1,181]; effective Jan. 15, 1999.)

### **28-18a-13. Manure management plan for swine.**

(a) A manure management plan shall be developed and implemented for any proposed new swine facility, proposed expansion of an existing swine facility, or existing

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swine facility with an animal unit capacity of 1,000 or more, pursuant to L. 1998, ch. 143, sec. 5, and amendments thereto [K.S.A. 1998 Supp. 65-1,181 and amendments thereto]. When submitting manure management plans to the department for approval, each swine operator shall submit at least four copies of the plan.

(b) The manure management plan shall describe the methods for, and shall account for, the disposal of all swine or other process wastes generated by the swine facility. The plan shall include a description of the following:

- (1) The source or sources and volume of swine or other process wastes generated by the swine facility;
- (2) the method for collecting the swine or other process wastes by the swine facility;
- (3) the manner in which the swine or other process wastes shall be directed to any treatment or storage system;
- (4) a description of each treatment system utilized;
- (5) a description of each storage system utilized;
- (6) the location of any sites, including the legal description, where land application of swine or other process wastes will take place;
- (7) the method of ultimate disposal or utilization of the swine or other process wastes; and
- (8) the procedures to be employed and the information to be retained and provided, pursuant to L. 1998, ch. 143, sec. 5, and amendments thereto [K.S.A. 1998 Supp. 65-1,181, and amendments thereto], if swine or other process waste is to be sold or given to a person not employed by the facility and is to be disposed of by means other than land application on areas covered by the facility nutrient utilization plan.

(c) Each swine facility required to develop and implement a manure management plan shall amend the plan and submit the plan to the department for approval whenever specifically directed by the department or whenever warranted by one or more of the following:

- (1) Changes in operation of the swine facility;
- (2) a change or modification in the swine waste management or pollution control system; or
- (3) other conditions affecting the swine facility, waste management system, or pollution control system.

(d) Whenever the operator of a swine facility required to develop a manure management plan does not own all the swine at the facility, the operator shall provide, as a part of the manure management plan, a copy of the executed contract with the owner of the swine that specifies responsibility for management of the swine or other process wastes, pursuant to L. 1998, ch. 143, sec. 5, and amendments thereto [K.S.A. 1998 Supp. 65-1,181 and amendments thereto].

(e) The manure management plan and any associated records, data, or other information shall be retained at the facility's site office, in a manner that is accessible to inspection by representatives of the department. The operator shall retain, at the facility's site office, the current and previous three years' versions of the plan and any associated records, data, or other information. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch.

62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, K.S.A. 65-171h, and L. 1998, ch. 143, secs. 5 and 14 [K.S.A. 1998 Supp. 65-1,181 and 65-1,191]; effective Jan. 15, 1999.)

**28-18a-14. Nutrient utilization plan for swine.** (a) A nutrient utilization plan shall be developed and implemented for each proposed new swine facility, proposed expansion of an existing swine facility, or existing swine facility with an animal unit capacity of 1,000 or more that applies swine or other process wastes to the land, pursuant to L. 1998, ch. 143, sec. 6, and amendments thereto [K.S.A. 1998 Supp. 65-1,182, and amendments thereto]. When submitting nutrient utilization plans to the department, each swine operator shall submit at least five copies of the plan.

(b) Each swine facility required to develop and implement a nutrient utilization plan shall amend the plan and submit the plan to the department whenever specifically directed by the department or whenever warranted by one or more of the following:

- (1) Changes in operation of the swine facility;
- (2) a change or modification in the swine waste management or pollution control system; or
- (3) other conditions affecting the swine facility, waste management system, or pollution control system.

(c) The nutrient utilization plan and any associated records, data, or other information shall be retained at the facility's site office, in a manner that is accessible to inspection by representatives of the department. The operator shall retain, at the facility's site office, the current and previous five years' versions of the plan and any associated records, data, or other information. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and L. 1998, ch. 143, sec. 5 [K.S.A. 1998 Supp. 65-1,181]; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, K.S.A. 65-171h, and L. 1998, ch. 143, secs. 3, 5, 6, 9, and 14 [K.S.A. 1998 Supp. 65-1,179, 65-1,181, 65-1,182, 65-1,185, and 65-1,191]; effective Jan. 15, 1999.)

**29-18a-15. Odor control plan for swine.** (a) An odor control plan shall be developed for each proposed new swine facility, proposed expansion of an existing swine facility, or existing swine facility with an animal unit capacity of 1,000 or more, pursuant to L. 1998, ch. 143, sec. 11, and amendments thereto [K.S.A. 1998 Supp. 65-1,187, and amendments thereto]. When submitting odor control plans to the department for approval, each swine operator shall submit at least four copies of the plan.

(b) Each swine facility required to develop and implement an odor control plan shall amend the plan and submit the plan to the department for approval, whenever specifically directed by the department or whenever warranted by one or more of the following:

- (1) Changes in operation of the swine facility;
- (2) a change or modification in the swine waste management or pollution control system; or

(3) other conditions affecting the swine facility, waste management system, or pollution control system.

(c) Each operator of a swine facility shall implement the approved odor control plan consistent with any schedule of compliance established in the permit.

(d) The type and layout design of any vegetative screening utilized to minimize or control odors shall be approved by the department.

(e) The odor control plan and any associated records, data, or other information shall be retained at the facility's site office, in a manner that is accessible to inspection by representatives of the department. The operator shall retain, at the facility's site office, the current and previous three years' versions of the plan and any associated records, data, or other information. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and L. 1998, ch. 143, sec. 11 [K.S.A. 1998 Supp. 65-1,187]; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, K.S.A. 65-171h, and L. 1998, ch. 143, secs. 11 and 14; [K.S.A. 1998 Supp. 65-1,187 and 65-1,191]; effective Jan. 15, 1999.)

#### **28-18a-16. Emergency response plan for swine.**

(a) An emergency response plan shall be developed and implemented for each proposed new swine facility, proposed expansion for an existing swine facility, or existing swine facility with an animal unit capacity of 1,000 or more, pursuant to L. 1998, ch. 143, sec. 8, and amendments thereto [K.S.A. 1998 Supp. 65-1,184, and amendments thereto]. When submitting emergency response plans to the department for approval, each swine operator shall submit at least four copies of the plan.

(b) The emergency response plan for swine shall include, at a minimum, the following information:

(1) A description of potential sources, activities, and materials that may reasonably be expected to or could potentially result in pollution from an unauthorized discharge, spill, or release of swine or other wastes from the swine facility;

(2) a map, indicating an outline of the potential discharge area of the facility and existing structural control measures designed to contain or control any unauthorized discharge, spill, or release of swine or other process wastes from the swine facility;

(3) a spill contingency plan for swine or other process wastes;

(4) procedures for notification of the department;

(5) procedures to mitigate any adverse impacts of the emergency event; and

(6) training requirements for employees or contractors.

(c) Each swine facility required to develop and implement an emergency response plan shall amend the plan and submit the plan to the department for approval, whenever specifically directed by the department or whenever warranted by one or more of the following:

(1) Changes in operation of the swine facility;

(2) a change or modification in the animal or swine waste management system; or

(3) other conditions affecting the swine facility, waste management system, or pollution control system.

(d) The swine operator shall provide for and keep current the training of employees and contractors who are responsible for implementing the plan.

(e) The emergency response plan and any associated records, data, or other information shall be retained at the facility's site office, in a manner that is accessible to inspection by representatives of the department. The operator shall retain, at the facility's site office, the current and previous three years' versions of the plan and any associated records, data, or other information.

(f) A copy of the emergency response plan shall be maintained at the facility, in a location readily accessible to all employees or contractors responsible for implementing the plan. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and L. 1998, ch. 143, sec. 8 [K.S.A. 1998 Supp. 65-1,184]; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, K.S.A. 65-171h, and L. 1998, ch. 143, secs. 8 and 14 [K.S.A. 1998 Supp. 65-1,184 and 65-1,191]; effective Jan. 15, 1999.)

**28-18a-17. Dead swine handling plan.** (a) A dead swine handling plan shall be developed and implemented for each proposed new swine facility, proposed expansion of an existing swine facility, or existing swine facility with an animal unit capacity of 1,000 or more, pursuant to L. 1998, ch. 143, sec. 17, and amendments thereto [K.S.A. 1998 Supp. 65-1,188, and amendments thereto]. When submitting dead swine handling plans to the department for approval, each swine operator shall submit at least four copies of the plan.

(b) The dead swine handling plan shall include, at a minimum, the following information:

(1) A description of how dead swine are to be handled before disposal, to decrease the possibility of spreading disease and preclude contamination of waters of the state. The description shall address the handling of carcasses associated with both normal mortality and a major disease outbreak or other situation that results in deaths significantly higher than normal mortality;

(2) the method of and location or locations at the facility to be utilized for temporary storage of the swine carcasses;

(3) the ultimate method or methods of disposal that will be utilized for the facility, including burial, rendering, incineration, composting or other methods as approved by the Kansas animal health department;

(4) procedures to be utilized to minimize the potential for pests and odors; and

(5) training requirements for employees and contractors.

(c) Each swine facility required to develop and implement a dead swine handling plan shall amend the plan and submit the plan to the department for approval whenever specifically directed by the department or whenever warranted by one or more of the following:

(1) Changes in operation of the swine facility;

(2) a change or modification in the swine waste management or pollution control system; or

(continued)

(3) other conditions affecting the swine facility, waste management system, or pollution control system.

(d) The handling of dead swine shall be consistent with the provisions in L. 1998, ch. 143, sec. 17, and amendments thereto. [K.S.A. 1998 Supp. 65-1,188, and amendments thereto]

(e) The operator shall provide for and keep current the training of employees and contractors who are responsible for implementing the plan.

(f) The dead swine handling plan and any associated records, data, or other information shall be retained at the facility's site office, in a manner that is accessible to inspection by representatives of the department. The operator shall retain, at the facility's site office, the current and previous three years' versions of the plan and any associated records, data, or other information.

(g) A copy of the dead swine handling plan shall be maintained at the facility at a location readily accessible to all employees or contractors who are responsible for implementing the plan.

(h) The disposal of dead swine shall be conducted in conformance with the provisions of, and regulations adopted pursuant to, K.S.A. 47-1201, et seq., and amendments thereto. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and L. 1998, ch. 143, sec. 17 [K.S.A. 1998 Supp. 65-1,188]; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, K.S.A. 65-171h, and L. 1998, ch. 143, secs. 14 and 17 [K.S.A. 1998 Supp. 65-1,191 and 65-1,188]; effective Jan. 15, 1999.)

**28-18a-18. Groundwater monitoring for swine facilities.** (a) The installation and sampling of groundwater monitoring wells shall be conducted pursuant to L. 1998, ch. 143, secs. 4 and 5, and amendments thereto [K.S.A. 65-1,180 and 65-1,181, and amendments thereto].

(b) Any swine facility shall, when required by the department, provide for the installation and sampling of groundwater monitoring wells or the sampling of existing wells in the vicinity of waste-retention lagoons or ponds, waste treatment systems, land application sites, or other areas either known to be or potentially impacted by swine or other process wastes, or where warranted by groundwater, geologic, or construction conditions.

(c) Where a groundwater monitoring system is required by the department, the proposed location and design of the monitoring wells shall be approved by the department before being constructed.

(d) All water supply or groundwater monitoring wells shall be constructed by a water well contractor or driller licensed in Kansas, in conformance with regulations adopted pursuant to the Kansas groundwater exploration and protection act, K.S.A. 82a-1201 et seq., and amendments thereto.

(e) For the construction of a new swine facility, groundwater monitoring wells shall be sampled and analyzed to establish background concentrations of chemical parameters designated by the department before the facility is populated. For the installation of monitoring wells at existing facilities, each monitoring well shall be moni-

tored within two months of installation to establish a baseline for the chemical parameters designated by the department.

(f) Background, baseline, and other data from monitoring wells shall be maintained for the life of the facility. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 65-169, 65-170, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, K.S.A. 65-171h, and L. 1998, ch. 143, secs. 4 and 5 [K.S.A. 1998 Supp. 65-1,180 and 65-1,181]; effective Jan. 15, 1999.)

**28-18a-19. Operation of swine waste management and pollution control systems.** (a) The swine waste management and pollution control systems shall be designed, constructed, maintained, and operated to prevent pollution of waters of the state and to protect public health and the environment.

(b) Each swine waste management and pollution control system shall be operated consistent with waste management plans approved by the department.

(c) When a liner is installed or constructed, the operator shall maintain the liner to comply with the minimum standards of design, construction, and maintenance. When soil liners are utilized, no trees or other deep-rooted vegetation shall be allowed to grow within 100 feet of the liner. Any mechanical or structural damage to the liner shall be reported to the department within two workdays of identification and shall be repaired in a time frame approved by the department.

(d) Each operator shall haul or transport swine or process wastes to land application sites in a manner that prevents loss or spillage during transport.

(e) When land application of swine or other process wastes is practiced, the application shall be conducted at agronomic rates.

(f) Irrigation practices shall be managed to minimize ponding or puddling of swine or other process wastes at the land application site. Irrigation practices shall be managed to ensure that swine or other process wastes are not discharged from the application sites.

(g) Adequate equipment and land application areas shall be available for removal of swine or other process wastes and contaminated stormwater runoff from the confined feeding facility to comply with the provisions of the permit and these regulations.

(h) Unless approved in advance by the department, liquid or liquid concentrated swine or other liquid process wastes shall not be land applied when the ground is frozen, snow covered, or saturated, or during a precipitation event. Land application of swine or other process wastes during these periods may be authorized by the department for use in filtering swine or other process wastes from retention structures that are properly operated and maintained and that are in imminent danger of overflow to surface waters of the state due to chronic or catastrophic precipitation events. Solid swine or other process wastes may be applied to frozen ground only if the proposed application site and practices ensure that the wastes will be retained at the application site.

(i) Each swine operator, as directed by the department, shall conduct sampling and analysis of swine or process wastes or sites utilized for the application of swine or process wastes from confined swine feeding facilities, to determine nutrient and salinity levels, to confirm utilization of the swine or process wastes at agronomic rates, and to protect soil and water resources. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, K.S.A. 65-171h, and L. 1998, ch. 143, sec. 5 [K.S.A. 1998 Supp. 65-1,181]; effective Jan. 15, 1999.)

**28-18a-20. Denial, suspension, revocation, or termination of a permit or certification for swine facilities.**

(a) A permit or certification may be denied, suspended, revoked, or terminated, pursuant to K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, L. 1998, ch. 143, sec. 16, and amendments thereto [K.S.A. 1998 Supp. 65-171d, K.S.A. 1998 Supp. 65-1,193, and amendments thereto].

(b) A permit or certification may be denied, suspended, revoked, or terminated for any of the following reasons:

(1) Misrepresentation or omission of a significant fact by the swine operator, either in the application for the permit or in information subsequently reported to the department;

(2) improper operation of the confined feeding facility, swine waste management system, or pollution control system, including any land application areas that cause pollution or a public health hazard;

(3) violation of any provision of K.S.A. 65-159 et seq. and amendments thereto, any regulations of article 16 and article 18, or other restrictions set forth in the permit, certification, or waiver; or

(4) failure to comply with an order or modified permit issued by the secretary.

(c) Procedures and provisions for the denial, suspension, revocation, or termination of a permit shall be pursuant to the provisions of K.A.R. 28-16-62.

(d) Any swine operator aggrieved by the denial, suspension, revocation or termination of a permit or certification may request a hearing in accordance with the provisions of the Kansas administrative procedure act, K.S.A. 77-501 et seq. and amendments thereto.

(e) If a confined feeding facility is required to terminate operations or reduce the number of animal units at the facility, the swine operator may be allowed by the secretary to finish feeding existing swine at the facility at the time of notification by the department, until the facility is permitted or certified, or complies with the provisions of these regulations. However, in no case shall the termination of operations or the reduction of the animal unit number exceed five months from the initial notification to terminate operations by the department. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1,

K.S.A. 65-171h, and L. 1998, ch. 143, sec. 16 [K.S.A. 1998 Supp. 65-1,193]; effective Jan. 15, 1999.)

**28-18a-21. Inspections.** (a) Each swine operator shall provide all necessary specialized equipment, clothing, or appurtenances to enable a department inspector to enter the facility for inspection.

(b) Each swine operator that utilizes bio-security protocols for the confined feeding facility and that requests KDHE conformance with the protocols shall submit a copy of the bio-security protocol to the department by September 1, 1999.

(c) Any swine operator that develops or modifies the bio-security protocols and that requests KDHE conformance with the protocols shall submit a copy of the protocols to the department.

(d) Bio-security protocols shall not inhibit reasonable access to any department inspector. If any department employee conducting an inspection of a confined feeding facility complies with the facility's bio-security protocol, that employee shall be allowed to access the animal waste management system to conduct inspections. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, K.S.A. 65-171h, and L. 1998, ch. 143, sec. 14 [K.S.A. 1998 Supp. 65-1,191]; effective Jan. 15, 1999.)

**28-18a-22. 'Swine facility closure requirements.**

(a) Each swine operator of a facility permitted by the department shall notify the department of plans to cease operation of, close, or abandon the swine facility.

(b) Each swine operator shall maintain and comply with a valid permit until the department approves the closure of the swine facility.

(c) A swine facility closure plan shall be developed and implemented for any proposed new swine facility, proposed expansion of an existing swine facility, or existing swine facility with an animal unit capacity of 3,725 or more, pursuant to L. 1998, ch. 143, sec. 12, and amendments thereto [K.S.A. 1998 Supp. 65-1,189, and amendments thereto]. When submitting swine facility closure plans to the department for approval, each swine operator shall submit at least four copies of the plan.

(d) A facility closure plan for any swine facility with an animal unit capacity of 3,725 or more shall include, at a minimum, the following:

(1) Identification of any swine waste management and pollution control system components utilized to contain, control, or store swine or other process wastes at the swine facility;

(2) the procedures to be employed to remove and dispose of swine or other process wastes;

(3) the maintenance, deactivation, conversion, or demolition of a swine waste-retention lagoon or pond pursuant to L. 1998, ch. 143, sec. 13, and amendments thereto [K.S.A. 1998 Supp. 65-1,190, and amendments thereto], or the closure of any swine waste-retention lagoon or pond by one of the following methods:

(A) Removing the berms, and leveling and revegetating the site to provide erosion control;

(continued)



(B) leaving the structure or structures in place for use as a freshwater farm pond or reservoir;

(C) retaining the structure or structures for future use as a part of a swine waste management or pollution control system; or

(D) using any other method approved by KDHE; and

(4) the plugging of any water or groundwater monitoring wells at the facility.

(e) Any swine facility with an animal unit capacity of 3,725 or more shall amend the swine facility closure plan and submit the plan to the department for approval whenever specifically directed by the department or whenever warranted by one or more of the following:

(1) Changes in operation of the swine facility;

(2) a change or modification in the swine waste management and pollution control systems; or

(3) other conditions affecting the swine facility, waste management system, or pollution control system.

(f) Each swine facility with an animal unit capacity of 3,725 or more that is required to develop a facility closure plan shall retain the current plan at the facility's site office and in a manner that is accessible to inspection by representatives of the department.

(g) Closure of a swine facility shall be completed within six months of notification to the department of the proposed closure of the facility or termination of operations for any facility with an animal unit capacity of 3,725 or more.

(h) Any extension of time for closure shall be requested in writing and the request shall detail the reasons for the requested extension. Only consideration of weather conditions and the legal change in ownership of the facility shall be grounds for the department's consideration in granting an extension.

(i) If the operator of a swine facility is unwilling or unable to properly close out the facility, the owner of swine at the facility and the property owner shall be responsible for closing out the facility in accordance with these regulations and in a manner that protects the waters of the state, public health, and the environment. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, K.S.A. 65-171h, and L. 1998, ch. 143, secs. 12 and 13 [K.S.A. 1998 Supp. 65-1,189 and 65-1,190]; effective Jan. 15, 1999.)

**28-18a-23. Financial assurance for swine facility closure.** (a) On or before July 1, 1999 and annually thereafter before January 1 of each year, each operator of a swine facility with an animal unit capacity of 3,725 or more shall provide evidence, satisfactory to the department, that the operator has the financial ability to cover the cost of closure of the swine facility, as required by the department.

(b) For new construction or new expansion of a swine facility with a proposed animal unit capacity of 3,725 or more, the swine operator shall provide evidence, satisfactory to the department, that the operator has the financial ability to cover the cost of closure of the proposed

new construction or expansion at the time the application is submitted to the department for review.

(c) Each operator of a swine facility with an animal unit capacity of 3,725 or more shall submit, as a part of the evidence provided to the department, a detailed written estimate in current dollars of the cost to close the swine facility in a manner acceptable to the department. The estimate shall be prepared by a professional engineer or consultant approved by the department.

(d) Each operator shall develop an estimate of the cost to close the swine facility as follows:

(1) The estimate shall be based on the cost charged by a third party to collect and dispose of all swine or other process wastes stored or retained at the swine facility, excluding the swine waste-retention lagoons or ponds, at a specifically identified off-site application area.

(2) All waste management and pollution control system components shall be assumed to be at maximum capacity.

(3) The costs attributable to the swine waste-retention lagoons or ponds shall be excluded from the estimate.

(e) Each swine operator shall increase the closure cost estimate and the amount of financial assurance provided if any change in the facility closure plan or in operation increases the maximum cost of closure at any time.

(f) Each swine operator shall provide continuous financial assurance coverage for closure until the department determines the facility closure to be acceptable.

(g) Mechanisms used to demonstrate financial assurance shall ensure that the funds necessary to meet the cost to close the swine facility, pursuant to K.A.R. 28-18-22 (d), are accessible to the department in a timely fashion when needed. In establishing financial assurance for the facility closure, swine operators shall utilize any of the following options:

(1) Trust fund;

(2) surety bond guaranteeing payment or performance;

(3) letter of credit;

(4) insurance;

(5) self-insurance; or

(6) use of multiple mechanisms.

(h) Each operator that utilizes a trust fund shall meet the following requirements.

(1) Provide for a trustee. The trustee shall be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. A copy of the trust agreement shall be provided to the department.

(2) Provide authority for the department or person authorized by the department to implement the closure to request and obtain from the trustee reimbursement for closure expenditures. Requests for reimbursement shall be granted by the trustee, to the limit of the funds in the trust fund and proper documentation of the incurred costs are provided.

(3) Maintain the trust fund. The operator shall maintain the trust fund until an alternative financial assurance mechanism is approved by the department and is in place, or shall cease operations and close out the facility before the trust fund is terminated or if the operator is no longer required to demonstrate financial responsibility.

(i) Each swine operator that utilizes a surety bond guaranteeing payment or performance shall meet all of the following requirements:



(1) Obtain a surety bond, with the penal sum of the bond in an amount at least equal to the estimated facility closure cost;

(2) provide the department with a copy of the bond;

(3) obtain the bond from a company that is licensed to issue bonds in Kansas;

(4) provide in the bond that the surety shall become liable on the bond obligation when the operator fails to perform as guaranteed by the bond;

(5) establish a standby trust fund;

(6) provide that payments made under the terms of the bond shall be deposited by the surety directly into the standby trust fund. Payments from the trust fund shall be made by the trustee to the limit of the bond amount when proper documentation of the incurred costs are provided; and

(7) obtain a bond providing that the surety may cancel the bond by sending notice of cancellation by certified mail to the operator and the department at least 120 days in advance of the cancellation. If the surety cancels the bond, the facility shall obtain alternative financial assurance before the cancellation or shall cease operations and close out the facility before the cancellation date of the bond, unless the operator is no longer required to demonstrate financial responsibility.

(j) Each swine operator that utilizes a letter of credit shall meet the following requirements:

(1) Obtain an irrevocable standby letter of credit by which the issuing institution shall be an entity that has authority to issue letters of credit and whose letter of credit operations are regulated by a federal or state agency. The letter of credit shall be in a form that constitutes an unconditional promise to pay and shall be in a form negotiable by the department;

(2) provide the department with a copy of the letter of credit. Information contained in the letter of credit or provided by the operator shall include the name, location, and permit number of the facility and the amount of funds assured;

(3) provide an irrevocable letter of credit issued for a period of at least one year in an amount at least equal to the current cost estimate for closure of the facility. The letter of credit shall provide that the expiration date shall be automatically extended for a period of at least one year, unless the issuing institution has canceled the letter of credit by sending notice of cancellation by certified mail to the operator and department 120 days in advance of cancellation. If the letter of credit is canceled by the issuing institution, the owner shall obtain alternative financial assurance before the cancellation or shall cease operations and close out the facility before the cancellation date of the letter of credit, unless the operator is no longer required to demonstrate financial responsibility; and

(4) cancel the letter of credit only if alternative financial assurance, approved by the department, is substituted or if the operator is no longer required to demonstrate financial responsibility.

(k) Each operator that utilizes insurance shall meet all of the following requirements:

(1) Obtain insurance coverage for a period of at least one year in an amount at least equal to the current cost estimate for closure of the facility;

(2) obtain insurance from an insurer authorized to sell insurance in Kansas;

(3) provide the department with a copy of the insurance policy;

(4) ensure that the insurance policy guarantees that funds shall be available to close the facility in the event the operator is unable or unwilling to close the facility in accordance with the facility closure plan approved by the department;

(5) ensure that the insurance policy provides that the insurer is responsible for the payment of the department or person authorized to close the facility. Payments by the insurer for the policy shall be made by the insurer to the limit of the policy amount when proper documentation of the incurred costs are provided;

(6) ensure that the insurance policy provides that the insurer cannot cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy shall, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may cancel the policy by sending notice of cancellation by certified mail to the operator and the department 120 days in advance of the cancellation;

(7) if the insurer cancels the policy, obtain alternative financial assurance before the cancellation, or cease operations and close out the facility before the cancellation date of the insurance policy, unless the operator is no longer required to demonstrate financial responsibility; and

(8) cancel the insurance policy only if alternative financial assurance, approved by the department, is substituted or if the operator is no longer required to demonstrate financial responsibility.

(l) To establish evidence of financial ability for self-insurance, each swine operator shall meet the following requirements:

(1) Submit a financial statement, prepared by a certified public accountant, listing tangible assets and total liabilities of the swine operator. The assets shall not include the value of the swine at the facility. The financial statement shall include a general release, by the swine operator, providing the department with authorization for verification with banks or other financial institutions; and

(2) provide an indication on the financial statement of whether or not the tangible assets, less the total liabilities, are satisfactory to cover the estimated cost of closure. The financial statement shall note the estimated cost of closure utilized.

(m) Each swine operator that utilizes multiple financial assurance mechanisms shall meet the following requirements:

(1) Use only the financial assurance mechanisms provided for in this regulation; and

(2) provide that the total coverage of all the financial mechanisms utilized provides an amount at least equal to the current cost estimate for closure of the facility. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; implementing L. 1998, ch. 143, sec. 12 [K.S.A. 1998 Supp. 65-1,189]; effective Jan. 15, 1999.)

**28-18a-24. Financial assurance for swine waste-retention lagoon or pond closure.** (a) On or after July 1,

(continued)

2000 and annually thereafter before January 1 each year, each operator of a swine facility with an animal unit capacity of 3,725 or more that utilizes swine waste-retention lagoons or ponds shall provide evidence, satisfactory to the department, that the operator has the financial ability to cover the cost of closure of the swine waste-retention lagoons or ponds as required by the department.

(b) For new construction or new expansion of a swine facility with a proposed animal unit capacity of 3,725 or more that employs the use of swine waste-retention lagoons or ponds, the swine operator shall provide evidence, satisfactory to the department, that the operator has the financial ability to cover the cost of closure of the proposed swine waste-retention lagoons or ponds at the time the application is submitted to the department for review.

(c) Each operator of swine facility with an animal unit capacity of 3,725 or more shall submit, as a part of the evidence provided to the department, a detailed written estimate in current dollars of the cost to close the swine waste-retention lagoons or ponds in a manner acceptable to the department. The estimate shall be prepared by a professional engineer or consultant approved by the department.

(d) To estimate the cost to close the swine waste-retention lagoons or ponds, the swine operator shall consider the following:

(1) The cost of the swine waste-retention lagoons or ponds closure by determining the cost of a third party to collect and dispose of all swine or other process wastes stored or retained on-site in the lagoons or ponds at a specifically identified off-site application area; and

(2) all swine waste-retention lagoons or ponds to be 100 percent full, for the purpose of estimating costs.

(e) Each swine operator shall increase the closure cost estimate and the amount of financial assurance provided if changes in the facility closure plan addressing the swine waste-retention lagoons or ponds or a change in operation increase the maximum cost of closure at any time.

(f) Each swine operator shall provide continuous coverage for closure until the department determines that closure of the swine waste-retention lagoons or ponds to be acceptable.

(g) Mechanisms used to demonstrate financial assurance shall ensure that the funds necessary to meet the cost to close the swine waste-retention lagoons or ponds, pursuant to K.A.R. 28-18-22 (d), are accessible to the department in a timely fashion when needed. In establishing financial assurance for the swine waste-retention lagoons or ponds closure, swine operators shall utilize one of the following options:

- (1) Trust fund;
- (2) surety bond guaranteeing payment or performance;
- (3) letter of credit;
- (4) insurance;
- (5) self-insurance; or
- (6) use of multiple mechanisms.

(h) Each swine operator that utilizes a trust fund shall meet the following requirements.

(1) Provide for a trustee. The trustee shall be an entity that has the authority to act as a trustee and whose trust

operations are regulated and examined by a federal or state agency. A copy of the trust agreement shall be provided to the department.

(2) Provide authority for the department or person authorized by the department to implement the closure to request and obtain from the trustee reimbursement for closure expenditures. Requests for reimbursement shall be granted by the trustee, to the limit of the funds in the trust fund and proper documentation of the incurred costs are provided.

(3) Maintain the trust fund. The swine operator shall maintain the trust fund until an alternative financial assurance mechanism is approved by the department and is in place, or shall cease operations and close out the swine waste-retention lagoons or ponds before the trust fund is terminated or if the operator is no longer required to demonstrate financial responsibility.

(i) Each swine operator that utilizes a surety bond guaranteeing payment or performance shall meet all of the following requirements:

(1) Obtain a surety bond, with the penal sum of the bond in an amount at least equal to the estimated swine waste-retention lagoons or ponds closure cost;

(2) provide the department with a copy of the bond;

(3) obtain the bond from a company that is licensed to issue bonds in Kansas;

(4) provide in the bond that the surety becomes liable on the bond obligation when the operator fails to perform as guaranteed by the bond;

(5) establish a standby trust fund;

(6) provide that payments made under the terms of the bond will be deposited by the surety directly into the standby trust fund. Payments from the trust fund shall be made by the trustee to the limit of the bond amount when proper documentation of the incurred costs is provided; and

(7) obtain a bond providing that the surety may cancel the bond by sending notice of cancellation by certified mail to the operator and the department at least 120 days in advance of the cancellation. If the surety cancels the bond, the operator shall obtain alternative financial assurance before the cancellation, or shall cease operations and close out the swine waste-retention lagoons or ponds before the cancellation date of the bond, unless the operator is no longer required to demonstrate financial responsibility.

(j) Each swine operator that utilizes a letter of credit shall meet the following requirements:

(1) Obtain an irrevocable standby letter of credit by which the issuing institution shall be an entity that has authority to issue letters of credit and whose letter of credit operations are regulated by a federal or state agency. The letter of credit shall be in a form that constitutes an unconditional promise to pay and shall be in a form negotiable by the department;

(2) provide the department with a copy of the letter of credit. Information contained in the letter of credit or provided by the operator shall include the name, location, and permit number of the facility and the amount of funds assured;

(3) provide an irrevocable letter of credit issued for a period of at least one year in an amount at least equal to

the current cost estimate for closure of the swine waste-retention lagoons or ponds. The letter of credit shall provide that the expiration date will be automatically extended for a period of at least one year unless the issuing institution has canceled the letter of credit by sending notice of cancellation by certified mail to the operator and department 120 days in advance of cancellation. If the letter of credit is canceled by the issuing institution, the owner shall obtain alternative financial assurance before the cancellation, or shall cease operations and close out the swine waste-retention lagoons or ponds before the cancellation date of the letter of credit, unless the operator is no longer required to demonstrate financial responsibility; and

(4) cancel the letter of credit only if alternative financial assurance, approved by the department, is substituted or if the operator is no longer required to demonstrate financial responsibility.

(k) Each swine operator that utilizes insurance shall meet all of the following requirements:

(1) Obtain insurance coverage for a period of at least one year in an amount at least equal to the current cost estimate for closure of the swine waste-retention lagoons or ponds;

(2) obtain insurance from an insurer authorized to sell insurance in Kansas;

(3) provide the department with a copy of the insurance policy;

(4) ensure that the insurance policy guarantees that funds shall be available to close the swine waste-retention lagoons or ponds if the operator is unable or unwilling to close the swine waste-retention lagoons or ponds in accordance with the facility closure plan approved by the department;

(5) ensure that the insurance policy provides that the insurer is responsible for the payment of the department or person authorized to close the swine waste retention lagoons or ponds. Payments by the insurer for the policy shall be made by the insurer to the limit of the policy amount when proper documentation of the incurred costs is provided;

(6) ensure that the insurance policy shall provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy shall, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may cancel the policy by sending notice of cancellation by certified mail to the operator and the department 120 days in advance of the cancellation;

(7) if the insurer cancels the policy, obtain alternative financial assurance before the cancellation, or cease operations and close out the swine waste-retention lagoons or ponds before the cancellation date of the insurance policy, unless the operator is no longer required to demonstrate financial responsibility; and

(8) cancel the insurance policy only if alternative financial assurance, approved by the department, is substituted or if the operator is no longer required to demonstrate financial responsibility.

(l) To establish evidence of financial ability for self-insurance, each operator shall meet the following requirements:

(1) Submit a financial statement, prepared by a certified public accountant, listing tangible assets and total liabilities of the swine operator. The assets shall not include the value of the swine at the facility. The financial statement shall include a general release, by the swine operator, providing the department authorization for verification with banks or other financial institutions; and

(2) provide the indication, on the financial statement, of whether or not the tangible assets, less the total liabilities, are satisfactory to cover the estimated cost of closure. The financial statement shall note the estimated cost of closure utilized.

(m) Each operator that utilizes multiple financial assurance mechanisms shall meet both of the following requirements:

(1) Use only the financial assurance mechanisms provided for in this regulation; and

(2) provide that the total coverage of all the financial mechanisms utilized provides an amount at least equal to the current cost estimate for closure of the swine waste-retention lagoons or ponds. (Authorized by and implementing K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and L. 1998, ch. 143, sec. 13 [K.S.A. 1998 Supp. 65-1,190]; effective Jan. 15, 1999.)

**28-18a-25. Variance of specific requirements.** (a) Each swine operator seeking a variance from the regulations in this article shall submit to the department a written request for variance from the regulations in this article and shall provide information relevant to the request.

(b) Each request shall specifically set forth why the variance should be considered and how the requested variance addresses the intent of this article.

(c) A variance may be granted by the department whenever site-specific conditions or proposals are in keeping with the purpose and intent of this article. (Authorized by and implementing K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, and K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1; effective Jan. 15, 1999.)

**28-18a-26. Requirements for swine facility operator certification.** Each operator of a swine facility with an animal unit capacity of 1,000 or more that is required to have a permit shall obtain a swine waste management and pollution control system operator certificate. Each existing swine operator required to obtain an operator certificate shall register with the department before March 1, 1999 and shall acquire an operator certificate before September 1, 1999. Any swine operator that desires or is required to obtain a swine facility operator certificate shall meet the following requirements:

(a) Each applicant shall be a swine facility operator who maintains or supervises a swine waste management or pollution control system.

(b) Each swine facility operator shall submit a complete application and the appropriate fee to the department. The application shall be received by the department at least two weeks before the scheduled examination date. Late applications shall not be accepted for the scheduled examination date.

(c) If an applicant provides false information on an application, the applicant shall not be accepted for exami-

(continued)

nation, and the fee submitted with the application shall not be returned to the applicant. The applicant shall be notified of the decision denying acceptance for examination and shall not be allowed to take the examination for two consecutive years. (Authorized by K.S.A. 65-4512, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and L. 1998, ch. 143, sec. 7 [K.S.A. 1998 Supp. 65-1,183]; implementing L. 1998, ch. 143, secs. 7 and 10 [K.S.A. 1998 Supp. 65-1,183 and 65-1,186]; effective Jan. 15, 1999.)

**28-18a-27. Eligibility for swine facility operator certification.** (a) Each applicant for certification shall meet the following requirements:

(1) Submit a completed application, on forms provided by the department and with the appropriate fees; and

(2) complete six hours of training, as approved by the department.

(b) Certified swine operators shall acquire a minimum of six hours of approved training every five years as a condition for renewal of the certification. (Authorized by K.S.A. 65-4512, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and L. 1998, ch. 143, sec. 7 [K.S.A. 1998 Supp. 65-1,183]; implementing L. 1998, ch. 143, secs. 7 and 10 [K.S.A. 1998 Supp. 65-1,183 and 65-1,186]; effective Jan. 15, 1999.)

**28-18a-28. Swine facility operator certification examinations.** (a) Each applicant for a swine facility operator certificate shall pass a written examination administered by the department or a designee.

(b) Each swine operator who seeks to obtain a swine facility operator certification and who has allowed a certificate to lapse for a period of two years or more shall submit an application and fee, receive at least six hours of approved training, and pass a written examination. (Authorized by K.S.A. 65-4512, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and L. 1998, ch. 143, sec. 7 [K.S.A. 1998 Supp. 65-1,183]; implementing L. 1998, ch. 143, secs. 7 and 10 [K.S.A. 1998 Supp. 65-1,183 and 65-1,186]; effective Jan. 15, 1999.)

**28-18a-29. Noncertified operators responsible for the operation and management of swine facilities, swine waste management systems, or pollution control systems.** (a) Each noncertified operator of a new or proposed swine facility with an animal unit capacity of 1,000 or more shall notify the department within 30 days of the initial start-up of the facility that the operator is the designated facility operator. The operator shall be designated as an "operator in training (OIT)." The operator shall obtain six hours of approved training and shall obtain the certification within one year of the notification to KDHE. Each noncertified operator of a swine facility with an animal unit capacity of 1,000 or more shall notify the department within 30 days of assuming responsibility for the operation of the swine facility.

(b) The OIT designation shall be renewed only once, if it is demonstrated to the department that the operator is attending training sessions or studying correspondence courses in preparation to retake the examination. (Authorized by K.S.A. 65-4512, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and L. 1998, ch.

143, sec. 7 [K.S.A. 1998 Supp. 65-1,183]; implementing L. 1998, ch. 143, secs. 7 and 10 [K.S.A. 1998 Supp. 65-1,183 and 65-1,186]; effective Jan. 15, 1999.)

**28-18a-30. Issuance of certificate of competency.**

(a) Upon fulfillment of the requirements in K.A.R. 28-18-26, 28-18-27, and 28-18-28, a certificate shall be issued to the applicant. The certificate shall designate that the swine operator is qualified to operate and maintain a swine facility, swine waste management system, and pollution control system. This certificate shall be effective for five years from the date of issuance.

(b) A certificate may be issued, through reciprocity, to an applicant who has been issued a swine operator, or equivalent, certification in another state when the department determines that the standards for training and certification meet or exceed the requirements of the department. The swine operator shall provide any information that the department requires to determine whether or not a certificate may be issued through reciprocity. (Authorized by K.S.A. 65-4504, K.S.A. 65-4512, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and L. 1998, ch. 143, sec. 7 [K.S.A. 1998 Supp. 65-1,183]; implementing L. 1998, ch. 143, secs. 7 and 10 [K.S.A. 1998 Supp. 65-1,183 and 65-1,186]; effective Jan. 15, 1999.)

**28-18a-31. Swine operator certification fees.** (a) Fees for swine operator certification shall be as follows:

(1) Operator in training (one-year certificate)	No charge
(2) operator in training (renewal of one year)	\$5.00
(3) examination fee	\$25.00
(4) five-year renewal of certificates	\$50.00
(5) reinstatement of lapsed certificate up to one year after renewal date	\$70.00
(6) reinstatement of lapsed certificate between one and two years after renewal date	\$80.00
(7) reciprocity fee	\$65.00

(b) Fees from applicants who are ineligible to take the certification examination, for reasons other than providing false information on the application, shall be returned.

(c) Fees from applicants who fail the examination shall not be returned.

(d) Each operator required to retake an examination shall submit a new application and fee.

(e) Fees for department-sponsored training sessions shall be established by the department. (Authorized by K.S.A. 65-4504, K.S.A. 65-4512, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and L. 1998, ch. 143, sec. 7 [K.S.A. 1998 Supp. 65-1,183]; implementing L. 1998, ch. 143, secs. 7 and 10 [K.S.A. 1998 Supp. 65-1,183 and 65-1,186]; effective Jan. 15, 1999.)

**28-18a-32. Swine waste-retention lagoons or ponds in sensitive groundwater areas.** (a) The department may require each applicant for a permit for construction of a new swine facility with an animal unit capacity of 3,725 or more, or for the expansion of an existing swine facility to an animal unit capacity of 3,725 or more

that proposes to utilize a swine waste-retention lagoon or pond, to line the sides and bottom of the lagoon or pond with an impermeable synthetic membrane liner.

(b) Sensitive groundwater areas shall be those areas designated in table III, pages 108 through 172, of the Kansas state corporation commission's document titled "general rules and regulations for the conservation of crude oil and natural gas" as in effect on May 31, 1998, which is adopted by reference.

(c) As used in this regulation, the term "impermeable liner" means a synthetic membrane liner that has a maximum seepage rate of 1/64 inch per day or less. (Authorized

by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and L. 1998, ch. 143, sec. 5 [K.S.A. 1998 Supp. 65-1,181]; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, K.S.A. 65-171h, and L. 1998, ch. 143, sec. 5 [K.S.A. 1998 Supp. 65-1,181]; effective Jan. 15, 1999.)

Gary R. Mitchell  
Secretary of Health  
and Environment

Doc. No. 023269

**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 to the 1997 Volumes of the *Kansas Administrative Regulations* and the 1998 Supplement to the *Kansas Administrative Regulations*.

**AGENCY 1: DEPARTMENT OF ADMINISTRATION**

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1-2-46	Amended	V. 17, p. 1369
1-2-77	New	V. 17, p. 1370
1-5-9	Amended	V. 17, p. 1370
1-5-10	Amended	V. 17, p. 1370
1-5-14	Amended	V. 17, p. 1370
1-5-15	Amended	V. 17, p. 1370
1-6-22a	Amended	V. 17, p. 1371
1-6-30	Amended	V. 17, p. 1371
1-9-23	Amended	V. 17, p. 1371
1-9-25	Amended	V. 17, p. 1372
1-9-26	Amended	V. 17, p. 1375
1-10-6	Amended	V. 17, p. 1376
1-16-18	Amended	V. 17, p. 945
1-16-18a	Amended	V. 17, p. 945
1-18-1a	Amended	V. 17, p. 947
1-39-1 through 1-39-4	New	V. 17, p. 1678

**AGENCY 4: DEPARTMENT OF AGRICULTURE**

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4-7-213a	New	V. 17, p. 171

**AGENCY 7: SECRETARY OF STATE**

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7-39-1	New	V. 17, p. 1679

**AGENCY 9: ANIMAL HEALTH DEPARTMENT**

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16-5-1	Amended	V. 17, p. 1621
16-6-1	Amended	V. 17, p. 1621
16-6-3	New	V. 17, p. 1621

**AGENCY 25: DEPARTMENT OF AGRICULTURE (KANSAS STATE GRAIN INSPECTION)**

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28-19-202	Amended	V. 17, p. 122
28-19-517	Amended	V. 17, p. 144
28-19-546	Amended	V. 17, p. 144
28-19-561	Amended	V. 17, p. 144
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28-19-563	Amended	V. 17, p. 146
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28-29-25d	New	V. 17, p. 1931
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28-29-98	Amended	V. 17, p. 1087
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28-68-3	Amended	V. 17, p. 547
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39-1-1	Amended	V. 17, p. 1935
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40-4-36	Amended	V. 17, p. 689
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40-9-118	Amended	V. 17, p. 1033
40-15b-1	Amended	V. 17, p. 1547

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**AGENCY 48: DEPARTMENT OF HUMAN RESOURCES—EMPLOYMENT SECURITY BOARD OF REVIEW**

Reg. No.	Action	Register
48-1-4	Amended	V. 17, p. 628

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Reg. No.	Action	Register
51-1-22	Revoked	V. 17, p. 628
51-2-4	Amended	V. 17, p. 628
51-2-5	Amended	V. 17, p. 629
51-3-1	Amended	V. 17, p. 629
51-3-5	Amended	V. 17, p. 629
51-3-5a	Amended	V. 17, p. 629
51-3-6	Amended	V. 17, p. 630
51-3-8	Amended	V. 17, p. 630
51-3-17	Revoked	V. 17, p. 631
51-4-1	Revoked	V. 17, p. 631
51-7-5	Revoked	V. 17, p. 631
51-7-6	Revoked	V. 17, p. 631
51-7-8	Amended	V. 17, p. 631
51-8-2 through 51-8-7	Revoked	V. 17, p. 631
51-8-9	Revoked	V. 17, p. 631
51-8-10	Revoked	V. 17, p. 631
51-9-5	Amended	V. 17, p. 632
51-9-10	Amended	V. 17, p. 632

51-9-11	Amended	V. 17, p. 632
51-9-12	New	V. 17, p. 632
51-9-13	New	V. 17, p. 633
51-9-14	New	V. 17, p. 634
51-10-6	Amended	V. 17, p. 634
51-12-2	New	V. 17, p. 635
51-13-1	Amended	V. 17, p. 635
51-15-2	Amended	V. 17, p. 635
51-17-2	New	V. 17, p. 635
51-18-2	Amended	V. 17, p. 636
51-18-3 through 51-18-6	New	V. 17, p. 637
51-19-1	Amended	V. 17, p. 637
51-21-1	Amended	V. 17, p. 637
51-24-1	Amended	V. 17, p. 637
51-24-2	Revoked	V. 17, p. 637
51-24-7	Revoked	V. 17, p. 637

**AGENCY 60: BOARD OF NURSING**

Reg. No.	Action	Register
60-3-106a	Amended	V. 17, p. 357
60-3-107	Amended	V. 17, p. 357
60-3-112	New	V. 17, p. 357
60-4-101	Amended	V. 17, p. 358
60-7-109	New	V. 17, p. 358
60-7-110	New	V. 17, p. 358
60-8-101	Amended	V. 17, p. 358
60-9-105	Amended	V. 17, p. 358
60-9-106	Amended	V. 17, p. 359
60-9-107	Amended	V. 17, p. 360
60-11-119	Amended	V. 17, p. 361
60-11-120	New	V. 17, p. 361
60-11-121	New	V. 17, p. 361
60-15-101 through 60-15-104	Amended	V. 17, p. 1321-1323
60-16-101	Amended	V. 17, p. 796
60-16-102	Amended	V. 17, p. 796

**AGENCY 65: BOARD OF EXAMINERS IN OPTOMETRY**

Reg. No.	Action	Register
65-4-3	Amended	V. 17, p. 1270

**AGENCY 66: BOARD OF TECHNICAL PROFESSIONS**

Reg. No.	Action	Register
66-6-1	Amended	V. 17, p. 102
66-10-1	Amended	V. 17, p. 102

**AGENCY 68: BOARD OF PHARMACY**

Reg. No.	Action	Register
68-1-1b	Amended	V. 17, p. 1107
68-2-20	Amended	V. 17, p. 1167
68-7-12	Amended	V. 17, p. 170
68-11-1	Amended	V. 17, p. 1107
68-20-15a	Amended	V. 16, p. 1177
68-20-16	Amended	V. 17, p. 1107

**AGENCY 69: BOARD OF COSMETOLOGY**

Reg. No.	Action	Register
69-11-1	Amended	V. 17, p. 1622

**AGENCY 74: BOARD OF ACCOUNTANCY**

Reg. No.	Action	Register
74-2-7	Amended	V. 17, p. 1415
74-4-1	Amended	V. 17, p. 1415
74-4-4	Amended	V. 17, p. 1415
74-4-7	Amended	V. 17, p. 1415
74-4-8	Amended	V. 17, p. 1416
74-4-9	Amended	V. 17, p. 1416
74-4-10	Amended	V. 17, p. 1416
74-5-2	Amended	V. 17, p. 1932
74-5-103	Amended	V. 17, p. 1933
74-5-104	Amended	V. 17, p. 1934
74-5-202	Amended	V. 17, p. 1417
74-5-203	Amended	V. 17, p. 1417
74-5-301	Amended	V. 17, p. 1417
74-5-404	New	V. 17, p. 1934
74-5-406	Amended	V. 17, p. 1417
74-5-407	Amended	V. 17, p. 1418
74-6-2	Amended	V. 17, p. 1418
74-11-6 through 74-11-14	Amended	V. 17, p. 1418-142

**AGENCY 75: CONSUMER CREDIT COMMISSIONER**

Reg. No.	Action	Register
75-6-24	Amended	V. 17, p. 738

**AGENCY 82: STATE CORPORATION COMMISSION**

Reg. No.	Action	Register
82-3-800 through 82-3-804	New	V. 17, p. 362, 363
82-4-1	Amended	V. 17, p. 1887
82-4-3	Amended	V. 17, p. 1888
82-4-6d	Amended	V. 17, p. 1888
82-4-20	Amended	V. 17, p. 1889
82-4-21	Amended	V. 17, p. 1889
82-4-22	Amended	V. 17, p. 1890
82-4-23	Amended	V. 17, p. 1890
82-4-24a	Amended	V. 17, p. 1890
82-4-26	Amended	V. 17, p. 1890
82-4-27	Amended	V. 17, p. 1891
82-4-27a	Amended	V. 17, p. 1891
82-4-27c	Amended	V. 17, p. 1892
82-4-27e	Amended	V. 17, p. 1892
82-4-27f	Amended	V. 17, p. 1893
82-4-27g	Amended	V. 17, p. 1893
82-4-28	Amended	V. 17, p. 1893
82-24-28a	Amended	V. 17, p. 1894
82-4-28b	Amended	V. 17, p. 1894
82-4-29a	Amended	V. 17, p. 1894
82-4-30a	Amended	V. 17, p. 1894
82-4-30b	Revoked	V. 17, p. 1895
82-4-31	Amended	V. 17, p. 1895
82-4-32	Amended	V. 17, p. 1895
82-4-33	Amended	V. 17, p. 1895
82-4-35a	Amended	V. 17, p. 1895
82-4-37	Amended	V. 17, p. 1895
82-4-42	Amended	V. 17, p. 1896
82-4-46	Amended	V. 17, p. 1896
82-4-48	Amended	V. 17, p. 1896
82-4-48a	Amended	V. 17, p. 1896
82-4-48c	Amended	V. 17, p. 1897
82-4-53	Amended	V. 17, p. 1897
82-4-54	Amended	V. 17, p. 1897
82-4-55	Amended	V. 17, p. 1897
82-4-56a	Amended	V. 17, p. 1898
82-4-57	Amended	V. 17, p. 1898
82-4-58a	Revoked	V. 17, p. 1898
82-4-58b	Revoked	V. 17, p. 1898
82-4-58c	Revoked	V. 17, p. 1899
82-4-58d	Amended	V. 17, p. 1899
82-4-59	Revoked	V. 17, p. 1899
82-4-62	Amended	V. 17, p. 1899
82-4-63	Amended	V. 17, p. 1899
82-4-64	Revoked	V. 17, p. 1899
82-4-65	Amended	V. 17, p. 1899
82-4-67	Revoked	V. 17, p. 1899
82-4-68	Amended	V. 17, p. 1899
82-4-69	Amended	V. 17, p. 1900
82-4-85	Amended	V. 17, p. 1900

**AGENCY 88: BOARD OF REGENTS**

Reg. No.	Action	Register
88-2-1	Amended	V. 17, p. 1087
88-3-1	Amended	V. 17, p. 1087
88-3-2	Amended	V. 17, p. 1087
88-3-5	Revoked	V. 17, p. 1088
88-3-9	Amended	V. 17, p. 208
88-3-11	Amended	V. 17, p. 1088
88-3-13	New	V. 17, p. 1088

**AGENCY 91: DEPARTMENT OF EDUCATION**

Reg. No.	Action	Register
91-5-1	Amended	V. 17, p. 1802
91-5-1a	Amended	V. 17, p. 1802
91-5-2	Revoked	V. 17, p. 1803
91-5-4	Amended	V. 17, p. 1803
91-5-8	Revoked	V. 17, p. 1803
91-5-9	Amended	V. 17, p. 1803
91-5-10	Revoked	V. 17, p. 1803
91-5-11	Revoked	V. 17, p. 1803
91-5-13	Amended	V. 17, p. 1803

**AGENCY 92: DEPARTMENT OF REVENUE**

Reg. No.	Action	Register
92-19-1a	Revoked	V. 17, p. 949
92-19-1b	New	V. 17, p. 949



92-19-3	Amended	V. 17, p. 949
92-19-8	Revoked	V. 17, p. 950
92-19-13	Revoked	V. 17, p. 950
92-19-13a	New	V. 17, p. 950
92-19-16	Revoked	V. 17, p. 950
92-19-18	Revoked	V. 17, p. 950
92-19-18a	New	V. 17, p. 950
92-19-19	Revoked	V. 17, p. 950
92-19-25a	Revoked	V. 17, p. 951
92-19-25b	New	V. 17, p. 951
92-19-27a	Revoked	V. 17, p. 952
92-19-30	Amended	V. 17, p. 952
92-19-32	Revoked	V. 17, p. 954
92-19-34	Revoked	V. 17, p. 954
92-19-35	Revoked	V. 17, p. 954
92-19-39	Revoked	V. 17, p. 954
92-19-49	Revoked	V. 17, p. 954
92-19-49a	New	V. 17, p. 954
92-19-66a	Revoked	V. 17, p. 956
92-19-66b	Amended	V. 17, p. 956
92-19-66d	Revoked	V. 17, p. 957
92-19-66e	New	V. 17, p. 957
92-19-68	Revoked	V. 17, p. 959
92-19-78	Revoked	V. 17, p. 959
92-21-18	Revoked	V. 17, p. 959
92-21-21	Revoked	V. 17, p. 959

**AGENCY 93: DEPARTMENT OF REVENUE—  
DIVISION OF PROPERTY VALUATION**

Reg. No.	Action	Register
93-3-1		
through		
93-3-4	Revoked	V. 17, p. 948
93-4-1	Revoked	V. 17, p. 948
93-4-2		
through		
93-4-6	New	V. 17, p. 948, 949

**AGENCY 99: DEPARTMENT OF  
AGRICULTURE—DIVISION OF  
WEIGHTS AND MEASURES**

Reg. No.	Action	Register
99-25-1	Amended	V. 17, p. 209
99-25-2	Revoked	V. 17, p. 209
99-25-4		
through		
99-25-8	New	V. 17, p. 209, 210
99-27-1		
through		
99-27-5	New	V. 17, p. 210-212
99-30-5	Amended	V. 17, p. 212
99-30-6	Amended	V. 17, p. 212
99-31-5	Amended	V. 17, p. 212
99-31-6	Amended	V. 17, p. 213
99-40-7	New	V. 17, p. 213

**AGENCY 100: BOARD OF HEALING ARTS**

Reg. No.	Action	Register
100-11-1	Amended	V. 17, p. 509
100-15-1	Amended	V. 16, p. 1176
100-22-1	Amended	V. 17, p. 1644
100-23-1	Amended	V. 17, p. 299
100-24-1	Amended	V. 17, p. 1644
100-24-2	New	V. 17, p. 1644
100-29-3a	New	V. 17, p. 1323
100-29-7	Amended	V. 17, p. 510
100-49-4	Amended	V. 17, p. 510
100-54-4	Amended	V. 17, p. 510
100-55-4	Amended	V. 17, p. 510
100-55-10	Revoked	V. 17, p. 510
100-60-1	Amended	V. 17, p. 510
100-69-5	Amended	V. 17, p. 510

**AGENCY 102: BEHAVIORAL SCIENCES  
REGULATORY BOARD**

Reg. No.	Action	Register
102-1-1	Amended	V. 17, p. 1799
102-1-8	Amended	V. 17, p. 1800
102-1-12	Amended	V. 17, p. 1800
102-3-7	Revoked	V. 17, p. 426
102-3-7a	New	V. 17, p. 426
102-4-7a	New	V. 17, p. 318
102-5-7	Revoked	V. 17, p. 427
102-5-7a	New	V. 17, p. 427

**AGENCY 108: STATE EMPLOYEES HEALTH  
CARE COMMISSION**

Reg. No.	Action	Register
108-1-2	New	V. 17, p. 462

**AGENCY 111: KANSAS LOTTERY**

Reg. No.	Action	Register
111-1-2	Amended	V. 7, p. 1190
111-1-3	Amended	V. 17, p. 386
111-1-5	Amended	V. 15, p. 1304
111-2-1	Amended	V. 17, p. 387
111-2-2	Amended	V. 17, p. 387
111-2-2a		
through		
111-2-2e	New	V. 14, p. 1633, 1634
111-2-2b	Amended	V. 17, p. 738
111-2-2d	Amended	V. 17, p. 739
111-2-2e	Amended	V. 17, p. 1710
111-2-4	Amended	V. 17, p. 429
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
111-2-17	Revoked	V. 10, p. 1210
111-2-18	Revoked	V. 11, p. 413
111-2-19	Revoked	V. 11, p. 413
111-2-20		
through		
111-2-26	Revoked	V. 13, p. 1401
111-2-27	Revoked	V. 14, p. 972
111-2-28	New	V. 12, p. 1844
111-2-29	Revoked	V. 14, p. 972
111-2-30	Amended	V. 17, p. 991
111-2-31	New	V. 14, p. 170
111-2-32		
through		
111-2-42	Revoked	V. 16, p. 448, 449
111-2-43	Amended	V. 16, p. 1807
111-2-44	New	V. 15, p. 288
111-2-45	New	V. 15, p. 288
111-2-46	New	V. 15, p. 624
111-2-47	Amended	V. 16, p. 449
111-2-48	New	V. 15, p. 1055
111-2-49	New	V. 15, p. 1055
111-2-50	New	V. 15, p. 1056
111-2-51	New	V. 15, p. 1440
111-2-52	New	V. 15, p. 1441
111-2-53	New	V. 15, p. 1710
111-2-54	New	V. 15, p. 1920
111-2-55	New	V. 15, p. 1953
111-2-56	New	V. 16, p. 449
111-2-57	New	V. 16, p. 449
111-2-58	New	V. 16, p. 689
111-2-59	New	V. 16, p. 1043
111-2-60	New	V. 16, p. 1209
111-2-61	New	V. 16, p. 1473
111-2-62	Amended	V. 17, p. 739
111-2-63	New	V. 16, p. 1808
111-2-64	New	V. 16, p. 1808
111-2-65	New	V. 16, p. 1883
111-2-66	Amended	V. 17, p. 467
111-2-67	Amended	V. 17, p. 387
111-2-68	New	V. 16, p. 2069
111-2-69	New	V. 16, p. 2070
111-2-70	New	V. 17, p. 388
111-2-71	New	V. 17, p. 389
111-2-72	New	V. 17, p. 430
111-2-73	New	V. 17, p. 467
111-2-74	New	V. 17, p. 739
111-2-75	New	V. 17, p. 991
111-2-76	New	V. 17, p. 1168
111-2-77	New	V. 17, p. 1553
111-2-78	New	V. 17, p. 1710
111-2-79	New	V. 17, p. 1710
111-3-1	Amended	V. 17, p. 389
111-3-6	Amended	V. 12, p. 677
111-3-9	Revoked	V. 11, p. 1793
111-3-10		
through		
111-3-31	New	V. 7, p. 201-206
111-3-11	Amended	V. 13, p. 35
111-3-12	Amended	V. 13, p. 1826
111-3-13	Amended	V. 17, p. 1323

111-3-14	Amended	V. 17, p. 391
111-3-16	Amended	V. 9, p. 1566
111-3-19	Revoked	V. 13, p. 1827
111-3-20	Amended	V. 11, p. 1148
111-3-21	Amended	V. 11, p. 1148
111-3-22	Amended	V. 11, p. 1148
111-3-23	Revoked	V. 10, p. 883
111-3-25	Amended	V. 17, p. 392
111-3-26	Amended	V. 11, p. 1149
111-3-27	Amended	V. 11, p. 1149
111-3-29	Revoked	V. 11, p. 1149
111-3-31	Amended	V. 8, p. 209
111-3-32	Amended	V. 10, p. 883
111-3-33	New	V. 7, p. 1434
111-3-34	New	V. 13, p. 149
111-3-35	Amended	V. 17, p. 430
111-3-36	New	V. 13, p. 877
111-3-37	New	V. 13, p. 877
111-4-1		
through		
111-4-5	Revoked	V. 12, p. 113
111-4-5a	Revoked	V. 12, p. 113
111-4-6		
through		
111-4-15	Revoked	V. 12, p. 113
111-4-66		
through		
111-4-77	New	V. 7, p. 207-209
111-4-96		
through		
111-4-114	New	V. 7, p. 1606-1610
111-4-100	Amended	V. 14, p. 972
111-4-101		
through		
111-4-106	Revoked	V. 16, p. 450
111-4-106a	Revoked	V. 16, p. 450
111-4-107		
through		
111-4-114	Revoked	V. 16, p. 450, 451
111-4-153		
through		
111-4-160	Revoked	V. 9, p. 1676, 1677
111-4-177		
through		
111-4-212	Revoked	V. 9, p. 1677, 1678
111-4-213		
through		
111-4-220	Revoked	V. 10, p. 1213
111-4-221		
through		
111-4-224	Revoked	V. 10, p. 1585
111-4-225		
through		
111-4-228	Revoked	V. 10, p. 1585
111-4-229		
through		
111-4-236	Revoked	V. 10, p. 1585, 1586
111-4-237		
through		
111-4-240	Revoked	V. 11, p. 413
111-4-241		
through		
111-4-244	Revoked	V. 12, p. 1371
111-4-245		
through		
111-4-248	Revoked	V. 12, p. 1371
111-4-249		
through		
111-4-256	Revoked	V. 12, p. 113, 114
111-4-257		
through		
111-4-286	Revoked	V. 11, p. 413, 414
111-4-287		
through		
111-4-290	Revoked	V. 12, p. 1371
111-4-291		
through		
111-4-300	Revoked	V. 12, p. 114
111-4-301		
through		
111-4-307	Revoked	V. 13, p. 1402

(continued)

111-4-308 through							
111-4-317	Revoked	V. 16, p. 451					
111-4-318 through							
111-4-321	Revoked	V. 12, p. 114					
111-4-322 through							
111-4-327	Revoked	V. 12, p. 1371					
111-4-328 through							
111-4-335	Revoked	V. 12, p. 114					
111-4-336 through							
111-4-340	Revoked	V. 16, p. 451					
111-4-341	Revoked	V. 11, p. 1473					
111-4-341a	Revoked	V. 12, p. 1372					
111-4-341b	Revoked	V. 16, p. 451					
111-4-341c	Revoked	V. 16, p. 451					
111-4-342 through							
111-4-345	Revoked	V. 16, p. 451					
111-4-346 through							
111-4-349	Revoked	V. 12, p. 114					
111-4-350 through							
111-4-355	Revoked	V. 16, p. 452					
111-4-356 through							
111-4-361	Revoked	V. 14, p. 7					
111-4-362 through							
111-4-365	Revoked	V. 12, p. 114, 115					
111-4-366 through							
111-4-369	Revoked	V. 12, p. 1373					
111-4-370 through							
111-4-379	Revoked	V. 14, p. 7, 8					
111-4-380 through							
111-4-383	Revoked	V. 12, p. 1664					
111-4-384 through							
111-4-387	Revoked	V. 12, p. 1373					
111-4-388 through							
111-4-391	Revoked	V. 12, p. 1373					
111-4-392 through							
111-4-400	Revoked	V. 16, p. 252					
111-4-401 through							
111-4-404	Revoked	V. 12, p. 1373					
111-4-405 through							
111-4-413	Revoked	V. 16, p. 452					
111-4-414 through							
111-4-428	Revoked	V. 14, p. 8					
111-4-429 through							
111-4-432	Revoked	V. 12, p. 1373					
111-4-433 through							
111-4-436	Revoked	V. 12, p. 1374					
111-4-437 through							
111-4-440	Revoked	V. 12, p. 1374					
111-4-441 through							
111-4-444	Revoked	V. 14, p. 8					
111-4-445 through							
111-4-448	Revoked	V. 12, p. 1374					
111-4-449 through							
111-4-453	Revoked	V. 14, p. 8					
111-4-454 through							
111-4-465	Revoked	V. 12, p. 1664, 1665					
111-4-466 through							
111-4-469	Revoked	V. 12, p. 1665					
111-4-470 through							
111-4-477	Revoked	V. 16, p. 452, 453					
111-4-478 through							
111-4-492	Revoked	V. 14, p. 974, 975					
111-4-493 through							
111-4-496	Revoked	V. 16, p. 453					
111-4-497 through							
111-4-512	Revoked	V. 14, p. 975					
111-4-513 through							
111-4-521	Revoked	V. 16, p. 453					
111-4-522 through							
111-4-571	Revoked	V. 14, p. 975-977					
111-4-572 through							
111-4-585	New	V. 13, p. 878-880					
111-4-572	Amended	V. 17, p. 991					
111-4-574	Amended	V. 17, p. 992					
111-4-575	Amended	V. 17, p. 992					
111-4-576	Amended	V. 16, p. 1044					
111-4-577	Amended	V. 17, p. 992					
111-4-579	Amended	V. 17, p. 992					
111-4-581	Amended	V. 17, p. 992					
111-4-582	Amended	V. 17, p. 992					
111-4-583	Amended	V. 15, p. 883					
111-4-584	Amended	V. 17, p. 992					
111-4-586 through							
111-4-606	Revoked	V. 14, p. 977, 978					
111-4-607 through							
111-4-619	New	V. 13, p. 1436-1438					
111-4-607 through							
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**AGENCY 112: KANSAS RACING AND GAMING COMMISSION**

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112-4-23	Amended	V. 17, p. 590
112-7-7	Amended	V. 17, p. 512
112-12-9	Amended	V. 17, p. 213
112-16-11	Amended	V. 17, p. 598
112-18-21	Amended	V. 17, p. 60

**AGENCY 115: DEPARTMENT OF WILDLIFE AND PARKS**

Reg. No.	Action	Register
115-2-3	Amended	V. 17, p. 462
115-2-6	New	V. 17, p. 462
115-4-1	Amended	V. 17, p. 463
115-4-7	Amended	V. 17, p. 464
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115-18-12	Amended	V. 17, p. 1086
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115-35-1 New V. 17, p. 1710

**AGENCY 117: REAL ESTATE APPRAISAL BOARD**

Reg. No.	Action	Register
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117-5-2	New	V. 17, p. 465
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117-6-3	Amended	V. 17, p. 1706

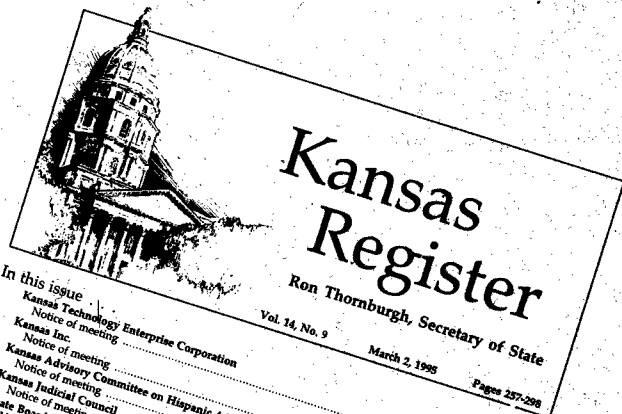
117-8-1 Amended V. 17, p. 1167  
117-8-2 New V. 17, p. 1707

**AGENCY 118: KANSAS STATE HISTORICAL SOCIETY**

Reg. No.	Action	Register
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118-1-4	Amended	V. 17, p. 1547,1548

118-3-1 through 118-3-16 New V. 17, p. 1549-1553

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