



Kansas Register

Ron Thornburgh, Secretary of State

Vol. 18, No. 51 December 23, 1999 Pages 1861-1924

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State of Kansas

Office of the Governor

Executive Order 99-11

WHEREAS, the New Year's will be celebrated not only as a holiday but as the beginning of a new millennium; and

WHEREAS, New Year's of 2000 will be the first time any potential information technology problems resulting from the Y2K issue may appear; and

WHEREAS, the work performed by some state employees during this holiday is essential to the citizens of the State; and

NOW, THEREFORE, pursuant to the authority vested in me as Governor and chief executive of the State of Kansas, I hereby establish a special holiday pay, which at the discretion of the agency appointing authority, eligible exempt and non-exempt employees may receive a gross lump sum bonus equal to 100% of the regular rate of pay for those hours actually worked between the hours of 6:00 p.m. December 31, 1999, through 6:00 p.m. January 1, 2000. This pay is limited to a maximum of \$400 per employee.

This document shall be filed with the Secretary of State as Executive Order 99-11, and shall become effective immediately.

Dated December 14, 1999.

Bill Graves
Governor

Attest: Ron Thornburgh
Secretary of State

Doc. No. 024629

(Published in the Kansas Register December 23, 1999.)

City of Wichita, Kansas

Notice to Bidders

The City of Wichita will receive bids at the Purchasing Office, 455 N. Main, 12th Floor, Wichita, 67201, until 10 a.m. Friday, January 28, for the following project:

KDOT Project No. 87 N-0113-01
Index Code 706771
Paving

Harry; Webb Road to Greenwich Road
(south of Kellogg, east of Rock Road)

Requests for the bid documents and plans should be directed to KBP Reprographics, (316) 264-9344, or Sandy Frerichs, (316) 268-4488. Other questions should be directed to the respective design engineer, (316) 268-4501.

All bids received will thereafter be publicly opened, read aloud and considered by the Board of Bids and Contracts. All work is to be done under the direction and supervision of the city manager and according to plans and specifications on file in the office of the city engineer. Bidders are required to enclose a bid bond in the amount of 5 percent with each bid as a guarantee of good faith. The Wichita City Council reserves the right to reject any and all bids.

The successful bidder may contact Marty Murphy at (316) 268-4499 or Sandy Frerichs at (316) 268-4488 for extra sets of plans and specifications.

Sandy Frerichs
Administrative Aide
City of Wichita—Engineering

Doc. No. 024613

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State of Kansas

Legislature

Interim Committee Schedule

The following committee meetings have been scheduled during the period of December 27 through January 9. Any individual with a disability may request accommodation in order to participate in committee meetings. Requests for accommodation should be made at least two working days in advance of the meeting by contacting Legislative Administrative Services at (785) 296-2391 or (785) 296-8430 (TTY).

Date	Room	Time	Committee	Agenda
January 6	514-S	9:30 a.m.	Joint Committee on Administrative Rules and Regulations	Review proposed rules and regulations filed by the Bank Commissioner and draft proposed regulations of the chief engineer.
January 7	519-S	10:00 a.m.	Task Force on Rail Passenger Service in Kansas	Agenda not available.

Jeff Russell
Director of Legislative
Administrative Services

Doc. No. 024628

State of Kansas

Kansas Insurance Department

Notice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted at 9 a.m. Friday, February 25, in the third floor conference room, Kansas Insurance Department, 420 S.W. 9th, Topeka, to consider the adoption of proposed revisions to regulations.

This 60-day notice of the public hearing shall constitute a public comment period for purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to Rebecca Sanders, Kansas Insurance Department, 420 S.W. 9th, Topeka, 66612-1678. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing.

The following four amended regulations are the result of significant amendments in 1997 and 1999 to the fire and casualty rate filing procedures. The law was changed so lines of commercial lines and individual lines rates are filed with the Kansas Insurance Department and, if not disapproved by the department within 30 days, are deemed approved.

K.A.R. 40-3-26. Modification of rate filing requirements for individual risks. The amendments to this regulation eliminate the requirements of filing rates with the Kansas Insurance Department for negotiated rates for certain individual risks. The company is required to keep a record for five years, and it should be made available to the commissioner upon request.

K.A.R. 40-3-32. Fire and casualty insurance; modification of form filing requirements. The amendments to this regulation eliminate certain requirements of filing forms with the Kansas Insurance Department for marine and inland marine, bonds, aircraft hull or aircraft liability endorsements, and restrictive endorsements.

K.A.R. 40-3-45. Fire and casualty insurance; rate filings; investments income; requirements. This regulation

requires that investment income be considered in setting rates. To determine whether investment income was considered in setting rates, companies were required to file with the Kansas Insurance Department historical after-tax rate of return on net worth from investments. This information had to be calculated by developing an average rate of return as a percent of earned premiums using a set formula.

The amendments to this regulation allow the companies to file an explanatory memorandum as to how the investment earnings or losses are considered in the rate indication. Companies are not required to file the actual methodology used in calculating the investment earnings or losses, but must make the methodology available upon request by the commissioner. There are many acceptable and reliable methods to calculate investment earnings and losses. It is not necessary to restrict companies to one methodology to obtain the needed information.

K.A.R. 40-3-49. Fire and casualty insurance; modification of rate filing requirements; rates that cannot be practicably filed before use. The amendments to this regulation are very similar to the amendments to K.A.R. 40-3-26. When rate filings have been modified due to negotiated rates, it is no longer a requirement to file rates with the Kansas Insurance Department. The company is required to retain in the underwriting file the rates or rating procedure used, and such information shall be made available to the commissioner upon request.

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 Rebecca Sanders at (785) 296-7811.

Kathleen Sebelius
Kansas Insurance Commissioner

Doc. No. 024620

State of Kansas

Department of Wildlife and Parks

Public Notice

The Kansas Department of Wildlife and Parks has reached agreement for the purchase of a tract of land in McPherson County. The tract consists of 8.09 acres and is located in the E/2W/2SW/4 of S27-T19S-R4W. This tract was appraised at \$5,500 and will be purchased for \$5,500. The tract will be part of the McPherson Wetlands and will remain on the county tax rolls.

Steve A. Williams
Secretary of Wildlife and Parks

Doc. No. 024619

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. 1998 Supp. 12-1675(b)(c)(d), and K.S.A. 75-4201(l) and 75-4209(a)(1)(B).

Effective 12-20-99 through 12-26-99	
Term	Rate
1-89 days	5.44 %
3 months	5.42 %
6 months	5.79 %
9 months	5.94 %
12 months	6.01 %
18 months	6.15 %
24 months	6.14 %

Derl S. Treff
Director of Investments

Doc. No. 024608

State of Kansas

Attorney General

Opinion 99-55

Public Records, Documents and Information—Records Open to Public—Inspection of Records; Certain Records Not Required to be Open; Criminal Investigation Records; Personnel Records. Senator Jim Barone, 13th District, Frontenac, October 21, 1999.

A consulting contract for an independent contractor may not be closed under the Kansas Open Records Act as a personnel record. Likewise, a consulting contract for a public employee is generally open. However, either may contain information that may appropriately be redacted. Cited herein: K.S.A. 45-216; K.S.A. 1998 Supp. 45-217; 45-221. SP

Opinion 99-56

State Boards, Commissions and Authorities—Kansas Highway Patrol—Authority of Tribal Police. Representative Becky Hutchins, 50th District, Holton, October 21, 1999.

Tribal police have no authority to enforce tribal traffic ordinances that are civil in nature against non-tribal members on the portion of U.S. Highway 75 which traverses the reservation. Additionally, tribal police have no authority to enforce tribal traffic ordinances that are criminal in nature against non-Indians anywhere on the reservation. Because it requires a case-by-case analysis, we are unable to determine whether enforcement of civil tribal codes on individual county and tribal roads is permitted. Cited herein: K.S.A. 75-5023; K.S.A. 1998 Supp. 21-3105; 18 U.S.C. § 1151; 25 U.S.C. § 311; 25 U.S.C. § 331; 25 U.S.C. § 476. GE

Opinion 99-57

Elections—Presidential Preference Primary Election—Payment of Election Expenses; Obligation to Conduct Election. Senator Janice Hardenburger, 21st District, Haddam, October 26, 1999.

K.S.A. 1998 Supp. 25-4501 states "there shall be held a presidential preference primary." The provision is mandatory. Although the expense of conducting the presidential preference primary may well prove burdensome for the counties of the state, the statutory language obligates the counties to conduct the presidential preference primary regardless whether the Legislature acts to appropriate monies that would be used to reimburse the counties for the costs associated with conducting the presidential preference primary. Cited herein: K.S.A. 1998 Supp. 25-4501; K.S.A. 25-4508; Kan Const., Art. 2, § 24. RDS

Opinion 99-58

Counties and County Officers—Miscellaneous Provisions—County Charters in Counties Declared to be Urban Areas; Adoption and Amendment; Charter to Govern Local Legislation and Administration; Authorized Provisions; Limitations; Provision to Elect Chairman of the Board of County Commissioners At-Large by County Electors. Patricia A. Bennett, Counsel, Johnson County Charter Commission, Prairie Village, November 3, 1999.

A charter for county government, properly adopted pursuant to K.S.A. 19-2680 *et seq.*, may provide for an at-large election of the chairman of the board of county commissioners. Cited herein: K.S.A. 1998 Supp. 19-101a; as amended by L. 1999, Ch. 146, § 4; K.S.A. 19-202; K.S.A. 1998 Supp. 19-204; K.S.A. 19-219; 19-2680; 25-101. DMV

Opinion 99-59

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

Elections—Sufficiency of Petitions—Determination of Sufficiency of Petitions; Question to Be Submitted Filed with County or District Attorney Prior to Circulation; Initiative and Referendum Ordinances. Robert D. Beall, Leavenworth City Attorney, Leavenworth; David C. Van Parys, Leavenworth County Counselor, Leavenworth, November 3, 1999.

The creation of an organized fire safety program is a legislative decision of a city's governing board. Determining the location of fire stations and whether to renovate existing fire stations or construct new fire stations so as to provide the best fire safety for a city involves administrative decisions of the city governing body. A petition proposing an ordinance that would establish the location of a fire station, therefore, is not authorized under K.S.A. 12-3013. Moreover, a petition authorized under K.S.A. 12-3013 must contain the question which petitioners seek to bring to an election. The question must be in the form of a question as it should appear upon the ballot. The petition may either set forth the proposed ordinance in its entirety or may include a title generally descriptive of the contents of the proposed ordinance. Finally, a petition authorized under K.S.A. 12-3013 must be filed with the county attorney for an opinion regarding the legality of the form of the question set forth in the petition. Cited herein: K.S.A. 12-3013; 25-3601; 25-3602; 71-501; K.S.A. 1998 Supp. 72-6433; K.S.A. 72-8801. RDS

Opinion 99-60

Census—Census Data for Reapportionment of Senatorial and Representative Districts—Adjustment of Federal Census; Definitions; Student; College; University. Ron Thornburgh, Secretary of State, Topeka, November 3, 1999.

A proprietary school is not included in the definitions of "college" and "university" set forth in K.S.A. 11-302. None of the institutions that provide vocational and technical education offer a baccalaureate degree, therefore, none meet the definition of "university" in K.S.A. 11-302. An area vocational school or area vocational-technical school that does not offer two-year or four-year educational programs is not included in the definition of "college" set forth in K.S.A. 11-302. A technical college may offer an associate of applied science degree program, which is a two-year educational program. As a postsecondary educational institution that offers a two-year educational program, a technical college is a "college" under K.S.A. 11-302. Thus, data regarding the residence of students of a technical college must be collected so the proper adjustments to the census may be made. Cited herein: K.S.A. 11-301; 11-302; 11-303; 71-1701; K.S.A. 1998 Supp. 72-4412, as amended by L. 1999, Ch. 147, § 101; K.S.A. 72-4416, as amended by L. 1999, Ch. 147, § 102; K.S.A. 1998 Supp. 72-4468; 72-4470; 72-4472; 72-4473; 72-4474; 72-4475; 72-4919, as amended by L. 1999, Ch. 147, § 121; L. 1999, Ch. 147, §§ 20, 21, 22; Kan. Const., Art. 10, § 1; K.A.R. 88-16-1a; 91-8-17; L. 1998, Ch. 171, § 11; L. 1994, Ch. 246, §§ 1, 2, 4; L. 1992, Ch. 248, § 1; L. 1986, Ch. 267, § 3; L. 1971, Ch. 228, § 1. RDS

Opinion 99-61

Kansas Code for Care of Children—General Provisions—Docket Fees and Expenses; Orders Assessing Attorney Fees and Costs; Garnishment by County. Leonard L. Buddenbohm, Atchison County Counselor, Atchison, November 4, 1999.

Absent statutory authority, a court order assessing attorney fees in a child-in-need-of-care action is not a civil

judgment that can be enforced by garnishment. Moreover, such order cannot be enforced as a civil judgment unless the Legislature so authorizes. Cited herein: K.S.A. 1998 Supp. 22-4513; 38-1511; K.S.A. 38-1593; 60-714; 60-716. MF

Opinion 99-62

Automobiles and Other Vehicles—General Provisions—Registration of Vehicles; Requirements for Proof of Motor Vehicle Liability Insurance. Joseph O'Sullivan, Reno County Counselor, Hutchinson, November 29, 1999.

K.S.A. 8-173, as amended by L. 1999, Ch. 162, § 10, does not require a county treasurer to keep a copy of the proof of insurance provided by an applicant for registration of a motor vehicle. A facsimile copy of proof of insurance may be accepted by a county treasurer when registering a motor vehicle; however, proof of insurance may not be made by telephone. An applicant for motor vehicle registration must provide proof of insurance in addition to a certificate signed by the applicant. Liability of county treasurers or their employees arising out of their motor vehicle registration duties cannot be determined absent specific facts. Because county treasurers are county officers and their employees are county employees, generally the county or the county's insurance company would provide for their defense. Cited herein: K.S.A. 8-129; K.S.A. 1998 Supp. 8-145, as amended by L. 1999, Ch. 114, § 4; K.S.A. 8-173, as amended by L. 1999, Ch. 162, § 10; K.S.A. 19-501; 75-6103; 75-6108, as amended by L. 1999, Ch. 72, § 1. DMV

Opinion 99-63

Public Health—Local Boards of Health; Clinics—County and Multi-County Units; Joint Board by Cities and Counties; Agreement; Jurisdiction.

Public Health—Maternity Centers and Child Care Facilities—License Fees; Authority of Local Health Department to Impose Fees. Representative Becky Hutchins, 50th District, Holton, November 29, 1999

A multi-county joint board of health does not have the power to assess fees for licensing or inspecting child care facilities unless the board of county commissioners of each of the counties comprising the joint board has exercised its home rule powers to exempt itself from the requirements of K.S.A. 65-205, as amended by L. 1999, Ch. 57, § 62, and has agreed to establish a joint board with the power to assess such fees. Cited herein: K.S.A. 19-212, 65-201, 65-202, 65-205, as amended by L. 1999, Ch. 57, § 62, 65-208, 65-211, 65-221, K.S.A. 1998 Supp. 65-501, 65-504, 65-505, 65-512, 72-5210, K.A.R. 28-4-92. DMV

Carla J. Stovall
Attorney General

Doc. No. 024600

State of Kansas

Attorney General

Notice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted at 1 p.m. Friday, February 25, in the auditorium of the Kansas Bureau of Investigation, 1620 S.W. Tyler, Topeka, to consider adoption of proposed changes to K.A.R. 16-6-1.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on this proposed regulation. All interested parties may submit written comments prior to the hearing to the Office of the Attorney General, c/o Assistant Attorney General Mary Feighny, 2nd Floor, Kansas Judicial Center, 301 S.W. 10th Ave., Topeka, 66612. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of this proposed regulation 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 10 minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulation and economic impact statement in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Sandy Meier at (785) 296-4436 or 1-800-766-3777 (TDD). Handicapped parking is located at the south end of the parking area in front of the Kansas Bureau of Investigation building, and also on the upper parking area south of the building. The entrance near the upper parking area south of the building is accessible to individuals with disabilities.

This regulation is proposed for adoption on a permanent basis. A summary of the proposed regulation and its economic impact follows.

K.A.R. 16-6-1. Training in the handling of firearms. The proposed amendment clarifies what training is required before a private detective can obtain a firearm permit initially and upon renewal. For an initial permit, the proposed regulation requires at least 16 hours of education in certain specified areas, passage of a written examination, and completion of a course of fire. In order to renew a firearm permit for the year ending December 31, 2000, the applicant must obtain eight hours of specified firearms training and completion of a course of fire 12 months prior to expiration. After January 1, 2001, the applicant must obtain eight hours of specified firearms training in each of the two calendar years in the biennium period as well as completing of a course of fire. The cost of a 16-hour initial training program is approximately \$300 to \$500 plus any associated costs for travel, meals, lodging and ammunition. The cost of an eight-hour renewal training program in the handling of firearms and the lawful use of force is approximately \$200 to \$300 plus any associated costs for travel, meals, lodging and ammunition.

There is no economic effect on the Attorney General, other governmental agencies, other private citizens or consumers of private detective services.

Copies of the regulation and its economic impact statement may be obtained by contacting Sandy Meier, Private Detective Licensing, Kansas Bureau of Investigation, 1620 S.W. Tyler, Topeka, 66612, (785) 296-4436.

Carla J. Stovall
Attorney General

Doc. No. 024611

State of Kansas

Board of Nursing

Notice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted at 3 p.m. Tuesday, February 22, in Room 106 of the Landon State Office Building, 900 S.W. Jackson, Topeka, to consider the adoption of 11 new proposed rules and regulations, proposed changes in five existing rules and regulations, and the revocation of an existing regulation.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written comments on the proposed regulations. All interested parties may submit written comments prior to the hearing to the executive administrator of the Board of Nursing, Room 551-S, Landon State Office Building, 900 S.W. Jackson, Topeka, 66612. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing. A summary of the proposed regulations and the economic impact follows.

K.A.R. 60-6-101. Requirements. This regulation pertains to the accreditation and approval for educational institutions for Licensed Mental Health Technician and clarifies the language used in the regulation. There is no change in the content of the regulation. There is no economic impact anticipated for the State Board of Nursing, other governmental entities, private business or individuals.

K.A.R. 60-11-101. Definitions of expanded role; limitations; restrictions. This regulation pertains to the advance registered nurse practitioner and clarifies the language used in the regulation. This regulation, if adopted, gives reference to prescription orders and prescriptions. There is no economic impact anticipated for the State Board of Nursing, other governmental entities, private business or individuals.

K.A.R. 60-11-103. Qualifications of advanced registered nurse practitioners. This regulation pertains to the advance registered nurse practitioner and clarifies the language used in the regulation. There is no change in the content of the regulation. There is no economic impact anticipated for the State Board of Nursing, other governmental entities, private business or individuals.

K.A.R. 60-11-104a. Protocol requirements; prescription orders. This regulation pertains to the advance registered nurse practitioner and clarifies the language used in the regulation. This regulation will allow the advance registered nurse practitioner to obtain a D.E.A. number and that written protocol is followed when prescribing, administering, or supplying a prescription. The primary expense will be to the advance registered nurse practi-

tioner of \$210 for a D.E.A. license, which is effective for three years. Applying for this license is voluntary on the part of the advance registered nurse practitioner. There are approximately 1,350 advance registered nurse practitioners licensed in the state. The cost to the State Board of Nursing will be approximately 30 minutes of state board of nursing time per advance registered nurse practitioner that applies for a D.E.A. license. This will be a one time every three years requirement to verify that Kansas has a statute for the advance registered nurse practitioner to prescribe controlled substances and place of business for the advance registered nurse practitioner. The State Board of Nursing needs no addition of staff due to this regulation.

K.A.R. 60-11-106. Functions of the advance registered nurse practitioner; nurse anesthetist. This regulation states that the functions performed by an advance registered nurse practitioner in the expanded role of the nurse anesthetist shall be defined in K.S.A. 65-1158. There is no economic impact anticipated for the State Board of Nursing, other governmental entities, private business or individuals.

K.A.R. 60-11-108. Requirements for advanced registered nurse practitioner programs for study. This regulation will be revoked. There is no economic impact anticipated for the State Board of Nursing, other governmental entities, private business or individuals.

K.A.R. 60-17-101, 102, 103, 104, 105, 106, 107, 108, 109, 110 and 111 replace K.A.R. 60-11-108, which will be revoked if approved.

K.A.R. 60-17-101. Definitions. This is a new regulation and, if adopted, would define an advanced nursing education program, affiliating agency, clinical learning, contractual agreement, preceptor, and satellite program. There is no economic impact anticipated for the State Board of Nursing, other governmental entities, private business or individuals.

K.A.R. 60-17-102. Requirements for initial accreditation. This is a new regulation and, if adopted, would establish the requirements needed for each advanced nursing education program for the initial accreditation. There is no economic impact anticipated for the State Board of Nursing, other governmental entities, private business or individuals.

K.A.R. 60-17-103. Reaccreditation requirements. This is a new regulation and, if adopted, would establish the requirements needed for each advanced nursing education program for reaccreditation. There is no economic impact anticipated for the State Board of Nursing, other governmental entities, private business or individuals.

K.A.R. 60-17-104. Faculty and preceptor qualifications. This is a new regulation and, if adopted, would establish faculty and preceptor qualifications for each advanced nursing education program. There is no economic impact anticipated for the State Board of Nursing, other governmental entities, private business or individuals.

K.A.R. 60-17-105. Curriculum requirements. This is a new regulation and, if adopted, would establish curriculum requirements for each advanced nursing education program. There is no economic impact anticipated for the State Board of Nursing, other governmental entities, private business or individuals.

K.A.R. 60-17-106. Clinical resources. This is a new regulation and, if adopted, would establish criteria for clinical resources for each advanced nursing education program. There is no economic impact anticipated for the State Board of Nursing, other governmental entities, private business or individuals.

K.A.R. 60-17-107. Educational facilities. This is a new regulation and, if adopted, would describe educational facilities for each advanced nursing education program. There is no economic impact anticipated for the State Board of Nursing, other governmental entities, private business or individuals.

K.A.R. 60-17-108. Student policies. This is a new regulation and, if adopted, would establish that each advanced nursing education program shall have written policies for admission, transfer students, readmission, counseling and guidance, progression criteria, student representation in faculty governance, and graduation. There is no economic impact anticipated for the State Board of Nursing, other governmental entities, private business or individuals.

K.A.R. 60-17-109. Reports. This is a new regulation and, if adopted, would require each advanced nursing education program to submit an annual report. There is no economic impact anticipated for the State Board of Nursing, other governmental entities, private business or individuals.

K.A.R. 60-17-110. Discontinuing an advance registered nurse practitioner program. This is a new regulation and, if adopted, will require each advance nursing education program to submit to the State Board of Nursing a plan for disposition of records if the school terminates the advance nursing education program. There is no economic impact anticipated for the State Board of Nursing, other governmental entities, private business or individuals.

K.A.R. 60-17-111. Requirements for advanced registered nurse practitioner refresher course. This is a new regulation and, if adopted, would establish the requirements for a refresher course for an advanced registered nurse practitioner. There is no economic impact anticipated for the State Board of Nursing, other governmental entities, private business or individuals.

A copy of each of the proposed regulations and complete economic impact statements may be obtained by contacting the executive administrator of the State Board of Nursing at the address above, (785) 296-5752, prior to the date of the hearing.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting the State Board of Nursing.

Mary Blubaugh, MSN, RN
Executive Administrator

State of Kansas

Kansas Sentencing Commission

Notice of Meeting

The Kansas Sentencing Commission will meet from 1 to 4:30 p.m. Tuesday, December 28, in the Senate Room, Jayhawk Tower, 700 S.W. Jackson, Topeka. For further information, call the commission office at (785) 296-0923.

Barbara S. Tombs
Executive Director

Doc. No. 024610

State of Kansas

Department of Human Resources

Notice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted at 10 a.m. Wednesday, March 1, at the Kansas Department of Human Resources, 401 S. Topeka Blvd., first floor conference room, Topeka, to consider the adoption of proposed changes in the existing regulations of the Boiler Safety Act, K.S.A. 44-913 *et seq.* This 60-day notice constitutes a public comment period for the purpose of receiving written public comment on the proposed regulations.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and the economic impact statement in an accessible format. Requests for accommodation should be made at least 10 working days in advance of the hearing by contacting Merrill J. Hicklin Befort, Staff Attorney, Kansas Department of Human Resources, 401 S. Topeka Blvd., Topeka, 66603, (785) 296-4902.

A copy of the full text of the regulations and economic impact statement may be reviewed or obtained by contacting Merrill J. Hicklin Befort. The following is a summary of the proposed regulations. The economic impact follows.

K.A.R. 49-45-1 through 49-45-9. These proposed regulation amendments update the construction standards of boilers and pressure vessels to the 1998 edition of the American Society of Mechanical Engineers and boiler and pressure vessel code. Included in this update is the addenda published July 1, 1999.

K.A.R. 49-45-4a. This proposed new regulation adds an additional edition of the American Society of Mechanical Engineers boiler and pressure vessel code pertaining to material specifications for boilers and pressure vessels, which is an added part to ASME Section II.

K.A.R. 49-45-20. This proposed regulation amendment updates the inspection code to the June 1998 edition of the National Board Inspection Code.

K.A.R. 49-45-21. This proposed regulation amendment updates the NFPA 8501 standard for single burner boiler operation to the August 1997 edition of the National Fire Codes.

K.A.R. 49-45-22. This proposed regulation amendment updates the NFPA 8502 standard for the prevention of furnace explosions or implosions in multiple burner boilers to the 1999 edition of the National Fire Codes.

K.A.R. 49-45-23. This proposed regulation amendment updates the NFPA 8503 standard for pulverized fuel systems to the 1997 edition of the National Fire Codes.

K.A.R. 49-45-24. This proposed regulation amendment updates the NFPA 8504 standard on atmospheric fluidized-bed boiler operation to the 1996 edition of the National Fire Codes.

K.A.R. 49-45-25. This proposed regulation amendment updates the NFPA 8505 standard for stoker operation to the 1999 edition of the National Fire Codes.

K.A.R. 49-45-26. This proposed regulation amendment updates the NFPA 8506 standard on heat recovery steam generator systems to the 1999 edition of the National Fire Codes.

K.A.R. 49-45-27. This proposed regulation amendment updates the ASME CDS-1, controls and safety devices for automatically fired boiler to the 1998 edition.

K.A.R. 49-45-28. This proposed regulation amendment updates the ASME B31.1 standard for power piping to the 1998 edition.

K.A.R. 49-45-29 through 49-45-31. These proposed new regulations adopt Section VII, Divisions 1, 2, and 3 of the American Society of Mechanical Engineers boiler and pressure vessel code to the boiler regulations. Section VIII, Divisions 1, 2, and 3 are the code standards for pressure vessels.

K.A.R. 49-45-32. This proposed new regulation adopts the Uniform Mechanical Code. This code is being adopted because it clarifies clearances for the installation, maintenance, and inspection of boilers and covers some controls and safety devices, and is a nationally recognized code.

K.A.R. 49-45-33. This proposed new regulation adopts the International Plumbing Code. This code is being adopted because it covers cross connection control (back flow preventers) and is a national standard.

K.A.R. 49-45-34. This new regulation adopts ASME Section X, Fiber Reinforced Plastic Pressure Vessels. This code covers fiberglass and plastic pressure vessels that are becoming widely used in the boiler and pressure vessel industry.

K.A.R. 49-45a-1. This regulation consolidates all the definitions from 49-45a-1 through 49-45a-27. K.A.R. 49-45a-2 through 49-45a-27 have been revoked. The intent of these amendments is for housekeeping purposes and to clarify the definitions used in the boiler regulations.

K.A.R. 49-45a-2 through 49-45a-27. These regulations have been revoked and consolidated in K.A.R. 49-45a-1 in alphabetical order.

K.A.R. 49-46-1. This regulation is being amended to include pressure vessels to be consistent with the 1998 legislative enactments. All other changes are for housekeeping purposes. The chief boiler inspector was authorized by K.S.A. 44-916 to amend the regulations to include pressure vessels and clarify insurance company inspector requirements for inspections and reporting.

K.A.R. 49-47-1. This amends the requirements of special inspectors and specifically defines the duties of the special inspector to include the inspection of the boiler and pressure vessel system components including the safety or safety valve pressure. The special inspector must report the housekeeping conditions of the boiler room

pertaining to whether a boiler is operating in a safe environment. The special inspector must report all scrapped or out-of-service boilers or pressure vessels to the chief inspector.

K.A.R. 49-47-1a. This proposed new regulation specifies that all special inspectors shall have a valid Kansas commission before performing any inspection, including in-service, repair or alteration in any ASME code shop in the state.

K.A.R. 49-47-1b. K.S.A. Supp 44-920 (d) provides that the secretary shall fix, by rules and regulations, certification requirements for inspectors of antique scale models or other steam boilers used exclusively for exhibition purposes. This proposed new regulation sets forth the certification requirements for special inspectors of antique and exhibition boilers.

K.A.R. 49-47-2. This proposed regulation is amended to include pressure vessels as authorized by K.S.A. 1998 Supp. 44-913 *et seq.* All other changes are for housekeeping purposes.

K.A.R. 49-48-1. This proposed amendment is intended for housekeeping purposes and to clarify certificate inspection pursuant to K.S.A. 44-923.

K.A.R. 49-49-1a. This new proposed regulation provides and fixes a fee schedule for inspections of pressure vessels. K.S.A. 1998 Supp. 44-923 provides for inspection fees of pressure vessels up to \$250.

K.A.R. 49-50-1. This regulation is being amended to include pressure vessels in accordance with the 1998 legislative amendments to the Boiler Safety Act. In addition, other changes are for housekeeping purposes that cover repairs and alterations of boilers and pressure vessels.

K.A.R. 49-50-2. This regulation is being amended to clarify the requirements for air inlets into boiler rooms.

K.A.R. 49-50-3. This proposed regulation updates the requirements for venting combustion gases from boilers and furnaces.

K.A.R. 49-50-4. This proposed regulation updates and clarifies the requirement for cross connection control devices (back flow preventers).

K.A.R. 49-50-6. This proposed regulation updates and clarifies the requirements for pressure testing boilers and pressure vessels.

K.A.R. 49-50-7. This proposed regulation updates and clarifies the requirements for boiler blow off equipment.

K.A.R. 49-50-8. This proposed regulation updates and clarifies the requirements for the installation and inspection of piping systems on high and low pressure boilers and other building piping systems that fall under the appropriate section of ASME B31.1 piping code.

K.A.R. 49-50-9. This proposed regulation updates and clarifies the requirements for certificate inspections on boilers and pressure vessels.

K.A.R. 49-50-10. This regulation is being amended to bring it current with the 1998 edition of the National Board Inspection Code.

K.A.R. 49-50-11. This proposed regulation updates the requirements for dealing with and marking of condemned boilers and pressure vessels.

K.A.R. 49-50-12. This proposed regulation updates and clarifies the requirements for the reinstallation of moved boilers and pressure vessels.

K.A.R. 49-50-13. This proposed regulation updates and clarifies the requirements for a reinstalled boiler or pressure vessel in the same location. There will be some cost to the owner of the vessel for bringing the vessel up to code requirements on a unit by unit basis, with no way to estimate the cost to the owner.

K.A.R. 49-50-14. This proposed regulation deals with the shipment of nonstandard boilers and pressure vessels into the state.

K.A.R. 49-50-15. This proposed regulation updates and clarifies the requirements for the shipment of second-hand boilers and pressure vessels into the state.

K.A.R. 49-50-17. This proposed regulation changes the requirements for steam cleaners or hot water power washers to a more realistic requirement, that is defined in a national standard ASME Section I.

K.A.R. 49-50-18. This proposed regulation adds pressure vessels to the minimum construction requirements. This resolution was amended to include pressure vessels.

K.A.R. 49-50-19. This proposed regulation clarifies the requirements of combustion safeguards and water side controls on boilers, and the manufacturer's and the installer's requirements for documentation of and testing of controls and safety devices, and the use of rebuilt or remanufactured flame safeguard equipment.

K.A.R. 49-50-20. This amended regulation deals with requirements for notification of the installation of new boilers, construction of new boiler rooms, and the required clearances around boilers for maintenance, repair and inspection.

K.A.R. 49-50-21. This proposed regulation deals with the installation of boilers and other appliances fired with LP gas.

K.A.R. 49-50-22. This proposed regulation clarifies and deals with the venting of gas controls on boiler fuel trains to the outdoors.

K.A.R. 49-51-1. This amended regulation deals with the age limits of existing boilers, which is mostly editorial.

K.A.R. 49-51-2. This regulation was amended to include pressure vessels.

K.A.R. 49-51-3. This regulation was amended by removing subsection (e) that dealt with the safety factor covered in another regulation.

K.A.R. 49-51-3a. This new regulation deals with the safety factor for boilers and pressure vessels, which was dropped from 4.5 to 3.5, and addresses existing installations.

K.A.R. 49-51-6. This regulation was amended to include the safety valve requirements for pressure vessels and define the code section on where to find the requirements.

K.A.R. 49-51-7. No changes were made to this regulation other than editorial.

K.A.R. 49-51-8. This regulation was amended with editorial changes and the requirement for gauge cocks was dropped to coincide with code requirements.

K.A.R. 49-51-9. This regulation was amended with editorial changes and updated to coincide with the code requirements for steam pressure gauges.

K.A.R. 49-51-10. This regulation was amended with some editorial changes and clarification of where to find the requirements for stop valves.

(continued)

K.A.R. 49-51-11. This regulation was amended to clarify the requirements for boiler blowoff equipment.

K.A.R. 49-51-12. This regulation deals with the repair and renewal of boiler and pressure vessel fittings and appliances, and was amended to include pressure vessels and define the sections of the code to locate the requirements.

K.A.R. 49-51-14. Revoked.

K.A.R. 49-52-5. This regulation was amended to clarify the requirements for sizing safety valves and their discharge lines.

K.A.R. 49-52-6. This regulation was amended to clarify the requirements for safety relief valves on hot water heating boilers, hot water supply boilers and pressure vessels, and their discharge line requirements.

K.A.R. 49-52-7. This regulation was amended to clarify the requirements for steam gauges on steam boilers.

K.A.R. 49-52-8. This regulation was amended to clarify the requirements for pressure gauges, altitude gauges and thermometers on hot water heating and hot water supply boilers.

K.A.R. 49-52-9. This regulation was amended to clarify the requirements of and for gauge glasses on boilers and pressure vessels.

K.A.R. 49-52-11. This regulation was amended to clarify the requirements for and installation of low water cut-offs, makeup or feedwater connections, and water feeding devices.

K.A.R. 49-52-13. This regulation was amended with some editorial changes and to clarify the limitations of expansion tanks that are not manufactured to ASME Section VIII, Div. 1.

K.A.R. 49-52-14. This regulation was amended to clarify the requirements of the repair and renewal of fittings and appliances on low pressure boilers.

K.A.R. 49-52-15. Revoked.

K.A.R. 49-52-16. This new proposed regulation is to identify the requirement for provisions for thermal expansion in hot water supply systems.

K.A.R. 49-52-17. This new proposed regulation identifies the requirements for emergency shutoff switches on all boilers.

K.A.R. 49-54-1 through 49-54-3. The Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*, applies, and therefore, these regulations are being revoked.

Economic Impact: There is no cost to the consumer or to private citizens. There will be nominal cost to the industry. The regulations are being amended to make them current with the present national code standards for boilers and pressure vessels. Presently, the majority of boilers and pressure vessels in operation are operating at the current national code standards.

Richard E. Beyer
Secretary of Human Resources

Doc. No. 024624

State of Kansas

Department of Transportation

Notice to Consulting Engineers

The Kansas Department of Transportation is seeking qualified consulting engineering firms for the project listed below. 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. Responses must be received in Room 1084-West by 5 p.m. January 12 for the consulting engineering firm to be considered.

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.

Road Safety Audits

The Bureau of Traffic Engineering will be hiring two or three traffic engineering consultants to complete Road Safety Audits (RSA). An RSA is a county-wide traffic study of all routes on the state highway system. The consultant will be responsible for analyzing accident data, field reviewing all the state highways, collecting field data, preparing recommendations, and preparing the final report. When conducting an RSA, the review will include a review of the traffic signals, sight distance, speed limits, school crossings, signing and pavement markings.

There will be approximately 20 RSAs completed by December 2002. The development of detailed plans, designs, specifications or estimates will not be included under this program.

Additional information on RSAs can be obtained at KDOT's website: <http://www.Kdotweb/KDOTOrig/Bar-TrafficEng/Documents/RSAbrochure.htm>.

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

- Size and professional qualifications;
- experience of staff;
- location of firm with respect to proposed project;
- work load of firm; and
- firm's performance record.

E. Dean Carlson
Secretary of Transportation

Doc. No. 024622

State of Kansas

Department of Commerce and Housing

Notice of Hearing

The Department of Commerce and Housing, Division of Housing Development, will conduct a public hearing from 9:30 to 11:30 a.m. Friday, January 14, at the Security Benefit Building, 700 S.W. Harrison, Room 4 West B, Topeka, on federal housing programs administered by the division. The hearing will provide citizen input on housing issues in the Kansas Consolidated Plan for federal fiscal year 2000 (state fiscal year 2001).

Community residents and housing developers are invited to attend the public hearing. Topics will include the Low Income Housing Tax Credit, HOME Investment Partnerships, and Emergency Shelter Grant programs. Results of the hearing will be incorporated into plans for the programs for the next year.

Persons needing special accommodations should contact the Kansas Department of Commerce and Housing at (785) 296-2994; fax (785) 296-3665; (785) 296-3487 (TTY). Please make your request at least five business days in advance of the meeting.

Gary Sherrer
Secretary of Commerce
and Housing

Doc. No. 024616

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 Capitol Plaza Hotel, Topeka, until 2 p.m. January 12, and then publicly opened:

District One—Northeast

Johnson—35-46 K-4674-01—I-35 northbound ramp to 75th Street, overlay, grading & surfacing. (Federal Funds)

Johnson—7-46 K-7823-01—K-7 north of the junction of K-10 south 6.8 miles (11 kilometers), overlay. (State Funds)

Leavenworth—C-3327-01—County road 1.1 miles (1.7 kilometers) south & 0.8 mile (1.3 kilometers) west of Lansing, 0.12 mile (0.2 kilometers), grading & bridge. (Federal Funds)

Leavenworth—C-3531-01—County road at the east edge of Lansing, 0.3 mile (0.5 kilometer), grading, bridge & surfacing. (Federal Funds)

Riley—81 U-1694-01—North Manhattan Avenue and Claflin in Manhattan, 0.19 mile (0.3 kilometer), intersection improvement. (Federal Funds)

District Two—Northcentral

District—106 K-5926-00—Various locations in District 2, 258 miles (416.5 kilometers), signing. (State Funds)

Morris—56-64 U-1748-01—U.S. 56 and K-57/K-177 in Council Grove, intersection improvement. (Federal Funds)

Republic—79 C-3489-01—County road 1.4 miles (2.3 kilometers) south and 3 miles (4.8 kilometers) west of Narka, 0.2 mile (.03 kilometer), grading and bridge. (Federal Funds)

District Three—Northwest

Rawlins—77 C-3400-01—County road 7.6 miles (12.2 kilometers) south and 3.5 miles (5.6 kilometers) east of Atwood, 0.2 mile (0.4 kilometer), grading & bridge. (Federal Funds)

Sheridan—90 C-3558-01—County road 12.7 miles (20.4 kilometers) south and 7 miles (11.3 kilometers) east of Hoxie, 0.3 mile (0.5 kilometer), grading & bridge. (Federal Funds)

District Four—Southeast

Wilson—47-103 K-5757-01—K-47 from county road 1378 east 2.7 miles (4.4 kilometers), grading, bridge & surfacing. (Federal Funds)

District Five—Southcentral

Rush—96-83 K-5898-01—K-96 Safety Rest Area west of Alexander, safety rest area improvement. (State Funds)

Sedgwick—87 C-3043-01—103rd Street at Ninnescah 1.5 miles (2.4 kilometers) west of Clearwater, 0.09 mile (0.16 kilometer), grading, bridge & surfacing. (Federal Funds)

Sedgwick—81-87 K-7098-01—U.S. 81 and 63rd Street South northeast of Haysville, 0.25 mile (0.4 kilometer), traffic signals. (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 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. 024621

State of Kansas

Department of Health and Environment

Notice Concerning Kansas Water Pollution Control Permits

In accordance with Kansas Administrative Regulations 28-16-57 through 63, 28-18-1 through 15, 28-18a-1 through 32, 28-16-150 through 154, 28-46-7, and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, draft permits have been prepared and/or permit applications have been received for discharges to the waters of the United States and the State of Kansas for the class of discharges described below. The determinations for permit content are based on staff review, applying the appropriate standards, regulations and effluent limitations of the State of Kansas and the EPA, and when issued will result in a State Water Pollution Control Permit and National Pollutant Discharge Elimination System Authorization subject to certain conditions.

All Kansas Department of Health and Environment district office addresses and telephone numbers are listed below.

Public Notice No. KS-99-200/207

Name and Address of Applicant	Waterway	Type of Discharge
McCracken, City of City Hall P.O. Box 5 McCracken, KS 67556	Smoky Hill River via Big Timber Creek	Treated Domestic Wastewater

Kansas Permit No. M-SH26-0002 Federal Permit No. KS0092088
Legal: NW¼, S8, T17S, R20E, Rush Co.

Facility Description: The proposed action is to reissue an existing permit for operation of an existing wastewater treatment facility treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids, and pH. Monitoring for ammonia and fecal coliform will be required once annually. Included in this permit is a schedule of compliance requiring the permittee to obtain the services of a KDHE-certified operator. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are technology based.

Name and Address of Applicant	Waterway	Type of Discharge
Manhattan, City of 1101 Poyntz Manhattan, KS 66502	Kansas River	Treated Domestic Wastewater

Kansas Permit No. M-KS38-0001 Federal Permit No. KS0036714
Legal: NW¼, S16, T10S, R8E, Pottawatomie Co.

Facility Description: The proposed action is to reissue an existing permit for the operation of an existing wastewater treatment facility treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids, fecal coliform, ammonia, and pH. In addition, monitoring for effluent flow rate, dissolved oxygen, temperature, total phosphorus, total nitrogen, chlorides, sulfates, whole effluent toxicity, and a priority pollutant scan will be required. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water quality based.

Name and Address of Applicant	Waterway	Type of Discharge
Miami Co. Sewer Dist. No.2 201 S. Pearl, Suite 201 Paola, KS 66071	Bull Creek via 10 Mile Creek via Unnamed Tributary	Treated Domestic Wastewater

Facility Name: Bucyrus Sewer Treatment Plant

Kansas Permit No. M-MC63-0001 Federal Permit No. KS0095290
Legal: SE¼, S23, T15S, R24E, Miami County

Facility Description: The proposed action is to issue a new permit for a new wastewater treatment facility treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids, ammonia, fecal, and pH. Weekday monitoring for flow also is required. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water quality based.

Name and Address of Applicant	Waterway	Type of Discharge
Paleo, City of P.O. Box 257 Palco, KS 67657	South Fork Solomon River via Spring Creek via Unnamed Tributary	Treated Domestic Wastewater

Kansas Permit No. M-SO30-0001 Federal Permit No. KS0116904
Legal: NW¼, S21, T9S, R20W, Rooks Co.

Facility Description: The proposed action is to reissue an existing permit for operation of an existing wastewater treatment facility treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids, ammonia, and pH. Monitoring for total residual chlorine, flow, and fecal coliform will also be required. Included in this permit is a schedule of compliance requiring the permittee to make necessary improvements to achieve compliance with its NPDES permit. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water quality based.

Name and Address of Applicant	Waterway	Type of Discharge
Toronto, City of P.O. Box 235 Toronto, KS 66777	Toronto Reservoir	Treated Domestic Wastewater

Kansas Permit No. M-VE36-0001 Federal Permit No. KS0021890
Legal: SE¼, S11, T26S, R13E, Woodson Co.

Facility Description: The proposed action is to reissue an existing permit for operation of an existing wastewater treatment facility treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids, ammonia, and pH. Monitoring for total residual chlorine, flow, and fecal coliform also will be required. Included in this permit is a schedule of compliance requiring the permittee to make necessary improvements to achieve compliance with its NPDES permit. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water quality based.

Name and Address of Applicant	Waterway	Type of Discharge
Unified School District #345 901 N.W. Lyman Road Topeka, KS 66608-1900	Kansas River via Soldier Creek via Unnamed Tributary	Treated Domestic Wastewater

Facility Name: Seaman High School Wastewater Treatment Plant
Kansas Permit No. M-KS72-0018 Federal Permit No. KS0080098

Legal: S½, S31, T10S, R16E Shawnee Co.

Facility Description: The proposed action is to reissue an existing permit for operation of an existing wastewater treatment facility treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids, and pH. Monitoring for ammonia and fecal coliform will be required once annually. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are technology based.

Name and Address of Applicant	Waterway	Type of Discharge
White City, City of P.O. Box 4 White City, KS 66872	Neosho River via Unnamed Tributary	Treated Domestic Wastewater

Kansas Permit No. M-NE68-0001 Federal Permit No. KS0116491
Legal: NW¼, S35, T14S, R6 E, Morris Co.

Facility Description: The proposed action is to reissue an existing permit for operation of an existing wastewater treatment facility treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids, ammonia, and pH. Monitoring for flow and fecal coliform also will be required. Included in this permit is a schedule of compliance requiring the permittee to make necessary improvements to achieve compliance with its NPDES permit. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water quality based.

Name and Address of Applicant	Waterway	Type of Discharge
Wilson, City of P.O. Box J Wilson, KS 67490	Smoky Hill River via Wilson Creek	Treated Domestic Wastewater
Kansas Permit No. M-SH40-OO01		Federal Permit No. KS0022578
Legal: NW¼, S29, T14S, R10W, Ellsworth Co.		

Facility Description: The proposed action is to reissue an existing permit for operation of an existing wastewater treatment facility treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids, ammonia, and pH. Monitoring for total residual chlorine, flow, and fecal coliform also will be required. Included in this permit is a schedule of compliance requiring the permittee to make necessary improvements to achieve compliance with its NPDES permit. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water quality based.

Public Notice No. KS-ND-99-031/032

Name and Address of Applicant	Legal Location	Type of Discharge
KDOT Bureau of Design—ESS Docking State Office Bldg. Topeka, KS 66612-1568	NE¼, S33, T25S, R13E, Greenwood Co.	Nonoverflowing

Facility Name: Greenwood County Safety Rest Area (US-54 HWY)
Kansas Permit No. M-SH05-NO02

Facility Description: The proposed action is to issue a new permit for the operation of a new wastewater treatment facility treating primarily domestic wastewater. Included in this permit is a schedule of compliance requiring the permittee to obtain the services of a KDHE-certified operator. Discharge of wastewater from this treatment facility to the surface waters of the State of Kansas is prohibited by this permit. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f).

Name and Address of Applicant	Legal Location	Type of Discharge
WSS KOA, Inc. 1109 W. Diamond Drive Salina, KS 67401	NE¼, S35, T13S, R3W, Saline Co.	Nonoverflowing

Kansas Permit No. C-SH33-NO02

Facility Description: The proposed action is to reissue an existing permit for the operation of an existing wastewater treatment facility treating primarily domestic wastewater. Included in this permit is a schedule of compliance requiring the permittee to obtain the services of a KDHE certified operator. Discharge of wastewater from this treatment facility to the surface waters of the State of Kansas is prohibited by this permit. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f).

Public Notice No. KS-EG-99-016

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

Name and Address of Applicant	Well Identification:	Legal Description:	Permit Number:
IMC Salt Inc. P.O. Box 498 Lyons, KS 67554	No. F-96	SE NW SW 14-20-8W(1510'fsl & 4530'fel of SE/4)	KS-03-159-170
	No. F-97	NW SW SW 14-20-8W (1050'fsl & 4670'fel of SE/4)	KS-03-159-171
	No. F-98	SW NW SW 14-20-8W (1370'fsl & 4860'fel of SE/4)	KS-03-159-172
	No. F-99	SW NW SW 14-20-8W (1690'fsl & 4990'fel of SE/4)	KS-03-159-173
	No. F-100	NW SW SW 14-20-8W (1230'fsl & 5130'fel of SE/4)	KS-03-159-174

Facility Description: Applications have been filed with the department to continue operation of a brine system drilled in SW 14-20-8W at IMC Salt's facility in Lyons. The production of brine will be by two gallery systems. One will consist of one fresh water input well and one brine withdrawal well (F96 and F99 respectively) and the other will consist of two fresh water input wells and one brine withdrawal well (F97, F98 and F100 respectively). IMC Salt is engaged in the production of evaporated salt and mined rock salt, which are distributed for use in agricultural, industrial, chemical and food grade markets. The injected fluids will consist of a mixture of fresh water and spent brine from the salt plant.

Public Notice No. KS-AG-99-193/198

Pending Permits for Confined Feeding Facilities

Name and Address of Applicant	Legal Description	Receiving Water
Taylor Branch Farms c/o Keith Atkinson 9571 NE Liberty Rd. Pittsburg, KS 66762	SE¼ Section 34, T31S, R25E, Cherokee County	Neosho River Basin

Kansas Permit No: A-NECK-F006

This is a permit renewal for an existing permit for approximately 66,000 head of turkeys (1,188 animal units).

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

Compliance Schedule: None, existing controls meet KDHE requirements.

Name and Address of Applicant	Legal Description	Receiving Water
Kent Kelsay P.O. Box 186 Longton, KS 67532	NW¼ Section 30, T31S, R12E, Elk County	Verdigris River Basin

Kansas Permit No: A-VEEK-E001

This is a new facility for 200 head of deer (20 animal units).

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

Compliance Schedule: None, existing controls meet KDHE requirements.

Name and Address of Applicant	Legal Description	Receiving Water
Cowtown Feeders, Inc. P.O. Box 1088 Syracuse, KS 67878	W/2 Section 34, T23S, R41W, Hamilton County	Arkansas River

Kansas Permit No: A-UAHM-C004 Federal Permit No: KS-0118419

This is a permit renewal for an existing facility for 27,800 head (27,800 animal units) of beef cattle weighing greater than 700 lbs.

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

Compliance Schedule: None, existing controls meet KDHE requirements.

(continued)

Name and Address of Applicant	Legal Description	Receiving Water
Alexander Feeders Ron Alexander P.O. Box 572 Plains, KS 67869	NW/4 Section 30, T32S, R30W, Meade County	Cimarron River Basin

Kansas Permit No: A-CIME-S013

This a permit renewal for an existing facility for 1,672 head (668 animal units) of finisher swine weighing greater than 55 pounds.

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

Compliance Schedule: None, existing controls meet KDHE requirements.

Name and Address of Applicant	Legal Description	Receiving Water
Stapleton Hog Farms Dave Stapleton Route 1, Box 85 Plains, KS 67869	S/2 Section 22, T30S, R29W, Meade County	Cimarron River Basin

Kansas Permit No: A-CIME-H004 Federal Permit No: KS-0090468

This is a permit renewal for an existing, facility for 5,016 head (2,007 animal units) of swine.

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

Compliance Schedule: None, existing controls meet KDHE requirements.

Name and Address of Applicant	Legal Description	Receiving Water
Seaboard Farms, Inc. Farm #1 and #200JKL, and Farm #200 9000 W. 67th St., Suite 200 Shawnee Mission, KS 66202	NE, NW, SE/4 Section 9, T27S, R43W, Stanton County	Cimarron River Basin

Kansas Permit No.: A-CIST-H001 Federal Permit No.: KS-0091278

This is a revised permit for an expansion/modification of an existing facility from 9,336 head (3,734.4 animal units) to 15,352 head (4,701.9 animal units) and the addition of an existing truck wash/loadout facility for 148 head (26.7 animal units) of swine.

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

Compliance Schedule: None, existing controls meet KDHE requirements.

Public Notice No. KS-AG-99-199

Application(s) for New or Expansion of Existing Swine Facilities

Name and Address of Applicant	Owner of Property Where Facility Will Be Located	Legal Description	Receiving Water
Seaboard Farms Inc. 9000 W. 67th St., Suite 200 Shawnee Mission, KS 66202	Seaboard Farms Inc.	NE, NW, SE/4, Section 9 T27S, R43W, Stanton County	Cimarron River Basin

Application Number: A-CIST-H001 Federal Permit No. KS-0091278

This is an application for a permit for the expansion/modification of an existing facility from 9,336 head (3,734.4 animal units) to 15,352 head (4,701.9 animal units) and the addition of an existing truck wash/loadout facility for 148 head (26.7 animal units) of swine. A new or modified permit will not be issued without additional public notice.

Persons wishing to comment on or object to the draft permits and/or permit applications must submit their comments in writing to the Kansas Department of Health and Environment if they wish to have the comments or objections considered in the decision making process. Comments or objections should be submitted to the attention of Dena Endsley for agricultural permits or applications, or to the permit clerk for all other permits, at the Kansas Department of Health and Environment, Division of Environment, Bureau of Water, J Street and 2 North, Forbes Field, Building 283, Topeka, 66620.

All comments regarding the draft permit or application notice postmarked or received on or before January 22 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate Kansas permit number (KS-AG-99-193/199, KS-99-200/207, KS-ND-99-031/032, KS-EG-00-016) and name of applicant/application as listed when preparing comments.

If no objections are received during the public notice period regarding any proposed permit, the Secretary of Health and Environment will issue the final determination regarding issuance or denial of the proposed permit. If response to this notice indicates significant public interest, a public hearing may be held in conformance with K.A.R. 28-16-61 (28-46-21 for UIC). Media coordination for publication and/or announcement of the public notice or public hearing is handled by the Kansas Department of Health and Environment.

For agricultural permits and applications, a copy of the permit application, supporting documentation, and a KDHE-developed fact sheet, if appropriate, is available for review at the appropriate district office:

Northwest District Office, 2301 E. 13th, Hays,
67601-2651, (785) 625-5664

North Central District Office, 2501 Market Place,
Salina, 67401-7699, (785) 827-9639

Northeast District Office, 800 W. 24th, Lawrence,
66046-4417, (785) 842-4600

Southwest District Office, 302 W. McArtor Road,
Dodge City, 67801-6098, (316) 225-0596

South Central District Office, 130 S. Market,
6th Floor, Wichita, 67202-3802, (316) 337-6020

Southeast District Office, 1500 W. 7th, Chanute, 66720,
(316) 431-2390

Plans and documents for all new facilities and for expansions of existing swine facilities also may be reviewed on the Internet at www.kdhe.state.ks.us.

For all other proposed permits, the draft permit(s), including proposed effluent limitations and special conditions, fact sheets as appropriate, comments received and other information, are on file and may be inspected at the offices of the Kansas Department of Health and Environment, Bureau of Water.

Division of Environment offices are open from 8 a.m. to 5 p.m. Monday through Friday, excluding holidays. These documents are available upon request at the copying cost assessed by KDHE. Additional copies of this pub-

lic notice also may be obtained at the Division of Environment.

Clyde D. Graeber
Secretary of Health
and Environment

Doc. No. 024636

State of Kansas

Department of Health
and Environment

Notice of Meetings

The Kansas Department of Health and Environment, Division of Environment, will conduct six public meetings to receive oral and written comments on the Kansas Source Water Assessment Program Plan. These meetings are designed only to accept oral and written comments on the program plan. Persons wishing to receive a copy of the program plan prior to the meeting may contact Lisa Duncan, Kansas Department of Health and Environment, Bureau of Water, Nonpoint Source Section, Building 283, Forbes Field, Topeka, 66620, (785) 296-4195.

Source water assessment is a requirement of the Federal Safe Drinking Water Act. This requirement stipulates that the state agency with Safe Drinking Water Act administrative responsibilities prepare a source water assessment for each public water supply that produces drinking water from a well or surface water diversion from a lake or river. The Bureau of Water of the Kansas Department of Health and Environment, Division of Environment, is the Kansas agency responsible for completing the state source water assessment. The state assessments must be completed and submitted to the U.S. Environmental Protection Agency by June 6, 2003.

The Kansas Source Water Assessment Program Plan describes how the Bureau of Water proposes to complete the state source water assessment.

The meetings are scheduled as follows:

City	Date	Time	Location
Salina	January 24	1 p.m.	Salina Public Library 301 W. Elm Prescott Room
Chanute	January 24	10 a.m.	State Office Complex 1500 W. 7th Meadowlark Room
Wichita	January 24	1:30 p.m.	Finney State Office Building 130 S. Market Room 3080
Hays	January 25	1 p.m.	City Hall 16th and Main City Council Chambers
Dodge City	January 27	1 p.m.	Dodge City Library 1001 2nd Ave.
Lawrence	January 27	2 p.m.	Lawrence-Douglas County Community Health Facility 200 Maine St. 1st Floor Meeting Room

Clyde E. Graeber
Secretary of Health
and Environment

Doc. No. 024634

State of Kansas

Department of Health
and Environment

Notice of Location Change for Hearings on
Proposed Water Pollution Control Permits

The Kansas Department of Health and Environment has prepared two proposed Kansas Water Pollution Control Permits, A-UAKE-H002, for Todd Graham Commercial Finisher Site #1 located near Deerfield, and A-UAWH-H002, for Maple Creek Farms, LLC - Roberts 2 Site located near Leoti. Public hearings have been scheduled in conformance with Kansas Administrative Regulation 28-16-61. The hearings on KDHE's intention to issue these proposed permits, scheduled for 7 p.m. Tuesday, January 4, have been moved from the Lakin City Library to the Veterans Memorial Building on Main Street in Lakin. This meeting location has been changed to accommodate all citizens who wish to attend the hearings.

Todd Graham Commercial Finisher Site #1 proposes a new facility for the confined feeding of 43,200 head (17,280 animal units) of swine weighing more than 55 pounds. The proposed facility location is in the S/2 of Section 20, Township 23S, Range 36W of Kearny County. Maple Creek Farms, LLC - Roberts 2 Site proposed a new facility for the confined feeding of 21,600 head (8,640 animal units) of swine weighing more than 55 pounds. The proposed facility location is in the SE/4 of Section 21, Township 20S, Range 38W of Wichita County. The proposed permits for Todd Graham Commercial Finisher Site #1 and Maple Creek Farms, LLC - Roberts 2 Site were placed on Public Notice No. KS-AG-99-180 and KS-AG-99-177, dated November 25, 1999.

Copies of the applicant's application, draft permit and other pertinent documents may be requested by contacting Dena Endsley, Kansas Department of Health and Environment, Bureau of Water, Livestock Waste Management Section, Forbes Field, Building 283, Topeka, 66620, (785) 296-6432 or fax (785) 296-5509. Appropriate copying charges will be assessed for each request.

Persons wishing to comment on the proposed permits may do so at the public hearings or may submit written statements to the above address by December 25. It is recommended that persons wishing to present oral testimony at the public hearings supply the hearing officer with a written copy of the testimony.

Any individual with a disability may request accommodation in order to participate in the public hearing process and may request the proposed permits in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting KDHE at the above address.

The Secretary of Health and Environment will make a final permit decision after consideration of all requirements of state statutes and regulations and comments received during the public notice and public hearing processes.

Clyde D. Graeber
Secretary of Health
and Environment

Doc. No. 024635

State of Kansas

Kansas Development Finance Authority

Notice of Hearing

A public hearing will be conducted at 9 a.m. Thursday, January 6, in the conference room in the offices of Kansas Development Finance Authority, Suite 1000, Jayhawk Tower, 700 SW 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 named below (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. 000431, Maximum Principal Amount: \$58,500. Owner/Operator: Kevin E. and Jill S. Ayers. 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 2, Township 13, Range 34, Logansport Township, Logan County, Kansas, approximately 5 miles east and 2 miles north of Russell Springs on Road #320.

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 shall become due.

All individuals who appear at the hearing will be given an opportunity to express their views, 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 the county where the project in question is located.

Kenneth Frahm
President

Doc. No. 024618

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, Room 102, Landon State Office Building, 900 S.W. Jackson, Topeka, 66612, until 2 p.m. on the date indicated and then will be publicly opened. Interested bidders may call (785) 296-2377 for additional information:

Tuesday, December 28, 1999

00907

Department of Administration, Division of Facilities Management—All Labor and Materials for Asbestos Removal, Docking State Office Building

Monday, January 3, 2000

00919

Department of Administration, Division of Facilities Management—Insulation Glass Windows

00928

Kansas Correctional Industries—Lead Free Paint Pigment

00935

Kansas State University—Motor Vehicles

Tuesday, January 4, 2000

00938

Kansas State University—Plot Combine

Thursday, January 6, 2000

00926

University of Kansas/Kansas State Board of Regents—Hewlett Packard Workstations, Servers, Upgrades and Accessories

Thursday, January 13, 2000

00941

Department of Health and Environment—Mineral West Reclamation, Frontenac

00942

Department of Health and Environment—303 Tipple Reclamation, Frontenac

Request for Proposals

Thursday, January 13, 2000

00923

External Review of the Kansas Science Standards for the Kansas Department of Education

John T. Houlihan
Director of Purchases

Doc. No. 024626

State of Kansas

Workforce Investment Partnership Council**Notice of Subcommittee Meeting**

The Kansas Workforce Investment Partnership Council Five Year Workforce Development System Plan Subcommittee will meet from 9 a.m. to noon Wednesday, January 19, at 512 W. 6th, second floor conference room, Topeka. All interested parties are invited to attend.

To request reasonable accommodations to participate in this meeting, contact Monica Hernandez, (785) 296-6043, not later than January 10. Individuals who use a TTY or TDD may use the Kansas Relay Service by calling 1-800-766-3777.

Richard E. Beyer
Secretary of Human Resources

Doc. No. 024625

(Published in the Kansas Register December 23, 1999.)

**Summary Notice of Note Sale
Unified School District No. 232
Johnson County, Kansas (De Soto)
\$13,000,000**

**General Obligation Temporary Notes
Series 2000**

**(General obligations payable from
unlimited ad valorem taxes)**

Sealed Bids

Subject to the notice of sale and preliminary official statement, sealed bids will be received by the clerk of Unified School District No. 232, Johnson County, Kansas (De Soto), on behalf of the district at the district office, 8305 Peoria, De Soto, KS 66018, on Wednesday, January 5, 2000, for the purchase of 13,000,000 principal amount of General Obligation Temporary Notes, Series 2000. Bids for the notes will be received until 5 p.m. local time on that day. No bid will be considered of less than 99.75 percent of the principal amount of the notes and accrued interest to the date of delivery, and no supplemental interest payments will be considered. Bids may be submitted by mail or fax or delivered in person as provided in the notice of sale.

Note Details

The notes will consist of fully registered notes in the denomination of \$5,000 or any integral multiple thereof. Notes shall 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 and interest on the notes will be made. Individual purchases of notes will be made in book-entry form only. Purchasers will not receive certificates representing their interest in notes purchased. The notes will be dated January 1, 2000, and will become due on September 1, 2000. The notes will bear interest from the date thereof at the rate to be determined when the notes are sold, which interest will be payable only at maturity on September 1, 2000. The Kansas State Treasurer, Topeka, Kansas, will be the paying agent and note registrar for the notes.

Good Faith Deposit

Each bid for the notes shall be accompanied by a good faith check in the form of a cashier's or certified check or a financial surety bond in the amount of 1 percent of the principal amount of the notes.

Delivery

The district will pay for preparing of the notes. The district will deliver the notes in book-entry form only through the facilities of the Depository Trust Company, New York, New York, on or before January 18, 2000.

Assessed Valuation and Indebtedness

The equalized assessed tangible valuation for computation of the bonded debt limitations is \$152,937,415. The total general obligation indebtedness of the district as of the date of the notes, including the notes being sold, is \$67,010,000.

Approval of Notes

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

Additional Information

Additional information regarding the notes may be obtained from Dr. Sharon Zoellner, Assistant Superintendent, (913) 583-8300, fax (913) 583-8303; or the district's financial advisor, Ranson & Associates, Inc., Attention: Steve Shogren, (316) 681-3132.

Dated December 6, 1999.

Unified School District No. 232
Johnson County, Kansas (De Soto)
Barbara J. Gregg
Clerk, Board of Education
Unified School District No. 232
Johnson County, Kansas (De Soto)

Doc. No. 024632

(Published in the Kansas Register December 23, 1999.)

**Summary Notice of Bond Sale
City of Oberlin, Kansas
\$152,000**

General Obligation Bonds, Series 2000

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

Sealed Bids

Subject to the notice of bond sale dated December 16, 1999, sealed bids will be received by the clerk of the City of Oberlin, Kansas (the issuer), on behalf of the governing body at #1 Morgan Drive, Oberlin, KS 67749, until 5 p.m. December 30, 1999, for the purchase of \$152,000 principal amount of General Obligation Bonds, Series 2000. No bid of less than 100 percent of the principal amount of the bonds will be considered.

Bond Details

The bonds will consist of a single fully registered bond in the denomination equal to the amount of principal

(continued)

stated to be paid pursuant to the amortization schedule (the authorized denomination). The bonds will be dated as of January 15, 2000 (the dated date), and will become due in principal installments on January 15 in the years as follows:

Year	Principal Amount
2000	\$16,888.89
2001	16,888.89
2002	16,888.89
2003	16,888.89
2004	16,888.89
2005	16,888.89
2006	16,888.89
2007	16,888.89
2008	16,888.89
2009	16,888.89

The issuer has received an offer to purchase the bonds at 100 percent of the principal amount with an interest rate of 0 percent per annum; therefore, no interest will accrue on the bonds.

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 \$3,040 (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 15, 2000, to or at such bank or trust company in the contiguous United States as may be specified by the successful bidder, or elsewhere at the expense of the successful bidder.

Assessed Valuation and Indebtedness

The equalized assessed tangible valuation for computation of bonded debt limitations for the year 1999 is \$8,163,784. The total general obligation indebtedness of the issuer as of the date of the bonds, including the bonds being sold but excluding temporary notes to be retired in conjunction therewith, is \$1,945,700.

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) 475-2217.

Dated December 16, 1999.

City of Oberlin, Kansas

State of Kansas

Secretary of State

Executive Appointments

Executive appointments made by the Governor, and in some cases by other state officials, are filed with the Secretary of State's office. A complete listing of Kansas state agencies, boards and commissions are included in the Kansas Directory, published by the Secretary of State. The directory also is available on the Secretary of State's website at www.kssos.org. The following appointments, which are effective immediately unless otherwise specified, were recently filed with the Secretary of State:

District Judge, 8th Judicial District, Division 4

Steve Hornbaker, Geary County Courthouse, 139 E. 8th, Junction City, 66441. Succeeds George F. Scott.

Leavenworth County Register of Deeds

Stacy Driscoll, Leavenworth County Courthouse, 300 Walnut, Leavenworth, 66048. Term expires when a successor is elected and qualifies according to law.

Saline County Clerk

Donald R. Merriman, Saline County Courthouse, 300 W. Ash, Salina, 67401. Term expires when a successor is elected and qualifies according to law. Succeeds Shirley Jacques.

Advisory Committee on Hispanic Affairs

Deborah M. Ortega, 1414 W. 21st Terrace, Lawrence, 66046. Term expires June 30, 2000. Succeeds Lara Lehman, resigned.

Information Network of Kansas

Steven W. Brown, 203 Greenway Road, Salina, 67402. Term expires September 30, 2002. Succeeds Thomas Adrian.

Kansas Pet Animal Advisory Board

Dr. Patricia Stewart, 5006 Coachmen Road, Manhattan, 66502. Term expires June 30, 2001. Succeeds Scott Mickelsen, resigned.

Commission on Travel and Tourism

Bob W. Barker, P.O. Box 2147, Hutchinson, 67504. Term expires September 30, 2002. Succeeds Joe Hedrick.

Larry D. Berg, 12 Plymouth Drive, Colby, 67701. Term expires September 30, 2002. Succeeds Marilyn Dobski.

Barbara Hansen, 1223 N. Rock Road, Building G, Suite 200, Wichita, 67206. Term expires September 30, 2002. Reappointed.

Patty E. Markley, 2230 W. 79th Terrace, Shawnee Mission, 66208. Term expires September 30, 2002. Succeeds Gerald Cook.

Michael Pickering, Route 1, Box 156, Lincoln, 67455. Term expires September 30, 2002. Succeeds Patricia Altwegg, resigned.

Terry Tietjens, 1105 N. Buckeye, Abilene, 67410. Term expires September 30, 2002. Reappointed.

Ron Thornburgh
Secretary of State

State of Kansas

State Corporation Commission

Notice of Motor Carrier Hearings

The following motor carriers have filed various applications and are scheduled for hearing at 9:30 a.m. January 11 before the commission at its offices, 1500 S.W. Arrowhead Road, Topeka, as indicated below. All applications listed herein are for statewide authority, unless otherwise stated. This list does not include cases which have been continued from earlier assigned hearing dates for which parties of record have received notice.

Requests to inspect and copy the notices provided to the parties and questions in regard to these hearings should be addressed to the State Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, 66604-4027, (785) 271-3225 or 271-3151. The presiding officer for these matters is Paula Lentz, assistant general counsel, (785) 271-3279. Anyone needing special accommodations should give notice to the commission 10 days prior to the scheduled hearing date.

Attention should be directed to Kansas Administrative Regulation 82-1-228, rules of practice and procedure before the commission.

Applications for Certificate of Public Service:

Anthony V. Bell and Susan M. Bell, dba T & S Mobile Home Movers, 3926 S.E. 37th, Topeka, KS 66605; MC ID No. 157378; Manufactured mobile homes.

Don Butler Enterprises, Inc., 4119 Charleston, Hutchinson, KS 67502; MC ID No. 157376; Joseph Weiler, Attorney; General commodities (except Classes A and B explosives and household goods).

C.L. Trucking Co., Inc., 3219 W. May, Wichita, KS 67213; MC ID No. 150076; Joseph Weiler, Attorney; General commodities (except Classes A and B explosives and household goods).

William D. Dauner, dba Dauner Trucking, 50466 S.E. 90th St., Sawyer, KS 67134; MC ID No. 157991; General commodities (except household goods and hazardous materials).

Ronald C. Lane and Kevin M. Lane, dba Lane Farms, 14728 K-16, Winchester, KS 66097; MC ID No. 158013; William Barker, Attorney; General commodities (except household goods and hazardous materials).

Daniel E. McAmoil, dba Prairie View Farms, Route 1, Box 154, Penokee, KS 67659; MC ID No. 157381; William Barker, Attorney; General commodities (except household goods and hazardous materials).

Stuart McDowell, dba Brookes Body Shop, 1215 N. 1st, Mulvane, KS 67110; MC ID No. 157379; Automobiles.

Christopher A. Morse, dba Morse Hauling, 1313 17th St., Wamego, KS 66547; General commodities (except household goods and hazardous waste).

Ranch Hand Auto & Truck Repair, Inc., 3500 N.E. 15th St., Grantville, KS 66429; MC ID No. 157382; Wrecked, disabled, repossessed and replacement vehicles.

Harold G. Schiltz, 101 S. Illinois, Selden, KS 67757; MC ID No. 158000; General commodities (except household goods and hazardous materials).

Applications for Certificate of Convenience and Necessity:

Richard E. Drennon, dba R & D Specialized Transportation Service, 3326 S.E. Pennsylvania Ave., Topeka, KS 66605-2662; MC ID No. 158031; Passengers and their baggage.

Juvenile Transport Specialists, L.L.C., Route 1, Box 29B, Buffalo, KS 66717; MC ID No. 157380; Joseph Weiler, Attorney; Passengers and their baggage.

Application for Extension of Certificate of Public Service:

Dependable Trans., Inc., 2200 E. 15th St., Ottawa, KS 66067; MC ID No. 101560; Clyde Christey, Attorney; General commodities (except household goods and explosives).

Application for Transfer of Certificate of Public Service:

Gary and Donna Skidmore, dba Skidmore Trucking, 304 S. Quivira, Montezuma, KS 67867; MC ID No. 152136, to: Skidmore Trucking, LLC, 304 S. Quivira, Montezuma, KS 67867; William Barker, Attorney; General commodities (except household goods, Classes A and B explosives and hazardous materials).

Application for Transfer of Certificate of Convenience and Necessity:

John D. Meade, 406 S.E. Market, Topeka, KS 66607-2058, MC ID No. 157331, to: John D. Meade, dba Blue Goose Shuttle, 406 S.E. Market, Topeka, KS 66607-2058; Passengers in charter party service.

Application for Abandonment of Certificate of Public Service:

Overmiller Stock Farms, Inc., Route 2, Box 140, Smith Center, KS 66967; MC ID No. 153879.

Application for Abandonment of Certificate of Convenience and Necessity:

Safe Ride Services, Inc., 9525 E. Doubletree Ranch Road 110, Scottsdale, AZ 85258; MC ID No. 217497.

Jacquelyn S. Miller
Administrator
Transportation Division

Doc. No. 024633

State of Kansas

Secretary of State

Permanent Administrative
Regulations

Article 35.—CENSUS ADJUSTMENT

7-35-1. Adjustment of federal census data. Before July 31 of the year following the federal decennial census, responses from student and military questionnaires shall be used by the secretary of state to compute the number of persons to be added to or subtracted from each election precinct's population totals from the decennial census conducted by the U.S. bureau of the census. (Authorized by K.S.A. 11-305; implementing Article 10, Section 1 of the Kansas Constitution and K.S.A. 11-303; effective Dec. 11, 1989; amended, T-7-9-13-99, Sept. 13, 1999; amended Jan. 7, 2000.)

7-35-2. Questionnaires. Questionnaires for all students enrolled at a college or university in the state of Kansas and for military personnel stationed and located in the state of Kansas during the decennial census year shall be provided by the secretary of state. Completed questionnaires shall be returned by college and university

(continued)

officials and military officers to the secretary of state before June 1 of the decennial census year. (a) The questionnaires shall require each college or university student and each military person to provide all information deemed necessary by the secretary of state to determine the person's residency for the purpose of conducting the census adjustment. The questionnaires shall also provide for racial and ethnic information similar to that provided on the federal census questionnaire.

(b) If the military person has already completed a decennial census adjustment questionnaire as a student at a Kansas college or university, the person shall state the name of that college or university.

(c) Each college or university in Kansas shall provide to the secretary of state a list of names and addresses of all students enrolled during the spring semester of the decennial census year. Every military officer in charge of more than 50 persons in the military service shall provide to the secretary of state a list of names and addresses of all military personnel under that officer's command on April 1 of the decennial census year. The lists shall not be used to determine the permanent residence of any individual.

(d) Questionnaires shall be distributed to all college and university students enrolled for the spring semester of the decennial census year by officials at each institution who shall be designated by their respective administrators. Questionnaires shall be distributed to all military personnel by officers who shall be designated by their respective administrators. The questionnaires shall be completed on or after April 1 whenever possible, to coincide with the official census date of the U.S. bureau of the census, or at another time that is administratively expedient but not later than May 1. In cases in which individual military personnel are unavailable to fill out their questionnaires on April 1 because their military duties require them to be temporarily absent from the installation to which they are assigned, the military officer responsible for providing census adjustment data to the secretary of state may provide these persons with an opportunity to complete their questionnaires at some time after April 1 but not later than May 1. (Authorized by K.S.A. 11-305; implementing Article 10, Section 1 of the Kansas Constitution and K.S.A. 11-303; effective Dec. 11, 1989; amended, T-7-9-13-99, Sept. 13, 1999; amended Jan. 7, 2000.)

Ron Thornburgh
Secretary of State

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State of Kansas

Department on Aging Permanent Administrative Regulations

Article 2.—GRANTS AND CONTRACTS

26-2-4. Revision of approved area plans, grants, or contracts. (a) The area agency may submit a written request for revision of an area plan, grant, or contract to the secretary for approval.

(b) A revision of an approved area plan, grant, or contract may be approved by the secretary, if the secretary determines that the revision is consistent with the state plan, program priorities, or mandates and will not adversely affect the provision of services to older persons.

(c) Notification of action taken on the request shall be provided by the secretary within 30 days of the date of receiving a request for revision.

(d) The area agency shall submit a request for revision of an area plan, grant, or contract to the secretary before the final 60 days during which the plan, grant, or contract is in effect. (Authorized by and implementing K.S.A. 1998 Supp. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended, T-86-48, Dec. 18, 1985; amended May 1, 1986; amended Jan. 7, 2000.)

26-2-7. Closeout, suspension, or termination of a grant, subgrant, contract, or subcontract. (a) The department and each recipient of department funds may close out, suspend, or terminate a grant, subgrant, contract, or subcontract in accordance with the provisions of 45 C.F.R. 74.61, 74.62 and 74.71, as in effect on October 1, 1998, which are adopted by reference, with the following exceptions:

(1) Each reference in the federal regulations to "HHS" shall be deemed to refer to the department when the department is a party in an action with the grantee or contractor and refers to the grantee when the grantee or contractor is a party in an action with the subgrantee.

(2) Each reference in the federal regulations to "the Federal Government" shall be deemed to refer to the department or grantee of the department.

(3) Each reference in the federal regulations to "Federal" shall be deemed to refer to "state."

(b) 45 C.F.R. Part 76, as in effect on October 1, 1998, is adopted by reference, and any amounts due the federal government shall constitute a debt or debts owed by the grantee to the federal government and shall, if not paid upon demand, be recovered from the grantee or its successor or assignees by setoff or other action as provided by law. (Authorized by and implementing K.S.A. 1998 Supp. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended, T-86-48, Dec. 18, 1985; amended May 1, 1986; amended Jan. 7, 2000.)

26-2-9. Audit requirements. (a) Each area agency on aging and each entity that receives older Americans act funds or state general funds, or both, through grants or contracts to provide senior-related services through the department or general fund grants equal to or in excess of \$300,000 per year shall obtain an annual financial and compliance audit made by a certified public accountant. Each entity receiving less than \$300,000 per year in federal funds or state general funds, or both, shall obtain a financial and compliance audit, program-specific audit, or limited-scope audit approved by the department, at the direction of the secretary. For purposes of these regulations, the following requirements shall be met:

(1) A program-specific audit shall be performed according to any program-specific audit guide available from the appropriate federal agency or, if no guide is available, according to generally accepted government

auditing standards used to perform an annual financial and compliance audit.

(2) A limited-scope audit using agreed-upon procedures engagements shall be conducted in accordance with generally accepted auditing standards or attestation standards addressing one or more compliance requirements.

(b) Audits shall be made in accordance with the following authorities, whichever is required for the audited program by federal or state law or by the terms of the grant or contract:

(1) Office of management and budget circular No. A-133, "audits of states, local governments, and non-profit organizations," dated June 24, 1997, as hereby adopted by reference;

(2) office of management and budget circular no. A-110, "uniform administrative requirements for grants and agreements with institutions of higher education, hospitals, and other non-profit organizations," as revised on August 29, 1997, as hereby adopted by reference;

(3) office of management and budget circular no. A-87, "cost principles for state, local, and Indian tribal governments," as revised on August 29, 1997, as hereby adopted by reference;

(4) 45 C.F.R. Part 74, as in effect on October 1, 1998, as hereby adopted by reference;

(5) 45 C.F.R. Part 92, as in effect on October 1, 1998, as hereby adopted by reference;

(6) 45 C.F.R. Part 95, as in effect on October 1, 1998, as hereby adopted by reference;

(7) 31 U.S.C. 7501 through 7507, as in effect on July 1, 1996, as hereby adopted by reference;

(8) the older Americans act of 1965, 42 U.S.C. 3001 through 3058, as hereby adopted by reference;

(9) 45 C.F.R. Part 1321, as in effect on October 1, 1998, as hereby adopted by reference;

(10) office of management and budget circular no. A-122, "cost principles for non-profit organizations," dated June 1, 1998, as hereby adopted by reference; and

(11) office of management and budget circular no. A-102, "grants and cooperative agreements with state and local governments," as revised on August 29, 1997, as hereby adopted by reference.

(c) The audit report shall contain a reconciliation of the audited financial statements with the final financial reports submitted by the area agency to the department.

(d) The audit shall be completed within six months after the end of the agency's fiscal year.

(e) Each recipient of older Americans act or state general funds shall submit a copy of its audit report to either the area agency or the department, whichever is the granting or contracting organization, within 30 days after receipt of the audit report. If submitted to the area agency, the area agency shall submit a copy to the department within seven days after receipt of the audit report.

(f) The cost of the audit shall be disallowed and the grant or contract may be suspended if any of the following conditions is met:

(1) An audit report is incomplete.

(2) A schedule of findings, reportable conditions, or questions of costs exist that are not resolved within six months.

(3) An audit report is not in accordance with the applicable authorities listed in subsection (b).

(g) An audit report submitted to the secretary after its deadline shall be considered incomplete unless the area agency has received written authorization from the secretary granting an extension within which to submit the audit. In order to obtain authorization, the area agency shall send a written request for an extension to the secretary, which shall include a statement signed by both the area agency's executive director and the agency's chair of the board of directors, identifying circumstances necessitating the extension. The request may be approved or disapproved by the secretary.

(h) Violation or noncompliance with any requirements in this regulation may invoke the penalty clause in subsection (k) at the discretion of the secretary.

(i) The right to require or to conduct additional audits of the records of either an area agency or of a non-state entity that receives older Americans act funds or state general funds through grants or contracts and to examine the audit work papers of the independent auditor shall be reserved by the department.

(j) Any area agency on aging may direct the audits of its subgrantees and contractors including issuing the request for bid and selecting the audit firm and may use area agency funds if all of the following conditions are met:

(1) The notification of grant award or contract issued by the area agency on aging contains a condition in which both the area agency and recipient of funds have agreed that the audit will be administered by the area agency on aging.

(2) The department on aging has not already directed the recipient to complete an audit for that fiscal year.

(3) The department grant or contract conditions do not require otherwise.

(k) The penalties for submitting incomplete or late audit reports, or for failing to submit audit reports that comply with applicable authorities shall be determined by the secretary. These penalties may include temporary or permanent loss of administrative funds or exclusion from consideration for future grants or contracts. (Authorized by and implementing K.S.A. 1998 Supp. 75-5908; effective, T-89-14, April 26, 1988; effective Oct. 1, 1988; amended Jan. 7, 2000.)

Article 3.—PROCUREMENT

26-3-1. Contracting and granting practices and requirements. (a) No department grantee or contractor shall make a subgrant or contract involving funds made available by the department until an area plan or other document detailing the proposed use or uses of the funds has been approved by the department for a specific time period and the secretary has issued a notification of grant award or contract to the grantee or contractor.

(b) In making a subgrant or contract, each department grantee or contractor shall use the funds awarded under a department-approved area plan for those services that are consistent with service definitions issued and provided by the department and the identified, priority service needs within the PSA.

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(c) Any entity that receives funding through a program, except the medicaid program, administered by the secretary shall be selected on a competitive basis, unless a non-competitive selection basis is permitted by some other provision of law. For purposes of this subsection (c), "entity" shall include any department grantee or contractor, a subgrantee or subcontractor of a department grantee or contractor, and any entity providing services under any arrangement with a subgrantee or subcontractor.

(d) Provider selection standards. The service provider selection process for grants, contracts, subgrants, and subcontracts required by subsection (c) above shall meet the following requirements:

(1) For services provided under a state-funded program, the provider selection process used shall encourage free and open competition among qualified, responsible providers by, at a minimum, meeting the following requirements:

(A) Providing potential providers with a notice of service needs describing the required services, the service standards, the minimum vendor qualifications, and the process for submitting a bid or an offer to provide the services; and

(B) identifying and avoiding both potential and actual conflicts of interest.

(2) For services provided under a federally funded program, the provider selection process shall satisfy the competition and procurement standards and procedures required by the federal law applicable to the federal program.

(3) For services provided under a program that is funded with federal and state funds, the provider selection process shall satisfy the competition and procurement standards and procedures required by the federal law applicable to the program.

(e) Older Americans act service contracts. When the department makes a contract with or a grant to an area agency under the older Americans act to provide services to older persons within a PSA, the following provisions shall apply:

(1) The area agency may enter into a contract with a unit of local government or with a non-profit organization to provide services without the prior, written approval of the secretary. For purposes of this section, a "non-profit" organization is an organization that has received a determination letter from the internal revenue service that qualifies it for tax-exempt status under the internal revenue code.

(2) The area agency shall not enter into a contract with an individual or a for-profit organization to provide services until the area agency has requested and received written approval from the secretary to enter into the contract. Requests for contract approvals shall be approved if accompanied by a notarized statement from the area agency's executive director that the contract was procured according to competition and procurement standards and procedures required by the older Americans act and does not involve a conflict of interest. Within 30 days after the date on which the request was received, the area agency shall be notified by the department if the request is approved or disapproved.

(3) An area agency whose older Americans act for-profit service provider terminates the service contract before the end of the contract's term for any reason may enter into a replacement contract with a different for-profit provider for the same services without using the area agency's normal

competitive process and without requesting the prior approval of the secretary required by this regulation, if the area agency, within 30 days after the effective date of the replacement contract, sends the secretary a written notice describing the following:

(A) The circumstances of the contract termination;

(B) the efforts made to obtain replacement services; and

(C) an assurance that the replacement contract does not involve a conflict of interest.

(f) Each area agency shall retain its grants, subgrants, contracts, and subcontracts with service providers in retrievable form for at least six years after the date on which the subgrant, contract, or subcontract ended. Upon request made during the six-year retention period, an area agency shall make its grants, contracts, and subcontracts available for review by representatives of the department or its auditors, the division of legislative post audit, or the United States department of health and human services. (Authorized by and implementing K.S.A. 1998 Supp. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended, T-86-48, Dec. 18, 1985; amended, T-89-14, April 26, 1988; amended Oct. 1, 1988; amended Jan. 7, 2000.)

26-3-3. (Authorized by and implementing K.S.A. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended, T-86-34, Oct. 23, 1985; amended, T-86-48, Dec. 18, 1985; amended May 1, 1986; revoked Jan. 7, 2000.)

26-3-5. Revision of approved subgrants or contracts.

(a) A subgrantee, contractor or subcontractor shall submit to an area agency a written request for revision of a subgrant or contract.

(b) Any area agency may agree to a revision of a subgrant or a contract with a non-profit public or private organization, if the area agency determines that the revision is consistent with state and area plans and will not adversely affect the provision of services to older persons in the PSA.

(c) Each area agency, before agreeing to a revision of a contract with a for-profit organization, shall submit the revision to the department for its approval. The request shall include a statement that the area agency has determined that the proposed revision is consistent with the state and area plans and will not adversely affect the provision of services to older persons in the PSA. (Authorized by and implementing K.S.A. 1998 Supp. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended May 1, 1986; amended, T-89-14, April 26, 1988; amended Oct. 1, 1988; amended Jan. 7, 2000.)

Article 8.—SENIOR CARE ACT

26-8-4. (Authorized by K.S.A. 75-5928, 75-5931; implementing K.S.A. 75-5928, 75-5931 and 75-5933; effective, T-26-10-17-89, Oct. 17, 1989; effective, T-26-7-30-91, July 30, 1991; effective Aug. 10, 1992; amended, T-26-7-22-93, July 22, 1993; amended Sept. 7, 1993; amended Nov. 7, 1994; amended July 28, 1995; revoked Jan. 7, 2000.)

Connie Hubbell
Secretary of Aging

Doc. No. 024609

State of Kansas

Kansas Insurance Department

Permanent Administrative
Regulations

Article 4.—ACCIDENT AND HEALTH INSURANCE

40-4-42. Definitions; external review. (a) "Authorized representative" means any of the following:

(1) A person to whom the insured has given express written consent to represent the insured in an external review, unless the request for external review involves either of the following conditions:

(A) A situation exists in which the insured has an emergency medical condition and the time frame for standard external review pursuant to K.A.R. 40-4-42d would result in a serious impairment to bodily functions, serious dysfunction of a bodily organ or part, or would place a person's health in serious jeopardy; or

(B) express written consent cannot be obtained in a timely manner or is impracticable;

(2) a person authorized by law to provide substituted consent for an insured; or

(3) a family member of the insured or the insured's treating health care professional if the insured is unable to provide consent.

(b) "Business day" is a day that is not a Saturday, Sunday, or legal holiday. A legal holiday is either of the following:

(1) Any day designated as a holiday by the congress of the United States or by the Kansas legislature; or

(2) any additional day that is designated by the governor in a particular year, on which state offices are closed in observance of a holiday or a holiday season.

(c) "Certification" means a determination by an insurer or its designee utilization review organization that an admission, availability of care, continued stay, or other health care service has been reviewed and, based on the information provided, satisfies the insurer's requirements for medical necessity, appropriateness, health care setting, level of care, and effectiveness.

(d) "Clinical peer" means a physician or other health care professional who holds a nonrestricted license in a state of the United States and, for a physician, who holds a current certification by a recognized American medical specialty board in the same or similar specialty that typically manages the medical condition, procedure, or treatment under review.

(e) "Clinical review criteria" means the written screening procedures, decision abstracts, clinical protocols, and practice guidelines used by an insurer to determine the necessity and appropriateness of health care services.

(f) "Commissioner" means the commissioner of insurance of the state of Kansas.

(g) "Covered benefits" or "benefits" means those health care services to which an insured is entitled under the terms of a health benefit plan.

(h) "Discharge planning" means the formal process for determining, before discharge from a facility, the coordination and management of the care that a patient receives following discharge from a facility.

(i) "Emergency services" means health care items and services furnished or required to evaluate and treat an emergency medical condition as defined in L. 1999, Ch. 162, Sec. 6, and amendments thereto.

(j) "External review" means an independent review of adverse decisions by an entity designated as an external review organization as defined in L. 1999, Ch. 162, Sec. 6, and amendments thereto.

(k) "Facility" means an institution providing health care services or a health care setting, including the following:

- (1) Hospitals and other licensed inpatient centers;
- (2) ambulatory surgical or treatment centers;
- (3) skilled nursing centers;
- (4) residential treatment centers;
- (5) diagnostic, laboratory, and imaging centers; and
- (6) rehabilitation and other therapeutic health settings.

(l) "Final adverse decision" means an adverse decision, as defined in L. 1999, Ch. 162, Sec. 6, and amendments thereto, that has been upheld by an insurer, or its designee utilization review organization, at the completion of the insured's internal grievance procedures. When the term "adverse decision" is used in K.A.R. 40-4-42 through 40-4-42g, it shall mean the same as "final adverse decision."

(m) "Health care professional" means a physician or other health care practitioner licensed, accredited, or certified to perform specified health services consistent with state law.

(n) "Health care provider" or "provider" means a health care professional or a facility.

(o) "Health care services" means services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.

(p) "Prospective review" means a utilization review conducted before an admission or a course of treatment.

(q) "Retrospective review" means a utilization review of medical necessity conducted after services have been provided to a patient. This term shall not include the review of a claim that is limited to an evaluation of reimbursement levels, veracity of documentation, accuracy of coding, or adjudication for payment.

(r) "Utilization review" means the evaluation of the necessity, appropriateness, and efficiency of the use of health care services, procedures, and facilities as defined in K.S.A. 40-22a01, et seq., and amendments thereto.

(s) "Utilization review organization" means any entity that conducts a utilization review and determines the certification of an admission, extension of stay, or other health care service, as defined in K.S.A. 40-22a01, et seq., and amendments thereto.

This regulation shall take effect on and after January 1, 2000. (Authorized by K.S.A. 40-103 and L. 1999, Ch. 162, § 9; implementing L. 1999, Ch. 162, §§ 6-9; effective Jan. 7, 2000.)

40-4-42a. Notice requirements of adverse decisions. (a) A written notification of an adverse decision shall be printed in clear, legible type and in at least 12-point type.

(b) The notice of adverse decision shall explain the principal reason for the adverse decision in language eas-

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ily understood by a person with an eighth-grade reading level. An insurer may meet this requirement by omitting medical terminology that describes an insured's medical condition. The notice shall include the proper names of all impacted parties, telephone numbers, and addresses.

(c) The notice of adverse decision shall explain how an insured, as defined in L. 1999, Ch. 162, Sec. 6, and amendments thereto, can initiate an external review with the commissioner. If an insured is eligible for an expedited review due to an emergency medical condition as defined in L. 1999, Ch. 162, Sec. 6, and amendments thereto, then the notice shall explain how an insured can initiate an expedited review.

(d) The notice shall explain that an insured may file for an external review with the commissioner within 90 days of receipt of a final adverse decision. The notice shall also list the Kansas insurance department's toll-free number.

(e) The notice of adverse decision shall describe how the insured can request a written statement of the clinical rationale and clinical review criteria used to make the adverse decision.

This regulation shall take effect on and after January 1, 2000. (Authorized by K.S.A. 40-103 and L. 1999, Ch. 162, § 9; implementing L. 1999, Ch. 162, §§ 6-9; effective Jan. 7, 2000.)

40-4-42b. Preliminary determination by commissioner. (a) Within 10 business days after receiving the written request for external review and all necessary information, a preliminary determination shall be completed by the commissioner. The insured, the treating physician or insured's authorized representative or health care provider acting on behalf of the insured, and the insurer or health insurance plan shall be notified by the commissioner in writing of any of the following:

(1) If the request for external review is complete and has been accepted;

(2) If the request for external review is not complete; or

(3) if the request for external review is not accepted.

(b) Preliminary determination by the commissioner shall be to determine the following:

(1) If the individual is or was an insured in the insurance plan at the time the health care service was requested or, in the case of a retrospective review, was an insured in the insurance plan at the time the health care service was provided;

(2) if the health care service that is the subject for the adverse decision reasonably appears to be a covered service under the insured's insurance plan;

(3) if the insured has exhausted all available internal review procedures provided by the health insurance plan or insurer, unless the insured has an emergency medical condition as defined in L. 1999, Ch. 162, Sec. 6, and amendments thereto, in which case an expedited procedure is used;

(4) if the insured has received an adverse decision as defined in L. 1999, Ch. 162, Sec. 6(a), and amendments thereto, and K.A.R. 40-4-42(1);

(5) if the insured has not exhausted all internal review procedures, but is entitled to external review pursuant to L. 1999, Ch. 162, Sec. 7, and amendments thereto; and

(6) if the insured has provided all the information and forms required by the commissioner that are necessary to process and external review request.

(c) If the request for external review is accepted, the following steps shall be taken by the commissioner:

(1) Assign an independent review organization to conduct the external review that has been approved pursuant to L. 1999, Ch. 162, Secs. 6 and 8, and amendments thereto, and K.A.R. 40-4-42e; and

(2) notify the insured, the treating physician or health care provider acting on behalf of the insured or the insured's authorized representative, and the insurer or health insurance plan in writing that the request has been accepted for external review and provide the name, address, and telephone number of the external review organization who has been assigned to conduct the external review.

(d) If the request for external review is not complete, the insured or the insured's authorized representative shall be informed by the commissioner of the information or materials needed to make the request complete.

(e) If the request for external review is not accepted, the insured, the treating physician or health care provider acting on behalf of the insured or the insured's authorized representative, and the insurer or health insurance plan shall be informed by the commissioner, in writing, of the reasons for its nonacceptance.

This regulation shall take effect on and after January 1, 2000. (Authorized by K.S.A. 40-103 and L. 1999, Ch. 162, § 9; implementing L. 1999, Ch. 162, §§ 6-9; effective Jan. 7, 2000.)

40-4-42c. Standard external review procedures. (a) At the time a request for external review is accepted pursuant to K.A.R. 40-4-42b, an external review organization that has been approved pursuant to L. 1999, Ch. 162, Sec. 8, and amendments thereto, shall be assigned by the commissioner to conduct the external review.

(b) In reaching a decision, the assigned external review organization shall not be bound by any decisions or conclusions reached during the insurer's utilization review process as set forth in K.S.A. 40-22a01 and L. 1999, Ch. 162, Secs. 6 through 9, and amendments thereto, or the insurer's internal grievance process.

(c) Within seven business days after the date of receipt of the notice provided in K.A.R. 40-4-42b, the insurer or its designee utilization review organization, or the insured or the insured's authorized representative may provide the assigned external review organization with additional documents and information that they wish the assigned external review organization to consider in making its decision.

(d) Failure by the insurer to provide the documents and information within the time specified in L. 1999, Ch. 162, Sec. 7(g), shall not delay the conduct of the external review.

(e)(1) The assigned external review organization shall review all of the information and documents received pursuant to subsection (c) of this regulation and any other information submitted in writing by the insured or the insured's authorized representative pursuant to K.A.R. 40-4-42b.

(2) Upon receipt of any information submitted by the insured or the insured's authorized representative pursuant to K.A.R. 40-4-42b, the information shall be forwarded to the external review organization and the insurer.

(f)(1) Upon receipt of the information required to be forwarded pursuant to paragraph (e)(2) of this regulation, the insurer may reconsider its adverse decision that is the subject of the external review.

(2) Reconsideration by the insurer of its adverse decision as provided in paragraph (f)(1) of this regulation shall not delay or terminate the external review.

(3) The external review may be terminated only if the insurer reconsiders its adverse decision and decides to provide coverage or payment for the health care service that is the subject of the adverse decision.

(4)(A) Immediately upon making the decision to reverse its adverse decision as provided in paragraph (f)(3) of this regulation, the insurer shall notify, in writing, the insured or the insured's authorized representative, the assigned external review organization, and the commissioner of the insurer's decision.

(B) The assigned external review organization shall terminate the external review upon receipt of the notice from the insurer sent pursuant to paragraph (f)(4)(A) of this regulation.

(g) In addition to the documents and information provided pursuant to subsection (c) of this regulation, the assigned external review organization, to the extent that the documents or information is available, shall consider the following in reaching a decision:

- (1) The insured's pertinent medical records;
- (2) the attending health care professional's recommendation;
- (3) consulting reports from appropriate health care professionals and other documents submitted by the insurer, the insured, the insured's authorized representative, or the insured's treating provider;
- (4) the terms of coverage under the insured's insurance plan with the insurer, to ensure that the external review organization's decision is not contrary to the terms of coverage under the insured's insurance plan with the insurer;
- (5) the most appropriate practice guidelines, including generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government and national or professional medical societies, boards, and associations; and
- (6) any applicable clinical review criteria developed and used by the insurer or its designee utilization review organization.

(h) Within 30 business days after the date of receipt of the request for external review, the assigned external review organization shall provide written notice of its decision to uphold or reverse the adverse decision to the following:

- (1) The insured or the insured's authorized representative;
 - (2) the insurer; and
 - (3) the commissioner.
- (i) The external review organization shall include the following in the notice sent pursuant to subsection (h) of this regulation:

(1) A general description of the reason for the request for external review;

(2) the date the external review organization received the assignment from the commissioner to conduct the external review;

(3) the date the external review was conducted;

(4) the date of the external review organization's decision;

(5) the principal reason or reasons for the external review organization's decision;

(6) the rationale for the external review organization's decision; and

(7) references, as needed, to the evidence or documentation, including the practice guidelines that the external review organization considered in reaching its decision.

This regulation shall take effect on and after January 1, 2000. (Authorized by K.S.A. 40-103 and L. 1999, Ch. 162, § 9; implementing L. 1999, Ch. 162, §§ 6-9; effective Jan. 7, 2000.)

40-4-42d. Expedited external review. (a) If the insured has an emergency medical condition, as defined in L. 1999, Ch. 162, Sec. 6, and amendments thereto, and receives an adverse decision involving that medical condition, the insured or the insured's authorized representative may make a written request for an expedited review with the commissioner at the time the insured receives the adverse decision.

(b) At the time the commissioner receives a request for an expedited external review, a preliminary determination shall immediately be completed by the commissioner to determine the following:

(1) If the individual is or was an insured in the insurance plan at the time the health care service was requested; and

(2) if the health care service that is the subject of the adverse decision reasonably appears to be a covered service under the insured's health insurance plan.

(c) At the time the commissioner completes the preliminary determination as provided in subsection (b) of this regulation, the following actions shall immediately be taken by the commissioner:

(1) Assign an external review organization that has been approved pursuant to L. 1999, Ch. 162, Secs. 6 and 8, and amendments thereto, to conduct the review and to make a decision to uphold or reverse the adverse decision; and

(2) send a copy of the request for the review to the insurer or health plan that made the adverse decision that is the subject of the request and notify the insured, the treating physician or health care provider, and the insurer or health plan of the name, address, and telephone number of the external review organization assigned to conduct the expedited external review.

(d) In reaching a decision, the assigned external review organization shall not be bound by any decision or conclusions reached during the insurer's utilization review process as set forth in K.S.A. 40-22a01 and L. 1999, Ch. 162, Secs. 6 through 9, and amendments thereto, or the insurer's internal grievance process.

(e) At the time the insurer receives the notice pursuant to paragraph (c)(2), the insurer or its designee utilization

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review organization shall provide or transmit all necessary documents and information that were considered in making the adverse decision to the assigned external review organization by electronic means, by telephone or facsimile, or by any other available expeditious method by 5:00 p.m. central standard time of the next business day after receiving notice pursuant to paragraph (c)(2) of this regulation.

(f) In addition to the documents and information provided or transmitted pursuant to subsection (e) of this regulation and to the extent that the information or documents are available, the assigned external review organization shall consider the following in reaching a decision:

- (1) The insured's pertinent medical records;
- (2) the attending health care professional's recommendation;
- (3) consulting reports from appropriate health care professionals and any other documents submitted by the insurer, the insured, the insured's authorized representative, or the insured's treating provider;
- (4) the terms of the coverage under the insured's insurance plan with the insurer, to ensure that the external review organization's decision is not contrary to the terms of coverage under the insured's health benefit plan with the insurer;
- (5) the most appropriate practice guidelines, including generally accepted practice guidelines, evidence-based practice guidelines, and any other practice guidelines developed by the federal government and national or professional medical societies, boards, and associations; and
- (6) any applicable clinical review criteria developed and used by the insurer or its designee utilization in making adverse decisions.

(g)(1) As expeditiously as the insured's medical condition or circumstances require, but not more than seven business days after the date of receipt of the request for an expedited external review, the assigned external review organization shall perform the following:

(A) Make a decision to uphold or reverse the adverse decision; and

(B) notify the insured or the insured's authorized representative, the insurer, and the commissioner of the decision.

(2) If the notice provided pursuant to paragraph (g)(1) of this regulation was not in writing, within two days after the date of providing that notice, the assigned external review organization shall perform the following:

(A) Provide written confirmation of the decision to the insured or the insured's authorized representative, the insurer, and the commissioner; and

(B) include the information set forth in K.A.R. 40-4-42c(h).

(h) An expedited external review shall not be provided for retrospective adverse decisions.

This regulation shall take effect on and after January 1, 2000. (Authorized by K.S.A. 40-103 and L. 1999, Ch. 162, § 9; implementing L. 1999, Ch. 162, §§ 6-9; effective Jan. 7, 2000.)

40-4-42e. Minimum qualifications for external review organizations. (a) To be approved under K.A.R. 40-4-42e and L. 1999, Ch. 162, Secs. 6 through 9, and amend-

ments thereto, to conduct external reviews, an external review organization shall have and maintain written policies and procedures that govern all aspects of both the standard external review process and the expedited external review process set forth in K.A.R. 40-4-42c and K.A.R. 40-4-42d and that include at minimum:

(1) A quality assurance mechanism in place that meets the following criteria:

(A) Ensures that external reviews are conducted within the specified time frames and required notices are provided in a timely manner;

(B) ensures the selection of qualified and impartial clinical peer reviewers to conduct external reviews on behalf of the external review organization and suitable matching of reviewers to specific cases;

(C) ensures the confidentiality of medical and treatment records and clinical review criteria; and

(D) ensures that any person employed by or under contract with the external review organization adheres to requirements of L. 1999, Ch. 162, Secs. 6 through 9, and amendments thereto, and K.A.R. 40-4-42 through 40-4-42g;

(2) a toll-free telephone service to receive, on a 24 hours per day, seven days per week basis, information related to external review that is capable of accepting, recording, or providing appropriate instructions to incoming telephone callers during other than normal business hours; and

(3) an agreement to maintain and provide to the commissioner the information set out in K.A.R. 40-4-42g.

(b) All clinical peer reviewers assigned by an external review organization to conduct external reviews shall be physicians or other appropriate health care providers who meet the following minimum qualifications:

(1) Are qualified and credentialed in the treatment of the insured's medical condition that is the subject of the external review;

(2) are knowledgeable about the recommended health care service or treatment through actual or recent clinical experience that may be based on the following:

(A) The actual treatment of patients with the same or similar medical condition as that of the insured; and

(B) the period of time that has elapsed between the clinical experience and the present;

(3) hold a nonrestricted license in a state of the United States and, for physicians, a current certification by a recognized American medical specialty board in the area or areas appropriate to the subject of the external review; and

(4) have no history of disciplinary actions or sanctions, including loss of staff privileges or any participation restriction that has been taken or is pending by any hospital, governmental agency or unit, or regulatory body, that raises a substantial question as to the clinical peer reviewer's physical, mental, or professional competence, or moral character.

(c) In addition to the requirements set forth in subsection (a) of this regulation, an external review organization shall not own or control, be a subsidiary of, or in any way be owned or controlled by, or exercise control, with any of the following:

(1) An insurance plan;

(2) a national, state, or local trade association of health insurance plans; or

(3) a national, state, or local trade association of health care providers.

(d) In addition to the requirements set forth in subsections (a), (b), and (c) of this regulation, to be approved pursuant to L. 1999, Ch. 162, Sec. 8, and amendments thereto, to conduct an external review of a specified case, neither the external review organization selected to conduct the external review nor any clinical peer review assigned by the external organization to conduct the external review may have a material professional, familial, or financial conflict of interest with any of the following:

(1) The insurer that is the subject of the external review;

(2) the insured whose treatment is the subject of the external review or the insured's authorized representative;

(3) any officer, director, or management employee of the insurer that is the subject of the external review;

(4) the health care provider, the health care provider's medical group, or the independent practice association recommending the health care service or treatment that is the subject of the external review;

(5) the facility at which the recommended health care service or treatment would be provided; or

(6) the developer or manufacturer of the principal drug, device, procedure, or other therapy being recommended for the insured whose treatment is the subject of the external review.

This regulation shall take effect on and after January 1, 2000. (Authorized by K.S.A. 40-103 and L. 1999, Ch. 162, § 9; implementing L. 1999, Ch. 162, §§ 6-9; effective Jan. 7, 2000.)

40-4-42f. External review reporting requirements.

(a) An external review organization assigned pursuant to K.A.R. 40-4-42c and 40-4-42d to conduct an external review shall maintain written records in the aggregate and by health carrier on all requests for external review for which it conducted an external review during a calendar year and submit a report to the commissioner as required in paragraph (b)(1) of this regulation.

(b)(1) Each external review organization required to maintain written records on all requests for external review pursuant to subsection (a) of this regulation for which it was assigned to conduct an external review shall submit to the commissioner, upon request, a report in the format specified by the commissioner.

(2) The report shall include the following, at a minimum, in the aggregate and for each insurer:

(A) The total number of requests for external review;

(B) the number of requests for external review resolved and, of those resolved, the number resolved upholding the adverse decision and number resolved reversing the adverse decision;

(C) the average length of time for resolution;

(D) the number of external reviews pursuant to K.A.R. 40-4-42c(e) that were terminated as the result of a reconsideration by the insurer of its adverse decision after the receipt of additional information from the insured or the insured's authorized representative; and

(E) any other information that the commissioner may request or require.

(c) The external review organization shall retain the written records required pursuant to this regulation for at least five years after the final decision has been issued.

This regulation shall take effect on and after January 1, 2000. (Authorized by K.S.A. 40-103 and L. 1999, Ch. 162, § 9; implementing L. 1999, Ch. 162, §§ 6-9; effective Jan. 7, 2000.)

40-4-42g. Exhaustion of internal review process.

(a)(1) Except as provided in subsection (b) of this regulation, a request for external review pursuant to K.A.R. 40-4-42c and K.A.R. 40-4-42d shall not be made until the insured has exhausted the insurer's internal review process.

(2) An insured shall be considered to have exhausted the insurer's internal review process for the purposes of this regulation if the insured or the insured's authorized representative meets either of the following criteria:

(A) Has filed a request for internal review and received an adverse decision pursuant to the internal review procedures provided by the health insurance plan or insurer; or

(B) except to the extent that the insured or the insured's authorized representative requested or agreed to a delay, has not received a final decision from the insurer within 60 days of seeking the internal review.

(b)(1) A request for external review of an adverse decision may be made before the insured has exhausted the insurer's or health insurance plan's internal grievance procedures, if either of the following circumstances applies:

(A) The insured has a emergency medical condition as defined in L. 1999, Ch. 162, Sec. 6, and amendments thereto.

(B) The insurer agrees to waive the exhaustion requirement.

(2) Notwithstanding paragraph (b)(1), an insured or the insured's authorized representative shall not make a request for an external review of an adverse decision involving a retrospective review decision made pursuant to K.S.A. 40-22a01 and L. 1999, Ch. 162, Secs. 6 through 9, and amendments thereto, until the insured has exhausted the insurer's internal review process.

(c) If the requirement to exhaust the insurer's internal review process is waived under paragraph (b)(1)(B), the insured or the insured's authorized representative may request a standard external review pursuant to K.A.R. 40-4-42d.

This regulation shall take effect on and after January 1, 2000. (Authorized by K.S.A. 40-103 and L. 1999, Ch. 162, § 9; implementing L. 1999, Ch. 162, §§ 6-9; effective Jan. 7, 2000.)

Kathleen Sebelius
Kansas Insurance Commissioner

Doc. No. 024631

State of Kansas

Department of Health
and EnvironmentPermanent Administrative
RegulationsArticle 72.—RESIDENTIAL CHILDHOOD LEAD
POISONING PREVENTION PROGRAM

28-72-1. Definitions. In addition to the definitions contained in L. 1999, Ch. 99, Sec. 3, and amendments thereto, the following definitions shall apply to the residential childhood lead poisoning prevention act.

(a) "Accreditation" means approval by KDHE of a training provider for a training course to train individuals for lead-based paint activities.

(b) "Accredited course" means a course that has been approved by the department for the training of lead professionals.

(c) "Act" means the residential childhood lead poisoning prevention act, and amendments thereto.

(d) "Adequate quality control" means a plan or design that ensures the authenticity, integrity, and accuracy of samples, including dust, soil, and paint chip or paint film samples. Adequate quality control shall also include provisions for representative sampling.

(e) "Audit" means the monitoring by KDHE of a training provider for a training course to ensure compliance with the act and this article.

(f) "Certified elevated blood lead (EBL) level inspector" or "EBL inspector" means a person who meets the requirements of K.A.R. 28-72-6 and who is certified by the department.

(g) "Certified lead abatement supervisor" or "lead abatement supervisor" means an individual who is trained by an accredited training program, as defined in this act, and certified by the department under K.A.R. 28-72-8 to supervise workers, conduct lead abatement activities, and to prepare occupant protection plans and abatement reports.

(h) "Certified lead abatement worker" or "lead abatement worker" means a person who meets the requirements of K.A.R. 28-72-7 and who is certified by the department.

(i) "Certified lead inspector" or "lead inspector" means a person who meets the requirements of K.A.R. 28-72-5 and who is certified by the department. A certified inspector also samples for the presence of lead in dust and soil for the purposes of abatement clearance testing.

(j) "Certified lead professional" means a person who is certified by the department as a lead inspector, elevated blood lead (EBL) level inspector, lead abatement supervisor, lead abatement worker, project designer, or risk assessor.

(k) "Certified project designer" or "project designer" means a person who meets the requirements of K.A.R. 28-72-9 and who has been certified by the department.

(l) "Certified risk assessor" or "risk assessor" means a person who meets the requirements of K.A.R. 28-72-6 and who is certified by the department.

(m) "Child-occupied facility" means a building, or portion of a building, constructed before 1978, visited by

the same child six years of age or under, on at least two different days within any seven consecutive days, if each day's visit lasts at least three hours and the combined weekly visits last at least six hours, and the combined annual visits last at least 60 hours. Child-occupied facilities shall include day care centers, preschools, and kindergarten classrooms.

(n) "Classroom training" means training devoted to lecture, learning activities, small group activities, demonstrations, evaluations, or any combination of these educational activities.

(o) "Clearance levels" means the values that indicate the maximum amount of lead permitted in dust on a surface following completion of each abatement activity. These values shall be 50 micrograms per square foot on uncarpeted floors, 250 micrograms per square foot on windowsills, and 800 micrograms per square foot on window troughs.

(p) "Common area" means a portion of the building that is generally accessible to all occupants. Such an area may include the following:

- (1) Hallways;
- (2) stairways;
- (3) laundry and recreational rooms;
- (4) playgrounds;
- (5) community centers;
- (6) garages; and
- (7) boundary fences.

(q) "Component" or "building component" means specific design or structural elements or fixtures of a building, residential dwelling, or child-occupied facility that are distinguished from each other by form, function, and location. Components shall include the following:

- (1) Interior components, including the following:

- (A) Ceilings;
- (B) crown moldings;
- (C) walls;
- (D) chair rails;
- (E) doors and door trim;
- (F) floors;
- (G) fireplaces;
- (H) radiators and other heating units;
- (I) shelves and shelf supports;
- (J) stair treads, risers, and stringers; newel posts; railing caps; and balustrades;
- (K) windows and trim, including sashes, window heads, jambs, sills, or stools, and troughs;
- (L) built-in cabinets;
- (M) columns and beams;
- (N) bathroom vanities;
- (O) countertops; and
- (P) air conditioners; and

- (2) exterior components, including the following:
- (A) Painted roofing and chimneys;
- (B) flashing, gutters, and downspouts;
- (C) ceilings;
- (D) soffits and fascias;
- (E) rake boards, cornerboards, and bulkheads;
- (F) doors and door trim;
- (G) fences;
- (H) floors;
- (I) joists;

- (J) latticework;
- (K) railings and railing caps;
- (L) siding;
- (M) handrails;
- (N) stair risers, treads, and stringers;
- (O) columns and balustrades;
- (P) windowsills or window stools, troughs, casing, sashes and wells; and
- (Q) air conditioners.
- (r) "Containment" means a process to protect workers and the environment by controlling exposures to the lead-contaminated dust and debris created during an abatement.
- (s) "Course agenda" means an outline of the key topics to be covered during a training course, including the time allotted to teach each topic.
- (t) "Course exam blueprint" means written documentation identifying the proportion of course exam questions devoted to each major topic in the course curriculum.
- (u) "Course test" means an evaluation of the overall effectiveness of the training, which shall test each trainee's knowledge and retention of the topics covered during the course.
- (v) "Department" means the Kansas department of health and environment.
- (w) "Deteriorated paint" means paint that is cracking, flaking, chipping, peeling, or otherwise separating from the substrate of a building component.
- (x) "Discipline" means one of the specific types or categories of lead-based paint activities identified in this act in which individuals may receive training from accredited courses and become certified by the department.
- (y) "Distinct painting history" means the application history, as indicated by the visual appearance or a record of application, over time, of paint or other surface coatings to a component or room.
- (z) "Documented methodologies" means methods or protocols used to sample for the presence of lead in paint, dust, and soil.
- (aa) "Elevated blood lead level (EBL) child" or "EBL child" means any child who has an excessive absorption of lead with a confirmed concentration of lead in whole blood of 10 μg (micrograms) of lead per deciliter of whole blood from a single venous test.
- (bb) "Encapsulant" means a substance that forms a barrier between lead-based paint and the environment using a liquid-applied coating, with or without reinforcement materials, or an adhesively bonded covering material.
- (cc) "Encapsulation" means the application of an encapsulant.
- (dd) "Enclosure" means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between the lead-based paint and the environment.
- (ee) "EPA" means the United States environmental protection agency.
- (ff) "Guest instructor" means an individual who is designated by the training program manager or principal instructor and who provides instruction specific to the

lectures, hands-on work activities, or work practice components of a course.

(gg) "Hands-on skills assessment" means an evaluation of the effectiveness of the hands-on training that tests the ability of the trainees to demonstrate satisfactory performance of work practices and procedures as well as any other skills demonstrated in the course.

(hh) "Hands-on training" means training that involves the actual practice of a procedure, the use of equipment, or both.

(ii) "Hazardous waste" means any waste as defined in K.S.A. 65-3430, and amendments thereto.

(jj) "Interim controls" means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including the following:

- (1) Repairing deteriorated lead-based paint;
- (2) specialized cleaning;
- (3) maintenance;
- (4) painting;
- (5) temporary containment;
- (6) ongoing monitoring of lead-based paint hazards or potential hazards; and
- (7) the establishment and operation of management and resident education programs.

(kk) "KDHE" means the Kansas department of health and environment.

(ll) "Large-scale abatement project" means a lead abatement project consisting of 10 or more dwellings.

(mm) "Lead abatement" means any measure or set of measures designed to permanently eliminate lead-based paint hazards in a residential dwelling or child-occupied facility.

- (1) Lead abatement shall include the following:
 - (A) The removal of lead-based paint and lead-contaminated dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated soil;
 - (B) all preparation, cleanup, disposal, and postabatement clearance testing activities associated with these measures;
 - (C) projects for which there is a written contract or other documentation requiring an individual to conduct activities in or to a residential dwelling or child-occupied facility that will result in or are designed to permanently eliminate lead-based paint hazards;
 - (D) projects resulting in the permanent elimination of lead-based paint hazards;
 - (E) projects resulting in the permanent elimination of lead-based paint hazards that are conducted by lead activity firms or individuals who, through their company name or promotional literature, represent, advertise, or hold themselves out to be in the business of performing lead-based paint abatement; and
 - (F) projects resulting in the permanent elimination of lead-based paint that are conducted in response to an abatement order.

(2)(A) Lead abatement shall not include renovation, remodeling, landscaping, or other activities when these activities are not designed to permanently eliminate lead-

(continued)

based paint hazards, but are designed to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards.

(B) Lead abatement shall not include interim controls, operations and maintenance activities, or other measures and activities designed to temporarily, but not permanently, reduce lead-based paint hazards.

(nn) "Lead-based paint hazard" means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-based paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects.

(oo) "Lead-contaminated dust" means surface dust in residential dwellings or child-occupied facilities that contains in excess of 50 micrograms per square foot on uncarpeted floors, 250 micrograms per square foot on windowsills, and 800 micrograms per square foot on window troughs.

(pp) "Lead-contaminated soil" means bare soil on residential real property and on the property of a child-occupied facility that contains lead in excess of 400 parts per million for areas where child contact is likely and in excess of 2,000 parts per million where child contact is not likely.

(qq) "Lead hazard screen" means a limited risk assessment activity that involves limited paint and dust sampling as described in 40 C.F.R. 745.227(c). Specifically, in a residential dwelling, two composite samples shall be taken from the floors and one from the windows in rooms where one or more children, age 72 months and under, are most likely to come into contact with dust. Additionally, in multi-family dwellings and child-occupied facilities, composite dust samples shall be taken from any common areas where one or more children age 72 months and under are likely to come into contact with dust.

(rr) "Lead inspection" means a surface-by-surface investigation to determine the presence of lead-based paint and a determination of the existence, nature, severity, and location of lead-based paint hazards in an entire residential dwelling or child-occupied facility and the provision of a written report explaining the results of the investigation and options for reducing lead-based paint hazards to the person requesting the lead inspection.

(ss) "Licensed lead activity firm," "lead activity firm," or "firm" means an association, company, corporation, partnership, sole proprietorship, or other business entity that performs lead-based paint activities to which the department has issued a license of approval.

(tt) "Living area" means any area of a residential dwelling used by at least one child, six years of age and under, including the following:

- (1) Living rooms;
- (2) kitchen areas;
- (3) dens;
- (4) playrooms; and
- (5) children's bedrooms.

(uu) "Local government" means a county, city, town, borough, parish, district, association, or other public body, including an agency comprised of two or more of the foregoing entities, created under state law.

(vv) "Multi-family dwelling" means a structure that contains more than one separate residential dwelling unit used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

(ww) "National third-party examination" means a discipline-specific examination administered by the department to test the knowledge of a person who has completed an approved training course and is applying for certification in a particular discipline.

(xx) "Nonprofit" means an entity that has demonstrated to any branch of the federal government or to a state, municipal, tribal, or territorial government that no part of its net earnings inure to the benefit of any private shareholder or individual.

(yy) "Occupation" means one of the specific types or categories of lead-based paint activities identified in this article for which individuals may receive training from accredited training providers. This term shall include lead inspector, risk assessor, lead abatement worker, lead abatement supervisor, project designer, or any combination of these.

(zz) "Occupant protection plan" means a plan developed by a licensed lead activity firm before the commencement of lead abatement in a residential dwelling or child-occupied facility that describes the measures and management procedures to be taken during lead abatement to protect the building occupants from exposure to any lead-based paint hazards.

(aaa) "Oral exam" is equivalent to the written exam in content, but is read to the student by the principal instructor. The student shall be required to provide his or her answers to the exam in writing.

(bbb) "Passing score" means a grade of 70% or better on the national third-party examination and training course examination for a lead occupation certificate.

(ccc) "Permanently covered soil" means soil that has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials, including pavement and concrete. Grass, mulch, and other landscaping materials shall not be considered permanent covering.

(ddd) "Principal instructor" means an individual who has the primary responsibility for organizing and teaching a particular course.

(eee) "Project design" means lead abatement project designs, occupant protection plans, and lead abatement reports.

(fff) "Reaccreditation" means the renewal of accreditation of a training provider for a training course after the expiration of the initial accreditation.

(ggg) "Reciprocity" means an agreement between KDHE and other states who have similar licensing provisions.

(hhh) "Recognized laboratory" means either of the following:

- (1) A laboratory that is a member of the environmental lead laboratory accreditation program (ELLAP) and that is a successful participant in the environmental lead proficiency and analytical testing (ELPAT) program; or
- (2) a laboratory that is a member of the national lead laboratory accreditation program (NLLAP).

(iii) "Reduction" means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

(jjj) "Refresher course" means a course taken by a certified lead professional to maintain certification in a particular discipline.

(kkk) "Renewal" means the reissuance of a lead occupation certification, a lead activity firm license, or a training provider accreditation.

(lll) "Risk assessment" means an on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards in a residential dwelling or child-occupied facility and the provision of a written report explaining the results of the investigation and options for reducing lead-based paint hazards.

(mmm) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, the Northern Mariana Islands, or any territory or possession of the United States.

(nnn) "Target housing" means housing constructed before 1978 with the exception of any zero-bedroom housing or housing for the elderly or for persons with disabilities, unless any one or more children age 72 months or under reside or are expected to reside in the housing for the elderly or persons with disabilities.

(ooo) "Training course" means the course of instruction established by this article to prepare an individual for certification in a single occupation.

(ppp) "Training curriculum" means an established set of course topics for instruction by an accredited training provider for a particular occupation designed to provide specialized knowledge and skills.

(qqq) "Training hour" means at least 50 minutes of actual learning, including time devoted to lectures, learning activities, small group activities, demonstrations, evaluations, and hands-on experience.

(rrr) "Training manager" means the individual responsible for administering a training program and monitoring the performance of principal instructors and guest instructors.

(sss) "Training provider" means a person or entity providing training courses for the purpose of state certification or certification renewal in the occupations of lead inspector, risk assessor, lead abatement worker, lead abatement supervisor, and project designer.

(ttt) "Visual inspection for clearance testing" means the visual examination of a residential dwelling or a child-occupied facility following an abatement to determine whether or not the abatement has been successfully completed.

(uuu) "X-ray fluorescence analyzer (XRF)" means an instrument that determines lead concentrations in milligrams per square centimeter (mg/cm²) using the principle of x-ray fluorescence. (Authorized by and implementing L. 1999, Ch. 99, Sec. 4; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-2. General requirements for licensure and certification. (a) Waiver. Applicants for certification or certified individuals may authorize others, including

their employer, to act on their behalf regarding their certification application. This authorization shall be indicated on the application form provided by KDHE. If at any time the applicant or certified individual decides to change this authorization, the applicant or certified individual shall notify KDHE in writing of the change.

(b) Change of address. Each certified individual shall notify KDHE in writing of a change of mailing address no later than 30 days following the change. Each licensed lead activity firm shall notify KDHE in writing of a change in business mailing address no later than 30 days following the change. Until a change of address is received, all correspondence shall be mailed to the individual's mailing address and the lead activity firm's business address indicated on the most recent application form.

(c) Reciprocity. A lead occupation certification may be issued by KDHE to any person or a license may be issued by KDHE to any lead activity firm that has made application and provided proof of certification or licensure from the EPA or from another state, if KDHE has entered into a reciprocity agreement with that state and the individual certification fees have been paid.

(d) Grandfather provision. If an individual has completed a lead-based paint hazard training course between October 1, 1990 and March 1, 1999, that individual may receive certification by completing a refresher training course from an approved training provider, paying the individual certification fees, and, if applicable, passing the national third-party exam. An individual shall have until May 6, 2000 to apply to KDHE for certification under this subsection. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4 and 5; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-3. Fees. The following fees shall apply: (a) Training providers.

(1) Accreditation fee	\$1,000
(2) Initial fee	
(A) Lead abatement supervisor, lead abatement worker, and project designer courses	\$1,000
(B) Risk assessor and lead inspector courses ..	\$1,000
(3) Refresher fee.	
(A) Lead abatement supervisor, lead abatement worker, and project designer courses	\$500
(B) Risk assessor and lead inspector courses ..	\$500
(4) Reaccreditation fee	\$1,000
(A)(i) Reaccreditation for lead abatement supervisor, lead abatement worker, and project designer courses	\$1,000
(ii) Reaccreditation for risk assessor and inspector courses	\$1,000
(B)(i) Refresher reaccreditation for lead abatement supervisor, lead abatement worker, and project designer courses	\$500
(ii) Refresher reaccreditation for risk assessor and lead inspector courses	\$500
(b) Lead inspector.	
(1) Individual certification	\$200
(2) Individual recertification	\$100
(3) Certification by reciprocity	\$200
(c) Risk assessor.	

(continued)

(1) Individual certification	\$300
(2) Individual recertification	\$150
(3) Certification by reciprocity	\$300
(d) Lead abatement supervisor.	
(1) Individual certification	\$150
(2) Individual recertification	\$75
(3) Certification by reciprocity	\$150
(e) Project designer.	
(1) Individual certification	\$150
(2) Individual recertification	\$75
(3) Certification by reciprocity	\$150
(f) Lead abatement worker.	
(1) Individual certification	\$50
(2) Individual recertification	\$25
(3) Certification by reciprocity	\$50
(g) National third-party examination	\$50
(h) Lead activity firm.	
(1) License	\$500
(2) License renewal	\$250
(3) Lead abatement project fee	1% of each project
(4) Licensure by reciprocity	\$500

Before qualifying for a fee exemption, a local health department or clinic shall have received a certificate from KDHE for elevated blood lead level investigation risk assessments. (Authorized by and implementing L. 1999, Ch. 99, Sec. 4; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-4. Training provider accreditation. (a) Good standing. Every individual or firm desiring accreditation of the training courses for lead inspector, risk assessor, lead abatement worker, lead abatement supervisor, or project designer, or any combination, under this regulation who is required to be registered and in good standing with the Kansas secretary of state's office shall submit a copy of the individual's or firm's certificate of good standing to KDHE.

(b) Application for accreditation of a training provider for a training course. Completed applications shall be mailed to the Kansas department of health and environment.

- (1) The application shall include the following:
- (A) A completed training provider course accreditation application on a form provided by KDHE, which shall include the following:
- (i) The training provider's name, address, and telephone number;
 - (ii) the name and date of birth of the training manager;
 - (iii) the name and date of birth of the principal instructor for each course;
 - (iv) a list of locations at which training will take place;
 - (v) a list of courses for which the training provider is applying for accreditation; and
 - (vi) a statement signed by the training manager certifying that the information in the application for accreditation, and any additional information included with the application, is true and accurate to the best of the training manager's knowledge and understanding, that the training provider will comply with K.A.R. 28-72-4 through K.A.R. 28-72-4c, and that the training provider will conduct lead training only in those occupations in which the training provider has received accreditation;

- (B) a copy of the student and instructor manuals;
- (C) the course agenda;
- (D) the course examination blueprint;
- (E) a copy of the quality control plan as described in paragraph (d)(8) of this regulation;
- (F) a copy of a sample course certificate as described in paragraph (d)(7) of this regulation;
- (G) a description of the facilities and equipment to be used for lectures and hands-on training;
- (H) a description of the activities and procedures that will be used for conducting the skills assessment for each course;
- (I) a check or money order for the applicable nonrefundable accreditation fees specified in K.A.R. 28-72-3, unless the training provider is a state, federally recognized Indian tribe, local government, or nonprofit organization and is therefore exempt from these fees;
- (J) documentation supporting the training manager's and principal instructor's qualifications.

(c) Procedure for issuance or denial of training provider accreditation for a training course.

(1) The applicant shall be informed by KDHE in writing that the application is approved, incomplete, or denied.

(A) If an application is incomplete, the notice shall include a list of additional information or documentation required to complete the application.

(i) Within 30 calendar days after the issuance date of the notice of incomplete application, the applicant shall submit to KDHE, in writing, the information requested in the written notice.

(ii) Failure to submit the information requested in the written notice within 30 calendar days shall result in denial of the application for a training course accreditation.

(iii) After the information in the written notice is received, the applicant shall be informed by KDHE in writing that the application is either approved or denied.

(2) If an application is approved a two-year accreditation certificate shall be issued by KDHE.

(3) If an application for training course accreditation is denied, the specific reasons for the denial shall be stated by KDHE in the notice of denial to the applicant.

(A) Training course accreditation may be denied by KDHE for any of the following reasons:

- (i) Failure of the training manager or principal instructor, or both, to satisfy the experience requirements;
- (ii) three or more citations or violations within the past two years, by the training manager or principal instructor, of any existing local, state, or federal lead-based paint activity regulations or standards;
- (iii) false or misleading statements in the application;
- (iv) false records, instructor qualifications, or other accreditation-related information or documentation;
- (v) failure of the applicant to submit a complete application; or
- (vi) final disciplinary action, for any violation of lead-based paint activity standards, against a training provider by another state, territory, federal agency or country, whether or not voluntarily agreed to by the training provider, including the denial of accreditation, surrender of the accreditation, allowing the accreditation to expire or lapse, or discontinuing or restricting the accreditation

while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

(B) If an application is denied, the applicant may reapply for accreditation at any time.

(C) If an applicant is aggrieved by a determination to deny accreditation, the applicant may request a hearing by the department in accordance with the Kansas administrative procedure act.

(d) Requirements for accreditation of a training provider for a training course. For a training provider to maintain accreditation from KDHE to offer a training course, the training provider shall meet the following requirements:

(1) Training manager. The training provider shall employ a training manager who meets the requirements in subsection (e) of this regulation. The training manager shall be responsible for ensuring that the accredited training provider complies at all times with all of the requirements in these regulations. The training manager may designate guest instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

(2) Principal instructor. The training provider, in coordination with the training manager, shall designate a qualified principal instructor who meets the requirements in subsection (f) of this regulation. The principal instructor shall be responsible for the organization of the course and oversight of the teaching of all course materials.

(3) The training provider shall meet the curriculum requirements set forth in K.A.R. 28-72-4a for each course contained in the application for accreditation of a training provider.

(4) Delivery of course. The training provider shall ensure the availability of, and provide adequate facilities for, the delivery of the lecture, course exam, hands-on training, and assessment activities. This shall include providing training equipment that reflects current work practice standards set forth in K.A.R. 28-72-13 through K.A.R. 28-72-21 and maintaining or updating the course materials, equipment, and facilities as needed.

(5) Course exam. For each course offered, the training provider shall conduct a monitored, written course exam at the completion of each course. An oral exam may be administered in lieu of a written course exam for the lead abatement worker course only. If an oral examination is administered, the student shall be required to provide the answers to the exam in writing.

(A) The course exam shall evaluate the trainee's competency and proficiency.

(B) All individuals shall pass the course exam in order to successfully complete any course and receive a course completion certificate. The passing score on the course exam shall be 70%.

(C) The training provider and the training manager shall be responsible for maintaining the validity and integrity of the course exam to ensure that it accurately evaluates each trainee's knowledge and retention of the course topics.

(6) Hands-on skills assessment. For each course offered, except for project designers, the training provider

shall conduct a hands-on skills assessment. The training manager shall maintain the validity and integrity of the hands-on skills assessment to ensure that it accurately evaluates each trainee's performance of the work practice procedures associated with the course topics.

(7) Course completion certificate. The training provider shall issue unique course completion certificates to each individual who passes the training course. The course completion certificate shall include the following:

(A) The name, a unique identification number, and the address of the individual;

(B) the name of the particular course that the individual completed;

(C) the dates of course completion or exam passage; and

(D) the name, address, and telephone number of the training provider.

(8) Quality control plan. The training manager shall develop and implement a quality control plan. The plan shall be used to maintain or progressively improve the quality of the accredited provider.

(A) This plan shall contain at least the following elements:

(i) Procedures for periodic revision of training materials and the course exam to reflect innovations in the field;

(ii) procedures for the training manager's annual review of principal instructor competency; and

(iii) a review to ensure the adequacy of the facilities and equipment.

(B) An annual report discussing the results of the quality control plan shall be submitted to KDHE one year following accreditation and at renewal.

(9) Access by KDHE. The accredited training provider shall allow KDHE to conduct audits as needed in order for KDHE to evaluate the training provider's compliance with KDHE accreditation requirements. During this audit, the training provider shall make available to KDHE all information necessary to complete the evaluation. At KDHE's request, the training provider shall also make documents available for photocopying.

(10) Recordkeeping. The accredited training provider shall maintain at its principal place of business, for at least five years, the following records:

(A) All documents specified in paragraph (e)(2) and (f)(2) of this regulation that demonstrate the qualifications listed in paragraph (e)(1) of this regulation for the training manager, and paragraph (f)(1) of this regulation for the principal instructor;

(B) curriculum or course materials, or both, and documents reflecting any changes made to these materials;

(C) the course examination and blueprint;

(D) information regarding how the hands-on skills assessment is conducted, including the following:

(i) The name of the person conducting the assessment;

(ii) the criteria for grading skills;

(iii) the facilities used;

(iv) the pass and fail rate; and

(v) the quality control plan as described in paragraph (d)(8) of this regulation;

(continued)

(E) results of the students' hands-on skills assessments and course exams, and a record of each student's course completion certificate; and

(F) any other material not listed in this paragraph (d)(10) that was submitted to KDHE as part of the training provider's application for accreditation.

(11) Course notification. The accredited training provider shall notify KDHE in writing 14 calendar days before conducting an accredited training course.

(A) The notification shall include the following information:

(i) The location of the course, if it will be conducted at a location other than the training provider's training facility;

(ii) the dates and times of the course;

(iii) the name of the course; and

(iv) the name of the principal instructor and any guest instructors conducting the course.

(B) If the scheduled training course has been changed or canceled, the accredited training provider shall notify KDHE in writing no less than 24 hours before the training course was scheduled to begin.

(12) Changes to a training course. Once a training course has been accredited, any changes in any of the following items shall be submitted in writing to KDHE for review and approval before the continuation of the training course:

(A) The course curriculum;

(B) the course examination;

(C) the course materials;

(D) the training manager or principal instructors, or both; or

(E) the certificate of completion.

Within 60 calendar days of receipt of a change to a training course, the provider shall be informed by KDHE in writing that the change is either approved or disapproved. If the change is approved, the accredited training provider shall include the change in the training course. If the change is disapproved, the accredited training provider shall not include the change in the training course.

(13) Change of ownership. If an accredited training provider changes ownership, the new owner shall notify KDHE in writing at least 30 calendar days before the change of ownership becomes effective. The notification shall include a new training course provider accreditation application, the appropriate fee or fees, and the date that the change of ownership will become effective. The new training course provider accreditation application shall be processed pursuant to this regulation. The current training provider's accreditation shall expire on the effective date set forth in the notification of the change of ownership.

(14) Change of address. The accredited training provider shall submit to KDHE a written notice of the accredited training provider's new address and telephone number, and a description of the new training facility, and shall submit this information to KDHE not later than 30 days before relocating its business or transferring its records.

(e) Training, education, and experience requirements for the training manager.

(1) The education or experience requirements for the training manager shall include one year of experience in lead or asbestos abatement, painting, carpentry, renovation, remodeling, safety and health, or industrial hygiene, and at least one of the following:

(A) A minimum of two years of experience in teaching or training adults;

(B) a bachelor's or graduate degree in building construction technology, engineering, industrial hygiene, safety, public health, business administration, or education; or

(C) a minimum of two years of experience in managing a training program specializing in environmental hazards.

(2) The following records of experience and education shall be recognized by KDHE as evidence that the individual meets or exceeds KDHE requirements for a training manager:

(A) Resumes, letters of reference from past employers, or documentation to evidence past experience that includes specific dates of employment, the employer's name, address, telephone number, and specific job duties, as evidence of meeting the experience requirements; and

(B) official academic transcripts or diplomas, as evidence of meeting the education requirements.

(f) Training, education, and experience requirements for the principal instructor.

(1) The training, education, and experience requirements for the principal instructor of a training course shall include all of the following:

(A) Successful completion of at least 24 hours of any KDHE- or EPA-accredited lead-specific training;

(B) a minimum of one year of experience in teaching or training adults; and

(C) a minimum of one year of experience in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene, or an associate degree or higher from a postsecondary educational institution in building construction technology, engineering, safety, public health, or industrial hygiene.

(2) The following records of experience and education shall be recognized by KDHE as evidence that the individual meets or exceeds KDHE requirements for a principal instructor:

(A) Course completion certificates issued by the KDHE- or EPA-accredited training provider as evidence of meeting the training requirements;

(B) official academic transcripts or diplomas, as evidence of meeting the education requirements; and

(C) resumes, letters of reference from past employers, or documentation to evidence past experience that includes specific dates of employment, the employer's name, address, telephone number, and specific job duties, as evidence of meeting the experience requirements.

(g)(1) Training provider accreditation may be restricted, suspended, or revoked by KDHE if a training provider, training manager, or other person with supervisory authority over the training provider performs at least one of the following:

(A) Provides, offers to provide, or claims to provide KDHE-accredited training courses without having this accreditation;

(B) presents inaccurate information in a training course;

(C) fails to submit required information or notifications to KDHE in a timely manner;

(D) falsifies accreditation records, instructor qualifications, or other accreditation-related information or documentation;

(E) fails to comply with the training standards and requirements in this regulation and K.A.R. 28-72-4a;

(F) three or more citations or violations within the past two years, by the training manager or principal instructor, of any existing local, state, or federal lead-based paint activity regulations or standards; or

(G) makes false or misleading statements to KDHE in its application for accreditation or reaccreditation that KDHE relied upon in approving the application.

(2) Training provider accreditation may be restricted, suspended, or revoked by KDHE if the training provider has incurred final disciplinary action by another state, territory, federal agency or country, whether or not voluntarily agreed to by the training provider, including the denial of accreditation, surrender of the accreditation, allowing the accreditation to expire or lapse, or discontinuing or restricting the accreditation while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

(3) Before restricting, suspending, or revoking a training provider's accreditation, a training provider shall be given written notice of the reasons for the restriction, suspension, or revocation. The training provider may request a hearing by the department in accordance with the Kansas administrative procedure act.

(h) Renewal of accreditation.

(1) Unless sooner revoked, a training provider's accreditation shall expire two years after the date of issuance. If a training provider meets the requirements of this regulation and K.A.R. 28-72-4a, the training provider shall be reaccredited.

(2) Each training provider seeking reaccreditation shall submit an application to KDHE at least 60 calendar days before its accreditation expires. If a training provider does not submit its application for reaccreditation by that date, the provider's reaccreditation before the end of the accreditation period shall not be guaranteed by KDHE.

(3) The training provider's application for reaccreditation shall contain the following:

(A) A completed training provider course accreditation application on a form provided by KDHE, which shall include the following:

(i) The training provider's name, address, and telephone number;

(ii) the name and date of birth of the training manager;

(iii) the name and date of birth of the principal instructor for each course;

(iv) a list of locations at which training will take place;

(v) a list of courses for which the training provider is applying for reaccreditation; and

(vi) a statement signed by the training manager certifying that the information provided in the application for reaccreditation, and any additional information included with the application, is true and accurate to the best of the training manager's knowledge and understanding,

that the training provider will comply with K.A.R. 28-72-4 and K.A.R. 28-72-4a, and that the training provider will conduct lead training only in those occupations in which the training provider has received accreditation;

(B) a list of courses for which it is applying for reaccreditation;

(C) a description of any changes to the training facility, equipment, or course materials since its last application was approved that adversely affect the students' ability to learn; and

(D) a check or money order made payable to the Kansas department of health and environment for the non-refundable fees specified in K.A.R. 28-72-3, as applicable, unless the training provider is a state, federally recognized Indian tribe, local government, or nonprofit organization and is therefore fee exempt from these fees.

(i) If the training provider has allowed its accreditation to expire and the provider desires to be accredited, it shall reapply in the same manner as that required for an application for an original accreditation in accordance with this regulation. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4, 5, and 9; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-4a. Curriculum requirements for training providers. (a)(1) Each training provider of a lead inspector training course shall ensure that the lead inspector training course curriculum includes, at a minimum, 16 training hours of classroom training and eight hours of hands-on training.

(2) Each lead inspector training course shall include, at a minimum, the following course topics:

(A) The role and responsibilities of an inspector;

(B) background information on lead, including the history of lead use and sources of environmental lead contamination;

(C) the health effects of lead, including the following:

(i) The ways that lead enters and affects the body;

(ii) the levels of concern; and

(iii) symptoms, diagnosis, and treatments;

(D) the regulatory background and an overview of lead in applicable state and federal guidance or regulations pertaining to lead-based paint, including the current version of each of the following:

(i) 40 CFR part 745;

(ii) U.S. HUD guidelines for the evaluation and control of lead-based paint hazards in housing;

(iii) 29 CFR 1910.1200;

(iv) 29 CFR 1926.62; and

(v) title X: the residential lead-based paint hazard reduction act of 1992;

(E) the rules and regulations in this article pertaining to lead licensure and to the Kansas work practice standards for lead-based paint activities specific to lead inspection activities;

(F) quality control and assurance procedures in testing analysis;

(G) legal liabilities and obligations; and

(H) recordkeeping.

(3) Each lead inspector training course shall also include, at a minimum, the following course topics, the

(continued)

presentation of which shall require hands-on training as an integral component of the course:

(A) Lead-based paint inspection methods, including the selection of rooms and components for sampling or testing;

(B) preinspection planning and review, including developing a schematic site plan and determining inspection criteria and locations to collect samples in single- and multi-family housing;

(C) paint, dust, and soil sampling methodologies, including the following:

(i) Lead-based paint testing or X-ray fluorescence paint analyzer (XRF) use, including the types of XRF units, their basic operation, and interpretation of XRF results, including substrate correction;

(ii) soil sample collection, including soil sampling techniques, number and location of soil samples, and interpretation of soil sampling results; and

(iii) dust sample collection techniques, including the number and location of wipe samples and the interpretation of test results;

(D) clearance standards and testing, including random sampling; and

(E) preparation of the final inspection report.

(b) Each training provider of a risk assessor training course shall ensure that the risk assessor training course curriculum includes, at a minimum, 12 training hours of classroom training and four hours of hands-on training.

(2) Each risk assessor training course shall include, at a minimum, the following course topics:

(A) The role and responsibilities of the risk assessor;

(B) the collection of background information to perform a risk assessment, including information on the age and history of the housing and occupancy by children under six years of age and women of childbearing age;

(C) sources of environmental lead contamination, including paint, surface dust and soil, water, air, packaging, and food;

(D) the rules and regulations in this article pertaining to lead certification and to Kansas work practice standards for lead-based paint specific to risk assessment activities;

(E) development of hazard control options, the role of interim controls, and operations and maintenance activities to reduce lead-based paint hazards; and

(F) legal liabilities and obligations specific to a risk assessor.

(3) Each risk assessor training course shall also include, at a minimum, the following course topics, the presentation of which shall require hands-on training as an integral component of the course:

(A) Visual inspection for the purposes of identifying potential sources of lead hazards;

(B) lead-hazard screen protocols;

(C) sampling for other sources of lead exposure, including drinking water;

(D) interpretation of lead-based paint and other lead sampling results related to the Kansas clearance standards; and

(E) preparation of a final risk assessment report.

(c) Each training provider of a lead abatement worker course shall ensure that the lead abatement worker train-

ing course curriculum includes, at a minimum, 16 training hours of classroom training and eight hours of hands-on training.

(1) Each lead abatement worker training course shall include, at a minimum, the following course topics:

(A) The role and responsibilities of a lead abatement worker;

(B) background information on lead, including the history of lead use and sources of environmental lead contamination;

(C) the health effects of lead, including the following:

(i) The ways that lead enters and affects the body;

(ii) the levels of concern; and

(iii) symptoms, diagnosis and treatments;

(D) the regulatory background and an overview of lead in applicable state and federal guidance or regulations pertaining to lead-based paint, including the current version of each of the following:

(i) 40 CFR part 745;

(ii) U.S. HUD guidelines for the evaluation and control of lead-based paint hazards in housing;

(iii) 29 CFR 1910.1200;

(iv) 29 CFR 1926.62; and

(v) title X: the residential lead-based paint hazard reduction act of 1992;

(E) the regulations in this article pertaining to lead certification and to the Kansas work practice standards for lead-based paint activities specific to lead abatement activities; and

(F) waste disposal techniques.

(2) Each lead abatement training course shall also include, at a minimum, the following course topics, the presentation of which shall require hands-on training as an integral component of the course:

(A) Personal protective equipment information, including respiratory equipment selection, air-purifying respirators, care and cleaning of respirators, respiratory program, protective clothing and equipment, and hygienic practices;

(B) lead hazard recognition and control, including site characterization, exposure measurements, medical surveillance, and engineering controls;

(C) preabatement set-up procedures, including containment for residential and commercial buildings and for superstructures;

(D) lead abatement and lead-hazard reduction methods for residential and commercial buildings and for superstructures, including prohibited practices;

(E) interior dust abatement methods and cleanup techniques; and

(F) soil and exterior dust abatement methods.

(d) Each training provider of a lead abatement supervisor training course shall ensure that the lead abatement supervisor training course curriculum includes, at a minimum, 28 training hours of classroom training and 12 hours of hands-on training.

(1) Each lead abatement supervisor training course shall include, at a minimum, the following course topics:

(A) The role and responsibilities of a supervisor;

(B) background information on lead, including the history of lead use and sources of environmental lead contamination;

- (C) the health effects of lead, including the following:
 - (i) The ways that lead enters and affects the body;
 - (ii) the levels of concern; and
 - (iii) symptoms, diagnosis, and treatments;
- (D) the regulatory background and an overview of lead in applicable state and federal guidance or regulations pertaining to lead-based paint, including the current version of each of the following:
 - (i) 40 CFR part 745;
 - (ii) U.S. HUD guidelines for the evaluation and control of lead-based paint hazards in housing;
 - (iii) 29 CFR 1910.1200;
 - (iv) 29 CFR 1926.62; and
 - (v) title X: the residential lead-based paint hazard reduction act of 1992;
- (E) liability and insurance issues relating to lead abatement;
- (F) the community relations process;
- (G) hazard recognition and control techniques, including site characterization, exposure measurements, material identification, safety and health planning, medial surveillance, and engineering controls;
- (H) the rules and regulations in this article pertaining to lead certification and to the Kansas work practice standards for lead-based paint activities specific to lead abatement activities;
 - (I) clearance standards and testing;
 - (J) cleanup and waste disposal; and
 - (K) recordkeeping.
- (2) Each lead abatement supervisor training course shall also include, at a minimum, the following course topics, the presentation of which shall require hands-on training as an integral component of the course:
 - (A) Cost estimation;
 - (B) risk assessment and inspection report interpretation;
 - (C) the development and implementation of an occupant protection plan and pre-abatement work plan, including containment for residential and commercial buildings and for superstructures;
 - (D) lead hazard recognition and control;
 - (E) personal protective equipment information, including respiratory equipment selection, air-purifying respirators, care and cleaning of respirators, respiratory program, protective clothing and equipment, and hygienic practices;
 - (F) lead abatement and lead-hazard reduction methods, including prohibited practices, for residential and commercial buildings and superstructures;
 - (G) project management, including supervisory techniques, contractor specifications, emergency response planning, and blueprint reading;
 - (H) interior dust abatement and cleanup techniques;
 - (I) soil and exterior dust abatement methods; and
 - (J) the preparation of an abatement report.
- (e) Each training provider of a project designer training course shall ensure that the project designer training course curriculum includes, at a minimum, eight hours of classroom training. A project designer training course shall include, at a minimum, the following course topics:
 - (1) The role and responsibilities of a project designer;

- (2) the development and implementation of an occupant protection plan for large-scale abatement projects;
- (3) lead abatement and lead-hazard reduction methods, including prohibited practices, for large-scale abatement projects;
- (4) interior dust abatement or cleanup or lead-hazard control, and reduction methods for large-scale abatement projects;
- (5) soil and exterior dust abatement methods for large-scale abatement projects;
- (6) clearance standards and testing for large-scale abatement projects; and
- (7) integration of lead abatement methods with modernization and rehabilitation projects for large-scale abatement projects. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4 and 5; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-4b. Training provider accreditation, reciprocity. An accreditation certificate may be issued by KDHE to any person or entity that has made application, paid the necessary fees, and provided proof of accreditation from the EPA or from another state, if KDHE has entered into a reciprocity agreement with that state. (a) Application for accreditation of a training provider for a training course under reciprocity.

- (1) Completed applications shall be mailed to the Kansas department of health and environment.
- (2) The application shall include the following:
 - (A) A completed training provider course accreditation application on a form provided by KDHE, which shall include the following:
 - (i) The training provider's name, address, and telephone number;
 - (ii) the name and date of birth of the training manager;
 - (iii) the name and date of birth of the principal instructor for each course;
 - (iv) a list of locations at which training will take place;
 - (v) a list of courses for which the training provider is applying for accreditation; and
 - (vi) a statement signed by the training manager certifying that the information provided in the application for accreditation, and any additional information included with the application, is true and accurate to the best of the training manager's knowledge and understanding, that the training provider will comply with K.A.R. 28-72-4 and 28-72-4c, and that the training provider will conduct lead training only in those occupations in which the training provider has received accreditation;
 - (B) the course agenda;
 - (C) the course examination blueprint;
 - (D) a copy of the quality control plan as described in paragraph (d)(8) of K.A.R. 28-72-4;
 - (E) a copy of a sample course certificate as described in paragraph (d)(7) of K.A.R. 28-72-4;
 - (F) a description of the facilities and equipment to be used for lectures and hands-on training;
 - (G) a description of the activities and procedures that will be used for conducting the hands-on skills assessment for each course;
 - (H) a check or money order for the applicable nonrefundable training provider accreditation and initial fees;

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as specified in K.A.R. 28-72-3, made payable to the Kansas department of health and environment, unless the training provider is a state, federally recognized Indian tribe, local government, or nonprofit organization and is therefore exempt from payment of these fees;

(f) documentation supporting the training manager's and principal instructor's qualifications; and

(j) documentation of accreditation in the courses for which the training provider is applying for accreditation.

(b) Application for accreditation of a training provider for a refresher training course under reciprocity. To obtain KDHE accreditation by reciprocity to offer refresher training in any occupation, a training provider shall submit a completed application to KDHE. Completed applications shall be mailed to the Kansas department of health and environment.

The application shall include the following:

(1) A completed training course accreditation application on a form provided by KDHE, which shall include the following:

(A) The training provider's name, address, and telephone number;

(B) the name and date of birth of the training manager;

(C) the name and date of birth of the principal instructor for each course;

(D) a list of locations at which training will take place;

(E) a list of courses for which the training provider is applying for accreditation; and

(F) a statement signed by the training manager certifying that the information provided in the application for accreditation, and any additional information included with the application, is true and accurate to the best of the training manager's knowledge and understanding, that the training provider will comply with K.A.R. 28-72-4 through 28-72-4c, and that the training provider will conduct lead training only in those occupations in which the training provider has received accreditation;

(2) the course agenda;

(3) the course examination blueprint;

(4) a copy of the quality control plan as described in paragraph (d)(8) of K.A.R. 28-72-4;

(5) a copy of a sample course completion certificate as described in paragraph (d)(7) of K.A.R. 28-72-4;

(6) a description of the facilities and equipment to be used for lectures and hands-on training;

(7) a check or money order for the applicable nonrefundable refresher fees specified in K.A.R. 28-72-3, unless the training provider is a state, federally recognized Indian tribe, local government, or nonprofit organization, and is therefore exempt from payment of these fees;

(8) documentation supporting the training manager's and principal instructor's qualifications; and

(9) documentation of accreditation by one or more other states in the refresher course for which the training provider is applying for accreditation.

(c) The good standing requirements in K.A.R. 28-72-4(a), the procedures for issuance or denial of accreditation in K.A.R. 28-72-4(c), the requirements for accreditation of a training provider for a training course in K.A.R. 28-72-4(d), the training, education, and experience requirements for training managers and principal instructors in K.A.R. 28-72-4(e) and (f), and provisions relating to re-

striction, suspension, or revocation of accreditation in K.A.R. 28-72-4(g) shall apply to all training providers applying for accreditation of one or more training courses or refresher training courses by reciprocity, as applicable.

(d)(1) Unless sooner revoked, a training provider's reciprocal accreditation, including refresher training accreditation, shall expire two years after the date of issuance. If a training provider meets the requirements of this regulation and K.A.R. 28-72-4, 28-72-4a, and, if applicable, 28-72-4c, the training provider shall be reaccredited.

(2) Each training provider seeking reciprocal reaccreditation shall submit an application to KDHE at least 60 calendar days before its accreditation expires. If a training provider does not submit its application for reaccreditation by that date, the provider's reaccreditation before the end of the accreditation period shall not be guaranteed by KDHE.

(3) The training provider's application for reaccreditation shall contain the following:

(A) A completed training provider course accreditation application on a form provided by KDHE, which shall include the following:

(i) The training provider's name, address, and telephone number;

(ii) the name and date of birth of the training manager;

(iii) the name and date of birth of the principal instructor for each course;

(iv) a list of locations at which training will take place;

(v) a list of courses for which the training provider is applying for reaccreditation; and

(vi) a statement signed by the training manager certifying that the information provided in the application for reaccreditation, and any additional information included with the application, is true and accurate to the best of the training manager's knowledge and understanding, that the training provider will comply with K.A.R. 28-72-4 through 28-72-4c, and that the training provider will conduct lead training only in those occupations in which the training provider has received accreditation;

(B) a list of courses for which the training provider is applying for reaccreditation;

(C) a description of any changes to the training facility, equipment, or course materials since its last application was approved that adversely affects the students' ability to learn; and

(D) a check or money order made payable to the Kansas department of health and environment for the applicable nonrefundable reaccreditation fees specified in K.A.R. 28-72-3, unless the training provider is a state, federally recognized Indian tribe, local government, or nonprofit organization and is therefore fee exempt from these fees.

(4) If the training provider has allowed its accreditation to expire and the training provider desires to be accredited, it shall reapply in the same manner as that required for an application for an original accreditation in accordance with this rule and regulation. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4, 5, and 9; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-4c. Training provider accreditation; refresher training course. (a) Application for accreditation

of a training provider for a refresher training course. A training provider may seek accreditation to offer refresher training courses in any occupation. To obtain KDHE accreditation to offer refresher training, a training provider shall meet the following minimum requirements:

(1) Each refresher course shall review the curriculum topics of the full-length courses listed in K.A.R. 28-72-4a as appropriate. In addition, each training provider shall ensure that the refresher course of study includes, at a minimum, the following:

(A) An overview of current safety practices relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate occupation;

(B) current laws and regulations relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate occupation; and

(C) current technologies relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate occupation.

(2) Each refresher course, except for the project designer course, shall last a minimum of eight training hours. The project designer refresher course shall last a minimum of four training hours.

(3) For each refresher training course offered, the training provider shall conduct a hands-on assessment, if applicable.

(4) For each refresher training course offered, the training provider shall conduct a course exam at the completion of the course.

(b) Any training provider may apply for accreditation of a refresher training course concurrently with its application for accreditation of the corresponding training course as described in K.A.R. 28-72-4. If so, the procedures and requirements specified in K.A.R. 28-72-4 shall be used by KDHE for accreditation of the refresher course and the corresponding training course.

(c) A training provider seeking accreditation to offer only refresher training courses shall submit a written application to KDHE.

(1) Completed applications shall be mailed to the Kansas department of health and environment.

(2) The application shall include the following:

(A) A completed training course accreditation application on a form provided by KDHE, which shall include the following:

(i) The training provider's name, address, and telephone number;

(ii) the name and date of birth of the training manager;

(iii) the name and date of birth of the principal instructor for each course;

(iv) a list of locations at which training will take place;

(v) a list of courses for which the training provider is applying for accreditation; and

(vi) a statement signed by the training manager certifying that the information provided in the application for accreditation, and any additional information included with the application, is true and accurate to the best of the training manager's knowledge and understanding, that the training provider will comply with K.A.R. 28-72-4 through K.A.R. 28-72-4c, and that the training provider

will conduct lead training only in those occupations in which the training provider has received accreditation;

(B) a copy of the student and instructor manuals;

(C) the course agenda;

(D) the course examination blueprint;

(E) a copy of the quality control plan as described in paragraph (d)(8) of K.A.R. 28-72-4;

(F) a copy of a sample course completion certificate as described in paragraph (d)(7) of K.A.R. 28-72-4;

(G) a description of the facilities and equipment to be used for lecture and hands-on training;

(H) a check or money order for either of the following nonrefundable fees, unless the training provider is exempt from these fees because the training provider is a state, federally recognized Indian tribe, local government, or nonprofit organization:

(i) The \$500 fee for the refresher course for risk assessor and lead inspector classes; or

(ii) the \$500 fee for the refresher course for lead abatement supervisor, project designer, and abatement worker.

(d) The good standing requirements in K.A.R. 28-72-4(a), procedures for training provider accreditation issuance or denial in K.A.R. 28-72-4(c), the requirements for accreditation of a training provider for a training course, the training, education, and experience requirements for training managers and principal instructors in K.A.R. 28-72-4(e) and (f), and provisions relating to restriction, suspension, or revocation of accreditation in K.A.R. 28-72-4(g) shall apply to all training providers applying for the accreditation of refresher training courses.

(e)(1) Unless sooner revoked, a training provider's accreditation, including refresher training courses, shall expire two years after the date of issuance. If a training provider meets the requirements of subsections (a), (c), and (d) of this regulation, the training provider shall be reaccredited.

(2) Each training provider seeking reaccreditation of one or more refresher training courses shall submit an application to KDHE at least 60 calendar days before its accreditation expires. If a training provider does not submit its application for reaccreditation by that date, the provider's reaccreditation before the end of the accreditation period shall not be guaranteed by KDHE.

(3) The training provider's application for reaccreditation shall contain the following:

(A) A completed training provider course accreditation application on a form provided by KDHE, which shall include the following:

(i) The training provider's name, address, and telephone number;

(ii) the name and date of birth of the training manager;

(iii) the name and date of birth of the principal instructor for each course;

(iv) a list of locations at which training will take place;

(v) a list of refresher training courses for which the training provider is applying for reaccreditation; and

(vi) a statement signed by the training manager certifying that the information provided in the application for reaccreditation, and any additional information included with the application, is true and accurate to the best of

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the training manager's knowledge and understanding, that the training provider will comply with K.A.R. 28-72-4, 28-72-4a, and 28-72-4c, and that the training provider will conduct lead training only in those occupations in which the training provider has received accreditation;

(B) a list of refresher training courses for which it is applying for reaccreditation;

(C) a description of any changes to the training facility, equipment, or course materials since its last application was approved that adversely affects the students' ability to learn; and

(D) a check or money order made payable to the Kansas department of health and environment for the non-refundable fees specified in K.A.R. 28-72-3, as applicable, unless the training provider is a state, federally recognized Indian tribe, local government, or nonprofit organization and is therefore exempt from these fees.

(4) If the training provider has allowed its accreditation to expire and the provider desires to be accredited, it shall reapply in the same manner as that required for an application for an original accreditation in accordance with this rule and regulation. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4, 5, and 9; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-5. Application process and requirements for the certification of lead inspectors. (a) Application for a lead inspector certificate.

(1) Each applicant for a lead inspector certificate shall submit a completed application to KDHE before consideration for certification issuance. All applications for certification shall be received by KDHE at least 30 days before the date of the national third-party examination, but the deadline for filing applications may be waived by KDHE as particular circumstances justify. Completed applications shall be mailed to KDHE.

(2) The application shall include the following:

(A) A completed lead occupation certificate application on a form provided by KDHE, which shall include the following:

(i) The applicant's full legal name, home address, and telephone number;

(ii) the name, address, and telephone number of the applicant's current employer;

(iii) the applicant's social security number;

(iv) the county or counties in which the applicant is employed;

(v) the location where the applicant would like to receive correspondence regarding the application or certification;

(vi) the occupation for which the applicant wishes to be certified;

(vii) any certification for lead occupations in other states, including the names of the other states, type of certification, certification expiration date, and certification number, and copies of the other states' certification or license certificate;

(viii) any certification by the EPA, including the EPA region number, type of certification, certification expiration date, certification number, and copy of the EPA certificate;

(ix) the type of training completed, including the name of the training provider, certificate identification number, and dates of course completion;

(x) any employment history or education that meets the experience requirements in subsection (c) of this regulation; and

(xi) the signature of the applicant, which shall certify that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

(B) a copy of the KDHE- or EPA-accredited lead inspector training program completion certificate, and any required refresher completion certificates;

(C) two recent, passport-size color photographs of the applicant's face without a hat or sunglasses. Computer-generated or photocopied photographs shall not be acceptable;

(D) documentation pursuant to subsection (c) of this regulation as evidence of meeting the education or experience requirements for lead inspectors; and

(E) a check or money order made payable to KDHE for the nonrefundable fee specified in K.A.R. 28-72-3.

(3) Each applicant for a lead inspector certificate shall apply to KDHE within one year of the applicant's successful completion of the KDHE- or EPA-accredited lead inspector training course, as indicated on the certificate of completion. Applicants failing to apply within one year from the date on the training course completion certificate shall, before making application for certification, successfully complete the eight-hour lead inspector refresher training course accredited by the KDHE or EPA.

(4) An applicant who fails to apply within two years of the lead inspector training and who has not successfully completed refresher training shall successfully complete the KDHE- or EPA-accredited lead inspector training course before submitting an application for a lead inspector certificate.

(b) Application for a lead inspector certificate under reciprocity.

(1) An applicant for a lead inspector certificate by reciprocity shall submit a completed application to KDHE before consideration for certification issuance. Completed applications shall be mailed to KDHE.

(2) The application shall include the following:

(A) A completed lead occupation certificate application form provided by KDHE, which shall include the following:

(i) The applicant's full legal name, home address, and telephone number;

(ii) the name, address, and telephone number of the applicant's current employer;

(iii) the applicant's social security number;

(iv) the county or counties in which the applicant is employed;

(v) the location where the applicant would like to receive correspondence regarding the application or certification;

(vi) the occupation for which the applicant wishes to be certified;

(vii) any certification for lead occupations in other states, including the name of the other states, type of cer-

tification, certification expiration date, and certification number, and copies of the other states' certification or license certificate;

(viii) any certification by the EPA, including the EPA region number, type of certification, certification expiration date, certification number, and copy of the EPA certificate;

(ix) the type of training completed, including the name of the training provider, certificate identification number, and date of course completion;

(x) any employment history or education that meets the experience requirements in subsection (c) of this regulation; and

(xi) the signature of the applicant, which shall certify that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

(B) two recent, passport-size color photographs of the applicant's face without a hat or sunglasses. Computer-generated or photocopied photographs shall not be acceptable; and

(C) a check or money order made payable to KDHE for the nonrefundable fee specified in K.A.R. 28-72-3.

(c) Training, education, and experience requirements for a lead inspector certificate.

(1) Each applicant for certification as a lead inspector shall complete a KDHE- or EPA-accredited lead inspector training program and pass the course examination and the national third-party examination, each with a score of 70% or more.

(2) Each applicant for certification as a lead inspector shall meet the minimum education or experience requirements for a certified lead inspector.

(A) The minimum education or experience requirements for a certified lead inspector shall include at least one of the following:

(i) A bachelor's degree;

(ii) an associate's degree and one year of experience in a related field, including housing repair and inspection, and lead, asbestos, and environmental remediation work; or

(iii) a high school diploma or certificate of high school equivalency (GED) and two years of experience in a related field, including housing repair and inspection, and lead, asbestos, and environmental remediation work.

(B) The following documents shall be recognized by KDHE as evidence of meeting the requirements listed in paragraph (c)(2)(A) of this regulation:

(i) Official academic transcripts of diplomas as evidence of meeting the education requirements;

(ii) resumes, letters of reference, or documentation of work experience, which at a minimum shall include specific dates of employment, each employer's name, address, and telephone number, and specific job duties, as evidence of meeting the work experience requirements; and

(iii) course completion certificates issued by the KDHE- or EPA-accredited training provider as evidence of meeting the training requirements.

(d) Procedure for issuance or denial of a lead inspector certificate.

(1) The applicant shall be informed by KDHE in writing that the application is approved, incomplete, or denied.

(A) If an application is incomplete, the notice shall include a list of additional information or documentation required to complete the application.

(i) Within 30 calendar days after the issuance date of the notice, the applicant shall submit to KDHE, in writing, the information requested in the written notice.

(ii) Failure to submit the information requested in the written notice within 30 calendar days shall result in KDHE's denial of the individual's application for certification.

(iii) After receipt of the information requested in the written notice, the applicant shall be informed by KDHE in writing that the application is either approved or denied.

(B) When an application for certification is denied, the written notice of denial to the applicant shall specify the reasons for the denial. Certification may be denied by KDHE for any of the following reasons:

(i) Failure to satisfy education or experience requirements;

(ii) the type and amount of training;

(iii) false or misleading statements in the application;

(iv) failure to achieve a passing score on the national third-party exam after three attempts;

(v) failure to submit a complete application;

(vi) three or more citations or violations within the past two years of any existing local, state, or federal lead-based paint activity regulations or standards;

(vii) three or more violations within the past two years of 29 CFR 1926.62 or 29 CFR 1910.1200, both revised as of July 1, 1998 and both of which are adopted by reference;

(viii) fraud or failure to disclose facts relevant to the application;

(ix) permitting the duplication or use by another of the individual's certificate;

(x) any other information that may affect the applicant's ability to appropriately perform lead inspections; or

(xi) final disciplinary action, for any violation of lead-based paint activity standards, against the certified individual by another state, territory, federal agency, or country, whether or not voluntarily agreed to by the certified individual, including the denial of certification, surrender of the certificate, allowing the certificate to expire, or discontinuing or restricting the certificate while subject to investigation or while actually under investigation by another state, territory, federal agency, or country.

(C) If an application is denied, the applicant may reapply to KDHE for a lead inspector certificate by submitting a complete lead occupation application form with another nonrefundable certification fee, as specified in K.A.R. 28-72-3.

(D) If an applicant is aggrieved by a determination to deny certification, the applicant may appeal KDHE's denial to the administrative hearing commission as provided by the Kansas administrative procedure act.

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(2) Within 180 calendar days of application approval, the applicant shall attain a passing score on the national third-party examination for lead inspectors.

(A) An applicant shall not sit for the national third-party examination for lead inspectors more than three times within 180 calendar days after the issuance date of the notice of an approved application.

(B) The applicant's failure to obtain a passing score on the national third-party examination for lead inspectors within the 180-day period following the notice of an approved application for a certificate shall result in KDHE's denial of the individual's application for a certificate. The individual may reapply to KDHE pursuant to this regulation but only after retaking the KDHE- or EPA-accredited lead inspector training course.

(3) After the applicant passes the national third-party examination, a two-year lead inspector certificate and a photo identification badge shall be issued by KDHE.

(4) A certificate may be issued with specific restrictions pursuant to an agreement between the applicant or certified individual and KDHE. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4, 5, and 9; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-6. Application process and requirements for the certification of risk assessors. (a) Application for a risk assessor certificate.

(1) Each applicant for a risk assessor certificate shall submit a completed application to KDHE before consideration for certification issuance. All applications for certification shall be received by KDHE at least 30 days before the date of the national third-party examination, but the deadline for filing applications may be waived by KDHE as particular circumstances justify. Completed applications shall be mailed to KDHE.

(2) The application shall include the following:

(A) A completed lead occupation certificate application on a form provided by KDHE, which shall include the following:

(i) The applicant's full legal name, home address, and telephone number;

(ii) the name, address, and telephone number of the applicant's current employer;

(iii) the applicant's social security number;

(iv) the county or counties in which the applicant is employed;

(v) the location where the applicant would like to receive correspondence regarding the application or certification;

(vi) the occupation for which the applicant wishes to be certified;

(vii) any certification for lead occupations in other states, including the names of the other states, type of certification, certification expiration date, and certification number, and copies of the other states' certification or license certificate;

(viii) certification by the EPA, including the EPA region number, type of certification, certification expiration date, certification number, and copy of the EPA certificate;

(ix) the type of training completed, including the name of the training provider, certificate identification number, and dates of course completion;

(x) any employment history or education that meets the experience requirements in subsection (c) of this regulation; and

(xi) the signature of applicant, which shall certify that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

(B) a copy of the KDHE- or EPA-accredited risk assessor and lead inspector training program completion certificates, and any required refresher completion certificates;

(C) two recent, passport-size color photographs of the applicant's face without a hat or sunglasses. Computer-generated or photocopied photographs shall not be acceptable;

(D) documentation pursuant to subsection (c) of this regulation as evidence of meeting the education or experience requirements for risk assessors; and

(E) a check or money order made payable to KDHE for the nonrefundable fee specified in K.A.R. 28-72-3.

(3) Each applicant for a risk assessor certificate shall apply to KDHE within one year of the applicant's successful completion of the KDHE- or EPA-accredited risk assessor training course, as indicated on the certificate of completion. Applicants failing to apply within one year from the date on the training course completion certificate shall, before making application for certification, successfully complete the eight-hour risk assessor refresher training course accredited by the KDHE or EPA.

(4) An applicant who fails to apply within two years of the risk assessor training and who has not successfully completed refresher training shall successfully complete the KDHE- or EPA-accredited risk assessor training course before submitting an application for a risk assessor certificate.

(b) Application for risk assessor certificate under reciprocity.

(1) Each applicant for risk assessor certificate by reciprocity shall submit a completed application to KDHE before consideration for certification issuance. Completed applications shall be mailed to KDHE.

(2) The application shall include the following:

(A) A completed lead occupation certificate application form provided by KDHE, which shall include the following:

(i) The applicant's full legal name, home address, and telephone number;

(ii) the name, address, and telephone number of the applicant's current employer;

(iii) the applicant's social security number;

(iv) the county or counties in which the applicant is employed;

(v) the location where the applicant would like to receive correspondence regarding the application or certification;

(vi) the occupation for which the applicant wishes to be certified;

(vii) any certification for lead occupations in other states, including the name of other states, type of certification, certification expiration date, and certification

number, and copies of the other states' certification or license certificate;

(viii) any certification by the EPA, including the EPA region number, type of certification, certification expiration date, certification number, and copy of the EPA certificate;

(ix) any employment history or education that meets the experience requirements in subsection (c) of this regulation; and

(x) the signature of the applicant, which shall certify that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

(B) two recent passport-size color photographs of the applicant's face without a hat or sunglasses. Computer-generated or photocopied photographs shall not be acceptable; and

(C) a check or money order made payable to KDHE for the nonrefundable fee specified in K.A.R. 28-72-3.

(c) Training, education, and experience requirements for a risk assessor certificate.

(1) Each applicant for a certificate as a risk assessor shall complete a KDHE- or EPA-accredited risk assessor training program, lead inspector training program, pass both the course examinations and the national third-party risk assessor examination, each with a score of 70% or more.

(2) Each applicant for a certificate as a risk assessor shall meet the minimum education and experience requirements for a certified risk assessor.

(A) The minimum education and experience requirements for a certified risk assessor shall include at least one of the following:

(i) A bachelor's degree and at least one year of experience in a related field, including housing repair and inspection, and lead, asbestos, and environmental remediation work;

(ii) an associate's degree and two years of experience in a related field, including housing repair and inspection, and lead, asbestos, and environmental remediation work;

(iii) certification as an industrial hygienist, professional engineer, or registered architect, or certification in a related engineering, health, or environmental field, including a safety professional and environmental scientist; or

(iv) a high school diploma or certificate of high school equivalency (GED) and three years of experience in a field, including housing repair and inspection, and lead, asbestos, and environmental remediation work.

(B) The following documents shall be recognized by KDHE as evidence of meeting the requirements listed in paragraph (c)(2)(A) of this regulation:

(i) Official academic transcripts or diplomas as evidence of meeting the education requirements;

(ii) resumes, letters of reference, or documentation of work experience, which at a minimum shall include specific dates of employment, each employer's name, address, and telephone number, and specific job duties, as evidence of meeting the work experience requirements;

(iii) course completion certificates issued by the KDHE- or EPA-accredited training provider as evidence of meeting the training requirements; and

(iv) appropriate documentation of certifications or registrations.

(d) Procedure for issuance or denial of a risk assessor certificate.

(1) The applicant shall be informed by KDHE in writing that the application is approved, incomplete, or denied.

(A) If an application is incomplete, the notice shall include a list of additional information or documentation required to complete the application.

(i) Within 30 calendar days after the issuance date of the notice, the applicant shall submit to KDHE, in writing, the information requested in the written notice.

(ii) Failure to submit the information requested in the written notice within 30 calendar days shall result in KDHE's denial of the individual's application for certification.

(iii) After receipt of the information requested in the written notice, the applicant shall be informed by KDHE in writing that the application is either approved or denied.

(B) When an application for certification is denied, the written notice of denial to the applicant shall specify the reasons for the denial. Certification may be denied by KDHE for any of the following reasons:

(i) Failure to satisfy education or experience requirements;

(ii) the type and amount of training;

(iii) false or misleading statements in the application;

(iv) failure to achieve a passing score on the national third-party exam after three attempts;

(v) failure to submit a complete application;

(vi) three or more citations or violations within the past two years of any existing local, state, or federal lead-based paint activity regulations or standards;

(vii) three or more violations within the past two years of 29 CFR 1926.62 or 29 CFR 1910.1200;

(viii) fraud or failure to disclose facts relevant to the application;

(ix) permitting the duplication or use by another of the individual's certificate;

(x) any other information that may affect the applicant's ability to appropriately perform risk assessments; or

(xi) final disciplinary action, for any violation of lead-based paint activity standards, against the certified individual by another state, territory, federal agency, or country, whether or not voluntarily agreed to by the certified individual, including the denial of certification, surrender of the certificate, allowing the certificate to expire, or discontinuing or restricting the certificate while subject to investigation or while actually under investigation by another state, territory, federal agency, or country.

(C) If an application is denied, the applicant may reapply to KDHE for a risk assessor certificate by submitting a complete lead occupation application form with another non-refundable certification fee, as specified in K.A.R. 28-72-3.

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(D) If an applicant is aggrieved by a determination to deny certification, the applicant may appeal KDHE's denial to the KDHE hearing section, in accordance with the Kansas administrative procedure act.

(2) Within 180 calendar days of application approval, the applicant shall attain a passing score on the national third-party examination for risk assessors.

(A) An applicant shall not sit for the national third-party examination for risk assessors more than three times within 180 calendar days after the issuance date of the notice of an approved application.

(B) The applicant's failure to obtain a passing score on the national third-party examination for risk assessors within the 180-day period following the notice of an approved application for a certificate shall result in KDHE's denial of the individual's application for a certificate. The individual may reapply to KDHE pursuant to this regulation but only after retaking the KDHE- or EPA-accredited risk assessor training course.

(3) After the applicant passes the national third-party examination, a two-year risk assessor certificate and a photo identification badge shall be issued by KDHE.

(4) A certificate may be issued with specific restrictions pursuant to an agreement between the applicant and KDHE. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4, 5, and 9; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-7. Application process and requirements for the certification of lead abatement workers. (a) Application for a lead abatement worker certificate.

(1) Each applicant for a lead abatement worker certificate shall submit a completed application to KDHE before consideration for certification issuance. Each application for certification shall be received by KDHE within one year of successful completion of the lead abatement worker training course. Completed applications shall be mailed to KDHE.

(2) The application shall include the following:

(A) A completed lead occupation certificate application on a form provided by KDHE, which shall include the following:

(i) The applicant's full legal name, home address, and telephone number;

(ii) the name, address, and telephone number of the applicant's current employer;

(iii) the applicant's social security number;

(iv) the county or counties in which the applicant is employed;

(v) the location where the applicant would like to receive correspondence regarding the application or certification;

(vi) the occupation for which the applicant wishes to be certified;

(vii) any certification for lead occupations in other states, including the names of the other states, type of certification, certification expiration date, and certification number, and copies of the other states' certification or license certificate;

(viii) certification by the EPA, including the EPA region number, type of certification, certification expiration date, certification number, and copy of the EPA certificate;

(ix) the type of training completed, including the name of the training provider, certificate identification number, and dates of course completion; and

(x) the signature of the applicant, which shall certify that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

(B) a copy of the KDHE- or EPA-accredited lead abatement worker training program completion certificate, and any required refresher completion certificates;

(C) two recent, passport-size color photographs of the applicant's face without a hat or sunglasses. Computer-generated or photocopied photographs shall not be acceptable; and

(D) a check or money order made payable to KDHE for the nonrefundable fee specified in K.A.R. 28-72-3.

(3) Each applicant for a lead abatement worker certificate shall apply to KDHE within one year of the applicant's successful completion of the KDHE- or EPA-accredited lead abatement worker training course, as indicated on the certificate of completion. Applicants failing to apply within one year from the date on the training course completion certificate shall, before making application for certification, successfully complete the eight-hour lead abatement worker refresher training course accredited by the KDHE or EPA.

(4) An applicant who fails to apply within two years of the lead abatement worker training and who has not successfully completed refresher training shall successfully complete the KDHE- or EPA-accredited lead abatement worker training course before submitting an application for a lead abatement worker certificate.

(b) Application for a lead abatement worker certificate under reciprocity.

(1) Each applicant for a lead abatement worker certificate by reciprocity shall submit a completed application to KDHE before consideration for certification issuance. Completed applications shall be mailed to KDHE.

(2) The application shall include the following:

(A) A completed lead occupation certificate application on a form provided by KDHE, which shall include the following:

(i) The applicant's full legal name, home address, and telephone number;

(ii) the name, address, and telephone number of the applicant's current employer;

(iii) the applicant's social security number;

(iv) the county or counties in which the applicant is employed;

(v) the location where the applicant would like to receive correspondence regarding the application or certification;

(vi) the occupation for which the applicant wishes to be certified;

(vii) any certification for lead occupations in other states, including the name of the other states, type of certification, certification expiration date, and certification number, and copies of the other states' certification or license certificate;

(viii) certification by the EPA, including the EPA region number, type of certification, certification expiration

date, certification number, and copy of the EPA certificate; and

(ix) the signature of the applicant, which shall certify that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

(B) two recent, passport-size color photographs of the applicant's face without a hat or sunglasses. Computer-generated or photocopied photographs shall not be acceptable; and

(C) a check or money order made payable to KDHE for the nonrefundable fee specified in K.A.R. 28-72-3.

(c) Training requirements for a lead abatement worker's certificate. Each applicant for a certificate as a lead abatement worker shall complete a KDHE- or EPA-accredited lead abatement worker training program and pass the course examination with a score of 70% or more. The applicant shall submit a course completion issued by the KDHE- or EPA-accredited training provider as evidence of meeting this requirement.

(d) Procedure for issuance or denial of a lead abatement worker certificate.

(1) The applicant shall be informed by KDHE in writing that the application is approved, incomplete, or denied.

(A) If an application is incomplete, the notice shall include a list of additional information or documentation required to complete the application.

(i) Within 30 calendar days after the issuance date of the notice, the applicant shall submit to KDHE, in writing, the information requested in the written notice.

(ii) Failure to submit the information requested in the written notice within 30 calendar days shall result in KDHE's denial of the individual's application for certification.

(iii) After receipt of the information requested in the written notice, the applicant shall be informed by KDHE in writing that the application is either approved or denied.

(B) When an application for certification is denied, the written notice of denial to the applicant shall specify the reasons for the denial. Certification may be denied by KDHE for any of the following reasons:

(i) Failure to satisfy education or experience requirements;

(ii) the type and amount of training;

(iii) false or misleading statements in the application;

(iv) failure to submit a complete application;

(v) three or more citations or violations within the past two years of any existing local, state, or federal lead-based paint activity regulations or standards;

(vi) three or more violations within the past two years of 29 CFR 1926.62 or 29 CFR 1910.1200;

(vii) fraud or failure to disclose facts relevant to the application;

(viii) permitting the duplication or use by another of the individual's certificate;

(ix) any other information that may affect the applicant's ability to appropriately perform lead abatement worker activities; or

(x) final disciplinary action, for any violation of lead-based paint activity standards, against the certified individual by another state, territory, federal agency, or country, whether or not voluntarily agreed to by the certified individual, including the denial of certification, surrender of the certificate, allowing the certificate to expire, or discontinuing or restricting the certificate while subject to investigation or while actually under investigation by another state, territory, federal agency, or country.

(C) If an application is denied, the applicant may reapply to KDHE for a lead abatement worker certificate by submitting a complete lead occupation application form with another nonrefundable certification fee, as specified in K.A.R. 28-72-3.

(D) If an applicant is aggrieved by a determination to deny certification, the applicant may appeal KDHE's denial to the KDHE hearing section, in accordance with the Kansas administrative procedure act.

(2) If the application is approved, a two-year lead abatement worker certificate and a photo identification badge shall be issued by KDHE.

(3) A certificate may be issued with specific restrictions pursuant to an agreement between the applicant and KDHE. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4, 5, and 9; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-8. Application process and requirements for the certification of lead abatement supervisors. (a) Application for a lead abatement supervisor certificate.

(1) Each applicant for a lead abatement supervisor certificate shall submit a completed application to KDHE before consideration for certification issuance. All applications for certification shall be received by KDHE at least 30 days before the date of the national third-party examination, but the deadline for filing applications may be waived by KDHE as particular circumstances justify. Completed applications shall be mailed to KDHE.

(2) The application shall include the following:

(A) A completed lead occupation certificate application on a form provided by KDHE, which shall include the following:

(i) The applicant's full legal name, home address, and telephone number;

(ii) the name, address, and telephone number of the applicant's current employer;

(iii) the applicant's social security number;

(iv) the county or counties in which the applicant is employed;

(v) the location where the applicant would like to receive correspondence regarding the application or certification;

(vi) the occupation for which the applicant wishes to be certified;

(vii) any certification for lead occupations in other states, including the names of the other states, type of certification, certification expiration date, and certification number, and copies of the other states' certification or license certificate;

(viii) any certification by the EPA, including the EPA region number, type of certification, certification expiration

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tion date, certification number, and a copy of the EPA certificate;

(ix) the type of training completed, including the name of the training provider, certificate identification number, and dates of course completion;

(x) any employment history or education that meets the experience requirements specified in subsection (c) of this regulation; and

(xi) the signature of the applicant, which shall certify that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

(B) a copy of the KDHE- or EPA-accredited lead abatement supervisor training program completion certificate, and any required refresher completion certificates;

(C) two recent passport-size color photographs of the applicant's face without a hat or sunglasses. Computer-generated or photocopied photographs shall not be acceptable;

(D) documentation pursuant to subsection (c) of this regulation as evidence of meeting the education or experience requirements for lead abatement supervisors; and

(E) a check or money order made payable to KDHE for the nonrefundable fee specified in K.A.R. 28-72-3.

(3) Each applicant for a lead abatement supervisor certificate shall apply to KDHE within one year of the applicant's successful completion of the KDHE- or EPA-accredited lead abatement supervisor training course, as indicated on the certificate of completion. Applicants failing to apply within one year from the date on the training course completion certificate shall, before making application for certification, successfully complete the eight-hour lead abatement supervisor refresher training course accredited by the KDHE or EPA.

(4) An applicant who fails to apply within two years of the lead abatement supervisor training and who has not successfully completed refresher training shall successfully complete the KDHE- or EPA-accredited lead abatement supervisor training course before submitting an application for a lead abatement supervisor certificate.

(b) Application for a lead abatement supervisor certificate under reciprocity.

(1) Each applicant for a lead abatement supervisor certificate by reciprocity shall submit a completed application to KDHE before consideration for certification issuance. Completed applications shall be mailed to KDHE.

(2) The application shall include the following:

(A) A completed lead occupation certificate application on a form provided by KDHE, which shall include the following:

(i) The applicant's full legal name, home address, and telephone number;

(ii) the name, address, and telephone number of the applicant's current employer;

(iii) the applicant's social security number;

(iv) the county or counties in which the applicant is employed;

(v) the location where the applicant would like to receive correspondence regarding the application or certification;

(vi) the occupation for which the applicant wishes to be certified;

(vii) any certification for lead occupations in other states, including the name of the other states, type of certification, certification expiration date, and certification number, and copies of the other states' certification or license certificate;

(viii) any certification by the EPA, including the EPA region number, type of certification, certification expiration date, certification number, and copy of the EPA certificate;

(ix) any employment history or education that meets the experience requirements in subsection (c) of this regulation; and

(x) the signature of the applicant, which shall certify that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

(B) two recent, passport-size color photographs of the applicant's face without a hat or sunglasses. Computer-generated or photocopied photographs shall not be acceptable; and

(C) a check or money order made payable to KDHE for the nonrefundable fee specified in K.A.R. 28-72-3.

(c) Training and experience requirements for a lead abatement supervisor certificate.

(1) Each applicant for a certificate as a lead abatement supervisor shall complete a KDHE- or EPA-accredited lead abatement supervisor training program and pass the course examination and the national third-party examination, each with a score of 70% or more.

(2) Each applicant for a certificate as a lead abatement supervisor shall meet the minimum experience requirements for a certified lead abatement supervisor.

(A) The minimum experience requirements for a lead abatement supervisor certificate shall include at least one of the following:

(i) At least one year of experience as a certified lead abatement worker certified by Kansas, EPA, or an EPA-approved state;

(ii) at least two years of experience in asbestos abatement work as a construction manager or superintendent; or

(iii) at least two years of experience as a manager for environmental hazard remediation projects.

(B) The following documents shall be recognized by KDHE as evidence of meeting the requirements listed in paragraph (c)(2)(A) of this regulation:

(i) Resumes, letters of reference, or documentation of work experience, which shall include specific dates of employment, each employer's name, address, and telephone number, and specific job duties, as evidence of meeting the work experience requirements;

(ii) course completion certificates issued by the KDHE- or EPA-accredited training provider as evidence of meeting the training requirements; and

(iii) a copy of the lead abatement supervisor certificate or identification badge as evidence of having been a certified lead abatement supervisor.

(d) Procedure for issuance or denial of a lead abatement supervisor certificate.

(1) The applicant shall be informed by KDHE in writing that the application is approved, incomplete, or denied.

(A) If an application is incomplete, the notice shall include a list of additional information or documentation required to complete the application.

(i) Within 30 calendar days after the issuance date of the notice, the applicant shall submit to KDHE, in writing, the information requested in the written notice.

(ii) Failure to submit the information requested in the written notice within 30 calendar days shall result in KDHE's denial of the individual's application for certification.

(iii) After receipt of the information requested in the written notice, the applicant shall be informed by KDHE in writing that the application is either approved or denied.

(B) When an application for certification is denied, the written notice of denial to the applicant shall specify the reasons for the denial. Certification may be denied by KDHE for any of the following reasons:

(i) Failure to satisfy education or experience requirements;

(ii) the type and amount of training;

(iii) false or misleading statements in the application;

(iv) failure to achieve a passing score on the national third-party exam after three attempts;

(v) failure to submit a complete application;

(vi) three or more citations or violations within the past two years of any existing local, state, or federal lead-based paint activity regulations or standards;

(vii) three or more violations within the past two years of 29 CFR 1926-62 or 29 CFR 1910.1200;

(viii) fraud or failure to disclose facts relevant to the application;

(ix) permitting the duplication or use by another of the individual's certificate;

(x) any other information that may affect the applicant's ability to appropriately perform abatement supervisor activities; or

(xi) final disciplinary action, for any violation of lead-based paint activity standards, against the certified individual by another state, territory, federal agency, or country, whether or not voluntarily agreed to by the certified individual, including the denial of certification, surrender of the certificate, allowing the certificate to expire, or discontinuing or restricting the certificate while subject to investigation or while actually under investigation by another state, territory, federal agency, or country.

(C) If an application is denied, the applicant may reapply to KDHE for a lead abatement supervisor certificate by submitting a complete lead occupation application form with another nonrefundable certification fee, as specified in K.A.R. 28-72-3.

(D) If an applicant is aggrieved by a determination to deny certification, the applicant may appeal KDHE's denial to the KDHE hearing section, in accordance with the Kansas administrative procedure act.

(2) Within 180 calendar days of application approval, the applicant shall attain a passing score on the national third-party examination for lead abatement supervisors.

(A) An applicant shall not sit for the national third-party examination for lead abatement supervisors more than three times within 180 calendar days after the issuance date of the notice of an approved application.

(B) The applicant's failure to obtain a passing score on the national third-party examination for lead abatement supervisors within the 180-day period following the notice of an approved application for a certificate shall result in KDHE's denial of the individual's application for a certificate. The individual may reapply to KDHE pursuant to this regulation but only after retaking the KDHE or EPA-accredited lead abatement supervisor training course.

(3) After the applicant passes the national third-party examination, a two-year lead abatement supervisor certificate and a photo identification badge shall be issued by KDHE.

(4) A certificate may be issued with specific restrictions pursuant to an agreement between the applicant and KDHE. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4, 5, and 9; effective 1-28-99-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-9. Application for the certification of project designers. (a) Application for a project designer certificate.

(1) Each applicant for a project designer certificate shall submit a completed application to KDHE before consideration for certification issuance. Each application for certification shall be received by KDHE within one year of successful completion of the project designer training course. Completed applications shall be mailed to KDHE.

(2) The application shall include the following:

(A) A completed lead occupation certificate application on a form provided by KDHE, which shall include the following:

(i) The applicant's full legal name, home address, and telephone number;

(ii) the name, address, and telephone number of the applicant's current employer;

(iii) the applicant's social security number;

(iv) the county or counties in which the applicant is employed;

(v) the location where the applicant would like to receive correspondence regarding the application or certification;

(vi) the occupation for which the applicant wishes to be certified;

(vii) any certification for lead occupations in other states, including the names of the other states, type of certification, certification expiration date, and certification number, and copies of the other states' certification or license certificate;

(viii) any certification by the EPA, including the EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate;

(ix) the type of training completed, including the name of the training provider, certificate identification number, and dates of course completion;

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(x) any employment history or education that meets the experience requirements in subsection (c) of this regulation; and

(xi) the signature of the applicant, which shall certify that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

(B) a copy of the KDHE- or EPA-accredited project designer training program completion certificate, and any required refresher completion certificates;

(C) two recent passport-size color photographs of the applicant's face without a hat or sunglasses. Computer-generated or photocopied photographs shall not be acceptable;

(D) documentation pursuant to subsection (c) of this regulation as evidence of meeting the education or experience requirements for project designers; and

(E) a check or money order made payable to KDHE for the nonrefundable fee specified in K.A.R. 28-72-3.

(3) Each applicant for a project designer certificate shall apply to KDHE within one year of the applicant's successful completion of the KDHE- or EPA-accredited project designer training course, as indicated on the certificate of completion. Applicants failing to apply within one year from the date on the training course completion certificate shall, before making application for certification, successfully complete the four-hour project designer refresher training course accredited by the KDHE or EPA.

(4) An applicant who fails to apply within two years of the project designer training and who has not successfully completed refresher training shall successfully complete the KDHE- or EPA-accredited project designer training course before submitting an application for a project designer certificate.

(b) Application for project designer certificate under reciprocity.

(1) Each applicant for a project designer certificate by reciprocity shall submit a completed application to KDHE before consideration for certification issuance. Completed applications shall be mailed to KDHE.

(2) The application shall include the following:

(A) A completed lead occupation certificate application form provided by KDHE, which shall include the following:

(i) The applicant's full legal name, home address, and telephone number;

(ii) the name, address, and telephone number of the applicant's current employer;

(iii) the applicant's social security number;

(iv) the location where the applicant would like to receive correspondence regarding the application or certification;

(v) the occupation for which the applicant wishes to be certified;

(vi) any certification for lead occupations in other states, including the name of the other states, type of certification, certification expiration date, and certification number, and copies of the other states' certification or license certificate;

(vii) any certification by the EPA, including the EPA region number, type of certification, certification expiration

date, certification number, and copy of the EPA certificate; and

(viii) the signature of the applicant, which shall certify that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

(B) two recent, passport-size color photographs of the applicant's face without a hat or sunglasses. Computer-generated or photocopied photographs shall not be acceptable; and

(C) a check or money order made payable to KDHE for the nonrefundable fee specified in K.A.R. 28-72-3.

(c) Training, education, and experience requirements for a project designer certificate.

(1) Each applicant for a certificate as a project designer shall complete a KDHE- or EPA-accredited lead abatement supervisor training program and a KDHE- or EPA-accredited project designer course and pass both course examinations, each with a score of at least 70%.

(2) Each applicant for a certificate as a project designer shall meet the minimum education and experience requirements for a certified project designer.

(A) The minimum education and experience requirements for a certified project designer shall include at least one of the following:

(i) A bachelor's degree in engineering, architecture, or a related profession, and one year of experience in building construction and design;

(ii) at least one year of experience as a certified project designer, certified by Kansas, EPA, or an EPA-approved state, and at least two years of experience in building construction and design; or

(iii) at least four years of experience in building construction and design.

(B) The following documents shall be recognized by KDHE as evidence of meeting the requirements listed in paragraph (c)(2)(A) of this regulation:

(i) Official academic transcripts or diplomas, as evidence of meeting the education requirements;

(ii) resumes, letters of reference, or documentation of work experience, which shall include specific dates of employment, each employer's name, address, and telephone number, and specific job duties, as evidence of meeting the work experience requirements;

(iii) course completion certificates issued by the KDHE- or EPA-accredited training provider as evidence of meeting the training requirements; and

(iv) a copy of the project designer certificate or identification badge as evidence of having been a certified project designer.

(d) Procedure for issuance or denial of a project designer certificate.

(1) The applicant shall be informed by KDHE in writing that the application is approved, incomplete, or denied.

(A) If an application is incomplete, the notice shall include a list of additional information or documentation required to complete the application.

(i) Within 30 calendar days after the issuance date of the notice, the applicant shall submit to KDHE, in writing, the information requested in the written notice.

(ii) Failure to submit the information requested in the written notice within 30 calendar days shall result in KDHE's denial of the individual's application for certification.

(iii) After receipt of the information requested in the written notice, the applicant shall be informed by KDHE in writing that the application is either approved or denied.

(B) When an application for certification is denied, the written notice of denial to the applicant shall specify the reasons for the denial. Certification may be denied by KDHE for any of the following reasons:

(i) Failure to satisfy education or experience requirements;

(ii) the type and amount of training;

(iii) false or misleading statements in the application;

(iv) failure to submit a complete application;

(v) three or more citations for violations within the past two years of any existing local, state, or federal lead-based paint activity regulations or standards;

(vi) three or more violations within the past two years of 29 CFR 1926.62 or 29 CFR 1910.1200;

(vii) fraud or failure to disclose facts relevant to the application;

(viii) permitting the duplication or use by another of the individual's certificate;

(ix) any other information that may affect the applicant's ability to appropriately perform project designer activities; or

(x) final disciplinary action, for any violation of lead-based paint activity standards, against the certified individual by another state, territory, federal agency, or country, whether or not voluntarily agreed to by the certified individual, including the denial of certification, surrender of the certificate, allowing the certificate to expire, or discontinuing or restricting the certificate while subject to investigation or while actually under investigation by another state, territory, federal agency, or country.

(C) If an application is denied, the applicant may reapply to KDHE for a project designer certificate by submitting a complete lead occupation application form with another nonrefundable certification fee, as specified in K.A.R. 28-72-3.

(D) If an applicant is aggrieved by a determination to deny certification, the applicant may appeal KDHE's denial to the KDHE hearing section, in accordance with the Kansas administrative procedure act.

(2) If the application is approved, a two-year project designer certificate and a photo identification badge shall be issued by KDHE.

(3) A certificate may be issued with specific restrictions pursuant to an agreement between the applicant and KDHE. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4, 5, and 9; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-10. Application process and licensure renewal requirements for lead activity firms. (a) Application for a lead activity firm license.

(1) Each applicant for a lead activity firm license shall submit a completed application to KDHE before consideration for license issuance. Completed applications shall be mailed to KDHE.

(2) The application shall include the following:

(A) A completed lead activity firm application on a form provided by KDHE, which shall include the following:

(i) The applicant's name, address, and telephone number;

(ii) if the applicant is a sole proprietorship, the applicant's social security number or, if the applicant is a corporation, the applicant's federal employee identification number;

(iii) the county or counties in which the applicant is located;

(iv) a description of any lead-based paint activities that the applicant will be conducting, including lead inspection, risk assessments, lead abatement projects, and project design;

(v) a certification that the lead activity firm will employ only appropriately Kansas certified individuals to conduct lead-based paint activities; and

(vi) a certification that the lead activity firm and its employees will follow the Kansas work practice standards for lead-based paint activities specified in K.A.R. 28-72-13 through K.A.R. 28-72-21;

(B) if the applicant is a corporation, a copy of its registration with the Kansas secretary of state's office. Every corporation desiring a license as a lead activity firm under the act shall be registered and in good standing with the Kansas secretary of state's office;

(C) if the applicant conducts business under a fictitious name, a copy of its fictitious name registration, which shall be registered with the Kansas secretary of state's office; and

(D) a check or money order made payable to KDHE for the nonrefundable fee specified in K.A.R. 28-72-3, unless the lead activity firm is exempt from this fee because the firm is a state, federally recognized Indian tribe, local government, or nonprofit organization.

(b) Application for a lead activity firm under reciprocity.

(1) Each applicant for a lead activity firm license by reciprocity shall submit an application to KDHE. Completed applications shall be mailed to KDHE.

(2) The application shall include the following:

(A) A completed lead activity firm application on a form provided by KDHE, which shall include the following:

(i) The applicant's name, address, and telephone number;

(ii) if the applicant is a sole proprietorship, the applicant's social security number;

(iii) the county or counties in which the applicant is located;

(iv) any lead-based paint activities that the applicant will be conducting, including lead inspection, risk assessments, lead abatement projects, and project design;

(v) a certification that the lead activity firm will employ only appropriately Kansas-certified individuals to conduct lead-based paint activities; and

(vi) a certification that the lead activity firm and its employees will follow the Kansas work practice stan-

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dards for lead-based paint activities specified in this article;

(B) a check or money order made payable to KDHE for the nonrefundable fee specified in K.A.R. 28-72-3, unless the lead activity firm is exempt from this fee because the firm is a state, federally recognized Indian tribe, local government, or nonprofit organization.

(c) Procedure for issuance or denial of a lead activity firm license.

(1) The applicant shall be informed by KDHE in writing that the application is approved, incomplete, or denied.

(A) If an application is incomplete, the notice shall include a list of additional information or documentation required to complete the application.

(i) Within 30 calendar days after the issuance date of the notice, the applicant shall submit to KDHE, in writing, the information requested in the written notice.

(ii) Failure to submit the information requested in the written notice within 30 calendar days shall result in KDHE's denial of the firm's application for licensure.

(iii) After receipt of the information requested in the written notice, the applicant shall be informed by KDHE in writing that the application is either approved or denied.

(B) When an application for licensure is denied, the written notice of denial to the applicant shall specify the reasons for the denial. Licensure may be denied by KDHE for any of the following reasons:

(i) False or misleading statements in the application;

(ii) failure to submit a complete application;

(iii) three or more citations or violations within the past two years, by the firm's president, officers, or employees, of any existing local, state, or federal lead-based paint activity regulations or standards;

(iv) three or more violations within the past two years by the firm's president, officers, or employees of 29 CFR 1926.62 or 29 CFR 1910.1200;

(v) fraud or failure to disclose facts relevant to the application;

(vi) permitting the duplication or use by another of the firm's license;

(vii) any other information that may affect the applicant's ability to appropriately perform lead abatement activities; or

(viii) final disciplinary action, or any violation of lead-based paint activity standards, against the firm by another state, territory, federal agency, or country, whether or not voluntarily agreed to by the firm, including the denial of licensure, surrender of the license, allowing the license to expire, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, federal agency, or country.

(C) If an application is denied, the applicant may reapply to KDHE for a lead activity firm license by submitting a complete lead activity firm application form with another nonrefundable license fee, as specified in K.A.R. 28-72-3.

(D) After notice of a complete application, a two-year lead activity firm license shall be issued by KDHE.

(E) If an applicant is aggrieved by a determination to deny licensure, the applicant may appeal KDHE's denial to the KDHE hearing section, in accordance with the Kansas administrative procedure act.

(F) A license may be issued with specified restrictions pursuant to an agreement between the applicant or licensed firm and KDHE.

(2) Change of ownership. If a licensed lead activity firm changes ownership, the new owner shall notify KDHE in writing no later than 30 calendar days before the change of ownership becomes effective. The notification shall include a new lead activity firm license application, the appropriate fee, and the date that the change of ownership will become effective. The new lead activity firm application shall be processed in the same manner as that required for an initial license, in accordance with this regulation. The current lead activity firm's license shall expire on the effective date set forth in the notification of the change of ownership.

(3) Renewal application for a lead activity firm license. A completed application for a lead activity firm license renewal shall be mailed to KDHE at least 60 days before the expiration date on the license, accompanied by the nonrefundable renewal fee specified in K.A.R. 28-72-3. However, any lead activity firm that is a state, federally recognized Indian tribe, local government, or nonprofit organization shall be exempt from payment of this fee. If the licensee fails to apply 60 days before the license expiration date, renewal of the license before the end of the licensing period shall not be guaranteed by KDHE.

(4) Expiration of license. If a licensed lead activity firm allows its license to expire, the firm shall be required to submit an application in the same manner as that required for an application for an initial license, in accordance with this regulation. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4, 5, 6, and 9; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-11. Renewal of lead occupation certificates.

(a) Renewal application for lead inspector, risk assessor, lead abatement supervisor, lead abatement worker, and project designer.

(1) An individual shall submit a completed application for renewal of certificate, including the required supporting documentation, to KDHE at least 60 days before the certificate's expiration date as indicated on the certificate. Failure of the certified individual to submit an application at least 60 days before the certificate's expiration date may result in certificate not being renewed before the current license expires.

(2) The certified individual applying for renewal shall complete the eight-hour KDHE- or EPA-accredited training course for the appropriate occupation.

(3) The renewal application shall include the following:

(A) A completed lead occupation certificate application on a form provided by KDHE, which shall include the following:

(i) The applicant's full legal name, home address, and telephone number;

(ii) the name, address, and telephone number of the applicant's current employer;

- (iii) the certified individual's social security number;
- (iv) the county or counties in which the certified individual is employed;
- (v) the location where the certified individual would like to receive correspondence regarding the certification;
- (vi) the lead occupation certificate that the applicant wishes to have renewed;
- (vii) the type of refresher training course completed, including the name of the training provider, certificate identification number, and date of course completion; and
- (viii) the signature of the applicant, which shall certify that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

(B) a copy of the KDHE- or EPA-accredited refresher training program completion certificate for the appropriate occupation;

(C) two recent, passport-size color photographs of the applicant's face without a hat or sunglasses. Computer-generated or photocopied photographs shall not be acceptable; and

(D) a check or money order made payable to KDHE for the appropriate nonrefundable recertification fee, as specified in K.A.R. 28-72-3.

(b) Procedure for issuance or denial of a renewal lead occupation certificate.

(1) The applicant shall be informed by KDHE in writing that the application is approved, incomplete, or denied.

(A) If an application is incomplete, the notice shall include a list of additional information or documentation required to complete the renewal application.

(i) Within 30 calendar days after the issuance date of the notice, the applicant shall submit to KDHE, in writing, the information requested in the written notice.

(ii) Failure to submit the information requested in the written notice within 30 calendar days shall result in KDHE's denial of the individual's application for recertification.

(iii) After receipt of the information requested in the written notice, the applicant shall be informed by KDHE in writing that the application is either approved or denied.

(B) When a renewal application for certification is denied, the written notice of denial to the applicant shall specify the reasons for denial. Certification may be denied by KDHE for any of the following reasons:

(i) Failure to satisfy education or experience requirements;

(ii) the type and amount of training;

(iii) false or misleading statements in the application;

(iv) failure to submit a complete application;

(v) three or more citations or violations within the past two years of any existing local, state, or federal lead-based paint activity regulations or standards;

(vi) three or more violations within the past two years of 29 CFR 1926.62 or 29 CFR 1910.1200;

(vii) fraud or failure to disclose facts relevant to the application;

(viii) permitting the duplication or use by another of the individual's training certificate;

(ix) any other information that may affect the applicant's ability to appropriately perform lead abatement activities; or

(x) final disciplinary action, for any violation of lead-based paint activity standards, against the certified individual by another state, territory, federal agency, or country, whether or not voluntarily agreed to by the certified individual, including the denial of certification, surrender of the certificate, allowing the certificate to expire, or discontinuing or restricting the certificate while subject to investigation or while actually under investigation by another state, territory, federal agency, or country.

(C) If a renewal application is denied, the applicant may reapply to KDHE for a lead occupation certificate by submitting a complete lead occupation application form with the appropriate nonrefundable recertification fee, as specified in K.A.R. 28-72-3.

(2) If an applicant is aggrieved by a determination to deny certification, the applicant may appeal KDHE's denial to the KDHE hearing section, in accordance with the Kansas administrative procedure act.

(3) After notice of a complete renewal application, a two-year certificate and a photo identification badge shall be issued by KDHE.

(4) A certificate may be issued with specific restrictions pursuant to an agreement between the certified individual and KDHE. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4, 5, and 9; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-12. Application process and requirements for reapplication after certificate expiration. (a) Unless sooner renewed or revoked, a certificate shall expire within two years from its effective date indicated on the current certificate. If a certified individual allows the certificate to expire before renewal, the certified individual shall reapply to KDHE. Completed applications shall be mailed to KDHE.

(b) The application shall include the following:

(1) A completed lead occupation certificate form provided by KDHE, which shall include the following:

(A) The applicant's full legal name, home address, and telephone number;

(B) the name, address, and telephone number of the applicant's current employer;

(C) the applicant's social security number;

(D) the county or counties in which the applicant is employed;

(E) the location where the applicant would like to receive correspondence regarding the application or certification;

(F) the occupation for which the applicant wishes to be certified;

(G) any certification for lead occupations in other states, including the names of the other states, type of certification, certification expiration date, and certification number, and copies of other states' certification or license certificate;

(H) any certification by the EPA, including the EPA region number, type of certification, certification expiration

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tion date, certification number, and copy of the EPA certificate;

(I) the type of training completed, including the name of the training provider, certificate identification number, and date of course completion;

(J) any employment history or education that meets the experience requirements in K.A.R. 28-72-5 through 28-72-9, as applicable; and

(K) the signature of the applicant, which shall certify that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

(2) a copy of the KDHE- or EPA-accredited lead occupation training program completion certificate for the appropriate occupation;

(3) two recent passport-size color photographs of the applicant's face without a hat or sunglasses. Computer-generated or photocopied photographs shall not be acceptable; and

(4) a check or money order made payable to KDHE for the nonrefundable certification fee appropriate to the lead occupation, as specified in K.A.R. 28-72-3.

(c)(1) Any applicant who fails to reapply before the license expiration date and who has not successfully completed refresher training shall successfully complete the appropriate KDHE- or EPA-accredited initial training course again.

(2) Any certified lead inspector, risk assessor, or lead abatement supervisor who allows the certification to expire before renewal shall retake the national third-party examination for the appropriate occupation.

(d) The procedure for issuance or denial of a certificate after its expiration shall be that specified in K.A.R. 28-72-11(b). (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4 and 5; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-13. Work practice standards; general standards. (a) Except as provided in L. 1999, Ch. 99, Sec. 5, and amendments thereto, all lead-based paint activities, as defined in the act, shall be performed pursuant to the work practice standards contained in this article.

(b) Except as provided in L. 1999, Ch. 99, Sec. 5, and amendments thereto, when performing any lead-based paint activity that involves an inspection, lead-hazard screen, risk assessment, or abatement, a certified individual shall perform that activity in compliance with the appropriate requirements below.

(c) Conflict of interest. Certified lead inspectors and risk assessors conducting lead inspection activities shall avoid potential conflicts of interest by not being contracted, subcontracted, or employed by a lead activity firm performing lead abatement activities on the same lead abatement project.

(d)(1) Each certified individual shall comply with the following documented methodologies, which are adopted by reference, when performing any lead-based paint activity:

(A) The U.S. department of housing and urban development (HUD) "guidelines for the evaluation and control of lead-based paint hazards in housing," dated June 1995;

(B) the EPA "guidance on identification of lead-based paint hazards," published September 11, 1995; and

(C) the EPA "residential sampling for lead: protocols for dust and soil sampling" (EPA report number 747-R-95-001), published March 1995.

(2) If a conflict exists between any of the aforementioned methodologies and any federal or state statute or regulation, or any city or county ordinance, the most stringent of these shall be adhered to by the certified lead inspector or risk assessor. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4 and 5; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-14. Work practice standards; inspection. (a) Except as provided in L. 1999, Ch. 99, Sec. 5, and amendments thereto, an inspection shall be conducted only by a person certified by KDHE as a lead inspector or risk assessor, and all inspections shall be conducted according to the procedures in this regulation.

(b) When conducting an inspection, the lead inspector or risk assessor shall select the following locations according to the documented methodologies in K.A.R. 28-72-13 (d)(1) and shall test for the presence of lead-based paint:

(1) In a residential dwelling and child-occupied facility, each interior component with a distinct painting history and each exterior component with a distinct painting history shall be tested for lead-based paint, except those components that the lead inspector or risk assessor determines to have been replaced after 1978, or not to contain lead-based paint; and

(2) in a multi-family dwelling or child-occupied facility, each component with a distinct painting history in every common area, except those components that the lead inspector or risk assessor determines to have been replaced after 1978, or not to contain lead-based paint.

(c)(1) Paint shall be sampled according to both of the following requirements:

(A) The analysis of paint to determine the presence of lead shall be conducted using the documented methodologies in K.A.R. 28-72-13 (d)(1).

(B) All collected paint chip samples shall be analyzed according to K.A.R. 28-72-19 of this section to determine if they contain detectable levels of lead that can be quantified numerically.

(2) The certified inspector or risk assessor shall prepare an inspection report, which shall include the following information:

(A) The date of each inspection;

(B) the address of the building;

(C) the date of the construction;

(D) apartment numbers, if applicable;

(E) the name, address, and telephone number of the owner or owners of each residential dwelling;

(F) the name, signature, and certification number of each certified lead inspector or risk assessor, or both, conducting testing;

(G) the name, address, and telephone number of the licensed lead activity firm employing each lead inspector or risk assessor, or both, if applicable;

(H) each testing method and device or sampling procedure, or both, employed for paint analysis, including

quality control data and, if used, the serial number of any x-ray fluorescence (XRF) device and a copy of the XRF device user's certificate of training provided by the equipment manufacturer;

(I) a summary of laboratory results, categorized as positive or negative, and the name of each accredited laboratory that conducted the analysis, along with the laboratory's NLLAP or ELLAP certification number;

(J) floor plans or sketches of the units inspected, showing the appropriate test locations and any identifying number systems;

(K) a summary of the substrates tested, including the identification of component, component integrity, paint condition and color, and test identification numbers associated with the results; and

(L) the results of the inspection expressed in terms appropriate to the sampling method used.

(d) Time frame for submission of reports. The inspection report shall be provided to the owner of the property within 20 business days of completion of the lead inspection. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4 and 5; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-15. Work practice standards; lead hazard screen. (a) Except as provided in L. 1999, Ch. 99, Sec. 5, and amendments thereto, a lead hazard screen shall be conducted only by a person certified by KDHE as a risk assessor.

(b) If a lead hazard screen is conducted, the risk assessor shall conduct each lead hazard screen as follows:

(1) Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant-use patterns that may cause lead-based paint exposure to one or more children age 72 months and under shall be collected.

(2) A visual inspection of the residential dwelling or child-occupied facility shall be conducted to achieve the following:

(A) Determine if any deteriorated paint is present; and

(B) locate at least two dust sampling locations.

(3) If deteriorated paint is present, each surface with deteriorated paint that is determined, using one or more of the documented methodologies in K.A.R. 28-72-13 (d)(1), to be in poor condition and to have a distinct painting history, shall be tested for the presence of lead.

(4) In residential dwellings, two composite dust samples shall be collected, one from the floors and the other from the windows, in rooms, hallways, and stairwells where one or more children, age 72 months and under, are most likely to come in contact with dust.

(5) In multi-family dwellings and child-occupied facilities, in addition to the floor and window samples required in paragraph (b)(4) of this regulation, the risk assessor shall also collect composite dust samples from common areas where one or more children, age 72 months and under, are most likely to come into contact with dust.

(c) Dust samples shall be collected and analyzed in the following manner:

(1) All dust samples shall be taken using one or more of the documented methodologies in K.A.R. 28-72-13 (d)(1).

(2) All collected dust samples shall be analyzed according to K.A.R. 28-72-19 to determine if they contain detectable levels of lead that can be quantified numerically.

(d) Paint shall be sampled according to both of the following requirements:

(1) The analysis of paint to determine the presence of lead shall be conducted using one or more of the documented methodologies in K.A.R. 28-72-13 (d)(1).

(2) All collected paint chip samples shall be analyzed according to K.A.R. 28-72-19 to determine if they contain detectable levels of lead that can be quantified numerically.

(e) The risk assessor shall prepare a lead hazard screen report, which shall include the following information:

(1) The date of the assessment;

(2) the address of each building;

(3) the date of construction of each building;

(4) the apartment number, if applicable;

(5) the name, address, and telephone number of each owner of each building;

(6) the name, signature, and certification number of the certified risk assessor conducting the assessment;

(7) the name, address, and telephone number of each recognized laboratory conducting analysis of collected samples, along with the laboratory's NLLAP or ELLAP certification number;

(8) the results of the visual inspection;

(9) the testing method and sampling procedure employed for the paint analysis;

(10) specific locations of each paint component tested for the presence of lead;

(11) all data collected from on-site testing, including quality control data and, if used, the serial number of any XRF device and a copy of the XRF device user's certificate of training provided by the equipment manufacturer;

(12) all results of laboratory analysis on collected paint, soil, and dust samples;

(13) any other sampling results;

(14) any background information collected regarding the physical characteristics of the residential dwelling or multi-family dwelling and occupant-use patterns that may cause lead-based paint exposure to one or more children age 72 months and under; and

(15) recommendations, if warranted, for a follow-up risk assessment and, as appropriate, any further actions.

(f) Time frame for submission of reports. The lead hazard screen report shall be provided to the owner of the property within 20 business days of completion of the lead inspection. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4 and 5; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-16. Work practice standards; risk assessment. (a) Except as provided by L. 1999, Ch. 99, Sec. 5, and amendments thereto, a risk assessment shall be conducted only by a person certified by KDHE according to K.A.R. 28-72-2 and 28-72-5 through 28-72-12 as a risk assessor and, if conducted, shall be conducted according to the procedures in this regulation.

(b) A visual inspection of the residential dwelling or child-occupied facility shall be undertaken to locate the

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existence of deteriorated paint, assess the extent and causes of the deterioration, and assess other potential lead-based paint hazards.

(c) Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant-use patterns that may cause lead-based paint exposure to one or more children age 72 months and under shall be collected.

(d) Each surface with deteriorated paint that is determined, using one or more of the documented methodologies in K.A.R. 28-72-13 (d)(1), to be in poor condition and to have a distinct painting history, shall be tested for the presence of lead. Each other surface determined, using one or more of the documented methodologies in K.A.R. 28-72-13 (d)(1), to be a potential lead-based paint hazard and to have a distinct painting history shall also be tested for the presence of lead.

(e) In residential dwellings, dust samples, either composite or single-surface samples, from the window and floor shall be collected in all living areas where one or more children, age 72 months and under, are most likely to come into contact with dust.

(f) For multi-family dwellings and child-occupied facilities, the samples required in subsection (e) of this regulation shall be taken. In addition, window and floor dust samples, either composite or single-surface samples, shall be collected in the following locations:

(1) Common areas adjacent to the sampled residential dwelling or child-occupied facility; and

(2) other common areas in the building where the risk assessor determines that one or more children, age 72 months and under, are likely to come into contact with dust.

(g) For child-occupied facilities, window and floor dust samples, either composite or single-surface samples, shall be collected in each room, hallway, or stairwell utilized by one or more children, age 72 months and under, and in other common areas in the child-occupied facility where the risk assessor determines that one or more children, age 72 months and under, are likely to come into contact with dust.

(h) Soil samples shall be collected and analyzed for lead concentrations in the following locations:

(1) Exterior play areas where bare soil is present; and
(2) dripline or foundation areas where bare soil is present.

(i) All paint, dust, or soil sampling or testing shall be conducted using one or more of the documented methodologies in K.A.R. 28-72-13 (d)(1).

(j) All collected paint chip, dust, or soil samples shall be analyzed according to K.A.R. 28-72-19 to determine if they contain detectable levels of lead that can be quantified numerically.

(k) The certified risk assessor shall prepare a risk assessment report, which shall include the following information:

(1) The date of the assessment;
(2) the address of each building;
(3) the date of construction of the building;
(4) the apartment number, if applicable;
(5) the name, address, and telephone number of each owner of each building;

(6) the name, signature, and certification number of the certified risk assessor conducting the assessment;

(7) the name, address, and telephone number of each recognized laboratory conducting an analysis of collected samples, along with the laboratory's NLLAP or ELLAP certification number;

(8) the results of the visual inspection;

(9) the testing method and sampling procedure used for each paint analysis;

(10) specific locations of each painted component tested for the presence of lead;

(11) all data collected from on-site testing, including quality control data and, if used, the serial number of any XRF device and a copy of the XRF device user's certificate of training provided by the equipment manufacturer;

(12) all results of laboratory analysis on collected paint, soil, and dust samples;

(13) any other sampling results;

(14) any background information collected pursuant to subsection (c) of this regulation;

(15) to the extent that they are used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessments of lead-based paint-related hazards;

(16) a description of the location, type, and severity of identified lead-based paint hazards and any other potential lead hazards; and

(17) a description of interim controls or abatement options, or both, for each identified lead-based paint hazard and the suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

(1) Time frame for submission of reports. The risk assessment report shall be provided to the owner of the property within 20 business days of completion of the lead inspection. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4 and 5; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-17. Work practice standards; elevated blood lead level investigation risk assessments. (a) In order to perform an elevated blood lead (EBL) level investigation risk assessment, the risk assessor shall have a certificate from KDHE.

(b) The risk assessor shall have the parents or guardians of the EBL child complete an approved KDHE questionnaire before sampling. Environmental testing shall be linked to the EBL child's history and may include the testing of a prior residence or other areas frequented by the EBL child.

(c) Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant-use patterns that may cause lead-based paint exposure to one or more children age 72 months and under shall be collected.

(d) Each surface on the dwelling itself, furniture, or play structures frequented by the EBL child that has deteriorated surface coatings shall be tested for the presence of lead.

(e) Dust samples from areas frequented by the EBL child, including play areas, porches, kitchens, bedrooms,

and living and dining rooms, shall be collected. Dust samples shall also be collected from automobiles, work shoes, and laundry rooms if occupational lead exposure is a possibility.

(f) Soil samples shall be collected from bare soil areas of play, areas near the foundation of the house, and areas from the yard. If the EBL child spends significant time at the park or other play area, samples shall be collected from these areas, unless the area has already been sampled and documented.

(g) If necessary, water samples of the first-drawn water from the tap most commonly used for drinking water, infant formula, or food preparation shall be collected.

(h) All paint, dust, and soil collection and testing shall be conducted using the documented methodologies in K.A.R. 28-72-13 (d)(1). (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4 and 5; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-18. Work practice standards; lead abatement. (a) Except as provided in L. 1999, Ch. 99, Sec. 5, and amendments thereto, a lead abatement shall be conducted only by an individual certified by KDHE and shall be conducted according to the procedures specified in this article.

(b) A certified lead abatement supervisor shall be required for each lead abatement project and shall be on-site during all work-site preparation and during the post-abatement cleanup or work areas. At all other times when lead abatement activities are being conducted, the certified lead abatement supervisor shall be on-site or available by telephone, pager, or answering service, and shall be able to be present at the work site in no more than one hour.

(c) The certified lead abatement supervisor and licensed lead activity firm employing that supervisor shall ensure that all lead abatement activities are conducted according to the requirements of the Kansas work practice standards in this article and all other federal, state, and local requirements.

(d) Notification of the commencement of lead-based paint abatement activities in a residential dwelling or child-occupied facility or as the result of a federal, state, or local order shall be given to the KDHE before the commencement of abatement activities. The procedure for this notification shall be as follows:

(1) Any person or lead activity firm conducting a lead abatement project in target housing or in any child-occupied facility shall submit a notification to the KDHE at least 10 business days before the onset of the lead abatement project.

(2) The notification shall be mailed to KDHE with a check or money order made payable to the Kansas department of health and environment for the nonrefundable project fee specified in K.A.R. 28-72-3.

(3) The notification form provided by the department shall include the following:

(A) The street address, city, state, zip code, and county of each location where lead abatement will occur;

(B) the name, address, and telephone number of the property owner;

(C) an indication of the type of structure being abated, including single- or multi-family dwelling, child-occupied facility, or any combination of these types;

(D) the date of the onset of the lead abatement project;

(E) the estimated completion date of the lead abatement project;

(F) the work days and hours of operation during which the lead abatement project will be conducted;

(G) the name, address, telephone number, and license number of the lead activity firm;

(H) the name and certificate number of each lead abatement worker;

(I) the type or types of lead abatement strategy or strategies that will be utilized, including enclosure, encapsulation, replacement, removal, or any combination of these strategies;

(J) the signature of each lead abatement supervisor, which shall certify that all information provided in the project notification is complete and true to the best of the supervisor's knowledge; and

(K) a written certification from the lead abatement supervisor, within 10 days after successfully achieving clearance, that clearly states that all abatement control options were conducted in accordance with all local, state, and federal regulations, as well as in accordance with the preabatement notification letter submitted to KDHE.

(e) Emergency notification. If the lead activity firm is unable to comply with the 10-day notification period in the event of an emergency situation, the lead activity firm shall perform the following:

(1) Notify KDHE by telephone, facsimile, or electronic mail within 24 hours of the onset of the lead abatement project; and

(2) submit written notification and payment of fees as described in subsection (d) of this regulation no more than five business days after the onset of the lead abatement project.

(f) A written occupant protection plan, which shall be unique to each residential dwelling or child-occupied facility, shall be developed before the lead abatement begins. The occupant protection plan shall describe the measures and management procedures that will be taken during the lead abatement to protect the building occupants from exposure to any lead-based paint hazards.

(1) The certified lead abatement supervisor or project designer responsible for the project shall prepare the occupant protection plan.

(2) The occupation protection plan shall meet the following requirements:

(A) Describe the work practices and strategies that will be taken during the lead abatement project to protect the building occupants from exposure to any lead hazards;

(B) include the results of any lead inspections or risk assessments completed before the commencement of the lead abatement project;

(C) be provided to an adult occupant of each dwelling or dwelling unit being abated and to the property owner, or property owner's designated representative, before the commencement of the lead abatement project; and

(D) be submitted to KDHE with the lead abatement project notification.

(g) The work practices listed below shall be restricted as follows:

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(1) Open-flame burning or torching of lead-based paint shall be prohibited.

(2) Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint shall be prohibited unless used with high efficiency particulate air (HEPA) exhaust control that removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency.

(3) Dry scraping of lead-based paint shall be permitted only in conjunction with heat guns or around electrical outlets or when treating defective paint spots totaling no more than two square feet in any one room, hallway, or stairwell, or totaling no more than 20 square feet on exterior surfaces.

(4) Operating a heat gun on lead-based paint shall be permitted only at temperatures below 1,100° Fahrenheit.

(5) Hydro blasting or pressurized water washing of lead-based paint without containment and water collection and filtering shall be prohibited.

(6) The use of methylene chloride-based chemical strippers shall be prohibited.

(7) Solvents that have flashpoints below 140° Fahrenheit shall be prohibited.

(8) Enclosure strategies shall be prohibited if the barrier is not warranted by the manufacturer to last at least 20 years under normal conditions or if the primary barrier is not a solid barrier.

(9) Encapsulation strategies shall be prohibited if the encapsulant is not warranted by the manufacturer to last at least 20 years under normal conditions or if the encapsulant has been improperly applied.

(h) Permissible lead abatement project strategies. Strategies that shall be permissible for lead abatement projects are the following: replacement, enclosure, encapsulation, and removal. Any lead abatement strategy not specified in this article shall be submitted to and approved by KDHE for evaluation before implementation. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4 and 5; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-18a. Work practice standards; lead abatement: replacement. When conducting a lead abatement project using the replacement strategy, the certified lead professional or licensed firm shall meet the following minimum requirements:

(a) The site shall be prepared by first establishing a regulated area using fencing, barrier tape, or other appropriate barriers. The regulated area shall be marked to prevent uncertified lead professionals and the general public from approaching closer than 20 feet to the replacement operation.

(b) Signs shall be posted at all entrances to the regulated area and shall include the words "WARNING: LEAD AREA. POISON. NO SMOKING OR EATING" in bold lettering not smaller than two inches tall, with additional language or symbols prohibiting entry to the regulated area by uncertified lead professionals and the general public. All signs shall be in a language that is easily recognizable by all certified lead professionals and by members of the general public where the lead abatement activities are taking place.

(c) Any heating and cooling system within the regulated area shall be shut down and the vents sealed with

6-mil poly to prevent lead dust accumulation within the system.

(d) All items shall be cleaned within the regulated area by HEPA vacuuming or wet wiping with a cleaning solution, or both. Items shall then be either removed from the area or covered with 6-mil poly and sealed with duct tape, to provide an airtight and watertight seal.

(e) At least two layers of 6-mil, or thicker, poly shall be placed on the floor at the base of the component and extend at least 10 feet beyond the perimeter of the component to be replaced.

(f) The component, and the area immediately adjacent to the component, shall be thoroughly wetted using a garden sprayer, airless mister, or other appropriate means to reduce airborne dust.

(g) After removal of the component, the surface behind the removed component shall be thoroughly wetted to reduce airborne dust.

(h) The component shall be wrapped or bagged completely in 6-mil poly and sealed with duct tape to prevent loss of debris or dust.

(i) Before installing a new component, the area of replacement shall be cleaned by HEPA vacuuming the area again. Cleaning shall begin at the end of the work area farthest from the main entrance to the area and from the top to the bottom of the regulated area. (Authorized by and implementing L. 1999, Ch. 99, Sec. 4; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-18b. Work practice standards; lead abatement: enclosure. When conducting a lead abatement project using the enclosure strategy, the certified lead professional or licensed firm shall meet the following minimum requirements:

(a) The site shall be prepared by first establishing a regulated area using fencing, barrier tape, or other appropriate barriers. The regulated area shall be marked to prevent uncertified lead professionals and the general public from approaching closer than 20 feet to the enclosure operation.

(b) Signs shall be posted at all entrances to the regulated area and shall include the words "WARNING: LEAD AREA. POISON. NO SMOKING OR EATING" in bold lettering not smaller than two inches tall, with additional language or symbols prohibiting entry to the regulated area by uncertified lead professionals and the general public. All signs shall be in a language that is easily recognized by all certified lead professionals and by members of the general public where the lead abatement activities are taking place.

(c) Any heating and cooling systems within the regulated area shall be shut down and the vents sealed with 6-mil poly to prevent lead dust accumulation within the system.

(d) All items shall be cleaned within the regulated area by HEPA vacuuming or wet wiping with a cleaning solution, or both. Items shall then be either removed from the area or covered with 6-mil poly and sealed with duct tape.

(e) At least one layer of 6-mil, or thicker, poly shall be placed on the floor at the base of the component and extend at least 10 feet beyond the perimeter of the component to be enclosed.

(f) The surface to be enclosed shall be labeled behind the enclosure horizontally and vertically, approximately every two feet with this warning: "Danger: Lead-Based Paint," in permanent ink.

(g)(1) The enclosure shall be applied directly onto the painted surface, or a frame shall be constructed of wood or metal, using nails, staples, or screws. Glue may be used in conjunction with the aforementioned fasteners, but shall not be used alone. All enclosure items shall be back-caulked at all edges, seams, and abutment edges.

(2) The material used for the enclosure barrier shall be solid and rigid enough to provide adequate protection. Wallpaper, contact paper, films, folding walls, drapes, and similar materials shall not meet this requirement.

(3) Enclosure systems and their adhesives shall be designed to last at least 20 years.

(4) The substrate or building structure to which the enclosure is fastened shall be structurally sufficient to support the enclosure barrier for at least 20 years. If there is deterioration of the substrate or building structure that may impair the enclosure from remaining dust-tight for a minimum of 20 years, the substrate or building structure shall be repaired before attaching the enclosure. This deterioration may include mildew, water damage, dry rot, termite damage, or any significant structural damage.

(h) Preformed steel, aluminum, vinyl, or other construction material may be used for window frames, exterior siding, trim casings, column enclosures, moldings, or other similar components if they can be sealed.

(i) A material equivalent to 1/4-inch rubber or vinyl may be used to enclose stairs.

(j) The seams, edges, and fastener holes shall be sealed with caulk or other sealant, providing a dust-tight system.

(k) All equipment used in the regulated area shall be thoroughly cleaned with a cleaning solution or vacuumed with a HEPA vacuum, or both, before removal from the regulated area.

(l) Before clearance, the installed enclosure and surrounding regulated area shall be cleaned by vacuuming with a HEPA vacuum, wiping down all surfaces with a cleaning solution, rinsing all surfaces, and then HEPA vacuuming the area again. Cleaning shall begin at the end of the work area farthest from the main entrance to the area and from the top to the bottom of the regulated area.

(m) All enclosure systems used shall meet all applicable building codes, as well as fire, health, safety, and environmental regulations. (Authorized by and implementing L. 1999, Ch. 99, Sec. 4; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-18c. Work practice standards; lead abatement: encapsulation. (a) The encapsulation strategy of lead abatement shall not be used on the following:

(1) Friction surfaces, including window sashes and parting beads, door jambs and hinges, floors, and door thresholds;

(2) deteriorated components, including rotten wood, rusted metal, spalled or cracked plaster, or loose masonry;

(3) impact surfaces, including doorstops, window wells, and headers;

(4) deteriorated surface coatings if the adhesion or cohesion of the surface coating is uncertain or indeterminate; and

(5) incompatible coatings.

(b) When conducting a lead abatement project using the encapsulation strategy, the certified personnel or licensed firm shall comply with the following minimum requirements:

(1) The certified lead professional or licensed firm shall select an encapsulant that is a low volatile organic compound (V.O.C.), that is warranted by the manufacturer to last for at least 20 years, and that complies with all applicable building codes as well as fire, health, and environmental regulations.

(2) Surfaces to be encapsulated shall have sound structural integrity with no loose, chipping, peeling, or chalking paint and no dust accumulation that cannot be cleaned, and shall be prepared according to the manufacturer's recommendations.

(3) The site shall be prepared by first establishing a regulated area using fencing, barrier tape, or other appropriate barriers. The regulated area shall be marked to prevent uncertified lead professionals and the general public from approaching closer than 20 feet to the encapsulation operation.

(4) Signs shall be posted at all entrances to the regulated area and shall include the words "WARNING: LEAD AREA. POISON. NO SMOKING OR EATING" in bold lettering not smaller than two inches tall, with additional language or symbols prohibiting entry to the regulated area by uncertified lead professionals and the general public. All signs shall be in a language that is easily recognized by all certified lead professionals and by members of the general public where the lead abatement activities are taking place.

(5) Any heating and cooling systems within the regulated area shall be shut down and the vents sealed with 6-mil poly to prevent lead dust accumulation within the system.

(6) All items shall be cleaned within the regulated area by HEPA vacuuming or wet wiping with a cleaning solution, or both. Items shall then be either removed from the area or covered with 6-mil poly sheeting and sealed with duct tape.

(7) At least two layers of 6-mil, or thicker, poly shall be placed on the ground at the base of the component and shall extend at least 10 feet beyond the perimeter of the component to be encapsulated.

(8) A patch test shall be conducted in accordance with the HUD guidelines adopted by reference in K.A.R. 28-72-13 (d)(1) before general application of the encapsulant to determine the adhesive and cohesive properties of the encapsulant on the surface to be encapsulated. The encapsulant shall be applied in accordance with the manufacturer's recommendations.

(9) After the manufacturer's recommended curing time, the entire encapsulated surface shall be inspected by a certified lead abatement supervisor or a certified project designer. Any unacceptable areas shall be evaluated to determine if a complete failure of the system is indicated, or if the system can be patched or repaired. Un-

(continued)

acceptable areas shall be evidenced by delamination, wrinkling, blistering, cracking, cratering, and bubbling of the encapsulant.

(10) After the encapsulation is complete, the regulated area shall be cleaned by vacuuming with a HEPA vacuum, wiping down all surfaces with a cleaning solution, rinsing all surfaces, and then HEPA vacuuming the area again. Cleaning shall begin at the end of the work area farthest from the main entrance to the area and from the top to the bottom of the regulated area.

(11) All equipment used in the regulated area shall be thoroughly cleaned with a cleaning solution or vacuumed with a HEPA vacuum, or both, before removal from the regulated area. (Authorized by and implementing L. 1999, Ch. 99, Sec. 4; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-18d. Work practice standards; lead abatement; removal. (a) Acceptable removal strategies shall include the following:

(1) Manual wet strategies. Manual wet scraping or manual wet sanding shall be acceptable for the removal of lead surface coatings.

(2) Mechanical removal strategies. Using power tools that are HEPA-shrouded or locally exhausted shall be acceptable removal strategies for lead surface coatings. HEPA-shrouded or exhausted mechanical abrasion devices, including sanders, saws, drills, roto-peens, vacuum blasters, and needle guns shall be acceptable.

(3) Chemical removal strategies. Chemical strippers shall be used in compliance with manufacturer's recommendations.

(b) Soil abatement. When soil abatement is conducted, the lead-bearing soil shall be removed, tilled, or permanently covered in place as indicated in this subsection.

(1) Removed soil shall be replaced with fill material containing no more than 100 ppm of lead. If the fill material exceeds 100 ppm lead, the fill material shall be acceptable only if the lead solubility is less than 5ppm. Soil that is removed shall not be reused as topsoil in another residential yard.

(2) If tilling is selected, soil in a child-accessible area shall be tilled to a depth that results in no more than 400 ppm lead of the homogenized soil, or other concentrations approved by the department. Soil in an area not accessible to children shall be tilled to a depth that results in no more than 2,000 ppm lead of the homogenized soil, or other concentrations approved by the department.

(3) Permanent soil coverings shall include solid materials, including pavement or concrete. Grass, mulch, and other landscaping materials shall not be considered permanent covering.

(4) Soil abatement shall be conducted to prevent lead-contaminated soil from being blown from the site or from being carried away by water runoff or through percolation to groundwater.

(c) Interior removal. When conducting a lead abatement project using the removal strategy on interior surfaces, the certified lead professional or licensed firm shall meet the following minimum requirements:

(1) The site shall be prepared by first establishing a regulated area using fencing, barrier tape, or other ap-

propriate barriers. The regulated area shall be marked to prevent uncertified lead professionals and the general public from approaching closer than 20 feet to the removal operation.

(2) Signs shall be posted at all entrances to the regulated area and shall include the words "WARNING: LEAD AREA. POISON. NO SMOKING OR EATING" in bold lettering not smaller than two inches tall, with additional language or symbols prohibiting entrance to the regulated area by uncertified lead professionals and the general public. All signs shall be in a language that is easily recognized by all certified lead professionals and by members of the general public where the lead abatement activities are taking place.

(3) Each heating and cooling system within the regulated area shall be shut down and the vents sealed with 6-mil poly to prevent lead dust accumulation within the system.

(4) All items within the regulated area shall be cleaned by HEPA vacuuming or wet wiping with a cleaning solution, or both. Items shall then be either removed from the area or covered with 6-mil poly and sealed with duct tape.

(5) All windows below and within the regulated area shall be closed.

(6) A critical barrier shall be constructed.

(7) At least two layers of 6-mil, or thicker, poly shall be placed on the floor at the base of the component and shall extend at least 10 feet beyond the perimeter of the component being abated. If the chemical strategy is used, the certified lead professional or licensed firm shall follow the manufacturer's recommendations regarding a chemical-resistant floor cover.

(8) All equipment used in the regulated area shall be thoroughly cleaned with a cleaning solution or vacuumed with a HEPA vacuum, or both, before removal from the regulated area.

(9) At the end of each work shift, the top layer of 6-mil poly shall be removed and used to wrap and contain the debris generated by the shift. The 6-mil poly shall then be sealed with duct tape and kept in a secured area until final disposal. The second layer of 6-mil poly shall be HEPA vacuumed, left in place, and used during the next shift. A single layer of 6-mil poly shall be placed on this remaining poly before lead abatement resumes.

(10) After the removal is complete, the regulated area shall be cleaned by vacuuming with a HEPA vacuum, wiping down all surfaces with a cleaning solution, rinsing all surfaces, and then HEPA vacuuming the area again. Cleaning shall begin at the end of the work area farthest from the entrance to the area and from the top to the bottom of the regulated area.

(d) Exterior removal. When conducting a lead abatement project using the removal strategy on exterior surfaces, these minimum requirements shall be met:

(1) The site shall be prepared by first establishing a regulated area using fencing, barrier tape, or other appropriate barriers. The regulated area shall be marked to prevent uncertified lead professionals and the general public from approaching closer than 20 feet to the removal operation.

(2) Signs shall be posted at all entrances to the regulated area and shall include the words "WARNING: LEAD AREA. POISON. NO SMOKING OR EATING" in bold lettering not smaller than two inches tall, with additional language or symbols prohibiting entry to the regulated area by uncertified lead professionals. All signs shall be in a language that is easily recognized by all certified lead professionals and by members of the general public where the abatement activities are taking place.

(3) All movable items shall be moved 20 feet from working surfaces. Items that cannot be readily moved 20 feet from working surfaces shall be covered with 6-mil poly and sealed with duct tape.

(4) At least one layer of 6-mil, or thicker, poly shall be placed on the ground and shall extend at least 10 feet from the abated surface, plus another five feet out for each additional 10 feet in surface height over 20 feet. In addition, the poly shall meet the following criteria:

(A) Be securely attached to the side of the building, with cover provided to all ground plants and shrubs in the regulated area;

(B) be protected from tearing or perforating;

(C) contain any water, including rainfall, that may accumulate during the lead abatement; and

(D) be weighted down to prevent disruption by wind gusts.

(5) All windows in the regulated area and all windows below and within 20 feet of working surfaces shall be closed.

(6) Work shall cease if constant wind speeds are greater than 10 miles per hour.

(7) Work shall cease and cleanup shall occur if rain begins.

(8) All equipment used in the regulated area shall be thoroughly cleaned with a cleaning solution or vacuumed with a HEPA vacuum, or both, before removal from the regulated area.

(9) The regulated area shall be HEPA vacuumed and cleaned of lead-based paint chips, poly, and other debris generated by the abatement project work at the end of each workday. Debris shall be kept in a secured area until final disposal. (Authorized by and implementing L. 1999, Ch. 99, Sec. 4; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-18e. Work practice standards; postabatement clearance procedures. Except as provided in L. 1999, Ch. 99, Sec. 5, and amendments thereto, the following postabatement clearance procedures shall be performed only by a certified inspector or risk assessor:

(a) Following a lead abatement, a visual inspection shall be performed to determine if deteriorated painted surfaces or visible amounts of dust, debris, or residue are still present. These conditions shall be eliminated before continuation of the clearance procedures.

(b) Following the visual inspection and any postabatement cleanup required by subsection (a), clearance sampling for lead-contaminated dust shall be conducted. Clearance sampling may be conducted by employing single-surface sampling or composite sampling techniques.

(c)(1) Dust samples for clearance purposes shall be taken using one or more of the documented methodologies in K.A.R. 28-72-13(d)(1).

(2) Dust samples for clearance purposes shall be taken a minimum of one hour after completion of final postabatement cleanup activities.

(d) The following postabatement activities shall be conducted as appropriate, based upon the extent or manner of lead abatement activities conducted in or to the residential dwelling or child-occupied facility:

(1) After conducting a lead abatement with containment between abated and unabated areas, one dust sample shall be taken from one window, if available, and one dust sample shall be taken from the floors of no fewer than four rooms, hallways, or stairwells within the containment area. In addition, one dust sample shall be taken from the floor outside the containment area. If there are fewer than four rooms, hallways, or stairwells within the containment area, then all rooms, hallways, or stairwells shall be sampled.

(2) After conducting a lead abatement with no containment, two dust samples shall be taken from no fewer than four rooms, hallways, or stairwells in the residential dwelling or child-occupied facility. One dust sample shall be taken from one window, if available, and one dust sample shall be taken from the floor of each room, hallway, or stairwell selected. If there are fewer than four rooms, hallways, or stairwells within the residential dwelling or child-occupied facility, then all rooms, hallways, or stairwells shall be sampled.

(3) Following an exterior paint abatement, a visual inspection shall be conducted. All horizontal surfaces in the outdoor living area closest to the abated surface shall be found to be cleaned of visible dust and debris. In addition, a visual inspection shall be conducted to determine the presence of paint chips on the dripline or next to the foundation below any exterior surface abated. If paint chips are present, they shall be removed from the site and properly disposed of, according to all applicable federal, state, and local requirements.

(e) The rooms, hallways, or stairwells selected for sampling shall be selected according to one or more of the documented methodologies in K.A.R. 28-72-13(d)(1).

(f) The certified inspector or risk assessor shall compare the residual lead level, as determined by the laboratory analysis, from each dust sample with applicable clearance levels for lead in dust on floors and windows as established below in this subsection. If the residual lead levels in a dust sample exceed the clearance levels, all the components represented by the failed sample shall be recleaned and retested until clearance levels are met.

Following completion of a lead abatement activity, all dust, soil, and water samples shall comply with the following clearance levels:

(1) Dust samples:

Media	Clearance Level
Floors	50 µg/ft ²
Interior windowsills	250 µg/ft ²
Window troughs and exterior horizontal surfaces	800 µg/ft ²

(2) Soil samples:

Media	Clearance Level
Bare soil (space perimeter and yard)	2,000 ppm

(continued)

Bare soil (small, high-contact areas, including sand boxes and gardens)

400 ppm

(3) Water

15 ppb or 15 µg/L

(g) In a multi-family dwelling with similarly constructed and maintained residential dwellings, random sampling for the purposes of clearance may be conducted if the following conditions are met:

(1) The certified individuals who abate or clean the residential dwelling do not know which residential dwelling will be selected for the random sample.

(2) A sufficient number of residential dwellings are selected for dust sampling to provide a 95 percent level of confidence that no more than five percent or 50 of the residential dwellings, whichever is smaller, in the randomly sampled population exceed the appropriate clearance levels.

(3) The randomly selected residential dwellings are sampled and evaluated for the clearance according to the procedures found in this regulation.

(h) An abatement report shall be prepared by a certified lead abatement supervisor or project designer. The abatement report shall include the following information:

(1) The start and completion dates of the lead abatement;

(2) the name and address of each licensed lead activity firm conducting the lead abatement and the name of each lead abatement supervisor assigned to the lead abatement project;

(3) the occupant protection plan prepared pursuant to K.A.R. 28-72-18(f);

(4) the name, address, and signature of each certified risk assessor or lead inspector conducting clearance sampling and the date of clearance testing;

(5) the results of clearance testing and soil analysis, if applicable, and the name of each recognized laboratory that conducted the analysis;

(6) a detailed written description of the abatement, including the lead abatement methods used, locations of rooms or components where abatement occurred, reason for selecting particular abatement methods for each component, and any suggested monitoring of encapsulants or enclosures; and

(7) a written certification from the firm stating that all lead abatement activities have taken place in accordance with all applicable local, state, and federal laws and regulations.

(i) Time frame for submission of reports. The risk assessment report shall be provided to the owner of the property within 20 business days of completion of the lead inspection. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4 and 5; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-19. Work practice standards; collection and laboratory analysis of samples. All paint chip, dust, and

soil samples collected pursuant to the work practice standards contained in this article shall meet the following conditions:

(a) Be collected by persons certified by KDHE as a lead inspector or risk assessor; and

(b) be analyzed by a laboratory that is a member of the environmental lead lab accreditation program (ELLAP) and that is a successful participant in the environmental lead proficiency and analytical testing (ELPAT) program. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4 and 5; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-20. Work practice standards; composite dust sampling. Composite dust sampling may be conducted only in situations specified in K.A.R. 28-72-14, K.A.R. 28-72-15, and K.A.R. 28-72-16. If this sampling is conducted, the following requirements shall apply:

(a) Composite dust samples shall consist of at least two subsamples.

(b) Every component that is being tested shall be included in the sampling.

(c) Composite dust samples shall not consist of subsamples from more than one type of component. (Authorized by and implementing L. 1999, Ch. 99, Sec. 4; effective, T-28-9-13, 99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-21. Work practice standards; recordkeeping. All reports or plans required in this article shall be maintained for no fewer than three years by the licensed lead activity firm or certified individual who prepared the report. The licensed lead activity firm or certified individual also shall provide copies of these reports to the building owner who contracted for the services. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Sec. 4; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-22. Enforcement. (a) A notice of noncompliance (NON) may be issued by KDHE for any violation of the act or this article. A NON shall be the recommended response for a first-time violator of this article. Compliance assistance information shall be included in the NON to ensure future compliance with KDHE regulations.

(b)(1) The NON shall require the violator to take corrective action in order to comply with this article. The corrective action shall depend upon the specific violations. The NON may require that proof of action be submitted to KDHE by a date specified in the NON.

(2) Mitigating factors in cases in which a NON has been issued shall be documented in the case file. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4, 10, and 12; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

Clyde D. Graeber
Secretary of Health
and Environment

Doc. No. 024623

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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. Temporary regulations are designated with a (T) in the Action column. This cumulative index supplements the index to the 1997 Volumes of the *Kansas Administrative Regulations* and the 1999 Supplement to the *Kansas Administrative Regulations*.

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