



Kansas Register

Ron Thornburgh, Secretary of State

Vol. 24, No. 2 January 13, 2005 Pages 33-56

In this issue . . .	Page
Department of Administration	
Public notice.....	34
Pooled Money Investment Board	
Notice of investment rates.....	34
Kansas Council on Developmental Disabilities	
Notice of call for investment	34
Disability Rights Center of Kansas, Inc.	
Request for proposals for office space.....	34
Kansas Commission on Veterans' Affairs	
Notice of meeting	35
Kansas Water Authority	
Notice of meeting	35
State Conservation Commission	
Notice to contractors.....	35
Department of Administration—Division of Purchases	
Notice to bidders for state purchases	35
Real Estate Appraisal Board	
Notice of date change for hearing on proposed administrative regulations.....	36
Governmental Ethics Commission	
Opinions 2004-23 and 2004-24	36
City of Overland Park	
Notice of public information meeting	37
Department of Health and Environment	
Requests for comments on proposed air quality permits.....	37, 38, 39, 40
Request for bids on the Kansas Childhood Lead Poisoning Prevention Program.....	39
Notice concerning Kansas water pollution control permits.....	41
Kansas Arts Commission	
Notice of available grant funding	40
Temporary Administrative Regulations	
Secretary of State	42
Permanent Administrative Regulations	
Department of Health and Environment.....	42
Index to administrative regulations.....	53

State of Kansas

Department of Administration

Public Notice

Under requirements of K.S.A. 65-34,117 (c), records of the Division of Accounts and Reports show the unobligated balances are \$4,979,307.22 in the underground petroleum storage tank release trust fund and \$163,395.13 in the aboveground petroleum storage tank release trust fund at December 31, 2004.

Duane Goossen
Secretary of Administration

Doc. No. 031504

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. 12-1675(b)(c)(d), 75-4201(l) and 75-4209(a)(1)(B).

Effective 1-10-05 through 1-16-05

Term	Rate
1-89 days	2.25%
3 months	2.35%
6 months	2.62%
1 year	2.87%
18 months	3.07%
2 years	3.20%

Derl S. Treff
Director of Investments

Doc. No. 031501

State of Kansas

Council on Developmental Disabilities

Notice of Call for Investment

The Kansas Council on Developmental Disabilities announces \$25,000 available for creative employment ideas. The intent of the council is to invest in an innovative demonstration project that will provide competitive employment outcomes for five adults with developmental disabilities. All applicants must embrace and utilize a person-centered and individualized approach to employment. Applications are due February 1.

For a full copy of this Call for Investment, contact Samantha Garner at (785) 296-2608 or kcdd@alltel.net.

Samantha Garner
Senior Administrative Assistant

Doc. No. 031517

(Published in the Kansas Register January 13, 2005.)

Disability Rights Center of Kansas, Inc.

Request for Proposals

The Disability Rights Center of Kansas (formerly Kansas Advocacy & Protective Services) is accepting proposals/offers for office space in the downtown Topeka area. Proposals/offers should include, at a minimum, location, asking price and special terms, and should be sent to: Disability Rights Center of Kansas, Attn: Debbie White, 3745 S.W. Wanamaker Road, Topeka, 66610. For more information, contact contact Debbie White at (785) 273-9661 or debbie@drckansas.org. Proposals/offers are to be received by February 4.

Rocky Nichols
Executive Director

Doc. No. 031513

The KANSAS REGISTER (USPS 0662-190) is an official publication of the State of Kansas, published by authority of K.S.A. 75-430. The Kansas Register is published weekly by the Kansas Secretary of State, 1st Floor, Memorial Hall, 120 S.W. 10th Ave., Topeka, KS 66612-1594. One-year subscriptions are \$80 (Kansas residents must include applicable state and local sales tax). Single copies may be purchased, if available, for \$2 each. **Periodicals postage paid at Topeka, KS.**

POSTMASTER: Send change of address form to Kansas Register, Secretary of State, 1st Floor, Memorial Hall, 120 S.W. 10th Ave., Topeka, KS 66612-1594.

© Kansas Secretary of State 2005. Reproduction of this publication in its entirety or for commercial purposes is prohibited without prior permission. Official enactments of the Kansas Legislature and proposed and adopted administrative regulations of state agencies may be reproduced in any form without permission.

PUBLISHED BY
Ron Thornburgh
Secretary of State
1st Floor, Memorial Hall
120 S.W. 10th Ave.
Topeka, KS 66612-1594
(785) 296-4564
www.kssos.org



Register Office:
1st Floor, Memorial Hall
(785) 296-3489
Fax (785) 368-8024
kansasregister@kssos.org

**State of Kansas
Commission on Veterans' Affairs**

Notice of Meeting

The Kansas Commission on Veterans' Affairs will meet at 1 p.m. Friday, January 21, at the Timmerman Administration Building of the Kansas Veterans' Home, 1220 WWII Memorial Drive, Winfield. The public is invited to attend. For more information, call (785) 296-3976.

Wayne Bollig
Chief Operations Officer

Doc. No. 031518

**State of Kansas
Kansas Water Authority**

Notice of Meeting

The Kansas Water Authority will meet at 9 a.m. Thursday, January 27, at the Ramada Inn, 420 S.E. 6th St., Topeka. The Kansas Water Authority, a 24-member group representing the state's diverse water interests, provides advice to the Governor and Kansas Legislature on water resource issues.

The Authority will consider whether to direct the Kansas Water Office to initiate studies on the role of conservation in managing Kansas' water resources and the causes and effects of streambed degradation on the Kansas River.

Updates will be provided on two background papers developed by the Kansas Water Office. One of them deals with economic development opportunities at the state's reservoirs. The other deals with public involvement in the development and implementation of the state's water resource plans.

Operational business includes a review and decision on the criteria to be used in selecting a small public water supply/recreational lake to demonstrate the methods and benefits of restoration. Additional information, if available, will be provided on the Attorney General's opinion on Cedar Bluff Operations, the proposed state purchase of the Circle K Ranch in Edwards County, and the Water Plan Projects Initiative.

Other topics of discussion will include a proposed study on the water conservation effects of improvements in irrigation efficiency, the Irrigation Transition Assistance Program, and a pending application for a nationwide EPA competitive grant to implement wetland protection and restoration programs. Legislative interim committee recommendations on Cedar Bluff Reservoir and the Irrigation Transition Assistance Program also will be presented.

For a complete agenda, refer to the Kansas Water Office's Web site, www.kwo.org. If special accommodations are needed at the meeting site, call (888) KAN-WATER (888-526-9283) or (785) 296-3185.

Steve Irsik
Chairman

Doc. No. 031515

**State of Kansas
State Conservation Commission**

Notice to Contractors

Note: This project is a rebid from August 11, 2004. Sealed bids for the construction of a 35,315 cubic yard detention dam, Site 116 in Wabaunsee County, will be received by the Upper Marais des Cygnes Watershed Joint District No. 101 at the office of R.H.K. Enterprises, Inc., 501 Main St., Admire, 66830, (620) 528-3710, until 10 a.m. February 4 and then opened. A site showing will be at 10 a.m. January 28 at the site and, in case of inclement weather, an alternate showing will be held at 10 a.m. January 31.

A copy of the invitation for bids and the plans and specifications may be reviewed at and/or obtained from the office of R.H.K. Enterprises, Inc. The Notice to Proceed is expected to be issued at the start of construction, but not later than July 1, 2005.

Greg A. Foley
Executive Director

Doc. No. 031506

**State of Kansas
Department of Administration
Division of Purchases**

Notice to Bidders

Sealed bids for items listed will be received by the Director of Purchases until 2 p.m. on the date indicated. For more information, call (785) 296-2376:

01/18/2005	08014	Janitorial Services
01/18/2005	08031	Computer Laboratory Furniture
01/19/2005	08016	Janitorial Services
01/24/2005	08033	Traffic Control Devices
02/24/2005	08043	Motor Vehicles
01/26/2005	08041	Hot Applied Pavement Crack Sealants
01/26/2005	08018	Microfilm and Supplies
01/31/2005	08011	Office Furniture

The above referenced bid documents can be downloaded at the following Web site:

<http://da.state.ks.us/purch/rfq/>

Additional files may be located at the following Web site (please monitor this Web site on a regular basis for any changes/addenda):

<http://da.state.ks.us/purch/adds/default/htm>

Contractors wishing to bid on the projects listed below must be prequalified. For more information about the prequalification process or to obtain the following bid documents, call (785) 296-8899:

01/27/2005	A-9666	Kitchen Addition and Remodel
01/27/2005	A-9989	Install Motion Detection System and Misc. Security Enhancements

Chris Howe
Director of Purchases

Doc. No. 031514

State of Kansas

Real Estate Appraisal Board**Notice of Date Change for Hearing on
Proposed Administrative Regulations**

The Kansas Real Estate Appraisal Board previously scheduled a public hearing at 10 a.m. Friday, February 4, in the lower level conference room at 1100 S.W. Wanamaker Road, Topeka, to consider the adoption of four new administrative regulations (117-2-2a, 117-3-2a, 117-4-2a, and 117-5-2a).

The public hearing has been rescheduled for 10 a.m. Friday, February 11, at the same location.

Copies of the complete text of the regulations and their respective economic impact statement may be obtained by contacting the board office at 1100 S.W. Wanamaker Road, Suite 104, Topeka, 66604, (785) 271-3373, fax (785) 271-3370, e-mail at cheryl.magathan@kreab.state.ks.us, or on the board's Web site at <http://www.accesskansas.org/kreab>.

Sally Pritchett
Executive Director

Doc. No. 031520

State of Kansas

Governmental Ethics Commission**Opinion No. 2004-23**

Written December 16, 2004, to Dennis Peerenboom, Human Resource Director, Kansas Department of Agriculture, Topeka.

This opinion is in response to your letter of November 10, 2004, in which you request an opinion from the Kansas Governmental Ethics Commission concerning the state level conflict of interest laws (K.S.A. 46-215 *et seq.*). We note at the outset that the Commission's jurisdiction is limited to the application of K.S.A. 46-215 *et seq.*, and whether some other statutory system, common law theory or agency rule or regulation applies to your inquiry is not covered by this opinion.

FACTUAL STATEMENT:

We understand that you are asking for this opinion in your capacity as Human Resource Director of the Kansas Department of Agriculture (KDA). You have explained that Kansas Agricultural Statistics Service (KASS) is the Kansas field office of the United States Department of Agriculture's National Agricultural Statistics Service (NASS). The KDA has six employees working along side federal employees in the KASS office.

NASS has a Recognition and Awards program that includes not only the Federal staff but also any non-Federal staff who work with NASS as part of a cooperative agreement. Two KDA employees have been chosen by NASS as recipients for an award. Their names were recommended for recognition by their fellow employees based on excellent performance of the duties of their position. Each KDA employee received a Palm Pilot valued at \$199 which had a plaque attached to it with the NASS logo and the office name.

QUESTION:

Does the acceptance of the Palm Pilot by the KDA employees awarded by the NASS violate the state level conflict of interest laws?

OPINION:

K.S.A. 46-237a states in pertinent part:

(a) The provisions of this section shall apply to:

....

(4) all officers and employees of the executive branch of state government . . .

(b) No person subject to the provisions of this section shall solicit or accept any gift economic opportunity, loan, gratuity, special discount or service provided because of such person's official position, except:

....

(3) anything of value received by the person on behalf of the state that inures to the benefit of the state or that becomes the property of the state.

K.A.R. 19-40-3a defines the term "gift" as follows:

(b) "Gift" means the transfer of money or anything of value unless legal consideration of a reasonably equal or greater value is received in return. . . .

Since the KDA employees are subject to K.S.A. 46-237a and the Palm Pilots are things of value for which the employees have not given any consideration in return for their receipt, the Palm Pilots would be considered gifts pursuant to K.S.A. 46-237a. However, if the Palm Pilots were received by the KDA employees on behalf of the state and inure to the benefit of the state or became the property of the state, their acceptance would not be in violation of the statute. The KDA employees may accept the Palm Pilot awards from NASS on behalf of the state without violating the state level conflict of interest laws. The KDA employees could not accept the Palm Pilots on their own behalf.

Opinion No. 2004-24

Written December 16, 2004, to William W. Sneed, Polsinelli Shalton Welte Suelthaus, Topeka.

This opinion is in response to your letter of October 29, 2004, in which you request an opinion from the Kansas Governmental Ethics Commission concerning the state level conflict of interest laws (K.S.A. 46-215 *et seq.*). We note at the outset that the Commission's jurisdiction is limited to the application of K.S.A. 46-215 *et seq.*, and whether some other statutory system, common law theory or agency rule or regulation applies to your inquiry is not covered by this opinion.

FACTUAL STATEMENT:

We understand that you are asking for this opinion in your capacity as the attorney for Robert Woodard, Chief Investment Officer of the Kansas Public Employees Retirement System ("KPERS"). KPERS manages over \$10 billion in retirement assets. Approximately \$3 billion of these assets are managed internally by four KPERS investment officers. The remainder are managed by external managers. The KPERS Board of Trustees (Board) is responsible for hiring and firing the external managers. The contracts with the external investment managers do not typically contain expiration dates. Amendments to

the external investment management contracts are approved by the Board.

One of the external investment managers entered into a contract with KPERS in 1994 following a competitive bid process. This contract was amended in 1997, 1998, 1999, 2000, 2001 and most recently in 2004. The 2004 amendment involved the expansion in scope of the application of certain investment management services. You stated in your letter that your client was "substantially involved in researching and/or communicating the impact of the amendments to the Board for their consideration."

QUESTION:

May Mr. Woodard accept employment with this external manager for KPERS?

OPINION:

K.S.A. 46-233 states in pertinent part:

(a) (2) Except as otherwise provided in this subsection, whenever any individual has participated as a state officer or employee in the making of any contract with any person or business, such individual shall not accept employment with such person or business as an employee, independent contractor or subcontractor until two years after performance of the contract is completed or until two years after the individual terminates employment as a state officer or employee, whichever is sooner. . . .

. . . .

(e)(2) "Substantially involved in the preparation or participate in the making of a contract" means having approved or disapproved a contract or having provided significant factual or specific information or advice or recommendations in relation to the negotiated terms of the contract.

Pursuant to this statute, the initial question that must be answered is whether Mr. Woodard was substantially involved in the preparation of or participated in the making of the contract between KPERS and the external manager. The contract between KPERS and the external manager was amended in 2004. The 2004 amendment involved the expansion in scope of the application of certain investment management services. This Commission has determined that if there are material changes made to an existing contract let through a competitive bid process, the new contract will be considered a negotiated contract and not a contract let after a competitive bid process. *See opinion 1999-33.* Under the facts presented, the competitively bid contract between KPERS and the external manager has been amended on several occasions. The 2004 amendment contained material changes. Therefore, the current contract is considered a negotiated contract. As Mr. Woodard was substantially involved in researching and/or communicating the impact of the amendments to the KPERS Board for its consideration, pursuant to the statute he was "substantially involved in the preparation" of the contract between KPERS and the external manager. Accordingly, pursuant to K.S.A. 46-233, he is prohibited from accepting employment with the external manager until two years after performance of the current contract or until such time as he has not been employed by KPERS for a period of two years or more.

Daniel Severt
Chairman

Doc. No. 031503

(Published in the Kansas Register January 13, 2005.)

City of Overland Park, Kansas

Notice of Public Information Meeting

The city of Overland Park will conduct its second public meeting, regarding the roadway improvement plan for 133rd Street and Lamar intersection improvements, from 6:30 to 8 p.m. Tuesday, January 18, at the Overland Trail Middle School, Commons area, 6201 W. 133rd St., Overland Park. This meeting has been scheduled to review the improvement plans that have been prepared for this project.

The city of Overland Park wanted to ensure that the public is aware of this meeting. Members of the Johnson County and Overland Park communities are encouraged to attend and share their thoughts and ideas about the project.

For more information, contact Larry Blankenship, senior civil engineer, city of Overland Park, at (913) 895-6007.

Nancy Sappington
Contract Specialist
Public Works Department
City of Overland Park, Kansas

Doc. No. 031512

State of Kansas

Department of Health and Environment

Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality operating permit. Kansas Correctional Industries has applied for a Class I operating permit in accordance with the provisions of K.A.R. 28-19-510 et seq. The purpose of a Class I permit is to identify the sources and types of regulated air pollutants emitted from the facility; the emission limitations, standards and requirements applicable to each source; and the monitoring, record keeping and reporting requirements applicable to each source as of the effective date of permit issuance.

Kansas Correctional Industries, Lansing, owns and operates a paint and janitorial products manufacturing facility located at 4th and Kansas Ave., Lansing.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during the permit application review process is available for a 30-day public review during normal business hours at the KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka; and a copy of the proposed permit can be reviewed at the KDHE Northeast District Office, 800 W. 24th, Lawrence. To obtain or review the proposed permit and supporting documentation, contact Rasha Allen, (785) 296-1693, at the KDHE central office; and to review the proposed permit only, contact Pat Simpson, (785) 842-4600, at the KDHE Northeast District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Rasha Allen, KDHE, Bureau of Air

(continued)

and Radiation, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366. In order to be considered in formulating a final permit decision, written comments must be received before the close of business February 14.

A person may request a public hearing be held on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Brie Wilkins, Bureau of Air and Radiation, not later than the close of business February 14 in order for the Secretary of Health and Environment to consider the request.

The U.S. Environmental Protection Agency has a 45-day review period, which will start concurrently with the 30-day public comment period, within which to object to the proposed permit. If the EPA has not objected in writing to the issuance of the permit within the 45-day review period, any person may petition the administrator of the EPA to review the permit. The 60-day public petition period will directly follow the EPA's 45-day review period. If the EPA waives its 45-day review period, the 60-day public petition period will start directly after the 30-day public comment period. Interested parties may contact KDHE to determine if the EPA's 45-day review period has been waived.

Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in this notice, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. Contact Harriet Jones, U.S. EPA, Region VII, Air Permitting and Compliance Branch, 901 N. 5th St., Kansas City, KS 66101, (913) 551-7097, to determine when the 45-day EPA review period ends and the 60-day petition period commences.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 031508

State of Kansas

Department of Health and Environment

Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality operating permit and amending previously-issued construction approval. The city of Wellington Municipal Power Plant has applied for a Class I operating permit in accordance with the provisions of K.A.R. 28-19-510 et seq. The purpose of a Class I permit is to identify the sources and types of regulated air pollutants emitted from the facility; the emission limitations, standards and requirements applicable to each source; and the monitoring, record keeping and reporting requirements applicable to each source as of the effective date of permit issuance. Notice also is given that certain requirements in the construction approval dated March 10, 1986, are being modified by a modification of approval conditions.

Wellington Municipal Power Plant, Wellington, owns and operates a facility for the production of electricity for industrial, commercial and residential customers located at 151 S. Seneca Road, Wellington.

A copy of the proposed permit, permit application, all supporting documentation, all information relied upon during the permit application review process, and a copy of the modification of approval conditions are available for a 30-day public review during normal business hours at the KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka; and a copy of the proposed permit can be reviewed at the KDHE South Central District Office, 130 S. Market, Suite 6050, Wichita. To obtain or review either document, contact Ann L. Spitz, (785) 291-3271, at the KDHE central office; and to review the proposed permit only, contact David Butler, (316) 337-6042, at the KDHE South Central District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the documents to Ann L. Spitz, KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366. In order to be considered in formulating final document decisions, written comments must be received before the close of business February 14.

A person may request a public hearing be held on the proposed documents. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Brienne Wilkins, Bureau of Air and Radiation, not later than the close of business February 14 in order for the Secretary of Health and Environment to consider the request.

The U.S. Environmental Protection Agency has a 45-day review period, which will start concurrently with the 30-day public comment period, within which to object to the proposed permit. If the EPA has not objected in writing to the issuance of the permit within the 45-day review period, any person may petition the administrator of the EPA to review the permit. The 60-day public petition period will directly follow the EPA's 45-day review period. If the EPA waives its 45-day review period, the 60-day public petition period will start directly after the 30-day public comment period. Interested parties may contact KDHE to determine if the EPA's 45-day review period has been waived.

Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in this notice, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. Contact Harriet Jones, U.S. EPA, Region VII, Air Permitting and Compliance Branch, 901 N. 5th St., Kansas City, KS 66101, (913) 551-7097, to determine when the 45-day EPA review period ends and the 60-day petition period commences.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 031510

State of Kansas

Department of Health
and Environment

Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality operating permit. Lafarge Midwest, Inc. and Systech Environmental Corp. have applied for a Class I operating permit in accordance with the provisions of K.A.R. 28-19-510 et seq. The purpose of a Class I permit is to identify the sources and types of regulated air pollutants emitted from the facility; the emission limitations, standards and requirements applicable to each source; and the monitoring, record keeping and reporting requirements applicable to each source as of the effective date of permit issuance.

Lafarge Midwest, Inc., Fredonia, owns and operates a Portland cement manufacturing facility located at 1400 S. Cement Road, Fredonia. Systech Environmental Corp., Fredonia, owns and operates a hazardous waste treatment and disposal facility located at 1420 S. Cement Road, Fredonia. Systech Environmental Corporation receives and blends the hazardous waste that is burned in the cement kilns at Lafarge Midwest, Inc.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during the permit application review process is available for a 30-day public review during normal business hours at the KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka; and a copy of the proposed permit can be reviewed at the KDHE Southeast District Office, 1500 W. 7th, Chanute. To obtain or review the proposed permit and supporting documentation, contact Herbert Buckland, (785) 296-6438, at the KDHE central office; and to review the proposed permit only, contact Doug Cole, (620) 431-2390, at the KDHE Southeast District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Herbert Buckland, KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366. In order to be considered in formulating a final permit decision, written comments must be received before the close of business February 14.

A person may request a public hearing be held on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Brie Wilkins, Bureau of Air and Radiation, not later than the close of business February 14 in order for the Secretary of Health and Environment to consider the request.

The U.S. Environmental Protection Agency has a 45-day review period, which will start concurrently with the 30-day public comment period, within which to object to the proposed permit. If the EPA has not objected in writing to the issuance of the permit within the 45-day review period, any person may petition the administrator of the EPA to review the permit. The 60-day public petition period will directly follow the EPA's 45-day review period. If the EPA waives its 45-day review period, the 60-day

public petition period will start directly after the 30-day public comment period. Interested parties may contact KDHE to determine if the EPA's 45-day review period has been waived.

Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in this notice, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. Contact Harriet Jones, U.S. EPA, Region VII, Air Permitting and Compliance Branch, 901 N. 5th St., Kansas City, KS 66101, (913) 551-7097, to determine when the 45-day EPA review period ends and the 60-day petition period commences.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 031505

State of Kansas

Department of Health
and EnvironmentRequest for Bids on the Kansas Childhood
Lead Poisoning Prevention Program

Sealed bids for the items listed will be received by the Kansas Department of Health and Environment until 2 p.m. on the date indicated. For more information, call (785) 296-1519:

January 24, 2005
264-05-2

Project Lead Safe KCK—
Lead Hazard Reduction at the following properties:

2929 N. 13th St.
Kansas City, KS 66104
6617 Webster Ave.
Kansas City, KS 66104
1211/1213 Reynolds
Kansas City, KS 66102
443 N. 32nd
Kansas City, KS 66102
443 N. 32nd
Kansas City, KS 66102
265 S. Coy St.
Kansas City, KS 66101

Contractors will be required to attend a walkthrough of each property in order to be eligible to respond to the Invitation for Bid. For times and actual locations, call (913) 262-0796 or go to the following Web site: http://www.unleadedks.com/contractor_info.html.

The above referenced bid documents can be downloaded at the Web site listed above.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 031509

State of Kansas

**Department of Health
and Environment****Request for Comments**

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality operating permit. The city of Wichita (Wichita Gas Producers, LLC) has applied for a Class I operating permit in accordance with the provisions of K.A.R. 28-19-510 et seq. The purpose of a Class I permit is to identify the sources and types of regulated air pollutants emitted from the facility; the emission limitations, standards and requirements applicable to each source; and the monitoring, record keeping and reporting requirements applicable to each source as of the effective date of permit issuance.

The city of Wichita (Wichita Gas Producers, LLC), owns and operates a municipal solid waste landfill located at 4100 N. West St., Wichita.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during the permit application review process is available for a 30-day public review during normal business hours at the KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka; and a copy of the proposed permit can be reviewed at the Wichita Department of Environmental Health, 1900 E. 9th, Wichita. To obtain or review the proposed permit and supporting documentation, contact Adam Kice, (785) 296-1691, at the KDHE central office; and to review the proposed permit only, contact Randy Owen, (316) 268-8350, at the Wichita Department of Environmental Health. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Adam Kice, KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366. In order to be considered in formulating a final permit decision, written comments must be received before the close of business February 14.

A person may request a public hearing be held on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Brie Wilkins, Bureau of Air and Radiation, not later than the close of business February 14 in order for the Secretary of Health and Environment to consider the request.

The U.S. Environmental Protection Agency has a 45-day review period, which will start concurrently with the 30-day public comment period, within which to object to the proposed permit. If the EPA has not objected in writing to the issuance of the permit within the 45-day review period, any person may petition the administrator of the EPA to review the permit. The 60-day public petition period will directly follow the EPA's 45-day review period. If the EPA waives its 45-day review period, the 60-day public petition period will start directly after the 30-day public comment period. Interested parties may contact KDHE to determine if the EPA's 45-day review period has been waived.

Any such petition shall be based only on objections to the permit that were raised with reasonable specificity

during the public comment period provided for in this notice, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. Contact Harriet Jones, U.S. EPA, Region VII, Air Permitting and Compliance Branch, 901 N. 5th St., Kansas City, KS 66101, (913) 551-7097, to determine when the 45-day EPA review period ends and the 60-day petition period commences.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 031511

State of Kansas

Kansas Arts Commission**Notice of Available Grant Funding**

The Kansas Arts Commission announces the availability of grant guidelines for Kansas organizations, which must apply now for funding in fiscal year 2006.

The Kansas Arts Commission's FY 2006 Grant Guidelines for Organizations and Communities are available online at <http://arts.state.ks.us> by clicking on "Programs" and then clicking on "FY 2006 Guidelines and Forms." On the Web site, applicants will find downloadable guidelines, application forms, the Kansas Touring Program Roster and other information needed to apply for a program.

The application deadline for the Operational Support for Arts and Cultural Organizations program is March 15. The deadline for the Arts Project Support program and for the Arts In Education Support program is March 29. All other funding programs—Grassroots, Technical Assistance, Kansas Touring Program and Kansas Visual Arts Program—require application prior to the beginning of the project, with funding available on a first-come, first-served basis until reserved funds are exhausted. Funding of FY 2006 grants begins July 1, 2005.

Workshops are offered by the commission staff to assist applicants. The general grant-writing workshops are from 9:30 to 11:30 a.m. February 4 in the Florentine Room at the Jayhawk Tower, 700 S.W. Jackson, Topeka; February 8 at City Arts, 224 N. Mead, Wichita; and February 9 at the Depot Theater Company, 101 E. Wyatt Earp Blvd., Dodge City. One-on-one assistance from the commission staff will be available by appointment after the workshops until 3 p.m. An Arts In Education Evaluation Training workshop is January 21 in the Senate Room at the Jayhawk Tower, 700 S.W. Jackson, Topeka.

Although applicants are encouraged to use the Web site instead of print copies of the guidelines, print versions will be made available upon request by contacting the commission office at (785) 296-3335 (also call this number to schedule after-workshop appointments or to request assistance) or at kac@arts.state.ks.us.

David M. Wilson
Executive Director

Doc. No. 031521

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-AG-05-001/006
Pending Permits for Confined Feeding Facilities

Name and Address of Applicant	Legal Description	Receiving Water
George Oborny 2050 240th Road Marion, KS 66861	SW/4 of Section 05, T19S, R04E, Marion County	Neosho River Basin

Kansas Permit No. A-NEMN-B020

This is a new permit for an existing facility for a maximum of 220 head of swine weighing less than 55 pounds (22 animal units), 137 head of swine weighing 55 pounds or more (55 animal units), 160 head of cattle weighing less than 700 pounds (80 animal units) and 80 head of cattle weighing more than 700 pounds (80 animal units), for a total of 597 head of swine and cattle (237 animal units).

Name and Address of Applicant	Legal Description	Receiving Water
Kansas Feed Yard, Inc 2505 S. Juniper Scott City, KS 67871	W/2 & SE/4 of Section 34, T18S, R33W, Scott County	Upper Arkansas River Basin

Kansas Permit No. A-UASC-C023 Federal Permit No. KS0037923
This is a new permit for an existing facility for 6,000 head (6,000 animal units) of beef cattle weighing greater than 700 pounds.

Name and Address of Applicant	Legal Description	Receiving Water
Elwyn Busenitz 16400 N.W. Butler Road Newton, KS 67114	SW/4 of Section 08, T23S, R03E, Butler County	Walnut River Basin

Kansas Permit No. A-WABU-S033

This is a renewal and modified permit for an existing facility for a maximum of 854 head (341.6 animal units) of swine weighing more than 55 pounds each and 720 head (72 animal units) of swine each weighing 55 pounds or less. The head count and animal units have been modified to reflect a change in Kansas statutes to now include in the permit swine weighing 55 pounds or less. There is no change in the facility, its capacity or its waste control features.

Name and Address of Applicant	Legal Description	Receiving Water
Windholz Brothers Livestock HC 1, Box 6 A Ogallah, KS 67656	NW/4 of Section 18, T12S, R21W, Trego County	Smoky Hill River Basin

Kansas Permit No. A-SHTR-S002

This is a renewal permit for an existing swine facility with a revised animal unit count due to changes in the law requiring hogs 55 pounds or less to be counted as 0.1 animal units. The facility has a capacity for 600 head (240 animal units) of swine weighing greater than 55 pounds and 460 head (46 animal units) of swine weighing less than 55 pounds, for a maximum capacity of 1,060 head (286 animal units) of swine.

Name and Address of Applicant	Legal Description	Receiving Water
Eldon Falk 22205 Clear Fork Road Wheaton, KS 66551	NW/4 of Section 17, T06S, R10E, Pottawatomie County	Big Blue River Basin

Kansas Permit No. A-BBPT-S006

This is a renewal permit for an existing permitted facility for 160 animal units that is reducing the swine capacity to 50 head (20 animal units) of swine greater than 55 pounds and 400 head (40 animal units) of swine 55 pounds or less and will include 30 head (15 animal units) of existing cattle less than 700 pounds (not described in the previous permit), for a new total of 75 animal units.

Name and Address of Applicant	Legal Description	Receiving Water
Broken D Farms, Inc. Monty Dahl 2095 #10 Road Courtland, KS 66939	SW/4 of Section 17, T01S, R05W, Republic County	Lower Republican River Basin

Kansas Permit No. A-LRRP-C002 Federal Permit No. KS0097969

This is a new permit for a proposed facility for a maximum of 3,000 head of cattle weighing greater than 700 pounds (3,000 animal units). A wastewater retention structure is planned to control the wastewater flows.

Public Notice No. KS-05-004

Name and Address of Applicant	Waterway	Type of Discharge
APAC - Kansas, Inc., Kansas City Division P.O. Box 23910 Overland Park, KS 66223	Blue River via Unnamed Tributary	Stormwater Runoff

Kansas Permit No. I-MO26-PO04 Federal Permit No. KS0083976
Facility Name: Reno Construction - East Stanley Site

Facility Description: The proposed action is to reissue an existing permit for an existing facility. This facility is an active C & D landfill, composting operation and asphalt plant. The EPA's Effluent Guideline for Landfills, 40 CFR Part 445, is applicable to this facility. Outfall 001 consists of stormwater runoff from the construction and demolition landfill, rock crushing area and asphalt plant area, and is treated in a large settling pond before being released. Water from the settling pond is applied to roads for dust control and is used in the asphalt plant for the air pollution control equipment, and is seldom discharged. The proposed permit included limits for ammonia, a-terpineol, benzoic acid, biochemical oxygen demand, total suspended solids, p-cresol, phenol, zinc and pH. Monitoring of chemical oxygen demand, dissolved oxygen, total Kjeldahl nitrogen, nitrate, nitrite, total nitrogen, total phosphorus, sulfates and effluent flow also 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.

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 April Romero for agricultural permits or applications, or to the permit clerk for all other permits, at *(continued)*

the Kansas Department of Health and Environment, Division of Environment, Bureau of Water, 1000 S.W. Jackson, Suite 420, Topeka, 66612-1367.

All comments regarding the draft permit or application notice postmarked or received on or before February 12 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate Kansas permit number (KS-AG-05-001/006, KS-05-004) 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, (620) 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, (620) 431-2390

Application information and components of plans and specifications for all new facilities and for expansions of existing swine facilities may be reviewed on the Internet at <http://www.kdhe.state.ks.us/feedlots>.

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

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 031507

State of Kansas

Secretary of State

Temporary Administrative Regulations

Article 34.—CONFIDENTIALITY APPLICATION FEES

7-34-2. Corporate filing fees. The fees for filing and issuing corporate documents shall be as follows:

(a) Articles of incorporation	
(1) For-profit corporation	\$ 75.00
(2) Nonprofit corporation	\$ 20.00
(b) Foreign corporation application	\$100.00
(c) Restated articles of incorporation	\$ 20.00
(d) Certificate of amendment, correction, dissolution, merger, restoration, revocation of dissolution, or withdrawal, or any other certificate filed	\$ 20.00
(e) Name reservation	\$ 20.00
(f) Letter of good standing	\$ 5.00
(g) Certificate of good standing	
(1) Short version	\$ 7.50
(2) Long version	\$ 7.50 per fact
(h) Certificate of fact	\$ 7.50
(i) Any other certificate issued by the secretary of state	\$ 20.00
(j) Certified copy of corporate filing	\$ 7.50

This regulation shall be effective on and after January 1, 2005. (Authorized by and implementing K.S.A. 2003 Supp. 17-7506, as amended by L. 2004, Ch. 143, § 86; effective, T-7-12-29-04, Jan. 1, 2005.)

Ron Thornburgh
Secretary of State

Doc. No. 031519

State of Kansas

Department of Health and Environment

Permanent Administrative Regulations

Article 16.—SURFACE WATER QUALITY STANDARDS

28-16-28b. Definitions. As used in these regulations, the following terms shall have these meanings: (a) "Alluvial aquifer" means the sediment that is associated with and deposited by a stream, and that contains water capable of being produced from a well.

(b) "Alternate low flow" means a low flow value, which is an alternate to the 7Q10 flow, that is based seasonally, hydrologically, or biologically, or a low flow determined through a water assurance district. Wherever used in this regulation in the context of mixing zones, the term shall refer to a minimum amount of streamflow occurring immediately upstream of a wastewater discharge

and available, in whole or in part, for dilution and assimilation of wastewater discharges.

(c) "Antidegradation" means the regulatory actions and measures taken to prevent or minimize the lowering of water quality in surface waters of the state, including those streams, lakes, and wetlands in which existing water quality exceeds the level required for maintenance and protection of the existing uses.

(d) "Artificial sources" means sources of pollution that result from human activities and that can be abated by construction of control structures, modification of operating practices, complete restraint of activities, or any combination of these methods.

(e) "Background concentration" means the concentration of any elemental parameter listed in tables 1a, 1b, 1c, 1d, and 1e of the "Kansas surface water quality standards: tables of numeric criteria," which is adopted by reference in K.A.R. 28-16-28e(d), or any elemental substance meeting the definition of pollutant in subsection (tt), that occurs in a surface water immediately upstream of a point source or nonpoint source under consideration and is from natural sources. The list of background concentration determinations for classified waterbodies of the state is contained in table 1h of the "Kansas surface water quality standards: tables of numeric criteria," as adopted by reference in K.A.R. 28-16-28e(d).

(f) "Base flow" means that portion of a stream's flow contributed by sources of water other than precipitation runoff. Wherever used in this regulation in the context of stream classification, the term shall refer to a fair weather flow sustained primarily by springs or groundwater seepage, wastewater discharges, irrigation return flows, releases from reservoirs, or any combination of these factors.

(g) "Bioaccumulation" means the accumulation of toxic substances in plant or animal tissue through either bioconcentration or biomagnification.

(h) "Bioassessment methods and procedures" means the use of biological methods of assessing surface water quality, including field investigations of aquatic organisms and laboratory or field aquatic toxicity tests.

(i) "Bioconcentration" means the concentration and incorporation of toxic substances into body tissues from ambient sources.

(j) "Biomagnification" means the transport of toxic substances through the food chain through successive cycles of eating and being eaten, and through the subsequent accumulation and concentration of these substances in higher-order consumers and predators.

(k) "Biota" means the animal and plant life and other organisms of a given geographical region.

(l) "Carcinogenic" means having the property of inducing the production of cancerous cells in organisms.

(m) "Classified surface water" means any surface water or surface water segment that supports or, in the absence of artificial sources of pollution, would support one or more of the designated uses of surface water defined in K.A.R. 28-16-28d(b) or K.S.A. 82a-2001(c), and amendments thereto, and that meets the criteria for classification given in K.A.R. 28-16-28d(a).

(n) "Compliance schedule" means any provision in a discharge permit, license, or enforceable order issued by

the department pursuant to the federal clean water act or K.S.A. 65-165 et seq., and amendments thereto, that, for the purposes of meeting water quality-based effluent limitations, technology-based limits, effluent limitations determined by the secretary's best professional judgement, or other requirements in the Kansas statutes and regulations, provides a specified period of time for the construction or renovation of a wastewater treatment facility and the completion of any related scientific or engineering studies, reports, plans, design specifications, or other submittals required by the department.

(o) "Condition of acute toxicity" means any concentration of a toxic substance that exceeds the applicable acute criterion for aquatic life support presented in K.A.R. 28-16-28e or, for substances not listed in K.A.R. 28-16-28e or for mixtures of toxic substances, any concentration that exceeds 0.3 acute toxic units (TU_a), where one TU_a is equal to 100 divided by the median lethal concentration (LC₅₀). The concentration at which acute toxicity exists shall be determined through laboratory toxicity tests conducted in accordance with the United States environmental protection agency's "methods for measuring the acute toxicity of effluents and receiving waters to freshwater and marine organisms," fifth edition, as published in October 2002, which is hereby adopted by reference.

(p) "Condition of chronic toxicity" means any concentration of a toxic substance that exceeds the applicable chronic criterion for aquatic life support presented in K.A.R. 28-16-28e or, for substances not listed in K.A.R. 28-16-28e or for mixtures of toxic substances, any concentration that exceeds 1.0 chronic toxic unit (TU_c), where one TU_c is equal to 100 divided by inhibition concentration 25 (IC₂₅). The concentration at which chronic toxicity exists shall be determined through laboratory toxicity tests conducted in accordance with the United States environmental protection agency's "short-term methods for estimating the chronic toxicity of effluents and receiving waters to freshwater organisms," fourth edition, as published in October 2002, which is hereby adopted by reference.

(q) "Criterion" means any numerical element or narrative provision of the surface water quality standards representing an enforceable water quality condition.

(r) "Critical low flow" means the minimum amount of streamflow immediately upstream of a point source discharge that will be used to calculate the quantity of pollutants that the point source discharge may be permitted to discharge without exceeding water quality criteria set out by these regulations. The critical low flow may be the 7Q10 flow or the alternate low flow as defined in subsection (b) of this regulation.

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

(t) "Designated use" means any of the uses specifically attributed to surface waters of the state in K.A.R. 28-16-28d(b) or K.S.A. 82a-2001(c), and amendments thereto.

(u) "Discharge" means the release of effluent, either directly or indirectly, into surface waters of the state.

(v) "Ecological integrity" means the natural or unimpaired structure and functioning of an aquatic or terrestrial ecosystem.

(continued)

(w) "Effluent" means the sewage or other wastewater discharged from an artificial source.

(x) "*Escherichia coli*" means a subset of the coliform group that is part of the normal intestinal flora in humans and animals and is a direct indicator of fecal contamination in water.

(y) "Exceptional state waters" means any of the surface waters or surface water segments that are of remarkable quality or of significant recreational or ecological value, are listed in the surface water register as defined in subsection (ddd), and are afforded the level of water quality protection under the antidegradation provisions of K.A.R. 28-16-28c(a) and the mixing zone provisions of K.A.R. 28-16-28c(b).

(z) "Existing use" means any of the designated uses described in K.A.R. 28-16-28d(b) or K.S.A. 82a-2001(c), and amendments thereto, known to have occurred in, or to have been made of, a surface water or surface water segment on or after November 28, 1975.

(aa) "Fecal coliform bacteria" means facultatively anaerobic, gram negative, non-spore forming, rod-shaped bacteria that, when cultured under specific laboratory conditions, will ferment lactose, thereby producing acid, gas, or both.

(bb) "Federal clean water act" means the federal water pollution prevention and control act, 33 U.S.C. 1251 et seq., as amended on February 4, 1987.

(cc) "General purpose waters" means any classified surface water that is not classified as an outstanding national resource water or an exceptional state water.

(dd) "Groundwater" means water located under the surface of the land that is or can be the source of supply for wells, springs, or seeps, or that is held in aquifers or the soil profile.

(ee) "Inhibition concentration 25 (IC₂₅)" means a point estimate of the toxicant concentration that would cause a 25 percent reduction in a nonlethal biological measurement of the test organisms, including reproduction and growth.

(ff) "Kansas antidegradation policy," dated August 6, 2001 and hereby adopted by reference, means the written departmental policy used to prevent or minimize the lowering of water quality in surface waters of the state.

(gg) "Kansas implementation procedures: surface water quality standards," dated April 28, 2004, means the written departmental procedures used for carrying out specific provisions of surface water quality standards, available upon request from KDHE's division of environment, which is hereby adopted by reference.

(hh) "Maximum contaminant level" means any of the enforceable standards for finished drinking water quality promulgated by the United States environmental protection agency pursuant to 40 C.F.R. 141.11 through 141.16 and 40 C.F.R. 141.60 through 141.66, dated July 1, 2003, which is hereby adopted by reference.

(ii) "Median lethal concentration" means the concentration of a toxic substance or a mixture of toxic substances calculated to be lethal to 50 percent of the population of test organisms in an acute toxicity test.

(jj) "Microfibers per liter (μ .fibers/L)" means the number of microscopic particles with a length-to-width ratio of 3:1 or greater present in a volume of one liter.

(kk) "Microgram per liter (μ g/L)" means the concentration of a substance at which one one-millionth of a gram (10^{-6} g) of the substance is present in a volume of one liter.

(ll) "Milligram per liter (mg/L)" means the concentration of a substance at which one one-thousandth of a gram (10^{-3} g) of the substance is present in a volume of one liter.

(mm) "Mixing zone" means the designated portion of a stream or lake where a discharge is incompletely mixed with the receiving surface water and where, in accordance with K.A.R. 28-16-28e(d), concentrations of certain pollutants may legally exceed chronic water quality criteria associated with the established designated uses that are applied in most other portions of the receiving surface water.

(nn) "Mutagenic" means having the property of directly or indirectly causing a mutation.

(oo) "Nonpoint source" means any activity that is not required to have a national pollutant discharge elimination system permit and that results in the release of pollutants to waters of the state. This release may result from precipitation runoff, aerial drift and deposition from the air, or the release of subsurface brine or other contaminated groundwaters to surface waters of the state.

(pp) "Outstanding national resource water" means any of the surface waters or surface water segments of extraordinary recreational or ecological significance identified in the surface water register, as defined in subsection (ddd), and afforded the highest level of water quality protection under the antidegradation provisions of K.A.R. 28-16-28c(a) and the mixing zone provisions of K.A.R. 28-16-28c(b).

(qq) "pH" means the common logarithm of the reciprocal of the hydrogen ion concentration measured in moles per liter, expressed on a scale that ranges from zero to 14, with values less than seven being more acidic and values greater than seven being more alkaline.

(rr) "Picocurie per liter (pCi/L)" means a volumetric unit of radioactivity equal to 2.22 nuclear transformations per minute per liter.

(ss) "Point source" means any discernible, confined, and discrete conveyance including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or floating craft, from which pollutants are or could be discharged. This term may include structures or site conditions that act to collect and convey stormwater runoff from roadways, urban areas, or industrial sites. This term shall not include agricultural stormwater discharges or return flows from irrigated agricultural land.

(tt) "Pollutant" means any physical, biological, or chemical conditions, substances, or combination of substances released into surface waters of the state that results in surface water pollution, as defined in subsection (uu).

(uu) "Pollution" means any of the following:

(1) Contamination or other alteration of the physical, chemical, or biological properties of the surface waters of the state, including changes in temperature, taste, odor, turbidity, or color of the waters;

(2) discharges of gaseous, liquid, solid, radioactive, microbiological, or other substances into surface waters in a manner that may create a nuisance or render these waters harmful, detrimental, or injurious to any of the following:

(A) Public health, safety, or welfare;

(B) domestic, industrial, agricultural, recreational, or other designated uses; or

(C) livestock, domestic animals, or native or naturalized plant or animal life; or

(3) any discharge that will or is likely to exceed state effluent limitations predicated upon technology-based effluent standards or water quality-based standards.

(vv) "Potable water" means water that is suitable for drinking and cooking purposes in terms of both human health and aesthetic considerations.

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

(xx) "Presedimentation sludge" means a slurry or suspension of residual solid materials derived from an initial step in the production of potable water. Presedimentation sludge shall also include residual solids originating from the raw water supply used for industrial or other non-potable water purposes, before the addition of any artificial materials not typically used in the production of potable water. The solid materials shall include sand, silt, and other easily settleable particles originating from the raw water supply.

(yy) "Private surface water" means any freshwater reservoir or pond that is both located on and completely bordered by land under common private ownership.

(zz) "Public swimming area" means either of the following:

(1) Any classified surface water that is posted for swimming by a federal, state, or local government that has jurisdiction over the land adjacent to that particular body of water; or

(2) any privately owned or leased body of water that is open and accessible to the public and is intended for swimming.

(aaa) "Seven-day, ten-year low flow (7Q10 flow)" means the seven-day average low flow having a recurrence frequency of once in 10 years, as statistically determined from historical flow data. Where used in this regulation in the context of mixing zones, the term shall refer to the minimum amount of streamflow occurring immediately upstream of a wastewater discharge and available, in whole or in part, for dilution or assimilation of wastewater discharges.

(bbb) "Site-specific criterion" means any criterion applicable to a given classified surface water segment and developed for the protection of the designated uses of that segment alone.

(ccc) "Streamflow" means the volume of water moving past a stream cross-sectional plane per unit of time.

(ddd) "Surface water register" means a list of the state's major classified surface waters, including a listing of waters recognized as outstanding national resource waters or exceptional state waters, and the surface water use designations for each classified surface water, periodically updated and published by the department pursuant to the requirements of K.A.R. 28-16-28d(d)(2) and K.A.R. 28-16-28f(a). The surface water register, published as the "Kansas surface water register," is adopted by reference in K.A.R. 28-16-28g.

(eee) "Surface water segment" means a delineated portion of a stream, lake, or wetland.

(fff) "Surface waters" means all of the following:

(1) Streams, including rivers, creeks, brooks, sloughs, draws, arroyos, canals, springs, seeps, and cavern streams, and any alluvial aquifers associated with these surface waters;

(2) lakes, including oxbow lakes and other natural lakes and man-made reservoirs, lakes, and ponds; and

(3) wetlands, including water bodies meeting the technical definition for jurisdictional wetlands given in the "corps of engineers wetlands delineation manual," as published in January 1987.

(ggg) "Surface waters of the state" means all surface waters occurring within the borders of the state of Kansas or forming a part of the border between Kansas and one of the adjoining states.

(hhh) "Teratogenic" means having the property of causing abnormalities that originate from impairment of an event that is typical in embryonic or fetal development.

(iii) "Toxic substance" means any substance that produces deleterious physiological effects in humans, animals, or plants.

(jjj) "Turbidity" means the cloudiness of water as measured by optical methods (nephelometry) and expressed in standard nephelometric units.

(kkk) "Use attainability analysis" means a study conducted or accepted by the department that is designed to determine whether or not a surface water or surface water segment supports, or is capable of supporting in the absence of artificial sources of pollution, one or more of the designated uses defined in K.A.R. 28-16-28d(b) or K.S.A. 82a-2001, and amendments thereto.

(lll) "Variance" means the department's written approval and authorization of a proposed action that knowingly will result in a lack of conformity with one or more of the criteria of K.A.R. 28-16-28e but that is deemed necessary based on the provisions of 40 C.F.R. 131.10(g)(1) through (g)(6), as in effect on July 1, 2003, which is hereby adopted by reference. Variances shall be administered by the department in accordance with K.A.R. 28-16-28f(e).

(mmm) "Water-effect ratio (WER)" means the numerical toxicity (median lethal concentration or inhibition concentration 25) of a chemical pollutant diluted in water from a given stream, lake, or wetland divided by the numerical toxicity of the same pollutant diluted in laboratory water.

(nnn) "Water quality certification" means the department's written finding that a proposed action that impacts upon water quality will comply with the terms and conditions of the surface water quality standards.

(ooo) "Whole-effluent toxicity limitation" means any restriction imposed by the department on the overall acute or chronic toxicity of an effluent discharged to a surface water.

(continued)

(ppp) "Zone of initial dilution" means the region of a surface water in the immediate vicinity of a discharge where acute and chronic criteria may be exceeded. (Authorized by K.S.A. 2003 Supp. 65-171d and K.S.A. 65-171m; implementing K.S.A. 65-165, K.S.A. 2003 Supp. 65-171d, K.S.A. 65-171m, and K.S.A. 2003 Supp. 82a-2001; effective May 1, 1986; amended Aug. 29, 1994; amended July 30, 1999; amended Nov. 3, 2000; amended Aug. 31, 2001; amended Jan. 3, 2003; amended Oct. 24, 2003; amended Jan. 28, 2005.)

28-16-28c. General provisions. (a) Antidegradation.

(1) General purpose waters.

(A) Levels of water quality in surface waters of the state shall be maintained to protect the existing uses of those surface waters.

(B) For all surface waters of the state, if existing water quality is better than applicable water quality criteria established in these regulations, that existing water quality shall be fully maintained and protected. Water quality may be lowered only if the department finds, after full satisfaction of the intergovernmental coordination and public participation requirements on antidegradation contained in the Kansas antidegradation policy, as defined in K.A.R. 28-16-28b (ff), that a lowering of water quality is needed to allow for important social or economic development in the geographical area in which the waters are located. In allowing the lowering of water quality, the maintenance and protection of existing uses shall be ensured by the department, and the highest statutory and regulatory requirements for all new and existing point sources of pollution and all cost-effective and reasonable best management practices for nonpoint sources of pollution shall be achieved.

(2) Wherever surface waters of the state constitute exceptional state waters, discharges shall be allowed only if existing uses and existing water quality are maintained and protected.

(3) Wherever surface waters of the state constitute an outstanding national resource water, existing uses and existing water quality shall be maintained and protected. New or expanded discharges shall not be allowed into outstanding national resource waters.

(4) No degradation of surface water quality by artificial sources of pollution shall be allowed if the degradation will result in harmful effects on populations of any threatened or endangered species of aquatic or semiaquatic life or terrestrial wildlife or its critical habitat as determined by the secretary of wildlife and parks pursuant to K.S.A. 32-960, and amendments thereto, and K.A.R. 115-15-3 or in the federal endangered species act, 16 U.S.C. 1532, as amended on October 7, 1988.

(5) Temporary sources of pollution complying with the provisions of subsection (d) of this regulation and K.A.R. 28-16-28e(b), producing only ephemeral surface water quality degradation not harmful to existing uses, may be allowed by the department.

(6) Implementation of these antidegradation provisions for thermal discharges shall be consistent with the requirements of 33 U.S.C. 1326, as in effect on January 1, 1989.

(7) Implementation of these antidegradation provisions shall be consistent with the guidelines provided in the Kansas antidegradation policy, available upon request from the department.

(b) Mixing zones.

(1) General limitations. Mixing zones shall not extend across public drinking water intakes, stream tributary mouths, or swimming or boat ramp areas, nor shall mixing zones exist in locations that preclude the normal upstream or downstream movement or migration of aquatic organisms. Mixing zones associated with separate discharges shall not overlap unless a department-approved demonstration indicates that the overlapping will not result in a violation of the general water quality criteria set forth in K.A.R. 28-16-28e(b) or in an impairment of the existing uses of the receiving surface water. The zone of initial dilution for a mixing zone shall comprise, in terms of volume, not more than 10 percent of the mixing zone.

(2) Discharges into classified streams. No mixing zone within a classified stream shall extend beyond the middle of the nearest downstream current crossover point, where the main current flows from one bank to the opposite bank, or more than 300 meters downstream from the point of effluent discharge.

(3) If the ratio of the receiving stream critical low flow to the discharge design flow is less than 3:1, then the mixing zone shall be the cross-sectional area or the volumetric flow of the stream during critical low flow conditions, as measured immediately upstream of the discharge during the critical low flow.

(4) Mixing zones shall be applied in accordance with paragraphs (b)(7) and (b)(8)(A), (B), (C), and (D) of this regulation, based on the classification and designated uses of a stream segment for individual pollutants. For surface waters classified as outstanding national resource waters or exceptional state waters, or designated as special aquatic life use waters, mixing zones for specific discharges may be allowed by the secretary in accordance with paragraphs (b)(6), (b)(7), and (b)(8)(A) of this regulation. Mixing zones also may be allowed if there are no aquatic life criteria for an individual pollutant.

(5) Wherever site conditions preclude the rapid dispersion and dilution of effluent within the receiving surface water or if, in the judgment of the secretary, the presence of a mixing zone would unduly jeopardize human health or any of the existing uses of the receiving surface water, the right to prohibit the use of mixing zones or to place more stringent limitations on mixing zones than those stipulated in paragraphs (b)(2), (3), and (13) of this regulation shall be reserved by the department.

(6) Outstanding national resource waters. Mixing zones may be allowed by the secretary for existing permitted discharges in stream segments classified in the future as outstanding national resource waters but shall be evaluated on an individual permit basis to prevent the degradation of the stream segment.

(7) Exceptional state waters. If the ratio of the receiving stream critical low flow to the discharge design flow is equal to or greater than 3:1, the mixing zone shall not exceed 25 percent of the cross-sectional area or volumetric flow of the receiving stream during critical low flow con-

ditions, measured immediately upstream of the discharge during the critical low flow.

(8) General purpose waters.

(A) Special aquatic life use waters. If the ratio of the receiving stream critical low flow to the discharge design flow is equal to or greater than 3:1, the mixing zone shall not exceed 25 percent of the cross-sectional area or volumetric flow of the receiving stream during critical low flow conditions, measured immediately upstream of the discharge during the critical low flow.

(B) Expected aquatic life use waters. If the ratio of the receiving stream critical low flow to the discharge design flow is equal to or greater than 3:1, the mixing zone shall not exceed 50 percent of the cross-sectional area or volumetric flow of the receiving stream during critical low flow conditions, measured immediately upstream of the discharge during the critical low flow.

(C) Restricted aquatic life use waters. If the ratio of the receiving stream critical low flow to the discharge design flow is equal to or greater than 3:1, the mixing zone shall not exceed 100 percent of the cross-sectional area or volumetric flow of the receiving stream during critical low flow conditions, measured immediately upstream of the discharge during the critical low flow.

(D) Recreational uses. Mixing zones for classified surface waters designated for recreational uses may be allowed by the secretary on an individual permit basis in accordance with paragraph (b)(10) of this regulation.

(9) Alternate low flows, as defined in K.A.R. 28-16-28b(b), may be utilized by the department as the critical low flow in the calculation of mixing zone cross-sectional area or volumetric flow for specific water quality criteria. The 30Q10 flow for ammonia or the guaranteed minimum flow provided by a water assurance district, if applicable, shall be used by the department in the calculation of the mixing zone cross-sectional area or volumetric flow. Other alternate low flows, with a specific recurrence frequency and averaging period, shall be considered by the department if those flows will not result in excursions above aquatic life criteria more frequently than once every three years. The right to approve or disapprove any proposed alternate low flow shall be reserved by the department.

(10) Alternate mixing zones employing specific linear distances for mixing zones or alternate stream dilution volumes or cross-sectional areas, or both, may be allowed by the department. Site-specific mixing zones may be allowed if data generated from a site-specific study supports the use of an alternate mixing zone, but still maintains a zone of passage for aquatic life.

(11) Discharges into classified lakes. Mixing zones shall be prohibited by the department from extending into any lake classified as an outstanding national resource water or exceptional state water, or designated as a special aquatic life use water according to K.A.R. 28-16-28d(d). Mixing zones in lakes designated as expected aquatic life use water or restricted aquatic life use waters may be allowed by the department if the mixing zones do not extend farther than 50 meters from the point of effluent discharge or do not comprise more than one percent of the total volume of the receiving lake as measured at the conservation pool.

(12) Discharges into classified ponds. Mixing zones extending into any classified pond shall be prohibited by the department.

(13) Discharges into classified wetlands. Mixing zones shall be prohibited by the department from extending into any classified lacustrine or palustrine wetland as defined in the "corps of engineers wetlands delineation manual," as published in January 1987.

(c) Special conditions. The following special conditions shall not remove the obligation to design, build, or use pollution control structures or methods to control point and nonpoint sources of pollution as defined in K.A.R. 28-16-28b(ss) and (oo).

(1) Low flow. Any classified stream segment may be exempted by the secretary from the application of some or all of the numeric surface water criteria specified in K.A.R. 28-16-28e(d) if streamflow is less than the critical low flow.

(2) High flow. Any classified stream segment may be exempted by the secretary from the application of the numeric criteria for *E. coli* bacteria specified in tables 1i and 1j of the "Kansas surface water quality standards: tables of numeric criteria," which is adopted by reference in K.A.R. 28-16-28e(d), if any of the following conditions is met:

(A) The flow is equal to or greater than the flow that is exceeded 10 percent of the time for any classified stream segment with a mean flow of less than 30 cubic feet per second.

(B) The flow is equal to or greater than 50 percent of the two-year flood flow for any classified stream segment that has a mean flow of 30 or more cubic feet per second but less than 900 cubic feet per second.

(C) The flow is equal to or greater than the two-year flood flow for any classified stream segment that has a mean flow greater than 900 cubic feet per second.

(3) Effluent-created flow. For any current classified stream segment in which continuous flow is sustained primarily through the discharge of treated effluent and the segment does not otherwise meet the requirements of a classified stream in K.A.R. 28-16-28d(a)(1), the discharger shall not be required to provide treatment beyond that treatment required in the federal secondary treatment regulation, 40 C.F.R. 133.102, dated July 1, 2003, which is hereby adopted by reference. This discharge shall not violate the general surface water quality criteria listed in K.A.R. 28-16-28e(b) or impair any of the existing or attained designated uses of a downstream classified stream segment. If a use attainability analysis demonstrates that the designated uses of a surface water segment are not attainable, then the new use designations for effluent-created flow shall be adopted as specified in K.A.R. 28-16-28d(d)(2) and approved by the environmental protection agency before serving as a basis for limitations in any new, reissued, or modified permit.

(d) Treatment requirements.

(1) All effluent shall receive appropriate minimum levels of treatment as required by 40 C.F.R. 122.44, dated July 1, 2003, which is hereby adopted by reference.

(2) Effluent shall receive a higher level of treatment than that stipulated in paragraph (d)(1) of this regulation,

(continued)

if the department determines that this higher level of treatment is needed to fully comply with the terms and conditions of subsection (a) of this regulation or K.A.R. 28-16-28e.

(e) Analytical testing. All methods of sample collection, preservation, and analysis used in applying any of these regulations shall be in accordance with those methods prescribed by the department.

(f) Application of standards to privately owned reservoirs or ponds. The application of water quality standards to privately owned reservoirs or ponds shall be subject to the provisions of K.S.A. 65-171d, and amendments thereto. (Authorized by and implementing K.S.A. 2003 Supp. 65-171d and K.S.A. 65-171m; effective May 1, 1986; amended, T-87-8, May 1, 1986; amended May 1, 1987; amended Aug. 29, 1994; amended July 30, 1999; amended Aug. 31, 2001; amended Jan. 3, 2003; amended Jan. 28, 2005.)

28-16-28d. Surface water classification and use designation. (a) Surface water classification. Surface waters shall be classified as follows:

(1) Classified stream segments shall be those stream segments defined in K.S.A. 82a-2001(a), and amendments thereto.

(2) Classified surface waters other than classified stream segments shall be defined as follows:

(A) Classified lakes shall be all lakes owned by federal, state, county, or municipal authorities and all privately owned lakes that serve as public drinking water supplies or that are open to the general public for primary or secondary contact recreation.

(B) Classified wetlands shall be the following:

(i) All wetlands owned by federal, state, county, or municipal authorities;

(ii) all privately owned wetlands open to the general public for hunting, trapping, or other forms of secondary contact recreation; and

(iii) all wetlands classified as outstanding national resource waters or exceptional state waters, or designated as special aquatic life use waters according to subsection (d) of this regulation.

Wetlands created for the purpose of wastewater treatment shall not be considered classified wetlands.

(C) Classified ponds shall be all ponds owned by federal, state, county, or municipal authorities and all privately owned ponds that impound water from a classified stream segment as defined in paragraph (a)(1).

(b) The designated uses of classified surface waters other than classified stream segments shall be defined as follows:

(1) "Agricultural water supply use" means the use of classified surface waters other than classified stream segments for agricultural purposes, including the following:

(A) "Irrigation," which means the withdrawal of classified surface waters other than classified stream segments for application onto land; and

(B) "livestock watering," which means the provision of classified surface waters other than classified stream segments to livestock for consumption.

(2) "Aquatic life support use" means the use of classified surface waters other than classified stream seg-

ments for the maintenance of the ecological integrity of lakes, wetlands, and ponds, including the sustained growth and propagation of native aquatic life; naturalized, important, recreational aquatic life; and indigenous or migratory semiaquatic or terrestrial wildlife directly or indirectly dependent on classified surface waters other than classified stream segments for survival.

(A) "Special aquatic life use waters" means either classified surface waters other than classified stream segments that contain combinations of habitat types and indigenous biota not found commonly in the state or classified surface waters other than classified stream segments that contain representative populations of threatened or endangered species.

(B) "Expected aquatic life use waters" means classified surface waters other than classified stream segments containing habitat types and indigenous biota commonly found or expected in the state.

(C) "Restricted aquatic life use waters" means classified surface waters other than classified stream segments containing indigenous biota limited in abundance or diversity by the physical quality or availability of habitat, due to natural deficiencies or artificial modifications, compared to more suitable habitats in adjacent waters.

(3) "Domestic water supply use" means the use of classified surface waters other than classified stream segments, after appropriate treatment, for the production of potable water.

(4) "Food procurement use" means the use of classified surface waters other than classified stream segments for obtaining edible forms of aquatic or semiaquatic life for human consumption.

(5) "Groundwater recharge use" means the use of classified surface waters other than classified stream segments for replenishing fresh or usable groundwater resources. This use may involve the infiltration and percolation of classified surface waters other than classified stream segments through sediments and soils or the direct injection of classified surface waters other than classified stream segments into underground aquifers.

(6) "Industrial water supply use" means the use of classified surface waters other than classified stream segments for nonpotable purposes by industry, including withdrawals for cooling or process water.

(7) "Recreational use" means the use of classified surface waters other than classified stream segments for primary or secondary contact recreation.

(A) "Primary contact recreational use for classified surface waters other than classified stream segments" means the use of classified surface waters other than classified stream segments for recreation on and after April 1 through October 31 of each year, during which the body is immersed to the extent that some inadvertent ingestion of water is probable. This use shall include boating, mussel harvesting, swimming, skin diving, waterskiing, and windsurfing.

(i) "Primary contact recreational use: swimming beach" shall apply to those classified surface waters other than classified stream segments that have posted public swimming areas. These waters shall present a risk of human illness that is no greater than 0.8 percent.

(ii) "Primary contact recreational use: public access" shall apply to those classified surface waters other than classified stream segments where full body contact can occur and that are by law or written permission of the landowner open to and accessible by the public. These waters shall present a risk of human illness that is no greater than 1.0 percent.

(iii) "Primary contact recreational use: restricted access" shall apply to those classified surface waters other than classified stream segments where full body contact can occur and that are not open to and accessible by the public under Kansas law. These waters shall present a risk of human illness that is no greater than 1.2 percent.

(B) "Secondary contact recreational use for classified surface waters other than classified stream segments" means recreation during which the ingestion of classified surface waters other than classified stream segments is not probable. This use shall include wading, fishing, trapping, and hunting.

(i) "Secondary contact recreational use: public access" shall apply to classified surface waters other than classified stream segments where the surface water is, by law or written permission of the landowner, open to and accessible by the public.

(ii) "Secondary contact recreational use: restricted access" shall apply to classified surface waters other than classified stream segments where the surface water is not open to and accessible by the public under Kansas law.

(c) The designated uses of classified stream segments shall be those defined in K.S.A. 82a-2001(c), and amendments thereto.

(d) Assignment of uses to surface waters.

(1) Classified surface waters shall be designated for uses based upon the results of use attainability analyses conducted in accordance with K.S.A. 82a-2005(a), and amendments thereto. The provisions of the federal water quality standards regulation, 40 C.F.R. 131.10(g)(1) through (g)(6) as in effect on July 1, 2003, shall be followed and are adopted by reference in K.A.R. 28-16-28b(III).

(2) A register of surface water classifications and use designations shall be maintained by the department. This register shall identify the designated uses of all listed major classified streams, lakes, wetlands, and ponds and shall list those streams, lakes, wetlands, and ponds recognized by the department as outstanding national resource waters or exceptional state waters. The use designations of listed surface waters or water bodies recognized as outstanding national resource waters or exceptional state waters shall be those identified in the department's "Kansas surface water register," as adopted by reference in K.A.R. 28-16-28g.

(3) The use designations for classified streams, lakes, wetlands, and ponds not listed in the surface water register shall be determined by the secretary on a case-by-case basis in accordance with the requirements of paragraph (d)(1). (Authorized by K.S.A. 2003 Supp. 65-171d; implementing K.S.A. 2003 Supp. 65-171d and K.S.A. 2003 Supp. 82a-2001; effective May 1, 1986; amended, T-87-8, May 1, 1986; amended May 1, 1987; amended Aug. 29, 1994; amended July 30, 1999; amended Aug. 31, 2001;

amended Jan. 3, 2003; amended Jan. 23, 2004; amended Jan. 28, 2005.)

28-16-28e. Surface water quality criteria. (a) Criteria development guidance. The development of surface water quality criteria for substances not listed in these standards shall be guided by water quality criteria published by the United States environmental protection agency. If the department finds that the criteria listed in this regulation are underprotective or overprotective for a given surface water segment, appropriate site-specific criteria may be developed and applied by the department, in accordance with K.A.R. 28-16-28f(f), using bioassessment methods or other related scientific procedures, including those procedures consistent with the United States environmental protection agency's "water quality standards handbook," second edition, as published in August 1994 or other department-approved methods.

(b) General criteria for surface waters. The following criteria shall apply to all surface waters, regardless of classification.

(1) Surface waters shall be free, at all times, from the harmful effects of substances that originate from artificial sources of pollution and that produce any public health hazard, nuisance condition, or impairment of a designated use.

(2) Hazardous materials derived from artificial sources, including toxic substances, radioactive isotopes, and infectious microorganisms derived directly or indirectly from point or nonpoint sources, shall not occur in surface waters at concentrations or in combinations that jeopardize the public health or the survival or well-being of livestock, domestic animals, terrestrial wildlife, or aquatic or semiaquatic life.

(3) Surface waters shall be free of all discarded solid materials, including trash, garbage, rubbish, offal, grass clippings, discarded building or construction materials, car bodies, tires, wire, and other unwanted or discarded materials. The placement of stone and concrete rubble for bank stabilization shall be acceptable to the department, if all other required permits are obtained before placement.

(4) Surface waters shall be free of floating debris, scum, foam, froth, and other floating materials directly or indirectly attributable to artificial sources of pollution.

(5) Oil and grease from artificial sources shall not cause any visible film or sheen to form upon the surface of the water or upon submerged substrate or adjoining shorelines, nor shall these materials cause a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines.

(6) Surface waters shall be free of deposits of sludge or fine solids attributable to artificial sources of pollution.

(7) Taste-producing and odor-producing substances of artificial origin shall not occur in surface waters at concentrations that interfere with the production of potable water by conventional water treatment processes, that impart an unpalatable flavor to edible aquatic or semiaquatic life or terrestrial wildlife, or that result in noticeable odors in the vicinity of surface waters.

(8) The natural appearance of surface waters shall not be altered by the addition of color-producing or turbidity-producing substances of artificial origin.

(continued)

(9) In stream segments where background concentrations of naturally occurring substances, including chlorides and sulfates, exceed the water quality criteria listed in table 1a of the "Kansas surface water quality standards: tables of numeric criteria," as adopted by reference in subsection (d) of this regulation, at ambient flow, the existing water quality shall be maintained, and the newly established numeric criteria shall be the background concentration, as defined in K.A.R. 28-16-28b(e). Background concentrations shall be established using the methods outlined in the "Kansas implementation procedures: surface water quality standards," as defined in K.A.R. 28-16-28b(gg), and available upon request from the department.

(c) Criteria for designated uses of surface waters. The numeric criteria in tables 1a, 1b, 1c, 1d, and 1e of the "Kansas surface water quality standards: tables of numeric criteria," as adopted by reference in subsection (d) of this regulation, shall not apply if the critical low flow is less than 0.03 cubic meter per second (1.0 cubic foot per second) for waters designated as expected aquatic life use waters and restricted aquatic life use waters, unless studies conducted or approved by the department show that water present during periods of no flow, or flow below critical low flow, provides important refuges for aquatic life and permits biological recolonization of intermittently flowing segments. The numeric criteria in tables 1a, 1b, 1c, 1d, and 1e, as adopted in subsection (d) of this regulation, shall not apply if the critical low flow is less than 0.003 cubic meter per second (0.1 cubic foot per second) for waters designated as special aquatic life use waters, unless studies conducted or approved by the department show that water present during periods of no flow, or flow below critical low flow, provides important refuges for aquatic life and permits biological recolonization of intermittently flowing segments. The following criteria shall apply to all classified surface waters for the indicated designated uses.

(1) Agricultural water supply use. The water quality criteria for irrigation and livestock watering set forth in table 1a, as adopted in subsection (d) of this regulation, shall not be exceeded outside of mixing zones due to artificial sources of pollution.

(2) Aquatic life support use.

(A) Nutrients. The introduction of plant nutrients into streams, lakes, or wetlands from artificial sources shall be controlled to prevent the accelerated succession or replacement of aquatic biota or the production of undesirable quantities or kinds of aquatic life.

(B) Suspended solids. Suspended solids added to surface waters by artificial sources shall not interfere with the behavior, reproduction, physical habitat, or other factors related to the survival and propagation of aquatic or semiaquatic life or terrestrial wildlife. In the application of this provision, suspended solids associated with discharges of presedimentation sludge from water treatment facilities shall be deemed noninjurious to aquatic and semiaquatic life and terrestrial wildlife, if these discharges comply fully with the requirements of paragraphs (b)(6) and (8) and paragraph (c)(2)(D) of this regulation.

(C) Temperature.

(i) Heat of artificial origin shall not be added to a surface water in excess of the amount that will raise the temperature of the water beyond the mixing zone more than 3° C above natural conditions. Additionally, a discharge to a receiving water shall not lower the temperature of the water beyond the mixing zone more than 3° C below natural conditions. The normal daily and seasonal temperature variations occurring within a surface water before the addition of heated or cooled water of artificial origin shall be maintained.

(ii) Temperature criteria applicable to industrial cooling water recycling reservoirs that meet the requirements for classification specified in K.A.R. 28-16-28d(a)(2) shall be established by the secretary on a case-by-case basis to protect the public health, safety, or the environment.

(D) Toxic substances.

(i) Conditions of acute toxicity shall not occur in classified surface waters outside of zones of initial dilution, nor shall conditions of chronic toxicity occur in classified surface waters outside of mixing zones.

(ii) Acute criteria for the aquatic life support use specified in tables 1a, 1b, and 1c, as adopted in subsection (d) of this regulation, shall apply beyond the zone of initial dilution. Chronic criteria for the aquatic life support use given in tables 1a, 1b, 1d, and 1e, as adopted in subsection (d) of this regulation, shall apply beyond the mixing zone.

(iii) If a discharge contains a toxic substance that lacks any published criteria for the aquatic life support use, or if a discharge contains a mixture of toxic substances capable of additive or synergistic interactions, bioassessment methods and procedures shall be specified by the department to establish whole-effluent toxicity limitations that are consistent with paragraph (c)(2)(D)(i) of this regulation.

(3) Domestic water supply use.

(A) Except as provided in paragraph (c)(3)(B), the criteria listed in table 1a, as adopted in subsection (d) of this regulation, for domestic water supply use shall not be exceeded at any point of domestic water supply diversion.

(B) In stream segments where background concentrations of naturally occurring substances, including chlorides and sulfates, exceed the domestic water supply criteria listed in table 1a, as adopted in subsection (d) of this regulation, at ambient flow, due to intrusion of mineralized groundwater, the existing water quality shall be maintained, and the newly established numeric criteria for domestic water supply shall be the background concentration, as defined in K.A.R. 28-16-28b(e). Background concentrations shall be established using the methods outlined in the "Kansas implementation procedures: surface water quality standards," as defined in K.A.R. 28-16-28b(gg), available upon request from the department.

(C) Any substance derived from an artificial source that, alone or in combination with other synthetic or naturally occurring substances, causes toxic, carcinogenic, teratogenic, or mutagenic effects in humans shall be limited to nonharmful concentrations in surface waters. Unless site-specific water quality conditions warrant the promulgation of more protective criteria under the provisions of subsection (a) of this regulation and K.A.R. 28-16-28f(f), maximum contaminant levels for toxic, carcinogenic,

teratogenic, or mutagenic substances promulgated by the United States environmental protection agency pursuant to 40 C.F.R. 141.11 through 141.16 and 40 C.F.R. 141.60 through 141.66, dated July 1, 2003 and adopted by reference in K.A.R. 28-16-28b(hh), shall be deemed nonharmful by the department and adopted as domestic water supply criteria.

(D) The introduction of plant nutrients into surface waters designated for domestic water supply use shall be controlled to prevent interference with the production of drinking water.

(4) Food procurement use.

(A) Criteria listed in table 1a, as adopted in subsection (d) of this regulation, for food procurement use shall not be exceeded outside of a mixing zone due to any artificial source of pollution.

(B) Substances that can bioaccumulate in the tissues of edible aquatic or semiaquatic life or wildlife through bioconcentration or biomagnification shall be limited in surface waters to concentrations that result in no harm to human consumers of these tissues. For bioaccumulative carcinogens, surface water concentrations corresponding to a cancer risk level of less than 0.000001 (10^{-6}) in human consumers of aquatic or semiaquatic life or wildlife shall be deemed nonharmful by the department and adopted as food procurement criteria. Average rates of tissue consumption and lifetime exposure shall be assumed by the department in the estimation of the cancer risk level.

(5) Groundwater recharge use. In surface waters designated for the groundwater recharge use, water quality shall be such that, at a minimum, degradation of groundwater quality does not occur. Degradation shall include any statistically significant increase in the concentration of any chemical or radiological contaminant or infectious microorganism in groundwater resulting from surface water infiltration or injection.

(6) Industrial water supply use. Surface water quality criteria for industrial water supplies shall be determined by the secretary on a case-by-case basis to protect the public health, safety, or the environment.

(7) Recreational use.

(A) General. The introduction of plant nutrients into surface waters designated for primary or secondary contact recreational use shall be controlled to prevent the development of objectionable concentrations of algae or algal by-products or nuisance growths of submersed, floating, or emergent aquatic vegetation.

(B) Primary contact recreation for classified surface waters other than classified stream segments. A single sample maximum or a geometric mean of at least five samples collected during separate 24-hour periods within a 30-day period shall not exceed the criteria in table 1j, as adopted in subsection (d) of this regulation, beyond the mixing zone.

(C) Secondary contact recreational use for classified surface waters other than classified stream segments. A single sample maximum or a geometric mean of at least five samples collected during separate 24-hour periods within a 30-day period shall not exceed the criteria in table 1j, as adopted in subsection (d) of this regulation, beyond the mixing zone.

(D) Primary contact recreation for classified stream segments. At least five samples shall be collected during separate 24-hour periods within a 30-day period. A geometric mean analysis of these samples shall not exceed the criteria in table 1i, as adopted in subsection (d) of this regulation, beyond the mixing zone.

(E) Secondary contact recreation for classified stream segments. The following criteria shall be in effect from January 1 through December 31 of each year. At least five samples shall be collected during separate 24-hour periods within a 30-day period. A geometric mean analysis of these samples shall not exceed the criteria in table 1i, as adopted in subsection (d) of this regulation, beyond the mixing zone.

(F) Wastewater effluent shall be disinfected if it is determined by the department that the discharge of non-disinfected wastewater constitutes an actual or potential threat to public health. Situations that constitute an actual or potential threat to public health shall include instances in which there is a reasonable potential for the discharge to exceed the applicable criteria supporting the assigned recreational use designation or if a water body is known or likely to be used for either of the following:

- (i) Primary or secondary contact recreation; or
- (ii) any domestic water supply.

(8) Multiple uses. If a classified stream segment or classified surface water other than a classified stream segment is designated for more than one designated use according to K.A.R. 28-16-28d(d), the water quality of the classified stream segment or classified surface water other than a classified stream segment shall comply with the most stringent of the applicable water quality criteria.

(d) Tables. The numeric criteria for the designated uses of classified surface waters shall be the numeric criteria specified in the department's "Kansas surface water quality standards: tables of numeric criteria," dated December 6, 2004, which is hereby adopted by reference. (Authorized by K.S.A. 2003 Supp. 65-171d, K.S.A. 65-171m, and K.S.A. 2003 Supp. 82a-2001; implementing K.S.A. 2003 Supp. 65-171d, K.S.A. 65-171m, K.S.A. 2003 Supp. 82a-2001; effective May 1, 1986; amended, T-87-8, May 1, 1986; amended May 1, 1987; amended Aug. 29, 1994; amended July 30, 1999; amended Nov. 3, 2000; amended Aug. 31, 2001; amended Jan. 3, 2003; amended Oct. 24, 2003; amended Jan. 28, 2005.)

28-16-28f. Administration of surface water quality standards. (a) Review and revision. At least once every three years, a public hearing shall be held for the purpose of reviewing and, as appropriate, modifying the surface water quality standards and the surface water register.

(b) Application of modified surface water quality standards. A modification to the surface water quality standards, the surface water register, or both, shall have no effect on the requirements of any existing enforceable discharge permit issued under K.S.A. 65-165, and amendments thereto, unless the discharge fails to meet the requirements of the permit or the department has reason to believe that continuation of the discharge will result in a potential or actual public health hazard or in irreversible water use impairments.

(continued)

(c) Water quality certification. No action identified in this subsection shall be taken unless the department has issued a water quality certification for the following:

(1) Any action requiring a federal license or permit pursuant to the federal clean water act;

(2) any action subject to the permitting provisions of K.S.A. 65-165, and amendments thereto;

(3) any water development project subject to the provisions of K.S.A. 82a-325 et seq., and amendments thereto; and

(4) any action undertaken by any Kansas state agency that, in the opinion of the secretary, has a potential water quality impact.

(d) Compliance schedules.

(1) Except as provided in paragraph (d)(2) in this regulation, compliance schedules contained in any discharge permit or license issued by the department pursuant to the federal clean water act or K.S.A. 65-165, and amendments thereto, shall not extend more than three years beyond the date of permit issuance.

(2) Compliance schedules of up to five years in total duration may be granted if it is demonstrated that the strict application of paragraph (d)(1) in this regulation is not feasible due to construction scheduling constraints or other technical limitations.

(e) Variances. If, upon written application by any person, the secretary finds that by reason of substantial and widespread socioeconomic impact the strict enforcement of the water quality criteria of K.A.R. 28-16-28e(c) is not feasible, a variance may be permitted by the secretary.

(1) The provisions of 40 C.F.R. 131.10(g), as adopted by reference in K.A.R. 28-16-28b(III), shall be considered by the secretary in reviewing the need for a variance.

(2) In granting a variance, conditions and time limitations may be set by the secretary with the intent that progress be made toward improvements in surface water quality.

(3) Each variance shall be granted only after public notification and opportunity for public comment. Each variance, once granted, shall be adopted into the regulations at the next systematic review or subsequent triennial review.

(4) No action that impacts upon water quality shall be granted a variance from the terms and conditions of K.A.R. 28-16-28e(b).

(f) Site-specific criteria. Whenever the secretary proposes to use any site-specific criterion, a public notice stating the intention to use a site-specific criterion shall be issued by the department. The public notice shall include a description of the affected surface water or surface water segment and the reasons for applying the proposed criterion. If the secretary determines that there is significant public interest, a public hearing shall be held in the geographical vicinity of the affected surface water or surface water segment. A public notice of the final site-specific criterion shall be published in the Kansas register. Each site-specific criterion, once developed, shall be adopted into the regulations at the next systematic review or subsequent triennial review.

(g) Enforcement. Upon finding a violation of the surface water quality standards, an investigation to determine the cause of the violation shall be conducted by the

department. If the department finds the violation to be caused by an artificial source of pollution, the person or persons responsible for the source of pollution shall be required by the department to initiate corrective actions that restore the designated uses of the affected surface water or surface water segment impaired by the violation and provide for the return of the original surface water quality conditions. Nothing in this regulation shall abridge the right of the department to proceed with enforcement actions as provided in other Kansas statutes, regulations, or both. (Authorized by K.S.A. 2003 Supp. 65-171d and K.S.A. 65-171m; implementing K.S.A. 65-164, K.S.A. 2003 Supp. 65-171d, and K.S.A. 65-171m; effective May 1, 1986; amended Aug. 29, 1994; amended July 30, 1999; amended Jan. 28, 2005.)

28-16-28g. Surface water register. The classification and use designations of surface waters of the state shall be those identified in the department's "Kansas surface water register," dated December 15, 2003, which is hereby adopted by reference. (Authorized by and implementing K.S.A. 2003 Supp. 65-171d and K.S.A. 2003 Supp. 82a-2001; effective Jan. 28, 2005.)

28-16-58. Definitions. These terms shall have the following meanings: (a) (1) "Administrator" means the administrator of the United States environmental protection agency.

(2) "Application" means all documents required by the division that are necessary for obtaining a permit.

(3) "Department" and "KDHE" mean the Kansas department of health and environment.

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

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

(6) "Draft permit" means a permit that has not been issued as a final action of the agency.

(7) "EPA" means the United States environmental protection agency.

(8) "Kansas implementation procedures: wastewater permitting" means the procedures dated June 17, 2004 and written and used by the department for the development of national pollutant discharge elimination system permit limitations, available upon request from the division of environment.

(9) "Minimum standards of design, construction, and maintenance" means effluent standards, effluent limitations, pretreatment standards, other performance standards, and other standards of design, construction, and maintenance for wastewater control facilities published by the department in 1978 as "minimum standards of design for water pollution control facilities."

(10) "Municipal system" means a system under the jurisdiction of a city, county, township, district, or other governmental unit.

(11) "National pollutant discharge elimination system" and "NPDES" mean the national system for the issuance of permits under 33 U.S.C. Section 1342 and shall include any state or interstate program that has been approved by the administrator, in whole or in part, pursuant to 33 U.S.C. Section 1342.

(12) "Refuse act application" means an application for a permit under 33 U.S.C. Section 407, commonly known as the refuse act, of 33 U.S.C. Chapter 9, "protection of navigable waters and of harbor and river improvements generally."

(13) "Regional administrator" means the regional administrator for region VII of the United States environmental protection agency.

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

(15) "Water quality standards" means all water quality standards, as specified in K.A.R. 28-16-28b through K.A.R. 28-16-28g, to which a discharge is subject.

(16) "Waters of the state" means all surface and sub-surface waters occurring within the border of the state, or forming part of the border between Kansas and one of the adjoining states.

(b) The definitions of the following terms contained in 33 U.S.C. Section 1362, as amended February 4, 1987 and

hereby adopted by reference, shall be applicable to these terms as used in K.A.R. 28-16-57 through K.A.R. 28-16-63, unless the context requires otherwise:

- (1) "Biological monitoring";
- (2) "effluent limitations";
- (3) "industrial user";
- (4) "municipality";
- (5) "person";
- (6) "state"; and
- (7) "toxic pollutant." (Authorized by K.S.A. 2003 Supp. 65-171d; implementing K.S.A. 65-165, K.S.A. 65-166, and K.S.A. 2003 Supp. 65-171d; effective, E-74-32, June 14, 1974; effective May 1, 1975; amended May 1, 1987; amended Aug. 31, 2001; amended Jan. 28, 2005.)

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 031487

INDEX TO ADMINISTRATIVE REGULATIONS

This index lists in numerical order the new, amended and revoked administrative regulations and the volume and page number of the *Kansas Register* issue in which more information can be found. Temporary regulations are designated with a (T) in the Action column. This cumulative index supplements the 2003 Volumes and 2004 Supplement of the *Kansas Administrative Regulations*.

AGENCY 1: DEPARTMENT OF ADMINISTRATION

Reg. No.	Action	Register
1-9-4	Amended	V. 23, p. 718
1-45-18	Amended (T)	V. 23, p. 424
1-45-18	Amended	V. 23, p. 1044
1-45-19	Amended (T)	V. 23, p. 424
1-45-19	Amended	V. 23, p. 1044
1-45-20	Amended (T)	V. 23, p. 424
1-45-20	Amended	V. 23, p. 1045
1-45-23	Amended (T)	V. 23, p. 425
1-45-23	Amended	V. 23, p. 1045
1-45-24	Amended (T)	V. 23, p. 425
1-45-24	Amended	V. 23, p. 1045

AGENCY 4: DEPARTMENT OF AGRICULTURE

Reg. No.	Action	Register
4-8-14a	Amended (T)	V. 23, p. 900
4-8-14a	Amended	V. 23, p. 1102
4-8-27		
through		
4-8-37	Amended	V. 23, p. 1102, 1103
4-8-39	Amended	V. 23, p. 1103
4-8-40	Amended (T)	V. 23, p. 901
4-8-40	Amended	V. 23, p. 1103
4-8-42	Amended	V. 23, p. 1103
4-11-2	Amended	V. 23, p. 895
4-11-3	Amended	V. 23, p. 895
4-11-6	Revoked	V. 23, p. 896
4-11-7	Revoked	V. 23, p. 896
4-11-8	Amended	V. 23, p. 896
4-11-9	Amended	V. 23, p. 896
4-11-14	Amended	V. 23, p. 896
4-25-16	Amended (T)	V. 22, p. 2176
4-25-16	Amended	V. 23, p. 95
4-28-1	New (T)	V. 23, p. 1597
4-28-2	New (T)	V. 23, p. 1597

AGENCY 5: DEPARTMENT OF AGRICULTURE—DIVISION OF WATER RESOURCES

Reg. No.	Action	Register
5-3-4e	Amended (T)	V. 23, p. 1284
5-3-4e	Amended	V. 23, p. 1580
5-3-5o	New	V. 23, p. 1130
5-3-29	New (T)	V. 23, p. 1284
5-3-29	New	V. 23, p. 1580
5-17-1		
through		
5-17-18	New	V. 23, p. 1131-1137
5-22-1	Amended	V. 23, p. 1534
5-22-4b	New	V. 23, p. 1536
5-22-4c	New	V. 23, p. 1536
5-22-4d	New	V. 23, p. 1537
5-22-6	Amended	V. 23, p. 1634
5-22-7	Amended	V. 23, p. 1537
5-22-8	Amended	V. 23, p. 1538
5-22-9	Amended	V. 23, p. 1538
5-22-10	New	V. 23, p. 1635
5-22-13	New	V. 23, p. 1636
5-22-14	New	V. 23, p. 1636
5-22-15	New	V. 23, p. 1637
5-22-17	New	V. 23, p. 1539
5-23-1	Amended	V. 23, p. 181
5-23-3	Amended	V. 23, p. 181
5-23-3a	Amended	V. 23, p. 182
5-24-1	Amended	V. 23, p. 65
5-24-2	Amended	V. 23, p. 65
5-24-3	Amended	V. 23, p. 66
5-24-4	Amended	V. 23, p. 68
5-24-6	Amended	V. 23, p. 68
5-24-8	Amended	V. 23, p. 68
5-24-11	New	V. 23, p. 69

AGENCY 7: SECRETARY OF STATE

Reg. No.	Action	Register
7-18-1	Revoked	V. 23, p. 1366
7-18-2	Revoked	V. 23, p. 1366
7-18-3	Revoked	V. 23, p. 1366
7-27-1	Amended	V. 23, p. 1366
7-29-2	Amended	V. 23, p. 1366

AGENCY 22: STATE FIRE MARSHAL

Reg. No.	Action	Register
22-1-2	Amended	V. 23, p. 978
22-1-7	New	V. 23, p. 978

AGENCY 28: DEPARTMENT OF HEALTH AND ENVIRONMENT

Reg. No.	Action	Register
28-1-2	Amended	V. 23, p. 202
28-1-4	Amended	V. 23, p. 203
28-1-20	Amended	V. 23, p. 360
28-4-576	Amended (T)	V. 23, p. 389

28-4-576	Amended	V. 23, p. 1255
28-4-577	Amended (T)	V. 23, p. 390
28-4-577	Amended	V. 23, p. 1257
28-4-578	Amended (T)	V. 23, p. 391
28-4-578	Amended	V. 23, p. 1257
28-4-583	Amended (T)	V. 23, p. 392
28-4-583	Amended	V. 23, p. 1258
28-4-585	Amended (T)	V. 23, p. 392
28-4-585	Amended	V. 23, p. 1259
28-4-587	Amended (T)	V. 23, p. 394
28-4-587	Amended	V. 23, p. 1260
28-4-590	Amended (T)	V. 23, p. 396
28-4-590	Amended	V. 23, p. 1262
28-4-591	Amended (T)	V. 23, p. 397
28-4-591	Amended	V. 23, p. 1264
28-4-600		
through		
28-4-613	New	V. 23, p. 957-962
28-4-700		
through		
28-4-705	New (T)	V. 23, p. 398-400
28-4-700		
through		
28-4-705	New	V. 23, p. 1265, 1266
28-15-11	Revoked	V. 23, p. 1367
28-15-13	Revoked	V. 23, p. 1367
28-15-14	Revoked	V. 23, p. 1367
28-15-15a	Revoked	V. 23, p. 1367
28-15-16	Amended	V. 23, p. 1367
28-15-18	Amended	V. 23, p. 1367
28-15-20	Revoked	V. 23, p. 1368
28-15-21	Revoked	V. 23, p. 1368
28-15-22	Revoked	V. 23, p. 1368
28-15-35	Amended	V. 23, p. 305
28-15-36	Amended	V. 23, p. 309
28-15a-2	New	V. 23, p. 1368
28-15a-3	New	V. 23, p. 1368
28-15a-4	New	V. 23, p. 1368
28-15a-6	New	V. 23, p. 1369
28-15a-11	New	V. 23, p. 1369
28-15a-21	New	V. 23, p. 1369
28-15a-23		
through		
28-15a-29	New	V. 23, p. 1369, 1370
28-15a-31	New	V. 23, p. 1370
28-15a-33	New	V. 23, p. 1370
28-15a-41	New	V. 23, p. 1370
28-15a-42	New	V. 23, p. 1370
28-15a-43	New	V. 23, p. 1370
28-15a-60		
through		
28-15a-66	New	V. 23, p. 1370
28-15a-70	New	V. 23, p. 1370
28-15a-72		
through		
28-15a-76	New	V. 23, p. 1370, 1371

(continued)

28-15a-80		
through		
28-15a-91	New	V. 23, p. 1371
28-15a-100	New	V. 23, p. 1371
28-15a-101	New	V. 23, p. 1371
28-15a-110	New	V. 23, p. 1371
28-15a-111	New	V. 23, p. 1371
28-15a-130		
through		
28-15a-135	New	V. 23, p. 1371, 1372
28-15a-151		
through		
28-15a-155	New	V. 23, p. 1372
28-15a-170	New	V. 23, p. 1372
28-15a-172		
through		
28-15a-175	New	V. 23, p. 1372, 1373
28-15a-201		
through		
28-15a-210	New	V. 23, p. 1373
28-15a-500		
through		
28-15a-503	New	V. 23, p. 1373, 1374
28-15a-530		
through		
28-15a-536	New	V. 23, p. 1374
28-15a-540		
through		
28-15a-544	New	V. 23, p. 1374
28-15a-550		
through		
28-15a-553	New	V. 23, p. 1374
28-15a-560		
through		
28-15a-564	New	V. 23, p. 1374, 1375
28-15a-570	New	V. 23, p. 1375
28-15a-571	New	V. 23, p. 1375
28-17-1	Amended (T)	V. 23, p. 1597
28-17-6	Amended (T)	V. 23, p. 1598
28-17-20	Amended (T)	V. 23, p. 1598
28-17-22	New (T)	V. 23, p. 1600
28-19-720	Amended	V. 23, p. 1596
28-19-735	Amended	V. 23, p. 1596
28-19-750	Amended	V. 23, p. 1596
28-19-750a	New	V. 23, p. 1596
28-29-75		
through		
28-29-82	Amended	V. 23, p. 203-205
28-31-10	Amended	V. 23, p. 1486
28-35-145	Amended	V. 23, p. 1404
28-35-146	Amended	V. 23, p. 1404
28-35-146a	New	V. 23, p. 1404
28-35-147	Revoked	V. 23, p. 1404
28-35-147a	New	V. 23, p. 1404

AGENCY 30: SOCIAL AND REHABILITATION SERVICES

Reg. No.	Action	Register
30-4-50	Amended	V. 23, p. 894
30-4-90	Amended (T)	V. 23, p. 897
30-4-90	Amended	V. 23, p. 1104
30-5-59	Amended	V. 23, p. 1637
30-5-64	Amended	V. 23, p. 1717
30-5-71	Amended	V. 23, p. 1211
30-6-91	New	V. 23, p. 894
30-10-18	Amended (T)	V. 24, p. 23
30-46-10	Amended	V. 23, p. 977
30-46-13	Amended	V. 23, p. 978
30-46-15	Amended	V. 23, p. 978
30-46-16	Amended	V. 23, p. 978
30-46-17	Amended	V. 23, p. 978

AGENCY 40: KANSAS INSURANCE DEPARTMENT

Reg. No.	Action	Register
40-1-48	Amended	V. 23, p. 426
40-1-50	New (T)	V. 23, p. 244
40-1-50	New	V. 23, p. 951
40-1-51	New	V. 23, p. 361
40-2-26	Amended	V. 23, p. 151
40-2-27	New	V. 23, p. 825
40-3-6	Amended	V. 23, p. 1212
40-3-20	Revoked	V. 23, p. 693
40-3-53	New (T)	V. 24, p. 15

AGENCY 44: DEPARTMENT OF CORRECTIONS

Reg. No.	Action	Register
44-5-115	Amended (T)	V. 23, p. 384
44-5-115	Amended	V. 23, p. 952
44-7-104	Amended (T)	V. 23, p. 385
44-7-104	Amended	V. 23, p. 953
44-7-113	Amended (T)	V. 23, p. 386
44-7-113	Amended	V. 23, p. 955
44-12-313	Amended (T)	V. 23, p. 386
44-12-313	Amended	V. 23, p. 955
44-12-601	Amended (T)	V. 23, p. 387
44-12-601	Amended	V. 23, p. 955

AGENCY 63: BOARD OF MORTUARY ARTS

Reg. No.	Action	Register
63-1-4	Amended	V. 23, p. 1533
63-3-21	Amended	V. 23, p. 1533
63-5-1	Amended	V. 23, p. 1534
63-6-1	Amended	V. 23, p. 1534

AGENCY 65: BOARD OF EXAMINERS IN OPTOMETRY

Reg. No.	Action	Register
65-4-3	Amended	V. 23, p. 893
65-5-5	Revoked	V. 23, p. 1596
65-5-11	New	V. 23, p. 893
65-5-12	New	V. 23, p. 1596
65-8-5	Revoked	V. 23, p. 893

AGENCY 66: BOARD OF TECHNICAL PROFESSIONS

Reg. No.	Action	Register
66-8-5	Amended	V. 23, p. 95

AGENCY 68: BOARD OF PHARMACY

Reg. No.	Action	Register
68-1-3a	Amended	V. 23, p. 1739
68-7-20	New	V. 23, p. 382

AGENCY 69: BOARD OF COSMETOLOGY

Reg. No.	Action	Register
69-1-4	Amended (T)	V. 24, p. 14

AGENCY 70: BOARD OF VETERINARY EXAMINERS

Reg. No.	Action	Register
70-5-1	Amended	V. 23, p. 360

AGENCY 71: KANSAS DENTAL BOARD

Reg. No.	Action	Register
71-1-1	Revoked	V. 23, p. 151
71-1-2	Revoked	V. 23, p. 151
71-1-3	Revoked	V. 23, p. 151
71-1-8	Revoked	V. 23, p. 151
71-1-10	Revoked	V. 23, p. 151
71-1-11	Revoked	V. 23, p. 151
71-1-15	Amended	V. 23, p. 151
71-2-1	Revoked	V. 23, p. 151
71-2-4	Revoked	V. 23, p. 151
71-2-5	Amended	V. 23, p. 717
71-2-6	Revoked	V. 23, p. 718
71-2-7	Amended	V. 23, p. 718
71-2-9	Revoked	V. 23, p. 151
71-2-11	Amended	V. 23, p. 1286
71-2-12	Revoked	V. 23, p. 151
71-3-2	Amended	V. 23, p. 1286
71-3-4	Amended	V. 23, p. 1286
71-3-5	Revoked	V. 23, p. 151
71-3-9	New	V. 23, p. 1286
71-4-1	Amended	V. 23, p. 151
71-4-3	Revoked	V. 23, p. 152
71-6-1	Amended	V. 23, p. 383
71-6-5	Amended	V. 23, p. 718
71-7-1	New	V. 23, p. 152

AGENCY 82: STATE CORPORATION COMMISSION

Reg. No.	Action	Register
82-3-101	Amended	V. 23, p. 426
82-3-108	Amended	V. 23, p. 1739
82-3-123	Amended	V. 23, p. 1740
82-3-123a	Amended	V. 23, p. 1740

82-3-138	Amended	V. 23, p. 1741
82-3-208	Amended	V. 23, p. 1741
82-3-301	Revoked	V. 23, p. 1742
82-3-304	Amended	V. 23, p. 1742
82-3-312	Amended	V. 23, p. 1742
82-3-314	New	V. 23, p. 1743
82-3-600	Amended	V. 23, p. 429
82-3-600a	Amended	V. 23, p. 430
82-3-600b	Revoked	V. 23, p. 430
82-3-601a	Amended	V. 23, p. 430
82-3-601b	Amended	V. 23, p. 431
82-3-602	Amended	V. 23, p. 431
82-3-603	Amended	V. 23, p. 431
82-3-604	Amended	V. 23, p. 432
82-3-605	Revoked	V. 23, p. 432
82-3-606	Amended	V. 23, p. 432
82-3-607	New	V. 23, p. 433
82-3-700		
through		
82-3-704	Amended (T)	V. 23, p. 152-155
82-3-700		
through		
82-3-704	Amended	V. 23, p. 538-541
82-3-705		
through		
82-3-710	New (T)	V. 23, p. 155-158
82-3-705		
through		
82-3-710	New	V. 23, p. 541-544
82-3-1005	Amended	V. 23, p. 1743
82-4-3a	New (T)	V. 23, p. 1285

AGENCY 88: BOARD OF REGENTS

Reg. No.	Action	Register
88-16-5b	New	V. 23, p. 1595
88-23-2	Amended	V. 23, p. 276
88-23-2a	New	V. 23, p. 278
88-23-3	Revoked	V. 23, p. 279
88-23-3a	New	V. 23, p. 279
88-26-1		
through		
88-26-16	New	V. 23, p. 1487-1491
88-27-1	New	V. 23, p. 1491
88-27-2	New	V. 23, p. 1492

AGENCY 91: DEPARTMENT OF EDUCATION

Reg. No.	Action	Register
91-1-230	New	V. 23, p. 1106
91-1-231	New	V. 23, p. 1107
91-1-232	New	V. 23, p. 1108
91-1-235	New	V. 23, p. 1108
91-1-236	New	V. 23, p. 1109
91-1-68a		
through		
91-1-68e	Revoked	V. 23, p. 1111
91-8-2	Revoked	V. 23, p. 1493
91-8-15	Revoked	V. 23, p. 1493
91-8-16	Revoked	V. 23, p. 1493
91-8-17	Revoked	V. 23, p. 1493
91-8-19	Revoked	V. 23, p. 1493
91-8-26	Revoked	V. 23, p. 1493
91-8-30		
through		
91-8-33	Revoked	V. 23, p. 1493
91-9-11	Revoked	V. 23, p. 1493
91-18-24	Revoked	V. 23, p. 280
91-18-27	Revoked	V. 23, p. 280
91-18-29	Revoked	V. 23, p. 280
91-18-34	Revoked	V. 23, p. 280
91-18-40	Revoked	V. 23, p. 280
91-25-1a	Revoked	V. 23, p. 1493
91-25-1c	Revoked	V. 23, p. 1493
91-25-2	Revoked	V. 23, p. 1493
91-25-3a	Revoked	V. 23, p. 1493
91-25-4a	Revoked	V. 23, p. 1493
91-25-17	Revoked	V. 23, p. 1493
91-25-18	Revoked	V. 23, p. 1493
91-25-19	Revoked	V. 23, p. 1493

AGENCY 92: DEPARTMENT OF REVENUE

Reg. No.	Action	Register
92-26-4	Amended	V. 23, p. 1533

AGENCY 94: BOARD OF TAX APPEALS

Reg. No.	Action	Register
94-2-21	Amended (T)	V. 23, p. 896
94-2-21	Amended	V. 23, p. 1375

AGENCY 100: BOARD OF HEALING ARTS

Reg. No.	Action	Register
100-11-1	Amended (T)	V. 23, p. 580
100-11-1	Amended	V. 23, p. 1042
100-28a-1	Amended	V. 23, p. 1558
100-29-7	Amended	V. 23, p. 1558
100-49-4	Amended	V. 23, p. 1148
100-54-4	Amended (T)	V. 23, p. 383
100-54-4	Amended	V. 23, p. 1042
100-55-4	Amended (T)	V. 23, p. 383
100-55-4	Amended	V. 23, p. 1042
100-69-5	Amended	V. 23, p. 1558
100-72-8	New	V. 24, p. 14
100-72-9	New	V. 23, p. 1558

AGENCY 102: BEHAVIORAL SCIENCES REGULATORY BOARD

Reg. No.	Action	Register
102-2-8	Amended	V. 23, p. 1137
102-3-7a	Amended	V. 23, p. 1139
102-4-3a	Amended	V. 23, p. 1141
102-4-4a	Amended	V. 23, p. 1143
102-4-7a	Amended	V. 23, p. 1144
102-5-4a	Amended	V. 23, p. 1145
102-5-7a	Amended	V. 23, p. 1147

AGENCY 108: STATE EMPLOYEES HEALTH CARE COMMISSION

Reg. No.	Action	Register
108-1-1	Amended	V. 23, p. 1189
108-1-4	Amended	V. 23, p. 823

AGENCY 109: BOARD OF EMERGENCY MEDICAL SERVICES

Reg. No.	Action	Register
109-3-2	New	V. 23, p. 202

AGENCY 110: DEPARTMENT OF COMMERCE

Reg. No.	Action	Register
110-8-1 through 110-8-6	Revoked	V. 23, p. 1595
110-8-1 through 110-8-11	Revoked	V. 23, p. 1595
110-10-1	New	V. 23, p. 180

AGENCY 111: KANSAS LOTTERY

A complete index listing all regulations filed by the Kansas Lottery from 1988 through 2000 can be found in the Vol. 19, No. 52, December 28, 2000 Kansas Register. A list of regulations filed by the Kansas Lottery from 2001 through 2003 can be

found in the Vol. 22, No. 52, December 25, 2003 Kansas Register. The following regulations were filed after January 1, 2004:

Reg. No.	Action	Register
111-2-151 through 111-2-156	New	V. 23, p. 95, 96
111-2-154	Amended	V. 23, p. 261
111-2-155	Amended	V. 23, p. 262
111-2-156	Amended	V. 23, p. 262
111-2-157	New	V. 23, p. 262
111-2-158	New	V. 23, p. 459
111-2-159	New	V. 23, p. 901
111-2-160	New	V. 23, p. 1655
111-2-161	New	V. 23, p. 1655
111-2-162	New	V. 23, p. 1655
111-2-163	New	V. 24, p. 15
111-3-13	Amended	V. 23, p. 1433
111-3-22	Amended	V. 23, p. 97
111-4-881	Amended	V. 23, p. 97
111-4-1448	Amended	V. 23, p. 98
111-4-2052	Amended	V. 23, p. 262
111-4-2055	Amended	V. 23, p. 263
111-4-2057	Amended	V. 23, p. 263
111-4-2074	Amended	V. 23, p. 98
111-4-2093	Amended	V. 23, p. 309
111-4-2094	New	V. 23, p. 100
111-4-2095 through 111-4-2115	New	V. 23, p. 264-275
111-4-2097	Amended	V. 23, p. 310
111-4-2098	Amended	V. 23, p. 310
111-4-2116 through 111-4-2125	New	V. 23, p. 311-318
111-4-2126 through 111-4-2146	New	V. 23, p. 459-471
111-4-2147 through 111-4-2160	New	V. 23, p. 901-909
111-4-2161 through 111-4-2173	New	V. 23, p. 1025-1033
111-4-2174	New	V. 23, p. 1074
111-4-2175	New	V. 23, p. 1075
111-4-2176	New	V. 23, p. 1076
111-4-2177 through 111-4-2180	New	V. 23, p. 1169-1171
111-4-2181 through 111-4-2185	New	V. 23, p. 1343-1346
111-4-2186 through 111-4-2195	New	V. 23, p. 1434-1438
111-4-2196 through 111-4-2205	New	V. 23, p. 1655-1659

111-4-2206 through 111-4-2213	New	V. 24, p. 15-22
111-5-96	Amended	V. 23, p. 101
111-5-111 through 111-5-115	New	V. 23, p. 245, 246
111-5-113	Amended	V. 23, p. 472
111-5-114	Amended	V. 23, p. 472
111-6-1	Amended	V. 23, p. 1439
111-6-7	Amended	V. 23, p. 1440
111-6-26	New	V. 24, p. 23
111-7-188 through 111-7-192	New	V. 23, p. 319, 320
111-7-190	Amended	V. 23, p. 473
111-7-192	Amended	V. 23, p. 473
111-9-122	New	V. 23, p. 910
111-9-123	New	V. 23, p. 910
111-1-1 through 111-11-11	New	V. 23, p. 911-914
111-11-1	Amended	V. 23, p. 1077
111-12-1	New	V. 23, p. 914

AGENCY 112: RACING AND GAMING COMMISSION

Reg. No.	Action	Register
112-10-3	Amended	V. 23, p. 93
112-10-5	Amended	V. 23, p. 1073
112-10-6	Amended	V. 23, p. 1073
112-10-6a	New	V. 23, p. 1074
112-10-13	New	V. 23, p. 495
112-13-2	Amended	V. 23, p. 94

AGENCY 115: DEPARTMENT OF WILDLIFE AND PARKS

Reg. No.	Action	Register
115-2-2	Amended	V. 23, p. 1581
115-2-3	Amended	V. 23, p. 1581
115-2-3a	New	V. 23, p. 1582
115-3-2	Amended	V. 23, p. 1043
115-4-14	New	V. 23, p. 1583
115-7-1	Amended	V. 23, p. 1584
115-18-10	Amended	V. 23, p. 1043
115-18-14	Amended	V. 23, p. 1585

AGENCY 117: REAL ESTATE APPRAISAL BOARD

Reg. No.	Action	Register
117-2-2	Amended	V. 23, p. 1407
117-3-2	Amended	V. 23, p. 1408
117-4-2	Amended	V. 23, p. 1408
117-8-1	Amended	V. 23, p. 337
117-9-1	Amended	V. 23, p. 150

**Kansas Register
Secretary of State
1st Floor, Memorial Hall
120 S.W. 10th Ave.
Topeka, KS 66612-1594**

Use this form or a copy of it to enter a subscription:

_____ **One-year subscription @ \$80 ea.**
**(Kansas residents must include
applicable state and local sales tax.)**

Total Enclosed
(Make check payable to the Kansas Register)

Send to: _____

(Please, no
more than
4 address
lines.)

Zip code must be included

Rec. No. _____ Exp. _____ Code _____

This space for Register office use only.

Use this form or a copy of it to enter a name or address change:

Remove your mailing label (above) and affix it here:



Indicate change of name or address
here:

**Mail either form to: Kansas Register, Secretary of State, 1st Floor,
Memorial Hall, 120 S.W. 10th Ave., Topeka, KS 66612-1594**