

# Kansas Register

Ron Thornburgh, Secretary of State

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In this issue . . .	Page
<b>Office of the Governor</b>	
Executive Order 05-03.....	733
<b>Kansas, Inc.</b>	
Notice of meeting .....	733
<b>Behavioral Sciences Regulatory Board</b>	
Notice of hearing on proposed administrative regulations.....	733
<b>Secretary of State</b>	
Code mortgage rate for May .....	734
Usury rate for May .....	734
<b>Social and Rehabilitation Services</b>	
Requests for proposals.....	734
<b>Statewide Independent Living Council</b>	
Notice of meeting .....	734
<b>Pooled Money Investment Board</b>	
Notice of investment rates.....	734
<b>State Board of Healing Arts</b>	
Notice of hearing on proposed administrative regulations.....	735
<b>Department of Revenue—Division of Vehicles</b>	
Notice of intent to establish new location for an existing new motor vehicle dealer.....	735
<b>Kansas Judicial Council</b>	
Notice of meetings.....	736
<b>Department of Commerce</b>	
Request for comments on the Strategic State Plan.....	736
Notice of hearing on proposed administrative regulations.....	736
<b>University of Kansas</b>	
Notices to bidders .....	737
<b>Kansas Commission on Peace Officers' Standards and Training</b>	
Notice of meeting .....	738
<b>Department of Administration—Division of Purchases</b>	
Notice to bidders for state purchases .....	738
<b>Speech-Language Pathology/Audiology Advisory Board</b>	
Notice of meeting .....	738
<b>Kansas Sentencing Commission</b>	
Notice of rescheduled meeting .....	738

(continued on next page)

**Kansas Department of Transportation**  
 Request for comments on the Statewide Transportation Improvement Program..... 738  
 Notice to contractors..... 739

**State Fair Board**  
 Notice of retreat/meeting..... 740

**Notice of Bond Sale**  
 Sedgwick County ..... 740

**Governmental Ethics Commission**  
 Opinions 2005-04 through 2005-07..... 741

**Kansas Development Finance Authority**  
 Notice of hearing on proposed revenue bonds ..... 744

**Department of Health and Environment**  
 Requests for comments on proposed air quality permits..... 745, 746, 747  
 Request for bids on the Kansas Childhood Lead Poisoning Prevention Program..... 745  
 Notice of hearing on proposed administrative regulations ..... 746  
 Notice concerning Kansas water pollution control permits..... 748  
 Request for comments on the Kansas Infant-Toddler Grant ..... 751

**Permanent Administrative Regulations**  
 Kansas Insurance Department ..... 751  
 Department of Wildlife and Parks ..... 752  
 Department of Health and Environment..... 753

**Index to administrative regulations..... 764**

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State of Kansas

Office of the Governor

Executive Order 05-03

WHEREAS, the President of Homeland Security Directive (HSPD)-5 directed the Secretary of the Department of Homeland Security to develop and administer a National Incident Management System (NIMS), which would provide a consistent nationwide approach for Federal, State, local and tribal governments to work together more effectively and efficiently to prevent, prepare for, respond to, and recover from domestic incidents, regardless of cause, size, or complexity; and

WHEREAS, the collective input and guidance from all Federal, State, local, and tribal homeland security partners has been, and will continue to be, vital to the development, effective implementation and utilization of a comprehensive NIMS; and

WHEREAS, it is necessary and desirable that all Federal, State, local, and tribal emergency agencies and personnel coordinate their efforts to effectively and efficiently provide the highest levels of incident management; and

WHEREAS, to facilitate the most efficient and effective incident management it is critical that Federal, State, local, and tribal organizations utilize standardized terminology, standardized organizational structures, interoperable communications, consolidated action plans, unified command structures, uniform personnel qualification standards, uniform standards for planning, training, and exercising, comprehensive resource management, and designated incident facilities during emergencies or disasters; and

WHEREAS, the NIMS standardized procedures for managing personnel, communications, facilities and resources will improve the State's ability to utilize federal funding to enhance local and state agency readiness, maintain first responder safety, and streamline incident management processes; and

WHEREAS, the Incident Command System components of NIMS are already an integral part of various incident management activities throughout the State in accordance with K.S.A. 48-928(o), including current emergency management training programs; and

WHEREAS, the National Commission on Terrorist Attacks (9-11 Commission) recommended adoption of a standardized Incident Command System;

NOW, THEREFORE, by virtue of authority vested in me as Governor of the State of Kansas, I hereby establish the National Incident Management System (NIMS) as the state standard for incident management.

This document shall be filed with the Secretary of State as Executive Order 05-03, and shall become effective immediately.

Dated April 19, 2005.

Kathleen Sebelius
Governor
Attest: Ron Thornburgh
Secretary of State

Doc. No. 031912

State of Kansas

Kansas, Inc.

Notice of Meeting

The Kansas, Inc. Board of Directors will meet at noon Tuesday, May 10, in Suite 100, 632 S.W. Van Buren, Topeka. The meeting is open to the public. For more information, call (785) 296-1460.

Stan Ahlerich
Interim President

Doc. No. 031939

State of Kansas

Behavioral Sciences Regulatory Board

Notice of Hearing on Proposed Administrative Regulations

The Behavioral Sciences Regulatory Board will conduct a public hearing from 9 to 10 a.m. Monday, July 11, in the board's conference room at 712 S. Kansas Ave., Topeka, to consider adopting proposed amendments to a permanent rule and regulation for professional counseling.

This 60-day notice of the public hearing constitutes a public comment period for purposes of receiving written public comments on the proposed amendments. All interested parties may submit written comments prior to the hearing to Phyllis Gilmore, Executive Director, Behavioral Sciences Regulatory Board, 712 S. Kansas Ave., Topeka, 66603-3817. All interested parties will be given a reasonable opportunity to present their views orally at the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request each participant to limit any oral presentation to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulation and economic impact statement in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Phyllis Gilmore at (785) 296-3240 or the Kansas Relay Center at 1-800-766-3777. There is designated accessible parking on Kansas Ave., and the front entrance to the board office also is accessible.

A copy of the full text of the regulation and the economic impact statement may be reviewed or obtained at the board office and is available on the board's Web site at www.ksbsrb.org. The following is a summary of the proposed amendment and economic impact statement. The board does not have a less costly or less intrusive method for achieving the stated purpose of the regulation.

K.A.R. 102-3-4a contains the application procedures for licensure as a professional counselor. This amendment allows for a reference to be from someone in a related field of practice as well as professional counseling.

Economic Impact: There would be no economic impact to the Kansas Behavioral Sciences Regulatory Board, other governmental agencies, the public, applicants or licensees.

Phyllis Gilmore
Executive Director

Doc. No. 031911

## State of Kansas

**Secretary of State****Code Mortgage Rate for May**

Pursuant to the provisions of K.S.A. 2004 Supp. 16a-1-301, Section 11, the code mortgage rate during the period of May 1, 2005 through May 31, 2005, is 12 percent.

Ron Thornburgh  
Secretary of State

Doc. No. 031909

## State of Kansas

**Secretary of State****Usury Rate for May**

Pursuant to the provisions of K.S.A. 2004 Supp. 16-207, the maximum effective rate of interest per annum for notes secured by all real estate mortgages and contracts for deed for real estate (except where the note or contract for deed permits adjustment of the interest rate, the term of the loan or the amortization schedule) executed during the period of May 1, 2005 through May 31, 2005, is 7.13 percent.

Ron Thornburgh  
Secretary of State

Doc. No. 031908

## State of Kansas

**Social and Rehabilitation Services****Request for Proposals**

The Department of Social and Rehabilitation Services-Mental Health announces the release of a request for proposals for a supported housing project. Eligible applicants are community mental health centers, their affiliates and Kansas mental health associations. This grant will be awarded to two organizations: one in either Sedgwick, Shawnee, Douglas, Wyandotte or Johnson counties, and one located in a county(ies) in the remainder of the state. Each grant recipient will have the ability to make a community-wide impact. The purpose of the grant is to increase access to mainstream housing resources to ensure access to affordable housing in the community for individuals experiencing severe, persistent mental illness or children experiencing serious emotional disturbance or/and co-occurring disorders.

To be considered for funding, one original and one electronic copy of the RFP must be received by Christy McMurphy, 10th Floor, Docking State Office Building, 915 S.W. Harrison, Topeka, 66612, czlm@srskansas.org, by 5 p.m. June 6. A copy of the RFP may be obtained by contacting Christy McMurphy at (785) 368-6246.

Gary J. Daniels  
Acting Secretary of Social and  
Rehabilitation Services

Doc. No. 031930

## State of Kansas

**Statewide Independent Living Council****Notice of Meeting**

The Statewide Independent Living Council of Kansas, Inc. will meet at 10 a.m. Friday, May 20, in Room 101B at the Topeka and Shawnee County Public Library, 1515 S.W. 10th Ave., Topeka. For more information, contact Mary Lou Dunn or Shannon Jones at (785) 234-6990 or 1-800-217-4525, or e-mail at Marylouya@aol.com.

Shannon Jones  
Executive Director

Doc. No. 031914

## 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 5-2-05 through 5-8-05**

<b>Term</b>	<b>Rate</b>
1-89 days	2.86%
3 months	2.91%
6 months	3.16%
1 year	3.39%
18 months	3.53%
2 years	3.63%

Derl S. Treff  
Director of Investments

Doc. No. 031924

## State of Kansas

**Social and Rehabilitation Services****Request for Proposals**

The Department of Social and Rehabilitation Services announces the release of a request for grant proposals by Health Care Policy, Mental Health for the purpose of eliminating inconsistencies in the availability of required community-based services across the state. By doing so, consumers will have available to them the same opportunities to live in the community, as an alternative to institutional placement, regardless of location.

Agencies interested in receiving a request for proposal should contact Diana Marsh, Social and Rehabilitation Services, Health Care Policy, Mental Health, 10th Floor, Docking State Office Building, 915 S.W. Harrison, Topeka, 66612-1570. Complete proposals must be received not later than 5 p.m. June 8.

Gary J. Daniels  
Acting Secretary of Social and  
Rehabilitation Services

Doc. No. 031931

## State of Kansas

## Board of Healing Arts

Notice of Hearing on Proposed  
Administrative Regulations

A public hearing will be conducted at 10 a.m. Tuesday, July 12, at the office of the Kansas State Board of Healing Arts, 235 S. Topeka Blvd., Topeka, to consider the adoption of three amended and two new rules and regulations, all dealing with occupational therapy.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the above-referenced rules and regulations. All interested parties may submit comments prior to the hearing to the Board of Healing Arts at the address above. All interested parties will be given a reasonable opportunity to present their views, orally or in writing, concerning the adoption of the regulations during the hearing. In order to give all persons an opportunity to present their views, it may be necessary to request each participant to limit any oral presentations to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the regulations being considered and the economic impact statement in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Tammy Farr at (785) 296-8558. Handicapped parking is located at the west end of the Hutton Building, and the northwest entrance to the building is accessible.

The five proposed occupational therapy rules and regulations to be considered for adoption at the hearing and their respective economic impact are as follows:

**K.A.R. 100-54-1. Application.** This regulation specifies what information is required when submitting the application for licensure as an occupational therapist or occupational therapy assistant.

**K.A.R. 100-54-6. License renewal; late renewal.** This regulation states what items must accompany a renewal and when a license to practice occupational therapy shall be canceled.

**K.A.R. 100-54-8. Continuing education; expired, canceled, and revoked licenses.** This regulation defines the continuing educational requirements necessary for reinstatement of an expired, canceled, or revoked occupational therapist or occupational therapy assistant license.

**K.A.R. 100-54-10. Delegation and supervision.** This regulation indicates to whom an occupational therapist or occupational therapy assistant may delegate occupational therapy procedures. Additionally, the regulation includes specific tasks that may be delegated and what specific tasks the occupational therapy aide, occupational therapy technician or occupational therapy paraprofessional shall not provide.

**K.A.R. 100-54-11. Occupational therapist; ownership of corporation or company.** This regulation indicates that a licensed occupational therapist shall not hold more than 49 percent of the total number of shares issued, nor 49 percent of the total amount of capital in a professional corporation that is organized to render professional serv-

ices of a physician, surgeon or doctor of medicine, osteopathic physician or surgeon, podiatrist, dentist or optometrist.

The regulations are not mandated by any federal law.

No other persons or entities will bear any costs or be affected by these proposed rules and regulations.

Copies of the proposed regulations and the associated economic impact statement may be obtained from the Kansas State Board of Healing Arts, 235 S. Topeka Blvd., Topeka, 66603; from the board's Web site at [www.ksbha.org/pubinfo.html](http://www.ksbha.org/pubinfo.html); or by calling (785) 296-3680.

Lawrence T. Buening, Jr.  
Executive Director

Doc. No. 031916

## State of Kansas

Department of Revenue  
Division of VehiclesNotice of Intent to Establish New Location for  
an Existing New Motor Vehicle Dealer

Notice has been received from General Motors Corporation, a manufacturer of Andy Klein Pontiac-GMC Truck, Inc., Kansas Dealer #0005, and Don Stein Buick, Inc., Kansas Dealer #0083, that Andy Klein Pontiac-GMC Truck, Inc. will be purchasing the vehicle dealership, Don Stein Buick, Inc., 7733 Metcalf Ave., Overland Park, Kansas, Kansas Dealer #0083, and relocating the business to the existing location of Andy Klein Pontiac-GMC Truck, Inc., 7801 Metcalf Ave., Overland Park, Kansas, Kansas Dealer #0005. The dealer operator and principal investor is Thomas P. Klein, 7801 Metcalf Ave., Overland Park, Kansas.

Pursuant to K.S.A. 8-2430(a)(5), any existing new motor vehicle dealer with standing may protest the proposed relocation of the new-line make vehicles by Andy Klein Pontiac-GMC Truck, Inc. K.S.A. 8-2430 (c) provides standing to any existing new motor vehicle dealer who has a franchise agreement for the same line-make vehicle as that which is to be sold or offered for sale by Andy Klein Pontiac-GMC Truck, Inc. at 7801 Metcalf Ave., Overland Park, Kansas, and provided that the existing new motor vehicle dealer is physically located such that its relevant market area, as defined in K.S.A. 8-2430(e), includes the location where the Andy Klein Pontiac-GMC Truck, Inc. dealership will be relocated.

Pursuant to K.S.A. 8-2430(a), any petition or complaint by any dealer with standing to protest must be filed with the Director of Vehicles within 30 days of this notice. Such petitions or complaints must be directed to the Kansas Department of Revenue, Director of Motor Vehicles, 1st Floor, Docking State Office Building, 915 S.W. Harrison, Topeka, 66612.

Carmen Alldritt  
Director of Motor Vehicles

Doc. No. 031933

## State of Kansas

## Kansas Judicial Council

## Notice of Meetings

The Kansas Judicial Council and its advisory committees will meet according to the following schedule at the Kansas Judicial Center, 301 S.W. 10th Ave., Topeka:

Date	Committee	Time	Location
May 6	Judicial Performance	9:30 a.m.	Room 259
May 13	Legal Forms	9:30 a.m.	Room 259
May 20	Probate Law	9:30 a.m.	Room 259
May 20	PIK Civil	9:30 a.m.	Room 275
May 27	Appellate Procedure	9:30 a.m.	Room 259
June 3	Judicial Council	9:00 a.m.	Room 259
June 3	Guardianship & Conservatorship	9:30 a.m.	Room 275
June 10	Judicial Performance	9:30 a.m.	Room 259
June 10	Legal Forms	9:30 a.m.	Room 275
June 17	Probate Law	9:30 a.m.	Room 259
June 17	PIK Criminal	9:30 a.m.	Room 275
June 24	Appellate Procedure	9:30 a.m.	Room 259

Hon. Donald L. Allegrucci  
Chair

Doc. No. 031907

## State of Kansas

## Department of Commerce

## Request for Comments

The Kansas Department of Commerce is requesting comments on the draft two-year Strategic State Plan for Title I of the Workforce Investment Act and the Wagner-Peyser Act. This plan will be submitted to the U.S. Department of Labor to become effective July 1, 2005 through June 30, 2007. This plan documents the Governor's vision and goals for the Kansas workforce development system, as well as the strategies, policies, activities and measures of success for this system.

To request a copy of the plan, contact Linda J. Weaver, Policy and Planning, Kansas Department of Commerce, Suite 100, Curtis State Office Building, 1000 S.W. Jackson, 66612, (785) 296-2159, TTY (785) 296-3487, or [lweaver@kansascommerce.com](mailto:lweaver@kansascommerce.com). Copies of the draft plan may be requested in large print or alternative formats.

Comments must be received by 5 p.m. Monday, May 23, and may be submitted by any of the following methods:

- E-mail: Comments may be submitted by e-mail to [lweaver@kansascommerce.com](mailto:lweaver@kansascommerce.com) (enter "State Plan Comments" in the subject line of the message).
- Fax: Comments of five pages or less may be submitted by fax to (785) 291-3512 (please note that this is not a toll-free number).
- Postal mail: Comments may be submitted by postal mail to Linda J. Weaver at the address above.

Howard R. Fricke  
Secretary of Commerce

Doc. No. 031862

## State of Kansas

## Department of Commerce

## Notice of Hearing on Proposed Administrative Regulations

A public hearing will be conducted at 1:30 p.m. Friday, July 8, in the main conference room, Kansas Department of Commerce, Suite 100, Curtis State Office Building, 1000 S.W. Jackson, Topeka, to consider the adoption of regulations administering the Rural Business Development Tax Credit Program.

This 60-day notice of the public hearing shall constitute a public comment period for submitting written public comments on the proposed regulations. All interested parties may submit written comments before the hearing to Howard R. Fricke, Secretary of Commerce, Suite 100, Curtis State Office Building, 1000 S.W. Jackson, Topeka, 66612-3481. All interested parties will be given a reasonable opportunity to present their views orally on these regulations during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the regulations and economic impact statements in an accessible format. Requests for accommodation should be made at least 10 working days in advance of the hearing to Merrill J. Hicklin Befort at the address above or by calling (785) 291-3891. Handicapped parking is not available around the Curtis Office Building; however, all persons in a vehicle with a handicapped license plate may park in any metered space around the building, and there is no charge for parking. The curbs and all entrances on Jackson, 10th Ave. and Kansas Ave. to the Curtis Office Building are accessible to individuals with disabilities.

Copies of the regulations and their economic impact statements may be obtained by contacting Merrill J. Hicklin Befort at the address and phone number above. The regulations also are posted on the department's Web site at [www.kansascommerce.com](http://www.kansascommerce.com) (the Connect Code box is found in the lower right hand corner of the home page; once there, type in the code "KEGA," click the "Go" button, and you will be provided a direct link to the proposed downtown redevelopment act regulations).

A summary of the proposed regulations and their economic impact follows:

**K.A.R. 110-13-1. Definitions.** This regulation defines key terms in the regulations.

**K.A.R. 110-13-2. Designated regions.** This regulation creates and defines the seven economic development regions.

**K.A.R. 110-13-3. Determination of regional foundations.** This regulation determines how regional foundations are chosen and appointed as the entity that sets policy for the region for the use of the credits. If the regional foundations cannot agree on one, the regulation provides the secretary will choose an entity within the region that will "create" the foundation.

**K.A.R. 110-13-4. Regional business development funds and eligible projects.** This regulation provides that

each regional foundation shall administer a regional business development fund. Each region can decide which projects are most important to the region and provides for the allocation of those funds by the regional foundation.

**K.A.R. 110-13-5. Allocation of tax credits.** This regulation defines how tax credits are initially allocated and targets 100 percent utilization of the credits within the fiscal year.

**K.A.R. 110-13-6. Reallocation of tax credits.** This regulation covers the reallocation of tax credits from low utilization regions to high utilization regions. The notice and due process provisions of how the secretary will reallocate tax credits is covered.

**K.A.R. 110-13-7. Appeals.** This regulation allows regional foundations that have been given notice of reallocation to appeal the secretary's initial decision. The appeal is unavailable to the foundation unless at least 10 percent of the region's annual allocation is being reallocated.

**K.A.R. 110-13-8. Progress reports.** The regulation requires each regional foundation to submit quarterly progress reports. These progress reports indicate how well the "utilization" of credits is going and how their projects are proceeding.

**K.A.R. 110-13-9. Auditing.** This regulation requires audits each year, to be performed by a CPA. Audits are submitted to the department by February 28 for the previous calendar year.

**K.A.R. 110-13-10. Administration of contributions and regional business development fund.** This regulation provides how foundations administer their contributions and projects. Regional foundations may not communicate with taxpayers about tax credit entitlement until a "contribution" is approved by the department. The regulation provides for the documentation of a foundation's contributions, including the noncash or non-check contributions of stock, bonds, real estate or personal property. The regulation requires that each regional foundation submit quarterly progress reports and audits each year, to be performed by a CPA, to the department.

**Economic Impact:** It is anticipated that at least one employee of the department will be required to review applications for compliance with applicable rules and capture annual statistics on downtown redevelopment so that the Legislature can review the impact of this act. The costs to the department are estimated to be between \$10,000 and \$20,000. The department does not anticipate the need to hire additional employees.

The new regulations will have a negligible impact upon local governments, as property tax rebates will be processed by local taxing authorities based upon incrementally assessed value on property improvements made by individuals and businesses, not total assessed value. Long-term economic impacts would be positive to the local government and businesses in the community, due to an anticipated increase in property tax revenue, after the 10-year rebate is expired, as well as an anticipated increase in sales tax revenue, as new or expanded businesses are in operation in formerly vacant properties. Local governments and businesses participating in this

program will have normal recordkeeping costs and expenses, as well as salaries involved in the maintenance of records. The department cannot reliably estimate the costs required of each local government or business since that involves decisions made at their level.

There would be no negative impact on other entities or persons. To the extent the program allows local governments to make decisions on establishing redevelopment areas to utilize this program, it enhances the state's downtown economic development activities and attractiveness. This would have a positive impact on state and local tax revenues.

Howard Fricke  
Secretary of Commerce

Doc. No. 031915

State of Kansas

University of Kansas

Notice to Bidders

Proposals for the item listed below will be received by E & I Cooperative Service, Inc., Hauppauge, New York, at the time and date indicated in the bid documents and then will be publicly opened. Interested bidders may call (631) 630-8300 or fax (631) 273-3370 for additional information:

**Friday, May 27, 2005**

**RFP 682375**

Document Fleet Management

Barry Swanson  
Director of Purchasing and  
Business Services

Doc. No. 031923

State of Kansas

University of Kansas

Notice to Bidders

Sealed bids for the items listed below will be received by the University of Kansas Purchasing Office, Lawrence, until 2 p.m. on the date indicated and then will be publicly opened. Interested bidders may call (785) 864-3416 or fax (785) 864-3454 for additional information:

**Wednesday, May 18, 2005**

**IFB 85022**

Classroom Seating and Tables for the  
University of Kansas

**Thursday, May 19, 2005**

**RFQ 39892**

Centrifuge, Rotor Package, Fixed Angle Rotor Assembly,  
Titanium Rotor Assembly and Warranty Service

Barry Swanson  
Director, Business Services  
and Purchasing

Doc. No. 031926

## State of Kansas

**Commission on Peace Officers'  
Standards and Training****Notice of Meeting**

A working group of the Kansas Commission on Peace Officers' Standards and Training will be held at 10 a.m. Tuesday, May 10, in the Booth Board Room of the Kansas Law Enforcement Training Center, 11009 S. Hornet Road, Hutchinson. For more information, call (620) 694-1526.

Jackie N. Williams  
Chairman

Doc. No. 031938

## 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:

05/16/2005	08391	Drugs of Abuse Analyzer and Reagents
05/17/2005	08396	Rainbow Trout
05/17/2005	08397	Furnish and Install Roofing Materials
05/17/2005	08398	Cable Distribution System Headend
05/18/2005	08336	Training System — FM Wireless Auditory
05/18/2005	08378	External Auditing and Accounting Services
05/19/2005	08317	Bakery Products
05/25/2005	08328	Document Disposal/Shredding
05/31/2005	08367	Janitorial Services
06/03/2005	08369	Advertising — Media Campaign for "Kansas Don't Spoil It"

The above-referenced bid documents may 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:

05/24/2005 A-9953 Fire Protection Improvements

The above-referenced bid documents may be downloaded at the following Web site (please monitor this Web site on a regular basis for any changes):

<http://da.state.ks.us/fp>

Chris Howe  
Director of Purchases

Doc. No. 031937

## State of Kansas

**Speech-Language Pathology/Audiology  
Advisory Board****Notice of Meeting**

The Speech-Language Pathology/Audiology Advisory Board will meet at 10 a.m. Thursday, July 28, in Classroom F of the KNEA Building, 715 S.W. 10th Ave., Topeka.

Marla Rhoden, Director  
Health Occupations Credentialing

Doc. No. 031922

## State of Kansas

**Kansas Sentencing Commission****Notice of Rescheduled Meeting**

The meeting of the Kansas Sentencing Commission scheduled for Thursday, May 19, has been cancelled and rescheduled for Wednesday, May 25. The meeting will be from 1:30 to 3:30 p.m. in the Senate Room of the Jayhawk Tower, 700 S.W. Jackson, Topeka. For more information, call (785) 296-0923.

Patricia Biggs  
Executive Director

Doc. No. 031917

## State of Kansas

**Department of Transportation****Request for Comments**

The Kansas Department of Transportation requests comments on the amendment of the Statewide Transportation Improvement Program (STIP) FY 2005-2007 by adding the following projects:

**Project KA-0219-01** — Development of a Master Transportation Plan, Ottawa, Franklin County

**Project X-2462-02** — Elimination of Eight Crossings, South Kansas and Oklahoma Railroad Fredonia Track Connection, Wilson County

The amendment of the STIP requires a 30-day public comment period. To receive more information on any of these projects or to make comments on the STIP amendment, contact the Kansas Department of Transportation, Bureau of Program and Project Management, 2nd Floor Tower, Eisenhower State Office Building, 700 S.W. Harrison, Topeka, 66603-3754, (785) 296-3526, fax (785) 368-6664.

This information is available in alternative accessible formats. To obtain an alternative format, contact the KDOT Bureau of Transportation Information, (785) 296-3585 (Voice/TTY).

The comment period regarding the STIP amendment will conclude June 6.

Deb Miller  
Secretary of Transportation

Doc. No. 031887



State of Kansas

Department of Transportation

Notice to Contractors

Sealed proposals for the construction of road and bridge work in the following Kansas counties will be received at the Bureau of Construction and Maintenance, KDOT, Topeka, or at the Topeka Capitol Plaza Hotel, until 2 p.m. May 18 and then publicly opened:

**District One—Northeast**

**Atchison**—9-3 K-9932-01—K-9 from the east junction of U.S. 59 east and north to the junction of U.S. 73, 4.9 miles, seal. (State Funds)

**Atchison**—73-3 K-9933-01—U.S. 73 from the Leavenworth-Atchison county line north 4.1 miles, crack repair. (State Funds)

**Atchison**—7-3 K-9930-01—K-7 from the north city limits of Atchison north to the Atchison-Doniphan county line, 5.1 miles, crack repair. (State Funds)

**Doniphan**—7-22 K-9931-01—K-7 from the Atchison-Doniphan county line north to the junction of K-20, 6.1 miles, crack repair. (State Funds)

**Jefferson**—44 C-3789-01—County road 2.5 miles east and 4.7 miles south of Oskaloosa, 6.5 miles, grading and surfacing. (Federal Funds)

**Leavenworth**—5-52 K-9216-01—K-5 bridge over 7 Mile Creek, 4.3 miles north of the Wyandotte-Leavenworth county line, bridge repair. (State Funds)

**Leavenworth**—5-52 K-9558-01—K-5 bridge over Nine Mile Creek, 1.8 miles southeast of U.S. 77, bridge repair. (State Funds)

**Leavenworth**—73-52 K-9934-01—U.S. 73, 1.4 miles northwest of the junction of K-192 north to the Leavenworth-Atchison county line, 2.5 miles, crack repair. (State Funds)

**Shawnee**—470-89 U-1995-01—21st and I-470 west-bound off-ramp, ramp improvement. (Federal Funds)

**Wyandotte**—105 N-0284-01—Gibbs Road from 51st Street to I-635 in Kansas City, 0.5 mile, grading and surfacing. (Federal Funds)

**District Two—Northcentral**

**Cloud**—28-15 K-9575-01—K-28 Wolf Creek bridge, 0.2 mile northwest of K-9, bridge overlay. (State Funds)

**Dickinson**—43-21 K-9599-01—K-43 culvert five miles north of Hope. (State Funds)

**District Three—Northwest**

**Cheyenne**—36-12 K-9580-01—U.S. 36 South Fork Republican River bridge, 0.4 mile east of the west junction of K-27, joint repair. (State Funds)

**Graham**—85-33 K-9582-01—K-85 South Fork Solomon River bridge, 0.7 mile south of the junction of U.S. 24, bridge overlay. (State Funds)

**Logan**—55 C-3593-01—County route 1513 in Winona and County Route 1510 from Winona east to U.S. 40, 0.9 mile, surfacing. (Federal Funds)

**Sherman**—70-91 K-8889-01—I-70 from the Colorado-Kansas state line east to the junction of K-27, 17.1 miles, overlay. (State Funds)

**Sherman**—24 KA-0113-01—U.S. 24, 0.1 mile east of the north junction of K-27, east 2.3 miles, overlay. (State Funds)

**District Four—Southeast**

**Allen**—169-1 K-9524-01—U.S. 169 from the Allen-Neosho county line north to the junction of U.S. 54, 14.9 miles, overlay. (State Funds)

**Bourbon**—69-6 K-9583-01—U.S. 69, West Fork Dry Wood Creek bridge, 0.5 mile north of the Crawford-Bourbon county line, joint repair. (State Funds)

**Neosho**—169-67 K-9534-01—U.S. 169, 11.8 miles south of the Neosho-Allen county line north to the Neosho-Allen county line, 11.8 miles, overlay. (State Funds)

**District Five—Southcentral**

**Butler**—8 C-3946-01—County road 2.5 miles north and 0.9 mile east of Benton, 0.3 mile, grading and bridge. (Federal Funds)

**Butler**—177-8 K-9592-01—K-177, Bird Creek bridge, 0.4 mile north of U.S. 54, bridge overlay. (State Funds)

**Cowley**—160-18 K-9228-01—U.S. 160, Spring Creek bridge, 2.2 miles east of the Sumner-Cowley county line, bridge replacement. (Federal Funds)

**Harvey**—135-40 K-9591-01—County Route 0304 over I-135, 6.5 miles northwest of the junction of K-15, bridge overlay. (State Funds)

**Sumner**—96 K-9044-01—County Route 641 from K-49 east 0.1 mile to Conway Springs, grading and surfacing. (State Funds)

**Reno**—50-78 K-9603-01—U.S. 50 and Airport Road south of Hutchinson, traffic signals. (State Funds)

**Sedgwick**—54-87 KA-0216-01—U.S. 54, Kellogg and Hillside and Kellogg and Grove, 1 mile, pavement patching. (State Funds)

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

Each bidder shall file a sworn statement executed by or on behalf of the person, firm, association or corporation submitting the bid, certifying that such person, firm, association or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the submitted bid.

This sworn statement shall be in the form of an affidavit executed and sworn to by the bidder before a person who is authorized by the laws of the state to administer oaths. The required form of affidavit will be provided by the state to each prospective bidder. Failure to submit the sworn statement as part of the bid approval package will make the bid nonresponsive and not eligible for award consideration.

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

Deb Miller  
Secretary of Transportation

Doc. No. 031888

## State of Kansas

## State Fair Board

## Notice of Retreat/Meeting

The Kansas State Fair Board will have a retreat at 1:30 p.m. Tuesday, May 10, in Goodland. The board will meet at 9 a.m. Wednesday, May 11, also in Goodland. For more information, contact Denny Stoecklein at (620) 669-3600.

Robba Moran  
President

Doc. No. 031910

(Published in the Kansas Register May 5, 2005.)

## Summary Notice of Bond Sale

## Sedgwick County, Kansas

\$14,515,000

## General Obligation Bonds, Series A, 2005

(General obligation bonds payable from  
unlimited ad valorem taxes)

## Bids

Subject to the notice of bond sale dated April 27, 2005, written and facsimile bids will be received on behalf of the chief financial officer of Sedgwick County, Kansas, at the addresses set forth below, and in the case of electronic bids, through i-Deal's BiDCOMP/PARITY electronic bid submission system, until 10 a.m. May 18, 2005, for the purchase of \$14,515,000 principal amount of General Obligation Bonds, Series A, 2005. No bid of less than 98.8 percent of the principal amount of the bonds and accrued interest thereon to the date of delivery will be considered.

## Bond Details

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof. The bonds will be dated June 1, 2005, and will become due on August 1 in the years as follows:

Year	Principal Amount
2006	\$795,000
2007	850,000
2008	880,000
2009	905,000
2010	930,000
2011	810,000
2012	845,000
2013	870,000
2014	905,000
2015	940,000
2016	530,000
2017	555,000
2018	580,000
2019	600,000
2020	630,000
2021	530,000
2022	550,000
2023	575,000
2024	605,000
2025	630,000

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on February 1 and August 1 in each year, beginning February 1, 2006.

## Book-Entry-Only System

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

## Paying Agent and Bond Registrar

Kansas State Treasurer, Topeka, Kansas.

## Good Faith Deposit

Each bid shall be accompanied by a good faith deposit in the form of a cashier's or certified check drawn on a bank located in the United States or a qualified financial surety bond in the amount of \$290,300 (2 percent of the principal amount of the bonds).

## Delivery

The county will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or about June 1, 2005, to DTC for the account of the successful bidder.

## Assessed Valuation and Indebtedness

The equalized assessed tangible valuation for computation of bonded debt limitations for the year 2004 is \$3,896,355,753. The total general obligation bonded indebtedness of the county as of the date of delivery of the bonds, including the bonds being sold, is \$117,370,000.

## Approval of Bonds

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

## Additional Information

Additional information regarding the bonds may be obtained from Chris Chronis, chief financial officer, at the address set forth below, (316) 660-7591, fax (316) 383-7729, or e-mail: cchronis@sedgwick.gov; or from the financial advisor, Springsted Incorporated, Attention: David MacGillivray, at the address set forth below, (651) 223-3068, fax (651) 223-3002, or e-mail: dmacgillivray@springsted.com.

## Written Bid and Good Faith Deposit

## Delivery Address:

Shawn S. Henning  
Director of Accounting/Controller  
Sedgwick County Courthouse  
525 N. Main, Suite 823  
Wichita, KS 67203

## Facsimile Bid Delivery Address:

Springsted Incorporated  
380 Jackson St., Suite 300  
St. Paul, MN 55101-2887  
Fax (651) 223-3046

Dated April 27, 2005.

Sedgwick County, Kansas  
By Chris Chronis  
Chief Financial Officer

Doc. No. 031925

State of Kansas  
**Governmental Ethics Commission**

**Opinion No. 2005-04**

Written April 21, 2005, to John S. Robb, Somers, Robb and Robb, Newton.

This opinion is in response to your letter received on March 16, 2005, requesting an opinion from the Kansas Governmental Ethics Commission concerning local government conflict of interest laws, K.S.A. 75-4301 *et seq.* We note at the outset that the Commission's jurisdiction concerning your questions is limited to the application of K.S.A. 75-4301 *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:**

You request this opinion in your capacity as general counsel for Unified School District No. 265, Goddard (U.S.D. 265; the District). You ask two questions concerning a potential conflict of interest of an elected member of the board of U.S.D. 265, Dan Reisig, who owns a substantial interest in Concergent, LLC, a company that provides technology and computer services. You state that through the competitive bidding process, Concergent was awarded a bid by U.S.D. 265 to provide computer services for the district. Mr. Reisig did not take part as a member of the board during the awarding of the bid and he abstained from voting on the contract between the District and Concergent.

The Director of Technology for U.S.D. 265 has resigned and the District wishes to employ Mr. Reisig on a part time basis as its interim Director of Technology. Mr. Reisig intends to resign his position as board member of U.S.D. 265 to accept this position as an employee of the District. He will also continue as an employee of Concergent. The supervision of the Concergent contract will be handled by other employees of U.S.D. 265 and will not be included in Mr. Reisig's job description with the District.

**Questions:**

1. As a U.S.D. 265 board member and employee of Concergent, did Mr. Reisig violate conflict of interest laws in the awarding of a contract to Concergent by U.S.D. 265?
2. After Mr. Reisig resigns his position as board member of U.S.D. 265, can he become an employee of the District while he remains employed by Concergent, who is performing a contract with U.S.D. 265?

**Opinion:**

K.S.A.75-4304, which addresses contracts between certain businesses and local government subdivisions, and is applicable to both of your questions states:

- (a) No local governmental officer or employee shall, in the capacity of such an officer or employee, make or participate in the making of a contract with any person or business by which the officer or employee is employed or in whose business the officer or employee has a substantial interest.
- (b) No person or business shall enter into any contract where any local governmental officer or employee, acting in that capacity, is a signatory to or a participant in the

making of the contract and is employed by or has a substantial interest in the person or business.

(c) A local governmental officer or employee does not make or participate in the making of a contract if the officer or employee abstains from any action in regard to the contract.

(d) This section shall not apply to the following:

- (1) Contracts let after competitive bidding has been advertised for by published notice; and
  - (2) contracts for property or services for which the price or rate is fixed by law.
- (e) Any local governmental officer or employee who is convicted of violating this section shall forfeit the office or employment.

In response to your first question, pursuant to subsection (d)(1) above, the contract you describe would not be subject to the prohibitions contained in K.S.A. 75-4304 if the competitive bidding procedure used by U.S.D. 265 in letting this contract was advertised for by published notice. Further, K.S.A. 75-4304(c) removes any potential conflict of interest by a local governmental officer who abstains from any action regarding a contract. It is clear that Mr. Reisig did not violate any conflict of interest laws in the awarding of the contract to Concergent by U.S.D. 265 because he did not participate in any action in regard to the contract.

The statute quoted above also applies to your second question. That statute places the same limitations on a local governmental employee as on a local governmental officer. Thus, as an employee of U.S.D. 265, Mr. Reisig would be prohibited from participating in the making of a contract between Concergent and U.S.D. 265. There are no additional restrictions on Mr. Reisig's simultaneous employment with both entities other than those contained in K.S.A. 75-4304. Therefore, Mr. Reisig may be employed by the District while he maintains his employment with Concergent, but he may not participate in making any future contracts between the two entities while he is employed by both.

**Opinion No. 2005-05**

Written April 21, 2005, to Dr. Howard Rodenberg, Director, Division of Health, Kansas Department of Health and Environment, Topeka.

This opinion is in response to your letter received by email on March 28, 2005, requesting 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 concerning your question 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:**

You request this opinion in your capacity as the Director of the Division of Health for the Kansas Department of Health and Environment (KDHE). You have explained that you would like to perform ER physician services within a Kansas hospital. You would provide these services on your own time outside of your normal business

(continued)

hours at KDHE. You believe that such service would benefit the State in enhancing the credibility of the state health officer within the medical community by demonstrating a continuing commitment and awareness of the practice of clinical care. You have informed us that KDHE licenses, inspects and regulates Kansas hospitals.

**Question:**

May the Director of the Division of Health for the Kansas Department of Health and Environment (Director), on his own time outside of his normal state business hours, perform ER physician services within a Kansas hospital which is regulated by his agency?

**Opinion:**

Several sections of the state conflict of interest laws must be reviewed to answer your question. K.S.A. 46-286 involves participation in licensure or regulation of a business in which a state employee holds a position, K.S.A. 2004 Supp. 46-233 prohibits participation by a state employee in the making of certain contracts, and K.S.A. 46-241 involves the use of confidential information by a state employee. Each will be addressed in turn.

K.S.A. 46-286 states in pertinent part:

(a) No state officer or employee, in the officer's or employee's official capacity, shall participate directly in the licensure, inspection or administration or enforcement of any regulation of or in any contract with any outside organization with which the officer or employee holds a position.

Because KDHE licenses, inspects and regulates hospitals in Kansas, in order to comply with this statute, in your capacity as Director, you must recuse yourself from participating in the licensure, inspection or enforcement of any regulations relating to any hospital for which you are providing ER services. This statute also prohibits you from participating directly in your capacity as Director in any contract between the State and any hospital for which you provide ER services.

K.S.A. 2004 Supp. 46-233, provides further regulation concerning a state employee's participation in the making of contracts as follows:

(a)(1) No state officer or employee shall in the capacity as such officer or employee be substantially involved in the preparation of or participate in the making of a contract with any person or business by which such officer or employee is employed . . . .

(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.

In order to comply with this statute, you may not in your capacity as Director be substantially involved in pre-

paring any negotiated contract or participating in the making of any negotiated contract between the State and a hospital where you provide ER services. Additionally, if you have participated as a state officer in making a contract with a hospital then you may not accept employment with that hospital for two years after performance of that contract is complete. Therefore, you must consider your past participation in the making of contracts on behalf of KDHE in determining whether you can provide services for a hospital, and you must abstain from any future participation on behalf of KDHE in making a contract with a hospital while you are performing services within that hospital.

The prohibitions of K.S.A. 2004 Supp. 46-233 do not apply to contracts that are let after competitive bidding or contracts for property or services when the price is fixed by law. If either of those exceptions apply, you may be involved in making a contract on behalf of the State with a hospital while you are also providing services at the hospital.

Finally, K.S.A. 46-241, provides that:

No state officer or employee shall disclose or use confidential information acquired in the course of his or her official duties in order to further his or her own economic interest or those of any other person.

This statute prohibits you from using any confidential knowledge obtained in your employment with KDHE for your financial gain or for the financial gain of any other person, which would include any hospital where you provide services.

In conclusion, the conflict of interest laws do not prohibit you from performing ER services within a Kansas hospital as long as you do not, in your capacity as Director, participate in the regulation of the hospital where you provide ER services, participate in the making of a negotiated contract between the State and such hospital, or misuse confidential information.

**Opinion No. 2005-06**

Written April 21, 2005, to Rodney J. Bieker, General Counsel, Kansas State Department of Education, Topeka.

This opinion is in response to your letter received by email on March 22, 2005, requesting 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 concerning your questions 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:**

You request this opinion in your capacity as General Counsel for the Kansas State Department of Education (KSDE), and on behalf of Lynne Owen, an education consultant for KSDE. You explain that Ms. Owen plans to retire from KSDE and would like to continue as a trainer for KSDE under contract with KSDE after she retires. She plans to retire in September 2005. Her job responsibilities at KSDE also include assigning and scheduling trainers for training sessions. She is currently scheduling trainers for the 2005-2006 school year.

**Questions:**

1. Is it permissible under the state conflict of interest laws for a KSDE employee, whose job includes being a trainer and assigning and scheduling trainers for KSDE programs, to contract with KSDE to perform services as a trainer after she retires from employment with KSDE?

2. Can this employee, before she retires, assign and schedule herself to be a trainer for KSDE programs after she retires?

**Opinion:**

In order to fully address your questions, K.S.A. 2004 Supp. 46-233, which involves state employees' participation in the making of a contract, should be considered. It states in pertinent part:

(a)(1) No state officer or employee shall in the capacity as such officer or employee be substantially involved in the preparation of or participate in the making of a contract with any person or business by which such officer or employee is employed or in whose business such officer or employee or any member of such officer's or employee's immediate family has a substantial interest. . . .

(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. . . .

We addressed a question similar to your first question in Opinion 2003-07 where we concluded as follows:

While K.S.A. 46-233(a)(2) places some restrictions on a state employee's ability to accept employment after terminating their employment with the State, it does not apply to the situation where a state employee terminates state employment and then wishes to accept employment with the same agency. This is because the employee has not participated in their capacity as a state employee in the making of a negotiated contract *with* their state agency. They may have been involved in making negotiated contracts *for* their state agency (acting on the agency's behalf), but not *with* that agency as an opposite party.

In response to your first question, the state conflict of interest laws do not prohibit a KSDE employee, whose job includes being a trainer and assigning and scheduling trainers for KSDE programs, to contract with KSDE to perform services as a trainer after she retires from employment with KSDE.

Regarding your second question, Opinion 2003-07 further states that:

K.S.A. 46-233(a)(1), however, may apply in certain limited situations. Where the employee's job requires them to participate in the making of a negotiated contract for the agency (acting on the agency's behalf) and they intend to hire themselves or somehow accept the contract when they leave state employment, a violation of K.S.A. 46-233(a)(1) would occur.

K.S.A. 2004 Supp. 46-233(e)(2) explains participation in the making of a contract as follows:

(e)(2) "Substantially involved in the preparation or participate in the making of a contract" means having ap-

proved 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." (Emphasis added.)

You do not explain whether Ms. Owen has the authority to make a contract on behalf of KSDE; however, if, as an employee of KSDE, she assigns and schedules herself as a trainer to perform services under contract with KSDE after her retirement, she would at the least be providing recommendations that KSDE contract with her. In Opinion 2000-50 we determined that if a state employee has the ability to influence the selection of a contractor or provides significant information, advice or recommendations in relation to the selection of a contractor, they are substantially involved in the preparation of or are participating in the making of the contract. From the facts you have provided, it appears that if Ms. Owen, as an employee of KSDE, assigns herself to be a trainer after she retires from KSDE, she would be participating in the making of the contract between KSDE and herself in violation of K.S.A. 2004 Supp. 46-233. Therefore, as an employee of KSDE, Ms. Owen may not assign and schedule herself to be a trainer for KSDE programs after she retires.

In conclusion, K.S.A. 2004 Supp. 46-233 does not prohibit the employee in question from providing contract training services to KSDE after her retirement if, while still an employee of KSDE, she is not involved in making the contract with herself on behalf of KSDE and is not involved in assigning and scheduling herself as a trainer after she retires.

**Opinion No. 2005-07**

Written April 21, 2005, to Rodney J. Bieker, General Counsel, Kansas State Department of Education, Topeka.

This opinion is in response to your letter received by email on March 18, 2005, requesting 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 concerning your questions 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:**

You request this opinion in your capacity as General Counsel for The Kansas State Department of Education (KSDE). You explain that the job responsibilities of some KSDE employees include visiting school districts or universities to determine whether the districts or universities meet requirements prescribed in state regulations. The visits may last for two or more days and extend into the weekend. Each visit involves at least two KSDE employees and may include people from outside KSDE. These groups are commonly referred to as "visiting teams." During the visits, the visiting team works through the lunch hour with representatives of the school district or university.

**Question:**

Can KSDE employees who, as part of a visiting team, engage in a working lunch with school district or univer-

(continued)

sity representatives, accept the lunch provided free of charge to the visiting team members by the school district or university?

**Opinion:**

K.S.A. 2004 Supp. 46-237a, which applies to all officers and employees of the executive branch of state government, is applicable to your question. It states in pertinent part:

(c) No person subject to the provisions of this section shall solicit or accept free or special discount meals from a source outside of state government, except:

(1) Meals, the provision of which is motivated by a personal or family relationship or provided at events that are widely attended. An occasion is "widely attended" when it is obvious to the person accepting the meal that the reason for providing the meal is not a pretext for exclusive or nearly exclusive access to the person;

(2) meals provided at public events in which the person is attending in an official capacity;

(3) meals provided to a person subject to this act when it is obvious such meals are not being provided because of the person's official position; and

(4) food such as soft drinks, coffee or snack foods not offered as part of a meal.

As a general rule, persons subject to this statute are prohibited from accepting free or special discounted meals from a source outside of state government, unless one of the four enumerated exceptions apply. This section applies only to meals from sources outside of state government. There is no definition of what constitutes "state government" for purposes of this statute. Therefore, we must first determine whether the school districts and universities providing the lunches in question are sources outside of state government.

Unified school districts are public corporations governed and operated by locally-elected boards (K.S.A. 72-8201 *et seq.*), while state universities are controlled by the state board of regents which is appointed by the governor, subject to confirmation by the senate. School district employees are employed by their local board of education (K.S.A. 72-5410 *et seq.*; K.S.A. 72-8202e), while university employees are state employees within the state civil service (K.S.A. 2004 Supp. 75-2935). We opine that unified school districts are outside of state government for purposes of K.S.A. 2004 Supp. 46-237a(c), and that state universities governed by the state board of regents are part of state government. Therefore, KSDE employees are prohibited from accepting a free meal provided by a unified school district unless one of the exceptions enumerated in K.S.A. 2004 Supp. 46-237a(c) applies. There is no exception in the statute for a working lunch, and the Commission determined in Opinion 97-21 that a state employee may not accept a working meal from a source outside of state government unless one of the four exceptions of K.S.A. 46-237a(c) applies. Based on what you have stated, it appears that none of those exceptions would apply, and the KSDE employees would be prohibited from accepting the meal. Because K.S.A. 2004 Supp. 46-237a(c) does not apply to meals provided by one state agency to employees of another state agency, a KSDE employee would not violate this statute by accepting a free meal from a university under the state board of regents.

In conclusion, under the conditions you have described, KSDE employees are prohibited from accepting a free meal from a unified school district; however, they are not prohibited from accepting a free meal from a university under the state board of regents.

Daniel Severt  
Chairman

Doc. No. 031913

**State of Kansas**

**Kansas Development Finance Authority**

**Notice of Hearing**

A public hearing will be conducted at 9 a.m. Thursday, May 19, in the offices of the Kansas Development Finance Authority, 555 S. Kansas Ave., Suite 202, Topeka, on the proposal for the KDFA to issue its Agricultural Development Revenue Bond for the project numbered below in the respective maximum principal amount. The bond will be issued to assist the respective borrower named below (who will be the owner and operator of the project) to finance the cost in the amount of the bond of acquiring the project or for the purpose of refunding a bond previously issued to finance the project. The project shall be located as shown:

**Project No. 000631—Maximum Principal Amount: \$137,700.** Owner/Operator: Todd and Amy Slavik. Description: Acquisition of 240 acres of agricultural land and related improvements and equipment to be used by the owner/operator for farming purposes. The project is located at the Southwest Quarter and the South Half of the Southeast Quarter of Section 23, Township 4, Range 16 West, Phillips County, Kansas, approximately 1 mile east of Kirwin on Highway 9 and .5 mile north on county road.

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

All individuals who appear at the hearing will be given an opportunity to express their views, and all written comments previously filed with the KDFA at its offices at 555 S. Kansas Ave., Suite 202, Topeka, 66603, will be considered. Additional information regarding the project may be obtained by contacting the KDFA.

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

Stephen R. Weatherford  
President

Doc. No. 031940

## 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. Regency Gas Services, Hugoton #3 has applied for a Class I operating permit renewal 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.

Regency Gas Services, Hugoton #3, P.O. Box 107, Lakin, KS 67860, owns and operates Compressor Station, Natural Gas Gathering located at S23, T25S, R36W, Kearny County.

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 South Central District Office, 130 S. Market, Suite 6050, Wichita. To obtain or review the proposed permit and supporting documentation, contact Amer N. Safadi, (785) 296-1993, at the KDHE central office; and to review the proposed permit only, contact Don Mies, (316) 337-6020, 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 proposed permit to Amer N. Safadi, 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 June 6.

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 June 6 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. 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 im-

practicable to raise such objections within such period, or unless the grounds for such objection arose after such period. Contact Jon Knodel, U.S. EPA, Region VII, Air Permitting and Compliance Branch, 901 N. 5th St., Kansas City, KS 66101, (913) 551-7622, 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. 031921

## 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:

May 20, 2005

264-05-12

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

Property #1	1136 N. 36th St. Kansas City, KS 66102
Property #2	1622 N. 61st Terrace Kansas City, KS 66102
Property #3	1120 N. 49th St. Kansas City, KS 66102
Property #4	2421 N. 18th St. Kansas City, KS 66104
Property #5	3046 N. 31st St. Kansas City, KS 66104
Property #6	1124 Greeley Ave. Kansas City, KS 66104
Property #7	2901 N. 69th St. Kansas City, KS 66109
Property #8	4710 Farrow Ave. Kansas City, KS 66102
Property #9	1220 Cleveland Ave. Kansas City, KS 66102

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](http://www.unleadedks.com/contractor_info.html).

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

Roderick L. Bremby  
Secretary of Health  
and Environment

Doc. No. 031927

## 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. Coffeyville Municipal Light & Power has applied for a Class I operating permit renewal 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.

Coffeyville Municipal Light & Power, 605 Santa Fe St. Coffeyville, KS 67337, owns and operates an electrical generation facility located at 605 Sante Fe St., Coffeyville.

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 St., Chanute. To obtain or review the proposed permit and supporting documentation, contact Ralph E. Walden, (785) 296-1583, 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 Ralph E. Walden, 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 June 6.

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 June 6 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. 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 Jon Knodel, U.S. EPA, Region VII, Air Permitting and Compliance Branch, 901 N. 5th St., Kansas City, KS 66101, (913) 551-7622, 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. 031934

## State of Kansas

Department of Health  
and EnvironmentNotice of Hearing on Proposed  
Administrative Regulations

The Kansas Department of Health and Environment, Division of Environment, Bureau of Air and Radiation, will conduct a public hearing at 10 a.m. Wednesday, July 6, in the Prairie Conference Room, third floor, Curtis State Office Building, 1000 S.W. Jackson, Topeka, to consider the adoption of three sets of revisions to the Kansas Air Quality Regulations. The first proposed revision is to revoke existing Kansas Administrative Regulation (K.A.R.) 28-19-22, "sulfur compound emissions." The second proposal is to revoke the existing Class III permits regulations at K.A.R. 28-19-575 through 28-19-578, "Class III permit regulations." The third set of proposed revisions is to amend the emissions inventory and permit-by-rule regulations, "inventory rules," specifically, K.A.R. 28-19-517, 28-19-542, 28-19-546, 28-19-561, 28-19-562 and 28-19-563. A summary of the proposed rulemaking actions and the economic impact follows:

**K.A.R. 28-19-22** (the sulfur rule) was originally adopted in 1972 and established limitations for sulfur oxides emissions from primary nonferrous (*i.e.*, lead and zinc) smelters, and prohibited emission or combustion of process gas streams (principally at petroleum refineries) containing hydrogen sulfide (H<sub>2</sub>S) above specified limits. Because the lead and zinc smelters have ceased to operate, and because the refineries are now subject to more stringent requirements for sulfur emissions under the new source performance standards (NSPS) adopted since K.A.R. 28-19-22 was adopted, the bureau has determined that the sulfur rule may be revoked without detriment. Additionally, there are situations in which the use of flares to control odors from H<sub>2</sub>S emissions would be beneficial, but are currently barred by this rule. Because the regulation has no current applicability, there will be no economic impact as a result of the revocation.

The revocation of **K.A.R. 28-19-575 to 28-19-578**, the Class III permits regulations, is proposed to streamline the air emissions sources permitting process. The Class III program serves primarily to track minor sources whose emissions have little impact on air quality, the Class III sources amounting to less than 1 percent of total statewide point source emissions. This tracking purpose will be better served through the construction approval process, coupled with the existing new source performance standards notification requirements. This revocation



will result in the savings of permit application fees of \$50 per initial application, as well as time required for the preparation of the permit application, for those sources that would have been subject to the requirements, and agency staff time to review applications and for permit issuance.

The third set of proposed revisions are the amendments to **K.A.R. 28-19-517, 28-19-542, 28-19-546, 28-19-561, 28-19-562 and 28-19-563**, the inventory regulations. The primary changes are to adjust the annual reporting date for Class II permittees from the current due date of June 1 to April 1. An additional component is to change the language of the permits-by-rule (K.A.R. 28-19-561, 28-19-562 and 28-19-563) to eliminate the specific due date reference and to change that language to reference to the date in K.A.R. 28-19-546; this will simplify any future changes to the due date that might be needed. Currently, reports for both Class I and Class II permittees are due on June 1, and this change will aid in distributing the reporting and thus the workload. Additional changes are proposed to clarify the regulation language. These changes will not create new requirements and are not expected to have an economic impact.

The time period between the publication of this notice and the scheduled hearing constitutes a 60-day public comment period for the purpose of receiving written public comments on the proposed regulatory action. All interested parties may submit written comments prior to the hearing to Ralph J. Kieffer, Bureau of Air and Radiation, Suite 310, Curtis State Office Building, 1000 S.W. Jackson, Topeka, 66612, or by e-mail to [rkieffer@kdhe.state.ks.us](mailto:rkieffer@kdhe.state.ks.us). All interested parties will be given a reasonable opportunity to present their views orally on the proposed regulatory action during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to require each participant to limit any oral presentation to five minutes.

Copies of the proposed amendments and the economic impact and environmental benefit statements may be obtained by contacting Brie Wilkins, Kansas Department of Health and Environment, Bureau of Air and Radiation, at (785) 296-1593. Questions pertaining to these proposed amendments should be directed to Ralph Kieffer at (785) 296-6428.

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

Roderick L. Bremby  
Secretary of Health  
and Environment

Doc. No. 031928

## 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 renewal and amending previously issued construction approval. Collins Bus Corporation has applied for a Class I operating permit renewal 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 July 20, 1990, are being modified by a modification of approval conditions.

Collins Bus Corporation, 15 Compound Drive, Hutchinson, KS 67502, owns and operates a small school and commercial bus manufacturing facility located at 415 W. 6th St., South Hutchinson, KS 67505.

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 Rasha Allen, (785) 296-1693, 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 Rasha Allen, 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 June 6.

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 Brie Wilkins, Bureau of Air and Radiation, not later than the close of business June 6 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.

*(continued)*

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 Jon Knodel, U.S. EPA, Region VII, Air Permitting and Compliance Branch, 901 N. 5th St., Kansas City, KS 66101, (913) 551-7622, 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. 031929

## 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-05-100 Application(s) for New or Expansion of Existing Swine Facilities

Name and Address of Applicant	Owner of Property Where Facility Will Be Located	Receiving Water
Tyson Fresh Meats, Inc. P.O. Box 26 Washington, KS 66968	Tyson Fresh Meats, Inc. P.O. Box 26 Washington, KS 66968	Big Blue River Basin
SE/4 of Section 11, T03S, R03E, Washington County Kansas Permit No. A-BBWS-S053		

This is an application for a new permit for an existing swine facility. A new or modified permit will not be issued without additional public notice. The operation consists of one enclosed unit for a total of 360 head of swine greater than 55 pounds (144 animal units). This facility is in operation for approximately four hours per day, two days per week. No animals remain at the site during any other times.

#### Public Notice No. KS-AG-05-101/114 Pending Permits for Confined Feeding Facilities

Name and Address of Applicant	Legal Description	Receiving Water
Larry Goodman 2547 15th Road Barnes, KS 66933	SE/4 of Section 13, T03S, R04E, Washington County	Big Blue River Basin

Kansas Permit No. A-BBWS-S037

This is a modified permit for the expansion of an existing swine facility. The operation is adding an additional enclosed unit for 780 head of swine less than 55 pounds (78 animal units) and increasing the stocking density of the existing nursery to 1,200 head (120 animal units). The proposed capacity is for 2,000 head 55 pounds or greater (800 animal units) and 1,980 head less than 55 pounds (198 animal units), for a total of 3,980 head (998 animal units) of swine.

Name and Address of Applicant	Legal Description	Receiving Water
Larry Goodman 2547 15th Road Barnes, KS 66933	SE/4 of Section 18, T03S, R05E, Washington County	Big Blue River Basin

Kansas Permit No. A-BBWS-S052

This is a new permit for a new swine finishing facility consisting of two enclosed units each served by concrete pits. Each unit would house 1,000 head of finishers. The proposed capacity is for 2,000 head greater than 55 pounds (800 animal units) of swine.

Name and Address of Applicant	Legal Description	Receiving Water
Cheney Feed Yard Harold Edwin Cheney 12500 S. Kansas Road Scott City, KS 67871	NW/4 of Section 24, T20S, R33W, Scott County	Upper Arkansas River Basin

Kansas Permit No. A-UASC-C026 Federal Permit No. KS0097063

This is an application for modification to an existing permitted facility with a maximum capacity of 1,500 head (1,500 animal units) of cattle 700 pounds or greater. The modification consists of the reconstruction of the existing earthen borrow pit and sediment basin to 1-foot-thick compacted clay soil liners, and the construction of diversion berms to exclude extraneous run-on at the site.

Name and Address of Applicant	Legal Description	Receiving Water
Tri W Hog Farm Warren Wiggers 6135 W. 1st Newton, KS 67114	NE/4 of Section 21, T23S, R01W, Harvey County	Little Arkansas River Basin

Kansas Permit No. A-LAHV-S037

This is a renewal permit for an existing facility for 1,200 head (480 animal units) of swine greater than 55 pounds.

Name and Address of Applicant	Legal Description	Receiving Water
Forsberg Farm Kurtiss W. Forsberg 2444 E. Mentor Road Assaria, KS 67416	SW/4 of Section 20, T15S, R02W, Saline County	Smoky Hill River Basin

Kansas Permit No. A-SHSA-M001

This is a renewal permit for an existing facility for 125 head (175 animal units) of mature dairy cattle.

Name and Address of Applicant	Legal Description	Receiving Water
Romaine Swanson 4349 S. Kipp Road Gypsum, KS 67448	SW/4 of Section 09, T15S, R01W, Saline County	Smoky Hill River Basin

Kansas Permit No. A-SHSA-B002

This is a renewal permit for an existing facility for 450 head (450 animal units) of cattle weighing greater than 700 pounds.

**Name and Address of Applicant**  
 Karole Martin  
 23018 W. 61st St. North  
 Andale, KS 67001  
 Kansas Permit No. A-ARSG-S005

**Legal Description**  
 SW/4 of Section 12,  
 T26S, R03W,  
 Sedgwick County

**Receiving Water**  
 Lower Arkansas  
 River Basin

This is a renewal permit for an existing facility for 900 head (360 animal units) of swine weighing more than 55 pounds each.

**Name and Address of Applicant**  
 Rock Creek Cattle #2  
 Walt Salmans, Owner  
 P.O. Box 128  
 Hanston, KS 67849  
 Kansas Permit No. A-UAHG-B002

**Legal Description**  
 SW/4 of Section 28,  
 T23S, R22W,  
 Hodgeman County

**Receiving Water**  
 Upper Arkansas  
 River Basin

This is a renewal permit for an existing facility for 900 head (900 animal units) of beef cattle greater than 700 pounds.

**Name and Address of Applicant**  
 Zimmerman Brothers  
 Joe Zimmerman  
 424 N.W. 90th Road  
 Harper, KS 67058  
 Kansas Permit No. A-ARHP-B002

**Legal Description**  
 NW/4 of Section 16,  
 T32S, R07W,  
 Harper County

**Receiving Water**  
 Lower Arkansas  
 River Basin

This is a renewal permit for an existing facility for 999 head (999 animal units) of beef cattle greater than 700 pounds.

**Name and Address of Applicant**  
 Brungardt Dairy  
 Greg Brungardt  
 11450 70th Road  
 Galesburg, KS 66740  
 Kansas Permit No. A-NENO-M010

**Legal Description**  
 SE/4 of Section 34,  
 T29S, R19E,  
 Neosho County

**Receiving Water**  
 Neosho River  
 Basin

This is a renewal and modification to a permit for an existing facility for 50 head (25 animal units) of dairy calves weighing 700 pounds or less, 35 head (35 animal units) of replacement heifers weighing more than 700 pounds, and 250 head (350 animal units) of mature dairy cattle for a total of 410 animal units. There are no proposed changes to the operation. The modification is a change in animal units due to the listing of baby calves and replacement heifers not previously listed in the permit.

**Name and Address of Applicant**  
 Seaboard Farms #67  
 Beachner Boar AI/Isolation Unit  
 9000 W. 67th St., Suite 200  
 Shawnee Mission, KS 66202  
 Kansas Permit No. A-CIMT-S007

**Legal Description**  
 SW/4 of Section 14,  
 T33S, R43W,  
 Morton County

**Receiving Water**  
 Cimarron River  
 Basin

This is a modified permit for an existing, expanding facility for an addition of 60 head (24 animal units) of swine weighing more than 55 pounds each, bringing the total to 460 head (184 animal units). No new construction or changes to the existing waste control system are being proposed.

**Name and Address of Applicant**  
 Plum Creek Farms, Inc.  
 Sheldon File  
 Route 3, Box 21  
 Beloit, KS 67420  
 Kansas Permit No. A-SOMC-H003 Federal Permit No. KS0080306

**Legal Description**  
 NW/4 of Section 02,  
 T07S, R08W,  
 Mitchell County

**Receiving Water**  
 Solomon River  
 Basin

This is a renewal permit for an existing facility for 5,800 head (2,320 animal units) of swine weighing greater than 55 pounds.

**Name and Address of Applicant**  
 Clayborn Dairy  
 c/o Dennis Clayborn  
 22820 S.W. 500 Road  
 Kincaid, KS 66039  
 Kansas Permit No. A-MCBB-M002

**Legal Description**  
 NW/4 of Section 12,  
 T24S, R24E,  
 Bourbon County

**Receiving Water**  
 Marais des  
 Cygnes River  
 Basin

This is a new permit for resuming operations at an inactive dairy facility for 100 head (140 animal units) of mature dairy cattle.

**Name and Address of Applicant**  
 Persinger Farms, Inc.  
 Route 3, Box 44  
 Norton, KS 67654  
 Kansas Permit No. A-SONT-B006

**Legal Description**  
 SW/4 of Section 31,  
 T03S, R22W,  
 Norton County

**Receiving Water**  
 Solomon River  
 Basin

This is a new permit requiring the construction of runoff control structures at an existing facility constructing feeding pens and expanding from a maximum capacity of 200 head (200 animal units) to a maximum capacity of 800 head (400 animal units) of cattle weighing 700 pounds or less.

**Public Notice No. KS-05-044/047**

**Name and Address of Applicant**  
 N.R. Hamm Quarry, Inc.  
 P.O. Box 17  
 Perry, KS 66073  
 Kansas Permit No. I-KS67-PO04 Federal Permit No. KS0087394

**Waterway**  
 Doyle Creek via  
 Deep Creek via  
 Riley Creek

**Type of Discharge**  
 Pit Dewatering &  
 Stormwater  
 Runoff

Legal: W½, S21, T9S, R12E, Pottawatomie County

Facility Name: Dedonder Quarry #73  
 Facility Description: The proposed action is to reissue an existing permit for the discharge of wastewater during quarry operation. This facility is a limestone quarry and crushing operation with no washing. Outfalls 001 and 002 consist of pit dewatering and stormwater runoff. The proposed permit includes generic water-quality language to protect waters of the state. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water-quality based.

**Name and Address of Applicant**  
 N.R. Hamm Quarry, Inc.  
 P.O. Box 17  
 Perry, KS 66073  
 Kansas Permit No. I-KS08-PO01 Federal Permit No. KS0097632

**Waterway**  
 Delaware River via  
 Elk Creek via  
 Banner Creek via  
 Unnamed Tributary

**Type of Discharge**  
 Pit Dewatering &  
 Stormwater  
 Runoff

Legal: NE¼, S16, T7S, R14E, Jackson County

Facility Name: Smith Quarry #106  
 Facility Description: The proposed action is to issue a new permit for the discharge of wastewater during a new quarry operation. This facility is a limestone quarry and crushing operation with no washing. Outfall 001 consists of pit dewatering and stormwater runoff. The proposed permit includes generic water-quality language to protect waters of the state. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water-quality based.

**Name and Address of Applicant**  
 N.R. Hamm Quarry, Inc.  
 P.O. Box 17  
 Perry, KS 66073  
 Kansas Permit No. I-MO22-PO02 Federal Permit No. KS0097837

**Waterway**  
 Wolf River via  
 Kenny Creek via  
 Unnamed Tributary

**Type of Discharge**  
 Pit Dewatering &  
 Stormwater  
 Runoff

Legal: NE¼, S8, T3S, R20E, Doniphan County

Facility Name: Troy/Huss Quarry #108  
 Facility Description: The proposed action is to issue a new permit for the discharge of wastewater during a new quarry operation. This facility is a limestone quarry and crushing operation with no washing. Outfall 001 consists of pit dewatering and stormwater runoff. The proposed permit includes generic water-quality language to protect waters of the state. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water-quality based.

**Name and Address of Applicant**  
 Lafarge Midwest, Inc.  
 1400 S. Cement Road  
 Fredonia, KS 66736  
 Kansas Permit No. I-NE37-CO02 Federal Permit No. KS0098001

**Waterway**  
 Elm Creek

**Type of Discharge**  
 Noncontact  
 Cooling Water

(continued)

Legal: SW¼, S35, T24S, R18E, Allen County

Facility Description: The proposed action is to issue a new permit for operation of a new facility. This is a cement terminal where cement is stored and loaded into trucks for delivery to customers. About 16,000 gallons per day of water from Elm Creek is used for noncontact cooling of air compressors and discharged back into Elm Creek. Contained in the proposed permit is a schedule of compliance requiring the permittee to develop and implement a stormwater pollution prevention plan (SWP3) within one year of the effective date of this permit. The proposed permit includes generic water-quality language to protect waters of the state. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water-quality based.

### Public Notice No. KS-PT-05-006/007

Name and Address of Applicant	Receiving Facility	Type of Discharge
General Electric Company P.O. Box 797 Arkansas City, KS 67005	Strother Field Industrial Park	Processed Wastewater

Kansas Permit No. P-WA17-IO01

Facility Description: The proposed action is to reissue a pretreatment permit for this facility. This facility rebuilds jet aircraft engines and performs anodizing and cleaning of aluminum, various alloys and steel parts. Outfall 001 is located in Building 5(C) and consists of a few regulated waste streams and several unregulated waste streams. The FPI process wastewater is directed to an on-site evaporator and does not discharge to the Strother Field WWTP. Buildings 2, 6, 9, 14, 15, 19, 20 and 22 only generate nonregulated and dilution waste streams, and thus are not subject to permitting under this permit. The proposed permit includes limits for total toxic organics, cadmium, chromium, copper, lead, nickel, silver, zinc, total metals, total cyanide and pH. The monitoring of flow also will be required. The permit limits are pursuant to state and federal pretreatment requirements.

Name and Address of Applicant	Receiving Facility	Type of Discharge
SAPA, Inc. 7933 N.E. 21st Portland, Oregon 97211	Parsons MWWTP	Processed Wastewater

Kansas Permit No. P-NE55-OO06

Facility Address: 2601 Flynn Drive, Parsons, KS 67357

Facility Description: The proposed action is to issue a new pretreatment permit for a new facility. This facility extrudes an average of 23,000 lbs./day of aluminum from billets for various customers and has a SIC code of 3354. Outfall 001 consists of treated wastes from the on-site die cleaning operation. The treatment system consists of a pH neutralization system using either sulfuric acid or caustic solution. The die cleaning waste also may be hauled off-site for disposal. The proposed permit includes limits for chromium, cyanide, zinc, oil and grease, total toxic organics and pH. The monitoring of flow also will be required. The permit limits are pursuant to state and federal pretreatment requirements.

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 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 June 4 will be

considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate Kansas permit number (KS-AG-05-100/114, KS-05-044/047, KS-PT-05-006/007) 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. 031932

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

The Kansas Department of Health and Environment is soliciting comments and recommendations from the public regarding the FFY 2005 Kansas Infant-Toddler grant application under Part C of the Individuals with Disabilities Act (IDEA), as amended by the Individuals with Disabilities Education Improvement Act of 2004. Funds from this grant will enable the continuance of a statewide comprehensive, coordinated, multidisciplinary system of services for infants and toddlers with disabilities and their families.

The grant application may be reviewed for 60 days from the publication of this notice on the KDHE Web site at <http://www.kdhe.state.ks.us/its/index.html>, or a hard copy may be requested by calling (785) 296-6135 or 1-800-332-6262 (V/TTY).

In order to be assured consideration in this grant process, all comments and recommendations must be submitted on or before June 13 to the Kansas Department of Health and Environment, Children's Developmental Services, Suite 220, Curtis State Office Building, 1000 S.W. Jackson, Topeka, 66612-1274. Comments also may be sent by e-mail to [dpeterson@kdhe.state.us](mailto:dpeterson@kdhe.state.us).

Roderick L. Bremby  
Secretary of Health  
and Environment

Doc. No. 031935

**State of Kansas****Kansas Insurance Department****Permanent Administrative  
Regulations****Article 2.—LIFE INSURANCE**

**40-2-14a. Life insurance and annuities; recommendation standards.** (a) In recommending to a consumer the purchase or surrender of any variable life insurance or variable annuity product, each insurance producer, or insurer if no producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for that consumer based on the facts disclosed by the consumer about the consumer's financial situation and needs.

(b) Before recommending to a consumer a transaction or series of transactions involving the purchase or surrender of any variable life insurance or variable annuity product, each producer, or insurer if no producer is involved, shall make reasonable efforts to obtain the following from the consumer:

(1) Information concerning the following:

- (A) The consumer's financial status;
- (B) the consumer's tax status; and
- (C) the consumer's investment objectives; and

(2) any other information considered by the producer or insurer to be a reasonable basis for making each recommendation to the consumer. (Authorized by K.S.A. 40-

2404a; implementing K.S.A. 40-2403 and K.S.A. 2002 Supp. 40-2404; effective May 20, 2005.)

**40-2-14b. Life insurance and annuities; recommendation standards, supervision standards.** Each insurer and insurance producer shall ensure that the individual's recommendations of any transaction or series of transactions involving the sale, surrender, or other disposition of variable life insurance or a variable annuity meet the minimum requirements established by this regulation.

(a) An insurer or insurance producer shall not make a recommendation of a transaction involving variable life insurance or a variable annuity to any consumer unless the insurer or the insurance producer complies with the required standards, guidelines, procedures, and data collection processes established by the insurer under paragraphs (b)(1) through (3).

(b) Each insurer shall establish and maintain a compliance program that has at least the following:

(1) Standards meeting the requirements of K.A.R. 40-2-14a for determining whether the recommendations meet each consumer's insurance needs and financial objectives;

(2) guidelines and procedures implemented by the insurer designed to ascertain each consumer's insurance needs and financial objectives;

(3) data collection processes implemented by the insurer, including fact-finding tools, consumer information forms, product applications, and other appropriate means that are designed to obtain relevant information concerning each consumer's insurance needs and financial objectives;

(4) knowledgeable staff responsible for assessing the insurer's and each insurance producer's compliance with the recommendation standards pursuant to K.A.R. 40-2-14a pertaining to the suitability of recommendations in light of each consumer's insurance needs and financial objectives;

(5) procedures that require insurance producers to make reasonable efforts to obtain relevant information to be used in making recommendations to each consumer;

(6) procedures for insurance producer training, with documentation of attendance, on the requirements of this regulation and the guidelines and procedures of the insurer, including the obligation to collect and analyze relevant information to help determine each consumer's insurance needs and financial objectives;

(7) systems and controls that are designed to provide assurance that the insurer's management will detect any practices of the insurer and each insurance producer that do not comply with the standards, guidelines, procedures, and data collection processes established by the insurer in accordance with this regulation;

(8) systems, controls, and standards for taking prompt action to correct violations and provide restitution to consumers;

(9) staffing to carry out the functions required by this subsection;

(10) a process for periodic evaluation of the effectiveness of the functions required by this subsection, includ-

(continued)

ing preparation of evaluation reports distributed to the insurer's board of directors and officers, and a process for the identification and implementation of improvements; and

(11) systems, controls, and programs reasonably designed to ensure that the insurer's obligations under this regulation are carried out by vendors, including vendors that supervise or train insurance producers, general agents, broker-dealers, managing general agents, and third party administrators. The insurer shall monitor vendor compliance, perform periodic compliance audits, and enforce the compliance requirements.

(c) The failure to comply with subsection (a) shall be deemed an unfair and deceptive act or practice.

(d) Any penalty resulting from a violation of subsection (a), including any violation by the insurance producer, may be reduced or eliminated if the insurer establishes both of the following:

(1) The insurer, at the time of the violation, operated a compliance program as required by subsection (b).

(2) The insurer reversed the transaction or transactions, made restitution, or took other appropriate remedial action for aggrieved consumers promptly, under all circumstances, after the insurer's management became aware of the violation.

(e) Each insurer and insurance producer shall maintain records of the relevant information and the recommendations that were the basis for each insurance transaction for 10 years after the insurer completes the insurance transaction.

(f) The records required to be maintained by this regulation shall be maintained in paper, photographic, microprocessor, magnetic, mechanical, or electronic media or by any process that accurately reproduces the original document. (Authorized by K.S.A. 40-103 and 40-2404a; implementing K.S.A. 40-2403 and K.S.A. 2002 Supp. 40-2404; effective May 20, 2005.)

Sandy Praeger  
Kansas Insurance Commissioner

Doc. No. 031918

## State of Kansas

### Department of Wildlife and Parks

#### Permanent Administrative Regulations

#### Article 5.—FURBEARERS

**115-5-4. Nonresident bobcat hunting permit; tagging, disposal, legal equipment, shooting hours, and general provisions.** (a) Each permittee shall sign, record the county, date, and time of kill, and attach the carcass tag to the carcass immediately following the kill and before moving the carcass from the site of the kill.

(b) The carcass tag shall remain attached to the carcass or pelt until presented to the department for tagging with an export tag. The export tagging shall occur within seven calendar days of the harvest of the bobcat.

(c) Nonresident bobcat hunting permits shall be valid only for the hunting season specified in K.A.R. 115-25-11.

(d) Nonresident bobcat hunting permits purchased during the open season shall not be valid until the next calendar day.

(e) Nonresident bobcat hunting permits shall not be transferred to another person.

(f) Removal of the carcass tag from the nonresident bobcat hunting permit shall invalidate the permit for hunting, unless otherwise authorized by law or regulation.

(g) Legally acquired, skinned carcasses and meat of bobcats taken with a nonresident bobcat hunting permit may be sold or given to and possessed by another, and legally acquired raw furs, pelts, and skins of bobcats may be given to and possessed by another, if a written notice that includes the seller's or donor's name, address, and nonresident bobcat hunting permit number accompanies the carcass, pelt, or meat. A bobcat export tag as described in subsection (b) shall meet the requirements of written notice.

(h) Hunting equipment permitted during bobcat hunting season for use with a nonresident bobcat hunting permit shall consist of the following:

(1) Firearms, except fully automatic firearms;

(2) archery equipment;

(3) crossbows; and

(4) optical scopes or sights that project no visible light toward the target and do not electronically amplify visible or infrared light.

(i) The following general provisions shall apply to the hunting of bobcats with a nonresident bobcat hunting permit:

(1) Calls, lures, baits and decoys may be used in the hunting of bobcats.

(2) Shooting hours shall be one-half hour before sunrise to one-half hour after sunset.

(3) The bag limit shall be one bobcat for each nonresident bobcat hunting permit purchased. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 32-1002; effective May 20, 2005.)

#### Article 11.—CONTROLLED SHOOTING AREAS

**115-11-1. Controlled shooting areas; license application, issuance priority, and reporting.** (a) Each application for a controlled shooting area license shall be made on forms provided by the department.

(b) Each applicant shall provide the following information:

(1) The size of the area;

(2) a map of the area;

(3) the legal description of the area;

(4) the species of game birds to be released and hunted;

(5) a description of the premises and facilities; and

(6) any other relevant information required by the secretary.

(c) Each applicant for renewal of an existing controlled shooting area license shall provide information as required by paragraphs (b) (1) through (b) (5) only if a change of status has occurred.

(d) The applicant shall submit, with the application, proof of ownership or lease for a five-year period of the area described in the application.

(e) An application for a controlled shooting area license that is not a renewal application may be submitted at any time.

(f) Each application for a renewal of a controlled shooting area license shall be submitted not later than July 1.

(g) Each renewal application shall have priority over a new application for a controlled shooting area license in order that the maximum county controlled shooting area acreage limitation not be exceeded.

(h) Each renewal application received after July 1 shall be considered a new application for purposes of subsection (g).

(i) Each licensee shall maintain records of game bird releases, a register of hunters, the number of animals or birds taken for each species of game animal hunted on the controlled shooting area, and any other relevant information required by the secretary on forms provided by the department. These records shall be available for inspection by departmental staff.

(j) A final report consisting of the records and any other information required by the secretary shall be submitted to the department as a part of the renewal application or by August 1 if the controlled shooting area license is not renewed. A controlled shooting area license shall not be issued or renewed until a final report has been received by the department.

(k) This regulation shall be effective on and after July 1, 2005. (Authorized by K.S.A. 32-948; implementing K.S.A. 32-944, K.S.A. 32-945, and K.S.A. 32-948; effective Dec. 4, 1989; amended July 1, 2002; amended July 1, 2005.)

#### Article 18.—SPECIAL PERMITS

**115-18-10. Importation and possession of certain wildlife; prohibition, permit requirement, and restrictions.** (a) The importation, possession, or release in the state of Kansas of the following live wildlife species shall be prohibited, except as authorized by terms of a wildlife importation permit issued by the secretary:

- (1) Walking catfish (*Clarias batrachus*);
- (2) silver carp (*Hypophthalmichthys molitrix*);
- (3) bighead carp (*Aristichthys nobilis*);
- (4) black carp (*Mylopharyngodon piceus*);
- (5) snakehead fish (all members of the family Channidae);
- (6) round goby (*Neogobius melanostomus*);
- (7) zebra mussel (*Dreissena polymorpha*);
- (8) quagga mussel (*Dreissena bugensis*);
- (9) New Zealand mudsnail (*Potamopyrgus antipodarum*);
- (10) monk parakeet (*Myiopsitta monachus*); and
- (11) Asian raccoon dog (*Nyctereutes procyonoides*).

(b) Any live member of a wildlife species listed in subsection (a) and possessed before the following dates may be retained in possession, in closed confinement, by making application to the secretary that provides information detailing the circumstances, including the location, by which the animal came into the applicant's possession:

- (1) February 1, 1978 for fish and bird species other than black carp, snakehead fish, round goby, zebra mussel, quagga mussel, and New Zealand mudsnail;
- (2) February 1, 1986 for mammal species;
- (3) October 1, 2000 for black carp;

(4) May 1, 2003 for snakehead fish;

(5) August 1, 2004 for round goby, quagga mussel, and zebra mussel; and

(6) May 15, 2005 for New Zealand mudsnail.

The manner in which the animal is to be used shall be identified in the application.

(c) Wildlife importation permits for the importation or possession of live members of the wildlife species listed in subsection (a) may be issued by the secretary for experimental, scientific, display, or other purposes subject to any conditions and restrictions contained or referenced in a wildlife importation permit.

(d) Each individual desiring to import or possess live members of the wildlife species listed in subsection (a) shall apply to the secretary for a wildlife importation permit. The application shall be submitted on forms provided by the department and shall contain the following information:

- (1) The name, address, and telephone number of applicant;
- (2) the wildlife species to be imported or possessed and the number of wildlife involved;
- (3) the purpose or purposes for importation or possession;
- (4) a description of the facilities for holding and using the wildlife species;
- (5) a description of plans to prevent the release of the wildlife species; and
- (6) other relevant information as requested by the secretary.

(e) Each wildlife importation permit, once issued, shall be valid during the time period specified on the permit.

(f) In addition to other penalties prescribed by law, any wildlife importation permit may be refused issuance or revoked by the secretary if any of the following conditions is met:

- (1) The application is incomplete or contains false information.
- (2) Issuance of a permit would not be in the best interest of the public or of the natural resources of Kansas.
- (3) The permittee fails to meet permit requirements or violates permit conditions. (Authorized by K.S.A. 32-807 and K.S.A. 32-956; implementing K.S.A. 32-956; effective Dec. 27, 1993; amended Sept. 22, 2000; amended April 18, 2003; amended July 23, 2004; amended May 20, 2005.)

J. Michael Hayden  
Secretary of Wildlife  
and Parks

Doc. No. 031919

#### State of Kansas

#### Department of Health and Environment

#### Permanent Administrative Regulations

#### Article 16.—WATER POLLUTION CONTROL

**28-16-28g. Surface water register.** The classification and use designations of surface waters of the state  
(continued)

shall be those identified in the department's "Kansas surface water register," dated November 5, 2004, which is hereby adopted by reference. (Authorized by and implementing K.S.A. 2004 Supp. 65-171d and K.S.A. 2004 Supp. 82a-2001; effective Jan. 28, 2005; amended May 20, 2005.)

**28-16-160. Definitions.** The following terms and abbreviations shall be applicable to K.A.R. 28-16-160 through K.A.R. 28-16-174 and shall have the meanings specified in this regulation. Terms and abbreviations not defined in this regulation shall have the meanings specified in K.S.A. 65-101 et seq. and amendments thereto; articles 5, 13, 16, and 30; or the clean water act (CWA). For K.A.R. 28-16-160 through 28-16-174, the definitions prescribed in this regulation shall control over any different definitions in any of the following: articles 5, 13, 16, and 30; federal regulations adopted by reference in articles 5, 13, 16, and 30; or the clean water act (CWA).

(a) "Change in operation" and "modification" mean any of the following:

(1) Any expansion or enlargement of a wastewater treatment system beyond the scope or boundaries established by a permit or KDHE-approved plans and specifications;

(2) any change or increase in production or wastewater-generating activities resulting in a change in the quantity or quality of the sewage or wastewater being generated; or

(3) any modification to the wastewater treatment system or an increase in the wastewater treatment system capacity beyond that addressed by the permit application, authorized by a permit, or authorized by KDHE-approved plans and specifications. As used in these regulations, a "modification" to a wastewater treatment system shall exclude routine cleaning, normal maintenance, and routine minor bank erosion repairs.

(b) "Commercial wastewater treatment system" means a wastewater treatment system serving a commercial enterprise or group of commercial enterprises for the purpose of treating primarily domestic sewage by physical, chemical, or biological means or by a combination of those methods.

(c) "CWA" and "federal clean water act" mean the federal water pollution control act, 33 U.S.C. 1251 et seq., as in effect on November 27, 2002.

(d) "Department" and "KDHE" have the meaning specified in K.A.R. 28-16-58.

(e) "Director" has the meaning specified in K.A.R. 28-16-58.

(f) "Division" has the meaning specified in K.A.R. 28-16-58.

(g) "Domestic sewage" has the meaning specified in K.A.R. 28-16-56c.

(h) "Environmental protection agency" and "EPA" have the meaning specified in K.A.R. 28-16-58.

(i) "Equus Beds," for the purpose of these municipal, commercial, and industrial wastewater lagoon regulations, means the aquifer underlying the sections of land listed in the following table:

County	Range	Township	Section
Harvey	01W	22S	06, 07, 18, 19, 30, 31
Harvey	01W	23S	06, 07, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, 34
Harvey	01W	24S	03, 04, 05, 06, 07, 08, 09, 10, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, 34
Harvey	02W	22S	All sections
Harvey	02W	23S	All sections
Harvey	02W	24S	All sections
Harvey	03W	22S	All sections
Harvey	03W	23S	All sections
Harvey	03W	24S	All sections
McPherson	01W	19S	31, 32, 33, 34, 35
McPherson	01W	20S	02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33
McPherson	01W	21S	05, 06, 07, 18, 19, 30, 31
McPherson	02W	21S	12, 13, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36
McPherson	03W	18S	28, 29, 30, 31, 32, 33
McPherson	03W	19S	04, 05, 06, 07, 08, 09, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, 34
McPherson	03W	20S	03, 04, 05, 06, 07, 08, 09, 10, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, 34, 35
McPherson	03W	21S	02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36
McPherson	04W	18S	20, 21, 25, 26, 27, 28, 29, 32, 33, 34, 35, 36
McPherson	04W	19S	01, 02, 03, 04, 09, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, 36
McPherson	04W	20S	01, 02, 03, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, 36
McPherson	04W	21S	01, 02, 03, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, 36
Reno	04W	22S	All sections
Reno	04W	23S	All sections
Reno	04W	24S	All sections
Reno	04W	25S	All sections
Reno	04W	26S	All sections
Reno	05W	22S	All sections
Reno	05W	23S	All sections
Reno	05W	24S	All sections
Reno	05W	25S	All sections
Reno	05W	26S	All sections
Reno	06W	22S	All sections
Reno	06W	23S	All sections
Reno	06W	24S	All sections
Reno	06W	25S	All sections
Reno	06W	26S	All sections
Reno	07W	22S	All sections



Reno	07W	23S	All sections
Reno	07W	24S	All sections
Reno	07W	25S	All sections
Reno	07W	26S	All sections
Sedgwick	01E	26S	06, 07, 08, 17, 18, 19, 20
Sedgwick	01W	25S	03, 04, 05, 06, 07, 08, 09, 10, 15, 16, 17, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36
Sedgwick	01W	26S	01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31, 32
Sedgwick	01W	27S	05, 06
Sedgwick	02W	25S	All sections
Sedgwick	02W	26S	01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 34, 35, 36
Sedgwick	02W	27S	01
Sedgwick	03W	25S	01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 33, 34, 35, 36
Sedgwick	03W	26S	01, 02, 03, 04, 11, 12

(j) "Groundwater," for the purpose of these municipal, commercial, and industrial wastewater lagoon liner regulations, means water located under the surface of the land that is or can be the source of supply for wells, springs, seeps, or streams or that is held in aquifers. For the lagoon regulations, this term shall be considered capable of being a source of supply for wells if at least one of the following conditions is met:

(1) The groundwater can be produced at a rate of 10 gallons or more per hour from a borehole with a diameter of nine or fewer inches. In determining the groundwater production rate for an excavation, borehole, or existing water or monitoring well, the quantity of produced water shall be adjusted for comparison purposes to the surface area of a borehole with a diameter of nine inches.

(2) Groundwater is currently being used within 1/2 mile of the proposed lagoon, regardless of the rate at which the groundwater can be produced.

(3) There is evidence of past groundwater use within 1/2 mile of the proposed lagoon.

(k) "Groundwater separation distance," for the purpose of these municipal, commercial, and industrial wastewater lagoon regulations, means the distance measured between the bottom of the lagoon and the top of the groundwater table. The bottom of the lagoon shall be determined by the lowest interior surface elevation, at finished grade, of the lagoon structure. The top of the groundwater shall be determined by the upper surface elevation of groundwater in an aquifer or, if the water-table fluctuates seasonally, the maximum annual surface elevation of the groundwater based on the average of the previous 10 years of groundwater data, if available.

(l) "Impermeable synthetic membrane liner" means a commercially manufactured membrane liner composed of synthetic materials commonly identified as being plastic or plastic polymer materials or other synthetic mate-

rials that, when properly installed, would provide for the more stringent of either of the following:

(1) A maximum monitored or calculated seepage rate of 1/64 inch per day; or

(2) the liner manufacturer's criteria for the material and installation of the membrane liner expressed in units of volume per area per unit of time (gallons per square feet per day).

(m) "Industrial wastewater treatment system" means any of the following:

(1) A wastewater treatment system serving a city, county, township, sewer district, or other governmental unit;

(2) a state or federal agency, establishment, or institution;

(3) an industrial or commercial enterprise; or

(4) a group or combination of any of the entities specified in paragraphs (m)(1) through (3) treating primarily sewage or process-generated wastewater, other than domestic sewage, by physical, chemical, or biological methods or by a combination of these methods.

(n) "In existence," when used to describe a municipal, commercial, or industrial wastewater treatment system, means that the system meets one of the following conditions:

(1) Is constructed or installed, is capable of providing wastewater treatment, and is currently covered by a valid Kansas water pollution control permit on the effective date of these regulations;

(2) received the secretary's approval of construction plans and specifications before the effective date of these regulations and is under construction within two years after the date of approval; or

(3) is under construction, with plans and specifications approved by the secretary, on the effective date of these regulations.

(o) "Licensed geologist" means a geologist licensed to practice geology in Kansas by the Kansas board of technical professions.

(p) "Licensed professional engineer" means a professional engineer licensed to practice engineering in Kansas by the Kansas board of technical professions.

(q) "Liner" means any designed barrier in the form of in situ, layered, membrane, or blanket materials utilized or installed to reduce the potential for a significant hydrologic connection between sewage or process-generated wastewaters that are controlled or retained by wastewater treatment systems and waters of the state.

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

(continued)

(s) "Maximum synthetic membrane liner leakage rate" means a monitored or calculated leakage rate that is the more stringent of either  $\frac{1}{64}$  inch per day or the liner manufacturer's criteria for the material and installation of the membrane liner expressed in units of volume per area per unit of time (gallons per square feet per day).

(t) "Minimum standards of design, construction, and maintenance" means effluent standards, effluent limitations, pretreatment requirements, other performance standards, and other standards of design, construction, and maintenance for wastewater control facilities published by the department as "minimum standards of design for water pollution control facilities" and adopted by reference in K.A.R. 28-16-58.

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

(1) Conducting inspections of industrial process operations or the operation of municipal, commercial, or industrial wastewater treatment systems;

(2) the systematic collection and analysis of data on operational parameters of industrial process operations or the operation of municipal, commercial, or industrial wastewater treatment systems; or

(3) the systematic collection and analysis of data on the quality of the domestic sewage, process wastewater, wastewater sludge, groundwater, surface water, or soils at or in the vicinity of the wastewater lagoon or wastewater pond.

(v) "Monitoring well" and "observation well" mean a well constructed for sampling fluids or groundwater and for observing subsurface phenomena including the presence of fluids, groundwater elevations, the direction of groundwater flow, and the velocity of groundwater flow.

(w) "Municipal wastewater treatment system" means any of the following:

(1) A wastewater treatment system serving a city, county, township, sewer district, or other governmental unit;

(2) a state or federal agency, establishment, or institution treating primarily domestic sewage by physical, chemical, or biological methods or by a combination of these methods; or

(3) a wastewater treatment system operated by an entity listed in paragraph (w)(1) or (2) that receives significant quantities of domestic wastewater, process wastewater comprised primarily of conventional pollutants, non-contact cooling water, boiler blowdown, or process wastewater identified in K.A.R. 28-16-162(f) from industrial facilities if the introduction of these wastes meets the following conditions:

(A) Conforms with the EPA-promulgated pretreatment standards specified in K.A.R. 28-16-88;

(B) does not interfere or upset the operation of the wastewater treatment system;

(C) does not cause these wastes to pass through the treatment system either partially treated or untreated into the environment in unacceptable concentrations or quantities;

(D) does not cause a violation of the water pollution control permit;

(E) does not violate surface water quality standards; and

(F) does not adversely impact use of the wastewater for irrigation or adversely impact use of wastewater sludge for land application.

(x) "Oil or gas well" shall have the meaning assigned to the term "well" in K.S.A. 55-150, and amendments thereto.

(y) "Permit" and "water pollution control permit" mean an authorization, license, or equivalent control document issued by the department. A permit shall not include any document that has not yet been subject to final action by the department, including a draft or proposed permit.

(z) "Permittee" means a person who is authorized by a Kansas water pollution control permit to operate, or a person who is responsible for overseeing the operation of, a wastewater treatment system.

(aa) "Person" has the meaning specified in K.S.A. 65-170a, and amendments thereto.

(bb) "Pollution" has the meaning specified in K.S.A. 65-171d, and amendments thereto.

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

(dd) "Secretary" has the meaning specified in K.A.R. 28-16-58.

(ee) "Sensitive groundwater areas," for the purpose of these municipal, commercial, and industrial wastewater lagoon regulations, means aquifers generally comprised of alluvial aquifers, the area within the boundaries of the Equus Beds groundwater management district no. 2 (GMD #2), and the Dune Sand Area located south of the great bend of the Arkansas River. A sensitive groundwater area shall be any section of land listed in "Kansas sensitive groundwater areas for wastewater lagoons," prepared by KDHE and dated January 1, 2005, which is hereby adopted by reference.

(ff) "Sewage" and "wastewater" have the meaning specified in K.S.A. 65-164, and amendments thereto.

(gg) "Variance" means the secretary's written approval authorizing an alternative action to any of the requirements of these municipal, commercial, or industrial wastewater lagoon regulations, the standards adopted by these regulations, or the "minimum standards of design for water pollution control facilities," as adopted by reference in K.A.R. 28-16-58.

(hh) "Wastewater lagoon" and "wastewater pond" mean excavated or diked structures provided or used for retaining or treating municipal, commercial, or industrial sewage, process wastewater, cooling water, or stormwater runoff.

(ii) "Wastewater treatment system" means structures or devices that collect, store, stabilize, treat, or otherwise control pollutants so that after the discharge, disposal, or land application of wastewater treatment sludge or treated wastewater, water pollution will not occur, and the public health and waters of the state will be protected. This term shall not include lagoons and earthen basins that are regulated and permitted as a solid waste processing facility or solid waste landfill pursuant to K.S.A. 65-3401 et seq., and amendments thereto, and article 29.

Discharges of wastewater from lagoons or earthen basins that are regulated and permitted as a solid waste processing facility or solid waste landfill shall be prohibited unless authorized by a Kansas water pollution control permit.

(jj) "Waters of the state" has the meaning specified in K.S.A. 65-161, and amendments thereto.

(kk) "Water well" has the meaning specified in K.S.A. 82a-1203, and amendments thereto. (Authorized by K.S.A. 65-165 and K.S.A. 2004 Supp. 65-171d; implementing K.S.A. 65-165, K.S.A. 65-166, K.S.A. 2004 Supp. 65-171d, and K.S.A. 65-171h; effective May 20, 2005.)

**28-16-161. Municipal and commercial lagoons: general provisions.** The following general provisions shall apply to municipal and commercial wastewater treatment system lagoons. (a) New or modified municipal or commercial wastewater treatment system lagoons shall be prohibited if the groundwater separation distance between the lagoon bottom and the groundwater table is 10 feet or less.

(b) For each new or modified lagoon, the permittee may employ a constructed soil liner if the maximum soil liner seepage rate is less than  $\frac{1}{4}$  inch per day and the lagoon is not constructed over sensitive groundwater areas, including the Equus Beds.

(c) For each new or modified lagoon constructed over sensitive groundwater areas, excluding the Equus Beds, the permittee may employ a constructed soil liner if the maximum soil liner seepage rate is less than  $\frac{1}{10}$  inch per day.

(d) For each new or modified lagoon constructed over the Equus Beds, the permittee shall, at a minimum, employ a single impermeable synthetic membrane liner and provide for the installation and sampling of groundwater monitoring wells as specified in K.A.R. 28-16-171. Constructed soil liners may be employed if all of the following conditions are met:

(1) The groundwater separation distance between the lagoon bottom and the groundwater table is greater than 10 feet.

(2) The hydrogeologic information developed for the site indicates that in situ soils exist in sufficient quantity to provide an effective pollution barrier to protect groundwater.

(3) A constructed soil liner will provide a maximum soil liner seepage rate of less than  $\frac{1}{10}$  inch per day.

(4) The design provides for the installation and sampling of groundwater monitoring wells as specified in K.A.R. 28-16-171.

(e) For each new or modified lagoon, the permittee may utilize a single impermeable synthetic membrane liner, in lieu of a constructed soil liner.

(f) Municipal and commercial wastewater treatment system lagoons in existence on the effective date of this regulation shall not be required to be modified or retrofitted to comply with the provisions of this regulation, unless either of the following occurs:

(1) The secretary determines that environmental or public health threats result from the operation of the lagoon, or data exists showing the actual or potential soil or water pollution.

(2) The modification, replacement, or expansion of a municipal or commercial wastewater lagoon results in the lagoon being dewatered, and the secretary orders the implementation of specific lagoon improvements to address conditions that result in noncompliance with statutory, regulatory, or permit requirements or that fail to ensure protection of public health or the environment. The permittee shall implement the specific improvements required by the secretary.

(g) For the purpose of K.A.R. 28-16-160 through K.A.R. 28-16-174, an actual or potential environmental or public health threat may be deemed to exist if physical, chemical, biological, or radiological substances, or a combination of these substances, is released into subsurface waters of the state and results in a concentration or amount of a substance in excess of the numerical criteria designated for aquatic life protection, agricultural use, or public health protection as provided in the "Kansas surface water quality standards: tables of numeric criteria," dated December 6, 2004, which is adopted by reference in K.A.R. 28-16-28e. If the background concentration of a substance is naturally occurring and is greater than the numerical criteria, the background concentration shall be considered the criteria.

(h) No person shall construct, operate, or maintain any municipal or commercial wastewater lagoon without obtaining a permit or permit modification from the department. (Authorized by K.S.A. 65-165, K.S.A. 2004 Supp. 65-171d, and K.S.A. 65-171h; implementing K.S.A. 65-164, K.S.A. 65-165, K.S.A. 65-166, K.S.A. 2004 Supp. 65-171d, and K.S.A. 65-171h; effective May 20, 2005.)

**28-16-162. Industrial lagoons: general provisions.** The following general provisions shall apply to industrial wastewater treatment system lagoons. (a) New or modified industrial wastewater treatment system lagoons shall be prohibited if the groundwater separation distance between the lagoon bottom and the groundwater table is 10 feet or less.

(b) For each new or modified lagoon utilized solely for the containment or treatment of domestic sewage, the permittee may employ a constructed soil liner if the maximum soil liner seepage rate is less than  $\frac{1}{4}$  inch per day and the lagoon is not constructed over sensitive groundwater areas, including the Equus Beds.

(c) For each new or modified lagoon constructed over sensitive groundwater areas, excluding the Equus Beds, and utilized solely for the containment or treatment of domestic sewage, the permittee may employ a constructed soil liner if the maximum soil liner seepage rate is less than  $\frac{1}{10}$  inch per day.

(d) For each new or modified lagoon constructed over the Equus Beds and utilized solely for the containment or treatment of domestic sewage, the permittee shall, at a minimum, employ a single impermeable synthetic membrane liner and provide for the installation and sampling of groundwater monitoring wells as specified in K.A.R. 28-16-171. Constructed soil liners may be employed if all of the following conditions are met:

(1) The groundwater separation distance between the lagoon bottom and the groundwater table is greater than 10 feet.

(continued)

(2) The hydrogeologic information developed for the site indicates that in situ soils exist in sufficient quantity to provide an effective pollution barrier to protect groundwater.

(3) A constructed soil liner will provide a maximum soil liner seepage rate of less than  $\frac{1}{10}$  inch per day.

(4) The design provides for the installation and sampling of groundwater monitoring wells as specified in K.A.R. 28-16-171.

(e) For each new or modified lagoon utilized solely for the containment or treatment of domestic sewage, the permittee may utilize a single impermeable synthetic membrane liner, in lieu of a constructed soil liner.

(f) For each new or modified industrial wastewater lagoon, the permittee may utilize either a single impermeable synthetic membrane liner or a soil liner with a maximum soil liner seepage rate of less than  $\frac{1}{4}$  inch per day if the wastewater lagoons or ponds are utilized for the containment or treatment of process-generated wastewater and are limited to the following:

(1) Sediment control and aggregate wash water ponds used at limestone quarries;

(2) sediment control ponds used at clay pit operations;

(3) sediment control ponds used for classification and washing operations associated with sand and gravel dredging;

(4) ponds receiving once-through, non-contact cooling water in which there is no chemical addition to the cooling water and where the concentration of total dissolved solids in the cooling water is not increased over the concentration of total dissolved solids in the groundwater;

(5) ponds receiving recirculated cooling water meeting any of the following conditions:

(A) The cooling water, if treated, is treated only with chlorine or bromine;

(B) the total dissolved solids and salt concentration of the cooling water in the ponds are not increased significantly above the groundwater source concentration;

(C) the total dissolved solids and salt concentration of the cooling water in the ponds do not exceed criteria that would prohibit the cooling water from being discharged in conformance with the Kansas surface water quality standards specified in K.A.R. 28-16-28b, 28-16-28c, 28-16-28d, and 28-16-28e; or

(D) the total dissolved solids and salt concentration of the cooling water in the ponds can be land-applied at agronomic application rates without the use of dilution water or freshwater application for controlling dissolved solids and salts;

(6) erosion-control sediment ponds associated with construction activities;

(7) tailwater control ponds utilized for the irrigation of wastewater from an industrial wastewater treatment system if the tailwater control pond is completely dewatered immediately at the completion of each irrigation application cycle;

(8) lime sludge storage lagoons associated with potable water-softening operations;

(9) lagoons that receive concrete washed off of, and from, concrete delivery trucks; and

(10) lagoons utilized for the containment or treatment of coal pile stormwater runoff, coal ash, and air pollution

control scrubber wastes from facilities utilizing low-sulfur coal produced in the powder river basin of Wyoming.

(g) Each new industrial wastewater lagoon utilized for the containment or treatment of industrial process wastewater shall utilize an impermeable synthetic membrane liner system with a maximum synthetic membrane liner leakage rate that is less than the more stringent of either of the following:

(1) A maximum monitored or calculated seepage rate of  $\frac{1}{64}$  inch per day; or

(2) the liner manufacturer's criteria for the material and installation of the synthetic membrane liner system expressed in units of volume per area per unit of time (gallons per square feet per day).

(h) Industrial wastewater treatment system lagoons in existence on the effective date of this regulation shall not be required to be modified or retrofitted to comply with the provisions of this regulation, unless either of the following occurs:

(1) The secretary determines that environmental or public health threats result from the operation of the lagoon, or data exists showing the actual or potential soil or water pollution.

(2) The modification, replacement, or expansion of an industrial wastewater lagoon results in the lagoon being dewatered, and the secretary or designee orders the implementation of specific lagoon improvements to address conditions that result in noncompliance with statutory, regulatory, or permit requirements or that fail to ensure protection of public health or the environment. Only those specific improvements required by the secretary or designee shall be required to be implemented by the permittee.

(i) For the purpose of K.A.R. 28-16-160 through K.A.R. 28-16-174, an actual or potential environmental or public health threat may be deemed to exist if physical, chemical, biological, or radiological substances, or a combination of these substances, is released into subsurface waters of the state and results in a concentration or amount of a substance in excess of the numerical criteria designated for aquatic life protection, agricultural use, or public health protection as provided in the "Kansas surface water quality standards: tables of numeric criteria," dated December 6, 2004, which is adopted by reference in K.A.R. 28-16-28e. If the background concentration of a substance is naturally occurring and is greater than the numeric criteria, the background concentration shall be considered the criteria.

(j) Land-based sand and gravel pits shall be exempt from the provisions of K.A.R. 28-16-160 through 28-16-174 if the only water or wastewater directed to the dredge pit consists of the following:

(1) Dredge return flows;

(2) flows generated from aggregate classification; and

(3) flows from washing dredged aggregate if water used in creating these flows originates from and is returned to the dredge pit.

(k) No person shall construct, operate, or maintain any industrial wastewater lagoon without obtaining a permit or permit modification from the department. (Authorized by K.S.A. 2004 Supp. 65-171d and K.S.A. 65-171h; implementing K.S.A. 65-164, K.S.A. 65-165, K.S.A. 65-166,

K.S.A. 2004 Supp. 65-171d, and K.S.A. 65-171h; effective May 20, 2005.)

**28-16-163. Required hydrogeologic information for new or modified municipal, commercial, or industrial wastewater lagoons.** (a) Each hydrogeologic investigation that is conducted by or on behalf of the permittee for new or modified wastewater lagoons shall consist of borings or excavations to a depth of at least 10 feet below the bottom of the wastewater lagoon or to impenetrable bedrock if impenetrable bedrock is encountered less than 10 feet below the lagoon bottom. The bottom of the lagoon shall be determined by the lowest interior surface elevation, at finished grade, of the lagoon structure.

(b) The permittee shall ensure that a minimum of one boring or excavation is performed for each acre of wastewater lagoon, with the area being calculated based on the interior dike dimensions measured at the top of the dike. If the wastewater lagoon is less than one acre in size, a minimum of one boring or excavation shall be required.

(c) The minimum requirements for a hydrogeologic site investigation shall consist of the following:

(1) The logging of all borings or excavations identifying the soil types encountered;

(2) recording the ground surface elevation and location of each boring or excavation. The elevation may be based upon the project datum;

(3) measuring and recording static groundwater levels after the groundwater level has stabilized following the boring or excavation. If no water is readily evident at the time of the boring or excavation, the boring or excavation shall be left open for a minimum of 24 hours. If, after 24 hours, no water is observed, a determination of "no groundwater" shall be reported. Water wells in the immediate vicinity of the proposed wastewater lagoon may be used to help document the presence or absence of groundwater and establish the groundwater elevation, in addition to the borings or excavations, for the hydrogeologic investigation if the secretary or designee agrees to accept the data as being representative of the proposed site;

(4) the collection of sufficient representative soil samples, if in situ soil materials will be employed in the construction of the compacted soil liner or the lagoon structure, for analysis in determining soil classification, compaction, and permeability for use in designing the lagoon soil liner or embankments, as appropriate; and

(5) a summary, to be submitted with or as a part of the engineering report, evaluating the hydrogeologic information obtained and an analysis of that information regarding the expected impact that the observed hydrogeologic conditions will have on the construction of lagoon embankments and, as appropriate, the expected performance of a constructed soil liner in regard to complying with the maximum soil liner seepage rate requirement.

(d) Hydrogeologic information shall not be required for erosion-control ponds associated with construction activities.

(e) Each permit applicant or permittee, if directed by the secretary, shall notify the department a minimum of two days before performing any hydrogeologic investigation fieldwork activities to allow the opportunity for department staff to witness the activities.

(f) All hydrogeologic information shall be obtained by or under the direct supervision of either a licensed professional engineer or a licensed geologist. (Authorized by K.S.A. 2003 Supp. 65-171d; implementing K.S.A. 65-170b and K.S.A. 2003 Supp. 65-171d; effective May 20, 2005.)

**28-16-164. Municipal, commercial, and industrial wastewater treatment system lagoons: soil liner design.**

(a) Each permit applicant shall submit with the construction plans and specifications hydrogeologic information, soil testing data, and design calculations documenting that the proposed use of in situ soils or a constructed soil liner is capable of meeting the required maximum soil liner seepage rate.

(b) Whether in situ soils or a constructed soil liner is utilized for the wastewater lagoon, a minimum of one foot of natural soil or one foot of constructed liner shall be provided. (Authorized by K.S.A. 2003 Supp. 65-171d; implementing K.S.A. 65-164, 65-165, 65-166, and K.S.A. 2003 Supp. 65-171d; effective May 20, 2005.)

**28-16-165. Municipal, commercial, and industrial soil liners: postconstruction testing.**

(a) Each permit applicant or permittee proposing a new municipal, commercial, or industrial wastewater treatment lagoon that will employ a soil liner system shall, when submitting construction plans and specifications to KDHE for review and consideration for approval, also submit information addressing each method to be employed for postconstruction testing of the soil liner for compliance with the required maximum soil liner seepage rate. Each proposed test method shall provide an appropriate degree of monitoring sensitivity and accuracy in addressing the following test variables:

- (1) The maximum soil liner seepage rate;
- (2) the surface area of the lagoon being tested;
- (3) the proposed duration of the test;
- (4) the time of year and general weather conditions expected during the test period;
- (5) the proposed monitoring equipment;
- (6) the expected magnitude of evaporation during the test period;
- (7) the degree that wind and wave action will impact measurement accuracy; and
- (8) the frequency of data collection during the test period.

(b) Within 45 days following the completion of construction, the permittee or applicant shall submit to the department a certification and, if requested, any supporting documentation, confirming that the wastewater lagoon and the wastewater lagoon liner system were constructed in accordance with the plans and specifications approved by the secretary.

(c) The certification specified in subsection (b) shall be signed by a licensed professional engineer who monitored the construction activities and installation of the soil liner system. The certification shall be based on actual observations by the licensed professional engineer, or designee, during construction and any field or laboratory data developed during or following construction.

The construction activities and any sample collection for field or laboratory data developed during or follow-

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ing construction shall be directly observed by the licensed professional engineer or designee. The monitoring of construction activities or the collection of samples or data shall be conducted by the licensed professional engineer or a designee under the licensed professional engineer's direct supervision.

(d)(1) Within eight months following approval by the secretary to initiate the filling or use of the wastewater lagoon, the permittee or permit applicant shall conduct and report, to KDHE, the results of the postconstruction testing of the soil liner for compliance with the required maximum soil liner seepage rate. This report shall meet the requirements specified in paragraph (d)(2). If the required maximum soil liner seepage rate can not be met, the report submitted to KDHE for review and consideration for approval shall provide a plan and schedule of proposed actions required to achieve compliance.

(2) The postconstruction testing specified in paragraph (d)(1) shall be conducted in conformance with the method or methods approved by the secretary to ensure the protection of public health and the environment. The postconstruction testing of the soil liner shall be conducted by a licensed professional engineer or a designee under the licensed professional engineer's direct supervision.

The permittee or permit applicant shall provide a certification signed by the licensed professional engineer as to whether or not the soil liner meets the required maximum soil liner seepage rate.

(e) Each permit applicant, when directed by the secretary, shall notify the department a minimum of two days before performing any soil liner seepage testing to allow the opportunity for department staff to witness the test.

(f) Postconstruction testing shall not be required for erosion-control sediment ponds associated with construction activities. (Authorized by K.S.A. 2004 Supp. 65-171d and K.S.A. 65-171h; implementing K.S.A. 65-164, K.S.A. 65-165, K.S.A. 65-166, K.S.A. 65-170b, K.S.A. 2004 Supp. 65-171d, and K.S.A. 65-171h; effective May 20, 2005.)

**28-16-166. Requirements for impermeable synthetic membrane liners in municipal or commercial wastewater treatment system lagoons.** (a) The following requirements shall apply to municipal or commercial impermeable synthetic membrane liners:

(1) The liner shall be at least 30 mils (0.030 inch) in thickness.

(2) The engineer designing the wastewater lagoon shall obtain a certification from the liner manufacturer that includes the following:

(A) Confirmation that the specified liner is compatible for use with the proposed wastewater to be retained or treated;

(B) confirmation that the specified liner is resistant to UV (ultraviolet) light; and

(C) the manufacturer's estimated leakage, permeability, or transmissivity rate of the specified liner expressed in units of volume per area per time (gallons per square feet per day) for a properly installed liner. The leakage, permeability, or transmissivity rate shall reflect the expected rate of movement of fluids through a synthetic membrane liner when considering the properties of the liner material, liner thickness, normally expected manu-

facturing defects in the liner material, and normally expected defects associated with the seaming and installation process.

(b) Compaction of the wastewater treatment lagoon embankments and upper six inches of the interior lagoon bottom below the synthetic liner shall be a minimum of 95 percent of the maximum standard proctor density at optimum moisture to optimum moisture plus three percent. The maximum thickness of the layers of material to be compacted shall not exceed six inches. The moisture content range of the soils being compacted shall be optimum moisture to optimum moisture plus three percent. The maximum size of dirt clods in the compacted soil shall be less than one inch in diameter.

(c) The liner shall be anchored at the top of the wastewater lagoon dike. The method of anchoring the liner shall conform to the manufacturer's installation instructions.

(d) The liner shall be installed in accordance with the liner manufacturer's instructions and guidance. Either the liner shall be installed by a contractor experienced in the installation of impermeable synthetic membrane liners, or the contractor shall provide for the on-site supervision of the liner installation by an individual that has experience installing liners.

(e) The construction plans and specifications shall include provisions for the use of a reliable seam-testing method that shall be used to verify the adequacy of the seaming process. The methods for destructive and non-destructive seam testing shall be specified, along with a protocol describing the number of tests per lineal foot of field seam, the size of the destructive test specimen required, and any other quality control provisions recommended by the liner manufacturer. All field seams shall be subjected to non-destructive testing.

(f) The Kansas "minimum standards of design for water pollution control facilities" shall be utilized in the design and the establishment of construction criteria for wastewater lagoons, unless different criteria are specified in K.A.R. 28-16-160 through K.S.A. 28-16-174. If there is any difference between the design and construction criteria specified in K.A.R. 28-16-160 through K.A.R. 28-16-174 and either the Kansas "minimum standards of design for water pollution control facilities" or regulations in articles 5, 13, or 30, the design and construction criteria specified in K.A.R. 28-16-160 through K.A.R. 28-16-174 shall control.

(g) A minimum of two feet of in situ or compacted soil shall be provided beneath the liner or bedding material.

(h) Each applicant or permittee shall develop and submit with the construction plans and specifications a contingency plan, for KDHE review and consideration for approval, that outlines procedures for pond containment and operation during periods of maintenance and during periods of required dewatering if a liner fails or needs to be repaired.

(i)(1) Each permittee shall immediately cease operations or shall comply with the instructions of the secretary, if the secretary determines that an imminent threat or the potential for an imminent threat to public health or the environment exists due to any unsafe operating condition. Considerations regarding an imminent threat

or the potential for an imminent threat to public health or the environment shall include the following:

- (A) The pollutant or pollutants involved;
- (B) the integrity of the impermeable synthetic membrane liner;
- (C) the depth to groundwater;
- (D) the monitoring well or water supply well data;
- (E) the mobility of the pollutant or pollutants through soil or groundwater;
- (F) the potential exposure to the public; and
- (G) the potential for uncontrolled release into the environment.

(2) The permittee may resume operations if the secretary determines that the wastewater lagoon no longer poses a risk to public health and the environment. (Authorized by K.S.A. 2004 Supp. 65-171d and K.S.A. 65-171h; implementing K.S.A. 65-164, K.S.A. 65-165, K.S.A. 65-166, K.S.A. 2004 Supp. 65-171d, and K.S.A. 65-171h; effective May 20, 2005.)

**28-16-167. Requirements for impermeable synthetic membrane liners in industrial wastewater treatment system lagoons.** (a) The following requirements shall apply to industrial impermeable synthetic membrane liners:

(1) The impermeable synthetic membrane liner system shall be comprised of primary and secondary impermeable synthetic membrane liners with an intermediate leak detection system provided.

(2) Each primary and secondary liner shall be at least 30 mils (0.030 inch) in thickness.

(3) The licensed professional engineer designing the wastewater lagoon shall obtain a certification from the liner manufacturer that includes the following:

(A) Confirmation that the specified liner is compatible for use with the proposed wastewater to be retained or treated;

(B) confirmation that the specified liner is resistant to UV (ultraviolet) light; and

(C) the manufacturer's estimated leakage, permeability, or transmissivity rate of the specified liners expressed in units of volume per area per time (gallons per square feet per day) for a properly installed liner. The leakage, permeability, or transmissivity rate shall reflect the expected rate of movement of fluids through a synthetic membrane liner when considering the properties of the liner material, liner thickness, normally expected manufacturing defects in the liner material, and normally expected defects associated with the seaming and installation process.

(b) A minimum of two cells shall be provided to allow for flexibility of operation and maintenance of the wastewater lagoon system. This requirement may be waived by the secretary if an approved alternative wastewater disposal option is available and the operator agrees to employ the alternative wastewater disposal option when the wastewater lagoon system is required to be dewatered. Each approved alternative wastewater disposal option shall include a means of disposal for which the required permits, licenses, or authorizations have been obtained.

(c) The primary and secondary liners shall be separated to provide a conduit to allow the movement of any fluid

between the liners so that the fluid can be directed to the leak-detection monitoring location for detection and removal. Clean sand, pea gravel, geotextile fabric, and geonet-type materials may be employed to provide the required separation between the primary and secondary liners if a conduit allowing for fluid movement to the leak-detection monitoring location is provided. Alternatives may be recommended by the liner manufacturer or design engineer and shall be submitted to the secretary for review and consideration for approval.

(d) The secondary liner in the pond bottom shall have at least a 2.5 percent slope towards the leak-detection system's monitoring sump, manhole, observation pipe, or other similar leak-detection monitoring mechanism. Any piping used to collect or route fluids to the leak-detection monitoring mechanism shall have at least a one percent slope. The leak-detection system design shall ensure that the maximum travel time required for fluid penetrating the liner to reach the leak-detection monitoring location is 24 hours or less.

(e) The design of the impermeable synthetic membrane liner system shall provide for the capability to perform the following:

(1) Routinely dewater and monitor the volume of fluid removed from the intermediate space between the primary and secondary liners;

(2) pump a volume of fluid generated that is equal to 10 times the maximum synthetic membrane liner leakage rate; and

(3) collect a representative sample of fluid being pumped.

(f) Compaction of the wastewater treatment lagoon embankments and upper six inches of the interior lagoon bottom below the secondary liner shall be a minimum of 95 percent of the maximum standard proctor density at optimum moisture to optimum moisture plus three percent. The maximum thickness of the layers of material to be compacted shall not exceed six inches. The moisture content range of the soils being compacted shall be optimum moisture to optimum moisture plus three percent. The maximum size of dirt clods in the compacted soil shall be less than one inch in diameter.

(g) The primary and secondary liners shall be anchored at the top of the wastewater lagoon dike. The method of anchoring the primary and secondary liners shall conform to the manufacturer's installation instructions.

(h) The liner shall be installed in accordance with the liner manufacturer's instructions. Either the liner shall be installed by a contractor experienced in the installation of impermeable synthetic membrane liners, or the contractor shall provide for the on-site supervision of the liner installation by an individual that has experience installing liners.

(i) The construction plans and specifications shall include provisions for the use of a reliable seam-testing method that shall be used to verify the adequacy of the seaming process. The methods for destructive and non-destructive seam testing shall be specified, along with detailed procedures describing the number of tests per lineal foot of field seam, the size of the destructive test specimen required, and any other pertinent quality con-

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trol provisions recommended by the liner manufacturer. All field seams shall be subjected to non-destructive testing.

(j) The Kansas "minimum standards of design for water pollution control facilities" shall be utilized in the design and the establishment of construction criteria for wastewater lagoons, unless different criteria are specified in K.A.R. 28-16-160 through K.A.R. 28-16-174. If there is any difference between the design and construction criteria specified in K.A.R. 28-16-160 through K.A.R. 28-16-174 and either the Kansas "minimum standards of design for water pollution control facilities" or regulations in articles 5, 13, or 30, the design and construction criteria specified in K.A.R. 28-16-160 through K.A.R. 28-16-174 shall control.

(k) A minimum of two feet of in situ or compacted soil shall be provided beneath the bottom of the secondary liner or liner bedding material.

(l) Each applicant or permittee shall develop and submit with the construction plans and specifications a contingency plan, for the secretary's review and consideration for approval, that outlines procedures for pond containment and operation during periods of maintenance and periods of required dewatering if a liner fails or needs to be repaired or replaced.

(m)(1) Each permittee shall immediately cease operations or shall comply with the instructions of the secretary, if the secretary determines that an imminent threat or the potential for an imminent threat to public health or the environment exists due to any unsafe operating condition. Considerations regarding an imminent threat or the potential for an imminent threat to public health or the environment shall include the following:

- (A) The pollutant or pollutants involved;
- (B) the integrity of the impermeable synthetic membrane liner;
- (C) the depth to groundwater;
- (D) the monitoring well or water supply well data;
- (E) the mobility of the pollutant or pollutants through soil or groundwater;
- (F) the potential exposure to the public; and
- (G) the potential for uncontrolled release into the environment.

(2) The permittee may resume operations if the secretary determines that the wastewater lagoon no longer poses a risk to public health and the environment. (Authorized by K.S.A. 2004 Supp. 65-171d and K.S.A. 65-171h; implementing K.S.A. 65-164, K.S.A. 65-165, K.S.A. 65-166, K.S.A. 2004 Supp. 65-171d, and K.S.A. 65-171h; effective May 20, 2005.)

**28-16-168. Postconstruction testing of municipal, commercial, and industrial impermeable synthetic membrane liners.** (a) Each permit applicant or permittee proposing a new municipal, commercial, or industrial wastewater treatment lagoon that will employ an impermeable synthetic membrane liner shall, when submitting construction plans and specifications to the secretary for review and consideration for approval, also submit information addressing each method to be employed for postconstruction testing of the impermeable synthetic membrane liner to ensure that it is installed properly and

for compliance with the required maximum synthetic membrane liner leakage rate. Each proposed test method shall provide an appropriate degree of monitoring sensitivity and accuracy in addressing the following test variables:

- (1) The maximum synthetic membrane liner leakage rate;
- (2) the surface area of the lagoon being tested;
- (3) the proposed duration of the test;
- (4) the time of year and general weather conditions expected during the test period;
- (5) the proposed monitoring equipment;
- (6) the expected magnitude of evaporation during the test period;
- (7) the degree that wind and wave action will impact measurement accuracy; and
- (8) the frequency of data collection during the test period.

(b) Within 45 days following the completion of construction, the permittee or applicant shall submit to the department a certification and, if requested, any supporting documentation, confirming that the wastewater lagoon and the wastewater lagoon liner system were constructed in accordance with the plans and specifications approved by the secretary.

(c) The certification shall be signed by the licensed professional engineer who monitored the construction activities and installation of the impermeable synthetic membrane liner or liner system. The licensed professional engineer's certification shall be based on actual observations during construction and installation and any field or laboratory data developed during or following construction or installation.

The construction and installation activities and any testing or sample collection for field or laboratory data developed during or following construction and installation shall be directly observed by the licensed professional engineer or designee. The monitoring of construction and installation activities or the collection of samples or data shall be conducted by a licensed professional engineer or a designee under the licensed professional engineer's direct supervision.

(d)(1) Within two months, or an alternative time frame proposed by the design engineer and approved by secretary, and following approval by the secretary to initiate the filling or use of the lagoon, the permittee shall conduct and report, to KDHE, the results of the postconstruction testing of the impermeable synthetic membrane liner or liner system for compliance with the required maximum synthetic membrane liner leakage rate. This report shall meet the requirements specified in paragraph (d)(2). If the required maximum synthetic membrane liner leakage rate can not be met, the report shall provide a plan and schedule of proposed actions required to achieve compliance, for review and consideration for approval by the secretary.

(2) The postconstruction testing specified in paragraph (d)(1) shall be conducted in conformance with the method or methods approved by the secretary, pursuant to subsection (a), to ensure the protection of public health and the environment. The postconstruction monitoring or testing of the synthetic membrane liner or liner system



shall be conducted by a licensed professional engineer or a designee, under the engineer's supervision.

The permittee shall provide a certification signed by the licensed professional engineer as to whether or not the synthetic membrane liner or liner system complies with the maximum synthetic membrane liner leakage rate.

(e) Each permit applicant, when directed by the secretary, shall notify the department a minimum of two days before performing any leak-detection testing, on the entire liner, to allow the opportunity for department staff to witness the test. (Authorized by K.S.A. 2004 Supp. 65-171d and K.S.A. 65-171h; implementing K.S.A. 65-164, K.S.A. 65-165, K.S.A. 65-166, K.S.A. 65-170b, K.S.A. 2004 Supp. 65-171d, and K.S.A. 65-171h; effective May 20, 2005.)

**28-16-169. Minimum standards of design, construction, and maintenance.** (a) The permit applicant or permittee shall design and construct municipal, commercial, and industrial wastewater treatment system lagoons to conform to effluent standards, effluent limitations, pre-treatment requirements, other performance standards, and standards of design, construction, and maintenance for wastewater control facilities published by the department as "minimum standards of design for water pollution control facilities" and adopted by reference in K.A.R. 28-16-58, or the provisions of K.A.R. 28-16-160 through 28-16-174.

(b) If there is a discrepancy between K.A.R. 28-16-160 through 28-16-174 and the "minimum standards of design, construction, and maintenance" as defined in K.A.R. 28-16-160, K.A.R. 28-16-160 through 28-16-174 shall control. (Authorized by K.S.A. 2003 Supp. 65-171d and K.S.A. 65-171h; implementing K.S.A. 65-164, 65-165, 65-166, K.S.A. 2003 Supp. 65-171d, and K.S.A. 65-171h; effective May 20, 2005.)

**28-16-170. Water, oil, or gas wells.** (a) Each permit applicant or permittee submitting construction plans for a municipal, commercial, or industrial wastewater treatment system lagoon shall identify, on the construction plans, the location of any active, abandoned, or plugged water, oil, or gas well within 600 feet of any proposed location for a wastewater lagoon.

(b) If the permit applicant or permittee is unable to confirm the exact location of any well or wells, the permit applicant or permittee shall include in the construction plans a note indicating the potential for the well or wells to be encountered in the vicinity of the proposed wastewater lagoon.

(c) Each active, abandoned, or plugged water, oil, or gas well that is encountered during construction and that was not identified or located on the construction plans shall be reported to the department within 48 hours of discovery. Construction activities that have the potential to impact the well shall be immediately terminated until the secretary or designee authorizes the construction to resume. (Authorized by K.S.A. 2003 Supp. 65-171d; implementing K.S.A. 65-165, 65-166, K.S.A. 2003 Supp. 65-171d, and K.S.A. 65-171h; effective May 20, 2005.)

**28-16-171. Monitoring wells.** (a) The installation and sampling of groundwater monitoring wells in the vi-

cinity of any municipal, commercial, or industrial wastewater treatment system lagoon may be required by the secretary. Equivalent technology, in lieu of requiring the installation and sampling of groundwater monitoring wells, may be required or authorized by the secretary.

(b) The location, design, and proposed construction of monitoring wells or the use of equivalent technology in lieu of monitoring wells shall be subject to approval by the secretary. Approval of the location, design, and proposed construction of monitoring well or wells or the use of equivalent technology shall be approved by the secretary before the permit applicant or permittee initiates installation.

(c) Groundwater monitoring wells shall be constructed by KDHE-licensed water well contractors.

(d) When directed by KDHE to install any groundwater monitoring well or wells, the applicant or permittee shall submit a groundwater monitoring plan for review and approval by the secretary. Each plan shall address the following:

- (1) The location of each proposed monitoring well;
- (2) the monitoring well design and materials proposed for construction;

(3) a quality assurance plan addressing techniques for monitoring the static groundwater elevation, collecting samples, preserving samples, and laboratory analysis by a KDHE-certified laboratory for the parameters being analyzed. (Authorized by K.S.A. 2003 Supp. 65-171d; implementing K.S.A. 65-164, 65-170b, and K.S.A. 2003 Supp. 65-171d; effective May 20, 2005.)

**28-16-172. Plan and specification approval; permit issuance.** (a) Neither the approval of an engineering report, hydrogeologic report, construction plans, or construction specifications nor the issuance of a permit by the secretary shall prohibit the secretary from taking any enforcement action if the municipal, commercial, or industrial wastewater lagoon fails to protect waters of the state, meet any specified effluent criteria, or comply with state surface water quality standards. In addition, an approval or permit issuance shall not constitute a defense by the permit applicant or permittee regarding the violation of any statute, regulation, permit condition, or requirement.

(b) The permit applicant or permittee shall not deviate from the plans and specifications submitted to and approved by the secretary, unless amended plans and specifications showing the proposed changes are submitted to and approved by the secretary. (Authorized by K.S.A. 2003 Supp. 65-171d; implementing K.S.A. 65-164 and K.S.A. 2003 Supp. 65-171d; effective May 20, 2005.)

**28-16-173. Municipal, commercial, and industrial wastewater lagoons: closure requirements.** (a) Each wastewater lagoon permittee shall notify the secretary of any plans to cease operation of, close, or abandon a municipal, commercial, or industrial wastewater lagoon or lagoon system.

(b) Each permittee shall maintain and comply with a valid Kansas water pollution control permit until the secretary approves the closure of the wastewater lagoon or lagoon system.

*(continued)*

(c) Each permit applicant or permittee shall develop and submit a wastewater lagoon closure plan for review and consideration for approval by the secretary along with the construction plans and specifications for any new, modified, or expanded wastewater lagoon or lagoon system.

(d) Each wastewater lagoon closure plan shall, at a minimum, include all of the following:

(1) The procedure for deactivating the various wastewater collection and treatment units employed at the facility;

(2) the procedures to be employed to remediate, remove, or dispose of wastewater, accumulated sludge in the wastewater lagoon or lagoons, any impermeable synthetic membrane liner, contaminated soils, and contaminated groundwater;

(3) a description regarding the proposed maintenance, deactivation, conversion, or demolition of the wastewater lagoon structure;

(4) procedures addressing the plugging of any water wells or groundwater monitoring wells associated with the facility, wastewater lagoon, or wastewater lagoon system; and

(5) an estimate of the design life of an impermeable synthetic membrane liner if this type of liner is utilized at the wastewater lagoon.

(e) Each permittee of a wastewater lagoon shall prepare or update, when directed by the secretary, a wastewater lagoon closure plan for review and consideration for approval by the secretary and shall retain the plan at the facility in a manner that is accessible for inspection by the department.

(f) The closure of a wastewater lagoon or lagoon system shall be completed within one year of authorization by the secretary to initiate closure.

(g) Each permittee requesting an extension of time for closure of a wastewater lagoon shall submit the request

in writing to the secretary, and the request shall detail the reasons for the requested extension. Consideration of weather conditions and the legal change in ownership of the facility may constitute grounds for the secretary's consideration in granting an extension. (Authorized by K.S.A. 2003 Supp. 65-171d and K.S.A. 65-171h; implementing K.S.A. 65-164, K.S.A. 2003 Supp. 65-171d, and K.S.A. 65-171h; effective May 20, 2005.)

**28-16-174. Variance from specific requirements.**

(a) Each person seeking a variance from any of the requirements in K.A.R. 28-16-160 through 28-16-173 shall submit to the secretary, in writing, a request for the variance and shall provide information and data relevant to the variance request, for the secretary's review and consideration for approval.

(b) Each variance request shall specify why the request should be considered and how the requested variance meets the provisions of K.A.R. 28-16-160 through 28-16-173 and provides for protection of public health and the environment.

(c) A variance may be granted by the secretary if the request is in keeping with the provisions of K.A.R. 28-16-160 through 28-16-173 and the secretary determines that the requested variance will protect public health and the environment. In evaluating each variance request, site-specific conditions, which may include the depth to groundwater, the quantity of groundwater present, hydrogeologic factors, alternative technical information, and alternative designs, shall be considered by the secretary. (Authorized by K.S.A. 2003 Supp. 65-171d; implementing K.S.A. 65-164 and K.S.A. 2003 Supp. 65-171d; effective May 20, 2005.)

Roderick L. Bremby  
Secretary of Health  
and Environment

Doc. No. 031894

**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
4-15-7	Amended	V. 24, p. 550
4-15-8	Amended	V. 24, p. 550
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
4-28-1 through 4-28-7	New	V. 24, p. 145, 146

**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
7-34-2	New (T)	V. 24, p. 42
7-34-2	New	V. 24, p. 332

**AGENCY 9: ANIMAL HEALTH DEPARTMENT**

Reg. No.	Action	Register
9-2-32	Amended (T)	V. 24, p. 272
9-11-10	Amended (T)	V. 24, p. 272

**AGENCY 10: KANSAS BUREAU OF INVESTIGATION**

Reg. No.	Action	Register
10-22-1	New	V. 24, p. 245

**AGENCY 11: STATE CONSERVATION COMMISSION**

Reg. No.	Action	Register
11-11-1 through 11-11-7	New	V. 24, p. 242-244

**AGENCY 16: ATTORNEY GENERAL**

Reg. No.	Action	Register
16-1-7	Amended	V. 24, p. 95
16-4-2	New	V. 24, p. 95
16-4-3	New	V. 24, p. 95
16-4-4	New	V. 24, p. 96
16-6-1	Amended	V. 24, p. 96

**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
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
28-16-28b through 28-16-28f	Amended	V. 24, p. 42-51
28-16-28g	New	V. 24, p. 52
28-16-58	Amended	V. 24, p. 52
28-17-1	Amended (T)	V. 23, p. 1597
28-17-1	Amended	V. 24, p. 178
28-17-6	Amended (T)	V. 23, p. 1598
28-17-6	Amended	V. 24, p. 179
28-17-20	Amended (T)	V. 23, p. 1598
28-17-20	Amended	V. 24, p. 179
28-17-22	New (T)	V. 23, p. 1600
28-17-22	New	V. 24, p. 181
28-19-202	Amended	V. 23, p. 70
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

**(By Department of Agriculture)**

28-36-1	Revoked	V. 24, p. 146
28-36-32	Revoked	V. 24, p. 146
28-36-60	Revoked	V. 24, p. 146
28-36-120	Revoked	V. 24, p. 146

**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. 24, p. 333
30-5-71	Amended	V. 23, p. 1211
30-5-81u	Amended	V. 24, p. 271
30-6-91	New	V. 23, p. 894
30-10-1a	Amended	V. 24, p. 489
30-10-1b	Amended	V. 24, p. 491
30-10-1d	Amended	V. 24, p. 492
30-10-11	Amended	V. 24, p. 492
30-10-17	Amended	V. 24, p. 494
30-10-18	Amended (T)	V. 24, p. 23
30-10-18	Amended	V. 24, p. 334
30-10-19	Amended	V. 24, p. 495
30-10-20	Amended	V. 24, p. 496
30-10-23a	Amended	V. 24, p. 496
30-10-23b	Amended	V. 24, p. 497
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 36: DEPARTMENT OF TRANSPORTATION**

Reg. No.	Action	Register
36-41-1 through 36-41-5	New (T)	V. 24, p. 273, 274

**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
40-3-53	New	V. 24, p. 615

**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

(continued)

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
66-6-4	Amended	V. 24, p. 79
66-8-5	Amended	V. 23, p. 95
66-8-8	New	V. 24, p. 80
66-9-6	Amended	V. 24, p. 80
66-9-7	New	V. 24, p. 80
66-10-14	New	V. 24, p. 80
66-14-3	Amended	V. 24, p. 80
66-14-5	Amended	V. 24, p. 81

**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
69-1-4	Amended	V. 24, p. 392

**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
71-2-2	Amended	V. 24, p. 338
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
82-4-3	Amended (T)	V. 24, p. 97
82-4-3	Amended	V. 24, p. 463
82-4-3a		
through		
82-4-3m	New (T)	V. 24, p. 97-122
82-4-3a		
through		
82-4-3m	New	V. 24, p. 463-488

**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
91-1-68a		
through		
91-1-68e	Revoked	V. 23, p. 1111
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
91-8-2	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
91-15-1	Amended	V. 24, p. 272
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
91-35-1		
through		
91-35-4	Revoked	V. 24, p. 272

**AGENCY 92: DEPARTMENT OF REVENUE**

Reg. No.	Action	Register
92-12-113	New	V. 24, p. 423
92-26-4	Amended	V. 23, p. 1533
92-51-34a	Amended	V. 24, p. 423

**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
102-1-13	Amended	V. 24, p. 424
102-1-18	Amended	V. 24, p. 424
102-2-3	Amended	V. 24, p. 424
102-2-8	Amended	V. 24, p. 424
102-2-12	Amended	V. 24, p. 426
102-2-14	Amended	V. 24, p. 427
102-3-2	Amended	V. 24, p. 428
102-3-3a	Amended (T)	V. 24, p. 330
102-3-7a	Amended	V. 23, p. 1139
102-3-15	Amended	V. 24, p. 428
102-4-2	Amended	V. 24, p. 428
102-4-3a	Amended	V. 23, p. 1141
102-4-4a	Amended	V. 23, p. 1143
102-4-7a	Amended	V. 23, p. 1144
102-4-15	Amended	V. 24, p. 428
102-5-2	Amended	V. 24, p. 428
102-5-4a	Amended	V. 23, p. 1145
102-5-7a	Amended	V. 23, p. 1147
102-5-14	Amended	V. 24, p. 429

**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
110-8-8		
through		
110-8-11	Revoked	V. 23, p. 1595
110-10-1	New	V. 23, p. 180
110-11-1	New	V. 24, p. 429
110-11-2	New	V. 24, p. 429
110-11-3	New	V. 24, p. 429
110-12-1		
through		
110-12-6	New	V. 24, p. 371

**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	111-7-188			123-12-101		
111-2-160	New	V. 23, p. 1655	through			through		
111-2-161	New	V. 23, p. 1655	111-7-192	New	V. 23, p. 319, 320	123-12-107	New	V. 24, p. 301, 302
111-2-162	New	V. 23, p. 1655	111-7-190	Amended	V. 23, p. 473	123-12-201		
111-2-163	New	V. 24, p. 15	111-7-192	Amended	V. 23, p. 473	through		
111-2-164	New	V. 24, p. 199	111-7-193			123-12-210	New	V. 24, p. 302, 303
111-2-165	New	V. 24, p. 296	through			123-12-301		
111-2-166	New	V. 24, p. 296	111-7-197	New	V. 24, p. 436, 437	through		
111-2-167			111-9-122	New	V. 23, p. 910	123-12-315	New	V. 24, p. 303-305
through			111-9-123	New	V. 23, p. 910	123-12-317	New	V. 24, p. 305
111-2-172	New	V. 24, p. 430, 431	111-9-124	New	V. 24, p. 437	123-12-318	New	V. 24, p. 305
111-2-173	New	V. 24, p. 460	111-9-125	New	V. 24, p. 438	123-12-319	New	V. 24, p. 306
111-2-174	New	V. 24, p. 460	111-9-126	New	V. 24, p. 438	123-12-321		
111-3-13	Amended	V. 23, p. 1433	111-11-1			through		
111-3-22	Amended	V. 23, p. 97	through			123-12-325	New	V. 24, p. 306
111-4-881	Amended	V. 23, p. 97	111-11-11	New	V. 23, p. 911-914	123-12-327	New	V. 24, p. 306
111-4-1448	Amended	V. 23, p. 98	111-11-1	Amended	V. 23, p. 1077	123-12-328	New	V. 24, p. 307
111-4-2052	Amended	V. 23, p. 262	111-12-1	New	V. 23, p. 914	123-12-401	New	V. 24, p. 307
111-4-2055	Amended	V. 23, p. 263	<b>AGENCY 112: RACING AND GAMING COMMISSION</b>					
111-4-2057	Amended	V. 23, p. 263	<b>Reg. No.</b>	<b>Action</b>	<b>Register</b>	123-12-505	New	V. 24, p. 307, 308
111-4-2074	Amended	V. 23, p. 98	112-10-3	Amended	V. 23, p. 93	123-12-505b	New	V. 24, p. 308
111-4-2093	Amended	V. 23, p. 309	112-10-5	Amended	V. 23, p. 1073	123-12-506	New	V. 24, p. 308
111-4-2094	New	V. 23, p. 100	112-10-6	Amended	V. 23, p. 1073	123-12-601	New	V. 24, p. 308
111-4-2095			112-10-6a	New	V. 23, p. 1074	123-12-602	New	V. 24, p. 310
through			112-10-6a	New	V. 23, p. 495	123-12-702	New	V. 24, p. 310
111-4-2115	New	V. 23, p. 264-275	112-13-2	Amended	V. 23, p. 94	123-12-801	New	V. 24, p. 310
111-4-2097	Amended	V. 23, p. 310	<b>AGENCY 115: DEPARTMENT OF WILDLIFE AND PARKS</b>					
111-4-2098	Amended	V. 23, p. 310	<b>Reg. No.</b>	<b>Action</b>	<b>Register</b>	123-12-901	New	V. 24, p. 310
111-4-2116			115-2-1	Amended	V. 24, p. 147	123-12-902	New	V. 24, p. 310
through			115-2-2	Amended	V. 23, p. 1581	123-12-1001	New	V. 24, p. 311
111-4-2125	New	V. 23, p. 311-318	115-2-3	Amended	V. 23, p. 1581	123-12-1002	New	V. 24, p. 311
111-4-2126			115-2-3a	New	V. 23, p. 1582	123-12-1101	New	V. 24, p. 311
through			115-3-2	Amended	V. 24, p. 148	123-12-1201	New	V. 24, p. 312
111-4-2146	New	V. 23, p. 459-471	115-4-2	Amended	V. 24, p. 420	123-12-1202	New	V. 24, p. 312
111-4-2147			115-4-4	Amended	V. 24, p. 421	123-12-1301	New	V. 24, p. 312
through			115-4-4a	New	V. 24, p. 422	123-12-1302	New	V. 24, p. 312
111-4-2160	New	V. 23, p. 901-909	115-4-6	Amended	V. 24, p. 148	123-12-1303	New	V. 24, p. 312
111-4-2161			115-4-6a	New	V. 24, p. 151	123-12-1306	New	V. 24, p. 312
through			115-4-11	Amended	V. 24, p. 151	123-12-1308	New	V. 24, p. 313
111-4-2173	New	V. 23, p. 1025-1033	115-4-13	Amended	V. 24, p. 422	123-13-101	New	V. 24, p. 342
111-4-2174	New	V. 23, p. 1074	115-4-14	New	V. 23, p. 1583	123-13-101a	New	V. 24, p. 343
111-4-2175	New	V. 23, p. 1075	115-5-1	Amended	V. 24, p. 152	123-13-103	New	V. 24, p. 343
111-4-2176	New	V. 23, p. 1076	115-7-1	Amended	V. 23, p. 1584	123-13-105	New	V. 24, p. 343
111-4-2177			115-7-2	Amended	V. 24, p. 153	123-13-106	New	V. 24, p. 343
through			115-9-4	Amended	V. 24, p. 153	123-13-201	New	V. 24, p. 343
111-4-2180	New	V. 23, p. 1169-1171	115-11-2	Amended	V. 24, p. 153	123-13-201b	New	V. 24, p. 344
111-4-2181			115-15-1	Amended	V. 24, p. 154	123-13-202	New	V. 24, p. 345
through			115-15-2	Amended	V. 24, p. 155	123-13-203	New	V. 24, p. 345
111-4-2185	New	V. 23, p. 1343-1346	115-18-1	Amended	V. 24, p. 156	123-13-306	New	V. 24, p. 345
111-4-2186			115-18-7	Amended	V. 24, p. 159	123-13-307	New	V. 24, p. 346
through			115-18-10	Amended	V. 23, p. 1043	123-13-401		
111-4-2195	New	V. 23, p. 1434-1438	115-18-14	Amended	V. 23, p. 1585	through		
111-4-2196			115-20-1	Amended	V. 24, p. 159	123-13-404	New	V. 24, p. 346-348
through			115-20-2	Amended	V. 24, p. 160	123-13-405a	New	V. 24, p. 349
111-4-2205	New	V. 23, p. 1655-1659	<b>AGENCY 117: REAL ESTATE APPRAISAL BOARD</b>					
111-4-2206			<b>Reg. No.</b>	<b>Action</b>	<b>Register</b>	123-13-406	New	V. 24, p. 349
through			117-2-2	Amended	V. 23, p. 1407	123-13-408	New	V. 24, p. 350
111-4-2213	New	V. 24, p. 15-22	117-3-2	Amended	V. 23, p. 1408	123-13-409	New	V. 24, p. 350
111-4-2214			117-4-2	Amended	V. 23, p. 1408	123-13-501	New	V. 24, p. 350
through			117-6-3	Amended	V. 24, p. 77	123-13-502a	New	V. 24, p. 350
111-4-2227	New	V. 24, p. 199-207	117-7-1	Amended	V. 24, p. 78	123-13-505		
111-4-2228			117-8-1	Amended	V. 24, p. 78	through		
through			117-9-1	Amended	V. 23, p. 150	123-13-509	New	V. 24, p. 350, 351
111-4-2235	New	V. 24, p. 297-300	<b>AGENCY 123: JUVENILE JUSTICE AUTHORITY</b>					
111-4-2236			<b>Reg. No.</b>	<b>Action</b>	<b>Register</b>	123-13-601	New	V. 24, p. 351
through			123-1-101	New	V. 24, p. 301	123-13-602	New	V. 24, p. 351
111-4-2241	New	V. 24, p. 432-435	123-2-105	New	V. 24, p. 338	123-13-603	New	V. 24, p. 351
111-4-2242	New	V. 24, p. 461	123-2-110	New	V. 24, p. 338	123-13-610	New	V. 24, p. 351
111-4-2243	New	V. 24, p. 462	123-5-101	New	V. 24, p. 339	123-13-701		
111-5-96	Amended	V. 23, p. 101	123-5-106	New	V. 24, p. 339	through		
111-5-111			123-5-111	New	V. 24, p. 339	123-13-704	New	V. 24, p. 352, 353
through			123-5-112	New	V. 24, p. 340	123-13-706	New	V. 24, p. 353
111-5-115	New	V. 23, p. 245, 246	123-5-505	New	V. 24, p. 340	123-13-707	New	V. 24, p. 353
111-5-113	Amended	V. 23, p. 472	<b>AGENCY 112: RACING AND GAMING COMMISSION</b>					
111-5-114	Amended	V. 23, p. 472	<b>Reg. No.</b>	<b>Action</b>	<b>Register</b>	123-15-101	New	V. 24, p. 353
111-5-116			123-1-101	New	V. 24, p. 301	123-15-101a	New	V. 24, p. 354
through			123-2-105	New	V. 24, p. 338	123-15-101b	New	V. 24, p. 354
111-5-120	New	V. 24, p. 208, 209	123-5-101	New	V. 24, p. 339	123-15-102	New	V. 24, p. 354
111-6-1	Amended	V. 23, p. 1439	123-5-106	New	V. 24, p. 339	123-15-104	New	V. 24, p. 355
111-6-7	Amended	V. 23, p. 1440	123-5-111	New	V. 24, p. 339	123-15-105	New	V. 24, p. 355
111-6-26	New	V. 24, p. 23	123-5-112	New	V. 24, p. 340	123-15-105a	New	V. 24, p. 356
			123-5-106	New	V. 24, p. 339	123-15-106	New	V. 24, p. 356
			123-5-111	New	V. 24, p. 339	123-15-201	New	V. 24, p. 356
			123-5-112	New	V. 24, p. 340	123-16-102	New	V. 24, p. 356
			123-5-505	New	V. 24, p. 340	123-16-105	New	V. 24, p. 357



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In this issue . . .

Kansas Department of Health and Environment Requests for comments on proposed air quality permits	Page 34, 39
Annual Program Report for the Voluntary Cleanup and Property Redevelopment Program	35
Notice of hearing on proposed air quality permit	36
Notice concerning Kansas water pollution control permit	37
Pooled Money Investment Board Notice of investment rates	35
State Banking Board Notice of 2002 meeting schedule	35
Department of Administration Public notice	36
Wildlife and Parks Commission Notice of hearing on proposed administrative regulations	37
Attorney General Opinions 2001-48 through 2001-56	39
Information Network of Kansas Notice of meeting	39
City of Overland Park Notice to bidders	40
Department of Administration—Division of Purchases Notice to bidders for state purchases	42
	42
	43

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