



# Kansas Register

Ron Thornburgh, Secretary of State

Vol. 26, No. 9    March 1, 2007    Pages 267-310

In this issue . . .	Page
<b>Juvenile Justice Authority</b>	
Notice of JABG State Advisory Board meeting .....	268
<b>Kansas Housing Resources Corporation</b>	
Notice of Annual Performance Report on the Kansas Consolidated Plan.....	268
<b>Department of Administration—Division of Facilities Management</b>	
Notice of commencement of negotiations for architectural and engineering services .....	268
<b>University of Kansas</b>	
Notice to bidders .....	269
<b>Kansas Board of Regents</b>	
Notice of hearing on proposed administrative regulations .....	269
Request for bids for oil and gas lease .....	269
<b>Kansas State Fair Board</b>	
Notice of meeting.....	270
<b>Pooled Money Investment Board</b>	
Notice of investment rates.....	270
<b>Legislative bills and resolutions introduced February 15-21 .....</b>	<b>270</b>
<b>Secretary of State</b>	
Executive appointments .....	271
<b>State Conservation Commission</b>	
Notice of hearings on proposed administrative regulations .....	272
<b>Kansas Department of Transportation</b>	
Notice to contractors .....	273
<b>Kansas Judicial Council</b>	
Notice of meetings .....	274
<b>Notice of Bond Sale</b>	
City of Garden City .....	274
U.S.D. 378, Riley County (Riley).....	275
<b>Department of Administration—Division of Purchases</b>	
Notice to bidders for state purchases .....	276
<b>City of Lenexa</b>	
Notice to bidders .....	276
<b>Department of Health and Environment</b>	
Requests for comments on proposed air quality permits.....	277, 279
Notice concerning water pollution control permits/applications .....	278
Request for bids for lead hazard reduction .....	279
<b>State Board of Healing Arts</b>	
Notices of hearing on proposed administrative regulations .....	280
<b>Kansas Insurance Department</b>	
Notice of cancellation of hearing on proposed administrative regulations.....	281
<b>Permanent Administrative Regulations</b>	
Kansas Health Policy Authority .....	281
Department of Health and Environment .....	283
<b>Index to administrative regulations.....</b>	<b>304</b>

## State of Kansas

## Juvenile Justice Authority

## Notice of Board Meeting

The JABG State Advisory Board will conduct a special meeting at 1:30 p.m. Wednesday, March 7, at the Juvenile Justice Authority offices, 714 S.W. Jackson, Topeka, to approve the allocation formula for FFY 2006/SFY 2008 pass-through applications to local units of government. For more information or requests for accommodation, contact Don Chronister at (785) 296-4213.

Don Chronister  
Juvenile Justice Specialist

Doc. No. 034149

## State of Kansas

## Kansas Housing Resources Corporation

Notice of Annual Performance Report on  
the Kansas Consolidated Plan

The Kansas Housing Resources Corporation will publish a preliminary draft of the Annual Performance Report on the Kansas Consolidated Plan for community and housing development for program year 2006. The Annual Performance Report on the 2006 Kansas Consolidated Plan will be available for public review and comment March 9-23. To obtain a copy of the Annual Performance Report, contact the Kansas Housing Resources Corporation, 611 S. Kansas Ave., Suite 300, Topeka, 66603, (785) 296-5865, fax (785) 296-8985, e-mail at [info@kshousingcorp.org](mailto:info@kshousingcorp.org), or Web site at [www.kshousingcorp.org](http://www.kshousingcorp.org).

Gary Allsup  
Acting Executive Director

Doc. No. 034159

## State of Kansas

Department of Administration  
Division of Facilities ManagementNotice of Commencement of Negotiations for On-Call  
Architectural and Engineering Services

Notice is hereby given of the commencement of negotiations for "on-call" architectural and engineering services for restricted (small) projects for Kansas State University, Manhattan. The following services are required:

- One or two on-call fire protection engineering firms.
- One on-call architect, with Bio Security Level 3 laboratory experience (this firm also may be used for projects for other state agencies).

Contracts will be for one year, renewable for two additional one-year periods.

For more information concerning the scope of services, contact A. Abe Fattaey, (785) 532-1725.

To be considered, five (5) bound proposals and one (1) PDF file on a CD of the following should be provided: a letter of interest, an SF330 Part I, information regarding similar projects, and an SF330 Part II for each firm and consultant. Proposals should be concise and follow the 2007 State Building Advisory Commission guidelines, available to firms at <http://da.ks.gov/fp/>. If copies of the guidelines are needed, contact Phyllis Fast, Division of Facilities Management, Suite 102, Landon State Office Building, 900 S.W. Jackson, Topeka, 66612, (785) 296-5796, [Phyllis.Fast@da.ks.gov](mailto:Phyllis.Fast@da.ks.gov). Submittals should be received by Phyllis Fast before noon March 16.

Marilyn Jacobson, Interim Director  
Division of Facilities Management

Doc. No. 034152

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

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

© Kansas Secretary of State 2007. Reproduction of this publication in its entirety or for commercial purposes is prohibited without prior permission. Official enactments of the Kansas Legislature and proposed and adopted administrative regulations of state agencies may be reproduced in any form without permission.

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



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

## State of Kansas

## University of Kansas

## Notice to Bidders

Sealed bids for the item 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) 864-5970 or fax (785) 864-3454 for additional information:

**Monday, March 12, 2007**  
**RFQ 51890**

Truck Cab and Chassis, with Van Body and Lift

Barry Swanson  
Associate Comptroller/  
Director of Purchasing Services

Doc. No. 034160

## State of Kansas

## Board of Regents

Notice of Hearing on Proposed  
Administrative Regulations

A public hearing will be conducted at 1 p.m. Wednesday, May 2, in the Board of Regents' board room, 1000 S.W. Jackson, Suite 520, Topeka, to consider the proposed amendments to regulations dealing with the GED test.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed regulations. All interested parties may submit written comments prior to the hearing to Renee Wilson, Kansas Board of Regents, 1000 S.W. Jackson, Suite 520, Topeka, 66612-1368, [rwilson@ksbor.org](mailto:rwilson@ksbor.org). All interested parties will be given a reasonable opportunity to present their views orally on the amendments of the regulations during the hearing.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statement in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Renee Wilson at (785) 296-3689.

Copies of the amendments and the economic impact statements may be found at [http://www.kansasregents.org/adult\\_ed/ged.html](http://www.kansasregents.org/adult_ed/ged.html) or obtained by contacting Renee Wilson at the above listed contact information. A summary of the proposed regulations and the economic impact follows:

**K.A.R. 88-24-1.** The proposed amendment would alter one of the eligibility criteria to take a GED test in Kansas. Specifically, applicants who have not reached the age of 18 would be required to participate in a counseling session in the school district where he or she resides, as opposed to where he or she last attended school.

**K.A.R. 88-24-2.** The primary amendment would raise the minimum GED test score that must be achieved on the individual tests in the GED battery of tests to receive a state high school diploma. Other amendments adjust to new scoring requirements implemented at the national level.

**Economic Impact:** The Board of Regents and GED testing center staff will have minimal economic impact in disseminating the new criteria and test scores requirements to the public. The proposed amendments would result in no economic impact on other governmental agencies or units; specifically, the impact on school districts will be neutral. There may be an economic impact on a few GED applicants who do not meet minimum test scores and have to take the test again.

Reginald L. Robinson  
President and CEO

Doc. No. 034151

## State of Kansas

## Board of Regents

## Request for Bids for Oil and Gas Lease

Public notice is hereby given that under authority of K.S.A. 76-164 through 76-168, the Kansas Board of Regents has determined that a certain quarter section of land in Pawnee County, Kansas, owned by the board for the benefit of the University of Kansas, such tract consisting of 160 acres, is valuable for leasing for the purpose of the production of oil and gas, that the land can be leased for such purpose and that the board intends to lease the land described as:

Northeast Quarter of Section 21-22S-15W,  
Pawnee County, Kansas, 160 acres

The terms and conditions prescribed by the board for the lease and the provisions for competitive bids in accordance with law for the same, and other matters incidental thereto, are contained in a resolution passed by the board on February 14, 2007, and spread at large upon the minutes of the board, which minutes and resolution are now and until the date and time fixed for the receipt of competitive bids open to public inspection in the office of the Kansas Board of Regents, Suite 520, 1000 S.W. Jackson, Topeka, 66612-1368. Copies thereof may be obtained by application to Robin Kempf, interim general counsel, Kansas Board of Regents, at [rkempf@ksbor.org](mailto:rkempf@ksbor.org).

Competitive bids for leasing of the land will be received by the board until 8:30 a.m. April 4. No bids received after said date and hour shall be considered by the board. Any lease entered into by the board will be awarded by the board to the highest, responsible, responsive bidder. The board reserves the right to reject any and all bids. Bids should be addressed to the Kansas Board of Regents and sent to or deposited with the aforesaid officer of the board. On the outside of the envelope containing bids should be plainly written the words "Bid on Oil and Gas Lease — Pawnee County." Only such bids as shall be in substantial conformity with the terms and provisions of the foresaid resolution will be considered or accepted by the board. The bid opening will be at 8:45 a.m. April 4 in the Kathy Rupp Conference Room of the office of the Kansas Board of Regents.

Reginald L. Robinson  
President and CEO

Doc. No. 034145

## State of Kansas

## State Fair Board

## Notice of Meeting

The Kansas State Fair Board will meet at 10:30 a.m. Wednesday, March 7, in Hutchinson. For more information, call Denny Stoecklein at (620) 669-3600.

John C. Bottenberg  
President

Doc. No. 034144

## 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 2-26-07 through 3-4-07

Term	Rate
1-89 days	5.25%
3 months	5.09%
6 months	5.10%
1 year	5.01%
18 months	4.88%
2 years	4.79%

Derl S. Treff  
Director of Investments

Doc. No. 034142

## State of Kansas

## Legislature

## Legislative Bills and Resolutions Introduced

The following numbers and titles of bills and resolutions were introduced February 15-21 by the 2007 Kansas Legislature. Copies of bills and resolutions are available free of charge from the Legislative Document Room, 145-N, State Capitol, 300 S.W. 10th Ave., Topeka, 66612, (785) 296-4096. Full texts of bills, bill tracking and other information may be accessed at [www.kslegislature.org](http://www.kslegislature.org).

## House Bills

**HB 2529**, An act concerning income tax; relating to withholding thereof; publicly traded partnerships; amending K.S.A. 2006 Supp. 79-32,100e and repealing the existing section, by Committee on Taxation.

**HB 2530**, An act concerning consumer protection; relating to health care providers; amending K.S.A. 50-635 and repealing the existing section, by Committee on Appropriations.

**HB 2531**, An act concerning the pharmacy act of the state of Kansas; amending K.S.A. 65-1627 and 65-1655 and K.S.A. 2006 Supp. 65-1626 and 65-1643 and repealing the existing sections, by Committee on Appropriations.

**HB 2532**, An act concerning sales taxation; relating to retailers' sales tax; authority of counties; amending K.S.A. 2006 Supp. 12-187, 12-189 and 12-192 and repealing the existing sections; also repealing K.S.A. 2006 Supp. 12-187b and 12-189f, by Committee on Taxation.

**HB 2533**, An act concerning colleges and universities; relating to tuition, fees and charges; amending K.S.A. 76-719 and repealing the existing section, by Committee on Appropriations.

**HB 2534**, An act concerning roads and highways; requiring direct access from highways on the state highway system, by Committee on Appropriations.

**HB 2535**, An act concerning the department on aging; relating to fees for licenses to operate adult care homes; disposition of such fees; creation and administration of the state licensure fee fund; amending K.S.A. 2006 Supp. 39-930 and repealing the existing section, by Committee on Appropriations.

**HB 2536**, An act concerning colleges and universities; relating to the state board of regents; repealing K.S.A. 74-3205a, 74-3205b, 74-3205c and 74-3205d, by Committee on Appropriations.

**HB 2537**, An act concerning transportation development districts; relating to methods of financing thereof; Leawood transient guest tax; amending K.S.A. 2006 Supp. 12-17,141 and repealing the existing section, by Committee on Taxation.

**HB 2538**, An act concerning sales taxation; relating to exemptions; oxygen delivery equipment; amending K.S.A. 2006 Supp. 79-3606 and repealing the existing section, by Committee on Taxation.

**HB 2539**, An act relating to the state board of regents; concerning Emporia state university and Kansas state university; authorizing the sale and conveyance or exchange of certain real property, by Committee on Appropriations.

**HB 2540**, An act making and concerning appropriations for the fiscal years ending June 30, 2008, and June 30, 2009, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing, by Committee on Appropriations.

**HB 2541**, An act making and concerning appropriations for the fiscal year ending June 30, 2007, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 79-4801 and repealing the existing section, by Committee on Appropriations.

**HB 2542**, An act making and concerning appropriations for the fiscal years ending June 30, 2008, and June 30, 2009, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 79-4801 and K.S.A. 2006 Supp. 2-223, 55-193, 79-2959, 79-2964, 79-3425c, 79-3425i and 82a-953a and repealing the existing sections, by Committee on Appropriations.

**HB 2543**, An act concerning property taxation; relating to assessment of newly constructed residential property; procedures; duties of county or district appraiser, by Committee on Taxation.

**HB 2544**, An act concerning property taxation; relating to time for payment of taxes; amending K.S.A. 2006 Supp. 79-2004 and 79-2004a and repealing the existing sections, by Committee on Appropriations.

**HB 2545**, An act concerning controlled substances; relating to possession thereof; amending K.S.A. 65-4162 and repealing the existing section, by Committee on Appropriations.

**HB 2546**, An act repealing K.S.A. 2006 Supp. 75-53,119; concerning the Kansas foster child educational assistance act, by Committee on Appropriations.

**HB 2547**, An act enacting the primary care safety net clinic capital loan guarantee act; prescribing powers, duties and functions for the secretary of health and environment; establishing the primary care safety net clinic loan guarantee committee and fund, by Committee on Appropriations.

**HB 2548**, An act concerning licensure, certification or registration by state authority; relating to social security numbers or tax identification numbers; amending K.S.A. 74-139 and repealing the existing section, by Committee on Taxation.

**HB 2549**, An act concerning property taxation; relating to valuation of vessels; amending K.S.A. 2006 Supp. 79-306e and repealing the existing section, by Committee on Taxation.

**HB 2550**, An act enacting the Fort Scott/Bourbon county riverfront authority act; creating a riverfront authority and prescribing the powers and duties thereof, by Committee on Taxation.

**HB 2551**, An act concerning sales taxation; relating to countywide retailers' sales tax in Riley county; amending K.S.A. 2006 Supp. 12-187, 12-189 and 12-192 and repealing the existing sections; also repealing K.S.A. 2006 Supp. 12-187b and 12-189f, by Committee on Taxation.

## House Concurrent Resolutions

**HCR 5017**, A proposition to amend article 15 of the constitution of

the state of Kansas by adding a new section thereto, concerning equal rights for men and women.

**HCR 5018**, A concurrent resolution urging the United States Congress to propose a bill requesting the President of the United States to authorize the striking of a special U.S. Atomic Service Medal to honor Atomic Veterans.

### Senate Bills

**SB 352**, An act concerning adult care homes; providing for assessments on certain nursing facilities; prescribing powers, duties and functions for the secretary of aging; creating the quality assurance assessment fund; providing for implementation and administration, by Committee on Ways and Means.

**SB 353**, An act concerning the Eisenhower museum; relating to funding thereof; providing for the use of certain lottery revenues therefore; amending K.S.A. 2006 Supp. 74-8711 and repealing the existing section, by Committee on Federal and State Affairs.

**SB 354**, An act concerning the department of social and rehabilitation services; relating to alcohol and drug addiction treatment; amending K.S.A. 65-4001, 65-4006, 65-4007, 65-4011, 65-4012, 65-4013, 65-4014, 65-4023, 65-4024 and 65-4059 and repealing the existing sections; also repealing K.S.A. 65-4002, 65-4020, 65-4022, 65-4056, 65-4601, 65-4602, 65-4603, 65-4604, 65-4605, 65-4606, 65-4607, 65-4608, 65-4609, 65-4610 and 65-4611, by Committee on Federal and State Affairs.

**SB 355**, An act repealing K.S.A. 2006 Supp. 75-53,119; concerning the Kansas foster child educational assistance act, by Committee on Ways and Means.

**SB 356**, An act ceding to the United States concurrent legislative jurisdiction over crimes and offenses under the laws of the state of Kansas over and within certain lands dedicated to national parks purposes; amending K.S.A. 27-120 and repealing the existing section, by Committee on Federal and State Affairs.

**SB 357**, An act making and concerning appropriations for the fiscal years ending June 30, 2008, and June 30, 2009, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 79-4801 and K.S.A. 2006 Supp. 2-223, 55-193, 79-2959, 79-2964, 79-3425c, 79-3425i and 82a-953a and repealing the existing sections, by Committee on Ways and Means.

**SB 358**, An act making and concerning appropriations for the fiscal year ending June 30, 2007, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 79-4801 and repealing the existing section, by Committee on Ways and Means.

**SB 359**, An act making and concerning appropriations for the fiscal years ending June 30, 2008, and June 30, 2009, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing, by Committee on Ways and Means.

**SB 360**, An act concerning the state certified and licensed real property appraisers act; amending K.S.A. 58-4105, 58-4107, 58-4112 and 58-4119 and repealing the existing sections, by Committee on Federal and State Affairs.

**SB 361**, An act concerning athletic events; relating to the Kansas sports hall of fame; relating to funding thereof; concerning postsecondary education institutions; relating to the funding of deferred maintenance, by Committee on Ways and Means.

### Senate Concurrent Resolutions

**SCR 1607**, A proposition to amend the bill of rights of the constitution of the state of Kansas by adding a new section thereto, concerning eminent domain.

**SCR 1608**, A proposition to amend the bill of rights of the constitution of the state of Kansas by adding a new section thereto, concerning eminent domain.

### Senate Resolutions

**SR 1819**, A resolution honoring Fire Chief Lawrence F. Ruff, the National Firefighter of the year.

**SR 1820**, A resolution congratulating and commending the 2006 Victoria High School football team.

Doc. No. 034143

## State of Kansas

### Secretary of State

#### Executive Appointments

Executive appointments made by the Governor, and in some cases by other state officials, are filed with the Secretary of State's office. A complete listing of Kansas state agencies, boards and commissions, and county officials are included in the Kansas Directory, which is available on the Secretary of State's Web site at [www.kssos.org](http://www.kssos.org). The following appointments were recently filed with the Secretary of State:

#### Cloud County Register of Deeds

**Judith A. Lambert**, 924 E. 9th St., Concordia, 66901. Succeeds Terry Ferguson, resigned.

#### Stafford County Attorney

**Joe Shepack**, P.O. Box 66, St. John, 67576. Succeeds Candace Lattin, resigned.

#### Advisory Council on Aging

**Rita L. Griffith**, 13717 Manor, Overland Park, 66224. Term expires June 30, 2009.

**Patrick Lawless Jr.**, 1114 N. 14th St., Osage City, 66523. Term expires June 30, 2009.

**William J. Moriarity**, 116 W. 38th, Hays, 67601. Term expires June 30, 2009.

**Larry L. Turner**, 7502 Reflection Court, Wichita, 67205. Term expires June 30, 2009.

#### Secretary of Aging

**Kathy J. Greenlee**, Kansas Department on Aging, 503 S. Kansas Ave., Topeka, 66603. Serves at the pleasure of the Governor.

#### Governmental Ethics Commission

**Barbara J. Barnard**, 2124 S.E. 38th Circle, Topeka, 66609. Term expires January 31, 2009. Reappointed.

#### Governor's Commission on Healthy and Prepared Schools

(Created by Executive Order 06-12)

**Mim Wilkey**, 2210 Burton, Wichita, 67213. Serves at the pleasure of the Governor.

#### Governor's Domestic Violence Fatality Review Board

**Shala Mills**, Fort Hays State University, 600 Park St., Hays, 67601. Serves at the pleasure of the Governor.

#### State Board of Pharmacy

**Nancy Kirk**, 932 Frazier Ave., Topeka, 66606. Term expires April 30, 2009. Succeeds Howard T. Paul.

#### Physician Assistant Council

**Sheri Floyd**, P.O. Box 3, Lindsborg, 67456. Term expires January 31, 2010. Succeeds Scott P. Ford.

(continued)

### Secretary of Social and Rehabilitation Services

**Donald A. Jordan**, Department of Social and Rehabilitation Services, Docking State Office Building, 915 S.W. Harrison, Topeka, 66612. Serves at the pleasure of the Governor.

### Kansas Water Authority

**Lon R. Frahm**, 18 Cottonwood Drive, Box F, Colby, 67701. Term expires January 15, 2011. Succeeds David R. Brenn.

**Karma Mason**, 4245 Ironwood, Wichita, 67226. Term expires January 15, 2011. Reappointed.

Ron Thornburgh  
Secretary of State

Doc. No. 034136

### State of Kansas

### State Conservation Commission

#### Notice of Hearings on Proposed Administrative Regulations

The Kansas State Conservation Commission will conduct two public hearings to consider the approval and adoption of proposed administrative regulations to implement the Water Right Transition Assistance Pilot Project Program. The hearings will be held Tuesday, May 1, at the Norton Public Library, #1 Washington Square, Norton, and Wednesday, May 2, at the Ida Long Goodman Memorial Library, 406 N. Monroe, St. John. Both hearings will begin at 7 p.m.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Cathy Greene, senior administrative assistant of the State Conservation Commission, at (785) 296-3600. Persons with a hearing impairment may call the Kansas Commission for the Deaf and Hard of Hearing at (800) 432-0698 to request special accommodations.

This 60-day notice period prior to the hearing constitutes a public comment period for the purpose of receiving written public comments on the proposed administrative regulations. Prior to the hearing, all interested parties may submit written comments by mail to the chairman of the commission, Suite 500, Mills Building, 109 S.W. 9th, Topeka, 66612-1215, or to [cgreene@scc.state.ks.us](mailto:cgreene@scc.state.ks.us) if submitted electronically. All interested parties will be given a reasonable opportunity at the hearing to express their views orally in regard to the adoption of the proposed regulations. During the hearing, all written and oral comments submitted by interested parties will be considered by the commission as a basis for approving, amending and approving, or rejecting the proposed regulations.

The proposed regulations that will be heard are as follows:

#### Article 12.—WATER RIGHT TRANSITION ASSISTANCE PILOT PROJECT PROGRAM

**K.A.R. 11-12-1 through K.A.R. 11-12-7.** These permanent regulations establish definitions, eligible areas, application and review procedures, payment procedures, transition to dry land criteria, dismissal of water right standards and petition for reconsideration requirements to implement the commission's Water Right Transition Assistance Pilot Project Program (WTAP). WTAP is a voluntary, incentive-based water management program designed to allow the state of Kansas to contract with private landowners for the permanent dismissal of water rights via a competitive bid process. The purpose of the program is to decrease historic consumptive water use in priority areas designated to be in critical need of aquifer restoration or stream recovery. Priority areas eligible for the program are designated solely by the chief engineer of the Kansas Department of Agriculture, Division of Water Resources, or by the chief engineer in conjunction with local groundwater management districts. Applicants that are approved to participate in the program are compensated according to the fair market value of the water right as determined by data from local county appraiser offices.

#### Economic Impact Summary:

The annual program budget is not to exceed \$1.5 million annually and the program is limited to five years. The economic impact to the agency of implementing the proposed regulations is expected to be approximately \$100,000 per year in additional personnel and administration expenses.

The proposed regulations are not anticipated to have any appreciable negative economic impact to other agencies or departments except the Kansas Department of Agriculture, Division of Water Resources, which will experience some minimal additional water right analyses and dismissals associated with the processing of WTAP applications. These additional costs are expected to be offset by the avoidance of significant regulatory activities that will be incurred if the program is not implemented.

The proposed regulations are not anticipated to have any appreciable negative economic impact to the public. The proposed regulations seek to establish a long-term stability of local economies by stabilizing water resources that are currently in distress. These water resources and all water rights associated with them, including industries, municipalities and other public water supplies, will require administration and curtailment of water rights in periods of shortages if the program is not implemented. The voluntary dismissal of water rights by private landowners (via participation in the program) will only be undertaken if evaluated to be economically beneficial to the participating individual. It is expected that economic benefits realized at the individual level and the long-term, regional water conservation benefits resulting from implementation of the program also will be diffused and accumulated in the long-term local economies.

Copies of the complete text of the regulations and the economic impact statements may be obtained by writing the chairman of the commission at the address above, electronically on the agency's Web site at [www.access.kansas.org/kssc/main](http://www.access.kansas.org/kssc/main) or by calling (785) 296-3600.

Rodney Vorhees  
Chairman

Doc. No. 034147

## 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 Eisenhower State Office Building, fourth floor west wing, 700 S.W. Harrison, Topeka, until 1 p.m. March 21 and then publicly opened:

**District One — Northeast**

**Johnson**—69-46 KA-0825-01 — U.S. 69 bridges, 0.5 mile, 1 mile and 8 miles north of the Miami-Johnson county line, bridge overlay. (State Funds)

**Lyon**—35-56 KA-0133-01 — I-35 eastbound exit ramp at Industrial Road, 0.5 mile, grading and surfacing. (State Funds)

**Nemaha**—66 C-3920-01 — County road 2.8 miles north and 2 miles east of Berwick, 0.2 mile, grading, bridge and surfacing. (Federal Funds)

**Nemaha**—63-66 KA-0821-01 — K-63 from the Nemaha-Pottawatomie county line north to the U.S. 36 junction, 19.2 miles, crack repair. (State Funds)

**Shawnee**—89 U-1880-01 — Willow Street bridge over Ward Creek in Topeka, grading, bridge and surfacing. (Federal Funds)

**Wabaunsee**—4-99 K-9630-01 — K-4 Mission Creek drainage, 2.9 miles west of the Wabaunsee-Shawnee county line, culvert construction. (State Funds)

**Wabaunsee**—99-99 K-9633-01 — K-99 South Branch Mill Creek drainage, 1.7 miles north of K-4, culvert construction. (State Funds)

**Wyandotte**—73-105 KA-0486-01 — U.S. 73, 1.8 miles north of the junction of U.S. 24, bridge repair. (State Funds)

**Wyandotte**—635-105 KA-0819-01 — Northwest corner of I-635 and Strong Avenue, grading. (State Funds)

**Wyandotte**—70-105 KA-0820-01 — Eastbound I-70 near the Kansas-Missouri state line, repair and replace storm drainage. (State Funds)

**District Two — Northcentral**

**McPherson**—59 C-3898-01 — County road 7 miles east and 1.8 miles south of Moundridge, 0.3 mile, grading, bridge and surfacing. (Federal Funds)

**McPherson**—135-59 KA-0753-01 — I-135 exit No. 65, lighting. (Federal Funds)

**Washington**—15-101 KA-0208-01 — K-15 culvert 4.5 miles south of the Kansas-Nebraska state line, culvert repair. (State Funds)

**District Three — Northwest**

**Ellis**—183-26 KA-0536-01 — U.S. 183 bridge 2 miles south of I-70, bridge overlay. (State Funds)

**District Four — Southeast**

**Coffey**—16 C-4328-01 — County road 6.2 miles north of Leroy, 0.2 mile, grading, bridge and surfacing. (Federal Funds)

**Coffey**—75-16 K-9793-01 — U.S. 75 from Neosho Street north to Arrowhead Drive in New Strawn, 0.3 mile, grading and surfacing. (State Funds)

**Greenwood**—37 C-3957-01 — County road 3 miles south and 0.3 mile east of Lapland, 0.2 mile, grading, bridge and surfacing. (Federal Funds)

**District Five — Southcentral**

**Barber**—2-4 K-9642-01 — K-2, Mule Creek drainage, culvert construction. (State Funds)

**Butler**—8 C-4112-01 — County road 4.5 miles east and 4.7 miles north of Douglass, 0.3 mile, grading and bridge. (Federal Funds)

**Pawnee**—156-73 K-9661-01 — K-156 bridges 6 miles and 7.6 miles east of the Pawnee-Hodgeman county line, bridge replacement. (Federal Funds)

**Pawnee**—56-73 KA-0547-01 — U.S. 56 bridge over the Pawnee River in Larned, overlay. (State Funds)

**Reno**—96-78 KA-0549-01 — K-96 over the Burlington Northern Santa Fe Railway, bridge repair. (State Funds)

**Sedgwick**—235-87 K-9901-01 — I-235 ramps at Central, Kellogg, McArthur, and K-42, pavement patching. (State Funds)

**Sumner**—81-96 K-9183-01 — U.S. 81/K-49 from Avenue A south to 1st Avenue in Caldwell, 0.1 mile, grading and surfacing. (State Funds)

**Sedgwick**—235-87 KA-0800-01 — I-235 interchange at U.S. 54, bridge repair. (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. 034140

## State of Kansas

## Kansas Judicial Council

## Notice of Meetings

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

Date	Committee	Time	Location
March 2	End of Life Decisions	1:00 p.m.	Room 259
March 9	Commission on Judicial Performance	9:30 a.m.	Room 259
March 9	Legal Forms	9:30 a.m.	Room 269
March 16	Administrative Procedure	9:00 a.m.	Room 269
March 16	Pattern Instructions for Kansas-Civil	9:30 a.m.	Room 259
March 23	Juvenile Offender/ Child in Need of Care	9:30 a.m.	Room 259
March 30	Civil Code	9:30 a.m.	Room 259
March 30	Guardianship & Conservatorship	9:30 a.m.	Room 269
April 13	Commission on Judicial Performance	9:30 a.m.	Room 259
April 13	Legal Forms	9:30 a.m.	Room 269
April 20	Probate Law	9:30 a.m.	Room 259
April 20	Administrative Procedure	9:00 a.m.	Room 275
April 20	Pattern Instructions for Kansas-Civil	9:30 a.m.	Room 269
April 27	Family Law	9:30 a.m.	Fatzer Courtroom
April 27	Juvenile Offender/ Child in Need of Care	9:30 a.m.	Room 259
April 27	Civil Code	9:30 a.m.	Court of Appeals Courtroom, Room 275

Hon. Robert E. Davis  
Chairman

Doc. No. 034148

(Published in the Kansas Register March 1, 2007.)

**Summary Notice of Bond Sale**  
**City of Garden City, Kansas**  
**\$1,755,300**  
**General Obligation Bonds**  
**Series 2007-A**

**Details of the Sale**

Subject to the terms and requirements of the official notice of bond sale dated February 13, 2007, of the city of Garden City, Kansas, bids to purchase the city's General Obligation Bonds, Series 2007-A, will be received at the City Administrative Center, 301 N. 8th, Garden City, KS 67846, or by telefacsimile at (620) 276-1169, until 11 a.m. Tuesday, March 13, 2007. Bids received will be considered by the governing body at its meeting at 1 p.m. on the sale date.

No oral or auction bids for the bonds will be considered, and no bid for less than 100 percent of the total principal amount of the bonds and accrued interest to the date of delivery will be considered.

**Good Faith Deposit**

Each bidder must submit a good faith deposit in the form of a certified or cashier's check made payable to the

order of the city, or a financial surety bond (as described in the official notice of bond sale), in an amount equal to 2 percent of the principal amount of the bonds.

**Details of the Bonds**

The bonds are dated April 1, 2007, and will be issued as registered bonds in the denomination of \$5,000 or any integral multiple thereof, except for one bond in the denomination of \$5,300 maturing November 1, 2008. Interest on the bonds is payable semiannually on May 1 and November 1 of each year, beginning May 1, 2008. Principal of the bonds becomes due on November 1 in the years and amounts shown below:

**Maturity Schedule**

Principal Amount	Maturity Date
\$110,300	2008
155,000	2009
160,000	2010
170,000	2011
175,000	2012
180,000	2013
190,000	2014
195,000	2015
205,000	2016
215,000	2017

**Payment of Principal and Interest**

The Kansas State Treasurer will serve as the bond registrar and paying agent for the bonds.

**Book-Entry Bonds**

The bonds will be issued and registered under a book-entry-only system administered by the Depository Trust Company, New York, New York (DTC).

**Delivery of the Bonds**

The city will prepare the bonds at its expense and will deliver the registered bonds to the successful bidder, on or about April 11, 2007, through the facilities of DTC.

**Legal Opinion**

The bonds will be sold subject to the legal opinion of Triplett, Woolf & Garretson, LLC, Wichita, Kansas, bond counsel, whose fees will be paid by the city.

**Financial Matters**

The city's current assessed valuation for purposes of calculating statutory debt limitations is \$158,876,318. As of April 1, 2007, the city's total outstanding general obligation debt (including the bonds) is \$9,130,300.

**Additional Information**

For additional information, contact the city clerk at the address and telephone number shown below or the city's financial advisor, Chuck Bouilly, George K. Baum & Company, 100 N. Main, Suite 810, Wichita, KS 67202, (316) 264-9351.

City of Garden City, Kansas  
By Stacey L. Frizzell, City Clerk  
City Administrative Center, 301 N. 8th  
Garden City, KS 67846  
(620) 276-1100  
Fax (620) 276-1169

Doc. No. 034162



(Published in the Kansas Register March 1, 2007.)

**Summary Notice of Bond Sale  
Unified School District No. 378  
Riley County, Kansas (Riley)  
\$1,785,000**

**General Obligation School Building  
Refunding Bonds, Series 2007A**

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

**Bids**

Subject to the notice of bond sale dated February 5, 2007, written and electronic bids will be received on behalf of the superintendent of Unified School District No. 378, Riley County, Kansas (Riley) (the issuer), in the case of written bids, at the address set forth below, and in the case of electronic bids, through PARITY, until 10 a.m. March 12, 2007, for the purchase of the above-referenced bonds. 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 April 1, 2007, and will become due on September 1 in the years as follows:

Year	Principal Amount
2010	\$125,000
2011	135,000
2012	145,000
2013	155,000
2014	170,000
2015	180,000
2016	195,000
2017	215,000
2018	225,000
2019	240,000

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on March 1 and September 1 in each year, beginning September 1, 2007.

**Adjustment of Issue Size**

The issuer reserves the right to increase or decrease the total principal amount of the bonds, depending on the purchase price and interest rates bid and the offering prices specified by the successful bidder. The principal amount of any maturity may be adjusted by the issuer in order to properly size the bond issue based on the required size of the refunding escrow created for the bonds to be refunded with proceeds of the bonds and discount and interest rates bid on the bonds. The successful bidder may not withdraw its bid or change the interest rates bid as a result of any changes made to the principal amount of the bonds or principal of any maturity as described herein. If there is an increase or decrease in the final aggregate principal amount of the bonds or the schedule of principal payments as described above, the issuer will notify the successful bidder by means of telephone or fac-

simile transmission, subsequently confirmed in writing, not later than 2 p.m. on the sale date. The actual purchase price for the bonds shall be calculated by applying the percentage of par value bid by the successful bidder against the final aggregate principal amount of the bonds, as adjusted, plus accrued interest from the date of the bonds to the date of delivery.

**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 \$35,700 (2 percent of the principal amount of the bonds).

**Delivery**

The issuer will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or about April 3, 2007, 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 2007 is \$25,054,465. The total general obligation indebtedness of the issuer after delivery of the bonds is \$3,410,000, excluding the bonds to be refunded in conjunction with the bond issue.

**Approval of Bonds**

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

**Additional Information**

Additional information regarding the bonds may be obtained from the undersigned or from the financial advisor at the addresses set forth below.

**Written Bid and Good Faith Deposit Delivery Address:**

Brad Starnes, Superintendent  
204 W. Kansas, P.O. Box 326  
Riley, KS 66531  
(785) 485-4000  
Fax (785) 485-2860  
E-mail: bstarnes@usd378.org

**Financial Advisor - Facsimile Bid and Good Faith  
Deposit Delivery Address:**

Springsted Incorporated  
380 Jackson St., Suite 300  
St. Paul, MN 55101-2887  
(651) 223-3000  
Fax (651) 223-3046  
E-mail: advisors@springsted.com

(continued)

Dated February 5, 2007.

(Published in the Kansas Register March 1, 2007.)

Unified School District No. 378  
Riley County, Kansas (Riley)  
By: Brad Starnes, Superintendent

## City of Lenexa, Kansas

### Notice to Bidders

Doc. No. 034163

#### 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:

03/13/2007	10187	Asphaltic Materials, Liquid
03/13/2007	10216	Abandoned Well Plugging
03/13/2007	10217	Abandoned Well Plugging
03/13/2007	10218	Abandoned Well Plugging
03/13/2007	10222	Bituminous Plant Mixture (District #1)
03/15/2007	10230	Bituminous Plant Mixture (Hot Mix/Cold Lay), District #5
03/16/2007	10224	Automated TL/OSL Dating System
03/20/2007	10212	Shuttle Bus
03/20/2007	10226	Compaction Rollers, Self-Propelled
03/21/2007	10240	Paver, Asphalt, Self-Propelled
03/21/2007	10234	Furnishings for Fort Hays State University
03/21/2007	10235	Busses, Passenger
03/22/2007	10208	Medical Waste Disposal
03/22/2007	10241	Crawler Loader
03/22/2007	10236	Wheel Tractors
03/22/2007	10237	Copier, Plain Paper
03/23/2007	10225	Purchases, Delivery and Storage of Specified Antibiotics
04/03/2007	10006	Kansas Firefighters Commemorative Memorial Call for Artists
04/12/2007	10231	Moving Services

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

<http://www.da.ks.gov/purch/>

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. Information regarding prequalification, projects and bid documents can be obtained by calling (785) 296-8899 or by visiting [www.da.ks.gov/fp/](http://www.da.ks.gov/fp/).

03/15/2007	A-010374	Heckert-Wells Roof Replacement and JHO Partial Roof Replacement, Pittsburg State University
03/20/2007	A-010238-Rev	Update District #4 Paint Booth Building, Chanute

Chris Howe  
Director of Purchases

Doc. No. 034164

Sealed bids for **Prairie Star Parkway (K-7 — Mize) (KDOT Project No. 46 N-0384-01)** will be accepted by the city of Lenexa, Kansas, at the Planning Department, Lenexa City Hall, 12350 W. 87th St. Parkway, Lenexa, 66215, until 11 a.m. Thursday, April 5, 2007, at which time bids will be publicly opened and read aloud at the Lenexa City Hall. Any bid received after the designated closing time will not be considered and will be returned unopened.

All bids shall be submitted to the Planning Department's customer service staff in sealed envelopes addressed to the city of Lenexa, Kansas, attention: city clerk, and marked "Bid for: Prairie Star Parkway (K-7 — Mize)."

Copies of plans, specifications, bidding documents and other contract documents are on file at the Planning Department, Lenexa City Hall. Bidders desiring contract documents for use in preparing bids may obtain a set of such documents at the address above upon payment of \$500, which amount is nonrefundable.

In lieu of picking up plans and specifications at Lenexa City Hall, bidders may download plans and specifications free of charge from the city of Lenexa's Web site at <http://www.ci.lenexa.ks.us/publicworks/index.html>

Note: Davis-Bacon wage rates apply to this project.

Contractors should read and be fully familiar with all contract documents including addenda before submitting a bid. In submitting a bid, the bidder warrants that it has read the contract documents and is fully familiar therewith and that it has visited the site of the work to fully inform itself as to all existing conditions and limitations, and shall include in its bid a sum to cover the cost of all items of the work as specified in the contract documents.

No oral telegraphic, telephonic proposals or alterations will be considered. Facsimile transmissions will not be accepted.

The following items must be included in the sealed envelope with the bid:

- a. Bid form;
- b. 5% Bid security—bid bond, cashier's check or certified check (see below).

Each bidder shall file with its bid a bid bond, a cashier's check or a certified check drawn on an acceptable bank, made payable to city of Lenexa, Kansas, in an amount equal to 5 percent of the total bid, which shall be retained by the city of Lenexa until a contract for the project has been executed. Bid bonds will be returned to the bidders, with the exception of the best and lowest and second best and second lowest responsible bidders, within 21 days after their bids are rejected. The bid deposit of the lowest and the second lowest responsible bidders will be returned when the performance bond, maintenance bond and statutory bond, each in an amount equal to 100 percent of the contract amount, required insurance certificates and other required documents shall have been furnished and the contract documents have been executed by the successful bidder.

In the event the low bidder is unable to execute the contract, for whatever reason, within the time provided in the notice of award, the city may annul the notice of award and the bid deposit may be forfeited, and the city shall exercise its legal prerogatives, including, but not limited to, enforcement of its rights as to the bid security or specific performance.

The city reserves the right to accept or reject any and all bids and to waive any technicalities or irregularities therein. Bids may be modified or withdrawn by written request of the bidder received in the office of the city clerk prior to the time and date for bid opening.

All bidders agree that rejection shall create no liability on the part of the city because of such rejection, and the filing of any bid in response to this notice shall constitute an agreement of the bidder to these conditions.

A pre-bid conference will be held at 3 p.m. March 28 in the Executive Conference Room, upper level, Lenexa City Hall.

Mary Sue Fry, City Clerk  
City of Lenexa, Kansas

Doc. No. 034157

## State of Kansas

### Department of Health and Environment

#### Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality construction permit. Westar Energy, Inc. (Westar) has applied for an air quality construction permit in accordance with the provisions of K.A.R. 28-19-300 to construct Emporia Energy Center, a new 600 MW natural gas-fired combustion turbine facility in Lyon County. Emission of particulate matter (PM), PM equal to or less than 10 microns in diameter (PM<sub>10</sub>), volatile organic compounds (VOCs), oxides of nitrogen (NO<sub>x</sub>), sulfur dioxide (SO<sub>2</sub>), carbon monoxide (CO) and sulfuric acid mist (H<sub>2</sub>SO<sub>4</sub>) were evaluated during the permit review process.

The proposed permit is to be issued in accordance with the provisions of K.A.R. 28-19-350, prevention of significant deterioration (PSD), which adopt the federal standards, procedures and requirements of 40 CFR 52.21 by reference. These air quality regulations apply to major stationary emission sources located in areas designated as "attainment" under the federal Clean Air Act (CAA). Attainment areas are areas where the air quality meets or exceeds the national ambient air quality standards (NAAQS).

The PSD regulations require evaluation of emission reduction techniques to identify the best available control technology (BACT) for each pollutant for which the emission rate exceeds the PSD significant level. The purpose of BACT is to affect the maximum degree of reduction achievable, taking into account energy, environmental and economic impacts for each pollutant under review. Evaluation of the estimated emissions for the proposed Emporia Energy Center indicates that the emission rate of oxides of nitrogen, sulfur dioxide, carbon monoxide, particulate matter, volatile organic compounds and sul-

furic acid mist all exceed the significance levels. Westar conducted the required BACT analyses. The department has reviewed Westar's BACT analyses and concurs with its findings.

An ambient impact analysis was performed on the air emissions of PM/PM<sub>10</sub>, NO<sub>x</sub>, SO<sub>x</sub> and CO from the Emporia Energy Center project. The analysis demonstrated no significant impact on ambient air quality for each modeled pollutant.

An analysis of visibility was conducted for the two nearest Class II areas: Eisenhower State Park and Tallgrass Prairie National Preserve. The VISCREEN model results indicate no exceedances of the perceptibility or plume contrast within the selected areas. No adverse impacts on soils and vegetation in the area were expected. Any federal land manager who has reason to believe they may have a Class I area adversely impacted by the emissions from the proposed project has the opportunity to present KDHE with a demonstration of the adverse impact on the air quality-related values of the federal Class I area during the comment period.

A public comment period has been established until 5 p.m. April 5 to allow citizens the opportunity to express any concerns they may have about this proposed permitting action. All comments should be submitted in writing to Jason Heitman, KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366. Comments also may be presented at the public hearing.

Any member of the public may request a public hearing be conducted to receive comments on the proposed issuance of the draft air quality construction permit. Written requests to hold a public hearing should be sent to the attention of Sherry Walker at the address listed above or by fax to (785) 291-3953 and must be received by noon April 2. If a request is received, a public hearing is tentatively scheduled by the KDHE at 7 p.m. April 4 in the Jury Assembly Room, second floor, Lyon County Courthouse, 430 Commercial, Emporia. If no requests to hold the public hearing are received by this date and time, the public hearing will be cancelled.

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 public review for a period of 30 days from the date of publication during normal business hours, 8 a.m. to 5 p.m., at the KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka; and a copy of the proposed permit can be reviewed at the KDHE Northeast District Office, 800 W. 24th, Lawrence. To obtain or review the proposed permit and supporting documentation, contact Jason Heitman, (785) 296-1691, at the KDHE central office; and to review the proposed permit only, contact Pat Simpson, (785) 842-4600, in the KDHE Northeast District Office. The standard departmental cost will be assessed for any copies requested.

Roderick L. Bremby  
Secretary of Health  
and Environment

Doc. No. 034161

State of Kansas

Department of Health and Environment

Notice Concerning Kansas/Federal Water Pollution Control Permits and Applications

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, various draft water pollution control documents (permits, notices to revoke and reissue, notices to terminate) have been prepared and/or permit applications have been received for discharges to waters of the United States and the state of Kansas for the class of discharges described below.

The proposed actions concerning the draft documents are based on staff review, applying the appropriate standards, regulations and effluent limitations of the state of Kansas and the Environmental Protection Agency. The final action will result in a Federal National Pollutant Discharge Elimination System Authorization and/or a Kansas Water Pollution Control permit being issued, subject to certain conditions, revocation and reissuance of the designated permit or termination of the designated permit.

Public Notice No. KS-AG-07-076/081

Pending Permits for Confined Feeding Facilities

Table with 3 columns: Name and Address of Applicant, Legal Description, Receiving Water. Row 1: Keesecker Agri Business Inc., NE/4 of Section 22, T02S, R03E, Washington County, Big Blue River Basin.

Kansas Permit No. A-BBWS-H007 Federal Permit No. KS0095699

This is a renewal permit for an existing facility for a maximum capacity of 3,210 head (1,284 animal units) of swine each weighing more than 55 pounds and 4,200 head (420 animal units) of swine each weighing 55 pounds or less, for a total of 1,704 animal units. The renewal include plans for construction of two enclosed swine buildings that were previously approved by the department. The maximum animal capacity has not changed and remains the same as the previous permit.

Table with 3 columns: Name and Address of Applicant, Legal Description, Receiving Water. Row 1: Golden Prairie Pork Producers, NW/4 of Section 32, T22S, R02W, Harvey County, Little Arkansas River Basin.

Kansas Permit No. A-LAHV-S033

This is a renewal permit for an existing facility for 1,800 head (720 animal units) of swine greater than 55 pounds each.

Table with 3 columns: Name and Address of Applicant, Legal Description, Receiving Water. Row 1: Joseph Allen, NW/4 of Section 31, T31S, R03W, Sumner County, Lower Arkansas River Basin.

Kansas Permit No. A-ARSU-S011

This is a renewal permit for an existing facility for 1,020 head (408 animal units) of swine weighing greater than 55 pounds and 540 head (54 animal units) of swine weighing 55 pounds or less, for a total of 462 animal units of swine.

Table with 3 columns: Name and Address of Applicant, Legal Description, Receiving Water. Row 1: Wayne Knaus Farm, NE/4 of Section 16, T20S, R18E, Anderson County, Marais des Cygnes River Basin.

This is a renewal permit with an increase in animal units for an existing facility for 2,116 head (846.4 animal units) of swine weighing greater than 55 pounds and 960 head (96 animal units) of swine weighing 55 pounds or less, for a total of 942.4 animal units. The increase in animal units is due to a change in law or method of counting baby pigs and results in an increase of 35.4 animal units of swine.

Table with 3 columns: Name and Address of Applicant, Legal Description, Receiving Water. Row 1: Wiggins Ranch, SE/4 of Section 34, T24S, R10E, Greenwood County, Verdigris River Basin.

Kansas Permit No. A-VEGW-B002

This is a renewal permit for an existing facility for 120 head (120 animal units) of beef cattle greater than 700 pounds each.

Table with 3 columns: Name and Address of Applicant, Legal Description, Receiving Water. Row 1: Rocking H Ranch, Inc., NE/4 of Section 13, T13S, R17E, Douglas County, Kansas River Basin.

Kansas Permit No. A-KSDG-B001

This is a renewal permit for an existing facility for a maximum of 800 head (800 animal units) of beef cattle greater than 700 pounds.

Persons wishing to comment on the draft documents 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 considered in the decision-making process. Comments should be submitted to the attention of the Livestock Waste Management Section for agricultural-related draft documents or applications, or to the Technical Services Section 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 documents or application notices received on or before March 31 will be considered in the formulation of the final determinations regarding this public notice. Please refer to the appropriate Kansas document number (KS-AG-07-076/081) and name of the applicant/permittee when preparing comments.

After review of any comments received during the public notice period, the Secretary of Health and Environment will issue a determination regarding final agency action on each draft document/application. If response to any draft document/application indicates significant public interest, a public hearing may be held in conformance with K.A.R. 28-16-61 (28-46-21 for UIC).

All draft documents/applications and the supporting information including any comments received are on file and may be inspected at the offices of the Kansas Department of Health and Environment, Bureau of Water. These documents are available upon request at the copying cost assessed by KDHE. Application information and components of plans and specifications for all new and expanding swine facilities are available on the Internet at http://www.kdhe.state.ks.us/feedlots. Division of Envi-

ronment offices are open from 8 a.m. to 5 p.m. Monday through Friday, excluding holidays.

Roderick L. Bremby  
Secretary of Health  
and Environment

Doc. No. 034158

**State of Kansas**

**Department of Health  
and Environment**

**Request for Bids**

Sealed bids for lead hazard reduction at the following properties, under the Kansas Childhood Lead Poisoning Prevention Program, 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:

**March 16, 2007  
264-07-02**

**Project Lead Safe KCK**

- Property #1 214 S. 11th St.  
Kansas City, KS 66101
- Property #2 739 Barnett  
Kansas City, KS 66101
- Property #3 1115 Waverly  
Kansas City, KS 66101
- Property #4 6653 Nogard  
Kansas City, KS 66104
- Property #5 1052 Laurel  
Kansas City, KS 66104
- Property #6 3072 N. 31st St.  
Kansas City, KS 66104
- Property #7 1727 N. 24th St.  
Kansas City, KS 66104
- Property #8 2511 N. 65th Terr.  
Kansas City, KS 66104
- Property #9 2243 Elizabeth Ave.  
Kansas City, KS 66102
- Property #10 315 S. Boeke St.  
Kansas City, KS 66101
- Property #11 1818 N. 30th St.  
Kansas City, KS 66104

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 can be downloaded at the Web site listed above.

Roderick L. Bremby  
Secretary of Health  
and Environment

Doc. No. 034155

**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. Northern Natural Gas Company 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.

Northern Natural Gas Company, 1111 S. 103rd St., Omaha, Nebraska, owns and operates Stevens County #1 compressor station located at Section 3, T33S, R37W, Stevens County, Kansas.

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 Southwest District Office, 302 W. McArtor Road, Dodge City. To obtain or review the proposed permit and supporting documentation, contact Michael J. Parhomek, (785) 296-1580, at the KDHE central office; and to review the proposed permit only, contact Josh Weil, (620) 225-0596, at the KDHE Southwest District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Michael J. Parhomek, 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 April 2.

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 Sherry Walker, Bureau of Air and Radiation, not later than the close of business April 2 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

*(continued)*

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. 034146

## State of Kansas

### Board of Healing Arts

#### Notice of Hearing on Proposed Administrative Regulations

A public hearing will be conducted at 10 a.m. Wednesday, May 9, at the office of the Kansas State Board of Healing Arts, 235 S. Topeka Blvd., Topeka, to consider the adoption of one proposed new rule and regulation (K.A.R. 100-22-7) dealing with dishonorable conduct.

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 rule and regulation. All interested parties may submit comments prior to the hearing to the Board of Healing Arts, 235 S. Topeka Blvd., Topeka, 66603, or by e-mail to [healingarts@ink.org](mailto:healingarts@ink.org). All interested parties will be given a reasonable opportunity to present their views, orally or in writing, concerning the adoption of the regulation 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 regulation 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 Barbara Montgomery at (785) 296-8558 or at [barbaram@ink.org](mailto:barbaram@ink.org). Handicapped parking is located at the west end of the Hutton Building, and the northwest entrance to the building is accessible.

A summary of the proposed new dishonorable conduct rule and regulation to be considered at the hearing and the respective economic impact follows:

**K.A.R. 100-22-7. Orders to dispense medical devices.** This regulation requires each licensee who issues an order that authorizes the sale, lease or distribution of a prescription-only medical device to another person for other than self-treatment to create and sign a written record of the order and maintain it for at least 10 years. The regulation also specifies the statements that the written record must include.

These regulations are not mandated by any federal law.

There is no foreseen cost to either the board or the public to implement this regulation.

No other methods were considered.

Copies of the proposed regulation and the economic impact statement may be obtained by contacting Cathy Brown at the address above, (785) 296-3680; by visiting the board's Web site at [www.ksbha.org/pubinfo.html](http://www.ksbha.org/pubinfo.html); or by e-mail request to [healingarts@ink.org](mailto:healingarts@ink.org).

Lawrence T. Buening, Jr.  
Executive Director

Doc. No. 034153

## State of Kansas

### Board of Healing Arts

#### Notice of Hearing on Proposed Administrative Regulations

A public hearing will be conducted at 11 a.m. Wednesday, May 9, at the office of the Kansas State Board of Healing Arts, 235 S. Topeka Blvd., Topeka, to consider the adoption of one proposed new rule and regulation (K.A.R. 100-49-10) dealing with podiatry.

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 rule and regulation. All interested parties may submit comments prior to the hearing to the Board of Healing Arts, 235 S. Topeka Blvd., Topeka, 66603, or by e-mail to [healingarts@ink.org](mailto:healingarts@ink.org). All interested parties will be given a reasonable opportunity to present their views, orally or in writing, concerning the adoption of the regulation 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 regulation 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 Barbara Montgomery at (785) 296-8558 or at [barbaram@ink.org](mailto:barbaram@ink.org). Handicapped parking is located at the west end of the Hutton Building, and the northwest entrance to the building is accessible.

A summary of the proposed new podiatric rule and regulation to be considered at the hearing and the respective economic impact follows:

**K.A.R. 100-49-10. Definition of human foot.** This regulation defines the "human foot" as utilized in the podiatry act, K.S.A. 65-2001 through 65-2013 and amendments thereto.

These regulations are not mandated by any federal law.

There is no foreseen cost to either the board or the public to implement this regulation.

No other methods were considered.

Copies of the proposed regulation and the economic impact statement may be obtained by contacting Cathy Brown at the address above, (785) 296-3680; by visiting the board's Web site at [www.ksbha.org/pubinfo.html](http://www.ksbha.org/pubinfo.html); or by e-mail request to [healingarts@ink.org](mailto:healingarts@ink.org).

Lawrence T. Buening, Jr.  
Executive Director

Doc. No. 034154

State of Kansas

**Kansas Insurance Department**

**Notice of Cancellation of Hearing on Proposed Administrative Regulations**

A public hearing was scheduled at 9:30 a.m. March 28 in the third floor conference room, Kansas Insurance Department, 420 S.W. 9th, Topeka, to consider the adoption of proposed regulation **K.A.R. 40-3-55, fire and casualty insurance; certain premium surcharges prohibited.** The purpose of the proposed regulation is to prohibit insurance companies from surcharging a premium or placing a consumer in a higher rated tier if the consumer submits a motor vehicle claim for less than \$1,000 damage. This regulation also prohibits the use by insurance companies of any claim filed more than three years after the date of the claim.

Please be advised that the Kansas Insurance Department is hereby withdrawing the proposed regulation; therefore, the public hearing has been cancelled. Any comments or concerns may be addressed to Deletria Nash at (785) 296-4140 or via e-mail at dnash@ks insurance.org.

Sandy Praeger  
Kansas Insurance Commissioner

Doc. No. 034150

State of Kansas

**Kansas Health Policy Authority**

**Permanent Administrative Regulations**

**Article 5.—PROVIDER PARTICIPATION, SCOPE OF SERVICES, AND REIMBURSEMENTS FOR THE MEDICAID (MEDICAL ASSISTANCE) PROGRAM**

**129-5-1. Prior authorization.** (a) Any medical service may be placed by the Kansas health policy authority on the published list of services requiring prior authorization or precertification for any of the following reasons:

- (1) To ensure that provision of the service is medically necessary;
- (2) to ensure that services that could be subject to over-use are monitored for appropriateness in each case; and
- (3) to ensure that services are delivered in a cost-effective manner.

(b) Administration of covered pharmaceuticals in the following classes shall require prior authorization. A cross-reference of generic and brand names shall be made available upon request:

- (1) Ace inhibitors:
  - (A) Fosinopril;
  - (B) moexipril;
  - (C) perindopril;
  - (D) ramipril; and
  - (E) trandolopril;
- (2) acne and skin lesion products:
  - (A) Tretinoin; and
  - (B) alitretinoin;
- (3) adjunct antiepileptic drugs:
  - (A) Gabitril; and
  - (B) zonegran;

- (4) angiotensin II receptor antagonists:
  - (A) Candesartan;
  - (B) candesartan-HCTZ;
  - (C) eprosartan;
  - (D) eprosartan-HCTZ;
  - (E) olmesartan; and
  - (F) olmesartan-HCTZ;
- (5) anticholinergic urinary incontinence drugs:
  - (A) Flavoxate;
  - (B) oxybutynin XL;
  - (C) tolterodine;
  - (D) oxybutynin patches; and
  - (E) trospium chloride;
- (6) antipsoriatics: alefacept;
- (7) antiretroviral drugs: enfuvirtide;
- (8) antirheumatics:
  - (A) Leflunomide;
  - (B) infliximab;
  - (C) anakinra;
  - (D) adalimumab;
  - (E) etanercept; and
  - (F) abatacept;
- (9) cervical dystonias: botulinum toxins A and B;
- (10) drugs for the treatment of osteoporosis: teriparatide;
  - (11) antituberculosis products:
    - (A) Aminosalicylate sodium;
    - (B) capreomycin;
    - (C) ethambutol;
    - (D) ethionamide;
    - (E) isoniazid;
    - (F) pyrazinamide; and
    - (G) rifampin and rifampin-isoniazid combinations;
  - (12) all decubitus and wound care products;
  - (13) all intravenous and oral dietary and nutritional products, including the following:
    - (A) Amino acids, injectable;
    - (B) l-cysteine;
    - (C) lipids, injectable; and
    - (D) sodium phenylbutyrate;
  - (14) beta-blockers:
    - (A) Betaxolol;
    - (B) bisoprolol;
    - (C) carteolol;
    - (D) nadolol;
    - (E) penbutolol;
    - (F) timolol; and
    - (G) propranolol XL;
  - (15) calcium channel blockers:
    - (A) Diltiazem extended release, with the following brand names:
      - (i) Cardizem SR®;
      - (ii) Cardizem CD®;
      - (iii) Cartia XT®;
      - (iv) Dilacor XR®;
      - (v) Taztia XT®; and
      - (vi) Cardizem LA®;
    - (B) verapamil sustained release, with the following brand names:
      - (i) Covera HS®; and
      - (ii) Verelan PM®;

(continued)

(C) nifedipine sustained release, with the following brand names:

- (i) Nifedical XL<sup>®</sup>; and
- (ii) Procardia XL<sup>®</sup> and all generic equivalents;
- (D) nimodipine;
- (E) nisoldipine;
- (F) felodipine;
- (G) isradipine;
- (H) nicardipine SR; and
- (I) nifedipine immediate release, with the following brand names:

(i) Adalat<sup>®</sup> and all generic equivalents; and

(ii) Procardia<sup>®</sup> and all generic equivalents;

(16) fibric acid derivatives:

(A) Antara<sup>®</sup>;

(B) Lofibra<sup>®</sup>;

(17) all growth hormones and growth hormone stimulating factor, including the following:

(A) Somatrem;

(B) somatropin;

(C) sermorelin; and

(D) mecasermin rinfabate;

(18) intranasal corticosteroids:

(A) Flunisolide; and

(B) beclomethasone;

(19) inhaled corticosteroids:

(A) Flunisolide-menthol;

(B) flunisolide; and

(C) budesonide inhaled suspension;

(20) proton pump inhibitors:

(A) Esomeprazole;

(B) omeprazole;

(C) omeprazole OTC;

(D) lansoprazole;

(E) pantoprazole;

(F) rabeprazole; and

(G) omeprazole NaHCO<sub>3</sub>;

(21) monoclonal antibody for respiratory syncytial virus (RSV), including palivizumab;

(22) muscle relaxants:

(A) Tizanidine;

(B) orphenadrine;

(C) methocarbamol;

(D) carisprodol;

(E) carisprodol compound;

(F) cyclobenzaprine (5 mg); and

(G) metaxalone;

(23) narcotics:

(A) Buprenorphine-naloxone; and

(B) buprenorphine;

(24) nonsteroidal, anti-inflammatory drugs: nabumetone;

(25) drugs for the treatment of obesity:

(A) Orlistat;

(B) sibutramine; and

(C) phentermine;

(26) oxazolidinones, including linezolid;

(27) HMG-CoA reductase inhibitors:

(A) Pravastatin;

(B) fluvastatin;

(C) lovastatin; and

(D) rosuvastatin;

(28) nonsedating antihistamines:

(A) Desloratidine; and

(B) fexofenadine;

(29) H<sub>2</sub> antagonists: nizatidine;

(30) triptans:

(A) Naratriptan;

(B) zolmitriptan; and

(C) frovatriptan;

(31) antidiabetic drugs:

(A) Amaryl<sup>®</sup>;

(B) Glucotrol XL<sup>®</sup>;

(C) Prandin<sup>®</sup>;

(D) Precose<sup>®</sup>;

(E) Glucophage XR<sup>®</sup>;

(F) Glucovance<sup>®</sup>; and

(G) Metaglip<sup>®</sup>;

(H) exenatide; and

(I) pramlintide acetate;

(32) the following types of syringes, penfills, and cartridges of insulin:

(A) Humalog<sup>®</sup>;

(B) Humalog Mix<sup>®</sup>;

(C) Humulin R<sup>®</sup>;

(D) Humulin N<sup>®</sup>;

(E) Humulin 70/30<sup>®</sup>;

(F) Novolog<sup>®</sup>;

(G) Novolog Mix<sup>®</sup>;

(H) Novolin R<sup>®</sup>;

(I) Novolin N<sup>®</sup>;

(J) Novolin 70/30<sup>®</sup>; and

(K) Velosulin BR<sup>®</sup>;

(33) hypnotics:

(A) Zaleplon;

(B) zolpidem; and

(C) zolpidem CR;

(34) serotonin 5-HT<sub>3</sub> receptor antagonist antiemetics:

(A) Kytril<sup>®</sup>; and

(B) Anzemet<sup>®</sup>;

(35) influenza vaccines: Flumist<sup>®</sup>;

(36) the following drugs if specifically required by the physician, which shall require prior authorization to override maximum allowable cost (MAC) or federal upper limit (FUL) pricing:

(A) Clozaril;

(B) depakene;

(C) tegretol; and

(D) coumadin;

(37) monoclonal antibody for asthma: omalizumab;

(38) bisphosphonates:

(A) Risedronate; and

(B) risedronate-calcium;

(39) ACE inhibitors-calcium channel blockers:

(A) Enalapriol maleate-felodipine; and

(B) trandolapril-verapamil;

(40) ophthalmic prostaglandin analogues:

(A) Bimatoprost; and

(B) unoprostone;

(41) topical immunomodulators:

(A) Protopic<sup>®</sup> (topical formulation); and

(B) Elidel<sup>®</sup>;

(42) narcotic analgesics: any transmucosal form of fentanyl; and



(43) tramadol and all opioids, opioid combinations, and skeletal muscle relaxants, at any dose greater than the maximum recommended dose in a 31-day period.

(c) Failure to obtain prior authorization, if required, shall negate reimbursement for the service and any other service resulting from the unauthorized or noncertified treatment. The prior authorization shall affect reimbursement to all providers associated with the service.

(d) The only exceptions to prior authorization shall be the following:

(1) Emergencies. If certain surgeries and procedures that require prior authorization are performed in an emergency situation, the request for authorization shall be made within two working days after the service is provided.

(2) Situations in which services requiring prior authorization are provided and retroactive eligibility is later established. When an emergency occurs or when retroactive eligibility is established, prior authorization for that service shall be waived, and if medical necessity is documented, payment shall be made.

(e) Services requiring prior authorization shall be considered covered services within the scope of the program, unless the request for prior authorization is denied. (Authorized by L. 2005, Ch. 187, Sec. 45 and K.S.A. 2005 Supp. 39-7,120, as amended by L. 2005, Ch. 187, Sec. 54; implementing K.S.A. 2005 Supp. 39-7,120, as amended by L. 2005, Ch. 187, Sec. 54 and K.S.A. 2005 Supp. 39-7,121a, as amended by L. 2005, Ch. 187, Sec. 56; effective Oct. 28, 2005; amended June 2, 2006; amended Aug. 11, 2006; amended Nov. 17, 2006; amended March 16, 2007.)

Marcia Nielsen, Ph.D., MPH  
Executive Director

Doc. No. 034156

## State of Kansas

### Department of Health and Environment

#### Permanent Administrative Regulations

#### Article 16.—WATER POLLUTION CONTROL

**28-16-56c. Sewage permit fees; definitions.** For the purposes of K.A.R. 28-16-56d, the following terms shall be defined as specified in this regulation:

(a) "Animal unit," for the purpose of determining permit fees, has the meaning specified in K.S.A. 65-171d, and amendments thereto.

(b) "Animal unit capacity" means the maximum number of animal units that a confined feeding facility is designed to accommodate at any one time.

(c) "Commercial wastewater treatment facility" means a facility serving a commercial enterprise or group or a combination of commercial enterprises, for the purpose of treating primarily domestic sewage by physical, chemical, or biological means or by a combination of these methods. This term shall include any slaughterhouse with an average slaughter rate of 50 animals or less per week.

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

(e) "Cooling water discharge" means cooling water discharged from any system in which there is no contact with process pollutants and there is no measured chemical buildup.

(f) "Dewatering discharge" means a discharge resulting from the drainage or removal of water from a lagoon, quarry, pit, or any other holding device. This term shall not include any discharge in which there is a measured chemical buildup or to which chemicals have been added for any purpose.

(g) "Domestic sewage" means sewage originating primarily from kitchen, bathroom, and laundry sources, including waste from food preparation, dishwashing, garbage grinding, toilets, baths, showers, and sinks.

(h) "General permit" has the meaning specified in 40 CFR 122.2 and adopted by reference in K.A.R. 28-16-151.

(i) "Industrial wastewater treatment facility" means a facility treating primarily sewage or process-generated wastewater, other than domestic sewage, by physical, chemical, or biological means or by a combination of these methods.

This term shall not include any private truck-washing or trailer-washing facility for washing animal waste from not more than two trucks or trailers, or a combination of both, owned by the private truck-washing or trailer-washing facility.

(j) "Municipal wastewater treatment facility" means a facility serving a city, county, township, sewer district, or other local governmental unit, or a facility serving a state or federal agency, establishment, or institution, for the purpose of treating primarily domestic sewage by physical, chemical, or biological means or by a combination of these methods.

(k) "Point source" means any discernible, confined, and discrete conveyance from which pollutants are or can be discharged, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, confined animal feeding facility, landfill leachate collection system, and any vessel or other floating craft. This term shall not include the return flows from irrigated agriculture or agricultural storm water runoff.

(l) "Pretreatment permit" means a permit that is issued to a source subject to pretreatment standards and that discharges to a municipal wastewater treatment facility not having an approved pretreatment program.

(m) "Private truck-washing facility for animal wastes" means a truck-washing facility for animal wastes that exists primarily for the purpose of washing animal wastes from trucks or trailers owned by the facility.

(n) "Sewage" has the meaning specified in K.S.A. 65-164, and amendments thereto.

(o) "Storm water discharge" means any discharge of storm water runoff from a point source. This term may include any of the following:

(1) Storm water runoff from a municipal, industrial, or commercial facility or from a construction site;

(2) a discharge from any conveyance or system of conveyances used for collecting and conveying storm water runoff; or

(continued)

(3) a system of discharges from municipal storm sewers that are separate from sanitary sewers.

(p) "Treated cooling water discharge" means cooling water discharged from any system in which there is no contact with process pollutants and there is no measured chemical buildup other than chemicals added for biological or corrosion control, or from evaporative losses.

(q) "Truck-washing facility for animal wastes" means a truck-washing facility that exists primarily for the purpose of washing animal wastes from trucks or trailers. (Authorized by and implementing K.S.A. 2003 Supp. 65-171d; effective Sept. 27, 1996; amended March 16, 2007.)

**28-16-56d. Sewage permit fees; schedules.** (a) Each person applying for a permit pursuant to K.S.A. 65-165, and amendments thereto, and each holder of a permit issued pursuant to K.S.A. 65-165 and amendments thereto, shall submit the appropriate fee in accordance with the following schedule:

Schedule of Fees at Annual Rate

<i>Classification</i>	<i>Unit Rates and Minimum Rates</i>
(1) Municipal or commercial wastewater treatment facility.	\$185/year/million gallons per day permitted capacity and for any portion thereof. \$185 minimum fee per year.
(2) Municipal storm water system	
(A) population less than 100,000 persons.	None
(B) population of 100,000 persons or greater	\$2,000 per year.
(3) Industrial wastewater treatment facility.	\$320/year/million gallons per day permitted capacity and for any portion thereof. \$320 minimum fee per year.
(4) Cooling water discharge. Surface disposal:	
(A) Non-contact cooling water.	\$60 per year.
(B) treated cooling water.	\$120/year/million gallons per day permitted capacity and for any portion thereof. \$120 minimum fee per year.
(5) Dewatering discharge.	\$60 per year.
(6) Pretreatment permit.	\$320 per year.
(7) General permit.	\$60 per year.
(8) Industrial storm water discharge.	
(A) General permit	\$60 per year.
(B) individual permit.	\$320 per year.
(9) Confined feeding facility or public livestock market required to register or obtain a permit:	
(A) Initial registration fee, regardless of animal unit capacity	\$25 one-time fee.
(B) permit fee:	
(i) Animal unit capacity of 999 or less	\$25 per year.
(ii) animal unit capacity of 1,000-4,999	\$100 per year.
(iii) animal unit capacity of 5,000-9,999	\$200 per year.
(iv) animal unit capacity of 10,000 or more	\$400 per year.
(10) Truck-washing facility for animal wastes.	

*Unit Rates and Minimum Rates*

- (A) Private truck-washing facility for animal wastes with any combination of owned trailers or trucks totaling no more than two \$25 per year.
- (B) Private truck-washing facility for animal wastes with any combination of owned trailers or trucks totaling more than two \$200 per year.
- (C) all other truck-washing facilities for animal wastes. \$320 per year.

(b)(1) Plans and specifications shall not be reviewed and processing and issuance of a permit shall not take place until the required fee is paid. Fees shall be made payable to the "Kansas department of health and environment—water pollution control permit."

(2) Fees paid in accordance with the schedule in subsection (a), including fees paid for facilities that are never built or that are abandoned, shall not be refunded.

(3) Each operator who is operating a facility in which two or more of the wastewaters identified in subsection (a) are discharged shall pay the appropriate fee for each type of wastewater discharged, even if only one permit has been issued for the facility.

(4) Permit fees shall be based on the minimum rate or unit rate, whichever is greater. The full unit rate shall be applied to any portion of a unit. The fee per unit shall not be prorated.

(5) A permit fee shall be paid annually in accordance with subsection (a).

(6) If ownership of the permitted facility changes during the term of a valid permit, no additional fee shall be required unless a change occurs that results in a new or expanded facility or operation.

(7) If a change occurs during the term of a valid permit that results in an expanded capacity of the facility or operation, a new application shall be required. Upon approval, the existing permit shall be amended and shall continue in effect for the remainder of the original term, unless revoked. The additional fee shall be based only on the difference between the original permitted capacity and the expanded capacity. The new annual fee for the expanded facility shall be based on the unit rate at the expanded capacity or the minimum rate, whichever is greater, for the remainder of the term of the permit. (Authorized by and implementing K.S.A. 2003 Supp. 65-166a and 65-171d; effective Sept. 27, 1996; amended March 16, 2007.)

**Article 18.—ANIMAL AND RELATED WASTE CONTROL**

**28-18-1. Definitions.** The following terms and abbreviations shall have the following meanings, unless otherwise defined in an individual regulation or unless a different meaning is clear from the context in which it is used. Terms and abbreviations not provided in this article shall have the meanings specified in K.S.A. 65-101 et seq. and amendments thereto; articles 5, 16, 18a, and 30; or the clean water act (CWA). If the same word is defined both in Kansas statutes or the regulations of this article and in

any federal regulation adopted by reference in these regulations or in state regulations referenced in this article and the definitions are not identical, the definition prescribed in Kansas statutes or the regulations of this article shall control.

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

(b) "Animal unit capacity" has the meaning specified in K.S.A. 65-171d, and amendments thereto.

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

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

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

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

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

(5) waste-retention lagoons or ponds;

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

(7) waste treatment facilities.

(d) "Certification" means a document issued by the secretary in lieu of a water pollution control permit, indicating that the facility meets applicable animal waste management statutes and regulations and does not represent a significant water pollution potential.

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

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

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

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

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

(g) "Closure plan" means a written document that identifies the practices and procedures that the operator of a confined feeding facility plans to use when closing the facility or any part of the facility.

(h) "Confined feeding facility" has the meaning specified in K.S.A. 65-171d and amendments thereto.

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

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

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

(l) "Entity," for the purposes of these regulations, means a person, individual, association, company, cor-

poration, institution, group of individuals, joint venture, partnership, or federal, state, county, or municipal agency or department.

(m) "Environmental protection agency" and "EPA" mean the United States environmental protection agency.

(n) "Equus Beds," for the purposes of these regulations, means an 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

(continued)

County	Range	Township	Section
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

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

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

(q) "Fur animals" means animals raised for the skin, pelt, or fur.

(r) "Groundwater," as used in this article, 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 purposes of this article, groundwater 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) The groundwater is currently being used within ½ 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 ½ mile of the proposed lagoon.

(s) "Habitable structure" has the meaning specified in K.S.A. Supp. 65-171d, and amendments thereto.

(t) "Impermeable synthetic membrane liner" means a commercially manufactured membrane liner composed of synthetic materials commonly identified as being plastic, plastic polymer, or other synthetic materials that, when installed, 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 maximum monitored or calculated seepage rate for the installed membrane liner, expressed in units of volume per unit area per unit of time (gallons per square foot per day).

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

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

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

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

(1) Effluent standards and limitations;

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

(3) other standards of design, construction, and maintenance for confined feeding facilities or animal waste management systems, published by the KDHE.

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

(1) Either systematic inspection or collection and analysis of data on the operational parameters of a confined feeding facility or an animal waste management system; or

(2) the systematic collection and analysis of data on the quality of the animal or other process wastes, ground-water, surface water, or soils on or in the vicinity of the confined feeding facility or animal waste management system.

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

(aa) "Nutrient management plan" means a written document that identifies the practices and procedures that the operator of a confined feeding facility that is required to obtain a federal permit plans to use to operate and maintain the animal waste management system and to manage the handling, storage, utilization, and disposal of wastes generated by the facility.

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

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

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

(ee) "Point source" has the meaning specified in K.A.R. 28-16-28b.

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

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

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

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

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

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

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

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

(F) wastes from dust control;

(G) boiler blowdown and water softener regenerate wastes;

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

(I) spillage of feed, molasses, animal wastes, or any other process wastes described in this regulation;

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

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

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

(M) silo liquors; or

(N) flows or runoff from waste storage areas.

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

(ii) "Public livestock market" has the meaning specified in K.S.A. 47-1001, and amendments thereto. For the purposes of these regulations, this term shall include public livestock markets where federal veterinary inspections are regularly conducted.

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

(kk) "Salt solution mining well" has the meaning specified in K.S.A. 55-1,120, and amendments thereto.

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

(mm)(1) "Sensitive groundwater areas," for the purpose of these 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. Each 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 adopted by reference in K.A.R. 28-16-160.

(2) Any operator proposing a new animal waste-retention lagoon or expansion of an existing animal waste-retention lagoon may request that the director make a site-specific sensitive groundwater area determination. The request shall be made in writing to the director. The request shall contain supporting data and information and an explanation of why the area in question should not be considered to be a sensitive groundwater area, for the purpose of these regulations.

(nn) "Sewage" has the meaning specified in K.S.A. 65-164, and amendments thereto.

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

(1) A livestock or animal feeding operation that utilizes structures designed and constructed to collect, control the flow of, and direct animal or other process wastes, tanks, manure pits, or other structures designed and constructed to collect or store animal or other process wastes,

(continued)

waste-retention lagoons or ponds, or waste treatment facility or facilities;

(2) lots, pens, or concentrated feeding areas with creeks, streams, intermittent waterways, or any other conveying channel or device that has the potential to carry pollutants to waters of the state running through or proximate to the lots, pens, or concentrated feeding areas;

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

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

(pp) "Surface waters," for water quality purposes, has the meaning specified in K.A.R. 28-16-28b.

(qq) "Truck-washing facility for animal wastes" means a truck-washing facility that exists solely for the purpose of washing animal wastes from trucks or trailers.

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

(ss) "Waste management plan" means a written document that identifies the practices and procedures that the operator of a confined feeding facility not required to obtain a federal permit plans to use to operate and maintain the animal waste management system and to manage the handling, storage, utilization, and disposal of wastes generated by the facility.

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

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

(vv) "Water pollution control permit" and "permit" mean an authorization, license, or equivalent control document issued by the secretary. This term shall not include any document that has not yet been the subject of final action by the secretary.

(ww) "Water quality standards" means the Kansas surface water quality standards as specified in K.A.R. 28-16-28b through K.A.R. 28-16-28g.

(xx) "Water well" has the meaning specified in K.S.A. 82a-1203, and amendments thereto.

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

(zz) "Whole pond seepage test" means a measurement of the evaporation from, and the change in water level of the waste-retention lagoon, pond, or structure, or swine waste-retention lagoon, pond, or structure using either of the following:

(1) Any method that meets the requirements specified in "standards for measuring seepage from anaerobic lagoons and manure storages," by Jay M. Ham, Ph.D. and Tom M. DeSutter, dated 2003 and hereby adopted by reference; or

(2) any equivalent method approved by the secretary. (Authorized by K.S.A. 2005 Supp. 65-171d; implementing K.S.A. 65-164, 65-165, 65-166, K.S.A. 2005 Supp. 65-166a, K.S.A. 65-171a, K.S.A. 2005 Supp. 65-171d, and K.S.A. 65-171h; effective, E-67-5, May 31, 1967; effective Jan. 1, 1968; amended Jan. 15, 1999; amended March 16, 2007.)

### **28-18-2. Registration and application requirements.**

(a) Each entity proposing the construction, modification, or expansion of an unregistered confined feeding facility, public livestock market, collection center, or transfer station and each operator of an existing, but unregistered, confined feeding facility, public livestock market, collection center, or transfer station shall submit a registration form for the facility to the secretary, if any of the following conditions is met:

(1) The proposed or existing unregistered facility has an animal unit capacity of 300 or more animal units.

(2) The proposed or existing unregistered facility presents a significant water pollution potential, as defined in K.A.R. 28-18-1.

(3) The proposed or existing unregistered facility is required by statute to obtain a permit from the secretary.

(4) The entity proposing the construction, modification, or expansion of an unregistered facility or the operator of an existing unregistered facility elects to register the facility in order to obtain either a permit or certification, even though there is no requirement to obtain a permit or certification.

(b) Each entity or operator that submits a registration form to the department shall include the required \$25 fee.

(c) Each entity proposing the construction, modification, or expansion of a confined feeding facility, a public livestock market, a collection center, a transfer station, or a truck-washing facility for animal waste and each operator of an unpermitted confined feeding facility, public livestock market, collection center, transfer station, or truck-washing facility for animal waste shall submit to the secretary a permit application for the facility if any of the following conditions is met:

(1) The proposed facility or existing unpermitted facility presents a significant water pollution potential, as defined in K.A.R. 28-18-1.

(2) The proposed facility or existing unpermitted facility is required by statute to obtain a permit.

(3) The entity proposing the construction, modification, or expansion of the facility or the operator of an existing unpermitted facility elects to obtain a permit, even though a permit is not required.

(d) Each entity or operator that submits a permit application to the department shall include the permit fee required by K.A.R. 28-16-56d.

(e) The animal unit capacity of a confined feeding facility using an animal waste management system, for species other than those included in the definition of animal unit, shall be determined by the secretary on a case-by-case basis. The quantity or concentration of animal waste produced by the species in comparison to those species addressed in the animal unit definition shall be the factor used by the secretary in determining the animal unit capacity.

(f) Each entity or operator proposing the construction, modification, or expansion of a confined feeding facility and each operator of an unpermitted confined feeding facility required by statute or regulation to obtain a federal permit shall apply to the secretary for a federal permit.

(g) Each entity or operator that is proposing the construction, modification, or expansion of a confined feeding facility, public livestock market, collection center, transfer station, or truck-washing facility for animal wastes and that is required to obtain a permit or certification shall obtain a permit or certification from the secretary before initiating operation of the facility. (Authorized by K.S.A. 2005 Supp. 65-171d; implementing K.S.A. 65-164, 65-165, 65-166, K.S.A. 2005 Supp. 65-166a, K.S.A. 2005 Supp. 65-171d, and K.S.A. 65-171h; effective, E-67-5, May 31, 1967; effective Jan. 1, 1968; amended Jan. 15, 1999; amended March 16, 2007.)

**28-18-4. Filing of applications and payment of fees.** (a) Each application shall be filed according to K.A.R. 28-16-59.

(b) For the purpose of providing adequate public notice regarding a permit for any proposed new construction or proposed new expansion of a confined feeding facility, a public livestock market, a collection center, a transfer station, or a truck-washing facility for animal wastes, each applicant shall provide to the secretary the name or names and mailing address or addresses of the following:

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

(2) each owner of a habitable structure or any property located within one mile of the confined feeding facility.

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

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

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

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

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

(5) for confined feeding facilities that utilize a waste-retention lagoon or pond, any information that the applicant possesses indicating the presence of any unplugged oil, gas, or salt solution mining wells located at the proposed or existing confined feeding facility;

(6) a waste management plan for any confined feeding facility whose operator is not required to obtain a federal permit;

(7) a nutrient management plan for any confined feeding facility whose operator is required to obtain a federal permit;

(8) a groundwater monitoring plan, if required; and

(9) a closure plan for any confined feeding facility whose operator is required to obtain a federal permit and that is located over the Equus Beds.

(d) Confined feeding facilities on separate pieces of land without a contiguous ownership boundary shall be classified as separate operations, and each applicant shall be assessed a fee under K.A.R. 28-16-56d. (Authorized by K.S.A. 2005 Supp. 65-171d; implementing K.S.A. 65-164, 65-165, 65-166, K.S.A. 2005 Supp. 65-166a, K.S.A. 2005 Supp. 65-171d, and K.S.A. 65-171h; effective, E-67-5, May 31, 1967; effective Jan. 1, 1968; amended Jan. 15, 1999; amended March 16, 2007.)

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

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

(2) Each operator of an animal waste management system for a confined feeding facility who is required to obtain a federal permit shall ensure that the animal waste management system is designed, constructed, operated, and maintained to prevent the discharge of animal or other process wastes to surface waters of the state. Any operator of an animal waste management system of a confined feeding facility may discharge the following to surface waters of the state, whenever precipitation events, either chronic or catastrophic, cause an overflow from an animal waste management system designed, constructed, operated, and maintained to contain all animal and other process wastes:

(A) Animal or other process wastes; and

(B) the direct precipitation and the runoff from a 25-year, 24-hour precipitation event for the location of the confined feeding facility.

(3)(A) Except as provided in paragraph (b)(3)(B), each animal waste management system for any confined feeding facility whose operator is not required to obtain a federal permit shall be designed, constructed, operated, and maintained to prevent the discharge of animal or other process wastes to surface waters of the state as required in paragraph (b)(2).

(B) Any operator of an animal waste management system for a confined feeding facility who is not required to obtain a federal permit may discharge animal or other process wastes to surface waters of the state, consistent with the requirements of K.A.R. 28-16-28b through K.A.R. 28-16-28g, K.A.R. 28-16-57a, and K.A.R. 28-16-62, as appropriate, when specifically authorized by a permit.

(c) For each emergency or accidental discharge, overflow, or unplanned release of animal or other process wastes, each operator shall report the incident to the department within two hours of discovery. Each operator

*(continued)*

shall report any emergency, spill, accidental discharge, overflow, or unplanned release associated with animal or other process wastes to the department, using the telephone numbers provided by the director. Each operator shall submit a written report to the department within three days of the incident.

(d) Each operator shall retain a copy of the current permit issued by the secretary at the site office for the facility or at a central records location.

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

(f) Each operator shall operate the facility in a manner that minimizes or prevents any discharge that is in violation of the permit or that has a potential to adversely affect human health or the environment.

(g) Each operator shall, at all times, properly operate and maintain the animal waste management system and any related appurtenances that are installed or utilized by the operator to achieve compliance with the conditions of the permit. (Authorized by K.S.A. 2005 Supp. 65-171d; implementing K.S.A. 65-164, K.S.A. 65-165, K.S.A. 65-166, K.S.A. 2005 Supp. 65-166a, K.S.A. 2005 Supp. 65-171d, and K.S.A. 65-171h; effective Jan. 15, 1999; amended March 16, 2007.)

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

(b) Operation of a confined feeding facility in violation of any conditions, requirements, limitations, and operating provisions of a certification, or in a manner that represents a significant water pollution potential, shall result in the revocation of the certification and any appropriate enforcement action. If a significant water pollution potential exists as defined in K.A.R. 28-18-1, the operator shall apply for a permit. (Authorized by K.S.A. 2003 Supp. 65-171d; implementing K.S.A. 65-164, 65-165, 65-166, K.S.A. 2003 Supp. 65-166a, K.S.A. 2003 Supp. 65-171d, and K.S.A. 65-171h; effective Jan. 15, 1999; amended March 16, 2007.)

**28-18-11. Confined feeding facilities; federal requirements.** For the purpose of issuing federal permits and administering NPDES program requirements, the following definitions and provisions, as in effect on July 1, 2005, are hereby adopted by reference:

(a) The concentrated animal feeding operation exclusions specified in 40 C.F.R. 122.3 (e) and 40 C.F.R. 122.3 (f);

(b) the provisions addressing concentrated animal feeding operations specified in 40 C.F.R. 122.23(b), (c), and (e), and 122.42(e);

(c) the provisions addressing concentrated aquatic animal feeding operations specified in 40 C.F.R. 122.24 and appendix C to 40 C.F.R. Part 122; and

(d) except for 40 C.F.R. 412.32, 412.44, and 412.46, the provisions addressing effluent limitations for concentrated animal feeding operations specified in 40 C.F.R. Part 412. (Authorized by K.S.A. 2005 Supp. 65-171d; implementing K.S.A. 65-164, 65-165, K.S.A. 65-166, K.S.A.

2005 Supp. 65-166a, K.S.A. 2005 Supp. 65-171d, and K.S.A. 65-171h; effective Jan. 15, 1999; amended March 16, 2007.)

**28-18-12. Design and construction of animal waste management systems.** (a) If a confined feeding facility represents a significant water pollution potential or if the operator of a facility is required by statute or regulation to obtain a permit, as determined by the secretary, the operator shall provide an animal waste management system that is designed in accordance with the minimum standards of design, construction, and maintenance and is constructed and operated in accordance with construction plans, specifications, and either a waste management plan or nutrient management plan approved by the secretary. If site topography, operating procedures, experience, and other available information indicate that more than the minimum standards of design, construction, and maintenance are required to effect adequate water pollution control, additional provisions may be required. Each applicant shall ensure that any new construction or new expansion of a confined feeding facility or animal waste management system meets the requirements of the "minimum standards of design, construction, and maintenance," as defined in K.A.R. 28-18-1.

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

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

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

(e) (1) Each operator shall initiate any proposed new construction or new expansion of a confined feeding facility that has been approved by the secretary and for which the required permit or permit modification has been issued, within two years after the date on which the permit or permit modification is effective or pursuant to the requirements of the permit issued by the secretary. Each operator shall complete any proposed new construction or new expansion of a confined feeding facility



that has been approved by the secretary and for which the required permit or permit modification is issued, within three years after the date on which the permit or permit modification is effective or as required by the permit issued by the secretary.

(2) Failure to initiate the approved construction or expansion within two years and to complete the approved construction or expansion within three years after the effective date of the permit or permit modification shall void the secretary's approval of the construction plans, specifications, and other associated plans. If phased construction is proposed, the initiation and completion of construction shall conform to the schedule stipulated by the secretary.

(3) If the approval becomes void, the permit or permit modification shall remain in effect for the term of the permit, but the operator shall resubmit the construction plans, specifications, and other associated plans to the secretary for review and consideration for approval before initiating the construction or expansion of a confined feeding facility.

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

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

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

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

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

priate steps, including plugging the well, have been taken to protect public health and the environment.

(k) Following the completion of the proposed construction or proposed expansion and when requested by the secretary, each operator shall certify that the animal waste management system was constructed in accordance with the plans approved by the secretary. If the operator utilized a professional engineer or consultant to monitor the construction of the animal waste management system, then the certification shall also be signed by the professional engineer or the consultant who monitored the construction or installation of the animal waste management system, including any waste-retention lagoon or pond liner. The certification shall be based on actual observations during construction and any field or laboratory data developed during or following construction. The certification shall be maintained on-site or at a central records location and made available to the department, along with any supporting information, upon request. (Authorized by K.S.A. 2005 Supp. 65-171d; implementing K.S.A. 65-164, 65-165, 65-166, K.S.A. 2005 Supp. 65-166a, K.S.A. 2005 Supp. 65-171d, and K.S.A. 65-171h; effective Jan. 15, 1999; amended March 16, 2007.)

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

(b) Each animal waste management system shall be operated according to the plans approved by the secretary.

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

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

(e) When land application of animal or other process wastes is practiced, the application shall be conducted considering site-specific conditions to ensure the appropriate agricultural utilization of the nutrients in the animal or process wastes.

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

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

(h) (1) Unless approved in advance by the secretary, liquid waste, concentrated liquid animal waste, or other

*(continued)*

liquid process waste shall not be land-applied when the ground is frozen, snow-covered, or saturated, or during a precipitation event. Land application of animal or other process wastes during these periods may be authorized by the secretary for use in filtering animal or other process wastes from retention structures that are properly operated and maintained and that are in imminent danger of overflow to surface waters of the state due to a chronic or catastrophic precipitation event.

(2) Solid animal or other process wastes may be applied to frozen ground only if the proposed application site and practices ensure that the wastes will be retained at the application site.

(i) (1) Each operator, as required by the facility permit issued by the secretary, shall conduct sampling and analysis of animal or process wastes or sites utilized for the application of animal or process wastes from confined animal feeding facilities, to determine nutrient and salinity levels, to confirm utilization of the animal or process wastes at agronomic rates, and to ensure that public health and the environment are protected.

(2) (A) Each operator of a confined feeding facility not required to obtain a federal permit shall sample the soil of each field identified in the waste management plan for the confined feeding facility if both of the following conditions are met:

(i) The field is identified by KDHE as located in a sensitive groundwater area or over the Equus Beds.

(ii) The field has received manure or wastewater in one or more of the previous five years.

(B) The sampling and analysis shall be conducted in accordance with the procedures approved by the secretary. The test results shall be sent to the department within 30 days of receipt of the test results.

(3) Each operator required to obtain a federal permit shall conduct soil and waste sampling and analysis in accordance with the nutrient management plan. (Authorized by K.S.A. 2005 Supp. 65-171d; implementing K.S.A. 65-164, 65-165, 65-166, K.S.A. 2005 Supp. 65-166a, K.S.A. 2005 Supp. 65-171d, and K.S.A. 65-171h; effective Jan. 15, 1999; amended March 16, 2007.)

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

(b) Each operator that develops or modifies biosecurity protocols and that requests KDHE conformance with the protocols shall submit a copy of the protocols to the department within 30 days of establishing or modifying the biosecurity protocols.

(c) If any department inspector conducting an inspection of a confined feeding facility complies with the facility's biosecurity protocol, that inspector shall be allowed to access the animal waste management system to conduct inspections. Biosecurity protocols shall not restrict the reasonable access of any department inspector. (Authorized by K.S.A. 2005 Supp. 65-171d; implementing K.S.A. 65-164, 65-165, 65-166, K.S.A. 2005 Supp. 65-166a, K.S.A. 2005 Supp. 65-171d, and K.S.A. 65-171h; effective Jan. 15, 1999; amended March 16, 2007.)

**28-18-16. Waste-retention lagoon or pond closure requirements.** (a) Each operator of a confined feeding fa-

cility permitted by the department shall notify the department of any plans to cease operation of, close, or abandon the waste-retention lagoon or pond.

(b) Each operator shall maintain and comply with a valid water pollution control permit for the facility until closure of the waste-retention lagoon or pond is complete and all materials representing a threat to public health and the environment are removed.

(c) Each operator of a confined feeding facility that is located over the Equus Beds who is required to obtain a federal permit and who proposes the new construction or expansion of a waste-retention lagoon or pond shall develop and implement a waste-retention lagoon or pond closure plan. The operator shall submit the closure plan with the permit application to the department for consideration for approval. When submitting waste-retention lagoon or pond closure plans, each operator shall submit four copies of the plan.

(d) Each operator of a confined feeding facility required to obtain a federal permit shall develop and implement a waste-retention lagoon or pond closure plan if all of the following conditions are met:

(1) The waste-retention lagoon or pond is located over the Equus Beds.

(2) The operator is applying for the renewal of the permit after the effective date of this regulation.

(3) The operator does not have an approved waste-retention lagoon or pond closure plan. The operator shall submit the closure plan with the permit renewal application to KDHE. When submitting a waste-retention lagoon or pond closure plan, each operator shall submit four copies of the plan.

(e) Each waste-retention lagoon or pond closure plan shall include at a minimum the following information:

(1) A description of all animal waste management system components utilized to contain, control, or store process wastes at the facility;

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

(3) a description of the maintenance, deactivation, conversion, or demolition of all waste-retention lagoons or ponds or the closure of any waste-retention lagoon or pond by one of the following methods:

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

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

(C) retaining the structure or structures for future use as a part of an animal waste management system; or

(D) using any other method approved by the secretary that will be protective of the environment and will meet all statutory and regulatory requirements; and

(4) a description of, and detailed drawings for, the plugging of any water or groundwater monitoring wells at the confined feeding facility.

(f) Each operator of a confined feeding facility required to have a waste-retention lagoon or pond closure plan shall amend and submit the amended plan to the department for approval whenever specifically directed by the secretary or whenever warranted by one or more of the following:

(1) Any significant changes in operation of the facility;

(2) any significant change or modification in the animal waste management system; or

(3) any other significant conditions affecting the facility or the animal waste management system.

(g) Each operator of a confined feeding facility required to develop a waste-retention lagoon or pond closure plan shall retain the current plan at the site office of the facility or at a central records location, in a manner that is accessible to inspection by representatives of the department.

(h) The closure of a waste-retention lagoon or pond shall be completed within six months of either of the following:

(1) Notification to the department of the proposed closure of the waste-retention lagoon or pond; or

(2) termination of operations for any confined feeding facility whose operator is required to develop and implement a waste-retention lagoon or pond closure plan.

(i) Each operator seeking an extension of time for closure shall submit a written request to the secretary. The request shall detail the reasons for the extension. Only weather conditions or the legal change in ownership of the confined feeding facility shall be grounds for the secretary to consider an extension.

(j) If the operator of a confined feeding facility is unwilling or unable to properly close the waste-retention lagoon or pond, the owner of the facility and the property owner shall be responsible for closing the waste-retention lagoon or pond in accordance with these regulations and in a manner that protects the waters of the state, public health, and the environment. (Authorized by K.S.A. 2005 Supp. 65-171d; implementing K.S.A. 65-164, 65-165, 65-166, K.S.A. 2005 Supp. 65-166a, K.S.A. 2005 Supp. 65-171d, and K.S.A. 65-171h; effective March 16, 2007.)

**28-18-17. Groundwater protection requirements for waste-retention lagoons or ponds and waste treatment facilities.** (a) The provisions of this article shall not apply to any permitted waste-retention lagoon or pond or waste treatment facility that is in existence or that the secretary approved for construction before the effective date of this regulation, unless information becomes available showing that the waste-retention lagoon or pond or the waste treatment facility presents an imminent threat to public health or the environment.

(b)(1) The provisions of this article shall not apply to any existing or proposed waste-retention lagoon or pond or waste treatment facility located at a confined feeding facility if all of the following conditions are met:

(A) The confined feeding facility existed on July 1, 1994.

(B) The operator registered the confined feeding facility with the secretary before July 1, 1996.

(C) The capacity of the existing or proposed waste-retention lagoon or pond or waste treatment facility is no larger than that necessary to serve the facility as described in the registration application submitted before July 1, 1996.

(D) The separation distance from the bottom of the existing or proposed waste-retention lagoon or pond or waste treatment facility to groundwater is less than 10 feet.

(2) Each operator of a confined feeding facility meeting the requirements of paragraph (b)(1) of this regulation

and proposing to use a waste-retention lagoon or pond or waste treatment facility shall propose site-specific groundwater protection measures for the secretary's consideration for approval.

(c) Each new or expanded portion of a waste-retention lagoon or pond or waste treatment facility other than those described in subsections (a) and (b) shall be located a minimum of 10 feet above the static groundwater level, as measured from the lowest elevation of the finished interior grade of the waste-retention lagoon or pond or the waste treatment facility. Each operator of or permit applicant for a confined feeding facility shall notify the department at least two days before performing any site investigations to determine the static groundwater level at the site.

(d) Each operator or permit applicant shall ensure that each liner for a new or expanded portion of a waste-retention lagoon or pond or waste treatment facility meets the following requirements:

(1) If the new or expanded portion of the waste-retention lagoon or pond or waste treatment facility is not located over the Equus Beds or in a sensitive groundwater area, the materials used for the liner shall have a seepage rate of no more than  $\frac{1}{4}$  inch per day.

(2) If the new or expanded portion of the waste-retention lagoon or pond or waste treatment facility is located in a sensitive groundwater area, the materials used for the liner shall have a seepage rate of no more than  $\frac{1}{10}$  inch per day.

(3) If the new or expanded portion of the waste-retention lagoon or pond or waste treatment facility is located over the Equus Beds, either an impermeable synthetic membrane liner shall be used or the material used for the liner shall consist of either of the following:

(A) Two or more layers of compacted soil designed to have a seepage rate of no more than 1/10 inch per day. To demonstrate that this seepage requirement is met, the soil liner seepage rate shall be determined within 12 months of placing the waste-retention lagoon or pond or waste treatment facility into operation. The test method used shall be the whole pond seepage test; or

(B) any material that has been approved through the variance process in accordance with K.A.R. 28-18-15.

(e) Each permit applicant or operator that conducts testing to determine the seepage rate shall submit four copies of the test results to the department.

(f) For the purpose of K.A.R. 28-18-1 through K.A.R. 28-18-17, an imminent threat to public health or the environment 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: table 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 criterion, the background concentration shall be considered the criterion. (Authorized by K.S.A. 2005 Supp. 65-171d;

*(continued)*

implementing K.S.A. 65-164, 65-165, 65-166, K.S.A. 2005 Supp. 65-166a, K.S.A. 2005 Supp. 65-171d, and K.S.A. 65-171h; effective March 16, 2007.)

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

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

(a) "Agronomic application rates" has the meaning specified in K.S.A. 2-3302, and amendments thereto, and is regulated by the secretary of the Kansas department of agriculture.

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

(c) "Animal unit capacity" has the meaning specified in K.S.A. 65-171d, and amendments thereto.

(d) "Best available technology for swine facilities" has the meaning specified in K.S.A. 65-1,178, and amendments thereto.

(e) "Best management practices for swine facilities" has the meaning specified in K.S.A. 65-1,178, and amendments thereto.

(f) "Certification" means a document issued by the secretary in lieu of a water pollution control permit, indicating that the facility meets applicable animal waste management statutes and regulations and does not represent a significant water pollution potential.

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

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

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

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

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

(i) "Confined feeding facility" has the meaning specified in K.S.A. 65-171d, and amendments thereto.

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

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

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

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

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

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

(2) notification of the department; and

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

(o) "Entity," for the purposes of these regulations, means a person, individual, association, company, corporation, institution, group of individuals, joint venture, partnership, or federal, state, county, or municipal agency or department.

(p) "Environmental protection agency" and "EPA" mean the United States environmental protection agency.

(q) "Equus Beds," for the purposes of these regulations, means an 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

County	Range	Township	Section	County	Range	Township	Section
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	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
McPherson	04W	18S	20, 21, 25, 26, 27, 28, 29, 32, 33, 34, 35, 36	Sedgwick	03W	26S	01, 02, 03, 04, 11, 12
McPherson	04W	19S	01, 02, 03, 04, 09, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, 36				(r) "Existing swine facility" has the meaning specified in K.S.A. 65-1,178, and amendments thereto.
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				(s) "Federal permit," "national pollutant discharge elimination system permit," and "NPDES permit" mean an authorization, license, or equivalent control document issued by the EPA or an approved state to implement the requirements of 40 C.F.R. Parts 122, 123, 124, and 412.
McPherson	04W	21S	01, 02, 03, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, 36				(t) "Food animals" means swine produced for consumption.
Reno	04W	22S	All sections				(u) "Fur animals" means swine raised for the skin, pelt, or hair.
Reno	04W	23S	All sections				(v) "Groundwater," as used in this article, 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 purposes of this article, groundwater shall be considered capable of being a source of supply for wells if at least one of the following conditions is met:
Reno	04W	24S	All sections				(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.
Reno	04W	25S	All sections				(2) The groundwater is currently being used within ½ mile of the proposed lagoon, regardless of the rate at which water can be produced.
Reno	04W	26S	All sections				(3) There is evidence of past groundwater use within ½ mile of the proposed lagoon.
Reno	05W	22S	All sections				(w) "Habitable structure" has the meaning specified in K.S.A. 65-171d, and amendments thereto.
Reno	05W	23S	All sections				(x) "Impermeable synthetic membrane liner" means a commercially manufactured membrane liner composed of synthetic materials commonly identified as being plastic, plastic polymer, or other synthetic materials that, when installed, provide for the more stringent of either of the following:
Reno	05W	24S	All sections				(1) A maximum monitored or calculated seepage rate of 1/64 inch per day; or
Reno	05W	25S	All sections				(2) the liner manufacturer's criteria for the maximum monitored or calculated seepage rate for the installed membrane liner, expressed in units of volume per unit area per unit of time (gallons per square foot per day).
Reno	05W	26S	All sections				(y) "Land application" means the distribution of swine or other process wastes onto, or incorporation into, the soil mantle for the purpose of disposal or utilization by crops or vegetation.
Reno	06W	22S	All sections				(z) "Liner" means any designed barrier in the form of in situ, layer, membrane, or blanket materials utilized or installed to reduce the potential for a significant hydro-logic connection between swine or other process wastes
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				

(continued)

that are controlled or retained by swine waste management systems and waters of the state.

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

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

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

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

(3) other standards of design, construction, and maintenance for confined feeding facilities or swine pollution control systems published by KDHE.

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

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

(2) the systematic collection and analysis of data on the quality of the swine or other process wastes, groundwater, surface water, or soils on or in the vicinity of the swine facility or swine pollution control system.

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

(ff) "Nutrient management plan" means a written document that identifies the practices and procedures that the operator of a swine facility that is required to obtain a federal permit plans to use to operate and maintain the swine waste management and pollution control system and to manage the handling, storage, utilization, and disposal of wastes generated by the swine facility.

(gg) "Nutrient utilization plan for swine" means a written document, on a form prescribed by the secretary of the Kansas department of agriculture, addressing site-specific conditions for the land application of manure, wastewater, and other nutrient sources from swine facilities, at agronomic application rates.

(hh) "Odor control plan for swine" means a written document for swine facilities that describes site-specific and facility-specific design considerations, operational activities and procedures, maintenance activities and procedures, and management practices to be employed to

minimize the potential for or limit odors from a swine facility, swine waste management, or swine pollution control system.

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

(jj) "Pleasure animals," as used in this article, means swine that are not produced for consumption or their skin, pelts, or hair.

(kk) "Point source" has the meaning specified in K.A.R. 28-16-28b.

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

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

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

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

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

(C) spillage or overflow from watering systems;

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

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

(F) wastes from dust control;

(G) boiler blowdown and water softener regenerate wastes;

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

(I) spillage of feed, swine wastes, or any other process wastes described in this regulation;

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

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

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

(M) flows or runoff from waste storage areas.

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

(oo) "Public livestock market" has the meaning specified in K.S.A. 47-1001, and amendments thereto. For the purposes of these regulations, this term shall include public livestock markets where federal veterinary inspections are regularly conducted.

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

(qq) "Salt solution mining well" has the meaning specified in K.S.A. 55-1,120, and amendments thereto.

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

(ss)(1) "Sensitive groundwater areas," for the purpose of these 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. Each 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 adopted by reference in K.A.R. 28-16-160.

(2) Any operator proposing a new swine waste-retention lagoon or pond or expansion of an existing swine waste-retention lagoon or pond may request that the director make a site-specific sensitive groundwater area determination. The request shall be made in writing to the director. The request shall contain supporting data and information and an explanation of why the area in question should not be considered to be a sensitive groundwater area, for the purpose of these regulations.

(tt) "Sewage" has the meaning specified in K.S.A. 65-164, and amendments thereto.

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

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

(2) lots, pens, or concentrated feeding areas with creeks, streams, intermittent waterways, or any other conveying channel or device that has the potential to carry pollutants to waters of the state running through or proximate to the lots, pens, or concentrated feeding areas;

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

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

(vv) "Surface waters," for water quality purposes, has the meaning specified in K.A.R. 28-16-28b.

(ww) "Suspend" and "suspension," as used in this article, mean, respectively, to abrogate temporarily and the temporary abrogation of a water pollution control permit or certification issued to a swine facility.

(xx) "Swine facility" has the meaning specified in K.S.A. 65-1,178, and amendments thereto.

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

(zz) "Swine operator" means an individual, association, company, corporation, municipality, group of individuals, joint venture, partnership, a state or federal

agency or department, or any business owning, leasing, or having charge or control of one or more swine facilities.

(aaa) "Swine pollution control system" means any land, structures, or practices utilized for the collection, containment, storage, distribution, land application, or disposal of swine or other process wastes generated by swine facility operations. This term shall include any of the following:

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

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

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

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

(5) waste-retention lagoons or ponds;

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

(7) waste treatment facilities.

(bbb) "Swine waste management system" is as defined in K.S.A. 65-1,178, and amendments thereto.

(ccc) "Swine waste-retention lagoon or pond" has the meaning specified in K.S.A. 65-1,178, and amendments thereto.

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

(eee) "Waste management plan" means a written document that identifies the practices and procedures that the operator of a swine facility not required to obtain a federal permit plans to use to operate and maintain the swine waste management and pollution control system and to manage the handling, storage, utilization, and disposal of wastes generated by the swine facility.

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

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

(hhh) "Water pollution control permit" and "permit" mean an authorization, license, or equivalent control document issued by the secretary. This term shall not include any document that has not yet been the subject of final action by the secretary.

(continued)

(iii) "Water quality standards" means the Kansas surface water quality standards as specified in K.A.R. 28-16-28b through K.A.R. 28-16-28g.

(jjj) "Water well" has the meaning specified in K.S.A. 82a-1203, and amendments thereto.

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

(lll) "Whole pond seepage test" means a measurement of the evaporation from, and the change in water level of the waste-retention lagoon, pond, or structure, or swine waste-retention lagoon, pond, or structure using either of the following:

(1) Any method that meets the requirements specified in "standards for measuring seepage from anaerobic lagoons and manure storages," which is adopted by reference in K.A.R. 28-18-1; or

(2) any equivalent method approved by the secretary.

(mmm) "Wildlife refuge" has the meaning specified in K.S.A. 65-171d, and amendments thereto. (Authorized by K.S.A. 2005 Supp. 65-171d; implementing K.S.A. 65-164, 65-165, 65-166, K.S.A. 2005 Supp. 65-166a, K.S.A. 65-171a, K.S.A. 2005 Supp. 65-171d, K.S.A. 65-171h, 65-1,178, 65-1,179, 65-1,181, 65-1,182, 65-1,183, 65-1,184, 65-1,187, 65-1,189, 65-1,190 and 65-1,188; effective Jan. 15, 1999; amended March 16, 2007.)

**28-18a-2. Registration and application requirements.** (a) Each entity proposing the construction, modification, or expansion of an unregistered swine facility, public livestock market, collection center, or transfer station, and each swine operator of an existing unregistered swine facility, public livestock market, collection center, or transfer station shall submit a registration form for the facility to the secretary, if any of the following conditions is met:

(1) The proposed or existing unregistered facility has an animal unit capacity of 300 or more animal units.

(2) The proposed or existing unregistered facility presents a significant water pollution potential as defined in K.A.R. 28-18a-1.

(3) The entity or swine operator is required by statute to obtain a permit for the facility.

(4) The entity or swine operator elects to register the facility in order to obtain a permit or certification, even though there is no requirement to obtain a permit or certification.

(b) Each registration form that any entity or swine operator submits to the secretary shall be accompanied by the required \$25 fee.

(c) Each entity proposing the construction, modification, or expansion of a swine facility, public livestock market, collection center, transfer station, or truck-washing facility for animal wastes and each swine operator of an unpermitted swine facility, public livestock market, collection center, transfer station, or truck-washing facility for animal wastes shall submit a permit application for the facility to the secretary if any of the following conditions is met:

(1) The proposed or existing unpermitted facility presents a significant water pollution potential as defined in K.A.R. 28-18a-1.

(2) The entity or swine operator is required by statute to obtain a permit.

(3) The entity or swine operator proposing the construction, modification, or expansion of the facility or the swine operator of a facility that is not required to obtain a permit elects to obtain a permit.

(d) Each application that any entity or swine operator submits to the secretary shall be accompanied by the permit fee required pursuant to K.A.R. 28-16-56d.

(e) Each entity or swine operator proposing the construction, modification, or expansion of a swine facility and each swine operator of an unpermitted swine facility that is required by statute or regulation to obtain a federal permit shall apply to the secretary for a federal permit.

(f)(1) Each swine operator or entity proposing either the construction, modification, or expansion of a swine facility, swine waste management system, or swine pollution control system that is required to submit a registration form or apply for a permit shall not initiate construction until the swine operator or entity has obtained either of the following:

(A) The secretary's written approval of the application, construction plans, specifications, and waste management plan, for each facility or system that the entity or swine operator proposes to be constructed, modified, or expanded; or

(B) a certification, issued by the secretary, for each facility or system that the entity or swine operator proposes to be constructed, modified, or expanded.

(2) Each swine operator or entity that is proposing the construction, modification, or expansion of a swine facility, swine waste management system, or swine pollution control system required to have a permit and that undertakes the construction, modification, or expansion before the issuance of a new or modified permit by the secretary shall be deemed to be undertaking the construction solely at the risk of the swine operator or entity.

(3) Before each swine operator or entity proposing the construction, modification, or expansion of a swine facility, swine waste management system, swine pollution control system, public livestock market, collection center, transfer station, or truck-washing facility for animal wastes that is required to have a permit or certification begins the operation of the new, modified, or expanded portion of a swine facility, swine waste management system, swine pollution control system, public livestock market, collection center, transfer station, or truck-washing facility for animal wastes, the swine operator or entity shall obtain a new or modified permit or certification issued by the secretary.

(4) Before each swine operator or entity proposing the construction, modification, or expansion of a swine facility, swine waste management system, swine pollution control system, public livestock market, collection center, transfer station, or truck-washing facility for animal wastes that is required to have a permit or certification begins the stocking of a new, modified, or expanded portion of swine facility, swine waste management system, swine pollution control system, public livestock market, collection center, transfer station, or truck-washing facility for animal wastes at levels above the capacity authorized in the current permit or certification, the swine operator or entity shall obtain a new or modified permit or certification issued by the secretary. (Authorized by



K.S.A. 2003 Supp. 65-171d; implementing K.S.A. 65-164, 65-165, 65-166, K.S.A. 2003 Supp. 65-166a, K.S.A. 2003 Supp. 65-171d, and K.S.A. 65-1,179; effective Jan. 15, 1999; amended March 16, 2007.)

**28-18a-4. Filing of applications and payment of fees.** (a) Each application shall be filed according to K.A.R. 28-16-59 or K.S.A. 65-1,178 and amendments thereto, as applicable.

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

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

(2) each owner of a habitable structure or any property located within one mile of the swine facility perimeter, as described by K.S.A. 65-171d, and amendments thereto.

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

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

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

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

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

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

(6) for swine facilities that utilize a swine waste-retention lagoon or pond, any information that the applicant possesses indicating the presence of any unplugged oil, gas, or salt solution mining wells located at the proposed or existing swine facility;

(7) a waste management plan, for any swine facility whose operator is not required to obtain a federal permit;

(8) for swine facilities with an animal unit capacity of 1,000 animal units or more where the swine at the facility are not owned by the operator of the facility, a copy of the executed contract between the facility operator and owner of the swine, specifying responsibility for management of the manure and wastewater generated at the facility; and

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

(A) A manure management plan;

(B) a nutrient utilization plan that meets the requirements of the Kansas department of agriculture, if the facility applies manure or wastewater to land;

(C) an emergency response plan;

(D) an odor control plan;

(E) a dead swine handling plan;

(F) a nutrient management plan;

(G) a groundwater monitoring plan, if required;

(H) a closure plan, if required; and

(I) for swine facilities with an animal unit capacity of 3,725 animal units or more, financial assurance for closure of the swine facility and closure of the swine waste-retention lagoons or ponds.

(d) Swine facilities on separate pieces of land without a contiguous ownership boundary shall be classified as separate operations, and each applicant shall be assessed a fee under K.A.R. 28-16-56d. (Authorized by K.S.A. 2005 Supp. 65-171d; implementing K.S.A. 65-164, 65-165, 65-166, K.S.A. 2005 Supp. 65-166a, K.S.A. 2005 Supp. 65-171d, K.S.A. 65-171h, K.S.A. 65-1,179, 65-1,181, 65-1,184, 65-1,187, 65-1,188, 65-1,189, and 65-1,190; effective Jan. 15, 1999; amended March 16, 2007.)

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

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

(2) Each operator of a swine waste management and pollution control system for a swine facility with an animal unit capacity of 1,000 or more shall ensure that the swine waste management and pollution control system is designed, constructed, operated, and maintained to prevent the discharge of swine or other process wastes to surface waters of the state. Any operator of a swine waste management and pollution control system may discharge the following to surface waters of the state, whenever precipitation events, either chronic or catastrophic, cause an overflow from a swine waste management or pollution control system designed, constructed, operated, and maintained to contain all swine and other process wastes:

(A) Swine or other process wastes; and

(B) the direct precipitation and the runoff from a 25-year, 24-hour precipitation event for the location of the swine facility.

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

(B) Any operator of a swine waste management and pollution control system for a swine facility with an animal unit capacity of 999 or less may discharge swine waste or other process wastes to surface waters of the state, consistent with the requirements of K.A.R. 28-16-28b through K.A.R. 28-16-28g, K.A.R. 28-16-57a, and K.A.R. 28-16-62, as appropriate, when specifically authorized by a permit.

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

(continued)

operator shall submit a written report to the department within three days of the incident.

(d) Each swine operator shall retain a copy of the current permit issued by the secretary at the site office for the facility or at a central records location.

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

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

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

(h) Each operator of a swine facility with an animal unit capacity of 1,000 or more shall notify the department whenever the swine operator does not own all the swine at the swine facility, pursuant to K.S.A. 65-1,181, and amendments thereto.

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

(j) Each operator of a swine facility with an animal unit capacity of 1,000 or more who land applies manure or wastewater shall comply with the nutrient utilization plan approved by the Kansas department of agriculture, pursuant to K.S.A. 65-1,182, and amendments thereto.

(k) Each operator of a swine facility with an animal unit capacity of 1,000 or more who land applies manure or wastewater and is required to develop and to implement a nutrient utilization plan, as prescribed by the secretary of the Kansas department of agriculture, shall file the plan and any amendments to the plan with KDHE.

(l) Each operator of a swine facility required to develop a swine facility closure plan or a swine waste-retention lagoon or pond closure plan, or both, shall comply with each plan, as approved by the secretary. The operator shall amend each plan whenever warranted by changes in the facility or in other conditions affecting the facility, pursuant to K.S.A. 65-1,189, and amendments thereto.

(m) Each swine facility that is required to be permitted by the department and that has an animal unit capacity of 1,000 or more shall be staffed by a department-certified operator or an operator in training. (Authorized by K.S.A. 2005 Supp. 65-171d, K.S.A. 65-1,181, 65-1,183, and 65-1,184; implementing K.S.A. 65-164, 65-165, 65-166, K.S.A. 2005 Supp. 65-166a, K.S.A. 2005 Supp. 65-171d, K.S.A. 65-171h, K.S.A. 65-1,181, 65-1,182, 65-1,183, 65-1,184, 65-1,185; effective Jan. 15, 1999; amended March 16, 2007.)

**28-18a-9. Certification; terms and conditions.** (a) Each swine operator shall comply with all conditions,

requirements, limitations, and operating provisions stipulated in the certification.

(b) Operation of a swine facility in violation of any conditions, requirements, limitations, and operating provisions of a certification, or in a manner that represents a significant water pollution potential, shall result in the revocation of the certification and any appropriate enforcement action. If a significant water pollution potential exists, as defined in K.A.R. 28-18-1, the swine operator shall apply for a permit. (Authorized by K.S.A. 2003 Supp. 65-171d; implementing K.S.A. 65-164, 65-165, and K.S.A. 2003 Supp. 65-171d; effective Jan. 15, 1999; amended March 16, 2007.)

**28-18a-11. Confined feeding facilities; federal requirements.** For the purpose of issuing federal permits and administering NPDES program requirements, the following definitions and provisions, as in effect on July 1, 2005, are hereby adopted by reference:

(a) The concentrated animal feeding operation exclusions specified in 40 C.F.R. 122.3 (e) and 40 C.F.R. 122.3 (f);

(b) the provisions addressing concentrated animal feeding operations specified in 40 C.F.R. 122.23(b), (c), and (e), and 122.42(e);

(c) except for 40 C.F.R. 412.32, 412.44, and 412.46, the provisions addressing effluent limitations for concentrated animal feeding operations specified in 40 C.F.R. Part 412. (Authorized by K.S.A. 2005 Supp. 65-171d; implementing K.S.A. 65-165, K.S.A. 2005 Supp. 65-166a, K.S.A. 2005 Supp. 65-171d; effective Jan. 15, 1999; amended March 16, 2007.)

**28-18a-12. Design and construction of swine waste management and swine pollution control systems.** (a) If a swine facility represents a significant water pollution potential or if the swine operator of the swine facility is required by statute or regulation to obtain a permit, as determined by the secretary, the swine operator shall provide a swine waste management or pollution control system that is designed in accordance with the minimum standards of design, construction, and maintenance and is constructed and operated in accordance with construction plans, specifications, and either a waste management plan or nutrient management plan approved by the secretary. If site topography, operating procedures, experience, and other available information indicate that more than the minimum standards of design, construction, and maintenance are required to effect adequate water pollution control, additional provisions may be required. Each applicant shall ensure that any new construction or new expansion of a swine facility, swine waste management system, or swine pollution control system meets the requirements of the "minimum standard of design, construction, and maintenance," as defined in K.A.R. 28-18a-1.

(b) The swine operator shall not initiate operation of any new swine facility, new swine waste management system, or new swine pollution control system, or expanded portions of any existing swine facility, existing swine waste management system, or existing swine pollution control system, until after issuance of the new or modified permit by the secretary. Initiation of construc-

tion before the issuance of a new or modified permit by the secretary shall be deemed to be solely at the risk of the swine operator.

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

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

(e) (1) Each operator shall initiate any proposed new construction or new expansion of a swine facility that has been approved by the secretary and for which the required permit or permit modification has been issued, within two years after the date on which the permit or permit modification is effective or pursuant to the requirements of the permit issued by the secretary. Each operator shall complete any proposed new construction or new expansion of a swine facility that has been approved by the secretary and for which the required permit or permit modification is issued, within three years after the date on which the permit or permit modification is effective or as required by the permit issued by the secretary.

(2) Failure to initiate the approved construction or expansion within two years and to complete the approved construction or expansion within three years after the effective date of the permit or permit modification shall void the secretary's approval of the construction plans, specifications, and other associated plans. If phased construction is proposed, the initiation and completion of construction shall conform to the schedule stipulated by the secretary.

(3) If the approval becomes void, the permit or permit modification shall remain in effect for the term of the permit, but the operator shall resubmit the construction plans, specifications, and other associated plans to the secretary for review and consideration for approval before initiating the construction or expansion of the swine facility.

(f) Neither the approval of construction plans, specifications, or other required plans, nor the issuance of a permit or certification by the secretary shall prohibit the secretary from taking any enforcement action if the swine waste management or pollution control system fails to protect the waters of the state, meet any specified effluent criteria, or comply with state surface water quality standards. In addition, the secretary's approval of the plans or the secretary's issuance of a permit or certification shall

not constitute a defense by the operator regarding violation of any statute, regulation, permit condition, or requirement.

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

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

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

(j) Each construction plan shall indicate the location of any active, abandoned, or plugged water, oil, gas, or salt solution mining well within 600 feet of any planned location for a swine waste-retention lagoon or pond. If the operator is unable to confirm the exact location of any well or wells, the construction plan shall contain a note indicating the potential for the well or wells to be located in the vicinity of any proposed swine waste-retention lagoon or pond. Each active, abandoned, or plugged water, oil, gas, or salt solution mining well that is encountered during construction and that was not identified or located on the construction plan shall be reported to the department within 48 hours of discovery. Construction activities that would impact the well or wells or that would be in the immediate vicinity of the well or wells shall be immediately terminated until the secretary determines that the appropriate steps, including plugging the well, have been taken to protect public health and the environment.

(k) Following the completion of the proposed construction or proposed expansion, if requested by the secretary, each swine operator shall certify that the swine waste management system or swine pollution control system, or both, were constructed in accordance with the plans approved by the secretary. If the swine operator utilized a professional engineer or consultant to monitor the construction of the swine waste management system or swine pollution control system, or both, then the certification shall also be signed by the professional engineer or the consultant who monitored the construction or installation of each system, including any swine waste-retention lagoon or pond liner. The certification shall be based on actual observations during construction and any field or laboratory data developed during or following construction. The certification shall be maintained on-site or at a central records location and shall be made available to the department, along with any supporting information, upon request. (Authorized by K.S.A. 2005 Supp. 65-171d and K.S.A. 65-1,181; implementing K.S.A. 65-164, 65-165, 65-166, K.S.A. 2005 Supp. 65-171d, and K.S.A. 65-1,181; effective Jan. 15, 1999; amended March 16, 2007.)

**28-18a-19. Operation of swine waste management and swine pollution control systems.** (a) Each  
*(continued)*

swine waste management system and swine pollution control system shall be designed, constructed, maintained, and operated to prevent pollution of waters of the state and to protect public health and the environment.

(b) Each swine waste management system and each swine pollution control system shall be operated according to the plans approved by the secretary.

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

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

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

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

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

(h) (1) Unless approved in advance by the secretary, liquid waste, concentrated liquid swine waste, or other liquid process waste shall not be land applied when the ground is frozen, snow-covered, or saturated, or during a precipitation event. Land application of swine or other process wastes during these periods may be authorized by the secretary for use in filtering swine or other process wastes from retention structures that are properly operated and maintained and that are in imminent danger of overflow to surface waters of the state due to a chronic or catastrophic precipitation event.

(2) Solid swine or other process wastes may be applied to frozen ground only if the proposed application site and practices ensure that the wastes will be retained at the application site.

(i) (1) Each swine operator, as required by the facility permit issued by the secretary, shall conduct sampling and analysis of swine or process wastes or sites utilized for the application of swine or process wastes from confined swine feeding facilities, to determine nutrient and salinity levels, to confirm utilization of the swine or process wastes at agronomic rates, and to ensure that public health and the environment are protected.

(2) (A) Each swine operator of a swine facility with 999 animal units or less shall sample the soil of each field identified in the waste management plan for the swine facility if both of the following conditions are met:

(i) The field is identified by KDHE as located in a sensitive groundwater area or over the Equus Beds.

(ii) The field has received manure or wastewater in one or more of the previous five years.

(B) The sampling and analysis shall be conducted in accordance with the procedures approved by the secretary. The test results shall be sent to the department within 30 days of receipt of the test results.

(3) Each swine operator required to obtain a federal permit shall conduct soil and waste sampling and analysis in accordance with the nutrient management plan. (Authorized by K.S.A. 2005 Supp. 65-171d; implementing K.S.A. 65-164, 65-165, 65-166, K.S.A. 2005 Supp. 65-171d, K.S.A. 65-171h, and K.S.A. 65-1,181; effective Jan. 15, 1999; amended March 16, 2007.)

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

(b) Each swine operator that develops or modifies the biosecurity protocols and that requests KDHE conformance with the protocols shall submit a copy of the protocols to the department within 30 days of establishing or modifying the biosecurity protocols.

(c) If any department inspector conducting an inspection of a confined feeding facility complies with the facility's biosecurity protocol, that inspector shall be allowed to access the animal waste management system to conduct inspections. Biosecurity protocols shall not restrict the reasonable access of any department inspector. (Authorized by K.S.A. 2005 Supp. 65-171d; implementing K.S.A. 65-164, K.S.A. 2005 Supp. 65-171d, and K.S.A. 65-1,191; effective Jan. 15, 1999; amended March 16, 2007.)

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

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

(b) Each swine operator shall maintain and comply with a valid water pollution control permit for the swine facility until closure of the swine facility is complete and all materials representing a threat to public health and the environment are removed.

(c)(1) Each permit applicant for each proposed new swine facility or new swine waste-retention lagoon or pond, proposed expansion of an existing swine facility, or proposed expansion of an existing swine waste-retention lagoon or pond shall develop and implement a swine facility closure plan or swine waste-retention lagoon or pond closure plan if either of the following conditions is met:

(A) (i) The new swine facility or expanded swine facility is proposed to have an animal unit capacity of 1,000 or more; and

(ii) the swine facility is proposed to be located over the Equus Beds; or

(B) The new swine facility, existing swine facility, or proposed expanded swine facility will have an animal unit capacity of 3,725 or more.

(2) Each swine operator of any existing swine facility or swine waste-retention lagoon or pond without a current swine facility or swine waste-retention lagoon or pond closure plan shall develop and implement a closure

plan for the swine facility or swine waste-retention lagoon or pond if both of the following conditions are met:

(A) The existing swine facility has an animal unit capacity of 1,000 or more.

(B) The existing swine facility is located over the Equus Beds.

The swine facility or swine waste-retention lagoon or pond closure plan shall be developed and submitted to the department with the next application for permit renewal or modification for the existing swine facility.

(d) When submitting a swine facility or swine waste-retention lagoon or pond closure plan to the department, each swine operator shall submit at least four copies of the plan.

(e) A swine facility or swine waste-retention lagoon or pond closure plan shall include, at a minimum, the following:

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

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

(3) a description of the maintenance, deactivation, conversion, or demolition of all swine waste-retention lagoons or ponds at the swine facility pursuant to K.S.A. 65-1,190, and amendments thereto, or the closure of any swine waste-retention lagoon or pond by one of the following methods:

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

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

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

(D) using any other method approved by the secretary; and

(4) a description of, and detailed drawings for, the plugging of any water or groundwater monitoring wells at the swine facility.

(f) Each swine operator of a swine facility required to have a swine facility closure plan and a swine waste-retention lagoon or pond closure plan shall amend each plan and submit the amended plans to the department for approval whenever specifically directed by the secretary or whenever warranted by one or more of the following:

(1) Any significant changes in operation of the swine facility;

(2) any significant change or modification in the swine waste management or swine pollution control systems; or

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

(g) Each operator of a swine facility that is required to develop a swine facility or swine waste-retention lagoon or pond closure plan shall retain the current plan at the site office of the facility or at a central records location, in a manner that is accessible to inspection by representatives of the department.

(h) The closure of a swine facility or swine waste-retention lagoon or pond shall be completed within six months of notification to the department of the proposed closure of the facility or termination of operations.

(i) Each swine operator seeking an extension of time for closure shall submit a written request to the secretary. The request shall detail the reasons for the extension. Only weather conditions or the legal change in ownership of the swine facility shall be grounds for the secretary to consider granting an extension.

(j) If the operator of a swine facility is unwilling or unable to properly close the swine facility, the owner of swine at the swine facility and the property owner shall be responsible for closing the swine facility in accordance with these regulations and in a manner that protects the waters of the state, public health, and the environment. (Authorized by K.S.A. 2005 Supp. 65-171d; implementing K.S.A. 65-164, 65-165, 65-166, K.S.A. 2005 Supp. 65-171d, K.S.A. 65-1,189 and 65-1,190; effective Jan. 15, 1999; amended March 16, 2007.)

**28-18a-26. Requirements for swine facility operator certification.** Each operator of a swine facility with an animal unit capacity of 1,000 or more that is required to have a permit shall obtain a swine waste management and swine pollution control system operator certificate. Each swine operator that desires or is required to obtain a swine facility operator certificate shall meet the following requirements:

(a) Each applicant shall be a swine facility operator who maintains or supervises a swine waste management or swine pollution control system.

(b) Each swine facility operator shall submit a complete application and the appropriate fee to the department. The application shall be received by the department at least two weeks before the scheduled examination date. Late applications shall not be accepted for the scheduled examination date.

(c) If an applicant provides false information on an application, the applicant shall not be accepted for examination, and the fee submitted with the application shall not be returned to the applicant. The applicant shall be notified of the decision denying acceptance for examination and shall not be allowed to take the examination for two consecutive years. (Authorized by K.S.A. 2003 Supp. 65-171d, K.S.A. 65-1,183, and K.S.A. 65-4512; implementing K.S.A. 65-1,183, 65-1,186, and 65-4512; effective Jan. 15, 1999; amended March 16, 2007.)

**28-18a-32.** (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and L. 1998, ch. 143, sec. 5 [K.S.A. 1998 Supp. 65-1,181]; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-166a, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, K.S.A. 65-171h, and L. 1998, ch. 143, sec. 5 [K.S.A. 1998 Supp. 65-1,181]; effective Jan. 15, 1999; revoked March 16, 2007.)

**28-18a-33. Groundwater protection requirements for swine waste-retention lagoons or ponds, swine waste management systems, and waste treatment facil-**

*(continued)*

ities. (a) The provisions of this article shall not apply to any permitted swine waste-retention lagoon or pond or swine waste management system, or waste treatment facility that is in existence or that the secretary approved for construction before the effective date of this regulation, unless information becomes available showing that the swine waste-retention lagoon or pond, swine waste management system, or waste treatment facility presents an imminent threat to public health or the environment.

(b)(1) The provisions of this article shall not apply to any existing or proposed swine waste-retention lagoon or pond, swine waste management system, or waste treatment facility located at a swine facility if all of the following conditions are met:

(A) The swine facility existed on July 1, 1994 and is still in existence as defined in K.S.A. 65-1,178, and amendments thereto.

(B) The swine operator registered the swine facility with the secretary before July 1, 1996.

(C) The capacity of the existing or proposed swine waste-retention lagoon or pond, swine waste management system, or waste treatment facility is no larger than that necessary to serve the facility as described in the registration application submitted before July 1, 1996.

(D) The separation distance from the bottom of the existing or proposed swine waste-retention lagoon or pond, swine waste management system, or waste treatment facility to groundwater is less than 10 feet.

(2) Each operator of a swine facility meeting the requirements of paragraph (b)(1) of this regulation and proposing to use a swine waste-retention lagoon or pond, swine waste management system, or waste treatment facility shall propose site-specific groundwater protection measures for the secretary's consideration for approval.

(c) Each new or expanded portion of a swine waste-retention lagoon or pond, swine waste management system, or waste treatment facility other than those described in subsections (a) and (b) shall be located a minimum of 10 feet above the static groundwater level, as measured from the lowest elevation of the finished interior grade of the swine waste-retention lagoon or pond, the swine waste management system, or the waste treatment facility. Each swine operator of or permit applicant for a swine facility shall notify the department at least two days before performing any site investigations to determine the static groundwater level at the site.

(d) Each swine operator or permit applicant shall ensure that each liner for a new or expanded portion of a swine waste-retention lagoon or pond, swine waste management system, or waste treatment facility meets the following requirements:

(1) If the new or expanded portion of the swine waste-retention lagoon or pond, swine waste management sys-

tem, or waste treatment facility is not located over the Equus Beds or in a sensitive groundwater area, the materials used for the liner shall have a seepage rate of no more than 1/4 inch per day, except as required by K.S.A. 65-1,181, and amendments thereto.

(2) If the new or expanded portion of the swine waste-retention lagoon or pond, the swine waste management system, or the waste treatment facility is located in a sensitive groundwater area, the materials used for the liner shall have a seepage rate of no more than 1/10 inch per day.

(3) If the new or expanded portion of the swine waste-retention lagoon or pond, the swine waste management system, or the waste treatment facility is located over the Equus Beds, either an impermeable synthetic membrane liner shall be used or the material used for the liner shall consist of either of the following:

(A) Two or more layers of compacted soil designed to have a seepage rate of no more than 1/10 inch per day. To demonstrate that this seepage requirement is met, the soil liner seepage rate shall be determined within 12 months of placing the swine waste-retention lagoon or pond, the swine waste management system, or the waste treatment facility into operation. The test method used shall be the whole pond seepage test; or

(B) any material that has been approved through the variance process in accordance with K.A.R. 28-18a-25.

(e) Each permit applicant or operator that conducts testing to determine the seepage rate shall submit four copies of the test results to the department.

(f) For the purpose of K.A.R. 28-18a-1 through K.A.R. 28-18a-33, an imminent threat to public health or the environment 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: table 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 criterion, the background concentration shall be considered the criterion. (Authorized by K.S.A. 2005 Supp. 65-171d; implementing K.S.A. 65-164, K.S.A. 2005 Supp. 65-171d, and K.S.A. 65-171h; effective March 16, 2007.)

Roderick L. Bremby  
Secretary of Health  
and Environment

Doc. No. 034110

**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 2006 Volumes of the *Kansas Administrative Regulations*.

**AGENCY 1: DEPARTMENT OF ADMINISTRATION**

Reg. No.	Action	Register
1-2-46	Amended	V. 25, p. 1831
1-2-77	Revoked	V. 25, p. 1832

1-3-5	New	V. 25, p. 1832
1-3-6	New	V. 25, p. 1832
1-5-8	Amended	V. 25, p. 1305
1-6-2	Amended	V. 25, p. 1306
1-6-22a	Amended	V. 25, p. 1306
1-9-7b	Amended	V. 25, p. 1307
1-9-18	Revoked	V. 25, p. 1832
1-9-25	Amended	V. 25, p. 1832
1-9-26	Amended	V. 25, p. 1833

**AGENCY 3: KANSAS STATE TREASURER**

Reg. No.	Action	Register
3-4-1 through 3-4-7	New (T)	V. 25, p. 984, 985
3-4-1 through 3-4-7	New	V. 25, p. 1446, 1447

**AGENCY 4: DEPARTMENT OF AGRICULTURE**

Reg. No.	Action	Register
4-7-213	Amended	V. 25, p. 1142
4-7-216	Revoked	V. 25, p. 1142
4-7-510	Amended	V. 25, p. 1142
4-7-530	Amended	V. 25, p. 1142
4-7-716	Amended	V. 25, p. 1142
4-7-717	Amended	V. 25, p. 1142
4-8-14a	Amended (T)	V. 25, p. 379
4-8-27	Amended (T)	V. 25, p. 380
4-8-33	Amended (T)	V. 25, p. 380
4-8-34	Amended (T)	V. 25, p. 380
4-8-42	Amended (T)	V. 25, p. 380
4-11-2	Amended	V. 26, p. 100
4-11-3	Amended	V. 26, p. 100
4-11-5	New	V. 26, p. 101
4-11-15	New (T)	V. 25, p. 1632
4-15-9	Amended	V. 26, p. 81
4-16-1a	Amended	V. 25, p. 1143
4-16-1c	Amended	V. 25, p. 1143
4-16-3a	Amended	V. 25, p. 1143
4-16-250	Revoked	V. 25, p. 1145
4-16-251	Revoked	V. 25, p. 1145
4-16-252	Revoked	V. 25, p. 1145
4-16-260	Revoked	V. 25, p. 1145
4-17-1a	Amended	V. 25, p. 1145
4-17-1c	Amended	V. 25, p. 1145
4-17-5a	Revoked	V. 25, p. 1145
4-19-1	Amended	V. 26, p. 173

**AGENCY 5: DEPARTMENT OF AGRICULTURE—DIVISION OF WATER RESOURCES**

Reg. No.	Action	Register
5-24-10	Amended	V. 25, p. 1692

**AGENCY 7: SECRETARY OF STATE**

Reg. No.	Action	Register
7-17-22	Amended (T)	V. 25, p. 1305
7-44-1 through 7-44-7	New (T)	V. 26, p. 15

**AGENCY 9: ANIMAL HEALTH DEPARTMENT**

Reg. No.	Action	Register
9-32-1 through 9-32-8	New (T)	V. 25, p. 46-48
9-32-1 through 9-32-8	New	V. 25, p. 375-378

**AGENCY 11: STATE CONSERVATION COMMISSION**

Reg. No.	Action	Register
11-3-1 through 11-3-10	Amended	V. 25, p. 250, 251
11-3-11	New	V. 25, p. 252
11-3-12	New	V. 25, p. 252
11-4-1 through 11-4-4	Amended	V. 25, p. 1268, 1269
11-4-6 through 11-4-14	Amended	V. 25, p. 1269, 1270
11-4-15	New	V. 25, p. 1270
11-4-16	New	V. 25, p. 1270

**AGENCY 16: ATTORNEY GENERAL**

Reg. No.	Action	Register
16-11-1 through 16-11-6	New (T)	V. 25, p. 980-982, 1019
16-11-1 through 16-11-7	New	V. 25, p. 1598-1600
16-11-8	New	V. 25, p. 1772

**AGENCY 22: STATE FIRE MARSHAL**

Reg. No.	Action	Register
22-8-2	Amended	V. 25, p. 274
22-8-3	Amended	V. 25, p. 275
22-8-5	Amended	V. 25, p. 275
22-8-8	through	
22-8-14	New	V. 25, p. 276, 277
22-8-17	New	V. 25, p. 277

**AGENCY 28: DEPARTMENT OF HEALTH AND ENVIRONMENT**

Reg. No.	Action	Register
28-1-2	Amended	V. 25, p. 413
28-1-26	Amended	V. 25, p. 866
28-4-501	Amended (T)	V. 25, p. 985, 1019
28-4-501	Amended	V. 25, p. 1402
28-4-510	Amended (T)	V. 25, p. 986, 1019
28-4-510	Amended	V. 25, p. 1403
28-4-514	New (T)	V. 25, p. 987, 1019
28-4-514	New	V. 25, p. 1403
28-16-28g	Amended	V. 25, p. 1205
28-19-350	Amended	V. 25, p. 845
28-35-178b	Amended	V. 25, p. 256
28-46-2	Revoked	V. 26, p. 214
28-46-2a	New	V. 26, p. 215
28-46-25	Amended	V. 26, p. 215
28-46-26	Revoked	V. 26, p. 215
28-46-26a	New	V. 26, p. 215
28-46-34a	New	V. 26, p. 215
28-46-38	Amended	V. 26, p. 216
28-51-100	Amended	V. 25, p. 1448
28-51-112	through	
28-51-116	Amended	V. 25, p. 1449, 1450
28-73-1	through	
28-73-7	New	V. 25, p. 307-311

**AGENCY 30: SOCIAL AND REHABILITATION SERVICES**

Reg. No.	Action	Register
30-4-64	Amended	V. 25, p. 1636
30-4-90	Amended	V. 25, p. 786
30-4-98	New	V. 25, p. 1027
30-5-88	Revoked	V. 25, p. 1830
30-5-108	Revoked	V. 25, p. 1569
30-5-118	Revoked	V. 25, p. 663
30-5-118b	Revoked	V. 25, p. 663
30-6-38	Revoked	V. 25, p. 1028
30-6-77	Revoked	V. 25, p. 847
30-14-22	Revoked	V. 25, p. 1028
30-14-27	Revoked	V. 25, p. 847
30-31-1	Amended	V. 25, p. 1800
30-31-2	Revoked	V. 25, p. 1800
30-31-3	Revoked	V. 25, p. 1800
30-31-4	Revoked	V. 25, p. 1800
30-31-6	Revoked	V. 25, p. 1800
30-31-7	Revoked	V. 25, p. 1800
30-31-10	Revoked	V. 25, p. 1800
30-31-11	Revoked	V. 25, p. 1800
30-31-12	Revoked	V. 25, p. 1800
30-63-20	Amended	V. 25, p. 1693
30-63-22	Amended	V. 25, p. 1693
30-64-24	Amended	V. 25, p. 1693

**AGENCY 40: KANSAS INSURANCE DEPARTMENT**

Reg. No.	Action	Register
40-2-20	Amended	V. 26, p. 101
40-3-5	Amended	V. 25, p. 182
40-3-12	Amended	V. 25, p. 182
40-3-22	Amended	V. 25, p. 210

40-3-40	Amended	V. 25, p. 212
40-3-43	Amended	V. 25, p. 183
40-3-44	Amended	V. 25, p. 212
40-3-46	Revoked	V. 25, p. 183
40-3-47	Amended	V. 25, p. 183
40-3-48	Amended	V. 25, p. 212
40-4-25	Amended	V. 25, p. 278
40-4-29a	New	V. 25, p. 1835
40-4-41	Amended	V. 25, p. 1835
40-4-41b	Amended	V. 25, p. 1838
40-4-41c	Amended	V. 25, p. 1839
40-4-41d	Amended	V. 25, p. 1841
40-4-41e	Amended	V. 25, p. 1842
40-4-41f	Amended	V. 25, p. 1843
40-4-41i	Amended	V. 25, p. 1843
40-4-41j	Amended	V. 25, p. 1844
40-7-1	Revoked	V. 25, p. 1844
40-7-5	Amended	V. 25, p. 844
40-7-20a	Amended	V. 26, p. 103
40-7-24	Amended	V. 25, p. 1844

**AGENCY 47: DEPARTMENT OF HEALTH AND ENVIRONMENT — MINED-LAND CONSERVATION AND RECLAMATION**

Reg. No.	Action	Register
47-2-75	Amended	V. 25, p. 1639
47-3-2	Amended	V. 25, p. 1640
47-3-42	Amended	V. 25, p. 1641
47-4-14a	Amended	V. 25, p. 1644
47-5-5a	Amended	V. 25, p. 1649
47-6-1	Amended	V. 25, p. 1652
47-6-2	Amended	V. 25, p. 1653
47-6-3	Amended	V. 25, p. 1653
47-6-4	Amended	V. 25, p. 1653
47-6-6	Amended	V. 25, p. 1654
47-6-8	Amended	V. 25, p. 1654
47-6-9	Amended	V. 25, p. 1654
47-6-10	Amended	V. 25, p. 1654
47-6-11	Amended	V. 25, p. 1655
47-7-2	Amended	V. 25, p. 1655
47-8-9	Amended	V. 25, p. 1655
47-9-1	Amended	V. 25, p. 1656
47-9-4	Amended	V. 25, p. 1661
47-10-1	Amended	V. 25, p. 1662
47-11-8	Amended	V. 25, p. 1663
47-12-4	Amended	V. 25, p. 1664
47-13-4	Amended	V. 25, p. 1665
47-14-7	Amended	V. 25, p. 1665
47-15-1a	Amended	V. 25, p. 1666
47-16-9	Amended	V. 25, p. 1667
47-16-10	Amended	V. 25, p. 1667
47-16-12	Amended	V. 25, p. 1667

**AGENCY 49: DEPARTMENT OF LABOR**

Reg. No.	Action	Register
49-45-1	Amended	V. 25, p. 1494
49-45-2	Amended	V. 25, p. 1494
49-45-3	Amended	V. 25, p. 1494
49-45-4	Amended	V. 25, p. 1494
49-45-4a	Amended	V. 25, p. 1494
49-45-4b	New	V. 25, p. 1494
49-45-5	Amended	V. 25, p. 1494
49-45-6	Amended	V. 25, p. 1494
49-45-7	Amended	V. 25, p. 1494
49-45-8	Amended	V. 25, p. 1494
49-45-9	Amended	V. 25, p. 1495
49-45-20	Amended	V. 25, p. 1495
49-45-21	through	
49-45-26	Revoked	V. 25, p. 1495
49-45-28	Amended	V. 25, p. 1495
49-45-29	Amended	V. 25, p. 1495
49-45-30	Revoked	V. 25, p. 1495
49-45-31	Amended	V. 25, p. 1495
49-45-32	Amended	V. 25, p. 1495
49-45-34	Amended	V. 25, p. 1495
49-45-35	New	V. 25, p. 1495
49-45-37	New	V. 25, p. 1495
49-45-38	New	V. 25, p. 1495
49-45a-1	Amended	V. 25, p. 1495
49-47-2	Amended	V. 25, p. 1496
49-49-1	Amended	V. 25, p. 25
49-49-1a	Amended	V. 25, p. 25

(continued)

49-50-3	Amended	V. 25, p. 1496
49-50-7	Amended	V. 25, p. 1497
49-50-9	Amended	V. 25, p. 1497
49-50-10	Amended	V. 25, p. 1498
49-50-13	Amended	V. 25, p. 1498
49-50-17	Amended	V. 25, p. 1498
49-50-19	Amended	V. 25, p. 1498
49-50-22	Amended	V. 25, p. 1499
49-50-23	New	V. 25, p. 1499
49-50-24	New	V. 25, p. 1499
49-51-3a	Amended	V. 25, p. 1499
49-51-6	Amended	V. 25, p. 1499
49-51-11	Amended	V. 25, p. 1500
49-51-12	Amended	V. 25, p. 1501
49-52-6	Amended	V. 25, p. 1501
49-52-10	Amended	V. 25, p. 1502
49-52-14	Amended	V. 25, p. 1502
49-52-17	Amended	V. 25, p. 1502
49-52-18	New	V. 25, p. 1502
49-52-19	New	V. 25, p. 1502

**AGENCY 50: DEPARTMENT OF LABOR—  
DIVISION OF EMPLOYMENT**

Reg. No.	Action	Register
50-3-2a	New	V. 25, p. 1493

**AGENCY 63: BOARD OF MORTUARY ARTS**

Reg. No.	Action	Register
63-1-1	Amended	V. 26, p. 126
63-5-1	Amended	V. 26, p. 126

**AGENCY 66: BOARD OF TECHNICAL  
PROFESSIONS**

Reg. No.	Action	Register
66-6-4	Amended	V. 25, p. 1801
66-8-4	Amended	V. 25, p. 44
66-8-8	Amended	V. 25, p. 1802
66-10-1	Amended	V. 25, p. 44
66-10-9	Amended	V. 25, p. 1802
66-10-10a	Amended	V. 25, p. 1802
66-10-11	Amended	V. 25, p. 44
66-10-12	Amended	V. 25, p. 45
66-10-14	Amended	V. 25, p. 45
66-11-2	Amended	V. 25, p. 1802
66-11-5	Amended	V. 25, p. 45

**AGENCY 67: BOARD OF EXAMINERS  
IN THE FITTING AND DISPENSING OF  
HEARING INSTRUMENTS**

Reg. No.	Action	Register
67-3-5	New (T)	V. 26, p. 202

**AGENCY 68: BOARD OF PHARMACY**

Reg. No.	Action	Register
68-1-1b	Amended	V. 25, p. 1401
68-1-1d	Amended	V. 25, p. 1401
68-1-1f	Amended	V. 25, p. 1401
68-1-1g	New	V. 25, p. 1401
68-2-22	Amended	V. 25, p. 661
68-5-16	New	V. 25, p. 643
68-11-1	Amended	V. 25, p. 1401
68-16-1		
through		
68-16-9	New	V. 25, p. 1637-1639

**AGENCY 71: KANSAS DENTAL BOARD**

Reg. No.	Action	Register
71-8-1		
through		
71-8-9	New	V. 25, p. 99, 100

**AGENCY 74: BOARD OF ACCOUNTANCY**

Reg. No.	Action	Register
74-4-1a	Amended	V. 26, p. 126
74-4-7	Amended	V. 25, p. 610
74-4-8	Amended	V. 25, p. 610
74-5-2	Amended	V. 26, p. 127
74-5-101	Amended	V. 26, p. 127
74-5-102	Amended	V. 25, p. 612
73-5-105	Revoked	V. 26, p. 127
74-5-202	Amended	V. 26, p. 127
74-5-203	Amended	V. 25, p. 613
74-5-403	Amended	V. 26, p. 128
74-5-408	New	V. 26, p. 128

74-11-6	Amended	V. 26, p. 128
74-11-7	Amended	V. 25, p. 614

**AGENCY 81: OFFICE OF THE  
SECURITIES COMMISSIONER**

Reg. No.	Action	Register
81-1-1	Amended	V. 26, p. 20
81-2-1	Amended	V. 25, p. 1057
81-3-1	Amended	V. 25, p. 1058
81-3-2	Amended	V. 25, p. 1059
81-3-5	Amended	V. 25, p. 1059
81-3-6	New	V. 25, p. 1060
81-3-7	New	V. 25, p. 1064
81-4-1	Amended	V. 26, p. 21
81-4-2	Amended	V. 26, p. 22
81-5-3	Amended	V. 26, p. 22
81-5-4	Revoked	V. 26, p. 22
81-5-5	Revoked	V. 26, p. 23
81-5-6	Amended	V. 26, p. 23
81-5-7	Amended	V. 26, p. 24
81-5-8	Amended	V. 26, p. 24
81-5-10	Amended	V. 26, p. 24
81-5-11	Amended	V. 26, p. 25
81-5-12	Amended	V. 26, p. 25
81-5-13	Amended	V. 26, p. 26
81-5-14	Amended	V. 26, p. 27
81-5-16		
through		
81-5-20	New	V. 26, p. 28-30
81-6-1	Amended	V. 26, p. 30
81-7-1	Amended	V. 26, p. 30
81-7-2	Amended	V. 26, p. 31
81-7-3	New	V. 26, p. 31
81-10-1	Amended	V. 26, p. 32
81-14-1	Amended	V. 25, p. 1065
81-14-2	Amended	V. 25, p. 1066
81-14-3	Revoked	V. 25, p. 1066
81-14-4	Amended	V. 25, p. 1066
81-14-5	Amended	V. 25, p. 1071
81-14-6	Amended	V. 25, p. 1075
81-14-7	Amended	V. 25, p. 1076
81-14-8	Revoked	V. 25, p. 1076
81-14-9	New	V. 25, p. 1076
81-14-10	New	V. 25, p. 1079

**AGENCY 82: STATE CORPORATION  
COMMISSION**

Reg. No.	Action	Register
82-3-101	Amended	V. 25, p. 1750
82-3-206	Amended	V. 25, p. 1754
82-3-305	Amended	V. 25, p. 1754
82-3-307	Amended	V. 25, p. 1754
82-4-3a	Amended (T)	V. 25, p. 378
82-4-3a	Amended	V. 25, p. 844
82-14-1		
through		
82-14-5	New	V. 26, p. 16-19
82-15-1	New (T)	V. 25, p. 984, 1019
82-15-1	New	V. 25, p. 1363

**AGENCY 88: BOARD OF REGENTS**

Reg. No.	Action	Register
88-3-8	Amended	V. 25, p. 1057
88-15-1	Revoked	V. 25, p. 1403
88-15-2	Revoked	V. 25, p. 1403
88-16-1	Revoked	V. 25, p. 1404
88-16-1b	Revoked	V. 25, p. 1404
88-16-2	Revoked	V. 25, p. 1404
88-16-5	Revoked	V. 25, p. 1404
88-16-5b	Revoked	V. 25, p. 1404
88-16-6	Revoked	V. 25, p. 1404
88-16-8	Revoked	V. 25, p. 1404
88-23-1	Revoked	V. 25, p. 1404
88-23-2	Revoked	V. 25, p. 1404
88-23-2a	Revoked	V. 25, p. 1404
88-23-3a	Revoked	V. 25, p. 1404
88-23-4	Revoked	V. 25, p. 1404
88-23-5	Revoked	V. 25, p. 1404
88-23-6	Revoked	V. 25, p. 1404
88-23-7	Revoked	V. 25, p. 1404
88-28-1		
through		
88-28-6	New	V. 25, p. 1404-1410
88-28-7	New	V. 25, p. 1451

88-28-8	New	V. 25, p. 1411
88-29-1		
through		
88-29-19	New	V. 26, p. 216-229

**AGENCY 91: DEPARTMENT OF  
EDUCATION**

Reg. No.	Action	Register
91-1-201	Amended	V. 25, p. 1098
91-1-202	Amended	V. 25, p. 1099
91-1-205	Amended	V. 25, p. 1101

**AGENCY 92: DEPARTMENT OF REVENUE**

Reg. No.	Action	Register
92-12-4	Revoked	V. 25, p. 252
92-12-4a	New	V. 25, p. 252
92-12-5	Revoked	V. 25, p. 254
92-12-120	New	V. 25, p. 254
92-12-121	New	V. 25, p. 254
92-12-130	New	V. 25, p. 254
92-13-9	Amended	V. 25, p. 1568
92-19-22a	Amended	V. 25, p. 254
92-51-41	Amended	V. 25, p. 255
92-51-41a	New	V. 25, p. 255

**AGENCY 93: DEPARTMENT OF REVENUE—  
DIVISION OF PROPERTY VALUATION**

Reg. No.	Action	Register
93-7-1	New	V. 26, p. 14
93-7-2	New	V. 26, p. 14
93-7-3	New	V. 26, p. 14
93-8-1	New	V. 26, p. 14
93-8-2	New	V. 26, p. 14
93-8-3	New	V. 26, p. 14

**AGENCY 97: KANSAS COMMISSION ON  
VETERANS' AFFAIRS**

Reg. No.	Action	Register
97-4-1		
through		
97-4-8	New	V. 25, p. 1596, 1597

**AGENCY 100: BOARD OF HEALING ARTS**

Reg. No.	Action	Register
100-25-1		
through		
100-25-5	New	V. 25, p. 213-216
100-26-1	Amended	V. 25, p. 217
100-26-2	New	V. 25, p. 217
100-26-3	New	V. 25, p. 217
100-27-1	Amended	V. 25, p. 1206
100-29-1	Amended	V. 25, p. 639
100-29-2	Amended	V. 25, p. 890
100-29-3	Amended	V. 25, p. 640
100-29-4	Amended	V. 25, p. 890
100-29-5	Revoked	V. 25, p. 640
100-29-6	Amended	V. 25, p. 640
100-29-8	Amended	V. 25, p. 640
100-29-9	Amended	V. 25, p. 640
100-29-10	Amended	V. 25, p. 641
100-29-11	Revoked	V. 25, p. 1601
100-29-12	Amended	V. 25, p. 642
100-29-13	Amended	V. 25, p. 643
100-29-14	Revoked	V. 25, p. 890
100-29-15	New	V. 25, p. 643
100-29-16	New	V. 25, p. 890
100-73-7	New	V. 25, p. 1601
100-73-8	New	V. 25, p. 1602

**AGENCY 102: BEHAVIORAL SCIENCES  
REGULATORY BOARD**

Reg. No.	Action	Register
102-1-5a	Amended	V. 25, p. 183
102-1-12	Amended	V. 25, p. 184
102-2-2a	Amended (T)	V. 25, p. 987, 1019
102-2-2a	Amended	V. 25, p. 1452
102-2-6	Amended	V. 25, p. 1453
102-3-3a	Amended	V. 25, p. 1454
102-3-4a	Amended (T)	V. 25, p. 988, 1019
102-3-4a	Amended	V. 25, p. 1456
102-4-1a	Amended	V. 25, p. 1458
102-4-3a	Amended	V. 25, p. 1460
102-4-4a	Amended (T)	V. 25, p. 990, 1019
102-4-4a	Amended	V. 25, p. 1463



102-5-3	Amended	V. 25, p. 1464
102-5-4a	Amended (T)	V. 25, p. 992, 1019
102-5-4a	Amended	V. 25, p. 1466
102-5-5	Amended	V. 25, p. 187

**AGENCY 105: BOARD OF INDIGENTS' DEFENSE SERVICES**

Reg. No.	Action	Register
105-4-1	Amended	V. 25, p. 101
105-5-2	Amended (T)	V. 25, p. 982, 1019
105-5-2	Amended	V. 25, p. 1530
105-5-3	Amended (T)	V. 25, p. 982, 1019
105-5-3	Amended	V. 25, p. 1530
105-5-6	Amended (T)	V. 25, p. 982, 1019
105-5-6	Amended	V. 25, p. 1530
105-5-7	Amended (T)	V. 25, p. 983, 1019
105-5-7	Amended	V. 25, p. 1531
105-5-8	Amended (T)	V. 25, p. 983, 1019
105-5-8	Amended	V. 25, p. 1531
105-11-1	Amended (T)	V. 25, p. 983, 1019
105-11-1	Amended	V. 25, p. 1531

**AGENCY 108: STATE EMPLOYEES HEALTH CARE COMMISSION**

Reg. No.	Action	Register
108-1-4	Amended	V. 25, p. 180

**AGENCY 109: BOARD OF EMERGENCY MEDICAL SERVICES**

Reg. No.	Action	Register
109-8-1	Amended (T)	V. 26, p. 12

**AGENCY 110: DEPARTMENT OF COMMERCE**

Reg. No.	Action	Register
110-9-1		
through		
110-9-8	New	V. 25, p. 373-375
110-13-4	Amended	V. 25, p. 447
110-14-1	New	V. 25, p. 1771
110-14-2	New	V. 25, p. 1771

**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. A list of regulations filed by the Kansas Lottery from 2004 through 2005 can be found in the Vol. 24, No. 52, December 29, 2005 Kansas Register. The following regulations were filed after January 1, 2006:

Reg. No.	Action	Register
111-2-30	Amended	V. 25, p. 414
111-2-187	New	V. 25, p. 381
111-2-188	New	V. 25, p. 1363
111-2-189	New	V. 25, p. 1411
111-2-190	New	V. 25, p. 1694
111-2-191		
through		
111-2-196	New	V. 26, p. 129, 130
111-2-194	Amended	V. 26, p. 173
111-2-197	New	V. 26, p. 173
111-2-198	New	V. 26, p. 174
111-2-199		
through		
111-2-204	New	V. 26, p. 202, 203
111-4-2342		
through		
111-4-2349	New	V. 25, p. 217-221
111-4-2350		
through		
111-4-2362	New	V. 25, p. 311-319

111-4-2363		
through		
111-4-2382	New	V. 25, p. 339-351
111-4-2383		
through		
111-4-2387	New	V. 25, p. 381-384
111-4-2389		
through		
111-4-2393	New	V. 25, p. 385, 386
111-4-2394		
through		
111-4-2404	New	V. 25, p. 415-422
111-4-2405		
through		
111-4-2418	New	V. 25, p. 787-795
111-4-2419		
through		
111-4-2427	New	V. 25, p. 868-874
111-4-2420	Amended	V. 25, p. 1019
111-4-2428		
through		
111-4-2434	New	V. 25, p. 1020-1025
111-4-2435		
through		
111-4-2454	New	V. 25, p. 1364-1376
111-4-2455		
through		
111-4-2467	New	V. 25, p. 1412-1420
111-4-2468		
through		
111-4-2482	New	V. 25, p. 1695-1702
111-4-2483		
through		
111-4-2496	New	V. 26, p. 130-138
111-4-2495	Amended	V. 26, p. 203
111-4-2497		
through		
111-4-2503	New	V. 26, p. 174-179
111-4-2504		
through		
111-4-2520	New	V. 26, p. 204-212
111-5-126		
through		
111-5-138	New	V. 25, p. 386-390
111-5-139	New	V. 25, p. 423
111-5-139a	New	V. 25, p. 795
111-5-140		
through		
111-5-149	New	V. 25, p. 795-797
111-5-150		
through		
111-5-154	New	V. 25, p. 842-844
111-5-155		
through		
111-5-159	New	V. 25, p. 1703, 1704
111-6-1	Amended	V. 25, p. 222
111-6-27	New	V. 26, p. 259
111-7-81	Amended	V. 25, p. 319
111-7-193	New	V. 25, p. 1026
111-7-194	New	V. 25, p. 1027
111-7-195		
through		
111-7-207	New	V. 25, p. 1420-1423
111-7-208		
through		
111-7-217	New	V. 26, p. 138-141
111-9-130		
through		
111-9-133	New	V. 25, p. 351-353
111-9-134	New	V. 25, p. 1704
111-9-135	New	V. 25, p. 1705
111-9-136	New	V. 26, p. 141
111-9-137	New	V. 26, p. 180
111-9-138	New	V. 26, p. 212
111-9-139	New	V. 26, p. 212
111-9-140	New	V. 26, p. 213
111-11-1	Amended	V. 25, p. 223

111-12-4	New	V. 26, p. 214
111-14-2	New	V. 26, p. 214

**AGENCY 115: DEPARTMENT OF WILDLIFE AND PARKS**

Reg. No.	Action	Register
115-2-1	Amended	V. 25, p. 1602
115-2-2	Amended	V. 25, p. 1603
115-2-3a	Amended	V. 25, p. 1603
115-2-4	Amended	V. 25, p. 336
115-4-4	Amended	V. 25, p. 662
115-4-6	Amended	V. 25, p. 336
115-7-1	Amended	V. 25, p. 1605
115-7-4	Amended	V. 25, p. 1606
115-7-8	New	V. 25, p. 1606
115-16-5	Amended	V. 25, p. 1607
115-18-10	Amended	V. 26, p. 101
115-18-12	Amended	V. 25, p. 1608
115-18-18	New	V. 25, p. 1608
115-18-19	New	V. 25, p. 1608
115-18-20	New	V. 25, p. 1609
115-20-5	New	V. 25, p. 1609
115-20-6	New	V. 25, p. 1611

**AGENCY 117: REAL ESTATE APPRAISAL BOARD**

Reg. No.	Action	Register
117-2-2	Amended	V. 25, p. 1146
117-3-2	Amended	V. 25, p. 1146
117-4-2	Amended	V. 25, p. 1147
117-5-1	Amended	V. 25, p. 1148
117-6-1	Amended	V. 25, p. 1148
117-6-2	Amended	V. 25, p. 1148
117-8-1	Amended	V. 25, p. 866

**AGENCY 118: STATE HISTORICAL SOCIETY**

Reg. No.	Action	Register
118-4-4	Amended	V. 26, p. 46

**AGENCY 121: DEPARTMENT OF CREDIT UNIONS**

Reg. No.	Action	Register
121-5-1	Amended (T)	V. 25, p. 1304
121-5-1	Amended	V. 25, p. 1727
121-5-2	Revoked (T)	V. 25, p. 1304
121-5-2	Revoked	V. 25, p. 1727
121-5-3	New (T)	V. 25, p. 1304
121-5-3	New	V. 25, p. 1727
121-7-1	New	V. 25, p. 1728
121-8-1	New (T)	V. 25, p. 1304
121-8-1	New	V. 25, p. 1728

**AGENCY 123: JUVENILE JUSTICE AUTHORITY**

Reg. No.	Action	Register
123-6-101		
through		
123-6-106	New	V. 25, p. 1634, 1635

**AGENCY 129: KANSAS HEALTH POLICY AUTHORITY**

Reg. No.	Action	Register
129-5-1	Amended	V. 25, p. 1569
129-5-88	New	V. 25, p. 1830
129-5-108	New	V. 25, p. 1571
129-5-118	New	V. 25, p. 665
129-5-118b	New	V. 25, p. 665
129-6-38	New	V. 25, p. 1030
129-6-77	New	V. 25, p. 847
129-6-151	New	V. 25, p. 848
129-6-152	New	V. 25, p. 848
129-7-65	New	V. 25, p. 848
129-14-22	New	V. 25, p. 1030
129-14-27	New	V. 25, p. 849
129-14-51	New	V. 25, p. 849
129-14-52	New	V. 25, p. 849

# Order a custom-made loose-leaf binder for the Kansas Register!

Custom-made binders are available to attractively hold up to a year's worth of your copies of the Kansas Register for permanent use. The high quality, durable casebound swinge-hinge binders are manufactured by ABZ Binder. (A swinge-hinge binder has more capacity and allows for easier interfiling than standard ring binders.) The three-inch binder features dark blue supported vinyl covering and gold imprinting, with a label holder on the spine.

**\$15 each, includes shipping and handling.**

(Kansas residents must include applicable state and local sales tax.)



In this issue . . .

Kansas Department of Health and Environment Requests for comments on proposed air quality permits	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 permits	37
Pooled Money Investment Board Notice of investment rates	37
State Banking Board Notice of 2002 meeting schedule	37
Department of Administration Public notice	37
Wildlife and Parks Commission Notice of hearing on proposed administrative regulations	39
Attorney General Opinions 2001-48 through 2001-56	39
Information Network of Kansas Notice of meeting	40
City of Overland Park Notice to bidders	42
Department of Administration—Division of Purchases Notice to bidders for state purchases	42
	43

Clip and mail

Please send \_\_\_\_\_

**Kansas Register Binders @ \$15**

(Note: Kansas residents must include applicable state and local sales tax.)

Total enclosed \_\_\_\_\_

Ship to:

Shipping is by  
U.P.S. Delivery Service—  
Street address is necessary.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

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

---

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

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

**Total Enclosed**  
**(Make check payable to the Kansas Register)**

**Send to:** \_\_\_\_\_

(Please, no  
more than  
4 address  
lines.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Zip code must be included

Rec. No. \_\_\_\_\_ Exp. \_\_\_\_\_ Code \_\_\_\_\_

This space for Register office use only.

---

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

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



Indicate change of name or address  
here:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

---

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