



Kansas Register

Ron Thornburgh, Secretary of State

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In this issue . . .	Page
Department of Revenue	
Notice of available publications	1620
Kansas State University	
Request for proposals for GSM cellular service providers	1621
Kansas Department of Transportation	
Request for comments on the Statewide Transportation Improvement Program	1621
Notices to consulting engineers.....	1621, 1622
State Board of Accountancy	
Notice of hearing on proposed administrative regulations	1622
Pooled Money Investment Board	
Notice of investment rates.....	1623
University of Kansas	
Notice to bidders	1623
Kansas Child Support Guidelines Advisory Committee	
Notice of meeting.....	1623
City of Lenexa	
Notice to bidders	1623
Legislative interim committee schedule.....	1624
Board of Emergency Medical Services	
Notice of meetings	1625
Department of Health and Environment	
Request for bids on the Kansas Childhood Lead Poisoning Prevention Program.....	1625
Requests for comments on proposed air quality permits.....	1625, 1626, 1627
Notice of hearing on revised state air quality implementation plan	1628
Notice of hearings on proposed water pollution control permits	1628
Notice concerning water pollution control permits/applications	1629
Kansas Courthouse Security Project	
Notice of meeting.....	1627
Department of Administration—Division of Purchases	
Notice to bidders for state purchases	1627
Temporary Administrative Regulations	
Department of Agriculture	1632
Notice of Bond Sale	
City of Goddard	1632
City of Park City.....	1633
Kansas Development Finance Authority	
Notice of hearing on proposed revenue bonds	1633
Permanent Administrative Regulations	
Juvenile Justice Authority	1634
Social and Rehabilitation Services	1636
Board of Pharmacy	1637
Department of Health and Environment (Mined-Land Conservation and Reclamation)	1639
Index to administrative regulations.....	1667

State of Kansas

Department of Revenue

Notice of Available Publications

Listed below are all the Private Letter Rulings, Opinion Letters, Final Written Determinations, Revenue Rulings, Memorandums, Property Valuation Division Directives, Q&A's, Information Guides and Notices published by the Department of Revenue for September and October 2006. Copies can be obtained by accessing the Policy Information Library located on the Internet at www.ksrevenue.org or by calling the Office of Policy and Research at (785) 296-3081.

Private Letter Rulings

P-2006-013 Kansas turbine wind farm.

Opinion Letters

O-2006-005 Sales tax on property tax for equipment charged to a lessee by a lessor.

Final Written Determination

No new publications

Revenue Rulings

No new publications

Notices

Notice 06-07 Credit/Refund Requests E-85 Inventory January 1, 2007.

Memorandums

No new publications

Property Valuation Division Directives

No new publications

Q&A's

No new publications

Information Guides

Info Guide Convenience Stores Self-Audit Fact Sheet.
Info Guide Fact Sheet: Lawn & Garden Care, Pest Control, Fertilizer Application, Landscaping & Retail Sales.
Info Guide Custom Computer Programming Services Self-Audit Fact Sheet.

Joan Wagnon
Secretary of Revenue

Doc. No. 033819

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State of Kansas

Kansas State University**Request for Proposals**

Kansas State University is seeking proposals from GSM cellular service providers or their representatives (carriers) desiring to locate cellular antenna facilities on a KSU-Manhattan campus site designated by the university. The intent of the university is to enter into individual site license agreements with qualified carriers that will enable the carriers to enhance their cellular coverage on the KSU-Manhattan campus and surrounding area while supporting GMS/SIP features of the Avaya platform.

Qualified carriers should express interest to Carla Bishop at the K-State Purchasing Office by calling (785) 532-6214 not later than noon December 1. Interested parties will be invited to a meeting December 8 on the K-State Manhattan campus to discuss specific details of the agreement with the university.

Carla Bishop
Director of Purchasing

Doc. No. 033835

State of Kansas

Department of Transportation**Request for Comments**

The Kansas Department of Transportation requests comments on the amendment of the Statewide Transportation Improvement Program (STIP) FY 2007-2010 by adding the following projects:

Project KA-0791-01, Preliminary Engineering for Roadway Reconstruction, K-47 from Wilson-Neosho county line east to .05 mile east of Jct. US-169, Neosho County

Project KA-0791-02, Preliminary Engineering for Roadway Reconstruction, K-47 from .18 mile east of Jct. US-75 east to Wilson-Neosho county line, Wilson County

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

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

The comment period regarding the STIP amendment will conclude December 11.

Deb Miller
Secretary of Transportation

Doc. No. 033816

State of Kansas

Department of Transportation**Notice to Consulting Engineers**

The Kansas Department of Transportation is seeking qualified consulting engineering firms for the projects listed below. A response may be submitted by e-mail to neil@ksdot.org or seven signed copies of the response can be mailed to Neil Rusch, P.E., Assistant to the Director, Division of Engineering and Design, KDOT, Eisenhower State Office Building, 700 S.W. Harrison, Topeka, 66603-3754. Responses shall be limited to four pages and must be received by 5 p.m. December 7 for the consulting engineering firm to be considered.

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

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

99-37 KA-0702-01
Greenwood County

The replacement of Homer Creek Bridge (BR 035) 5 miles north of US-54 in Greenwood County. The project is scheduled for field check in March 2009. The consultant will provide all needed surveys. The construction estimate is \$1,577,000.

23-60 KA-0691-01
Meade County

The replacement of the Cimarron River Bridge (BR 015) 0.6 mile north of the Oklahoma state line. The project is scheduled for field check in March 2009. The consultant will provide all needed surveys. The construction estimate is \$5,690,000.

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

1. Size and professional qualifications;
2. experience of staff;
3. location of firm with respect to proposed project;
4. work load of firm; and
5. firm's performance record.

Deb Miller
Secretary of Transportation

Doc. No. 033800

State of Kansas

Board of Accountancy

Notice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted at 9:30 a.m. Friday, January 19, in Room 106 of the Landon State Office Building, 900 S.W. Jackson, Topeka, to consider the adoption of proposed changes in existing rules and regulations of the Board of Accountancy.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to the executive director of the Board of Accountancy, Suite 556, Landon State Office Building, 900 S.W. Jackson, Topeka, 66612. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Joanne Peterson at (785) 296-2162 or by e-mail at info@ksboa.ks.gov. Handicapped parking is located at the south end of Landon State Office Building, and the north entrance to the building is accessible to individuals with disabilities.

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

K.A.R. 74-4-1a. Experience requirement for attest services. Amendments to this regulation are to move standards promulgated by the Public Company Accounting Oversight Board (PCAOB) relative to firms that perform audits for public companies to K.A.R. 74-5-2.

K.A.R. 74-5-2. Definitions. Amendments to this regulation set forth the standards promulgated by the public company accounting oversight board, and update and add materials adopted by reference.

K.A.R. 74-5-101. Independence. Amendments to this regulation are to update materials adopted by reference.

K.A.R. 74-5-105. This regulation is being revoked.

K.A.R. 74-5-202. Compliance with standards. Amendments to this regulation update materials adopted by reference.

K.A.R. 74-5-403. Advertising and other forms of solicitation. Amendments to this regulation restrict the use of the names of non-CPAs and entities not registered with the board in advertisements or publications specifically used for certified public accountants.

K.A.R. 74-5-408. Change of address. This is a new regulation requiring certified public accountants to notify the board in writing of any change of home address or business name or business address within 30 days of the change.

K.A.R. 74-11-6. Definitions. Amendments to this regulation are to update materials adopted by reference.

Copies of the regulations and the economic impact statement may be obtained by contacting the Board of Accountancy at the address and phone number given above for from the board's Web site at www.ksboa.org.

Susan L. Somers
Executive Director

Doc. No. 033818

State of Kansas

Department of Transportation

Notice to Consulting Engineers

The Kansas Department of Transportation is seeking qualified consulting engineering firms for the project listed below. A response may be submitted by e-mail to neil@ksdot.org or seven signed copies of the response can be mailed to Neil Rusch, P.E., Assistant to the Director, Division of Engineering and Design, KDOT, Eisenhower State Office Building, 700 S.W. Harrison, Topeka, 66603-3754. Responses shall be limited to four pages and must be received by 5 p.m. December 7 for the consulting engineering firm to be considered.

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

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

169-2 KA-0706-01

Anderson County

The scope of services is to replace the abandoned ATSF Bridge 011 with a box culvert to be used by a bike trail. The bridge is located west of Welda in Anderson County. The project is scheduled for field check in May 2008. The surveys will be done by KDOT. The construction estimate is \$2,440,000.

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

1. Size and professional qualifications;
2. experience of staff;
3. location of firm with respect to proposed project;
4. work load of firm; and
5. firm's performance record.

Deb Miller
Secretary of Transportation

Doc. No. 033821

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 11-13-06 through 11-19-06

Term	Rate
1-89 days	5.23%
3 months	5.00%
6 months	5.08%
1 year	4.91%
18 months	4.80%
2 years	4.70%

Derl S. Treff
Director of Investments

Doc. No. 033811

State of Kansas

University of Kansas

Notice to Bidders

Sealed bids for the items listed below will be received by E & I Cooperative Service, Inc., Hauppauge, New York, at the time and date indicated on the bid documents and then will be publicly opened. Interested bidders may call (631) 630-8280 or fax (631) 273-3370 for additional information:

Thursday, December 14, 2006
RFP 682515

Fleet Vehicles for Purchase or
Lease and Related Services

Barry K. Swanson
Associate Comptroller/
Director of Purchasing Services

Doc. No. 033820

State of Kansas

**Child Support Guidelines
Advisory Committee**

Notice of Meeting

The Kansas Child Support Guidelines Advisory Committee will meet at 9:30 a.m. Friday, December 1, in Room 269, Kansas Judicial Center, 301 S.W. 10th Ave., Topeka. For more information, contact Mark Gleeson, OJA Family and Children Program Coordinator, at (785) 296-5938 or by e-mail at gleesonm@kscourts.org.

Persons requiring reasonable accommodations should contact Elizabeth Reimer at the Kansas Office of Judicial Administration, 301 S.W. 10th Ave., Topeka, 66612-1507, (785) 296-5938, by e-mail at reimere@kscourts.org or by TTY/TDD via the Kansas Relay Center, (800) 766-3777.

Mark Gleeson
OJA Family and Children
Program Coordinator

Doc. No. 033487

(Published in the Kansas Register November 16, 2006.)

City of Lenexa, Kansas

Notice to Bidders

Sealed bids for **Monticello Road Improvements (83rd Street to Lake Lenexa Entrance) (KDOT Project No. 46N-0343-01), and Monticello Road Improvements (Lake Lenexa Entrance to Prairie Star Parkway), and 95th Street Improvements (Monticello Road to 1320' East of Monticello Road)** will be accepted by the city of Lenexa, Kansas, at the Planning Department, Lenexa City Hall, 12350 W. 87th St. Parkway, Lenexa, KS 66215, until 3 p.m. December 5, 2006, 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 customer service staff in sealed envelopes addressed to the city of Lenexa, Kansas, attention: city clerk, and marked "Bid For: Monticello Road Improvements and 95th Street Improvements." 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 non-refundable.

In lieu of picking up plans and specifications at Lenexa City Hall, bidders may download plans and specs 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 the Monticello Road improvements (83rd Street to Lake Lenexa entrance) portion of the 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 the 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

(continued)

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. November 27 in the Executive Conference Room, upper level, Lenexa City Hall.

Mary Sue Fry
City Clerk
City of Lenexa, Kansas

Doc. No. 033765

State of Kansas

Legislature

Interim Committee Schedule

The following committee meetings have been scheduled during the period of November 20-December 1. Requests for accommodation to participate in committee meetings should be made at least two working days in advance of the meeting by contacting Legislative Administrative Services at (785) 296-2391 or TTY (785) 296-8430. When available, agendas can be found at <http://kslegislature.org/klrd>.

Date	Room	Time	Committee	Agenda
Nov. 20	519-S	9:00 a.m.	Joint Committee on Administrative Rules and Regulations	Review of the rules and regulations proposed for adoption by: Insurance Dept.; Board of Regents; State Historical Society; State Corporation Commission; Dept. of Agriculture; Dept. of Revenue; Board of Technical Professions; KDHE; Board of Healing Arts; Health Policy Authority; Board of Mortuary Arts; Pharmacy Board.; and Dept. of Wildlife and Parks.
Nov. 20	514-S	9:00 a.m.	KAN-ED Oversight Committee	Continued review of KAN-ED statutory goals, potential for consolidation, funding, and membership.
Nov. 21 Nov. 22	514-S 514-S	10:30 a.m. 8:30 a.m.	Kansas Technical College and Vocational School Commission	21st - Review Board of Regents recommendation regarding technical education; and review Sedgwick County Technical Education and Training Authority recommendation, Georgia Quick Start, and Technical Education Governance Models Nationwide. 22nd - Funding of technical education; and commission discussion and recommendations.
Nov. 27	514-S	9:30 a.m.	Special Committee on Utilities	Regulation of gas-gathering facilities.
Nov. 28 Nov. 29	519-S 519-S	10:00 a.m. 9:00 a.m.	Special Committee on Agriculture and Natural Resources	Agenda not available.
Nov. 30 Dec. 1	123-S 123-S	10:00 a.m. 9:00 a.m.	Joint Committee on Arts and Cultural Resources	Agenda not available.
Nov. 30 Dec. 1	514-S 514-S	10:00 a.m. 9:00 a.m.	Kansas Technical College and Vocational School Commission	Agenda not available.

Jeffrey M. Russell
Director of Legislative
Administrative Services

Doc. No. 033833

**State of Kansas
Board of Emergency Medical Services**

Notice of Meetings

The Board of Emergency Medical Services will meet at 9 a.m. Friday, December 1, in Room 106, Landon State Office Building, 900 S.W. Jackson, Topeka. Committee meetings will be held beginning at 10 a.m. Thursday, November 30, at the same location. Items on the agenda for the meetings can be found on the board's Web site at <http://www.ksbems.org>.

All meetings of the board are open to the public. For more information, contact the administrator, Room 1031, Landon State Office Building, 900 S.W. Jackson, Topeka, 66612-1228, (785) 296-7296.

Robert Waller
Administrator

Doc. No. 033836

**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. Agri-Energy, LLC (AE) has applied for an air quality construction permit in accordance with the provisions of K.A.R. 28-19-300 to construct an ethanol manufacturing plant. Emissions of particulate matter (PM), PM equal to or less than 10 microns in diameter (PM₁₀), volatile organic compounds (VOCs), oxides of nitrogen (NOx), sulfur oxides (SOx), hazardous air pollutants (HAP) and carbon monoxide (CO) were evaluated during the permit review process.

AE proposes to own and operate a 60-million-gallon-per-year ethanol plant located near Ulysses.

A public comment period has been established until December 18 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 John S. Ramsey, 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 December 18. If a request is received, a public hearing is tentatively scheduled by KDHE at 7 p.m. December 20 at the Library, Cooper Clark meeting room, 215 E. Grant, Ulysses. 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 Southwest District Office, 302 W. McArtor Road, Dodge City. To obtain or review the proposed permit and supporting documentation, contact John Ramsey, (785) 296-1992, 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.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 033826

**State of Kansas
Department of Health
and Environment**

Request for Bids

Sealed bids for lead hazard reduction at the following properties 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:

**November 27, 2006
264-07-42**

Project Lead Safe KCK

- Property #1 4903 Yecker
Kansas City, KS 66104
- Property #2 26 S. Valley
Kansas City, KS 66101
- Property #3 733 Splitlog
Kansas City, KS 66101
- Property #4 2700 Stewart
Kansas City, KS 66104
- Property #5 239 S. Valley
Kansas City, KS 66101
- Property #6 1910 S. 36th Terr.
Kansas City, KS 66106
- Property #7 1043 Metropolitan
Kansas City, KS 66106
- Property #8 5100 Yecker
Kansas City, KS 66104
- Property #9 3329 Freeman Ave.
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.

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

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 033817

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. Valero, L.P. 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.

Valero, L.P., 7340 W. 21st St. North, Suite 200, Wichita, owns and operates a refined petroleum products terminal located at 3300 E. Ave. G, Hutchinson, Reno County.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during the permit application review process is available for a 30-day public review during normal business hours at the KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka; and a copy of the proposed permit can be reviewed at the KDHE North Central District Office, 2501 Market Place, Suite D, Salina. To obtain or review the proposed permit and supporting documentation, contact Rasha Allen, (785) 296-1693, at the KDHE central office; and to review the proposed permit only, contact Stan Marshall, (785) 827-9639, at the KDHE North Central District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Rasha Allen, KDHE, Bureau of Air 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 December 18.

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 December 18 in order for the Secretary of Health and Environment to consider the request.

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

Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in this notice, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or

unless the grounds for such objection arose after such period. Contact Jon Knodel, U.S. EPA, Region VII, Air Permitting and Compliance Branch, 901 N. 5th St., Kansas City, KS 66101, (913) 551-7622, to determine when the 45-day EPA review period ends and the 60-day petition period commences.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 033823

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. Hi-Lo Industries, Inc. has applied for a Class II operating permit in accordance with the provisions of K.A.R. 28-19-540. Emissions of volatile organic compounds (VOC), individual hazardous air pollutant (HAP) and combined HAPs were evaluated during the permit review process. The purpose of a Class II permit is to limit the potential-to-emit for these pollutants to below major source thresholds.

Hi-Lo Industries, Inc., 3928 Ross Lane, Chanute, owns and operates several wood parts and cabinet manufacturing facilities located in Chanute, Neosho County.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during the permit application review process is available for public review for a period of 30 days from the date of publication during normal business hours at the KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka; and a copy of the proposed permit can be reviewed at the KDHE Southeast District Office, 1500 W. 7th, Chanute. To obtain or review the proposed permit and supporting documentation, contact Rasha Allen, (785) 296-1693, at the KDHE central office; and to review the proposed permit only, contact Doug Cole, (620) 431-2390, at the Southeast District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Rasha Allen, KDHE, Bureau of Air 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 December 18.

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 December 18 in order for the Secretary of Health and Environment to consider the request.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 038822

**State of Kansas
Kansas Courthouse Security Project**

Notice of Meeting

The Kansas Courthouse Security Project will conduct a pre-assessment meeting for the 4th Judicial District from 10 a.m. to noon Friday, November 17, at the Coffey County Courthouse, 6th and Neosho, Burlington.

The meeting will be open to the public. For more information, contact Mark Gleeson, OJA Family and Children Program Coordinator, at (785) 296-5938 or by e-mail at gleesonm@kscourts.org. Persons requiring reasonable accommodations should contact Elizabeth Reimer at the Kansas Office of Judicial Administration, 301 S.W. 10th Ave., Topeka, 66612-1507, (785) 296-5938, by e-mail at reimere@kscourts.org, or by TTY/TDD via the Kansas Relay Center at (800) 766-3777.

Mark Gleeson
OJA Family and Children
Program Coordinator

Doc. No. 033730

**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. Collins Bus Corporation has applied for an air quality construction permit in accordance with the provisions of K.A.R. 28-19-300. Emissions of hazardous air pollutants (HAPs) were evaluated during the permit review process.

Collins Bus Corporation, 15 Compound Drive, Hutchinson, owns and operates a small school and commercial bus manufacturing facility located at 415 W. 6th St., South Hutchinson, and is requesting to establish federal restrictions on all individual HAPs and combined HAPs to be below the Title V thresholds.

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 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 North Central District Office, 2501 Market Place, Suite D, Salina. To obtain or review the proposed permit and supporting documentation, contact Terry Tavener, (785) 296-1581, at the KDHE central office; and to review the proposed permit only, contact Stan Marshall, (785) 827-9639, at the KDHE North Central District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Terry Tavener, 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 December 18.

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 December 18 in order for the Secretary of Health and Environment to consider the request.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 033829

**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) 296-2377:

11/28/2006	09944	Plain Paper Copier
12/6/2006	09942	Enterprise Resource Planning (ERP) System
12/6/2006	09948	Angler Mailing and Internet Survey
12/7/2006	09890	Automated Medication Dispensing System
12/7/2006	09937	Environmental Test Chambers (RTCA DO 160E)
12/8/2006	09958	Long Term Care Request for Information
12/11/2006	09950	Historic Barn Survey Services
12/19/2006	09945	Lease of Farmland at Lansing
12/19/2006	09946	Lease of Farmland in Norton County
01/05/2007	09928	Unemployment Insurance Modernization Phase II

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

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

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

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

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

12/06/2006	A-010291	Laboratory Renovation — Kansas Bureau of Investigation, Great Bend
12/07/2006	A-010229	Cooling Tower Replacement — Kansas Museum of History, Topeka
12/12/2006	A-010249	Replace Chiller in Administration Building — Beloit Juvenile Correctional Facility, Beloit

Chris Howe
Director of Purchases

Doc. No. 033834

State of Kansas

Department of Health
and Environment

Notice of Hearing

The Kansas Department of Health and Environment is proposing to revise the *State of Kansas Implementation Plan for the Attainment and Maintenance of National Ambient Air Quality Standards*. A hearing for this action will be held at 10 a.m. Wednesday, December 20, in the Tallgrass Room, third floor, Curtis State Office Building, 1000 S.W. Jackson, Topeka. Specifically, the department is proposing to adopt an update to the state air quality implementation plan (SIP). The SIP update fulfills the requirements of Section 110(a)(2)(D)(i) of the Clean Air Act, which requires states to address the impacts of interstate transport of air pollutants. The SIP update confirms that Kansas emission sources do not significantly contribute to areas in nonattainment of the National Ambient Air Quality Standards (NAAQs) in other states. These findings were demonstrated in the modeling performed for the Clean Air Interstate Rule (CAIR) issued by the U.S. Environmental Protection Agency March 10, 2006.

This proposed SIP revision does not include any rule-making action. Details concerning this revision can be obtained by contacting Douglas L. Watson, KDHE, Bureau of Air and Radiation, at (785) 296-0910. Copies of the proposed plan also may be viewed at the following locations: (1) Department of Air Quality, Unified Government of Wyandotte County-Kansas City, Kansas Health Department, 619 Ann Ave., Kansas City, Kansas; (2) Johnson County Environmental Department, 11180 Thompson Ave., Lenexa; (3) KDHE Northwest District Office, 2301 E. 13th, Hays; (4) KDHE North Central District Office, 2501 Market Place, Suite D, Salina; (5) KDHE Northeast District Office, 800 W. 24th, Lawrence; (6) KDHE Southeast District Office, 1500 W. 7th, Chanute; (7) Wichita-Sedgwick County Department of Community Health, 1900 E. 9th, Wichita; (8) KDHE Southwest District Office, 302 W. McArtor Road, Dodge City; and (9) Curtis State Office Building, 1000 S.W. Jackson, Suite 310, Topeka. The plan also is posted on the Bureau of Air and Radiation's Web site at <http://www.kdheks.gov/bar/index.html>. Comments from the interested public should be addressed to the Kansas Department of Health and Environment, Bureau of Air and Radiation, Attention: Douglas L. Watson, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366. Comments must be received by the Bureau of Air and Radiation not later than the close of business December 20 to assure full consideration of this proposed revision to the SIP.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed plan in accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Douglas L. Watson at (785) 296-0910.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 033824

State of Kansas

Department of Health
and Environment

Notice of Hearings

The Kansas Department of Health and Environment has prepared proposed Kansas Water Pollution Control Permits, A-KSGE-H002, for F & R Swine, Inc., and KSGE-H003, F & R Swine, Inc. (Caley Site), both located near Dwight.

The proposed permit is a renewal permit for F & R Swine, Inc. for a waste control system for a confined feeding facility with a capacity for up to 12,900 head (3,000 animal units) of swine. The facility is located in the Southwest Quarter of Section 01, Township 13 South, Range 7 East in Geary County. The public was informed of the availability of the proposed agricultural waste control permit for F & R Swine, Inc. through Public Notice No. KS-AG-06-329, dated September 14, 2006.

The proposed permit for F & R Swine, Inc. (Caley Site) is for a waste control system for a confined feeding facility with a capacity for up to 4,000 head (1,600 animal units) of swine weighing more than 55 pounds each. The proposed facility will be located in the Southwest Quarter of Section 8, Township 13 South, Range 8 East in Geary County. The public was informed of the availability of the proposed agricultural waste control permit for F & R Swine, Inc. (Caley Site) through Public Notice No. KS-AG-06-330, dated September 14, 2006.

Two public hearings have been scheduled in conformance with K.A.R. 28-16-61. The public hearing on the proposed permit for F & R Swine, Inc. has been scheduled for 5 p.m. Tuesday, December 19, at the Dorothy Bramlage Public Library, 230 West St., Junction City. The public hearing on the proposed permit for F & R Swine, Inc. (Caley Site) will immediately follow.

Copies of the permit application, the proposed KDHE permit and other pertinent documents may be requested by contacting KDHE, Livestock Waste Management Section, 1000 S.W. Jackson, Suite 420, Topeka, 66612-1367, (785) 296-6432 or fax (785) 296-5509. Appropriate copying charges will be assessed for each request. In addition, the same documents may be viewed at the KDHE North Central District Office, 2501 Market Place, Suites D & E, Salina.

Persons wishing to comment on the proposed permits may do so at the public hearing or may submit written statements to KDHE at the Topeka address above by December 19. It is recommended that persons wishing to speak at the public hearing supply the hearing officer with a written copy of the testimony the night of the hearing.

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

The Secretary of Health and Environment will make a final permit decision after consideration of applicable requirements of state statutes and regulations and com-

ments received during the public notice and public hearing process.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 033827

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-06-406/416
Pending Permits for Confined Feeding Facilities

Name and Address of Applicant	Legal Description	Receiving Water
Bloom Farms Ronald Bloom 564 R Road Goff, KS 66428	NW/4 of Section 12, T05S, R13E, Nemaha County	Kansas River Basin

Kansas Permit No. A-KSNM-C001 Federal Permit No. KS0098736
This is a modification and renewal permit for an expanding facility for a maximum of 1,450 head (1,450 animal units) of beef cattle weighing greater than 700 pounds each. The cattle operation, after expansion, will consist of 17.7 acres of open lots. Wastewater will be controlled by five sedimentation basins and three earthen retention control structures.

Name and Address of Applicant	Legal Description	Receiving Water
Cedar Ridge Feedlot Henry Chinn Sr. 9443 S.W. 80th St. Augusta, KS 67010	NE/4 of Section 17, T27S, R04E, Butler County	Walnut River Basin

Kansas Permit No. A-WABU-B004
This is a renewal permit for an existing facility for 500 head (500 animal units) of beef cattle.

Name and Address of Applicant	Legal Description	Receiving Water
Steffen Farms Bruce Steffen 917 First Road Longford, KS 67458	SW/4 of Section 33, T10S, R02E, Clay County	Smoky Hill River Basin

Kansas Permit No. A-SHCY-S009
This is a renewal permit for an existing facility for 1,000 head (400 animal units) of swine weighing more than 55 pounds, 1,000 head (100

animal units) of swine weighing 55 pounds or less and 300 head (300 animal units) of cattle weighing greater than 700 pounds, for a total of 2,300 head (800 animal units) of swine and cattle.

Name and Address of Applicant	Legal Description	Receiving Water
Edwin F. Welch Trust I 387 20th Road Haddam, KS 66944	SE/4 of Section 21, T02S, R01E, Washington County	Big Blue River Basin

Kansas Permit No. A-BBWS-B002

This is a renewal permit for an existing facility for 218 head (109 animal units) of cattle weighing less than 700 pounds and 88 head (88 animal units) of cattle weighing greater than 700 pounds, for a total of 306 head (197 animal units) of cattle.

Name and Address of Applicant	Legal Description	Receiving Water
J-Six Farms Inc. (Oneida) John Kramer P.O. Box 170 Seneca, KS 66538	NW/4 of Section 26, T02S, R13E, Nemaha County	Missouri River Basin

Kansas Permit No. A-MONM-S039

This is a renewal permit for an existing facility for a maximum of 2,000 head (200 animal units) of swine weighing 55 pounds or less.

Name and Address of Applicant	Legal Description	Receiving Water
Roderick Arnoldy 266 W. 190th Drive Tipton, KS 67485	SW/4 of Section 03 T09S, R11W, Osborne County	Solomon River Basin

Kansas Permit No. A-SOOB-B007

This is a renewal permit for an existing facility for 300 head (300 animal units) of cattle weighing greater than 700 pounds each and 300 head (150 animal units) of cattle weighing 700 pounds or less each.

Name and Address of Applicant	Legal Description	Receiving Water
Art Regehr & Sons Wayne A. Regehrnager 566 Cheyenne Road Inman, KS 67546	SW/4 of Section 01, T21S, R05W, McPherson County	Little Arkansas River Basin

Kansas Permit No. A-LAMP-S024

This is a renewal permit for an existing facility with a maximum capacity for 500 head (500 animal units) of cattle weighing more than 700 pounds, 504 head (201.6 animal units) of swine weighing more than 55 pounds and 410 head (41 animal units) of swine weighing 55 pounds or less, for a total of 742.6 animal units.

Name and Address of Applicant	Legal Description	Receiving Water
Sinn Ranch, Inc. Gary Sinn Route 1, Box 39 Mahaska, KS 66955	SW/4 of Section 05, T01S, R01E, Washington County	Big Blue River Basin

Kansas Permit No. A-BBWS-S032

This is a renewal permit for an existing facility with a capacity for 282 head (64.8 animal units) of swine. This permit includes an increase in animal units from 59 to 64.8, due to a change in the method of counting baby pigs.

Name and Address of Applicant	Legal Description	Receiving Water
Mellies Hog Farm Charles R. Mellies 1128 27th Road Morganville, KS 67468	SW/4 of Section 23 & NW/4 of Section 26, T06S, R02E, Clay County	Lower Republican River Basin

Kansas Permit No. A-LRCY-S037

This is a renewal permit for an existing facility for 1,064 head (425.6 animal units) of swine weighing more than 55 pounds, 1,320 head (132 animal units) of swine weighing 55 pounds or less, 40 head (40 animal units) of cattle weighing greater than 700 pounds and 40 head (20 animal units) of cattle weighing less than 700 pounds, for a total of 617.6 animal units. The permitted capacity is decreasing from 631.2 animal units to 617.6 animal units.

(continued)

Name and Address of Applicant	Legal Description	Receiving Water
Gerald Shippy 1697 Wolf Road Woodbine, KS 67492	SE/4 of Section 12, T14S, R04E, Dickinson County	Smoky Hill River Basin

Kansas Permit No. A-SHDK-B006

This is a renewal permit for an existing facility for 450 head (225 animal units) of cattle weighing less than 700 pounds, 501 head (200.4 animal units) of swine weighing greater than 55 pounds and 440 head (44 animal units) of swine weighing 55 pounds or less, for a total permitted capacity of 1,391 head (469.4 animal units) of cattle and swine.

Name and Address of Applicant	Legal Description	Receiving Water
Holthaus Brothers Cyril Holthaus 531 State Hwy. 9 Centralia, KS 66415	SW/4 of Section 02, T04S, R11E, Nemaha County	Big Blue River Basin

Kansas Permit No. A-BBNM-B001

This is a renewal permit for an existing facility for 990 head (495 animal units) of cattle weighing less than 700 pounds.

Public Notice No. KS-06-187/193

Name and Address of Applicant	Waterway	Type of Discharge
APAC - Kansas, Inc., Shears Division 1600 N. Lorraine, Suite One Hutchinson, KS 67501	Fall River via Salt Creek via Unnamed Tributary	Pit Dewatering & Stormwater Runoff

Kansas Permit No. I-VE17-PO02 Federal Permit No. KS0089583
Legal: SW¼, NW¼, NE¼, S11, T28S, R12E, Greenwood County
Facility Name: Fall River Quarry

Facility Description: The proposed action is to reissue an existing permit for the discharge of wastewater during quarry operation. This facility is a limestone rock crushing and washing operation. Outfall 001 consists of treated wash water from a settling pond and stormwater runoff. Outfalls 002 and 003 consist of stormwater runoff. The proposed permit includes limits for total suspended solids and pH. Also included in the permit is generic water-quality language to protect waters of the state. Contained in the permit is a schedule of compliance requiring the permittee to develop and implement an industrial stormwater pollution prevention plan within one year of the effective date of the permit. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water-quality based.

Name and Address of Applicant	Waterway	Type of Discharge
Basehor, City of P.O. Box 406 Basehor, KS 66007-0406	Stranger Creek via Hog Creek	Treated Domestic Wastewater

Kansas Permit No. M-KS04-OO07 Federal Permit No. KS0094382

Facility Description: The proposed action is to reissue an existing permit for an existing wastewater treatment plant treating primarily domestic wastewater. The proposed permit contains limits for biochemical oxygen demand, total suspended solids, ammonia, fecal coliform and pH. Monitoring for total phosphorus, nitrate, nitrite, total Kjeldahl nitrogen, total nitrogen, total recoverable beryllium and copper as well as effluent flow also will be required. Contained in the permit is a schedule of compliance requiring the expansion of the existing facility to accommodate future growth of the city and complete construction of the expansion by April 1, 2009. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water-quality based.

Name and Address of Applicant	Waterway	Type of Discharge
BP Products North America, Inc. 1000 N. Sterling Ave. Sugar Creek, MO 64054	Verdigris River via 4" diameter Pipe Line	Process Wastewater

Kansas Permit No. I-VE29-PO05 Federal Permit No. KS0096385

Legal Description: SE¼, S18, T30S, R16E, Wilson County
Facility Name: Former BP Amoco Refinery Groundwater Remediation Site

Facility Operator: The RETEC Group, Inc.
Facility Address: 1100 N. 12th St., Neodesha, KS 66757

Facility Description: The proposed action is to reissue an existing permit for discharge at an existing groundwater remediation project. This is a former refinery site impacted with free hydrocarbon products. Hydrocarbons impacted groundwater from a collection trench and several extraction wells is treated in an oil/water separator, an equalization tank, pH adjustment, an air stripper, a particulate filter and two activated carbon filters in series prior to discharge. The average discharge flow rate is 50 gpm and is proposed to increase to 100 gpm with a maximum discharge flow rate of 200 gpm. The proposed permit contains limits for benzene, phenanthrene, oil and grease, and pH. Monitoring of total petroleum hydrocarbons both gasoline and diesel range, volatile organic chemicals and effluent flow also shall be required. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water-quality based.

Name and Address of Applicant	Waterway	Type of Discharge
Hunt Martin Materials, Inc. 11252 Aurora Ave. Des Moines, IA 50322	Wakarusa River via via Clinton Lake via Unnamed Tributary	Pit Dewatering & Stormwater Runoff

Kansas Permit No. I-KS31-PO08 Federal Permit No. KS0116114
Legal: SE¼, SW¼, S1, T13S, R18E, Douglas County
Facility Name: Lawrence Quarry

Facility Description: The proposed action is to reissue an existing permit for the discharge of wastewater during quarry operation. This facility is a limestone quarry operation with some washing. Outfall 001 consists of wash water, pit water and stormwater, treated by a settling pond before discharge. The proposed permit includes limits for total suspended solids and pH. Also included in the permit is generic water-quality language to protect waters of the state. Contained in the permit is a schedule of compliance requiring the permittee to develop and implement an industrial stormwater pollution prevention plan within one year of the effective date of the permit. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water-quality based.

Name and Address of Applicant	Waterway	Type of Discharge
Martin Marietta Materials, Inc. 11252 Aurora Ave. Des Moines, Iowa 50322	Fall River via Salt Creek via Severy City Lake via Unnamed Tributary	Pit Dewatering & Stormwater Runoff

Kansas Permit No. I-VE34-PO01 Federal Permit No. KS0090263
Legal: E½, S10, N½, S11 and S14, T28S, R11E, Greenwood County and
N½, S23, T28S, R11E, Elk County

Facility Name: Severy/Blake Quarry
Facility Description: The proposed action is to reissue an existing permit for the discharge of wastewater during quarry operation. This facility is a limestone quarrying and crushing operation that occasionally washes rock. Outfall 001 consists of wash water that is usually recycled and is treated by a settling pond, which may only discharge during or after a heavy rain event. Outfalls 002 and 003 consist of stormwater runoff. The proposed permit includes limits for total suspended solids and pH. Also included in the permit is generic water-quality language to protect waters of the state. Contained in the permit is a schedule of compliance requiring the permittee to develop and implement an industrial stormwater pollution prevention plan within one year of the effective date of the permit. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water-quality based.

Name and Address of Applicant	Waterway	Type of Discharge
National Cold Storage, Inc. P.O. Box 356 Bonner Springs, KS 66012	Kansas River via Drainage Ditch	Process Wastewater

Kansas Permit No. I-KS06-PO02 Federal Permit No. KS0003085

Legal Description: S13, T12S, R22E, Leavenworth County

Facility Description: The proposed action is to reissue an existing permit for an existing wastewater discharge. This is an underground storage facility located in an old quarry providing refrigerated storage for food products. About 5 gallons per minute of well water is used for evaporative condenser cooling and is discharged as noncontact cooling water to the Kansas River without any treatment (Outfall 001) approximately 2 gallons per minute of domestic wastes are treated in a two-stage aeration sewage treatment plant (Outfall 002). The domestic waste is chlorinated and de-chlorinated prior to discharging to the Kansas River. The proposed permit contain limits for biochemical oxygen demand, total suspended solids, fecal coliform and pH as well as monitoring of the effluent flow. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water-quality based.

Name and Address of Applicant	Waterway	Type of Discharge
N.R. Hamm Quarry, Inc. P.O. Box 17 Perry, KS 66073	Kansas River via Stranger Creek	Pit Dewatering & Stormwater Runoff

Kansas Permit No. I-KS13-PO02 Federal Permit No. KS0118486

Legal: SW¼, S7, T8S, R21E, Leavenworth County

Facility Name: #66 Pennington Quarry

Facility Description: The proposed action is to reissue an existing permit for the discharge of wastewater during quarry operation. This facility is a limestone quarry operation with some washing. Outfall 001 consists of wash water that is treated by a settling pond before discharge. Outfall 002 consists of pit water and stormwater runoff. The proposed permit includes limits for total suspended solids and pH. Also included in the permit is generic water-quality language to protect waters of the state. Contained in the permit is a schedule of compliance requiring the permittee to develop and implement an industrial stormwater pollution prevention plan within one year of the effective date of the permit. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water-quality based.

parts, prior to painting the parts. Outfall 001 consists of process and rinse water from the spray washer system. The proposed permit includes limits for total toxic organics, cadmium, chromium, copper, lead, nickel, silver, zinc, total cyanide and pH. The monitoring of flow also will be required. The permit limits are pursuant to state and federal pretreatment requirements.

Persons wishing to comment on 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 December 16 will be considered in the formulation of the final determinations regarding this public notice. Please refer to the appropriate Kansas document number (KS-AG-06-406/416, KS-06-187/193, KS-PT-06-008/009) 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 Environment 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. 033828

Public Notice No. KS-PT-06-008/009

Name and Address of Applicant	Receiving Facility	Type of Discharge
AGCO Corporation 4205 Green River Parkway Duluth, GA 30096	Beloit MWWTP	Process Wastewater

Kansas Permit No. P-SO05-0001 Federal Permit No. KSP000095

Facility Name: Sunflower Manufacturing Company

Facility Address: 3154 Hallie Trail, Beloit, KS 67420

Facility Description: The proposed action is to issue a new pretreatment permit for this facility. This facility manufactures farm tillage equipment and performs conversion coating (iron phosphating) on steel parts, prior to painting the parts, using a three-stage washer. Outfall 001 consists of process and rinse tank wastewater from this washer. Outfall 002 consists of wastes from a phosphating operation in a spray booth and Outfall 003 consists of wastes from a plasma arc tank. The proposed permit includes limits for total toxic organics, cadmium, chromium, copper, lead, nickel, silver, zinc, total cyanide and pH. The monitoring of flow also will be required. The permit limits are pursuant to state and federal pretreatment requirements.

Name and Address of Applicant	Receiving Facility	Type of Discharge
AGCO Corporation 4205 Green River Parkway Duluth, GA 30096	Cawker City MWWTP	Process Wastewater

Kansas Permit No. P-SO08-0001 Federal Permit No. KSP000093

Facility Name: Sunflower Manufacturing Company

Facility Address: 815 Locust St., Cawker City, KS 67430

Facility Description: The proposed action is to issue a new pretreatment permit for this facility. This facility manufactures farm tillage equipment and performs conversion coating (iron phosphating) on steel

State of Kansas

Department of Agriculture

Temporary Administrative Regulations

Article 11.—EGGS

4-11-15. License fee. The annual fee for an egg license shall be \$5.00. (Authorized by K.S.A. 2-2504; implementing K.S.A. 2-2508, as amended by L. 2006, Ch. 90, § 6; effective, T-4-11-2-06, Nov. 2, 2006.)

Adrian J. Polansky
Secretary of Agriculture

Doc. No. 033815

(Published in the Kansas Register November 16, 2006.)

Summary Notice of Bond Sale
City of Goddard, Kansas
\$1,027,000
General Obligation Bonds, Series 2006
(General obligation bonds payable from unlimited ad valorem taxes)

Bids

Subject to the notice of bond sale dated November 6, 2006, written and electronic bids will be received on behalf of the clerk of the city of Goddard, Kansas (the issuer), in the case of written bids, at the address set forth below, and in the case of electronic bids, through PARITY, until 2 p.m. December 4, 2006, for the purchase of the above-referenced bonds. No bid of less than 100 percent of the principal amount of the bonds and accrued interest thereon to the date of delivery will be considered.

Bond Details

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof, except one bond in the denomination of \$7,000 (or such amount added to \$5,000 or any integral multiple thereof). The bonds will be dated December 1, 2006, and will become due on October 1 in the years as follows:

Table with 2 columns: Year, Principal Amount. Rows from 2008 to 2022 with values ranging from \$17,000 to \$95,000.

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold as here-

inafter provided, which interest will be payable semiannually on April 1 and October 1 in each year, beginning April 1, 2008.

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 \$20,540 (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 December 21, 2006, 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 2006 is \$30,159,646. The total general obligation indebtedness of the issuer as of the date of delivery of the bonds, including the bonds being sold, but excluding temporary notes to be retired in conjunction therewith, is \$5,562,000.

Approval of Bonds

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

Additional Information

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

Written Bid and Good Faith Deposit

Delivery Address:

Karen S. Bailey, City Clerk
City Hall
118 N. Main, P.O. Box 667
Goddard, KS 67052
(316) 794-2441
Fax (316) 794-2401
E-mail: ksbailey@ci.goddard.ks.us

Financial Advisor - Facsimile Bid and

Good Faith Deposit Delivery Address:

George K. Baum & Company
100 N. Main, Suite 810,
Wichita, KS 67202
Attn: Charles M. Bouilly
(316) 264-9351
Fax (316) 264-9370
E-mail: bouilly@gkbaum.com

Dated November 6, 2006.

City of Goddard, Kansas

Doc. No. 033825

State of Kansas

Kansas Development Finance Authority

Notice of Hearing

A public hearing will be conducted at 9 a.m. Thursday, November 30, in the offices of the Kansas Development Finance Authority, 555 S. Kansas Ave., Suite 202, Topeka, on the proposal for the K DFA to issue its Agricultural Development Revenue Bond for the project numbered below in the respective maximum principal amount. The bond will be issued to assist the borrower named below (who will be the owner and operator of the project) to finance the cost in the amount of the bond, which is then typically purchased by a lender bank who then, through the K DFA, loans the bond proceeds to the borrower for the purposes of acquiring the project. The project shall be located as shown:

Project No. 000682—Maximum Principal Amount: \$142,131.98. Owner/Operator: James A. Crosson. Description: Acquisition of 125 acres of agricultural land and related improvements and equipment to be used by the owner/operator for farming purposes. The project is being financed by the lender for James A. Crosson and is located at Section 34, Township 9, Range 4, Ottawa County, Kansas, approximately 1 mile east of Delphos on Highway 41 and 4 miles south on 100th Road.

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

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

Stephen R. Weatherford
President

Doc. No. 033832

(Published in the Kansas Register November 16, 2006.)

**Summary Notice of Bond Sale
City of Park City, Kansas**

\$2,655,000

General Obligation Bonds, Series 2006-C

(General obligation bonds payable from unlimited ad valorem taxes)

Bids

Subject to the notice of bond sale dated November 14, 2006, written and electronic bids will be received on behalf of the clerk of the city of Park City, Kansas (the issuer), in the case of written bids, at the address set forth below, and in the case of electronic bids, through *PARITY*, until 2 p.m. November 28, 2006, for the purchase of the

above-referenced bonds. No bid of less than 100 percent of the principal amount of the bonds and accrued interest thereon to the date of delivery will be considered.

Bond Details

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof. The bonds will be dated December 1, 2006, and will become due on December 1 in the years as follows:

Year	Principal Amount
2008	\$ 15,000
2009	130,000
2010	145,000
2011	150,000
2012	160,000
2013	165,000
2014	170,000
2015	175,000
2016	185,000
2017	190,000
2018	200,000
2019	210,000
2020	215,000
2021	225,000
2022	245,000
2023	15,000
2024	15,000
2025	15,000
2026	15,000
2027	15,000

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 June 1 and December 1 in each year, beginning June 1, 2008.

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 \$53,100 (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 December 14, 2006, 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 2006 is \$51,468,502. The total general obligation indebtedness of the issuer as of the date of delivery of the bonds, includ-

(continued)

ing the bonds being sold, but excluding temporary notes to be retired in conjunction therewith, is \$24,815,000.

Approval of Bonds

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

Additional Information

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

Written and Facsimile Bid and Good Faith Deposit

Delivery Address:

Carol A. Jones, Clerk
City Hall
6110 N. Hydraulic
Park City, KS 67219
(316) 744-2026
Fax (316) 744-3865
E-mail: cityclerk@parkcityks.com

Financial Advisor - Good Faith Deposit

Delivery Address:

Froggatte & Company, Financial Advisor
320 N. Main
Wichita, KS 67202
Attn: Theron L. Froggatte
(316) 264-6300
Fax (316) 264-7999
E-mail: theron@froggatte.com

Dated November 14, 2006.

City of Park City, Kansas

Doc. No. 033837

State of Kansas

Juvenile Justice Authority

Permanent Administrative Regulations

Article 6.—GOOD TIME CREDITS AND SENTENCE COMPUTATION

123-6-101. Definitions. For purposes of sentence computation, terms used in this article dealing with good time credits shall be defined as follows:

(a) "Allocation of good time credits" means the breakdown of the total number of established good time credits into groups of whole credits that are available to the offender in separate time periods.

(b) "Application of good time credits" means the entry of credits or forfeitures into the official record of the offender and the consequent adjustment of the conditional release date.

(c) "Award of good time credits" means the act by the program team and the superintendent or designee of granting all or part of the allocation of credits available for the time period under review, if the offender has acted

in a way that merits a reduction of the term of actual confinement by those credits.

(d) "Establishment of good time credits" means the creation of the pool of credits that decreases part of the term of actual confinement for good work and behavior over a period of time. Good time credits shall not forgive or eliminate the sentence but shall function only to allow the offender to earn the privilege of being released from confinement earlier than the full matrix sentence, subject to the conditions specified and imposed pursuant to applicable law.

(e) "Forfeiture of good time credits" means the removal of the credits and consequent reinstatement of a term of actual confinement by a disciplinary hearing officer pursuant to articles 12 and 13 of these regulations.

(f) "Withholding of good time credits" means the act by the program team and the superintendent or designee of not awarding all or part of the allocation of credits available for the time period under review, if the offender has not acted in a way that merits a reduction of the term of actual confinement by those credits. (Authorized by K.S.A. 38-16,130 and K.S.A. 2005 Supp. 75-7024; implementing K.S.A. 38-16,130; effective Dec. 1, 2006.)

123-6-102. Application of good time credits. (a) For the purposes of awarding and applying good time credits, all calculations shall be based upon a year, which shall be considered a 360-day period with each month consisting of 30 days.

(b) Good time credits may be awarded only for time served on a sentence on and after the sentence begins date. Good time credits shall not be awarded or withheld if a sentence is not being served due to an escape.

(c) For crimes committed before July 1, 1999, an offender shall not earn good time credits. (Authorized by K.S.A. 38-16,130 and K.S.A. 2005 Supp. 75-7024; implementing K.S.A. 38-16,130; effective Dec. 1, 2006.)

123-6-103. Awarding and withholding good time credits for confined offenders. (a) At each offender's initial program plan meeting, 100% of the good time credits available from the sentence begins date to the date of the initial good time award shall be awarded, unless there is written documentation of misbehavior and maladjustment before the date of the initial award, which may result in withholding up to 100% of the good time credits available for that period.

(b) Following the initial award, good time credits may be awarded at each program review from credits available since the previous program review. A program review shall occur every week.

(c) The following factors shall be considered in determining whether or not an offender is awarded good time credits:

- (1) The offender's participation and performance in an education program;
- (2) the offender's performance in work participation;
- (3) the offender's participation and performance in a treatment program;
- (4) the offender's participation and performance in a vocational program;
- (5) the offender's disciplinary record; and

(6) any other factors related to the offender's general adjustment, performance, behavior, attitude, and overall demonstration of the offender's willingness to examine and confront the past behavior patterns that resulted in the commission of the offender's offense.

(d) If an offender refuses to work constructively or participate in assigned programs, up to 100% of the good time credits available for the program review period may be withheld, unless the facility's health authority determines that the offender is physically or mentally incapable of working or participating in a particular program or detail.

(e) If an offender fails to cooperate in the development of a release plan, the good time credits available for award during the 60-day period immediately before the offender's projected or scheduled release date may be withheld.

(f) The award of good time credits shall be withheld on the basis of an offender's disciplinary record in the following manner:

(1) If a facility's disciplinary hearing officer finds the offender guilty of a class I disciplinary offense, up to seven good time credits available for that program review period may be withheld.

(2) If a facility's disciplinary hearing officer finds the offender guilty of a class II disciplinary offense, up to three good time credits available for the program review period may be withheld. For purposes of this paragraph, a summary disciplinary judgment pursuant to K.A.R. 123-13-201b shall not be considered a guilty finding.

(3) If a facility's disciplinary hearing officer finds the offender guilty of a class III disciplinary offense, one good time credit available for that program review period may be withheld. For purposes of this paragraph, a summary disciplinary judgment pursuant to K.A.R. 123-13-201b shall not be considered a guilty finding.

(4) If a facility's disciplinary hearing officer finds the offender guilty of multiple disciplinary violations within a single disciplinary report, only the most serious violation shall be used in determining the number of good time credits to be withheld.

(g) The number of good time credits withheld during each program review period shall be cumulative but shall not exceed 100% of the number of good time credits available for that program review period.

(h) Good time credits forfeited as a result of a penalty imposed by a facility's disciplinary hearing officer and upheld on appeal shall not be restored to an offender.

(i) If the entire allocation of good time credits is not awarded at a program review, no part of that allocation shall be awarded at a later date.

(j) If a disciplinary offense is appealed pursuant to article 13 of these regulations and reversed, the period in which the offense occurred shall be reviewed again without reference to the reversed disciplinary offense. (Authorized by K.S.A. 38-16,130 and K.S.A. 2005 Supp. 75-7024; implementing K.S.A. 38-16,130; effective Dec. 1, 2006.)

123-6-104. Time lost on escape. (a)(1) Time lost on escape shall be calculated by subtracting the date of escape from the date of apprehension on the Kansas charge,

whether the offender is in or out of the state. The result of this computation shall be added to the minimum date, maximum date, or conditional release date, as applicable.

(2) If the time of apprehension in the other state is not able to be determined, the date of delivery into Kansas custody shall be used. A good faith effort shall be made to determine the time of apprehension.

(b) If the time during which an offender is held on a Kansas warrant in another jurisdiction includes time served for a charge or conviction in the other jurisdiction, the time of delivery into Kansas custody shall be used as the point at which the time lost on escape stops. (Authorized by K.S.A. 2005 Supp. 75-7024; implementing K.S.A. 38-16,130; effective Dec. 1, 2006.)

123-6-105. Good time credit rate. (a) The portion of an offender's sentence to a juvenile correctional facility, for crimes committed on or after the effective date of this regulation, may be reduced by no more than 30% through awarded and retained good time credits.

(b) Good time credits shall not reduce an offender's sentence to less than the minimum term authorized under the specific category of the matrix sentence.

(c) The Kansas juvenile justice authority's "good time credit rate charts," dated August 3, 2006, and hereby adopted by reference, shall establish the minimum number of days to serve, the number of good time days available, and the rate of earning good time credit per day as calculated by dividing the number of good time days available by the minimum number of days required to be served.

(d) If the sum of all good time credits earned results in a fraction of a day, that fraction shall be rounded up to the next whole number.

(e) Intrafacility transfers and interfacility transfers shall not affect good time credits awarded. (Authorized by K.S.A. 38-16,130 and K.S.A. 2005 Supp. 75-7024; implementing K.S.A. 38-16,130; effective Dec. 1, 2006.)

123-6-106. Sentences to the age of 22½. (a) For each offender sentenced to confinement until reaching the age of 22½, the offender's sentence shall be calculated as a number of months by determining the number of months on and after the sentencing date through the date on which the offender reaches the age of 22½.

(b) If the calculation to determine the number of months contained in a sentence to the age of 22½ results in a partial month, the Kansas juvenile justice authority's "adjustment chart for sentences to the age of 22½," dated August 3, 2006, and hereby adopted by reference, shall establish the necessary adjustment to the minimum number of days to serve and the number of good time days available.

(c) Once the sentence to the age of 22½ has been calculated and expressed as a number of months, the sentence begins date and all other sentence computations shall be calculated in accordance with article 6 of these regulations. (Authorized by K.S.A. 38-16,130 and K.S.A. 2005 Supp. 75-7024; implementing K.S.A. 38-16,130; effective Dec. 1, 2006.)

Don Jordan
Commissioner

Doc. No. 033813

State of Kansas

Social and Rehabilitation Services

Permanent Administrative
Regulations

Article 4.—PUBLIC ASSISTANCE PROGRAM

30-4-64. Work program requirements. Each applicant or recipient of TAF, unless exempted, shall be required to seek and retain employment and, if assigned, participate in one or more components of the work program. Any exempt applicant or recipient may volunteer for participation in the program. The geographic areas in the state and the public assistance programs in which work program requirements are to be enforced shall be designated by the secretary. The administration of the work program shall be within the limits of appropriations. (a) Exemptions. The following persons shall be exempt from the work requirements:

(1) Any person who is age 17 or younger or who is age 18 and working toward attainment of a high school diploma or its equivalent. This exemption shall not be claimed by a female who is pregnant or a parent of a child in the home and who has not yet attained a high school diploma or its equivalent;

(2) any person who is 60 years of age or older.

(3) any person who is needed in the household because another member of the household requires the person's presence due to illness or incapacity and no other appropriate member of the household is available to provide the needed care; and

(4) any parent or other caretaker who is personally providing care for a child under age one. Only one person in a case may be exempt on the basis of providing care for a child under age one and may claim the exemption only for a total of 12 months. This exemption shall not be claimed under any of the following circumstances:

(A) A custodial parent or pregnant woman under the age of 20 does not possess a high school diploma or its equivalent.

(B) The other parent, stepparent, or caretaker in the home is exempt from the work program requirements for a reason other than the reasons specified in paragraphs (a)(1), (2), and (3) and is available for and capable of providing child care.

(C) Both parents of the child are present, except as noted in paragraph (a)(4)(B) of this regulation.

(b) Participation requirements. Each applicant or recipient shall seek and retain employment and, if assigned, shall participate in one or more components of an agency-approved, work-related program directed toward a plan of self-sufficiency. The work program may include the following components:

(1) Job search. Each assigned person shall participate in job search activities, which may include agency-approved job clubs and supervised job search activities.

(2) Work experience. Each assigned person shall participate in work experience activities, which may include the opportunity to regain work skills, learn new skills, test interests and skills on the job, gain a work history, and obtain a work reference.

(3) Education and training. Each assigned person shall participate in supervised education and training activities that are aimed at facilitating a person's movement toward self-sufficiency and employment retention. These supervised education and training activities may include vocational training, adult basic education, literacy training, general educational development, and postsecondary education and training.

(4) Work supplementation. Each assigned person shall participate in a work supplementation program in which an employer receives a wage subsidy from money diverted from public assistance grants for employing participants.

(5) Job readiness. Each assigned person shall participate in job readiness activities, which may include employment counseling and life skills.

(6) Community service. Each assigned person shall participate in supervised community service activities.

(c) Support costs. Payment of support costs shall be provided to participants. Support costs may include the following:

(1) Transportation expenses for each person participating in a work program activity in accordance with an agency-approved plan;

(2) child care expenses, as necessary for the person to participate in a work program activity in accordance with an agency-approved plan; and

(3) education and training costs for each participant based on an agency-approved plan, which may include tuition, books, and fees.

(d) Transitional expenses. Payment for transitional expenses may be provided to each participant who loses eligibility for TAF. Transitional expenses may include the following:

(1) Transportation expenses;

(2) child care expenses; and

(3) expenses for other transition-related services if approved by the secretary or the secretary's designee.

(e) Penalty.

(1) A person who is required to participate in the work program shall be ineligible for assistance if one of the following circumstances occurs in any assistance program administered by the secretary in which work program participation is required:

(A) If the person fails without good cause to cooperate in the work assessment process or participate in the program;

(B) if the person refuses without good cause a bona fide referral for or offer of employment;

(C) if the person terminates employment without good cause;

(D) if the person is terminated from employment by voluntarily making oneself unacceptable without good cause; or

(E) if the person reduces earnings without good cause.

(2) The period of ineligibility shall continue until the person cooperates. If the person is an adult, the mandatory filing unit of which the person is a member shall also be ineligible.

(f) Good cause. Each individual who presents verification that the individual meets one or more of the fol-

lowing criteria shall be determined to have good cause for failing to participate in the work program:

(1) The individual is exempt from participation in the program.

(2) The individual was incapable of performing the activity.

(3) Performance of the activity was so dangerous or hazardous according to occupational safety and health administration (OSHA) standards as to make a refusal to perform the activity or termination of the activity a reasonable one.

(4) Child care or day care for an incapacitated individual living in the same home is necessary for an individual to participate or continue to participate in the program, and the care is not available.

(5) The total daily commuting time to and from home to the activity to which the individual is assigned exceeds two hours, not including the transporting of a child to and from a child care facility. If a longer commuting distance is generally accepted in the community, the round trip commuting time shall not exceed the generally accepted community standards.

(6) The failure occurred in the month the individual's pregnancy was terminated or the two following months.

(7) A single custodial parent has demonstrated the inability to obtain needed child care for a child under six, because of one or more of the following reasons:

(A) Unavailability of appropriate child care within a reasonable distance from the individual's home or work site;

(B) unavailability or unsuitability of informal child care. "Informal child care" shall mean care that is legally exempt from regulation; or

(C) unavailability of appropriate and affordable formal child care arrangements.

(8) The individual was a victim of domestic violence, and compliance with program requirements would increase the risk of harm for the individual or any children in the individual's care.

(g) This regulation shall be effective on and after January 1, 2007. (Authorized by and implementing K.S.A. 39-708c and K.S.A. 39-7,103; effective Oct. 1, 1989; amended Jan. 2, 1990; amended, T-30-3-29-90, April 1, 1990; revoked, T-30-7-2-90, July 2, 1990; amended, T-30-7-2-90, July 2, 1990; revoked, T-30-8-14-90, Oct. 1, 1990; amended Oct. 1, 1990; amended Jan. 7, 1991; amended, T-30-6-10-91, July 1, 1991; amended, T-30-8-9-91, Aug. 30, 1991; amended Oct. 28, 1991; amended Oct. 1, 1993; amended Aug. 1, 1995; amended July 1, 1996; amended March 1, 1997; amended July 1, 1998; amended April 1, 1999; amended Dec. 1, 1999; amended May 1, 2001; amended Jan. 1, 2007.)

Gary J. Daniels
Secretary of Social and
Rehabilitation Services

Doc. No. 033812

State of Kansas

Board of Pharmacy

Permanent Administrative Regulations

Article 16.—CANCER DRUG REPOSITORY PROGRAM

68-16-1. Definitions. As used in these regulations for the cancer drug repository program, the following terms shall have the meanings specified:

(a) "Board" means the Kansas state board of pharmacy.

(b) "Cancer drug" has the meaning specified in K.S.A. 65-1664 and amendments thereto. For the purposes of this article, "drug" shall mean "cancer drug."

(c) "Cancer drug repository" means a hospital, non-profit clinic, physician's office, or pharmacy that has notified the board of its election to participate in the cancer drug repository program.

(d) "Cancer drug repository donor form" means the cancer drug repository form provided by the board.

(e) "Cancer drug repository receipt form" means the cancer drug repository receipt form provided by the board.

(f) "Dispense" has the meaning specified in K.S.A. 65-1626(h) and amendments thereto.

(g) "Dispensing physician" has the meaning specified in K.A.R. 100-21-1.

(h) "Distribute" has the meaning specified in K.S.A. 65-1626(j) and amendments thereto.

(i) "Distributor" has the meaning specified in K.S.A. 65-1626(k) and amendments thereto.

(j) "Hospital" has the meaning specified in K.S.A. 65-425 and amendments thereto.

(k) "Manufacture" has the meaning specified in K.S.A. 65-1626(q) and amendments thereto.

(l) "Nonprofit clinic" has the meaning specified in K.S.A. 65-1664(a)(3) and amendments thereto.

(m) "Original sealed," when used to describe a cancer drug container, means that the container has been originally sealed by the manufacturer or a pharmacy.

(n) "Pharmacist" has the meaning specified in K.S.A. 65-1626(s) and amendments thereto.

(o) "Pharmacy" has the meaning specified in K.S.A. 65-1626(u) and amendments thereto.

(p) "Practitioner" means a person licensed to practice medicine or surgery by the Kansas state board of healing arts.

(q) "Prescription medication" has the meaning specified in K.S.A. 65-1626(aa) and amendments thereto.

(r) "Side effects of cancer" means the symptoms of cancer.

(s) "Single-unit-dose packaging" means a single-unit container for a drug intended for administration as a single dose, direct from the container.

(t) "Tamper-evident unit-dose packaging" means a container within which a drug is sealed so that the contents cannot be opened without obvious destruction of the seal. (Authorized by and implementing K.S.A. 2005 Supp. 65-1667; effective Dec. 1, 2006.)

(continued)

68-16-2. Requirements for participation by physicians, pharmacies, hospitals and nonprofit clinics. Each physician, pharmacy, hospital, and nonprofit clinic that elects to participate in the cancer drug repository program shall provide written notification of the following to the board:

(a) The name, street address, and telephone number of the participating physician, pharmacy, hospital, or nonprofit clinic;

(b) the name and telephone number of a contact person employed by the physician, pharmacy, hospital, or nonprofit clinic; and

(c) a statement specifying whether the physician, pharmacy, hospital, or nonprofit clinic will be dispensing donated cancer drugs. (Authorized by and implementing K.S.A. 2005 Supp. 65-1667; effective Dec. 1, 2006.)

68-16-3. Donation of cancer drugs. (a) Only a cancer drug that meets the following conditions may be accepted:

(1) The drug has not been compounded.

(2) The drug has not been previously dispensed from a cancer drug repository.

(3) The drug's packaging includes the drug's lot number and expiration date. If the drug is repackaged, the expiration date shall be one year from the date of repackaging or from the expiration date established when the drug was dispensed before donation, whichever is sooner. Single-unit-dose drugs may be accepted if the single-unit-dose packaging is unopened.

(b) Any cancer drug may be accepted only if the donor simultaneously provides the cancer drug repository with a completed cancer drug repository donor form signed by the person making the donation.

(c) A cancer drug repository shall not accept the donation of any controlled substance.

(d) Each cancer drug repository shall receive donated drugs only at the premises of that cancer drug repository and only by an individual authorized by the repository to receive donated cancer drugs. A drop box shall not be used to deliver or accept donations.

(e) Each cancer drug donated under the cancer drug repository program shall be stored in a secure storage area under environmental conditions appropriate for the drugs being stored. All donated drugs shall be stored separately from and not commingled with drugs that are not donated. (Authorized by and implementing K.S.A. 2005 Supp. 65-1667; effective Dec. 1, 2006.)

68-16-4. Dispensing requirements. (a) Before dispensing any donated cancer drug, each pharmacist or dispensing physician shall inspect the cancer drug to determine that the original unit-dose packaging is sealed and tamper-evident and to check for adulteration, misbranding, and the expiration date. A cancer drug shall not be dispensed if any of the following conditions is met:

(1) The original unit-dose packaging is not sealed and tamper-evident.

(2) The drug is adulterated or misbranded.

(3) The drug's expiration date has passed.

(b) Before any donated cancer drug is dispensed, it shall be labeled to identify it as a medication dispensed from a cancer drug repository.

(c) Each cancer drug shall be dispensed only to a cancer patient.

(d) When any cancer drug is dispensed, the recipient shall be orally notified that the drug might have been previously dispensed.

(e) Before a cancer drug may be dispensed to a recipient, the recipient shall sign a cancer drug repository receipt form, which shall include an acknowledgment that the recipient was orally notified that the drug might have been previously dispensed.

(f) A donated cancer drug may be removed from a unit-dose package and dispensed in a vial if the pharmacist or dispensing physician determines that doing so is in the best interest of the patient. Only a pharmacist, pharmacy technician, pharmacy student, or dispensing physician may remove a cancer drug from a unit-dose package and repackage the drug.

(g) Any donated cancer drug may be dispensed no more than one time after being donated. (Authorized by and implementing K.S.A. 2005 Supp. 65-1667; effective Dec. 1, 2006.)

68-16-5. Handling fees. Any cancer drug repository may charge the recipient a handling fee of no more than 300 percent of the medicaid dispensing fee or \$15.00, whichever is less, for each cancer drug dispensed. (Authorized by and implementing K.S.A. 2005 Supp. 65-1665 and K.S.A. 2005 Supp. 65-1667; effective Dec. 1, 2006.)

68-16-6. Distribution of donated cancer drugs. (a) Any cancer drug repository may distribute drugs donated under the cancer drug repository program to another cancer drug repository if requested by that cancer drug repository.

(b) When a cancer drug repository distributes a drug to another participating cancer drug repository, the distributing repository shall complete a cancer drug repository donor form. The form completed by the distributing repository and a copy of the cancer drug repository donor form that was completed by the original donor shall be provided to the receiving cancer drug repository at the time of distribution.

(c) Each distributing repository shall maintain, for at least five years, a copy of the forms provided to the receiving drug repository at the time of distribution. (Authorized by and implementing K.S.A. 2005 Supp. 65-1667; effective Dec. 1, 2006.)

68-16-7. Sale of donated drugs. Donated drugs shall not be sold. The sale of donated drugs may result in the following: (a) The loss of the ability to participate in the cancer drug repository program; and

(b) any other penalties that may be imposed pursuant to the Kansas pharmacy act. (Authorized by and implementing K.S.A. 2005 Supp. 65-1667; effective Dec. 1, 2006.)

68-16-8. Recordkeeping requirements. (a) All cancer drug repository donor forms and cancer drug repository receipt forms shall be maintained for at least five years. The original donor form shall remain with the drug until it is dispensed to a patient.

(b) Each cancer drug repository that destroys any donated cancer drug shall create a written record of the de-

struction that contains the following information and shall maintain the record for at least five years:

- (1) The date on which the cancer drug was destroyed;
- (2) the name, strength, and quantity of the cancer drug destroyed;
- (3) the name of the person or entity that destroyed the cancer drug; and
- (4) the name of the person or entity from which the cancer drug was received. (Authorized by and implementing K.S.A. 2005 Supp. 65-1667; effective Dec. 1, 2006.)

68-16-9. Forms. (a) Each cancer drug repository receipt form shall contain at least the following:

- (1) The name and quantity of each drug received;
- (2) a statement that the individual receiving the drug is aware of the criminal and civil immunity provisions contained in K.S.A. 65-1666 and amendments thereto; and
- (3) the dated signature of the individual receiving the drug.

(b) Each cancer drug repository donor form shall contain at least the following:

- (1) A space in which the donor shall describe the donor's relationship to the person to whom the drug was originally dispensed and the manner in which the drug came into the donor's possession; and
- (2) the dated signature of the donor. (Authorized by and implementing K.S.A. 2005 Supp. 65-1667; effective Dec. 1, 2006.)

Debra Billingsley
Executive Secretary

Doc. No. 033814

State of Kansas

Department of Health and Environment Mined-Land Conservation and Reclamation

Article 2.—MEANING OF TERMS

47-2-75. Definitions; adoption by reference. The following federal regulations, as in effect on July 1, 2001, are adopted by reference, except as otherwise indicated in this regulation: (a) The section titled definitions, 30 CFR 700.5, shall be altered as follows:

(1) "Regulatory authority" and "state regulatory authority" shall have the meaning specified in K.A.R. 47-2-53.

(2) "Surface coal mining operations" shall have the meaning specified in K.S.A. 49-403, and amendments thereto.

(3) "Surface coal mining and reclamation operations" shall have the meaning specified in K.S.A. 49-403, and amendments thereto.

(4) The following text shall be deleted from the definition of "anthracite": "Notices of changes made to this publication will be periodically published by the Office of Surface Mining in the Federal Register. This ASTM standard is on file and available for inspection at the OSM Office, U.S. Department of the Interior, South Interior Building, Washington, D.C. 20240, at each OSM Regional

Office, District Office and Field Office, and at the central office of the applicable State Regulatory Authority, if any. Copies of this publication may also be obtained by writing to the above locations. A copy of this publication will also be on file for public inspection at the Federal Register Library, 800 North Capitol Street, N.W., suite 700, Washington, D.C. Incorporation by reference provisions approved by the Director of the Federal Register February 7, 1979. The Director's approval of this incorporation by reference expires on July 1, 1981."

(5) "Regulatory program" shall have the meaning specified in K.A.R. 47-2-53a.

(6) "Director" means the director, office of surface mining reclamation and enforcement, in the following instances:

(A) K.A.R. 47-3-42 (a)(39), adopting by reference 30 CFR 785.13;

(B) K.A.R. 47-14-7 (a)(1), adopting by reference 30 CFR 705.4 (a);

(C) K.A.R. 47-14-7 (a)(3), adopting by reference 30 CFR 705.11 (c) and (d);

(D) K.A.R. 47-14-7 (a)(4), adopting by reference 30 CFR 705.13;

(E) K.A.R. 47-14-7 (a)(5), adopting by reference 30 CFR 705.15;

(F) K.A.R. 47-14-7 (a)(8), adopting by reference 30 CFR 705.19 (a); and

(G) K.A.R. 47-14-7 (a)(9), adopting by reference 30 CFR 705.21. All other references to "the director" shall be replaced by "the secretary of the Kansas department of health and environment."

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

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

(9) "[T]his chapter" shall be replaced by "these regulations."

(10) "[A]ct" shall be replaced by "state act."

(b) The section titled definitions, 30 CFR 701.5, shall be altered as follows:

(1) "Imminent danger to the health and safety of the public" shall have the meaning specified in K.S.A. 49-403, and amendments thereto.

(2) "Operator" shall have the meaning specified in K.S.A. 49-403, and amendments thereto.

(3) "Permit" shall have the meaning specified in K.S.A. 49-403, and amendments thereto.

(4) "Permit area" shall have the meaning specified in K.S.A. 49-403, and amendments thereto.

(5) "Significant, imminent environmental harm to land, air or water resources" shall have the meaning specified in K.A.R. 47-2-58.

(6) The following federal definitions shall be deleted:

(A) "Agricultural activities";

(B) "alluvial valley floors";

(C) "arid and semiarid area";

(D) "essential hydrologic functions";

(E) "farming";

(F) "flood irrigation";

(G) "materially damage the quality and quantity of water";

(continued)

- (H) "special bituminous coal mines";
- (I) "subirrigation";
- (J) "undeveloped rangeland"; and
- (K) "upland areas."

(7) In the definition of "[C]umulative impact area," the following text shall be deleted: "and (d) all operations required to meet diligent development requirements for leased Federal coal for which there is actual mine development information available." The word "and" shall be placed immediately before subsection (c).

(8) "30 CFR 816.49 and 816.56, 816.133 or 817.49, 817.56, and 817.133" shall be replaced by "K.A.R. 47-9-1 (c)(12), (13), and (45) or K.A.R. 47-9-1 (d)(12), (13), and (43)."

(9) "30 CFR parts 816 and 817" shall be replaced by "K.A.R. 47-9-1 (c) and (d)."

(10) "[S]ubchapter J of this chapter" shall be replaced by "article 8 of these regulations."

(11) "§§ 816.102(d) and 817.102(d) of this chapter" shall be replaced by "K.A.R. 47-9-1 (c)(35) and (d)(33)."

(12) "§§ 784.20 and 817.121 of this chapter" and "§§ 784.20 and 817.121" shall be replaced by "K.A.R. 47-10-1 (a)(2)(K) and K.A.R. 47-9-1 (d)(39)."

(13) "[P]arts 773, 774, and 778" shall be replaced by "articles 3 and 6 of these regulations and K.A.R. 47-3-42 (a)(1) through (11)."

(14) "30 CFR chapter VII" shall be replaced by "article 1 of these regulations."

(15) "30 CFR 785.17 (c)(1)" shall be replaced by "K.A.R. 47-3-42 (a)(40)."

(16) "[S]ubchapter K" shall be replaced by "article 9 of these regulations."

(17) "§ 761.5 of this chapter" shall be replaced by "K.A.R. 47-12-4 (a)(1)."

(18) "§ 773.13 of this chapter" shall be replaced by "K.A.R. 47-3-42 (a)(53)."

(19) "[S]ections 507 and 510(c) of the Act" shall be replaced by "K.S.A. 49-406 and K.S.A. 49-407 (b), and amendments thereto."

(20) "§ 843.12 of this chapter" shall be replaced by "K.A.R. 47-15-1a (a)(9)."

(21) "§ 843.11 of this chapter" shall be replaced by "K.A.R. 47-15-1a (a)(8)."

(22) "[P]art 845 or 846 of this chapter" and "parts 724 and 846 of this chapter" shall be replaced by "K.A.R. 47-5-5a."

(23) "§800.50 of this chapter" and "§800.50 (d)(1) of this chapter" shall be replaced by "K.A.R. 47-8-9 (a)(14)."

(24) "§800.11(e) of this chapter" shall be replaced by "K.A.R. 47-8-9 (a)(3)."

(25) "[S]ection 502" shall be replaced by "K.S.A. 49-406, and amendments thereto."

(26) "[S]ection 521 of the Act" shall be replaced by "K.S.A. 49-405, and amendments thereto."

(27) "[S]ection 518 (b) or section 703 of the Act" shall be replaced by "K.S.A. 49-405c or K.S.A. 75-2973, and amendments thereto."

(28) In the definition of "permittee," the phrase "by the Director pursuant to a Federal program, by the Director pursuant to a Federal lands program," shall be deleted. In the definition of "permittee," "Director" shall mean the director, office of surface mining reclamation and enforcement.

(29) In the definitions of "federal program" and "state program" located in this subsection, "Secretary" shall mean the director, office of surface mining reclamation and enforcement. In the definition of "prime farmland" located in this subsection, the term "Secretary" shall mean the secretary of agriculture. All other references to "Secretary" shall mean the secretary of the Kansas department of health and environment. In the definition of "federal program," "Director" shall mean the director, office of surface mining reclamation and enforcement.

(30) The phrase "and § 843.21 of this chapter" shall be deleted.

(31) "Section 404 or under section 402(g)(4) of the Act" shall be replaced by "K.S.A. 49-428, and amendments thereto."

(32) In the definitions of "Applicant/Violator System or AVS," "Federal Program," "State Program," and the portion of the definition for "Permittee" that states "section 523 of the Act," the word "Act" shall mean the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87). All other references to "Act" shall mean the "state act."

(33) The text "(1) A failure to comply with a condition of a Federally-issued permit or of any other permit that OSM is directly enforcing under section 502 or 521 of the Act or the regulations implementing those sections" shall be replaced with the following text: "(1) A failure to comply with a condition of a permit issued by the Kansas department of health and environment under K.S.A. 49-405 and K.S.A. 49-406, and amendments thereto, or the regulations implementing those sections."

(34) The definition of "performance bond" shall be replaced with the following: "Performance bond means a surety bond, collateral bond or a combination thereof, by which a permittee assures faithful performance of all the requirements of the state act, these regulations, a state program, and the requirements of the permit and reclamation plan."

(35) "[T]his chapter" shall be replaced by "these regulations."

(36) "[A]ct" shall be replaced by "state act."

(c) The section titled definitions, 30 CFR 705.5, shall be altered as follows:

(1) "Employee" shall have the meaning specified in K.A.R. 47-2-21.

(2) "State regulatory authority" shall have the meaning specified in K.A.R. 47-2-53.

(3) "[A]ct" shall be replaced by "state act." (Authorized by K.S.A. 49-404, K.S.A. 49-405, and K.S.A. 49-408; implementing K.S.A. 49-405 and K.S.A. 49-408; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended May 1, 1985; amended May 1, 1986; amended May 1, 1988; amended Feb. 11, 1991; amended May 2, 1997; amended July 31, 1998; amended Dec. 1, 2006.)

Article 3.—APPLICATION FOR MINING PERMIT

47-3-2. Application for mining permit; adoption by reference. (a) Each permit application submitted with a request for variances from the applicable regulations shall contain an outline of the proposed variances. The outline shall be indexed to the regulations and be placed at the beginning of the application documents.

(b) The following federal regulations as in effect on July 1, 2001 are adopted by reference, except as otherwise indicated in this regulation:

- (1) Format and contents, 30 CFR 777.11;
- (2) reporting of technical data, 30 CFR 777.13;
- (3) maps and plans; general requirements, 30 CFR 777.14. The phrase "in accordance with section 710.12 of this chapter" shall be deleted; and
- (4) completeness, 30 CFR 777.15.

(c) The following phrases shall be replaced with the phrases specified in this subsection wherever the phrases appear in the text of the federal regulations adopted by reference in this regulation:

- (1) "This chapter" and "this subchapter" shall be replaced by "these regulations."
- (2) "[P]arts 778, 779, and 780 of this chapter" shall be replaced by "K.A.R. 47-3-42 (a)(1) through (38)."
- (3) "[P]art 785 of this chapter" shall be replaced by "K.A.R. 47-3-42 (a)(39) through (45)."
- (4) "[P]arts 778, 783, and 784 of this chapter" shall be replaced by "K.A.R. 47-3-42 (a)(1) through (11) and K.A.R. 47-10-1 (a)(1) and (2)" and "K.A.R. 47-10-1." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-406; effective May 1, 1980; amended May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997; amended Dec. 1, 2006.)

47-3-42. Application for mining permit; adoption by reference. (a) The following federal regulations, as in effect on July 1, 2001, are adopted by reference, except for the additions and deletions specified:

- (1) Certifying and updating existing permit application information, 30 CFR 778.9;
- (2) providing applicant, operator, and ownership and control information, 30 CFR 778.11;
- (3) providing permit history information, 30 CFR 778.12;
- (4) providing property interest information, 30 CFR 778.13;
- (5) providing violation information, 30 CFR 778.14;
- (6) right-of-entry information, 30 CFR 778.15;
- (7) status of unsuitability claims, 30 CFR 778.16, except that the phrase "parts 762, 764, and 769 of this chapter" shall be replaced by "K.A.R. 47-12-4";
- (8) permit term, 30 CFR 778.17 (a);
- (9) insurance, 30 CFR 778.18;
- (10) proof of publication, 30 CFR 778.21;
- (11) facilities or structures used in common, 30 CFR 778.22;
- (12) responsibilities, 30 CFR 779.4. The phrase "this part" shall be replaced by "K.A.R. 47-3-42 (a)(12) through (19)";
- (13) general requirements, 30 CFR 779.11;
- (14) general environmental resources information, 30 CFR 779.12;
- (15) climatological information, 30 CFR 779.18;
- (16) vegetation information, 30 CFR 779.19;
- (17) soil resources information, 30 CFR 779.21;
- (18) maps: general requirements, 30 CFR 779.24;
- (19) cross sections, maps, and plans, 30 CFR 779.25;
- (20) responsibilities, 30 CFR 780.4. The phrase "this part" shall be replaced by "K.A.R. 47-3-42 (a)(20) through (38)";

- (21) operation plan: general requirements, 30 CFR 780.11;
- (22) operation plan: existing structures, 30 CFR 780.12;
- (23) operation plan: blasting, 30 CFR 780.13;
- (24) operation plan: maps and plans, 30 CFR 780.14;
- (25) air pollution control plan, 30 CFR 780.15;
- (26) fish and wildlife information, 30 CFR 780.16;
- (27) reclamation plan: general requirements, 30 CFR 780.18;
- (28) hydrologic information, 30 CFR 780.21;
- (29) geologic information, 30 CFR 780.22;
- (30) reclamation plan: land uses information, 30 CFR 780.23;
- (31) reclamation plan: siltation structures, impoundments, banks, dams, and embankments, 30 CFR 780.25;
- (32) reclamation plan: surface mining near underground mining, 30 CFR 780.27;
- (33) diversions, 30 CFR 780.29;
- (34) protection of public parks and historic places, 30 CFR 780.31;
- (35) relocation or use of public roads, 30 CFR 780.33;
- (36) disposal of excess spoil, 30 CFR 780.35;
- (37) road systems, 30 CFR 780.37;
- (38) support facilities, 30 CFR 780.38;
- (39) experimental practices mining, 30 CFR 785.13, except that the word "Act" shall be replaced by "state act";
- (40) prime farmland, 30 CFR 785.17. The last sentence in 30 CFR 785.17 (c)(1)(i) shall be deleted;
- (41) variances for delay in contemporaneous reclamation requirement in combined surface and underground mining activities, 30 CFR 785.18, except that in subsections (b)(3) and (7), the word "Act" shall be replaced by "state act";
- (42) augering, 30 CFR 785.20;
- (43) coal preparation plants not located within the permit area of a mine, 30 CFR 785.21, except that subsections (d) and (e) shall be deleted;
- (44) in situ processing activities, 30 CFR 785.22;
- (45) lands eligible for re-mining, 30 CFR 785.25;
- (46) public participation in permit processing, 30 CFR 773.6. The phrase "developed in accordance with section 503 (a)(6) or section 504 (h) of the Act, or §773.5" in 30 CFR 773.6 (a)(3)(ii) and the sentence "The requirements of section 5 of the administrative procedures act, as amended (5 U.S.C. 554), shall not apply to the conduct of the informal conference." in 30 CFR 773.6 (c)(2)(iv) shall be deleted;
- (47) review of permit applications, 30 CFR 773.7;
- (48) general provisions for review of permit application information and entry of information into AVS, 30 CFR 773.8;
- (49) review of applicant, operator, and ownership and control information, 30 CFR 773.9;
- (50) review of permit history, 30 CFR 773.10;
- (51) review of compliance history, 30 CFR 773.11, except that the word "Act" shall be replaced by "state act";
- (52) permit eligibility determination, 30 CFR 773.12;
- (53) unanticipated events or conditions at re-mining sites, 30 CFR 773.13;
- (54) eligibility for provisionally issued permits, 30 CFR 773.14;

(continued)

(55) written findings for permit application approval, 30 CFR 773.15. Subsection (d) shall be deleted, and in subsections (a) and (b), the word "Act" shall be replaced by "state act." The phrases "parts 764 and 769 of this chapter" and "parts 762 and 764 or 769 of this chapter" shall be replaced by "K.A.R. 47-12-4";

(56) performance bond submittal, 30 CFR 773.16;

(57) permit issuance and right of renewal, 30 CFR 773.19. The clause "unless the requirements of 778.17 of this chapter are met" shall be deleted;

(58) initial review and findings requirements for improvidently issued permits, 30 CFR 773.21, except that in subsection (c)(2), the phrase "and on the avs office internet home page (internet address: <http://www.avs.osmre.gov>)" shall be deleted;

(59) notice requirements for improvidently issued permits, 30 CFR 773.22;

(60) suspension or rescission requirements for improvidently issued permits, 30 CFR 773.23;

(61) who may challenge ownership or control listings and findings, 30 CFR 773.25;

(62) how to challenge an ownership or control listing or finding, 30 CFR 773.26, except that in subsection (a), the phrases "as identified in the following table" and "the table" shall be deleted. The word "Act" shall be replaced by "state act";

(63) burden of proof for ownership or control challenges, 30 CFR 773.27;

(64) written agency decision on challenges to ownership or control listings or findings, 30 CFR 773.28; and

(65) applicability, 30 CFR 701.11 subsections (d) and (e) only. Subsections (a), (b), (c), and (f) shall be deleted, and the word "Act" shall be replaced by "state act."

(b) The following phrases and citations shall be replaced with the phrases and citations specified in this subsection wherever the phrases and citations appear in the text of the federal regulations adopted by reference in this regulation.

(1) "[S]ubchapter K (Permanent Program Standards) of this chapter," "subchapter K" and "subchapter K of this chapter" shall be replaced by "K.A.R. 47-9-1."

(2) "[T]his chapter," "this subchapter," "this part," and "subchapter G of this chapter" shall be replaced by "these regulations."

(3) "Act" shall be replaced by "state act."

(4) "[S]ection 515 of the Act," "section 515 (b) of the Act," "section 515 (b)(22) of the Act," and "sections 515 and 516 of the Act" shall be replaced by "K.S.A. 49-405a, 49-408 through 49-413, and 49-429, and amendments thereto."

(5) "[S]ubchapter J of this chapter," "subchapter J," and "part 800 of this chapter" shall be replaced by "article 8 of these regulations."

(6) "[S]ection 508 of the Act" shall be replaced by "K.S.A. 49-406, and amendments thereto."

(7) "[S]ection 515(b)(16) of the Act" shall be replaced by "K.S.A. 49-429, and amendments thereto."

(8) "[S]ubchapter R of this chapter" shall be replaced by "the office."

(9) "[S]ubchapter B (Interim Program Standards) of this chapter" and "subchapter B of this chapter" shall be replaced by "K.A.R. 47-9-4."

(10) "[P]art 775 of this chapter" and "part 775 of this subchapter" shall be replaced by "K.S.A. 49-407 (d), 49-416a, and 49-422a, and amendments thereto, and article 4 of these regulations."

(11) "[P]art 816" and "part 816 of this chapter" shall be replaced by "K.A.R. 47-9-1 (c)."

(12) "[P]art 785 of this chapter" shall be replaced by "K.A.R. 47-3-42 (a)(39) through (45)."

(13) "30 CFR 773.15" and "§ 773.15 of this part" shall be replaced by "K.A.R. 47-3-42 (a)(55)."

(14) "§ 774.15" shall be replaced by "K.A.R. 47-6-3."

(15) "§ 761.14 of this chapter" shall be replaced by "K.A.R. 47-12-4 (a)(4)."

(16) "§ 785.13" shall be replaced by "K.A.R. 47-3-42 (a)(39)."

(17) "§ 761.12(d) of this chapter" shall be replaced by "K.A.R. 47-12-4 (a)(3)."

(18) "§ 773.6(d)(3)(ii) of this chapter," "§ 773.6(a)(1) of this chapter," and "§ 773.6 of this chapter" shall be replaced by "K.A.R. 47-3-42 (a)(46)."

(19) "§§ 773.9 through 773.11 of this part" shall be replaced by "K.A.R. 47-3-42 (a)(49) through (51)."

(20) "§ 778.11 of this subchapter," "§§ 778.11(c)(5) and 778.11(d) of this subchapter," and "§ 778.11(c)(5) of this subchapter" shall be replaced by "K.A.R. 47-3-42 (a)(2)."

(21) "§ 778.12 of this subchapter" shall be replaced by "K.A.R. 47-3-42 (a)(3)."

(22) "§ 773.12 of this part" and "§ 773.12" shall be replaced by "K.A.R. 47-3-42 (a)(52)."

(23) "§ 774.11(c) of this subchapter" and "§ 774.11(f) of this subchapter" shall be replaced by "K.A.R. 47-6-11 (a)(1)."

(24) "§ 778.14 of this subchapter" shall be replaced by "K.A.R. 47-3-42 (a)(5)."

(25) "§ 773.13" and "§ 773.13(c)" shall be replaced by "K.A.R. 47-3-42 (a)(53)."

(26) "§ 773.14(b) of this part" and "§§ 773.14(c)(1) through (4)" shall be replaced by "K.A.R. 47-3-42 (a)(54)."

(27) "[S]ection 510(c) of the Act" shall be replaced by "K.S.A. 49-407 (b), and amendments thereto."

(28) "§ 778.9(d) of this subchapter" shall be replaced by "K.A.R. 47-3-42 (a)(1)."

(29) "§ 773.19 of this part" shall be replaced by "K.A.R. 47-3-42 (a)(57)."

(30) "43 CFR 4.1360 through 4.1369" shall be replaced by "K.A.R. 47-4-14a."

(31) "§ 843.12 of this chapter" shall be replaced by "K.A.R. 47-15-1a (a)(9)."

(32) "§§ 773.25 through 773.27 of this part" shall be replaced by "K.A.R. 47-3-42 (a)(61) through (63)."

(33) "§ 773.22 and 773.23 of this part" shall be replaced by "K.A.R. 47-3-42 (a)(59) and (60)."

(34) "§ 761.11 of this chapter" shall be replaced by "K.A.R. 47-12-4 (a)(2)."

(35) "§ 816.111(d) or § 817.111(d)" shall be replaced by "K.A.R. 47-9-1 (c)(39) or (d)(35)."

(36) "§ 816.106 or § 817.106 of this chapter" shall be replaced by "K.A.R. 47-9-1 (c)(38) or (d)(34)."

(37) "§ 701.5 of this chapter" shall be replaced by "K.A.R. 47-2-75 (b)."

(38) "§§ 773.7 through 773.14 of this part" shall be replaced by "K.A.R. 47-3-42 (a)(47) through (54)."

(39) “§ 773.21(d) of this part” and “paragraphs (a) and (b) § 773.21 of this part” shall be replaced by “K.A.R. 47-3-42 (a)(58).”

(40) “§ 773.23 of this part” shall be replaced by “K.A.R. 47-3-42 (a)(60).”

(41) “[T]he procedures at 43 CFR 4.1370 through 4.1377 (when OSM is the regulatory authority) or under the State regulatory program equivalent (when a State is the regulatory authority)” shall be replaced by “K.A.R. 47-4-14a.”

(42) “§ 843.14 of this chapter, or the state regulatory program equivalent” shall be replaced by “K.A.R. 47-15-1a (a)(11).”

(43) “§ 773.22(b) or (c) of this part” and “§ 773.22 (e) of this part” shall be replaced by “K.A.R. 47-3-42 (a)(59).”

(44) “§ 773.26(a) of this part” shall be replaced by “K.A.R. 47-3-42 (a)(62).”

(45) “§ 773.27(b) of this part” shall be replaced by “K.A.R. 47-3-42 (a)(63).”

(46) “§§ 773.27 and 773.28 of this part” shall be replaced by “K.A.R. 47-3-42 (a)(63) and (64).”

(47) “§ 842.16 of this chapter (when osm is the regulatory authority) or under § 840.14 of this chapter (when a state is the regulatory authority)” shall be replaced by “K.A.R. 47-15-1a (a)(2).”

(48) “Rule 4 of the federal rules of civil procedure, or its state regulatory program counterparts” shall be replaced by “K.A.R. 47-4-14a.”

(49) “43 CFR 4.1380 through 4.1387 or, when a state is the regulatory authority, the state regulatory program counterparts” shall be replaced by “K.A.R. 47-4-14a and K.S.A. 49-416a, and amendments thereto.”

(50) “[B]y a reviewing administrative or judicial tribunal” shall be replaced by “by an administrative or a judicial review of an agency action concerning the aforementioned Kansas department of health and environment determination.”

(51) “State regulatory authority with jurisdiction over the application or permit” and “regulatory authority” shall be replaced by “the Kansas department of health and environment.”

(52) “[C]entral office of the applicable state regulatory authority, if any” shall be replaced by “the Kansas department of health and environment, surface mining section.”

(53) “Office of hearings and appeals or its state counterpart” shall be replaced by “office of administrative hearings, a division of the Kansas department of administration.”

(54) “§ 762.13(c) of this chapter” shall be replaced by “K.A.R. 47-12-4 (a)(12).”

(55) “§ 761.14 or § 761.15 of this chapter” shall be replaced by “K.A.R. 47-12-4 (a)(4) or (5).”

(56) “§ 800.60 of this chapter” shall be replaced by “K.A.R. 47-8-9 (a)(15).”

(57) “§§ 773.21 or 774.11(f) of this subchapter” shall be replaced by “K.A.R. 47-3-42 (a)(58) and K.A.R. 47-6-11 (a)(1).”

(58) “30 CFR 780.16” shall be replaced by “K.A.R. 47-3-42 (a)(26).”

(59) “30 CFR 816.22,” “§ 816.22 of this chapter,” and “§ 816.22(b) of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(5).”

(60) “§ 816.133” and “30 CFR 816.133” shall be replaced by “K.A.R. 47-9-1 (c)(45).”

(61) “[S]ubchapter B or K of this chapter” shall be replaced by “K.A.R. 47-9-4 or K.A.R. 47-9-1.”

(62) “§§ 816.61 through 816.68 of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(16) through (21).”

(63) “§ 816.67” shall be replaced by “K.A.R. 47-9-1 (c)(20).”

(64) “30 CFR 779.24 through 779.25” shall be replaced by “K.A.R. 47-3-42 (a)(18) through (19).”

(65) “30 CFR 780.25” shall be replaced by “K.A.R. 47-3-42 (a)(31).”

(66) “30 CFR 780.35” shall be replaced by “K.A.R. 47-3-42 (a)(36).”

(67) “§§ 780.25(a)(2), 780.25(a)(3), 780.35(a), 816.71(b), 816.73(c), 816.74(c), and 816.81(c) of this chapter” shall be replaced by “K.A.R. 47-3-42 (a)(31) and (36) and K.A.R. 47-9-1 (c)(22), (23), and (25).”

(68) “30 CFR 816.95” shall be replaced by “K.A.R. 47-9-1 (c)(30).”

(69) “§ 816.97 of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(31).”

(70) “30 CFR 780.18 through 780.37” shall be replaced by “K.A.R. 47-3-42 (a)(27) through (37).”

(71) “30 CFR 816.111 through 816.116” shall be replaced by “K.A.R. 47-9-1 (c)(39) through (42).”

(72) “30 CFR 816.116” shall be replaced by “K.A.R. 47-9-1 (c)(42).”

(73) “30 CFR 816.59” shall be replaced by “K.A.R. 47-9-1 (c)(15).”

(74) “30 CFR 816.89 through 816.102” shall be replaced by “K.A.R. 47-9-1 (c)(29) through (35).”

(75) “30 CFR 816.13 through 816.15” shall be replaced by “K.A.R. 47-9-1 (c)(2) through (4).”

(76) “§§ 816.41 through 816.43” shall be replaced by “K.A.R. 47-9-1 (c)(6) through (8).”

(77) “§ 779.25 of this chapter” shall be replaced by “K.A.R. 47-3-42 (a)(19).”

(78) “§§ 816.81-816.84 of this chapter” and “30 CFR 816.81-816.84” shall be replaced by “K.A.R. 47-9-1 (c)(25) through (27).”

(79) “§ 816.49 of this chapter” and “§ 816.49(a)(4)(ii) of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(12).”

(80) “30 CFR 816.79” and “§ 816.79 of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(24).”

(81) “30 CFR 816.43 of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(8).”

(82) “§ 761.16 of this chapter” shall be replaced by “K.A.R. 47-12-4 (a)(6).”

(83) “§ 761.17(d) of this chapter” shall be replaced by “K.A.R. 47-12-4 (a)(7).”

(84) “§ 30 CFR 816.71-816.74” and “§§ 816.71 through 816.74 of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(22) through (23).”

(85) “30 CFR 816.71(d)” shall be replaced by “K.A.R. 47-9-1 (c)(22).”

(86) “§ 816.150(d)(1) of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(46).”

(87) “§ 816.151(b) of this chapter,” “§ 816.151(c)(2) of this chapter,” “§ 816.151(d)(5) of this chapter,” and “§

(continued)

816.151(d)(6) of this chapter" shall be replaced by "K.A.R. 47-9-1 (c)(47)."

(88) "§ 816.181 of this chapter" shall be replaced by "K.A.R. 47-9-1 (c)(49)."

(89) "§ 774.13 of this chapter" and "§ 774.13" shall be replaced by "K.A.R. 47-6-2."

(90) "Part 823 of this chapter," "part 823 of this chapter," and "30 CFR part 823" shall be replaced by "K.A.R. 47-9-1(f)."

(91) "§ 816.100 of this chapter" shall be replaced by "K.A.R. 47-9-1 (c)(33)."

(92) "§ 30 CFR part 819" shall be replaced by "K.A.R. 47-9-1 (e)."

(93) "[P]art 827 of this chapter" shall be replaced by "K.A.R. 47-9-1 (g)."

(94) "§ 827.13 of this chapter" shall be replaced by "K.A.R. 47-9-1 (g)(3)."

(95) "30 CFR part 828" shall be replaced by "K.A.R. 47-9-1 (h)."

(96) "30 CFR parts 817 and 828" shall be replaced by "K.A.R. 47-9-1 (d) and (h)."

(97) "§§ 778.11 through 778.14 of this part" shall be replaced by "K.A.R. 47-3-42 (a)(2) through (5)."

(98) "§§ 773.13 and 773.14 of this part" shall be replaced by "K.A.R. 47-3-42 (a)(53) and (54)."

(99) "§ 785.25 of this subchapter" and "§ 785.25 of this chapter" shall be replaced by "K.A.R. 47-3-42 (a)(45)."

(100) "§ 701.11(d)" shall be replaced by "K.A.R. 47-3-42 (a)(65)."

(101) "§§ 773.26 and 773.27 of this part" shall be replaced by "K.A.R. 47-3-42 (a)(62) and (63)."

(102) "§§ 778.11 and 778.12(c) of this subchapter" shall be replaced by "K.A.R. 47-3-42 (a)(2) and (3)."

(103) "§ 778.15(b) of this chapter" shall be replaced by "K.A.R. 47-3-42 (a)(6)."

(104) "30 CFR 816.102 through 816.107" shall be replaced by "K.A.R. 47-9-1 (c)(35) through (38)."

(105) "§ 816.46 of this chapter" shall be replaced by "K.A.R. 47-9-1 (c)(10)."

(106) "[T]he procedures at 43 CFR 4.1370 through 4.1377 (when OSM is the regulatory authority) or under the State regulatory program equivalent (when a State is the regulatory authority)" shall be replaced by "K.A.R. 47-4-14a."

(107) "30 CFR 780.12 or 784.12" shall be replaced by "K.A.R. 47-3-42 (a)(22) or K.A.R. 47-10-1 (a)(2)(C)."

(108) "43 CFR 4.1376 or the State regulatory program equivalent" shall be replaced by "K.A.R. 47-4-14a." (Authorized by K.S.A. 49-405 and 49-427; implementing K.S.A. 49-405, 49-406, 49-407, and 49-427; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended May 1, 1985; amended May 1, 1986; amended May 1, 1988; amended Feb. 11, 1991; amended May 2, 1997; amended July 31, 1998; amended Dec. 1, 2006.)

Article 4.—PUBLIC HEARINGS

47-4-14a. Administrative hearing procedure. (a) Appeals and applications. This article and articles 5, 6, and 15 shall govern the procedure used in all administrative hearings resulting from the following actions:

(1) Petitions for review of proposed civil penalty assessments issued by the secretary;

(2) applications for review of notices of violation and orders of cessation or modification, vacation or termination of notices of violation, and orders of cessation;

(3) applications for review of the secretary's decision to disapprove, suspend, or revoke a permit;

(4) applications for temporary relief;

(5) applications for review of alleged discriminatory acts;

(6) petitions for award of costs and expenses;

(7) appeals from initial orders or decisions of presiding officers; and

(8) all other appeals and review procedures authorized by the act.

(b) Definition. As used in these regulations, the following definition shall apply: "Party" means either of the following:

(1) The person to whom an order, notice of violation, civil penalty assessment, suspension of permit, revocation of permit, or petition for award of costs and expenses is specifically directed; or

(2) a person named or allowed to intervene as a party to a state agency proceeding or allowed to intervene as a party in a proceeding.

(c) Rules of procedure.

(1) Hearing location. Hearings shall be held in the location designated by the presiding officer, giving due consideration to the convenience of the parties and their representatives and witnesses, except as otherwise provided by the state act.

(2) Document filing. All documents that are to be filed in a proceeding governed by this article shall be filed with the office of administrative hearings, a division of the Kansas department of administration, in Topeka, Kansas.

(3) Proof of service. A person who has initiated a proceeding under this regulation shall file a proof of service in the form of a registered receipt if by certified or registered mail, or acknowledgement by the party served or verified return when service is made personally. A certificate of service shall be contained in all other documents filed by a party.

(4) Filing date. The effective filing date of a notice of appeal or petition for review shall be the date of receipt by the administrative appeals section if filed personally, or the postmark date if filed by mail. The burden of establishing the date of mailing shall be on the person filing the document.

(5) Document information. All documents shall be captioned with the following information:

(A) The name of the party;

(B) the name of the facility, mine, or site to which the document pertains; and

(C) if appropriate, the following information:

(i) The number of the notice, order, or other agency decision or action to which the appeal pertains;

(ii) the case number assigned to the original agency action; and

(iii) any other identifying information, including permit number.

(6) Service.

(A) Copies of documents that initiate a proceeding shall be served upon all parties by registered or certified mail, return receipt requested.

(B) Copies of all subsequent documents shall be served personally or by first-class mail.

(C) Service of all documents shall be complete at the time of personal service, or, if by mail, upon receipt.

(D) If an attorney has entered an appearance on behalf of a party, thereafter service shall be made upon the attorney.

(7) Intervention. Any person may petition for leave to intervene in a proceeding. Each petition shall set out the interest of the petitioner and the manner in which the petitioner's interest is or could be affected.

(A) The presiding officer shall grant intervention if the petitioner fulfills these requirements:

(i) Had a statutory right to initiate the proceeding into which the petitioner seeks intervention; or

(ii) has an interest that is or could be adversely affected by the outcome of the proceeding.

(B) If paragraphs (c)(7)(A)(i) and (c)(7)(A)(ii) of this regulation are not applicable, the presiding officer shall consider the following to determine if intervention is appropriate:

(i) The nature of the issues;

(ii) the adequacy of the representation of petitioner's interest provided by the existing parties;

(iii) the ability of the petitioner to present relevant evidence and argument; and

(iv) the effect of intervention on the agency's implementation of its statutory duties.

(C) Each person granted leave to intervene shall participate as a party.

(D) The presiding officer shall determine the extent and terms of limited participation by an intervenor.

(8) Voluntary dismissal. Any party who initiated a proceeding may withdraw it by moving to dismiss. The presiding officer may grant such a motion.

(9) Pleadings, motions, briefs; service. At appropriate stages of the proceeding, each party shall be given full opportunity to file pleadings, motions, and objections.

(A) Each pleading and motion shall be submitted in writing and shall state concisely the supporting grounds.

(B) Each party shall have 15 days from the date of service of the pleading in which to file a response, unless otherwise ordered by the presiding officer.

(C) Failure to make a timely motion or response shall be construed as a waiver of objection.

(D) Each motion shall be ruled upon expeditiously.

(E) At appropriate stages, each party shall be given full opportunity to file briefs, proposed findings of fact and conclusions of law, and proposed initial and final orders.

(F) Each document filed pursuant to this subsection shall be served on all parties by mail or any other means prescribed in this regulation.

(10) Consolidation. When pending proceedings involve a common question of fact or law, the proceedings shall be consolidated pursuant to a motion by a party or the presiding officer.

(11) Waiver of hearing. Any person entitled to a hearing may waive this right in writing. Any person required to file a responsive pleading who fails to do so by the

required time may be deemed to have waived the person's right to a hearing. Unless all parties who are entitled to a hearing waive these rights or are deemed to have waived these rights, a hearing shall be held.

(d) Formal hearings. If a statute provides for a hearing in accordance with these regulations, the hearing shall be governed by this subsection.

(1) Participation and representation.

(A) Each party shall participate in the hearing in person or, if the party is a corporation or other artificial person, by a duly authorized representative.

(B) Whether or not participating in person, any party may be represented at the party's own expense by counsel or, if permitted by law, other representative.

(C) Each corporation or other artificial person shall participate by counsel.

(2) Presiding officer.

(A) An administrative hearing officer from the office of administrative hearings shall be the presiding officer.

(B) Each person serving or designated to serve alone or with others as presiding officer shall be subject to disqualification for administrative bias, prejudice, or interest.

(C) Any party may petition for the disqualification of a presiding officer promptly after receipt of notice indicating that the person will preside or promptly upon discovering facts establishing grounds for disqualification, whichever is later.

(D) Each presiding officer whose disqualification is requested shall determine whether or not to grant the petition, stating facts and reasons for the determination. If the presiding officer fails to grant a petition for disqualification, the petitioning party may file an affidavit of personal bias or disqualification with substantiating facts, and the matter of disqualification shall be determined by the secretary.

(E) If a substitute is required for a presiding officer who is disqualified or becomes unavailable for any reason, each action taken by a duly appointed substitute for a disqualified or unavailable presiding officer shall be as effective as if taken by the disqualified or unavailable presiding officer.

(3) Prehearing conference; notice. The presiding officer designated to conduct the hearing may conduct a prehearing conference. If the conference is conducted, the presiding officer for the prehearing conference shall set the time and place of the conference and give reasonable notice to all parties and to all persons who have filed written petitions to intervene in the matter.

(4) Prehearing conference. The prehearing conference notice shall include the following:

(A) The names and mailing addresses of all parties and other persons to whom notice is being given by the presiding officer;

(B) the name, official title, mailing address, and telephone number of any counsel or employee who has been designated to appear for the state agency;

(C) the official file or other reference number, the name of the proceeding, and a general description of the subject matter;

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(D) a statement of the time, place, and nature of the prehearing conference;

(E) a statement of the legal authority and jurisdiction under which the prehearing conference and hearing are to be held;

(F) the name, official title, mailing address, and telephone number of the presiding officer for the prehearing conference;

(G) a statement that any party who fails to attend or participate in a prehearing conference, hearing, or other stage of an adjudicative proceeding shall be held in default; and

(H) a notice that may include any other matters that the presiding officer considers desirable to expedite the proceedings.

(5) Prehearing conference procedure; prehearing order.

(A) The presiding officer may conduct all or part of the prehearing conference by telephone or other electronic means if each participant in the conference has an opportunity to participate in the entire proceeding while it is taking place.

(B) The presiding officer shall conduct the prehearing conference, as shall be appropriate, to deal with matters including the following:

- (i) Exploration of settlement possibilities;
- (ii) preparation of stipulations;
- (iii) clarification of issues;
- (iv) rulings on identity and limitation of the number of witnesses;
- (v) objections to proffers of evidence;
- (vi) determination of the extent to which direct evidence, rebuttal evidence, or cross-examination will be presented in written form and the extent to which telephone or other electronic means will be used as a substitute for proceedings in person;
- (vii) order of presentation of evidence and cross-examination;
- (viii) rulings regarding issuance of subpoenas;
- (ix) discovery orders and protective orders; and
- (x) any other matters that will promote the orderly and prompt conduct of the hearing.

(C) The presiding officer shall issue a prehearing order incorporating the matters determined at the prehearing conference.

(D) If a prehearing conference is not held, the presiding officer for the hearing shall issue a prehearing order, based on the pleadings, to regulate the conduct of the proceedings.

(6) Notice of administrative hearing.

(A) The time and place of the hearing shall be set by the presiding officer. Reasonable written notice at least 10 days before the hearing shall be given to all parties and to all persons who have filed written petitions to intervene in the matter. Service of notices shall be made in accordance with paragraph (d)(18) of this regulation.

(B) The notice shall include a copy of any prehearing order rendered in the matter.

(C) To the extent not included in the prehearing order accompanying it, the notice shall include the following:

(i) The names and mailing addresses of all parties and other persons to whom notice is being given by the presiding officer;

(ii) the name, official title, mailing address, and telephone number of any counsel or employee who has been designated to appear for the state agency;

(iii) the official file or other reference number, the name of the proceeding, and a general description of the subject matter;

(iv) the time, place, and nature of the hearing;

(v) the legal authority and jurisdiction under which the hearing is to be held;

(vi) the name, official title, mailing address, and telephone number of the presiding officer;

(vii) the issues involved and, to the extent known to the presiding officer, the matters asserted by the parties; and

(viii) a statement that any party who fails to attend or participate in a prehearing conference, hearing, or other stage of an adjudicative proceeding shall be held in default.

(D) The notice may include any other matters that the presiding officer considers desirable to expedite the proceedings.

(E) The presiding officer shall cause notice to be given to any other person entitled to notice under any other provisions of law who has not been given notice under paragraph (d)(6)(A) of this regulation, as follows:

(i) Notice under this subsection shall be given in the manner specified by these regulations or, if no such manner is specified, in a manner determined by the office of administrative hearings, a division of the Kansas department of administration.

(ii) If any person other than the agency is directed to give notice under this subsection, the agency shall require that the person furnish proof of service.

(iii) Notice under this subsection may include all types of information provided in paragraphs (d)(6)(A) through (D) of this regulation or may consist of a brief statement indicating the subject matter, parties, time, place where the hearing will be held, locations where the general public may meet for hearings that are conducted electronically, nature of the hearing, manner in which copies of the notice to the parties may be inspected and copied, and the name and telephone number of the presiding officer.

(iv) Notice of the hearing shall be posted by the department at the surface mining section office and, where practicable, shall be published in a newspaper of general circulation in the area of the mine at least seven days before the hearing.

(7) Default.

(A) If a party fails to attend or participate in a prehearing conference, hearing, or other adjudicative proceeding, the presiding officer may serve all parties with written notice of the proposed default order, including the grounds for default.

(B) Within seven days after service of a proposed default order, the party against whom the order was issued may file a written motion requesting that the proposed default order be vacated and stating the grounds relied upon. During this period, the presiding officer may adjourn the proceedings or conduct them without the participation of the defaulting party, having due regard for the interests of justice and the orderly and prompt conduct of the proceedings.

(C) The proposed default order shall become effective seven days after service, unless vacated by the presiding officer.

(D) Once a default order becomes effective, the presiding officer may conduct any proceedings necessary to complete the adjudication and determine all issues in the adjudication, including those affecting the defaulting party without the defaulting party's participation. In lieu of determining the issues affecting the defaulting party, the presiding officer may dismiss the party's application for an adjudicative proceeding, unless otherwise prohibited by law.

(8) Certification of interlocutory ruling. On the presiding officer's or a party's motion, a ruling may be certified to the secretary if that ruling presents a controlling question of law and if immediate appeal would materially advance the ultimate disposition of the case.

(9) Summary judgment. Any party may move for summary decision, in whole or in part, after a proceeding has begun.

(A) The moving party shall verify each allegation of fact with at least one supporting affidavit, unless reliance is upon depositions, answers to interrogatories, admissions, or documents produced upon request to verify each allegation.

(B) The presiding officer shall grant such a motion for summary judgment if the record, including pleadings, depositions, answers to interrogatories, admissions, and affidavits, shows both of the following:

- (i) There is no disputed issue as to any material fact.
- (ii) The moving party is entitled to a summary decision as a matter of law.

(C) If a complete summary decision is not granted and an evidentiary hearing is necessary, the presiding officer shall, if practicable, perform the following:

- (i) Examine all relevant evidence and documents in the record;
- (ii) ascertain what material facts are controverted in good faith;
- (iii) issue an order specifying those facts that are not substantially controverted; and
- (iv) direct any further proceedings that the presiding officer determines are necessary.

(10) Proceedings. The presiding officer shall meet the following requirements:

- (A) Shall regulate the proceedings;
- (B) shall afford to each party the opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence, to the extent necessary for full disclosure of all relevant facts and issues, except as restricted by a limited grant of intervention or by the prehearing order;

(C) may, and when required by statute shall, give nonparties an opportunity to present oral or written statements. When the presiding officer proposes to consider a statement by a nonparty, the following shall apply:

- (i) Each party shall have an opportunity to challenge or rebut the statement; and
- (ii) any party may, by motion, require the statement to be given under oath or confirmation;

(D) may conduct all or part of the hearing by telephone or other electronic means, if each participant in the hear-

ing has an opportunity to participate in the entire proceeding;

(E) shall cause the hearing to be recorded at the state agency's expense. The state agency shall not be required, at its expense, to prepare a transcript, unless required to do so by any other provision of law. Any party, at the party's expense and subject to any reasonable conditions that the state agency may establish, may cause a person other than the state agency to prepare a transcript from the state agency's record, or cause additional recordings to be made during the hearing; and

(F) may close parts of the hearing from public observation only when a provision of the law expressly authorizes closure.

(11) Proposed findings of fact and conclusions of law. The presiding officer shall allow the parties to submit proposed findings of fact and conclusions of law with a supporting brief at a time set forth by the presiding officer.

(12) Evidence; official notice.

(A) A presiding officer shall not be bound by the statutory rules of evidence, but shall give the parties reasonable opportunity to be heard and to present evidence, and the presiding officer shall act reasonably without partiality. The presiding officer shall give effect to the rules of privilege recognized by law. Evidence shall not be excluded solely because it is hearsay.

(B) All testimony of parties and witnesses shall be made under oath or affirmation, and the presiding officer shall have the power to administer an oath or affirmation for that purpose.

(C) Statements presented by nonparties in accordance with paragraph (d)(10)(C) of this regulation shall be received as evidence.

(D) Any part of the evidence may be received in written form if doing so will expedite the hearing without substantial prejudice to the interests of any party.

(E) Documentary evidence shall be received in the form of a copy or excerpt. Upon request, parties shall be given an opportunity to compare the copy with the original, if available.

(F) Official notice shall be taken of the following:

- (i) Any matter that could be judicially noticed in the courts of this state;
- (ii) the record of other proceedings before the state agency;
- (iii) technical or scientific matters within the state agency's specialized knowledge; and

(iv) codes of standards that have been adopted by an agency of the United States, of this state or of another state, or by a nationally recognized organization or association. Each party shall be notified before or during the hearing, or before the issuance of any initial or final order that is based in whole or in part on matters or material noticed, of the specific matters or material noticed and the source, including any staff memoranda and data. Each party shall be afforded an opportunity to contest and rebut the matters or material so noticed.

(13) Orders, initial and final.

(A) If the presiding officer is the agency head, the presiding officer shall render a final order.

(continued)

(B) If the presiding officer is not the agency head, the presiding officer shall render an initial order, which shall become a final order unless reviewed in accordance with paragraph (d)(14) of this regulation.

(C) Each final order or initial order shall include, separately stated, findings of fact, conclusions of law, and policy reasons for the decision if the order is an exercise of the state agency's discretion, for all aspects of the order, including the remedy prescribed and, if applicable, the action taken on a petition for stay of effectiveness. Findings of fact, if set forth in language that is no more than mere repetition or paraphrase of the relevant provision of law, shall be accompanied by a concise and explicit statement of the underlying facts of record to support the findings. The order shall also include a statement of the available procedures and time limits for seeking reconsideration, administrative review, or other administrative relief. Each initial order shall include a statement of any circumstances under which the initial order, without further notice, may become a final order.

(D) Findings of fact shall be based exclusively upon the evidence of record in the adjudicative proceeding and on matters officially noticed in that proceeding.

(E) If a substitute presiding officer is appointed, the substitute presiding officer shall use any existing record and may conduct any further proceedings appropriate in the interests of justice.

(F) The presiding officer shall allow the parties to a proceeding to have an opportunity to submit proposed findings of fact and conclusions of law together with a supporting brief at a time designated by the presiding officer.

(G) A final order or initial order pursuant to this regulation shall be rendered in writing and served within 30 days after conclusion of the hearing or after submission of proposed findings in accordance with paragraph (d)(13)(F) of this regulation, unless this period is waived or extended with the written consent of all parties or for good cause shown.

(H) The presiding officer shall cause copies of the order to be served on each party and, if the order is an initial order, the agency head in the manner prescribed by paragraph (d)(18) of this regulation.

(14) Review of initial order; exceptions to reviewability.

(A) Upon the secretary's or secretary's designee's own motion, any initial order may be reviewed by the secretary or secretary's designee, unless paragraph (d)(14)(A)(i) or (ii) applies. If any party petitions for review of an initial order or if the law requires the review of an initial order by the secretary or secretary's designee, unless either of the following paragraphs applies:

(i) A provision of law precludes or limits review of the initial order; or

(ii) the secretary or secretary's designee determines to review some but not all issues, or not to exercise any review, or delegates the authority to review the initial order to one or more persons, unless this delegation is expressly prohibited by law, or authorizes one or more persons to review the initial order, subject to further review by the secretary or secretary's designee.

(B) A petition for review of an initial order shall be filed with the secretary or secretary's designee, or with any person designated for this purpose by regulation of the department, within 15 days after service of the initial order. If the secretary or secretary's designee on that individual's own motion decides to review an initial order, written notice of that individual's intention to review the initial order shall be given by the secretary or designee within 15 days after the initial order is issued. If the secretary or secretary's designee determines not to review an initial order in response to a petition for review, within 20 days after the filing of the petition for review, an order stating that review will not be exercised shall be served on each party by the secretary or designee.

(C) The petition for review shall state its basis. If the secretary or secretary's designee on that individual's own motion gives notice of its intent to review an initial order, the issues intended for review shall be specified by that individual.

(D) In reviewing an initial order, all the decision-making power that the secretary or secretary's designee would have had to render a final order had the secretary presided over the hearing shall be exercised by the secretary or designee, except to the extent that the issues subject to review are limited by a provision of law or by the secretary or secretary's designee upon notice to all parties.

(E) Each party shall be afforded an opportunity to present briefs and an opportunity to present oral argument by the secretary or designee.

(F) A final order disposing of the proceeding shall be rendered by the secretary or designee, or the matter shall be remanded by the secretary or designee for further proceedings with instructions to the presiding officer who rendered the initial order. When a matter is remanded, any temporary relief that is authorized and appropriate shall be ordered by the secretary or designee.

(G) A final order or an order remanding the matter for further proceedings shall be rendered in writing and served within 30 days after receipt of briefs and oral argument, unless that period is waived or extended with written consent of all parties or for good cause shown.

(H) A final order or an order remanding the matter for further proceedings under this article shall identify any difference between this order and the initial order and shall include, or incorporate by express reference to the initial order, all the matters required by paragraph (d)(13)(C) of this regulation.

(I) Copies of the final order or order remanding the matter for further proceedings shall be caused to be served on each party by the secretary or designee in the manner prescribed by paragraph (d)(18) of this regulation.

(15) Stay. A party may submit to the presiding officer or secretary or secretary's designee a petition for stay of effectiveness of an initial or final order until the time at which a petition for judicial review would no longer be timely, unless otherwise provided by statute or stated in the initial or final order. Action may be taken on the petition for stay by the presiding officer or by the secretary or designee, either before or after the effective date of the initial or final order.

(16) Reconsideration.

(A) Each party, within 15 days after service of a final order, may file a petition for reconsideration with the secretary or secretary's designee, stating the specific grounds upon which relief is requested. The filing of the petition shall not be a prerequisite for seeking administrative or judicial review.

(B) A written order denying the petition, granting the petition and dissolving or modifying the final order, or granting the petition and setting the matter for further proceedings shall be rendered by the secretary. The petition may be granted, in whole or in part, only if the secretary states, in the written order, findings of fact, conclusions of law, and policy reasons for the decision if it is an exercise of the secretary's discretion, to justify the order. The petition shall be deemed to have been denied if the secretary does not dispose of the petition within 20 days after the filing of the petition.

(C) Each order under these regulations shall be served on the parties in the manner prescribed by paragraph (d)(18) of this regulation.

(17) Orders, when effective.

(A) Unless a later date is stated in a final order or a stay is granted, each final order shall be effective upon service.

(B) Unless a later date in an initial order or a stay is granted, an initial order shall become effective and shall become the final order under these circumstances:

(i) When the initial order is served, if administrative review is unavailable;

(ii) when the secretary serves an order stating, after a petition for review has been filed, that review will not be exercised; or

(iii) when, 30 days after service of the initial order, no party has filed a petition for review by the secretary, the secretary has not given written notice of its intent to exercise review, and review by the secretary is not otherwise required by law.

(18) Service of order. Service of an order or notice shall be made upon the party and the party's attorney of record, if any, by delivering a copy of the order or notice to the person to be served or by mailing a copy of the order or notice to the person at the person's last known address. Delivering a copy of the order or notice shall mean handing the order or notice to the person or leaving the order or notice at the person's principal place of business or residence and with a person of suitable age and discretion who works or resides there. Service shall be presumed if the presiding officer, or a person directed to make service by the presiding officer, makes a written certificate of service. Service by mail shall be complete upon mailing. Whenever a party has the right or is required to perform some act or file a petition within a prescribed period after service of a notice or order and the notice or order is served by mail, three days shall be added to the prescribed period.

(19) Record.

(A) An official record of each formal hearing shall be maintained by the department.

(B) The record shall consist of only these items:

(i) The notices of all proceedings;

(ii) any prehearing order;

(iii) any motions, pleadings, briefs, petitions, requests, and intermediate rulings;

(iv) all evidence received or considered;

(v) a statement of matters officially noticed;

(vi) proffers of proof and objections and rulings on the proffers;

(vii) proposed findings, requested orders, and exceptions;

(viii) the record prepared for the presiding officer at the hearing, together with any transcript of all or part of the hearing considered before final disposition of the proceeding;

(ix) any final order, initial order, or order on reconsideration; and

(x) staff memoranda or data submitted to the presiding officer.

(C) Except to the extent that these regulations or another statute provides otherwise, the department's record, excluding matters under paragraph (d)(19)(B)(x) of this regulation, shall constitute the exclusive basis for the department's action in formal hearings and for judicial review of the department's action. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-405, 49-407, and 49-416a; effective Feb. 11, 1991; amended May 2, 1997; amended Dec. 1, 2006.)

Article 5.—CIVIL PENALTIES

47-5-5a. Civil penalties; adoption by reference. (a)

Subject to the provisions of subsection (c), the following federal regulations, as in effect on July 1, 2001, are adopted by reference, except as otherwise indicated:

- (1) How assessments are made, 30 CFR 845.11;
- (2) when penalty will be assessed, 30 CFR 845.12;
- (3) point system for penalties, 30 CFR 845.13;
- (4) determination of amount of penalty, 30 CFR 845.14, except that the table shall be replaced by the following table:

Points	Dollars
1	20
2	40
3	60
4	80
5	100
6	120
7	140
8	160
9	180
10	200
11	220
12	240
13	260
14	280
15	300
16	320
17	340
18	360
19	380
20	400
21	420
22	440

(continued)

23	460
24	480
25	500
26	600
27	700
28	800
29	900
30	1,000
31	1,100
32	1,200
33	1,300
34	1,400
35	1,500
36	1,600
37	1,700
38	1,800
39	1,900
40	2,000
41	2,100
42	2,200
43	2,300
44	2,400
45	2,500
46	2,600
47	2,700
48	2,800
49	2,900
50	3,000
51	3,100
52	3,200
53	3,300
54	3,400
55	3,500
56	3,600
57	3,700
58	3,800
59	3,900
60	4,000
61	4,100
62	4,200
63	4,300
64	4,400
65	4,500
66	4,600
67	4,700
68	4,800
69	4,900
70 and above	5,000

(5) assessment of separate violations for each day, 30 CFR 845.15, except that the statement "a civil penalty of not less than \$825 shall be assessed for each day during which such failure to abate continues" shall be replaced by "a civil penalty of not less than \$750 shall be assessed for each day during which such failure to abate continues";

(6) waiver of use of formula to determine civil penalty, 30 CFR 845.16;

(7) procedures for assessment of civil penalties, 30 CFR 845.17;

(8) procedures for assessment conference, 30 CFR 845.18. However, the following sentence shall be deleted:

"The assessment conference shall not be governed by section 554 of title 5 of the United States Code, regarding requirements for formal adjudicatory hearings";

(9) request for a hearing, 30 CFR 845.19. However, subsection (b) shall be replaced by the following text: "(b) The department shall hold all funds submitted under paragraph (a) of this section in escrow pending completion of the administrative and judicial review process, at which time it shall disburse them as provided in K.A.R. 47-5-16";

(10) when an individual civil penalty may be assessed, 30 CFR 846.12;

(11) amount of individual civil penalty, 30 CFR 846.14;

(12) procedure for assessment of individual civil penalty, 30 CFR 846.17; and

(13) payment of penalty, 30 CFR 846.18. However, subsection (d) shall be replaced by the following text:

"(d)(1) Delinquent payment. Following the expiration of 30 days after the issuance of a final order assessing an individual civil penalty, any delinquent penalty shall be subject to interest at the rate established quarterly by the U.S. department of the treasury for use in applying late charges on later payments to the federal government, pursuant to the treasury financial manual 6-8020.20. The treasury current value of funds rate is published by the fiscal service in the notices section of the federal register. Interest on unpaid penalties will run from the date payment first was due until the date of payment. Failure to pay overdue penalties may result in one or more of the following actions, which are not exclusive:

"(i) Initiation of litigation;

"(ii) reporting to the internal revenue service;

"(iii) reporting to state agencies responsible for taxation;

"(iv) reporting to credit bureaus; or

"(v) referral to collection agencies.

"(2) If a penalty debt is greater than 91 days overdue, a six percent per annum penalty shall begin to accrue on the amount owed for fees and shall run until the date of payment. This penalty is in addition to the interest described in this regulation.

"(3) For all delinquent penalties and interest, the debtor shall be required to pay a processing and handling charge that shall be based on the following components:

"(i) For debts referred to a collection agency, the amount charged to the department by the collection agency;

"(ii) for debts processed and handled by the surface mining section, a standard amount set annually by the department based upon similar charges by collection agencies for debt collection;

"(iii) for debts referred to the office of legal services, Kansas department of health and environment, but paid before litigation, the estimated average cost to prepare the case for litigation at the time of payment;

"(iv) for debts referred to the office of legal services, Kansas department of health and environment, and litigated, the estimated cost to prepare and litigate a debt case at the time of payment;

"(v) if not otherwise provided for, all other administrative expenses associated with collection, including billing, recording payments, and follow-up actions; and

“(vi) no prejudgment interest accrues on any processing and handling charges.”

(b) The following phrases and citations shall be replaced with the phrases and citations specified in this subsection wherever the phrases and citations appear in the text of the federal regulations adopted by reference in this regulation:

(1) “Act” shall be replaced by “state act.”

(2) “Director” and “director or his designee” shall be replaced by “secretary of health and environment or secretary’s designee.” However, in 30 CFR 816.12, the phrase “director” shall remain unchanged.

(3) “Secretary” shall be replaced by “secretary of health and environment.”

(4) “[S]ection 521(a) of the act” shall be replaced by “K.S.A. 49-405(m)(2), and amendments thereto.”

(5) “[S]ection 525(c) of the act” shall be replaced by “K.S.A. 49-416a(c), and amendments thereto.”

(6) “[S]ection 526 of the act” and “section 526(c) of the act” shall be replaced by “K.S.A. 49-422a, and amendments thereto.”

(7) “[S]ection 518(e), 518(f), 521(a)(4), or 521(c) of the act” shall be replaced by “K.S.A. 49-405c(e), 49-405c(f), 49-405(m)(3), or 49-405(m)(4), and amendments thereto.”

(8) “Office” “State or field office,” and “office of hearings and appeals” shall be replaced by “department.”

(9) “[S]ections 518, 521(a)(4), and 525 of the act” shall be replaced by “K.S.A. 49-405c, 49-405(m)(3), and 49-416a, and amendments thereto.”

(10) “30 CFR 845.20” shall be replaced by “K.A.R. 47-5-16.”

(11) “43 CFR 4.1300 *et seq.*” and “rule 4 of the Federal Rules of Civil Procedure” shall be replaced by “K.A.R. 47-4-14a.”

(12) “30 CFR 843.16” shall be replaced by “K.A.R. 47-4-14a.”

(13) “Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203 (Phone: 703-235-3800)” shall be replaced by “Office of administrative hearings, a division of the Kansas department of administration.”

(14) “30 CFR 845.12, 845.13, 845.14, 845.15 and 845.16” shall be replaced by “K.A.R. 47-5-5a (a)(2), (3), (4), (5), and (6).”

(15) “30 CFR 816.11” shall be replaced by “K.A.R. 47-9-1 (c)(1).”

(16) “30 CFR 845.17(b)” shall be replaced by “K.A.R. 47-5-5a (a)(7).”

(17) “30 CFR 845.13,” “30 CFR 845.13(b),” and “§ 845.13(b)” shall be replaced by “K.A.R. 47-5-5a (a)(3).”

(18) “30 CFR 845.12 (b)” shall be replaced by “K.A.R. 47-5-5a (a)(2).”

(19) “[S]ection 518(a) of the act” shall be replaced by “K.S.A. 49-405c (a).”

(20) “§ 846.12” shall be replaced by “K.A.R. 47-5-5a (a)(10).”

(c) Review of proposed assessments of civil penalties. If a request for hearing is made pursuant to paragraph (a)(9) of this regulation, the procedures set forth in K.A.R. 47-4-14a and the following shall apply.

(1) Time for filing petition.

(A)(i) A petition for review of a proposed assessment of a civil penalty shall be filed within 30 days of receipt of the proposed assessment; or

(ii) if a timely request for a conference has been made pursuant to paragraph (a)(8) of this regulation, a petition for review shall be filed within 15 days after service of notice by the presiding officer that the conference is completed.

(B) No extension of time shall be granted for filing a petition for review of a proposed assessment of a civil penalty as required by paragraph (c)(1)(A)(i) or (A)(ii). If a petition for review is not filed within the time period provided in paragraph (c)(1)(A)(i) or (A)(ii), the appropriateness of the amount of the penalty, and the fact of the violation if there is no proceeding pending under K.S.A. 49-416a(a), and amendments thereto, to review the notice of violation or cessation order involved, shall be admitted; the petition shall be dismissed; and the civil penalty assessed shall become a final order of the secretary.

(2) Contents of petition; payment required.

(A) The petition shall include the following:

(i) A short and plain statement indicating the reasons why either the amount of the penalty or the fact of the violation is being contested;

(ii) if the amount of penalty is being contested based upon a misapplication of the civil penalty formula, a statement indicating how the civil penalty formula contained in subsection (a), adopting by reference 30 CFR Part 845 and 846, was misapplied, along with a proposed civil penalty utilizing the civil penalty formula;

(iii) the identification by number of each violation being contested;

(iv) the identifying number of the cashier’s check, certified check, bank draft, personal check, or bank money order accompanying the petition; and

(v) a request for a hearing.

(B) The petition shall be accompanied by these items:

(i) Full payment of the proposed assessment in the form of a cashier’s check, certified check, bank draft, personal check, or bank money order made payable to the Kansas department of health and environment, to be placed in an escrow account pending final determination of the assessment; and

(ii) on the face of the payment, an identification by number of the violations for which payment is being tendered.

(C) As required by K.S.A. 49-405c(c) and amendments thereto, failure to make timely payment of the proposed assessment in full shall result in a waiver of all legal rights to contest the violation or the amount of the penalty.

(D) No extension of time shall be granted for full payment of the proposed assessment. If payment is not made within the time period provided in paragraph (c)(1)(A)(i) or (A)(ii), the appropriateness of the amount of the penalty, the fact of the violation, and, if there is no review proceeding, the notice of violation or cessation order involved shall be deemed admitted; the petition shall be dismissed; and the civil penalty assessed shall become a final order of the secretary.

(continued)

(3) Answer. The department shall have 30 days from receipt of a copy of the petition within which to file an answer.

(4) Review of waiver determination.

(A) Within 10 days of the filing of a petition, the petitioner may move the presiding officer to review the granting or denial of a waiver of the civil penalty formula pursuant to paragraph (a)(6) of this regulation.

(B) The motion shall contain a statement indicating all alleged facts relevant to the granting or denial of a waiver.

(C) Review shall be limited to the written determination of the presiding officer granting or denying the waiver, the motion, and responses to the motion. The standard of review shall be abuse of discretion.

(D) If the presiding officer finds that the secretary abused the secretary's discretion in granting or denying the waiver, the presiding officer shall hold a hearing on the petition for review of the proposed assessment and make a determination pursuant to paragraph (c)(7) of this regulation.

(5) Burden of proof in civil penalty proceedings. In civil penalty proceedings, the department shall have the burden of going forward to establish a prima facie case as to the fact of the violation, the amount of the civil penalty, and the ultimate burden of persuasion as to the amount of the civil penalty. The person who petitioned for review shall have the ultimate burden of persuasion as to the fact of the violation.

(6) Summary disposition.

(A) In a civil penalty proceeding in which the person against whom the proposed civil penalty is assessed fails to comply on time with any prehearing order of a presiding officer, the presiding officer shall issue an order to show cause for the following conditions:

(i) that person should not be deemed to have waived the person's right to a hearing; and

(ii) the proceedings should not be dismissed and the assessment should become final.

(B) If the order to show cause is not satisfied as required, the presiding officer shall order the proceedings summarily dismissed and issue a final order.

(C) If the person against whom the proposed civil penalty is assessed fails to appear at a hearing, that person shall be deemed to have waived the person's right to a hearing, and the presiding officer may assume, for purposes of the assessment, the following:

(i) The occurrence of each violation listed in the notice of violation or order; and

(ii) the truth of any facts alleged in the notice or order.

(D) In order to issue an initial order assessing the appropriate penalty when the person against whom the proposed civil penalty is assessed fails to appear at the hearing, a presiding officer shall either conduct an ex parte hearing or require the department to furnish proposed findings of fact and conclusions of law.

(E) Nothing in this article shall be construed to deprive the person against whom the penalty is assessed of the person's opportunity to have the department prove the violations charged in open hearing with confrontation and cross-examination of witnesses, except when that

person fails to comply with a prehearing order or fails to appear at the scheduled hearing.

(7) Initial order of the presiding officer.

(A) The presiding officer shall incorporate, in the presiding officer's decision concerning the civil penalty, findings of fact on each of the four criteria set forth in paragraph (a)(3) and conclusions of law.

(B)(i) If the presiding officer finds that a violation occurred or that the fact of violation is uncontested, the presiding officer shall establish the amount of the penalty, but in so doing, the presiding officer shall adhere to the point system and conversion table contained in 30 CFR 845.13 and 845.14 adopted by reference in paragraphs (a)(3) and (4), except that the presiding officer may waive the use of the point system if the presiding officer determines that a waiver would further abatement of violations of the state act. However, the presiding officer shall not waive the use of the point system and reduce the proposed assessment on the basis of an argument that a reduction in the proposed assessment could be used to abate other violations of the act.

(ii) If the presiding officer finds that no violation occurred, the presiding officer shall issue an order that the proposed assessment be returned to the petitioner.

(C) If the presiding officer finds that no violation occurred or reduces the amount of the civil penalty, the presiding officer shall order the department to remit the appropriate amount to the petitioner who made the payment, within 30 days of the department's receipt of the order. If a timely petition for review of the presiding officer's decision is filed with the secretary, no amount shall be remitted to the petitioner until a final determination has been made.

(D) If the presiding officer increases the amount of the civil penalty above that of the proposed assessment, the presiding officer shall order payment of the appropriate amount within 15 days after the order increasing the civil penalty is mailed.

(8) Appeals.

(A) Any party may petition the secretary to review and reconsider the initial order of a presiding officer concerning an assessment pursuant to K.A.R. 47-4-14a(d) (14) and (16), respectively.

(B) Any party may appeal the final order of the secretary pursuant to the Kansas judicial review act, K.S.A. 77-601 et seq., and amendments thereto. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-405, 49-405c, 49-416a; effective May 1, 1985; amended Feb. 11, 1991; amended May 2, 1997; amended July 31, 1998; amended Dec. 1, 2006.)

Article 6.—PERMIT REVIEW

47-6-1. Permit review. (a) Each permit issued and outstanding during the term of the permit shall be reviewed by the secretary or secretary's designee not later than the middle of that term. Reasonable revision or modification of the permit provisions may be ordered at any time to ensure compliance with the laws and regulations. A copy of the order and the written findings shall be sent to the operator. The order shall be subject to K.S.A. 49-407(d) and K.S.A. 49-422a, and amendments thereto.

(b) Each permit authorizing one or more variances that is issued in accordance with K.A.R. 47-3-42 (a)(41) shall be reviewed no later than three years from the date of issuance.

(c) Each permit authorizing one or more experimental practices that is issued in accordance with K.A.R. 47-3-42 (a)(39) shall be reviewed as specified in the permit or at least every two and a half years from the date of issuance as required by the department, in accordance with K.A.R. 47-3-42 (a)(39).

(d) After the review required by this regulation or at any time, the reasonable revision of any permit may be required by the secretary, by order, in accordance with K.A.R. 47-6-2 to ensure compliance with the state act and the regulatory program.

(e) Each order of the department requiring revision of a permit shall be based upon written findings and shall be subject to the provisions of administrative and judicial review in K.S.A. 49-407 (d), K.S.A. 49-416a, K.S.A. 49-422a, and amendments thereto, and article 4 of these regulations. A copy of each order shall be sent to the permittee.

(f) Any permit may be suspended or revoked in accordance with articles 5 and 15 of these regulations. (Authorized by K.S.A. 49-405 and 49-410; implementing K.S.A. 49-406 and 49-410; effective May 1, 1980; amended Feb. 11, 1991; amended May 2, 1997; amended Dec. 1, 2006.)

47-6-2. Permit revision. (a) Each application made by an operator to revise an existing permit shall be submitted at least 60 days before the date on which the operator desires to have the approval of the secretary.

(b) If the application for permit revision contains significant alterations or departures from the method of mining or reclamation operations covered by the original permit, the permittee shall meet all the application requirements, which shall include all requests from the secretary or secretary's designee for relevant information. Whether or not a significant alteration or departure is involved shall be determined by the secretary or the secretary's designee on a case-by-case basis upon review, unless a determination is requested in writing by the operator upon or before filing the application. On receiving this request, the operator shall be advised by the secretary or secretary's designee if a significant alteration or departure is involved for the purpose of submitting an application.

(c) Each application for permit revision shall be accompanied by a map, if a map is required, that meets the general map requirements of these regulations. The proposed revision shall be described in detail and supported by the technical data necessary to establish the impact and consequences of the proposed revision on the surface coal mining and reclamation operation, the environment, and public health and safety. Additional information may be requested when necessary to make an evaluation of the impact.

(d) No application for a permit revision shall be approved unless the applicant demonstrates and the regulatory authority finds that all of the following conditions are met:

(1) The reclamation required by the state act and the regulatory program can be accomplished.

(2) The applicable requirements under K.A.R. 47-3-42 (a)(55) pertinent to the revision are met.

(3) The application for revision meets all requirements of the state act and the regulatory program.

(e) Each extension to the area covered by the permit, except incidental boundary revisions, shall be made through an application for a new permit. (Authorized by K.S.A. 49-405, 49-410; implementing K.S.A. 49-406, 49-410; effective May 1, 1980; amended Feb. 11, 1991; amended May 2, 1997; amended Dec. 1, 2006.)

47-6-3. Permit renewals; adoption by reference. (a) The section titled permit renewals, 30 CFR 774.15, as in effect on July 1, 2001, is hereby adopted by reference, except as otherwise indicated in this regulation. Subsection (c)(3) of 30 CFR 774.15 shall be deleted.

(b) The following phrases and citations shall be replaced with the phrases and citations specified in this subsection wherever the phrases and citations appear in the text of the federal regulations adopted by reference in this regulation:

(1) "[S]ubchapter J of this chapter" shall be replaced by "article 8 of these regulations."

(2) "Act" shall be replaced by "state act."

(3) "[P]art 775 of this chapter" shall be replaced by "K.S.A. 49-407(d), K.S.A. 49-416a, K.S.A. 49-422a, and amendments thereto, and article 4 of these regulations."

(4) "§ 774.13" shall be replaced by "K.A.R. 47-6-2."

(5) "§ 800.60 of this chapter" shall be replaced by "K.A.R. 47-8-9 (a)(15)."

(6) "§ 778.21 of this chapter" shall be replaced by "K.A.R. 47-3-42 (a)(10)."

(7) "§§ 773.6 and 773.19(b) of this chapter" shall be replaced by "K.A.R. 47-3-42 (a)(46) and (57)."

(8) "§ 773.19" shall be replaced by "K.A.R. 47-3-42 (a)(57)." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-406; effective May 1, 1980; amended, E-81-30, Oct. 8, 1980; amended May 1, 1981; amended May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997; amended Dec. 1, 2006.)

47-6-4. Permit transfers, assignments, and sales; adoption by reference. (a) Each application for a new permit required for a person succeeding by transfer, sale, or assignment of rights granted under a permit shall be filed with the secretary not later than 30 days after that succession is approved by the secretary.

(b) Transfer, assignment, or sale of permit rights, 30 CFR 774.17, as in effect on July 1, 2001, is adopted by reference, except as otherwise indicated in this regulation.

(c) The following phrases shall be replaced with the phrases specified in this subsection wherever the phrases appear in the federal regulations adopted by reference in this regulation:

(1) "[T]his subchapter" shall be replaced by "these regulations."

(2) "[P]art 778 of this chapter" shall be replaced by "K.A.R. 47-3-42(a)(1) through (11)."

(3) "[S]ubchapter J of this chapter" shall be replaced by "article 8 of these regulations."

(continued)

(4) "Act" shall be replaced by "state act."

(5) "§ 773.12 and 773.15 of this chapter" shall be replaced by "K.A.R. 47-3-42 (a)(52) and (55)." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-410; effective May 1, 1980; amended, E-81-30, Oct. 8, 1980; amended May 1, 1981; amended May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997; amended July 31, 1998; amended Dec. 1, 2006.)

47-6-6. Permit conditions; adoption by reference.

(a) The section titled permit conditions, 30 CFR 773.17, as in effect on July 1, 2001, is adopted by reference, except as otherwise indicated in this regulation.

(b) The following phrases shall be replaced with the phrases specified in this subsection wherever the phrases appear in the federal regulation adopted by reference in this regulation:

(1) "[S]ubchapter J of this chapter" shall be replaced by "article 8 of these regulations."

(2) "Act" shall be replaced by "state act."

(3) "[P]arts 840 and 842" shall be replaced by "K.A.R. 47-15-1a."

(4) "§ 701.11(d) and subchapter B or K of this chapter" shall be replaced by "K.A.R. 47-3-42 (a)(65) and either K.A.R. 47-9-4 or K.A.R. 47-9-1."

(5) "[S]ubchapter R of this chapter" and "that subchapter" shall be replaced by "the office of surface mining reclamation and enforcement."

(6) "§§ 842.13 and 840.12 of this chapter" shall be replaced by "K.A.R. 47-15-1 a(a)(4)." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-406; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997; amended July 31, 1998; amended Dec. 1, 2006.)

47-6-8. Termination of jurisdiction; adoption by reference.

(a) The section titled applicability, 30 CFR 700.11, as in effect on July 1, 2001, is adopted by reference, except as otherwise indicated in this regulation, and subsections (a)(1), (a)(5), and (b) of 30 CFR 700.11 shall be deleted.

(b) The following phrases shall be replaced with the phrases specified in this subsection wherever the phrases appear in the federal regulation adopted by reference in this regulation:

(1) "[T]he State or Federal program counterpart to part 800 of this chapter" shall be replaced by "article 8 of these regulations."

(2) "[T]his chapter" shall be replaced by "these regulations."

(3) "[S]ubchapter B of this chapter" shall be replaced by "K.A.R. 47-9-4."

(4) "[P]art 707 of this chapter" shall be replaced by "K.A.R. 47-6-9."

(5) "[P]art 702 of this chapter" shall be replaced by "K.A.R. 47-6-10." (Authorized by and implementing K.S.A. 49-405; effective Feb. 11, 1991; amended May 2, 1997; amended July 31, 1998; amended Dec. 1, 2006.)

47-6-9. Exemption for coal extraction incident to government-financed highway or other construction; adoption by reference.

(a) The following federal regula-

tions, as in effect on July 1, 2001, are adopted by reference, except as otherwise specified in this regulation:

(1) Responsibility, 30 CFR 707.4;

(2) definitions, 30 CFR 707.5;

(3) applicability, 30 CFR 707.11, except that the phrase "Federal or Federal lands" shall be deleted; and

(4) information to be maintained on site, 30 CFR 707.12.

(b) The following phrases and citations shall be replaced with the phrases and citations specified in this subsection wherever the phrases and citations appear in the text of the federal regulations adopted by reference in this regulation:

(1) "Act" shall be replaced by "state act."

(2) "[T]his chapter" shall be replaced by "these regulations."

(3) "30 CFR 707.12" shall be replaced by "K.A.R. 47-6-9 a(4)."

(4) "Title IV" shall be replaced by "K.S.A. 49-428 and amendments thereto." (Authorized by and implementing K.S.A. 49-405; effective Feb. 11, 1991; amended May 2, 1997; amended Dec. 1, 2006.)

47-6-10. Exemption for coal extraction incidental to the extraction of other minerals; adoption by reference.

(a) The following federal regulations, as in effect on July 1, 2001, are adopted by reference, except as otherwise specified in this regulation:

(1) Scope, 30 CFR 702.1;

(2) definitions, 30 CFR 702.5;

(3) application requirements and procedures, 30 CFR 702.11, except that subsection (b) shall be deleted. The text "after April 1, 1990, under a Federal program or on Indian lands, or after the effective date of counterpart provisions in a state program" shall be replaced by "under the state act";

(4) contents of application for exemption, 30 CFR 702.12;

(5) public availability of information, 30 CFR 702.13;

(6) requirements for exemption, 30 CFR 702.14;

(7) conditions of exemption and right of inspection and entry, 30 CFR 702.15. However, "§§ 702.11(b) or" and "for Federal programs and on Indian lands or in accordance with counterpart provisions when included in State programs" shall be deleted;

(8) stockpiling of minerals, 30 CFR 702.16;

(9) revocation and enforcement, 30 CFR 702.17; and

(10) reporting requirements, 30 CFR 702.18.

(b) The following phrases and citations shall be replaced with the phrases and citations specified in this subsection wherever the phrases and citations appear in the text of the federal regulations adopted by reference in this regulation:

(1) "Act" shall be replaced by "state act."

(2) "[S]ection 701(28) of the act" shall be replaced by "K.S.A. 49-431, and amendments thereto."

(3) "§ 702.18 of this part" and "§ 702.18" shall be replaced by "K.A.R. 47-6-10 (a)(10)."

(4) "§ 702.16" shall be replaced by "K.A.R. 47-6-10 (a)(8)."

(5) "§ 702.12(g)" shall be replaced by "K.A.R. 47-6-10 (a)(4)."

(6) The following text shall be replaced by "K.A.R. 47-4-14a": "43 CFR 4.1280 when OSM is the regulatory authority or under corresponding State procedures when a State is the regulatory authority" and "43 CFR 4.1280 or under corresponding State procedures."

(7) "§ 702.11(e)(3)" shall be replaced by "K.A.R. 47-6-10 (a)(3)."

(8) "Secretary" shall be replaced by "secretary, Kansas department of health and environment."

(9) "§ 702.5 of this part" shall be replaced by "K.A.R. 47-6-10 (a)(2)." (Authorized by and implementing K.S.A. 49-405; effective Feb. 11, 1991; amended May 2, 1997; amended Dec. 1, 2006.)

47-6-11. Post-permit issuance requirements; adoption by reference. (a) The following federal regulations, as in effect on July 1, 2001, are adopted by reference, except as otherwise indicated in these regulations:

(1) Post-permit issuance requirements for regulatory authorities and other actions based on ownership, control, and violation information, 30 CFR 774.11; and

(2) post-permit issuance information requirements for permittees, 30 CFR 774.12.

(b) The following phrases and citations shall be replaced with the phrases and citations specified in this subsection wherever the phrases and citations appear in the text of the federal regulations adopted in this regulation:

(1) "[R]egulatory authority" shall be replaced by "Kansas department of health and environment."

(2) "[P]art 843, 846, or 847 of this chapter" shall be replaced by "K.A.R. 47-15-1a, K.A.R. 47-5-5a (a)(10) through (13), and K.A.R. 47-5-17."

(3) "[S]ection 510 (c) of the Act" shall be replaced by "K.S.A. 49-407 (b), and amendments thereto."

(4) "§§ 773.12 (a) and (b) of this subchapter" shall be replaced by "K.A.R. 47-3-42 (a)(52)."

(5) "43 CFR 4.1350 through 4.1356" shall be replaced by "article 4 of these regulations."

(6) "§ 778.11 (c)(5) of this subchapter," "§ 778.11 (d) of this subchapter," "§ 778.11 of this subchapter," "§ 778.11 (c) or (d) of this subchapter," and "§ 778.11(e) of this subchapter" shall be replaced by "K.A.R. 47-3-42 (a)(2)."

(7) "§§ 773.25, 773.26 and 773.27 of this subchapter" shall be replaced by "K.A.R. 47-3-42 (a)(61), (62), and (63)."

(8) "§ 843.11" shall be replaced by "K.A.R. 47-15-1a (a)(8)." (Authorized by and implementing K.S.A. 49-405; effective Dec. 1, 2006.)

Article 7.—COAL EXPLORATION

47-7-2. Coal exploration; adoption by reference. (a) The following federal regulations, as in effect on July 1, 2001, are adopted by reference, except as otherwise indicated in this regulation:

(1) Notice requirements for exploration removing 250 tons of coal or less, 30 CFR 772.11;

(2) permit requirements for exploration removing more than 250 tons of coal or occurring on lands designated as unsuitable for surface coal mining operations, 30 CFR 772.12;

(3) coal exploration compliance duties, 30 CFR 772.13;

(4) commercial use or sale, 30 CFR 772.14; and

(5) public availability of information, 30 CFR 772.15.

(b) The following phrases and citations shall be replaced with the phrases and citations specified in this subsection wherever the phrases and citations appear in the text of the federal regulations adopted by reference in this regulation.

(1) "[P]art 815 of this chapter" shall be replaced by "K.A.R. 47-9-1 (b)."

(2) "[S]ubchapter F of this chapter" shall be replaced by "article 12 of these regulations."

(3) "[P]art 775 of this chapter" shall be replaced by "K.S.A. 49-407 (d), K.S.A. 49-416a, K.S.A. 49-422a, and amendments thereto, and article 4 of these regulations."

(4) "[P]arts 773 through 785 of this chapter" shall be replaced by "articles 3, 4, 6, and 10 of these regulations, K.S.A. 49-407 (d), K.S.A. 49-416a, and K.S.A. 49-422a, and amendments thereto."

(5) "The phrase "section 518 of the Act, subchapter L of this chapter, and the applicable inspection and enforcement provisions of the regulatory program" shall be replaced by "K.S.A. 49-405c, and amendments thereto, and articles 5 and 15 of these regulations."

(6) "[T]his part," "this part, part 815 of this chapter, and the applicable provisions of the regulatory program," and "this part, part 815 of this chapter, the regulatory program" shall be replaced by "K.A.R. 47-7-2."

(7) "§ 761.11 of this chapter" shall be replaced by "K.A.R. 47-12-4 (a)(2)."

(8) "§ 772.12" shall be replaced by "K.A.R. 47-7-2 (a)(2)."

(9) "§ 772.13" shall be replaced by "K.A.R. 47-7-2 (a)(3)."

(10) "§§ 772.13 and 772.14" shall be replaced by "K.A.R. 47-7-2 (a)(3) and (4)."

(11) "§§ 772.14(b) and 700.11(a)(5)" shall be replaced by "K.A.R. 47-7-2 (a)(4) and K.A.R. 47-6-8." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-427; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended May 1, 1986; amended May 1, 1988; amended Feb. 11, 1991; amended May 2, 1997; amended July 31, 1998; amended Dec. 1, 2006.)

Article 8.—BONDING PROCEDURES

47-8-9. Bonding procedures; adoption by reference. (a) The following federal regulations, as in effect on July 1, 2001, are adopted by reference, except as otherwise indicated in this regulation:

(1) Regulatory authority responsibilities, 30 CFR 800.4, deleting subsection (d);

(2) definitions, 30 CFR 800.5, deleting subsection (c);

(3) requirement to file a bond, 30 CFR 800.11, deleting subsection (e);

(4) form of the performance bond, 30 CFR 800.12, deleting subsection (c);

(5) period of liability, 30 CFR 800.13;

(6) determination of bond amount, 30 CFR 800.14;

(7) adjustment of amount, 30 CFR 800.15;

(8) general terms and conditions of bond, 30 CFR 800.16;

(continued)

(9) bonding requirements for underground coal mines and long-term coal-related surface facilities and structures, 30 CFR 800.17;

(10) surety bonds, 30 CFR 800.20;

(11) collateral bonds, 30 CFR 800.21;

(12) replacement of bonds, 30 CFR 800.30;

(13) requirement to release performance bonds, 30 CFR 800.40;

(14) forfeiture of bonds, 30 CFR 800.50; and

(15) terms and conditions for liability insurance, 30 CFR 800.60, deleting subsection (d).

(b) The following phrases and citations shall be replaced with the phrases and citations specified in this subsection wherever the phrases and citations appear in the text of the federal regulations adopted by reference in this regulation:

(1) "Act" shall be replaced by "state act."

(2) "[U]nder parts 780 and 784 of this chapter" shall be replaced by "[under K.A.R. 47-3-42 (a)(20) through (38), and K.A.R. 47-10-1]."

(3) "[T]his chapter" and "subchapter G of this chapter" shall be replaced by "these regulations."

(4) "[T]his subchapter" shall be replaced by "article 8 of these regulations."

(5) "[S]ection 515 of the act" and "section 515 (b)(10) of the act" shall be replaced by "K.S.A. 49-405a, K.S.A. 49-408 through K.S.A. 49-413, K.S.A. 49-429, and amendments thereto, and the regulations promulgated thereunder."

(6) "[S]ubchapter K of this chapter" shall be replaced by "article 9 of these regulations."

(7) "[S]ection 507 (b)(16) of the act" shall be replaced by "K.S.A. 49-407 (c), and amendments thereto."

(8) "[P]art 823 of this chapter" shall be replaced by "K.A.R. 47-9-1 (f)."

(9) "[S]ection 513 (b) of the act" shall be replaced by "K.S.A. 49-407 (d), and amendments thereto, and the regulations promulgated thereunder."

(10) "[A]pplication" shall be replaced by "complete and accurate application."

(11) "§ 800.14" shall be replaced by "K.A.R. 47-8-9 (a)(6)."

(12) "§ 800.15" shall be replaced by "K.A.R. 47-8-9 (a)(7)."

(13) "§ 800.16(e)(2)" shall be replaced by "K.A.R. 47-8-9 (a)(8)."

(14) "§ 800.40," "§ 800.40(c)(2)," "§ 800.40(f) and (h)," and "§ 800.40 (a)(2)" shall be replaced by "K.A.R. 47-8-9 (a)(13)."

(15) "§ 800.50" shall be replaced by "K.A.R. 47-8-9 (a)(14)."

(16) "§ 816.133 or § 817.133 of this chapter" and "§§ 816.133(c) and 817.133(c)" shall be replaced by "K.A.R. 47-9-1 (c)(45) or K.A.R. 47-9-1 (d)(43)."

(17) "§ 817.121(c) of this chapter" shall be replaced by "K.A.R. 47-9-1 (d)(39)."

(18) "§ 800.60" shall be replaced by "K.A.R. 47-8-9 (a)(15)."

(19) "§ 800.21(f)" shall be replaced by "K.A.R. 47-8-9 (a)(11)."

(20) "§ 816.132 or § 817.132 of this chapter" shall be replaced by "K.A.R. 47-9-1 (c)(44) or K.A.R. 47-9-1 (d)(42)."

(21) "§ 800.17(b)(3)" shall be replaced by "K.A.R. 47-8-9 (a)(9)."

(22) "§ 816.116 or § 817.116 of this chapter" shall be replaced by "K.A.R. 47-9-1 (c)(42) or K.A.R. 47-9-1 (d)(38)."

(23) "§ 800.11(b)" shall be replaced by "K.A.R. 47-8-9 (a)(3)."

(24) "§§ 800.14 and 800.15" shall be replaced by "K.A.R. 47-8-9 (a)(6) and (7)."

(25) "§ 800.13" shall be replaced by "K.A.R. 47-8-9 (a)(5)." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-406, 49-407, and 49-429; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended May 1, 1985; amended May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997; amended July 31, 1998; amended Dec. 1, 2006.)

Article 9.—PERFORMANCE STANDARDS

47-9-1. Adoption by reference. (a) The following portions of the permanent program performance standards — general provisions, 30 CFR Part 810, as in effect on July 1, 2001, are hereby adopted by reference and altered as specified in this subsection:

(1) Objective, 30 CFR 810.2, except that in the first sentence, "Nation" shall be replaced by "state";

(2) responsibility, 30 CFR 810.4, except that part "a" shall be deleted; and

(3) applicability, 30 CFR 810.11.

(b) The following portions of the permanent program performance standards — coal exploration, 30 CFR Part 815, as in effect on July 1, 2001, are hereby adopted by reference:

(1) Required documents, 30 CFR 815.13; and

(2) performance standards for coal exploration, 30 CFR 815.15.

(c) The following portions of the permanent program standards — surface mining activities, 30 CFR Part 816, as in effect on July 1, 2001, are hereby adopted by reference and altered as specified in this subsection:

(1) Signs and markers, 30 CFR 816.11. A subsection (g) shall be added to 30 CFR 816.11 that reads as follows: "Increment boundary markers. As deemed necessary by the secretary or secretary's designee to ensure the public health and safety, protect the environment, and ascertain increment boundaries, increment boundary markers shall be placed on each portion of a permit area on which a performance bond or other equivalent guarantee was or will be posted as provided by K.S.A. 49-406(h), and amendments thereto";

(2) casing and sealing of drilled holes: general requirements, 30 CFR 816.13;

(3) casing and sealing of drilled holes: temporary, 30 CFR 816.14;

(4) casing and sealing of drilled holes: permanent, 30 CFR 816.15;

(5) topsoil and subsoil, 30 CFR 816.22. The first paragraph of subsection (d)(1) of 30 CFR 816.22 shall be replaced by the following:

"Absent an approved schedule, topsoil and subsoil materials removed under paragraph (a) of this section shall be redistributed within 120 days following rough back-

filling and grading in a manner that complies with the following:";

- (6) hydrologic-balance protection, 30 CFR 816.41;
- (7) hydrologic balance: water quality standards and effluent limitations, 30 CFR 816.42;
- (8) diversions, 30 CFR 816.43;
- (9) hydrologic balance: sediment control measures, 30 CFR 816.45;
- (10) hydrologic balance: siltation structures, 30 CFR 816.46;
- (11) hydrologic balance: discharge structures, 30 CFR 816.47;
- (12) impoundments, 30 CFR 816.49;
- (13) postmining rehabilitation of sedimentation ponds, diversions, impoundments, and treatment facilities, 30 CFR 816.56;
- (14) hydrologic balance: stream buffer zones, 30 CFR 816.57;
- (15) coal recovery, 30 CFR 816.59;
- (16) use of explosives: general requirements, 30 CFR 816.61, except that subsection (c)(1) shall be replaced by the following:

"All blasting operations within the state shall be conducted under the direction of a certified blaster";
- (17) use of explosives: preblasting survey, 30 CFR 816.62;
- (18) use of explosives: blasting schedule, 30 CFR 816.64;
- (19) use of explosives: blasting signs, warnings, and access control, 30 CFR 816.66;
- (20) use of explosives: control of adverse effects, 30 CFR 816.67;
- (21) use of explosives: records of blasting operations, 30 CFR 816.68;
- (22) disposal of excess spoil: general requirements, 30 CFR 816.71, deleting the phrase "in accordance with § 816.73";
- (23) disposal of excess spoil: preexisting benches, 30 CFR 816.74;
- (24) protection of underground mining, 30 CFR 816.79;
- (25) coal mine waste: general requirements, 30 CFR 816.81;
- (26) coal mine waste: refuse piles, 30 CFR 816.83;
- (27) coal mine waste: impounding structures, 30 CFR 816.84;
- (28) coal mine waste: burning and burned waste utilization, 30 CFR 816.87;
- (29) disposal of noncoal mine waste, 30 CFR 816.89;
- (30) stabilization of surface areas, 30 CFR 816.95;
- (31) protection of fish, wildlife, and related environmental values, 30 CFR 816.97;
- (32) slides and other damage, 30 CFR 816.99;
- (33) contemporaneous reclamation, 30 CFR 816.100;
- (34) backfilling and grading: time and distance requirements, 30 CFR 816.101. This section shall be replaced by the following text:

"(A) Except as provided in paragraph (b) of this section, rough backfilling and grading for surface mining activities shall be completed according to one of the following schedules:

"(i) Contour mining. Within 60 days or 1,500 linear feet following coal removal;

"(ii) area mining. Within 180 days following coal removal, and not more than four spoil ridges behind the active pit being worked, the spoil from the active pit constituting the first ridge; or

"(iii) other surface mining methods. In accordance with the schedule established by the department.

"(B) The time allowed for rough backfilling and grading for the entire permit area or for a specific portion of the permit area may be extended by the department if the permittee demonstrates, in accordance with K.A.R. 47-3-42 (a)(27), adopting by reference 30 CFR 780.18 (b)(3), that additional time is necessary";

(35) backfilling and grading: general requirements, 30 CFR 816.102, deleting subsections (k)(3)(i) and (ii);

(36) backfilling and grading: thin overburden, 30 CFR 816.104;

(37) backfilling and grading: thick overburden, 30 CFR 816.105;

(38) backfilling and grading: previously mined area, 30 CFR 816.106;

(39) revegetation: general requirements, 30 CFR 816.111;

(40) revegetation: timing, 30 CFR 816.113;

(41) revegetation: mulching and other soil-stabilizing practices, 30 CFR 816.114;

(42) revegetation: standards for success, 30 CFR 816.116. A subsection (i) shall be added to 816.116(c)(4), and a subsection (3) shall be added to 816.116(a):

(A) Subsection (c)(4)(i) shall read as follows: "(i) The regulatory authority may allow 90 days after the issuance of a notice of violation for the repair of any rills or gullies, or both, that may occur. If the rills or gullies, or both, are repaired using normal husbandry practices, approved by the department in consultation with the state conservationist or his designated representative, and the repairs are approved by the department, the period of responsibility shall not be restarted. The normal husbandry practices used to repair gullies shall be approved in advance by the United States department of interior, office of surface mining reclamation and enforcement. If the rills or gullies, or both, are not repaired and approved within 90 days, or if augmented seeding, fertilization, or irrigation was utilized to do the repairs, the regulatory authority will restart the period of liability, effective from the date the repair was completed and approved by the department."

(B) Subsection (a)(3) shall read as follows: "(3) Data being used for bond release shall be submitted to the department annually. This shall include data for the last augmented seeding, which shall start the extended liability period. The following timetable for submissions shall be followed:

"(i) The planting reports, including soil tests, shall be submitted by March 31 of the year following the year in which the soil tests were performed;

"(ii) the production and ground cover data shall be submitted within 30 days of the date that the production and ground cover were sampled. Ground cover shall include species identification. Raw field data may be submitted at this time to fulfill this requirement. The tabu-

(continued)

lated results shall then be submitted by March 31 of the following year; and

“(iii) all data shall be clearly identified as to the bond release management area that it represents.”;

(43) cessation of operations: temporary, 30 CFR 816.131;

(44) cessation of operations: permanent, 30 CFR 816.132;

(45) postmining land use, 30 CFR 816.133, deleting subsection (d)(1) and replacing the term “Act” with “state act”;

(46) roads: general, 30 CFR 816.150;

(47) primary roads, 30 CFR 816.151;

(48) utility installations, 30 CFR 816.180;

(49) support facilities, 30 CFR 816.181; and

(50) interpretative rules related to general performance standards, 30 CFR 816.200.

(d) The following portions of the permanent program performance standards — underground mining activities, 30 CFR Part 817, as in effect on July 1, 2001, are hereby adopted by reference and altered as specified in this subsection:

(1) Signs and markers, 30 CFR 817.11. A subsection (g) shall be added to 30 CFR 817.11 that shall read as follows: “Increment boundary markers. Increment boundary markers shall be placed on each portion of a permit area on which a performance bond or other equivalent guarantee was or will be posted as provided by K.S.A. 49-406 (h), and amendments thereto”;

(2) casing and sealing of exposed underground openings: general requirements, 30 CFR 817.13;

(3) casing and sealing of underground openings: temporary, 30 CFR 817.14;

(4) casing and sealing of underground openings: permanent, 30 CFR 817.15;

(5) topsoil and subsoil, 30 CFR 817.22;

(6) hydrologic-balance protection, 30 CFR 817.41;

(7) hydrologic balance: water quality standards and effluent limitations, 30 CFR 817.42;

(8) diversions, 30 CFR 817.43;

(9) hydrologic balance: sediment control measures, 30 CFR 817.45;

(10) hydrologic balance: siltation structures, 30 CFR 817.46;

(11) hydrologic balance: discharge structures, 30 CFR 817.47;

(12) impoundments, 30 CFR 817.49;

(13) postmining rehabilitation of sedimentation ponds, diversions, impoundments, and treatment facilities, 30 CFR 817.56;

(14) hydrologic balance: stream buffer zone, 30 CFR 817.57;

(15) coal recovery, 30 CFR 817.59;

(16) use of explosives: general requirements, 30 CFR 817.61 except that subsection (c)(1) of 30 CFR 817.61 shall be replaced by the following:

“All blasting operations within the state shall be conducted under the direction of a certified blaster”;

(17) use of explosives: preblasting survey, 30 CFR 817.62;

(18) use of explosives: general performance standards, 30 CFR 817.64;

(19) use of explosives: blasting signs, warnings, and access control, 30 CFR 817.66;

(20) use of explosives: control of adverse effects, 30 CFR 817.67;

(21) use of explosives: records of blasting operations, 30 CFR 817.68;

(22) disposal of excess spoil: general requirements, 30 CFR 817.71, deleting the phrase “in accordance with § 817.73”;

(23) disposal of excess spoil: preexisting benches, 30 CFR 817.74;

(24) coal mine waste: general requirements, 30 CFR 817.81;

(25) coal mine waste: refuse piles, 30 CFR 817.83;

(26) coal mine waste: impounding structures, 30 CFR 817.84;

(27) coal mine waste: burning and burn waste utilization, 30 CFR 817.87;

(28) disposal of noncoal mine wastes, 30 CFR 817.89;

(29) stabilization of surface areas, 30 CFR 817.95;

(30) protection of fish, wildlife, and related environmental values, 30 CFR 817.97;

(31) slides and other damage, 30 CFR 817.99;

(32) contemporaneous reclamation, 30 CFR 817.100;

(33) backfilling and grading: general requirements, 30 CFR 817.102, deleting subsection (k)(1);

(34) backfilling and grading: previously mined areas, 30 CFR 817.106;

(35) revegetation: general requirements, 30 CFR 817.111;

(36) revegetation: timing, 30 CFR 817.113;

(37) revegetation: mulching and other soil-stabilizing practices, 30 CFR 817.114;

(38) revegetation: standards for success, 30 CFR 817.116. A subsection (3) shall be added to 817.116 (a). Subsection (a)(3) shall read as follows: “(3) Data being used for bond release shall be submitted to the department annually. This shall include data for the last augmented seeding, which shall start the extended liability period. The following timetable for submissions shall be followed:

“(i) The planting reports, including soil tests, shall be submitted by March 31 of the year following the year in which the soil tests were performed;

“(ii) The production and ground cover data shall be submitted within 30 days of the date that the production and ground cover were sampled. Ground cover shall include species identification. Raw field data may be submitted at this time to fulfill this requirement. The tabulated results shall then be submitted by March 31 of the following year; and

“(iii) All data shall be clearly identified as to the bond release management area that it represents.”;

(39) subsidence control, 30 CFR 817.121, except that 30 CFR 817.121 (c)(4)(i)-(iv) shall be deleted;

(40) subsidence control: public notice, 30 CFR 817.122;

(41) cessation of operations: temporary, 30 CFR 817.131;

(42) cessation of operations: permanent, 30 CFR 817.132;

(43) postmining land use, 30 CFR 817.133, deleting subsection (d)(1) and replacing the term “Act” with “state act”;

- (44) roads: general, 30 CFR 817.150;
- (45) primary roads, 30 CFR 817.151;
- (46) utility installations, 30 CFR 817.180;
- (47) support facilities, 30 CFR 817.181; and

(48) interpretative rules related to general performance standards, 30 CFR 817.200. The phrase "Office of Surface Mining Reclamation and Enforcement" shall be replaced by "Kansas department of health and environment."

(e) The following portions of the special permanent program performance standards — auger mining, 30 CFR Part 819, as in effect on July 1, 2001, are hereby adopted by reference:

- (1) Auger mining: general, 30 CFR 819.11;
- (2) auger mining: coal recovery, 30 CFR 819.13;
- (3) auger mining: hydrologic balance, 30 CFR 819.15;
- (4) auger mining: subsidence protection, 30 CFR 819.17;
- (5) auger mining: backfilling and grading, 30 CFR 819.19; and
- (6) auger mining: protection of underground mining, 30 CFR 819.21.

(f) The following portions of the special permanent program performance standards — operations on prime farmland, 30 CFR Part 823, as in effect on July 1, 2001, are hereby adopted by reference and altered as specified in this subsection:

- (1) Responsibilities, 30 CFR 823.4;
- (2) applicability, 30 CFR 823.11, deleting subsection (a);
- (3) soil removal and stockpiling, 30 CFR 823.12;
- (4) soil replacement, 30 CFR 823.14; and
- (5) revegetation and restoration of soil productivity, 30 CFR 823.15.

(g) The following portions of the permanent program performance standards — coal preparation plants not located within the permit area of a mine, 30 CFR Part 827, as in effect on July 1, 2001, are hereby adopted by reference:

- (1) General requirements, 30 CFR 827.11;
- (2) coal preparation plants: performance standards, 30 CFR 827.12; and
- (3) coal preparation plants: interim performance standards, 30 CFR 827.13.

(h) The following portions of the special permanent program performance standards — in situ processing, 30 CFR Part 828, as in effect on July 1, 2001, are hereby adopted by reference:

- (1) In situ processing: performance standards, 30 CFR 828.11; and
- (2) in situ processing: monitoring, 30 CFR 828.12.

(i) The following phrases and citations shall be replaced with the phrases and citations specified in this subsection wherever the phrases and citations appear in the text of the federal regulations adopted by reference in this regulation:

- (1) "Director" shall be replaced by "secretary."
- (2) "[S]ubchapter J of this chapter" shall be replaced by "article 8 of these regulations."
- (3) "[S]ubchapter B of this chapter" shall be replaced by "K.A.R. 47-9-4."
- (4) "This part" shall be replaced by "K.A.R. 47-9-1."
- (5) "[T]his chapter," "subchapter," and "this section" shall be replaced by "these regulations."

(6) "Part 816" and "part 816 of this chapter" shall be replaced by "K.A.R. 47-9-1 (c)."

(7) "Part 817," "part 817 of this chapter," and "30 CFR 817" shall be replaced by "K.A.R. 47-9-1 (d)."

(8) "[E]very state program," "every regulatory program," and "the applicable regulatory program" shall be replaced by "the regulatory program."

(9) "[P]art 815" shall be replaced by "K.A.R. 47-9-1 (b)."

(10) "[P]arts 818 through 828" shall be replaced by "K.A.R. 47-9-1 (e) through (h)."

(11) "§ 816.95 of this chapter" shall be replaced by "K.A.R. 47-9-1 (c)(30)."

(12) "§§ 816.150 (b) through (f), 816.180, and 816.181 of this chapter" shall be replaced by "K.A.R. 47-9-1 (c) (46), (48), and (49)."

(13) "§ 816.43 of this chapter" and "§ 816.43" shall be replaced by "K.A.R. 47-9-1 (c)(8)."

(14) "§§ 816.13 through 816.15 of this chapter" and "§§ 816.13 to 816.15" shall be replaced by "K.A.R. 47-9-1 (c)(2) through (4)."

(15) "§§ 816.41 through 816.49 of this chapter" shall be replaced by "K.A.R. 47-9-1 (c)(6) through (12)."

(16) "§§ 816.41(b), 816.41(f), and 816.102(e) of this chapter" shall be replaced by "K.A.R. 47-9-1 (c)(6) and (35)."

(17) "Parts 816 and 817" shall be replaced by "K.A.R. 47-9-1 (c) and (d)."

(18) "[P]art 816 or part 817" shall be replaced by "K.A.R. 47-9-1 (c) or (d)."

(19) "§ 816.57" shall be replaced by "K.A.R. 47-9-1 (c)(14)."

(20) "§ 816.22," "§ 816.22 of this chapter," "§ 816.22 of this part," "§816.22(b) of this part," "§816.22(e)," "30 CFR 816.22(e)(1)(i)," and "30 CFR 816.22(e)(1)(ii)" shall be replaced by "K.A.R. 47-9-1 (c)(5)."

(21) "§ 816.41 of this part," "§ 816.41," and "§ 816.41(i)" shall be replaced by "K.A.R. 47-9-1 (c)(6)."

(22) "§ 816.13" shall be replaced by "K.A.R. 47-9-1 (c)(2)."

(23) "§§ 816.111, 816.113, 816.114, and 816.116 of this chapter" shall be replaced by "K.A.R. 47-9-1 (c)(39), (40), (41), and (42)."

(24) "§ 780.21(h) of this chapter," "§ 780.21(i) of this chapter," and "§ 780.21(j) of this chapter" shall be replaced by "K.A.R. 47-3-42 (a)(28)."

(25) "§§ 773.17(e) and 780.21(h) of this chapter" shall be replaced by "K.A.R. 47-6-6 (a) and K.A.R. 47-3-42 (a)(28)."

(26) "§§ 773.17(e) and 784.14(g) of this chapter" shall be replaced by "K.A.R. 47-6-6 (a) and K.A.R. 47-10-1 (a)(2)(E)."

(27) "§ 774.13 of this chapter" and "(30 CFR 774.13)" shall be replaced by "K.A.R. 47-6-2."

(28) "§§ 780.21 and 780.22 of this chapter" shall be replaced by "K.A.R. 47-3-42 (a)(28) and (29)."

(29) "§ 816.42" shall be replaced by "K.A.R. 47-9-1 (c)(7)."

(30) "§ 816.46" shall be replaced by "K.A.R. 47-9-1 (c)(10)."

(31) "§ 816.111" and "§ 816.111(b)" shall be replaced by "K.A.R. 47-9-1 (c)(39)."

(continued)

(32) “§ 816.102,” “§§ 816.102(c), (e) through (h), and (j),” “§§ 816.102(a)(2) through (j) of this part,” and “§ 816.102(a) (1) and (2)” shall be replaced by “K.A.R. 47-9-1 (c)(35).”

(33) “§ 780.25 of this chapter,” “§ 780.25(a) of this chapter,” and “§ 780.25(c)(3)” shall be replaced by “K.A.R. 47-3-42 (a)(31).”

(34) “§ 816.49 of this chapter” and “§ 816.49(a)(9)” shall be replaced by “K.A.R. 47-9-1 (c)(12).”

(35) “§§ 816.111 through 816.116 of this chapter” and “§§ 816.111 through 816.116” shall be replaced by “K.A.R. 47-9-1 (c)(39) through (42).”

(36) “§ 816.84 of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(27).”

(37) “§ 816.11” and “§ 816.11 of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(1).”

(38) “§ 816.64” shall be replaced by “K.A.R. 47-9-1 (c)(18).”

(39) “§ 816.67” and “§ 816.67(e)” shall be replaced by “K.A.R. 47-9-1 (c)(20).”

(40) “§ 816.68(p)” shall be replaced by “K.A.R. 47-9-1 (c)(21).”

(41) “§ 816.66(c)” shall be replaced by “K.A.R. 47-9-1 (c)(19).”

(42) “§ 780.13 of this chapter” shall be replaced by “K.A.R. 47-3-42 (a)(23).”

(43) “§ 780.35(c) of this chapter” shall be replaced by “K.A.R. 47-3-42 (c)(36).”

(44) “§ 816.83” shall be replaced by “K.A.R. 47-9-1 (c)(26).”

(45) “§ 784.25 of this chapter” shall be replaced by “K.A.R. 47-10-1 (a)(2)(P).”

(46) “§ 816.71” and “§ 816.71(f)(3)” shall be replaced by “K.A.R. 47-9-1 (c)(22).”

(47) “§ 816.81” shall be replaced by “K.A.R. 47-9-1 (c)(25).”

(48) “[T]his title” shall be replaced by “the 30 CFR.”

(49) “§ 785.18 of this chapter” shall be replaced by “K.A.R. 47-3-42 (a)(41).”

(50) “§§ 816.71 through 816.74,” “§§ 816.71 through 816.74 of this part” and “§§ 816.71 - 816.74 of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(22) through (23).”

(51) “§§ 816.81 and 816.83” shall be replaced by “K.A.R. 47-9-1 (c)(25) and (26).”

(52) “§§ 816.49 and 816.56” and “§§ 816.49 and 816.56 of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(12) and (13).”

(53) “§816.105” shall be replaced by “K.A.R. 47-9-1 (c)(37).”

(54) “§ 816.106” shall be replaced by “K.A.R. 47-9-1 (c)(38).”

(55) “§§ 816.102 through 816.107 of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(35) through (38).”

(56) ([P]art 823 of this chapter” shall be replaced by “K.A.R. 47-9-1 (f).”

(57) “§ 701.5 of this chapter” shall be replaced by “K.A.R. 47-2-75 (b).”

(58) “§§ 816.41 through 816.43 and 816.57 of this chapter” and “§ 816.41 through 816.43 and 816.57 of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(6) through (8) and (14).”

(59) “§§ 816.22 and 816.111 through 816.116 of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(5) and (39) through (42).”

(60) “[S]ection 816.150” shall be replaced by “K.A.R. 47-9-1 (c)(46).”

(61) “§ 780.37(c) of this chapter” shall be replaced by “K.A.R. 47-3-42 (a)(37).”

(62) “§ 817.57” and “30 CFR 817.57” shall be replaced by “K.A.R. 47-9-1 (d)(14).”

(63) “§ 817.22,” “§ 817.22 of this chapter,” “§ 817.22 of this part,” and “§ 817.22(b)” shall be replaced by “K.A.R. 47-9-1 (d)(5).”

(64) “§ 817.41 of this part,” “§ 817.41,” “30 CFR 817.41,” “§ 817.41(h),” and “§ 817.41 (j)” shall be replaced by “K.A.R. 47-9-1 (d)(6).”

(65) “§ 817.13” shall be replaced by “K.A.R. 47-9-1 (d)(2).”

(66) “§§ 817.111, 817.113, 817.114, and 817.116 of this chapter” shall be replaced by “K.A.R. 47-9-1 (d)(35), (36), (37), and (38).”

(67) “§ 784.14(g) of this chapter,” “§ 784.14(h) of this chapter,” and “§ 784.14(i) of this chapter” shall be replaced by “K.A.R. 47-10-1 (a)(2)(E).”

(68) “§§ 817.13 and 817.15” shall be replaced by “K.A.R. 47-9-1 (d)(2) and (4).”

(69) “§§ 817.13 to 817.15” shall be replaced by “K.A.R. 47-9-1 (d)(2) to (4).”

(70) “§ 817.42” shall be replaced by “K.A.R. 47-9-1 (d)(7).”

(71) “§§ 780.21 and 784.14 of this chapter” shall be replaced by “K.A.R. 47-3-42 (a)(28) and K.A.R. 47-10-1 (a)(2)(E).”

(72) “§§ 780.21 and 784.22 of this chapter” shall be replaced by “K.A.R. 47-3-42 (a)(28) and K.A.R. 47-10-1 (a)(2)(M).”

(73) “§ 817.46” shall be replaced by “K.A.R. 47-9-1 (d)(10).”

(74) “§ 817.111” and “§ 817.111(b)” shall be replaced by “K.A.R. 47-9-1 (d)(35).”

(75) “§ 817.102,” “§ 817.102 (c), (e) through (h), and (j),” and “§ 817.102(a) (1) and (2)” shall be replaced by “K.A.R. 47-9-1 (d)(33).”

(76) “§ 784.16(a) of this chapter” and “§ 784.16(c)(3)” shall be replaced by “K.A.R. 47-10-1 (a)(2)(G).”

(77) “§ 817.49 of this chapter,” “§ 817.49(a)(9),” and “§ 817.49(a) and (c)” shall be replaced by “K.A.R. 47-9-1 (d)(12).”

(78) “§§ 817.111 through 817.116 of this chapter” and “§§ 817.111 through 817.116” shall be replaced by “K.A.R. 47-9-1 (d)(35) through (38).”

(79) “§§ 817.22 and 817.111 through 817.116 of this chapter” shall be replaced by “K.A.R. 47-9-1 (d)(5) and (35) through (38).”

(80) “§ 817.84 of this chapter” shall be replaced by “K.A.R. 47-9-1 (d)(26).”

(81) “§ 817.43” shall be replaced by “K.A.R. 47-9-1 (d)(8).”

(82) “§ 817.11” shall be replaced by “K.A.R. 47-9-1 (d)(1).”

(83) “Sections 817.61-817.68” shall be replaced by “K.A.R. 47-9-1 (d)(16)-(21).”

(84) “§ 817.67” and “§ 817.67 (e)” shall be replaced by “K.A.R. 47-9-1 (d)(20).”

(85) “§ 817.68(p)” shall be replaced by “K.A.R. 47-9-1 (d)(21).”

(86) “§ 817.64(a)” shall be replaced by “K.A.R. 47-9-1 (d)(18).”

(87) “§ 817.66(c)” shall be replaced by “K.A.R. 47-9-1 (d)(19).”

(88) “§ 784.19 of this chapter” shall be replaced by “K.A.R. 47-10-1 (a)(2)(J).”

(89) “§ 817.83” shall be replaced by “K.A.R. 47-9-1 (d)(25).”

(90) “§ 817.71” and “§ 817.71(f)(3)” shall be replaced by “K.A.R. 47-9-1 (d)(22).”

(91) “§ 817.81” shall be replaced by “K.A.R. 47-9-1 (d)(24).”

(92) “§§ 817.71 through 817.74” and “§§ 817.71 through 817.74 of this chapter” shall be replaced by “K.A.R. 47-9-1 (d)(22) and (23).”

(93) “§§ 817.81 and 817.83” shall be replaced by “K.A.R. 47-9-1 (d)(24) and (25).”

(94) “§§ 817.49 and 817.56” shall be replaced by “K.A.R. 47-9-1 (d)(12) and (13).”

(95) “§816.104” shall be replaced by “K.A.R. 47-9-1 (c)(36).”

(96) “§ 817.106” shall be replaced by “K.A.R. 47-9-1 (d)(34).”

(97) “§ 817.116” shall be replaced by “K.A.R. 47-9-1 (d)(38).”

(98) “§§ 817.102 through 817.107 of this chapter” shall be replaced by “K.A.R. 47-9-1 (d)(33) and (34).”

(99) “§ 784.20 of this chapter” and “§ 784.20(a) of this chapter” shall be replaced by “K.A.R. 47-10-1 (a)(2)(K).”

(100) “§ 773.6(d) of this chapter” shall be replaced by “K.A.R. 47-3-42 (a)(46).”

(101) “§§ 817.41 through 817.43 and 817.57 of this chapter” shall be replaced by “K.A.R. 47-9-1 (d)(6) through (8) and (14).”

(102) “§ 817.150” shall be replaced by “K.A.R. 47-9-1 (d)(44).”

(103) “§ 784.24(c)” shall be replaced by “K.A.R. 47-10-1 (a)(2)(O).”

(104) “30 CFR 817.133” and “30 CFR 817.133(a)” shall be replaced by “K.A.R. 47-9-1 (d)(43).”

(105) “30 CFR 784.15(a)(2)” shall be replaced by “K.A.R. 47-10-1 (a)(2)(F).”

(106) “30 CFR part 773 and 775” shall be replaced by “K.A.R. 47-3-42 (a)(47) through (64), and K.S.A. 49-407 (d), 49-416a, 49-422a, and amendments thereto, and article 4 of these regulations.”

(107) “§ 816.59 of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(15).”

(108) “§§ 816.41 and 816.42 of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(6) and (7).”

(109) “§ 817.121 (a) and (c) of this chapter” shall be replaced by “K.A.R. 47-9-1 (d)(39).”

(110) “§§ 816.102 and 816.104 through 816.106 of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(35) and (36) through (38).”

(111) “§ 816.79 of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(24).”

(112) “§ 785.17 and subchapter J of this chapter” shall be replaced by “K.A.R. 47-3-42 (a)(40) and article 8 of these regulations.”

(113) “§ 785.17(a) of this chapter” shall be replaced by “K.A.R. 47-3-42 (a)(40).”

(114) “§ 823.14(b)” shall be replaced by “K.A.R. 47-9-1 (f)(4).”

(115) “§ 816.22 or § 817.22 of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(5) or K.A.R. 47-9-1 (d)(5).”

(116) “§ 823.12(c)(2)” and “§ 823.12(c)(1)” shall be replaced by “K.A.R. 47-9-1 (f)(3).”

(117) “§ 785.21 of this chapter” shall be replaced by “K.A.R. 47-3-42 (a)(43).”

(118) “§ 827.13 of this part” shall be replaced by “K.A.R. 47-9-1 (g)(3).”

(119) “§ 816.45 through 816.47 of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(9) through (11).”

(120) “§§ 816.81, 816.83, 816.84, 816.87, 816.89, and 816.71 through 816.74 of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(25), (26), (27), (28), (29), and (22) through (23).”

(121) “§ 816.97 of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(31).”

(122) “§ 816.181 of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(49).”

(123) “§§ 816.150 and 816.151 of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(46) and (47).”

(124) “§§ 816.131 and 816.132 of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(43) and (44).”

(125) “§§ 816.22, 816.100, 816.102, 816.104, 816.106, 816.111, 816.113, 816.114, 816.116, and 816.133 of this chapter” shall be replaced by “K.A.R. 47-9-1 (c)(5), (33), (35), (36), (38), (39), (40), (41), (42), and (45).”

(127) “§ 827.12” shall be replaced by “K.A.R. 47-9-1 (g)(2).”

(128) “30 CFR 785.22” shall be replaced by “K.A.R. 47-3-42 (a)(44).” (Authorized by K.S.A. 49-405; implementing K.S.A. 49-405, 49-408, 49-409, 49-411, 49-413, 49-415, and 49-429; effective May 1, 1980; amended, E-81-30, Oct. 8, 1980; amended May 1, 1981; amended May 1, 1985; amended May 1, 1986; amended May 1, 1988; amended Feb. 11, 1991; amended May 2, 1997; amended July 31, 1998; amended Dec. 1, 2006.)

47-9-4. Interim performance standards; adoption by reference. (a) The following regulations as in effect on July 1, 2001 are adopted by reference, except as indicated in this regulation:

(1) Definitions, 30 CFR 710.5, except that in subsection (2)(i), the word “Act” shall refer to the federal government’s surface mining control and reclamation act;

(2) applicability, 30 CFR 710.11 (a), deleting subsection (a)(1) and the phrase “except as provided in § 710.12 of this part”;

(3) signs and markers, 30 CFR 715.12;

(4) postmining use of land, 30 CFR 715.13, deleting the last sentence in (d);

(5) backfilling and grading, 30 CFR 715.14, deleting subsections (b)(3) and (c);

(6) disposal of excess spoil, 30 CFR 715.15, deleting subsection (c);

(continued)

- (7) topsoil handling, 30 CFR 715.16;
- (8) protection of the hydrologic system, 30 CFR 715.17, deleting subsection (j);
- (9) dams constructed of or impounding waste material, 30 CFR 715.18;
- (10) revegetation, 30 CFR 715.20;
- (11) interpretative rules related to general performance standards, 30 CFR 715.200; and
- (12) prime farmland, 30 CFR 716.7.

(b) The following phrases and citations shall be replaced with the phrases and citations specified in this subsection wherever the phrases and citations appear in the federal regulations adopted by reference in this regulation:

(1) "[T]his part," "§ 716.2 of this chapter," "part 715 of this chapter," "this section," and "this chapter" shall be replaced by "these regulations."

(2) "Act" shall be replaced by "state act."

(3) "[S]ubchapter B of this chapter" shall be replaced by "K.A.R. 47-9-4."

(4) "Subchapter K of this chapter" shall be replaced by "K.A.R. 47-9-1."

(5) "§ 715.17," "§ 715.17 of this part," "§ 715.17(a)," and "§ 715.17(c)" shall be replaced by "K.A.R. 47-9-4 (a)(8)."

(6) "§ 715.16," "§ 715.16(c)," "§ 715.16(a)(4)," and "30 CFR 715.16(a)(4)(i)" shall be replaced by "K.A.R. 47-9-4 (a)(7)."

(7) "§ 715.13" shall be replaced by "K.A.R. 47-9-4 (a)(4)."

(8) "§ 715.20" and "§ 715.20(g)" shall be replaced by "K.A.R. 47-9-4 (a)(10)."

(9) "§ 715.14," "§ 715.14(b)(2)," and "§ 715.14(j)" shall be replaced by "K.A.R. 47-9-4 (a)(5)."

(10) "§§ 715.14 and 715.20" shall be replaced by "K.A.R. 47-9-4 (a)(5) and (10)."

(11) "§ 715.12" shall be replaced by "K.A.R. 47-9-4 (a)(3)."

(12) "§§ 715.14, 715.16, and 715.20" shall be replaced by "K.A.R. 47-9-4 (a)(5), (7), and (10)."

(13) "§ 715.18" shall be replaced by "K.A.R. 47-9-4 (a)(9)."

(14) "§§ 715.13 and § 715.14" shall be replaced by "K.A.R. 47-9-4 (a)(4) and (5)."

(15) "§ 716.7" shall be replaced by "K.A.R. 47-9-4 (a)(12)."

(16) "§ 715.15 of this part" shall be replaced by "K.A.R. 47-9-4 (a)(6)."

(c) Each operator shall comply with the interim performance standards in an interim permit area, unless the secretary has approved, in writing, that operator's request to adhere to an applicable permanent program performance standard or other applicable substantive regulation. (Authorized by and implementing K.S.A. 49-405; effective May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997; amended Dec. 1, 2006.)

Article 10.—UNDERGROUND MINING

47-10-1. Adoption by reference; underground mining. (a) The following federal regulations, as in effect

on July 1, 2001, are adopted by reference, except as otherwise indicated in this regulation:

(1) Underground mining permit applications — minimum requirements for information on environmental resources, 30 CFR Part 783:

(A) Responsibilities, 30 CFR 783.4;

(B) general requirements, 30 CFR 783.11;

(C) general environmental resources information, 30 CFR 783.12;

(D) climatological information, 30 CFR 783.18;

(E) vegetation information, 30 CFR 783.19;

(F) soil resources information, 30 CFR 783.21;

(G) maps: general requirements, 30 CFR 783.24; and

(H) cross sections, maps, and plans, 30 CFR 783.25;

(2) underground mining permit applications — minimum requirements for reclamation and operation plan, 30 CFR Part 784:

(A) Responsibilities, 30 CFR 784.4;

(B) operation plan: general requirements, 30 CFR 784.11;

(C) operation plan: existing structures, 30 CFR 784.12;

(D) reclamation plan: general requirements, 30 CFR 784.13;

(E) hydrologic information, 30 CFR 784.14;

(F) reclamation plan: land use information, 30 CFR 784.15;

(G) reclamation plan: siltation structures, impoundments, banks, dams, and embankments, 30 CFR 784.16;

(H) protection of public parks and historic places, 30 CFR 784.17;

(I) relocation or use of public roads, 30 CFR 784.18;

(J) underground development waste, 30 CFR 784.19;

(K) subsidence control plan, 30 CFR 784.20, deleting the phrase "as described in § 817.121(c)(4) of this chapter";

(L) fish and wildlife information, 30 CFR 784.21;

(M) geologic information, 30 CFR 784.22;

(N) operation plan: maps and plans, 30 CFR 784.23;

(O) road systems, 30 CFR 784.24;

(P) return of coal processing waste to abandoned underground workings, 30 CFR 784.25;

(Q) air pollution control plan, 30 CFR 784.26;

(R) diversions, 30 CFR 784.29;

(S) support facilities, 30 CFR 784.30; and

(T) interpretive rules related to general performance standards, 30 CFR 784.200.

(b) The following phrases and citations shall be replaced with the phrases and citations specified in this subsection wherever the phrases and citations appear in the text of the federal regulations adopted by reference in this regulation:

(1) "[S]ubchapter K of this chapter" and "subchapter K (Permanent Program Standards) of this chapter" shall be replaced by "K.A.R. 47-9-1."

(2) "[S]ubchapter B (Interim Program Standards) of this chapter" shall be replaced by "K.A.R. 47-9-4."

(3) "Sections 515 and 516 of the Act" shall be replaced by "K.S.A. 49-405a, 49-408 through 49-413, and 49-429."

(4) "[S]ubchapter J of this chapter" shall be replaced by "article 8 of these regulations."

(5) "[T]his chapter," "this section," "subchapter," and "this part" shall be replaced by "these regulations."

(6) "30 CFR Parts 773 and 775" shall be replaced by "K.A.R. 47-3-42 (a)(46) through (64), K.A.R. 47-6-6, K.S.A. 49-407 (d), K.S.A. 49-416a, and K.S.A. 49-422a, and amendments thereto, and article 4 of these regulations."

(7) "30 CFR 784.21" shall be replaced by "K.A.R. 47-10-1 (a)(2)(L)."

(8) "30 CFR 817.22," "§ 817.22 of the chapter," and "§ 817.22(b) of this chapter" shall be replaced by "K.A.R. 47-9-1 (d)(5)."

(9) "§ 817.133," "30 CFR 817.133," and "§ 817.133(a)" shall be replaced by "K.A.R. 47-9-1 (d)(43)."

(10) "30 CFR 784.13 through 784.26" shall be replaced by "K.A.R. 47-10-1 (a)(2)(D) through (Q)."

(11) "30 CFR 817.102 through 817.107" shall be replaced by "K.A.R. 47-9-1 (d)(33) and (34)."

(12) "30 CFR 817.111 through 817.116" shall be replaced by "K.A.R. 47-9-1 (d)(35) and (38)."

(13) "30 CFR 817.116" shall be replaced by "K.A.R. 47-9-1 (d)(38)."

(14) "30 CFR 817.59" shall be replaced by "K.A.R. 47-9-1 (d)(15)."

(15) "30 CFR 817.89 and 817.102" shall be replaced by "K.A.R. 47-9-1 (d)(28) and (33)."

(16) "30 CFR 817.13-817.15" shall be replaced by "K.A.R. 47-9-1 (d)(2) and (4)."

(17) "[P]art 817 of this chapter" shall be replaced by "K.A.R. 47-9-1 (d)."

(18) "§§ 817.41 to 817.43" shall be replaced by "K.A.R. 47-9-1 (d)(6) through (8)."

(19) "§§ 817.81 through 817.84 of this chapter" and "30 CFR 817.81 through 817.84" shall be replaced by "K.A.R. 47-9-1 (d)(24) through (26)."

(20) "§ 761.16 of this chapter" shall be replaced by "K.A.R. 47-12-4 (a)(6)."

(21) "§ 761.17(d) of this chapter" shall be replaced by "K.A.R. 47-12-4 (a)(7)."

(22) "§ 761.14 of this chapter" shall be replaced by "K.A.R. 47-12-4 (a)(4)."

(23) "30 CFR 817.71 through 817.74" shall be replaced by "K.A.R. 47-9-1 (d)(22) and (23)."

(24) "30 CFR 780.35" shall be replaced by "K.A.R. 47-3-42 (a)(36)."

(25) "§ 817.121(c) of this chapter" and "§ 817.121 of this chapter" shall be replaced by "K.A.R. 47-9-1 (d)(39)."

(26) "§§ 817.41(j) and 817.121(c) of this chapter" shall be replaced by "K.A.R. 47-9-1 (d)(6) and (39)."

(27) "§ 817.97 of this chapter" shall be replaced by "K.A.R. 47-9-1 (d)(30)."

(28) "§ 784.20" shall be replaced by "K.A.R. 47-10-1 (a)(2)(K)."

(29) "§ 783.25 of this chapter" shall be replaced by "K.A.R. 47-10-1 (a)(1)(H)."

(30) "30 CFR 783.24 and 783.25" shall be replaced by "K.A.R. 47-10-1 (a)(1)(G) and (H)."

(31) "§ 784.15" and "§ 784.15(a)(2)" shall be replaced by "K.A.R. 47-10-1 (a)(2)(F)."

(32) "30 CFR 784.16" shall be replaced by "K.A.R. 47-10-1 (a)(2)(G)."

(33) "30 CFR 784.19" shall be replaced by "K.A.R. 47-10-1 (a)(2)(J)."

(34) "§§ 784.16(a)(2), 784.16(a)(3), 784.19, 817.71(b), 817.73(c), 817.74(c), and 817.81(c) of this chapter" shall be

replaced by "K.A.R. 47-10-1 (a)(2)(G) and (J), and K.A.R. 47-9-1 (d)(22), (23), and (24)."

(35) "§ 701.5 of this chapter" shall be replaced by "K.A.R. 47-2-75 (b)."

(36) "§ 817.150(d)(1) of this chapter" shall be replaced by "K.A.R. 47-9-1 (d)(44)."

(37) "§ 817.151(c)(2) of this chapter," "§ 817.151(d)(5) of this chapter," "§ 817.151(d)(6) of this chapter," and "§ 817.151(b) of this chapter" shall be replaced by "K.A.R. 47-9-1 (d)(45)."

(38) "30 CFR 817.81(f)" shall be replaced by "K.A.R. 47-9-1 (d)(24)."

(39) "30 CFR 817.95" shall be replaced by "K.A.R. 47-9-1 (d)(29)."

(40) "30 CFR 817.81(f)" shall be replaced by "K.A.R. 47-9-1 (d)(24)."

(41) "§ 817.43 of this chapter" shall be replaced by "K.A.R. 47-9-1 (d)(8)."

(42) "§ 817.181 of this chapter" shall be replaced by "K.A.R. 47-9-1 (d)(47)."

(43) "[P]art 784 of this chapter" shall be replaced by "K.A.R. 47-10-1 (a)(2)."

(44) "§ 774.13" shall be replaced by "K.A.R. 47-6-2."

(45) "§ 817.49 of this chapter" and "§ 817.49(a)(4)(ii) of this chapter" shall be replaced by "K.A.R. 47-9-1 (d)(12)."

(46) "§ 817.46 of this chapter" shall be replaced by "K.A.R. 47-9-1 (d)(10)." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-429; effective May 1, 1980; amended, E-81-30, Oct. 8, 1980; amended May 1, 1981; amended May 1, 1986; amended May 1, 1988; amended Feb. 11, 1991; amended May 2, 1997; amended Dec. 1, 2006.)

Article 11.—SMALL OPERATOR ASSISTANCE PROGRAM

47-11-8. Small operator assistance program; adoption by reference. (a) The following federal regulations, as in effect on July 1, 2001, are adopted by reference, except as otherwise indicated in this regulation:

- (1) Definitions, 30 CFR 795.3;
- (2) eligibility for assistance, 30 CFR 795.6;
- (3) filing for assistance, 30 CFR 795.7;
- (4) application approval and notice, 30 CFR 795.8;
- (5) program services and data requirements, 30 CFR 795.9;
- (6) qualified laboratories, 30 CFR 795.10;
- (7) assistance funding, 30 CFR 795.11; and
- (8) applicant liability, 30 CFR 795.12.

(b) The following phrases and citations shall be replaced with the phrases and citations specified in this subsection wherever the phrases and citations appear in the text of the federal regulations adopted by reference in this regulation:

- (1) "Act" shall be replaced by "state act."
- (2) "[T]his chapter" and "this section" shall be replaced by "these regulations."
- (3) "This part" shall be replaced by "K.A.R. 47-11-8."
- (4) "§ 795.9" and "§ 795.9(b)" shall be replaced by "K.A.R. 47-11-8 (a)(5)."

(continued)

(5) "§ 795.10" shall be replaced by "K.A.R. 47-11-8 (a)(6)."

(6) "§ 795.6" shall be replaced by "K.A.R. 47-11-8 (a)(2)."

(7) "§§ 780.21(f), 784.14(e)" shall be replaced by "K.A.R. 47-3-42 (a)(28) and K.A.R. 47-10-1 (a)(2)(E)."

(8) "§§ 780.22(b) and 784.22(b)" shall be replaced by "K.A.R. 47-3-42 (a)(29) and K.A.R. 47-10-1 (a)(2)(M)."

(9) "§§ 779.25 and 783.25" shall be replaced by "K.A.R. 47-3-42 (a)(19) and K.A.R. 47-10-1 (a)(1)(H)."

(10) "§§ 779.12(b) and 783.12(b) and §§ 780.31 and 784.17" shall be replaced by "K.A.R. 47-3-42 (a)(14) and K.A.R. 47-10-1 (a)(1)(C) and K.A.R. 47-3-42 (a)(34) and K.A.R. 47-10-1 (a)(2)(H)."

(11) "§§ 780.16 and 784.21" shall be replaced by "K.A.R. 47-3-42 (a)(26) and K.A.R. 47-10-1 (a)(2)(L)."

(12) "§ 780.13" shall be replaced by "K.A.R. 47-3-42 (a)(23)."

(13) "§ 773.6(d) of this chapter" shall be replaced by "K.A.R. 47-3-42 (a)(46)."

(14) "§§ 780.21, 780.22, 784.14, and 784.22" shall be replaced by "K.A.R. 47-3-42 (a)(28) and (29), and K.A.R. 47-10-1 (a)(2)(E) and (M)." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-406; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997; amended Dec. 1, 2006.)

Article 12.—LANDS UNSUITABLE FOR SURFACE MINING

47-12-4. Lands unsuitable for surface mining; adoption by reference. (a) The following federal regulations, as in effect on July 1, 2001, are adopted by reference, except as otherwise indicated in this regulation:

(1) Definitions, 30 CFR 761.5, except that the statement "*we, us, and our* refer to the office of surface mining reclamation and enforcement" shall be replaced by "*we, us, and our* refer to the Kansas department of health and environment" and the phrase "or its State program counterpart" shall be deleted;

(2) areas where mining is prohibited or limited, 30 CFR 761.11, deleting subsection (b);

(3) procedures, 30 CFR 761.12, deleting subsection (b);

(4) procedures for relocating or closing a public road or waiving the prohibition on surface coal mining operations within the buffer zone for public roads, 30 CFR 761.14;

(5) procedures for waiving the prohibition on surface coal mining operations within the buffer zone of an occupied dwelling, 30 CFR 761.15;

(6) submission and processing of requests for valid existing rights determinations, 30 CFR 761.16;

(7) regulatory authority obligations at time of permit application review, 30 CFR 761.17;

(8) interpretive rule related to subsidence due to underground coal mining in areas designated by act of congress, 30 CFR 761.200;

(9) definitions, 30 CFR 762.5;

(10) criteria for designating lands as unsuitable, 30 CFR 762.11;

(11) additional criteria, 30 CFR 762.12. "Secretary" shall mean the "secretary of the United States department of interior";

(12) land exempt from designation as unsuitable for surface coal mining operations, 30 CFR 762.13;

(13) applicability to lands designated as unsuitable by congress, 30 CFR 762.14;

(14) exploration on land designated as unsuitable for surface coal mining operations, 30 CFR 762.15;

(15) petitions, 30 CFR 764.13;

(16) initial processing, recordkeeping, and notification requirements, 30 CFR 764.15;

(17) hearing requirements, 30 CFR 764.17;

(18) decision, 30 CFR 764.19;

(19) data base and inventory system requirements, 30 CFR 764.21;

(20) public information, 30 CFR 764.23; and

(21) regulatory authority responsibility for implementation, 30 CFR 764.25.

(b) The following phrases and citations shall be replaced with the phrases and citations specified in this subsection wherever the phrases and citations appear in the text of the federal regulations adopted by reference in this regulation:

(1) "§§ 775.11 and 775.13 of this chapter" shall be replaced by "K.S.A. 49-407 (d), K.S.A. 49-416a, K.S.A. 49-422a, and amendments thereto, and article 4 of these regulations."

(2) "[S]ections 522(a) (2) and (3) of the Act" shall be replaced by "K.S.A. 49-405b (a)(1) and (2), and amendments thereto."

(3) "[T]his chapter" shall be replaced by "these regulations."

(4) "[S]ection 526(e) of the Act and § 775.13 of this chapter" shall be replaced by "K.S.A. 49-422a and K.S.A. 49-426, and amendments thereto."

(5) "[S]ection 522 of the Act" and "section 522 (e) of the Act" shall be replaced by "K.S.A. 49-405b, and amendments thereto."

(6) "[S]ection 701(28) of the act" shall be replaced by "K.S.A. 49-403(r), and amendments thereto."

(7) "[P]art 761, 762, or 764 of this chapter" shall be replaced by "K.A.R. 47-12-4."

(8) "[P]art 772 of this chapter" shall be replaced by "K.A.R. 47-7-2."

(9) "Act" shall be replaced by "state act."

(10) "[T]his part" and "this subchapter" shall be replaced by "K.A.R. 47-12-4."

(11) "[S]ubchapter G of this chapter" shall be replaced by "K.A.R. 47-3-42, K.A.R. 47-6-2, K.A.R. 47-6-3, K.A.R. 47-6-4, and K.A.R. 47-7-2."

(12) "30 U.S.C. 1272(e) and § 761.11" shall be replaced by "K.S.A. 49-405b and 49-406 (f), and amendments thereto and K.A.R. 47-12-4 (a)(2)."

(13) "§ 761.11 and 30 U.S.C. 1272(e)" shall be replaced by "K.A.R. 47-12-4 (a)(2) and K.S.A. 49-405b and 49-406 (f), and amendments thereto."

(14) "§ 761.11 or 30 U.S.C. 1272(e)" shall be replaced by "K.A.R. 47-12-4 (a)(2) or K.S.A. 49-405b and 49-406 (f), and amendments thereto."

(15) "30 U.S.C. 1272(e) or § 761.11" shall be replaced by "K.S.A. 49-405b and 49-406 (f), and amendments thereto or K.A.R. 47-12-4 (a)(2)."

(16) “[S]ection 701(28) of the Act and § 700.5 of this chapter” shall be replaced by “K.S.A. 49-403(r), and amendments thereto and K.A.R. 47-2-75(a).”

(17) “§ 779.24(c) or § 783.24(c)” shall be replaced by “K.A.R. 47-3-42 (a)(18) or K.A.R. 47-10-1(a)(1)(G).”

(18) “§ 700.5 of this chapter” shall be replaced by “K.A.R. 47-2-75(a).”

(19) “Federal Register” shall be replaced by “Kansas Register.”

(20) “§ 773.13(d) of this chapter” shall be replaced by “K.A.R. 47-3-42 (a)(53).”

(21) “§ 840.14 or § 842.16 of this chapter” shall be replaced by “K.A.R. 47-15-1a (a)(2).”

(22) “§ 761.11,” “§ 761.11 of this chapter,” “§ 761.11(d)(1),” “§ 761.11(e)(2),” “§ 761.11(a) or (b),” “§ 761.11(c),” “§ 761.11(a),” and “§ 761.11(f) or (g)” shall be replaced by “K.A.R. 47-12-4 (a)(2).”

(23) “§ 761.12” shall be replaced by “K.A.R. 47-12-4 (a)(3).”

(24) “§ 761.16” shall be replaced by “K.A.R. 47-12-4 (a)(6).”

(25) “§ 761.17(d)” shall be replaced by “K.A.R. 47-12-4 (a)(7).”

(26) “§ 761.14” shall be replaced by “K.A.R. 47-12-4 (a)(4).”

(27) “§ 761.15” shall be replaced by “K.A.R. 47-12-4 (a)(5).”

(28) “Subchapter B of this chapter” shall be replaced by “K.A.R. 47-9-4.”

(29) “§ 761.5” shall be replaced by “K.A.R. 47-12-4 (a)(1).”

(30) “§§ 761.13 through 761.15” shall be replaced by “K.A.R. 47-12-4 (a)(4) and (5).”

(31) “[P]arts 764 and 769 of this chapter shall be replaced by “K.A.R. 47-12-4 (a)(15) through (21).”

(32) “§ 762.11(b) of this chapter,” “§ 762.11(a) of this chapter,” and “§ 762.11 of this chapter” shall be replaced by “K.A.R. 47-12-4 (a)(10).”

(33) “§ 764.13 (b) or (c)” and “§ 764.13(a)” shall be replaced by “K.A.R. 47-12-4 (a)(15).”

(34) “§ 764.17” and “§ 764.17(e)” shall be replaced by “K.A.R. 47-12-4 (a)(17).”

(35) “§ 764.21” shall be replaced by “K.A.R. 47-12-4 (a)(19).” (Authorized by K.S.A. 49-405; implementing K.S.A. 49-405b, 49-422a, and 49-426; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended May 1, 1986; amended May 1, 1988; amended Feb. 11, 1991; amended May 2, 1997; amended Dec. 1, 2006.)

Article 13.—TRAINING, CERTIFICATION, AND RESPONSIBILITIES OF BLASTERS AND OPERATORS

47-13-4. Training and certification of blasters; adoption by reference. (a) The following portions of the permanent program performance standards — standards for certification of blasters, CFR part 850, as in effect on July 1, 2001, are hereby adopted by reference and altered as specified in this regulation:

- (1) Definitions, 30 CFR 850.5;
- (2) training, 30 CFR 850.13;

(3) examination, 30 CFR 850.14, except that for the purposes of this section only, the term “regulatory authority” shall be replaced by “secretary-approved blaster training program director”; and

(4) certification, 30 CFR 850.15, except that for the purposes of 30 CFR 850.15(a) only, “regulatory authority” shall be replaced by “state fire marshal.”

(b) The following phrase and citation shall be replaced with the phrase and citation specified in this subsection wherever the phrase and citation appear in the text of the federal regulations adopted by reference in this regulation:

(1) “§ 850.13(b)” shall be replaced by “K.A.R. 47-13-4 (a)(2).”

(2) “[T]his part” shall be replaced by “these regulations.”

(c) The term “secretary-approved blaster training program director” shall mean the person who is in charge of a given blaster training program that has been specifically approved by the secretary as being in accordance with the state act, the regulations, and the state program. (Authorized by and implementing K.S.A. 49-405 and 49-405a; effective May 1, 1985; amended Feb. 11, 1991; amended May 2, 1997; amended Dec. 1, 2006.)

Article 14.—EMPLOYEE FINANCIAL INTERESTS

47-14-7. Employee financial interest; adoption by reference. (a) The following federal regulations, as in effect on July 1, 2001, are adopted by reference, except as otherwise indicated in this regulation:

(1) Responsibility, 30 CFR 705.4 (a) and (c), deleting subsection (b);

(2) penalties, 30 CFR 705.6 (b), deleting subsection (a);

(3) who shall file, 30 CFR 705.11 (a), (b), (c), and (d), deleting subsection (e);

(4) when to file, 30 CFR 705.13;

(5) where to file, 30 CFR 705.15;

(6) what to report, 30 CFR 705.17;

(7) gifts and gratuities, 30 CFR 705.18;

(8) resolving prohibited interests, 30 CFR 705.19 (a), deleting subsection (b); and

(9) appeals procedures, 30 CFR 705.21.

(b) The following phrases and citations shall be replaced with the phrases and citations specified in this subsection wherever the phrases and citations appear in the text of the federal regulations adopted by reference in this regulation:

(1) “Act” shall be replaced by the term “state act,” except in 30 CFR 705.6(d), where the term “Act” shall mean “the surface mining control and reclamation act of 1977, Pub. L. 95-87.”

(2) “Head of each State Regulatory Authority” and “Head of the State Regulatory Authority” shall be replaced by the term “secretary of the Kansas department of health and environment.”

(3) “[T]his section” and “this part” shall be replaced by “these regulations.”

(4) “§ 705.11” and “§ 705.11 (b), (c), and (d)” shall be replaced by “K.A.R. 47-14-7 (a)(3).”

(5) “§ 705.13(a)” shall be replaced by “K.A.R. 47-14-7 (a)(4).”

(continued)

- (6) "§ 705.6(a)" shall be replaced by "K.S.A. 49-404."
 (7) "§ 705.19" shall be replaced by "K.A.R. 47-14-7(a)(8)."
 (8) "[S]ection 517(g) of the Act" and "section 517(g)" shall be replaced by "K.S.A. 49-404, and amendments thereto." (Authorized by K.S.A. 49-404; implementing K.S.A. 49-405; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended Feb. 11, 1991; amended May 2, 1997; amended Dec. 1, 2006.)

Article 15.—INSPECTION AND ENFORCEMENT

47-15-1a. Inspection and enforcement; adoption by reference. (a) The following regulations as in effect on July 1, 2001 are adopted by reference, except as otherwise indicated in this regulation:

- (1) Inspections by state regulatory authority, 30 CFR 840.11;
- (2) availability of records, 30 CFR 840.14;
- (3) definitions, 30 CFR 843.5;
- (4) right of entry, 30 CFR 840.12;
- (5) compliance conference, 30 CFR 840.16;
- (6) review of adequacy and completeness of inspections, 30 CFR 842.14, except that the phrase "director or his or her designee" shall be replaced by "secretary or secretary's designee";
- (7) review of decision not to inspect or enforce, 30 CFR 842.15;
- (8) cessation orders, 30 CFR 843.11;
- (9) notices of violations, 30 CFR 843.12, except for the following:

(A) In subsection (a) of 30 CFR 843.12, the following phrase shall be deleted: "carried out during the enforcement of a federal program or federal lands program or during federal enforcement of a state program under sections 504 (b) or 521 (b) of the act and part 733 of this chapter"; and

(B) paragraph (a)(2) of 30 CFR 843.12 shall be deleted;

(10) suspension or revocation of permits: pattern of violations, 30 CFR 843.13, except that the phrase "or a federal lands program" in paragraph (a)(4)(i)(A) of 30 CFR 843.13 shall be deleted, and paragraphs (a)(4)(i)(B) and (C) of 30 CFR 843.13 shall be deleted;

(11) service of notices of violation, cessation orders, and show cause orders, 30 CFR 843.14, except that the phrase "Office of Surface Mining office" shall be replaced by "Kansas Department of Health and Environment office";

(12) informal public hearings, 30 CFR 843.15. However, the following sentence in paragraph (e) shall be deleted: "Section 554 of title 5 of the United States code, regarding requirements for formal adjudicatory hearings, shall not govern public hearings";

(13) formal review of citations, 30 CFR 843.16; and

(14) inability to comply, 30 CFR 843.18.

(b) The following phrases and citations shall be replaced with the phrases and citations specified in this subsection wherever the phrases and citations appear in the text of the federal regulations:

- (1) "Act" shall be replaced by "state act."
- (2) "[T]his chapter," "this part," and "this section" shall be replaced by "these regulations."
- (3) "Federal" shall be replaced by "state."

(4) "Office" shall be replaced by "secretary or secretary's designee."

(5) "[D]irector" shall be replaced by "secretary."

(6) "43 CFR part 4" shall be replaced by "K.A.R. 47-4-14a."

(7) "Office of hearings and appeals" shall be replaced by "department."

(8) "30 CFR Part 845" and "part 845 of this chapter" shall be replaced by "article 5 of these regulations."

(9) "43 CFR 4.1281" shall be replaced by "K.A.R. 47-4-14a (a)(1)-(8)."

(10) "[S]ection 521(a)(5) of the Act and § 843.15" shall be replaced by "K.S.A. 49-405 (m)(4), and amendments thereto and K.A.R. 47-15-1a (a)(12)."

(11) "[S]ection 521(a)(2) of the Act" shall be replaced by "K.S.A. 49-405 (m)(1), and amendments thereto."

(12) "[S]ection 517 of the Act and § 842.11" shall be replaced by "K.S.A. 49-404, K.S.A. 49-405, and K.S.A. 49-405d, and amendments thereto."

(13) "[S]ection 518(b), 521(a)(4), or 525 of the Act" shall be replaced by "K.S.A. 49-405c (b), K.S.A. 49-405 (m)(3), or K.S.A. 49-416a, and amendments thereto."

(14) "§ 842.12" shall be replaced by "K.A.R. 47-15-7 and K.A.R. 47-15-8."

(15) "[S]ection 520 of the Act" shall be replaced by "K.S.A. 49-426, and amendments thereto."

(16) "[S]ection 525 of the Act" shall be replaced by "K.S.A. 49-416a, and amendments thereto."

(19) "30 CFR 842.11" or "section 842.11" shall be replaced by "K.A.R. 47-15-1a (a)(1)."

(17) "Director" shall be replaced by "secretary."

(18) "30 CFR 843.15(e)" shall be replaced by the following: "An informal public hearing shall be conducted in accordance with K.A.R. 47-4-14a."

(19) "§ 816.131(b) or § 817.131(b) of this chapter" shall be replaced by "K.A.R. 47-9-1 (c)(43) or (d)(41)."

(20) "§ 800.40 of this chapter" shall be replaced by "K.A.R. 47-8-9 (a)(13)."

(21) "[S]ection 518(e), 518(f), 521(a)(4), or 521(c) of the Act or their regulatory program counterparts" shall be replaced by "K.S.A. 49-405c (e) and (f) and K.S.A. 49-405 (m), and amendments thereto."

(22) "§ 772.15 and 773.6(d) of this chapter" shall be replaced by "K.A.R. 47-7-2 (a)(5) and K.A.R. 47-3-42 (a)(46)."

(23) "§ 843.12(a)" and "§ 843.12(c) and (f)" shall be replaced by "K.A.R. 47-15-1a (a)(9)."

(24) "§ 701.5 of this chapter" shall be replaced by "K.A.R. 47-2-75 (b)."

(25) "§ 843.11" and "§ 843.11(b)" shall be replaced by "K.A.R. 47-15-1a (a)(8)."

(26) "§ 845.15(b)(2) of this chapter" shall be replaced by "K.A.R. 47-5-5a (a)(5)."

(27) "[R]ule 4 of the Federal Rules of Civil Procedure" shall be replaced by "K.A.R. 47-4-14a."

(28) "§ 843.13(c)" shall be replaced by "K.A.R. 47-15-1a (a)(10)."

(29) "[S]ection 517 of the Act and § 840.11" shall be replaced by "K.S.A. 49-404, K.S.A. 49-405, and K.S.A. 49-405d, and amendments thereto and K.A.R. 47-15-1a (a)(1)."

(30) "Freedom of Information Act or other Federal law" shall be replaced by "Kansas Open Records Act or other State law."

(31) "§ 842.12" shall be replaced by "K.A.R. 47-15-8."

(32) "§ 843.11 or § 843.12" shall be replaced by "K.A.R. 47-15-1a (a)(8) and (9)." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-404, 49-405, 49-405c, 49-405d, 49-406, 49-416, 49-416a, and 49-427; effective May 1, 1985; amended May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997; amended Dec. 1, 2006.)

Article 16.—RECLAMATION

47-16-9. Contractor responsibility. (a) Each successful bidder for an abandoned mined-land reclamation project contract shall be eligible under 30 CFR 773.12 (a), as adopted by reference in K.A.R. 47-3-42 (a)(52), at the time of contract award to receive a permit or conditional permit to conduct surface coal mining operations.

(b) Before any contract may be awarded to a bidder, that bidder's eligibility shall be confirmed by the office of surface mining's automated applicant violator system. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-428; effective May 2, 1997; amended July 31, 1998; amended Dec. 1, 2006.)

47-16-10. Exclusion of certain noncoal reclamation sites. (a) Money from the abandoned mined-land fund shall not be used for either of the following:

(1) The reclamation of sites and areas designated for remedial action pursuant to the uranium mill tailings radiation control act of 1978, 42 U.S.C. 7901, et seq. and amendments thereto; or

(2) sites listed for remedial action pursuant to the comprehensive environmental response compensation and liability act of 1980, 42 U.S.C. 9601, et seq. and amendments thereto.

(b)(1) Each successful bidder for an abandoned mined-land contract for noncoal reclamation shall be eligible under 30 CFR 773.12 (a), as adopted by reference in K.A.R. 47-3-42 (a)(52), at the time of contract award to receive a permit or conditional permit to conduct surface coal mining operations.

(2) Bidder eligibility shall be confirmed by the office of surface mining's automated applicant violator system for each contract to be awarded. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-428; effective May 2, 1997; amended July 31, 1998; amended Dec. 1, 2006.)

47-16-12. Surface mining section's procedures for reclamation projects receiving less than 50 percent government funding. 30 CFR 874.17, as in effect on July 1, 2001, is adopted by reference, except that the following terms shall be replaced with the terms specified:

(a) "[P]art 707 of this chapter" and "the part 707 exemption or counterpart State/Indian Tribe laws and regulations" shall be replaced by "K.A.R. 47-6-9."

(b) "30 CFR subchapter R" shall be replaced by "Article 12 of these regulations."

(c) "Title V" and "Title V of SMCRA" shall be replaced by "K.S.A. 49-401 et seq." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-428; effective Dec. 1, 2006.)

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 033729

INDEX TO ADMINISTRATIVE REGULATIONS

This index lists in numerical order the new, amended and revoked administrative regulations and the volume and page number of the *Kansas Register* issue in which more information can be found. Temporary regulations are designated with a (T) in the Action column. This cumulative index supplements the 2003 Volumes and 2005 Supplement of the *Kansas Administrative Regulations*.

AGENCY 1: DEPARTMENT OF ADMINISTRATION

Reg. No.	Action	Register
1-1-1	Amended	V. 24, p. 848
1-2-9	Amended	V. 24, p. 849
1-2-25	Amended	V. 24, p. 849
1-2-25a	New	V. 24, p. 849
1-2-30	Revoked	V. 24, p. 849
1-2-31	Amended	V. 24, p. 849
1-2-43a	New	V. 24, p. 849
1-2-44	Amended	V. 24, p. 849
1-2-46	Amended	V. 24, p. 849
1-2-74	Amended	V. 24, p. 850
1-2-84a	Revoked	V. 24, p. 850
1-2-84b	Revoked	V. 24, p. 850
1-2-97	Amended	V. 24, p. 850
1-3-2	Revoked	V. 24, p. 850
1-4-2	Amended	V. 24, p. 850
1-4-3	Amended	V. 24, p. 850
1-4-5	Amended	V. 24, p. 850
1-4-7	Amended	V. 24, p. 850
1-4-8	Amended	V. 24, p. 851

1-5-8	Amended	V. 24, p. 851
1-5-9	Amended	V. 24, p. 852
1-5-14	Amended	V. 24, p. 852
1-5-15	Amended	V. 24, p. 852
1-5-19c	Amended	V. 24, p. 853
1-5-20	Amended	V. 24, p. 853
1-5-24	Amended	V. 24, p. 853
1-5-30	Amended	V. 24, p. 855
1-6-2	Amended	V. 25, p. 1306
1-6-8	Amended	V. 24, p. 855
1-6-22a	Amended	V. 25, p. 1306
1-6-27	Amended	V. 24, p. 856
1-6-29	Amended	V. 24, p. 856
1-6-32	Amended	V. 24, p. 857
1-7-3	Amended	V. 24, p. 858
1-7-10	Amended	V. 24, p. 858
1-7-11	Amended	V. 24, p. 858
1-7-12	Amended	V. 24, p. 859
1-8-2	Amended	V. 24, p. 859
1-8-3	Amended	V. 24, p. 859
1-8-4	Amended	V. 24, p. 859
1-8-5	Revoked	V. 24, p. 860
1-8-6	Amended	V. 24, p. 860
1-9-1	Amended	V. 24, p. 860
1-9-2	Amended	V. 24, p. 860
1-9-7b	Amended	V. 25, p. 1307
1-9-13	Amended	V. 24, p. 861
1-9-14	Amended	V. 24, p. 861
1-9-19	Amended	V. 24, p. 861
1-9-19a	Amended	V. 24, p. 862
1-9-20	Amended	V. 24, p. 863
1-9-23	Amended	V. 24, p. 863
1-9-27	Revoked	V. 24, p. 865
1-10-6	Revoked	V. 24, p. 865
1-10-7	Revoked	V. 24, p. 865
1-10-10	Revoked	V. 24, p. 865
1-10-11	Revoked	V. 24, p. 865
1-11-1	Amended	V. 24, p. 865

V. 25, p. 1305	
V. 24, p. 852	
V. 24, p. 852	
V. 24, p. 852	
V. 24, p. 853	
V. 24, p. 853	
V. 24, p. 853	
V. 24, p. 855	
V. 25, p. 1306	
V. 24, p. 855	
V. 25, p. 1306	
V. 24, p. 856	
V. 24, p. 856	
V. 24, p. 857	
V. 24, p. 858	
V. 24, p. 859	
V. 24, p. 859	
V. 24, p. 859	
V. 24, p. 860	
V. 25, p. 1307	
V. 24, p. 861	
V. 24, p. 861	
V. 24, p. 862	
V. 24, p. 863	
V. 24, p. 863	
V. 24, p. 865	

1-11-3	Revoked	V. 24, p. 865
1-12-1	Amended	V. 24, p. 865
1-12-2	Amended	V. 24, p. 865
1-13-1a	Amended	V. 24, p. 866
1-13-1b	New	V. 24, p. 866
1-14-8	Amended	V. 24, p. 866
1-14-11	Amended	V. 24, p. 868

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
4-15-7	Amended	V. 24, p. 550
4-15-8	Amended	V. 24, p. 550
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

(continued)

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
4-28-1 through 4-28-7	New	V. 24, p. 145, 146

AGENCY 5: DEPARTMENT OF AGRICULTURE—DIVISION OF WATER RESOURCES

Reg. No.	Action	Register
5-16-1	Amended	V. 24, p. 1850
5-16-5	Amended	V. 24, p. 1850

AGENCY 7: SECRETARY OF STATE

Reg. No.	Action	Register
7-17-22	Amended (T)	V. 25, p. 1305
7-34-2	New (T)	V. 24, p. 42
7-34-2	New	V. 24, p. 332
7-41-1	Amended	V. 24, p. 1244
7-41-14 through 7-41-33	New	V. 24, p. 1245-1249
7-42-1 through 7-42-5	New	V. 24, p. 1469, 1470
7-43-1 through 7-43-6	New	V. 24, p. 1829, 1830

AGENCY 9: ANIMAL HEALTH DEPARTMENT

Reg. No.	Action	Register
9-2-32	Amended (T)	V. 24, p. 272
9-2-32	Amended	V. 24, p. 919
9-11-10	Amended (T)	V. 24, p. 272
9-11-10	Amended	V. 24, p. 919
9-18-1	Amended (T)	V. 24, p. 1144
9-18-1	Amended	V. 24, p. 1372
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 10: KANSAS BUREAU OF INVESTIGATION

Reg. No.	Action	Register
10-22-1	Amended	V. 24, p. 962

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
11-11-1 through 11-11-7	Revoked	V. 24, p. 1798

AGENCY 14: DEPARTMENT OF REVENUE

Reg. No.	Action	Register
14-14-12	Revoked	V. 24, p. 798

AGENCY 16: ATTORNEY GENERAL

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

16-6-1	Amended	V. 24, p. 96
16-10-1	New (T)	V. 24, p. 1176
16-10-2	New (T)	V. 24, p. 1176
16-10-3	New (T)	V. 24, p. 1176
16-10-1	New	V. 24, p. 1690
16-10-2	New	V. 24, p. 1690
16-10-3	New	V. 24, p. 1691
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

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 26: DEPARTMENT ON AGING

Reg. No.	Action	Register
26-39-144	New	V. 24, p. 1629
26-39-243	New	V. 24, p. 1631
26-39-278	New	V. 24, p. 1632
26-39-427	New	V. 24, p. 1632
26-39-438 through 26-39-441	New	V. 24, p. 1243

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
28-4-1400	New (T)	V. 24, p. 1142
28-4-1400	New	V. 24, p. 1531
28-16-28g	Amended	V. 25, p. 1205
28-16-58	Amended	V. 24, p. 52
28-16-160 through 28-16-174	New	V. 24, p. 754-764
28-17-1	Amended	V. 24, p. 178
28-17-6	Amended	V. 24, p. 179
28-17-20	Amended	V. 24, p. 179
28-17-22	New	V. 24, p. 181
28-19-22	Revoked	V. 24, p. 1437
28-19-350	Amended	V. 25, p. 845
28-19-517	Amended	V. 24, p. 1437
28-19-542	Amended	v. 24, p. 1438
28-19-546	Amended	V. 24, p. 1438
28-19-561	Amended	V. 24, p. 1438
28-19-562	Amended	v. 24, p. 1439
28-19-563	Amended	v. 24, p. 1440
28-19-575 through 28-19-578	Revoked	V. 24, p. 1440
28-30-200 through 28-30-207	New	V. 24, p. 1470-1474
28-35-135	Revoked	V. 24, p. 1830
28-35-135a through 28-35-135i	New	V. 24, p. 1830
28-35-135k through 28-35-135y	New	V. 24, p. 1830
28-35-136	Revoked	V. 24, p. 1830
28-35-148	New	V. 24, p. 1830
28-35-154	Amended	V. 24, p. 1830
28-35-160	Amended	V. 24, p. 1830
28-35-162	Amended	V. 24, p. 1830
28-35-167	New	V. 24, p. 1830
28-35-168	New	V. 24, p. 1830

28-35-169	New	V. 24, p. 1830
28-35-175a	Amended	V. 24, p. 1830
28-35-176a	Amended	V. 24, p. 1830
28-35-177a	Amended	V. 24, p. 1830
28-35-178a	Amended	V. 24, p. 1830
28-35-178b	Amended	V. 25, p. 256
28-35-178j	New	V. 24, p. 1830
28-35-180a	Amended	V. 24, p. 1830
28-35-180b	New	V. 24, p. 1830
28-35-181e	Amended	V. 24, p. 1830
28-35-181g	Amended	V. 24, p. 1830
28-35-181h	Amended	V. 24, p. 1830
28-35-181i	Amended	V. 24, p. 1830
28-35-181m	Amended	V. 24, p. 1830
28-35-181s	New	V. 24, p. 1830
28-35-184a	Amended	V. 24, p. 1830
28-35-184b	Amended	V. 24, p. 1830
28-35-185a	Amended	V. 24, p. 1830
28-35-193b	Revoked	V. 24, p. 1830
28-35-195a	Amended	V. 24, p. 1830
28-35-199a	Revoked	V. 24, p. 1830
28-35-204	New	V. 24, p. 1830
28-35-205	New	V. 24, p. 1830
28-35-205a	New	V. 24, p. 1830
28-35-205b	New	V. 24, p. 1830
28-35-206	New	V. 24, p. 1830
28-35-211c	New	V. 24, p. 1831
28-35-211d	Amended	V. 24, p. 1831
28-35-212a	Amended	V. 24, p. 1831
28-35-212b	Amended	V. 24, p. 1831
28-35-212d	Amended	V. 24, p. 1831
28-35-212e	Amended	V. 24, p. 1831
28-35-213b	Amended	V. 24, p. 1831
28-35-216a	Amended	V. 24, p. 1831
28-35-217a	Amended	V. 24, p. 1831
28-35-219a	Amended	V. 24, p. 1831
28-35-220a	Amended	V. 24, p. 1831
28-35-222a	Amended	V. 24, p. 1831
28-35-223a	Amended	V. 24, p. 1831
28-35-224a	Amended	V. 24, p. 1831
28-35-227d	Amended	V. 24, p. 1831
28-35-227f	Amended	V. 24, p. 1831
28-35-227g	Amended	V. 24, p. 1831
28-35-227h	Amended	V. 24, p. 1831
28-35-227j	Amended	V. 24, p. 1831
28-35-228a	Amended	V. 24, p. 1831
28-35-230a	Amended	V. 24, p. 1831
28-35-230b	Revoked	V. 24, p. 1831
28-35-230d	Amended	V. 24, p. 1831
28-35-231a	Amended	V. 24, p. 1831
28-35-231b	New	V. 24, p. 1831
28-35-231c	New	V. 24, p. 1831
28-35-241	Amended	V. 24, p. 1831
28-35-242	Amended	V. 24, p. 1831
28-35-242a	New	V. 24, p. 1831
28-35-242b	New	V. 24, p. 1831
28-35-243	Revoked	V. 24, p. 1831
28-35-243a	New	V. 24, p. 1831
28-35-244	Revoked	V. 24, p. 1831
28-35-244a	New	V. 24, p. 1831
28-35-247	Revoked	V. 24, p. 1831
28-35-247a	New	V. 24, p. 1831
28-35-248a	New	V. 24, p. 1831
28-35-249	Revoked	V. 24, p. 1831
28-35-250a	Revoked	V. 24, p. 1831
28-35-251	Amended	V. 24, p. 1831
28-35-252	Revoked	V. 24, p. 1831
28-35-253	Revoked	V. 24, p. 1831
28-35-254	Revoked	V. 24, p. 1831
28-35-255	Amended	V. 24, p. 1831
28-35-256	New	V. 25, p. 116
28-35-261	Revoked	V. 24, p. 1831
28-35-262	Revoked	V. 24, p. 1831
28-35-263	Revoked	V. 24, p. 1831
28-35-264	New	V. 24, p. 1831
28-35-274	Amended	V. 24, p. 1831
28-35-276	Amended	V. 24, p. 1831
28-35-277	Revoked	V. 24, p. 1831
28-35-277a	New	V. 24, p. 1831
28-35-278	Amended	V. 24, p. 1831
28-35-279	Amended	V. 24, p. 1831
28-35-280	Amended	V. 24, p. 1831
28-35-281	Amended	V. 24, p. 1831
28-35-282	Amended	V. 24, p. 1831
28-35-282a	New	V. 24, p. 1831

28-35-282b	New	V. 24, p. 1831
28-35-282c	New	V. 24, p. 1831
28-35-282d	New	V. 24, p. 1831
28-35-283	Amended	V. 24, p. 1831
28-35-284	Amended	V. 24, p. 1831
28-35-285	Amended	V. 24, p. 1831
28-35-287	Amended	V. 24, p. 1831
28-35-288	Amended	V. 24, p. 1831
28-35-289	Amended	V. 24, p. 1831
28-35-290	Amended	V. 24, p. 1831
28-35-291	Amended	V. 24, p. 1831
28-35-292	New	V. 24, p. 1831
28-35-293	New	V. 24, p. 1831
28-35-298	Amended	V. 24, p. 1831
28-35-299	Amended	V. 24, p. 1831
28-35-308	Amended	V. 24, p. 1831
28-35-312	Revoked	V. 24, p. 1831
28-35-314	Amended	V. 24, p. 1831
28-35-316	Amended	V. 25, p. 116
28-35-318	Amended	V. 24, p. 1831
28-35-319	Amended	V. 24, p. 1831
28-35-333	Amended	V. 24, p. 1831
28-35-342	Amended	V. 24, p. 1831
28-35-343	Amended	V. 24, p. 1831
28-35-345	Amended	V. 24, p. 1831
28-35-346	Amended	V. 24, p. 1831
28-35-349	Amended	V. 24, p. 1831
28-35-350	Amended	V. 24, p. 1831
28-35-351	Amended	V. 24, p. 1831
28-35-352	Amended	V. 24, p. 1831
28-35-353	Amended	V. 24, p. 1831
28-35-354	Amended	V. 24, p. 1831
28-35-355	Amended	V. 24, p. 1831
28-35-357	Amended	V. 24, p. 1831
28-35-359	Amended	V. 24, p. 1831
28-35-359a	New	V. 24, p. 1831
28-35-360	Amended	V. 24, p. 1831
28-35-375	New	V. 24, p. 1832
28-35-400	through	
28-35-411	New	V. 24, p. 1832
28-35-450	New	V. 24, p. 1832
28-35-500	through	
28-35-505	New	V. 24, p. 1832
28-36-1	Revoked	V. 24, p. 146
28-36-32	Revoked	V. 24, p. 146
28-36-60	Revoked	V. 24, p. 146
28-36-120	Revoked	V. 24, p. 146
28-51-100	Amended	V. 25, p. 1448
28-51-112	through	
28-51-116	Amended	V. 25, p. 1449, 1450
28-61-1	Amended	V. 24, p. 1242
28-70-1	Amended	V. 24, p. 1177
28-70-2	Amended	V. 24, p. 1177
28-70-3	Amended	V. 24, p. 1178
28-73-1	through	
28-73-7	New	V. 25, p. 307-311

AGENCY 30: SOCIAL AND REHABILITATION SERVICES

Reg. No.	Action	Register
30-4-90	Amended	V. 25, p. 786
30-4-98	New	V. 25, p. 1027
30-5-64	Revoked	V. 24, p. 1595
30-5-81u	Amended	V. 24, p. 271
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
30-10-1a	Amended	V. 24, p. 489
30-10-1b	Amended	V. 24, p. 491
30-10-1d	Amended	V. 24, p. 492
30-10-11	Amended	V. 24, p. 492
30-10-17	Amended	V. 24, p. 494
30-10-18	Amended (T)	V. 24, p. 23
30-10-18	Amended	V. 24, p. 334
30-10-19	Amended	V. 24, p. 495
30-10-20	Amended	V. 24, p. 496
30-10-23a	Amended	V. 24, p. 496
30-10-23b	Amended	V. 24, p. 497

30-14-22	Revoked	V. 25, p. 1028
30-14-27	Revoked	V. 25, p. 847

AGENCY 36: DEPARTMENT OF TRANSPORTATION

Reg. No.	Action	Register
36-41-1	through	
36-41-5	New (T)	V. 24, p. 273, 274
36-41-1	through	
36-41-5	New	V. 24, p. 1111, 1112

AGENCY 40: KANSAS INSURANCE DEPARTMENT

Reg. No.	Action	Register
40-1-42	Amended	V. 24, p. 1734
40-1-44	Amended	V. 24, p. 848
40-1-48	Amended	V. 25, p. 210
40-1-51	Amended	V. 24, p. 1735
40-2-14a	Amended	V. 24, p. 1735
40-2-14b	Revoked	V. 24, p. 1735
40-3-5	Amended	V. 25, p. 182
40-3-12	Amended	V. 25, p. 182
40-3-13	Amended	V. 24, p. 1371
40-3-18	Amended	V. 24, p. 1371
40-3-22	Amended	V. 25, p. 210
40-3-24	Amended	V. 24, p. 1371
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
40-3-53	New (T)	V. 24, p. 15
40-3-53	New	V. 24, p. 615
40-4-25	Amended	V. 25, p. 278
40-4-35	Amended	V. 24, p. 1264
40-7-5	Amended	V. 25, p. 844
40-7-7	Amended	V. 24, p. 1829
40-7-7a	Revoked	V. 24, p. 1829
40-7-9	Amended	V. 24, p. 1829
40-7-22	Amended	V. 24, p. 1371
40-7-23	Amended	V. 24, p. 1371

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
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
49-15-17	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 51: DEPARTMENT OF LABOR—DIVISION OF WORKERS COMPENSATION

Reg. No.	Action	Register
51-2-5	Amended	V. 24, p. 1647
51-9-7	Amended	V. 24, p. 1734

AGENCY 60: BOARD OF NURSING

Reg. No.	Action	Register
60-3-106a	Amended	V. 24, p. 1145
60-3-107	Amended	V. 24, p. 1145
60-3-108	Amended	V. 24, p. 1145
60-3-112	Amended	V. 24, p. 1145
60-11-113	Amended	V. 24, p. 1145
60-11-120	Amended	V. 24, p. 1145
60-11-121	Amended	V. 24, p. 1145
60-13-112	Amended	V. 24, p. 1146
60-15-101	Amended	V. 24, p. 1146
60-15-104	Amended	V. 24, p. 1147
60-16-103	Amended	V. 24, p. 1147
60-16-104	Amended	V. 24, p. 1148
60-17-111	Amended	V. 24, p. 1149

AGENCY 63: BOARD OF MORTUARY ARTS

Reg. No.	Action	Register
63-4-1	Amended	V. 24, p. 1629

AGENCY 66: BOARD OF TECHNICAL PROFESSIONS

Reg. No.	Action	Register
66-6-4	Amended	V. 24, p. 79
66-8-4	Amended	V. 25, p. 44
66-8-8	New	V. 24, p. 80
66-9-4	Amended	V. 25, p. 73
66-9-6	Amended	V. 24, p. 80
66-9-7	New	V. 24, p. 80
66-10-1	Amended	V. 25, p. 44
66-10-9	Amended	V. 25, p. 44
66-10-11	Amended	V. 25, p. 44
66-10-12	Amended	V. 25, p. 45
66-10-14	Amended	V. 25, p. 45
66-11-5	Amended	V. 25, p. 45
66-14-3	Amended	V. 24, p. 80
66-14-5	Amended	V. 24, p. 81

AGENCY 68: BOARD OF PHARMACY

Reg. No.	Action	Register
68-1-1b	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 (T)	V. 24, p. 1377
68-5-16	New	V. 25, p. 643
68-11-1	Amended	V. 25, p. 1401

AGENCY 69: BOARD OF COSMETOLOGY

Reg. No.	Action	Register
69-1-4	Amended (T)	V. 24, p. 14
69-1-4	Amended	V. 24, p. 392

AGENCY 71: KANSAS DENTAL BOARD

Reg. No.	Action	Register
71-2-2	Amended	V. 24, p. 1828
71-8-1	through	
71-8-9	New	V. 25, p. 99, 100

(continued)

AGENCY 74: BOARD OF ACCOUNTANCY

Table with 3 columns: Reg. No., Action, Register. Lists regulations 74-4-1a through 74-11-15 with their respective actions and register references.

AGENCY 75: OFFICE OF THE STATE BANK COMMISSIONER—DIVISION OF CONSUMER AND MORTGAGE LENDING

Table with 3 columns: Reg. No., Action, Register. Lists regulations 75-6-30 through 75-6-35.

AGENCY 81: OFFICE OF THE SECURITIES COMMISSIONER

Table with 3 columns: Reg. No., Action, Register. Lists regulations 81-2-1 through 81-14-10.

AGENCY 82: STATE CORPORATION COMMISSION

Table with 3 columns: Reg. No., Action, Register. Lists regulations 82-4-3 through 82-15-1.

AGENCY 86: REAL ESTATE COMMISSION

Table with 3 columns: Reg. No., Action, Register. Lists regulations 86-3-29.

AGENCY 88: BOARD OF REGENTS

Table with 3 columns: Reg. No., Action, Register. Lists regulations 88-3-8 through 88-16-5.

Table with 3 columns: Reg. No., Action, Register. Lists regulations 88-16-5b through 88-28-8.

AGENCY 91: DEPARTMENT OF EDUCATION

Table with 3 columns: Reg. No., Action, Register. Lists regulations 91-1-201 through 91-35-1.

AGENCY 92: DEPARTMENT OF REVENUE

Table with 3 columns: Reg. No., Action, Register. Lists regulations 92-12-4 through 92-51-41a.

AGENCY 97: KANSAS COMMISSION ON VETERANS' AFFAIRS

Table with 3 columns: Reg. No., Action, Register. Lists regulations 97-4-1 through 97-4-8.

AGENCY 99: DEPARTMENT OF AGRICULTURE—DIVISION OF WEIGHTS AND MEASURES

Table with 3 columns: Reg. No., Action, Register. Lists regulations 99-25-1 through 99-25-10.

AGENCY 100: BOARD OF HEALING ARTS

Table with 3 columns: Reg. No., Action, Register. Lists regulations 100-15-2 through 100-26-3.

Table with 3 columns: Reg. No., Action, Register. Lists regulations 100-26-3 through 100-73-8.

AGENCY 102: BEHAVIORAL SCIENCES REGULATORY BOARD

Table with 3 columns: Reg. No., Action, Register. Lists regulations 102-1-5a through 102-5-14.

AGENCY 105: BOARD OF INDIGENTS' DEFENSE SERVICES

Table with 3 columns: Reg. No., Action, Register. Lists regulations 105-4-1 through 105-5-2.

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
108-1-1	Amended	V. 24, p. 1846
108-1-4	Amended	V. 25, p. 180

AGENCY 110: DEPARTMENT OF COMMERCE

Reg. No.	Action	Register
110-9-1 through		
110-9-8	New	V. 25, p. 373-375
110-11-1	New	V. 24, p. 429
110-11-2	New	V. 24, p. 429
110-11-3	New	V. 24, p. 429
110-12-1 through		
110-12-6	New	V. 24, p. 371
110-13-1 through		
110-13-10	New	V. 24, p. 1209-1211
110-13-4	Amended	V. 25, p. 447

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
111-4-2342 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

111-5-126 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
111-6-1	Amended	V. 25, p. 222
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
111-9-130 through		
111-9-133	New	V. 25, p. 351-353
111-11-1	Amended	V. 25, p. 223

AGENCY 112: RACING AND GAMING COMMISSION

Reg. No.	Action	Register
112-4-1a	Amended	V. 24, p. 1851
112-10-5	Amended	V. 24, p. 1263
112-11-20	Amended	V. 24, p. 1852

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
115-3-2	Amended	V. 24, p. 148
115-4-2	Amended	V. 24, p. 420
115-4-4	Amended	V. 25, p. 662
115-4-4a	New	V. 24, p. 422
115-4-6	Amended	V. 25, p. 336
115-4-6a	New	V. 24, p. 151
115-4-11	Amended	V. 24, p. 151
115-4-13	Amended	V. 24, p. 422
115-5-1	Amended	V. 24, p. 152
115-5-4	New	V. 24, p. 752
115-7-1	Amended	V. 25, p. 1605
115-7-2	Amended	V. 24, p. 153
115-7-4	Amended	V. 25, p. 1606
115-7-8	New	V. 25, p. 1606
115-9-4	Amended	V. 24, p. 153
115-9-9	New	V. 24, p. 1112
115-11-1	Amended	V. 24, p. 752
115-11-2	Amended	V. 24, p. 153
115-15-1	Amended	V. 24, p. 154
115-15-2	Amended	V. 24, p. 155
115-16-5	Amended	V. 25, p. 1607
115-18-1	Amended	V. 24, p. 156
115-18-7	Amended	V. 24, p. 159
115-18-10	Amended	V. 24, p. 753
115-18-12	Amended	V. 25, p. 1608
115-18-14	Amended	V. 24, p. 1689
115-18-18	New	V. 25, p. 1608
115-18-19	New	V. 25, p. 1608
115-18-20	New	V. 25, p. 1609
115-20-1	Amended	V. 24, p. 159
115-20-2	Amended	V. 24, p. 160
115-20-5	New	V. 25, p. 1609
115-20-6	New	V. 25, p. 1611
115-21-1	Revoked	V. 24, p. 1690
115-21-2	Revoked	V. 24, p. 1690
115-21-4	Revoked	V. 24, p. 1690

AGENCY 117: REAL ESTATE APPRAISAL BOARD

Reg. No.	Action	Register
117-2-2	Amended	V. 25, p. 1146
117-2-2a	New	V. 24, p. 1079
117-2-3	Amended (T)	V. 24, p. 1141
117-2-3	Amended	V. 24, p. 1595
117-3-2	Amended	V. 25, p. 1146
117-3-2a	New	V. 24, p. 1079
117-3-3	Amended (T)	V. 24, p. 1141

117-3-3	Amended	V. 24, p. 1595
117-4-2	Amended	V. 25, p. 1147
117-4-2a	New	V. 24, p. 1080
117-4-3	Amended (T)	V. 24, p. 1141
117-4-3	Amended	V. 24, p. 1595
117-5-1	Amended	V. 25, p. 1148
117-5-2a	New	V. 24, p. 1080
117-6-1	Amended	V. 25, p. 1148
117-6-2	Amended	V. 25, p. 1148
117-6-3	Amended	V. 24, p. 77
117-7-1	Amended	V. 24, p. 78
117-8-1	Amended	V. 25, p. 866

AGENCY 118: STATE HISTORICAL SOCIETY

Reg. No.	Action	Register
118-5-10	Amended	V. 24, p. 1632

AGENCY 120: HEALTH CARE DATA GOVERNING BOARD

Reg. No.	Action	Register
120-1-1	Revoked (T)	V. 24, p. 1377
120-1-1	Revoked	V. 24, p. 1734
120-1-2	New (T)	V. 24, p. 1377
120-1-2	New	V. 24, p. 1734

AGENCY 121: DEPARTMENT OF CREDIT UNIONS

Reg. No.	Action	Register
121-5-1	Amended (T)	V. 25, p. 1304
121-5-2	Revoked (T)	V. 25, p. 1304
121-5-3	New (T)	V. 25, p. 1304
121-8-1	New (T)	V. 25, p. 1304

AGENCY 123: JUVENILE JUSTICE AUTHORITY

Reg. No.	Action	Register
123-1-101	New	V. 24, p. 301
123-2-105	New	V. 24, p. 338
123-2-110	New	V. 24, p. 338
123-5-101	New	V. 24, p. 339
123-5-106	New	V. 24, p. 339
123-5-111	New	V. 24, p. 339
123-5-112	New	V. 24, p. 340
123-5-505	New	V. 24, p. 340
123-12-101 through		
123-12-107	New	V. 24, p. 301, 302
123-12-201 through		
123-12-210	New	V. 24, p. 302, 303
123-12-301 through		
123-12-315	New	V. 24, p. 303-305
123-12-317	New	V. 24, p. 305
123-12-318	New	V. 24, p. 305
123-12-319	New	V. 24, p. 306
123-12-321 through		
123-12-325	New	V. 24, p. 306
123-12-327	New	V. 24, p. 306
123-12-328	New	V. 24, p. 307
123-12-401	New	V. 24, p. 307
123-12-501 through		
123-12-505	New	V. 24, p. 307, 308
123-12-505b	New	V. 24, p. 308
123-12-506	New	V. 24, p. 308
123-12-601	New	V. 24, p. 308
123-12-602	New	V. 24, p. 310
123-12-702	New	V. 24, p. 310
123-12-801	New	V. 24, p. 310
123-12-901	New	V. 24, p. 310
123-12-902	New	V. 24, p. 310
123-12-1001	New	V. 24, p. 311
123-12-1002	New	V. 24, p. 311
123-12-1101	New	V. 24, p. 311
123-12-1201	New	V. 24, p. 312
123-12-1202	New	V. 24, p. 312
123-12-1301	New	V. 24, p. 312
123-12-1302	New	V. 24, p. 312
123-12-1303	New	V. 24, p. 312
123-12-1306	New	V. 24, p. 312
123-12-1308	New	V. 24, p. 313

(continued)

123-13-101	New	V. 24, p. 342	123-13-601	New	V. 24, p. 351
123-13-101a	New	V. 24, p. 343	123-13-602	New	V. 24, p. 351
123-13-103	New	V. 24, p. 343	123-13-603	New	V. 24, p. 351
123-13-105	New	V. 24, p. 343	123-13-610	New	V. 24, p. 351
123-13-106	New	V. 24, p. 343	123-13-701		
123-13-201	New	V. 24, p. 343	through		
123-13-201b	New	V. 24, p. 344	123-13-704	New	V. 24, p. 352, 353
123-13-202	New	V. 24, p. 345	123-13-706	New	V. 24, p. 353
123-13-203	New	V. 24, p. 345	123-13-707	New	V. 24, p. 353
123-13-306	New	V. 24, p. 345	123-15-101	New	V. 24, p. 353
123-13-307	New	V. 24, p. 346	123-15-101a	New	V. 24, p. 354
123-13-401			123-15-101b	New	V. 24, p. 354
through			123-15-102	New	V. 24, p. 354
123-13-404	New	V. 24, p. 346-348	123-15-104	New	V. 24, p. 355
123-13-405a	New	V. 24, p. 349	123-15-105	New	V. 24, p. 355
123-13-406	New	V. 24, p. 349	123-15-105a	New	V. 24, p. 356
123-13-408	New	V. 24, p. 350	123-15-106	New	V. 24, p. 356
123-13-409	New	V. 24, p. 350	123-15-201	New	V. 24, p. 356
123-13-501	New	V. 24, p. 350	123-16-102	New	V. 24, p. 356
123-13-502a	New	V. 24, p. 350	123-16-105	New	V. 24, p. 357
123-13-505					
through					
123-13-509	New	V. 24, p. 350, 351			

AGENCY 127: KANSAS HOUSING RESOURCES CORPORATION		
Reg. No.	Action	Register
127-1-1	New	V. 24, p. 848
AGENCY 129: KANSAS HEALTH POLICY AUTHORITY		
Reg. No.	Action	Register
129-5-1	Amended	V. 25, p. 1569
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

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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	
State Banking Board Notice of 2002 meeting schedule	35
Department of Administration Public notice	36
Wildlife and Parks Commission Notice of hearing on proposed administrative regulations	37
Attorney General Opinions 2001-48 through 2001-56	39
Information Network of Kansas Notice of meeting	39
City of Overland Park Notice to bidders	40
Department of Administration—Division of Purchases Notice to bidders for state purchases	42
	42
	43

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