

PERMIT REQUIREMENTS FOR DEVELOPMENT OF ENERGY AND
OTHER SELECTED NATURAL RESOURCES FOR THE
STATE OF KANSAS

PREPARED FOR
OZARKS REGIONAL COMMISSION
AND THE
U.S. GEOLOGICAL SURVEY

BY RADIAN CORPORATION

This technical assistance study was accomplished by professional consultants under contract with the Ozarks Regional Commission. The statements, findings, conclusions, recommendations, and other data in this report are solely those of the contractor, and do not necessarily reflect the views of the Ozarks Regional Commission or the U.S. Geological Survey.

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SECTION I. INTRODUCTION

This handbook has been compiled to assist applicants in complying with Kansas environmental and land use regulatory programs. The handbook presents the requirements for permitting industrial projects and particularly those activities associated with energy development. Only state programs are described, although the relationship between a state program and a parallel federal program is addressed, where appropriate. Also, only environmental protection regulatory programs are described in the handbook. Other programs, such as health and safety requirements, taxes, or zoning, which may affect a proposed activity were excluded.

The information presented is not intended to cover all aspects of the state regulatory process but is designed to provide basic informational and procedural requirements and to identify programs and responsible authorities. Applicability of a program(s) to a particular activity will require confirmation by the appropriate agency(s). Also, because regulatory programs are frequently being revised, applicants should contact each agency for the latest compliance requirements.

The information presented in this handbook was obtained through review of state laws and regulations and supplemented by personal interview with agency officials. The information is divided into the following sections:

- State Environmental Policy and Administrative Procedures
- Resource Extraction
- Land Use Regulation
- Environmental Quality Management
- Social/Ecological Preservation

SECTION II. STATE POLICY AND PROCEDURES

CHAPTER I. STATE CLEARINGHOUSE AGENCY

The Division of the Environment in the Department of Health and Environment closely resembles the concept of a state clearinghouse or one-stop permit agency. The Division has permitting jurisdiction in the areas of air quality, occupational health, water quality, water supply, environmental sanitation, and oil field and environmental geology. The Division also serves as a clearinghouse for all environmental impact statements that are reviewed by Kansas state agencies in accordance with the National Environment Policy Act, P.L. 91-190.

SECTION III. ENERGY EXTRACTION

CHAPTER 2. ENERGY RESOURCES EXPLORATION AND EXTRACTION

A number of regulations govern energy resource exploration and extraction in Kansas. The Kansas Mined Land Conservation and Reclamation Act, as amended, regulates all coal mining in the state. To administer the Act, the Kansas Corporation Commission and the Mined Land Conservation and Reclamation Board have adopted the "Rules of Practice and Procedures of the Mined Land Conservation and Reclamation Board of Kansas." The Kansas Corporation Commission, principally through its Conservation Division, also regulates oil and gas exploration and the related activities of saltwater disposal, exploratory drilling, fluid repressing, and natural gas storage.

Part A of this Chapter describes the permit process and standards which govern coal mining and reclamation. The permit process and standards for drilling oil, gas, and other mineral wells are covered in Part B. Part C discusses the application process and standards for the underground procedures and standards for plugging oil, gas, and saltwater disposal wells and Part E discusses plugging operations for exploratory holes. In Part F the application and standards for fluid repressuring and water flooding of oil and gas properties are specified. Finally, Part G contains the certification process for the underground storage of natural gas.

PART A. Surface Mining Permit Process and Standards

I. Authorizing Statute

Kansas Mined Land Conservation and Reclamation Act, as amended.
(Kansas Statutes Annotated, Sections 49-401, et seq.)

2. Title of Regulation

Kansas Administrative Regulations

Chapter 4

3. Summary of Permit Process

a. Applicability

The mining or reclaiming of any surface or underground coal mine is subject to the regulations.

b. General Requirements

A permit is required to conduct surface or underground coal mining and reclamation operations.

c. Submittal Requirements

A completed application for a permit must be submitted to the Mined Land Conservation and Reclamation Board. The application must identify the land to be mined and the landowner and others with an interest in the land, as well as detailed information on environmental resources and geophysical/geologic information. An operation and reclamation plan prepared in accordance with minimum requirements must also be submitted. Once the application is approved, a bond sufficient to cover the cost of reclamation must be posted with the Board.

d. Public Hearings

A public hearing may be held on request.

e. Time Requirements

An application must be filed at least 60 days prior to the date that Board action on the application is requested.

f. Fees

A \$50.00 application fee is charged. After permit is approved, a \$50.00 per acre fee is also assessed.

g. Appeals Process

Within 30 days after a permit is denied, the applicant may apply for a hearing before the Mined Land Conservation and Reclamation Board.

4. General Standards

a. Applicability

The mining or reclaiming of any surface or underground coal mine is subject to the regulations.

b. General Requirements

Performance standards for the operation and reclamation of mines have been adopted for the following major areas: casing and sealing of opening, topsoil removal and replacement, hydrologic balance, use of explosives, waste disposal, coal processing waste banks, backfilling and grading, revegetation, subsidence control, and roads. Coal exploration operations are also subject to standards. A notice of intent to explore must be filed with the Mined Land Conservation and Reclamation Board. If more than 250 tons of coal are removed from the area during

exploration, the operator must obtain written approval of the Board.

c. Submittal Requirements

The Board may require the mine operator to monitor and report activities.

d. Time Requirements

Mining operations must begin by the middle of the permit term, unless an extension is approved by the Board.

5. Administering Agency

Mined Land Conservation and Reclamation Board
107 West 11th Street
P.O. Box 1418
Pittsburg, Kansas 66762
Telephone (316) 231-8540

6. Relation to Other State and Federal Programs

The Mined Land Conservation and Reclamation Board is designated by statute as "within and a part" (K.S.A. § 49-404) of the Kansas Corporation Commission (KCC). The chairman of the KCC must also be the chairman of the Mined Land Conservation and Reclamation Board. The other members of the Board must be representatives from other state agencies including, for example, the Department of Health and Environment and the Division of Water Resources of the Board of Agriculture.

The Mined Land Conservation and Reclamation Board has exclusive jurisdiction for the regulation of surface mining and reclamation

operations within the state. However, applications for permits are routinely directed to a number of state and federal agencies for review and comment. This process has been formalized in Memoranda of Understanding (MOU) signed between the Mined Land Conservation and Reclamation Board and the following agencies: The Department of Health and Environment, the Division of Water Resources (Board of Agriculture), the Water Resources Board, the Kansas Geological Survey, the Kansas State Historical Society, the Fish and Game Commission, the Kansas Energy Office, the Kansas Conservation Commission, the Kansas Biological Survey, the Kansas Department of Economic Development, and the United States Fish and Wildlife Service.

PART B. Permit Procedure and Standards for Drilling Wells for Oil, Gas, or Other Minerals or for Other Exploration

1. Authorizing Statute

Kansas Statutes Annotated, Sections 55-128, et seq.

2. Title of Regulations

General Rules and Regulations for the Conservation of Crude Oil and Natural Gas

3. Summary of Permit Procedure

a. Applicability

The drilling of wells for the exploration, discovery or the production of oil, gas, or other minerals; or the drilling of seismic, core, or exploratory holes for the purpose of exploration is subject to the regulations.

b. General Requirements

Any person responsible for such drilling must give notice of intent to the Kansas Corporation Commission. The owner or operator may not begin drilling operations until the Commission has notified him of the amount of surface pipe necessary to protect all freshwater.

Before the well may be plugged, the owner or operator must comply with the plugging permit procedure and standards specified in Part D of this chapter.

c. Submittal Requirements

A completed drilling application form must include the following information: the name and address of the operator; the name, number and exact location of the well; the approximate date on which drilling will begin; the estimated total depth; the type of drilling equipment to be used; the depth of the deepest freshwater well within a mile radius of the drilling location; the approximate differences in ground elevation between the well location and the deepest water well; the depth and approximate difference in ground elevation between the deepest municipal water well located within a three mile radius of the drilling location and the approximate elevation of the well location; and any other information requested by the Commission.

Different information requirements are necessary if the applicant intends to drill seismic, core or exploratory holes that penetrate salt water formations for the purpose of exploration, discovery or production of oil, gas and other minerals. This application must include the following information: the name and address of the operator; the name and address of the drilling contractor; the date of commencement of drilling; the general

description of the area in which the hole or holes are drilled including township, range, and county; the depth of the deepest fresh water well within the limits of the area shown in the application, and the contemplated depth of the deepest exploratory hole to be drilled.

d. Public Hearing

A public hearing is not required.

e. Time Requirements

Notice of Intent must be made at least five days before any drilling is commenced.

f. Fees

A \$40.00 application fee is required. A filing fee is not required to accompany intents to drill seismic or core holes.

g. Appeals Process

If the application is denied, the applicant may appeal such a decision to the Kansas Corporation Commission in Topeka.

4. Administering Agency

Kansas Corporation Commission
Conservation Division
200 Colorado Derby Building
Wichita, Kansas 67202
Telephone: (316) 263-3238

5. Relation to Other State and Federal Programs

Any person drilling seismic or core holes for the purpose of obtaining geological information must hold a valid license. A license may be obtained by submitting a completed application form and a \$15.00 application fee to the Commission and receiving the Commission's approval.

The Kansas Corporation Commission is responsible for natural gas well classification determinations under the federal Natural Gas Policy Act of 1978.

PART C. Application Process and Standards for the Underground Disposal of Saltwater

1. Authorizing Statute

Kansas Statutes Annotated, Sections 55-901, et seq.

2. Title of Regulations

General Rules and Regulations for the Conservation of Crude Oil and Natural Gas

3. Summary of Application Process

a. Applicability

The underground disposal of saltwater or other water containing mineral in such amount as to be unfit for domestic stock, irrigation, or other general uses is subject to the regulations.

b. General Requirements

No disposal water may be injected into a disposal well until an application (to inject) has been approved by the Kansas Corporation Commission. Such liquids may only be injected into certain formations as allowed by the Commission: 1) nonproducing zones of oil- or gas-bearing formations that contain water mineralized by processes of nature to a specified degree, or 2) nonproducing formations containing water mineralized by processes of nature to a specified degree which are physically separated from freshwater formations.

c. Submittal Requirements

A completed "Saltwater Disposal Permit" application must include the following information: the location of the disposal well; the location of all oil and gas wells and the names of the landowners and lessees within one-half mile of the disposal well; the name, description and depth of the formation into which water is to be injected; the elevations of the top of the producing formation in the disposal well and in all wells within the one-half-mile radius if water is to be injected into a lower horizon of an oil- or gas-bearing formation; a disposal well log; a description of the disposal well casing; the location of wells producing the water to be injected into the disposal well; the estimated minimum and maximum amounts of water to be injected daily; the names and addresses of other well operators in the area who were notified of the application; and any other information that the Commission may require.

d. Public Hearing

Notice must be made to each operator of any drilling or producing well within a one-half mile radius of the proposed

well. If objections or complaints to the application are filed, the Commission may hold a public hearing on its own motion.

f. Fees

A \$15.00 fee is levied for the first lease. For each additional lease, a \$5.00 fee is charged.

g. Appeals Process

The applicant or an affected operator may appeal the decision to the Kansas Corporation Commission in Topeka.

4. General Standards

a. Applicability

The underground disposal of saltwater or other water containing minerals in such amount as to be unfit for domestic stock, irrigation, or other general uses is subject to the regulations.

b. General Standards and Requirements

Disposal wells must be cased and cemented in such a manner that damage will not be caused to oil, gas, and freshwater sources. Trial tests may be made with the approval of the Commission. The requirements are based on the protection of oil and gas resources and the protection of the waters of the state.

c. Submittal Requirements

Before a disposal well is abandoned, notice shall be served to the Commission and the procedure for plugging such wells specified in Part D of this chapter must be followed.

d. Time Requirements

Applicant must notify the Commission of the date of commencement of disposal operations.

Within ten days after the discontinuance of disposal operations, the applicant must notify the Commissioner of the date of discontinuance and the reasons for discontinuance.

5. Administering Agency

Kansas Corporation Commission
Conservation Division
200 Colorado Derby Building
Wichita, Kansas 67202
Telephone: (316) 263-3238

6. Relation to Other State and Federal Programs

Underground disposal permits issued by the Kansas Corporation Commission must have prior approval by the Kansas Department of Health and Environment.

PART D. Permit Procedure and Standards for Plugging Oil, Gas, Saltwater Disposal Wells or Injection Wells for Repressuring Projects

1. Authorizing Statute

Kansas Statutes Annotated, Sections 55-128, et seq.

2. Title of Regulations

General Rules and Regulations for the Conservation of Crude Oil and Natural Gas

3. Summary of Permit Procedure

a. Applicability

The plugging of any well drilled for the discovery of oil or gas, disposal of saltwater, or an injection well for repressuring projects, including any well drilled below the freshwater level, is subject to the regulations. Different regulations apply to holes drilled for seismic, core, or other exploratory purposes. Those regulations are discussed in Part E of this chapter.

b. General Requirements

A "Well Plugging Application" must be filed before plugging operations may occur. The owner or operator may not plug the well unless a representative of the Commission is present to supervise plugging operations.

c. Submittal Requirements

A completed "Well Plugging Application" form must include the location of the well and the date abandonment will commence.

d. Public Hearing

A public hearing is not required.

e. Time Requirements

Upon receipt of the notice of intent, the Conservation Division shall send its representative to supervise plugging operations.

f. Fees

A fee of 3.25¢ per foot of well depth plugged is charged. The minimum fee charge is \$35.00.

g. Appeals Process

No appeals process is specified in the regulations.

4. General Standards

a. Applicability

The plugging of any well drilled for the discovery of oil or gas, disposal of saltwater, or an injection well for repressuring projects, including any well drilled below the freshwater level, is subject to the regulations. Different regulations apply to holes drilled for seismic, core, or other exploratory purposes. Those regulations are discussed in Part E of this chapter.

b. General Standards and Requirements

Plugging methods and procedures are described in Rule 82-2-303 of the Rules and Regulations. The regulations specify methods and procedures such as the depth at which a plug must be placed, type of plug to be used, and methods for the placing of cement in the well.

c. Submittal Requirements

After a well is plugged, the owner or operator must file an affidavit with the Commission setting forth the date of drilling, the location of the well, the method used in plugging, and any other information that the Commission may require.

d. Time Requirements

The affidavit must be submitted within 30 days after the well has been plugged.

5. Administering Agency

Kansas Corporation Commission
Conservation Division
200 Colorado Derby Building
Wichita, Kansas 67202
Telephone: (316) 263-3238

6. Relation to Other State and Federal Programs

Any person engaging in the business of plugging wells must hold a valid license. A license may be obtained by submitting a completed application to the Commission and receiving the Commission's approval. A \$15.00 application fee must be submitted.

PART E. Standards for the Plugging of Holes Drilled for Seismic, Core or Other Exploratory Purposes

1. Authorizing Statute

Kansas Statutes Annotated, Sections 55-128, et seq.

2. Title of Regulations

General Rules and Regulations for the Conservation fo Crude Oil and Natural Gas

3. Summary of Standards

a. Applicability

The plugging of any hole drilled for seismic, core or other exploratory purposes is subject to the regulation.

b. General Standards and Requirements

Before any hole described above is abandoned, the hole must be plugged so as to protect all water-bearing formations. Plugging methods and procedures are described in Rule 82-2-307 of the Rules and Regulations. The regulations specify methods and procedures such as the depth at which a plug must be placed and methods for the placing of cement in the well.

c. Submittal Requirements

An affidavit must be filed with the Commission after the plugging has been completed. The affidavit must include the following information: the drilling date, the location of the hole or holes, the method used in the plugging of such hole or holes, and any other information that may be required by the Commission.

d. Time Requirements

All seismic holes must be plugged within 10 days after completion of the hole.

The affidavit shall be filed with the Commission within 60 days after the holes have been plugged.

4. Administering Agency

Kansas Corporation Commission
Conservation Division
200 Colorado Derby Building
Wichita, Kansas 67202
Telephone: (316) 263-3238

5. Relation to Other State and Federal Programs

Any person engaging in the business of plugging wells must hold a valid license. A license may be obtained by submitting a completed application to the Commission and receiving the Commission's approval. A \$15.00 application fee must be submitted.

PART F. Application Process and Standards for Fluid Repressuring and Water Flooding of Oil and Gas Properties

1. Authorizing Statute

Kansas Statutes Annotated, Sections 55-133, et seq.

2. Title of Regulations

General Rules and Regulations for the Conservation of Crude Oil and Natural Gas

3. Summary of Application Process

a. Applicability

The injection of water or other liquids under pressure into a formation containing oil and gas for the purpose of obtaining oil or gas from the reservoir is subject to the regulations.

b. General Requirements

No liquid may be injected into a well for flooding purposes until an application (to flood) has been approved by the Commission.

c. Submittal Requirements

A completed application form including the following information must be submitted: location of the intake well; location of all oil and gas wells and the names of landowners and lessees within one-half mile of the intake well; the formations from which wells are producing, the name, description, and depth of the formations to be flooded; the elevations of the top of the oil or gas bearing formation in the intake well and surrounding well; descriptions of the intake well casing; description of the liquid to be injected; names and addresses of other well operators in the area who were notified of the application; and any other information the Commission may require.

d. Public Hearing

Notice must be made to each operator of any drilling or producing well within a one-half-mile radius of the proposed well. If objections or complaints to the application are filed, the Commission may hold a public hearing on its own motion.

e. Time Requirements

Objections or complaints must be filed within ten days after the application is filed.

If a public hearing is held, notice of the hearing must be published in at least one newspaper of general circulation in the county or counties in which the intake well is located (and in any

newspaper that the Commission designates) at least 10 days prior to the date of the hearing.

f. Fees

A \$15.00 fee is advised for the first lease. For each additional lease, a \$5.00 fee is charged.

g. Appeals Process

The applicant or an affected operator may appeal the decision to the Kansas Corporation Commission in Topeka.

4. General Standards

a. Applicability

The injection of water or other liquids under pressure into a formation containing oil and gas for the purpose of obtaining oil or gas from the reservoir is subject to the regulations.

b. General Standards and Requirements

The owner or operator of the intake well must keep accurate records of the amount of liquid injected into the intake well.

c. Submittal Requirements

The owner or operator must submit a report to the Commission at the end of each calendar year showing the amount of liquids injected into each intake well and other waterflood performance information required.

d. Time Requirements

Records of the amount of liquid injected into the intake well must be preserved for three years.

5. Administering Agency

Kansas Corporation Commission
Conservation Division
200 Colorado Derby Building
Wichita, Kansas 67202
Telephone: (316) 263-3238

6. Relation to Other State and Federal Programs

None specified.

PART G. Certification Process for the Underground Storage of Natural Gas

1. Authorizing Statute

Kansas Statutes Annotated, Sections 55-1201, et seq.

2. Title of Regulations

General Rules and Regulations for the Conservation of Crude Oil and Natural Gas

3. Summary of Certification Process

a. Applicability

Any public utility intending to store natural gas underground is subject to the regulations.

b. General Standards and Requirements

Any public utility desiring to exercise the right of eminent domain to acquire any property for use for the underground storage of natural gas must obtain a certificate from the Kansas Corporation Commission. The certificate demonstrates that the findings of the Commission concluded that the underground formation sought to be acquired is suitable for the underground storage of natural gas, and that its use for storage is in the public interest. The Commission must also make findings on the amount of recoverable oil and gas remaining in the formation.

c. Submittal Requirements

No submittal requirements are specified in the regulations.

d. Public Hearing

A public hearing is required.

e. Time Requirements

No time requirements are specified in the act.

g. Appeals Process

No appeals process is specified in the regulations.

4. Administering Agency

Kansas Corporation Commission
Conservation Division
200 Colorado Derby Building
Wichita, Kansas 67202
Telephone (316) 263-3238

5. Relation to Other State and Federal Programs

The Department of Health and Environment regulates the underground storage of natural gas after the well has been drilled.

CHAPTER 3. CONSTRUCTION MATERIALS AND METALLIFEROUS MINING

The mining of construction materials and metals is currently not regulated by the State of Kansas.

SECTION IV. ENVIRONMENTAL QUALITY MANAGEMENT

CHAPTER 4. AIR QUALITY STANDARDS AND REGULATIONS

The Kansas Air Quality Control Act, administered by the Department of Health and Environment, protects air quality in Kansas. The permit process and standards for new air pollution sources in areas designated as nonattainment are specified in Part A. Part B describes the approval process for new air pollution sources in all areas of the State.

PART A. Permit Process and Standards for New Air Pollution Sources in Nonattainment Areas

1. Authorizing Statute

Kansas Air Control Act
(Kansas Statutes Annotated, Section 65-3001, et seq.)

2. Title of Regulations

Ambient Air Quality Standards and Air Pollution Control
Kansas Administrative Regulations
Chapter 28, Article 19-16 to Article 19-16m.

3. Summary of Permit Process

a. Applicability

The construction, reconstruction or modification of a stationary source with controlled emission rates of 100 tons per year or more of any pollutant that is located in any area designated as nonattainment for such pollutants under the provisions of Section 107(d) of the federal Clean Air Act is subject to the regulations.

Nonattainment areas for ozone in Kansas are Wyandotte, Johnson, and Douglas Counties. Most of Wyandotte County is also a nonattainment area for particulates. The central business district in Wichita is a nonattainment area for carbon monoxide. A portion of Topeka west and north of the Kansas River is also nonattainment for particulates.

b. General Requirements

A permit must be obtained before the air pollution source begins actual construction, reconstruction or modification. By definition in the regulations, actual construction begins with, but is not limited to, the installation of building supports and foundations, laying of underground pipework and construction of permanent storage structures. Modifications include changes in methods of operation and are deemed to begin with the initiation of any onsite activities other than those which are preparatory in nature.

c. Submittal Requirements

Special information needed to establish compliance with permit requirements must be submitted on special forms provided to the applicant by the department after a determination of applicability of permit requirements to the proposed facility.

Information required to complete special permit forms varies, depending on nature of proposal.

d. Public Hearing

The proposed action on a permit application must be published in a local newspaper. If required, a hearing must be held within 30 days of publication date.

e. Time Requirement

Special permit forms are provided to applicant within 15 days of receipt of initial report forms. The Department must notify applicant of any deficiencies in permit application within 30 days of receipt of the application.

f. Fees

No fees are charged.

g. Appeals Process

No appeals process is specified in the regulations.

4. General Standards

a. Applicability

The following air pollution sources are subject to the regulations: (1) new sources with controlled emissions of nonattainment pollutants of 100 or more tons per year, (2) modifications of existing facilities with this emission rate that result in total net increases in emissions above certain specified limits, and (3) modification of any existing source costing more than 50 percent of replacement value of the modified source.

b. General Requirements

Affected sources must control emissions at level identified as Lowest Achievable Emission Rate (LAER) for source at time application is received. Controlled emissions must not exceed allowable increases for area, as established in federally approved control plan. Such a plan may require that offsetting emissions

reductions be obtained from existing sources in the area for some pollutants. All other pollutants emitted from permitted source are subject to requirements specified in Chapter 4, Part B.

c. Submittal Requirements

Compliance with LAER requirements and emission rate limits imposed must be documented by the applicant.

d. Time requirements

No time requirements are specified in the regulations.

5. Administering Agency

Bureau of Air Quality and Occupational Health
Division of Environment
Kansas Department of Health and Environment
Building 740, Forbes Field
Topeka, Kansas 66620
Telephone: (913) 862-9360, extension 267

6. Relation to Other State and Federal Program

New Air Pollution Source Approvals are discussed in Part B of this chapter.

PART B. Approval Process for New Air Pollution Sources (General)

I. Authorizing Statute

Kansas Air Quality Control Act
Kansas Statutes Annotated, Section 65-3001, et seq.

2. Title of Regulations

Ambient Air Quality Standards and Air Pollution Control Regulations
Kansas Administrative Regulations--Chapter 28, Article 19-8 to Article 19-14.

3. General Standards

a. Applicability

Any new stationary or portable air pollution source or alteration of an existing source that will emit specified amounts of particulate, sulfur dioxide, carbon monoxide, volatile organic compounds, and/or oxides of nitrogen is subject to the regulations. Limits for reporting and approval of processing emissions are specified in the regulations. All waste incinerators other than those serving five or less residential units must also be reported and approved.

b. General Requirements

Affected sources must be reported to the state at least 60 days prior to initiation of construction. Actual construction must not be initiated until applicant receives approval for construction based upon state determination that control and/or design of source is such that it can be expected to comply with all applicable state control requirements, and will not interfere with the attainment or maintenance of any national ambient air quality standard. Sources are evaluated for final compliance with control requirements after construction is completed.

Major sources located in areas identified to be nonattainment are also subject to the permit requirements as specified in Part A of this Chapter.

c. Submittal Requirements

The source must be reported on forms supplied by the state or by local health departments authorized to act as the Department of Health and Environment's agent in Kansas City, Topeka and Wichita, Kansas, metropolitan areas. Forms vary depending upon source type and are generally specifically assembled and provided to applicants after their initial contacts with the state have provided information concerning the nature of the proposed new construction.

d. Time Requirements

Regulations provide for state determination within 60 days of receipt of completed report, except for sources subject to special nonattainment area requirements described in Part A.

4. Administering Agency

Bureau of Air Quality and Occupational Health
Division of Environment
Kansas Department of Health and Environment
Building 740, Forbes Field
Topeka, Kansas 66620
Telephone: (913) 862-9360

5. Relation to Other State and Federal Programs

Major sources located in areas identified to be nonattainment under provisions of federal Clean Air Act are also subject to Part A permit requirements.

Major sources located in areas identified as attainment or not classifiable under provisions of federal Clean Air Act are subject to permit

system directly enforced by the Region VII, U.S. Environmental Protection Agency (EPA) office in Kansas City, Missouri, under the provisions of Part 52, Title 40, Section 52.21 of the Code of Federal Regulations (i.e., pertaining to the Prevention of Significant Deterioration). Sources identified to be other than major sources, but which are subject to federal regulations promulgated under the provisions of Sections 111 (Standards of Performance for New Stationary Sources) and 112 (National Emissions Standards for Hazardous Air Pollutants) of the federal Clean Air Act must also comply with such regulations, as directly enforced by the regional EPA office.

Sources of particulates proposed to be located in Kansas City, Kansas, are also subject to additional, more stringent opacity regulations that are enforced by the local health agency and are also federally enforceable due to their incorporation into the federally-approved state control plan.

Applicants receiving state construction approvals are advised of these additional federally-enforceable requirements whenever a state determination is made that the source will likely be subject to them.

CHAPTER 5. WATER QUALITY STANDARDS AND REGULATIONS

The Kansas Water Pollution Control Statutes protect water quality in the State of Kansas. These statutes are administered by the Department of Health and Environment. The Statutes provide for the regulation of wastewater discharges, the extension of sewer lines, and salt solution mining. The Department of Health and Environment's role regarding underground disposal wells and enhanced recovery wells are described in Section III, Chapter 2, Part C.

PART A. Wastewater Permit Process and Standards

1. Authorizing Statute

Kansas Water Pollution Control Statutes
Kansas Statutes Annotated, Sections 65-164, et seq.

2. Title of Regulation

Kansas Administrative Regulations
Chapter 28, Article 16-1, et seq. and Article 16-28 and Article 16-56,
et seq.

3. Summary of Permit Process

a. Applicability

The discharge from, and operation of, wastewater treatment facilities are subject to the regulations.

b. General Requirements

A permit is required for each facility that has the potential for discharging wastewater.

c. Submittal Requirements

A completed permit application including the following information must be submitted: the name, address, and phone number of the applicant; contact persons; the facility location; a description of the facility (type of industry and type of proposed treatment facility); receiving stream; proximity of nearest residences to existing sewer systems; and expected quantity of discharge. Additional information may be required depending on the complexity of the proposed system or the receiving stream.

Plans and specifications are expected to include an area map, identification of nearby dwellings, process schematics and summaries, and adequately detailed drawings for construction prepared according to sound engineering practice.

d. Public Hearing

The Director of the Division of Environment may schedule a public hearing on a permit for discharge from a water pollution control facility if he determines that significant public interest exists.

e. Time Requirements

The Division of Environment urges permit applicants to obtain their operating permit as early as possible. In strict conformance with regulations, an application for a discharge permit should be accompanied by plans and specifications. As a practical matter, the Division requests that development of plans and specifications not proceed until it has been determined that the operating permit can be issued. This is to avoid the preparation of plans and specifications for a facility only to find

the operating permit cannot be issued. The Division will place a permit on public notice with completion of conceptual design of a wastewater treatment facility. The final permit will not be issued until the actual construction drawings are approved.

In any event, an application for a discharge permit must be submitted at least 180 days in advance of actual discharge.

f. Fees

Annual fees based on the amount of wastewater discharged are required. Generally, fees are collected for 5 years, the normal life of a permit.

g. Appeals Process

No specific appeal procedure is outlined in case of permit denial.

4. General Standards

a. Applicability

All wastewater sources discharging into waters of the state are subject to quality standards and effluent limits specified by the wastewater permit. New construction and modification to treatment and collection facilities must comply with the state's Minimum Standards of Design and the state Water Quality Management Plan.

b. General Requirements

All facilities must be able to comply with the terms of their discharge permit.

c. Submittal Requirements

There are no submittal requirements once the permit has been approved.

d. Time Requirements

No time requirements are specified in the regulations.

5. Administering Agency

Permits

Kansas Department of Health and Environment
Division of Environment
Water Pollution Control Section
Building 740, Forbes Field
Topeka, Kansas 66620
Telephone: (913) 862-9360

Standards

Kansas Department of Health and Environment
Division of Environment
Bureau of Water Quality
Building 740, Forbes Field
Topeka, Kansas 66620
Telephone: (913) 862-9360

6. Relation to Other State and Federal Programs

State permits are generally issued in conformance with Federal regulations pertaining to the National Pollutant Discharge Elimination System (NPDES) regulations. Nonoverflowing or nondischarging

facilities are issued solely with respect to state regulations. A discharging treatment facility has both a federal and state permit.

All wastewater treatment plant operators are required to be certified by Kansas Statutes Annotated, Section 65-4502. The Division of Environment maintains an operator training and certification program.

Dischargers making laboratory analyses required by their NPDES permit must have their laboratories certified by the Division of Environment under Kansas Administrative Regulations, Chapter 28, Article 15-35. The State has a lab certification officer administering this program.

Plans and specifications and reports submitted to the Division of Environment must bear the stamp or seal of a licensed professional engineer registered in the State of Kansas. This is consistent with Kansas Statutes Annotated, Section 74-7003, et seq., governing the practice of engineering in Kansas.

Qualified construction inspection must be provided for all components of a sewerage system during construction as required by Kansas Administrative Regulations, Chapter 28, Article 16-55.

PART B. Sanitary Sewer Line Extension Permit Process, Standards, and Approval Process

I. Authorizing Statute

Kansas Water Pollution Control Statutes
Kansas Statutes Annotated, Section 65-164, et seq.

2. Title of Regulations

Kansas Administrative Regulation
Chapter 28, Articles 10-1 through Articles 16-55.

3. Summary of Permit Process

a. Applicability

The extension of municipal sanitary sewer collector and interceptor lines are subject to the regulations.

b. General Requirements

A sewer extension permit, or construction permit, is required prior to the construction of an extension to a sanitary sewer system.

c. Submittal Requirements

An application for sewer extension must be submitted along with construction plans and specifications. Generally the application must include information on the adequacy of the downstream collection and treatment system, the location of nearby private and public wells, and nearby residences. Other submittal requirements might be required depending on the scope of the extension.

d. Public Hearing

A public hearing is not required.

e. Time Requirements

No time requirements are specified in the regulations.

f. Fees

No fees are required.

g. Appeals Process

No appeals process is specified in the regulations.

4. General Standards for Sewer Line Extensions

a. Applicability

All sewer line extensions must be designed and built in conformance with the regulations and the Minimum Standards of Design.

b. General Requirements

Minimum Standards of Design generally govern the review of sewer extension requests. The State's Minimum Standards are available from the Water Pollution Control Section of the Division of Environment.

c. Submittal Requirements

Plans, specifications, and completed application are required.

d. Time Requirements

No time requirements are specified in the regulations.

5. Summary of Approval Process for Sanitary Sewer Line Extensions

a. Applicability

All sanitary sewer line extensions must obtain a sewer extension permit from the Division of Environment prior to construction.

b. General Standards and Requirements

Review and approval of submittals are governed by the state's Minimum Standards of Design and the adequacy of downstream collection and treatment systems.

c. Submittal Requirements

Sewer extension applications are to be accompanied by construction drawings for the sewer extension and construction specifications.

d. Time Requirements

Generally, the approval requires two weeks.

6. Administering Agency

Kansas Department of Health and Environment
Division of Environment
Water Pollution Control Section
Building 740, Forbes Fields
Topeka, Kansas 66620
Telephone: (913) 862-9360

7. Relation to Other State and Federal Programs

Plans and specifications must be prepared by a licensed professional engineer registered in Kansas.

All applications are reviewed for conformance with the state Water Quality Management Plan and the applicable County-Wide Wastewater Management Plan.

Qualified construction inspection must be provided for all components of a sewerage system in conformance with Kansas Administrative Regulations, Chapter 28, Article 16-55.

PART C. Salt-Solution-Mining Well Permit Process, Standards and Subdivision Approval

I. Authorizing Statute

Kansas Water Pollution Control Statute
Kansas Statutes Annotated, Section 65-171d

2. Title of Regulation

The permit process has been developed by the Division of Environment in compliance with the Department's Regulations, Kansas Administrative Regulations, Chapter 28, Articles 43-1 through 43-10.

3. Summary of Permit Process

a. Applicability

The construction, operation, monitoring and abandonment of salt-solution-mining wells are subject to the regulations.

b. General Requirements

A permit is required for each salt-solution-mining well where salt is extracted by hydraulic methods.

c. Submittal Requirements

A completed application form with the following information and attachments must be submitted: the name, address, and phone number of the applicant; the legal description and number of each well; contact persons; potential cavity interval; surface elevation of well; log of drilled formations; description of solution method and distribution system; description of proposed bore hole and casing program; the proposed use of brine; and the method by which excess brine will be disposed. Additional information may be required where special designs are considered under waiving.

d. Public Hearing

A public hearing is not required.

e. Time Requirements

The time required for permit processing is about two weeks unless the application is incomplete. All applications for waiver of a regulation are acted upon within 15 days as stated in the regulation.

f. Fees

No fees are required.

g. Appeals Process

Within 30 days of an administrative action of a permit, the applicant may request a hearing in writing to the Secretary of the Department of Health and Environment. The Secretary appoints an administrative hearing officer and notifies the appellant within ten days of request of the date of hearing.

4. General Standards

a. Applicability

All salt-solution-mining wells drilled after May 1, 1979, are subject to certain standards on well spacing, casing, cementing, and salt roof thickness. Wells completed previous to May 1, 1979, must be proven to possess operational integrity to continue in operation. If operational or mechanical integrity is proven, a waiver to the regulation is required if the standards deviate from those contained in the regulations.

b. General Standards

Standards on well spacing, use of centralizers, type of casing, cementing procedures, and thickness of salt roof above cavity are stated in the regulations. Also standards are set for abandoned wells, and logging surveys connected to cavity development and dimensional limitations on cavity growth.

c. Submittal Requirements

The regulations require submission of an annual report relating to elevation survey, logging surveys, and injection/withdrawal volumes. A map updating is required as a part of this submission. All logging submissions are to be forwarded within 30 days of completion of the tests.

d. Time Requirements

All reports are to be submitted annually. Logging surveys are on various schedules depending upon the type of the log. Some logs are on a five-year frequency while others are done on the basis of projected salt cavity life.

5. Administering Agency

Bureau of Oil Field and Environment Geology
Division of Environment
Department of Health and Environment
Building 740, Forbes Field
Topeka, Kansas 66620
Telephone: (913) 862-9360

6. Relation to Other State and Federal Programs

Permits issued under the state program are not coordinated with any other state or federal programs. The regulations will interface with the Federal UIC (Underground Injection Control) Program as Class III wells when state primacy is fully achieved from the Environmental Protection Agency (EPA).

An appropriation right permit for all use of ground or surface water must be obtained from the Division of Water Resources, Board of Agriculture. This includes all water used for the solution mining process. The permit is described in Section IV, Chapter 7, Part A.

CHAPTER 6. PUBLIC DRINKING WATER SUPPLY

The Department of Health and Environment has responsibility for issuing permits for the construction and operation of public water systems. Part A of this section describes the permit process and standards for public water supply systems.

PART A. Permit Process and Standards for Public Water Supply Systems

1. Authorizing Statute

Kansas Statutes Annotated, Section 65-163 and Kansas Statutes Annotated, Section 65-171m

2. Title of Regulation

Kansas Administrative Regulations
Chapter 28, Article 15-25
"Regulations Governing the Operation of Public Water Supply Systems"

3. Summary of Permit Process

a. Applicability

Any public water supply system with at least 10 service connections or regularly serving at least 25 people daily at least 60 days of the year is subject to the regulations.

b. General Requirements

A permit to provide water to the public is required. Regular monitoring to determine bacteriological, chemical, physical, or radiological quality of the water is also required.

c. Submittal Requirements

Prior to the construction of the system, a completed permit application must be submitted for review and approval. The application must include: a copy of the plans and specifications; a description of the source of the water; the proposed manner of storage and treatment of raw water source; sufficient data on the source to insure that the treated water is potable. If the project is completed in accordance with the approved plans, the permit is issued.

d. Public Hearing

A public hearing is not required.

e. Time Requirements

For new facilities, the permit application, plans and specifications must be submitted for review and approval prior to construction. At least three weeks will be needed for review unless special time restraints are involved. The permit is valid as long as the facility is in use or until it is significantly modified.

f. Fees

No permit fees are required. However, laboratory fees which vary by content of the sample, are charged for monitoring public water supplies.

g. Appeals Process

No appeals process for the denial of the permit is specified.

4. General Standards

a. Applicability

All public water supplies must be in conformance with regulations.

b. General Requirements

Standards for design of water supply facilities have been adopted. These standards are available upon request.

c. Submittal Requirements

Standards are revealed in plans and specifications which must be submitted.

d. Time Requirements

Time requirements for the submission of samples for monitoring are specified in the regulations.

5. Administering Agency

Kansas Department of Health and Environment
Division of Environment
Bureau of Water Supply
Building 740, Forbes Field
Topeka, Kansas 66620
Telephone: (913) 862-9360

6. Relation to Other State and Federal Programs

The Kansas Department of Health and Environment is the lead agency in supervising public water supplies across the state and in providing technical assistance.

CHAPTER 7. WATER RESOURCES MANAGEMENT

Two state agencies are responsible for the management of the state's water resources. The Water Resources Board is the agency vested with the authority to plan water use. The Division of Water Resources of the Board of Agriculture has the authority to regulate water use and control. This authority is carried out through the Division's permits to appropriate water for beneficial use and permits or approval to construct dams or other water obstructions. The permit process, certification and standards for appropriation are discussed in Part A. The Division's permit or approval process for the construction of dams or other water obstruction is specified in Part B.

In addition to the above mentioned agencies, the Kansas Statutes allow for the creation of groundwater management districts to manage groundwater resources at the local level. These districts may be formed locally by the population residing above one or more aquifers. Districts may make their own rules and regulations, subject to the approval of the Division of Water Resources. Five such districts have been formed, four have promulgated rules and regulations. These regulations may be found in Chapter 5, Sections 21, 22, 23, and 25 of the Kansas Administrative Regulations.

PART A. Permit Process, Certification Process, and Standards for the Appropriation of Water

1. Authorizing Statute

Kansas Water Appropriations Act
(Kansas Statutes Annotated, Sections 82a-701, et seq.)

2. Title of Regulations

Kansas Administrative Regulations
Chapter 5, Article 1-1 et seq.

3. Summary of Permit Process

a. Applicability

Any person intending to appropriate any waters of the state for any use other than for domestic purpose is subject to the regulations.

b. General Requirements

All water within the state may be appropriated for beneficial use. A permit is required to appropriate the water, except for domestic use.

c. Submittal Requirements

A completed "Application for Permit to appropriate Water for Beneficial Use" must be submitted. The application must include the following information: the name and address of the applicant; the source of the water; the total annual quantity of water sought and the maximum rate at which water is to be diverted; the location of the well(s); the estimated time for the completion of the proposed work(s); the time of the first application of the water to the beneficial use involved; and the intended reason for appropriation. The application must be accompanied by a detailed plat or aerial photograph showing the location of the proposed point(s) of diversion, location of pipelines, canals, or other facilities conveying water from point of diversion, the location of land to be irrigated or where the water will be used and any additional information that the chief engineer requests.

d. Public Hearing

A public hearing is not required, but may be held on request.

e. Time Requirements

Approval of the application authorizes the applicant to proceed with construction of the proposed diversion works. The approval provides that the diversion works must be completed on or before a specified date. The applicant must notify the chief engineer when construction is completed.

f. Fees

A \$50.00 fee must be submitted with the application.

g. Appeals Process

The decision of the chief engineer may be appealed to the district court.

4. Summary of Certification Process

a. Applicability

Any person who has received a permit to appropriate waters for beneficial use is subject to the regulations.

b. General Requirements

The completed diversion work must be inspected by the chief engineer. If the diversion is completed and the water appropriated in accordance with the permit, a certificate of appropriation will be issued. The certificate must be filed in the office of the register of deeds in the county where the diversion is located.

c. Submittal Requirements

Applicant must notify the chief engineer when diversion work is completed. A "Notice and Proof of Completion of Works" form must be submitted.

d. Time Requirements

Works must be completed by date specified in permit unless an extension of time is requested.

5. Summary of Standards

a. Applicability

All water meters which are required by the chief engineer under the Kansas Water Appropriations Act must be in conformance with the regulations.

b. General Requirements and Standards

Minimum standards with respect to accuracy and design have been developed for water meters. It is the responsibility of the applicant to select the proper size, pressure rating, and style of water meter to fit his installation and to install and maintain the meter in a satisfactory manner.

c. Submittal Requirements

No submittal requirements are specified in the regulations.

d. Time Requirements

The water right must be perfected in a "reasonable period of time."

6. Administering Agency

Division of Water Resources
Kansas State Board of Agriculture
901 Kansas Avenue
Topeka, Kansas 66612
Telephone: (913) 296-3717

7. Relation to Other State and Federal Programs

The chief engineer may not approve or grant a permit for a dam (see Part B) unless the applicant has received prior approval to appropriate the water to be diverted by the dam. However, if the water is to be used for domestic purposes, such approval is not required.

All water wells must be constructed according to the specifications stated in Kansas Statutes Annotated 82a-1201 to 82a-1215. Under this statute, all water well contractors must be licensed by the Department of Health and Environment. A license may be issued after the applicant submits a completed application and passes the examination administered by that agency. The licensing program is coordinated with the water appropriation program.

PART B. Permit or Approval Process for the Construction of Dams or Other Water Obstructions

1. Authorizing Statute

Kansas Statutes Annotated, 1980 Supplement, Sections 82a-301, et seq.

2. Title of Regulations

Kansas Administrative Regulations
Chapter 5, Article 30-1

3. Summary of Process

a. Applicability

The undertaking of any of the following acts by any person, partnership, association, corporation, agency, or political subdivision of the state is subject to the regulations:

- (1) The construction of any dam or other water obstruction;
- (2) The construction of any change in any dam or other water obstruction;
- (3) The changing of or addition to any existing water obstruction; or
- (4) The changing of or diminishing of the course, current, or cross section of any stream in the state.

b. General Requirements

A permit or the approval of the chief engineer is required before the construction of a dam or water obstruction can begin or any changes are made. The chief engineer or an authorized representative may inspect any dam or obstruction to insure compliance with the terms of the permit.

c. Submittal Requirements

A completed application providing the following information must be submitted: the name of the applicant; the proposed action; a description of the proposed structure; the affected water course; and the location and purpose of the proposed action. The application must be accompanied by complete maps, plans, profiles and specifications of the dam or obstruction and any other information that the chief engineer may require.

d. Public Hearing

A public hearing is not required.

e. Time Requirements

No time requirements are specified in the regulations.

f. Fees

No fees are required.

g. Appeals Process

The decision of the chief engineer may be appealed to the district court.

4. Administering Agency

Division of Water Resources
Kansas State Board of Agriculture
901 Kansas Avenue
Topeka, Kansas 66612
Telephone: (913) 296-3717

5. Relation to Other State and Federal Programs

The chief engineer may not approve a permit for a dam unless the applicant has received prior approval to appropriate the water to be diverted by the dam (see Part A). However, if the water is to be used for domestic purposes, such approval is not necessary.

As stated in Kansas Statutes Annotated, Section 24-126, the construction, repair, maintenance of levees, or the obstruction of the flow of surface waters must also be approved by the chief engineer.

CHAPTER 8. NON-HAZARDOUS AND HAZARDOUS SOLID WASTE MANAGEMENT

PART A. Permit Process and Standards for Non-Hazardous Waste Management

1. Authorizing Statute

Kansas Statutes Annotated, Sections 65-3401 et seq.

2. Title of Regulation

Kansas Administrative Regulations,
Chapter 28, Article 29-1 to Article 29-83

3. Summary of Permit Process

a. Applicability

The collection, storage, treatment, and disposal of all nonhazardous domestic and industrial solid wastes are subject to the regulations. Individual household waste disposal and solid waste from normal farming operations which do not create a health hazard or public nuisance are exempted from the regulations.

b. General Requirements

A permit is required for the opening, operation, or closure of any solid waste management facility.

c. Submittal Requirements

A completed application on a form required by the Kansas Department of Health and Environment (KDHE) must be

submitted. Plans for such facilities must be by a licensed engineer with the exception of certain construction and demolition landfills and small (less than 100 tons per year) landfills in areas designated by KDHE as geologically secure.

d. Public Hearing

A public hearing is not required directly by KDHE but maybe a requirement of the county commission whose approval is a KDHE requirement. This approval shows consistency with the county solid waste management plan. Onsite facilities used exclusively by the property owner are exempted from county commission approval.

e. Time Requirements

Issuance of a permit for a domestic sanitary landfill generally takes two to three months following submission of a complete application. A permit is valid until denied or revoked.

f. Fees

An annual fee of \$50.00 is charged for each nonhazardous solid waste management facility.

g. Appeals Process

Any aggrieved party may appeal a permit decision within ten days of the questioned action by requesting a formal hearing before the Secretary of the Department of Health and Environment.

4. General Standards

a. Applicability

All solid waste management facilities must be permitted and operated subject to the regulations.

b. General Requirements

Sanitary landfills must be operated with daily covering of refuse under an approved land use plan showing progression of fill areas. No open burning is allowed. Specific disposal approval must be obtained for certain specific nonhazardous wastes such as sanitary sewage sludge and large volumes of industrial solid wastes. A closure plan must be approved prior to closure. Insurance and/or surety is required.

c. Submittal Requirements

Most public solid waste management facilities must be engineered with plans adequately detailed to show design and operational intentions. Basic tonnage of volume receipt records must be maintained.

d. Time Requirements

Regulations do not impose any time requirements upon the applicant; however, a closure plan must be approved at least 60 days prior to closure.

5. Administering Agency

Solid Waste Management Section
Division of Environment
Kansas Department of Health and Environment
Topeka, Kansas 66620
Telephone: (913) 862-9360

6. Relation to Other State and Federal Programs

Requirements are generally consistent with the federal Resource Conservation and Recovery Act (RCRA). Administrative cooperation is maintained between KDHE and EPA. The plans for treatment and disposal facilities must be constructed by a licensed engineer registered in Kansas.

PART B. Permit Process and Standards for Hazardous Waste Management

1. Authorizing Statute

Kansas Statutes Annotated, Sections 65-3401, et seq.

2. Title of Regulation

Kansas Administrative Regulations,
Chapter 28, Article 29-1 to Article 29-83.

3. Summary of Permit Process

a. Applicability

The storage, transportation, treatment, management, and disposal of hazardous wastes are subject to the regulations. The definition of hazardous waste is basically as provided by the federal

Resource Conservation and Recovery Act (RCRA) and attendant regulations. Exemption is provided for small volume (less than 100 kilograms per month) generators of approved nonacutely hazardous waste.

b. General Requirements

A permit is required for storage, transportation, and management of hazardous waste. Such wastes are tracked from generation to disposal.

c. Submittal Requirements

A completed application must be submitted. Plans for treatment and disposal facilities must be included in the application.

d. Public Hearing

A public hearing is required.

e. Time Requirements

Issuance of a permit for a hazardous waste treatment or disposal area is estimated to require six months to a year following submission of all necessary information, plans, and fees.

This approval time estimate includes approval of the Hazardous Waste Facility Board which is required for off-site hazardous waste disposal. A permit is valid until denied or revoked.

f. Fees

The basic permit fee is only \$50.00 per year; however, there are other more significant financial requirements for a hazardous

waste disposal facility. The Secretary of the Department of Health and Environment may require an advance payment of up to \$25,000 to the perpetual care fund along with a monitoring fee.

g. Appeals Process

Any aggrieved party may appeal within ten days of the questioned action to request a formal hearing before the Department of Health and Environment.

4. General Standards

a. Applicability

All hazardous waste management activities and facilities are subject to the regulations except for small volume (less than 100 kilograms per month) generators of approved nonacutely hazardous wastes.

b. General Requirements

Facilities are subject to total inspection and must meet rigid recordkeeping and operational procedures requirements. Fees are charged to establish and maintain a monitoring fund and a perpetual care fund by the State of Kansas.

c. Submittal Requirements

No submittal requirements are specified once the application is approved.

d. Time Requirements

The operator of the facility will be required to provide continuing maintenance for at least 30 years following closure of the facility.

5. Administering Agency

Hazardous Waste Management Section
Division of Environment
Building 740, Forbes Field
Kansas Department of Health and Environment
Topeka, Kansas 66620
Telephone: (913) 862-9360, extension 297

6. Relation to Other State and Federal Programs

The Kansas Department of Health and Environment has applied for Interim Authorization and intends to seek full program authorization from the U.S. Environmental Protection Agency to administer hazardous waste regulation and requirements of the federal Resource Conservation and Recovery Act.

Plans for treatment and disposal facilities must be done by a licensed engineer registered in Kansas.

Transporters of hazardous waste must receive private carrier authority from the Kansas Corporation Commission.

CHAPTER 9. NOISE REGULATIONS

There are no state regulations or statutory requirements in effect that govern noise emissions. Control of such emissions may be subject to local authority and local officials should be contacted concerning new facilities.

SECTION V. SOCIAL AND ECOLOGICAL PROTECTION

CHAPTER 10. WILDLIFE PROTECTION

The Fish and Game Commission has jurisdiction to protect bird and animal wildlife in the State of Kansas. To accomplish their mandate, the Commission is vested the authority to issue special permits for actions impacting threatened and endangered species and for scientific collecting and salvaging. Part A discusses the permit process for actions impacting threatened and endangered species and Part B describes the permit process for scientific collecting and salvaging.

PART A. Threatened and Endangered Species Permit Process

1. Authorizing Statute

Kansas Statutes Annotated, Sections 32-504, et seq.

2. Title of Regulation

Kansas Administrative Regulations
Chapter 23, Article 17-2

3. Authorizing Statute

a. Applicability

The following are subject to the regulations:

(1) Any person undertaking or sponsoring publicly funded or state or federally assisted action, (2) any action requiring a state or federal permit which is likely to destroy individuals of an endangered or threatened wildlife species or their habitat or (3) any other person undertaking an action which will destroy endangered or threatened species.

b. General Requirements

Any person described above must obtain a special permit.

c. Submittal Requirements

A completed "Special Permit Application" form and an action impact report must be submitted. The following information is required: name and address of applicant; specific location where action will occur; map showing land use before action undertaken; plans of proposed work including detail to permit a biological evaluation of potential impacts.

d. Public Hearing

A public hearing is not required.

e. Time Requirements

Persons undertaking a publicly-funded or state or federally-assisted action or any action requiring a state or federal permit must submit an application 90 days prior to the proposed starting date of the action. Other persons undertaking an action which will effect endangered or threatened species must submit an application 30 days prior to the proposed starting date of the action.

f. Fees

No fee is charged.

g. Appeals Process

No appeals process is specified in the regulations.

4. Administering Agency

Environmental Services Section
Fish and Game Commission
Route 2, Box 54A
Pratt, Kansas 67124
Telephone: (316) 672-5911

5. Relation to Other State and Federal Programs

The Special Permit may not be issued if the proposed action is in violation of the federal Endangered Species Act of 1973. The permit does not authorize any action in violation of that act.

PART B. Scientific Collection Permit Process

1. Authorizing Statute

Kansas Statutes Annotated 32-123

2. Title of Regulation

Kansas Administrative Regulations
Section 14

3. Summary of Permit Process

a. Applicability

Any person, municipal corporation, college or university, maintaining a zoological collection and desiring to collect birds, eggs, nests, or wild animals protected by law, for scientific or exhibition purposes, is subject to the regulations.

b. General Requirements

Any such person or organization described above must obtain a permit. Permission to ship must be obtained from the Commission if applicant also intends to ship the above in or out of the state.

c. Submittal Requirements

A completed application must include the following information: name and address of applicant; species to be collected; number of specimens involved; major area and purpose of action; methods of collecting; and place where specimens are to be housed.

d. Time Requirements

No time requirements are specified in the regulations.

e. Fees

A \$5.00 fee is charged.

f. Appeals Process

No appeals process is specified in the regulations.

4. Administering Agency

Fish and Game Commission
Route 2, Box 54A
Pratt, Kansas 67124
Telephone: (316) 672-5911

5. Relation to Other State and Federal Programs

The Scientific Collecting Permit does not authorize any action in violation of the federal Endangered Species Act of 1973. Applicable federal permits must be obtained if migratory species are involved.

Salvaging activities may also be permitted. The permit process for salvaging is the same as for scientific collecting.

CHAPTER II. ARCHAEOLOGICAL AND HISTORICAL RESOURCES PROTECTION

Two state laws provide selective protection for archaeological or historical resources on certain lands. The Kansas Antiquities Commission Act governs the discovery, excavation and removal of antiquities on lands belonging to or controlled by the State of Kansas, its agencies or any of its political subdivisions. The permit process specified in this Act is discussed in Part A of this chapter. The Kansas State Historical Preservation Act contains requirements to protect historical or archaeological properties listed on the state register or the National Register of Historic Places from government projects that could potentially encroach upon, damage, or destroy them. The provisions and requirements of this Act are specified in the following paragraphs.

The State Historical Preservation Act of 1977 (Kansas Statutes Annotated, Sections 75-2715 et seq.) state that historic preservation is in the public interest and is public policy. It designates the State Historical Preservation Officer, creates a state register of historic places and establishes the State Historical Sites Board of Review to approve nominations to the state register and to propose nominations to the National Register of Historic Places.

As specified in the Act, state and local government projects which affect state and National Register sites must be reviewed by the State Historic Preservation Officer prior to undertaking the project.

The procedures for implementing the provisions of the act are:

1. Written notification to the State Historic Preservation Officer of the proposed project. The State Historic Preservation Officer has 30 days in which to comment.
2. The State Historic Preservation Officer provides written comments on the project and recommends that it may or may not proceed.

3. If the State Historic Preservation Officer recommends against the project, it cannot proceed until the Governor, in the case of a state project, or the governing body of the political subdivision, has determined there is no feasible alternative to the project and that it contains provisions to minimize damage to the historic property. Five days' notice of the determination must be provided the State Historic Preservation Officer by registered mail.
4. The decision to proceed is subject to review in the district court of the county where the historic property is located. The district court judge may substitute his findings for those made by the governor or the governing body.

Written communications to the State Historic Preservation Officer should be addressed as follows:

State Historical Preservation Officer
Kansas State Historical Society
10th and Jackson
Topeka, Kansas 66612

PART A. Permit Process for the Excavation or Removal of Antiquities

1. Authorizing Statute

Kansas Antiquities Commission Act of 1967
(Kansas Statutes Annotated, Sections 74-5401, et seq.)

2. Title of Regulations

No regulations have been developed.

3. Summary of Permit Process

a. Applicability

Any person, institution or corporation whose actions would cause excavating, removing, defacing of, or vandalism to, antiquities on lands belonging to or controlled by the state, counties, or municipalities is subject to these regulations. The person in charge of such action is responsible for the reporting of discoveries of antiquities to the Commission and to protect them until the Commission may investigate.

b. General Requirements

A permit is required to excavate or remove material from state lands. Permits may be issued to educational or research institutions, public museums or nonprofit corporations organized for research purposes. They may be authorized to excavate, remove materials, or scientifically investigate, if the Antiquities Commission determines that the applicant has the staff and facilities to make available to the public the knowledge gained. The person in charge of the survey must report discoveries of antiquities to the Antiquities Commission.

c. Submittal Requirements

A formal written request detailing the purposes of the proposed investigation, the location in which it is to be conducted, the sponsoring agency and the professional personnel in charge must be submitted.

d. Public Hearing

A public hearing is not required.

e. Time Requirements

No time requirements are specified in the regulations.

f. Fees

No fee is required.

g. Appeals Process

No appeals process is specified in the regulations.

4. Administering Agency

Secretary
Kansas Antiquities Commission
Archeology Department
Kansas State Historical Society
120 West 10th
Topeka, Kansas 66612

5. Relation to Other State and Federal Programs

Two federal programs provide significant protection for archeological or historical resources. The National Environmental Policy Act (NEPA) requires evaluation of the effects of major federal actions on environmental resources, including cultural resources.

Also, Section 106 of the National Historic Preservation Act (NHPA) directs federal agencies to take into account the effect of a federal, federally-assisted, or federally-licensed undertaking on a National Register property or a property that might be eligible for the National Register. This evaluation and appropriate mitigation procedures, if needed, involve the "undertaking" agency representative, the Advisory

Council on Historic Preservation, and the State Historic Preservation Officer. The regulations implementing Section 106 are directed toward maximum coordination with the environmental review process established by the National Environmental Policy Act.

There are no state laws which impose regulatory authority over the protection of wetlands.

1. Relation to Other State and Federal Programs

The Dredge and Fill Permit Program, and indirectly, the National Pollutant Discharge Elimination System (NPDES) permit program provide for the protection of ecologically sensitive wetlands at the federal level. Any person who proposes to discharge dredged or fill material into waters of the United States must apply for a dredge and fill permit under the first program. Any person who proposes to discharge wastewater in a water body must apply for a NPDES permit. Under these programs, the Department of Health and Environment may review an application and provide comments concerning the effects of any project on wetlands.

2. Administering Agency

Division of Environment
Kansas Department of Health and Environment
Building 740, Forbes Field
Topeka, Kansas 66620
Telephone: (913) 862-9360

SECTION VI. LAND USE

CHAPTER 13. LOCAL GOVERNMENT LAND USE ENABLING LAWS

Kansas cities are delegated the authority to enact and enforce land use measures within their corporate boundaries. The statutes also delegate certain counties the authority to enact land use measures within any township in the county outside incorporated cities. Enabling laws for cities are discussed in Part A. Part B contains a summary of such laws for counties.

PART A. Cities

1. Authorizing Statutes

Kansas Statutes Annotated, Sections 12-707 et seq.

2. Title of Regulation

None.

3. General Standards

a. Applicability

The Act delegates to all cities the authority to designate and enforce zoning restrictions.

b. General Standards and Requirements

Any city may, by ordinance, divide such city into zones or districts, and regulate and restrict the location of buildings, and uses of land within the area for dwellings, businesses, industry,

c. Submittal Requirements

The regulations do not require that any information be submitted.

d. Time Requirements

No time requirements are specified in the Act.

Laws authorizing cities and towns to enact and enforce land use measures to prevent flood hazards are discussed in Section VI, Chapter 14, Part A.

PART B. Counties

1. Authorizing Statutes

Kansas Statutes Annotated, Sections 19-2901, et seq.

2. Title of Regulations

None.

3. General Standards

a. Applicability

The Act delegates to certain counties the authority to designate zoning restrictions. Exempted counties are specified in the statutes.

b. General Standards and Requirements

The county commissioners of any county may, by resolution, provide that all lands within any township in the county which lie outside the limits of an incorporated city may be zoned.

c. Submittal Requirements

The regulations do not require that any information be submitted.

d. Time Requirements

No time requirements are specified in the Act.

Laws authorizing counties to enact and enforce land use measures to prevent flood hazards are discussed in Section VI, Chapter 14, Part B.

CHAPTER 14. FLOODPLAIN MANAGEMENT

Local governments have the authority to enact land use measures to prevent flood hazards in Kansas, subject to the approval of Chief Engineer of the Division of Water Resources (Board of Agriculture). These enabling laws are discussed in Part A of this chapter.

PART A. Floodplain Management Enabling Laws

1. Authorizing Statute

Kansas Statutes Annotated, Sections 12-734, et seq.

2. Title of Regulation

Division Guidelines

3. General Standards

a. Applicability

The Act authorizes any county or city to enact measures to control the use of land to prevent flood hazards.

b. General Standards and Requirements

Any county or city may establish floodplain zones and districts and may restrict the use of land adjacent to watercourses which are subject to inundation from a flood having a one percent or greater chance of occurring in one year. The floodplain zone or district of a city may include the floodplain area within any incorporated area of the city and any unincorporated area within three miles of the city limits that is not designated a floodplain zone by any other unit of government.

All resolutions or ordinances relating to floodplains must be submitted to the Chief Engineer of the Division of Water Resources (Board of Agriculture) for review prior to their adoption. The Chief Engineer must approve all such resolutions or ordinances, and changes to them, as being consistent with the following minimum standards:

- (1) Human habitation is prohibited from the floodplain unless adequately protected.
- (2) New construction or reconstruction is elevated or flood-proofed to the approved level.
- (3) Structures and fills are prohibited if they raise the flood height unreasonably.
- (4) Uses not specifically prohibited or inconsistent and those not causing undue restriction of flood flows are permitted.

c. Submittal Requirements

Each submission by a city or county to the Chief Engineer must include complete maps, plans, profiles, specifications, and textual matter and other information the Chief Engineer may require.

d. Time Requirements

No time requirements are specified in the Act.

4. Administering Agency

Division of Water Resources
Kansas State Board of Agriculture
901 Kansas Avenue
Topeka, Kansas 66612
Telephone: (913) 296-3717

5. Relation to Other State and Federal Programs

Nothing in the Act may be construed as affecting the eligibility of any existing structure located within such area for flood insurance under the National Flood Insurance Program.

As the designated state coordinating agency, the Division of Water Resources also serves as a clearinghouse for flood insurance under the National Flood Insurance Program.

CHAPTER 15. MAJOR FACILITY SITING

PART A. Electric Generation Facility Certification Procedure

1. Authorizing Statute

Kansas Electric Generation Facility Siting Act (Kansas Statutes Annotated, Section 66-1, 158, et seq.)

2. Title of Regulations

Kansas Administering Regulations
Chapter 82, Article 8-2, et seq.

3. Summary of Certification Procedure

a. Applicability

The construction of an electric generation facility or the addition to an electric generation facility is subject to the regulations. An electric generation facility is defined as any physical plant used for the production or generation of electricity or electric power. For the purposes of the Act, the remodeling, reconditioning, or retrofitting of an existing physical plant is not considered to be an addition to that plant.

b. General Requirements

All new electric generation facilities or all additions to such facilities must receive a certification of public need. In determining public need, the Kansas Corporation Commission (KCC) must consider the following factors: (1) whether the electric generating capacity of the proposed facility or addition meets or contributes to the meeting of the electrical energy

needs of the people of the state considering future statewide energy needs, and (2) whether available electrical generating capacity exists within the state that is capable of being distributed economically, reliably, technically, and environmentally. If the Commission determines that public need exists, it must also determine the most reliable location and size of the facility.

c. Submittal Requirements

The formal requirements for a permit application and supporting documents include the following information: an economic feasibility study; financial information; a statement of need; a general site description; a general description of the proposed facility; approvals by other agencies; information on transmission lines required to connect the facility to a bulk power transmission network; data on the geology and seismology of the site and region; fuel information; an evaluation of the effect on the environment; and a discussion of anticipated noise levels and necessary controls.

d. Public Hearings

A public hearing is required. A written notice of such hearing and a copy of the application must be served on all affected landowners and to specified agency heads.

e. Time Requirements

The Commission must set the date for the public hearing to begin between 30 and 180 days after the application is filed.

Public notice of the hearing must be published in the newspaper having general circulation in the counties in which the land to be acquired is located. Notice must be published once each week

for three consecutive weeks. The last day of notice must be at least 5 days before the hearing.

f. Fees

No fees are required.

g. Appeals Process

Any aggrieved party may apply for a rehearing before the Commission within ten days of the Commission's decision on the case. If the Commission denies the application for a rehearing, any party may appeal to the state Supreme Court.

4. Administering Agency

Kansas Corporation Commission
State Office Building, 4th Floor
Topeka, Kansas 66612
Telephone: (913) 296-3326

5. Relation to Other State and Federal Programs

None identified.