

## **MINUTES**

### **JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS**

March 14, 2016  
Room 142-S—Statehouse

#### **Members Present**

Senator Vicki Schmidt, Chairperson  
Representative Sharon Schwartz, Vice-chairperson  
Senator Tom Hawk  
Senator Garrett Love  
Senator Ralph Ostmeyer  
Representative Jerry Lunn  
Representative Janice Pauls  
Representative Ed Trimmer  
Representative Jim Ward

#### **Members Absent**

Senator Oletha Faust-Goudeau  
Representative Steve Huebert  
Representative Valdenia Winn

#### **Staff Present**

Raney Gilliland, Kansas Legislative Research Department  
Jill Shelley, Kansas Legislative Research Department  
Whitney Howard, Kansas Legislative Research Department  
Natalie Scott, Office of Revisor of Statutes  
Jenna Seematter, Office of Revisor of Statutes  
Shirley Jepson, Committee Assistant

#### **Conferees**

Lane Letourneau, Water Appropriation Program Manager, Kansas Department of Agriculture  
Amelia Kovar-Donahue, Kansas Department of Revenue  
Chris Carey, Remedial Section Chief, Kansas Department of Health and Environment  
Julie Ehler, Kansas State Department of Education  
Scott Ward, General Counsel, Kansas State Department of Education  
Clark Shultz, Kansas Insurance Department

#### **Others Attending**

[See Attached List.](#)

## **Morning Session**

The meeting was called to order at 8:00 a.m. by Chairperson Schmidt.

### **Approval of Minutes**

*Representative Schwartz moved to approve the minutes as written; motion seconded by Senator Ostmeyer. Motion carried on a voice vote.*

### **Review and Comment on proposed rules and regulations noticed for hearing by the Kansas Department of Agriculture, Division of Water Resources**

KAR 5-21-6, water flowmeters.

Lane Letourneau, Water Appropriation Program Manager, Kansas Department of Agriculture, appeared before the Committee and explained the proposed amendments to the regulation require a totalizing flowmeter on all non-domestic, non-temporary points of diversion located within the Western Kansas Groundwater Management District No. 1 (GMD 1) and removes the option for a water right holder to use an hour meter and estimated pump rate to calculate water use. The proposed amendment will allow a more accurate method of determining water use and best management of the water resource within the boundaries of GMD 1.

Responding to questions from the Committee, Mr. Letourneau indicated a number of the flowmeters are already in place. With regard to how the water is measured, Mr. Letourneau noted the majority of the flowmeters are set up to measure in acre feet, with an effort to move all flowmeters to this measurement. The Committee noted it is very confusing for some usage to be measured in gallons and some measured in acre feet. Mr. Letourneau indicated the cost of the installation of a flowmeter is approximately \$500-\$1,200 per flowmeter. The Committee expressed concern that the regulation refers to those meters installed on or after January 1, 2014. Mr. Letourneau agreed this date should be adjusted.

KAR 5-23-4, high plains aquifer; KAR 5-23-4b, revocation (was township closures).

Mr. Letourneau explained the proposed rule and regulation relates to allowable withdrawals with the Southwest Kansas GMD No. 3 (GMD 3). The proposed changes, initiated by GMD 3, would close the GMD to any new appropriation that has the High Plains Aquifer as all or part of its source. KAR 5-23-4b will be revoked and no longer needed with the amendment to KAR 5-23-4.

KAR 5-24-2, allowable withdrawals.

Mr. Letourneau explained the proposed rule and regulation relates to allowable withdrawals within the Northwest Kansas GMD No. 4 (GMD 4) and would close GMD 4 to any new appropriation that has the Ogallala Aquifer as all or part of its source.

## **Review and Comment on proposed rule and regulation noticed for hearing by the Kansas Department of Revenue, Division of Property Valuation**

KAR 93-6-3, continuing education requirements.

Amelia Kovar-Donahue, Kansas Department of Revenue, explained the proposed rule and regulation establishes continuing education requirements for a practitioner to retain the registered mass appraiser (RMA) designation. The RMA designation was created in 1997 as a designation with a primary emphasis on education and experience relevant to the Kansas *ad valorem* property tax system. With the creation of the 7-hour National USPAP Update for Mass Appraisal in 2015 by the Appraisal Standards Board and availability of International Association of Assessing Officers course 181, the Kansas standards of mass appraisal workshop is no longer needed.

Responding to questions from the Committee, Ms. Donahue noted the formula for residential appraisal has not changed; however, the change in the computer program a few years ago may contribute to some thinking there have been changes to the appraisal.

## **Review and Comment on proposed rules and regulations noticed for hearing by the Kansas Department of Health and Environment**

KAR 28-74-1, definitions; KAR 28-74-2, application; KAR 28-74-3, risk management plan; KAR 28-74-4, risk management plan agreement.

Chris Carey, Remedial Section Chief, Kansas Department of Health and Environment, explained the proposed rules and regulations are new proposed regulations to be adopted in response to enactment of the Risk Management Program Act in 2015 ([Attachment 1](#)). Mr. Carey explained the purpose of the Act is to provide a voluntary mechanism to assist state programs in addressing residual environmental contamination in a cost-effective manner that is protective of human health and the environment.

In response to a question from the Committee concerning what constitutes “all reasonable” efforts, Mr. Carey noted the agency works with responsible parties and evaluates the results of testing in determining whether there is a potential risk. The Committee expressed some concern that the agency may be using state and federal guidelines that allow for more contaminants to migrate into the water supply. The Committee also questioned whether the agency intended to add one FTE to its staff. Mr. Carey stated the agency does not intend to add staff, explaining that it is the agency’s intent to perform the work with existing staff and noting the estimates refer to the cost of the program.

## **Review and Comment on proposed rules and regulations noticed for hearing by the Kansas State Board of Education**

KAR 91-42-1, definitions; KAR 91-42-2, standards for the use of emergency safety interventions; KAR 91-42-3, district policy, training, local board dispute resolution; KAR 91-42-4, parent notification, required meeting, filing a complaint; KAR 91-42-5, administrative review; KAR 91-42-6, exemptions; KAR 91-42-7, reporting.

Julie Ehler, Kansas State Department of Education, appeared before the Committee to address the proposed rules and regulations. Ms. Ehler explained KARs 91-42-1 and 91-42-2 are amended regulations. KARs 91-42-3 thru 91-42-7 are new regulations to govern the use of emergency safety interventions (seclusion and restraint) with all students in all Kansas schools. Ms. Ehler noted the purpose of the regulations is to establish definitions and requirements for the use of emergency safety interventions in Kansas schools.

Responding to questions from the Committee, Ms. Ehler stated the new regulation required each school district to have a policy in place for addressing emergency safety interventions. Scott Ward, General Counsel, and Laura Jurgenson, also Kansas State Department of Education, were available to respond to questions from the Committee. The Chairperson thanked the agency for its efforts to bring stakeholders together on this issue.

### **Review and Comment on proposed rules and regulations noticed for hearing by the Kansas Insurance Department**

KAR 40-4-34, accident and health insurance, coordination of benefits.

Clark Shultz, Kansas Insurance Department, appeared before the Committee to address the proposed rule and regulation ([Attachment 2](#)). Mr. Shultz explained the amendment to the existing regulation adds individual health insurance plans sold after January 1, 2014, to the list of plan types that can coordinate benefits. The amendment will save insurers money in the form of claims that will not be paid more than once for the same service. Mr. Shultz indicated consumers may be charged lower premium rates due to fewer claims paid by insurers.

Responding to questions from the Committee, Mr. Shultz indicated the rule and regulation will provide coordination of benefits and eliminate overlapping benefits when an individual is covered by more than one policy. Mr. Shultz further explained that presently there is coordination among group policies but not on individual policies.

## **COMMITTEE DISCUSSION AND COMMENTS**

### **Kansas Department of Agriculture Division of Water Resources**

After discussion, the Committee had the following comments.

KAR 5-21-6. In subsection (a), the Committee asks whether the date of January 1, 2014, should be updated because this rule and regulation will not go into effect until later this year.

Comment. The Committee notes different groundwater districts specify different types of flowmeters and believes the same type of meter should be used across the state. Please consider this issue.

## **Kansas Department of Revenue Division of Property Valuation**

After discussion, the Committee had no comment.

## **Kansas Department of Health and Environment**

After discussion, the Committee had the following comment.

Comment. The Committee is concerned about whether the agency can absorb the work of the new Risk Management Plan program. Please describe, in detail, how the agency plans to divert a portion of the duties and responsibilities of other employees to complete the tasks contemplated in the proposed rules and regulations.

## **Kansas State Board of Education**

After discussion, the Committee had the following comments.

KAR 91-42-1. The Committee suggests the inclusion of a definition for "Section 504 plan," a term used in KAR 91-42-3 and KAR 91-42-7.

Comment. The Committee suggests the agency cite not only its authority under the *Kansas Constitution*, but also that given through statute, e.g., KSA 2015 Supp. 72-89d06.

## **Kansas Insurance Department**

After discussion, the Committee had the following comment.

KAR 40-4-34. The Committee believes it should be the responsibility of the insurance companies and not the consumer to determine whether the consumer has double coverage for incidents covered by accident and health insurance.

## **Adjournment**

The meeting was adjourned at 9:20 a.m. The next meeting of the Committee is scheduled for 7:30 a.m. on Tuesday, March 22, 2016.

Prepared by Shirley Jepson  
Edited by Raney Gilliland, Jill Shelley, and  
Whitney Howard

Approved by the Committee on:

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June 1, 2016  
(Date)