

**MINUTES**

**JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS**

August 16, 2010  
Room 152-S—Statehouse

**Members Present**

Senator Vicki Schmidt, Chairperson  
Representative Carl Holmes, Vice-chairperson  
Senator Karin Brownlee  
Senator Janis Lee  
Senator Ralph Ostmeyer  
Representative John Faber  
Representative Steve Huebert  
Representative Shirley Palmer  
Representative Jan Pauls  
Representative Ed Trimmer

**Members Absent**

Senator Chris Steineger  
Representative Joe Patton

**Staff Present**

Raney Gilliland, Kansas Legislative Research Department  
Corey Carnahan, Kansas Legislative Research Department  
Jill Shelley, Kansas Legislative Research Department  
Nobuko Folmsbee, Office of the Revisor of Statutes  
Ken Wilke, Office of the Revisor of Statutes  
Judy Glasgow, Committee Assistant

**Conferees**

Jeff Cowger, Juvenile Justice Authority  
Trevor Wohlford, Court of Tax Appeals  
Randy Forbes, Kansas Pharmacy Board  
Patricia Scalia, Board of Indigents' Defense Services  
Terry Tracy, Kansas Department of Labor  
Oswald Dwyer, Kansas Department of Transportation  
Judy Jewsome, Kansas Corporation Commission

Tom Conley, Kansas Department of Health and Environment  
Tom Gross, Kansas Department of Health and Environment  
John McCannon, Kansas Corporation Commission  
Susan Somers, Kansas Board of Accountancy

## Others Present

Matt Casey, Gaches, Braden, and Associates  
Rob Mealy, Kearney & Associates  
Bruce Larkin, Court of Tax Appeals  
Jody Allen, Court of Tax Appeals  
J. Kubik, Court of Tax Appeals  
Rebecca Crotty, Court of Tax Appeals  
Jeff Bottenberg, Bottenberg and Associates  
Megan Bottenberg, Kansas Department of Labor  
Berend Koops, Hein Law Firm  
Sean Miller, Capitol Strategies  
Seth Valerius, Kansas Department of Labor  
Debra Billingsley, Kansas Board of Pharmacy  
John Maddox, Kansas Department of Transportation  
Mike Hoeme, Kansas Corporation Commission  
Gary Davenport, Kansas Corporation Commission  
Tom Langer, Kansas Department of Health and Environment  
Susan Vogel, Kansas Department of Health and Environment  
Miles Stotts, Kansas Department of Health and Environment  
Rick Brunetti, Kansas Department of Health and Environment  
Chris Cardinal, Sierra Club

## Morning Session

Chairperson Vicki Schmidt called the meeting to order on August 16, 2010, at 9:10 a.m. The Chairperson asked for action on the Committee's minutes from the meeting of June 29, 2010. *Representative Trimmer moved the minutes be approved as written. Representative Pauls seconded the motion. The motion carried.*

The Chairperson recognized Trevor Wohlford, Acting Executive Director, to speak to the proposed rules and regulations noticed for hearing by the Kansas Court of Tax Appeals. (Attachment 1). KAR 94-2-1; 94-2-2; 94-2-3; 94-2-4; 94-2-5; 94-2-6; 94-2-7; 94-2-8; 94-2-9; 94-2-10; 94-2-11; 94-2-12; 94-2-13; 94-2-14; 94-2-15; 94-2-16; 94-2-17; 94-2-18; 94-2-19; 94-2-20; and 94-2-21: revoked; KAR 94-5-1, court regulations and procedures; KAR 94-5-2, definitions; KAR 94-5-3, service; KAR 94-5-4, commencement of action; pleadings; KAR 94-5-5, signatures of parties or counsel; KAR 94-5-6, authorized representation; KAR 94-5-7, information and assistance to self-represented litigants; KAR 94-5-8, filing fees; KAR 94-5-9, filing procedures; time limitations; KAR 94-5-10, electronic mail filings; KAR 94-5-11, facsimile filing; KAR 94-5-12, confidentiality; KAR 94-5-13, intervention; joinder; KAR 94-5-14, consolidation; KAR 94-5-15, motion practice; KAR 94-5-16, discovery; KAR 94-5-17, subpoenas; KAR 94-5-18, stipulations; KAR 94-5-19, prehearing conferences; KAR 94-5-20, continuances; KAR 94-5-21, exchange of evidence and witness lists; KAR 94-5-22, hearing; KAR 94-5-23, evidence; KAR 94-5-24, failure to appear; and KAR 94-5-25, petitions for reconsideration.

Mr. Wohlford stated that these proposed regulations update and amend the revoked regulations and increase the filing fees to compensate for the reduction of state general funds to the agency. The Committee suggested that KAR 94-5-3 include the definition of the requested mailing address. A Committee member suggested all pleadings include the name, address, and telephone number of the party filing. In KAR 94-5-6, a Committee member noted that the definition of "authorized representative" be added for clarification. Staff noted that reference to KSA 60-220 might need to be included in KAR 94-5-13, to include permissive joinder. Mr. Wohlford stated that he would check. In KAR 94-5-21, a Committee member suggested that the new language added this year concerning days when the building might not be open because of extenuating circumstances. It was suggested that KAR 94-5-22 (b) state that the preapproval of nondisruptive items should be determined prior to the hearing date and also a statement inserted giving the judge final say during the hearing should an item become disruptive. The Committee requested that the economic impact statement be amended prior to the public hearing date to show the amount that the new fees would generate. A Committee member questioned why the agency had not raised fees across the board.

The Chairperson welcomed Randy Forbes, General Counsel, to speak to the proposed rules and regulations noticed for hearing by the Board of Pharmacy. KAR 68-23-1, definitions; KAR 68-23-2, electronic reporting; KAR 68-23-3, extension for electronic reporting; KAR 68-23-4, exemption from electronic reporting; KAR 68-23-5, denial of sale; overrides; and KAR 68-23-6, compliance date.

A Committee member suggested that KAR 68-23-3 (d)(2) be clarified to indicate that the 72 hours after the system becomes operational to transmit the information refers to time after the system has been up and running. Staff suggested that the Board review House Substitute for SB 213 for wording which was included in that bill. The Committee had questions about the override provisions and asked the Board to review them. Since the agency would like to get these rules and regulations through the public hearing, conduct training, and have them up and running by December 17, 2010, Mr. Forbes asked whether the Board could make these changes after the rules went into effect. It was suggested that he put this in writing to the Committee, stating that the agency would make the changes after implementing this set of rules and regulations.

The Chairperson recognized Jeff Cowger to speak to the proposed rule and regulation noticed for hearing by the Juvenile Justice Authority (JJA). KAR 123-2-111, trafficking in contraband.

Mr. Cowger stated that this regulation is identical to the temporary regulation that is in place. A Committee member suggested that the JJA review the statute concerning concealed carry law which allows employees at other correctional institutions to keep their permitted gun locked up in the vehicle's trunk. The Committee also suggested adding wire cutters to the list of prohibited items.

Oswald Dwyer, staff attorney, was recognized by the Chairperson to speak to the proposed rules and regulations noticed for hearing by the Department of Transportation. KAR 36-39-2, definitions; KAR 36-39-4, forms; and KAR 36-39-6, rail service financial assistance; loans and grants.

Mr. Dwyer stated that these regulations are identical to the temporary rules and regulations that are in effect. In KAR 36-39-2 (k)(1), staff states the CFR should be adopted by reference as of a date certain. Staff noted that the history section needs to be updated as the bill referenced did not pass; a different version of it did.

The Chairperson recognized Patricia Scalia, Executive Director, to address the proposed rules and regulations noticed for hearing by the Board of Indigents' Defense Services. KAR 105-4-1, determination of eligibility; KAR 105-5-2, rates of compensation; KAR 105-5-3, appellate courts;

compensation; KAR 105-5-6, reasonable compensation, non-tried cases; KAR 105-5-7, reasonable compensation, tried cases; KAR 105-5-8, compensation, exceptional cases; and KAR 105-11-1, defendant reimbursement of attorney fees.

Ms. Scalia stated that these rules and regulations were approved on an emergency, temporary basis earlier this morning at the State Rules and Regulations Board meeting. She stated that the reason for these rules and regulations was to adjust the rate of compensation to a lower rate because the Board's budget appropriation will be insufficient to pay all claims.

In KAR 105-5-8(a)(1), a Committee member noted that there should be a statement clarifying the difference between "off-grid" and "non-grid," since neither type appears on the sentencing grid. It also was pointed out that the agency's public notice should include the year for reference purposes.

Dr. Terry Tracy, Director of the Division of Workers Compensation, was recognized to speak to the proposed rule and regulation noticed for hearing by the Department of Labor. KAR 51-9-7, fees for medical and hospital services.

Dr. Tracy gave an overview of the changes that would be taking place in the compensation for medical, surgical, hospital, dental, and nursing services under the Kansas Workers Compensation Act. The Committee had several questions concerning the economic impact statement. Under Section III of the economic impact statement, a Committee member inquired from what source the increase of 0.7 percent was going to come. Dr. Tracy stated he was aware of a 0.2 percent increase. The Committee stated that since this was incorrect, then the economic statement should be changed before the public hearing. Under Section IV, it was suggested the last statement in that paragraph be omitted.

Susan Somers, Executive Director, was welcomed by the Chairperson to speak to the proposed rules and regulations noticed for hearing by the Board of Accountancy. KAR 74-4-8, continuing professional education programs, requirements; KAR 74-4-9, continuing professional education controls and reporting; KAR 74-5-2, definitions; KAR 74-5-101, independence; KAR 74-5-202, compliance with standards; KAR 74-5-203, accounting principles; KAR 74-6-2, management of an office; KAR 74-11-6, definitions; KAR 74-11-7, renewal of a firm's registration; KAR 74-12-1, fees; and KAR 74-15-2, revoked.

Ms. Somers stated that the purpose of the proposed rules and regulations is for clarification, to update materials adopted by reference and to eliminate provisions as a result of legislation passed in 2009. A Committee member had a question on KAR 74-5-2 (k) and (l) and the proper way to alphabetize these terms. Staff will check with the Department of Administration.

The Chairperson recognized Judy Jewsome, Litigation Counsel, Transportation Division, to speak to the proposed rules and regulations noticed for hearing by the State Corporation Commission. KAR 82-4-1, definitions; KAR 82-4-2, general duty of carrier; KAR 82-4-3a, hours of service; KAR 82-4-3d, safety fitness procedures; KAR 82-4-3f, general motor carrier safety regulations; KAR 82-4-3n, minimum levels of financial responsibility for motor carriers; KAR 82-4-3o, imminent hazard; KAR 82-4-6a, minimum requirements of drivers; KAR 82-4-6d, waiver of physical requirements; KAR 82-4-8a, accessories and equipment; KAR 82-4-8h, marking of commercial motor vehicles; KAR 82-4-21, requiring insurance; KAR 82-4-22, intrastate insurance requirements; KAR 82-4-23, general intrastate requirements; KAR 82-4-24a, standard insurance forms; KAR 82-4-26, general requirements for certificates, permits, and licenses; KAR 82-4-26a, certain private motor carriers exempt from obtaining commission authority; KAR 82-4-27, applications for certificates of convenience and necessity and certificates of public service; KAR 82-4-27a, applications for transfer

of certificates of convenience and necessity and certificates of public service; KAR 82-4-27c, applications for transfer for purposes of change in the form of a business organization; KAR 82-4-27e, application to merge or consolidate intrastate common authority, application to acquire control or management of an intrastate common motor carrier operation; KAR 82-4-32, completing motor carrier applications; KAR 82-4-33, service of process; KAR 82-4-35, preserving certificates or permits; KAR 82-4-35a, inspections of motor carrier documents; KAR 82-4-40, passengers on property-carrying vehicles; KAR 82-4-42, emergency and occasional equipment; KAR 82-4-48, bills of lading, waybills, and freight bills; KAR 82-4-48a, motor carriers of property other than household goods carriers electing to be subject to uniform bills of lading and antitrust immunity regulations; KAR 82-4-53, common motor carrier rates and charges; KAR 82-4-54, tariff publication to become effective on less than 30 days notice; KAR 82-4-55, procedure for filing a request for postponement of tariff publications; KAR 82-4-56a, common motor carrier tariffs; KAR 82-4-57, powers of attorney and concurrences; KAR 82-4-58, suspension or modification of tariff regulations; KAR 82-4-63, contested and uncontested motor carrier hearings; KAR 82-4-65, protestants; KAR 82-4-77, right of independent action; and KAR 82-4-28, 82-4-28a, 82-4-28b, 82-4-31, 82-4-37, and 82-4-62, revoked.

Ms. Jewsome stated that many of the proposed changes are to adopt relevant portions of the Federal Motor Carrier Safety Administration's regulations and to make minor grammar and form corrections. Staff noted that in KAR 82-4-1(c)(4), the Commission should consider a cross-reference to KAR 82-4-20, where the listed federal regulations are adopted by reference. On page 2, in (e), the Committee questioned the use of the word "probated" and suggested that the Commission look at the history of the regulations to see if this is accurate. Staff suggested that in KAR 82-4-8a (a) (4), the staff of the agency recheck the reference to 40 CFR Part 82, subpart G, as no additional reference to this federal regulation was found. Ms. Jewsome responded to questions from several Committee members concerning "straight trucks" and "semi-trucks."

The Chairperson recognized John McCannon, Litigation Counsel, Oil and Gas Conservation Division, to speak to the proposed rules and regulations noticed for hearing by the State Corporation Commission. KAR 82-3-101a, procedures for determining location using global positioning system; and KAR 82-3-120, operator or contractor licenses, application, financial responsibility, denial of application, penalty.

Mr. McCannon responded to questions of a general nature from staff and Committee members.

The Chairperson recessed the meeting until 1:30 p.m.

### **Afternoon Session**

Chairperson Vicki Schmidt reconvened the meeting at 1:30 p.m.

The Chairperson recognized Thomas Conley to address the proposed rules and regulations noticed for hearing by the Kansas Department of Health and Environment. KAR 28-35-135l, definitions; KAR 28-35-135t, definitions; KAR 28-35-135w, definitions; KAR 28-35-175a, persons licensed; KAR 28-35-178b, general license, certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere; KAR 28-35-178e, americium-241 or radium-226 in the form of calibration or reference sources; KAR 28-35-178j, general license for use of radioactive material for certain in vivo clinical or laboratory testing; KAR

28-35-180b, financial assurance for decommissioning; KAR 28-35-181a, specific licenses for human use of radioactive material in medical institutions; KAR 28-35-181j, specific licenses to manufacture and distribute calibration sources containing americium-241 or radium-226; KAR 28-35-181m, specific licenses to manufacture, prepare, or distribute radiopharmaceuticals containing radioactive material for medical use; KAR 28-35-181o, specific licenses to manufacture and distribute sources and devices for use as a calibration, transmission, or reference source or for certain medical uses; KAR 28-35-192b, exemptions, exempt concentrations of radioactive materials; KAR 28-35-192c, exceptions, other radioactive material; KAR 28-35-192e, exemptions, gas and aerosol detectors containing radioactive material; KAR 28-35-192g, exemptions, exempt quantities; KAR 28-35-194a, reciprocal recognition of licenses; KAR 28-35-212a, occupational dose limits for adults; KAR 28-35-216a, testing for leakage or contamination of sealed sources; KAR 28-35-225b, disposal of certain radioactive material; KAR 28-35-231c, transfer for disposal, manifests; KAR 28-35-242, general requirements; KAR 28-35-264, general requirements; KAR 28-35-334, reports to individuals; KAR 28-35-346, leak testing of sealed sources; KAR 28-35-411, table of quantities of radioactive material, need for contingency plan; and KAR 28-35-181e and KAR 28-35-192d, revoked.

Mr. Conley stated that the proposed rules and regulations are necessary to bring Kansas regulations in compliance with Nuclear Regulatory Commission (NRC) regulations and to correct errors. Staff noted that in KAR 28-35-135t, (x) and (y) need to include a cross reference showing where the items were adopted by reference. In KAR 28-35-135w, (a) (1) (C), the listed CFR Section should be adopted by reference. KAR 28-35-175a should show a cross reference to KAR 28-35-135w. Committee members suggested that the economic impact statement be reviewed for KAR 28-35-180b, since the amount of the financial assurance in the table was changed.

Chairperson Schmidt welcomed Thomas Gross, Bureau of Air, to speak to the proposed rules and regulations noticed for hearing by the Kansas Department of Health and Environment (Attachment 2). KAR 28-19-202, annual emissions fee; KAR 28-19-517, class I operating permits, annual emissions inventory; KAR 28-19-720, new source performance standards; KAR 28-19-735, national emission standards for hazardous air pollutants, KAR 28-19-750, hazardous air pollutants; maximum achievable control technology; and KAR 28-19-750a, consolidated federal air regulations, synthetic organic chemical manufacturing industry; and KAR 28-19-728, 28-19-728a, 28-19-728b, 28-19-728c, 28-19-728d, 28-19-728e, and 28-19-728f, revoked.

The Committee asked Mr. Gross to provide a breakdown of plants subject to these rules and regulations and the emissions from each. In response to a question from a Committee member, Mr. Gross stated that the requirements in KAR 28-19-720 were not more stringent than the federal rules and regulations. He stated that he was in a continual dialogue with EPA on local issues and problems, acting as a buffer on enforcement of these rules and regulations, and had, on occasion, won concessions.

The Chairperson recognized Jill Shelley, Legislative Research Department, to update the Committee on responses from agencies from January 2009 to July 2010. Ms. Shelley provided copies for each Committee member of a summary of the responses received from agencies regarding the Committee's comments (Attachment 3). She also discussed a separate handout on recently enacted requirements or authorization for rules and regulations, which had three parts (Attachment 4): required or authorized rules and regulations, deadline listed in the enacted bill; required rules and regulations, no deadline listed in the enacted bill; and authorized rules and regulations, no deadline listed. The Committee expressed its appreciation for the furnished reports and stated that the strongly worded letters issued to each agency seemed to be obtaining results.

## Committee Comments on Proposed Rules and Regulations

**Kansas Court of Tax Appeals.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning court regulations and procedures; definitions; service; commencement of action, pleadings; signatures of parties or counsel; authorized representation; information and assistance to self-represented litigants; filing fees; filing procedures, time limitations; electronic mail filings; facsimile filing; confidentiality; intervention, joinder; consolidation; motion practice; discovery; subpoenas; stipulations; prehearing conferences; continuances; exchange of evidence and witness lists; hearings; evidence; failure to appear; petitions for reconsideration; and revocations. After discussion, the Committee had the following comments.

KAR 94-5-3, 94-5-4, and KAR 94-5-5. The Committee suggests that the agency review each of these regulations and others in this set to determine if there is a need to add a definition for "mailing address" and whether there should be an additional requirement of including the address and telephone number of the person effecting service. The Committee suggests this information be placed so that it clearly applies to all filings. In addition, the Committee believes that there are some who do not have e-mail or access to a fax machine, and is concerned that those individuals and entities would continue to be able to access the agency.

KAR 94-5-6. The Committee believes the agency should consider the inclusion of a definition of an authorized representative. In the alternative, the Committee suggests that the agency make the language clear that an individual representing himself or herself would have full rights to ask questions and seek responses. If a definition of authorized representative is included, the agency should clarify who determines whether a person is an authorized representative.

KAR 94-5-8. The Committee believes that the fee increases are not reflected in the Economic Impact Statement. Please revise the Economic Impact Statement to reflect these changes. The Committee also is curious to learn why the increases were not similar across the entire fee schedule, since it appears that the lower fees were the ones with the greater percentage of increase.

KAR 94-5-10. The Committee believes the agency should clarify if and when the fee would be due if the filing were to be made by electronic mail.

KAR 94-5-13. The Committee believes the agency should consider the addition of permissive joinder.

KAR 94-5-21. The Committee suggests that the agency refer to the Civil Procedures Code for language relating to those instances when an office of the clerk of the court may be closed or is not accessible.

KAR 94-5-22. In paragraph (b), the Committee believes some additional language should be included for clarification as to what items may be used during a hearing. In addition, the Committee suggests that the agency consider what actions may be considered disruptive, subject to the judge's discretion.

**Kansas State Pharmacy Board.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning definitions; electronic reporting; extension for electronic reporting; exemption from electronic reporting; denial of sale, overrides; and compliance date. After discussion, the Committee had the following comments.

Note. The first two suggestions are to be considered in an additional future review by the Board of this set of regulations. The final comment is a request for information to be submitted in advance of the Joint Committee's September meeting.

KAR 68-23-3. In paragraph (a), the Committee suggests the language be clarified so that the information is required to be submitted within 72 hours after the implementation of the system. The Committee suggests clarification on whether the requirements apply to both the pharmacy owner and to the KEMPL system.

KAR 68-23-5. The Committee encourages the Board to address the issue of requiring a pharmacy to allow its employee to override the KEMPL system for the safety of the pharmacist or under other certain circumstances. If the Board believes that it does not have the authority to permit this, perhaps legislation should be considered to permit the promulgation of such a regulation.

Concern. The Committee wishes to express its concern with the delay in the adoption of these regulations and asks the Board to suggest means to accomplish these types of tasks in a more timely manner.

**Kansas Juvenile Justice Authority.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning trafficking in contraband. After discussion, the Committee had the following comments.

KAR 123-2-111. In paragraph (b)(1), the Committee suggests that the Authority refer to the statutory language concerning concealed carry for appropriate language regarding the carry of guns and firearms in employee vehicles. In paragraph (b)(5), the Committee suggests the addition of wire cutters to the list of escape paraphernalia.

**Kansas Department of Transportation.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning definitions; forms; and rail service financial assistance, loans and grants. After discussion, the Committee had the following comments.

KAR 36-39-2. The Committee suggests that 49 CFR part 1201, or the appropriate part thereof, be adopted by reference or, if it has been, then a cross reference should be made to the regulation adopting the federal regulation. Otherwise, this reference could be construed as an unlawful delegation of authority.

History Section. The history section of the regulation makes reference to an incorrect version of the bill.

**Kansas State Board of Indigents' Defense Services.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning determination



of eligibility; rates of compensation; appellate courts, compensation; reasonable compensation, non-tried cases; reasonable compensation, tried cases; compensation, exceptional cases; and defendant reimbursement of attorney fees. After discussion, the Committee had the following comments.

KAR 105-5-8. In paragraph (a)(1), please clarify whether the reference is to off-grid offenses or non-grid offenses.

Suggestion. The Committee suggests that the year be included in the notice of hearing.

**Kansas Department of Labor.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning fees for medical and hospital services. After discussion, the Committee had the following comments.

Economic Impact Statement. The Committee requests that the Economic Impact Statement be revised prior to the public hearing in order to reflect costs to the regulated community.

**Kansas State Board of Accountancy.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning continuing professional education programs, requirements; continuing professional education controls and reporting; definitions; independence; compliance with standards; accounting principles; management of an office; definitions; renewal of a firm's registration; fees; and revocation. After discussion, the Committee had no comment.

**State Corporation Commission.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning definitions; general duty of carrier; hours of service; safety fitness procedures; general motor carrier safety regulations; minimum levels of financial responsibility for motor carriers; imminent hazard; minimum requirements of drivers; waiver of physical requirements; accessories and equipment; marking of commercial motor vehicles; requiring insurance; intrastate insurance requirements; general intrastate requirements; standard insurance forms; general requirements for certificates, permits, and licenses; certain private motor carriers exempt from obtaining commission authority; applications for certificates of convenience and necessity and certificates of public service; applications for transfer of certificates of convenience and necessity and certificates of public service; applications for transfer for purposes of change in the form of a business organization; application to merge or consolidate intrastate common authority, application to acquire control or management of an intrastate common motor carrier operation; completing motor carrier applications; service of process; preserving certificates or permits; inspections of motor carrier documents; passengers on property carrying vehicles; emergency and occasional equipment; bills of lading, waybills, and freight bills; motor carriers of property other than household goods carriers electing to be subject to uniform bills of lading and antitrust immunity regulations; common motor carrier rates and charges; tariff publication to become effective on less than 30-day notice; procedure for filing a request for postponement of tariff publications; common motor carrier tariffs; powers of attorney and concurrences; suspension or modification of tariff regulations; contested and uncontested motor carrier hearings; protestants; right of independent action; and revocations. After discussion, the Committee had the following comments.

KAR 82-4-1. In paragraph(c)(4), reference is made to 49 CFR Part 172. This has been adopted by reference in KAR 82-4-20. Please make a cross reference to the regulation adopting the federal regulation. In subsection (e), the Committee is

confused by the terminology "rebated, suspended, or probated" and wonders if the agency could clarify the meaning. In particular, should the term "probated" be "pro-rated"?

KAR 82-4-6d. In subsection (c) and in paragraphs (g)(1)(A), and (g)(1)(B), if the CFRs have been adopted by reference elsewhere, then cross references should be made to the location of the regulations containing the adoption by reference. If they have not been adopted by reference, then the agency should incorporate the appropriate language to adopt the CFRs by reference as of a date certain.

KAR 82-4-8a. In paragraph (a)(1)(4), reference is made to the adoption of 40 CFR Subpart 82 G in KAR 82-4-3i. Please review the wording, because this does not appear to be the case.

**State Corporation Commission.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning procedures for determining location using global positioning system; and operator or contractor licenses: application, financial responsibility, denial of application, penalty. After discussion, the Committee had no comment.

**Kansas Department of Health and Environment.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning definitions; definitions; definitions; persons licensed; americium-241 or radium-226 in the form of calibration or reference sources; general license for use of radioactive material for certain in vivo clinical or laboratory testing; financial assurance for decommissioning; specific licenses for human use of radioactive material in medical institutions; specific licenses to manufacture and distribute calibration sources containing americium-241 or radium-226; specific licenses to manufacture, prepare, or distribute radiopharmaceuticals containing radioactive material for medical use; specific licenses to manufacture and distribute sources and devices for use as a calibration, transmission, or reference source or for certain medical uses; exemptions, exempt concentrations of radioactive materials; exceptions, other radioactive material; exemptions, gas and aerosol detectors containing radioactive material; exemptions, exempt quantities; reciprocal recognition of licenses; occupational dose limits for adults; testing for leakage or contamination of sealed sources; disposal of certain radioactive material; transfer for disposal, manifests; general requirements; general requirements; reports to individuals; leak testing of sealed sources; table of quantities of radioactive material, need for contingency plan; and revocations. After discussion, the Committee had the following comments.

KAR 28-35-135t. In subsections (x) and (y), reference is made to portions of the CFR. Please indicate through a cross reference the location of the regulation where the particular CFR has been adopted by reference. If they have not been adopted, please amend these paragraphs to adopt these portions of the CFR in the appropriate manner.

KAR 28-35-135w. Paragraph (a)(1)(c) refers to 10 CFR 20.1003. If this CFR been adopted by reference, please make the appropriate cross reference. If not, please amend the regulation so that the CFR is appropriately adopted by reference.

KAR 28-35-175a. In subsection (a), reference is made to 10 CFR 20.1003. See comment above.

KAR 28-35-178b. In paragraph (b)(7), reference is made to 10 CFR Part 110. See prior comments relative to adoptions by reference.

KAR 28-35-180b. Please incorporate the information contained in Table 1 of this regulation into the Economic Impact Statement.

**Kansas Department of Health and Environment.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning annual emissions fee; class I operating permits, annual emissions inventory; new source performance standards; national emission standards for hazardous air pollutants; hazardous air pollutants, maximum achievable control technology; consolidated federal air regulations, synthetic organic chemical manufacturing industry; and revocations. After discussion, the Committee had the following comment.

Concern. The Committee's concern does not deal with the set of regulations presented at this time, but instead rests with the actions the agency may be forced to take in order to maintain state primacy in the area of air quality. The Committee wishes to express its concern about the federal Environmental Protection Agency (EPA) forcing standards upon states without the states having an ability to respond to unique situations. Nonetheless, the Committee encourages KDHE to continue to make the cases for exemption, where appropriate, for regulations which may not be applicable to Kansas. Additionally, the members of the Committee are concerned about the extent to which EPA intends to regulate internal combustion engines and wonders how KDHE intends to find, test, and remediate all of the various engines being used within Kansas in order to comply with EPA requirements. Finally, the Committee encourages the staff of KDHE to continue to point out discrepancies and inaccuracies in EPA data which would result in even further detrimental impact to the regulated community in the state.

Chairperson Schmidt adjourned the meeting at 4:35 p.m.

Prepared by Judy Glasgow  
Edited by Raney Gilliland

Approved by Committee on:

September 20, 2010  
(date)

JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS  
COMMITTEE GUEST LIST

DATE: Aug. 16, 2010

NAME	REPRESENTING
✓ Matt Casey	GBA
✓ Ann Mearcy	Kennedy & Assoc.
✓ Jeff Cowger	IJA
✓ Bruce Larkin	COTM
✓ Jody Allen	COTM
✓ Helen Workford	COTM
J. Kubik	COTM
✓ Rebecca Crotty	COTM
Jeff Boltzberg	Monck, CHPA
Megan Pittsburg	KDOL
Berend Koops	Hein Law Firm
Sean Mize	CARTOL STRATEGIES
Chandler Clark	USD 501
RANDY FORBES	Ks Pharmacy Board
Ros Johnson	Federal Council
PATRICIA A. SCALIA	BIDS
✓ Seth Valerius	KDOL
✓ TERRY TRACY	KDOL
Delta Billmeyer	KPOP

JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS  
COMMITTEE GUEST LIST

DATE: Aug 16, 2010

NAME	REPRESENTING
Oswald Bruyer	KDOT
John Maddox	KDOT
Judy Jenksome	KCC
Mike Hoeme	KCC
GARY DAVENPORT	KCC
✓ Tom Langer	KDHE
Susan Vogel	KDHE
Tom Conley	KDHE
Isabelle Burkhardt	KDHE
Erin Conley	KDHE
MILES MILES STATTIS	KDHE
Tom Gross	"
Rick Brunetti	"
Chris Cardinal	Sierra Club



<u>Filing Type</u>	<u>Current Fee</u>	<u>New Fee</u>
PV \$500 or less	\$ 25.00	\$ 100.00
PV \$501 to \$1,000	\$ 50.00	\$ 100.00
PV \$1,001 to \$5,000	\$ 100.00	\$ 150.00
PV \$5,001 to \$10,000	\$ 175.00	\$ 150.00
PV more than \$10,000	\$ 250.00	\$ 250.00
DT \$500 or less	\$ 25.00	\$ 100.00
DT \$501 to \$1,000	\$ 50.00	\$ 100.00
DT \$1,001 to \$5,000	\$ 100.00	\$ 150.00
DT \$5,001 to \$10,000	\$ 175.00	\$ 150.00
DT more than \$10,000	\$ 250.00	\$ 250.00
EQ/PR Not for Profit < \$100,000	\$ 10.00	\$ 10.00
EQ/PR \$250,000 or less	\$ 50.00	\$ 125.00
EQ/PR \$250,001 to \$1,000,000	\$ 75.00	\$ 125.00
EQ/PR \$1,000,001 to \$5,000,000	\$ 125.00	\$ 200.00
EQ/PR \$5,000,001 to \$10,000,000	\$ 175.00	\$ 200.00
EQ/PR more than \$10,000,000	\$ 200.00	\$ 200.00
EQ/PR single family residential	\$ -	\$ 25.00
EQ/PR farmsteads	\$ -	\$ 25.00
EQ/PR mobile/man. homes	\$ -	\$ 25.00
IRBX for property with value in excess of \$1 million	\$ 250.00	\$ 500.00
IRBX for property with value of \$1 million or less	\$ 250.00	\$ 250.00
IRB Filing Statements	\$ 250.00	\$ 250.00
EDX for property with value in excess of \$1 million	\$ 250.00	\$ 500.00
EDX for property with value of \$1 million or less	\$ 250.00	\$ 250.00
PVX	\$ 50.00	\$ 100.00
TX (personal property except oil leases)	\$ 50.00	\$ 75.00
TX (real estate & oil leases 79-201t)	\$ 50.00	\$ 125.00
TX not-for-profit < \$100,000	\$ 10.00	\$ 10.00
TG	\$ 15.00	\$ 25.00
Mortgage Registration Protests	\$ 15.00	\$ 25.00
No Fund Warrants	\$ 50.00	\$ 150.00
Requests for Reappraisal	\$ 50.00	\$ 250.00
Small Claims not-for-profit < \$100,000	\$ 10.00	\$ 10.00
Small Claims single family residential	\$ -	\$ -
Small Claims DT	\$ 20.00	\$ 50.00
Small Claims DT Homestead /\$500 or less	\$ -	\$ -
Small Claims all other appeals	\$ 20.00	\$ 100.00

**Testimony to Joint Committee on Administrative Rules and Regulations**

**August 16, 2010**

**Thomas Gross, Bureau of Air, Kansas Department of Health and Environment**

Good afternoon, Mr. Chairman and committee members. I am Tom Gross with the Bureau of Air at KDHE. The Bureau is proposing changes to the Kansas air quality regulations by amending six and revoking seven regulations. The first of these is K.A.R. 28-19-202.

**K.A.R. 28-19-202: Annual Emissions Fee**

K.A.R. 28-19-202 is the primary implementing regulation for the emissions fee program established by K.S.A. 65-3024. K.A.R. 28-19-202 was last amended on January 30, 2004, to increase the emissions fee from \$20 per ton to \$25 per ton starting in calendar year 2003. We are proposing to make four changes to K.A.R. 28-19-202. The first of these is an increase in the emissions fee from \$25 per ton to \$37 per ton, starting with calendar year 2010.

The Clean Air Act Amendments (CAAA) of 1990 require state permitting authorities to collect an annual emissions fee sufficient to cover all reasonable indirect and direct costs of developing and administering the permit program. The 1993 Kansas Legislature enacted K.S.A. 65-3024, which authorized the Secretary of KDHE to establish an emissions fee program to administer the Kansas Air Quality Act. Fees collected are deposited into the air quality fee fund in the State Treasury. The statute directs the Secretary to adopt rules and regulations fixing emissions fees and to periodically increase or decrease the fees as necessary to cover the direct and indirect costs of administering the program. The presumptive fee established by the federal CAAA of 1990 was \$25 per ton, with annual adjustments tied to the consumer price index. Currently, the EPA presumptive fee is \$43.83 per ton. States are allowed to collect lesser fees so long as their programs are adequately implemented. The proposed fee is lower than the federal presumptive fee and is lower than other Region 7 states: Missouri's fee is \$40 per ton, Nebraska's is \$62 per ton, and Iowa's is \$52 per ton. The purpose of this proposed amendment is to ensure that there are sufficient funds to operate the program.

The air quality fee fund is reviewed to forecast revenue and expenses. There is a great deal of uncertainty when projecting fund balances as a result of the condition of the economy, weather, and the installation of pollution control equipment at large sources. Expenses have risen substantially since the last fee increase in 2004. The 2007 Legislature enacted K.S.A. 75-

5673, requiring KDHE to establish a mercury deposition network across the state. The Bureau funded this using the air quality fee fund.

Income to the fee fund has declined substantially over the past few years. Actual emissions declined 11.6% from 2007 to 2008, and are projected to further decline approximately 9-13% from 2008 to 2011, and then level off beginning in 2012. Projections after fiscal year 2010 indicate that adequate resources to effectively implement the program will not be available without a fee increase. The proposed fee increase and the removal of class I thresholds potentially will result in a revenue increase of approximately \$1.3M for emissions year 2010. In conclusion, the proposed fee increase is needed due to decreased emissions as a result of a declining economy and better pollution controls, as well as the length of time since the last fee increase.

The second proposed amendment to K.A.R. 28-19-202 would remove the minimum thresholds for assessing emissions fees for class I stationary sources, starting with calendar year 2010. Currently, only Title V sources that emit greater than the major source thresholds pay emissions fees. There is substantially the same amount of work required for a class I source, regardless of whether the emissions are less than or greater than these thresholds. With the removal of the minimum thresholds, there will be approximately 130 to 160 class I sources that have not paid on emissions in the past that will be required to pay on emissions for 2010 and subsequent years. For 2008, 159 of 291 class I facilities did not owe any fee based on their emissions falling below the minimum thresholds. Most of these facilities were natural gas compressor stations, small power plants, or landfills. Facilities that did not owe fees in the past will pay an estimated total of \$379,620 in emissions fees.

The third proposed amendment to K.A.R. 28-19-202 would change the late fee from the greater of \$10 per day or 0.05% per day, to the greater of \$20 per day or 0.10% per day. The fourth proposed amendment to K.A.R. 28-19-202 would change the minimum overpayment amount qualifying for refund or credit, from a minimum of \$5 to the fee equivalent of one ton of emissions.

#### **K.A.R. 28-19-517: Annual Emissions Inventory**

The Bureau is proposing an amendment to the annual emissions inventory reporting date. On December 5, 2008, the EPA modified its requirements for collecting and reporting air emissions data in the Air Emissions Reporting Requirements rule. The most important change is



the date by which KDHE must report emissions data to the EPA. The reporting date changed from 17 months following the end of the emissions year (same as calendar year) to 12 months following the end of the year. This new deadline shortens the Bureau's review and processing time by five months for the 2009 emissions year inventory. To meet the deadline, the Bureau is proposing to move the due date for emissions inventory fees and forms from June 1 to April 1. Surrounding states have all moved their reporting dates to April 1.

**K.A.R. 28-19-720: New Source Performance Standards**

In order for the State of Kansas to retain primary authority for air pollution control regulation, state regulations adopt certain federal rules. K.A.R. 28-19-720 implements the federal New Source Performance Standards (NSPS) provisions as state requirements under the Kansas Air Quality Act. The pollutants covered by the NSPS are the criteria pollutants. These pollutants are sulfur oxides, nitrogen oxides, ozone, particulate matter, lead, and carbon monoxide. Section 111 of the CAA directs the EPA to develop regulations implementing emissions standards for new stationary sources. The federal NSPS provisions are codified at 40 C.F.R. Part 60, and regulate new, modified or reconstructed facilities.

The proposed amendments will incorporate changes made to federal NSPS through July 1, 2008. The current adoptions by reference exist only for federal NSPS rules promulgated through June 30, 2005, and specific amendments to include the federal Clean Air Mercury Rule.

The amendments to 40 C.F.R. Part 60 being proposed for adoption by reference into K.A.R. 28-19-720 contain 60 subpart revisions within Part 60 that occurred between 2005 and 2008. The Bureau is proposing to not adopt 11 of the subpart revisions due to pending federal litigation and the vacatur of the Clean Air Mercury Rule

**K.A.R. 28-19-735: National Emissions Standards for Hazardous Air Pollutants**

K.A.R. 28-19-735 adopts by reference and implements the National Emissions Standards for Hazardous Air Pollutants (NESHAP) of 40 C.F.R. Part 61, as state requirements under the Kansas Air Quality Act. The Part 61 regulations establish standards to limit the emissions of certain hazardous air pollutants, which are specifically-defined compounds or elements that cause serious health or adverse environmental effects.

The proposed amendments will adopt by reference the provisions of 40 C.F.R. Part 61, through July 1, 2008. The state's authority currently exists for the Part 61 rules promulgated through June 30, 2005. The proposed amendments are necessary to maintain the state's authority

under existing delegation agreements to administer federal regulations and to ensure Kansas air quality regulations are consistent with federal requirements.

The amendments to 40 C.F.R. Part 61 being proposed for adoption by reference into K.A.R. 28-19-735 contain only one subpart revision within Part 61 that occurred between 2005 and 2008.

**K.A.R. 28-19-750: Hazardous Air Pollutants; Maximum Achievable Control Technology**

Hazardous Air Pollutants (HAPs) are regulated by 40 C.F.R. Part 63, which Kansas implements in K.A.R. 28-19-750, Hazardous Air Pollutants; Maximum Achievable Control Technology.

The proposed amendments will adopt by reference the provisions of 40 C.F.R. Part 63 through July 1, 2008. The state's authority currently exists for the Part 63 rules promulgated through June 30, 2005. The proposed amendments are necessary to maintain the state's authority under existing delegation agreements to administer federal regulations and to ensure Kansas air quality regulations are consistent with federal requirements.

The amendments to 40 C.F.R. Part 63 being proposed for adoption by reference into K.A.R. 28-19-750 contain 121 subpart revisions within Part 63 that occurred between 2005 and 2008. The Bureau is proposing to not adopt 5 of the subpart revisions due to pending federal litigation.

Some of the federal rules proposed to be adopted are more significant to Kansas sources, but most facilities have already complied or are in the process of doing so. There are additional federal rules that were finalized after June 30, 2008, whose impacts on Kansas sources are more significant and we are carefully reviewing how to proceed. These will be addressed in the next update to our regulations. Here are a few examples of rules that we are adopting and how the Bureau is dealing with these federal mandates:

- a. Subpart HH – Oil and Natural Gas Production Facilities. There are about 15 sources affected.
- b. Subpart 5H – Paint Stripping, Autobody Refinishing, Misc. Coating. This rule is directed to “for hire” painting, not personal activities; some 1,100 facilities may be subject to this rule.

- c. Subpart 6B & 6C – Gasoline Distribution and Dispensing Facilities. Requires truck to tank vapor controls when throughput is >100,000 gallons per month. Johnson & Wyandotte counties are covered by an existing RACT rule, but state-wide about 90 facilities may be affected by 6B, and >1,200 are affected by 6C.
- d. Subpart ZZZZ - Reciprocating Internal Combustion Engines (RICE). The regulation will mostly affect RICE engines located at municipalities, irrigation systems and natural gas compressors.

KDHE's method for implementing these proposed regulations affecting small and medium sized businesses is on outreach, through our District Office staff, as well as the Kansas Small Business Environmental Assistance Program (SBEAP) at KSU. We will reach out to affected sources and trade associations. SBEAP is actively involved with workshops and technical assistance for small business.

**K.A.R. 28-19-750a: Consolidated Federal Air Rule**

K.A.R. 28-19-750a adopts by reference 40 C.F.R. Part 65, Consolidated Federal Air Rule, that consolidates different requirements applicable to the Synthetic Organic Chemical Manufacturing Industry (SOCMI). This rule emerged from a federal initiative to streamline the compliance process for industry sectors affected by multiple rules. The Consolidated Federal Air Rule is a voluntary option for complying with the SOCMI requirements, but it does not alter the applicability of referencing subparts in 40 C.F.R. Parts 60, 61, and 63.

The proposed amendments will adopt by reference 40 C.F.R. Part 65, Consolidated Federal Air Rule, through July 1, 2008. Currently, the state's authority only exists for the Part 65 rules promulgated through June 30, 2003. The proposed amendments are necessary to maintain the state's authority under existing delegation agreements to administer federal regulations and to ensure Kansas air quality regulations are consistent with federal requirements.

The amendments to 40 C.F.R. Part 65 being proposed for adoption by reference into K.A.R. 28-19-750 contain 2 subpart revisions within Part 65 that occurred between 2003 and 2008.

**K.A.R. 28-19-728 through 28-19-728f: Mercury Emissions**

On February 8, 2008, the District of Columbia Circuit Court of Appeals vacated the EPA's mercury cap and trade rule, known as the Clean Air Mercury Rule (CAMR), and the associated NSPS. The Circuit Court found that the EPA's action to delist oil- and coal-fired electric generating units (EGUs) from the source categories to be regulated under section 112 of the CAA did not comply with the requirements of the statute. CAMR, which was promulgated under Section 111, was vacated because the court determined that EGUs must be regulated under CAA Section 112 standards. The vacatur was mandated on March 14, 2008, and the associated federal mercury rules are no longer effective. The proposed revocations of K.A.R. 28-19-728 through 28-19-728f will align the state's air quality regulations with the federal court action.

The department has provided copies of these proposed amendments and the Regulatory Impact Statement to the League of Kansas Municipalities, the Kansas Association of Counties, and the Kansas Association of School Boards. We also provided a copy of these rules to the US EPA, and they indicated that they have no comments on our proposal. An email was sent to every Class I source – about 300 – explaining this proposed increase in fees and the change in the emissions inventory submittal date. So far, only one commenter has indicated they are concerned with the early inventory submittal date, and another commented in support of our proposed revocation of the mercury regulation. The public hearing on these rules is set for August 30, 2010. That concludes my testimony. Thank you, Mr. Chairman.

**Summary,  
Agency Responsiveness to Comments of the Joint Committee on Administrative Rules and Regulations,  
January 2009 - June 2010**

Agency	Number of times before the JCARR, January 2009 - June 2010 (a)	Generally, has the agency been responsive? (b)
1 Accountancy, Board of	1	n/a; the Committee had no comments.
2 Administration, Dept. of	2	yes
3 Aging, Dept. on	1	yes
4 Agriculture, Dept. of	9	yes
5 Agriculture, Dept. of, Div. of Water Resources	5	yes
6 Animal Health, Dept. of	1	n/a; the rules and regulations have not yet been published.
7 Bank Commissioner, Office of the State	1	yes
8 Behavioral Sciences Regulatory Board	4	yes
9 Cosmetology, Board of	1	n/a; the Committee had no comments.
10 Credit Unions, Dept. of	2	n/a; the Committee had no comments.
11 Dental Board	3	yes
12 Education, Dept. of	2	yes
13 Emergency Medical Services, State Board of	5	yes
14 Employment Security Board of Review	1	yes
15 Fire Marshal, State	2	yes
16 Governmental Ethics Commission	1	yes
17 Healing Arts, Board of	11	yes
18 Health Policy Authority	3	yes
19 Home Inspector Registration Board	4	yes
20 Housing Resources Corporation	1	yes
21 Indigents Defense Services, Board of	1	yes
22 Insurance, Dept. of	8	yes
23 KCC (Corporation Commission)	9	yes
24 KDHE (Health and Environment, Dept. of)	13	yes
25 Labor, Dept. of	5	yes
26 Nursing, Board of	1	yes
27 Optometry, Board of Examiners in	1	yes
28 Pharmacy, Board of	7	yes
29 Racing and Gaming Commission	3	yes
30 Real Estate Appraisal Board	4	yes
31 Regents, Board of	3	yes
32 Revenue, Dept. of	4	yes
33 Secretary of State	2	yes
34 Securities Commissioner	1	yes
35 SRS (Social and Rehabilitation Services, Dept. of)	3	yes
36 State Employee Health Care Commission	2	yes
37 Technical Professions, Board of	2	yes
38 Transportation, Dept. of	1	yes
39 Treasurer, State	3	no, the agency did not respond to 1 set of comments
40 Veterans Affairs, Commission on	2	yes
41 Veterinary Examiners, Board of	1	n/a; the rules and regulations have not yet been published.
42 Wildlife and Parks, Dept. of	8	yes
<i>(a) When more than one topic was presented at a single meeting, each topic is counted as a separate appearance.</i>		
<i>(b) analyst opinion</i>		
Prepared by KLRD, 5 August 2010		

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Responses to JCARR Comments, January 2009-Present, By Agency								
Problem?	JCARR meeting date	Agency	Committee comments?	Agency response letter in file?	Did agency address each Committee comment in its response?	Final rules have been published? (Register date)	Comments	General Topic
	1/8/2009	Accountancy	no	no	n/a	NTD 5/14/2009	as of 7/29/10	continuing education; code of professional conduct; firm registration; peer review
	5/18/2009	Administration	yes	yes	yes	9/10/2009		employee probation
	1/4/2010	Administration	yes	yes	yes	5/13/2010		travel reimbursement
	1/8/2009	Aging	yes	yes	yes	5/7/09 for adult care homes (Art. 39); 5/15/09 for remainder		adult care homes (Art. 39) assisted living facilities and residential health care facilities (Art. 41) Home Plus (Art. 42) Adult Day Care Facilities (Art. 43)
	2/13/2009	Agriculture	no	yes	n/a	4/23/2009		weights and measures, seminar fee, NTEP rate
	4/6/2009	Agriculture	no	yes	n/a	5/21/2009		live plant dealer license fee
	8/24/2009	Agriculture	yes	yes	yes	11/5/2009		certificate of free sale
	10/5/2009	Agriculture	yes	yes	yes	2/25/2010		anhydrous ammonia
	10/5/2009	Agriculture	yes	yes	yes	1/21/2010		pesticides
	2/26/2010	Agriculture	yes	yes	yes	5/20/2010		lodging; food safety
	5/5/2010	Agriculture	yes	yes	yes	6/24/2010		dairy - adoptions by reference
	5/5/2010	Agriculture	yes			NTD		storage of bulk pesticides
	6/29/2010	Agriculture	no			NTD		weights and measures, adoption by reference
	1/8/2009	Agriculture - Water Resources	yes	yes	yes	3/5/09 for 5-3-4a, 5-14-3, 5-14-3a		hearings and orders
	1/8/2009	Agriculture - Water Resources	yes	no	n/a	9/3/2009 for 5-20-1, 5-20-2 (not 5-20-3)	The Committee's question was on 5-20-3, not in Register yet as of 7/29/10. 5-20-3 is Initiation of an intensive groundwater use control area within a groundwater management district by the chief engineer. The Committee had asked the agency to hold that regulation until 7/1/09 to give the Legislature time to act on the issue. In an email 4/2/10, the agency said it did not intend to promulgate 5-20-3.	IGUCAs + misc.
	11/16/2009	Agriculture - Water Resources	no	no	n/a	12/10/2009		water rights conservation program

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Problem?	JCARR meeting date	Agency	Committee comments?	Agency response letter in file?	Did agency address each Committee comment in its response?	Final rules have been published? (Register date)	Comments	General Topic
	2/26/2010	Agriculture - Water Resources	yes			NTD 4/29/10 for 5-22-7 (GMD 2); 5/6/10 for 5-1-4, 5-1-9, 5-7-1, 5-25-15 (GMD 5) NOT DISTRIBUTION YET (5-4-1, 5-4-1a) 5/6/2010 NTD	as of 7/29/10 as of 28 June 2010, responses have been received to JCARR questions pertaining to regulations that have been published to date.	GMD 2, safe yield; GMD 5, exemption for up to 15 acre-feet of groundwater; flowmeters; distribution when a prior right impaired
	4/5/2010	Agriculture - Water Resources	yes	yes	yes	5/6/2010		water bank deposit date
	6/29/2010	Animal Health	yes			NTD		reportable diseases, trichomoniasis in cattle
	7/6/2009	Bank Commissioner	yes	yes	yes	9/17/2009 for all		mortgage business fees; CE for loan initiators; record retention; other S.A.F.E. act-related (prelicensure testing, bonds)
	2/13/2009	Behavioral Sciences	yes	yes	yes	n/a, withdrawn		social work educational program
	8/24/2009	Behavioral Sciences	no	yes	n/a	9/24/2009		psychologist application fees
	1/4/2010	Behavioral Sciences	no	yes	n/a	3/18/2010		fees for social workers
	4/5/2010	Behavioral Sciences	no			NTD		marriage and family therapy licensee practicum
	5/18/2009	Cosmetology	no	no	n/a	temporary reg published 6/11/09	(information has been requested as to the status of a permanent regulation)	esthetics curricula
	2/13/2009	Credit Unions	no	no	n/a	4/16/2009		definitions re: mergers, approval for foreign credit unions
	4/5/2010	Credit Unions	no	no	n/a	5/13/2010		audit requirements
	4/6/2009	Dental Board	yes	yes	yes	8/6/2009		teeth whitening
	7/6/2009	Dental Board	no	no	n/a	heard again 1/4/10		sedation
	1/4/2010	Dental Board	no			NTD		sedative and general anaesthesia
	4/7/2009	Education	yes	yes	yes	8/13/2009		teacher licensure
	4/5/2010	Education	yes	yes	yes	7/8/2010		special education consent
	2/13/2009	Emergency Medical Services	yes	yes	yes	all but 109-5-1 on 4/30/09	comment was on 109-5-1; agency said "This regulation was returned to [the Education Development Task Force] committee for revision and will repeat the regulatory review process."	continuing education
	4/6/2009	Emergency Medical Services	no	no	n/a	6/25/2009		temporary variance from regulations; attendant must be at least 17

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Problem?	JCARR meeting date	Agency	Committee comments?	Agency response letter in file?	Did agency address each Committee comment in its response?	Final rules have been published? (Register date)	Comments	General Topic
	10/5/2009	Emergency Medical Services	yes	yes	yes	NTD 1/28/10 for continuing education	as of 7/29/10 The remaining regulations, including the regulation about which the JCARR had a comment, were "returned to the Education Development Task Force for further revision," per an undated letter from the EMS Board on these regulations.	continuing education; course approval
	5/4/2010	Emergency Medical Services	no			NTD		continuing education
	6/29/2010	Emergency Medical Services	no			NTD		attendant non-Kansas credentials
	10/5/2009	Employment Security Review (Labor)	yes	yes	yes	1/7/2010		employment security review board; updates, standardize procedures
	5/18/2009	Fire Marshal	yes			NTD		updating of codes
	7/6/2009	Fire Marshal	no	yes	n/a	9/17/2009		NFPA adoption by reference (standard no. 472, 473); hazardous materials response
	11/16/2009	Governmental Ethics Commission	yes	yes	yes	1/28/2010		nondisclosure and public record
	1/8/2009	Healing Arts	no	n/a	n/a	4/30/2009		athletic trainer license
	4/6/2009	Healing Arts	yes	yes	yes	respiratory therapy 4/30/09 and 7/2/09; PT 7/2/09	100-55-7 to be re-done in 2010	respiratory therapy continuing education and license renewal; supervision of PT assistants
	7/6/2009	Healing Arts	yes	yes	yes	11/5/2009		occupational therapy licensure
	7/6/2009	Healing Arts	no	yes	yes	8/27/2009		fees, radiologic technology
	8/24/2009	Healing Arts	yes	yes	yes	11/5/09 for 100-54-8; 12/17/09 for 100-29-3a		English exam for physical therapy; continuing education for occupational therapy
	10/5/2009	Healing Arts	no	yes	n/a	12/17/2009		physician assistant application
	1/4/2010	Healing Arts	yes	yes	yes	4/29/2010		applications: physical therapy, radiologic technologists
	1/4/2010	Healing Arts	yes	yes	yes	5/20/2010		applications: respiratory therapy and naturopathy
	1/4/2010	Healing Arts	yes	yes	yes	5/6/2010	The only comment was a commendation on the economic impact statement.	fees for podiatry, general
	1/4/2010	Healing Arts	no	yes	yes	5/6/2010		education, license renewal (respiratory therapists)
	2/26/2010	Healing Arts	yes	yes	yes	5/20/2010		athletic training application
	1/8/2009	Health Policy Authority	yes	yes	yes	NTD		MediKan hospital services
	7/6/2009	Health Policy Authority	no	yes	n/a	10/1/2009		HCBS for traumatic brain injury
	11/16/2009	Health Policy Authority	yes	yes	yes	3/4/2010		federally qualified health centers
	4/7/2009	Home Inspector Registration	yes	heard again	10/5/09	12/17/09 for 130-1-1, 130-2-1; 12/17/09 for 130-1-1, 130-2-1; 4/22/10 for 130-3-1	The regs presented were heard again 10/5/09; there was only one comment, about a number for a subsection.	registration, renewal, exam; fees; educational programs



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Problem?	JCARR meeting date	Agency	Committee comments?	Agency response letter in file?	Did agency address each Committee comment in its response?	Final rules have been published? (Register date)	Comments	General Topic
	10/5/2009	Home Inspector Registration	yes			NTD 12/17/09 for 130-1-1, 130-1-4, 130-1-5, 130-2-1; 4/22/10 for 130-3-1 and 130-5-2	as of 7/29/10 The comment was on 130-2-1, not finalized as of 7/29/10. 130-3-1 and 130-5-2 were heard again 2/26/10 and published 4/22/10. 130-5-1 has not been finalized as of 7/29/10; no comments on that regulation.	fees, registration
	2/26/2010	Home Inspector Registration	no	no	n/a	4/22/2010		registration renewal; examination; approval of education providers; continuing ed providers
	4/5/2010	Home Inspector Registration	yes	yes	yes	6/3/2010		code of ethics and standards of practice
	1/8/2009	Housing Resources Corporation	no	yes	n/a	2/19/2009		manufactured housing installation
	8/24/2009	Indigents Defense	no	yes	n/a	10/1/2009		defendant reimbursement of attorney fees
	1/8/2009	Insurance	yes	yes	yes	3/12/09 for 40-2-28 (preneed contracts); 8/20/09 for 40-4-36	The Legislature amended KSA 40-2209, making it consistent with the provisions of the proposed 40-4-36, which was published as originally proposed after the new law took effect.	accident and sickness insurance, notice of right to convert preneed insurance contracts, minimum standards for determining reserves
	2/13/2009	Insurance	yes	yes	yes	5/7/2009		COBRA
	4/7/2009	Insurance	no	yes	n/a	6/11/2009		agent continuing education
	4/7/2009	Insurance	no	yes	n/a	5/15/2009, 40-1-37 (audited reports)		Medicare supplement policies
	8/24/2009	Insurance	no	no	n/a	10/15/2009		long-term care; agent training
	10/5/2009	Insurance	no	no	n/a	11/5/2009		audited financial reports
	4/5/2010	Insurance	no	no	n/a	5/20/2010		controlled insurance program act (liability, workers comp)
	6/29/2010	Insurance	no			NTD		hazardous financial condition
	2/13/2009	KCC	yes	yes	yes	2/11/2010		coverage during cancer clinical trials
	4/6/2009	KCC	yes	yes	yes	6/11/2009		title agent records
	5/18/2009	KCC	yes	yes	yes	6/18/2009		CO2 underground storage
	7/6/2009	KCC	yes	yes	yes	9/17/2009		pipeline safety standards; drug and alcohol testing for pipeline employees
	11/16/2009	KCC	no	yes	n/a	NTD		Kansas Underground Damage Prevention Act
	5/4/2010	KCC	yes			7/22/2010		motor carriers
	5/4/2010	KCC	no	no	n/a	7/8/2010		CO2 storage
	5/4/2010	KCC	yes			NTD		net metering
	6/29/2010	KCC	yes			NTD		pleadings and other papers
	2/13/2009	KDHE	yes	yes	yes	5/28/2009		electric utility renewable energy standards
	4/7/2009	KDHE	no	yes	n/a	2/11/2010		unified carrier registration fees
	4/7/2009	KDHE	yes	yes	yes	5/28/2009		cancer registry confidential data
								surface water register
								nurse aide

3-6

Problem?	JCARR meeting date	Agency	Committee comments?	Agency response letter in file?	Did agency address each Committee comment in its response?	Final rules have been published? (Register date)	Comments	General Topic
	4/7/2009	KDHE	yes	yes	yes	NTD	as of 7/29/10	
	5/18/2009	KDHE	yes	yes	yes	6/18/2009		underground crude oil storage wells and associated brine ponds
	7/6/2009	KDHE	yes	yes	yes	9/24/2009		psychiatric residential treatment facilities
	7/6/2009	KDHE	yes	yes	yes	10/8/2009		air quality - prevention of significant deterioration
	10/5/2009	KDHE	yes	yes	yes	6/24/2010	2010 SB 349 would have changed the term in statute, from "maternity center" to "birth center." 349 died in committee. The published regulations add a definition and use "birth center."	maternity centers (birth centers)
	10/5/2009	KDHE	yes	yes	yes	12/31/2009		uncontaminated soil
	10/5/2009	KDHE	yes	yes	yes	12/31/2009		vital statistics document fees
	10/5/2009	KDHE	yes	yes	yes	6/10/2010		air quality for KC metro - idle reduction of heavy-duty diesel vehicles, nitrogen oxides (NOx) emissions reduction
	10/5/2009	KDHE	yes	yes	yes	3/25/2010		Residential childhood lead poisoning prevention program.
	1/4/2010	KDHE	yes	yes	yes	4/1/2010		speech language pathology and audiology
	4/5/2010	KDHE	yes			7/22/2010		class III salt solution mining wells
	5/18/2009	Labor	yes	yes	yes	NTD		protecting victim of violence from retaliation at work
	1/4/2010	Labor	yes	yes	yes	5/13/2010		amusement rides
	6/29/2010	Labor	no	yes	n/a	NTD	temporary published 5/20/10	employer contribution rates tax
	8/24/2009	Labor - Division of Workers Comp	yes	yes	yes	10/22/2009		fees for medical services
	4/6/2009	Labor (Public Employee Relations Board)	no	yes	n/a	6/4/2009		service of pleadings, Public Employees Relations Board
	4/5/2010	Nursing	no	yes	n/a	7/15/2010		intravenous fluid therapy for licensed practical nurse (revocation of board)
	4/5/2010	Optometry	yes	yes	yes	6/17/2010		fees
	1/8/2009	Pharmacy Board	yes	yes, dated 7/16/09 and 8/10/09	yes	2/19/2009		
	8/24/2009	Pharmacy Board	yes	yes	yes	10/8/09; 10/29/09 for controlled substances; 4/8/10 for institutional drug rooms	institutional drug rooms reg (68-7-21) heard by the JCARR again 2/26/10	institutional drug rooms; inventories of controlled substances; foreign students and interns; prescription labels; electronic prescriptions
	10/5/2009	Pharmacy Board	yes	yes	yes	12/24/2009		pharmacist function in filling a prescription

3-7

Problem?	JCARR meeting date	Agency	Committee comments?	Agency response letter in file?	Did agency address each Committee comment in its response?	Final rules have been published? (Register date)	Comments	General Topic
	2/26/2010	Pharmacy Board	no	yes	n/a	NTD 4/8/2010	as of 7/29/10	continuing educational units; institutional drug rooms; electronic prescriptions for controlled substances
	4/5/2010	Pharmacy Board	yes			68-7-11 published 7/1/10	response re: certification for checking technician (68-7-11) dated 6/7/10 (medical care facility pharmacy); the other regulations about which the Committee had questions have not yet been published	prescription monitoring program; medical care facility pharmacy
	6/29/2010	Pharmacy Board	yes			NTD		nuclear pharmacy
	6/29/2010	Pharmacy Board	yes			NTD		electronic supervision of medical care facility's pharmacy personnel
	4/6/2009	Racing and Gaming	no	no	n/a	7/30/2009		define gaming and non-gaming suppliers
	7/6/2009	Racing and Gaming	yes	yes	yes	10/1/2009		minimum internal control system - keys, forms
	8/24/2009	Racing and Gaming	yes	yes	yes	12/24/2009		table games
	1/8/2009	Real Estate Appraisal	yes	yes	yes	4/2/2009		"good standing"; fees and continuing education if reinstatement
	4/6/2009	Real Estate Appraisal	no	no	n/a	6/25/2009		education requirements for appraisers
	1/4/2010	Real Estate Appraisal	yes	yes	yes	4/1/2010		appraiser continuing education, experience
	2/26/2010	Real Estate Appraisal	yes	yes	yes	5/6/2010		continuing education
	8/24/2009	Regents	yes	yes	yes	10/29/2009		qualified admission
	2/26/2010	Regents	yes	yes	yes	4/1/2010		fees for private and out-of-state postsecondary education institutions
	5/4/2010	Regents	no			NTD		GED testing
	1/8/2009	Revenue	yes	yes	yes	2/19/2009		agricultural ethyl alcohol producer incentive
	2/13/2009	Revenue	yes	yes	yes	5/7/2009		transfer of tax credits
	5/5/2010	Revenue	yes	yes	yes	NTD	At the 6/29/2010 meeting, Secretary Wagnon testified the agency will withdraw 14-11-27. The Committee had an additional comment after the Secretary's presentation at its 29 June 2010 meeting. This was addressed in a second report to the JCARR (written, dated 7/13/10).	6 - containers and labels; 11- farm wineries; 16 - licenses, suspension and revocation; 19 - Class A clubs; 20 - Class B clubs; 21 - drinking establishments (extension of premises, etc.); 23 - temporary permits; 24-winery shipping permits
	6/29/2010	Revenue	no			NTD		license for foreign vehicle dealers
	1/8/2009	Secretary of State	yes	yes	yes	2/19/2009		certification authorities, digital signatures

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Problem?	JCARR meeting date	Agency	Committee comments?	Agency response letter in file?	Did agency address each Committee comment in its response?	Final rules have been published? (Register date)	Comments	General Topic
	6/29/2010	Secretary of State	no			NTD	as of 7/29/10	
	4/6/2009	Securities Commissioner	yes	yes	yes	4/30/2009 for exemptions, 5/7/09 for unethical practices regulations		schedule of information and services fees unethical practices; notice filing requirements and associated fees
	4/7/2009	SRS	yes	yes	yes	6/11/2009		eligibility for General Assistance
	5/18/2009	SRS	yes	yes	yes	6/18/2009		abuse/neglect registry; tuition waiver for former foster children
	11/16/2009	SRS	yes	yes	yes	12/31/2009		developmental disabilities - licensing providers of community services.
	4/6/2009	State Employee Health Care Commission	yes	yes	yes	7/2/2009		local government employee health care benefits plan
	4/5/2010	State Employee Health Care Commission	yes	yes	yes	7/1/2010		waiting period for state employee health insurance
	8/24/2009	Technical Professions	yes	yes	yes	10/22/09, all but 66-6-4	from response letter: "The Board did not adopt any revisions to [66-6-4] at this time. They will review proposed changes and consider revisions in the future." [66-6-4 is Professional conduct.]	land survey reference report; certificate renewal; exam candidates from other jurisdictions; engineering curriculum; experience; intern certificates; geology exam
	4/5/2010	Technical Professions	yes	yes	yes	6/3/2010		reexamination; architectural intern program; land surveying; land surveyor continuing education
	1/4/2010	Transportation	yes	yes	yes	4/15/2010		Intermodal transportation revolving fund
yes	7/6/2009	Treasurer	yes	email only	no	12/10/2009	from an email of 6/16/10: "The comments were taken care of when we went back to the committee immediately in October because we made a material change during the public comment period. . . ."	postsecondary savings account program
	10/5/2009	Treasurer	no	no	n/a	12/10/2009	also see 7/6/09; redid one regulation	postsecondary savings account program
	6/29/2010	Treasurer	yes			NTD		housing loans
	1/8/2009	Veterans Affairs	yes	yes	yes	4/16/2009		Veterans Home, Soldiers Home
	11/16/2009	Veterans Affairs	yes	yes	yes	2/25/2010		Vietnam War era medallion program.
	11/16/2009	Veterinary Examiners	yes			NTD	The JCARR requested the agency not proceed with the regulation and handle the matter legislatively. There was no related bill in the 2010 Session.	standards of practice, including "humane methods"

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Problem?	JCARR meeting date	Agency	Committee comments?	Agency response letter in file?	Did agency address each Committee comment in its response?	Final rules have been published? (Register date)	Comments	General Topic
	4/6/2009	Wildlife and Parks	no	yes	n/a	NTD 4/30/2009 for 2 of the regs heard, 7/9/09 for endangered species	as of 7/29/10	endangered and threatened species; hunting seasons and limits
	5/18/2009	Wildlife and Parks	no	yes	n/a	n/a (exempt)		deer and dove hunting (exempt)
	7/6/2009	Wildlife and Parks	yes	yes	yes	8/20/2009		taking of furs
	8/24/2009	Wildlife and Parks	yes	yes	yes	11/5/2009		fees for hunting licenses, cabins; fishing; doves; spring turkey season
	11/16/2009	Wildlife and Parks	yes	yes	yes	1/21/2010		big game and turkey permits
	2/26/2010	Wildlife and Parks	yes	yes	yes	4/1/2010		electronic registering of deer carcass; deer management units; fishing equipment; fishing limits
	4/5/2010	Wildlife and Parks	no	yes	n/a	5/6/2010		OK to possess non-broadhead-tipped arrows; deer, elk, antelope seasons
	5/4/2010	Wildlife and Parks	no	yes	n/a	7/8/2010		fees for hunting permits; public land use restrictions; deer permits

(a) analyst opinion; only "yes" noted  
Prepared by KLRD, 5 August 2010

**Required or Authorized Rules and Regulations, Deadline Listed in the Enacted Bill**

Session	Agency	Bill #	Topic	Authorizes or Requires Rules and Regulations	JCARR review date ("NTD" means "not to date," 7/29/10)	Deadline in the Bill
2008	Pharmacy, Board of	2578	Utilization of Unused Medications Act	requires	11/6/2008	12/1/2008
2008	State Fire Marshal	2634, Sec. 1	storage tanks - Kansas Storage Tank Act	requires	5/18/2009; not finalized as of 7/29/10	9/1/2008
2008	KDHE	2892, Sec. 1	underground crude oil storage	requires	4/7/2009	1/1/2009
2009	Insurance	2214, Sec. 4 & 5	Controlled Insurance Programs Act	authorizes	8/24/2009	1/1/2010
2009	Pharmacy, Board of	33, Sec. 2	Statewide Electronic Logging System for Sale of Methamphetamine Precursor Act -format	requires	8/16/2010	1/1/2010
2009	Pharmacy, Board of	33, Sec. 6	Statewide Electronic Logging System for Sale of Methamphetamine Precursor Act - necessary rules and regulations	authorizes	8/16/2010	1/1/2010
2009	Labor	178, New Sec. 3	Kansas Amusement Ride Act	authorizes	1/4/2010	7/1/2010
2009	Agriculture	203, New Sec. 1(d)	Food Service and Lodging Act, receipt of inspection reports from qualified individuals, private entities or public entities	authorizes	1/26/2010	7/1/2010
2009	KBI	336, Sec. 1	wireless telecommunications carrier shall provide call location information (Kelsey Smith Act) (deadline changed in 2010, HB 2652)	requires		<del>7/1/2010</del> 7/1/2011
2009	Healing Arts, Board of	2010, Sec. 1	medical records maintenance trust fund	requires	under development	7/1/2010
2009	KCC	2032, Sec. 3	Kansas Surface Owner Notice Act	requires	The Oil and Gas Division has not found rules and regs to be necessary; the agency says the Act and an agency form are sufficient.	7/1/2010
2009	Insurance	2052, Sec. 6, Sec. 18	Public Adjusters Licensing Act, to govern the qualifications and procedures for the licensing of public adjusters	authorizes	draft regulations were with the Department of Administration as of 14 July 2010	7/1/2010
2009	Agriculture	2295, Sec. 31	Kansas Chemigation Safety Law	authorizes	under development; being coordinated with KDHE [KLRD note: Sec. 3, 4, 35 deal with swine waste, responsibility to KDHE]	7/1/2010
2009	KCC	2369, Sec. 3	Renewable Energy Standards Act - portfolio requirement	requires	5/4/2010	7/1/2010
2009	KCC	2369, Sec. 6	Renewable Energy Standards Act - administration of the Act	requires	5/4/2010	7/1/2010

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ession	Agency	Bill #	Topic	Authorizes or Requires Rules and Regulations	JCARR review date ("NTD" means "not to date," 7/29/10)	Deadline in the Bill
2009	KCC	2369, Sec. 7	Renewable Energy Standards Act - certification process for use of renewable energy resources	requires	5/4/2010	7/1/2010
2009	KCC	2369, Sec. 15	Net Metering and Easy Connection Act	authorizes	5/4/2010	7/1/2010
2009	Administration	2369, Sec. 18	energy efficiency in state buildings - purchases	requires		1/1/2011
2009	Administration	2369, Sec. 19	energy efficiency in state buildings - state agency energy audits	requires		1/1/2011
2009	Administration	2369, Sec. 19	energy efficiency in state buildings - energy efficiency performance standards for leased space	requires		1/1/2011
2009	Administration	2369, Sec. 27	fuel economy for state-owned vehicles	requires		1/1/2011
2009	KCC	2369, Sec. 34	Compressed Air Energy Storage Act - injection of compressed air into storage wells	requires		1/1/2011
2009	KDHE	2369, Sec. 35	Compressed Air Energy Storage Act - monitoring of air emissions from compressed air energy storage	requires	draft regulations are in internal review	1/1/2011
2010	KDHE	62, Sec. 1	HIV screening for pregnant women and newborns	authorizes		1/1/2011
2010	KDHE	531, Sec. 3	Radon Certification Law	authorizes		7/1/2011
2010	State Board of Mortuary Arts	2310	licensing related to cremation	authorizes		7/1/2011
2010	KDHE	2356, Sec. 8	child care facilities - competent supervision	requires		3/1/11
2010	KDHE	2356, Sec. 17	transition of family day care homes to day care homes	authorizes	"KDHE, through internal policies and procedures, has been able to implement the transition . . . without the necessity of adopting rules and regulations." (agency email, 8/3/10)	9/1/2010
2010	KDHE	2356, Sec. 18	online child care information dissemination system	requires		3/1/11
2010	Attorney General	2517, Sec. 3	domestic violence offender assessment	authorizes		7/1/2011
2010	KBI	2652, Sec. 1	wireless telecommunications carrier shall provide call location information (Kelsey Smith Act, enacted in 2009)	changed deadline		7/1/2011

4-2

Required Rules and Regulations, No Deadline Listed in the Enacted Bill					
Session	Agency	Bill #	Topic	Authorizes or Requires Rules and Regulations	JCARR review date or Note
2008	State Treasurer	387, new Sec. 4	Kansas Housing Loan Deposit Program, incentives for housing construction development loans	requires	8/12/2008
2008	Kansas Housing Resources Corporation	417, new Sec. 4	housing grants	requires	The agency reported this has been handled with agency procedures, and the program is minimally or not funded at present; transfers into program were suspended for 2011 and 2012 by 2010 H. Sub. for SB 572, Sec. 142 (amending KSA 12-5256(b))
2008	Regents, Board of	437, Sec. 6	Military Service Scholarship Program	requires	The agency reported it uses "service agreements" with students that are like contracts; these agreements include qualifications. Because of this, no rules and regulations have been needed.
2008	Board of Pharmacy	491, new Sec. 3 & 12	Prescription Monitoring Program Act: telecommunications format	requires	8/24/09
2008	Emergency Medical Services Board	512, Sec. 2	Emergency Medical Services Act: graduated list of sanctions	requires	under development, per EMS Board
2008	Kansas Home Inspector Registration Board	2315, Sec. 7	fees for home inspector registration	requires	4/7/09; 10/5/09
2008	Revenue	2434, new Sec. 8	income, premium, or privilege tax credits for certain qualified capital investments in cities hit by the 2007 disasters	requires	the agency said it developed and published policies and procedures
2008	Revenue	2434, new Sec. 12	Selective Assistance for Effective Senior Relief (SAFE Senior) Act	requires	the agency said it has not found any rules and regulations to be necessary
2008	Labor	2504	amusement rides	requires	1/4/2010

H-2



Session	Agency	Bill #	Topic	Authorizes or Requires Rules and Regulations	JCARR review date or Note
2008	Administration	2923, new Sec. 2	military activation payment of \$1,500 for state employees; State employees called to active duty to get difference between State and military pay, up to \$1,000 per pay period	requires	the agency said rules and regulations have not been needed - handled with a bulletin
2009	Revenue	97, Sec. 5(b)	Promoting Employment Across Kansas (PEAK) Act - authorizes a diversion of employee withholding taxes under certain circumstances to "qualified" companies or third parties performing services on behalf of such companies	requires - AMENDED in 2010 to authorizes ("shall" to "may")	in process; Revenue and Commerce are coordinating
2009	Secretary of State	132, Sec. 35(b)	Business Entity Transactions Act	requires	6/29/2010
2009	Bank Commissioner	240, Sec. 10(a) and (b)	establish an amount for a surety bond required for an applicant to do business in Kansas or licensee	requires	7/6/2009
2009	Bank Commissioner	240, Sec. 12(a)	establish time frames for loan document retention	requires	7/6/2009
2009	Bank Commissioner - Consumer Credit Commissioner (in the office of the State Bank Commissioner)	240, Sec. 23	adopt rules and regulations necessary to carry out the provisions of additional federal acts	requires	7/6/2009
2009	Agriculture, Div. of Water Resources	2050, Sec. 1	water permit, term permit, application fee	requires	KDA reported that flex account term permits were adopted on 10/11/02, K.A.R. 5-16-2, and there was no need to update this regulation. Fees are listed directly in the statute (K.S.A. 82a-714)
2009	Revenue	2096, Sec. 3(f)	driver improvement clinic (with a new DUI Commission)	requires	KDOR said it is determining the need for regulations.
2009	Regents, Board of	2197, Sec. 1	exceptions to minimum admission standards at state educational institutions	requires	10/29/2009
2009	Transportation	2131, Sec. 3	intermodal transportation revolving fund to provide assistance to governmental units for intermodal transportation projects	requires	1/4/2010
2009	Home Inspector Registration Board	2260, Sec. 6	renewal date for license home inspectors	requires	10/5/2009

H-H

Session	Agency	Bill #	Topic	Authorizes or Requires Rules and Regulations	JCARR review date or Note
2010	Board of Healing Arts	83, Sec. 15	inactive physical therapy licensees - continuing education	requires	under development
2010	Board of Healing Arts	83, Sec. 15	exempt physical therapy licensees - continuing education	requires	under development
2010	Secretary of State	213, Sec. 17	Rules and Regulations Filing Act amendments	requires	
2010	Attorney General	306, Sec. 9	posting of prohibition on concealed handgun	requires	
2010	Parole Board	2412, Sec. 2	early release for terminally ill prisoners	requires	

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Authorized Rules and Regulations, No Deadline Listed in the Enacted Bill					
Session	Agency	Bill #	Topic	Authorizes or Requires Rules and Regulations	JCARR review date ("NTD" means "not to date," 7/29/10)
2008	State Fire Marshal	178, Sec. 4	Fire Safety Standards and Firefighter Protection Act - flame retardant cigarettes - fees	authorizes	NTD, drafted
2008	State Fire Marshal	178, Sec. 11	Fire Safety Standards and Firefighter Protection Act - flame retardant cigarettes	authorizes	NTD, drafted
2008	SRS	273, Sec. 1	matching insurance claims against child support debtors	authorizes	NTD
2008	Insurance	443, Sec. 6	Long-Term Care Partnership Program Act	authorizes	4/7/2009
2008	Insurance	464, Sec. 2	Assumption Reinsurance Agreement Act	authorizes	NTD
2008	Board of Pharmacy	491, new Sec. 16	Prescription Monitoring Program Act - pharmacy continuous quality improvement program	authorizes	11/6/2008
2008	Credit Unions, Kansas Department of Agriculture	535, new Sec. 1	credit union branches, review of branch applications	authorizes	2/13/2009
2008	Agriculture	557, new Sec. 1	certificates of free sale	authorizes	8/24/2009
2008	Agriculture	557, new Sec. 2	inspections: retail food store or food processing plant	authorizes	2/26/2010
2008	Agriculture	557, new Sec. 3	single license for food-related establishments regulated by the Department of Agriculture	authorizes	NTD; topic is under review at KDA
2008	KCC	570, new Sec. 6 & 7	broadband service report	authorizes	NTD
2008	Education	669, new Sec. 3	Virtual School Act	authorizes	NTD
2008	Kansas Home Inspectors Registration Board	2315, Sec. 5	Kansas Home Inspectors Professional Competence and Financial Responsibility Act	authorizes	4/7/09; 10/5/09
2008	SRS	2637, Sec. 2(b)	lifeline telephone services	authorizes	NTD
2008	KCC	2637, Sec. 5	tolerance zone for certain storage tanks	authorizes	5/18/2009

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Session	Agency	Bill #	Topic	Authorizes or Requires Rules and Regulations	JCARR review date ("NTD" means "not to date," 7/29/10)
2008	Insurance	2688, Sec. 3(b)	Property and Casualty Actuarial Opinion Letter Law - protocols governing the exchange of information necessary for it	authorizes	NTD
2008	KBI	2727	holding sexual assault kits	authorizes	NTD; agency says no rules and regs are necessary
2008	Labor	2771	enforcing no retaliation for victims of domestic violence or sexual assault if they take time off from work	authorizes	5/18/2009
2008	Highway Patrol	2905	Capitol Complex security liaison provisions	authorizes	NTD
2008	Revenue	2923, new Sec. 4	active-duty military personnel may defer payment of taxes on real property for up to two years	authorizes	Developed and published appropriate form and instructions. (KDOR, 2/25/10)
2009	Regents, Board of	9, Sec. 3(c) and 9	State Educational Institution Project Delivery Construction Procurement Act	authorizes	NTD; the Board attorney reported that it has not yet determined whether rules and regulations will be necessary.
2009	Commerce	97, Sec. 4(g)	Promoting Employment Across Kansas (PEAK) Act - authorizes a diversion of employee withholding taxes under certain circumstances to "qualified" companies or third parties performing services on behalf of such companies	authorizes	NTD, agency says "in process"
2009	Attorney General	154, new Sec. 14	amendments to the Requirements for Sale of Cigarettes Act to provide enhanced enforcement of the Master Settlement Agreement (MSA) escrow statutes to ensure continued receipt of MSA payouts	authorizes	NTD
2009	Revenue	154, new Sec. 14	Requirements for Sale of Cigarettes Act	authorizes	NTD; agency said it is determining the need for regulations
2009	Revenue	212, New Sec. 1	direct shipments of wine to consumers in Kansas	authorizes	5/5/10 and 6/29/10

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Session	Agency	Bill #	Topic	Authorizes or Requires Rules and Regulations	JCARR review date ("NTD" means "not to date," 7/29/10)
2009	Revenue	212, New Sec. 2	sales of wine at a bona fide farmer's market	authorizes	5/5/10 and 6/29/10
2009	Bank Commissioner	240, Sec. 9, Sec. 21(e)	implement the requirements of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, P.L. 110-289	authorizes	7/6/2009
2009	Pharmacy, Board of	2008, Sec. 3	a school's epinephrine kit maintained under the control of the consultant pharmacist	authorizes	counsel said the Board does not intend to adopt any rules and regs on this
2009	Insurance	2052, Sec. 20	risk-based capital instructions	authorizes	NTD
2009	Veterans Affairs, Kansas Commission on	2171, Sec. 2	Vietnam War era medallion program	authorized	11/16/2009
2009	Regents, Board of	2197, Sec. 1	exceptions to minimum admission standards at state educational institutions	authorized	10/29/2009
2009	Kansas Home Inspectors Registration Board	2260, Sec. 3	education of home inspectors	authorizes	2/26/2010
2009	Agriculture	2295, Sec. 4	Agricultural Chemical Act amendments	authorizes	NTD, agency says "in process"
2009	KCC	2369, Sec. 34	Compressed Air Energy Storage Act	authorizes	NTD
2010	KDHE	62, Sec. 2	tuberculosis prevention and control plan at postsecondary institutions	authorizes	NTD
2010	Secretary of State	213, Sec. 2	Rules and Regulations Filing Act amendments	authorizes	NTD
2010	Transportation	409, Sec. 1	passenger rail service program	authorizes	NTD
2010	Secretary of State	439, Sec. 2	Secretary of State publications - method of delivery of rules and regulations documents to be accepted for the Register	authorizes for additional topic	NTD
2010	State Historical Society	2195, Sec. 2	Government Records Preservation Act - state archives	authorizes	NTD
2010	Revenue - Director of Alcoholic Beverage Control	2221, Sec. 6	smoking ban - ensuring exemptions are <i>bona fide</i>	authorizes	NTD

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Session	Agency	Bill #	Topic	Authorizes or Requires Rules and Regulations	JCARR review date ("NTD" means "not to date," 7/29/10)
2010	Kansas Health Policy Authority	2320, Sec. 1	annual provider assessment on all licensed beds within skilled nursing care facilities	authorizes	NTD
2010	Insurance	2345, Sec. 1	formation of life insurance companies	authorizes	NTD
2010	Commerce	2551, Sec. 1	recovery zone bonds and qualified energy conservation bonds	authorizes	NTD
2010	Revenue	2554, Sec. 6	Promoting Employment Across Kansas (PEAK) Act , form showing amount of Kansas payroll withholding tax being retained by the qualified company pursuant to this act	authorizes - changed from required	NTD
2010	Transportation	2561, Sec. 1	allow transit buses to operate on highway shoulders in Johnson County	authorizes	NTD
2010	Behavioral Sciences Regulatory Board	2577, Sec. 15	addictions counselor licensure act	authorizes	NTD
2010	Revenue	2650, Sec. 2	one-time registration for certain trailers	authorizes	NTD

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