

MINUTES

JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS

December 16, 2003
Room 514-S—Statehouse

Members Present

Representative Carl Holmes, Chairman
Senator Karin Brownlee
Senator Stan Clark
Senator U. L. "Rip" Gooch
Senator Chris Steineger
Senator Dwayne Umbarger
Representative Jerry Henry
Representative Andrew Howell
Representative Jan Pauls
Representative Sharon Schwartz
Representative Dan Williams

Members Absent

Representative Candy Ruff

Staff Present

William G. Wolff, Kansas Legislative Research Department
Melissa Calderwood, Kansas Legislative Research Department
Raney Gilliland, Kansas Legislative Research Department
Kenneth Wilke, Revisor of Statutes Office
Judy Glasgow, Committee Secretary

Others Present

Christine Mennicke, Kansas Department of Health and Environment
Sandy McAdam, Kansas Department of Health and Environment
Bill Bider, Kansas Department of Health and Environment
John Mitchell, Kansas Department of Health and Environment
Deletria Nash, Kansas Insurance Department
Larry Brunning, Kansas Insurance Department
Randall Forbes, Kansas Dental Board
Leland Rolfs, Kansas Department of Agriculture

David Lake, Kansas Board of Emergency Medical Technicians
Ron Seeber, Hein Law Firm
Donald E. White, Kansas Board of Emergency Medical Services
Gianfrance Pezzino, Kansas Department of Health and Environment
Pat Hehman, Ground Water Management District No. 4
Larry Williamson, Kansas Dental Board
Randall Forbes, Kansas Dental Board
Thomas L. Huntzinger, Kansas Department of Agriculture
Cheryl Magathan, Real Estate Appraisal Board

Morning Session

Chairman Holmes called the meeting to order at 10:10 a.m. He introduced Dr. Gianfranco Pezzino, Kansas Department of Health and Environment (KDHE), to speak to the proposed rules and regulations noticed for hearing on infectious or contagious diseases. KAR 28-1-2, designation of infectious or contagious diseases.

Dr. Pezzino stated that there were three main reasons for these regulations:

- To make the disease reportable;
- To give authority control over measures that need to be taken; and
- To protect health care providers who report incidents from liability.

A member expressed concern about the notification time for exotic or newly recognized diseases being seven days rather than four hours, and recommended that this time frame be changed. Dr. Pezzino stated that the Department would take a look at time-reporting requirements again.

A question about the definition of “bioterrorism act” in subsection (b) of KAR 28-1-2 was raised by a member. Of particular interest was the inclusion of “chemical agents,” which was not defined. It also was suggested that the phrase “intent to cause intentional harm” be added to the definition. The member pointed out that crop dusting could be a terrorist act, since it includes use of a chemical agent, but clearly without intent to do harm. A suggestion was made for KDHE to check with the Department of Agriculture on a definition for “bioterrorism act,” as that agency has defined it.

There being no further questions, Chairman Holmes thanked Dr. Pezzino for appearing before the Committee.

Bill Bider and John Mitchell were introduced by Chairman Holmes to speak to the proposed rules and regulations noticed for hearing by KDHE concerning solid waste management. KAR 28-29-75, solid waste management (SWM) plans and committees; general provisions; KAR 28-29-76, the SWM committee; KAR 28-29-77, the SWM plan; KAR 28-29-78, review and adoption of a new SWM plan; KAR 28-20-79, approval of the SWM plan by the secretary; KAR 28-29-80, annual reviews of the SWM plan; KAR 28-29-81, five-year reviews of the SWM plan; and KAR 28-29-82, revisions to the SWM plan.

Mr. Bider gave an overview of the purpose of the proposed rules and regulations, noting that the requirements of the law passed in 2002 had been completed and new requirements are necessary for continual operations. The proposed rules and regulations outline the responsibilities of the solid waste management committees and establish time lines and deadlines for operations, but they do not create any new requirements. Mr. Mitchell reviewed each proposed rule and regulation.

A member noted that, in KAR 28-29-75 (a) and (b), the word "an" in front of SWM should be changed to "a." This was also the case in KAR 28-29-77, first paragraph. Further, staff asked for clarification of the composition of the committees. Mr. Mitchell explained that where several cities or counties were combined, they would be covered by interlocking agreements which then set out the boundaries for the committees.

Mr. Bider and Mr. Mitchell answered general questions from members on how the units were formed and what happens if they are changed. Chairman Holmes thanked them for their presentation before the Committee.

Chairman Holmes asked for Committee action on the November 20, 2003, minutes. *Representative Pauls moved and Senator Clark seconded the motion to approve the November minutes as presented. Motion carried.*

The Chairman introduced Donald E. White, Deputy Administrator, to speak to the proposed rules and regulations noticed for hearing by the Kansas Board of Emergency Medical Services. KAR 109-3-2, outpatient medical emergencies.

Mr. White stated that four procedures have been added that emergency medical technicians may perform upon completion of training in those areas. The courses must be approved by the Board. In response to a question, he stated that managing an outpatient medical emergency is a voluntary activity and the determination of whether or not to participate in it is left up to the local ambulance service. There being no further questions, Mr. White was thanked for his presentation.

Chairman Holmes recognized Deletria L. Nash, staff attorney, to address the proposed rules and regulations noticed for hearing by the Kansas Insurance Department (Attachment 1). KAR 40-1-51, securities valuation; requirements, and KAR 40-2-26, valuation of life insurance policies.

Ms. Nash gave a brief overview of the proposed rules and regulations, stating that there were no major changes in either of the proposed regulations. There were no questions from the Committee, and Chairman Holmes thanked Ms. Nash for her appearance before the Committee.

Chairman Holmes asked staff to review the rules and regulations previously reviewed by the Committee as proposed rules and regulations and now filed as permanent rules and regulations. Filings by the following agencies were reviewed:

Board of Accountancy	Board of Healing Arts
Department of Administration	Department of Health and Environment
Department on Aging	Department of Human Resources, Workers Comp.
Department of Commerce	Insurance Department
Department of Agriculture, Division of Water Resources	Board of Examiners in Optometry
Department of Agriculture	Kansas Racing and Gaming Commission
Animal Health Department	Real Estate Appraisal Board
Office of State Banking Commission	Board of Regents

Behavioral Sciences Regulatory Board	Department of Revenue
Department of Corrections	Department of Social and Rehabilitation Services
Kansas Corporation Commission	Board of Tax Appeals
Department of Education	Department of Transportation
Board of Emergency Medical Services	Department of Wildlife and Parks

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

Afternoon Session

Chairman Holmes reconvened the meeting and introduced Leland Rolfs, staff attorney, Kansas Department of Agriculture, to speak to the proposed rules and regulations noticed for hearing for Ground Water District (GMD) No. 3 ([Attachment 2](#)). KAR 5-23-1, definitions; KAR 5-23-3, minimum well-spacing requirements; high plains aquifer; and KAR 5-23-3a, minimum well-spacing requirements; confined aquifers.

Mr. Rolfs answered general questions regarding KAR 5-23-1, concerning the deletion of definitions. He stated that all but four had been deleted. He also responded to questions from Committee members concerning confined and unconfined aquifers.

A concern was raised about the well spacing in KAR 5-23-3. A member wondered how the regulation would affect the Department of Wildlife and Parks fish hatchery in western Kansas. What would be its inability to increase its water supply? It was suggested that the Department staff contact the Department of Wildlife and Parks, notifying it of this change, so it could determine the impact, if any.

A member also noted that the words "rules and" should be reinserted before the word "regulations" to be identical to the statutory phrase. There being no further questions, Chairman Holmes thanked Mr. Rolfs for his presentation before the Committee.

Randall Forbes was recognized by Chairman Holmes to speak to the proposed rules and regulations noticed for hearing by the Kansas Dental Board. KAR 71-4-1, continuing education credit hours required for renewal of license of dentist and dental hygienist, and KAR 71-7-1, prior submission to the board, and KAR 71-1-1; KAR 71-1-2; KAR 71-1-3; KAR 71-1-8; KAR 71-1-10, KAR 71-1-11; KAR 71-2-1; KAR 71-2-4- KAR 71-2-9; KAR 71-2-12; KAR 71-3-5; and KAR 71-4-3 be revoked.

Mr. Forbes introduced the new Director, Larry Williamson, to the members, and began the explanation of the proposed regulation. Mr. Forbes responded to a general question concerning 71-7-1. As point of clarification a member suggested that, in KAR 71-6-1, (e) , third line, the words "evaluated by another person licenses under the dental act" be added to identify the licensed person being referenced. There being no further questions, Chairman Holmes thanked Mr. Forbes for appearing before the Committee.

Chairman Holmes recognized Cheryl Magathan to speak to the proposed rules and regulations noticed for hearing by the Real Estate Appraisal Board. KAR 117-8-1, uniform standards of professional appraisal practice.

Ms. Magathan answered general questions and stated that a copy of the 2004 edition of the *Uniform Standards of Professional Appraisal Practice and Advisory Opinions* was available in the Board's office for reference. There being no other questions, Chairman Holmes thanked Ms. Magathan for her appearance.

Ken Wilke, Office of Revisor of Statutes, reviewed the bill draft requested by the Committee concerning moving violations (Attachment 3). After discussion, it was determined that the bill be introduced with the same language included in the current statute, *i.e.*, without including any new violations proposed by the agency. *Senator Clark moved to have the bill introduced in the Senate. Senator Brownlee seconded the motion. Motion Carried.*

Chairman Holmes requested that an Attorney General's opinion be obtained regarding KAR 5-3-4c and the refund due to an entity when its application process exceeds the 150-work-day period. The question concerns whether the applicant would lose its order of priority if a refund was requested because the agencies failed to process the application within the 150 days.

COMMENTS ON PROPOSED RULES AND REGULATIONS

Department of Health and Environment. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning disease and solid waste management planning. After discussion, the Committee expressed the following comments.

Disease. KAR 28-1-2. Review and alphabetize the listing of diseases. In subsection (a) (50), consider adding the four-hour provision. In subsection (b) consider defining "chemical agent." And, in subsection (b), consider adding "harmful" before "dispersion."

Solid Waste Management. KAR 28-29-75. In this regulation and wherever else appropriate, change "an" to "a" before "SWM plan" and SWM committee (28-29-75 only).

Board of Emergency Medical Services. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning outpatient medical emergencies. After discussion, the Committee had no comment on the regulation, but wishes to compliment the Board on doing a survey of local EMTs in order to identify their concerns and have those reflected in the proposed rule and regulation.

Kansas Insurance Department. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning securities valuation and valuation of life insurance policies. After discussion, the Committee had no comment.

Division of Water Resources. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning Ground Water Management District No. 3. After discussion, the Committee expressed the following comment.

KAR 5-23-1. Check the appropriateness of striking "rules and" before "regulations."

KAR 5-23-3a. The economic impact statement should be updated to reflect a greater impact on the Division than is currently expressed in the impact statement.

Kansas Dental Board. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning continuing education, advertising, definitions, and revocations. After discussion, the Committee expressed the following comment.

KAR 71-6-1. Consider adding clarifying language to indicate that this regulation applies only to individuals licensed under the Kansas Dental Act.

Real Estate Appraisal Board. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning uniform standards of professional appraisal practice. After discussion, the Committee had no comment.

Board of Veterinary Examiners. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning fees. After discussion, the Committee expressed the following comment.

KAR 70-5-1. The Committee questions the continued use of the name of the examination, "national board examination," when in the explanation of the regulation, it appears that term is being replaced with "North American Veterinary Licensing Examination." Is it the Examiners intent to use the term "national board examination" generically?

Chairman Holmes announced that there would be no more meetings before the 2004 Session. The meeting adjourned at 3:45 p.m.

Submitted by Judy Glasgow
Edited by Bill Wolff

Approved by Committee on:

March 29, 2004
(date)