

**MINUTES**

**JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS**

April 1, 2003  
Room 531-N—Statehouse

**Members Present**

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

**Members Absent**

Representative Candy Ruff  
Senator Dwayne Umbarger

**Staff Present**

William G. Wolff, Kansas Legislative Research Department  
Ken Wilke, Revisor of Statutes Office  
Judy Glasgow, Secretary

**Others Present**

Greg Krissek, Kansas Corn Growers  
Dale Lambley, Kansas Department of Agriculture  
Gary Meyer, Kansas Department of Agriculture  
Joe Lentz, Kansas Department of Agriculture  
Janet McPherson, Kansas Farm Bureau  
Doug Wareham, Kansas Agribusiness Retailers Association  
Mary Jane Stattelman, Kansas Agricultural Remediation Board  
Dennis Priest, Department of Social and Rehabilitation Services  
Nialson Lee, Department of Social and Rehabilitation Services

The meeting was called to order by Chairman Holmes at 8:00 a.m. He asked the members to refer to the five sets of minutes before them for January 22, January 29, February 5, February 12, and February 19, 2003. *Representative Pauls moved, and Senator Steineger seconded, that the minutes previously listed be approved. The motion passed.*

Chairman Holmes stated that the hearing would continue on the proposed rules and regulations from the Kansas State Department of Agriculture on commercial fertilizer, KAR 4-4-900, definitions; KAR 4-4-956, alternative designs for bulk fertilizer storage facility; KAR 4-4-982, marking of mobile storage containers; KAR 4-4-983, mobile storage containers; KAR 4-4-985, application for new or modified bulk fertilizer storage facilities; and KAR 4-4-986, liquid bulk fertilizer bladder tank requirements.

Before hearing from the Department, the Chairman recognized Doug Wareham, Kansas Agribusiness Retailers Association (KARA), to address the rules and regulations on fertilizer (Attachment 1). Mr. Wareham stated that KARA supports these proposed changes to Kansas fertilizer regulations, but does believe that there is a need to clarify or correct language in KAR 4-4-983, which pertains to mobile storage containers. Mr. Wareham stated that it was KARA's understanding that the Department is planning to address this concern.

Chairman Holmes thanked Mr. Wareham for his testimony before the Committee.

In response to questions concerning the reporting of spills, Dan Riley, Legal Counsel, Department of Agriculture, stated that spills are reported to the Department of Agriculture and those requiring cleanup are reported to the Department of Health and Environment.

Chairman Holmes recognized Janet McPherson, Assistant Director, Kansas Farm Bureau, to address the rules and regulations on fertilizer (Attachment 2). Ms. McPherson stated that Kansas Farm Bureau feels that the regulations lack specificity and significant aspects fall under the discretion of the Secretary of Agriculture or his designee. She stated that Kansas Farm Bureau is going to continue to work with the Department to determine what will be acceptable to the Department for secondary containment structures to help ascertain what the economic impact will be. Ms. McPherson stated that there is concern from members about the 60-day temporary storage time limitation.

Ms. McPherson was thanked for her appearance before the Committee.

Chairman Holmes recognized Joe Lentz, Kansas Department of Agriculture, who continued his review of the proposed rules and regulations for fertilizer. Mr. Lentz stated that in KAR 4-4-982, on page 1, (l) should refer to "Liquid fertilizer" rather than "fertilizer."

A member commented that the regulation for exceptions (alternative designs) to the design requirements in KAR 4-4-956 should be moved so that the exceptions followed the general requirements.

Members raised concern about KAR 4-4-986 and the furnishing of confidential business information and on-site visits. There seems to be a lack of specificity about exactly what would be included in "business information." Mr. Riley stated that under the new regulation, the applicant must identify what part of the information provided is to be kept

confidential by the Department. On-site visits are a part of the enforcement process and usually done during normal working hours.

Chairman Holmes thanked Mr. Lentz for his appearance before the Committee.

Nialson Lee, Department of Social and Rehabilitation Services ,appeared before the Committee to address the proposed rules and regulations noticed for hearing on KAR 30-5-64, prior authorization.

Mr. Lee stated that several drugs will require prior authorization under the Kansas Medicaid Preferred Drug List. These include Beta-Blockers, Calcium Channel Blockers, ACE Inhibitors, and Angiotensin II Receptor Antagonists. There being no questions for Mr. Lee, Chairman Holmes thanked him for his presentation before the Committee.

### **COMMENTS ON PROPOSED RULES AND REGULATIONS**

**Department of Agriculture.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning pesticides and commercial fertilizer. After discussion, the Committee expressed the following comments.

KAR 4-13-1. In subsection (c)(2), delete the “and” and insert “or.” Rewrite subsection (c)(3) beginning with “However.”

KAR 4-13-4a. In subsection (c)(2), correct the spelling of “application” in the last line on page 3 and follow the word with a period. Begin a new sentence with “Such methods” or words similar. In subsection (e)(4), in the first sentence, change “dates” to “conditions.”

KAR 4-13-7. Begin subsection (a) with an exception statement, *e.g.*, “Except as provided in subsection (c).”

KAR 4-4-900. In the definition section, make it clear the regulations relate to “commercial” fertilizer. In subsection (aa), change the word “efficiency” to “efficacy.” The Committee has concerns with the definition of “temporary storage” in subsection (kk) believing that 60 days is too short a period of time. Reconsider the 60-day provision and consider some exception to any time period that allows for weather and other events that disrupt any plan for fertilizer application.

KAR 4-4-956. The regulation causes confusion simply by its placement within the set of regulations. Consider moving the exception regulation to the end, *i.e.*, at KAR 4-4-987, and reorder the other regulations.

KAR 4-4-983. As noted by Mr. Lentz, rewrite subsections (a) and (b) to reflect the statute, KSA 2-1234.

KAR 4-4-986. In subsection (b), clarify that the intent is for the applicant to designate what information contained in the filing is to be kept confidential by the Department.

**Department of Social and Rehabilitation Services.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning prior authorization of certain pharmaceutical products. After discussion, the Committee had no comment.

The meeting was adjourned at 10:00 p.m. Chairman Holmes stated that the next meeting would be held during the veto session.

Prepared by Judy Glasgow and Bill Wolff

Approved by Committee on:

May 1, 2003