

ADMINISTRATIVE MATTERS
K.S.A. 82a-1901 through 82a-1906
July 2017

K.S.A. 82a-1901. Orders of chief engineer; review. (a) Orders of the chief engineer of the division of water resources of the department of agriculture pursuant to K.S.A. 82a-708b and 82a-711, and amendments thereto, and K.S.A. 2016 Supp. 82a-737 and 82a-770, and amendments thereto, and failure of the chief engineer to act pursuant to K.S.A. 82a-714, and amendments thereto, shall be subject, upon timely request within 15 days of service of the order pursuant to K.S.A. 77-531, and amendments thereto, or the chief engineer's failure to act timely pursuant to K.S.A. 82a-714, and amendments thereto, to an administrative hearing by a hearing officer designated according to subsection (b) and otherwise in accordance with the provisions of the Kansas administrative procedure act.

(b) The chief engineer shall provide an opportunity for a hearing to be conducted before the chief engineer or before a hearing officer appointed by the chief engineer. Such hearing officer shall not be a current employee of the department of agriculture, shall be licensed as an attorney in this state and shall be knowledgeable in the areas of water policies and administrative procedure. Such hearing officer, as directed by the chief engineer, shall either provide recommendations to the chief engineer for issuance of an initial order or issue an initial order.

(c) Orders of the chief engineer of the division of water resources of the department of agriculture issued pursuant to K.S.A. 42-703, 42-722, 42-722a, 82a-708b, 82a-711 and 82a-718, and amendments thereto, and K.S.A. 2016 Supp. 82a-737, 82a-770, 82a-1038 and 82a-1041, and amendments thereto, regardless of whether the order is deemed an initial order pursuant to K.S.A. 77-526, and amendments thereto, and failure of the chief engineer to act pursuant to K.S.A. 82a-714, and amendments thereto, and any order issued pursuant to subsection (b), shall be subject, upon timely request within 30 days of service of the order pursuant to K.S.A. 77-531, and amendments thereto, or the chief engineer's failure to act timely pursuant to K.S.A. 82a-714, and amendments thereto, to review by the secretary of agriculture pursuant to K.S.A. 77-527, and amendments thereto, and otherwise in accordance with the provisions of the Kansas administrative procedure act.

(d) Any final order of the department of agriculture issued pursuant to this section shall not be subject to reconsideration pursuant to K.S.A. 77-529, and amendments thereto.

(e) This act shall not affect any administrative proceeding pending before the chief engineer of the division of water resources of the department of agriculture, the secretary of agriculture or any administrative hearing officer on July 1, 2017, and such matter shall proceed as though no change in the law had been made with regard to such proceeding.

History: L. 1999, ch. 130, § 10; L. 2004, ch. 145, § 50; July 1, 2005; L. 2010, ch 17, § 221, July 1; L. 2017, ch. 23, § 5; July 1.

K.S.A. 82a-1902. Repealed

History: L. 1999, ch. 130, § 11; May 6; L. 2017, ch. 23, § 6; July 1

K.S.A. 82a-1903. Rules and regulations; adoption of certain measures as rules and regulations. (a) (1) On or before November 15, 1999, the chief engineer of the division of water

resources of the Kansas department of agriculture, in accordance with K.S.A. 77-420 and amendments thereto, shall submit to the secretary of administration and the attorney general proposed rules and regulations containing all current standards, statements of policy and general orders that: (A) Have been issued or adopted by the chief engineer; (B) are of general application and have the effect of law; and (C) are not contained in current rules and regulations adopted by the chief engineer.

(2) If any standard, statement of policy or general order described in subsection (a) (1) is not submitted as required by subsection (a), such standard, statement of policy or general order shall be void and of no effect after November 15, 1999, until adopted by rules and regulations.

(b) (1) On or before March 1, 2000, each groundwater management district shall submit to the chief engineer of the division of water resources of the Kansas department of agriculture recommended rules and regulations containing all current standards, statements of policy and general orders that: (A) Have been issued or adopted by such district; (B) are of general application within the district and have the effect of law; and (C) are not contained in current rules and regulations adopted by the chief engineer.

(2) If any standard, statement of policy or general order described in subsection (b) (1) is not submitted as required by that subsection, such standard, statement of policy or general order shall be void and of no effect after March 1, 2000, until adopted by rules and regulations.

(c) Any standard, policy or order of a groundwater management district which is within the authority of the chief engineer, other than an administrative standard or policy relating to management of the district, shall be void and of no effect after January 1, 2003, unless adopted by rules and regulations of the chief engineer as provided by subsection (o) of K.S.A. 82a-1028, and amendments thereto. Any standard, policy or order of a groundwater management district which is within the authority of another state agency, other than an administrative standard or policy relating to management of the district, shall be void and of no effect after January 1, 2004, unless adopted by rules and regulations of such agency as provided by subsection (p) of K.S.A. 82a-1028, and amendments thereto.

History: L. 1999, ch. 130, § 12; L. 2002, ch. 137, § 7; L. 2004, ch. 101, § 182; July 1.

K.S.A. 82a-1904. Same; exemption from or waiver of rule and regulation. The chief engineer of the division of water resources of the Kansas department of agriculture, for good cause shown, may grant an exemption from or waiver of a rule and regulation adopted by the chief engineer if the chief engineer determines that the exemption or waiver will not prejudicially or unreasonably affect the public interest and will not impair any existing water right. The exemption or waiver shall be in writing and shall include the reason for the exemption or waiver.

History: L. 1999, ch. 130, § 13; L. 2004, ch. 101, § 183; July 1.

K.S.A. 82a-1905. Same; review of proposed rules and regulations by secretary of agriculture. Before any proposed rules and regulations of the chief engineer of the division of water resources of the department of agriculture are submitted to the secretary of administration or the attorney general pursuant to K.S.A. 77-420, and amendments thereto:

(a) The chief engineer shall submit such rules and regulations to the secretary of agriculture; and

(b) the secretary of agriculture shall review and make recommendations to the chief engineer regarding such proposed rules and regulations.

History: L. 1999, ch. 130, § 14; May 6.

K.S.A. 82a-1906. Notification and publication of certain applications and orders. (a)

The division of water resources of the Kansas department of agriculture shall post all complete applications and all orders issued by the division pursuant to K.S.A. 82a-706b, 82a-708a and 82a-708b, and amendments thereto, and K.S.A. 2016 Supp. 82a-745, and amendments thereto, on its official website.

(b) The division, in conjunction with the groundwater management district within which such water right is situated, shall notify all water right owners with a point of diversion within half a mile, or further if deemed necessary by a rule and regulation of the chief engineer, of a water right pending request or application pursuant to K.S.A. 82a-706b, 82a-708a and 82a-708b, and amendments thereto, and K.S.A. 2016 Supp. 82a-745, and amendments thereto, except for change applications requesting a point of diversion move 300 feet or less from the currently authorized location.

History: L. 2016, ch. 71, § 2; July 1; L. 2017, ch. 55, § 3; July 1.