

SPECIAL COMMITTEE ON ENERGY AND NATURAL RESOURCES

Room 514 - State House

October 23-24, 1975

Committee Present

Senator Vincent Moore, Chairman
Representative Ansel Tobias, Vice-Chairman
Senator Dan Bromley
Senator Don Christy
Senator Leslie Droge
Representative Kenneth Althaus
Representative Gus Bogina
Representative Theo Cribbs
Representative Donald Mainey
Representative W. Edgar Moore
Representative Irving Niles
Representative Rip Reeves
Representative Fred Rosenau

Staff Present

Ramon Powers, Legislative Research Department
Emalene Correll, Legislative Research Department
Don Hayward, Revisor of Statutes Office

Others Present

Lamar Weaver, State Energy Office
Sard Fleeker, Kansas Corporation Commission
Bob Alderson, Kansas Corporation Commission
Don Schnacke, Kansas Independent Oil and Gas Association
Frank Trutman, Southwest Kansas Irrigation District

Chairman Moore called the meeting to order and asked the Committee to read both the August and September minutes for approval and corrections during the afternoon session. He then introduced Lamar Weaver, Director of the State Energy Office, and his assistant, Ms. Jan Johnson.

Proposal No. 16 - Energy Study

Mr. Weaver distributed copies of emergency rules and regulations and the cover letter submitted to Attorney General Schneider by Dr. Hambleton, Acting Director of the Kansas Energy Office, on August 21 and Schneider's reply. (Attachment I). A copy of 1975 S.B. 13, which established the Energy Office, was distributed to Committee members. (Attachment 2).

A brief review of S.B. 13 was used by Weaver to explain the functions of his office. The Kansas energy office, which is attached to the Governor's office, was created April 24, 1975. Weaver reminded the Committee that Dr. William Hambleton was acting director of the office until Weaver took office on September 1. Location of the office is 503 Kansas Avenue, the New England Building, Topeka, Kansas, 66603. Weaver stated that the 1975 Legislature provided funds for the 1976 fiscal year by providing for the transfer of funds from KDED in the Omnibus Bill. The agency's budget for FY 1976 is \$100,544.

Section 3 in the law provides for an energy advisory council. Weaver stated that four appointments out of an expected maximum of 15 appointments to this council had been made, and the Governor's office hopes to complete the appointments by the end of October. Mr. C. Y. Thomas, Mr. Warren Tomlinson, Dr. William Hambleton and Dr. Robert Robel were the four persons mentioned by Weaver as having been appointed by the Governor to the energy advisory council.

The law also requires the director to establish emergency rules and regulations within 120 days caused some difficulty, according to Weaver. Dr. Hambleton was able to submit a list of emergency rules including curtailment priorities to the Attorney General for his approval before filing with the Revisor of Statutes. This list was filed as temporary emergency rules and regulations and will remain in effect until May 1, when they will automatically expire unless renewed. Mr. Weaver stated it was his intention to hold hearings this winter before filing the permanent rules and regulations to become effective May 1, 1977.

Referring back to Section 4 of S.B. 13, Weaver said he has hired Ms. Jan Johnson for development of data and assistance in resource planning and research analysis. He has also hired a new employee for conservation and contingency planning who will start work on November 1. Weaver said the energy conservation program and the education program in the state have the highest priorities of his office with the hearings to be held this winter as next on the priority list. It was suggested by a Committee member that the press be used in the educational program to conserve energy.

Another function of the office, Weaver said, is to administer the federal fuel allocation program. He noted it would be optional beyond November 15, when the extension of the emergency federal fuel allocation act expires.

In discussion by the Committee, various members expressed concern over the fact that the Federal Power Commission curtailment plans for natural gas shortages had been used for the priority schedule section of the rules and regulations, and they did not feel these applied to all resources. It was not felt that elaborate plans were needed but rather some simple and understandable rules and regulations should be developed.

Weaver was questioned as to whether or not petroleum producers are required by federal officials to report to his office. He stated that they were not. He said he knows how much is being supplied throughout the state through monthly reports from the suppliers. These are supply figures and not consumption figures.

A question arose as to why the Governor could appoint fifteen to the Energy Advisory Council? It was explained that this would allow the Governor to appoint short term advisory committees, consisting of experts in a particular field, to serve until a particular problem is solved.

Weaver was asked if he did not feel his office should have the authority to make common carriers of natural gas pipelines in case of an emergency because there would be no time for KCC hearings in emergency situations. Weaver stated that he believed it would be appropriate to include that authority among the office's powers.

Afternoon Session

Senator Christy moved to approve the minutes of the August meeting with a correction on page 2, changing word "bill" to "the" in line eleven from the bottom of the page. Representative Moore seconded this motion, which was approved by the Committee.

Chairman Moore asked for corrections or deletions in the minutes of September 21-25. Upon a motion by Senator Christy and second by Representative Cribbs, these minutes were also approved by the Committee.

Mr. Sard Fleeker of the Kansas Corporation Commission was asked by Chairman Moore if he saw any constitutional problems if the state made intrastate gas pipelines common carriers on an emergency-only basis. Mr. Fleeker stated there are no intrastate pipelines in Kansas which are common carriers of natural gas and no case law on the subject. He said that the statutes were very vague, at best, with K.S.A. 66-104 defining public utilities and making some reference to common carriers. He noted there are some oil common carrier pipelines in Kansas but no natural gas. Mr. Fleeker said most companies do not want to be common carriers.

In reply to questioning, he said he did not believe that the law could require it except in cases of extreme emergency and then only for the duration of the emergency. He did state that if provision were made in the statutes for use of intrastate pipelines as common carriers in an emergency, it would stand up in court.

Mr. Fleeker was asked about the question of jurisdiction over interstate pipelines in an emergency. Mr. Fleeker stated that he believed the state would run into a lot of restrictions from the FPC on this matter as they claim these to be under their jurisdiction.

Mr. Fleeker was also asked why KPL was allowed to add the cost of gas increases on its bills but that gas suppliers were not able to automatically pass on increased costs. Mr. Fleeker said KCC had allowed purchased gas adjustment clauses on every gas distribution utility in the state. He noted KPL has also purchased gas adjustment clauses. The reason for the hearing on KPL's present case is that the particular purchase with Mesa represented a very high increase, higher than normal, and the question was whether it was an "arm's length" purchase. This case was reopened the day before on very short notice, Mr. Fleeker said, so further comment on it before the Committee was not preferred. He did say that the Spivey-Gribbs hearing was starting November 10. This contract has not been disapproved. The KCC has simply asked to look at the data to see if it is justified.

Mr. Fleeker said gas and electrical utilities were treated the same. If a company wants a rate change, it files an application with KCC who is under obligation to check on anything which appears out of the ordinary.

The Chairman told Mr. Fleeker that there was concern the KCC was regulating price of natural gas at the wellhead. The authority of the KCC to do this was doubted. Mr. Fleeker said some people also felt that allowing "pass-ons" allowed the companies to charge whatever they want. Fleeker was asked if the KCC would allow the increase if it appeared the cost was confined to the product itself. He said under these circumstances, if the company's math checked out, the increase would be allowed.

Mr. Fleeker was asked for any advice he might have regarding need for legislation in this area and he stated that he needed to check with his supervisors before making a comment.

Mr. Don Schnacke of the Kansas Independent Oil and Gas Association spoke briefly to the Committee stating there was a need to get the gas to the market place and he believed in broadening the scope of study and making all intrastate pipelines common carriers. He told the Committee there are areas in Kansas where wells have been temporarily capped because of the problem of getting the gas to market. Mr. Schnacke recommended hearings be held during the 1976 Session with the idea of considering more

than emergency use. Mr. Schnacke said there is more gas to be found in Kansas if uncertainties and deregulation of new gas were removed. This would lead to an increase in exploration.

Mr. Schnacke noted that 600 cities were authorized to get into gas business with Wichita being the most advanced at this point. Inquiries from eight or ten other communities indicated the interest of other cities in following Wichita's lead.

In the fight between consuming and producing states, Mr. Schnacke advised the members, the states of Louisiana, Arkansas Texas and New Mexico have professional staff in Washington to strengthen efforts there in this area. The Committee had been in touch with the Southwestern States Energy Conference and is monitoring the progress of that body, the Chairman stated. He said the Rocky Mountain Conference consists of 11 states and there was also talk of a regional office.

Senator Moore asked if the Committee was inclined to consider drafting an amendment to the present law granting specific authority over intrastate pipelines in event of an emergency to the Kansas energy office.

Committee discussion was held and the staff was instructed to show in the final report that the Committee considered granting energy office authority over intrastate pipelines in emergency situations with action being deferred until there was an opportunity for action to be taken on the Dole amendment to a federal energy bill.

Senator Moore directed that the final report show that the Committee considered the need for mobility and availability for intrastate gas to communities of Kansas. Due to the constitutional problems, it was not possible to implement legislation which would make intrastate lines common carriers. However, there is a very real need for this. Both interstate and intrastate carriers need to be common carriers for Kansas gas.

Proposal No. 62 - Insulation and Energy Standards

Chairman Moore then directed the Committee's attention to the copy of the proposed draft on Proposal No. 62 before them. (Attachment 3). He stated that four men had been chosen to work on this subcommittee on insulation standards. These men are: Dan Mathews, with Rockwell Industries in Denver; Doug Willaims, engineer for a Topeka engineering firm; B. J. Kingdom, of Law-Kingdom Architects in Wichita; Frank Applegate, State Architect's Office; and Dr. Robert Robel of Kansas State University.

Don Hayward told the Committee he needed some direction from them for the definition of the word "structure". After lengthy Committee discussion, Representative Reeves moved to table the issue for further study. Senator Bromley seconded this motion. Senator Moore made a substitute motion asking the Revisor's staff to prepare a proposed draft with necessary changes. Representative Niles seconded this motion which was approved by the Committee.

October 24, 1975

The Committee then sought to agree on a definition for structure. It was suggested, that "structure means any new or remodeled building that requires either by local ordinance or state statute that plans be prepared by and certified or have the seal affixed thereto by a registered architect and/or licensed engineer and consumes energy for cooling and/or heating." The Committee agreed to the use of that definition of structure for the proposed draft. The Committee was advised that this would not include one and two family dwellings or those under \$30,000 under the bill. Some members objected to such an exclusion.

It was suggested that the 20% figure in subsection (d) was too great. After brief discussion, Senator Droge moved to change this figure to 10%. Representative Mainey seconded the motion which was approved by the Committee.

Representative Tobias moved to have this bill redrafted including the changes made at this meeting so that it can be reviewed at the next meeting of the Committee. Senator Droge seconded this motion. One member stated that he preferred to have the final report drafted to request a standing committee study this subject further and submit legislation. He felt that the information available at this time was too vague. Another member stated he could not support the bill because it did not include one and two family dwellings. A voice vote was taken and the motion by Representative Tobias was approved.

Chairman Moore suggested legislation for requiring individual apartments to have separate electrical meters. Committee discussion was held on the cost of such a project and Senator Moore withdrew his suggestion saying he would talk with the electric utilities before the next session of the legislature regarding this.

Proposal No. 14 - Groundwater Use (Attachment 4)

Senator Christy reviewed an outline of the Committee report with the Committee. Following that presentation, Chairman

Moore asked Mr. Frank Trutman of the Southwest Kansas Irrigation District if he had any suggestion for legislation in this area. Mr. Trutman stated that he felt no legislation in this area was necessary at this time.

Chairman Moore suggested that some reference be made in the final report to the parts of the state looking to ground-water for its water supply. He asked that an introductory paragraph be included referring to the Equus Beds of the Little Arkansas River area in southcentral Kansas which provides water for various cities including Wichita.

The graph on page 2 of the report was discussed in some detail. Representative Niles moved to have a graph added to the report on the basis of increase per year as well as percent per year increase. He said he did not care whether it showed periods or individual years but preferred a chart of individual years for the entire period. Representative Reeves seconded this motion. After further discussion, Mr. Niles amended his motion asking that the average acreage increase in each period be shown. Representative Reeves agreed to this amended motion. A voice vote was taken and the motion carried.

Representative Moore moved to accept this outline as primary data for final report and to thank Senator Christy for an excellent job. Representative Cribbs seconded this motion which was approved by the Committee.

Proposal No. 15 - Soil and Sediment Control

Senator Moore briefly explained the options available to the Committee in considering S.B. 12. One member noted that this Committee needed to decide whether to recommend a bill to the next session of the legislature and stated he thought this type of bill was premature since the federal government has not set up standards in this area. He suggested that the information which had been obtained by this special committee be kept for use in a year or two. It was moved that the final report indicate the Committee felt a bill was not necessary at this time. Representative Bogina seconded this motion by Senator Droge. Voice vote was taken and approved by the Committee.

It was also suggested by the Committee that the report indicate the list of six proposed amendments without giving this Committee's approval of any of the six. The report should also indicate the fact that the state is in the process of making an inventory of the problem and that the full extent of the problem is not known.

It was also suggested that a condensed version of the minutes of the tour be included in the report.

The date of the next meeting was set for November 11 at 9:00 a.m.

Prepared by Ramon Powers

Approved by Committee on:

(Date)

OUTLINE OF COMMITTEE REPORT ON PROPOSAL NO. 14
Special Committee on Energy and Natural Resources

Introduction*

- A. Description of proposal
- B. Committee hearings
- C. Summary of data presented to Committee

Irrigation Use and Economics

See attached report prepared by Senator Christy

Legal Questions

See attached report prepared by Senator Christy

Conclusions

See attached report prepared by Senator Christy

Recommendations

See attached report prepared by Senator Christy

* To be prepared by Research staff

COMMITTEE REPORT

FROM: Special Committee on Energy and Natural Resources
TO: Legislative Coordinating Council
RE: Proposal No. 14 - Groundwater Use

Irrigation makes an important growing contribution to Kansas agricultural production. In 1973, 6.8 percent of the state's irrigated, cultivated land in the western one-third of Kansas, produced 17.6 percent of the cropland income and contributed to 15 percent of the state's income which results from beef production. This is an increase from 1961 when 2.8 percent of the irrigated, cultivated cropland of the western one-third of Kansas produced 7.9 percent of the crop income and contributed to the production of 18 percent of the livestock income.

The rate of increase of irrigation from 1928 to 1952 was about 4.75 percent per year. From 1950 to 1959, the rate of expansion was about 32.5 percent per year. Since then, the rate of expansion has been about 7.7 percent per year. The 7.7 percent trend has persisted for 16 years with some indication recently of an increase in rate. This trend can be anticipated to continue if the economic rewards persist, especially if drought develops. However, were it necessary to convert from natural gas to diesel fuel, the extra costs and lack of diesel motors would tend to slow development.

Much of the recent irrigation development has been due to the economically feasible equipment such as plastic transmission

pipe and gated pipe which make it possible to use marginal aquifers. Gated pipe makes it possible to do winter irrigation which results in more efficient water utilization and extends the pumping season. Plastic underground pipe also adds to water use efficiency and encourages the utilization of the more marginal water supplies.

The development of sprinkler systems probably has made the recent increase in irrigation possible. When the Kansas Water Resources Board wrote the Upper Arkansas River Valley Report in the early 1960's, it was recognized that there was a lot of groundwater underlying the sand hills. It was presumed that someday, when water became needed for food production, it would be piped to the irrigable lands. Since the report was written, the center-set sprinkler system has become available. A sizeable part of the rolling sandy lands along the Arkansas and Cimarron Rivers and South Central Kansas can now be irrigated by using a sprinkler system, thereby contributing to recent major growth in groundwater irrigation.

An analysis of the growth rate of ditch and gated pipe irrigation of the seven counties with the longest history of substantial development is as follows:*

<u>Years</u>	<u>Percent Per Year Increase</u>
1939, 1940, 1941	6.6%
1948-1960	5.6
1960-1972	2.8

SOURCE: Data compiled by Russell Herpick, Extension Engineer, KSU from county agent's annual reports

* Finney, Ford, Hamilton, Hodgeman, Kearny, Pawnee, Scott

Three of the fastest growing counties -- Grant, Stanton and Wichita -- were analyzed for growth rate:

Grant, Stanton and Wichita Counties

<u>Years</u>	<u>Percent Per Year Increase</u>
1948-1955	16.8%
1955-1960	17.2
1960-1966	7.4
1966-1972	7.6

Each county that has a substantial quantity of useable groundwater has a finite quantity that is economically feasible for use. Areas underlain by the deeper strata tend to develop first. As the know-how and the equipment become available, irrigation extends to the areas where the quantity of water in the aquifer is more limited.

It can be anticipated that some areas will pump enough water so that irrigation will no longer be feasible. Since there is some interference between wells in fully developed areas, water shortages generally first show up as not being able to irrigate during the critical growing season. The initial effort of the owner is to do more winter irrigation. As the situation worsens, the realization comes that more hours of pumping are required. Finally, it becomes necessary to put in more wells to produce the same amount of water.

Careful financial consideration needs to be given to installing more wells. Since the use of 1.75 feet of water per year seems to lower the water level about two feet per year, on

an overall basis, the use of the top 50 feet of a 100 foot aquifer takes 25 years. It can be expected that another well will be required in about 15 years. It can be further assumed that it will take only 12 years to deplete the remaining 50 to 25 feet of water before the next major economic decision is necessary -- a \$10,000 original investment in an irrigation well and pump made in the 1960's was capable of producing an additional 8,000 bushels of grain over a 25-year period or a 25-year total of 200,000 bushels of grain.

The landowner would get one-third or under past prices, about 66,666 bushels at \$1.25 per bushel or approximately \$83,000. His expenses, based on depreciation, repairs, fertilizer, increased taxes and management and risk would have been about \$50,000 over the 25-year period. Thus he would have realized about \$1,350 per year return on the original investment of \$10,000 or 13.50 percent.

By the same analysis, after half the water in the aquifer is gone, the expense would be \$89,000 based on reading four wells to produce the same yield. The value of the crops produced in the next 12 years would be \$44,000 or a negative return on the investment. To continue irrigation beyond the 12 years would require 16 wells.

In other words, the owner cannot afford to continue to irrigate if the incentives remain the same. However, when corn went to \$3.00 per bushel from \$1.00 and wheat went to \$4.00 per bushel from \$1.05 per bushel, the potential return became \$300,000 hence the return from the crop became \$100,000.

There are a number of farmers whose irrigation wells do not now produce enough water to justify irrigation. They have returned to dryland agriculture. While their gross product has fallen sharply, their net profits have improved materially. The question which this raises is the affect on the economy of the communities of Western Kansas?

To test the effect of changing from irrigated to dryland farming on the area (using the present dryland and 1,670,000 irrigated acres and the yields of the 1958-73 period) the total return would be \$967,000,000 or 35.14 percent of the state's farm crop income.

Without irrigation, and with intensified dryland cropping (one-third, wheat; one-third, dryland milo; one-third, fallow) the total return would be \$748,000,000.

The dryland operations would have produced approximately three-fourth as much gross product as we now product. If a 15 percent increase in production could be obtained by two of the several potential possibilities, such as weather modification, hybrid wheat development, tillage practices, or new developments, the gross product on the basis of 1973 prices would have equalled the actual value of production in 1973.

A comparison of the hypothetical dryland yield (based on one-third, wheat; one third, milo; and one-third fallow) in Wichita County in 1973 with the 1973 actual production in the county would indicate that the dryland production would have been 44 percent of the actual production.

The use of irrigation does not appear to alleviate the impact of drought to a high degree. For example, in Wichita County during the rather dry year of 1963, if 1973 prices are applied to the 1963 yield per acre, the relationship would have been 46 percent. Thus, having irrigation in 1963 improved the gross production by only about two percent.

A comparison was made of the nine most heavily irrigated counties in 1955 and the adjacent counties. There was little significant difference. In other words, drought appears to affect the irrigated areas substantially in the same magnitude as it affects the non-irrigated areas.

Legal Questions

A water right is a property right obtained by developing the water production facilities and putting the water to beneficial use. That right is subject to continued beneficial use and is limited only by vested rights and prior water rights.

Considering that a water right is a property right, the holder of such a right can drill more wells on his property in order to maintain his established right subject to receiving a permit from the Division of Water Resources. The new wells needed to maintain the right cannot be spaced close enough to prior-right wells to cause material pumping interference or unusual lowering of the water table. A water right is a property right and it would appear that denial of the right for additional diversion facilities would constitute a taking of property without due process.

In areas where there are many wells, the drawdown cones may overlap as shown in the attached figure. Such interference between wells results in larger drawdowns and reduces well yield. Continued pumping of mutually interfering wells can lower water levels to the point that one well, or both, become uneconomic. The failure of older domestic and livestock wells in fully irrigated areas are numerous. These wells were normally drilled only 10 or 15 feet into the water table. Declines caused by interfering irrigation wells causes the wells to go dry.

In general, the courts, in states following the water appropriation doctrine, have held that the development of an area is so important that reasonable deepening of a domestic well is not a cause for damages. On the other hand, when extreme expenses are involved damage actions have been sustained.

Conclusions

Wells in the Alluvial Valley soils spaced at least 500 feet apart and wells in the Ogallala spaced more than 1,000 feet apart should not result in serious interference. However, even if normal seasonal interference between individual wells is not a problem, water level lowering will be increased in the area bringing an earlier end to the economic life of irrigation.

In general, "About one-half of the groundwater reservoir can be withdrawn by irrigation wells. The groundwater will never be depleted completely by irrigation because it is physically

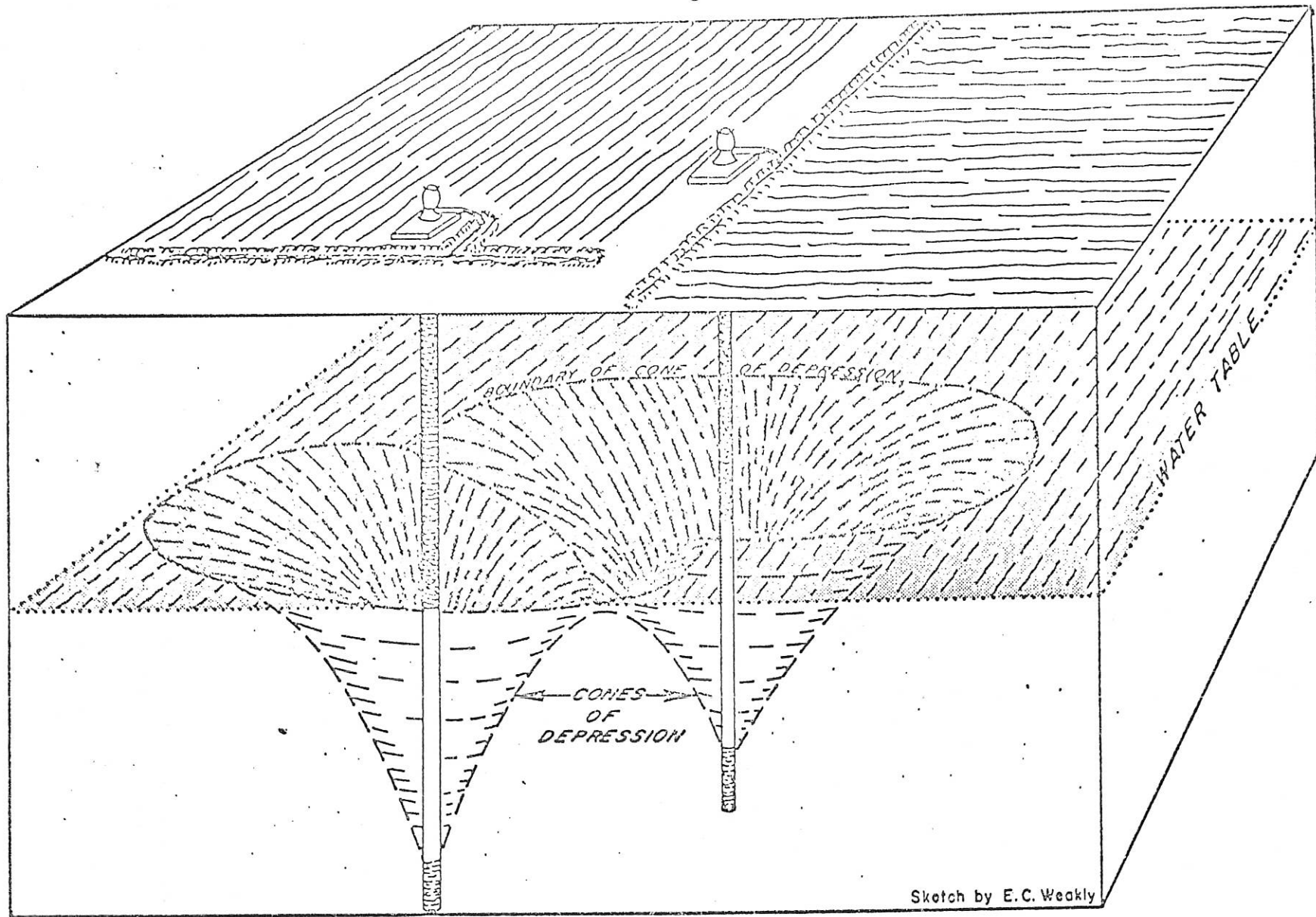


Figure 1 -- Sketch showing interference between drawdown cones of two closely spaced discharging wells.
SOURCE: Paper prepared by John Halepaska, Kansas Geological Survey

impossible to do so. All the wells in an area will not become unusable at once, but gradually."*

Numerous schemes can be devised to prolong the irrigation economy of the area. All of them depend on some type of control on the use of the water with the reduction in the water used per acre being the fundamental requirement. Crop production can be improved by increased moisture-use efficiency.

Moisture-use efficiency can be improved by numerous techniques. The goal of utilizing the water at the optimum maximum return per acre-foot probably has the most merit. It offers a substantial reward for its implementation. The problem is that the irrigator is not encouraged for example, to apply only six inches of water on corn at the pretassel stage to make the most efficient use of the water if a neighbor uses 30 inches of water to produce the maximum bushels per acre. In other words, the neighbor capitalizes by using the water from under the land of the man trying to use water efficiently.

It should also be recognized that so far as irrigation is concerned, economic limitations will prevent complete utilization of the groundwater supply and thus establish an economic control on groundwater utilization that is already in effect.

Recommendations

The Committee recommends that the groundwater management districts be given time to determine the needs of the area encompassed by the districts and, if it is found that present

* Jenkins-Pabst, Water Development for Irrigation in Northwest Kansas, pg. 35).

laws are not adequate, their recommendations for needed legislation be evaluated by the legislature.

There is great potential for using water more efficiently, therefore state agencies should assess and make available basic research data that has a potential for increasing water use efficiency. For example, the experience of the Colby Experiment Station with pretassle irrigation of corn should be more widely publicized. A great deal of data which exists in the files of the Experiment Stations which would be of value in efforts to increase water use efficiency. Such data should be searched, compiled and disseminated to those who could benefit from implementing the practices found to result in increased water use efficiency.

Weather modification projects aimed at increasing rainfall and reducing hail loss should be implemented. The costs of such projects are low compared to the rewards.

_____, 1975

Respectfully submitted,

Senator Vincent Moore, Chairman
Special Committee on Energy
and Natural Resources

Weaver
Attachment 2

1956, shall upon retirement be entitled to receive prior service credit for said employment prior to January 1, 1962. The prior service benefit shall be computed by using a prior service annual salary of three thousand three hundred sixty dollars (\$3,360).

Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 14, 1975.

CHAPTER 394 *

Senate Bill No. 13 X

AN ACT concerning energy resources; creating a Kansas energy office under the direction and supervision of a director; creating an energy advisory council; prescribing powers and duties for said office and director, the state finance council and the governor; providing for monitoring and forecasting of the energy resource supply and demand situation; and providing for proclaimed energy emergencies and the allocation and curtailment of consumption of certain energy resources during such emergencies.

Be it enacted by the Legislature of the State of Kansas:

Section 1. As used in this act, unless the context requires otherwise:

(a) "Energy resource" means any recognized substance or process which can be utilized to obtain energy, or any form of energy, and shall include but not be limited to: (1) Propane, butane, gasoline, kerosene, home heating oil, diesel fuel, other middle distillates, aviation gasoline, kerosene-type jet fuel, naphtha-type jet fuel, residual fuels, crude oil, and other petroleum products and hydrocarbons as may be determined by the director to be of importance;

(2) all natural gas, including casinghead gas and all other hydrocarbons not defined as petroleum products in paragraph (1) and including liquefied petroleum gas;

(3) all types of coal and products derived from its conversion and used as fuel;

(4) all agricultural fertilizers which are manufactured or derived from hydrocarbons or other fossil materials;

(5) all types of nuclear energy and special nuclear material;

(6) all electrical energy; and

(7) every other energy resource, whether natural or manmade, which the director determines to be important to the production or supply of energy including but not limited to energy converted from solar radiation, wind, hydraulic potential and geothermal sources.

(b) "Director" means the director of the Kansas energy office created in section 2.

(c) "Person" means any individual, partnership, association, private corporation, or any division, department, agency or political subdivision of the state or municipality or public corporation and any instrumentality thereof.

Sec. 2. There is hereby created the Kansas energy office, which shall be administered under the direction and supervision of the director of the Kansas energy office. The director of the Kansas energy office shall be appointed by the governor, with the advice and consent of the senate, and shall serve at the pleasure of the governor. The director shall receive an annual salary to be fixed by the governor with the approval of the state finance council. The Kansas energy office is hereby attached to the governor's office or a division designated by the governor.

Sec. 3. (a) There is hereby created a governor's energy advisory council the membership of which shall be appointed by the governor. Said members shall serve at the pleasure of the governor. The council shall serve in an advisory capacity to the director on all matters relating to energy resources and the allocation thereof.

(b) Members of the governor's energy advisory council attending meetings of such council, or attending a subcommittee meeting thereof authorized by such council, shall be paid subsistence allowances, mileage and other expenses as provided in K. S. A. 1974 Supp. 75-3223.

Sec. 4. In addition to other powers and duties provided in this act, the director of the Kansas energy office shall:

(a) Serve as the special coordinator and administrator for federal mandatory fuel allocation programs in this state and for other programs of the federal energy administration and similar federal agencies relating to the allocation, supply or consumption of energy resources in this state including cooperation in the implementation of any emergency energy rationing program which may be effected by the federal government;

(b) develop and promote educational programs for energy resource conservation for consumers of energy resources in this state;

(c) provide for continuing liaison between other state agencies, counties, cities and other political subdivisions, private industry, the public and the federal government in relation to all matters affecting sources and uses of energy;

(d) make requests for and accept federal funds and other assistance from federal agencies for energy resource development, energy conservation and other energy-related activities in this state. Any funds so received shall be deposited in the state treasury. Expenditures from funds so received may be made, in accordance with appropriation acts therefor, to effectuate any provision of this act and shall be made upon warrants of the director of accounts and reports pursuant to vouchers approved by the director;

(e) upon request therefor, assist other state agencies and local units of government in making requests for federal funds for energy resource development, energy conservation and other energy related activities;

W. N. → (f) upon request of two or more political subdivisions, mediate the allocation of federal funds among such political subdivisions and

(g) fully utilize existing information depositories and information gathering and processing systems available in other state agencies to collect information relating to identification of energy resources and the energy resource consumption patterns and trends in this state.

Sec. 5. Upon the written request of the director of the Kansas energy office, the division of computer services of the department of administration and all other state agencies shall make available the information gathering and data processing services of such agencies, to the Kansas energy office at such times and for such periods as may be specified in such request, in order to assist the Kansas energy office in performing its responsibilities under this act, notwithstanding any provision of article 47 of chapter 75 of the Kansas Statutes Annotated, to the contrary.

Sec. 6. Whenever it appears from an evaluation of conditions in the state by the governor that the supply of energy resources, other than agricultural fertilizers, is inadequate to meet the demand for such energy resources in the state or any geographic areas of the state and that the public health, safety and welfare are threatened thereby, the governor may proclaim that an energy emergency exists within the state, subject to six (6) members of the state finance council approving such proclamation. The emergency proclamation of the governor shall recite his findings, shall declare that an energy emergency exists, shall specify the area of the state in which such emergency exists, and shall specify the period of time during which a system of priorities for the allocation of available energy resources, other than agricultural fertilizers, and/or the curtailment of consumption of such energy resources may be imposed. Such period of time may be extended or reduced after a reevaluation of conditions within the state and a further proclamation of findings by the governor which require such extension or reduction.

Sec. 7. The director shall adopt rules and regulations within one hundred twenty (120) days subsequent to the effective date of this act establishing a system of priorities for the allocation of available energy resources, other than agricultural fertilizers, and the curtailment of the consumption of such energy resources during any energy emergency as proclaimed by the governor pursuant to section 6. Such rules or regulations shall apply to all suppliers and consumers of such energy resources.

Sec. 8. (a) The director may continuously monitor and forecast the supply and demand situation of energy resources in the state and shall provide information to the governor as required.

Sec. 9. The director of the Kansas energy office may hold hearings and receive evidence for the purposes of any inquiry relating to the supply and demand situation of any energy resources in the state, including agricultural fertilizers, or the enforcement of any rules or regulations adopted pursuant to section 7. Reasonable

notice, as determined by the director, shall be given to all persons interested in such hearings.

Sec. 10. This act shall take effect and be in force from and after its publication in the official state paper.

Approved April 18, 1975.

Published in the official state paper April 24, 1975.

CHAPTER 395 *

Senate Bill No. 63

AN ACT establishing the state economic opportunity office; providing for the director of economic opportunity and prescribing powers and duties thereof; and transferring powers, duties, functions, and employees of the existing office of coordinator from the state technical assistance program to the state economic opportunity office.

Be it enacted by the Legislature of the State of Kansas:

Section 1. There is hereby established in the office of the governor or in such other agency in the executive branch of state government as the governor shall direct by executive order, the state economic opportunity office, the director of which shall be responsible for providing technical assistance and coordination to local, regional and state organizations which operate programs under the provisions of the federal economic opportunity act. The head of such office shall be the director of economic opportunity. The governor, with the consent of the senate, shall appoint the director of economic opportunity, who shall serve at the pleasure of the governor. The director shall be in the unclassified service of the Kansas civil service act and shall receive an annual salary to be fixed by the governor with the approval of the state finance council.

Sec. 2. The powers and duties of the director of economic opportunity shall include, but not be limited to:

- (1) Providing technical assistance to community action agencies in the fields of housing, management, and economic development;
- (2) initiating incentive programs with community action agencies to provide for nutritional programs for the poor;
- (3) providing the governor with information and advice with respect to the policies and programs of the federal office of economic opportunity as they relate to the state of Kansas;
- (4) providing the governor with information on causes and conditions of poverty in the state;
- (5) acting as the governor's representative on matters related to the poor;
- (6) receiving, administering and utilizing all federal assistance in the form of grants which are or may become available to such office under the federal economic opportunity act; and
- (7) exercising such other powers as may be necessary to effectuate the responsibilities of such office.

KANSAS ENERGY OFFICE
503 Kansas Avenue
Topeka, Kansas 66603

Attachment 1

August 21, 1975

The Honorable Curt Schneider
Attorney-General
State of Kansas
State Capitol Building
Topeka, Kansas 66612

RE: Emergency Rules and Regulations Adopted Pursuant to K.S.A.
1975 Supp. 74-6807

Dear General:

Attached hereto for your approval as to form and legality are emergency rules and regulations which I, as Acting Director of the Kansas Energy Office, have adopted this date, pursuant to K.S.A. 1975 Supp. 74-6807. The Kansas Legislature recently changed the filing deadline for permanent rules and regulations to August 1. Rules and regulations filed by this date cannot become effective until May 1 of the following year because the legislature now requires proposed rules and regulations be reviewed and approved by it prior to becoming effective. Hence it is necessary to have emergency rules to comply with the deadline set out in K.S.A. 1975 Supp. 74-6807 and to cover the interim period before permanent rules can become effective.

In view of the possibility of serious shortages of energy resources, it is definitely in the interest of the public health, safety and welfare of the people of this state that these emergency rules and regulations be approved.

Thank you for your prompt attention to this matter.

Sincerely yours,



Dr. William W. Hambleton
Acting Director

WWH:dp

attachments



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

CURT T. SCHNEIDER
Attorney General

August 22, 1975

Dr. William W. Hambleton
Acting Director
Kansas Energy Office
503 Kansas Avenue
Topeka, Kansas 66603


Dear Dr. Hambleton:

I return herewith the proposed emergency regulations which you have promulgated pursuant to ch. 394, L. 1975, concerning the allocation of energy resources. We have read and considered the regulations, and approve them as to form and legality, and as being within the authority cited therefor.

Yours very truly,

CURT T. SCHNEIDER
Attorney General

BY:


JOHN R. MARTIN
First Assistant
Attorney General

JRM:kj

Enclosure

Emergency Regulations

Purpose: The purpose of these rules and regulations is to establish a system of priorities for the allocation of available energy resources, other than agricultural fertilizers, and the curtailment of the consumption of such energy resources during any energy emergency as proclaimed by the governor pursuant to Section 6 of Chapter 394 of the 1975 Kansas Session Laws. These rules and regulations shall apply to all suppliers and consumers of such energy resources not subject to regulation as to allocation or curtailment by any federal agency. (Authorized by K.S.A. 1975 Supp. 74-6807, E- _____ - _____, effective August 21, 1975.)

APPROVED as to
form and legality.
Attorney General
By Ass't.

Emergency Regulations

Definitions:

1. Kansas Energy Office: An office created by the 1975 Kansas Legislature pursuant to Chapter 394 of the 1975 Kansas Session Laws.
2. Director: The Director of The Kansas Energy Office.
3. Available Energy Resources: Those energy resources, other than agricultural fertilizers, commonly in use at the time of an energy emergency as declared by the governor pursuant to Section 6 of Chapter 394 of The 1975 Kansas Session Laws.
4. Energy Emergency: Whenever it appears from an evaluation of conditions in the state by the governor that the supply of energy resources, other than agricultural fertilizers, is inadequate to meet the demand for such energy resources in the state or any geographic areas of the state and that the public health, safety and welfare are threatened thereby, the governor may proclaim that an energy emergency exists within the state, subject to six (6) members of the state finance council approving such proclamation. The emergency proclamation of the governor shall recite his findings, shall declare that an energy emergency exists, shall specify the area of the state in which such emergency exists, and shall specify the period of time during which a system of priorities for the allocation of available energy resources, other than agricultural fertilizers, and/or the curtailment of consumption of such energy resources may be imposed. Such period of time may be extended or reduced after a reevaluation of conditions within the state and a further proclamation of findings by the governor which require such extension or reduction.
5. Allocation: Allotment or division of available energy resources according to certain priorities set forth below. (Authorized by K. S. A. 1975 Supp. 74-6807, E- _____ - _____, effective August 21, 1975.)

APPROVED as to
form and legality:
Attorney General
by JM Ass't.

Emergency Regulations

Priorities for Allocation of available energy resources, other than agricultural fertilizers, in the event of an energy emergency declared by the Governor pursuant to Section 6 of Chapter 394 of the 1975 Kansas Session La

(a) First Priority shall be given to emergency services and the protection of public health, safety and welfare including maintenance of gas and electrical services for hospitals, juvenile and adult correctional institutions, nursing homes, hotels, motels, and residences such as individual homes, apartments and similarly occupied dwelling units, publicly owned water, sewerage and storm water drainage systems, which systems supply services to the aforesaid; and emergency transportation services.

(b) Second Priority shall be given to the maintenance of agricultural operations and the processing of agricultural products, including farming, ranching, dairy, irrigation, and services directly related to agriculture; to the manufacture of ethical drugs and to plant protection.

(c) Third Priority shall be given to exploration, production, processing and refining efforts to attain maximum production or extraction of oil, natural gas or other hydrocarbons.

(d) Fourth Priority shall be given to the maintenance of all public services, including facilities and services provided by municipal, cooperative, or investor-owned utilities required for customers who come under Paragraphs (b) and (c) next above, or by any state or local government or authority, including transportation facilities or services which serve the public at large, and to educational services and facilities. This priority shall not apply to those publicly owned water, sewer and storm water drainage systems referred to under Paragraph (a) next above, since those are the first priorities

(e) Fifth Priority shall be given to maintenance of private transportation and to commercial and business activities selling goods and services.

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(f) Sixth Priority shall be given to industrial plants, including electrical generating plants to the extent not provided for in Paragraph (d) ^{4(a)} above, having a present requirement for use of intrastate natural gas for boiler fuel, not possessing present alternate fuel capabilities.

(g) Seventh Priority shall be given to industrial plants, including electrical generating plants to the extent not provided for in Paragraphs (d) and (f) above, having a present requirement for boiler fuel use, in those instances where alternate fuel capabilities now exist, or may be installed with relatively minimal cost and delay. (Authorized by K. S. A. 1975 Supp. 74-6807, E- _____ - _____, effective August 21, 1975.)

APPROVED as to
form and legality.
Attorney General
by *[Signature]*

SECOND DRAFT ON INSULATION STANDARDS FOR COMMITTEE DISCUSSION

RE: PROPOSAL NO. 62

SPECIAL COMMITTEE ON ENERGY AND NATURAL RESOURCES

AN ACT

Be it enacted by the Legislature of the State of Kansas:

Section 1. As used in this act the following terms shall have the meanings respectively ascribed to them unless the context requires a different meaning: (a) "Structure" means any residential dwelling whether single or multi-family, including apartments and condominiums; commercial buildings; and public or governmental buildings, including schools. The term shall not be construed to mean any structure utilized for any agricultural purpose; (b) "energy" means that derived from fossil or atomic fuels excluding that derived from solar, wind or other non-depletive sources.

Sec. 2. (a) Each application for a building permit for the construction of any new structure shall be accompanied by a certificate of compliance executed by a registered architect and/or a licensed engineer. Such certificate shall indicate that such structure has been designed to comply with and does not exceed the maximum energy consumption standards or the minimum design criteria as set forth in section 3. In any case where no building permit is required for such construction such certificate shall be submitted to the state director of architectural services.

(b) Each application for a building permit for the reconstruction or remodeling of any structure in excess of twenty-five

percent (25%) of gross area shall be accompanied by a certificate of compliance executed by a registered architect and/or licensed engineer. Such certificate shall indicate that upon such reconstruction or remodeling such structure has been designed to comply with and does not exceed the maximum energy consumption standards or the minimum design as set forth in section 3. In any case where no building permit is required for such reconstruction or remodeling, such certificate shall be submitted to the state director of architectural services.

Sec. 3. (a) The maximum annual energy consumption at building boundary BTU per gross square foot of floor area shall be:

(1) For one (1) and two (2) family residences

(2) for three (3) and four (4) family residences

(b) The method of determination of BTU/gsf/year shall be set forth in ASHRAE Standard 90-75.

(c) As used in this subsection the term "U factor" shall have the meaning ascribed thereto in ASHRAE Standard 90-75. The minimum design criteria for any other structure based upon the U factor shall be as follows:

(1) Roofs

(2) Walls

(3) Floors

For such structures, in accordance with maximum summer and winter design conditions, the ventilation rate of outside air, unless otherwise prescribed by applicable federal or state law, shall be not more than . . . CFM per cubic foot.

(d) An allowance of twenty percent (20%) over the maximum annual energy consumption standard or the minimum design criteria, as the case may be, may be allowed for in cases of unusual design and climatic, orientation or siting problems upon good cause shown in the certificate of compliance.

Sec. 4. The director of architectural services is hereby authorized and directed to promulgate and adopt rules and regulations to enforce and insure compliance with the provisions of this act. Such rules and regulations may authorize the utiliza-

tion of county or municipal building code inspectors to act as designees to perform such inspection duties as the director may require.

Sec. 5. The provisions of this act shall not apply to any structure existing, under construction or reconstruction on the effective date of this act but such provisions shall apply to such structure if the same is reconstructed or remodeled in excess of twenty-five percent (25%) of gross area after June 30, 1976.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.