

Approved: 1/22/96  
Date

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION.

The meeting was called to order by Chairperson Al Ramirez at 1:30 p.m. on January 16, 1996 in room 531--N of the Capitol.

All members were present except:

Committee staff present: Julian Efird, Legislative Research Department  
Fred Carman, Revisor of Statutes  
Jacqueline Breymeyer, Committee Secretary

Conferees appearing before the committee: Ron Hammerschmidt-Dept. Of Health & Environment  
Director of Environment  
Bill Bider-Dept. Of Health & Environment  
Director, Bureau of Waste Management  
Sharon Patnode-Legislative Post Audit  
Trish Pfannenstiel-Legislative Post Audit

Others attending: See attached list

Chairman Ramirez called the meeting to order at 1:37 p.m., and welcomed members to the first committee meeting of the 1996 session. There is plenty of work to do. He introduced Senator Nick Jordan, a new member on the committee who replaces Senator Vidricksen.

The Chairman commented on HB 2129--unlawful use of state postage. He asked the committee to give some thought as to what to do with the bill. It was tabled in 1995 and will take a 2/3 vote, or 6 people to take the bill off the table.

The Chairman called on Sharon Patnode, Legislative Post Audit, to go through the Audit entitled "Reviewing the Department of Health and Environment's System for Assessing the Impact of Rules and Regulations Mandated by the Federal Government." Ms. Patnode stated the focus of the audit was on regulations developed by the Department of Health and Environment as a result of federal mandates. The side of the agency that deals with federal mandates is the Division of Environment. Sometimes the Division adopts federal regulations by reference; sometimes it writes its own regulations. The Division of Health administers federal programs that are not mandated, such as the WIC program, which is the Women Infants and Children nutritional program. Auditors looked briefly at these programs, but focused mainly on the federally mandated environmental programs. The auditors looked closely at how well the Division of Environment has done in estimating the economic impact of three sets of regulations mandated by federal law: the Clean Water Act; solid waste laws; and underground storage tank regulations.

The question was asked if it had been tried to compute the cost of compliance at the industry level; the number of hours spend by management and employees. It seems the true cost of the regulation is never reached.

Ms. Patnode responded that she had not seen that, but it might be asked of the Department. Under the new process a lot more in-depth things will be done; whether or not this will be included she didn't know.

In reply to another question regarding economic impact statements, Ms. Patnode replied that these have been done for a period of time. Some bureaus do a better job than other bureaus. July 1, 1995 brought much more comprehensive kinds of things; the list not only includes economic impact statements, but benefits statements types of things such as time of notice requirement and other specific legislation.

The comments was made that the unseen cost of these economic impact statements is ultimately paid for by the consumer at the pump.

## CONTINUATION SHEET

MINUTES OF THE SENATE GOVERNMENTAL ORGANIZATION COMMITTEE ROOM 531--N  
Statehouse, at 1:30 p.m. on January 16, 1996.

Turning to the Health side of the audit, Ms. Patnode stated that the auditors looked at three economic impact statements and two programs. (Audit on file at Legislative Post Audit, Mills Building).

Ron Hammerschmidt, Director of Environment, Department of Health and Environment, gave the response to the audit. He stated that the Department views these audits as very positive. He distributed a Memorandum dealing with Division of Environment's Process for Development of Rules and Regulations. (Attachment 1) The back of the Memorandum contained the Checklist for Promulgation of Regulations. The public, as well as interest groups are consulted before the Division puts pencil to paper; it also attempts to standardize the formats for doing impact analysis. The end result of staff development of the checklist along with the Post Audit report will be better regulations. Mr. Hammerschmidt ended his response by stating that what will then be in place will be a better process.

Mr. Hammerschmidt responded to a question by stating the Department is required to identify all areas where they have exceeded the government's stringent requirements.

Trish Pfannenstiel, Legislative Post Audit began her audit report entitled, "Reviewing the Implementation of Kansas' Waste Tire Disposal Program." In 1990 the Legislature established the Waste Tire Disposal Program to help properly dispose of approximately two million waste tires generated by Kansans each year. Since July 1, 1990, waste tires must be processed before being placed in a landfill. She directed attention to page 4, where the more common methods used for disposal of waste tires was shown. A graphic on page 6 showed operations that are issued permits. The waste tire program is funded by a 50-cent excise tax levied on the sale of new tires. The excise tax is collected by the Department of Revenue and deposited in the Waste Tire Management Fund. Ms. Pfannenstiel reviewed the permit operations. According to law, no one is to operate a waste tire facility without a permit. Regulations state that permits are renewed 90 days before they expire. Ms. Pfannenstiel identified areas of concern and recommendations for improvement in this area. These are listed in the audit (on file at Legislative Post Audit, Mills Building).

In response, Mr. Hammerschmidt listed several positive things the Department has done or is doing which include: a Waste Tire Summit, of which 120 people were in attendance; working closely with the Joint Committee on Energy and Natural Resources to come up with some of the ideas embodied in SB 399; preparation of a Policies and Procedures manual that will be delayed until SB 399 is voted on; a mass mailing to all retailers with an up-to-date list of permitted waste tire transporters and landfills; and use of the INTERNET to disseminate information to all members of the regulated communities. Staff has developed a plan to routinely and randomly audit the financial aspects of the base and abatement grants.

Bill Bider, Director, Bureau of Waste Management, stated that they are in the process of trying to collect some fine monies. Mr. Bider also made the comment that Kansas could become a dumping ground for tires from other states that have banned tires in landfills, but they do not contaminate the environment.

A committee member commented that recycled tires had been used in a section of interstate that substantially raised the cost of construction.

Several questions were asked of Mr. Hammerschmidt about being give full time employees to meet the staffing needs of the waste tire disposal program and nothing being done. Mr. Hammerschmidt responded that he was not going to make any excuses for the program, he was not with the Department at the time, however, it takes someone to train these people and bring them on board; the full time employees were hired for the program; the Department is attempting to make the program more operational.

Chairman Ramirez thanked all conferees. The meeting adjourned at 2:30 p.m.

The next meeting is scheduled for January 17, 1996.



KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

Division of Environment

MEMORANDUM

TO: Larry Knoche, Bureau of Environmental Remediation  
John Irwin, Bureau of Air and Radiation  
Bill Bider, Bureau of Waste Management  
Karl Mueldener, Bureau of Water  
Ron Fox, Bureau of District Operations

FROM: Ron Hammerschmidt, Director

SUBJECT: Division of Environment Process for Development of  
Rules and Regulations

DATE: January 2, 1996

During the past few months we have developed an outline for the development of rules and regulations. This outline includes:

Checklist for Promulgation of Regulations  
Concurrence Sheet  
General Instructions for Drafting Regulatory Impact  
Statements Submitted by the Division of Environment

Copies of these items have been previously forwarded in both printed and electronic format for your review and comment.

Effective today, January 2, 1996, this outline will be followed in the development of rules and regulations. Several regulations have been developed using this outline. If you have any questions concerning this outline please contact either Theresa Hodges or me. Additional copies can be obtained from Theresa.

cah  
copy: Theresa Hodges, OSS/PP

*Senate Governmental Organization  
Attachment 1  
1/16/96*

**KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT  
DIVISION OF ENVIRONMENT  
BUREAU OF \_\_\_\_\_**

**Checklist for Promulgation of Regulations**

New \_\_\_ Amended \_\_\_ Revoked \_\_\_

- \_\_\_ 1. Determined statutory authority. K.S.A.: \_\_\_\_\_
- \_\_\_ 2. Outlined scope of regulation and notified Division Director and Bureau Directors, including Bureau of District Operations.
- \_\_\_ 3. Sought public input prior to drafting regulations, if appropriate. Dates & Location: \_\_\_\_\_  
\_\_\_\_\_ NOTE: Maintain attendance records on file.
- \_\_\_ 4. Drafted regulations following Department of Administration's Policy and Procedure Manual.
- \_\_\_ 5. Drafted regulatory impact statement (economic impact statement and environmental benefit statement) using standard format.
- \_\_\_ 6. Notified other Bureau Directors at Bureau Director's meetings of scheduled public informational meetings.
- \_\_\_ 7. Conducted public informational meeting(s) on significant amendments or new regulations as determined by the Bureau Director with concurrence of Division Director. Date(s) & Location: \_\_\_\_\_  
\_\_\_\_\_ NOTE: Maintain attendance records on file.
- \_\_\_ 8. Provided EPA with draft, if applicable.

**ATTACH CONCURRENCE SHEET**

- \_\_\_ 9. Forwarded regulations \_\_\_, regulatory impact statement \_\_\_, and reference material \_\_\_ to KDHE Office of Legal Service (OLS) for review. OLS will transmit to Secretary's Office for coordination of reviews by Department of Administration and Office of Attorney General.
- \_\_\_ 10. Provided copies of the regulatory impact statement and if appropriate, proposed regulations, to the League of Municipalities, Kansas Association of Counties, and Kansas Association of School Boards.
- \_\_\_ 11. Selected a hearing officer: \_\_\_\_\_
- \_\_\_ 12. Submitted to Secretary's Office a notice of public hearing for publication in Kansas Register and required distribution--Joint Committee on Administrative Rules and Regulations and Legislative Research Department. (See Department of Administration's Policy and Procedure Manual.)
- \_\_\_ 13. Met with the Joint Committee on Rules and Regulations to receive comments.
- \_\_\_ 14. Public Hearing(s) conducted. Date(s) & Location: \_\_\_\_\_  
\_\_\_\_\_ NOTE: Maintain attendance records on file.
- \_\_\_ 15. Prepared a responsiveness summary on comments received during public comment period.
- \_\_\_ 16. Submitted a copy of responsiveness summary to hearing officer for inclusion in hearing officers report.
- \_\_\_ 17. Hearing Officer's report submitted to Secretary.
- \_\_\_ 18. Final adoption by Secretary on \_\_\_\_\_.
- \_\_\_ 19. Responded to all who submitted comments.