

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson Eugene Shore at 9:00 a.m. on March 11, 1994 in Room 423-S of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department
Jill Wolters, Revisor of Statutes
Kay Johnson, Committee Secretary

Conferees appearing before the committee: Bill Craven, Kansas Natural Resource Council, Kansas Sierra Club
Margaret Fast, Kansas Water Office
Edward Rowe, The League of Women Voters of Kansas
Rich McKee, Kansas Livestock Association

Chairman Shore called the meeting to order and informed committee members that the fiscal note on **SB 800**, attachment #1, the animal feeding operation chart used by KDHE to determine permitting and pollution control requirements, attachment #2, written testimony from the James Triplett, attachment #3, and the League of Kansas Municipalities, attachment #4, have been distributed.

Hearings continued on **SB 800**: confined feeding operation defined for water pollution purposes.

OPPONENTS:

Bill Craven, Kansas Natural Resource Council and Kansas Sierra Club, attachment #5, stated that livestock outnumber people in Kansas by a ratio of about three to one and explained how much organic waste is produced by these livestock. As evidenced by the testimony on Wednesday, March 9, 1994, Mr. Craven said the public has shown strong opposition to this bill because of their dissatisfaction with the Kansas Department of Health & Environment's (KDHE) handling of enforcement. Referring to water quality, Mr. Craven said Kansas ranks last in rivers and streams which meet their designated uses. He stressed that this bill does not allow public participation in the permitting process and Kansas should not wait and enforce after the fact.

Discussion followed on who should pay the fees when the regulations are for the public good, how streams and rivers are assigned a designated use and whether environmental groups have been included in study groups on this issue.

Margaret Fast, Water Resource Planner, Kansas Water Office, attachment #6, said her major concern is the water quality implications. Water quality data from 1987 to 1991 indicates bacteria and nutrients are consistent concerns. The source of bacteria is digestive waste from warm blooded animals and nitrogen and phosphorus are also linked to livestock waste. Ms. Fast pointed out that if feedlots are not required to register, we will not know where they are and encouraged people to not overreact to the fee issue by removing an important source of information. Ms. Fast also discussed how a change in permitting requirements could affect nonpoint source funds.

Discussion followed on why the Water Office had not testified on this bill in the Senate Agriculture Committee, the strong vote passing this bill in the Senate (38-2), nonpoint source funding, nonpoint source pollution and the need for hard data to support claims that Kansas is or is not using resources well.

Edward Rowe, The League of Women Voters of Kansas, attachment #7, reminded the committee of well-publicized fish kills in the 1960's and asked that the clock not be turned back to environmental irresponsibility.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE, Room 423-S Statehouse, at 9:00 a.m. on March 11, 1994.

PROPOSERS:

Rich McKee, Kansas Livestock Association (KLA), attachment #8, introduced visiting KLA members and a new KLA staff member. Mr. McKee asked committee members to look at the statute on agricultural and related wastes, attachment #9, and lines 20 and 21 on page 2 of **SB 800**, each of which says the state maintains the authority to regulate any size livestock facility. He said most of the public's testimony centered on the lack of response time by KDHE and said he believes this bill may allow KDHE more authority and flexibility to zero in on those areas that need enforcement while not using resources on areas not requiring enforcement or posing an environmental threat.

Mr. McKee said the federal threshold mandating state licensure is 1,000 head, whereas the state threshold is 300. The permitting threshold in all contiguous states and Texas and California is also 1,000 head. Kansas should be consistent with federal requirements and also with two other state requirements - the Water Appropriation permit and Animal Health Department permit - both of which have 1,000 head thresholds. Referring to charts provided in attachment #8, Mr. McKee illustrated that 10% of the livestock in Kansas produce 86% of the manure.

Regarding the fee issue, Mr. McKee said that when KDHE's budget request was denied, KLA's recommendation, rather than raising fees, was for KDHE to become more efficient and responsive and to use some of the State Water Tax money.

Discussion followed on notification in the Register, which Mr. McKee said is a procedure used for zoning and not pollution controls, where Water Tax money goes, prevention vs. enforcement after a problem occurs, proof of the source of water pollution, how to reduce pollution and the fact that no livestock operation can discharge directly into a stream, but must capture all runoff which can be used as fertilizer.

Hearings closed on **SB 800**.

Chairman Shore appointed a sub-committee on **SB 800**. Members will be Chairman Shore and Representatives Bryant, Goodwin, Kejr and Rezac. Also, staff was asked to provide information on how many counties are zoned.

The meeting adjourned at 10:00am. The next meeting is scheduled for March 15, 1994.

Kan 446-N

STATE OF KANSAS



DIVISION OF THE BUDGET

Room 152-E
State Capitol Building
Topeka, Kansas 66612-1504
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Joan Finney
Governor

Gloria M. Timmer
Director

March 10, 1994

AMENDED

The Honorable David Corbin, Chairperson
Senate Committee on Agriculture
Statehouse, Room 143-N
Topeka, Kansas 66612

Dear Senator Corbin:

SUBJECT: Amended Fiscal Note for SB 800 by Senate Committee
on Ways and Means

In accordance with KSA 75-3715a, the following amended fiscal note concerning SB 800 is respectfully submitted to your committee.

SB 800 pertains to surface and subsurface water and soil pollution as well as activities relating to feeding operations. The bill defines "confined feeding operations" to indicate which operation must be regulated by the Secretary of Health and Environment for preventing water pollution. A "confined feeding operation" is a confined feeding of 1,000 or more cattle, swine, sheep, or horses at any one time, any feeding operation of less than 1,000 head using a lagoon, or any animal feeding operation having a water pollution potential. Currently, livestock facilities less than 1,000 head are required to be registered and facilities that have a water pollution potential must obtain a permit.

The Senate Committee amendments would replace the term and definition of "confined feeding operation" with the term "confined feedlot waste control facility." The amended bill provides a definition of "confined feedlot waste control facility" based primarily on the number of animals being fed by the facility, but other factors would be considered concerning facilities which feed swine or hens. The definition would also include any other individual confined animal feeding operation having significant water pollution potential. The Senate Committee also made amendments which would set in statute the maximum fees that the Department of Health and Environment could charge for wastewater discharge permits for confined feedlot waste control facilities. The maximum fees in the amended bill are equal to the current fees established by the Department through rules and regulations.

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3-11-94
Attachment #1

The Honorable David Corbin, Chairperson

March 10, 1994

Page 2

The Senate Committee of the Whole made a technical amendment to the descriptive title of the bill.

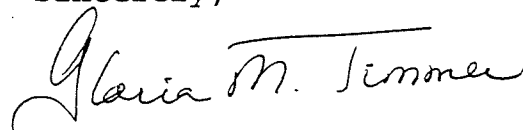
Estimated State Fiscal Impact				
	FY 1994 SGF	FY 1994 All Funds	FY 1995 SGF	FY 1995 All Funds
Revenue	--	--	\$ (3,660)	\$ (3,660)
Expenditure	--	--	\$184,500	\$184,500
FTE Pos.	--	--	--	6.0

The Kansas Department of Health and Environment estimates that passage of SB 800, as introduced, would result in 150 additional complaints from nearby water users against small feeding operations polluting water. The agency submits that by not reviewing the plans of smaller facilities prior to construction, many of the facilities may not be designed to protect the water supply adequately from pollution.

There is no way to estimate accurately what increase in the number of complaints, if any, would occur. However, should the agency's estimate be correct, the agency submits that it would need 6.0 FTE positions and expenditures of \$184,500 from the State General Fund to handle the additional complaints in FY 1995 in addition to amounts contained in the *FY 1995 Governor's Budget Report*. The estimate includes salaries and wages of \$157,500 for 1.0 Environmental Scientist I for complaint investigation, 1.0 Attorney I to handle additional administrative and judicial appeals, 3.0 Environmental Technicians to perform site-specific investigations, and an Office Assistant III for staff support. The agency states that \$27,000 would be needed for capital outlay items.

The amendments by the Senate Committee on Agriculture would reduce receipts to the State General Fund from the collection of wastewater permit discharge fees by an estimated \$3,660 for FY 1995. It is estimated that the change in the minimum number of animals which a facility would have to feed to be required to pay the permit fee would reduce the total number of fee-paying facilities by 122. Each of these 122 facilities would pay a \$30 permit fee under current law (122 facilities X \$30 = \$3,660).

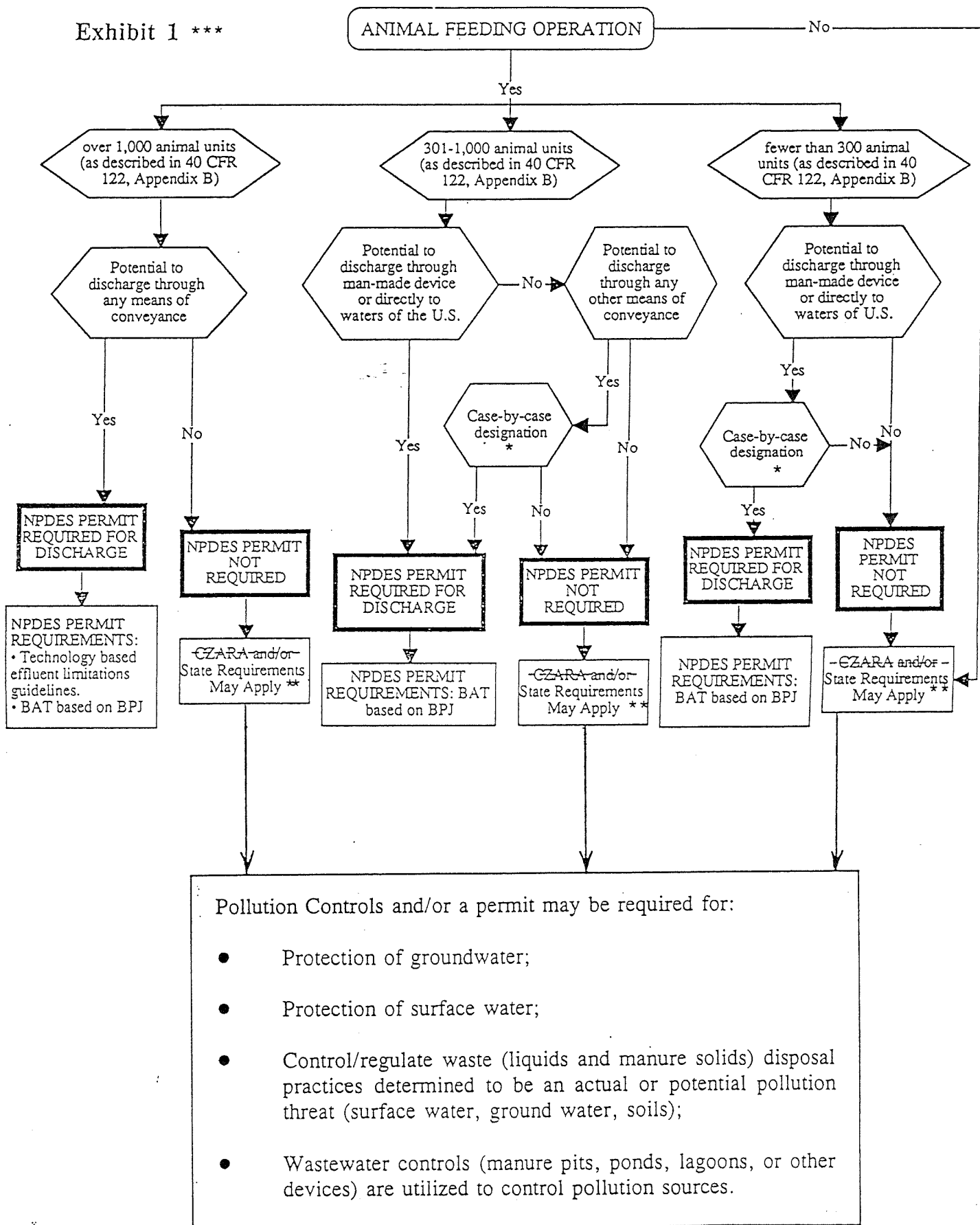
Sincerely,



Gloria M. Timmer
Director of the Budget

cc: Laura Epler, Health and Environment

Exhibit 1 ***



HOUSE AGRICULTURE
3-11-94
Attachment #2

2-2

* Case-by-case designation: In making a case-by-case designation of a confined feeding operation, at least the following factors must be considered:

- Size of the operation;
- Amount of wastes reaching waters of the United States;
- Location of the operation relative to waters of the United States;
- The means of conveyance of animal wastes and process wastewater into waters of the United States;
- The slope, vegetation, rainfall, and other factors affecting the likelihood of frequency of discharge of animal wastes and process wastewater into waters of the United States; and
- Other relevant factors, for example proximity to impaired or pristine waters, public complaints, etc.

** CZARA (Coastal Zone Act Reauthorization Amendments 1990) does not apply to Kansas.

*** Draft Guidance Manual on NPDES Regulations for Concentrated Animal Feeding Operations; September 28, 1993; Prepared by the U.S. Environmental Protection Agency.

Post-It™ brand fax transmittal memo 7671		# of pages = 1
To	Representative Shore	From
Co.	Chair of Agricultural Comm.	Co.
Dept.		Phone #
Fax #	913-296-1154	Fax #

March 9, 1994

The Honorable Eugene L. Shore, Representative
446 N, State Capitol Building
Topeka, KS 66612

Dear Representative Shore:

I'm sorry I am unable to attend the hearing on S.B. 800 before the House Agriculture Committee. I hope this letter will serve to convey the issues I hope you will consider as you review this legislation.

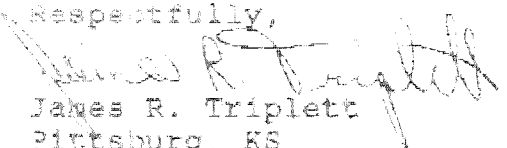
As chairman of the Neosho Basin Advisory Committee and chair of the Council of Chairs, I have had an extensive opportunity to work for the protection and management of the water resources of the State through the State Water Plan. Those of us involved in this process have a commitment to ensure that water will be available in sufficient quantity and of sufficient quality to make Kansas a quality of life choice today and into the future. Part of that commitment includes a willingness to understand and consider the concerns of other water users. I understand the current frustration agricultural producers have with the increasing burden of regulations and restrictions. At the same time, much of this oversight has become necessary because of the increasing demands we place on our resources. Advancing technology and changes in production methods put all of us in a potential position of having great impact. Many of our laws are in place to protect most of us from a few who don't understand or don't care about their impact on others.

The legislation in S.B. 800, as currently ammended, will seriously and negatively affect the ability of the Kansas Department of Health and environment to protect our water resources. Limiting the agency's ability to regulate small feedlots by redefining the feedlot as a "confined feedlot waste control facility" of 1,000 head of cattle does not provide adequate oversight. As we are well aware, 100 head of cattle confined in the wrong place or poorly managed can cause as much or more damage as a 1,000 head.

In summary, this legislation is potentially harmful to our water resources. I would urge against support of this bill.

Thanks for your time and consideration.

Respectfully,


James R. Triplett
Pittsburg, KS

HOUSE AGRICULTURE
3-11-94
Attachment #3



**League
of Kansas
Municipalities**

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 112 S.W. 7TH TOPEKA, KS 66603-3896 (913) 354-9565 FAX (913) 354-4186

TO: **HOUSE AGRICULTURE COMMITTEE**

FROM: Chris McKenzie, Executive Director

DATE: March 9, 1994

SUBJECT: Senate Bill 800

Thank you for the opportunity to appear before you today to express some serious reservations about SB 800. I am here today on behalf of the 540 member cities of the League of Kansas Municipalities, many of which are located in your legislative districts and you represent actively as well. In fact, the members of this Committee collectively represent 240 municipalities, with Representative McClure representing as many as 22 cities and Representative Rutledge representing our largest, the City of Wichita.

I have spent the last week trying to learn more about this bill and to figure out whether the League has an interest at stake if SB 800 passes. Quite frankly, I don't believe a person can answer that question from just the text of the bill, but that is where I started. On page 1, line 31 you will see the first reference to "municipalities" as the first of many entities subject to the regulation of the state of Kansas in order to prevent water pollution and soil pollution. As you know, virtually every municipality of any size engages in the treatment of wastewater. As a result, cities are subject to regulation pursuant to this law. They pay fees to secure water pollution control permits, and they are subject to intense state regulation. Based on these factors alone we believe that whenever one of our fellow members of what we like today to call the "regulated community" requests preferential treatment it is likely that municipalities will be treated differently--perhaps receiving "unpreferential" treatment.

Over the last two years the League and our member cities have had many contacts and interactions with the Kansas Department of Health and Environment on policy as well as specific regulatory issues. I can't say all of those contacts have been satisfactory. In fact, most of mine have been concerning policy issues, and I have rarely felt that our concerns have received the type of reception that I would classify as warm or overly understanding. The folks in that agency occasionally ruffle my feathers and they regularly frustrate officials in the cities of the state who work aggressively to comply with federal and state clean water and safe drinking water laws. If the reports I receive are accurate, however, they also accomplish a lot of good, making sense many times of seemingly contradictory and confusing laws and rules from EPA and Topeka. In short, they work pretty effectively to make a confusing system work in Kansas--something EPA probably could and would never do if it were up to them.

HOUSE AGRICULTURE
3-11-94
Attachment #4

We have two specific concerns about SB 800. **First**, by essentially deregulating certain sizes of confined feeding facilities, SB 800 could expose the cities of the state to expensive water and wastewater treatment costs in the future. These costs would come in the form of capital investments and operating costs to treat the water that becomes polluted by the waste from such facilities through either point or nonpoint pollution. As you know, a stream has a limited carrying capacity to handle such wastes, and if one source is exempt from treatment, others will have to pick up that burden. Cities already have had to shoulder significant costs to simply sample their drinking water supplies to comply with the federal Safe Drinking Water Act. Additional treatment of drinking water. If we put more untreated sewage into our lakes and streams, it can only increase the treatment requirements for public water suppliers to help avoid problems with cryptosporidium and other water borne parasites that are common with high levels of untreated sewage in a stream or lake.

Second, SB 800 raises the very real prospect of shifting an even greater share of the burden of complying with the federal Clean Water Act to the residents of the cities of Kansas. Our most recent reports are that Congress will likely enact a version of the Clean Water Act amendments this session that require that 60% of the cost of oversight of state water pollution control programs come from fees. If the fees for one category of the "regulated community" are frozen by statute, city ratepayers and other groups whose rates can be adjusted by rule and regulation can only be expected to take up the slack. This also is true under state law if fees are not adjusted on a regular basis; other regulated groups and the general taxpayers who contribute to the general fund will pick up the slack. City officials already believe city residents pick up a disproportionate share of the cost of implementing the state water plan. The passage of SB 800 would simply add insult to injury.

RECOMMENDATION: We understand that SB 800 was born out of real frustration with the state rule making process, but we respectfully recommend that freezing fees in statute will have a disproportionately harmful effect on ratepayers in cities who already are experiencing astronomical increases in water and wastewater rates due to federal and state regulations. We urge the Committee to recommend SB 800 for an interim study this summer in which the effects on all entities subject to KDHE regulation can be studied.

I also want to associate the League with the comments to the Committee by Mr. John Metzler. I have found that Mr. Metzler to be very knowledgeable on wastewater issues, and I believe his comments are well grounded in fact.



Kansas Natural Resource Council

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Testimony of William Craven Legislative Coordinator, Kansas Natural Resource Council and Kansas Sierra Club

House Agriculture Committee

S.B. 800

March 7, 1994

Thank you, Mr. Chairman, for providing an opportunity for the Kansas Natural Resource Council and the Kansas Sierra Club to testify on this important matter. The way environmental issues have fared in the legislature this year, it is fitting that this issue be featured as the hearing schedule winds down.

You have heard from people personally affected by pollution problems from feedlots. I want to speak to the macro side of the issue, and share some big numbers with you, that various volunteer scientists and engineers figured out for me at my request. If you want the citations to the authorities they relied on, just let me know.

Kansas is home to 5.9 million cattle and 1.4 million swine. In other words, livestock outnumber people in Kansas by a ratio of about three to one.

These livestock produce about 230,000,000 tons of organic waste each year. In terms of mass, this exceeds the bodily waste generated by 250,000,000 people, or the entire population of the United States. In terms of volume, these livestock produce about 209,000,000 cubic yards of manure, or enough to fill the Capitol dome and rotunda approximately 6,553 times a year, or about 18 times a day. The urinary output of all Kansas cattle and swine is about 515,000 cubic yards per day, or about 161 cubic yards per second. By comparison, the annual mean flow of the Black Vermillion River near Frankfort is only 152 cubic yards per second.

Cattle feedlots with capacities of less than 1,000 head comprise 62 percent of all registered cattle feedlots in Kansas; similarly, swine feedlots with less than 2,500 head comprise 94 percent of all registered swine feedlots. These facilities are not regulated under the NPDES permitting program.



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HOUSE AGRICULTURE
3-11-94
Attachment #5

KDHE's feedlot program employs nine full-time staff. These individuals conduct site appraisals, review plans, write permits answer questions and complaints from citizens and operators, and handle all enforcement actions. While I too have complaints about this program and the fact that it has become politicized, the fact remains that the current staff-to-permitted feedlot ratio is about 1:290.

What lurks behind the scenes here is a dispute between the KLA and KDHE over the fee structure for confined feeding operations. When those two parties were unable to negotiate their differences, the KLA brought this extreme proposal to the legislature. KLA is flexing its political muscle to the detriment of the public and the water resources of Kansas. This legislation should be recognized for what it is: a powerplay designed to gut the regulation of an industry which is truly in need of regulation.

The industry's argument is not very convincing. It is premised on the assumption that most of the large operations are in compliance with existing environmental regulations. As my logic teacher said, that is a non sequitur. How does that alleged fact square with the critical water quality problems of the state, to which the livestock industry is a major contributor? If most of the large facilities are in compliance, doesn't that really mean that our problems are caused by the smaller operations?

Where is the evidence that feedlots below the 1,000 head size (or its equivalent) don't contribute to Kansas' water quality problems?

The answer is that the evidence is all to the contrary. Kansas ranks last among all 50 states in its rivers and streams which meet their designated uses. Only seven percent of our rivers and streams meet their designated uses, and that is an abysmal record. A considerable portion of the pollution which caused that low ranking is from fecal coliform and nitrates, both of which have direct connections to livestock. That statistic should be tempered by the fact that Kansas has one of the better stream-monitoring systems in the nation. Minnesota, which also has a good data collection system, also ranks near the bottom of this survey in this category. States with monitoring systems not as good as Kansas' rank higher, even though it is doubtful that the streams of Illinois, Oklahoma, Nebraska, or Iowa are that much better than our own. Still, if our ranking isn't 50, it probably isn't much better than 50, and that is small consolation.

Another alarming statistic, this one from KDHE's testimony to the Senate Ag Committee, is that about 70 percent of the state's streams and rivers are unsafe for swimming, and nearly half are unsafe for wading. Those

numbers should get your attention. Again, livestock contributes to this problem, and again, instead of dealing affirmatively with this fact, this bill is the industry's attempt to get out from under its responsibility.

Another problem is that this bill removes the ability of the public to participate in NPDES permits. If this bill passes, there will be no permit requirement for the de-regulated parts of the industry. And in counties without zoning, that means no public participation at all.

About the best thing that can be said for this bill is that if it passes, the KLA and the legislature will have handed the environmental groups of Kansas the single-best organizing tool in recent memory. As you have heard this morning, people from all walks of life are concerned about the water pollution, odor, and other adverse effects of feedlots and confined livestock operations. I suspect that the public will be shocked if and when they learn that the legislature caved in to this request from a powerful special interest group.

Thank you for the opportunity to testify.

**Testimony of
Margaret A. Fast, Water Resource Planner
Kansas Water Office
to the
House Committee on Agriculture
March 11, 1994**

Re: S.B. 800--Livestock Waste Facilities

Thank you for the opportunity to comment on S.B. 800. I am a Water Resource Planner at the Kansas Water Office. I am the planner for the three river basins in the southeast part of the state - the Marais des Cygnes, the Neosho, and the Verdigris. I also have responsibility for the water quality policy issues in the State Water Plan.

Our major concern with S.B. 800 is the water quality implications presented by redefinition of the program.

"The State Water Resource Planning Act (K.S.A. 82a-901 et seq.) provides legal authority for consideration of water quality issues in the Kansas Water Plan. The act states the following as long-range goals and policies pertaining to water quality:"

(c) the protection and the improvement of the quality of the water supplies of the state;

(f) the prevention of the pollution of the water supplies of the state;

One of the policies deemed desirable to achieve those goals is:

(j) the maintenance of the surface waters of the state within the water quality standards adopted by the secretary of health and environment as provided by K.S.A. 65-164 to 65-171t, inclusive, and amendments thereto;

Each of the basin plan sections in the *Kansas Water Plan* contain a water quality protection subsection. This issue has ranked among the top issues of concern by the majority of the 12 basin advisory committees. During the next planning cycle of the State Water Plan, the water quality and environmental protection strategy subsections of several basins are being considered for revision. We are working closely with the Kansas Department of Health and Environment in this effort. The new water quality assessment reports will provide the basis of the revisions. While we will be using updated information in this effort, I have reviewed the published water quality data from 1987 through 1991 for my three basins. In all cases, bacteria and nutrients are consistent concerns. The source of bacteria is digestive wastes from warm blooded animals. Municipal wastewater and livestock wastes are the primary sources. Nutrients like nitrogen and phosphorus are also linked to livestock wastes. **In southeast Kansas, my planning area, there are very few large feedlots but a multitude of small facilities.** Potential pollution from small livestock feeding operations has been raised as a concern in other basins as well.

S.B. 800 does, of course, provide for regulation of the small feedlots, but if they are not required to register, how will we know where they are? Do we really want to wait until a complaint is registered and a problem exists? Prevention is always the better

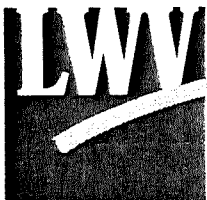
policy. State registration and review of proposed small feedlot facilities can be an effective pollution prevention mechanism which should be maintained and enforced.

Our planned revisions of the environmental protection strategy subsections of the basin plans will address protection. We must know what the potential threats are to be able to appropriately address prevention. Let's not overreact to the fee issue by removing an important source of information about this potential threat to the quality of our water resources.

One other aspect I would like to mention is the implications of the reliance on nonpoint source pollution control funds to address these smaller facilities. The possible expenses required to provide technical and financial assistance to small facilities not regulated by the Kansas Department of Health and Environment could require a major increase in funding for the nonpoint source program, which comes from the State Water Plan Fund. This presumes that the small feedlots owners/operators would voluntarily enter the nonpoint source program. I should mention that the State Conservation Commission currently uses a Kansas Department of Health and Environment permit as a condition of cost-share with nonpoint source funds on livestock waste facilities, so another consequence could be that the small facilities would not even be eligible to come into the program.

In closing, I would urge you to give careful consideration to the water quality implications of this bill, and not pass it as written.

Thank-You



THE LEAGUE
OF WOMEN VOTERS
OF KANSAS

Testimony before the Agriculture Committee on SB 800, March 11, 1994

Chairman Shore and members of the Agriculture Committee, My name is Edward Rowe and I'm a member of the lobby corps of the League of Women Voters of Kansas. I'm a biologist by background. Though I wasn't a professional ecologist, I worked closely with ecologists for more than 30 years and feel I learned much from that association.

SB 800 appears to me to be a big and unwise step backward. If you want to deregulate feedlots, you need to talk to people from the Emporia area who remember back to the 1960s, before some sensible environmental rules were imposed. We had serious environmental degradation on the Cottonwood River watershed from the large Crofoot feedlot and others at Cedar Point, at Emporia, and at Strong City. In those days, everyone would tell you how Strong City got its name. We lived a mile north of the Emporia feedlots and my wife was constantly checking, is it the kids' diapers or a south wind?

Though we all joked about the odor, what was happening to water quality was serious concern. The feedlots were sited on watercourses so the rains would flush the manure away. This worked well enough until the numbers of cattle got large.

If we didn't already know it, we learned from reading in our newspapers at that time that a full-grown steer produces about 10 times as much fecal matter as one person, so a feedlot with 1000 steers produces about the same amount of raw sewage as a town of 10,000 people. We also learned that when all that organic matter gets into the river, microorganisms break it down, but they use up dissolved oxygen in the process. As oxygen is depleted, the fish can no longer survive.

I have a vivid recollection of a fish kill which dates to about 1966. There had been several well-publicized fish kills on the Cottonwood River. I had a canoe and during one of these kills three of us young biologists decided we had to see for ourselves. There had been a disastrous combination of weather events, a long dry spell, then just sufficient rain to carry the manure into the river, but not enough water to dilute it and carry it far downstream. Slugs of smelly, manure-rich, oxygen-poor water were moving slowly, slowly downstream. Anybody with a functioning sense of smell could have found the contaminated water from a mile away.

We paddled into the malodorous scene. Dead fish floated everywhere. The only live fish we saw were carp, and they were floating on their sides and gulping spasmodically. For miles, evenly spaced crayfish had their backs to the river, as if trying to get away but not able to leave the vicinity of the water altogether. I expected the sewer-like stench that we encountered but not the overpoweringly strong admixture of ammonia, a very toxic material for fish.

We've gotten more responsible since the '60s. Let's avoid returning to the kind of conditions I've described.

House AGRICULTURE
3-11-94
Attachment # 7



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FAX: (913) 273-3399

Owns and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

*Statement
of the
Kansas Livestock Association
to the
House Agriculture Committee
Representative Gene Shore, Chairperson
with respect to
Senate Bill 800
Confined Livestock Operations*

*presented by
Rich McKee
Executive Secretary, Feedlot Division
Kansas Livestock Association*

March 9, 1994

Good morning. I am Rich McKee representing the Kansas Livestock Association (KLA). The Kansas Livestock Association is a trade organization made up of approximately 7,000 members located in all of the 105 counties. KLA, founded in 1894, has members who are actively involved in numerous aspects of livestock production that include cow-calf/stocker producers, feeders, sheep producers, swine operators, and general farming and ranching enterprises.

The KLA rises in strong support of SB 800.

This bill addresses two items, the threshold for mandatory registration of confined livestock operations and the associated permit fees. Confined livestock operations include feedlots, sale barns, backgrounding operations, swine facilities, sheep operations and a handful of other miscellaneous operations.

*HOUSE AGRICULTURE
3-11-94
Attachment #8*

The Kansas Department of Health and Environment (KDHE) regulates all confined livestock operations in regard to protecting the waters of the state from possible pollution. KDHE estimates they are spending approximately \$400K annually in this effort. Under the current permitting schedule, confined livestock operators are paying an aggregate of \$25K annually. KDHE intends to raise the fees livestock operators pay from \$25K to \$400K. In addition, KDHE requested authorization to spend \$600K in FY 95, which was denied by the governor during the budget hearings.

At KDHE's request KLA formed a special task force to study the above proposal. As an alternative to the proposed huge fee increase, the task force made two recommendations to KDHE.

Raise the mandatory permitting threshold to 1,000 head. Current regulations (K.A.R. 28-18-1) require all confined livestock operations with the capacity to hold 300 or more head to be licensed with KDHE. This threshold is more than three times as stringent as the federal threshold of 1,000 head. Every state contiguous to Kansas operates at the 1,000 head threshold, as does the largest livestock state in the nation, Texas. Even California operates at the 1,000 head threshold. Raising the threshold to 1,000 head could significantly cut the amount of taxes needed to administer the program. Currently 90% of the permits issued by KDHE are for facilities under 1,000 head, yet the vast majority of the waste (manure) is produced at the facilities over 1,000 head capacity that represent 10% of the permits issued. As under current regulations, the amendments we have drafted allow KDHE to regulate any size of facility if pollution to water is or is likely to occur.

Raising the threshold to 1,000 head would also be consistent with two other state permits required of confined livestock operators. All confined facilities with the capacity to hold 1,000 or more head must have a stockwatering permit issued by the Division of Water Resources and a feedlot license issued by the Animal Health Department.

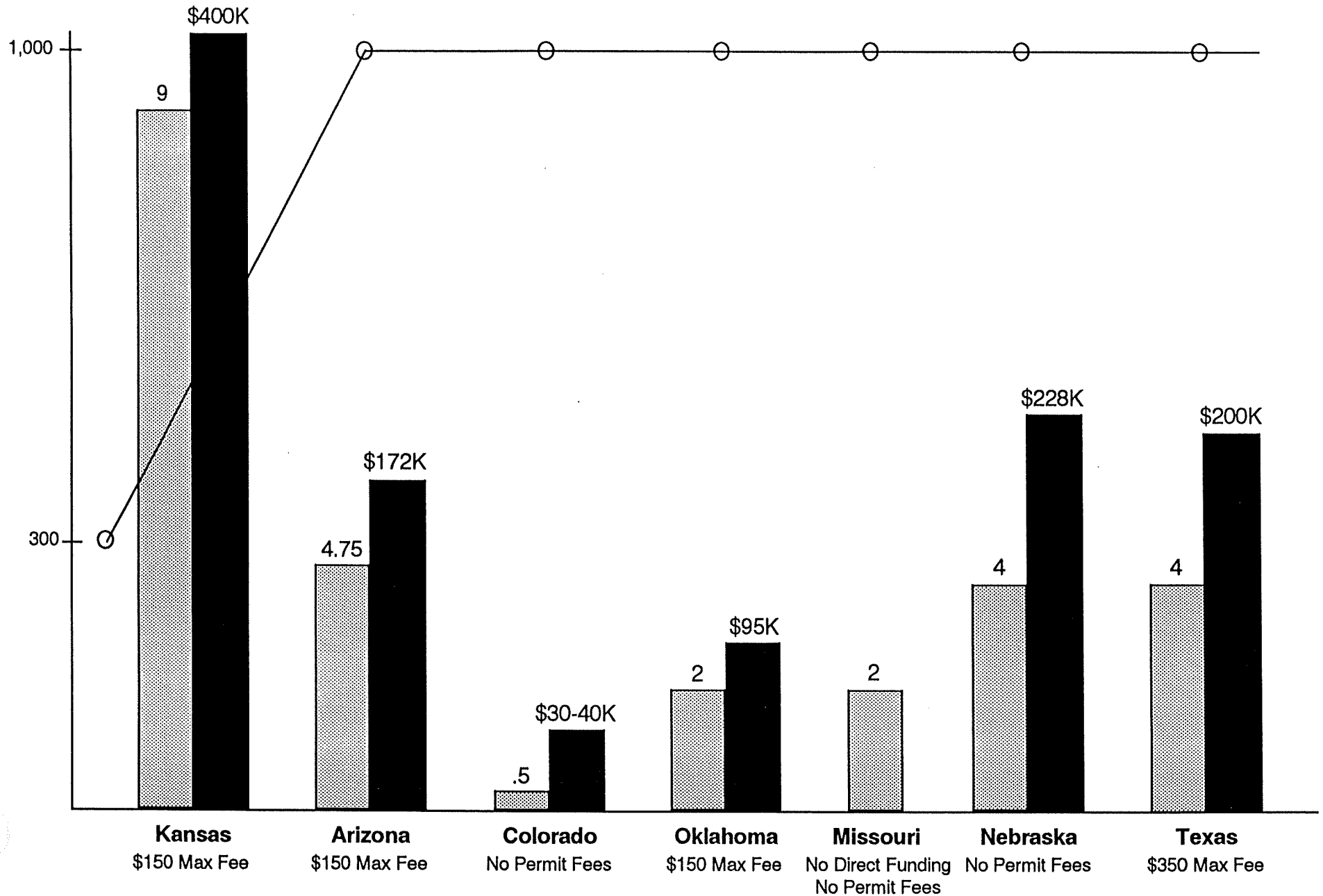
The second recommendation made by the KLA Task Force was that if additional funds are needed, before there is any increase in permit fees, KDHE should secure funds from the State Water Plan fund. Confined livestock operations are currently paying approximately \$275K annually to this state fund. Over the last four years livestock producers have paid over \$1 million in taxes into this fund that was established in the name of protecting the state's water. It seems logical to us that if more funds need to be spent in protecting water from possible runoff from livestock operations, these funds should be used before livestock producers are assessed additional fees.

The above recommendations will allow for increased efficiency, lessen the burden on taxpayers by lowering program costs and be achieved with no tax increase.

We respectfully request your support for SB 800. Thank you.

Capacity Permitted

Funding
 Full Time Equivalents
 ○ Capacity

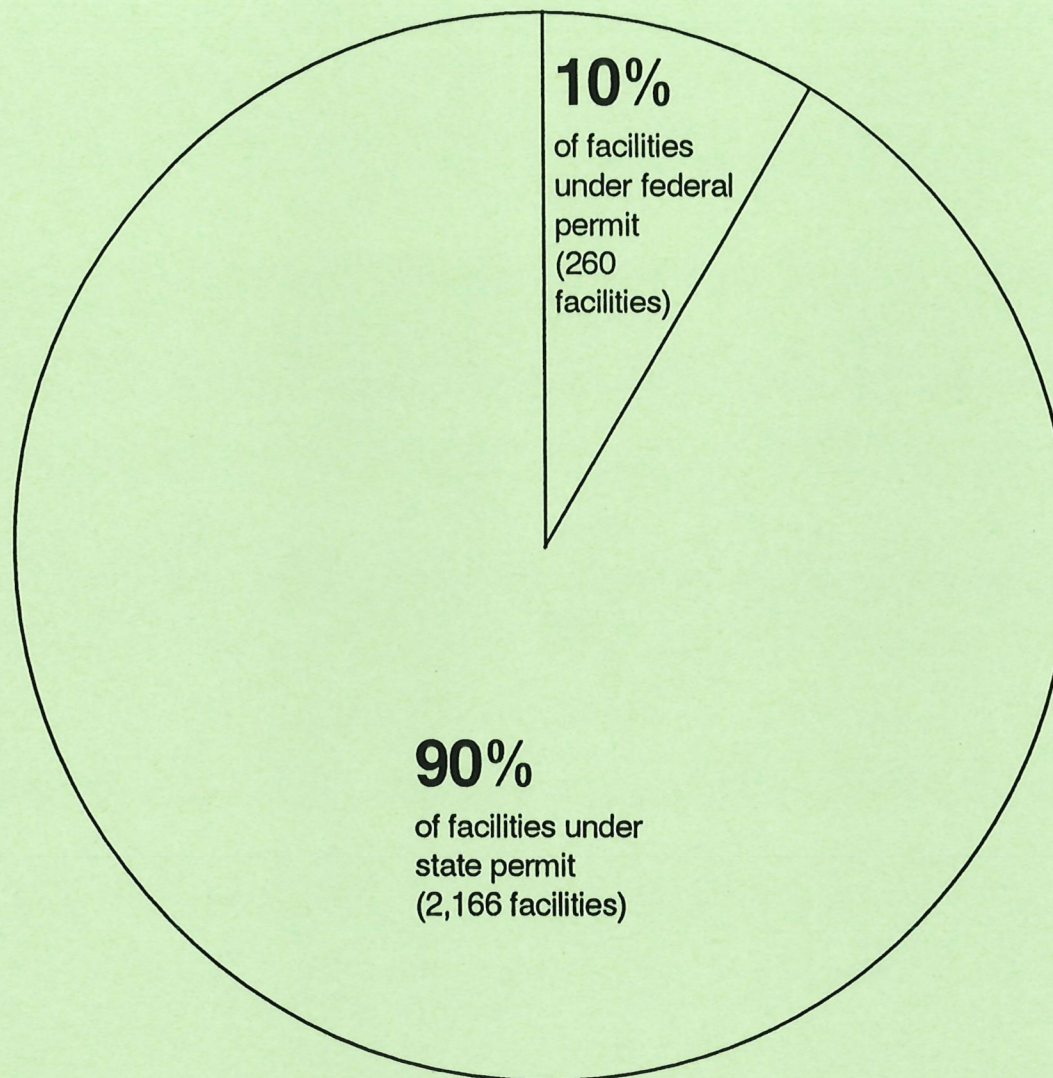


All Confined Feeding Facilities

Federal vs. State

(Over 1,000 head)

(Under 1,000 head)



*Note: State Facilities Include
438 Cattle
960 Swine
692 Dairy

Total Permitted Facilities In State - 2,426

4-8

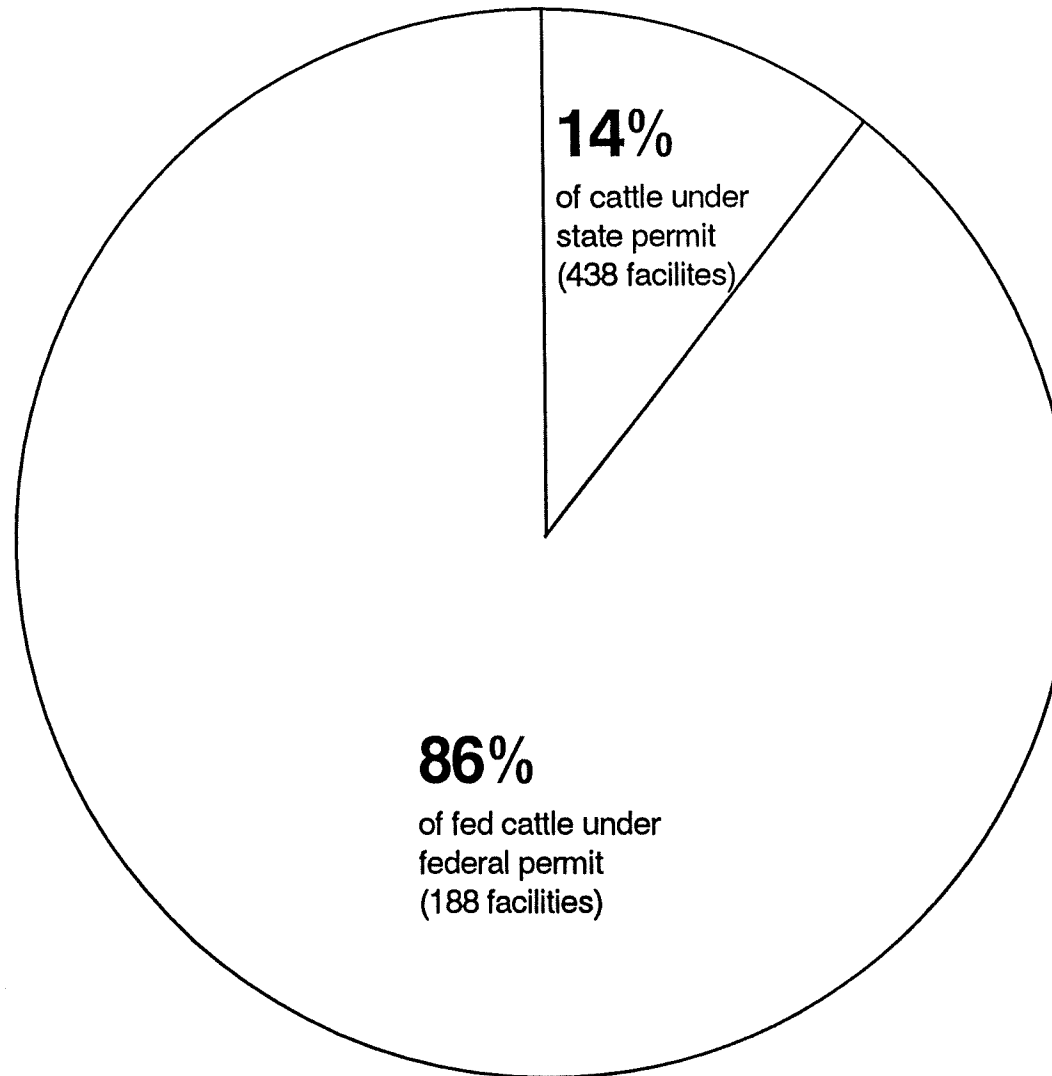
8-4.

Feedlot Cattle In Kansas

Federal vs. State

(Over 1,000 head)

(Under 1,000 head)



Number of cattle in Kansas feedlots 2,950,394
Number of cattle under federal regulation 2,535,665
Number of cattle under state regulation 414,729

The certificate shall not be accepted if the stated reason for the typed signature is inadequate. Upon acceptance by the office of vital statistics, the new certificate shall be marked "amended" and shall indicate the date of the amendment.

(c) Certificates of death—medical certification.

(1) An amendment may be made to the medical certification data at any time.

(2) Requests for amendments to the medical certification data may be made only by the attending physician who signed the medical certification on the original certificate, or by the coroner in whose jurisdiction the death occurred.

(3) When amendments to the medical certification section of the death certificate are made, the original certificate shall remain on file unchanged, and the written statement or affidavit of the certifying physician or coroner shall be appended to the certificate. However, a certifying physician or coroner may request the establishment of a new death certificate when erroneous data has been entered in the medical certification section. In such a case, the funeral director or person acting as such shall enter the personal data and refer the certificate to the certifying physician or coroner for the medical certification and signature. When all items have been completed, the new certificate shall be submitted to the office of vital statistics, and upon its acceptance, it shall be marked "amended" and shall indicate the date of the amendment. The original death record shall be placed in a sealed file only to be opened by court order. (Authorized by K.S.A. 65-2402 and implementing K.S.A. 65-2422c; effective Jan. 1, 1966; amended May 1, 1987; amended May 1, 1988; amended Oct. 22, 1990.)

28-17-21. Dissemination of certain information to state and federal agencies. Certain information extracted from death records may be released to state and federal agencies in the form of a computer data tape to include name of deceased, date of death, date of birth, county of residence, and social security number. This information shall be released on an annual basis upon written request. The written request shall include: a statement as to how the information shall be used; a statement of confidentiality assuring the information shall be used for the agreed upon purpose only; and assurance that no contact shall be made based upon information obtained. The information

shall be disseminated to the requestor in a standard format to be determined by the department. The state registrar shall determine the fee to be charged for the data tape based on costs for providing those services and shall prescribe the manner in which those costs are to be paid. (Authorized by K.S.A. 65-2402; implementing K.S.A. 65-2422, as amended by L. 1987, Ch. 241, Sec. 1; effective May 1, 1988.)

Article 18.—AGRICULTURAL AND RELATED WASTES CONTROL

28-18-1. Definitions. For purposes of the regulations in this article, the following words, terms and phrases are hereby defined as follows:

(a) The words "confined feeding" shall mean the confined feeding of animals for food, fur, or pleasure purposes in lots, pens, pools or ponds which are not normally used for raising crops and in which no vegetation, intended for animal food, is growing. This will not include a wintering operation for cows in lots or on farming ground unless the operation causes a pollution problem.

(b) The words "confined feeding operation" shall mean (1) any confined feeding of 300 or more cattle, swine, sheep, or horses at any one time, or (2) any animal feeding operation of less than 300 head using a lagoon, or (3) any other animal feeding operation having a water pollution potential, or (4) any other animal feeding operation whose operator elects to come under these regulations.

(c) The term "operator" shall mean an individual, or corporation, a group of individuals, joint venturers, a partnership, or any other business entity having charge or control of one or more confined feeding installations.

(d) "Food animals" shall mean fish, fowl, cattle, swine, and sheep.

(e) "Fur animals" shall mean any animal raised for its pelt.

(f) "Pleasure animals" shall mean dogs and horses.

(g) The words "waste retention lagoon" or "retention ponds" shall mean excavated or diked structures, or natural depressions provided for or used for the purpose of containing or detaining animal wastes consisting of body excrements, feed losses, litter, cooling waters, wash waters, whether separately or collectively, or any other associated materials detrimental to water quality or to public health, or to beneficial uses of the waters of the state.

A waste retention structure shall not be construed to be a treatment facility and discharges of waste water therefrom shall not be allowed except as authorized by regulations 28-18-3 and 28-18-4.

(h) The words "waste treatment facilities" shall mean structures and/or devices which stabilize, or otherwise control pollutants so that after discharge of treated wastes, water pollution does not occur and the public health and the beneficial uses of the waters of the state are adequately protected.

(i) The words "water pollution control facilities" shall mean waste retention lagoons, retention ponds, or waste treatment facilities.

(j) The term "department" shall mean the Kansas state department of health. (Authorized by K.S.A. 65-164, 65-171f, K.S.A. 1967 Supp. 65-165, 65-167, 65-171d, 65-171h; effective, E-67-5, May 31, 1967; effective Jan. 1, 1968.)

28-18-2. Registration and water pollution control facilities permits. (a) Effective July 1, 1967, the operator of any newly proposed confined feeding operation as defined in regulation 28-18-1 (b) must register with the Kansas state department of health prior to construction and operation of the lot, pen, pool or pond. The operator of any existing confined feeding operation as defined in regulation 28-18-1 (b) must register by January 1, 1968. Application for registration shall be made on a form supplied by the department.

(b) Applicants shall submit the completed application form to the department together with supplemental information regarding general features of topography, drainage course and identification of ultimate primary receiving streams. Additional information which may be deemed necessary for satisfactory evaluation of the application may be required by and shall be submitted to the department.

(c) If in the judgment of the department, a proposed or existing confined feeding operation does not constitute a potential water pollution problem because of location, topography, or other reasons, provision of water pollution control facilities will not be required.

(d) If in the opinion of the department a confined feeding operation does constitute a water pollution potential, or if water pollution occurs as a result of any confined feeding operation, the operator shall provide water pollution control facilities which shall be constructed in accordance with plans and specifications approved by the department.

(e) Water pollution control facilities shall not be placed in use until a permit has been issued. Permits for water pollution control facilities will be issued by the executive secretary of the Kansas state board of health upon satisfactory completion of construction in accordance with plans and specifications approved by the department. Water pollution control facilities permits shall be revocable for cause on thirty days' written notice. If a water pollution control facilities permit is revoked, the owner or operator of the confined feeding operation involved shall be allowed to finish feeding existing animals in the lot, pen, pool or pond at the time of revocation but shall not place or allow to be placed in the lot, pen, pool or pond any other animals until the minimum requirements for water pollution control as set forth in regulation 28-18-3 and 28-18-4 have been met and a new water pollution control facilities permit has been issued. (Authorized by K.S.A. 65-164, 65-171f, K.S.A. 1967 Supp. 65-165, 65-166, 65-167, 65-171d, 65-171h; effective, E-67-5, May 31, 1967; effective Jan. 1, 1968.)

28-18-3. Requirements for facilities. Water pollution control facilities required shall be kept at the minimum requirements stated in the following paragraphs: *Provided*, That when site topography, operating procedures, and other available information indicate that adequate water pollution control can be effected with less than the minimum requirements, the minimum requirements may be waived: *Provided further*, That if site topography, operating procedures, experience, and other available information indicate that more than the minimum requirements will be necessary to effect adequate water pollution control, additional control provisions may be required.

(a) *Cattle*: The minimum water pollution control facilities for the confined feeding of cattle shall be retention ponds capable of containing three inches of surface runoff from the feedlot area, waste storage areas, and all other waste contributing areas. Diversion of surface drainage prior to contact with the confined feeding area or manure or sludge storage areas shall be permitted. Waste retained in detention ponds shall be disposed of as soon as practicable to insure adequate retention capacity for future needs.

(b) *Swine*: Waste retention lagoons for swine feeding operations may be allowed in lieu of waste treatment facilities. Waste retention la-

goons must excreta, litter, waters, and shall addition inches of rainfall drainage are prior to contact or manure or omitted. Proper removal of lagoons.

(c) *Sheep*: Water pollution control facilities shall be retention ponds three inches of surface runoff from the feeding area, waste contribution drainage prior to contact with the feeding area or shall be permitted in retention ponds shall be practicable to insure for future needs.

(d) *Other animals*: The operation registered shall be evaluated the water pollution if any. The cause shall not cause waters of the confined feeding from pools or disposal of waste from the confined feeding.

(e) *Waste*: Signed, consistent with the 4. If waste to pond or lagoon a minimum of operation.

(f) *Other manure*: shall be permitted the department retained. (Authorized by K.S.A. 171f; K.S.A. 167, 65-171d, 31, 1967; effective Jan. 1, 1968.)

28-18-4. water pollution generated and manure pollution and the beneficial.

(b) *Waste*: Waste retention lagoons, or waste

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goons must be capable of retaining all animal excreta, litter, feed losses, cooling waters, wash waters, and any other associated materials and shall additionally be capable of retaining three inches of rainfall runoff from all contributing drainage areas. Diversion of surface drainage prior to contact with the confined feeding area or manure or sludge storage areas shall be permitted. Provision must be made for periodic removal of waste material from retention lagoons.

(c) *Sheep*: The minimum water pollution control facilities for the confined feeding of sheep shall be retention ponds capable of containing three inches of surface runoff from the confined feeding area, waste storage areas, and all other waste contributing areas. Diversion of surface drainage prior to contact with the confined feeding area or manure or sludge storage areas shall be permitted. Waste retained in detention ponds shall be disposed of as soon as practicable to insure adequate retention capacity for future needs.

(d) *Other animals*: Each confined feeding operation registered involving other animals shall be evaluated on its own merits with regard to the water pollution control facilities required, if any. The confined feeding of other animals shall not cause or lead to the pollution of the waters of the state by runoff water from confined feeding areas, release or escape of water from pools or ponds, improper storage or disposal of waste materials removed from the confined feeding area, or by any other means.

(e) Waste treatment facilities shall be designed, constructed, and operated in conformance with the provisions of regulation 28-18-4. If waste treatment facilities consist only of pond or lagoon type structures, there shall be a minimum of two such structures for series operation.

(f) Other methods of water pollution control shall be permitted where in the judgment of the department effective results will be obtained. (Authorized by K.S.A. 65-164 and 65-171f; K.S.A. 1967 Supp. 65-165, 65-166, 65-167, 65-171d, 65-171h; effective, E-67-5, May 31, 1967; effective Jan. 1, 1968.)

28-18-4. Operation of facilities. (a) The water pollution control facilities shall be operated and maintained so as to prevent water pollution and to protect the public health and the beneficial uses of the waters of the state.

(b) Waste discharges from retention ponds, lagoons, or waste treatment facilities into any

watercourse shall be in conformance with the water quality requirements of the appropriate river basin criteria as set forth in chapter 28, article 16 of regulations adopted by the Kansas state board of health and regulation 28-18-3.

(c) Waste materials removed from retention ponds, waste treatment facilities, and/or confined feeding areas shall be disposed of or stockpiled in a manner which will not contribute to water pollution. Wastes may be used for irrigation or spread on land surface and mixed with the soil in a manner which will prevent runoff of wastes. Other methods of disposal of wastes from retention ponds, retention lagoons, waste treatment facilities, and/or confined feeding areas shall be evaluated and permitted if in the judgment of the department effective water pollution control will be accomplished. (Authorized by K.S.A. 65-164, 65-171f, K.S.A. 1967 Supp. 65-165, 65-166, 65-167, 65-171d, 65-171h; effective, E-67-5, May 31, 1967; effective Jan. 1, 1968.)

Article 19.—AMBIENT AIR QUALITY STANDARDS AND AIR POLLUTION CONTROL

AMBIENT AIR QUALITY STANDARDS

28-19-1. (Authorized by K.S.A. 65-3001, 65-3005, 65-3010; effective Jan. 1, 1971; amended Jan. 1, 1972; revoked May 1, 1981.)

28-19-2. (Authorized by K.S.A. 65-3005, 65-3010; effective Jan. 1, 1971; amended Jan. 1, 1972; revoked May 1, 1981.)

28-19-3. Reserved.

28-19-4. (Authorized by K.S.A. 65-3005, 65-3010; effective Jan. 1, 1971; amended Jan. 1, 1972; revoked May 1, 1981.)

28-19-5. Reserved.

GENERAL REGULATIONS

28-19-6. (Authorized by K.S.A. 65-3001, 65-3005, 65-3006, 65-3007, 65-3010; effective Jan. 1, 1971; amended Jan. 1, 1972; revoked May 1, 1981.)

28-19-7. Definitions. All terms and abbreviations used in these emission and open burning control regulations shall have the following meanings unless otherwise defined in an individual regulation.

(a) "Agricultural-related" activity means processes used in the production of popcorn that is packaged but not popped; ornamental